

CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
April 22, 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 – Father Bala Anthony Govindu, St. Stephen’s Catholic Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, periods of time, or reports, including, but not limited to:
 - 3a. Presentation by Comptroller Gerry Adkins regarding the 2024 Public Annual Financial Report (PAFR).

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:
 - 4a. SPECIAL SESSION OF APRIL 1, 2025
 - 4b. REGULAR SESSION OF APRIL 8, 2025
5. 2025-056 – RESOLUTION AWARDDING A CONTRACT FOR THE TRAFFIC SIGNAL PROJECT AT FAIRGROUNDS ROAD AND SCHARBAUER DRIVE TO THE SOLE BIDDER, WILLIS ELECTRIC CO., LP OF ABILENE, TEXAS, AT A TOTAL COST OF \$800,000.00; APPROVING \$80,000.00 FOR CONTINGENCIES; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT **(DISTRICT: 2) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**
6. 2025-057 – RESOLUTION APPROVING A CONTRACT WITH NOUVEAU TECHNOLOGY SERVICES, LP, THROUGH THE INTERLOCAL PURCHASING SYSTEM, FOR THE PURCHASE AND INSTALLATION OF FIBER NETWORK INFRASTRUCTURE AT
PACKET

ASTOUND STADIUM FOR A TOTAL COST OF \$307,500.00; AND APPROPRIATING AND TRANSFERRING FUNDS FOR SAID PROJECT **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

7. 2025-058 – RESOLUTION APPROVING THE PURCHASE OF DELL COMPUTERS TO REPLACE CURRENTLY DEPLOYED USER DEVICES FROM DELL TECHNOLOGIES, THROUGH OMNIA-NATIONAL COOPERATIVE PURCHASING ALLIANCE, FOR A TOTAL COST OF \$280,331.59 **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**
8. 2025-059 – RESOLUTION APPROVING A SOLE-SOURCE MASTER AGREEMENT FOR NEPTUNE WATER METERS AND ALL ASSOCIATED PARTS FOR THE CUSTOMER SERVICE DIVISION FROM CORE & MAIN LP AT A TOTAL COST NOT TO EXCEED \$1,300,000.00 **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**
9. 2025-060 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT IN THE AMOUNT OF \$192,200.00 WITH MID-TEX OF MIDLAND, THROUGH THE PURCHASING ASSOCIATION OF COOPERATIVE ENTITIES, FOR THE MAF CHECKPOINT THIRD LANE CONSTRUCTION PROJECT AT MIDLAND INTERNATIONAL AIR & SPACE PORT; APPROVING \$38,440.00 FOR PROJECT RELATED EXPENSES; AND APPROPRIATING FUNDS FOR SAID PROJECT **(DISTRICT 4) (AIRPORTS) (TRANSPARENT & CONSISTENT COMMUNICATION)**
10. 036-2025 – MOTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC **(DISTRICT 4) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS)**
11. 037-2025 – MOTION APPROVING A COMMERCIAL LEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC, REGARDING A PORTION OF THAT CERTAIN FACILITY LOCATED ON LOT 1A, BLOCK 13, INDUSTRIAL PARK REGIONAL AIR TERMINAL, UNIT 12, MIDLAND, MIDLAND COUNTY, TEXAS, AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT **(DISTRICT 4) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS) (STRONG ECONOMY WITH MORE QUALITY JOBS)**
12. 038-2025 – MOTION APPROVING MIDLAND COLLEGE DISTRICT'S APPOINTMENTS OF CHARLENE MCBRIDE AND SCOTT LYNCH TO THE BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER TWO **(DEVELOPMENT SERVICES) (DISTRICT 2 & 3) (STRONG ECONOMY WITH MORE QUALITY JOBS)**
13. 2025-061 – RESOLUTION AUTHORIZING THE EXECUTION OF A CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT BETWEEN THE CITY OF MIDLAND AND CINERGY 108, LLC, AS AUTHORIZED BY CHAPTER 380 OF THE TEXAS LOCAL GOVERNMENT CODE **(DISTRICT 1)**

(DEVELOPMENT SERVICES) (STRONG ECONOMY WITH MORE QUALITY JOBS)

14. 2025-062 – RESOLUTION AUTHORIZING THE EXECUTION OF A CAPITAL IMPROVEMENTS DEVELOPMENT AGREEMENT WITH BETENBOUGH HOMES FOR THE CONSTRUCTION OF CERTAIN CAPITAL IMPROVEMENTS RELATED TO THE DEVELOPMENT OF MOCKINGBIRD RIDGE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$933,601.12; SAID AGREEMENT BEING AUTHORIZED BY CHAPTER 212, SUBCHAPTER C AND CHAPTER 395, SUBCHAPTER B OF THE TEXAS LOCAL GOVERNMENT CODE **(DISTRICT 1) (DEVELOPMENT SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**
15. 039-2025 – MOTION APPROVING, WITH STAFF'S RECOMMENDED CONDITIONS, A PRELIMINARY PLAT OF RICHLAND ADDITION, BEING A 79.22-ACRE TRACT OF LAND OUT OF THE SOUTHEAST QUARTER OF SECTION 13 AND THE NORTHEAST QUARTER OF SECTION 24, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH COUNTY ROAD 1232, APPROXIMATELY 455 FEET NORTH OF WEST COUNTY ROAD 133) **(EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**
16. 040-2025 – MOTION AUTHORIZING THE CITY MANAGER TO ENTER THE CITY INTO A MEMBERSHIP WITH THE PORTS TO PLAINS ALLIANCE AND TO EXECUTE ALL DOCUMENTS NECESSARY FOR THE MEMBERSHIP; AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$80,100.00 **(DISTRICT: ALL) (ENGINEERING SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

SECOND READINGS

17. 10609 – AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (FIRST READING HELD APRIL 8, 2025) **(DISTRICT: NONE) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**
18. 10610 – AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE;

PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 8, 2025) **(DISTRICT: NONE) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

19. 10611 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR A 16.66-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF COTTON FLAT ROAD AND ALTA VISTA DRIVE), WHICH IS PRESENTLY ZONED SF-1, SINGLE-FAMILY DWELLING DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR A VACATION TRAVEL TRAILER PARK; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 8, 2025) **(DISTRICT 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**
20. 10612 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR THE WEST HALF OF LOT 6 AND ALL OF LOTS 7 AND 8, BLOCK 3, PARKLEA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 80 FEET EAST OF WEST CIRCLE DRIVE), 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 APRIL 8, 2025) **(DISTRICT 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**
21. 10613 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM ON LOT 8, BLOCK 44, FAIRMONT PARK ADDITION, SECTION 27, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 230 FEET SOUTH OF HENRY KOONTZ BOULEVARD.), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SUCH PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION, MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 8, 2025) **(DISTRICT 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE & PLACE)**

PUBLIC HEARINGS

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

22. 10614 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 1, LONE STAR BUSINESS PARK, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS, FROM O-1, OFFICE DISTRICT TO LR, LOCAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MAVERICK LANE AND NORTH STATE HIGHWAY 349); 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)**
23. 10615 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 15.44-ACRE TRACT OF LAND OUT OF SECTION 31, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 220 FEET WEST OF HOLDRIDGE ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION **(DISTRICT 4) (DEVELOPMENT SERVICES) (STRONG ECONOMY WITH MORE QUALITY JOBS)**
24. 10616 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.994-ACRE TRACT OF LAND OUT OF SECTION 33, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT, IN PART, AND C, COMMERCIAL DISTRICT, IN PART, TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST WALL STREET AND SOUTH MIDKIFF ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION **(DISTRICT 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**
25. 10617 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 3, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 450 FEET SOUTH OF HENRY KOONTZ BOULEVARD); 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)**

26. 10618 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 5.57-ACRE TRACT OF LAND OUT OF SECTION 2, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM O-1, OFFICE DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND SOLOMON LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION **(DISTRICT 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**
27. 10619 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE EAST 50 FEET OF LOTS 10 THROUGH 12, BLOCK 61, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WALL STREET APPROXIMATELY 110 FEET EAST OF SOUTH CARRIZO STREET), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS 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)**
28. 10620 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 6 THROUGH 9, BLOCK 121, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO MH, MANUFACTURED HOUSING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF EAST NEW YORK AVENUE, APPROXIMATELY 70 FEET WEST OF SOUTH TERRELL 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) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

PUBLIC COMMENT

29. 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

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

- a. Section 551.071, Consultation with Attorney
 - a.1. Discuss matters in which the duty of the attorney(s) to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.
- b. Section 551.072, Deliberation Regarding Real Property
 - b.1. Discuss the purchase, exchange, lease or value of real property.
- c. Section 551.074, Personnel Matters
 - c.1. Deliberate the employment, evaluation, and duties of the City Manager, Interim City Attorney, Special Counsel, City Secretary, Municipal Court Presiding Judge and Municipal Court Associate Judge.
- d. Section 551.087, Deliberate Economic Development Negotiations
 - d.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.

Respectfully Submitted,

Tommy Gonzalez
City Manager

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

CITY OF MIDLAND, TEXAS
MIDLAND CITY COUNCIL
SPECIAL MINUTES
April 1, 2025



The City Council convened in **Special** Session in the The Preserve at Midland, Midland, Texas, at 1:00 PM, Tuesday, April 1, 2025.

Council Members present: John Burkholder, Amy Stretcher Burkes, Lori Blong, Brian Stubbs, Jack Ladd, John Norman

Council Members absent: Robin Poole

Staff members present: City Governance Officer/City Secretary Marcia Bentley-German, General Services Director Regina Stephenson, Deputy City Secretary Rachel Guentensberger, Chief of Staff Taylor Novak, Attendee Erika Martinez

The meeting was called to order at 1:34 p.m.

SPECIAL SESSION

1. Hold a ground-breaking ceremony for Zoo Midland & The Preserve at Midland.

Jeff Beard of the Dahlia Development Group with The Preserve at Midland and Chuck Harrington with Zoo Midland spoke and thanked guests for attending the ground-breaking ceremony.

Council Member Amy Stretcher Burkes provided words about the importance of the partnership between The Preserve at Midland and Zoo Midland.

Mayor Blong spoke about the excitement of this vision and the regional attraction it will bring to Midland.

All the business at hand having been completed, the meeting adjourned at 1:49 p.m.

PASSED AND APPROVED April 22, 2025.

Lori Blong, Mayor

ATTEST:

PACKET

4a.1

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SPECIAL MINUTES

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Marcia Bentley-German
City Governance Officer/City Secretary

DRAFT

**MIDLAND CITY COUNCIL
MINUTES
April 8, 2025**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., April 08, 2025.

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

Council Members absent: None

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

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

OPENING ITEMS

1. Invocation – Pastor Seth DeRuiter, Stonegate Fellowship
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 Proclamation for “Midland Christian Lady Mustangs Day”
 - 3b. Presentation by Director of Finance Christy Weakland regarding the FY2024 Annual Comprehensive Financial Report

Finance Director Christy Weakland provided a report of the annual comprehensive financial report for FY 2024. Mrs. Weakland reported on sound fiscal practices by reviewing the different funds and required communications to those who are charged with governance. Mrs. Weakland also reported that the annual audit results consisted of zero findings for the second year in a row and what having this rating means.

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:
 - 4a. REGULAR SESSION OF MARCH 18, 2025
 - 4b. SPECIAL SESSION OF MARCH 18, 2025
 - 4c. SPECIAL SESSION OF MARCH 27, 2025
5. 033-2025 – MOTION APPROVING THE ANNUAL COMPREHENSIVE FINANCIAL REPORT FOR FISCAL YEAR 2024 **(DISTRICT: NONE) (FINANCE) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**
6. 2025-049 – RESOLUTION AUTHORIZING THE PURCHASE OF ONE 16-YARD DUMP TRUCK FOR THE TRANSPORTATION DIVISION FROM BRUCKNER TRUCK SALES, INC., DOING BUSINESS AS BRUCKNER'S TRUCK AND EQUIPMENT, THROUGH THE HOUSTON-GALVESTON AREA COUNCIL FOR A TOTAL COST OF \$196,612.12 **(DISTRICT: NONE) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**
7. 2025-050 – RESOLUTION APPROVING THE PURCHASE OF THREE (3) 2-3 YARD DUMP BODIES, ONE (1) STEEL FLATBED BODY, ONE (1) UTILITY BODY WITH A CRANE AND LIFT GATE, TWO (2) UTILITY BODIES WITH LIFT GATES, AND ONE (1) UTILITY BODY FROM RANDALL REED'S PLANET FORD 635 FOR A TOTAL COST OF \$192,812.00 **(DISTRICT: NONE) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**
8. 2025-051 – RESOLUTION RATIFYING AND APPROVING THE PAYMENT FOR EMERGENCY WATER MAIN REPLACEMENT AND REPAIR SERVICES ALONG COMANCHE DRIVE AND EISENHOWER STREET BY MIDESSA UNDERGROUND, LLC, FOR A TOTAL COST OF \$224,144.00; AND APPROPRIATING AND TRANSFERRING FUNDS **(DISTRICT 4) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**
11. 2025-053 – RESOLUTION AWARDED A CONTRACT IN THE AMOUNT OF \$293,248.85 FOR THE PURCHASE AND INSTALLATION OF A PLAYGROUND FACILITY AT MOMENTUM BANK BALL PARK TO 4B RECREATION GROUP, LLC, D/B/A PLAYGROUNDS ETC.; AND APPROVING \$29,351.15 FOR PROJECT RELATED EXPENSES **(DISTRICT 4) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**
12. 2025-054 – RESOLUTION AWARDED A CONTRACT IN THE AMOUNT OF \$133,751.62 FOR THE PURCHASE AND INSTALLATION OF SHADE STRUCTURES AT DOUG RUSSELL POOL TO 4B RECREATION GROUP, LLC, D/B/A PLAYGROUNDS ETC.; AND APPROVING \$6,248.38 FOR PROJECT RELATED EXPENSES **(DISTRICT 3)**

(GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

14. 035-2025 – MOTION AUTHORIZING THE EXECUTION OF A SURFACE USE AGREEMENT (25-329-013) WITH VITAL ENERGY, INC., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 8, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS **(DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

Amy Stretcher Burkes moved to approve the Consent Agenda, excluding item(s) 9, 10 & 13; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

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

9. 034-2025 – MOTION AUTHORIZING THE EXECUTION OF CHANGE ORDERS #4 AND #5 WITH HYDRO RESOURCES – MID CONTINENT, INC., REGARDING THE PAUL DAVIS WELL FIELD DEVELOPMENT PROJECT; SAID CHANGE ORDERS TO BE IN THE AMOUNT OF \$210,847.50 FOR ENHANCED SYSTEM PERFORMANCE AND TO ACCOMMODATE UNFORESEEN FIELD CONDITIONS

Utilities Director Carl Craigo reported on a brief history of the Paul Davis Well Field coming back to use and how the change order will allow the City to go from producing about three million gallons of water per day to about three and a half million gallons per day. This will allow the water source to become more sustainable and eventually get it back up to a 12 million gallon per day water source. In the future, this will allow an RO pilot plan for treatment of the well field which will make it another 10 to 12 million gallon per day well field.

Mayor Blong reported this is important because there is a process that needs to take place before the water may be used.

Mr. Craigo reported on the timeline of events that need to take place prior to bringing the plant online.

Council Member Burkholder commented on the cost savings of doing the leg work up front.

Mr. Craigo reported the change order is 3.5 percent of what the construction project cost, however, we are moving up 16.7 percent in flow from the five wells.

John Burkholder moved to approve Motion No. 034-2025; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

4b.3

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ABSTAIN: None
ABSENT: None

10. 2025-052 – RESOLUTION APPROVING A CONTRACT WITH NOUVEAU TECHNOLOGY SERVICES, LP, THROUGH THE INTERLOCAL PURCHASING SYSTEM, FOR THE CONSTRUCTION AND INSTALLATION OF A CART BARN AT HOGAN GOLF COURSE FOR A TOTAL COST OF \$1,320,000.00; APPROVING \$66,000.00 FOR PROJECT RELATED COSTS; AND APPROPRIATING FUNDS FOR SAID PROJECT

Parks and Recreation Director Laurie Williams gave a brief overview of the item noting the \$1.3 million is to replace the old cart barn. The increase is due to the first quote that was obtained several years ago. This project should be done by September and will not affect course usage.

Mrs. Williams also reported on the overall plans and immediate needs for the golf course.

John Burkholder moved to approve Resolution No. 2025-052; seconded by John Norman.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

13. 2025-055 – RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THAT CERTAIN NON-EXCLUSIVE COMMERCIAL FIXED-BASE OPERATOR LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND AND BASIN AVIATION, INC.

Airports Director Justine Ruff reported the lease agreement will go out for bids in June.

Interim City Attorney Nicholas Toulet-Crump reported the 36-month timeframe begins once lease holders are given notice that the City part is completed.

Brian Stubbs moved to approve Resolution No. 2025-055; seconded by Robin Poole.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

SECOND READINGS

15. 10606 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,512-SQUARE FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA ADDITION, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH TRADEWINDS BOULEVARD AND STARBOARD DRIVE), WHICH IS PRESENTLY ZONED RR,

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4b.4

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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 MARCH 18, 2025) **(DISTRICT 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE & PLACE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10606.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10606; seconded by John Norman.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

16. 10607 – AN ORDINANCE ADOPTING A FEE SCHEDULE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN APPEAL PROCESS; ESTABLISHING AN EFFECTIVE DATE OF APRIL 9, 2025; AND ORDERING PUBLICATION (FIRST READING HELD MARCH 18, 2025) **(DISTRICT: ALL) (FINANCE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10607.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10607; seconded by John Norman.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

17. 10608 – AN ORDINANCE AMENDING TITLE V, “BUSINESS REGULATIONS” OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, BY ADDING CHAPTER 13, “MASSAGE ESTABLISHMENTS”, SO AS TO ESTABLISH CERTAIN REQUIREMENTS THAT MUST BE SATISFIED TO OPERATE A BUSINESS THAT ADVERTISES OR OFFERS MASSAGE THERAPY OR OTHER MASSAGE SERVICES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM FINE OR PENALTY OF TWO THOUSAND DOLLARS (\$2,000.00); ESTABLISHING AN EFFECTIVE DATE THAT SHALL BE 30 DAYS AFTER THE DATE OF ADOPTION OF THIS ORDINANCE; AND ORDERING PUBLICATION (FIRST READING HELD MARCH 18, 2025) **(DISTRICT: ALL) (DEVELOPMENT SERVICES) (SAFE AND SECURE CITY)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10608.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10608; seconded by Robin Poole.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

PUBLIC HEARINGS

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

18. 10609 – AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY **(DISTRICT: NONE) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10609.

Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting this is an annexation for the new Sheriff's office.

First Assistant City Attorney Stephen Gates reported impact fees may be accessed if the land is on the capital improvements plan. The current capital improvements plan does not include land in the Extraterritorial Jurisdiction (ETJ) which means, impact fees would not be accessed for the newly incorporated land unless it's amended prior to development.

Mr. Gates also reported on notice requirements for annexations.

Mayor Blong opened the public hearing at 10:39 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Burkholder moved to approve the first of two readings of Ordinance No.10609; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

19. 10610 – AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF
PACKET

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THE AREA INDICATED AS BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120; 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: NONE) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10610.

Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting this is regarding the initial zoning that accompanies the annexation.

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

Jack Ladd moved to approve the first of two readings of Ordinance No. 10610; seconded by John Norman.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

20. 10611 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR A 16.66-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF COTTON FLAT ROAD AND ALTA VISTA DRIVE), WHICH IS PRESENTLY ZONED SF-1, SINGLE-FAMILY DWELLING DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR A VACATION TRAVEL TRAILER PARK; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION **(DISTRICT 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10611.

Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting this is for a Specific Use Designation (SUD) without term for a vacation travel trailer park. There is a small portion that falls outside the city limits. Mrs. Triggs reviewed the details of the SUD and land use and the comprehensive plan analysis. Twenty-seven percent of the letters of objection received triggers a super majority vote of the City Council.

Discussion ensued between Council and Planning & Development Officer Elizabeth Triggs.

Mayor Blong opened the public hearing at 10:51 a.m.

Michelle Morris, 5103 Mathis Street, reported that she and the neighbors to the south are against the plan because everything to the south are industrial type buildings. Ms. Morris doesn't feel like the location is the best.

Zach Robinson, Cisco, Texas, is the owner/operator of the RV park. Mr. Robinson reported that there will be a security fence, cameras and it will be gated. There will be no entrance or exit on Alta Vista. Mr. Robinson also reported they do not allow permanent trailers as it would be a month-to-month rental.

Council Members asked questions of Mr. Robinson ranging from security and amenities to phase II.

Randy Hanson, 4500 Mockingbird Lane, spoke in favor of the development. He is more concerned about water and sewer availability and would like to know how long people can stay at the RV park. Mr. Hanson also reported he has experienced crime in the area.

Planning & Development Officer Elizabeth Triggs reported on the platting process.

Andrew Mellen, Maverick Engineering, spoke in favor of this item and reported on several development processes that will need to take place.

Council Members were able to ask several questions of Mr. Mellen regarding this development.

Discussion regarding crime ensued. Mr. Mellen, reported crime is everywhere and can not be completely controlled. Measures have been taken to mitigate it as much as possible.

Mayor Pro Tem Poole inquired if Mr. Mellen would be willing to do town halls to address citizen concerns.

Police Chief Snow reported on transit crime but has no data for certain areas. He also reported that at least this organization is trying to mitigate it ahead of time.

Josh Wilks, Cisco, Texas, is part of the Bull Mountain ownership group. Mr. Wilks thanked Council and wanted to clarify that the RV park is lifestyle oriented.

There being no one else wishing to speak, the public hearing was closed at 11:24 a.m.

The entire discussion may be heard on the City of Midland website at www.midlandtexas.gov.

Robin Poole moved to approve the first of two readings of Ordinance No. 10611; seconded by John Norman.

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MINUTES

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The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

21. 10612 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR THE WEST HALF OF LOT 6 AND ALL OF LOTS 7 AND 8, BLOCK 3, PARKLEA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 80 FEET EAST OF WEST CIRCLE DRIVE), 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 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10612.

Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting this is a Specific Use Designation to allow for motor vehicle sales or services.

Mayor Blong opened the public hearing at 11:27 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Burkholder moved to approve the first of two readings of Ordinance No. 10612; seconded by Amy Stretcher Burkes.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

22. 10613 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM ON LOT 8, BLOCK 44, FAIRMONT PARK ADDITION, SECTION 27, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 230 FEET SOUTH OF HENRY KOONTZ BOULEVARD.), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SUCH PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION, MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM

PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION **(DISTRICT 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE & PLACE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10613.

Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting it is a Specific Use Designation for alcohol sales.

Mayor Blong opened the public hearing at 11:31 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Burkholder moved to approve the first of two readings of Ordinance No. 10613; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Burkholder, Stretcher Burkes, Poole, Blong, Stubbs, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: None

PUBLIC COMMENT

23. 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.)

Shirley Almanza, 410 E. Florida Street, President of the Midland Homeless Collation, provided results of the official Point in Time (PIT) count regarding the homeless network; both sheltered and unsheltered. The PIT count reveals that 300 individuals in Midland are experiencing homelessness which includes 89 children, 157 adults and 54 seniors. Among them, 14 are Veterans, 42 are chronically homeless, 239 are sheltered and 61 are unsheltered.

The 2025 report also shows significant changes from last year. There are 41 fewer individuals experiencing homelessness compared to 2024. Thirty-six more individuals are staying in shelters in 2025 compared to 2024 and 77 fewer individuals are unsheltered compared to 2024.

EXECUTIVE SESSION

24. 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:

Mayor Blong recessed the City Council meeting to go into Executive Session at 11:37 a.m.

- 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 employment, evaluation, and duties of the City Manager, Interim City Attorney, Special Counsel, City Secretary, Municipal Court Presiding Judge and Municipal Court Associate Judge.
- c. Section 551.071, Consultation with Attorney
 - c.1. Discuss a matter 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.

All the business at hand having been completed, the meeting adjourned at 1:15 p.m.

PASSED AND APPROVED April 22, 2025.

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer/City Secretary



City Council Meeting

Item Number: 5
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION AWARDING A CONTRACT FOR THE TRAFFIC SIGNAL PROJECT AT FAIRGROUNDS ROAD AND SCHARBAUER DRIVE TO THE SOLE BIDDER, WILLIS ELECTRIC CO., LP OF ABILENE, TEXAS, AT A TOTAL COST OF \$800,000.00; APPROVING \$80,000.00 FOR CONTINGENCIES; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT (DISTRICT: 2) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

Purpose:

Resolution awarding the execution of a contract for the Traffic Signal Project at Fairgrounds & Scharbauer from Willis Electric Co LP of Abilene, Texas for the amount of \$800,000.00 plus \$80,000 in contingences for a total cost of \$880,000.00.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the Road Bond and will be appropriated to a project for said purpose.

Strategic Priority:

(Strengthen and Sustain our Infrastructure)

Discussion:

The City Manager approved plans and specifications and authorized advertisement for bids for the Traffic Signal Project at Fairgrounds & Scharbauer for the Traffic Division. The bid request was sent to twenty-five (25) companies. We received a sole bid for the complete project. Staff

recommends awarding a contract to the sole bidder Willis Electric Co., LP. Please see the attached memo from Taha Sakrani, Senior Associate Traffic Engineer, for more information. Therefore, please consider a resolution awarding a contract for the Traffic Signal Project at Fairgrounds & Scharbauer to the sole bidder Willis Electric Co., LP, of Abilene, Texas for the amount of \$800,000.00 plus \$80,000 in contingencies for a total cost of \$880,000.00.



City Manager's Office



INTEROFFICE MEMORANDUM

TO: Erika Munoz Martinez; City of Midland, Assistant General Services Director
FROM: Taha Sakrani, P.E.; City of Midland, City Traffic Engineer
SUBJECT: Fairgrounds & Scharbauer Traffic Signal ♦ Project T23-12 ♦ Bid Tabulation
DATE: March 26, 2025

We have reviewed the bid tabulation for the Fairgrounds and Scharbauer Traffic Signal project. Willis Electric Co. of Abilene, Texas, is the sole bidder, and therefore is the apparent low bidder. Staff recommend awarding the Traffic Signal project to Willis Electric Co. for a total amount not to exceed \$880,000 (\$800,000 bid plus \$80,000 contingency).

Willis Electric Co. has an established history in the City of Midland and has performed to the City's satisfaction throughout the course of previous traffic signal projects.

Thank you for your assistance throughout the bidding and contracting process.

Taha Sakrani

Taha Sakrani, P.E.
City Traffic Engineer

RESOLUTION NO. _____

**RESOLUTION AWARDING A CONTRACT FOR THE
TRAFFIC SIGNAL PROJECT AT FAIRGROUNDS
ROAD AND SCHARBAUER DRIVE TO THE SOLE
BIDDER, WILLIS ELECTRIC CO., LP OF ABILENE,
TEXAS, AT A TOTAL COST OF \$800,000.00;
APPROVING \$80,000.00 FOR CONTINGENCIES;
APPROPRIATING FUNDS; AND AUTHORIZING
PAYMENT**

WHEREAS, the City Manager approved the plans and specifications and advertised for competitive bids for the Traffic Signal Project at Fairgrounds Road and Scharbauer Drive (the “Project”); and

WHEREAS, Bid No. 25002707 was opened on February 5, 2025, with the sole bidder and the lowest responsible bidder being Willis Electric Co., LP of Abilene, Texas (“Contractor”), having submitted a bid of \$800,000.00 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 \$800,000.00; 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 \$800,000.00, 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 10 percent (\$80,000.00). The sum of \$80,000.00 is approved for such contract contingencies.

SECTION THREE. That the sum of \$880,000.00 shall be appropriated from the Road Bond to a project account for said Project.

SECTION FOUR. 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 \$880,000.00 from funds appropriated in accordance with Section Three hereof 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:

Nicholas Toulet, Interim City Attorney

EXHIBIT A

25002707 T23-12 Fairgrounds & Scharbauer Traffic Signal					
Bid Opening: February 5, 2025					
				Willis Electric Co LP	
Total Cost				\$800,000.00	
#	Items	Quantity Required	Unit	Unit Price	Total Cost
#0-1	Mobilization	1	LS	\$75,000.00	\$75,000.00
#0-2	Barricades, Signs, and Traffic Handling	2	MO	\$25,000.00	\$50,000.00
#0-3	Installation of Traffic Signals (See Pay Notes)	1	LS	\$625,000.00	\$625,000.00
#0-4	Owner's Allowance (input \$50,000.00 in your response) See Pay Notes	1	LS	\$50,000.00	\$50,000.00
<u>Bid Summary</u>					
25 Bid Request					
<u>1</u> Bids Listed Above					
<u>0</u> NO Bids were received					
<u>23</u> Bidder(s) Did not respond					

25002707 T23-12 Fairgrounds & Scharbauer Traffic Signal					
Bid Opening: February 5, 2025					
				Willis Electric Co LP	
Total Cost				\$800,000.00	
#	Items	Quantity Required	Unit	Unit Price	Total Cost
#0-1	Mobilization	1	LS	\$75,000.00	\$75,000.00
#0-2	Barricades, Signs, and Traffic Handling	2	MO	\$25,000.00	\$50,000.00
#0-3	Installation of Traffic Signals (See Pay Notes)	1	LS	\$625,000.00	\$625,000.00
#0-4	Owner's Allowance (input \$50,000.00 in your response) See Pay Notes	1	LS	\$50,000.00	\$50,000.00
<u>Bid Summary</u>					
25 Bid Request					
<u>1</u> Bids Listed Above					
<u>0</u> NO Bids were received					
<u>23</u> Bidder(s) Did not respond					



THE CITY OF MIDLAND
CONTRACT
25002707

THIS CONTRACT, effective the 23 day of April, 2025, by and between the City of Midland, hereinafter referred to as "CITY", and Willis Electric Company, LP, hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 800,000.00 DOLLARS
2. **Scope of Work:** COMPANY shall perform all work described and shall provide labor, materials, equipment and supervision necessary for the T23-12 Traffic Signal Project Fairgrounds & Scharbauer. 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 Gabe 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,
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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.

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 Government Code, and Section 311.034 of the Texas Government Code, unless if

CITY has actual or constructive notice or knowledge of said claim or alleged damages. COMPANY agrees that the requirements of this entire Contract are reasonable. The provisions and obligations of this Section shall survive the termination of this Contract.

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

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

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

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

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

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

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

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

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

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

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Tommy Gonzalez, City Manager

ATTEST

Marcia Bentley-German, City Governance Officer/City Secretary

APPROVED ONLY AS TO FORM

Nicholas Toulet, Interim 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 Willis Electric Company, LP, 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____.



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

BID NO: 25002707

CLOSING DATE:

February 5, 2025,

CLOSING TIME:

2:00 PM

BIDS WILL BE RECEIVED UNTIL **2: 00 PM** on **02/5/2025** THROUGH BONFIRE FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO: **Various Locations, Midland, Texas**

DESCRIPTION	
Labor, material, equipment, and supervision necessary for the T23-12 Traffic Signal Project Fairgrounds & Scharbuaer in accordance with the attached specifications, drawings, and contract.	
TOTAL	
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 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. 3. IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF CONTRACT, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER. 4. 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. 5. BIDDER/CONTRACTOR/COMPANY IS RESPONSIBLE FOR ACQUIRING AND ACKNOWLEDGING ALL ADDENDA. 6. 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: <u>Willis Electric Co LP</u> ADDRESS: <u>4242 Sayles Blvd</u> CITY: <u>Abilene</u> STATE: <u>TX</u> ZIP: <u>79605</u> PHONE NO: <u>325-698-3444</u> EMAIL: <u>weston@willisLP.com</u> DELIVERY CAN BE MADE: <u>Per Contract Terms</u> AUTHORIZED SIGNATURE: <u>[Signature]</u>	

Traffic Signal at Fairgrounds Rd and Scharbauer					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICE	TOTAL AMOUNT BID
1	MOBILIZATION <u>Seventy Five Thousand</u> dollars and <u>no</u> cents per lump sum.	LS	1	<u>75,000⁰⁰</u>	<u>75,000⁰⁰</u>
2	BARRICADES, SIGNS, AND TRAFFIC HANDLING <u>Twenty Five Thousand</u> dollars and <u>no</u> cents per month.	MO	2	<u>25,000⁰⁰</u>	<u>50,000⁰⁰</u>
3	INSTALLATION OF TRAFFIC SIGNALS (SEE PAY NOTES) (Fairgrounds Rd and Scharbauer) <u>Six Hundred Twenty Five Thousand</u> dollars and <u>no</u> cents per lump sum.	LS	1	<u>625,000⁰⁰</u>	<u>625,000⁰⁰</u>
4	OWNER'S ALLOWANCE (SEE PAY NOTES) <u>Fifty thousand</u> dollars and <u>no</u> cents per lump sum.	LS	1		
				\$ 50,000.00	\$ 50,000.00
TOTAL <u>Eight Hundred Thousand & no</u>				<u>800,000⁰⁰</u>	

Bid Tabulation:

TOTAL BID AMOUNT

\$ 800,000⁰⁰

In addition to providing the individual prices for the items above, Contractor shall write the total bid amount in the sum of:

Eight Hundred Thousand dollars

and No cents total.

The undersigned bidder hereby declares that he has visited the site of the work and has carefully examined the contract documents pertaining to the work covered by the above bid. The selected Bidder will receive written notice to proceed.

Bidder agrees to substantially complete all work within 60 calendar days after receipt of notice to proceed. Enclosed herewith in this proposal is a cashier's check, cash or bid bond on a form approved by the City Attorney, for:

5% of greatest Amount Bid dollars

and No cents total. (\$ 5%)

which is agreed shall be collected and retained by the Owner as liquidated damages in the event this proposal is accepted by the Owner within thirty day (30) after the date advertised for the reception of bids and the undersigned fails to execute the contract and required bonds with the Owner, under the conditions thereof, within (15) days after the date said proposal is accepted; otherwise said check or bond shall be returned to the undersigned on demand.

Willis Electric Co LP

Name of Contractor

Tommy Willis

Submitted By

Tommy Willis General Partner

Print Name and Title

Box 7109

Mailing Address

Abilene

City

TX

State

79608

Zip Code

INSTRUCTIONS TO BIDDERS**Bid # 25002707****1. 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 OR FAX: (432) 685-0523
P.O. Box 1152 E-Mail: 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.

2. 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.

3. BID WAIVERS:

A. WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, 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 CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER 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, 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 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 THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

B. BIDDER'S 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).

C. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES:

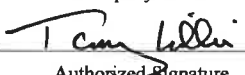
As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, Company or his legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this 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 the Company will 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 months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Company relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Company that Company's notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, 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 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 bidder agrees that this is the intentional relinquishment of the above listed rights.

By Signing 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.

Willis Electric Co LP		2-1-25
Company Name		Date
		325-698-3444
Authorized Signature		Phone
Tommy Willis		325-698-3446
Print Above Name		Fax

BID BOND

THE STATE OF TEXAS §

SURETY NO. Bid Bond

COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS, THAT Willis Electric Co., LP

(hereinafter called the Principal), as Principal, and Travelers Casualty & Surety Company of America

(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

(\$ 5% G.A.B.), 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 **Traffic Signal Improvements - Scharbauer and Fairgrounds**

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 Oblige, 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 February, 2025.

Willis Electric Co., LP

Principal
By I. Amy Miller

Address 4242 S Ayles Blvd
Abilene TX 79608

Travelers Casualty & Surety Company of America

By Payton Blanchard Surety
Payton Blanchard, Attorney-in-Fact

Address One Tower Square
Hartford, CT 06183

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY
PACKET
 FORMBIDBOND.FRM

5.27

April 22, 2025
REVISED: March 30, 2011



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Payton Blanchard** of **FORT WORTH**

Texas, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th** day of **January**, **2019**.



State of Connecticut

City of Hartford ss.

By: 
Robert L. Raney, Senior Vice President

On this the **17th** day of **January**, **2019**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2021**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

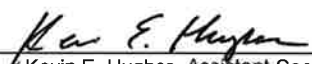
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **5th** day of **February**, **2025**




Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.

Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.

PACKET

5.28

April 22, 2025

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Travelers Casualty and Surety Company of America and its affiliates' toll-free telephone number for information or to make a complaint at:

1-800-328-2189

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P. O. Box 149104

Austin, TX 78714-9104

Fax: (512) 475-1771

Web: <http://www.tdi.state.tx.us>

E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact your Agent or Travelers first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document and is given to comply with Texas legal and regulatory requirements.

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

FORM CIQ

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.

Willis Electric Co LP

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.

N/A

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.

N/A

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 Tam Hillin George Marshall
Signature of vendor doing business with the governmental entity

2-4-25
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: _____

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: _____

CITY OF MIDLAND

ADDENDUM

BID # 25002707

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 1

DATE: January 28, 2025

The following questions were raised by one or more of the proposers. The answers are provided as a matter of clarification for all proposers as follows:

Q1. Can you advise on quantities and descriptions for striping, concrete/curb, paving, and utility water line?

A1. The City will Handle the pavement markings and adjusting the utility if needed.

Q2. Sheet 7 of the plans, note 9 notes that the BBU and Controller and cabinet will also be furnished by the City. But special provisions, note 1, line 3 and 4 does not list those items and has that the verbiage that "regardless of what is shown in the plans"... So are these items supplied by the City or the Contractor needs to supply them? And contractor is supplying all other materials, such as signal heads, conduit, wire, ground boxes, etc?

A2. The City will only furnish the poles and anchor bolts, the rest the contractor has to furnish and install.

Q3. Sheet 6 of the plans shows a "proposed luminaire" on the right side of the page, but I am not seeing one anywhere... Is there no one?

A3. The poles are at the Willis yard and they did not come with Luminaires, Willis to Provide the Luminaires as proposed on Sheet 7 on P-2 & P-3.

Q4.: Electrical service needs to be clarified for what is wanted as there are many options available and significant cost differences. Overhead or Underground feed? Pedestal type or steel pole type? A service data sheet would be helpful.

A4. We like the same Style that was done at TXDOT project Traffic Signal at Occidental & Hwy 349, Same Pedestal Type.

Q5. Sheet 7 - Are the City supplied poles 80 MPH or 100 MPH? If they are 80 MPH, the foundations should be 36-A. If they are 100 MPH, the foundations should be 36-B. Either way, none of them should be 30-B. Also, what depth is required?

A5. Poles are 80MPH so the Foundation will be 36-A

Q6. There are no APS push buttons shown, but wire chart makes is appear they are wanted? Is the contractor expected to supply them and the controller for them?

A6. 10 Ped Head and 2 APS Wire motion, north and south will be in recall, east and west will be push button but only on the north of the intersection.

Q7. Sheet 7, note 11 - the existing illumination is on utility poles on the East side of the intersection. Those are power company property and contractor should not be responsible for those.

A7. Willis Electric is correct, we are modifying or relocating that light.

Q8. The mounting arms and brackets should be supplied with signal poles and/or ILSN provider, but is not listed in materials... please confirm if the City is supplying them or not.

A8. ILSN, ILSN Arms are 9 feet long and Brackets will all be supplied by the Contractor. We can share our preferred layout with the City Logo. Pole order only came with 2 ILSN arms contractor to order and furnish 2 more make it 4 total as the Sheet 7 shows all 4 poles have ILSN arms.

Q9. Is there an engineer's estimate available?

A9. No, there is no Engineer's estimate.

Q10. Sheet 4, notes 4 and 5 note that the City is doing the Striping and crosswalks... please advise on what the contractor is expected to do and the City is going to do.

A10. The City will handle all the Pavement markings.

PLEASE RETURN THIS ADDENDUM WITH YOUR BID BY THE CLOSING DATE.

All other terms and conditions shall remain the same.

Willis Electric Co LP

Company Name

Tommy Willis

Bidder Authorized Signature

2-4-25

Date

Tommy Willis General Partner

Please Print Above Name

325-698-3444

Phone

CITY OF MIDLAND
ADDENDUM
BID # 25002707

TO ALL BIDDERS ON THE SUBJECT BID:

ADDENDUM # 2

DATE: January 30, 2025

The following questions were raised by one or more of the proposers. The answers are provided as a matter of clarification for all proposers as follows:

Q1. So, back to Question 2 and 8 and the answers that was given... to confirm, the city is NOT going to provide Flashing Yellow Arrow signs, PTZ Camera, Opticom System? And for ILSN's, city is only supplying 2 of the ILSN signs, brackets, arms, and hardware. The contractor is to supply the other 2 ILSN signs, brackets, arm, and hardware for the other 2? Are Message Boards going to be wanted? If so, all directions and for how many days each?

A1.

Question 2:

Answer: Yes the City is NOT providing the Flashing Yellow Arrow signs, PTZ camera, Opticom system.

Question 8:

Answer: Yes the City is only supplying the 2 ILSN arms brackets and Hardware. Willis will need to order the other 2 ILSN arms and brackets to make a total of 4. The ILNS Signs which will be 4 will be provided by the City.

- 1.City will provide the message boards.
2. Detection System will be No Traffic NOT Wavetronix.
3. Contractor to submit schedule with the Bid.

PLEASE RETURN THIS ADDENDUM WITH YOUR BID BY THE CLOSING DATE.

All other terms and conditions shall remain the same.

Willis Electric Co LP
Company Name

Tammy Willis
Bidder Authorized Signature

Tammy Willis General Partner
Please Print Above Name

2-4-25
Date

325-698-3444
Phone

Primary Responses

Success: All data is valid!

						Numeric	
Status	Bid/No Bid Decision	#	Item	Quantity Required	Unit	Unit Price	Total Cost
Success: All values provided	Bid	#0-1	Mobilization	1	LS	\$ 75,000.00	\$ 75,000.00
Success: All values provided	Bid	#0-2	Barricades, Signs, and Traffic Handling	2	MO	\$ 25,000.00	\$ 50,000.00
Success: All values provided	Bid	#0-3	Installation of Traffic Signals (See Pay Notes)	1	LS	\$ 625,000.00	\$ 625,000.00
Success: All values provided	Bid	#0-4	Owner's Allowance (input \$50,000.00 in your response) See Pay Notes	1	LS	\$ 50,000.00	\$ 50,000.00
Basket Total							\$ 800,000.00
Grand Total							\$ 800,000.00

WILLIS ELECTRIC						
T23-12						
0380-09-102						
MIDLAND						
	START DATE	FINISH DATE	DAYS	JUNE	JULY	AUGUST
Fairgrounds & Scharbuaer Signals	6/9/2025	8/8/2025	60			
Bid Date	2/5/2025					
Contract Wait time		3/5/2025	30			
TIME SUSPENSION FOR MATERIAL DELIVERY	3/5/2025	6/9/2025	90			
ELECTRICAL SERVICE	6/9/2025	8/9/2025	60			
BORES/CONDUITS	6/16/2025	6/27/2025	12			
DRILL SHAFTS	6/23/2025	7/7/2025	12			
GROUND BOXES	7/7/2025	7/14/2025	7			
POLES/SIGNALS	7/21/2025	8/1/2025	12			
CAMERAS/SIGNS/WIRE	7/21/2025	8/1/2025	12			
CONCRETE/PAVING WORK	7/7/2025	8/1/2025	28			
ACTIVATION	8/1/2025	8/8/2025	7			

EXHIBIT C

Bonding Requirements

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

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

*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 §

SURETY NO. Bid Bond

COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS, THAT Willis Electric Co., LP

(hereinafter called the Principal), as Principal, and Travelers Casualty & Surety Company of America

(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

(\$ 5% G.A.B.), 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 **Traffic Signal Improvements - Scharbauer and Fairgrounds**

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 Oblige, 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 February, 2025.

Willis Electric Co., LP

Principal
By *[Signature]*

Address 4242 Styles Blvd
Abilene TX 79608

Travelers Casualty & Surety Company of America

By Payton Blanchard Surety
Payton Blanchard, Attorney-in-Fact

Address One Tower Square
Hartford, CT 06183

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY
PACKET
 FORMBIDBOND.FRM

5.40

April 22, 2025
REVISED: March 30, 2011



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Payton Blanchard** of **FORT WORTH**

Texas, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **17th** day of **January**, **2019**.



State of Connecticut

City of Hartford ss.

By: 
Robert L. Raney, Senior Vice President

On this the **17th** day of **January**, **2019**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2021**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

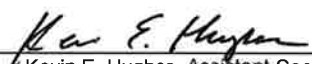
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **5th** day of **February**, **2025**




Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.

Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.

PACKET

5.41

April 22, 2025

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Travelers Casualty and Surety Company of America and its affiliates' toll-free telephone number for information or to make a complaint at:

1-800-328-2189

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P. O. Box 149104

Austin, TX 78714-9104

Fax: (512) 475-1771

Web: <http://www.tdi.state.tx.us>

E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact your Agent or Travelers first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document and is given to comply with Texas legal and regulatory requirements.

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 Oblige, 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 Oblige, dated the _____ day of _____, 20____, for the furnishing of materials, equipment to perform all labor and work necessary for _____, hereof as fully and to the same extent as if copied at length herein.

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

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

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

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

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: Attach Power of Attorney

PERFORMANCE BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND §

SURETY NO _____

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

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

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

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

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

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

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: Attach Power of Attorney

EXHIBIT D - Heavy & Highway Wage Rate Rev 01/05/2024

"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 Counties 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.

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

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	**

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

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 producing 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

For vendor doing business with local governmental entity

FORM CIQ

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

~~PACKET~~ ~~554~~ _____

Signature of vendor doing business with the governmental entity

Date April 22, 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: _____

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
<u>Business Automobile Liability:</u>	\$250,000.00 combined single limit -
	Personal Injury and Property Damage
<u>Worker's Compensation:</u>	Statutory limits
<u>Employers' Liability:</u>	\$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. **ATTORNEY FEES - 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. The 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: 6
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION APPROVING A CONTRACT WITH NOUVEAU TECHNOLOGY SERVICES, LP, THROUGH THE INTERLOCAL PURCHASING SYSTEM, FOR THE PURCHASE AND INSTALLATION OF FIBER NETWORK INFRASTRUCTURE AT ASTOUND STADIUM FOR A TOTAL COST OF \$307,500.00; AND APPROPRIATING AND TRANSFERRING FUNDS FOR SAID PROJECT (DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

Resolution approving the purchase and installation of a fiber network infrastructure at the Astound Stadium from Nouveau Technology Services LP through TIPS RCSP 241001 for a total cost of \$307,500.00 and authorizing the use of the Sports Complex unappropriated fund balance to fund this project.

Recommended City Council Action:

Approve

Fiscal Impact:

\$307,500 is available in the Sports Complex unappropriated fund balance and will be appropriated and transferred to a project for said purpose.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

Staff recommends awarding the purchase and installation of a fiber network infrastructure at the Astound Stadium at Scarbauer Sports Complex through the TIPS contract #RCSP241001. We are members of this cooperative and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases. Please see the attached memo from Laurie Williams, Parks and Recreation Director, for more information.

Therefore, please consider a resolution approving the purchase and installation of a fiber network infrastructure at the Astound Stadium from Nouveau Technology Services LP through TIPS RCSP 241001 for a total cost of \$307,500.00 and authorizing the use of the Sports Complex unappropriated fund balance to fund this project.



City Manager's Office



City Council Agenda Item

DATE: April 08, 2025

TO: Erika Martinez, Purchasing Manager

FROM: Gorgees Eskander, Chief Information Officer

SUBJECT: Consider a resolution approving the purchase and installation of a fiber network infrastructure at the Astound Stadium for a total cost of \$307,500.00 from Nouveau Technology Services LP via TIPS RCSP 241001 and authorizing the use of the Sports Complex unappropriated fund balance to fund this project.

Purpose:

Consider a resolution approving the purchase and installation of a fiber network infrastructure at Astound Stadium for a total cost of \$307,500.00 and authorizing the use of the Sports Complex unappropriated fund balance for this purpose.

Discussion:

To support growing demand for high-speed and reliable network connectivity at Astound Stadium, staff recommend entering into an agreement with Nouveau Technology Services LP to implement a comprehensive fiber network infrastructure. The project includes conduit installation, fiber cabling, termination, and equipment mounting across multiple key locations within the stadium complex.

The upgraded infrastructure will provide a robust and scalable network backbone to support daily operations, future technology enhancements, and critical communications during events. It will also ensure consistent performance and support for future Wi-Fi access points, networked systems, and other connected services throughout the facility.

The total project cost is \$307,500.00. Staff recommend funding this expenditure using the unappropriated fund balance from the Sports Complex Fund.



THE CITY OF MIDLAND

CONTRACT

25004462

THIS CONTRACT, effective the 23 day of April, 2025, by and between the City of Midland, hereinafter referred to as "CITY", and Nouveau Technology Services, LP, hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 307,500.00 DOLLARS

2. **Scope of Work:** COMPANY shall perform all work associated with the purchase and installation of a fiber network infrastructure at the Astound Stadium. 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..... Intentionally Omitted

EXHIBIT D..... Wage Scale

3. **City:** The words "CITY's Representative" or "representative" shall mean Laurie Williams 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 180 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; Retainage:** After all work is completed by COMPANY, including all Change Orders altering the original scope and amount of the contract are completed, and the CITY has inspected and approved that the work is completed and in compliance with the contract and all subsequent Change Orders, the CITY may thereafter issue payment to COMPANY in the amount of the contract and all Change Orders. The CITY shall be the final judge of when the work is completed by COMPANY. The CITY, in its sole discretion, shall determine if the work under the contract and under any Change Orders has been done to the CITY's requirements.

16.1. The CITY may make periodic payments to COMPANY; provided, however, such periodic payments may only be made pursuant to this section, and only after all work and all Change Orders are completed by COMPANY and approved by the CITY. The approval shall be in the CITY's sole discretion. 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 CITY or the CITY'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. **Late Completion; Liquidated Damages:** It is hereby understood and mutually agreed, by and between COMPANY and the CITY, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed." COMPANY agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between COMPANY and the CITY, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

17.1. In the event COMPANY shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the CITY, then COMPANY and COMPANY's surety, if any, shall be liable for and does hereby agree, as a part consideration for the awarding of this contract, to pay to the CITY \$500.00, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every day that COMPANY shall be in default after the time stipulated in the contract for completing the work. Further, the CITY shall have the right to cancel this contract for such delay. In the event the CITY cancels this contract pursuant to the terms of this section, the CITY shall pay to COMPANY only those monies deemed appropriate by the CITY, in its sole discretion, to compensate COMPANY for any work actually performed, less any liquidated damages COMPANY owes the CITY.

17.2. The said amount is fixed and agreed upon by and between COMPANY and the CITY because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the CITY would in such event sustain, and said amount is agreed to be the amount of damages which the CITY would sustain and said amount shall be retained from time to time by the CITY from current periodical estimates.

17.3. It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that COMPANY shall not be charged with liquidated damages or any excess cost when the CITY determines, in its sole discretion, that COMPANY is without fault and COMPANY's reasons for the time extension are acceptable to the CITY. Provided, further, that COMPANY shall not be charged with liquidated damages or excess cost when the delay in completion of the work is due:

April 22, 2025

- a. To any preference, priority or allocation order duly issued by the Government;
- b. To unforeseeable cause beyond the control and without the fault or negligence of COMPANY, including, but not restricted to, acts of God, or of the public enemy, acts of the CITY, acts of another contractor in the performance of a contract with the CITY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
- c. To any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

17.4. Provided, further, that COMPANY shall, within ten (10) days from the beginning of such delay, unless the CITY shall, in its sole discretion grant a further period of time prior to the date of final settlement of the contract, notify the CITY, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify COMPANY within a reasonable time of its decision in the matter.

17.5. COMPANY AGREES THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES MAY BE RECOVERED BY THE CITY FROM RETAINAGE HELD BY THE CITY. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING FROM THE CITY WITHHOLDING PAYMENT FROM COMPANY AS LIQUIDATED DAMAGES FOR COMPANY'S FAILURE TO COMPLETE THE WORK WITHIN THE TIME SPECIFIED HEREIN, 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.

17.6. COMPANY SHALL RECEIVE NO FINANCIAL COMPENSATION FOR DELAY OR HINDRANCE TO THE WORK. IN NO EVENT SHALL THE CITY BE LIABLE TO COMPANY OR ANY SUBCONTRACTOR OR SUPPLIER, ANY OTHER PERSON OR ANY SURETY FOR OR ANY EMPLOYEE OR AGENT OF ANY OF THEM, FOR ANY DAMAGES ARISING OUT OF OR ASSOCIATED WITH ANY DELAY OR HINDRANCE TO THE WORK, REGARDLESS OF THE SOURCE OF THE DELAY OR HINDRANCE, INCLUDING EVENTS OF FORCE MAJEURE, AND EVEN IF SUCH DELAY OR HINDRANCE RESULTS FROM, ARISES OUT OF OR IS DUE, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF THE CITY. COMPANY'S SOLE REMEDY IN ANY SUCH CASE SHALL BE AN EXTENSION OF TIME.

18. **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.

19. 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.

20. 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.

21. 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.

22. **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.

23. **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.**

24. **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.

25. **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.

26. 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.

27. **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.

28. **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.

29. **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.

30. 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.

31. **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.

32. **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.

33. **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.

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Tommy Gonzalez, City Manager

ATTEST

Marcia Bentley-German, City Governance Officer/City Secretary

APPROVED ONLY AS TO FORM

Nicholas Toulet, Interim 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 Nouveau Technology Services, LP., 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____.

Nouveau Technology Services LP
118 Lynn Ave Suite 300
Lewisville, TX 75057
www.ntsllp.com

Proposal



Phone: 214-226-0296

Fax: 972-484-5072

Proposal: 32506C

Date: 3/14/2025

To:	Project:
City of Midland Attn: Laurie Williams 300 N. Loraine Midland, TX 79701	City of Midland\ Astound Fiber Network City of Midland\ Astound Fiber Network 801 N Loop 250W Midland, TX 79703

Salesperson		
Miles Koon		TIPS RCSP 241001

Scope of Work

Nouveau Construction respectfully submits our base proposal for the listed project.

This proposal includes all labor, material and equipment to perform the work described in this proposal and the following scope of work.

Scope:

Nouveau will be responsible for installing and running fiber infrastructure across multiple locations as outlined. This includes conduit installation, fiber termination, equipment placement, and associated hardware for network connectivity.

1. Conduit Installation

Run 1.5" conduit:

- From the Utility Closet to the Home Concession Stand.
- From the Utility Closet to the Elevator Riser Room.

2. Power Requirements

Install dedicated 20amp outlet at each wall mounted rack location

3. install all fiber cabling, and hardware as per the table attached.

- Installation of fiber cabling (12 Strand SM Fiber).
- Proper termination and labeling of fiber with pigtails and panels.
- Conduit installation between specified locations.
- Equipment mounting, including Wall-Mounted Racks.

6. Schedule

TBD

Utility Closet

- Misc. Installation Hardware & Materials,
1 BRKT ER42, 42 Space Enclosed Rack w/ Active Cooling, Locking Reversible Front Door and Split Rear Door, Removable Locking Side Panels, Active Cooling, 1,100lbs Weight Capacity
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Ticket Booth 1

- Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable Data Drop - For WAP
Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.
1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Panel
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Home Locker

- Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered Plenum Cable, 12 Fibers, 8.3 UM OS2,

PACKET



3 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

6 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

3 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Visitor Locker

3 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

4 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

2 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Visitor Consession (S)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

2 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

3 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Ticket Booth 3

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable

Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

2 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Visitor Consession (L)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

5 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Visitor Field

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

1 Joseph Electronics JBT162210-PC-S-C-L-P-1, Stainless Steel Surface Mounted box, 16" Height box, cable pass thru w/ critter spilt door, coinslot locking handle

1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Ticket Booth 4

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable

Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and



certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure
Standard-Series, LGX, Three-Position, 1 RMU

Home Consession (S)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered
Plenum Cable, 12 Fibers, 8.3 UM OS2,
2 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)
Cable Data Drop - For WAP
Includes pulling, terminating, labeling, punch panel installation, and
certification of CAT6 plenum-rated cables. Ensures reliable, highspeed
network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure,
Standard-Series, LGX, Three-Position, 1 RMU

Ticket Booth 2

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable
Data Drop - For WAP
Includes pulling, terminating, labeling, punch panel installation, and
certification of CAT6 plenum-rated cables. Ensures reliable, highspeed
network performance.

1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure,
Standard-Series, LGX, Three-Position, 1 RMU

Home Field

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered
Plenum Cable, 12 Fibers, 8.3 UM OS2,
1 Joseph Electronics JBT162210-PC-S-C-L-P-1, Stainless Steel Surface
Mounted box, 16" Height box, cable pass thru w/ critter spilt door,
coinslot locking handle
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Home Consession (L)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered
Plenum Cable, 12 Fibers, 8.3 UM OS2,
5 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)
Cable Data Drop - For WAP
Includes pulling, terminating, labeling, punch panel installation, and
certification of CAT6 plenum-rated cables. Ensures reliable, highspeed
network performance.

2 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure
Standard-Series, LGX, Three-Position, 1 RMU

Exclusions

1. TAXES
2. PERMITS
3. ASBESTOS SURVEY/ABATEMENT
4. LEAD SURVEY/ABATEMENT
5. ANY SCOPE OF WORK NOT DESCRIBED ABOVE OR UNFORESEEN CONDITIONS.
6. ANY SCOPE OF WORK NOT DETAILED IN FINAL CONSTRUCTION DOCUMENTS.
7. ANY WORK OUTSIDE OF NORMAL OPERATING HOURS OF MONDAY- FRIDAY, 8:00 AM TO 5:00 PM.
8. BONDS

Proposal



Phone: 214-226-0296
 Fax: 972-484-5072

Proposal: 32506C
Date: 3/14/2025

To:	Project:
City of Midland Attn: Laurie Williams 300 N. Loraine Midland, TX 79701	City of Midland\ Astound Fiber Network City of Midland\ Astound Fiber Network 801 N Loop 250W Midland, TX 79703

Salesperson		
Miles Koon		

Pricing good for 15 days from date of proposal

Proposal Total:	307,500.00
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Acceptance	
Accepted by:	_____
Title:	_____
Date:	_____

EXHIBIT D - Heavy & Highway Wage Rate Rev 01/05/2024

"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 Counties 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	**

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

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 producing 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.

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END OF GENERAL DECISION"

RESOLUTION NO. _____

RESOLUTION APPROVING A CONTRACT WITH NOUVEAU TECHNOLOGY SERVICES, LP, THROUGH THE INTERLOCAL PURCHASING SYSTEM, FOR THE PURCHASE AND INSTALLATION OF FIBER NETWORK INFRASTRUCTURE AT ASTOUND STADIUM FOR A TOTAL COST OF \$307,500.00; AND APPROPRIATING AND TRANSFERRING FUNDS FOR SAID PROJECT

WHEREAS, The Interlocal Purchasing System (“TIPS”) is a cooperative purchasing agency with which the City of Midland (the “City”) participates with on purchases through a cooperative purchasing program in accordance with Tex. Loc. Gov’t Code § 271.102; and

WHEREAS, Nouveau Technology Services, LP, has submitted a total proposed cost to the City of \$307,500.00 for the purchase and installation of fiber network infrastructure at Astound Stadium through TIPS; and

WHEREAS, the City Council finds the price proposed by Nouveau Technology Services, LP, through TIPS, for the purchase and installation of fiber network infrastructure at Astound Stadium to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to approve a contract with Nouveau Technology Services, LP, for the purchase and installation of fiber network infrastructure at Astound Stadium through TIPS;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract for the purchase and installation of fiber network infrastructure at Astound Stadium, through TIPS, for a total cost of \$307,500.00. Said contract being attached hereto as Exhibit A and incorporated herein for all purposes.

SECTION TWO. That the funds are available in the Sports Complex unappropriated fund balance and shall be appropriated and transferred to a project for said purpose.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Nouveau Technology Services, LP, in accordance with the provisions of the above-referenced contract from funds available in the project established by the City of Midland Finance Department 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:

Nicholas Toulet, Interim City Attorney



THE CITY OF MIDLAND

CONTRACT

25004462

THIS CONTRACT, effective the 23 day of April, 2025, by and between the City of Midland, hereinafter referred to as "CITY", and Nouveau Technology Services, LP, hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 307,500.00 DOLLARS

2. **Scope of Work:** COMPANY shall perform all work associated with the purchase and installation of a fiber network infrastructure at the Astound Stadium. 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..... Intentionally Omitted

EXHIBIT D..... Wage Scale

3. **City:** The words "CITY's Representative" or "representative" shall mean Laurie Williams 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 180 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; Retainage:** After all work is completed by COMPANY, including all Change Orders altering the original scope and amount of the contract are completed, and the CITY has inspected and approved that the work is completed and in compliance with the contract and all subsequent Change Orders, the CITY may thereafter issue payment to COMPANY in the amount of the contract and all Change Orders. The CITY shall be the final judge of when the work is completed by COMPANY. The CITY, in its sole discretion, shall determine if the work under the contract and under any Change Orders has been done to the CITY's requirements.

16.1. The CITY may make periodic payments to COMPANY; provided, however, such periodic payments may only be made pursuant to this section, and only after all work and all Change Orders are completed by COMPANY and approved by the CITY. The approval shall be in the CITY's sole discretion. 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 CITY or the CITY'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. **Late Completion; Liquidated Damages:** It is hereby understood and mutually agreed, by and between COMPANY and the CITY, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed." COMPANY agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between COMPANY and the CITY, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

17.1. In the event COMPANY shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the CITY, then COMPANY and COMPANY's surety, if any, shall be liable for and does hereby agree, as a part consideration for the awarding of this contract, to pay to the CITY \$500.00, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every day that COMPANY shall be in default after the time stipulated in the contract for completing the work. Further, the CITY shall have the right to cancel this contract for such delay. In the event the CITY cancels this contract pursuant to the terms of this section, the CITY shall pay to COMPANY only those monies deemed appropriate by the CITY, in its sole discretion, to compensate COMPANY for any work actually performed, less any liquidated damages COMPANY owes the CITY.

17.2. The said amount is fixed and agreed upon by and between COMPANY and the CITY because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the CITY would in such event sustain, and said amount is agreed to be the amount of damages which the CITY would sustain and said amount shall be retained from time to time by the CITY from current periodical estimates.

17.3. It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that COMPANY shall not be charged with liquidated damages or any excess cost when the CITY determines, in its sole discretion, that COMPANY is without fault and COMPANY's reasons for the time extension are acceptable to the CITY. Provided, further, that COMPANY shall not be charged with liquidated damages or excess cost when the delay in completion of the work is due:

- a. To any preference, priority or allocation order duly issued by the Government;
- b. To unforeseeable cause beyond the control and without the fault or negligence of COMPANY, including, but not restricted to, acts of God, or of the public enemy, acts of the CITY, acts of another contractor in the performance of a contract with the CITY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
- c. To any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

17.4. Provided, further, that COMPANY shall, within ten (10) days from the beginning of such delay, unless the CITY shall, in its sole discretion grant a further period of time prior to the date of final settlement of the contract, notify the CITY, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify COMPANY within a reasonable time of its decision in the matter.

17.5. COMPANY AGREES THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES MAY BE RECOVERED BY THE CITY FROM RETAINAGE HELD BY THE CITY. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING FROM THE CITY WITHHOLDING PAYMENT FROM COMPANY AS LIQUIDATED DAMAGES FOR COMPANY'S FAILURE TO COMPLETE THE WORK WITHIN THE TIME SPECIFIED HEREIN, 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.

17.6. COMPANY SHALL RECEIVE NO FINANCIAL COMPENSATION FOR DELAY OR HINDRANCE TO THE WORK. IN NO EVENT SHALL THE CITY BE LIABLE TO COMPANY OR ANY SUBCONTRACTOR OR SUPPLIER, ANY OTHER PERSON OR ANY SURETY FOR OR ANY EMPLOYEE OR AGENT OF ANY OF THEM, FOR ANY DAMAGES ARISING OUT OF OR ASSOCIATED WITH ANY DELAY OR HINDRANCE TO THE WORK, REGARDLESS OF THE SOURCE OF THE DELAY OR HINDRANCE, INCLUDING EVENTS OF FORCE MAJEURE, AND EVEN IF SUCH DELAY OR HINDRANCE RESULTS FROM, ARISES OUT OF OR IS DUE, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF THE CITY. COMPANY'S SOLE REMEDY IN ANY SUCH CASE SHALL BE AN EXTENSION OF TIME.

18. **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.

19. 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.

20. 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.

21. 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.

22. **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.

23. **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.**

24. **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.

25. **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.

26. 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.

27. **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.

28. **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.

29. **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.

30. 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.

31. **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.

32. **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.

33. **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.

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Tommy Gonzalez, City Manager

ATTEST

Marcia Bentley-German, City Governance Officer/City Secretary

APPROVED ONLY AS TO FORM

Nicholas Toulet, Interim 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 Nouveau Technology Services, LP., 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____.

Nouveau Technology Services LP
118 Lynn Ave Suite 300
Lewisville, TX 75057
www.ntsllp.com

Proposal



Phone: 214-226-0296

Fax: 972-484-5072

Proposal: 32506C

Date: 3/14/2025

To:	Project:
City of Midland Attn: Laurie Williams 300 N. Loraine Midland, TX 79701	City of Midland\ Astound Fiber Network City of Midland\ Astound Fiber Network 801 N Loop 250W Midland, TX 79703

Salesperson		
Miles Koon		TIPS RCSP 241001

Scope of Work

Nouveau Construction respectfully submits our base proposal for the listed project.

This proposal includes all labor, material and equipment to perform the work described in this proposal and the following scope of work.

Scope:

Nouveau will be responsible for installing and running fiber infrastructure across multiple locations as outlined. This includes conduit installation, fiber termination, equipment placement, and associated hardware for network connectivity.

1. Conduit Installation

Run 1.5" conduit:

- From the Utility Closet to the Home Concession Stand.
- From the Utility Closet to the Elevator Riser Room.

2. Power Requirements

Install dedicated 20amp outlet at each wall mounted rack location

3. install all fiber cabling, and hardware as per the table attached.

- Installation of fiber cabling (12 Strand SM Fiber).
- Proper termination and labeling of fiber with pigtails and panels.
- Conduit installation between specified locations.
- Equipment mounting, including Wall-Mounted Racks.

6. Schedule

TBD

Utility Closet

- Misc. Installation Hardware & Materials,
1 BRKT ER42, 42 Space Enclosed Rack w/ Active Cooling, Locking Reversible Front Door and Split Rear Door, Removable Locking Side Panels, Active Cooling, 1,100lbs Weight Capacity
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Ticket Booth 1

- 2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable Data Drop - For WAP
Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.
1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Panel
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Home Locker

- 2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered Plenum Cable, 12 Fibers, 8.3 UM OS2,

PACKET

6.45
Page 1

April 22, 2025



3 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

6 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

3 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Visitor Locker

3 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

4 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

2 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Visitor Consession (S)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

2 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

3 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure, Standard-Series, LGX, Three-Position, 1 RMU

Ticket Booth 3

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable

Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

2 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Visitor Consession (L)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

5 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)

Cable Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep

1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Visitor Field

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

1 Joseph Electronics JBT162210-PC-S-C-L-P-1, Stainless Steel Surface Mounted box, 16" Height box, cable pass thru w/ critter spilt door, coinslot locking handle

1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Ticket Booth 4

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M

1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered

Plenum Cable, 12 Fibers, 8.3 UM OS2,

1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable

Data Drop - For WAP

Includes pulling, terminating, labeling, punch panel installation, and



certification of CAT6 plenum-rated cables. Ensures reliable, highspeed network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure
Standard-Series, LGX, Three-Position, 1 RMU

Home Consession (S)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered
Plenum Cable, 12 Fibers, 8.3 UM OS2,
2 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6)
Cable Data Drop - For WAP
Includes pulling, terminating, labeling, punch panel installation, and
certification of CAT6 plenum-rated cables. Ensures reliable, highspeed
network performance.

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure,
Standard-Series, LGX, Three-Position, 1 RMU

Ticket Booth 2

1 Vertical Cable 047-WFJ-0853, 8RU Wall Rack Fixed 18" Deep
1 PSLV Cat6 Plenum Data Drop -WAP, Category 6 Plenum (CAT6) Cable
Data Drop - For WAP
Includes pulling, terminating, labeling, punch panel installation, and
certification of CAT6 plenum-rated cables. Ensures reliable, highspeed
network performance.

1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane
1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure,
Standard-Series, LGX, Three-Position, 1 RMU

Home Field

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered
Plenum Cable, 12 Fibers, 8.3 UM OS2,
1 Joseph Electronics JBT162210-PC-S-C-L-P-1, Stainless Steel Surface
Mounted box, 16" Height box, cable pass thru w/ critter spilt door,
coinslot locking handle
1 Vertical Cable 264-LAP04-1B6Z1, 12-Fiber SM LC Fiber Adapter Pane

Home Consession (L)

2 Custom FXNS12ALCB-3M, LC/B Sm 12F Nonbrkout PVC 3M
1 Hitachi Cable 61459-12, 61459-12 Indoor/Outdoor Tight Buffered
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1 Vertical Cable 267-RES01-1C1, Optical Fiber Rack-Mount Enclosure
Standard-Series, LGX, Three-Position, 1 RMU

Exclusions

1. TAXES
2. PERMITS
3. ASBESTOS SURVEY/ABATEMENT
4. LEAD SURVEY/ABATEMENT
5. ANY SCOPE OF WORK NOT DESCRIBED ABOVE OR UNFORESEEN CONDITIONS.
6. ANY SCOPE OF WORK NOT DETAILED IN FINAL CONSTRUCTION DOCUMENTS.
7. ANY WORK OUTSIDE OF NORMAL OPERATING HOURS OF MONDAY- FRIDAY, 8:00 AM TO 5:00 PM.
8. BONDS

Proposal



Phone: 214-226-0296
 Fax: 972-484-5072

Proposal: 32506C
Date: 3/14/2025

To:	Project:
City of Midland Attn: Laurie Williams 300 N. Loraine Midland, TX 79701	City of Midland\ Astound Fiber Network City of Midland\ Astound Fiber Network 801 N Loop 250W Midland, TX 79703

Salesperson		
Miles Koon		

Pricing good for 15 days from date of proposal

Proposal Total: 307,500.00

Acceptance	
Accepted by:	_____
Title:	_____
Date:	_____

EXHIBIT D - Heavy & Highway Wage Rate Rev 01/05/2024

"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 Counties 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.

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

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	**

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

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 producing 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.

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END OF GENERAL DECISION"



City Council Meeting

Item Number: 7
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION APPROVING THE PURCHASE OF DELL COMPUTERS TO REPLACE CURRENTLY DEPLOYED USER DEVICES FROM DELL TECHNOLOGIES, THROUGH OMNIA-NATIONAL COOPERATIVE PURCHASING ALLIANCE, FOR A TOTAL COST OF \$280,331.59 (DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

Resolution approving the purchase of Dell computers to replace currently deployed user devices from Dell Technologies through OMNIA-NCPA 01-143 for a total cost of \$280,331.59.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding of \$280,331.59 is available in the Tech Fund operating budget.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

The ITSD Department is recommending the purchase of Dell computers to replace currently deployed user devices from Dell Technologies through OMNIA-NCPA 01-143. We are members of the Omnia 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. This purchase is planned within the budget and aligns with the City's four-year technology replacement cycle. Please see the attached memo from Gorgees Eskander, Chief Information Officer, for additional information.

Therefore, please consider a resolution authorizing the purchase of Dell computers to replace currently deployed user devices from Dell Technologies through OMNIA-NCPA 01-143 for a total cost of \$280,331.59.



City Manager's Office



City Council Agenda Item

DATE: April 08, 2025

TO: Erika Martinez, Purchasing Manager

FROM: Gorgees Eskander, Chief Information Officer

SUBJECT: Consider a resolution approving the purchase of Dell computers to replace currently deployed user devices for a total cost of \$280,331.59 from Dell Technologies via OMNIA-NCPA 01-143.

Purpose:

Consider a resolution approving the purchase of Dell computers to replace currently deployed user devices for a total cost of \$280,331.59 from Dell Technologies. This purchase is budgeted and aligns with the City's 4-year technology replacement cycle.

Discussion:

As part of the City's ongoing 4-year replacement cycle, staff recommend the purchase of 216 Dell computers to refresh aging devices that are currently in use. These replacements will cover all systems scheduled for update between now and September 30, 2025, ensuring continued performance, reliability, and supportability across departments.

By proceeding with the purchase now, the City can secure current pricing ahead of anticipated tariff increases, which are estimated to raise costs by up to 20%.

This purchase includes 158 desktops, 30 monitors, 58 laptops, and 10 docking stations.

The total cost of the new equipment is \$280,331.59 and is fully budgeted in the ITSD Tech Fund.

RESOLUTION NO. _____

**RESOLUTION APPROVING THE PURCHASE OF
DELL COMPUTERS TO REPLACE CURRENTLY
DEPLOYED USER DEVICES FROM DELL
TECHNOLOGIES, THROUGH OMNIA-NATIONAL
COOPERATIVE PURCHASING ALLIANCE, FOR A
TOTAL COST OF \$280,331.59**

WHEREAS, OMNIA-National Cooperative Purchasing Alliance (“OMNIA”) 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, Dell Technologies submitted a total proposed cost to the City of \$280,331.59 for the purchase of Dell computers to replace currently deployed user devices, through OMNIA, as shown on the quote that is attached hereto as Exhibit A, which is incorporated herein for all purposes; and

WHEREAS, the City Council finds the prices proposed by Dell Technologies, through OMNIA, for the purchase of said Dell computers to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to purchase said Dell computers through OMNIA;

**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 Dell computers to replace currently deployed user devices from Dell Technologies, through OMNIA, for a total cost of \$280,331.59

SECTION TWO. That funds shall be available in the Tech Fund operating budget.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Dell Technologies 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:

Nicholas Toulet, Interim City Attorney



Your quote is ready for purchase.

Complete the purchase of your personalized quote through our secure online checkout before the quote expires on **May. 03, 2025**.

You can download a copy of this quote during checkout.

[Place your order](#)

Quote No.	3000187984897.1	Sales Rep	Terry Gruns
Total	\$280,331.59	Phone	1(800) 456-3355, 6179893
Customer #	1002883	Email	Terry_Gruns@Dell.com
Quoted On	Apr. 03, 2025	Billing To	ACCOUNTS PAYABLE
Expires by	May. 03, 2025		CITY OF MIDLAND
	OMNIA-National		PO BOX 1152
Contract Name	Cooperative Purchasing		MIDLAND, TX 79702-1152
	Alliance (NCPA)		
Contract Code	C000001019611		
Customer Agreement #	NCPA 01-143		
Deal ID	28146316		

Message from your Sales Rep

Please review this quote and let me know if you have any questions. Thank you for shopping with Dell!

Regards,
Terry Gruns

Shipping Group

Shipping To	Shipping Method
TOREE FINLEY CITY OF MIDLAND 601 N LORAIN ST MIDLAND, TX 79701-4759 (432) 685-7489	Standard Delivery

Product	Unit Price	Quantity	Subtotal
OptiPlex Micro Form Factor Plus 7020 XCTO	\$1,069.20	10	\$10,692.00
Precision 3680 Tower CTO Base	\$3,024.32	21	\$63,510.72
OptiPlex Small Form Factor Plus 7020 BTX	\$950.31	127	\$120,689.37
Dell UltraSharp 24 Monitor - U2424H	\$185.00	30	\$5,550.00
Dell Mobile Precision Workstation 3591	\$1,447.75	10	\$14,477.50
Dell Thunderbolt™ Dock – WD22TB4	\$210.00	10	\$2,100.00

PACKET

Exhibit 7.6 A"

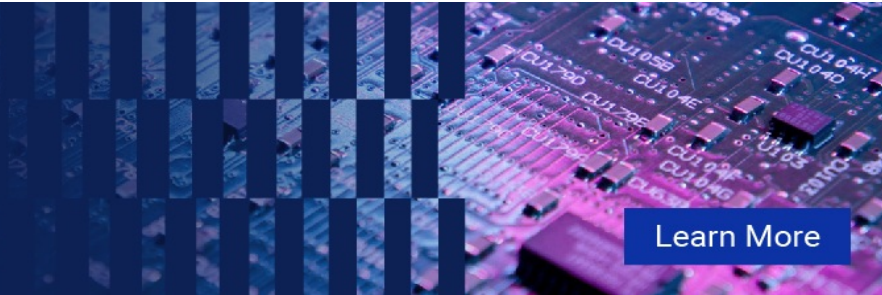
April 22, 2025

Dell Latitude 7450 XCTO	\$1,319.00	48	\$63,312.00
Subtotal:			\$280,331.59
Shipping:			\$0.00
Non-Taxable Amount:			\$280,331.59
Taxable Amount:			\$0.00
Estimated Tax:			\$0.00
Total:			\$280,331.59

Special pricing may be available for qualified customers. Please contact your DFS Sales Representative for details.

Accelerate the power
of AI for your data

Take the first step in achieving
Generative AI success



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Shipping Group Details

Shipping To

TOREE FINLEY
CITY OF MIDLAND
601 N LORAIN ST
MIDLAND, TX 79701-4759
(432) 685-7489

Shipping Method

Standard Delivery

OptiPlex Micro Form Factor Plus 7020 XCTO

Estimated delivery if purchased today:

Apr. 16, 2025

Contract # C000001019611

Customer Agreement # NCPA 01-143

Unit Price	Quantity	Subtotal
\$1,069.20	10	\$10,692.00

Description	SKU	Unit Price	Quantity	Subtotal
OptiPlex Micro Form Factor Plus 7020 XCTO	210-BKXD	-	10	-
Intel Core i7 processor 14700 vPro (33 MB cache, 20 cores, 28 threads, up to 5.4 GHz Turbo, 65W)	338-CNCK	-	10	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	10	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	10	-
16GB DDR5 Memory, 1X16GB, Non-ECC, SoDIMM	370-BBPX	-	10	-
M.2 2230 512GB PCIe NVMe SSD Class 35	400-BQSB	-	10	-
1st M.2 2280 SSD Screw	773-BBBC	-	10	-
NO RAID	817-BBBN	-	10	-
OptiPlex Micro Plus with 65W CPU	329-BJWV	-	10	-
US Power Cord	450-AAZN	-	10	-
Intel(R) AX211 Wi-Fi 6E 2x2 and Bluetooth	555-BH DU	-	10	-
Internal Antenna	555-BH DV	-	10	-
Wireless Driver Intel AX211	555-BKJP	-	10	-
Optional HDMI Port	382-BBLO	-	10	-
Dell KB216 Wired Keyboard English	580-ADJC	-	10	-
Dell Optical Mouse - MS116 (Black)	570-ABIE	-	10	-
No Cover Selected	325-BCZQ	-	10	-
Dell Additional Software	634-CHFP	-	10	-
ENERGY STAR Qualified	387-BBLW	-	10	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	10	-
Watch Dog SRV	379-BFMR	-	10	-
Quick Start Guide, OptiPlex Micro Plus	340-DMHF	-	10	-
Trusted Platform Module (Discrete TPM Enabled)	329-BBJL	-	10	-
Shipping Material	340-CQYN	-	10	-
Shipping Label	389-BBUU	-	10	-
High:FSJ Reg label for 180W adaptor	389-FGDW	-	10	-
IRST Driver, MFF 7020	658-BFSV	-	10	-
Intel Core i7 Processor Label	340-CUEQ	-	10	-
PACKET	7.8	April 22, 2025		

Desktop BTO Standard shipment	800-BBIO	-	10	-
No Option Included	340-ACQQ	-	10	-
180 Watt A/C Adapter, TCO Compliant	450-BBBM	-	10	-
Custom Configuration	817-BBBB	-	10	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	10	-
Internal Speaker, MFF 7020	520-BBFQ	-	10	-
Windows AutoPilot	634-BRWG	-	10	-
No Out-of-Band Systems Management	631-BBQD	-	10	-
Dell Limited Hardware Warranty Plus Service	812-3886	-	10	-
ProSupport: 7x24 Technical Support, 3 Years	812-3894	-	10	-
ProSupport: Next Business Day Onsite 3 Years	812-3908	-	10	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	10	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	10	-

Unit Price	Quantity	Subtotal
\$3,024.32	21	\$63,510.72

Precision 3680 Tower CTO Base

Estimated delivery if purchased today:

Apr. 22, 2025

Contract # C000001019611

Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Precision 3680 Tower CTO Base	210-BLLP	-	21	-
Intel® Core™ i9 14th Gen 14900K (36 MB cache, 24 cores, 32 threads, 3.2 GHz to 6.0 GHz, 125W)	338-CNTP	-	21	-
Windows 11 Pro, English, Spanish, French, Brazilian Portuguese	619-ARSE	-	21	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	21	-
Precision 3680 Tower with 1000W (80 Plus Platinum) PSU, DAO	321-BKRN	-	21	-
Premium CPU Air Cooler with VR Heatsink	412-BBJM	-	21	-
64GB: 2 x 32 GB, DDR5, 4400 MT/s, ECC	370-BBWF	-	21	-
NVIDIA® RTX™ 4000 Ada Generation, 20GB GDDR6, 4DP	490-BKDV	-	21	-
C1 M.2 SSD Boot + SSD	449-BBXF	-	21	-
No SATA/SAS RAID	780-BBCJ	-	21	-
1 TB, M.2 2280, Gen 4 PCIe NVMe, SSD	400-BRCG	-	21	-
Thermal Pad	412-AAZW	-	21	-
1 TB, M.2 2280, Gen 4 PCIe NVMe, SSD	401-BBFS	-	21	-
Thermal Pad	412-AAZW	-	21	-
No Hard Drive	400-AKZR	-	21	-
No Hard Drive	400-AKZR	-	21	-
No Hard Drive	400-AKZR	-	21	-
No Additional Network Card Selected (Integrated NIC included)	555-BBJO	-	21	-
Intel Wi-Fi 6/6E (6GHz) AX211 2x2 Bluetooth 5.3 Wireless Card	555-BHHI	-	21	-

PACKET

7.9

April 22, 2025

External Antenna	555-BHHR	-	21	-
E0: No Expansion Bay	429-ABMS	-	21	-
CMS Software not included	632-BBBJ	-	21	-
Intel Management Engine with vPro	631-BBTZ	-	21	-
Dell Pro Keyboard and Mouse - KM5221W - US English - Black	580-AJJG	-	21	-
Mouse included with Keyboard	570-AADI	-	21	-
ENERGY STAR Qualified	387-BBLW	-	21	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	21	-
Dell Precision/Pro Max Desktops TPM	340-ACBY	-	21	-
WLAN Intel AX211 wireless card driver	555-BKPR	-	21	-
System Power Cord C13 (US 125V, 15A)	450-AH DU	-	21	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	21	-
Quick Setup Guide, Precision 3680	340-DMVD	-	21	-
Shipping Material (DAO)	340-CBUU	-	21	-
Ship material - EPEAT Certification	340-CZQO	-	21	-
1000W Platinum PSU Label	389-FGRS	-	21	-
Intel Core i9 vPro Enterprise Processor Label	389-EDDS	-	21	-
Internal Speaker for Precision	520-AAVW	-	21	-
No External ODD	429-ABGY	-	21	-
Windows AutoPilot	634-BRWG	-	21	-
Dell Additional Software	634-CHFN	-	21	-
Intel Rapid Storage Technology Driver, Precision 3680T	409-BCYF	-	21	-
Dell PremierColor 6.2	640-BBSW	-	21	-
Graphics Support Holder 1000W PSU	490-BJZW	-	21	-
Custom Configuration	817-BBBB	-	21	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	21	-
Dell Limited Hardware Warranty Plus Service	997-2808	-	21	-
ProSupport: 7x24 Technical Support, 3 Years	997-2836	-	21	-
ProSupport: Next Business Day Onsite, 3 Years	997-6782	-	21	-
Ready Image for Client PC	365-8303	-	21	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	21	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	21	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	21	-
		Unit Price	Quantity	Subtotal
OptiPlex Small Form Factor Plus 7020 BTX		\$950.31	127	\$120,689.37

Estimated delivery if purchased today:
Apr. 15, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
OptiPlex Small Form Factor Plus 7020 BTX	210-BKWL	-	127	-
PACKET	7.10	April 22, 2025		

Intel Core i7 processor 14700 vPro (33 MB cache, 20 cores, 28 threads, up to 5.4 GHz Turbo, 65W)	338-CNCK	-	127	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	127	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	127	-
16 GB: 2 x 8 GB, DDR5	370-BBPQ	-	127	-
M.2 2230 512GB PCIe NVMe SSD Class 35	400-BQSB	-	127	-
M.2 22x30 Thermal Pad	412-AAQT	-	127	-
1st M.2 2280 SSD Screw	773-BBBC	-	127	-
NO RAID	817-BBBN	-	127	-
Intel Integrated Graphics	490-BBFG	-	127	-
OptiPlex SFF Plus with 260W Bronze Power Supply	329-BJWJ	-	127	-
System Power Cord (Philippine/TH/US)	450-AAOJ	-	127	-
No Optical Drive	429-ABKF	-	127	-
CMS Software not included	632-BBBJ	-	127	-
No Media Card Reader	379-BBHM	-	127	-
Intel(R) AX211 Wi-Fi 6E 2x2 and Bluetooth	555-BH DU	-	127	-
External Antenna	555-BH DW	-	127	-
Wireless Driver, Intel Wi-Fi 6E AX211 2x2 and Bluetooth wireless card	555-BKJK	-	127	-
No Additional Video Ports	492-BCKH	-	127	-
Dell Pro Keyboard and Mouse - KM5221W - US English - Black	580-AJJG	-	127	-
Mouse included with Keyboard	570-AADI	-	127	-
No Cover Selected	325-BCZQ	-	127	-
Dell Additional Software	634-CHFP	-	127	-
ENERGY STAR Qualified	387-BBLW	-	127	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	127	-
Watch Dog SRV	379-BFMR	-	127	-
Quick Start Guide, OptiPlex SFF Plus	340-DMJC	-	127	-
Print on Demand Label	389-BDQH	-	127	-
Trusted Platform Module (Discrete TPM Enabled)	329-BBJL	-	127	-
Shipping Material	340-CQYR	-	127	-
Shipping Label	389-BBUU	-	127	-
Regulatory Label for OptiPlex SFF Plus PSU DAO	389-FFZD	-	127	-
Intel® Rapid Storage Technology Driver	658-BFSK	-	127	-
Intel Core i7 Processor Label	340-CUEQ	-	127	-
Desktop BTS/BTP Shipment	800-BBIP	-	127	-
No Additional Add In Cards	382-BBHX	-	127	-
No Additional Network Card Selected (Integrated NIC included)	555-BBJO	-	127	-
Configuration Matérielle Fixe	998-GRXR	-	127	-
EPEAT 2018 Registered (Silver)	379-BDTO	-	127	-
Windows AutoPilot	634-BRWG	-	127	-

PACKET

7.11

April 22, 2025

Internal Speaker	520-AARD	-	127	-
No vPro® support	631-BBQQ	-	127	-
Dell Limited Hardware Warranty Plus Service	812-3886	-	127	-
ProSupport: 7x24 Technical Support, 3 Years	812-3894	-	127	-
ProSupport: Next Business Day Onsite 3 Years	812-3908	-	127	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	127	-
Ready Image for Client PC	365-8303	-	127	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	127	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	127	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	127	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	127	-

Unit Price	Quantity	Subtotal
\$185.00	30	\$5,550.00

Dell UltraSharp 24 Monitor - U2424H

Estimated delivery if purchased today:
Apr. 10, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Dell UltraSharp 24 Monitor - U2424H	210-BKRR	-	30	-
Dell Limited Hardware Warranty	814-5380	-	30	-
Advanced Exchange Service, 3 Years	814-5381	-	30	-

Unit Price	Quantity	Subtotal
\$1,447.75	10	\$14,477.50

Dell Mobile Precision Workstation 3591

Estimated delivery if purchased today:
Apr. 21, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Dell Mobile Precision Workstation 3591	210-BLNG	-	10	-
Intel Core Ultra 7 165H vPro Enterprise (24 MB cache, 16 cores, 22 threads, up to 5.0 GHz, 45W)	379-BFQW	-	10	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	10	-
Intel Core Ultra 7 165H Processor with vPro and Intel Integrated Graphics	329-BKFK	-	10	-
Intel vPro Management Disabled	631-BBXF	-	10	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	10	-
Intel Graphics or Intel Arc Pro Graphics	490-BKBB	-	10	-
15.6" FHD 1920x1080, 60Hz, 250 nits, Non-Touch, FHD HDR IR Camera, Mic, WLAN	391-BJCY	-	10	-
FHD HDR + IR Camera, Facial Recognition, TNR, Camera Shutter, Microphone	319-BBKH	-	10	-
16 GB: 1 x 16 GB, DDR5, 5600 MT/s, non-ECC	370-BBYL	-	10	-
512GB, M.2 2280, Gen4 PCIe NVMe, SSD, Class 40	400-BQYM	-	10	-
No Additional Hard Drive	401-AAGM	-	10	-
NO RAID	814-BBPN	-	10	-

PACKET

7.12

April 22, 2025

English US backlit AI hotkey keyboard with numeric keypad, 99-key	583-BLNH	-	10	-
Single Pointing, No Security	346-BKTQ	-	10	-
Intel AX211, 2x2 MIMO, 2400 Mbps, 2.4/5/6 GHz, Wi-Fi 6/6E (WiFi 802.11ax), Bluetooth	555-BKND	-	10	-
4 Cell, 64WHr, Long Lifecycle Battery, 3-year warranty	451-BDDM	-	10	-
4 Cell Battery Cable	451-BDDN	-	10	-
130W Type C Power Adapter	492-BDGH	-	10	-
ENERGY STAR Qualified	387-BBLW	-	10	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	10	-
Windows AutoPilot	634-BRWG	-	10	-
E5 Power Cord 1M for US	537-BBDK	-	10	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	10	-
Intel AX211 WLAN Driver	555-BKSB	-	10	-
Packaging for 130W Adapter	340-DQNC	-	10	-
Custom Configuration	817-BBBB	-	10	-
Intel Core Ultra 7 Non-vPro Label	340-DMQL	-	10	-
Dell Additional Software	658-BFPP	-	10	-
Quick Setup Guide for Mobile Precision 3591	340-DQRD	-	10	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	10	-
ProSupport: 7x24 Technical Support, 3 Years	997-1109	-	10	-
Dell Limited Hardware Warranty Plus Service	997-1129	-	10	-
ProSupport: Next Business Day Onsite, 3 Years	997-6028	-	10	-
Intel(R) Rapid Storage Technology Driver	409-BCXX	-	10	-
BTO Standard Shipment (M)	800-BBGS	-	10	-
Ready Image for Client PC	365-8303	-	10	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	10	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	10	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	10	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	10	-

Dell Thunderbolt™ Dock – WD22TB4

Estimated delivery if purchased today:

Apr. 10, 2025

Contract # C000001019611

Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Dell Thunderbolt™ Dock – WD22TB4	210-BDQH	-	10	-
Advanced Exchange Service, 3 Years	872-8550	-	10	-
Dell Limited Hardware Warranty	872-8557	-	10	-
		Unit Price	Quantity	Subtotal

Unit Price	Quantity	Subtotal
\$210.00	10	\$2,100.00

PACKET

7.13

April 22, 2025

Dell Latitude 7450 XCTO

Estimated delivery if purchased today:
Apr. 22, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

\$1,319.00**48****\$63,312.00**

Description	SKU	Unit Price	Quantity	Subtotal
Dell Latitude 7450 XCTO	210-BLPR	-	48	-
Intel Core Ultra 7 165U, vPRO (12MB cache, 12 cores, 14 threads, up to 4.9 GHz Max Turbo)	379-BFPT	-	48	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	48	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	48	-
Integrated Intel Graphics, Core Ultra 7 165U vPRO Processor, 16GB LPDDR5x Memory	338-CNYZ	-	48	-
Intel vPRO Enterprise Management Enabled	631-BBRV	-	48	-
16 GB: LPDDR5x, 6400 MT/s (onboard)	370-BBYW	-	48	-
512 GB, M.2 2230, TLC PCIe Gen 4 NVMe, SSD	400-BQYK	-	48	-
Laptop 14.0", Non-Touch, FHD+ (1920x1200), IPS, AG, 250 nits, FHD IR Cam, WLAN, Aluminum	391-BHZY	-	48	-
English US battery-saving mini LED backlit Copilot key keyboard, 79-key	583-BLLS	-	48	-
Intel BE200 WLAN Driver	555-BKWD	-	48	-
Intel BE200 Wi-Fi 7 2x2, Bluetooth 5.4 Technology, Wireless Card	555-BKRH	-	48	-
3-cell, 57 Wh, Express Charge Capable, Express Charge Boost Capable	451-BDBU	-	48	-
65W AC adapter, USB Type-C, EcoDesign	492-BDMN	-	48	-
Fingerprint Reader, WLAN only, Thunderbolt4, Aluminum	346-BKKP	-	48	-
E4 Power Cord 1M for US	537-BBDO	-	48	-
Quick setup guide Laptop	340-DMLR	-	48	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	48	-
ENERGY STAR Qualified	387-BBLW	-	48	-
Custom Configuration	817-BBBB	-	48	-
Dell Additional Software	658-BFQB	-	48	-
Mix Model Ship, 65W, Laptop	340-DQPW	-	48	-
Intel Core Ultra vPro Enterprise Label	340-DMQM	-	48	-
Windows AutoPilot	634-BRWG	-	48	-
FHD HDR IR Camera with Facial Recognition + Intelligent Privacy, TNR, Camera Shutter, Microphone	319-BBKJ	-	48	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	48	-
Aluminum Chassis for WLAN Laptop	321-BKTF	-	48	-
Intel Connectivity Performance Suite for Evo/vPro	640-BBTB	-	48	-
Intel Responsiveness Technologies Driver	409-BCXR	-	48	-
Dell Limited Hardware Warranty Plus Service	804-2167	-	48	-
ProSupport: Next Business Day Onsite, 3 Years	804-2173	-	48	-
ProSupport: 7x24 Technical Support, 3 Years	804-2174	-	48	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com	989-3449	-	48	-

PACKET

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April 22, 2025

Ready Image for Client PC	365-8303	-	48	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	48	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	48	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	48	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	48	-

Subtotal:	\$280,331.59
Shipping:	\$0.00
Estimated Tax:	\$0.00
Total:	\$280,331.59

Important Notes

Terms of Sale

This Quote will, if Customer issues a purchase order for the quoted items that is accepted by Supplier, constitute a contract between the entity issuing this Quote ("Supplier") and the entity to whom this Quote was issued ("Customer"). Unless otherwise stated herein, pricing is valid for thirty days from the date of this Quote. All products, pricing, and other information is based on the latest information available and is subject to change for any reason, including but not limited to tariffs imposed by government authorities. Supplier reserves the right to cancel this Quote and Customer purchase orders arising from pricing errors. Taxes and/or freight charges listed on this Quote are only estimates. The final amounts shall be stated on the relevant invoice. Additional freight charges will be applied if Customer requests expedited shipping. Please indicate any tax exemption status on your purchase order and send your tax exemption certificate to Tax_Department@dell.com or ARSalesTax@emc.com, as applicable.

Governing Terms: This Quote is subject to: (a) a separate written agreement between Customer or Customer's affiliate and Supplier or a Supplier's affiliate to the extent that it expressly applies to the products and/or services in this Quote or, to the extent there is no such agreement, to the applicable set of Dell's Terms of Sale (available at www.dell.com/terms or www.dell.com/oemterms), or for cloud/as-a-Service offerings, the applicable cloud terms of service (identified on the Offer Specific Terms referenced below); and (b) the terms referenced herein (collectively, the "Governing Terms"). Different Governing Terms may apply to different products and services on this Quote. The Governing Terms apply to the exclusion of all terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier.

Supplier Software Licenses and Services Descriptions: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain infrastructure products at www.dell.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

Offer-Specific, Third Party and Program Specific Terms: Customer's use of third-party software is subject to the license terms that accompany the software. Certain Supplier-branded and third-party products and services listed on this Quote are subject to additional, specific terms stated on www.dell.com/offeringspecificterms ("Offer Specific Terms").

In case of Resale only: Should Customer procure any products or services for resale, whether on standalone basis or as part of a solution, Customer shall include the applicable software license terms, services terms, and/or offer-specific terms in a written agreement with the end-user and provide written evidence of doing so upon receipt of request from Supplier.

In case of Financing only: If Customer intends to enter into a financing arrangement ("Financing Agreement") for the products and/or services on this Quote with Dell Financial Services LLC or other funding source pre-approved by Supplier ("FS"), Customer may issue its purchase order to Supplier or to FS. If issued to FS, Supplier will fulfill and invoice FS upon confirmation that: (a) FS intends to enter into a Financing Agreement with Customer for this order; and (b) FS agrees to procure these items from Supplier. Notwithstanding the Financing Agreement, Customer's use (and Customer's resale of and the end-user's use) of these items in the order is subject to the applicable governing agreement between Customer and Supplier, except that title shall transfer from Supplier to FS instead of to Customer. If FS notifies Supplier after shipment that Customer is no longer pursuing a Financing Agreement for these items, or if Customer fails to enter into such Financing Agreement within 120 days after shipment by Supplier, Customer shall promptly pay the Supplier invoice amounts directly to Supplier.

Customer represents that this transaction does not involve: (a) use of U.S. Government funds; (b) use by or resale to the U.S. Government; or (c) maintenance and support of the product(s) listed in this document within classified spaces. Customer further represents that this transaction does not require Supplier's compliance with any statute, regulation or information technology standard applicable to a U.S. Government procurement.

For certain products shipped to end users in California, a State Environmental Fee will be applied to Customer's invoice. Supplier encourages customers to dispose of electronic equipment properly.

Electronically linked terms and descriptions are available in hard copy upon request.



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Quote No.	3000187984897.1	Sales Rep	Terry Gruns
Total	\$280,331.59	Phone	1(800) 456-3355, 6179893
Customer #	1002883	Email	Terry_Gruns@Dell.com
Quoted On	Apr. 03, 2025	Billing To	ACCOUNTS PAYABLE
Expires by	May. 03, 2025		CITY OF MIDLAND
	OMNIA-National		PO BOX 1152
Contract Name	Cooperative Purchasing		MIDLAND, TX 79702-1152
	Alliance (NCPA)		
Contract Code	C000001019611		
Customer Agreement #	NCPA 01-143		
Deal ID	28146316		

Message from your Sales Rep

Please review this quote and let me know if you have any questions. Thank you for shopping with Dell!

Regards,
Terry Gruns

Shipping Group

Shipping To	Shipping Method
TOREE FINLEY CITY OF MIDLAND 601 N LORAIN ST MIDLAND, TX 79701-4759 (432) 685-7489	Standard Delivery

Product	Unit Price	Quantity	Subtotal
OptiPlex Micro Form Factor Plus 7020 XCTO	\$1,069.20	10	\$10,692.00
Precision 3680 Tower CTO Base	\$3,024.32	21	\$63,510.72
OptiPlex Small Form Factor Plus 7020 BTX	\$950.31	127	\$120,689.37
Dell UltraSharp 24 Monitor - U2424H	\$185.00	30	\$5,550.00
Dell Mobile Precision Workstation 3591	\$1,447.75	10	\$14,477.50
Dell Thunderbolt™ Dock – WD22TB4	\$210.00	10	\$2,100.00
PACKET	7.17	April 22, 2025	

Dell Latitude 7450 XCTO	\$1,319.00	48	\$63,312.00
	Subtotal:		\$280,331.59
	Shipping:		\$0.00
	Non-Taxable Amount:		\$280,331.59
	Taxable Amount:		\$0.00
	Estimated Tax:		\$0.00
	Total:		\$280,331.59

Special pricing may be available for qualified customers. Please contact your DFS Sales Representative for details.

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Shipping Group Details

Shipping To

TOREE FINLEY
CITY OF MIDLAND
601 N LORAIN ST
MIDLAND, TX 79701-4759
(432) 685-7489

Shipping Method

Standard Delivery

OptiPlex Micro Form Factor Plus 7020 XCTO

Estimated delivery if purchased today:

Apr. 16, 2025

Contract # C000001019611

Customer Agreement # NCPA 01-143

Unit Price	Quantity	Subtotal
\$1,069.20	10	\$10,692.00

Description	SKU	Unit Price	Quantity	Subtotal
OptiPlex Micro Form Factor Plus 7020 XCTO	210-BKXD	-	10	-
Intel Core i7 processor 14700 vPro (33 MB cache, 20 cores, 28 threads, up to 5.4 GHz Turbo, 65W)	338-CNCK	-	10	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	10	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	10	-
16GB DDR5 Memory, 1X16GB, Non-ECC, SoDIMM	370-BBPX	-	10	-
M.2 2230 512GB PCIe NVMe SSD Class 35	400-BQSB	-	10	-
1st M.2 2280 SSD Screw	773-BBBC	-	10	-
NO RAID	817-BBBN	-	10	-
OptiPlex Micro Plus with 65W CPU	329-BJWV	-	10	-
US Power Cord	450-AAZN	-	10	-
Intel(R) AX211 Wi-Fi 6E 2x2 and Bluetooth	555-BH DU	-	10	-
Internal Antenna	555-BH DV	-	10	-
Wireless Driver Intel AX211	555-BKJP	-	10	-
Optional HDMI Port	382-BBLO	-	10	-
Dell KB216 Wired Keyboard English	580-ADJC	-	10	-
Dell Optical Mouse - MS116 (Black)	570-ABIE	-	10	-
No Cover Selected	325-BCZQ	-	10	-
Dell Additional Software	634-CHFP	-	10	-
ENERGY STAR Qualified	387-BBLW	-	10	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	10	-
Watch Dog SRV	379-BFMR	-	10	-
Quick Start Guide, OptiPlex Micro Plus	340-DMHF	-	10	-
Trusted Platform Module (Discrete TPM Enabled)	329-BBJL	-	10	-
Shipping Material	340-CQYN	-	10	-
Shipping Label	389-BBUU	-	10	-
High:FSJ Reg label for 180W adaptor	389-FGDW	-	10	-
IRST Driver, MFF 7020	658-BFSV	-	10	-
Intel Core i7 Processor Label	340-CUEQ	-	10	-
PACKET	7.19	April 22, 2025		

Desktop BTO Standard shipment	800-BBIO	-	10	-
No Option Included	340-ACQQ	-	10	-
180 Watt A/C Adapter, TCO Compliant	450-BBBM	-	10	-
Custom Configuration	817-BBBB	-	10	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	10	-
Internal Speaker, MFF 7020	520-BBFQ	-	10	-
Windows AutoPilot	634-BRWG	-	10	-
No Out-of-Band Systems Management	631-BBQD	-	10	-
Dell Limited Hardware Warranty Plus Service	812-3886	-	10	-
ProSupport: 7x24 Technical Support, 3 Years	812-3894	-	10	-
ProSupport: Next Business Day Onsite 3 Years	812-3908	-	10	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	10	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	10	-

Unit Price	Quantity	Subtotal
\$3,024.32	21	\$63,510.72

Precision 3680 Tower CTO Base

Estimated delivery if purchased today:

Apr. 22, 2025

Contract # C000001019611

Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Precision 3680 Tower CTO Base	210-BLLP	-	21	-
Intel® Core™ i9 14th Gen 14900K (36 MB cache, 24 cores, 32 threads, 3.2 GHz to 6.0 GHz, 125W)	338-CNTP	-	21	-
Windows 11 Pro, English, Spanish, French, Brazilian Portuguese	619-ARSE	-	21	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	21	-
Precision 3680 Tower with 1000W (80 Plus Platinum) PSU, DAO	321-BKRN	-	21	-
Premium CPU Air Cooler with VR Heatsink	412-BBJM	-	21	-
64GB: 2 x 32 GB, DDR5, 4400 MT/s, ECC	370-BBWF	-	21	-
NVIDIA® RTX™ 4000 Ada Generation, 20GB GDDR6, 4DP	490-BKDV	-	21	-
C1 M.2 SSD Boot + SSD	449-BBXF	-	21	-
No SATA/SAS RAID	780-BBCJ	-	21	-
1 TB, M.2 2280, Gen 4 PCIe NVMe, SSD	400-BRCG	-	21	-
Thermal Pad	412-AAZW	-	21	-
1 TB, M.2 2280, Gen 4 PCIe NVMe, SSD	401-BBFS	-	21	-
Thermal Pad	412-AAZW	-	21	-
No Hard Drive	400-AKZR	-	21	-
No Hard Drive	400-AKZR	-	21	-
No Hard Drive	400-AKZR	-	21	-
No Additional Network Card Selected (Integrated NIC included)	555-BBJO	-	21	-
Intel Wi-Fi 6/6E (6GHz) AX211 2x2 Bluetooth 5.3 Wireless Card	555-BHHI	-	21	-

PACKET

7.20

April 22, 2025

External Antenna	555-BHHR	-	21	-
E0: No Expansion Bay	429-ABMS	-	21	-
CMS Software not included	632-BBBJ	-	21	-
Intel Management Engine with vPro	631-BBTZ	-	21	-
Dell Pro Keyboard and Mouse - KM5221W - US English - Black	580-AJJG	-	21	-
Mouse included with Keyboard	570-AADI	-	21	-
ENERGY STAR Qualified	387-BBLW	-	21	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	21	-
Dell Precision/Pro Max Desktops TPM	340-ACBY	-	21	-
WLAN Intel AX211 wireless card driver	555-BKPR	-	21	-
System Power Cord C13 (US 125V, 15A)	450-AH DU	-	21	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	21	-
Quick Setup Guide, Precision 3680	340-DMVD	-	21	-
Shipping Material (DAO)	340-CBUU	-	21	-
Ship material - EPEAT Certification	340-CZQO	-	21	-
1000W Platinum PSU Label	389-FGRS	-	21	-
Intel Core i9 vPro Enterprise Processor Label	389-EDDS	-	21	-
Internal Speaker for Precision	520-AAVW	-	21	-
No External ODD	429-ABGY	-	21	-
Windows AutoPilot	634-BRWG	-	21	-
Dell Additional Software	634-CHFN	-	21	-
Intel Rapid Storage Technology Driver, Precision 3680T	409-BCYF	-	21	-
Dell PremierColor 6.2	640-BBSW	-	21	-
Graphics Support Holder 1000W PSU	490-BJZW	-	21	-
Custom Configuration	817-BBBB	-	21	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	21	-
Dell Limited Hardware Warranty Plus Service	997-2808	-	21	-
ProSupport: 7x24 Technical Support, 3 Years	997-2836	-	21	-
ProSupport: Next Business Day Onsite, 3 Years	997-6782	-	21	-
Ready Image for Client PC	365-8303	-	21	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	21	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	21	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	21	-
		Unit Price	Quantity	Subtotal
OptiPlex Small Form Factor Plus 7020 BTX		\$950.31	127	\$120,689.37

Estimated delivery if purchased today:
Apr. 15, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
OptiPlex Small Form Factor Plus 7020 BTX	210-BKWL	-	127	-
PACKET	7.21	April 22, 2025		

Intel Core i7 processor 14700 vPro (33 MB cache, 20 cores, 28 threads, up to 5.4 GHz Turbo, 65W)	338-CNCK	-	127	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	127	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	127	-
16 GB: 2 x 8 GB, DDR5	370-BBPQ	-	127	-
M.2 2230 512GB PCIe NVMe SSD Class 35	400-BQSB	-	127	-
M.2 22x30 Thermal Pad	412-AAQT	-	127	-
1st M.2 2280 SSD Screw	773-BBBC	-	127	-
NO RAID	817-BBBN	-	127	-
Intel Integrated Graphics	490-BBFG	-	127	-
OptiPlex SFF Plus with 260W Bronze Power Supply	329-BJWJ	-	127	-
System Power Cord (Philippine/TH/US)	450-AAOJ	-	127	-
No Optical Drive	429-ABKF	-	127	-
CMS Software not included	632-BBBJ	-	127	-
No Media Card Reader	379-BBHM	-	127	-
Intel(R) AX211 Wi-Fi 6E 2x2 and Bluetooth	555-BH DU	-	127	-
External Antenna	555-BH DW	-	127	-
Wireless Driver, Intel Wi-Fi 6E AX211 2x2 and Bluetooth wireless card	555-BKJK	-	127	-
No Additional Video Ports	492-BCKH	-	127	-
Dell Pro Keyboard and Mouse - KM5221W - US English - Black	580-AJJG	-	127	-
Mouse included with Keyboard	570-AADI	-	127	-
No Cover Selected	325-BCZQ	-	127	-
Dell Additional Software	634-CHFP	-	127	-
ENERGY STAR Qualified	387-BBLW	-	127	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	127	-
Watch Dog SRV	379-BFMR	-	127	-
Quick Start Guide, OptiPlex SFF Plus	340-DMJC	-	127	-
Print on Demand Label	389-BDQH	-	127	-
Trusted Platform Module (Discrete TPM Enabled)	329-BBJL	-	127	-
Shipping Material	340-CQYR	-	127	-
Shipping Label	389-BBUU	-	127	-
Regulatory Label for OptiPlex SFF Plus PSU DAO	389-FFZD	-	127	-
Intel® Rapid Storage Technology Driver	658-BFSK	-	127	-
Intel Core i7 Processor Label	340-CUEQ	-	127	-
Desktop BTS/BTP Shipment	800-BBIP	-	127	-
No Additional Add In Cards	382-BBHX	-	127	-
No Additional Network Card Selected (Integrated NIC included)	555-BBJO	-	127	-
Configuration Matérielle Fixe	998-GRXR	-	127	-
EPEAT 2018 Registered (Silver)	379-BDTO	-	127	-
Windows AutoPilot	634-BBNG	-	127	-

PACKET

7.22

April 22, 2025

Internal Speaker	520-AARD	-	127	-
No vPro® support	631-BBQQ	-	127	-
Dell Limited Hardware Warranty Plus Service	812-3886	-	127	-
ProSupport: 7x24 Technical Support, 3 Years	812-3894	-	127	-
ProSupport: Next Business Day Onsite 3 Years	812-3908	-	127	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	127	-
Ready Image for Client PC	365-8303	-	127	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	127	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	127	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	127	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	127	-

Unit Price	Quantity	Subtotal
\$185.00	30	\$5,550.00

Dell UltraSharp 24 Monitor - U2424H

Estimated delivery if purchased today:
Apr. 10, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Dell UltraSharp 24 Monitor - U2424H	210-BKRR	-	30	-
Dell Limited Hardware Warranty	814-5380	-	30	-
Advanced Exchange Service, 3 Years	814-5381	-	30	-

Unit Price	Quantity	Subtotal
\$1,447.75	10	\$14,477.50

Dell Mobile Precision Workstation 3591

Estimated delivery if purchased today:
Apr. 21, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Dell Mobile Precision Workstation 3591	210-BLNG	-	10	-
Intel Core Ultra 7 165H vPro Enterprise (24 MB cache, 16 cores, 22 threads, up to 5.0 GHz, 45W)	379-BFQW	-	10	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	10	-
Intel Core Ultra 7 165H Processor with vPro and Intel Integrated Graphics	329-BKFK	-	10	-
Intel vPro Management Disabled	631-BBXF	-	10	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	10	-
Intel Graphics or Intel Arc Pro Graphics	490-BKBB	-	10	-
15.6" FHD 1920x1080, 60Hz, 250 nits, Non-Touch, FHD HDR IR Camera, Mic, WLAN	391-BJCY	-	10	-
FHD HDR + IR Camera, Facial Recognition, TNR, Camera Shutter, Microphone	319-BBKH	-	10	-
16 GB: 1 x 16 GB, DDR5, 5600 MT/s, non-ECC	370-BBYL	-	10	-
512GB, M.2 2280, Gen4 PCIe NVMe, SSD, Class 40	400-BQYM	-	10	-
No Additional Hard Drive	401-AAGM	-	10	-
NO RAID	811-BBPN	-	10	-

PACKET

7.23

April 22, 2025

English US backlit AI hotkey keyboard with numeric keypad, 99-key	583-BLNH	-	10	-
Single Pointing, No Security	346-BKTQ	-	10	-
Intel AX211, 2x2 MIMO, 2400 Mbps, 2.4/5/6 GHz, Wi-Fi 6/6E (WiFi 802.11ax), Bluetooth	555-BKND	-	10	-
4 Cell, 64WHr, Long Lifecycle Battery, 3-year warranty	451-BDDM	-	10	-
4 Cell Battery Cable	451-BDDN	-	10	-
130W Type C Power Adapter	492-BDGH	-	10	-
ENERGY STAR Qualified	387-BBLW	-	10	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	10	-
Windows AutoPilot	634-BRWG	-	10	-
E5 Power Cord 1M for US	537-BBDK	-	10	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	10	-
Intel AX211 WLAN Driver	555-BKSB	-	10	-
Packaging for 130W Adapter	340-DQNC	-	10	-
Custom Configuration	817-BBBB	-	10	-
Intel Core Ultra 7 Non-vPro Label	340-DMQL	-	10	-
Dell Additional Software	658-BFPP	-	10	-
Quick Setup Guide for Mobile Precision 3591	340-DQRD	-	10	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	10	-
ProSupport: 7x24 Technical Support, 3 Years	997-1109	-	10	-
Dell Limited Hardware Warranty Plus Service	997-1129	-	10	-
ProSupport: Next Business Day Onsite, 3 Years	997-6028	-	10	-
Intel(R) Rapid Storage Technology Driver	409-BCXX	-	10	-
BTO Standard Shipment (M)	800-BBGS	-	10	-
Ready Image for Client PC	365-8303	-	10	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	10	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	10	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	10	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	10	-

Dell Thunderbolt™ Dock – WD22TB4

Estimated delivery if purchased today:

Apr. 10, 2025

Contract # C000001019611

Customer Agreement # NCPA 01-143

Description	SKU	Unit Price	Quantity	Subtotal
Dell Thunderbolt™ Dock – WD22TB4	210-BDQH	-	10	-
Advanced Exchange Service, 3 Years	872-8550	-	10	-
Dell Limited Hardware Warranty	872-8557	-	10	-
		Unit Price	Quantity	Subtotal

Unit Price	Quantity	Subtotal
\$210.00	10	\$2,100.00

PACKET

7.24

April 22, 2025

Dell Latitude 7450 XCTO

Estimated delivery if purchased today:
Apr. 22, 2025
Contract # C000001019611
Customer Agreement # NCPA 01-143

\$1,319.00**48****\$63,312.00**

Description	SKU	Unit Price	Quantity	Subtotal
Dell Latitude 7450 XCTO	210-BLPR	-	48	-
Intel Core Ultra 7 165U, vPRO (12MB cache, 12 cores, 14 threads, up to 4.9 GHz Max Turbo)	379-BFPT	-	48	-
Windows 11 Pro, English, Brazilian Portuguese PT-BR, French, Spanish	619-ARSB	-	48	-
Activate Your Microsoft 365 For A 30 Day Trial	658-BCSB	-	48	-
Integrated Intel Graphics, Core Ultra 7 165U vPRO Processor, 16GB LPDDR5x Memory	338-CNYZ	-	48	-
Intel vPRO Enterprise Management Enabled	631-BBRV	-	48	-
16 GB: LPDDR5x, 6400 MT/s (onboard)	370-BBYW	-	48	-
512 GB, M.2 2230, TLC PCIe Gen 4 NVMe, SSD	400-BQYK	-	48	-
Laptop 14.0", Non-Touch, FHD+ (1920x1200), IPS, AG, 250 nits, FHD IR Cam, WLAN, Aluminum	391-BHZY	-	48	-
English US battery-saving mini LED backlit Copilot key keyboard, 79-key	583-BLLS	-	48	-
Intel BE200 WLAN Driver	555-BKWD	-	48	-
Intel BE200 Wi-Fi 7 2x2, Bluetooth 5.4 Technology, Wireless Card	555-BKRH	-	48	-
3-cell, 57 Wh, Express Charge Capable, Express Charge Boost Capable	451-BDBU	-	48	-
65W AC adapter, USB Type-C, EcoDesign	492-BDMN	-	48	-
Fingerprint Reader, WLAN only, Thunderbolt4, Aluminum	346-BKKP	-	48	-
E4 Power Cord 1M for US	537-BBDO	-	48	-
Quick setup guide Laptop	340-DMLR	-	48	-
SERI Guide (ENG/FR/Multi)	340-AGIK	-	48	-
ENERGY STAR Qualified	387-BBLW	-	48	-
Custom Configuration	817-BBBB	-	48	-
Dell Additional Software	658-BFQB	-	48	-
Mix Model Ship, 65W, Laptop	340-DQPW	-	48	-
Intel Core Ultra vPro Enterprise Label	340-DMQM	-	48	-
Windows AutoPilot	634-BRWG	-	48	-
FHD HDR IR Camera with Facial Recognition + Intelligent Privacy, TNR, Camera Shutter, Microphone	319-BBKJ	-	48	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	48	-
Aluminum Chassis for WLAN Laptop	321-BKTF	-	48	-
Intel Connectivity Performance Suite for Evo/vPro	640-BBTB	-	48	-
Intel Responsiveness Technologies Driver	409-BCXR	-	48	-
Dell Limited Hardware Warranty Plus Service	804-2167	-	48	-
ProSupport: Next Business Day Onsite, 3 Years	804-2173	-	48	-
ProSupport: 7x24 Technical Support, 3 Years	804-2174	-	48	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com	989-3449	-	48	-

PACKET

7.25

April 22, 2025

Ready Image for Client PC	365-8303	-	48	-
CFI,INFO,WIN 11 PRO,OEM,FACT	382-4389	-	48	-
CFI,INFO,WIN11,UPDT,23H2,FACTORY INSTALL	383-2901	-	48	-
CFI,INFO,LANG,ENGLISH,US,Factory Install	382-1755	-	48	-
Professional Services Consulting Credit 10 Expires after 1 Year	829-9675	-	48	-

Subtotal:	\$280,331.59
Shipping:	\$0.00
Estimated Tax:	\$0.00
Total:	\$280,331.59

Important Notes

Terms of Sale

This Quote will, if Customer issues a purchase order for the quoted items that is accepted by Supplier, constitute a contract between the entity issuing this Quote ("Supplier") and the entity to whom this Quote was issued ("Customer"). Unless otherwise stated herein, pricing is valid for thirty days from the date of this Quote. All products, pricing, and other information is based on the latest information available and is subject to change for any reason, including but not limited to tariffs imposed by government authorities. Supplier reserves the right to cancel this Quote and Customer purchase orders arising from pricing errors. Taxes and/or freight charges listed on this Quote are only estimates. The final amounts shall be stated on the relevant invoice. Additional freight charges will be applied if Customer requests expedited shipping. Please indicate any tax exemption status on your purchase order and send your tax exemption certificate to Tax_Department@dell.com or ARSalesTax@emc.com, as applicable.

Governing Terms: This Quote is subject to: (a) a separate written agreement between Customer or Customer's affiliate and Supplier or a Supplier's affiliate to the extent that it expressly applies to the products and/or services in this Quote or, to the extent there is no such agreement, to the applicable set of Dell's Terms of Sale (available at www.dell.com/terms or www.dell.com/oemterms), or for cloud/as-a-Service offerings, the applicable cloud terms of service (identified on the Offer Specific Terms referenced below); and (b) the terms referenced herein (collectively, the "Governing Terms"). Different Governing Terms may apply to different products and services on this Quote. The Governing Terms apply to the exclusion of all terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier.

Supplier Software Licenses and Services Descriptions: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain infrastructure products at www.dell.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

Offer-Specific, Third Party and Program Specific Terms: Customer's use of third-party software is subject to the license terms that accompany the software. Certain Supplier-branded and third-party products and services listed on this Quote are subject to additional, specific terms stated on www.dell.com/offeringspecificterms ("Offer Specific Terms").

In case of Resale only: Should Customer procure any products or services for resale, whether on standalone basis or as part of a solution, Customer shall include the applicable software license terms, services terms, and/or offer-specific terms in a written agreement with the end-user and provide written evidence of doing so upon receipt of request from Supplier.

In case of Financing only: If Customer intends to enter into a financing arrangement ("Financing Agreement") for the products and/or services on this Quote with Dell Financial Services LLC or other funding source pre-approved by Supplier ("FS"), Customer may issue its purchase order to Supplier or to FS. If issued to FS, Supplier will fulfill and invoice FS upon confirmation that: (a) FS intends to enter into a Financing Agreement with Customer for this order; and (b) FS agrees to procure these items from Supplier. Notwithstanding the Financing Agreement, Customer's use (and Customer's resale of and the end-user's use) of these items in the order is subject to the applicable governing agreement between Customer and Supplier, except that title shall transfer from Supplier to FS instead of to Customer. If FS notifies Supplier after shipment that Customer is no longer pursuing a Financing Agreement for these items, or if Customer fails to enter into such Financing Agreement within 120 days after shipment by Supplier, Customer shall promptly pay the Supplier invoice amounts directly to Supplier.

Customer represents that this transaction does not involve: (a) use of U.S. Government funds; (b) use by or resale to the U.S. Government; or (c) maintenance and support of the product(s) listed in this document within classified spaces. Customer further represents that this transaction does not require Supplier's compliance with any statute, regulation or information technology standard applicable to a U.S. Government procurement.

For certain products shipped to end users in California, a State Environmental Fee will be applied to Customer's invoice. Supplier encourages customers to dispose of electronic equipment properly.

Electronically linked terms and descriptions are available in hard copy upon request.



City Council Meeting

Item Number: 8
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION APPROVING A SOLE-SOURCE MASTER AGREEMENT FOR NEPTUNE WATER METERS AND ALL ASSOCIATED PARTS FOR THE CUSTOMER SERVICE DIVISION FROM CORE & MAIN LP AT A TOTAL COST NOT TO EXCEED \$1,300,000.00 (DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

Resolution awarding a sole source agreement for Neptune water meters with encoders and all associated parts from Core & Main LP.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding in the amount of \$1,300,000 is available in the Utilities Fund operating budget.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

The Customer Service Division of the Utilities Department is using automatic read water meters utilizing Neptune water meters and associated parts. Core & Main LP is the sole authorized distributor for the Neptune Technology Group in the state of Texas. According to Texas Local Government Code 252.022 (a)(7)(A), competitive bidding requirements do not apply to items that are available from only one source due to "patents", copyrights, secret

processes, or natural monopolies. Staff recommends awarding a sole source contract based on purchase of Neptune Gateway water meter data collectors to Core & Main LP for a cost not to exceed \$1,300,000.00. Please see the attached memo from Jennifer Shipp, Customer Service Manager, for additional information.

Therefore, please consider a resolution awarding a sole source agreement for the purchase of Neptune water meters with encoders and associated parts to Core & Main LP of El Paso, Texas for a cost not to exceed \$1,300,000.00.



City Manager's Office

INTEROFFICE MEMORANDUM

TO: Regina Stephenson, General Services Director, Erika Martinez, Purchasing Manager

FROM: Jennifer Shipp, Utility Billing

DATE: February 19, 2025

SUBJECT: Request for Approval - Purchase of Neptune Meters from Core & Main for AMI System

Purpose:

This memorandum seeks approval for the purchase of Neptune meters from Core & Main, LP, to support the ongoing implementation and maintenance of the City's Advanced Metering Infrastructure (AMI) system.

Background:

The City's AMI system is a critical component of our water infrastructure modernization efforts. It enables:

- **Remote meter reading:** Eliminating the need for manual meter reading and reducing labor costs.
- **Real-time data collection:** Providing valuable insights into water consumption patterns, enabling proactive leak detection, and improving water conservation efforts.
- **Enhanced customer service:** Offering customers access to detailed usage information and empowering them to manage their water consumption.

Sole Source Provider:

Core & Main, LP, is the sole authorized distributor of Neptune meters in our region. These meters are specifically designed to integrate with our existing AMI system and provide the necessary functionalities for optimal performance.

Justification:

The purchase of Neptune meters from Core & Main is essential for the following reasons:

- **Maintain System Integrity:** Ensures compatibility and seamless integration with our existing AMI infrastructure.
- **Ensure Meter Availability:** Provides a reliable source for replacement meters and supports the expansion of our AMI system.

- **Support Operational Efficiency:** Enables accurate and efficient data collection, reducing manual intervention and improving data quality.
- **Enhance Customer Service:** Provides the foundation for delivering enhanced customer service through detailed consumption data and proactive leak detection.

Budgetary Considerations:

The total cost for the requested Neptune meters is \$1,300,000 Funding for this purchase is allocated within the current fiscal year's budget under Water and Sewer Operating Budget.

Recommendation:

We strongly recommend approving the purchase of Neptune meters from Core & Main, LP. This investment is crucial for maintaining the integrity and effectiveness of our AMI system, supporting our water management goals, and enhancing customer service.

Action Requested:

Please review and approve the master agreement for Neptune meters with Core & Main, LP.

Thank you for your consideration.

Jennifer Shipp

Utility Billing Division Manager III

RESOLUTION NO. _____

**RESOLUTION APPROVING A SOLE-SOURCE
MASTER AGREEMENT FOR NEPTUNE WATER
METERS AND ALL ASSOCIATED PARTS FOR THE
CUSTOMER SERVICE DIVISION FROM CORE &
MAIN LP AT A TOTAL COST NOT TO EXCEED
\$1,300,000.00**

WHEREAS, the City of Midland's Customer Service Division utilizes an Automatic Meter Interface System that requires the use of Neptune water meters and associated parts; and

WHEREAS, Core & Main LP is the sole authorized distributor for Neptune water meters in Texas; and

WHEREAS, Core & Main LP has agreed to provide the City with Neptune water meters and all associated parts for the City's Automatic Meter Interface System at a cost not to exceed \$1,300,000.00; and

WHEREAS, said water meters are proprietary in nature and are available only from Core & Main LP; and

WHEREAS, the City Council finds the price proposed for said water meters and associated parts to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to approve the sole-source master agreement for said water meters and associated parts;

**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 sole-source master agreement with Core & Main LP for Neptune water meters and associated parts for the Customer Service Division for a cost not to exceed \$1,300,000.00. Said master agreement being attached hereto as Exhibit "A" and incorporated herein for all purposes.

SECTION TWO. That funding shall be available in the Utilities Fund operating budget.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Core & Main LP in accordance with the provisions of the above-referenced master agreement from available funds 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:

Nicholas Toulet-Crump, Interim City Attorney



Master Agreement
#25004176
for
Water Meters with Encoders and Associated Parts

This Master Agreement (the “*Agreement*”), is entered into this 23 day of April, 2025, by and between the City of Midland, Texas, a home-rule municipal corporation (“*City*”), and Core & Main LP (“*Company*”).

1. Company agrees to sell the Water Meters with Encoders and Associated Parts listed in the attached **Exhibit A**, as submitted by Company, which shall conform to the City's material specifications applicable to the materials to be provided hereunder set forth in that request, being incorporated herein and made a part of this agreement for all purposes.

Total Cost: Not to exceed \$1,300,000.00

Prices in the Company’s proposal are firm for one (1) year after the execution of this agreement. Thereafter, prices may be increased annually or otherwise based on manufacturer price increases. In the event of circumstances beyond the control of the Company, including but not limited to, government regulations, tariffs, and events of force majeure, the Company reserves the right to adjust prices upon thirty (30) calendar days’ notice.

Notwithstanding anything contained in any quote or agreement to the contrary, the parties expressly agree that this is a unit price order and not a lump sum pricing agreement. Materials will be invoiced to the City and the City agrees to pay the Company based on the actual quantity of materials ordered and released by the Company and delivered by the Company at the unit prices and subject to the terms contained in the Company’s quotation.

2. The Water Meters with Encoders and Associated Parts shall be delivered in such quantities and at such times as designated by City’s Purchasing Manager. The total quantity of products that City is obliged to purchase shall be the total of the quantities ordered from time to time by the Purchasing Manager, and which are delivered. Title and risk of loss will pass to the City upon delivery.

3. Payment by City shall be made within thirty (30) days after receipt of invoices from Company, which shall be subject to verification as to quantities and quality delivered as herein provided.

4. The Water Meters with Encoders and Associated Parts shall be delivered to City's relevant departments and divisions as directed by the Purchasing Manager. Freight and delivery charges are included in the purchase prices stated above.

5. The term of this Agreement shall be for a period of one (1) years, commencing on April 9, 2025 and terminating on April 8, 2026, unless sooner terminated as provided in this Agreement. City may, at its option, renew this Agreement for an additional period of one (1) year. City shall give Company notice of its intent to renew not less than thirty (30) days prior to the expiration of this Agreement.

If no funds or insufficient funds are appropriated and budgeted, or are otherwise unavailable in any

fiscal period during the term of this Agreement, then this Agreement 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.

6. If Company fails to fully perform and carry out all terms, covenants and obligation of this Agreement within its control and fails to cure within an agreeable timeframe by the parties herein, Company shall be in default. If City gives Company written notice of such default, and Company fails to cure such default within forty-five (45) days of its receipt of such notice, City, acting by and through the Purchasing Manager, may and cancel and terminate this Agreement, and City shall provide payment to the Company for the materials delivered through the date of termination, plus amounts for special order materials, materials not returnable to the manufacturer for credit and materials in the course of production, manufacturer cancellation fees, as well as return freight charges and reasonable restocking fees. Such termination shall not affect or terminate City's existing or future rights (in equity or at law) as against Company regarding Company's default. City's waiver of a breach by Company shall not operate as a waiver of any subsequent breach or any other term, covenant or condition hereof.

Notwithstanding any contrary provision contained in this Agreement, City may terminate this Agreement at-will, for any or no reason, by giving Company thirty (30) days' written notice. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of this Agreement without penalty to City. Company has no expectation and has received no guarantees that this Agreement will not be terminated before the end of the term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective. The City shall provide payment to the Company for the materials delivered through the date of termination, plus amounts for special order materials, materials not returnable to the manufacturer for credit and materials in the course of production, manufacturer cancellation fees, as well as return freight charges and reasonable restocking fees."

7. **Assignment:** Company shall not, either directly or indirectly, assign all or any part of this Agreement or any interest, right or privilege herein, without the prior written consent of City. The issue of whether to grant consent to an assignment is in the sole and absolute discretion of City.

8. **Governing Law & 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. 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 Agreement or the performance of this Agreement shall be in Midland County, Texas.

9. **WAIVER OF ATTORNEY FEES: 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. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IN THE EVENT OF LEGAL ACTION ARISING OUT OF THIS AGREEMENT, THE PARTIES SHALL EACH BEAR THEIR OWN ATTORNEYS' FEES AND COSTS OF THE ACTION.**

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 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 OR GOVERNMENTAL IMMUNITY AND SHALL SURVIVE THE TERMINATION OF THIS

AGREEMENT.

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

10. **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 AGREEMENT.

11. **Indemnity:** To the full extent permitted by law, the Company agrees to defend, indemnify and save harmless the City and its agents, servants, and employees (the "Indemnitees"), from and against any actual and direct claim, cost, expense, or liability (including reasonable attorneys' fees, and including costs and attorneys' fees incurred in enforcing this indemnity where the City is the prevailing party in such enforcement), attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from, or occurring in connection with, and to the extent of, the Company's negligence in performing its obligations under this Agreement. Should any other person or entity assert a claim or institute a suit, action, or proceeding against the City involving a claim arising out of the Company's negligence in performing its obligations under this Agreement, the Company shall upon request of the City promptly assume the defense of such claim, suit, action, or proceeding, at the Company's expense, and, to the fullest extent permitted by law, the Company shall, to the extent of its negligence, indemnify and save harmless the City and its agents, servants, and employees, from and against any actual and direct liability, loss, damage, or expense (including reasonable attorneys' fees, and including costs and attorneys' fees incurred in enforcing this indemnity where the City is the prevailing party in such enforcement) arising out of or related to such claim, suit, action, or proceeding.

12. **Warranty:** Notwithstanding anything contained herein to the contrary, the manufacturer's warranty only shall apply to all materials purchased by the City hereunder. The City acknowledges that the Company is a distributor of materials only and therefore offers no additional warranties. THE COMPANY SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT, WHETHER ARISING OUT OF WARRANTY, INDEMNITY, TORT, CONTRACT OR OTHERWISE, SHALL THE COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND.

13. **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 Agreement 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

agreement 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 Agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

14. 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, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which 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 Agreement are reasonable. The provisions and obligations of this Section shall survive the termination of this Agreement.

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17. 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.

18. 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.

19. 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, COMPANY hereby verifies:

- that Company does not boycott Israel and will not boycott Israel during the term of this Agreement;
- that Company does not boycott energy companies and will not boycott energy companies during the

term of this Agreement; 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 Agreement against a firearm entity or firearm trade association.

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23. 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.

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:

Nicholas Toulet, Interim 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 Core & Main LP, 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



Bid Proposal for Midland 2025 Meter Contract

	CUSTOMER	CONTACT	NOTES
	CITY OF MIDLAND 1606 ORCHARD MIDLAND, TX 79701 Contact: Jennifer Shipp jshipp@midlandtexas.gov	Job Midland 2025 Meter Contract midland, TX Bid Date: 03/10/2025 Bid #: 4068488	
	Sales Representative Arnold Osuna (M) 915-449-0418 (T) 915-590-6922 (F) 915-590-7034 Arnold.Osuna@coreandmain.com	Core & Main 930 Pendale Rd El Paso, TX 79907 (T) 9155906922	



Bid Proposal for Midland 2025 Meter Contract

CITY OF MIDLAND**Job Location:** midland, TX**Bid Date:** 03/10/2025**Core & Main Bid #:** 4068488**Core & Main**

930 Pendale Rd

El Paso, TX 79907

Phone: 9155906922**Fax:** 9155907034

Seq#	Qty	Description	Units	Price	Ext Price
10		UNIT PRICING			
20		PD & TURBINE METERS			
30	1	T10 5/8X3/4 MTR ED2B31RWG3SG89 R900 ENHANCED GAL W/THRU PIT	EA	263.47	263.47
		ANTENNA NO LEAD			
40	1	T10 1 METER ED2F11RWG3SG89 R900I ENHANCED GAL W/EXTERNAL	EA	419.24	419.24
		ANTENNA NO LEAD			
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70		ULTRASONIC METERS			
90	1	2X10 MACH10 R900I V4 FLG GAL W/6' ANT EU2F2G1SG89	EA	969.34	969.34
100	1	3X17 MACH10 R900I V4 USG W/20' ANT EU3B2G1G90	EA	3,337.86	3,337.86
110	1	4X14 MACH10 R900I V4 USG W/6' ANT EU3C2G1SG89	EA	4,283.58	4,283.58
120	1	6X18 MACH10 R900I V4 USG W/6' ANT EU3E2G1SG89	EA	6,981.43	6,981.43
140		UNIT PRICING REGISTERS			
160	1	NEPTUNE 12527-200 ANTENNA ASSE MBLY 6FT CABLE ECODER R900I PI	EA	45.00	45.00
		T			
170	1	1.5-2 HPT PROCODER REG R900I V4 PIT USG 6' ANT RPW5G11SG89	EA	233.34	233.34
180	1	T10 1 PROCODER R900I V4 USG REG W/6' ANT RPW2G31SG89	EA	233.34	233.34
210		STRAINERS			
220	1	6 NEPT BRZ MTR STRAINER 52000-201 NO LEAD	EA	2,625.34	2,625.34
230	1	4 NEPT BRZ MTR STRAINER 53107-100 NO LEAD	EA	1,848.00	1,848.00
240	1	3 NEPT BRZ MTR STRAINER 53107-000 NO LEAD	EA	1,000.67	1,000.67
				Sub Total	22,930.61
				Tax	0.00
				Total	22,930.61

UNLESS OTHERWISE SPECIFIED HEREIN, PRICES QUOTED ARE VALID IF ACCEPTED BY CUSTOMER AND PRODUCTS ARE RELEASED BY CUSTOMER FOR MANUFACTURE WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THIS QUOTATION. CORE & MAIN LP RESERVES THE RIGHT TO INCREASE PRICES TO ADDRESS FACTORS, INCLUDING BUT NOT LIMITED TO, GOVERNMENT REGULATIONS, TARIFFS, TRANSPORTATION, FUEL AND RAW MATERIAL COSTS. DELIVERY WILL COMMENCE BASED UPON MANUFACTURER LEAD TIMES. ANY MATERIAL DELIVERIES DELAYED BEYOND MANUFACTURER LEAD TIMES MAY BE SUBJECT TO PRICE INCREASES AND/OR APPLICABLE STORAGE FEES. THIS BID PROPOSAL IS CONTINGENT UPON BUYER'S ACCEPTANCE OF SELLER'S TERMS AND CONDITIONS OF SALE, AS MODIFIED FROM TIME TO TIME, WHICH CAN BE FOUND AT: <https://coreandmain.com/TandC/>

THIS BID MAY INCLUDE GLOBALLY SOURCED (IMPORTED) MATERIALS THAT ARE SUBJECT TO CHANGING TARIFFS. PRICES ARE SUBJECT TO CHANGE DUE TO POTENTIAL ADDITIONAL TARIFFS IMPOSED BY THE U.S. GOVERNMENT. IF IMPOSED, PRICES WILL INCREASE BY THE SAME PERCENTAGE AND WILL BE EFFECTIVE ON THE DATE THAT THE NEW TARIFFS ARE IMPLEMENTED. THESE ITEMS SHOULD BE PURCHASED WITH HASTE TO AVOID ANY ADDITIONAL RISING TARIFF COSTS.



NEPTUNE
TECHNOLOGY GROUP

February 18, 2025

Jennifer Shipp, MBA
City of Midland Utility Billing
Division Manager III
1030 Andrews Highway Ste 220
Midland, TX 79701

Jennifer,

I am writing this letter to confirm that Core and Main is the sole authorized distributor for Neptune Technology Group Products for the City of Midland and the entire State of Texas.

Core and Main handles our full line of Neptune Meters, Radio Frequency Meter Reading Systems, and parts. Their local sales person for the City of Midland is Arnold Osuna and he can be reached at (915) 449-0418. Core and Main also has a Meter and System Specialist on board that covers the Permian Basin area and his name is Ray Richardson and he can be reached at (505) 400-6464.

If you have any question or need anything else, please give me a call at (281) 794-3133. We appreciate your business.

Sincerely,

Charlie Trimble
Senior Territory Manager



Master Agreement
#25004176
for
Water Meters with Encoders and Associated Parts

This Master Agreement (the “*Agreement*”), is entered into this 23 day of April, 2025, by and between the City of Midland, Texas, a home-rule municipal corporation (“*City*”), and Core & Main LP (“*Company*”).

1. Company agrees to sell the Water Meters with Encoders and Associated Parts listed in the attached **Exhibit A**, as submitted by Company, which shall conform to the City's material specifications applicable to the materials to be provided hereunder set forth in that request, being incorporated herein and made a part of this agreement for all purposes.

Total Cost: Not to exceed \$1,300,000.00

Prices in the Company’s proposal are firm for one (1) year after the execution of this agreement. Thereafter, prices may be increased annually or otherwise based on manufacturer price increases. In the event of circumstances beyond the control of the Company, including but not limited to, government regulations, tariffs, and events of force majeure, the Company reserves the right to adjust prices upon thirty (30) calendar days’ notice.

Notwithstanding anything contained in any quote or agreement to the contrary, the parties expressly agree that this is a unit price order and not a lump sum pricing agreement. Materials will be invoiced to the City and the City agrees to pay the Company based on the actual quantity of materials ordered and released by the Company and delivered by the Company at the unit prices and subject to the terms contained in the Company’s quotation.

2. The Water Meters with Encoders and Associated Parts shall be delivered in such quantities and at such times as designated by City’s Purchasing Manager. The total quantity of products that City is obliged to purchase shall be the total of the quantities ordered from time to time by the Purchasing Manager, and which are delivered. Title and risk of loss will pass to the City upon delivery.

3. Payment by City shall be made within thirty (30) days after receipt of invoices from Company, which shall be subject to verification as to quantities and quality delivered as herein provided.

4. The Water Meters with Encoders and Associated Parts shall be delivered to City's relevant departments and divisions as directed by the Purchasing Manager. Freight and delivery charges are included in the purchase prices stated above.

5. The term of this Agreement shall be for a period of one (1) years, commencing on April 9, 2025 and terminating on April 8, 2026, unless sooner terminated as provided in this Agreement. City may, at its option, renew this Agreement for an additional period of one (1) year. City shall give Company notice of its intent to renew not less than thirty (30) days prior to the expiration of this Agreement.

If no funds or insufficient funds are appropriated and budgeted, or are otherwise unavailable in any

fiscal period during the term of this Agreement, then this Agreement 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.

6. If Company fails to fully perform and carry out all terms, covenants and obligation of this Agreement within its control and fails to cure within an agreeable timeframe by the parties herein, Company shall be in default. If City gives Company written notice of such default, and Company fails to cure such default within forty-five (45) days of its receipt of such notice, City, acting by and through the Purchasing Manager, may and cancel and terminate this Agreement, and City shall provide payment to the Company for the materials delivered through the date of termination, plus amounts for special order materials, materials not returnable to the manufacturer for credit and materials in the course of production, manufacturer cancellation fees, as well as return freight charges and reasonable restocking fees. Such termination shall not affect or terminate City's existing or future rights (in equity or at law) as against Company regarding Company's default. City's waiver of a breach by Company shall not operate as a waiver of any subsequent breach or any other term, covenant or condition hereof.

Notwithstanding any contrary provision contained in this Agreement, City may terminate this Agreement at-will, for any or no reason, by giving Company thirty (30) days' written notice. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of this Agreement without penalty to City. Company has no expectation and has received no guarantees that this Agreement will not be terminated before the end of the term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective. The City shall provide payment to the Company for the materials delivered through the date of termination, plus amounts for special order materials, materials not returnable to the manufacturer for credit and materials in the course of production, manufacturer cancellation fees, as well as return freight charges and reasonable restocking fees."

7. **Assignment:** Company shall not, either directly or indirectly, assign all or any part of this Agreement or any interest, right or privilege herein, without the prior written consent of City. The issue of whether to grant consent to an assignment is in the sole and absolute discretion of City.

8. **Governing Law & 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. 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 Agreement or the performance of this Agreement shall be in Midland County, Texas.

9. **WAIVER OF ATTORNEY FEES: 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. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IN THE EVENT OF LEGAL ACTION ARISING OUT OF THIS AGREEMENT, THE PARTIES SHALL EACH BEAR THEIR OWN ATTORNEYS' FEES AND COSTS OF THE ACTION.**

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 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 OR GOVERNMENTAL IMMUNITY AND SHALL SURVIVE THE TERMINATION OF THIS

AGREEMENT.

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

10. **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 AGREEMENT.

11. **Indemnity:** To the full extent permitted by law, the Company agrees to defend, indemnify and save harmless the City and its agents, servants, and employees (the "Indemnitees"), from and against any actual and direct claim, cost, expense, or liability (including reasonable attorneys' fees, and including costs and attorneys' fees incurred in enforcing this indemnity where the City is the prevailing party in such enforcement), attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from, or occurring in connection with, and to the extent of, the Company's negligence in performing its obligations under this Agreement. Should any other person or entity assert a claim or institute a suit, action, or proceeding against the City involving a claim arising out of the Company's negligence in performing its obligations under this Agreement, the Company shall upon request of the City promptly assume the defense of such claim, suit, action, or proceeding, at the Company's expense, and, to the fullest extent permitted by law, the Company shall, to the extent of its negligence, indemnify and save harmless the City and its agents, servants, and employees, from and against any actual and direct liability, loss, damage, or expense (including reasonable attorneys' fees, and including costs and attorneys' fees incurred in enforcing this indemnity where the City is the prevailing party in such enforcement) arising out of or related to such claim, suit, action, or proceeding.

12. **Warranty:** Notwithstanding anything contained herein to the contrary, the manufacturer's warranty only shall apply to all materials purchased by the City hereunder. The City acknowledges that the Company is a distributor of materials only and therefore offers no additional warranties. THE COMPANY SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT, WHETHER ARISING OUT OF WARRANTY, INDEMNITY, TORT, CONTRACT OR OTHERWISE, SHALL THE COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND.

13. **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 Agreement 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

agreement 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 Agreement and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

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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:

Nicholas Toulet, Interim 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 Core & Main LP, 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



Bid Proposal for Midland 2025 Meter Contract

CUSTOMER	CITY OF MIDLAND 1606 ORCHARD MIDLAND, TX 79701 Contact: Jennifer Shipp jshipp@midlandtexas.gov Job Midland 2025 Meter Contract midland, TX Bid Date: 03/10/2025 Bid #: 4068488
CONTACT	Sales Representative Arnold Osuna (M) 915-449-0418 (T) 915-590-6922 (F) 915-590-7034 Arnold.Osuna@coreandmain.com Core & Main 930 Pendale Rd El Paso, TX 79907 (T) 9155906922
NOTES	



Bid Proposal for Midland 2025 Meter Contract

CITY OF MIDLAND**Job Location:** midland, TX**Bid Date:** 03/10/2025**Core & Main Bid #:** 4068488**Core & Main**

930 Pendale Rd

El Paso, TX 79907

Phone: 9155906922**Fax:** 9155907034

Seq#	Qty	Description	Units	Price	Ext Price
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100	1	3X17 MACH10 R900I V4 USG W/20' ANT EU3B2G1G90	EA	3,337.86	3,337.86
110	1	4X14 MACH10 R900I V4 USG W/6' ANT EU3C2G1SG89	EA	4,283.58	4,283.58
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140		UNIT PRICING REGISTERS			
160	1	NEPTUNE 12527-200 ANTENNA ASSE MBLY 6FT CABLE ECODER R900I PI	EA	45.00	45.00
		T			
170	1	1.5-2 HPT PROCODER REG R900I V4 PIT USG 6' ANT RPW5G11SG89	EA	233.34	233.34
180	1	T10 1 PROCODER R900I V4 USG REG W/6' ANT RPW2G31SG89	EA	233.34	233.34
210		STRAINERS			
220	1	6 NEPT BRZ MTR STRAINER 52000-201 NO LEAD	EA	2,625.34	2,625.34
230	1	4 NEPT BRZ MTR STRAINER 53107-100 NO LEAD	EA	1,848.00	1,848.00
240	1	3 NEPT BRZ MTR STRAINER 53107-000 NO LEAD	EA	1,000.67	1,000.67
				Sub Total	22,930.61
				Tax	0.00
				Total	22,930.61

UNLESS OTHERWISE SPECIFIED HEREIN, PRICES QUOTED ARE VALID IF ACCEPTED BY CUSTOMER AND PRODUCTS ARE RELEASED BY CUSTOMER FOR MANUFACTURE WITHIN THIRTY (30) CALENDAR DAYS FROM THE DATE OF THIS QUOTATION. CORE & MAIN LP RESERVES THE RIGHT TO INCREASE PRICES TO ADDRESS FACTORS, INCLUDING BUT NOT LIMITED TO, GOVERNMENT REGULATIONS, TARIFFS, TRANSPORTATION, FUEL AND RAW MATERIAL COSTS. DELIVERY WILL COMMENCE BASED UPON MANUFACTURER LEAD TIMES. ANY MATERIAL DELIVERIES DELAYED BEYOND MANUFACTURER LEAD TIMES MAY BE SUBJECT TO PRICE INCREASES AND/OR APPLICABLE STORAGE FEES. THIS BID PROPOSAL IS CONTINGENT UPON BUYER'S ACCEPTANCE OF SELLER'S TERMS AND CONDITIONS OF SALE, AS MODIFIED FROM TIME TO TIME, WHICH CAN BE FOUND AT: <https://coreandmain.com/TandC/>

THIS BID MAY INCLUDE GLOBALLY SOURCED (IMPORTED) MATERIALS THAT ARE SUBJECT TO CHANGING TARIFFS. PRICES ARE SUBJECT TO CHANGE DUE TO POTENTIAL ADDITIONAL TARIFFS IMPOSED BY THE U.S. GOVERNMENT. IF IMPOSED, PRICES WILL INCREASE BY THE SAME PERCENTAGE AND WILL BE EFFECTIVE ON THE DATE THAT THE NEW TARIFFS ARE IMPLEMENTED. THESE ITEMS SHOULD BE PURCHASED WITH HASTE TO AVOID ANY ADDITIONAL RISING TARIFF COSTS.



City Council Meeting

Item Number: 9
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Justine Ruff, Director
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT IN THE AMOUNT OF \$192,200.00 WITH MID-TEX OF MIDLAND, THROUGH THE PURCHASING ASSOCIATION OF COOPERATIVE ENTITIES, FOR THE MAF CHECKPOINT THIRD LANE CONSTRUCTION PROJECT AT MIDLAND INTERNATIONAL AIR & SPACE PORT; APPROVING \$38,440.00 FOR PROJECT RELATED EXPENSES; AND APPROPRIATING FUNDS FOR SAID PROJECT (DISTRICT 4) (AIRPORTS) (TRANSPARENT & CONSISTENT COMMUNICATION)

Purpose:

Resolution authorizing the execution of a contract with Mid-Tex of Midland in the amount of \$192,200.00 for the MAF Checkpoint Third Lane construction project at Midland International Air & Space Port, and appropriate necessary funds for said project.

Recommended City Council Action:

Approve

Fiscal Impact:

Fiscal Impact:

City/Airport Share (100%)	\$ 192,200.00
City/Airport Contingency	\$ 38,440.00
Total	\$ 230,640.00

Appropriation Language:

That the sum of \$230,640.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (35650) to the MAF Checkpoint Third Lane Construction

Project.

Strategic Priority:

(Transparent & Consistent Communication)

Discussion:

The growing traffic volume at MAF has increasingly strained the capacity of the current security checkpoint configuration. On Wednesday, Thursday, and Friday mornings, passengers frequently experience wait times exceeding 30 minutes, with delays extending further in the event of equipment malfunctions.

The Airport is currently in the design phase of a new security checkpoint, which will be located at the south end of the existing terminal building. This new checkpoint will feature up to six lanes, in contrast to the current two-lane setup. However, the completion of this project and its potential to alleviate current bottlenecks is not expected until 2027.

In the interim, TSA headquarters has offered to provide the equipment for a third checkpoint lane, contingent upon MAF providing the necessary infrastructure. This additional lane will be situated outside the current security checkpoint, across from the Gift Shop, and will primarily accommodate TSA PreCheck passengers. The project will involve the removal of part of the existing glass wall and the installation of temporary walls, as well as the provision of electrical access. The third lane is expected to significantly reduce wait times during peak hours.

TSA is prepared to deliver and install the required equipment during the week of June 9th. However, should MAF fail to have the necessary infrastructure in place by that time, TSA cannot guarantee a future installation date.

Both Mid-Tex of Midland and the City are members of the Purchasing Association of Cooperative Entities (PACE), which will streamline the procurement process for this project.

City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF
A CONTRACT IN THE AMOUNT OF \$192,200.00 WITH
MID-TEX OF MIDLAND, THROUGH THE
PURCHASING ASSOCIATION OF COOPERATIVE
ENTITIES, FOR THE MAF CHECKPOINT THIRD
LANE CONSTRUCTION PROJECT AT MIDLAND
INTERNATIONAL AIR & SPACE PORT; APPROVING
\$38,440.00 FOR PROJECT RELATED EXPENSES; AND
APPROPRIATING FUNDS FOR SAID PROJECT**

WHEREAS, the Purchasing Association of Cooperative Entities (“PACE”) is a cooperative purchasing program in which the City participates in accordance with TEX. LOC. GOV’T CODE § 271.102; and

WHEREAS, Mid-Tex of Midland has submitted a total proposed cost to the City of \$192,200.00 for the construction of the MAF Checkpoint Third Lane Construction Project (the “Project”) at Midland International Air & Space Port through PACE; and

WHEREAS, the City Council finds the price proposed by Mid-Tex of Midland, through PACE, for the construction of the Project to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of a contract with Mid-Tex of Midland, through PACE, for the construction of the Project; and

WHEREAS, the City Council finds it to be in the public interest to approve \$38,440.00 for project related expenses;

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

SECTION ONE. That the City Manager, or his designee, and the City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract in the amount of \$192,200.00 with Mid-Tex of Midland, through PACE, for the construction of the MAF Checkpoint Third Lane Construction Project. Said contract shall be on file in the office of the City Secretary and referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$38,440.00 for project related expenses is hereby approved.

SECTION THREE. That the sum of \$230,640.00 shall be appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (35650) to the MAF Checkpoint Third Lane Construction Project.

SECTION FOUR. That the City Comptroller is hereby authorized and directed to pay Mid-Tex of Midland pursuant to the terms of said contract from funds appropriated herein 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:

Justine Ruff, Director of Airports

PACKET

9.4

April 22, 2025

APPROVED AS TO FORM ONLY:

Nicholas Toulet, Interim City Attorney



City Council Meeting

Item Number: 10
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Sara Harris,
Subject: MOTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC (DISTRICT 4) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS)

Purpose:

The Board of Directors of the Midland Development Corporation approved at a regular meeting on April 7, 2025 a resolution authorizing the execution of an economic development agreement with AST & Science, LLC.

Recommended City Council Action:

Approve

Fiscal Impact:

\$0.00

Strategic Priority:

(Strong Economy with More Quality Jobs)

Discussion:

AST will lease the MDC-owned facility at 2908 Enterprise Lane for a term of five years. During that time AST will create and maintain 50 new jobs and \$3M in personal property and inventory in the facility. This is independent of the 200 jobs and \$21M in capital investments made at the facility at 2901 Enterprise Lane. While AST meets its job creation and personal property and inventory requirements, it will receive lease abatement from the MDC for the facility at 2908 Enterprise Lane.

Monnie Williams Jr.

City Manager's Office

ECONOMIC DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the MIDLAND DEVELOPMENT CORPORATION (“MDC”), a Type A corporation pursuant to Chapter 504 of the Texas Local Government Code, as amended, and AST & SCIENCE, LLC, a Delaware limited liability company (“Company”).

I. Recitals

- A. Company is currently headquartered at the office and hangar facility located at 2901 Enterprise Lane, Midland, Texas 79706, and is in the business of building the first and only cellular broadband network in space designed to be accessible directly by smartphones for commercial use, and other applications for government use utilizing its extensive intellectual property and patent portfolio.
- B. MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from the City of Midland, Texas (the “City”).
- C. MDC has constructed a single facility on said real property that houses office space, testing and fabrication rooms, and the Midland Altitude Chamber Complex.
- D. MDC and Company desire to set forth the terms and conditions upon which incentives will be provided to Company as consideration for Company’s (i) expansion and occupation of certain portions of the facility referenced above, (ii) creation of primary jobs at the facility, and (iii) investment and maintenance of certain levels of Personal Property and Inventory (as defined herein) at the facility.
- E. MDC intends to lease portions of the facility to Company to provide for Company’s expansion of its operations to include the establishment of a radio frequency lab and communications testing activities therein.
- F. Company will exercise commercially reasonable efforts to employ Midland, Texas residents and to advertise the availability of job openings in Midland, Texas. Additionally, when it is not possible to hire city of Midland, Texas residents, Company will exercise commercially reasonable efforts to recruit new residents to live within the city limits of Midland, Texas and to advertise the availability of job openings in the city limits of Midland, Texas.
- G. Company anticipates creating and maintaining fifty (50) Full-Time Jobs (as defined herein) at the facility by March 31, 2028.

- H. In addition to creating and maintaining said Full-Time Jobs, Company anticipates that it will provide for and maintain an average of \$3,000,000.00 in Personal Property and Inventory at the Facility (as hereinafter defined) during the term of this Agreement.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MDC and Company hereby agree as follows:

II. Definitions

When used in this Agreement, capitalized terms not otherwise defined shall have the meanings set forth below:

- A. “*Affiliate*” Affiliate shall mean any entity controlling, controlled by, or under common control with AST & Science, LLC.
- B. “*Business*” means Company’s commercial operations at the Facility (as defined herein) relating to Company’s establishment of a radio frequency lab and communications testing activities.
- C. “*Business Day*” Business Day shall mean each day, Monday through Friday, except to the extent any day is a holiday recognized by the federal government of the United States or a state holiday recognized by the State of Texas.
- D. “*Effective Date*” means April 22, 2025.
- E. “*Facility*” means the single facility located at 2908 Enterprise Lane, Midland, Texas 79706 that houses office space and testing and fabrication rooms. The term “*Facility*” shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the Midland Altitude Chamber Complex is housed and operated.
- F. “*Determination Period*” means a twelve (12) month period commencing on April 1st and ending on March 31st. It being agreed that the first Determination Period shall be April 1, 2026.
- G. “*Full-Time Job*” means a position of employment that requires an individual (i) work 1,820 hours per year, including allowance for vacation, sick leave, earned time off, or other of Company’s policies and practices and (ii) spend a substantial amount of his or her time performing job duties at the Facility.
- H. “*Personal Property and Inventory*” means personal property and inventory purchased by and/or caused to be made by Company or its Affiliates at the Facility or the Midland Spaceport Business Park that appear on the certified tax rolls of the Midland Central Appraisal District.

- I. “*Previously Executed Agreements*” means those certain existing agreements between the parties consisting of: (i) that Economic Development Agreement dated November 21, 2018, as amended, concerning the relocation of Company’s headquarters from Miami, Florida, to its current headquarters location at the Midland Spaceport Business Park; and (ii) that Sublease Agreement dated November 13, 2018, as amended, concerning Company’s sublease of the office and hangar facility located at 2907 Enterprise Lane, Midland, Texas, from MDC.

III. Previously Executed Agreements

The parties acknowledge the existence and validity of the Previously Executed Agreements. Notwithstanding any contrary provision contained herein, this Agreement shall not affect, alter, or modify the Previously Executed Agreements or the parties’ respective obligations contained therein; provided, however, that Company’s satisfaction of any obligation contained in this Agreement may be achieved by Company’s performance under the Previously Executed Agreements. Specifically, Company’s obligations as to the creation and investment in Full-Time Jobs and Personal Property and Inventory under this Agreement may be satisfied through the creation of Full-Time Jobs and investment in Personal Property and Inventory under the Previously Executed Agreements, subject to Company’s compliance (subject to applicable notice and cure periods) with the Previously Executed Agreements. For the avoidance of doubt, so long as the Company creates the applicable number of Full-Time Jobs in the City of Midland, Texas, in accordance with the schedule contained in Section IV.B, Company shall be deemed to be in compliance under this Agreement with respect to such obligation and the Previously Executed Agreements with respect to such job creation.

IV. Obligations of the Company

- A. **Personal Property and Inventory Investment Obligation.** Company shall invest in and maintain during the term of this Agreement, an average of \$3,000,000.00 in Personal Property and Inventory at the Facility. Company’s Personal Property and Inventory investment obligation shall be evidenced by tax statements issued by the Midland Central Appraisal District, which shall be provided to MDC no later than the date on which the annual compliance certificate is required to be delivered hereunder for each year during the term of this Agreement for which a Determination Period is applicable. The value of the Personal Property and Inventory shall be determined in accordance with the tax statements issued by the Midland Central Appraisal District. Company shall maintain its investment in the Personal Property and Inventory in accordance with the terms of this Agreement for the duration of the term of this Agreement. The required average of the Personal Property and Inventory shall be tested at the end of a Determination Period.
- B. **Full-Time Jobs Obligation.** Company shall create and maintain cumulative new Full-Time Jobs in accordance with the following schedule:
1. Twenty-Five (25) Full-Time Jobs as of March 31, 2026.

2. Forty (40) Full-Time Jobs as of March 31, 2027.

3. Fifty (50) Full-Time Jobs as of March 31, 2028.

Company shall maintain said Full-Time Jobs for the duration of the term of this Agreement as such may be extended in accordance with Section VIII below.

C. **Quarterly Compliance Certifications.** Beginning for the calendar quarter ending July 31, 2025, and for every quarter thereafter during the term of this Agreement, Company shall certify to MDC, as described in Section X.B below, the following:

1. The total Full-Time Jobs created and maintained as of the last day of the quarter; and
2. The total amount of Personal Property and Inventory investment made at the Facility as of the last day of the quarter.

Said quarterly compliance certifications shall be due to MDC no later than forty-five (45) days following the end of each quarter.

D. **Annual Compliance Certifications.** Beginning for the time period spanning April 1, 2025, to March 31, 2026, and every subsequent time period thereafter (April 1 to March 31 of the following year, each a "*Compliance Year*") during the term of this Agreement, Company shall submit a compliance certification ("*Annual Certification*") to MDC, as described in Section X.B below, the following:

1. The total Full-Time Jobs created and maintained during the Compliance Year; and
2. The total amount of Personal Property and Inventory investment made at the Facility during the Compliance Year.

Every Annual Certification shall be accompanied by a separate certification completed by a duly licensed accountant stipulating that (i) the information contained in the Annual Certification is true and correct, and (ii) the information contained in the Annual Certification was derived using Generally Accepted Accounting Principles. Company shall submit every Annual Certification within sixty (60) days from the end of every Compliance Year.

V.

Obligation of the MDC

MDC agrees to lease certain portions of the Facility to Company for the purpose of Company conducting its Business thereon and in accordance with the terms and conditions of the Commercial Lease Agreement (the "*Lease*"), the form of which is attached hereto as Exhibit A and incorporated herein for all purposes. MDC's lease of such portions of the Facility to Company

shall be conditioned on Company's strict compliance and fulfillment of all obligations contained in this Agreement and in the Lease, subject to applicable notice and cure periods.

VI. MDC's Remedies Upon Default

The parties agree that if Company defaults under this Agreement, MDC shall be entitled, in addition to any other remedy to which it may be available at law or in equity, to those remedies specifically provided for and enumerated in the Lease. MDC shall have all rights and remedies set forth in the Lease and all rights and remedies that MDC has by law.

VII. Cure Period

In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in the Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in this Agreement or the Lease.

VIII. Term

The term of this Agreement shall be coterminous with the term of the Lease. For the avoidance of doubt, a termination of the Lease shall be an automatic termination of this Agreement and any extension under the Lease shall automatically extend the term under this Agreement.

IX. Applicable Statutes, Rules, and Regulations

The parties acknowledge that the real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, and its owner, the City of Midland, are subject to the Airport and Airway Improvement Act of 1982, as amended and recodified at 49 U.S.C. 47107(a)(1), as well as the Federal Aviation Administration's Airport Improvement Program. The parties further acknowledge that the City is generally required to make said real property available to users that participate in aeronautical activities and that the City is prohibited from causing or permitting any activity that would interfere with use of said real property for aeronautical purposes. MDC has fully and completely disclosed the requirements referenced herein to Company. Company has satisfied itself of said requirements and warrants that it is entering into this Agreement subject to said requirements. MDC has made no warranty or representation that Company's intended use of the Facility will be compliant with the requirements referenced in this Section. Company hereby represents and warrants that its use of the Facility complies with said requirement.

Notwithstanding any other provision contained in this Agreement, the parties agree that if the Federal Aviation Administration (the “*FAA*”) determines that Company’s use or occupation of the Facility does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA’s Airport Improvement Program, or any other applicable statute, rule, or regulation, that upon either party’s notice of such determination, this Agreement shall automatically terminate in its entirety and be of no further force or effect. Said automatic termination shall occur without penalty to either party, except as provided for below. In the event of such automatic termination, the parties shall be fully discharged of any and all obligations due hereunder.

Company acknowledges that this Agreement is made subject to the above-referenced statutes, rules, and regulations. MDC has not provided Company with any warranties as to the Facility, the real property on which the Facility is located, or the applicable statutes, rules, or regulations referenced herein. Company acknowledges that MDC has not warranted (i) the Facility for any particular use, or (ii) Company’s quiet enjoyment of the Facility with regards to the provisions contained in this Section. Company acknowledges that the FAA may determine that Company’s possession of the Facility does not constitute an aeronautical purpose. Company agrees to hold MDC and the City harmless if the FAA makes such a determination.

Notwithstanding any other provision contained in this Agreement, if Company creates any condition that does not conform to the purpose of establishing Company’s Business at the Facility, and said condition causes the FAA to determine that Company’s use or occupation of the Facility does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA’s Airport Improvement Program, or any other applicable statute, rule, or regulation, and Company has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Agreement shall terminate and all rent payments contemplated by the Lease shall, at MDC’s option, thereupon immediately become due and payable to MDC (in accordance with the accelerated rent provisions of Section 14.03 of the Lease). Company shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Agreement, the Lease, or by law MDC elects to pursue.

X. Special Conditions

A. No Financial Commitment. Notwithstanding any other provision hereof that may be interpreted otherwise, MDC’s obligations due hereunder shall not consist of any financial commitment or payments whatsoever. MDC’s only obligation under this Agreement is encompassed in Section V and Company agrees that MDC shall not provide any financial consideration to Company under this Agreement.

B. Certifications. Company agrees to the following certification requirements:

1. As to the certifications required in Section IV.C.1 and Section IV.D.1, subject to securities obligations applicable to public companies, the Company shall provide reasonable evidence or supporting documentation. Documentation for employment numbers may be in the form of Texas Workforce Commission Employer Quarterly Reports, or certified employee rosters that show the hours worked and positions filled,

or such other reports as may be agreed upon by MDC and Company. Upon request, MDC may review Company's Texas Workforce Commission Employer Quarterly Reports in Midland, Texas, but may not copy or retain a copy of said reports.

2. Company shall allow MDC reasonable access to the Facility for purposes of determining Company's compliance with the employment certifications given by Company, provided that such access shall be (i) with prior written notice; (ii) accompanied by representatives of Company; and (iii) during normal business hours; provided, further, such access shall not unreasonably interfere or hinder the Company's Business operations.
3. When requested in writing by MDC to do so, Company will provide a notarized statement in a form acceptable to MDC that, to Company's knowledge, Company is in compliance with each applicable material term of this Agreement.
4. All certifications required under this Agreement shall be signed and sworn to by Company's chief executive officer and chief financial officer before a notary and shall contain an appropriate jurat and a statement that the information contained in the certification is true and correct. E-mail shall not be an acceptable form of certification under this Agreement.
5. Company shall maintain, during the term of this Agreement and for a period of three (3) years following expiration of the term, all records necessary to confirm that the Company is capable of meeting its obligations under this Agreement and that the Company has met its obligations under this Agreement relating to the Full-Time Jobs obligation and Personal Property and Inventory obligation, including such records maintained by a parent company, affiliates, subsidiaries or other related parties, and including (as appropriate): (i) all payroll records and daily time sheets and other records of personnel utilization on work activities at the Facility (including records on an hourly basis for personnel); (ii) invoices for materials and equipment; (iii) drawings, specifications, schedules, instructions, receipts; and (iv) agreements, subcontracts and purchase orders relating to the Personal Property and Inventory obligation. Upon reasonable advance-written notice, Company shall, subject to confidentiality and privacy obligations, make all such documents available to MDC for inspection, audit and copying, regardless of whether a dispute is then pending between the parties. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Company shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents.

- C. **Covenants.** Company makes the following covenants to MDC and agrees that in the event of failure of Company to comply with such covenants, the breach of any one of which, subject to applicable notice and cure periods hereunder, shall constitute an event of default, MDC may terminate this Agreement, at its sole and absolute discretion:

1. Company is a legal entity duly organized, validly existing and in good standing and is duly authorized to do business in the State of Texas.
2. The execution of this Agreement has been duly authorized by Company's board of directors or other governing body, or by officers empowered to execute such agreements and bind Company, and is not in contravention of the provisions of Company's articles of incorporation or bylaws, or to the Company's knowledge, of any agreement or instrument to which Company is a party to or by which they may be bound, the breach of which would have a material, adverse effect on Company and its operations.
3. There are no bankruptcy proceedings currently pending by or, to Company's knowledge, against Company.
4. To Company's knowledge, as of the Effective Date, none of Company's collateral provided under the Lease is subject to any material lien, security interest or other encumbrance, except for liens reflected in writing and furnished to MDC prior to the Effective Date.
5. To Company's knowledge, no certificate or statement delivered or to be delivered by Company to MDC under this Agreement or in connection with any transaction contemplated hereby contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading in any material respect by reason of any omission.

D. **Suspension.** MDC, under the following circumstances and at its sole discretion, may terminate this Agreement:

1. The insolvency of Company. "*Insolvency*" shall have the meaning set forth in federal bankruptcy law.
2. The appointment of a receiver of Company, or of all or any substantial part of their property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
3. The adjudication of Company as bankrupt, the filing by Company of a petition to be adjudged bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against Company in any bankruptcy or reorganization proceeding.

E. **Additional Covenants.** If Company should fail to comply with any of the following provisions, and such failure continues for thirty (30) days following written notice to Company (each, an event of default), MDC may terminate this Agreement.

1. Company, or any affiliate of, or successor to Company, shall continue its fulltime commercial operations in accordance with Company's obligations set forth in this Agreement at the Facility at all times during the term of this Agreement.
 2. Company shall pay, or cause to be paid, before delinquent all ad valorem taxes assessed against Company's property owed to the taxing authorities having jurisdiction, as may be set forth in the Lease. In addition, Company will pay before delinquent all employment, income, franchise and all other taxes to all local, state and federal entities.
 3. Company shall, on a yearly basis during the term of this Agreement, provide MDC with tax certificates from Midland Central Appraisal District demonstrating that all taxes on Company's property, including those assessed as to the Personal Property Inventory have been paid in full to the current tax year.
 4. Company shall obtain and maintain all necessary rights, licenses, and permits to carry on the Business.
 5. Company agrees that, as to all of the programs and activities arising out of this Agreement, it shall comply in all material respects with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, religion, age, sex or by reason of being disabled.
 6. Company agrees that it shall comply with Texas Government Code Section 2264.001 *et seq.*, as amended.
- F. **Interpretation of Terms & Obligations.** Notwithstanding any other provision contained herein to the contrary, the parties agree that if there is a dispute regarding whether a particular item falls within the definition of Full-Time Jobs or Personal Property and Inventory, MDC shall make such determination in its sole but good faith discretion and such determination shall be final and binding on Company.

XI. General Terms

- A. **Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements, excluding the Lease and the Previously Executed Agreements, between the parties relating to matters in this Agreement. Except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the parties.
- B. **Legal Relationships.** The parties are not, and shall not be considered as, joint venturers, partners, or agents of each other and no party shall have the power to bind or obligate another, except as set forth in this Agreement. The parties agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another. It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed as in any way creating or establishing any partnership, joint venture, or agency

between MDC and Company. 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 that would give rise to vicarious liability.

- C. **No Third-Party Beneficiary.** The parties' approval of the Agreement does not create a third-party beneficiary. There is no third-party beneficiary to this Agreement. No person or entity that is not a party to this Agreement shall have any third-party beneficiary or other rights hereunder.
- D. **Independent Contractor.** It is expressly understood and agreed that Company shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Company 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 MDC and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Company. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Company shall be independent contractors under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractors hereunder. MDC does not have the power to direct the order in which the work is done. MDC 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.
- E. **Terminations.** This Agreement may be terminated by mutual agreement of the parties or by any party upon the failure of another party to fulfill an obligation as set forth herein if the default is not cured within the time periods set forth hereunder. This Agreement may also be terminated as specifically provided for in Section IX herein. A termination of this Agreement shall terminate the Lease. A termination of the Lease shall terminate this Agreement. A termination of this Agreement without liability to either party shall terminate the Lease without liability to either party. A termination of the Lease without liability to either party shall terminate this Agreement without liability to either party. Uncured defaults under either this Agreement or the Lease shall be deemed uncured defaults of the other agreement, and contractual and legal termination procedures shall apply to this Agreement and the Lease.
- F. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of the Agreement, and of the signature pages, by facsimile or electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted by facsimile or electronic mail (i.e., .pdf) shall be deemed to be original signatures for any purpose(s) whatsoever.

- G. **Governing Law & Venue.** The laws of the State of Texas shall govern, construe, and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes, or any other action arising from, relating to, or concerning in any way 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.
- H. **Legal Construction.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- I. **Law.** This Agreement is subject to all applicable municipal, county, state and federal laws, regulations, orders and rules and Company agrees that it will comply in all material respects with all such applicable laws, regulations, orders and rules of the State of Texas and other such governmental agencies. As used in this Agreement, the phrase “applicable law” is deemed to include the foregoing.
- J. **Assignment.** This Agreement shall be binding upon the parties hereto and their successors and assigns. This Agreement may not be assigned by a party (other than by Company to one or more entities comprising Company’s Affiliated Group (as hereinafter defined)) without the prior written consent of the other party. “*Company’s Affiliated Group*” shall mean Company, the parent company of Company (AST SpaceMobile, Inc.) and all subsidiaries of Company or the parent company of Company (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Agreement and the Lease.

XII.

Miscellaneous

- A. **Certification Regarding Undocumented Workers:** Company certifies that it and its Affiliates do not and will not knowingly employ an Undocumented Worker, as defined below, during the term of this Agreement, “Undocumented Worker” shall mean an individual who, at any time during employment, is not (i) lawfully admitted for permanent residence to the United States or (ii) otherwise authorized under applicable law to be employed, on any basis or under any program in the United States. Company shall immediately notify MDC if (i) Company becomes aware of it or its Affiliate employs or has employed an Undocumented Worker, (ii) Company becomes aware or receives notice

that it or its Affiliated is alleged to have employed an Undocumented Worker, or (iii) Company or its Affiliate is convicted of a violation under the following paragraph.

If during the term of this Agreement, Company or any of its Affiliates knowingly employ any Undocumented Worker and is convicted of a violation under 8 U.S.C. § 1324a(f), Company shall forfeit its claim to any incentives owed to it by MDC under this Agreement and MDC shall be fully and completely discharged from any and all obligations due hereunder.

B. Severability. If any provision of this Agreement is held invalid or otherwise unenforceable by any court of competent jurisdiction, the remaining provisions of the Agreement will remain in full force and effect. Any provision of this Agreement held invalid or otherwise unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

C. Notices. All notices permitted or required hereunder shall be in writing, signed by the party giving such notice and delivered either (i) personally; (ii) by certified mail, return receipt requested, postage prepaid addressed to the party at the address listed below; (iii) delivered by a nationally recognized courier service; or (iv) via email or fax, provided that concurrent notice is delivered by any other approved method of delivery outlined in subsections (i) – (iii) above. Notices under this paragraph will be deemed effective if sent to the party or person identified below:

If to MDC:

Midland Development Corp.
Attn: MDC Chairman
Attn: Executive Director

200 N. Loraine St., Suite 610
Midland, Texas 79701

If to Company:

AST & Science, LLC
Attn: Shanti Gupta
Chief Operating Officer
Attn: AST Legal
2901 Enterprise Lane
Midland, Texas 79706

With Copy To:

City Attorney's Office
City Hall
300 Loraine St., Suite 320
Midland, Texas 79701

With Copy To:

Foley & Lardner LLP
2 South Biscayne Blvd, Suite 1900
Miami, FL 33131
Attention: James Zimmer, Esq.

D. Paragraph Headings. The paragraph headings inserted in this Agreement are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Agreement or any provisions hereof, or in any way affect the interpretation of this Agreement.

E. Binding Effect. This Agreement shall inure to the benefit of, and shall be legally binding upon, the parties hereto and their respective heirs, successors, assigns and legal representatives.

F. Findings Incorporated. The recitals are hereby incorporated into the body of this Agreement for all rights and purposes, and shall be considered part of the mutual covenants, consideration and promises that bind the parties in the same manner as the material terms and provisions hereof.

G. Waiver of Attorney Fees. BY EXECUTING THIS AGREEMENT, COMPANY AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST MDC REGARDING THE AWARD OF ATTORNEY FEES THAT IS IN ANY WAY RELATED TO THIS AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS AGREEMENT. COMPANY 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), THAT COMPANY AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH IT 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 COMPANY UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. COMPANY FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN COMPANY AND MDC. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY ACKNOWLEDGES THAT COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

H. Amendment. This Agreement may only be amended by written instrument executed by both parties expressly stating the intention to amend this Agreement. No amendment shall be effective unless approved by the Midland City Council.

I. Release. COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S 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, MDC'S NEGLIGENCE, OR RELATING TO ANY FAA RULE OR REGULATION AND THE ENFORCEMENT OF THE SAME.

- J. Consideration.** MDC and Company hereby agree and acknowledge that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties.
- K. Governmental Immunity.** By executing this Agreement, MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- L. Governmental Function.** **MDC AND COMPANY HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS AGREEMENT ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS AGREEMENT, COMPANY RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS AGREEMENT ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND COMPANY ACKNOWLEDGE AND AGREE THAT THIS AGREEMENT IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.**
- M. No Disparity of Bargaining Position.** MDC and Company agree that there was no disparity of bargaining power between the parties in the negotiation and execution of this Agreement. MDC and Company acknowledge and agree that they were represented by legal counsel. MDC and Company acknowledge and agree that they read and understood the entire Agreement prior to its execution. MDC and Company acknowledge and agree that there were numerous compromises and concessions made by the parties resulting in the agreed-upon terms of this Agreement.
- N. 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 representatives shall give the MDC Chairman notice in writing (consisting of one (1) original and two (2) 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 Company will 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 claims. Failure to so notify the

MDC Chairman within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Company that Company's notice is insufficient. MDC 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 Texas law. Notwithstanding any other provision, Company's failure to comply with the requirements herein shall perpetually bar Company's claim for damages regardless if MDC has actual or constructive notice or knowledge of said claim or alleged damages. Company agrees that the requirements of this Section are reasonable.

O. Approval Required. This Agreement shall not become effective until approved by the Midland City Council.

P. Decision for Expansion. Company had many options to expand its present operations within the United States, and Company specifically chose to expand to property located in the corporate limits of the City of Midland due to the commercial and community advantages offered in Midland, Texas.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS AGREEMENT.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, MDC and Company have executed this Agreement as of the Effective Date.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

AST & SCIENCE, LLC, a Delaware
limited liability company

Abel Avellan, Chairman and CEO

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, _____, a notary public, on this day personally appeared Abel Avellan, Chairman and CEO of AST & Science, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said company for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 2025.

Notary Public, in and for
the State of _____

Exhibit A

Commercial Lease Agreement

Exhibit "A"

COMMERCIAL LEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC

THIS COMMERCIAL LEASE AGREEMENT ("*Lease*") is made and effective this 22nd day of April, 2025, by and between the MIDLAND DEVELOPMENT CORPORATION ("*MDC*" or "*Landlord*"), a Type A corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and AST & SCIENCE, LLC, a Delaware limited liability company licensed to do business in the state of Texas ("*Lessee*").

RECITALS

WHEREAS, the City of Midland, Texas ("*City*"), owns and operates Midland International Air & Space Port (the "*Airport*") and Lessee desires to expand certain commercial operations at the Airport; and

WHEREAS, MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from City; and

WHEREAS, MDC has constructed a single facility on said real property (the "*Facility*") that houses office space, testing and fabrication rooms, and a certain 2,351 square-foot area in which the Midland Altitude Chamber Complex (the "*MACC*") is housed and operated; and

WHEREAS, MDC and Lessee desire to set forth the terms and conditions under which Lessee will lease the Facility from MDC for certain commercial purposes described herein; and

WHEREAS, MDC and Lessee shall, simultaneously with the execution of this Lease, enter into an Economic Development Agreement (the "*Economic Development Agreement*"), which is incorporated herein by reference for all purposes;

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, City and Lessee agree as follows:

The Recitals above are incorporated into, and made part of, this Lease for all purposes.

LEASE INFORMATION

Lessee: AST & Science, LLC

Lessee Address: 2901 Enterprise Lane, Midland, Texas 79706

Telephone: _____

Landlord: Midland Development Corporation

Landlord's Address: 200 N. Loraine Street, Suite 610, Midland, TX 79701

Landlord's Telephone: 432-686-3579

Lessee's Proportionate Share of the Leased Premises: 100%

Lessee's Proportionate Share of the Facility: Approximately Eighty-Six Percent (86%)

Security Deposit: Fifty-Four Thousand Eight Hundred Sixteen and No/100 Dollars (\$54,816.00)

**ARTICLE 1.
GRANT OF LEASE**

- 1.01 **Leased Premises; MACC Facility:** MDC agrees to lease to Lessee a certain portion of the Facility located at 2908 Enterprise Lane on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas (the “*Leased Premises*”), and being more particularly shown on **Exhibit A** attached hereto and incorporated by reference. Notwithstanding the foregoing or any contrary provision contained herein, the Leased Premises shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the MACC is housed and operated (the “*MACC Facility*”). Lessee’s access to the MACC Facility shall be restricted using locks, a security system, and/or other similar security mechanism(s) as deemed appropriate by MDC. Furthermore, MDC hereby retains the unrestricted right of ingress and egress to the MACC Facility during the term of this Lease for all lawful purposes; provided, however, such access shall not unreasonably interfere with Lessee’s business operations being conducted on the Leased Premises or hinder such operations.

If MDC elects to remove the MACC Facility and all associated equipment from the Facility during the term of this Lease, the parties agree to execute an amendment to this Lease that provides for the incorporation of the MACC Facility into the Leased Premises. Upon the execution of such an amendment, MDC shall provide Lessee with full access to the MACC Facility, and the provisions of this Lease including all uses, benefits, and obligations granted herein to Lessee regarding the Leased Premises shall thereafter apply to the MACC Facility.

- 1.02 **Easements:** This Lease shall be subject to such easements, rights-of way, drill sites, or other rights or reservations affecting the Leased Premises that are of record or are clearly visible as of the date of this Lease.
- 1.03 **Acceptance of Leased Premises:** BY EXECUTING THIS LEASE, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE MDC OR CITY THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY MDC OR CITY WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY), BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES “AS IS,” THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. MDC GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE OR

LANDLORD HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED “AS IS” AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. FURTHER, LESSEE COVENANTS AND AGREES THAT MDC HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES OF ANY KIND WHATSOEVER REGARDING THE DISPOSAL OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, OR APPLICABLE STATE LAWS.

- 1.04 **Removal of the MACC and Rocket Plane Airframe:** During the Lease Term (as defined below), MDC shall use its best efforts to remove the MACC and the rocket plane airframe from the Facility. Notwithstanding the foregoing, MDC’s failure to remove the MACC or the rocket plane airframe from the Facility shall not be construed as a default under the terms of this Lease.

ARTICLE 2. TERM OF LEASE

The term of this Lease shall commence on April 22, 2025, and terminate on May 15, 2030, (the “*Lease Term*”) unless terminated earlier pursuant to the provisions of this Lease. Within sixty (60) days prior to the expiration of the Lease Term, the parties may elect to extend this Lease for a period not to exceed five (5) years upon the mutual agreement of the parties and subject to any agreed upon modifications of this Lease.

ARTICLE 3. RENT

- 3.01 **Amount of Monthly Rent (“Rent”): \$18,272.00** \$16/SF/Year (13,934 sq. ft.)

Lessee shall pay Landlord the Rent of eighteen thousand two hundred seventy-two and No/100 Dollars (\$18,272.00) per month on or before the tenth (10th) business day of each month as a fixed rent for the next month’s rent. Rent for any fractional month at the beginning or end of the Lease Term shall be prorated on a per-day basis (also see Article 15 below).

- 3.02 **Delivery of Rent:** Lessee shall timely pay to Landlord Rent, without deduction or set off, at Landlord’s Address (or such other address as Landlord may from time to time designate in writing to Lessee). Rent shall be payable monthly in advance (including any partial month). Monthly installments of Rent shall be due on the first day of the first full calendar month of the Lease Term with a ten (10) day grace period as set forth in Article 3.01, and continuing the first day of each succeeding calendar month during the Lease Term. Rent for any fractional month at the beginning of the Lease Term shall be prorated based on 1/365 of the current annual Rent for each day of the partial month this Lease is in effect and shall be due on the commencement date of this Lease. All sums payable by Lessee

under this Lease, whether expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. In addition, Lessee shall pay its Proportionate Share of electricity and other utility charges at the end of each month.

The wiring instructions for all payments to Landlord are as follows:

Account Name: City of Midland
Bank Name: Wells Fargo Bank N.A.
Account Number: 5101032929
ABA Routing Number: 121000248

The wiring instructions for all payments to Lessee are as follows:

Account Name: AST & Science, LLC
Bank Name: _____
Account Number: _____
ABA Routing Number: _____

- 3.03 **Triple Net Rent:** The rent paid by Lessee will be on a triple net basis. Lessee agrees to pay as additional rent an amount equal to Lessee's Pro Rata Share of the following, collectively called "*Additional Rent*": (a) all ad valorem taxes on the Leased Premises and all improvements thereon (including, without limitation, the Leased Premises (b) all premiums for insurance carried by Landlord on the improvements and operations situated on the Leased Premises (c) Common Area Maintenance Charges, and all expenses and liabilities incurred by Landlord in connection with its possession of the Leased Premises, including without limitation, deductibles on insured claims, and for the purposes of the foregoing, the amount of the said deductible(s) shall be passed through to the Lessee in the year of the occurrence of the event causing such claim based on the amount of the deductible set forth in the policy. For purposes of this Sublease, the phrase "Common Area Maintenance Charges" ("*CAM*") shall mean for each calendar year, or portion thereof, during the Sublease Term, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord to operate, manage, maintain and repair the common area and all other improvements on the Leased Premises, including, without limitation, those paid or incurred in connection with the sweeping, cleaning, removing of debris from, maintaining, re-striping, and repairing the common areas; the cost of supplying water, electricity, gas, sewer disposal and/or garbage pickup and disposal, and monitoring and security services with respect to the common areas (all of which Landlord is obligated to furnish; providing the Leased Premises identification signs and the repair and maintenance of the pylons and all signs thereon: providing traffic control, if any; constructing, maintaining and repairing any on-site and off-site utilities necessary or appropriate for operation of the common areas; maintaining, repairing and renovating the Leased Premises; plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to maintaining, managing, repairing, renovating, and equipping the common areas in the Leased Premises. The portion of CAM attributable to Lessee herein for the replacement of any HVAC system or component thereof, any roof or portion thereof, or any other system or component for which Landlord must replace pursuant to this Sublease

shall be limited to the cost of the replacement divided by the total expected service life of the item so replaced (in months) multiplied by the number of months that have passed since the Effective Date of the Sublease, which number shall then be further multiplied by the product of the total square footage of the Leased Premises, as the case may be, divided by the square footage of the Leased Premises leased by Lessee. Common areas of the Leased Premises are those parts of the Leased Premises designated by Landlord for the common and non-exclusive use of all Lessees, including, among other facilities, the parking areas, sidewalks, landscaped areas, curbs, loading areas, private streets and alleys, lighting facilities, signs erected or maintained by Landlord advertising or identifying the Leased Premises and service drives, all of which shall be subject to the Landlord's sole management and control.

- 3.04 **Real Estate Tax Protest:** Lessee has no right to protest the real estate tax rate assessed against the Leased Premises and/or the appraised value of the Leased Premises determined by any appraisal review board or other taxing entity with authority to determine tax rates and/or appraised values (each a "*Taxing Authority*"). Lessee hereby knowingly, voluntarily and intentionally waives and releases any right, whether created by law or otherwise, to (a) file or otherwise protest before any Taxing Authority any such rate or value determination even though Landlord may elect not to file any such protest; (b) receive, or otherwise require Landlord to deliver, a copy of any reappraisal notice received by Landlord from any Taxing Authority; and (c) appeal any order of a Taxing Authority that determines any such protest. The foregoing waiver and release covers and includes any and all rights, remedies and recourse of Lessee, now or at any time hereafter, under Section 41.413 and Section 42.015 of the Texas Tax Code (as currently enacted or hereafter modified) together with any other or further laws, rules or regulations covering the subject matter thereof. Lessee acknowledges and agrees that the foregoing waiver and release was bargained for by Landlord and Landlord would not have agreed to enter into this Sublease in the absence of this waiver and release. If, notwithstanding any such waiver and release, Lessee files or otherwise appeals any such protest, then Lessee will be in default under this Sublease and, in addition to Landlord's other rights and remedies, Lessee must pay or otherwise reimburse Landlord for all costs, charges and expenses incurred by, or otherwise asserted against, Landlord as a result of any tax protest or appeal by Lessee, including, appraisal costs, tax consultant charges and attorneys' fees (collectively, the "*Tax Protest Costs*"). If as a result of Lessee's tax protest or appeal, the appraised value for the Leased Premises is increased above that previously determined by the Taxing Authority (such increase, the "*Value Increase*") for the year covered by such tax protest or appeal (such year, the "*Protest Year*") then Lessee must pay Landlord, in addition to all Tax Protest Costs, an amount (the "*Additional Taxes*") equal to the sum of the following: (i) the product of the Value Increase multiplied by the tax rate in effect for the Protest Year plus (ii) the amount of additional taxes payable during the five (5) year period following the Protest Year, such amount to be calculated based upon the Value Increase multiplied by the tax rate estimated to be in effect for each year during such five (5) year period. Lessee must pay all Additional Taxes - even those in excess of Lessee's proportionate share and which may relate to years beyond the term of this Sublease. The Additional Taxes will be conclusively determined by a tax consultant selected by Landlord, without regard to whether and to what extent Landlord may be able in years following the Protest Year to reduce or otherwise eliminate any Value Increase. All Tax Protest Costs and Additional Taxes must be paid by Lessee within five

(5) days following written demand by Landlord.

- 3.05 **Security Deposit:** Upon execution of this Lease, in addition to the installment of rent due under Article 3 and in addition to any other amounts that are due from Lessee upon the execution of this Lease, Lessee shall deliver to Landlord a Security Deposit in the amount stated in the above *Lease Information* section. Landlord may apply all or part of the Security Deposit to any unpaid rent, and damages and charges for which Lessee is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to any other provision that requires Lessee to leave the Leased Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Lessee shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Lessee's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Lessee within thirty (30) days after the date Lessee surrenders possession of the Leased Premises and provides a written notice to Landlord of Lessee's forwarding address for the purpose of refunding the Security Deposit. If Landlord transfers its interest in the Leased Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit. The provisions of this Article shall survive the expiration or termination of this Lease.

ARTICLE 4. USE OF LEASED PREMISES

- 4.01 **Permitted Uses:** Lessee shall be permitted to use the Leased Premises for the purpose of conducting for-profit commercial services or activities consisting of any or all the following operations and no others:
- (a) Lessee's commercial operations relating to Lessee's establishment of a radio frequency lab and communications testing activities, including, without limitation, research and development activities;
 - (c) Storage of goods and equipment incidental and/or necessary to Lessee's operations; and
 - (d) Such other uses as may be permitted in writing by MDC.
- 4.02 **Prohibited Uses:** Lessee agrees to comply with the following:
- (a) Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration ("FAA") rules and regulations and applicable regulations for the use of the Airport as may from time to time be promulgated by MDC or City;

- (b) Lessee shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties, or operating aircraft;
- (c) Lessee shall not cause or permit the burial or storage above ground on the Leased Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- (d) Lessee shall not cause or permit any use or activity on the Leased Premises that may create a hazardous condition for aircraft operating at the Airport;
- (e) Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Director of Airports, with all such parking being limited to areas designated by the Department of Airports for such parking. Lessee shall not be in default for the improper parking of vehicles over which neither Lessee nor any of its sublessees, customers, employees, or contractors have any control; and
- (f) Lessee shall not operate, nor permit the operation of, a car rental business from the Leased Premises, unless the Lessee or the operator of said car rental business has executed a car rental concession or permit agreement with MDC or City; and
- (g) Lessee shall not allow airline passenger operations to be conducted on the Leased Premises. The Leased Premises shall not be used for any use that is disreputable or creates extraordinary fire hazards or results in an increased rate of insurance on the Leased Premises or its contents or the storage of any hazardous materials or substances. If, because of an act on the party of Lessee, the rate of insurance on the Leased Premises, its facilities or its contents increases, Lessee shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights. Lessee shall conduct its business and control each other Lessee party or agent, so as not to create any nuisance or interfere with other Lessees or Landlord in its management of the Leased Premises, its facilities or contents. Subject to Landlord's reasonable security measures and the Rules and Regulations described in Article 17.06, Lessee and its agents and employees shall have access to the Leased Premises on a 24/7 basis.

4.03 **Compliance with Minimum Standards:** All activities conducted upon the Leased Premises shall be in substantial conformance with the City's Minimum Standards for Aeronautical Activities, as such standards exist or may be duly amended from time to time by the City Council to the extent that such Minimum Standards may apply to Lessee's operations. MDC agrees to provide Lessee with written notice not later than 30 days prior to adoption of substantive changes to the Minimum Standards for Aeronautical Activities that would apply to Lessee's operations.

4.04 **Non-exclusive Uses:** Lessee understands and acknowledged that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services

at the Airport.

ARTICLE 5.
OBLIGATIONS OF LESSEE WITH REGARD TO CONSTRUCTION OF
IMPROVEMENTS

- 5.01 **Approval of Plans Not Assurance of Design Quality:** The approval by MDC and the Director of Airports of any plans and specifications applies only to the conformity of such plans to the general architectural and operational plan for the Leased Premises and the Airport. The approval of MDC and the Director of Airports does not constitute approval of the quality of the architectural or engineering work performed. Neither MDC, City nor the Director of Airports assumes any liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications. Construction of any contemplated improvements shall be in accordance with the plans presented to and approved by MDC and the Director of Airports. All construction work shall be subject to inspection by a representative employed by MDC and City or an inspector from the Code Enforcement Division of the City of Midland, or both, to determine that such work conforms to the plans and specifications approved by MDC and City, which inspections shall be conducted and adjudicated on a time-is-of-the-essence basis.
- 5.02 **Contractor's Insurance; Bonds:** At any time construction activities are undertaken on the Leased Premises, Lessee shall require that its contractor or contractors keep in force insurance issued by a responsible insurance company or companies authorized to conduct business in the State of Texas insuring the improvements during construction under Completed Builder's All-Risk Insurance, including fire, extended coverage, vandalism and malicious mischief, in an amount equal to the full insurable value of such construction as the same progresses in order to insure continuity of construction and ultimate completion despite damage or destruction suffered during the course thereof. **ALL INSURANCE SHALL NAME MDC AND CITY AS ADDITIONAL INSUREDS AND CO-PAYEES AND PROVIDE FOR A WAIVER OF SUBROGATION IN FAVOR OF MDC AND CITY.** Lessee shall require all contractors performing construction work on the Leased Premises to provide payment and performance bonds issued by a responsible bonding company or companies authorized to conduct business in the State of Texas for the full amount of the cost of the construction to be performed on forms which are in compliance with Texas Government Code Chapter 2253, as amended. The foregoing shall be made a part of any contract between Lessee and its contractor or contractor. In the event Lessee does not complete the construction work itself; it shall comply with the all-risk insurance provisions hereof.
- 5.03 **Compliance with Building Codes and Federal Standards:** All improvements made to the Leased Premises by Lessee shall comply with all applicable City Building Codes and federal standards for construction of airport improvements in effect at the time construction commences as well as all other applicable Federal Aviation Administration regulations, if any.
- 5.04 **Encumbrance of Leasehold Estate:** Lessee shall at no time encumber or attempt to

encumber its leasehold interest in the Leased Premises by deed of trust, mortgage, security agreement or other security interest.

- 5.05 **Ownership of Buildings, Improvements and Fixtures:** Any and all buildings, improvements (including, but not limited to all aprons, taxiways and roadways), additions, alterations, and permanent fixtures existing on the commencement date of this Lease or constructed or placed on any part of the Leased Premises during the Lease Term by City, MDC, or Lessee shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of MDC. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of MDC or City upon termination of this Lease without compensation to Lessee, it being understood and agreed by Lessee that the improvements located on the Leased Premises at the end of the Lease Term are additional consideration for this Lease. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, tools, inventory, computers, equipment, but not permanent fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease Term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease shall become the property of MDC or City as of that date.
- 5.06 **Construction Authorization:** Notwithstanding any contrary provision contained herein, the parties acknowledge and agree that, as of the effective date of this Lease, Lessee's intended use of the Leased Premises is not anticipated or expected to require the construction of any improvements to the Leased Premises that will alter the structural elements of the Leased Premises. Accordingly, the provisions of this Article 5 shall not be construed to grant Lessee permission or authorization to undertake or provide for any construction activities at the Leased Premises that alter the structural elements of the Leased Premises, but shall only apply if MDC consents to Lessee's construction of such structural alterations authorized improvements in the future. All construction activities that shall alter the structural elements of the Leased Premises as proposed by Lessee to be conducted at the Facility on the Leased Premises must receive the prior written approval of the MDC's Chairman. The decision whether to grant such written approval shall be in the sole and absolute discretion of MDC's Chairman. Notwithstanding the foregoing, Lessee shall be permitted to make non-structural alterations in and to the Leased Premises subject to MDC's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed.

ARTICLE 6. REPAIRS, MAINTENANCE AND RESTORATION

- 6.01 **Maintenance of Leased Premises:** Lessee shall, at Lessee's sole expense, keep the Leased Premises and all improvements of any kind, which may be existing at the commencement of the Lease Term in good repair, condition and appearance. Lessee specifically acknowledges its obligations, at its sole expense, to keep in good repair, condition and

appearance the foundation, roof, exterior walls and structural portions of the interior walls of the hangars located on the Leased Premises. Lessee shall keep mowed and in a slightly condition all landscaping and grass areas within the Leased Premises. MDC shall be the sole judge of the quality of Lessee's maintenance; provided, however, MDC shall not unreasonably withhold acceptance of said repairs or maintenance. Upon written notice by MDC to Lessee, Lessee shall be required to perform such reasonable maintenance under this Article 6.01, as MDC considers necessary. If Lessee does not undertake such maintenance within ten (10) business days after receipt of written notice, MDC shall have the right to enter on the Leased Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. Other items of maintenance for which Lessee shall be solely responsible shall include, but not be limited to, the following:

- (a) Janitorial services, providing janitorial supplies, window washing, rubbish and trash removal;
- (b) Supply and replacement of light bulbs in and on all buildings (except lighting removed for causing obstructions or glare);
- (c) Replacement of cracked or broken glass in all buildings;
- (d) Cleaning of interior stoppages in interior plumbing fixtures and drain lines up to the first manhole or clean out outside of the exterior of the building where the stoppage occurred;
- (e) Replacement of floor covering;
- (f) Maintenance of all doors and door operating systems, including weather stripping and glass replacement;
- (g) Painting, repairing and replacement of interior walls not resulting from structural failure;
- (h) Landscaping and grass cutting services within the Leased Premises, including, but not limited to, repair or replacement of exterior building flood lights and planter lights;
- (i) Repair or replacement of heating, air conditioning, ventilation, electrical, plumbing, or mechanical systems, or their respective components (Lessee shall provide for such repairs by procuring annual maintenance contracts requiring quarterly status reporting from MDC-approved third-party vendors, with said contracts and any maintenance reports to be promptly provided to MDC within thirty (30) days of completion); and
- (j) Maintenance of all aprons, ramps, and roadways that are constructed by Lessee.

Subject to the provisions of Article 5.05, on the last day of the term of this Lease, or on any earlier termination, Lessee shall surrender the Leased Premises to MDC in the same condition, except for fire and casualty and ordinary wear and tear, clean and free of debris.

All material repairs and material maintenance described in this Article shall be performed only by contractors and subcontractors approved in writing by Landlord (which approval

will not be unreasonably withheld or delayed). Lessee shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, and to procure payment and performance bonds reasonably satisfactory to Landlord covering the cost of the repairs and maintenance. All such repairs and maintenance shall be performed in accordance with all laws and in a good and workmanlike manner so as not to damage the buildings (including the Leased Premises, the roof, the structural elements, and the plumbing, electrical lines, or other utility transmission facility). All such repairs and maintenance that may affect the Facility's HVAC, electrical, plumbing, other mechanical systems, the roof, or structural elements must be approved by MDC, at Lessee's expense.

- 6.02 **Trash and Waste Removal:** Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage, and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessee further agrees that Lessee will store all parts, supplies, and other materials on the interior of buildings located on the Leased Premises, provided, however, that any parts or supplies which must be kept outside because of volatility of the supply item or the size of the part will be kept out of view of the public traveling on public rights of way or other surrounding Lessees by installation of fencing or other means of screening approved by MDC and the Director of Airports.

ARTICLE 7. ACCESS TO AND USE OF AIRPORT

- 7.01 **Access to Airport:** City shall maintain all roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall always maintain free and uninterrupted access to the Leased Premises over roads; provided, however, MDC shall not be in default of this Lease if access is interrupted.
- 7.02 **Right to Use Airport:** Lessee and Lessee's employees, sublessees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 7.03 **Vehicular Operations on the Airfield:** No vehicles of Lessee, its employees, customers, guests, or invitees shall be allowed to operate on, or cross, the runways and taxiways and their respective safety areas of the Airport. When necessary, Airport Operations Control Center personnel shall provide Lessee escorted access to and from the airfield area.
- 7.04 **Airport Security Rules and Regulations:** Lessee, its directors, officers, employees, and contractors shall comply with all federal and local Airport Security Regulations adopted by City or the Department of Airports as such rules and regulations exist or may hereafter be amended.

- 7.05 **14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.
- 7.06 **Control of Structures:** Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises, which highest point is above a mean sea level elevation established by the FAA and City as a height limitation on such structures or objects. MDC and City reserve the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree at Lessee's expense.
- 7.07 **Aerial Approaches:** MDC and City reserve the right to take any action they consider necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 7.08 **Right of Over-flight:** There is hereby reserved to City, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from or operating on the Airport.

ARTICLE 8. INSURANCE AND INDEMNITY

- 8.01 **Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to MDC:
- (a) Property and Casualty Insurance insuring against loss or damage all property being maintained or repaired by Lessee due to fire, lightning and all other perils included in standard extended coverage policies, and vandalism and malicious mischief, all in amounts of not less than one hundred percent (100%) of replacement value;
 - (b) Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$10,000,000.00 per individual, \$10,000,000.00 per occurrence and \$10,000,000.00 with respect to property, and the statutory limits with respect to worker's compensation.

All insurance policies referenced herein or procured by Lessee for the purposes contemplated herein shall name MDC and City as additional insureds and provide for waivers of subrogation in favor of MDC and City. MDC and City shall not be liable to the Lessee or those claiming by, through, or under for any injury to or

death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a “Loss”) caused by casualty, theft, fire, third parties, or any other matter (including Losses arising through repair or alteration of any part of the Premises or failure to make repairs, or from any other cause), regardless of whether the negligence of any party caused such Loss in whole or in part. Lessee waives any claim it might have against MDC and City for any damage to or theft destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy maintained by it that covers the Leased Premises, the Leased Premises, MDC’s and City’s or Lessee’s fixtures, personal property, leasehold improvements, or business, or is required to be insured against by it under the terms hereof, regardless of whether the negligence or fault of the other party caused such loss. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier’s rights of recovery under subrogation or otherwise against the other party.

- 8.02 **Lessee’s Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance that MDC or City may carry. Insurance provided pursuant to Article 8.01 shall name MDC and City as additional insureds or loss payees and provide for a waiver of subrogation in favor of MDC and City. The comprehensive general liability policy as provided in Article 8.01(b) shall provide contractual liability coverage sufficiently broad to include the liability assumed by Lessee under this Lease.
- 8.03 **Contents of General Liability Policy:** Lessee’s Comprehensive General Liability policy shall protect MDC, City, and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises, or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessees, its agents, officers, employees, guests, invitees, and contractors at the Airport, whether or not such damage or injury is the result of negligence of Lessee or its agents, officers, employees, guests, invitees, or contractors.
- 8.04 **Cancellation and Certificates of Insurance:** Lessee’s insurance as required by this Lease shall not be subject to cancellation or material alteration until at least thirty (30) days’ written notice has been provided to MDC. Lessee shall furnish to MDC, annually, certificates of insurance showing MDC and City as additional insureds and evidencing that all the requirements of this Article have been met.
- 8.05 **MDC’s Right to Purchase Insurance:** In the event such insurance as required by Article 8.01 shall lapse, such event shall constitute a default by Lessee if Lessee does not reinstate such insurance within 15 days of notice from MDC and MDC reserves the right to obtain such insurance at Lessee’s expense upon the expiration of such 15-day period. Upon demand from MDC, Lessee shall reimburse MDC for the full amount of the premium paid on Lessee’s behalf.
- 8.06 **Indemnity: LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC’S AND CITY’S OFFICERS,**

AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS 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 LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LESSEE'S USE OF, OR ACTIVITIES ON THE LEASED PREMISES, OR LESSEE'S ACTIVITIES AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY OR ANY OF MDC'S OR CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LESSEE AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC'S AND CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE 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 MDC OR CITY, MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE, OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES', AGENTS', CONTRACTORS', OR SUBCONTRACTORS' NEGLIGENCE. LESSEE SHALL BE REQUIRED TO PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY, OR ANY OF MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, OR EMPLOYEES.

ARTICLE 9. UTILITIES

Lessee shall be solely responsible for the payment of electric, internet, water, sewer, refuse, and natural gas utility services used on the Leased Premises.

ARTICLE 10. SIGNS

- 10.01 Consent Required:** Except with the prior-written consent of the Director of Airports, which shall not be unreasonably withheld, Lessee shall not erect, maintain, or display any

signs or any advertising at, or on, the exterior part of the facility in which the Leased Premises is located.

- 10.02 **Monument Signage:** MDC shall install, or cause to be installed, a sign containing Lessee's name and/or logo on the monument sign serving the Leased Premises. The design, size, specifications, graphics, materials, manner of affixing, exact location, colors, and lighting (if applicable) of Lessee's sign shall be in a form substantially similar to the architectural drawings contained in the Project Manual for the Midland Development Corporation Landscape Improvements to the Spaceport Business Park Project and the associated Midland Development Corporation Landscape Improvements Construction Plans. Said Project Manual and Construction Plans are incorporated herein by reference and shall be kept on file in the offices of MDC. The parties agree that all right, title, and interest in Lessee's sign and the monument sign shall remain with MDC.
- 10.03 **Removal on Termination:** Upon the termination of this Lease, Lessee shall remove, obliterate, or paint out, as MDC may direct, all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. If there is a failure by Lessee to so remove, obliterate, or paint out each sign or advertising and so to restore the Leased Premises within seven (7) business days after termination, MDC may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to MDC on demand. In certain circumstances, MDC may elect to allow specific signs to remain as existing at the termination of this Lease. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and MDC.

ARTICLE 11. SUBLEASING

At no time shall Lessee sublease any portion of the Leased Premises or otherwise assign its interests or obligations in this Lease (a "*Transfer*") without the written consent of MDC. Any such assignment or attempted assignment shall be void. Notwithstanding the foregoing, MDC's consent shall not be required in connection with any Transfer to one or more entities comprising Lessee's Affiliated Group (as hereinafter defined). "*Lessee's Affiliated Group*" shall mean Lessee, the parent company of Lessee (AST SpaceMobile, Inc.), and all subsidiaries of Lessee or the parent company of Lessee (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Lease and the Economic Development Agreement.

ARTICLE 12. TAX LIENS

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other

improvements located on the Leased Premises. MDC shall have the right to pay such taxes due after reasonable request of MDC and Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the MDC for taxes paid plus any penalties, interests, and reasonable attorney fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part, in which case the reimbursement shall be deferred until resolution of the challenge. If Lessee is successful in any challenge regarding the payment of any tax, MDC shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorney fees previously paid by MDC and not already reimbursed by Lessee.

ARTICLE 13. DEFAULT AND REMEDIES

13.01 Default by Lessee: The following shall be deemed to be events of default by Lessee under this Lease:

- a) Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease;
- b) Lessee shall abandon any substantial portion of the Leased Premises;
- c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- e) Lessee shall do or permit to be done any act which results in a lien being filed against the Leased Premises and Lessee fails to discharge such lien within 30 days or bond over such lien;
- f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- g) Subject to Lessee's rights to a notice and cure period as set forth in Section 13.08, Lessee shall be in noncompliance with any other term, provision or covenant of this Lease or the Economic Development Agreement, other than those specified in subparts (a) through (f) above.

13.02 Abandonment of the Business by Lessee: Lessee further agrees that the abandonment for a period of thirty (30) consecutive days by Lessee of the conduct of its business activities at the Leased Premises shall terminate Lessee's rights under this Lease. By so terminating this Lease, MDC does not waive any other claim or rights against Lessee. For the purposes of this paragraph, the term "*abandonment*" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe, or other such causes beyond Lessee's control.

- 13.03 **No Remedy Exclusive:** No remedy herein conferred upon or reserved to MDC or Lessee is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or the Economic Development Agreement, or hereafter existing under law or in equity. 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 thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle MDC and Lessee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. A default of this Lease shall also constitute a default of the Economic Development Agreement and vice versa.
- 13.04 **Landlord's Lien:** If Lessee defaults in paying rent or any other sum due from Lessee to Landlord under this Lease, Landlord has a lien on all fixtures, chattels, or equipment of any description belonging to Lessee that are placed in, or become a part of, the Leased Premises as security for rent and any other sum Lessee owes Landlord under this Lease, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This lien is not in lieu of, nor in any way affects, the statutory landlord's lien but is in addition to that lien, and Lessee grants Landlord a security interest in all of Lessee's fixtures, chattels or equipment placed in or on the Leased Premises for purposes of this contractual lien, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This does not prevent Lessee's selling any merchandise or moving or disposing of any property free of such Landlord's lien. Subject to the rights of any lender pursuant to the Landlord Consent, if Landlord exercises the option to terminate the leasehold, reenter, and relet the Leased Premises as provided in the preceding paragraph and gives Lessee reasonable notice of the intent to take possession and an opportunity for a hearing on the matter, and subject to any Consent or subordination described below and applicable law, Landlord may take possession of all of Lessee's fixtures, chattels, or equipment on the Leased Premises and sell it at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, at commercially reasonable prices and terms, with or without having the property present at the sale. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling the property, then to the payment of any rent due or to become due under this Lease; any balance shall be paid to Lessee. At any time and from time to time, upon request of Lessee, Landlord shall promptly execute and deliver a release of its security interest in any collateral or other assets or, if agreed by Lessee, an agreement subordinating all of Landlord's right to any collateral and other assets, and Landlord's rights and remedies, to those of one or more lenders to Lessee and its Affiliates. In addition, MDC shall promptly execute and deliver any consent, agreement or waiver reasonably requested by Lessee in connection with equipment or other financing transactions to which Lessee is or may become a party, including without limitation a consent or agreement in substantially the form of the Consent to Removal of Personal Property attached hereto as Annex 1(the "*Landlord Consent*").

- 13.05 **No Waiver of Breach:** MDC's failure or delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed to waive or to lessen the right of MDC to insist upon the performance by Lessee of any term, covenant, or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any event of default shall not be deemed to be a waiver of the same, similar of any other subsequent event of default.
- 13.06 **Expeditious Action:** Notwithstanding any provision as to notice in this Lease, if in MDC's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default may jeopardize the operation of the Airport or the rights of MDC or the other Airport Lessees, MDC may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse MDC for any reasonable and necessary costs incurred by MDC pursuant to this Article 13.06.
- 13.07 **Reletting:** Lessee acknowledges that MDC has entered into this Lease in reliance upon, among other matters, Lessee's agreement and continuing obligation to pay all rent due throughout the Lease Term. As a result, Lessee hereby knowingly and voluntarily waives, after advice of competent counsel, any claim (arising after an Event of Default) related to MDC's failure to relet the Leased Premises or otherwise mitigate MDC's damages arising from such Event of Default. If such waiver is not effective under applicable law or if MDC otherwise elects, at MDC's sole option, to attempt to relet all or any part of the Leased Premises, Lessee agrees that MDC has no obligation to: (i) relet the Leased Premises prior to leasing any other space within the buildings; (ii) relet the Leased Premises (A) at a rental rate or otherwise on terms below market, as then determined by MDC in its sole discretion; (B) to any entity not satisfying MDC's then standard financial credit risk criteria; (C) for a use (1) not consistent with Lessee's use prior to the Event of Default; (2) that would violate then applicable law or regulation, or violate any restrictive covenant or other lease affecting the buildings; (3) that would impose a greater burden upon the buildings' parking, HVAC or other facilities; and/or (4) that would involve any use of Hazardous Materials; (iii) divide the Leased Premises, install new demising walls or otherwise reconfigure the Leased Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, lessee finish or other costs associated with any new lease, even though same may be amortized over the applicable Lease Term, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Leased Premises, if to do so, MDC would be required to alter other portions of the buildings, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other building operating systems.
- 13.08 **Cure Period:** In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in this Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in the Economic Development Agreement or this Lease.

ARTICLE 14. TERMINATION

14.01 Discretionary Termination: MDC shall have the right to terminate this Lease upon Lessee's violation or default of any provision contained in the Lease of the Economic Development Agreement and failure to cure said violation or default within the time periods set forth in Section 13.08 or otherwise set forth in this Agreement. Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, either party shall have the right to terminate this Lease in its entirety, without monetary penalty, and all rights and obligations ensuing therefrom immediately upon the occurrence of the following:

- a) The issuance of any order, rule or regulation of the FAA, or its successor federal agency, or other competent government authority, federal or state, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least thirty (30) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any material fault of Lessee;
- b) The material restriction of City's operation of the Airport by action of the federal government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than thirty (30) days; provided, however, that without prejudice to the rights of Lessee to terminate as above provided, the MDC and Lessee may mutually agree to adjust fees and charges; or
- c) Material restriction of the operation of the Airport arising from City's failure to maintain and keep in repair the landing area of the Airport.

14.02 Automatic Termination: Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, this Lease shall automatically terminate in its entirety, without monetary penalty, within thirty (30) days following the FAA's determination that Lessee's use or occupation of the Property does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable statute, rule, or regulation. MDC, in its sole and absolute discretion, may elect to toll said thirty (30) day period to prevent the automatic termination of this Lease for any or no reason at all. If this Lease is terminated for any of the reasons set forth in Article 14.01 or Article 14.02, MDC shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

14.03 Termination; Accelerated Rent: Notwithstanding any other provision contained in this Lease, if Lessee creates any condition that does not conform to the purpose of establishing Lessee's business on the Property, as contemplated by this Lease or the Economic Development Agreement, and said condition causes the FAA to determine that Lessee's use or occupation of the Leased Premises does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable

statute, rule, or regulation, and Lessee has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Lease shall terminate and all rent payments contemplated by this Lease shall, at MDC's option, thereupon immediately become due and payable to MDC, which payments shall be discounted to present value using an interest rate of three percent (3%) compounded yearly. Lessee shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Lease, the Economic Development Agreement, or by law MDC elects to pursue.

- 14.04 **Economic Development Agreement; Concurrent Termination:** A termination of this Lease shall terminate the Economic Development Agreement. A termination of the Economic Development Agreement shall terminate this Lease. A termination of this Lease without liability to either party shall terminate the Economic Development Agreement without liability to either party. A termination of the Economic Development Agreement without liability to either party shall terminate this Lease without liability to either party. Uncured defaults under either this Lease or the Economic Development Agreement shall be deemed uncured defaults under the other agreement, and contractual and legal termination procedures shall apply to both this Lease and the Economic Development Agreement.

**ARTICLE 15:
RENT ABATEMENT
AND ECONOMIC DEVELOPMENT AGREEMENT**

- 15.01 **Economic Development Agreement Commitments:** Simultaneously with the execution of this Lease, Lessee shall execute the Economic Development Agreement with MDC. Among other obligations, the Economic Development Agreement requires Lessee to: (i) create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and maintain certain levels of Inventory (as defined in the Economic Development Agreement), both of which are material terms to the Economic Development Agreement and this Lease.

In order to ensure Lessee's compliance with its commitments and obligations due under this Lease and the Economic Development Agreement, Lessee shall, subject to confidentiality and privacy obligations, make all documents available to MDC for inspection, audit, and copying, regardless of whether a dispute is then pending between the parties, in each case, conditioned upon compliance with securities regulations then in effect and upon the execution of a non-disclosure agreement, the form of which shall be substantially similar to that of **Exhibit B**, which is attached hereto and incorporated herein for all purposes. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Lessee shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents

- 15.02 **Lessee Rent Abatement:** Subject to Lessee's compliance with all provisions and obligations

of this Lease and the Economic Development Agreement, Landlord agrees to abate the Rent for the duration of Lessee's compliance (the "*Rent Abatement Period*"). Upon the termination of the Rent Abatement Period due to Lessee's noncompliance with the Lease or Economic Development Agreement, Lessee's obligation to pay the Rent shall resume. The Rent Abatement Period may be terminated by MDC upon issuance of written notice to Company reasonably detailing Lessee's noncompliance with the Lease and/or Economic Development Agreement. MDC's right to terminate the Rent Abatement Period due to Lessee's alleged noncompliance shall be subject to the reasonable discretion of MDC.

- 15.03 **Resumption of Rent Abatement Period:** If (i) MDC terminates the Rent Abatement Period for Lessee's noncompliance with the Lease or Economic Development Agreement, (ii) the Lease and Economic Development Agreement are not terminated due to Lessee's noncompliance, and (iii) Lessee is then able to bring itself back into compliance with this Lease and the Economic Development Agreement, Landlord may reinstate the Rent abatement as described in Article 15.02 for so long as Lessee remains compliant with the terms of this Lease and the Economic Development Agreement. Lessee shall NOT be entitled to recapture any Rent paid to MDC during the portion of the Lease Term that Rent was not abated.
- 15.04 **Grace Period and Post Grace Period Rent Obligations:** Subject to MDC's sole discretion, which shall not be unreasonably withheld, conditioned, or delayed, if the Lessee is unable to meet the Development Agreement commitments with respect to the requirements to create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and Inventory (as defined in the Economic Development Agreement), upon written request by Lessee, Lessor shall extend the completion date of such unfulfilled requirement(s) by six (6) months (the "*Grace Period*"). If Lessee is unable to bring itself back into compliance during the Grace Period, Lessee will be required to begin paying the Rent plus CAM charges for the Leased Premises in the first month following the end of the Grace Period. Notwithstanding the foregoing or any contrary provision contained herein, Lessee may only receive one (1) Grace Period extension under this Article during the Lease Term.

ARTICLE 16. HOLD OVER

If Lessee fails to vacate the Leased Premises at the end of the Lease Term, then Lessee shall be a tenant at-will and, in addition to all other damages and remedies to which MDC may be entitled for such holding over, Lessee shall pay holdover rent to MDC at a rate equal to one hundred fifty percent (150%) of the Rent indicated herein. Such holdover rent shall be calculated in the same manner as the prorated rent under Article 3.01.

ARTICLE 17. MISCELLANEOUS PROVISIONS

- 17.01 **Quiet Enjoyment:** Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, as determined to be satisfied in MDC's sole and absolute discretion, Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Lease.
- 17.02 **Force Majeure:** Neither the MDC nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder except the obligation to pay rent by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.
- 17.03 **Independent Contractor:** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Lessee 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 MDC and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Lessee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give MDC the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of MDC in the results of the work only. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of the Lessee's work.
- 17.04 **Inspection by MDC:** Subject to any necessary security clearance established by the United States Government, MDC may enter upon the Leased Premises at any reasonable time for any purpose necessary, incidental to or connected with the performance of MDC's obligations hereunder, or in the exercise of its governmental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things MDC is obligated to do, or which may be deemed by MDC necessary or desirable for the proper conduct and operation of the Airport or the protection of MDC's interests. Such inspections shall be (i) accompanied by a representative of Lessee; (ii) conducted during normal business hours; and (iii) shall not be disruptive or intrusive to Lessee's business operations.
- 17.05 **On-Site Representatives:** Lessee shall select and appoint a representative or representatives for its operations at the Airport. The representatives shall be qualified and experienced and vested with the full power and authority to act in the name of the Lessee

with respect to the method, manner and conduct of the operation of Lessee to be performed under this Lease.

- 17.06 **Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by MDC and City with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the rents payable by Lessee under this Lease or otherwise materially and adversely affect Lessee's tenure of the Leased Premises under this Lease. Furthermore, this Lease and Lessee's use of the Airport shall be subject to all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any federal, state or local government authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 17.07 **Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations (all, "*Permits*") required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Lease. Landlord shall assist Lessee, diligently and free of charge in applying for and obtaining the Permits, as needed.
- 17.08 **Notices:** Notices provided for in this Lease shall be either hand delivered, sent/received by recognized courier, or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to MDC:	Executive Director Midland Development Corporation 200 North Loraine Street, Suite 610 Midland, Texas 79701
With Copy To:	City Manager P. O. Box 1152 300 North Loraine Midland, Texas 79702
If to Lessee:	AST & Science, LLC ATTN: Shanti Gupta, Chief Operating Officer ATTN: AST Legal 2901 Enterprise Lane Midland, Texas 79706
With Copy To:	Foley & Lardner LLP 2 South Biscayne Blvd, Suite 1900 Miami, FL 33131 Attention: James Zimmer, Esq.

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

- 17.09 **Governing Law and Venue:** The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Lease, 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 Lease shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Lease or the performance of this Lease shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. All payments under this Lease are deemed to have taken place in Midland County, Texas.
- 17.10 **Severability:** If any provision of this Lease is invalid or unenforceable, this Lease shall be considered severable as to such provision, and the remainder of this Lease shall remain valid and binding as though such invalid or unenforceable provisions were not included herein.
- 17.11 **Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision herein.
- 17.12 **Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.
- 17.13 **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.
- 17.14 **Development of the Airport:** The parties understand and agree future development, changes, alterations, modifications, or improvement to the Airport are in the sole discretion of City, subject only to such notification to Lessee that the FAA may dictate
- 17.15 **Subordination to Other Agreements:** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between MDC and City relative to the Leased Premises and City and the United States, relative to the development, operation or maintenance of the Airport.
- 17.16 **No Exclusivity on Aeronautical Services:** Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.
- 17.17 **Discrimination Prohibited:** Lessee, for itself, its trustees, officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no

person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the MDC shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the improvements thereon and hold the same as if said Lease were terminated by its own term pursuant to Article 2 above.

- 17.18 **Affirmative Action Program:** Lessee assures that it shall undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Lease.
- 17.19 **Entire Agreement:** This Lease, in conjunction with the Economic Development Agreement, embodies the entire agreement between MDC and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Lease shall not be changed, modified, discharged or extended, except by written instrument duly executed by MDC and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing.
- 17.20 **Governmental Immunity:** By executing this Lease, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- 17.21 **Third-Party Beneficiary:** MDC's approval of this Lease does not create a third-party beneficiary. There is no third-party beneficiary to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or other rights hereunder.
- 17.22 **Notice of Alleged Breach:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or its legal representative, shall give the Chairman of the MDC, or any other reasonable official of MDC, notice in writing of such damages, duly verified, within one hundred and 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 Lessee will settle, the physical and mailing addresses of Lessee at the time and date

the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify MDC within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. MDC 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, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee'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 MDC has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire agreement are reasonable.

17.23 **RELEASE: LESSEE HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES, OFFICERS, BOARD MEMBERS, AND ATTORNEYS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS, OR MDC'S NEGLIGENCE.**

17.24 **WAIVER OF ATTORNEY FEES: BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST THE MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, 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), LESSEE AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.**

LESSEE ACKNOWLEDGES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING AGAINST MDC RELATED TO THIS LEASE. LESSEE ACKNOWLEDGES THAT

IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE THIS LEASE.

BY EXECUTION OF THIS LEASE, LESSEE HEREBY REPRESENTS AND WARRANTS THAT LESSEE HAS READ AND UNDERSTOOD THE LEASE AND HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THE SAME.

17.25 Waiver of Rights under the Deceptive Trade Practices; Consumer Protection Act: Landlord and Lessee waive their rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Business & Commerce Code, a law that gives consumers special rights and protections. Each, after consultation with an attorney of its selection, voluntarily consents to this waiver.

17.26 Patriot Act Representation: MDC and Lessee each represent to the other that: (i) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (ii) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (iii) it is not acting for or on behalf of any person on that list.

17.27 Governmental Function: MDC AND LESSEE HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS LEASE, LESSEE RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND LESSEE ACKNOWLEDGE AND AGREE THAT THIS LEASE IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.

17.28 Approval Required: This Lease shall not become effective until approved by the Midland City Council.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS LEASE.

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SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be legally executed in duplicate this ____ day of _____, 2025.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

AST & SCIENCE, LLC

By: _____

Name: _____

Title: _____

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, _____, a notary public, on this day personally appeared _____ of AST & SCIENCE, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said company for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 2025.

Notary Public, in and for
the State of _____

Exhibit A

Leased Premises

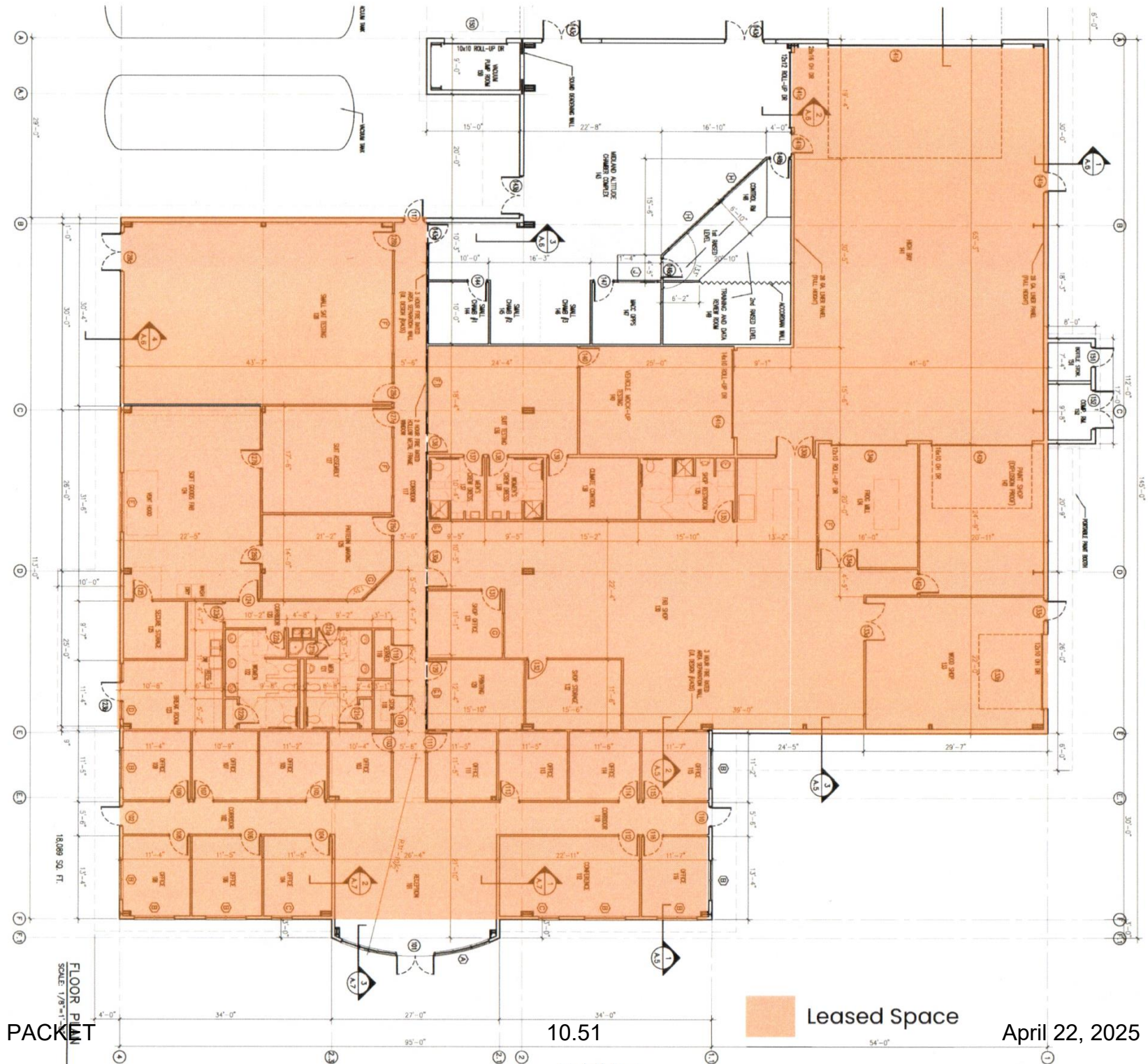


Exhibit B

Form of Non-Disclosure Agreement

**AGREEMENT OF DISCLOSURE AND SAFEGUARDING
OF PROPRIETARY INFORMATION**

This Agreement, entered into and made effective as of _____, 2024 (the “*Effective Date*”) by and between _____ (“*COMPANY*”), a corporation with a principal place of business at _____, and the **MIDLAND DEVELOPMENT CORPORATION** (“*MDC*”), a home-rule municipal corporation; either or both of which may be referred to as “*Party*” or “*Parties*” or may be referred to as “*Disclosing Party*” or “*Receiving Party*.”

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. “*Proprietary Information*” as used herein shall mean confidential business information of any nature in any form including, without limitation, strategic plans, methods, processes, proposal related information, financial and technical data, programs, drawings, specifications, and customer lists of MDC and COMPANY and the Parties’ respective affiliated entities.
2. The Parties shall protect and preserve the confidentiality of the Proprietary Information disclosed by the Disclosing Party. The Parties shall use Proprietary Information only for the Purpose stated herein and shall limit its disclosure to as few persons as possible with a bona-fide need to know. The Parties shall not disclose any Proprietary Information to any third person without first obtaining the prior written approval of the Disclosing Party. Any unauthorized use or disclosure will not relieve the Receiving Party from its continuing obligation to adhere to the terms and conditions of this Agreement.
3. Proprietary Information received hereunder may be reproduced by the Receiving Party only as necessary to fulfill the Purpose described herein and provided that all proprietary legends and notices appearing on the original provided by the Disclosing Party are affixed to all complete and partial copies made by the Receiving Party.
4. Any notices, authorizations or other communications required or permitted to be given or delivered under this Agreement shall be in writing (unless otherwise specifically provided herein) and sent by hand, by certified or registered mail (with return receipt requested), or by overnight courier to the addresses below. If delivered by hand or overnight courier, a notice or communication shall be deemed effective on the date of delivery. If delivered by certified or registered mail (return receipt requested), a notice or communication will be deemed effective upon acceptance of delivery. If sent by email or other methods of electronic messaging, a notice or communication will be deemed effective upon confirmation of receipt by the Receiving Party.

Points of Contact for each Party shall be as follows:

Attn: _____
Title: _____

Midland Development Corporation
200 N. Lorraine Street, Suite 610
Midland, Texas 79701

Attn: Executive Director
Phone: 432-686-3579

Phone: _____
Email: _____

Email: _____

5. Nothing in this Agreement shall be construed as granting expressly or impliedly any rights, title or interest to the Disclosing Party's Proprietary Information, by license or otherwise, to the Receiving Party.

6. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind and the rights and obligations of the Parties shall be limited to those expressly set forth herein. Each Party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever and neither shall have any authority to bind the other except as specifically set forth herein. Neither Party has an obligation to supply Proprietary Information to the other, nor negotiate or enter into any agreement or relationship with the other.

7. Either Party, upon thirty (30) days' written notice to the other, may terminate this Agreement. Unless otherwise terminated earlier, this Agreement shall terminate upon expiration of a period of four (4) years from the Effective Date. Termination of this Agreement for any reason shall not relieve either Party of any obligation to protect and preserve the confidentiality of the Proprietary Information received under this Agreement and all such obligations shall survive the termination of this Agreement and continue for a period of four (4) years thereafter.

8. Upon termination of this Agreement, or upon request by either Party, the Parties shall promptly account for, return, verify and provide written confirmation to each other of the destruction or return of all Proprietary Information received from each other, all copies thereof and summaries, memoranda, and tangible descriptive material in any form relating to Proprietary Information. Return or destruction of Proprietary Information pursuant to this paragraph shall not act to relieve either Party of their respective obligations regarding disclosure or use set forth herein.

9. Both Parties agree that during the term of this Agreement and for four (4) years thereafter, neither Party shall hire, enter into consulting agreements or otherwise contract with any employee(s) of the other Party who are associated with this Agreement, without the prior written consent of the other Party. This clause, however, shall not restrict in any way the right of either Party to solicit generally in the media for personnel and hire any such person who responds to any such general solicitation.

10. Neither Party shall assign or otherwise transfer this Agreement or any of the rights granted hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11. No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Party against whom enforcement thereof is sought. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of this Agreement.

12. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired.

13. This Agreement shall be governed by the laws of the State of Texas. All performance 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.

14. This Agreement constitutes the complete agreement between the Parties and supersedes any previous understanding or agreement between the Parties with respect to the subject matter hereof.

15. 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 MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE 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'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

16. NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S 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 CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

17. By executing this Agreement MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

18. Notwithstanding any other provision contained herein, this Agreement in no way affects, modifies, or limits the obligation of MDC to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The parties hereby agree that MDC retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

19. The terms of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting with proper authority, have executed this Agreement as of the date first written below:

MIDLAND DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ANNEX 1

**CONSENT TO REMOVAL OF PERSONAL PROPERTY
("Consent")**

KNOW ALL PERSONS BY THESE PRESENTS:

(a) The undersigned Landlord ("Landlord") has an interest in the real property at the location described by the following address: Midland International Air & Space Port, 2901 Enterprise Lane, Midland, Texas 79706 (the "Real Property").

(b) AST & SCIENCE LLC, a Delaware limited liability company ("Company") and certain of its affiliates, have entered into or will enter into a [] and related documents, instruments and agreements with [], a [] ("Lender") (together, as amended, restated, or otherwise modified from time to time, the "Agreement"). As a condition to entering into the Agreement, Lender requires that Landlord consent to the removal by Lender of the Equipment and other collateral (as defined in the Agreements) (hereinafter called "Equipment") from the Real Property.

NOW, THEREFORE, Landlord consents to the placing of the Equipment on the Real Property, and agrees with Lender as follows:

1. Landlord waives and releases each and every right which it now has under applicable law or by virtue of the lease for the Real Property or any other agreement now or hereafter in effect, to foreclose, levy or distraint upon for rent, in arrears, in advance or both, or for any other amount, or to claim or assert title to the Equipment that is located on the Real Property or at any other location. Landlord hereby releases any lien it may have from time to time on any Equipment, whether arising under the lease or any other agreement now or hereafter in effect.

2. The Equipment shall be considered to be personal property and shall not be considered part of the Real Property regardless of whether or by what means it is or may become attached or affixed to the Real Property. Landlord shall (a) provide written notice to Lender of any termination or expiration of the lease (a "Termination Notice"), and (b) will not dispose of any of the Equipment nor assert any right or interest therein unless it has first sent such Termination Notice to Lender and has given Lender a reasonable period of time (in any case, not less than 60 days after Lender's receipt of such Termination Notice) to exercise Lender's rights in and to the Equipment.

3. Landlord will permit Lender, or its agent or representative, to enter upon the Real Property for the purpose of exercising any right Lender may have under the terms of the Agreement, at law, or in equity, including, without limitation, the right to remove the Equipment; provided, however, that if Lender, in removing the Equipment, causes any physical damage to the Real Property, Lender will, at its expense, cause same to be repaired to the condition such Real Property was in prior to said damage; provided, further, Lender shall not be liable for any diminution in value of the Real Property caused by the absence of any item of Equipment so removed. If Company abandons the Equipment located on the Real Property upon termination or expiration of the Agreement, Lender shall have the option to remove the Equipment from the Real Property within 30 days after receipt of written notice thereof from Landlord or Lender's right to such Equipment shall be deemed forfeited. Notwithstanding the foregoing, Lender shall not have any duty or obligation to remove or dispose of any Equipment or any other property left on the Real Property by the Company.

4. Company acknowledges that Landlord may admit Lender into the Real Property pursuant hereto following request by Lender and irrespective of any protest or objection by Company, and Company hereby irrevocably consents to such entry. Company further waives any right to hold Landlord, or any of its officers, employees or agents, liable for any damage, cost or expense resulting from any entry by Lender, and agrees to indemnify and hold Landlord free and harmless from any such claim of liability asserted by an employee, agent, subtenant or assignee of Company. In addition, Company agrees that any such entry shall not constitute a constructive eviction under its lease of the Real Property.

5. This Consent shall be binding upon the heirs, successors, and assigns of the undersigned and shall inure to the benefit of Lender and its successors and assigns. All notices to any party hereto shall be in writing and sent to such party's address as set forth below their signatures (or to such other address as provided in writing by one party to the other). Notices are deemed received on the date received if sent by overnight courier, certified mail with return receipt requested, or US first class mail.

6. This Consent may only be amended in writing by Lender and Landlord, and the terms hereof will remain in effect commencing on the date of the Agreement ("Effective Date") and until Landlord is notified in writing by Lender that all liabilities and/or obligations of Company under the Agreement have been fulfilled.

(Signature page follows.)

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and to be effective this ____ day of [], [], regardless of the date in which their signatures are affixed herein.

“LANDLORD”

[_____]
(Landlord of the Real Property)

Address: _____

By: _____
Name: _____
Title: _____

“LENDER”

[]

Address:

By: _____
Name: _____
Title: _____

“COMPANY”

ACKNOWLEDGED AND AGREED:

AST & SCIENCE TEXAS LLC,
a Texas limited liability company

Address: Midland International Air & Space Port
2901 Enterprise Lane, Midland, Texas 79706

By: _____
Name: _____
Title: _____



City Council Meeting

Item Number: 11
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Sara Harris,
Subject: MOTION APPROVING A COMMERCIAL LEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND AST & SCIENCE, LLC, REGARDING A PORTION OF THAT CERTAIN FACILITY LOCATED ON LOT 1A, BLOCK 13, INDUSTRIAL PARK REGIONAL AIR TERMINAL, UNIT 12, MIDLAND, MIDLAND COUNTY, TEXAS, AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT (DISTRICT 4) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS)

Purpose:

The Board of Directors of the Midland Development Corporation approved at a regular meeting on April 7, 2025 a resolution authorizing the execution of a commercial lease agreement with AST & Science, LLC, regarding a portion of that certain facility located on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, at the Midland International Air & Space Port.

Recommended City Council Action:

Approve

Fiscal Impact:

\$0.00.

Strategic Priority:

(Strong Economy with More Quality Jobs)

Discussion:

AST will lease the MDC-owned facility at 2908 Enterprise Lane for a term of five years. The

leased premises excludes the area where the altitude chamber complex and controls are located.



City Manager's Office

**COMMERCIAL LEASE AGREEMENT
BETWEEN THE MIDLAND DEVELOPMENT
CORPORATION AND AST & SCIENCE, LLC**

THIS COMMERCIAL LEASE AGREEMENT ("*Lease*") is made and effective this 22nd day of April, 2025, by and between the MIDLAND DEVELOPMENT CORPORATION ("*MDC*" or "*Landlord*"), a Type A corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and AST & SCIENCE, LLC, a Delaware limited liability company licensed to do business in the state of Texas ("*Lessee*").

RECITALS

WHEREAS, the City of Midland, Texas ("*City*"), owns and operates Midland International Air & Space Port (the "*Airport*") and Lessee desires to expand certain commercial operations at the Airport; and

WHEREAS, MDC leases certain real property commonly known as 2908 Enterprise Lane and described as that certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas, from City; and

WHEREAS, MDC has constructed a single facility on said real property (the "*Facility*") that houses office space, testing and fabrication rooms, and a certain 2,351 square-foot area in which the Midland Altitude Chamber Complex (the "*MACC*") is housed and operated; and

WHEREAS, MDC and Lessee desire to set forth the terms and conditions under which Lessee will lease the Facility from MDC for certain commercial purposes described herein; and

WHEREAS, MDC and Lessee shall, simultaneously with the execution of this Lease, enter into an Economic Development Agreement (the "*Economic Development Agreement*"), which is incorporated herein by reference for all purposes;

NOW, THEREFORE, for and in consideration of the covenants and conditions herein stated, City and Lessee agree as follows:

The Recitals above are incorporated into, and made part of, this Lease for all purposes.

LEASE INFORMATION

Lessee: AST & Science, LLC

Lessee Address: 2901 Enterprise Lane, Midland, Texas 79706

Telephone: _____

Landlord: Midland Development Corporation

Landlord's Address: 200 N. Loraine Street, Suite 610, Midland, TX 79701

Landlord's Telephone: 432-686-3579

Lessee's Proportionate Share of the Leased Premises: 100%

Lessee's Proportionate Share of the Facility: Approximately Eighty-Six Percent (86%)

Security Deposit: Fifty-Four Thousand Eight Hundred Sixteen and No/100 Dollars (\$54,816.00)

**ARTICLE 1.
GRANT OF LEASE**

- 1.01 **Leased Premises; MACC Facility:** MDC agrees to lease to Lessee a certain portion of the Facility located at 2908 Enterprise Lane on Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas (the “*Leased Premises*”), and being more particularly shown on **Exhibit A** attached hereto and incorporated by reference. Notwithstanding the foregoing or any contrary provision contained herein, the Leased Premises shall exclude the entirety of that certain 2,351 square-foot area within the Facility in which the MACC is housed and operated (the “*MACC Facility*”). Lessee’s access to the MACC Facility shall be restricted using locks, a security system, and/or other similar security mechanism(s) as deemed appropriate by MDC. Furthermore, MDC hereby retains the unrestricted right of ingress and egress to the MACC Facility during the term of this Lease for all lawful purposes; provided, however, such access shall not unreasonably interfere with Lessee’s business operations being conducted on the Leased Premises or hinder such operations.

If MDC elects to remove the MACC Facility and all associated equipment from the Facility during the term of this Lease, the parties agree to execute an amendment to this Lease that provides for the incorporation of the MACC Facility into the Leased Premises. Upon the execution of such an amendment, MDC shall provide Lessee with full access to the MACC Facility, and the provisions of this Lease including all uses, benefits, and obligations granted herein to Lessee regarding the Leased Premises shall thereafter apply to the MACC Facility.

- 1.02 **Easements:** This Lease shall be subject to such easements, rights-of way, drill sites, or other rights or reservations affecting the Leased Premises that are of record or are clearly visible as of the date of this Lease.
- 1.03 **Acceptance of Leased Premises:** BY EXECUTING THIS LEASE, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES “AS IS” WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY THE MDC OR CITY THAT THE LEASED PREMISES ARE FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY MDC OR CITY WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES (INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY), BUT IS RELYING UPON LESSEE’S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES “AS IS,” THAT LESSEE AGREES TO MAKE LESSEE’S OWN APPRAISAL OF THE LEASED PREMISES AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. MDC GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL THE LESSEE OR

LANDLORD HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. THEREFORE, LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THE LEASED PREMISES ARE ACCEPTED “AS IS” AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES. FURTHER, LESSEE COVENANTS AND AGREES THAT MDC HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR GUARANTEES OF ANY KIND WHATSOEVER REGARDING THE DISPOSAL OR EXISTENCE OF ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED, OR APPLICABLE STATE LAWS.

- 1.04 **Removal of the MACC and Rocket Plane Airframe:** During the Lease Term (as defined below), MDC shall use its best efforts to remove the MACC and the rocket plane airframe from the Facility. Notwithstanding the foregoing, MDC’s failure to remove the MACC or the rocket plane airframe from the Facility shall not be construed as a default under the terms of this Lease.

ARTICLE 2. TERM OF LEASE

The term of this Lease shall commence on April 22, 2025, and terminate on May 15, 2030, (the “*Lease Term*”) unless terminated earlier pursuant to the provisions of this Lease. Within sixty (60) days prior to the expiration of the Lease Term, the parties may elect to extend this Lease for a period not to exceed five (5) years upon the mutual agreement of the parties and subject to any agreed upon modifications of this Lease.

ARTICLE 3. RENT

- 3.01 **Amount of Monthly Rent (“Rent”): \$18,272.00** \$16/SF/Year (13,934 sq. ft.)

Lessee shall pay Landlord the Rent of eighteen thousand two hundred seventy-two and No/100 Dollars (\$18,272.00) per month on or before the tenth (10th) business day of each month as a fixed rent for the next month’s rent. Rent for any fractional month at the beginning or end of the Lease Term shall be prorated on a per-day basis (also see Article 15 below).

- 3.02 **Delivery of Rent:** Lessee shall timely pay to Landlord Rent, without deduction or set off, at Landlord’s Address (or such other address as Landlord may from time to time designate in writing to Lessee). Rent shall be payable monthly in advance (including any partial month). Monthly installments of Rent shall be due on the first day of the first full calendar month of the Lease Term with a ten (10) day grace period as set forth in Article 3.01, and continuing the first day of each succeeding calendar month during the Lease Term. Rent for any fractional month at the beginning of the Lease Term shall be prorated based on 1/365 of the current annual Rent for each day of the partial month this Lease is in effect and shall be due on the commencement date of this Lease. All sums payable by Lessee

under this Lease, whether expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code and for all other purposes. In addition, Lessee shall pay its Proportionate Share of electricity and other utility charges at the end of each month.

The wiring instructions for all payments to Landlord are as follows:

Account Name: City of Midland
Bank Name: Wells Fargo Bank N.A.
Account Number: 5101032929
ABA Routing Number: 121000248

The wiring instructions for all payments to Lessee are as follows:

Account Name: AST & Science, LLC
Bank Name: _____
Account Number: _____
ABA Routing Number: _____

- 3.03 **Triple Net Rent:** The rent paid by Lessee will be on a triple net basis. Lessee agrees to pay as additional rent an amount equal to Lessee's Pro Rata Share of the following, collectively called "*Additional Rent*": (a) all ad valorem taxes on the Leased Premises and all improvements thereon (including, without limitation, the Leased Premises (b) all premiums for insurance carried by Landlord on the improvements and operations situated on the Leased Premises (c) Common Area Maintenance Charges, and all expenses and liabilities incurred by Landlord in connection with its possession of the Leased Premises, including without limitation, deductibles on insured claims, and for the purposes of the foregoing, the amount of the said deductible(s) shall be passed through to the Lessee in the year of the occurrence of the event causing such claim based on the amount of the deductible set forth in the policy. For purposes of this Sublease, the phrase "Common Area Maintenance Charges" ("*CAM*") shall mean for each calendar year, or portion thereof, during the Sublease Term, the aggregate of all costs, expenses and liabilities of every kind or nature paid or incurred by Landlord to operate, manage, maintain and repair the common area and all other improvements on the Leased Premises, including, without limitation, those paid or incurred in connection with the sweeping, cleaning, removing of debris from, maintaining, re-striping, and repairing the common areas; the cost of supplying water, electricity, gas, sewer disposal and/or garbage pickup and disposal, and monitoring and security services with respect to the common areas (all of which Landlord is obligated to furnish; providing the Leased Premises identification signs and the repair and maintenance of the pylons and all signs thereon: providing traffic control, if any; constructing, maintaining and repairing any on-site and off-site utilities necessary or appropriate for operation of the common areas; maintaining, repairing and renovating the Leased Premises; plus all other costs and expenses of every kind or nature paid or incurred by Landlord relative to maintaining, managing, repairing, renovating, and equipping the common areas in the Leased Premises. The portion of CAM attributable to Lessee herein for the replacement of any HVAC system or component thereof, any roof or portion thereof, or any other system or component for which Landlord must replace pursuant to this Sublease

shall be limited to the cost of the replacement divided by the total expected service life of the item so replaced (in months) multiplied by the number of months that have passed since the Effective Date of the Sublease, which number shall then be further multiplied by the product of the total square footage of the Leased Premises, as the case may be, divided by the square footage of the Leased Premises leased by Lessee. Common areas of the Leased Premises are those parts of the Leased Premises designated by Landlord for the common and non-exclusive use of all Lessees, including, among other facilities, the parking areas, sidewalks, landscaped areas, curbs, loading areas, private streets and alleys, lighting facilities, signs erected or maintained by Landlord advertising or identifying the Leased Premises and service drives, all of which shall be subject to the Landlord's sole management and control.

- 3.04 **Real Estate Tax Protest:** Lessee has no right to protest the real estate tax rate assessed against the Leased Premises and/or the appraised value of the Leased Premises determined by any appraisal review board or other taxing entity with authority to determine tax rates and/or appraised values (each a "*Taxing Authority*"). Lessee hereby knowingly, voluntarily and intentionally waives and releases any right, whether created by law or otherwise, to (a) file or otherwise protest before any Taxing Authority any such rate or value determination even though Landlord may elect not to file any such protest; (b) receive, or otherwise require Landlord to deliver, a copy of any reappraisal notice received by Landlord from any Taxing Authority; and (c) appeal any order of a Taxing Authority that determines any such protest. The foregoing waiver and release covers and includes any and all rights, remedies and recourse of Lessee, now or at any time hereafter, under Section 41.413 and Section 42.015 of the Texas Tax Code (as currently enacted or hereafter modified) together with any other or further laws, rules or regulations covering the subject matter thereof. Lessee acknowledges and agrees that the foregoing waiver and release was bargained for by Landlord and Landlord would not have agreed to enter into this Sublease in the absence of this waiver and release. If, notwithstanding any such waiver and release, Lessee files or otherwise appeals any such protest, then Lessee will be in default under this Sublease and, in addition to Landlord's other rights and remedies, Lessee must pay or otherwise reimburse Landlord for all costs, charges and expenses incurred by, or otherwise asserted against, Landlord as a result of any tax protest or appeal by Lessee, including, appraisal costs, tax consultant charges and attorneys' fees (collectively, the "*Tax Protest Costs*"). If as a result of Lessee's tax protest or appeal, the appraised value for the Leased Premises is increased above that previously determined by the Taxing Authority (such increase, the "*Value Increase*") for the year covered by such tax protest or appeal (such year, the "*Protest Year*") then Lessee must pay Landlord, in addition to all Tax Protest Costs, an amount (the "*Additional Taxes*") equal to the sum of the following: (i) the product of the Value Increase multiplied by the tax rate in effect for the Protest Year plus (ii) the amount of additional taxes payable during the five (5) year period following the Protest Year, such amount to be calculated based upon the Value Increase multiplied by the tax rate estimated to be in effect for each year during such five (5) year period. Lessee must pay all Additional Taxes - even those in excess of Lessee's proportionate share and which may relate to years beyond the term of this Sublease. The Additional Taxes will be conclusively determined by a tax consultant selected by Landlord, without regard to whether and to what extent Landlord may be able in years following the Protest Year to reduce or otherwise eliminate any Value Increase. All Tax Protest Costs and Additional Taxes must be paid by Lessee within five

(5) days following written demand by Landlord.

- 3.05 **Security Deposit:** Upon execution of this Lease, in addition to the installment of rent due under Article 3 and in addition to any other amounts that are due from Lessee upon the execution of this Lease, Lessee shall deliver to Landlord a Security Deposit in the amount stated in the above *Lease Information* section. Landlord may apply all or part of the Security Deposit to any unpaid rent, and damages and charges for which Lessee is legally liable under this Lease, and damages and charges that result from a breach of this Lease, including but not limited to any other provision that requires Lessee to leave the Leased Premises in a certain condition upon the expiration or termination of this Lease. If Landlord uses any part of the Security Deposit, Lessee shall restore the Security Deposit to its full amount within ten (10) days after Landlord's written demand. Lessee's failure to restore the full amount of the Security Deposit within the time specified shall be a default under this Lease. No interest shall be paid on the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts, and no trust relationship is created with respect to the Security Deposit. After the expiration of this Lease, Landlord shall refund the unused portion of the Security Deposit, if any, to Lessee within thirty (30) days after the date Lessee surrenders possession of the Leased Premises and provides a written notice to Landlord of Lessee's forwarding address for the purpose of refunding the Security Deposit. If Landlord transfers its interest in the Leased Premises, then Landlord may assign the Security Deposit to the transferee and Landlord thereafter shall have no further liability for the return of the Security Deposit. The provisions of this Article shall survive the expiration or termination of this Lease.

ARTICLE 4. USE OF LEASED PREMISES

- 4.01 **Permitted Uses:** Lessee shall be permitted to use the Leased Premises for the purpose of conducting for-profit commercial services or activities consisting of any or all the following operations and no others:
- (a) Lessee's commercial operations relating to Lessee's establishment of a radio frequency lab and communications testing activities, including, without limitation, research and development activities;
 - (c) Storage of goods and equipment incidental and/or necessary to Lessee's operations; and
 - (d) Such other uses as may be permitted in writing by MDC.
- 4.02 **Prohibited Uses:** Lessee agrees to comply with the following:
- (a) Lessee shall at no time use, or permit the use of, the Leased Premises in a manner that is contrary to applicable federal, state, or local laws, ordinances, rules, or regulations, which shall include, but not be limited to, applicable Federal Aviation Administration ("FAA") rules and regulations and applicable regulations for the use of the Airport as may from time to time be promulgated by MDC or City;

- (b) Lessee shall not permit any permanent, unshielded light or illumination source to cause glare as viewed from any street, adjacent properties, or operating aircraft;
- (c) Lessee shall not cause or permit the burial or storage above ground on the Leased Premises of any hazardous waste or materials, as defined by federal or state law, except in accordance with applicable federal, state, or local laws, ordinances, regulations, and rules, as may be adopted or amended from time to time;
- (d) Lessee shall not cause or permit any use or activity on the Leased Premises that may create a hazardous condition for aircraft operating at the Airport;
- (e) Lessee shall not allow the Leased Premises to be used for parking of motor vehicles, motorcycles, or motor driven equipment by anyone other than customers, employees, or contractors of Lessee except as may be authorized by the Director of Airports, with all such parking being limited to areas designated by the Department of Airports for such parking. Lessee shall not be in default for the improper parking of vehicles over which neither Lessee nor any of its sublessees, customers, employees, or contractors have any control; and
- (f) Lessee shall not operate, nor permit the operation of, a car rental business from the Leased Premises, unless the Lessee or the operator of said car rental business has executed a car rental concession or permit agreement with MDC or City; and
- (g) Lessee shall not allow airline passenger operations to be conducted on the Leased Premises. The Leased Premises shall not be used for any use that is disreputable or creates extraordinary fire hazards or results in an increased rate of insurance on the Leased Premises or its contents or the storage of any hazardous materials or substances. If, because of an act on the party of Lessee, the rate of insurance on the Leased Premises, its facilities or its contents increases, Lessee shall pay to Landlord the amount of such increase on demand, and acceptance of such payment shall not constitute a waiver of any of Landlord's other rights. Lessee shall conduct its business and control each other Lessee party or agent, so as not to create any nuisance or interfere with other Lessees or Landlord in its management of the Leased Premises, its facilities or contents. Subject to Landlord's reasonable security measures and the Rules and Regulations described in Article 17.06, Lessee and its agents and employees shall have access to the Leased Premises on a 24/7 basis.

4.03 **Compliance with Minimum Standards:** All activities conducted upon the Leased Premises shall be in substantial conformance with the City's Minimum Standards for Aeronautical Activities, as such standards exist or may be duly amended from time to time by the City Council to the extent that such Minimum Standards may apply to Lessee's operations. MDC agrees to provide Lessee with written notice not later than 30 days prior to adoption of substantive changes to the Minimum Standards for Aeronautical Activities that would apply to Lessee's operations.

4.04 **Non-exclusive Uses:** Lessee understands and acknowledged that, as to that part of the Airport not included within the Leased Premises, the allowable uses permitted herein are on a non-exclusive basis with respect to other potential providers of aeronautical services

at the Airport.

ARTICLE 5.
OBLIGATIONS OF LESSEE WITH REGARD TO CONSTRUCTION OF
IMPROVEMENTS

- 5.01 **Approval of Plans Not Assurance of Design Quality:** The approval by MDC and the Director of Airports of any plans and specifications applies only to the conformity of such plans to the general architectural and operational plan for the Leased Premises and the Airport. The approval of MDC and the Director of Airports does not constitute approval of the quality of the architectural or engineering work performed. Neither MDC, City nor the Director of Airports assumes any liability or responsibility for the architectural or engineering design or for any defect in any building or improvement constructed from the plans or specifications. Construction of any contemplated improvements shall be in accordance with the plans presented to and approved by MDC and the Director of Airports. All construction work shall be subject to inspection by a representative employed by MDC and City or an inspector from the Code Enforcement Division of the City of Midland, or both, to determine that such work conforms to the plans and specifications approved by MDC and City, which inspections shall be conducted and adjudicated on a time-is-of-the-essence basis.
- 5.02 **Contractor's Insurance; Bonds:** At any time construction activities are undertaken on the Leased Premises, Lessee shall require that its contractor or contractors keep in force insurance issued by a responsible insurance company or companies authorized to conduct business in the State of Texas insuring the improvements during construction under Completed Builder's All-Risk Insurance, including fire, extended coverage, vandalism and malicious mischief, in an amount equal to the full insurable value of such construction as the same progresses in order to insure continuity of construction and ultimate completion despite damage or destruction suffered during the course thereof. **ALL INSURANCE SHALL NAME MDC AND CITY AS ADDITIONAL INSUREDS AND CO-PAYEES AND PROVIDE FOR A WAIVER OF SUBROGATION IN FAVOR OF MDC AND CITY.** Lessee shall require all contractors performing construction work on the Leased Premises to provide payment and performance bonds issued by a responsible bonding company or companies authorized to conduct business in the State of Texas for the full amount of the cost of the construction to be performed on forms which are in compliance with Texas Government Code Chapter 2253, as amended. The foregoing shall be made a part of any contract between Lessee and its contractor or contractor. In the event Lessee does not complete the construction work itself; it shall comply with the all-risk insurance provisions hereof.
- 5.03 **Compliance with Building Codes and Federal Standards:** All improvements made to the Leased Premises by Lessee shall comply with all applicable City Building Codes and federal standards for construction of airport improvements in effect at the time construction commences as well as all other applicable Federal Aviation Administration regulations, if any.
- 5.04 **Encumbrance of Leasehold Estate:** Lessee shall at no time encumber or attempt to

encumber its leasehold interest in the Leased Premises by deed of trust, mortgage, security agreement or other security interest.

- 5.05 **Ownership of Buildings, Improvements and Fixtures:** Any and all buildings, improvements (including, but not limited to all aprons, taxiways and roadways), additions, alterations, and permanent fixtures existing on the commencement date of this Lease or constructed or placed on any part of the Leased Premises during the Lease Term by City, MDC, or Lessee shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of MDC. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of MDC or City upon termination of this Lease without compensation to Lessee, it being understood and agreed by Lessee that the improvements located on the Leased Premises at the end of the Lease Term are additional consideration for this Lease. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, tools, inventory, computers, equipment, but not permanent fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease Term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease shall become the property of MDC or City as of that date.
- 5.06 **Construction Authorization:** Notwithstanding any contrary provision contained herein, the parties acknowledge and agree that, as of the effective date of this Lease, Lessee's intended use of the Leased Premises is not anticipated or expected to require the construction of any improvements to the Leased Premises that will alter the structural elements of the Leased Premises. Accordingly, the provisions of this Article 5 shall not be construed to grant Lessee permission or authorization to undertake or provide for any construction activities at the Leased Premises that alter the structural elements of the Leased Premises, but shall only apply if MDC consents to Lessee's construction of such structural alterations authorized improvements in the future. All construction activities that shall alter the structural elements of the Leased Premises as proposed by Lessee to be conducted at the Facility on the Leased Premises must receive the prior written approval of the MDC's Chairman. The decision whether to grant such written approval shall be in the sole and absolute discretion of MDC's Chairman. Notwithstanding the foregoing, Lessee shall be permitted to make non-structural alterations in and to the Leased Premises subject to MDC's prior written consent, which shall not be unreasonably conditioned, withheld, or delayed.

ARTICLE 6. REPAIRS, MAINTENANCE AND RESTORATION

- 6.01 **Maintenance of Leased Premises:** Lessee shall, at Lessee's sole expense, keep the Leased Premises and all improvements of any kind, which may be existing at the commencement of the Lease Term in good repair, condition and appearance. Lessee specifically acknowledges its obligations, at its sole expense, to keep in good repair, condition and

appearance the foundation, roof, exterior walls and structural portions of the interior walls of the hangars located on the Leased Premises. Lessee shall keep mowed and in a sightly condition all landscaping and grass areas within the Leased Premises. MDC shall be the sole judge of the quality of Lessee's maintenance; provided, however, MDC shall not unreasonably withhold acceptance of said repairs or maintenance. Upon written notice by MDC to Lessee, Lessee shall be required to perform such reasonable maintenance under this Article 6.01, as MDC considers necessary. If Lessee does not undertake such maintenance within ten (10) business days after receipt of written notice, MDC shall have the right to enter on the Leased Premises and perform the necessary maintenance, the cost of which shall be borne by Lessee. Other items of maintenance for which Lessee shall be solely responsible shall include, but not be limited to, the following:

- (a) Janitorial services, providing janitorial supplies, window washing, rubbish and trash removal;
- (b) Supply and replacement of light bulbs in and on all buildings (except lighting removed for causing obstructions or glare);
- (c) Replacement of cracked or broken glass in all buildings;
- (d) Cleaning of interior stoppages in interior plumbing fixtures and drain lines up to the first manhole or clean out outside of the exterior of the building where the stoppage occurred;
- (e) Replacement of floor covering;
- (f) Maintenance of all doors and door operating systems, including weather stripping and glass replacement;
- (g) Painting, repairing and replacement of interior walls not resulting from structural failure;
- (h) Landscaping and grass cutting services within the Leased Premises, including, but not limited to, repair or replacement of exterior building flood lights and planter lights;
- (i) Repair or replacement of heating, air conditioning, ventilation, electrical, plumbing, or mechanical systems, or their respective components (Lessee shall provide for such repairs by procuring annual maintenance contracts requiring quarterly status reporting from MDC-approved third-party vendors, with said contracts and any maintenance reports to be promptly provided to MDC within thirty (30) days of completion); and
- (j) Maintenance of all aprons, ramps, and roadways that are constructed by Lessee.

Subject to the provisions of Article 5.05, on the last day of the term of this Lease, or on any earlier termination, Lessee shall surrender the Leased Premises to MDC in the same condition, except for fire and casualty and ordinary wear and tear, clean and free of debris.

All material repairs and material maintenance described in this Article shall be performed only by contractors and subcontractors approved in writing by Landlord (which approval

will not be unreasonably withheld or delayed). Lessee shall cause all contractors and subcontractors to procure and maintain insurance coverage against such risks, in such amounts, and with such companies as Landlord may reasonably require, and to procure payment and performance bonds reasonably satisfactory to Landlord covering the cost of the repairs and maintenance. All such repairs and maintenance shall be performed in accordance with all laws and in a good and workmanlike manner so as not to damage the buildings (including the Leased Premises, the roof, the structural elements, and the plumbing, electrical lines, or other utility transmission facility). All such repairs and maintenance that may affect the Facility's HVAC, electrical, plumbing, other mechanical systems, the roof, or structural elements must be approved by MDC, at Lessee's expense.

- 6.02 **Trash and Waste Removal:** Lessee agrees to cause to be removed from the Leased Premises, at its own expense, all waste, garbage, and rubbish, and agrees not to deposit same on the Leased Premises except temporarily in waste or garbage containers provided by Lessee at Lessee's expense. Lessee further agrees that Lessee will store all parts, supplies, and other materials on the interior of buildings located on the Leased Premises, provided, however, that any parts or supplies which must be kept outside because of volatility of the supply item or the size of the part will be kept out of view of the public traveling on public rights of way or other surrounding Lessees by installation of fencing or other means of screening approved by MDC and the Director of Airports.

ARTICLE 7. ACCESS TO AND USE OF AIRPORT

- 7.01 **Access to Airport:** City shall maintain all roads on the Airport giving access to the Leased Premises in good and adequate condition for use by cars and trucks and shall always maintain free and uninterrupted access to the Leased Premises over roads; provided, however, MDC shall not be in default of this Lease if access is interrupted.
- 7.02 **Right to Use Airport:** Lessee and Lessee's employees, sublessees, and guests shall have the right to use that part of the Airport and its facilities not included within the Leased Premises in common with others authorized to do so. Such use shall be subject to all applicable federal, state or local laws, ordinances, statutes, rules, regulations, or orders of any governmental authority, lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 7.03 **Vehicular Operations on the Airfield:** No vehicles of Lessee, its employees, customers, guests, or invitees shall be allowed to operate on, or cross, the runways and taxiways and their respective safety areas of the Airport. When necessary, Airport Operations Control Center personnel shall provide Lessee escorted access to and from the airfield area.
- 7.04 **Airport Security Rules and Regulations:** Lessee, its directors, officers, employees, and contractors shall comply with all federal and local Airport Security Regulations adopted by City or the Department of Airports as such rules and regulations exist or may hereafter be amended.

- 7.05 **14 C.F.R. Part 77 Requirements:** Lessee agrees to comply with the notification and review requirements set forth in Part 77 of the Federal Aviation Regulations [14 CFR Part 77] in the event any future structure, antenna or building is planned for the Leased Premises, or in the event of any planned modification of any present or future building, antenna or structure located on the Leased Premises.
- 7.06 **Control of Structures:** Lessee shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Leased Premises, which highest point is above a mean sea level elevation established by the FAA and City as a height limitation on such structures or objects. MDC and City reserve the right to enter upon the Leased Premises and to remove the offending structure or object and cut the offending tree at Lessee's expense.
- 7.07 **Aerial Approaches:** MDC and City reserve the right to take any action they consider necessary to protect the aerial approaches of the Airport against obstruction together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on or adjacent to the Airport which, in the opinion of City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 7.08 **Right of Over-flight:** There is hereby reserved to City, for the use and benefit of the public, a right of flight for the passage of aircraft above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace for landing at, taking off from or operating on the Airport.

ARTICLE 8. INSURANCE AND INDEMNITY

- 8.01 **Lessee's Minimum Insurance Amounts:** Lessee shall obtain and maintain continuously in effect at all times during the Lease Term, at Lessee's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to MDC:
- (a) Property and Casualty Insurance insuring against loss or damage all property being maintained or repaired by Lessee due to fire, lightning and all other perils included in standard extended coverage policies, and vandalism and malicious mischief, all in amounts of not less than one hundred percent (100%) of replacement value;
 - (b) Commercial General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Leased Premises, or any other portion of the Airport, in at least the amount of \$10,000,000.00 per individual, \$10,000,000.00 per occurrence and \$10,000,000.00 with respect to property, and the statutory limits with respect to worker's compensation.

All insurance policies referenced herein or procured by Lessee for the purposes contemplated herein shall name MDC and City as additional insureds and provide for waivers of subrogation in favor of MDC and City. MDC and City shall not be liable to the Lessee or those claiming by, through, or under for any injury to or

death of any person or the damage to or theft, destruction, loss, or loss of use of any property or inconvenience (a “Loss”) caused by casualty, theft, fire, third parties, or any other matter (including Losses arising through repair or alteration of any part of the Premises or failure to make repairs, or from any other cause), regardless of whether the negligence of any party caused such Loss in whole or in part. Lessee waives any claim it might have against MDC and City for any damage to or theft destruction, loss, or loss of use of any property, to the extent the same is insured against under any insurance policy maintained by it that covers the Leased Premises, the Leased Premises, MDC’s and City’s or Lessee’s fixtures, personal property, leasehold improvements, or business, or is required to be insured against by it under the terms hereof, regardless of whether the negligence or fault of the other party caused such loss. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier’s rights of recovery under subrogation or otherwise against the other party.

- 8.02 **Lessee’s Coverage Primary:** All insurance herein required shall apply as primary and not in excess of or contributing with other insurance that MDC or City may carry. Insurance provided pursuant to Article 8.01 shall name MDC and City as additional insureds or loss payees and provide for a waiver of subrogation in favor of MDC and City. The comprehensive general liability policy as provided in Article 8.01(b) shall provide contractual liability coverage sufficiently broad to include the liability assumed by Lessee under this Lease.
- 8.03 **Contents of General Liability Policy:** Lessee’s Comprehensive General Liability policy shall protect MDC, City, and Lessee against any and all liability to any person or persons whose property damage or personal injury arises out of or is in connection with the occupation, use, or condition of the Leased Premises, or resulting from any injury or damage occurring on or about the roads, driveways or other public areas of the Leased Premises used by Lessees, its agents, officers, employees, guests, invitees, and contractors at the Airport, whether or not such damage or injury is the result of negligence of Lessee or its agents, officers, employees, guests, invitees, or contractors.
- 8.04 **Cancellation and Certificates of Insurance:** Lessee’s insurance as required by this Lease shall not be subject to cancellation or material alteration until at least thirty (30) days’ written notice has been provided to MDC. Lessee shall furnish to MDC, annually, certificates of insurance showing MDC and City as additional insureds and evidencing that all the requirements of this Article have been met.
- 8.05 **MDC’s Right to Purchase Insurance:** In the event such insurance as required by Article 8.01 shall lapse, such event shall constitute a default by Lessee if Lessee does not reinstate such insurance within 15 days of notice from MDC and MDC reserves the right to obtain such insurance at Lessee’s expense upon the expiration of such 15-day period. Upon demand from MDC, Lessee shall reimburse MDC for the full amount of the premium paid on Lessee’s behalf.
- 8.06 **Indemnity: LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC’S AND CITY’S OFFICERS,**

AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS 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 LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, LESSEE'S USE OF, OR ACTIVITIES ON THE LEASED PREMISES, OR LESSEE'S ACTIVITIES AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY OR ANY OF MDC'S OR CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LESSEE AGREES THAT IT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND MDC AND CITY AND ALL OF MDC'S AND CITY'S OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE 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 MDC OR CITY, MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE, OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES', AGENTS', CONTRACTORS', OR SUBCONTRACTORS' NEGLIGENCE. LESSEE SHALL BE REQUIRED TO PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST MDC OR CITY, OR ANY OF MDC'S OR CITY'S RESPECTIVE OFFICERS, AGENTS, BOARD MEMBERS, COUNCIL MEMBERS, ATTORNEYS, OR EMPLOYEES.

ARTICLE 9. UTILITIES

Lessee shall be solely responsible for the payment of electric, internet, water, sewer, refuse, and natural gas utility services used on the Leased Premises.

ARTICLE 10. SIGNS

- 10.01 **Consent Required:** Except with the prior-written consent of the Director of Airports, which shall not be unreasonably withheld, Lessee shall not erect, maintain, or display any

signs or any advertising at, or on, the exterior part of the facility in which the Leased Premises is located.

- 10.02 **Monument Signage:** MDC shall install, or cause to be installed, a sign containing Lessee's name and/or logo on the monument sign serving the Leased Premises. The design, size, specifications, graphics, materials, manner of affixing, exact location, colors, and lighting (if applicable) of Lessee's sign shall be in a form substantially similar to the architectural drawings contained in the Project Manual for the Midland Development Corporation Landscape Improvements to the Spaceport Business Park Project and the associated Midland Development Corporation Landscape Improvements Construction Plans. Said Project Manual and Construction Plans are incorporated herein by reference and shall be kept on file in the offices of MDC. The parties agree that all right, title, and interest in Lessee's sign and the monument sign shall remain with MDC.
- 10.03 **Removal on Termination:** Upon the termination of this Lease, Lessee shall remove, obliterate, or paint out, as MDC may direct, all signs and advertising on the Leased Premises or elsewhere at the Airport, and in connection therewith shall restore the Leased Premises to the same condition as prior to the placement of any such signs or advertising. If there is a failure by Lessee to so remove, obliterate, or paint out each sign or advertising and so to restore the Leased Premises within seven (7) business days after termination, MDC may, at its option, perform the necessary work at the expense of Lessee, and the charge therefor shall be paid by Lessee to MDC on demand. In certain circumstances, MDC may elect to allow specific signs to remain as existing at the termination of this Lease. Such signs shall be identified and agreed upon mutually, in writing, by Lessee and MDC.

ARTICLE 11. SUBLEASING

At no time shall Lessee sublease any portion of the Leased Premises or otherwise assign its interests or obligations in this Lease (a "*Transfer*") without the written consent of MDC. Any such assignment or attempted assignment shall be void. Notwithstanding the foregoing, MDC's consent shall not be required in connection with any Transfer to one or more entities comprising Lessee's Affiliated Group (as hereinafter defined). "*Lessee's Affiliated Group*" shall mean Lessee, the parent company of Lessee (AST SpaceMobile, Inc.), and all subsidiaries of Lessee or the parent company of Lessee (including, without limitation, AST SpaceMobile, Inc.) and any successor thereto. Any assignee shall agree to be bound by the terms of this Lease and the Economic Development Agreement.

ARTICLE 12. TAX LIENS

Lessee shall be solely responsible for the collection and payment of all applicable federal, state, and local taxes, including, but not limited to, sales, use, amusement, or excise tax required to be collected and paid over by Lessee to the appropriate taxing authority. Furthermore, Lessee shall be responsible for the payment of any applicable ad valorem taxes and any taxes on Lessee's personal property located on the Leased Premises. Lessee shall at no time permit the foreclosure of any tax liens to Lessee's leasehold interest in the Leased Premises or the buildings, fixtures, or other

improvements located on the Leased Premises. MDC shall have the right to pay such taxes due after reasonable request of MDC and Lessee's refusal to pay such taxes, and upon demand Lessee shall reimburse the MDC for taxes paid plus any penalties, interests, and reasonable attorney fees incurred, subject to Lessee's right to challenge the validity of such taxes in whole or in part, in which case the reimbursement shall be deferred until resolution of the challenge. If Lessee is successful in any challenge regarding the payment of any tax, MDC shall be subrogated to any recovery obtained by Lessee to the extent of the amount of taxes, interests, penalties, and attorney fees previously paid by MDC and not already reimbursed by Lessee.

ARTICLE 13. DEFAULT AND REMEDIES

13.01 Default by Lessee: The following shall be deemed to be events of default by Lessee under this Lease:

- a) Lessee shall fail to pay when due any installment of rent or any other payment required pursuant to this Lease;
- b) Lessee shall abandon any substantial portion of the Leased Premises;
- c) Lessee or any guarantor of Lessee's obligations hereunder shall file a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law or admit that it cannot meet its financial obligations as they become due, or a receiver or trustee shall be appointed for all or substantially all the assets of Lessee or any guarantor of Lessee's obligations hereunder;
- d) Lessee or any guarantor of Lessee's obligations hereunder shall make a transfer in fraud of creditors or shall make an assignment for the benefit of creditors;
- e) Lessee shall do or permit to be done any act which results in a lien being filed against the Leased Premises and Lessee fails to discharge such lien within 30 days or bond over such lien;
- f) The liquidation, termination, dissolution of Lessee or any guarantor of Lessee's obligations hereunder; or
- g) Subject to Lessee's rights to a notice and cure period as set forth in Section 13.08, Lessee shall be in noncompliance with any other term, provision or covenant of this Lease or the Economic Development Agreement, other than those specified in subparts (a) through (f) above.

13.02 Abandonment of the Business by Lessee: Lessee further agrees that the abandonment for a period of thirty (30) consecutive days by Lessee of the conduct of its business activities at the Leased Premises shall terminate Lessee's rights under this Lease. By so terminating this Lease, MDC does not waive any other claim or rights against Lessee. For the purposes of this paragraph, the term "*abandonment*" shall mean the failure of Lessee to be open for business on the Leased Premises except in the case of war, strike, catastrophe, or other such causes beyond Lessee's control.

- 13.03 **No Remedy Exclusive:** No remedy herein conferred upon or reserved to MDC or Lessee is intended to be exclusive of any other available remedy or remedies, but each such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or the Economic Development Agreement, or hereafter existing under law or in equity. 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 thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle MDC and Lessee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. A default of this Lease shall also constitute a default of the Economic Development Agreement and vice versa.
- 13.04 **Landlord's Lien:** If Lessee defaults in paying rent or any other sum due from Lessee to Landlord under this Lease, Landlord has a lien on all fixtures, chattels, or equipment of any description belonging to Lessee that are placed in, or become a part of, the Leased Premises as security for rent and any other sum Lessee owes Landlord under this Lease, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This lien is not in lieu of, nor in any way affects, the statutory landlord's lien but is in addition to that lien, and Lessee grants Landlord a security interest in all of Lessee's fixtures, chattels or equipment placed in or on the Leased Premises for purposes of this contractual lien, subject, and subordinate to, any security interests that Lessee has on its machinery, tools, inventory, equipment and any other property and proceeds. This does not prevent Lessee's selling any merchandise or moving or disposing of any property free of such Landlord's lien. Subject to the rights of any lender pursuant to the Landlord Consent, if Landlord exercises the option to terminate the leasehold, reenter, and relet the Leased Premises as provided in the preceding paragraph and gives Lessee reasonable notice of the intent to take possession and an opportunity for a hearing on the matter, and subject to any Consent or subordination described below and applicable law, Landlord may take possession of all of Lessee's fixtures, chattels, or equipment on the Leased Premises and sell it at public or private sale after giving Lessee reasonable notice of the time and place of any public sale or of the time after which any private sale is to be made, for cash or on credit, at commercially reasonable prices and terms, with or without having the property present at the sale. The proceeds of the sale shall be applied first to the necessary and proper expense of removing, storing, and selling the property, then to the payment of any rent due or to become due under this Lease; any balance shall be paid to Lessee. At any time and from time to time, upon request of Lessee, Landlord shall promptly execute and deliver a release of its security interest in any collateral or other assets or, if agreed by Lessee, an agreement subordinating all of Landlord's right to any collateral and other assets, and Landlord's rights and remedies, to those of one or more lenders to Lessee and its Affiliates. In addition, MDC shall promptly execute and deliver any consent, agreement or waiver reasonably requested by Lessee in connection with equipment or other financing transactions to which Lessee is or may become a party, including without limitation a consent or agreement in substantially the form of the Consent to Removal of Personal Property attached hereto as Annex 1(the "*Landlord Consent*").

- 13.05 **No Waiver of Breach:** MDC's failure or delay in declaring the existence of an event of default by Lessee shall not be construed as a waiver thereof, nor shall it be construed to waive or to lessen the right of MDC to insist upon the performance by Lessee of any term, covenant, or condition hereof, or to exercise any rights given it on account of any such event of default. A waiver of any event of default shall not be deemed to be a waiver of the same, similar of any other subsequent event of default.
- 13.06 **Expeditious Action:** Notwithstanding any provision as to notice in this Lease, if in MDC's reasonable judgment the continuance of any event of default by Lessee for the full period of the notice to cure the event of default may jeopardize the operation of the Airport or the rights of MDC or the other Airport Lessees, MDC may, without notice, elect to perform those acts in respect to which Lessee is in default. Lessee shall reimburse MDC for any reasonable and necessary costs incurred by MDC pursuant to this Article 13.06.
- 13.07 **Reletting:** Lessee acknowledges that MDC has entered into this Lease in reliance upon, among other matters, Lessee's agreement and continuing obligation to pay all rent due throughout the Lease Term. As a result, Lessee hereby knowingly and voluntarily waives, after advice of competent counsel, any claim (arising after an Event of Default) related to MDC's failure to relet the Leased Premises or otherwise mitigate MDC's damages arising from such Event of Default. If such waiver is not effective under applicable law or if MDC otherwise elects, at MDC's sole option, to attempt to relet all or any part of the Leased Premises, Lessee agrees that MDC has no obligation to: (i) relet the Leased Premises prior to leasing any other space within the buildings; (ii) relet the Leased Premises (A) at a rental rate or otherwise on terms below market, as then determined by MDC in its sole discretion; (B) to any entity not satisfying MDC's then standard financial credit risk criteria; (C) for a use (1) not consistent with Lessee's use prior to the Event of Default; (2) that would violate then applicable law or regulation, or violate any restrictive covenant or other lease affecting the buildings; (3) that would impose a greater burden upon the buildings' parking, HVAC or other facilities; and/or (4) that would involve any use of Hazardous Materials; (iii) divide the Leased Premises, install new demising walls or otherwise reconfigure the Leased Premises to make same more marketable; (iv) pay any leasing or other commissions arising from such reletting, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; (v) pay, and/or grant any allowance for, lessee finish or other costs associated with any new lease, even though same may be amortized over the applicable Lease Term, unless Lessee unconditionally delivers MDC, in good and sufficient funds, the full amount thereof in advance; and/or (vi) relet the Leased Premises, if to do so, MDC would be required to alter other portions of the buildings, make ADA-type modifications or otherwise install or replace any sprinkler, security, safety, HVAC or other building operating systems.
- 13.08 **Cure Period:** In the event of any alleged default by Lessee, MDC shall give Lessee written notice of its alleged default as set forth in this Lease, and MDC shall allow Lessee a period not less than thirty (30) days, but not to exceed sixty (60) days to cure any such default. Lessee's pursuit of the cure of such a default shall in no way be construed as, or shall operate as, a waiver of any of MDC's rights contained in the Economic Development Agreement or this Lease.

ARTICLE 14. TERMINATION

14.01 Discretionary Termination: MDC shall have the right to terminate this Lease upon Lessee's violation or default of any provision contained in the Lease of the Economic Development Agreement and failure to cure said violation or default within the time periods set forth in Section 13.08 or otherwise set forth in this Agreement. Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, either party shall have the right to terminate this Lease in its entirety, without monetary penalty, and all rights and obligations ensuing therefrom immediately upon the occurrence of the following:

- a) The issuance of any order, rule or regulation of the FAA, or its successor federal agency, or other competent government authority, federal or state, or the issuance and execution of any judicial process by any court of competent jurisdiction, materially restricting for a period of at least thirty (30) days, the use of the Airport for aeronautical purposes; provided that none of the foregoing is due to any material fault of Lessee;
- b) The material restriction of City's operation of the Airport by action of the federal government, or any department or agency thereof, under its wartime or emergency powers, and the continuance thereof for a period of not less than thirty (30) days; provided, however, that without prejudice to the rights of Lessee to terminate as above provided, the MDC and Lessee may mutually agree to adjust fees and charges; or
- c) Material restriction of the operation of the Airport arising from City's failure to maintain and keep in repair the landing area of the Airport.

14.02 Automatic Termination: Except for the payment by Lessee to MDC of rents or other amounts past due accrued to the termination date, but not yet due, this Lease shall automatically terminate in its entirety, without monetary penalty, within thirty (30) days following the FAA's determination that Lessee's use or occupation of the Property does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable statute, rule, or regulation. MDC, in its sole and absolute discretion, may elect to toll said thirty (30) day period to prevent the automatic termination of this Lease for any or no reason at all. If this Lease is terminated for any of the reasons set forth in Article 14.01 or Article 14.02, MDC shall promptly repay Lessee any rent previously paid by Lessee attributable to the period following the date of such termination.

14.03 Termination; Accelerated Rent: Notwithstanding any other provision contained in this Lease, if Lessee creates any condition that does not conform to the purpose of establishing Lessee's business on the Property, as contemplated by this Lease or the Economic Development Agreement, and said condition causes the FAA to determine that Lessee's use or occupation of the Leased Premises does not comply with the requirements of 49 U.S.C. 47107(a)(1), the FAA's Airport Improvement Program, or any other applicable

statute, rule, or regulation, and Lessee has exercised all reasonable administrative efforts to appeal said determination by the FAA, then this Lease shall terminate and all rent payments contemplated by this Lease shall, at MDC's option, thereupon immediately become due and payable to MDC, which payments shall be discounted to present value using an interest rate of three percent (3%) compounded yearly. Lessee shall be obligated for such accelerated rent regardless of which, if any, remedies otherwise provided in this Lease, the Economic Development Agreement, or by law MDC elects to pursue.

- 14.04 **Economic Development Agreement; Concurrent Termination:** A termination of this Lease shall terminate the Economic Development Agreement. A termination of the Economic Development Agreement shall terminate this Lease. A termination of this Lease without liability to either party shall terminate the Economic Development Agreement without liability to either party. A termination of the Economic Development Agreement without liability to either party shall terminate this Lease without liability to either party. Uncured defaults under either this Lease or the Economic Development Agreement shall be deemed uncured defaults under the other agreement, and contractual and legal termination procedures shall apply to both this Lease and the Economic Development Agreement.

**ARTICLE 15:
RENT ABATEMENT
AND ECONOMIC DEVELOPMENT AGREEMENT**

- 15.01 **Economic Development Agreement Commitments:** Simultaneously with the execution of this Lease, Lessee shall execute the Economic Development Agreement with MDC. Among other obligations, the Economic Development Agreement requires Lessee to: (i) create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and maintain certain levels of Inventory (as defined in the Economic Development Agreement), both of which are material terms to the Economic Development Agreement and this Lease.

In order to ensure Lessee's compliance with its commitments and obligations due under this Lease and the Economic Development Agreement, Lessee shall, subject to confidentiality and privacy obligations, make all documents available to MDC for inspection, audit, and copying, regardless of whether a dispute is then pending between the parties, in each case, conditioned upon compliance with securities regulations then in effect and upon the execution of a non-disclosure agreement, the form of which shall be substantially similar to that of **Exhibit B**, which is attached hereto and incorporated herein for all purposes. Access shall be provided to MDC and/or the accounting firm designated by MDC, in its sole and absolute discretion, to perform such review during normal business hours in an adequate workspace. Upon receipt of a written request made by MDC, Lessee shall reimburse all costs incurred by MDC relating to the inspection, audit and copying of said documents

- 15.02 **Lessee Rent Abatement:** Subject to Lessee's compliance with all provisions and obligations

of this Lease and the Economic Development Agreement, Landlord agrees to abate the Rent for the duration of Lessee's compliance (the "*Rent Abatement Period*"). Upon the termination of the Rent Abatement Period due to Lessee's noncompliance with the Lease or Economic Development Agreement, Lessee's obligation to pay the Rent shall resume. The Rent Abatement Period may be terminated by MDC upon issuance of written notice to Company reasonably detailing Lessee's noncompliance with the Lease and/or Economic Development Agreement. MDC's right to terminate the Rent Abatement Period due to Lessee's alleged noncompliance shall be subject to the reasonable discretion of MDC.

- 15.03 **Resumption of Rent Abatement Period:** If (i) MDC terminates the Rent Abatement Period for Lessee's noncompliance with the Lease or Economic Development Agreement, (ii) the Lease and Economic Development Agreement are not terminated due to Lessee's noncompliance, and (iii) Lessee is then able to bring itself back into compliance with this Lease and the Economic Development Agreement, Landlord may reinstate the Rent abatement as described in Article 15.02 for so long as Lessee remains compliant with the terms of this Lease and the Economic Development Agreement. Lessee shall NOT be entitled to recapture any Rent paid to MDC during the portion of the Lease Term that Rent was not abated.
- 15.04 **Grace Period and Post Grace Period Rent Obligations:** Subject to MDC's sole discretion, which shall not be unreasonably withheld, conditioned, or delayed, if the Lessee is unable to meet the Development Agreement commitments with respect to the requirements to create and maintain certain primary jobs at the Leased Premises, and (ii) make certain investments in Personal Property and Inventory (as defined in the Economic Development Agreement), upon written request by Lessee, Lessor shall extend the completion date of such unfulfilled requirement(s) by six (6) months (the "*Grace Period*"). If Lessee is unable to bring itself back into compliance during the Grace Period, Lessee will be required to begin paying the Rent plus CAM charges for the Leased Premises in the first month following the end of the Grace Period. Notwithstanding the foregoing or any contrary provision contained herein, Lessee may only receive one (1) Grace Period extension under this Article during the Lease Term.

ARTICLE 16. HOLD OVER

If Lessee fails to vacate the Leased Premises at the end of the Lease Term, then Lessee shall be a tenant at-will and, in addition to all other damages and remedies to which MDC may be entitled for such holding over, Lessee shall pay holdover rent to MDC at a rate equal to one hundred fifty percent (150%) of the Rent indicated herein. Such holdover rent shall be calculated in the same manner as the prorated rent under Article 3.01.

ARTICLE 17. MISCELLANEOUS PROVISIONS

- 17.01 **Quiet Enjoyment:** Upon the performance of the covenants and agreements on the part of the Lessee to be performed hereunder, as determined to be satisfied in MDC's sole and absolute discretion, Lessee shall peaceably have and enjoy the Leased Premises, appurtenances, facilities, licenses and privileges granted in this Lease.
- 17.02 **Force Majeure:** Neither the MDC nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of its obligations hereunder except the obligation to pay rent by reason of strikes, boycotts, labor disputes, embargoes, shortages of materials, act of God, act of superior governmental authority, weather conditions, floods, riots, rebellions, acts of sabotage or any other circumstances for which it is not responsible or which are not in its control.
- 17.03 **Independent Contractor:** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of MDC; that Lessee 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 MDC and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between MDC and Lessee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of MDC. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder and any provisions in this Lease that may appear to give MDC the right to direct Lessee as to details of doing the work herein covered or to exercise a measure of control over the work shall be deemed to mean that Lessee shall follow the desires of MDC in the results of the work only. MDC does not have the power to direct the order in which the work is done. MDC shall not have the right to control the means, methods or details of the Lessee's work.
- 17.04 **Inspection by MDC:** Subject to any necessary security clearance established by the United States Government, MDC may enter upon the Leased Premises at any reasonable time for any purpose necessary, incidental to or connected with the performance of MDC's obligations hereunder, or in the exercise of its governmental functions, for fire protection or security purposes, or for inspecting or maintaining the Leased Premises, or doing any and all things MDC is obligated to do, or which may be deemed by MDC necessary or desirable for the proper conduct and operation of the Airport or the protection of MDC's interests. Such inspections shall be (i) accompanied by a representative of Lessee; (ii) conducted during normal business hours; and (iii) shall not be disruptive or intrusive to Lessee's business operations.
- 17.05 **On-Site Representatives:** Lessee shall select and appoint a representative or representatives for its operations at the Airport. The representatives shall be qualified and experienced and vested with the full power and authority to act in the name of the Lessee

with respect to the method, manner and conduct of the operation of Lessee to be performed under this Lease.

- 17.06 **Conformance with Rules and Regulations:** The use of the Airport by Lessee shall be subject to any and all rules, regulations and ordinances which are now in force or which may be hereafter adopted by MDC and City with respect to the operation and use of the Airport, but no such rules, regulations, or ordinances shall increase the rents payable by Lessee under this Lease or otherwise materially and adversely affect Lessee's tenure of the Leased Premises under this Lease. Furthermore, this Lease and Lessee's use of the Airport shall be subject to all applicable laws, ordinances, resolutions, statutes, rules, regulations or orders of any federal, state or local government authority lawfully exercising jurisdiction over the Airport or the activities and business operations of Lessee, including any limitations, restrictions or prohibitions affecting the aviation activities or operations of Lessee.
- 17.07 **Licenses and Permits:** Lessee hereby agrees that it shall, at its own expense and cost, procure and obtain all lawfully required licenses and permits, certificates and other authorizations (all, "*Permits*") required by any governmental authority, in connection with or covering the operations or activities permitted to be performed by it under the provisions of this Lease. Landlord shall assist Lessee, diligently and free of charge in applying for and obtaining the Permits, as needed.
- 17.08 **Notices:** Notices provided for in this Lease shall be either hand delivered, sent/received by recognized courier, or sent by certified mail, return receipt requested, postage prepaid, and properly addressed as follows:

If to MDC:	Executive Director Midland Development Corporation 200 North Loraine Street, Suite 610 Midland, Texas 79701
With Copy To:	City Manager P. O. Box 1152 300 North Loraine Midland, Texas 79702
If to Lessee:	AST & Science, LLC ATTN: Shanti Gupta, Chief Operating Officer ATTN: AST Legal 2901 Enterprise Lane Midland, Texas 79706
With Copy To:	Foley & Lardner LLP 2 South Biscayne Blvd, Suite 1900 Miami, FL 33131 Attention: James Zimmer, Esq.

The parties may change the representative or address for delivery of notices from time to time by sending written notices to the other party. All notices shall be in writing and effective only upon actual receipt.

- 17.09 **Governing Law and Venue:** The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this Lease, 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 Lease shall be deemed to have occurred in Midland County, Texas. The sole, exclusive, and mandatory venue for any claims, suits, disputes or any other action arising from, relating to or concerning in any way this Lease or the performance of this Lease shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. All payments under this Lease are deemed to have taken place in Midland County, Texas.
- 17.10 **Severability:** If any provision of this Lease is invalid or unenforceable, this Lease shall be considered severable as to such provision, and the remainder of this Lease shall remain valid and binding as though such invalid or unenforceable provisions were not included herein.
- 17.11 **Captions:** Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision herein.
- 17.12 **Use of Language:** Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.
- 17.13 **Counterparts:** This Lease may be executed in multiple counterparts, each of which shall be deemed as original, and all of which constitute but one and the same instrument.
- 17.14 **Development of the Airport:** The parties understand and agree future development, changes, alterations, modifications, or improvement to the Airport are in the sole discretion of City, subject only to such notification to Lessee that the FAA may dictate
- 17.15 **Subordination to Other Agreements:** This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between MDC and City relative to the Leased Premises and City and the United States, relative to the development, operation or maintenance of the Airport.
- 17.16 **No Exclusivity on Aeronautical Services:** Nothing herein contained shall be construed to grant or authorize the granting of the exclusive right to provide aeronautical services to the public as prohibited by Section 308(a) of the Federal Aviation Act of 1958, as amended.
- 17.17 **Discrimination Prohibited:** Lessee, for itself, its trustees, officers, legal representatives, successors-in-interest and assigns, as a part of the consideration hereof, agrees (1) that no

person on the grounds of race, color, sex, national origin, veteran status or disability shall be excluded from participation in, denied the benefits of or be otherwise subjected to discrimination in the use of the Leased Premises; (2) that in the construction of any improvements on, over or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, sex, color, national origin, or disability shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that the Lessee shall use the Leased Premises and the Airport in compliance with all other requirements imposed by, or pursuant to, Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended. In the event of breach of any of the above nondiscrimination covenants, the MDC shall have the right to terminate this Lease and to re-enter and repossess the Leased Premises and the improvements thereon and hold the same as if said Lease were terminated by its own term pursuant to Article 2 above.

- 17.18 **Affirmative Action Program:** Lessee assures that it shall undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Lease.
- 17.19 **Entire Agreement:** This Lease, in conjunction with the Economic Development Agreement, embodies the entire agreement between MDC and Lessee, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter hereof. This Lease shall not be changed, modified, discharged or extended, except by written instrument duly executed by MDC and Lessee. The parties agree that no representations or warranties shall be binding upon either party unless expressed in writing.
- 17.20 **Governmental Immunity:** By executing this Lease, MDC is not waiving its right of governmental immunity. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**
- 17.21 **Third-Party Beneficiary:** MDC's approval of this Lease does not create a third-party beneficiary. There is no third-party beneficiary to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or other rights hereunder.
- 17.22 **Notice of Alleged Breach:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or its legal representative, shall give the Chairman of the MDC, or any other reasonable official of MDC, notice in writing of such damages, duly verified, within one hundred and 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 Lessee will settle, the physical and mailing addresses of Lessee at the time and date

the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify MDC within the time and manner provided herein shall exonerate, excuse and except MDC from any liability whatsoever. MDC is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. MDC 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, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee'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 MDC has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire agreement are reasonable.

17.23 **RELEASE: LESSEE HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES MDC, MDC'S EMPLOYEES, OFFICERS, BOARD MEMBERS, AND ATTORNEYS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS, OR MDC'S NEGLIGENCE.**

17.24 **WAIVER OF ATTORNEY FEES: BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM IT HAS OR MAY HAVE AGAINST THE MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, 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), LESSEE AGREES TO WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.**

LESSEE ACKNOWLEDGES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING AGAINST MDC RELATED TO THIS LEASE. LESSEE ACKNOWLEDGES THAT

IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE THIS LEASE.

BY EXECUTION OF THIS LEASE, LESSEE HEREBY REPRESENTS AND WARRANTS THAT LESSEE HAS READ AND UNDERSTOOD THE LEASE AND HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL REGARDING THE SAME.

17.25 Waiver of Rights under the Deceptive Trade Practices; Consumer Protection Act: Landlord and Lessee waive their rights under the Deceptive Trade Practices-Consumer Protection Act, Section 17.41 *et seq.*, Business & Commerce Code, a law that gives consumers special rights and protections. Each, after consultation with an attorney of its selection, voluntarily consents to this waiver.

17.26 Patriot Act Representation: MDC and Lessee each represent to the other that: (i) its property interests are not blocked by Executive Order No. 13224, 66 Fed. Reg. 49079; (ii) it is not a person listed on the Specially Designated Nationals and Blocked Persons list of the Office of Foreign Assets Control of the United States Department of the Treasury; and (iii) it is not acting for or on behalf of any person on that list.

17.27 Governmental Function: MDC AND LESSEE HEREBY ACKNOWLEDGE AND AGREE THAT THE ENTIRETY OF MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE GOVERNMENTAL FUNCTIONS. BY ENTERING INTO THIS LEASE, LESSEE RELEASES MDC FROM ANY PRESENT OR FUTURE CLAIMS ASSERTING MDC'S PERFORMANCE AND OBLIGATIONS UNDER THIS LEASE ARE NOT GOVERNMENTAL FUNCTIONS. MDC AND LESSEE ACKNOWLEDGE AND AGREE THAT THIS LEASE IS IN THE PUBLIC INTEREST AND SERVES A PUBLIC PURPOSE OF THE STATE OF TEXAS AND CITY OF MIDLAND IN PROMOTING THE WELFARE OF THE GENERAL PUBLIC ECONOMICALLY BY SECURING AND RETAINING BUSINESS ENTERPRISES AND AS A RESULT OF MAINTAINING A HIGHER LEVEL OF EMPLOYMENT, ECONOMIC ACTIVITY, AND STABILITY.

17.28 Approval Required: This Lease shall not become effective until approved by the Midland City Council.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. TIME IS OF THE ESSENCE WITH REGARDS TO ALL DEADLINES IN THIS LEASE.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be legally executed in duplicate this ____ day of _____, 2025.

**MIDLAND DEVELOPMENT
CORPORATION**

P. Lourcey Sams, Chairman

ATTEST:

Elvie Brown, Secretary

AST & SCIENCE, LLC

By: _____

Name: _____

Title: _____

THE STATE OF _____ §
COUNTY OF _____ §

BEFORE ME, _____, a notary public, on this day personally appeared _____ of AST & SCIENCE, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said company for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 2025.

Notary Public, in and for
the State of _____

Exhibit A

Leased Premises

Exhibit B

Form of Non-Disclosure Agreement

AGREEMENT OF DISCLOSURE AND SAFEGUARDING OF PROPRIETARY INFORMATION

This Agreement, entered into and made effective as of _____, 2024 (the “*Effective Date*”) by and between _____ (“*COMPANY*”), a corporation with a principal place of business at _____, and the **MIDLAND DEVELOPMENT CORPORATION** (“*MDC*”), a home-rule municipal corporation; either or both of which may be referred to as “*Party*” or “*Parties*” or may be referred to as “*Disclosing Party*” or “*Receiving Party*.”

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. “*Proprietary Information*” as used herein shall mean confidential business information of any nature in any form including, without limitation, strategic plans, methods, processes, proposal related information, financial and technical data, programs, drawings, specifications, and customer lists of MDC and COMPANY and the Parties’ respective affiliated entities.
2. The Parties shall protect and preserve the confidentiality of the Proprietary Information disclosed by the Disclosing Party. The Parties shall use Proprietary Information only for the Purpose stated herein and shall limit its disclosure to as few persons as possible with a bona-fide need to know. The Parties shall not disclose any Proprietary Information to any third person without first obtaining the prior written approval of the Disclosing Party. Any unauthorized use or disclosure will not relieve the Receiving Party from its continuing obligation to adhere to the terms and conditions of this Agreement.
3. Proprietary Information received hereunder may be reproduced by the Receiving Party only as necessary to fulfill the Purpose described herein and provided that all proprietary legends and notices appearing on the original provided by the Disclosing Party are affixed to all complete and partial copies made by the Receiving Party.
4. Any notices, authorizations or other communications required or permitted to be given or delivered under this Agreement shall be in writing (unless otherwise specifically provided herein) and sent by hand, by certified or registered mail (with return receipt requested), or by overnight courier to the addresses below. If delivered by hand or overnight courier, a notice or communication shall be deemed effective on the date of delivery. If delivered by certified or registered mail (return receipt requested), a notice or communication will be deemed effective upon acceptance of delivery. If sent by email or other methods of electronic messaging, a notice or communication will be deemed effective upon confirmation of receipt by the Receiving Party.

Points of Contact for each Party shall be as follows:

Attn: _____
Title: _____

Midland Development Corporation
200 N. Loraine Street, Suite 610
Midland, Texas 79701

Attn: Executive Director
Phone: 432-686-3579

Phone: _____
Email: _____

Email: _____

5. Nothing in this Agreement shall be construed as granting expressly or impliedly any rights, title or interest to the Disclosing Party's Proprietary Information, by license or otherwise, to the Receiving Party.

6. This Agreement is not intended to constitute, create, give effect to or otherwise recognize a joint venture, partnership or formal business entity of any kind and the rights and obligations of the Parties shall be limited to those expressly set forth herein. Each Party shall act as an independent contractor and not as an agent of the other for any purpose whatsoever and neither shall have any authority to bind the other except as specifically set forth herein. Neither Party has an obligation to supply Proprietary Information to the other, nor negotiate or enter into any agreement or relationship with the other.

7. Either Party, upon thirty (30) days' written notice to the other, may terminate this Agreement. Unless otherwise terminated earlier, this Agreement shall terminate upon expiration of a period of four (4) years from the Effective Date. Termination of this Agreement for any reason shall not relieve either Party of any obligation to protect and preserve the confidentiality of the Proprietary Information received under this Agreement and all such obligations shall survive the termination of this Agreement and continue for a period of four (4) years thereafter.

8. Upon termination of this Agreement, or upon request by either Party, the Parties shall promptly account for, return, verify and provide written confirmation to each other of the destruction or return of all Proprietary Information received from each other, all copies thereof and summaries, memoranda, and tangible descriptive material in any form relating to Proprietary Information. Return or destruction of Proprietary Information pursuant to this paragraph shall not act to relieve either Party of their respective obligations regarding disclosure or use set forth herein.

9. Both Parties agree that during the term of this Agreement and for four (4) years thereafter, neither Party shall hire, enter into consulting agreements or otherwise contract with any employee(s) of the other Party who are associated with this Agreement, without the prior written consent of the other Party. This clause, however, shall not restrict in any way the right of either Party to solicit generally in the media for personnel and hire any such person who responds to any such general solicitation.

10. Neither Party shall assign or otherwise transfer this Agreement or any of the rights granted hereunder to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

11. No modification, amendment, supplement to, or waiver of this Agreement or any of its provisions shall be binding upon the Parties hereto unless made in writing and duly signed by the Party against whom enforcement thereof is sought. A failure or delay of either Party to this Agreement to enforce at any time any of the provisions of this Agreement, or to require at any time performance of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions of this Agreement.

12. In the event any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired.

13. This Agreement shall be governed by the laws of the State of Texas. All performance 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.

14. This Agreement constitutes the complete agreement between the Parties and supersedes any previous understanding or agreement between the Parties with respect to the subject matter hereof.

15. 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 MDC, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, OR INTERPRETATION OF THE 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'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

16. NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES MDC, MDC'S 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 CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

17. By executing this Agreement MDC is not waiving its right of governmental immunity. MDC is retaining its immunity from suit. MDC is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

18. Notwithstanding any other provision contained herein, this Agreement in no way affects, modifies, or limits the obligation of MDC to comply with the Texas Public Information Act or any ruling or decision of the Texas Attorney General. The parties hereby agree that MDC retains its right to exercise its discretion to determine its obligations under the Texas Public Information Act.

19. The terms of this Agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.

IN WITNESS WHEREOF, the Parties hereto, each acting with proper authority, have executed this Agreement as of the date first written below:

MIDLAND DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

ANNEX 1

**CONSENT TO REMOVAL OF PERSONAL PROPERTY
("Consent")**

KNOW ALL PERSONS BY THESE PRESENTS:

(a) The undersigned Landlord ("Landlord") has an interest in the real property at the location described by the following address: Midland International Air & Space Port, 2901 Enterprise Lane, Midland, Texas 79706 (the "Real Property").

(b) AST & SCIENCE LLC, a Delaware limited liability company ("Company") and certain of its affiliates, have entered into or will enter into a [] and related documents, instruments and agreements with [], a [] ("Lender") (together, as amended, restated, or otherwise modified from time to time, the "Agreement"). As a condition to entering into the Agreement, Lender requires that Landlord consent to the removal by Lender of the Equipment and other collateral (as defined in the Agreements) (hereinafter called "Equipment") from the Real Property.

NOW, THEREFORE, Landlord consents to the placing of the Equipment on the Real Property, and agrees with Lender as follows:

1. Landlord waives and releases each and every right which it now has under applicable law or by virtue of the lease for the Real Property or any other agreement now or hereafter in effect, to foreclose, levy or distraint upon for rent, in arrears, in advance or both, or for any other amount, or to claim or assert title to the Equipment that is located on the Real Property or at any other location. Landlord hereby releases any lien it may have from time to time on any Equipment, whether arising under the lease or any other agreement now or hereafter in effect.

2. The Equipment shall be considered to be personal property and shall not be considered part of the Real Property regardless of whether or by what means it is or may become attached or affixed to the Real Property. Landlord shall (a) provide written notice to Lender of any termination or expiration of the lease (a "Termination Notice"), and (b) will not dispose of any of the Equipment nor assert any right or interest therein unless it has first sent such Termination Notice to Lender and has given Lender a reasonable period of time (in any case, not less than 60 days after Lender's receipt of such Termination Notice) to exercise Lender's rights in and to the Equipment.

3. Landlord will permit Lender, or its agent or representative, to enter upon the Real Property for the purpose of exercising any right Lender may have under the terms of the Agreement, at law, or in equity, including, without limitation, the right to remove the Equipment; provided, however, that if Lender, in removing the Equipment, causes any physical damage to the Real Property, Lender will, at its expense, cause same to be repaired to the condition such Real Property was in prior to said damage; provided, further, Lender shall not be liable for any diminution in value of the Real Property caused by the absence of any item of Equipment so removed. If Company abandons the Equipment located on the Real Property upon termination or expiration of the Agreement, Lender shall have the option to remove the Equipment from the Real Property within 30 days after receipt of written notice thereof from Landlord or Lender's right to such Equipment shall be deemed forfeited. Notwithstanding the foregoing, Lender shall not have any duty or obligation to remove or dispose of any Equipment or any other property left on the Real Property by the Company.

4. Company acknowledges that Landlord may admit Lender into the Real Property pursuant hereto following request by Lender and irrespective of any protest or objection by Company, and Company hereby irrevocably consents to such entry. Company further waives any right to hold Landlord, or any of its officers, employees or agents, liable for any damage, cost or expense resulting from any entry by Lender, and agrees to indemnify and hold Landlord free and harmless from any such claim of liability asserted by an employee, agent, subtenant or assignee of Company. In addition, Company agrees that any such entry shall not constitute a constructive eviction under its lease of the Real Property.

5. This Consent shall be binding upon the heirs, successors, and assigns of the undersigned and shall inure to the benefit of Lender and its successors and assigns. All notices to any party hereto shall be in writing and sent to such party's address as set forth below their signatures (or to such other address as provided in writing by one party to the other). Notices are deemed received on the date received if sent by overnight courier, certified mail with return receipt requested, or US first class mail.

6. This Consent may only be amended in writing by Lender and Landlord, and the terms hereof will remain in effect commencing on the date of the Agreement ("Effective Date") and until Landlord is notified in writing by Lender that all liabilities and/or obligations of Company under the Agreement have been fulfilled.

(Signature page follows.)

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and to be effective this ____ day of [], [], regardless of the date in which their signatures are affixed herein.

“LANDLORD”

[_____]

(Landlord of the Real Property)

Address: _____

By: _____

Name: _____

Title: _____

“LENDER”

[]

Address:

By: _____

Name:

Title:

“COMPANY”

ACKNOWLEDGED AND AGREED:

AST & SCIENCE TEXAS LLC,
a Texas limited liability company

Address: Midland International Air & Space Port
2901 Enterprise Lane, Midland, Texas 79706

By: _____

Name: _____

Title: _____



City Council Meeting

Item Number: 12
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Elizabeth Triggs, Director
Subject: MOTION APPROVING MIDLAND COLLEGE DISTRICT'S APPOINTMENTS OF CHARLENE MCBRIDE AND SCOTT LYNCH TO THE BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER TWO (DISTRICTS: 2 & 3) (DEVELOPMENT SERVICES) (STRONG ECONOMY WITH MORE QUALITY JOBS)

Purpose:

Motion approving Midland College's appointments of Charlene McBride and Scott Lynch to the board of directors of tax increment reinvestment zone number two (TIRZ 2).

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

(Strong Economy with More Quality Jobs)

Discussion:

Ordinance No. 10448 establishes TIRZ 2 and requires a Board of Directors to manage its operations. The Board will consist of seven (7) members appointed by the City Council, including potentially the Mayor and Council members. Other contributing taxing units, such as Midland College, may appoint up to two (2) members each, increasing the total number of directors to a maximum of fifteen (15).

Midland College has appointed Charlene McBride and Scott Lynch, to serve on the TIRZ 2 Board. The Board's responsibilities include developing and recommending a project plan and financing plan for City Council approval and overseeing the zone's administration and economic development programs. Any grants, loans, or initiatives proposed by the Board require final approval from the City Council.

The TIRZ will terminate on December 31, 2053, unless ended earlier or all obligations are fulfilled before that date. A Tax Increment Fund will manage the financial resources of the TIRZ, ensuring they are used only for approved project costs or obligations.

Frederick D. Out

City Manager's Office

ORDINANCE NO. 10448

**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 TWO, CITY OF MIDLAND, TEXAS**

WHEREAS, the City of Midland, Texas (the “City”), pursuant to Chapter 311 of the Texas Tax Code, as amended (the “Act”), may designate a geographic area within the City as a tax increment reinvestment zone if the area satisfies the requirements of the Act; and

WHEREAS, the Act provides that the governing body of a municipality by ordinance may designate a contiguous geographic area that is in the corporate limits of the municipality or the extraterritorial jurisdiction (the “ETJ”) of the municipality to be a reinvestment zone if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, the City Council desires to promote the development of a certain contiguous geographic area in the City, which is more specifically described in *Exhibits "A" and "B"* of this Ordinance (the “Zone”), through the creation of a reinvestment zone as authorized by and in accordance with the Tax Increment Financing Act, codified at Chapter 311 of the Texas Tax Code; and

WHEREAS, pursuant to and as required by the Act, the City has prepared a *Preliminary Reinvestment Zone Project Plan and Financing Plan for Reinvestment Zone Number Two, City of Midland*, attached as *Exhibit C* (hereinafter referred to as the “Preliminary Project and Finance Plan”) for a proposed tax increment reinvestment zone containing the real property within the Zone; and

WHEREAS, notice of the public hearing on the creation of the proposed zone was published in a newspaper having general circulation in the City on October 13, 2023, which date is before the seventh (7th) day before the public hearing held on October 24, 2023; and

WHEREAS, at the public hearing on October 24, 2023, interested persons were allowed to speak for or against the creation of the Zone, the boundaries of the Zone, and the concept of tax increment financing, and owners of property in the proposed Zone were given a reasonable opportunity to protest the inclusion of their property in the Zone; the public hearing was held in full accordance with Section 311.003(c) of the Act; and

WHEREAS, evidence was received and presented at the public hearing on October 24, 2023, and in favor of the creation of the Zone; and

WHEREAS, after all comments and evidence, both written and oral, were received by the City Council, the public hearing was closed on October 24, 2023; and

WHEREAS, the City has taken all actions required to create the Zone including, but not limited to, all actions required by the home-rule Charter of the City, the Act, the Texas Open Meetings Act (defined herein), and all other laws applicable to the creation of the Zone; and

WHEREAS, the percentage of the property in the proposed zone, excluding property that is public owned, that is used for residential purposes is less than thirty percent; and

WHEREAS, a Preliminary Project and Finance plan has been prepared for the proposed reinvestment zone.

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

SECTION ONE. RECITALS INCORPORATED.

The facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct.

SECTION TWO. FINDINGS.

That the City Council, after conducting the above-described hearing and having heard the evidence and testimony presented at the hearing, has made the following findings and determined based on the evidence and testimony presented to it:

(a) That the public hearing on the expansion of the reinvestment zone has been properly called, held, and conducted and that notice of such hearing has been published as required by law; and

(b) That the creation of the proposed reinvestment zone with boundaries as described and depicted in *Exhibits "A" and "B"* will result in benefits to the City, its residents and property owners, in general, and to the property, residents, and property owners in the reinvestment zone; and

(c) That the proposed reinvestment zone, as defined in *Exhibits "A" and "B"*, meets the criteria for the creation of a reinvestment zone set forth in the Act in that:

1. It is a geographic area located within the City limits of the City; and
2. That the City Council further finds and declares that the proposed zone meets the criteria and requirements of Section 311.005 of the Texas Tax Code because the proposed zone is predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the City or county.

(d) That 30 percent or less of the property in the proposed reinvestment zone, excluding property dedicated to public use, is currently used for residential purposes; and

(e) That the total appraised value of all taxable real property in the proposed reinvestment zone according to the most recent appraisal rolls of the City, together with the total appraised value of taxable real property in all other existing reinvestment zones within the City, according to the most recent appraisal rolls of the City, does not exceed 50 percent of the current total appraised value of taxable real property in the City and in the industrial districts created by the City, if any; and

(f) That the improvements in the proposed reinvestment zone will significantly enhance the value of all taxable real property in the proposed reinvestment zone and will be of general benefit to the City or county; and

(g) That the development or redevelopment of the property in the proposed reinvestment zone will not occur solely through private investment in the reasonable foreseeable future.

SECTION THREE. DESIGNATION AND NAME OF THE ZONE.

Pursuant to the authority of, and in accordance with the requirements of the Act, the City Council hereby designates the area described and depicted in Exhibits "A" and "B" hereto as a tax increment reinvestment zone. The name assigned to the zone for identification is Reinvestment Zone Number Two, City of Midland, Texas (hereinafter referred to as the "Zone").

SECTION FOUR. BOARD OF DIRECTORS.

That a board of directors for the Zone ("Board") is hereby created. The Board shall consist of seven (7) members appointed by the City Council. The seven (7) members appointed by the City Council may include the Mayor and the members of the City Council.

The Board shall elect a chairman of the Board. The Board may elect a vice chairman and such other officers as the Board sees fit. Additionally, each taxing unit that levies taxes within the Zone and chooses to contribute all or part of the tax increment produced by the unit into the Tax Increment Fund may appoint two (2) members of the board. The number of directors on the Board of Directors shall be increased by two (2) for each taxing unit that appoints two (2) directors to the board; provided, that the maximum number of directors shall not exceed fifteen (15).

The Board shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. The Board shall prepare and adopt a project plan and a reinvestment zone financing plan for the Zone and submit such plans to the City Council for its approval. The Board shall perform all duties imposed upon it by Chapter 311 of the Texas Tax Code and all other applicable laws.

The Board may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the Zone, eliminating unemployment and underemployment in the Zone, and developing or expanding transportation, business, and commercial activity in the Zone, including programs to make grants and loans from the Tax Increment Fund of the Zone in an aggregate amount not to exceed the amount of the tax increment produced by the City and paid into the Tax Increment Fund for the Zone for activities that benefit the Zone and stimulate business and commercial activity in the Zone; provided, however, that any such program shall be subject to final approval of the City Council. For the avoidance of doubt, the Board's establishment and administration of a program authorized by this paragraph, including but not limited to an agreement, amendment of an agreement, or renewal of an agreement authorized by Chapter 380, Local Government Code, in conjunction with Chapter 311, Local Government Code, shall be of no force or effect unless it is approved by the City Council.

Notwithstanding anything to the contrary herein, the Board shall not be authorized to (i) issues bonds; (ii) impose taxes or fees; (iii) exercise the power of eminent domain, or (iv) give final approval to the Zone's project plan and financing plan.

SECTION FIVE. DURATION OF THE ZONE.

That the Zone shall take effect immediately upon the passage and approval of this Ordinance, consistent with Section 311.004(a)(3) of the Act, and termination of the Zone shall occur upon any of the following: (i) on December 31, 2053 (with the final year's tax increment to be collected by September 1, 2054); (ii) at an earlier time designated by subsequent ordinance; (iii) at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes and other obligations of the Zone, and the interest thereon, have been paid in full, in accordance with Section 311.017 of the Act.

SECTION SIX. TAX INCREMENT BASE AND TAX INCREMENT.

That the tax increment base for the Zone, as defined by Section 311.012(c) of the Texas Tax Code, shall be the total appraised value of all real property in the Zone taxable by a taxing unit, determined as of January 1, 2023, which is the year in which the Zone was designated as a reinvestment zone.

The Tax Increment Fund shall consist of (i) the percentage of the tax increment, as defined by Section 311.012(a) of the Texas Tax Code, that each taxing unit which levies real property taxes in the Zone, other than the City, has elected to dedicate to the Tax Increment Fund under an agreement with the City authorized by Section 311.013(f) of the Texas Tax Code, (ii) one hundred percent (100%) of the City's tax increment, as defined by section 311.012(a) of the Texas Tax Code, subject to any binding agreement executed at any time by the City that pledges a portion of such tax increment or an amount of other legally available funds whose calculation is based on receipt of any portion of such tax increment.

SECTION SEVEN. TAX INCREMENT FUND.

That there is hereby created and established a "Tax Increment Fund" for the Zone which may be divided into such subaccounts as may be authorized by subsequent ordinance, into which all tax increments of the City, as such increments are described in the final project plan and reinvestment zone financing plan and may include administration costs, less any of the amounts not required to be paid into the Tax Increment Fund pursuant to the Act, are to be deposited. The Tax Increment Fund and any subaccounts are to be maintained in an account at the affiliated depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. In addition, all revenues from (i) the sale of any obligations hereafter issued by the City and secured in whole or in part from the tax increments; (ii) the sale of any property acquired as part of a tax increment financing plan adopted by the Board; and (iii) other revenues dedicated to and used in the Zone shall be deposited into the TIF Fund. Prior to the termination of the Zone, money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increments bonds or notes issued for the Zone, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b), Texas Tax Code.

SECTION EIGHT. SEVERABILITY CLAUSE.

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION NINE. OPEN MEETINGS.

It is hereby found, determined, and declared that sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding its meeting, as required by Chapter 551 of the Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

SECTION TEN. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by law.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 24th day of October, A.D., 2023; and passed to second reading on motion of Council member Ladd, seconded by Council member Norman, by the following vote:

Council members voting "AYE": Stretcher Burkes, Corrales, Poole, Blong, Dufford, Ladd, Norman

Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Norman, seconded by Council member Dufford, on the 14th day of November, A.D., 2023, at a regular meeting of the City Council:

Council members voting "AYE": Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman

Council members voting "NAY": None

PASSED AND APPROVED THIS 14th day of November, A.D., 2023.


Lori Merritt Blong, Mayor

ATTEST:


Marcia Bentley-German, City Secretary

APPROVED ONLY AS TO FORM:


John Ohnemiller, City Attorney

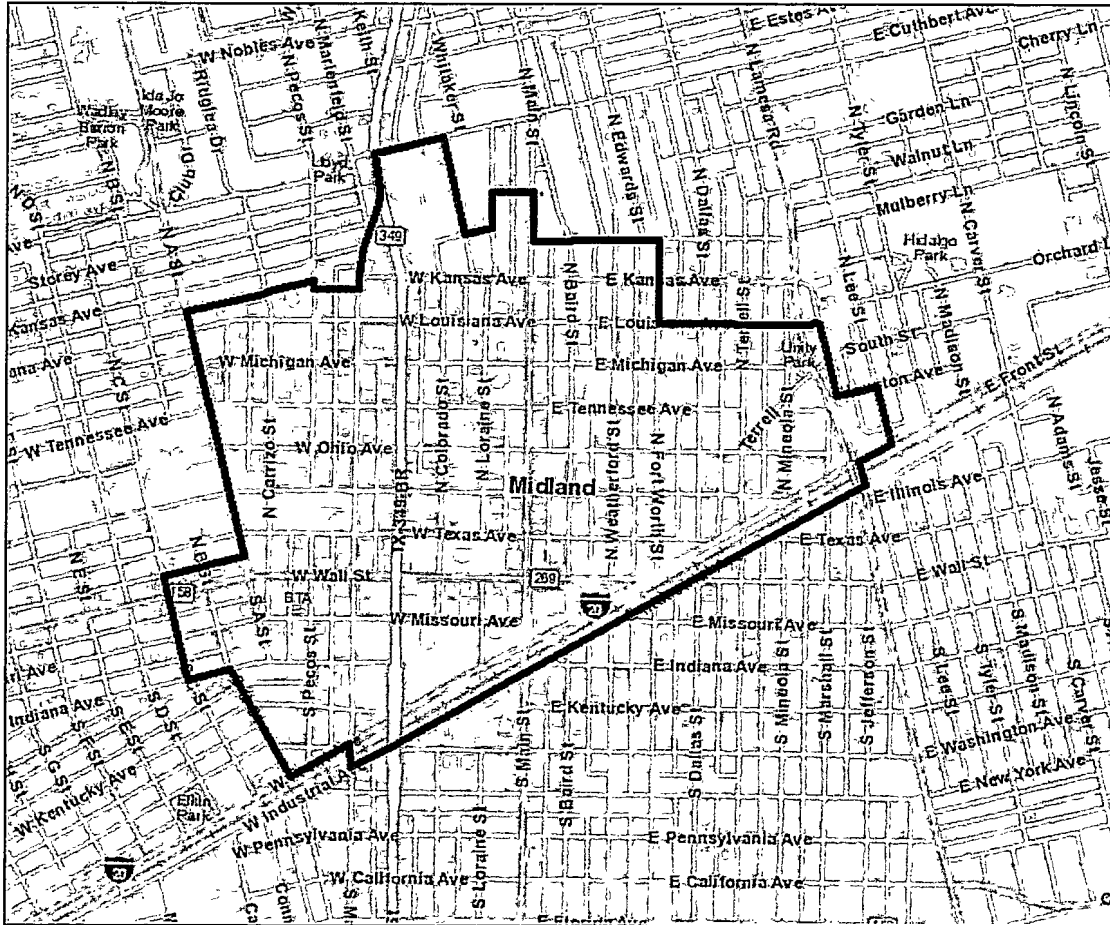
EXHIBIT A

BOUNDARY DESCRIPTION

The proposed boundaries of the Zone, being land all within the City and County of Midland, Texas, are described as follows:

Beginning at a point being the SW corner of "C" St. and Indiana Ave. proceeding north along the western right-of-way line of "C" St. to the NW corner of "C" St. and the EW alley in Block 13, West End Addition, then east along the northern boundary of said alley, across "B" St. to the EW alley in Block 14, West End Addition, then east along the northern boundary of said alley, to the western right-of-way line of "A" St., then north along the western right-of-way line of "A" St. to the NW corner of "A" St. and the EW alley in Block 1, Country Club Addition, then east along the northern boundary of said alley, across Carrizo St., to the EW alley in Block 1, Elmwood Addition, then east along the northern boundary of said alley to the NW corner of said alley and Pecos St., then south along the western right-of-way line of Pecos St. to the NW corner of Pecos St. and Kansas Ave., then east along the northern right-of-way line of Kansas Ave. to the NW corner of Kansas Ave. and Marienfeld St., then north along the western right-of-way line of Marienfeld St. to the intersection of Marienfeld St. and Big Spring St., then north along the western right-of-way line of Big Spring St. to the NW corner of Big Spring St. and Cuthbert Ave., then east along the northern right-of-way line of Cuthbert Ave. to the NE corner of Cuthbert Ave. and Whitaker St., then south along the eastern right-of-way line of Whitaker St. to the NE corner of Whitaker St. and Walcott St., then east along the northern right-of-way line of Walcott St. to the western right-of-way line of Loraine St., then north along the western right-of-way line of Loraine St. to the NW corner of Loraine St. and the continuation of Walcott St., then east along the northern right-of-way line of Walcott St. to the NE corner of Walcott St. and Main St., then south along the eastern right-of-way line of Main St. to the NE corner of Main St. and the EW alley between Block 1, Richardson Addition and Block 9, Homestead Addition, then east along the northern boundary of said alley to the northern right-of-way line of Mississippi Ave., then east along said line to the NE corner of Mississippi Ave. and Fort Worth St., then south along the eastern right-of-way line of Fort Worth St. to the NE corner of Fort Worth St. and Louisiana Ave., then east along the northern right-of-way line of Louisiana Ave. to the NS alley between Lot 1, Block 20, Original Town Addition and Block 52, East Midland Addition, then south along the eastern boundary of said alley to the southern right-of-way line of South St., then west along said line to the SE corner of South St. and Lamesa Rd., then south along the eastern right-of-way line of Lamesa Rd. to the NE corner of Lamesa Rd. and Houston Ave., then east along the northern right-of-way line of Houston Ave. to the NE corner of Houston Ave. and Lee St., then south along the eastern right-of-way line of Lee St. to the SE corner of Lee St. and Front Ave., then west along the southern right-of-way line of Front Ave. to the SE corner of Front Ave. and Lamesa Rd., then south along the eastern right-of-way line of Lamesa Rd. to the SE corner of Lamesa Rd. and Industrial Ave., then west along the southern right-of-way line of Industrial Ave. to the SW corner of Industrial Ave. and Marienfeld St., then north along the western right-of-way line of Marienfeld St. to the SW corner of Marienfeld St. and Front Ave., then west along the southern right-of-way line of Front Ave. to the SW corner of Front Ave. and "B" St., then north along the western right-of-way line of "B" St. to the SW corner of "B" St. and Indiana Ave., then west along the southern right-of-way line of Indiana Ave. to the SW corner of Indiana Ave. and "C" St., being the point of beginning.

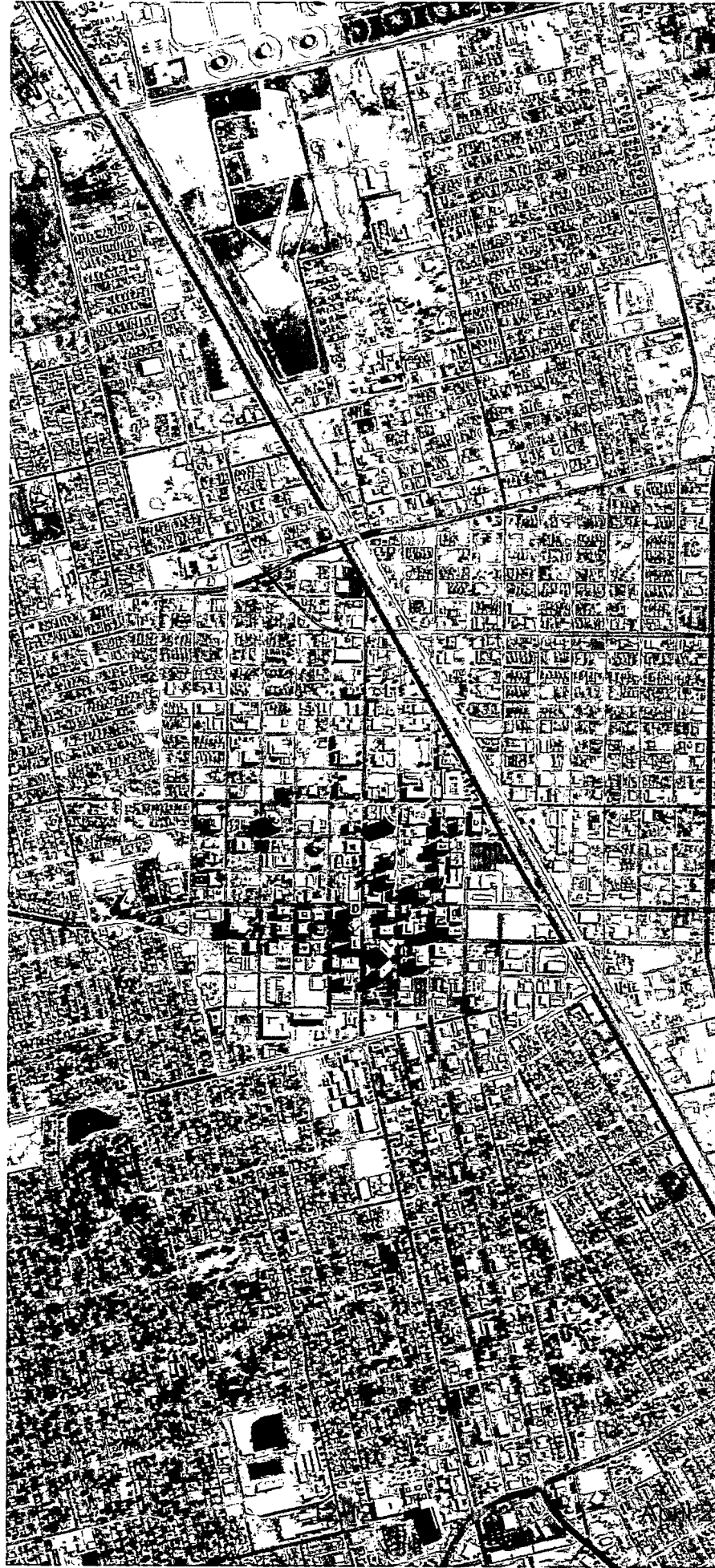
EXHIBIT B
BOUNDARY MAP



 - TIRZ Boundary

EXHIBIT C
PRELIMINARY PROJECT PLAN AND FINANCE PLAN

Tax Increment Reinvestment Zone #2 City of Midland, Texas



2, 2025

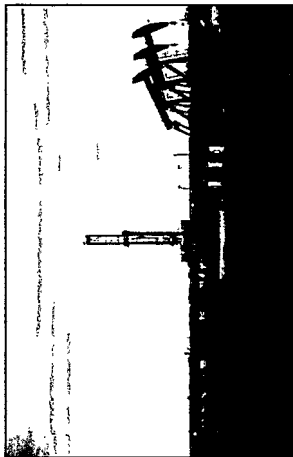
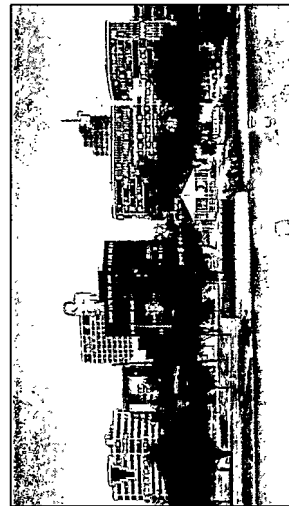
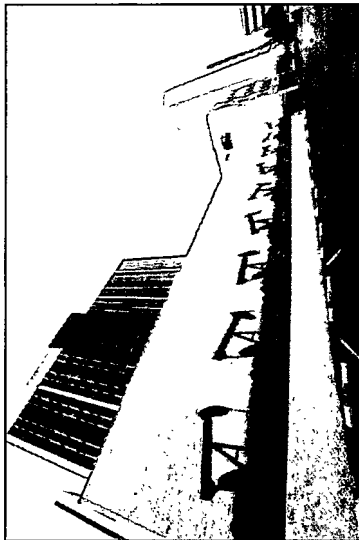
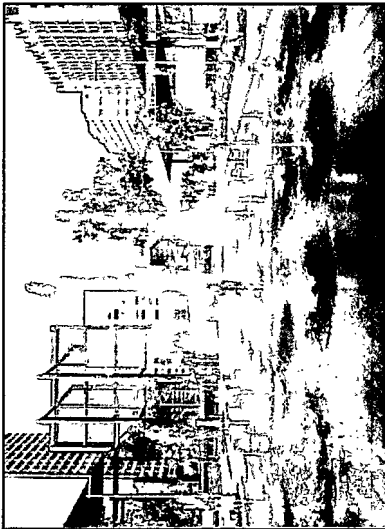
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DISCLAIMER

Our conclusions and recommendations are based on current market conditions and the expected performance of the national, and/or local economy and real estate market. Given that economic conditions can change and real estate markets are cyclical, it is critical to monitor the economy and real estate market continuously, and to revisit key project assumptions periodically to ensure that they are still justified.

The future is difficult to predict, particularly given that the economy and housing markets can be cyclical, as well as subject to changing consumer and market psychology. There will usually be differences between projected and actual results because events and circumstances frequently do not occur as expected, and the differences may be material.



Midland, Texas has an estimated population of 131,325 and is the county seat of Midland County. A small part of Midland is in Martin County. Midland is conveniently located in West Texas on Interstate 20 halfway between Fort Worth and El Paso. Midland is easily accessible via Midland International Air & Space Port that is serviced daily by American, Southwest, and United Airlines. Kenan Institute's American Growth Project has projected Midland, Texas, to be the fastest-growing economy among the 100 largest midsize cities in the U.S. for 2023.

Thanks to its prime location in the Permian Basin, Midland's economy has been heavily influenced by the oil and gas industry, yet this region continues to diversify across new industries each year including aerospace and distribution. Midland prides itself in having a highly skilled workforce, with nearly twice the national average of educated engineers. The regional labor pool includes 253,000 professionals with the educational expertise and technical aptitude to serve in any industry.

Downtown Midland is home to restaurants, bars, retail spaces, financial services, creative agencies, and arts and cultural organizations, and aims to be a progressive hub of diverse activities attracting and connecting businesses, the community, and visitors.

PÄCKEN

crdt

On November 14, 2023, the City Council of the City of Midland, Texas (the "Council"), pursuant to Chapter 311.1 of the Texas Tax Code, will consider an ordinance to designate a contiguous geographic area within the City limits as Reinvestment Zone Number Two, City of Midland, Texas. The goal of Tax Increment Reinvestment Zone #2 (TIRZ #2) is to fund the construction of needed public infrastructure and to encourage private development that will yield additional tax revenue to all local taxing jurisdictions.

April 22, 2025

TIRZ Boundary

Boundary Description

TIRZ #2 consists of approximately 449 acres located within the city limits of the City of Midland. The legal description for the zone is described in detail below.

Legal Description TIRZ #2

Beginning at a point being the SW corner of "C" St. and Indiana Ave. proceeding north along the western right of way line of "C" St. to the NW corner of "C" St. and the EW alley in Block 13, West End Addition, then

East along the northern boundary of said alley, across "B" St. to the EW alley in Block 14, West End Addition, then

East along the northern boundary of said alley, to the western right-of way line of "A" St., then

North along the western right of way line of "A" St. to the NW corner of "A" St. and the EW alley in Block 1, Country Club Addition, then

East along the northern boundary of said alley, across Carrizo St., to the EW alley in Block 1, Elmwood Addition, then

East along the northern boundary of said alley to the NW corner of said alley and Pecos St., then

South along the western right-of-way line of Pecos St. to the NW corner of Pecos St. and Kansas Ave., then

East along the northern right of way line of Kansas Ave. to the NW corner of Kansas Ave. and Marlenfeld St., then

North along the western right of way line of Marlenfeld St. to the intersection of Marlenfeld St. and Big Spring St., then

North along the western right of way line of Big Spring St. to the NW corner of Big Spring St. and Cuthbert Ave., then

East along the northern right of way line of Cuthbert Ave. to the NE corner of Cuthbert Ave. and Whitaker St., then

South along the eastern right of way line of Whitaker St. to the NE corner of Whitaker St. and Walcott St., then

East along the northern right of way line of Walcott St. to the western right-of-way line of Lorraine St., then

North along the western right of way line of Lorraine St. to the NW corner of Lorraine St. and the continuation of Walcott St., then

East along the northern right of way line of Walcott St. to the NE corner of Walcott St. and Main St., then

South along the eastern right of way line of Main St. to the NE corner of Main St. and the EW alley between Block 1, Richardson Addition and Block 9, Homestead Addition, then

East along the northern boundary of said alley to the northern right of way line of Mississippi Ave., then
East along said line to the NE corner of Mississippi Ave. and Fort Worth St., then

South along the eastern right of way line of Fort Worth St. to the NE corner of Fort Worth St. and Louisiana Ave., then

East along the northern right of way line of Louisiana Ave. to the NS alley between Lot 1, Block 20, Original Town Addition and Block 52, East Midland Addition, then

South along the eastern boundary of said alley to the southern right of way line of South St., then

West along said line to the SE corner of South St. and Lamesa Rd., then

South along the eastern right of way line of Lamesa Rd. to the NE corner of Lamesa Rd. and Houston Ave., then

East along the northern right of way line of Houston Ave. to the NE corner of Houston Ave. and Lee St., then

South along the eastern right of way line of Lee St. to the SE corner of Lee St. and Front Ave., then

West along the southern right of way line of Front Ave. to the SE corner of Front Ave. and Lamesa Rd., then

South along the eastern right of way line of Lamesa Rd. to the SE corner of Lamesa Rd. and Industrial Ave., then

West along the southern right of way line of Industrial Ave. to the SW corner of Industrial Ave. and Marlenfeld St., then

North along the western right of way line of Marlenfeld St. to the SW corner of Marlenfeld St. and Front Ave., then

West along the southern right of way line of Front Ave. to the SW corner of Front Ave. and "B" St., then

North along the western right of way line of "B" St. to the SW corner of "B" St. and Indiana Ave., then

West along the southern right of way line of Indiana Ave. to the SW corner of Indiana Ave. and "C" St., being the point of beginning.

Current Conditions

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Land Use

The land within the zone is primarily developed with commercial uses that are well positioned for redevelopment. There are also various surface parking lots that are well positioned to be utilized for new development.

Method of Relocating Persons to be Displaced

It is not anticipated that any persons will be displaced or need to be relocated as result of the implementation of the TIRZ.

Current Ownership

There are currently 728 parcels within Tax Increment Reinvestment Zone #2, some of which are owned by the City of Midland. The 2023 estimated taxable base value of the property within the TIRZ is \$683,794,052. The 2023 base value will need to be verified by Midland County Appraisal District when the final values are available. For further details of parcels included within the TIRZ see **Appendix A**.

Zoning

The property may need to be rezoned to accommodate any future development. It is not anticipated there will be any changes to the City of Midland zoning ordinance, master plan, building codes, subdivision rules and regulations or other municipal ordinances as a result of the TIRZ.

12.16

April 22, 2025

Proposed Development

Anticipated Development

The land within the zone is well positioned for future development and redevelopment, with opportunities to adapt existing buildings into new uses, including the conversion of office to multifamily. Adaptive reuse includes the repurposing of any vacant or underused building for a new and better use. The ongoing adoption of a remote or hybrid work model is adding office space to the existing inventory of office buildings with high vacancy rates. At the same time, the cost of single-family homes is increasing, creating demand for rental housing. RealPage, a leading global provider of software and data analytics to the real estate industry, reported in May of 2023 that, "The Midland/Odessa apartment market claimed the nation's most impressive revenue growth during the past year. Revenues were up 17.9% in the year-ending April in this market with less than 28,000 apartment units, according to data from RealPage Market Analytics. Most of that increase was on the rent growth side of the equation, as effective asking prices were up 17.2% year-over-year as of April. Meanwhile, occupancy climbed 70 basis points. Both of those annual increases were also nation-leading data points. Inspiring revenue growth, Midland/Odessa ranked in the top 10 nationally for annual apartment demand, absorbing over 1,350 units in the year-ending 1st quarter." Based on market trends of adaptive reuse in Downtown areas throughout the country, high demand for multifamily, and decreasing demand for office, DPED projects additional multifamily units will be added within the TIRZ during the term of the TIRZ, both through adaptive reuse and new construction. Retail demand to support the increase in population downtown is anticipated to increase, leading to the occupancy of existing vacant retail spaces, adaptive reuse of existing underutilized office space, and limited new construction.

According to the Placencia Group, a national hospitality sales, investment consulting and advisory firm with offices across the country, the Permian Basin oil patch in West Texas, headlined by the cities of Midland and Odessa, is now thriving in terms of RevPAR performance. It reports that Midland-Odessa is the top performing market in terms of RevPAR growth as of June 2023. Based on these positive market trends, and known development plans shared by City leadership, DPED projects that hotel projects will be developed during the term of the TIRZ.

The table below provides an overview of the scope and timing of potential development that DPED projects could occur during the life of the TIRZ, based on market trends and input from the Development community and City leadership. It is anticipated that the development that occurs within the TIRZ could be financed in part by incremental real property tax generated within the TIRZ.

12-17

TIRZ #2	Projected Completion Date	Units/SF	RP Taxable Value per Unit/SF	Incremental Value
Hotel	2025	80	\$ 100,000 \$	8,000,000
Hotel	2026	135	\$ 100,000 \$	13,500,000
Multifamily	2027	175	\$ 150,000 \$	26,250,000
Multifamily - Adaptive Reuse	2027	50	\$ 90,000 \$	4,500,000
Retail	2028	2,500	\$ 500 \$	1,250,000
Multifamily	2029	175	\$ 150,000 \$	26,250,000
Multifamily - Adaptive Reuse	2029	50	\$ 90,000 \$	4,500,000
Retail	2030	2,500	\$ 500 \$	1,250,000
Total				

22, 2025

Project Costs

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Project Costs of the Zone

There are a number of improvements within Tax Incremental Reinvestment Zone #2 that will be financed by in part by incremental real property tax generated within the TIRZ.

Proposed Project Costs - TIRZ #2			
Public Utilities		\$	9,901,643
Water Facilities and Improvements, Sanitary Sewer Facilities and Improvements, Storm Water Facilities and Improvements			
Parking and Transit Improvements		\$	17,681,506
Street and Intersection Improvements		\$	7,072,602
Pedestrian Enhancements		\$	10,608,903
Streetscape, lighting, public art, and other amenities that enhance the pedestrian experience			
Open Space, Park and Recreation Facilities and Improvements, Public Facilities and Improvements		\$	7,072,602
Economic Development Grants		\$	17,681,506
Administrative Costs		\$	707,260
Total		\$	70,726,022

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The categories listed in the table above outline various public improvements, and are meant to include all projects eligible under Chapter 311, Section 311.002 of the Texas Tax Code. The costs illustrated in the table above are estimates and may be revised. Savings from one line item may be applied to a cost increase in another line item. The \$70,726,022 project cost total amount shall be considered a cap on expenditures that shall not be exceeded without an amendment to the project and financing plan.

Economic Development Grants may include grants, loans, and services for public and private development. Chapter 380 of the Local Government Code grants municipalities in Texas the authority to offer grants and loans of public funds to stimulate economic development. Section 311.010 (h) of the Texas Tax Code details the authority of Chapter 380 within a project and financing plan and limits the aggregate amount not to exceed the amount of tax increment produced by the municipality and paid into the tax increment fund for the zone for activities that benefit the zone and simulate business and commercial activity in the zone.

The project costs are anticipated to be incurred over the term of the TIRZ, subject to demand for development driven by market conditions. It is anticipated that the individual TIRZ project costs will be evaluated on a case-by-case basis consistent with Chapter 311, Section 311.002, and brought forward to the TIRZ Board and City Council for consideration

Chapter 311 of the Texas Tax Code

Sec. 311.002.

- (1) "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county designating a reinvestment zone that are listed in the project plan as costs of public works, public improvements, programs, or other projects benefiting the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:
- (A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; the actual costs of the remediation of conditions that contaminate public or private land or buildings; the actual costs of the preservation of the facade of a public or private building; the actual costs of the demolition of public or private buildings; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;
 - (B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;
 - (C) real property assembly costs;
 - (D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;
 - (E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality or county in connection with the implementation of a project plan;
 - (F) relocation costs;
 - (G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;
 - (H) interest before and during construction and for one year after completion of construction, whether or not capitalized;
 - (I) the cost of operating the reinvestment zone and project facilities;
 - (J) the amount of any contributions made by the municipality or county from general revenue for the implementation of the project plan;
 - (K) the costs of school buildings, other educational buildings, other educational facilities, or other buildings owned by or on behalf of a school district, community college district, or other political subdivision of this state; and
 - (L) payments made at the discretion of the governing body of the municipality or county that the governing body finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

Project Costs

PARKING

Public Facilities Includes but is not limited to:

Water Facilities and Improvements: This category includes TIRZ eligible expenditures for design, engineering and construction of water facilities and improvements that support the development and redevelopment of the downtown TIRZ.

Sanitary Sewer Facilities and Improvements: This category includes TIRZ eligible expenditures for design, engineering and construction of structures or systems designed for the collection, transmission, treatment, or disposal of sewage, and includes trunk mains, interceptors, treatment plants and disposal systems.

Storm Water Facilities and Improvements: The downtown TIF district has an aging infrastructure, making proper utility drainage an important component of the project plan. Utility drainage encompasses the physical provisions to accommodate and regulate stormwater runoff to preclude excessive erosion and sedimentation and to control and regulate the rate of flow. Facilities/systems can include natural features and conduits, channels, ditches, swales, pipes, detention devices or other devices designed or intended to carry, direct, detain or otherwise control stormwater.

Parking and Transit Improvements: Parking structures, whether newly constructed or existing, may be utilized to encourage denser development and support public access to commercial, residential, and retail developments at future mixed-use or transit-oriented developments. Parking includes, but is not limited to, parking garages; surface parking; parking lighting; parking signage and wayfinding; parking meters/kiosks and electrical charging stations. The goal is to create compact, walkable, pedestrian-centered developments to enhance and act as a catalyst to spur additional development and redevelopment in the district.

Street and Intersection Improvements and Pedestrian Enhancements: The TIRZ will encourage the construction of multi-functional, pedestrian-oriented, aesthetically-pleasing, safe, and inviting street for residents and visitors. Creating a pleasing public realm supports and encourages a wide variety of new development and investment. Elements of complete streets include the building to building improvements which may encompass: sidewalks, shared travel lanes (e.g. bus and bicycle), parallel and angled parking, pedestrian crosswalks, pedestrian and emergency bulb (American with Disabilities Act (ADA) accessibility), awnings, street improvements, planters, pedestrian street furniture, bike racks and pedestrian lighting. This includes public art and other amenities that enhance the pedestrian experience.

Open Space, Park and Recreation Facilities and Improvements, Public Facilities and Improvements: Public open space is an important amenity in a Downtown area. Park amenities and open spaces communicate the identity of the place and enhance property values. The TIRZ should encourage the identification and set aside of open space and/or places for public amenities, particularly in the vicinity of catalytic investment areas. In accordance with Sec. 311.008(4B), TIRZ funds may be used to acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements. Costs of design, improvements, and land acquisition are TIRZ eligible expenses and can be funded from this category.

Economic Development Grants: This may include grants, loans, and services for public and private development. Eligible TIRZ project costs are not limited to public uses and may also include projects that involve: historic preservation, demolition, environmental remediation and economic development grants. Chapter 380 of the Local Government Code grants municipalities in Texas the authority to offer grants and loans of public funds to stimulate economic development. Section 311.010 (h) of the Texas Tax Code details the authority of Chapter 380 within a project and financing plan and limits the aggregate amount not to exceed the amount of tax increment produced by the municipality and paid into the tax increment fund for the zone for activities that benefit the zone and stimulate business and commercial activity in the zone.

Administrative Costs: Administrative costs, including reasonable charges for the time spent by employees of the City, to assist with implementation within the TIRZ will be eligible for reimbursement as project costs, upon approval by the Board of Directors and in connection with the implementation of the Project and Financing Plan. Other related administrative expenses including legal fees and consulting fees of the City, management expenses, meeting expenditures and equipment are included in this category.

April 22, 2025

Financial Feasibility Analysis

Method of Financing

To fund the public improvements outlined on the previous page, the City of Midland will contribute 100% of the real property increment within the Zone. Subject to separate yet to be negotiated interlocal agreements, Midland County, Midland Hospital, and Midland College may contribute up to 100% of the real property increment within the Zone. Subject to a separate yet to be negotiated interlocal agreement, Midland ISD may contribute up to 100% of the real property increment generated from the Interest and Sinking (I&S) portion of its tax rate within the Zone.

Debt Service

It is not anticipated at this time that the TIRZ will incur any bonded indebtedness.

Economic Feasibility Study

A taxable value analysis was developed as part of the project and financing plan to determine the economic feasibility of the project. The study examined the expected tax revenue the TIRZ would receive based on the previously outlined developments. A summary overview of the anticipated development square footages, the anticipated sales per square foot and the anticipated taxable value per square foot can be found on the following pages.

The following pages show the estimated captured appraised value of the zone during each year of its existence and the net benefits of the zone to each of the local taxing jurisdictions as well as the method of financing and debt service.

Utilizing the information outlined in this feasibility study, DPED has found that the TIRZ is economically feasible and will provide the City and other taxing jurisdictions with economic benefits that would not occur without its implementation.

TIRZ #2	Real Property Tax - 2023 Rates		Participation
	City of Midland	0.35066200	100%
	Midland County	0.12040000	0%
	Midland Hospital	0.07312000	0%
	Midland College	0.07741000	0%
	Midland ISD	0.87950000	0%
		1.50109200	0.3506620

	Personal Property Tax		Participation
	City of Midland	0.35066200	0%
	Midland County	0.12040000	0%
	Midland Hospital	0.07312000	0%
	Midland College	0.07741000	0%
	Midland ISD	0.87950000	0%
		1.50109200	0.0000000

	Sales Tax		Participation
	City of Midland	0.01250000	0%
	Midland County	0.00500000	0%
		0.01750000	0.00000000

April 22, 2025

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REAL PROPERTY TAX	PARTICIPANT
City of Midland	0.35062200
Midland County	0.12040000
Midland Hospital	0.07312000
Midland College	0.07741000
Midland ISD	0.87965000
	1.50108200

City of Midland	0.0125000	0.00%	0.00000000
Midland County	0.0050000	0.00%	0.00000000

► **OUTPUT**

TOTAL PARTICIPATION		TOTAL	REAL PROPERTY	PERSONAL PROPERTY	SALES
City of Midland	100.0%	\$ 14,546,839	\$ -	\$ -	\$ -
Midland County	0.0%	\$ -	\$ -	\$ -	\$ -
Midland Hospital	0.0%	\$ -	\$ -	\$ -	\$ -
Midland College	0.0%	\$ -	\$ -	\$ -	\$ -
Midland ISD	0.0%	\$ -	\$ -	\$ -	\$ -
	100.0%	\$ 14,546,839	\$ 14,546,839	\$ -	\$ -
		100.0%	100.0%	0.0%	0.0%

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TOTAL 2.2% REVENUE - PARTICIPATION FUND REVENUE

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April 22, 202

Financial Feasibility Analysis - Anticipated TIRZ Revenue

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ESTIMATE OF GENERAL IMPACT OF PROPOSED PROPERTY VALUES AND TAX REVENUES, INCENTIVE BASED ON PROPOSED PARTICIPATION

TAX RATE

RECENT RATE

2024

2025

2026

2027

2028

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TABLE 1. Continued

TABLE 1

Financial Feasibility Analysis - Summary

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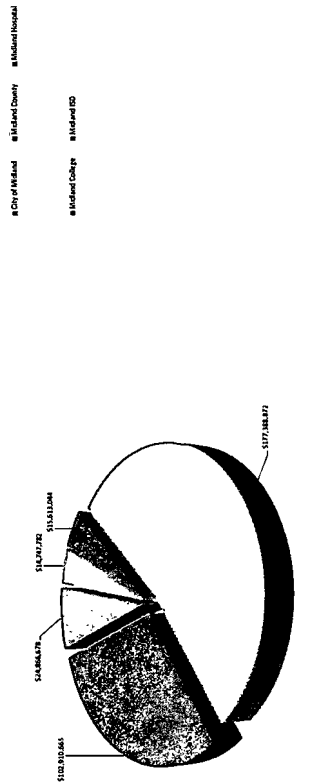
Revenue Summary

Taxing Jurisdictions	Total Taxes Generated	City Participation (100%)	*Potential Additional Participation (100%)	Net Benefit
City of Midland	\$102,910,665	\$70,726,022	\$24,283,821	\$32,184,843
Midland County	\$24,866,678		\$14,747,782	\$582,857
Midland Hospital	\$14,747,782		\$0	\$0
Midland College	\$15,613,044		\$15,613,044	\$0
Midland ISD	\$177,388,872		\$44,372,430	\$133,016,443
Total	\$335,527,042	\$70,726,022	\$99,017,077	\$185,783,942

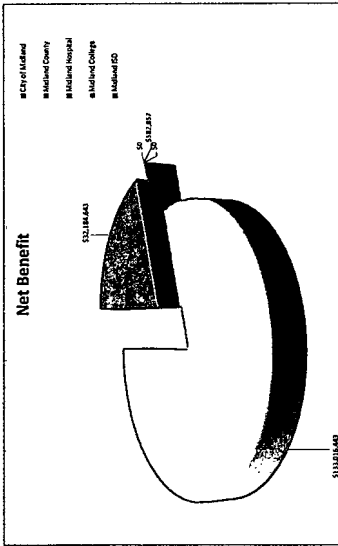
*Potential Additional Participation subject to separate yet to be negotiated interlocal agreements, Midland County, Midland Hospital, and Midland College may contribute up to 100% of the real property increment within the Zone. Subject to a separate yet to be negotiated interlocal agreement, Midland ISD may contribute up to 100% of the real property increment generated from the Interest and Sinking (I&S) portion of its tax rate within the Zone.

Taxing Jurisdictions	Total Taxes Generated	Participation	Net Benefit
City of Midland	\$102,910,665	\$70,726,022	\$32,184,843
City of Midland - Real Property	\$70,726,022	\$70,726,022	\$0
City of Midland - Sales	\$1,457,142	\$0	\$1,457,142
City of Midland -HOT	\$30,727,500	\$0	\$30,727,500

Total Taxes Generated



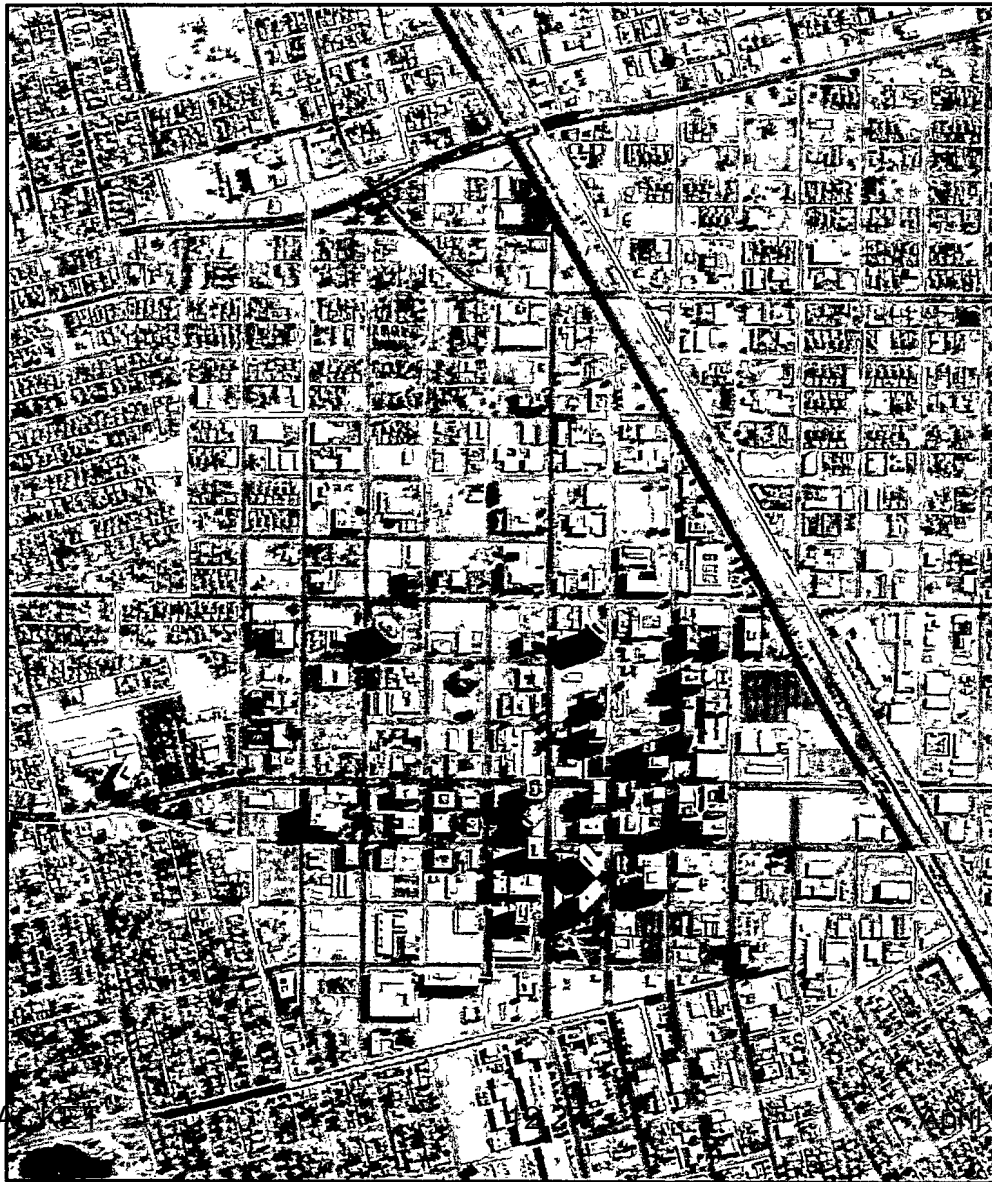
Net Benefit



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April 22, 2025

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Length of TIRZ #2 in Years:

The TIRZ has a 30 year term and is scheduled to end on December 31, 2053 (with the final year's tax increment to be collected by September 1, 2054).

Powers and Duties of Board of Directors:

The Board shall have all powers granted to it by Chapter 311 of the Texas Tax Code, including powers of a municipality under Chapter 380, Local Government Code. The Board shall not be authorized to:

- issue bonds;
- impose taxes or fees;
- exercise the power of eminent domain; or
- give final approval to the Zone's project and financing plan.

22, 2025

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00003543	215 S MARIENFELD ST	BLK: 088, LOT: 009, ADDN: ORIGINAL TOWN	0.138	14 TEXAS REAL ESTATE LLC		\$ 16,880
R00003544	215 S MARIENFELD ST	BLK: 088, LOT: 009, ADDN: ORIGINAL TOWN	0.161	14 TEXAS REAL ESTATE LLC		\$ 19,690
R00003545	409 W MISSOURI AV	BLK: 088, LOTS: 010 THRU 12 E.56, ADDN: ORIGINAL TOWN	0.193	14 TEXAS REAL ESTATE LLC		\$ 23,630
R00003546	210 N MARIENFELD ST	BLK: 088, LOTS: 010 THRU 12 W.84, ADDN: ORIGINAL TOWN	0.289	14 TEXAS REAL ESTATE LLC		\$ 35,440
R00003547	401 W MISSOURI AV	BLK: 088, LOTS: 001 THRU 8, ADDN: ORIGINAL TOWN	1.285	14 TEXAS REAL ESTATE LLC		\$ 115,500
R00003548	401 W MISSOURI AV	BLK: 026, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.482	312 PARTNERSHIP ET AL		\$ 59,060
R00003549	407 S MARIENFELD ST	BLK: 109, LOT: 003 & S.16.5 OF 4, ADDN: ORIGINAL TOWN	0.138	4MC PROPERTIES LLC		\$ 54,160
R000026089	500 N COLORADO ST	BLK: 041, S.240 OF W/2, ADDN: HOMESTEAD	0.771	500 COLORADO LLC		\$ 2,145,840
R000026121	500 W OHIO AV	BLK: 047, S.80 OF SE/4, ADDN: HOMESTEAD	0.257	500 WEST OHIO LLC		\$ 1,401,012
R000026063	606 W TENNESSEE AV	BLK: 037, SW/4, ADDN: HOMESTEAD	0.482	606 W TENNESSEE		\$ 836,603
R000051778	808 W WALL ST	BLK: 014, LOTS: 007 THRU 9, ADDN: WEST END	0.492	808 PARTNERS LLC		\$ 743,235
R000025981	0 N COLORADO ST	BLK: 029, LOT: 001A, ADDN: HOMESTEAD SEC 8	0.4	A & D ALLIANCE ENERGY MANAGEMENT LLC		\$ 799,850
R000034985	511 N DALLAS ST	BLK: 001, LOT: 001, ADDN: OLD PUEBLO PARK	0.112	A N FINANCE LLC		\$ 261,970
R000035542	511 W MISSOURI AV	BLK: 089, LOTS: 010 THRU 12, ADDN: ORIGINAL TOWN	0.482	A R STRATEGIES LLC		\$ 305,080
R000051903	807 W MISSOURI AV	BLK: 032, LOT: 007 E.70, ADDN: WEST END	0.225	ABYSS PROPERTIES LLC		\$ 39,200
R000041035	811 W MISSOURI AV	BLK: 002, LOTS: 007, ADDN: WEST END SEC 5	0.225	ABYSS PROPERTIES LLC		\$ 617,950
R000052576	903 N MAIN ST	BLK: 032, LOT: 7A, ADDN: RICHARDSON ABILENE	0.158	ACOSTA MARTIN ORLANDO		\$ 196,680
R000032395	407 N LEE ST	BLK: 006, LOT: 003, ADDN: MOODY	0.161	ACOSTA MARTIN SOTO		\$ 242,200
R000035049	404 N TERRELL ST	BLK: 034, 9336 SQ. IN SW/4, ADDN: ORIGINAL TOWN	0.214	ACOSTA ROSALINDA		\$ 177,170
R000035192	210 N MAIN ST	BLK: 038, LOTS: 9(N41) & 10(S/2), ADDN: ORIGINAL TOWN	0.212	AGGITECH LLC		\$ 170,520
R000035122	301 W OHIO AV	BLK: 027, LOT: 001, ADDN: ORIGINAL TOWN	0.08	AGUILAR SALVADOR		\$ 80,660
R000017946	204 W KANSAS AV	BLK: 001, LOT: 001 & 2 W.69, ADDN: ESTES	0.171	AGUILERA JAVIER		\$ 61,810
R000035117	200 W ILLINOIS AV	BLK: 026, LOTS: 004 THRU 6, ADDN: ORIGINAL TOWN	0.482	AKA SQUARE INC		\$ 1,152,600
R000028449	610 N FORT WORTH ST	BLK: 023, N.50' OF N 100' OF NW/4, ADDN: HOMESTEAD	0.161	AKATI SETOR		\$ 185,440
R000028000	507 W LOUISIANA AV	BLK: 031, E.70 OF NW/4, ADDN: HOMESTEAD	0.241	ALAMO HEIGHTS HOMES LLC		\$ 92,580
R000035082	309 N TERRELL ST	BLK: 020, LOT: 002, ADDN: ORIGINAL TOWN	0.161	ALCOCER JESSE		\$ 14,000
R000050033	307 N TERRELL ST	BLK: 020, LOT: 003, ADDN: ORIGINAL TOWN	0.161	ALCOCER JESSE		\$ 21,950
R000035080	310 N TERRELL ST	BLK: 019, LOT: 012, ADDN: ORIGINAL TOWN	0.161	ALCOCER JESSE		\$ 91,880
R000034966	505 N MINEOLA ST	BLK: 003, LOTS: 002 & 003, ADDN: ORIGINAL TOWN	0.322	ALCOCER JESSE		\$ 116,420
R000035198	211 E TEXAS AV	BLK: 039, LOT: 004 S/28ALL OF SE/4, ADDN: ORIGINAL TOWN	0.402	ALLEN REAL PROPERTIES LTD		\$ 216,890
R000025850	701 N BIG SPRING ST	BLK: 010, SE/4, ADDN: HOMESTEAD	0.643	AMERICAN MOMENTUM BANK		\$ 35,000
R000026072	510 N MARIENFELD ST	BLK: 039, N.75 OF W/2, ADDN: HOMESTEAD	0.241	AMERICAN MOMENTUM BANK		\$ 74,660
R000026110	405 N BIG SPRING ST	BLK: 046, SE/4, ADDN: HOMESTEAD	0.482	AMERICAN MOMENTUM BANK		\$ 126,590
R000026108	407 N BIG SPRING ST	BLK: 046, NE/4, ADDN: HOMESTEAD	0.482	AMERICAN MOMENTUM BANK		\$ 2,872,770
R000035366	509 W WALL ST	BLK: 062, LOTS: 011 & 12, ADDN: ORIGINAL TOWN	0.321	AMERICAN STATE BANK		\$ 4,045,459
R000035543	601 W MISSOURI AV	BLK: 090, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.482	AR STRATEGIES LLC		\$ 42,000
R000035306	120 N MAIN ST	BLK: 053, LOT: 024, ADDN: ORIGINAL TOWN	0.08	ARMENDARIZ MARCELINO		\$ 153,570
R000025923	601 N MINEOLA ST	BLK: 021, S.50 OF SE/4, ADDN: HOMESTEAD	0.161	ARMENDARIZ TERRY		\$ 67,410
R000035337	513 W TEXAS AV	BLK: 058, LOTS: 011 & 12 E.60, ADDN: ORIGINAL TOWN	0.138	ARRINGTON BUILDING LLC THE		\$ 100,030
R000035332	511 W TEXAS AV	BLK: 058, LOTS: 001 & 2 W.65, ADDN: ORIGINAL TOWN	0.149	ARRINGTON BUILDING LLC THE		\$ 129,070
R000035333	109 N MARIENFELD ST	BLK: 058, LOTS: 001 & 2 E.75, ADDN: ORIGINAL TOWN	0.172	ARRINGTON BUILDING LLC THE		\$ 147,820
R000035336	102 N PECOS ST	BLK: 058, LOT: 010 & W.80 OF ADDN: ORIGINAL TOWN, LOT 11 & 12	0.344	ARRINGTON BUILDING LLC THE		\$ 281,360
R000035394	500 W WALL ST	BLK: 058, LOTS: 003 THRU 6, ADDN: ORIGINAL TOWN	0.643	ARRINGTON BUILDING LLC THE		\$ 4,530,767
R000026115	203 N DALLAS ST	BLK: 041, LOT: 01A, ADDN: ORIGINAL TOWN, SECTION 17	0.964	AUSBUILT LLC	F	\$ -
R000035956	401 N MARSHALL ST	BLK: 035, S.50 SE/4, ADDN: ORIGINAL TOWN, (AKA LOT 2C)	0.161	AVALES ELODIA H		\$ 107,280
R000025872	0 N MAIN ST	BLK: 034, N.60 OF SW/4, ADDN: HOMESTEAD	0.193	B AND B INVESTMENTS		\$ 16,800
R000040073	105 E LOUISIANA AV	BLK: 014, S.90 OF SW/4, ADDN: HOMESTEAD	0.289	B AND B INVESTMENTS		\$ 25,200
R000095354	108 S PECOS ST	BLK: 061, LOT: 004, ADDN: ORIGINAL TOWN	0.161	B T A OIL PRODUCERS		\$ 26,690
R000040322	601 W WALL ST	BLK: 061, LOTS: 001 & 2, ADDN: ORIGINAL TOWN	0.321	B T A OIL PRODUCERS		\$ 116,700
R000040325	602 W MISSOURI AV	BLK: 061, LOTS: 005 & 6, ADDN: ORIGINAL TOWN	0.321	B T A OIL PRODUCERS		\$ 189,330

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00003543	104 S PECOS ST	BLK: 061, LOT: 003, ADDN: ORIGINAL TOWN	0.161	B T A OIL PRODUCERS		\$ 1,644,324
R00003546	207 E KANSAS AV	BLK: 008, W/2 OF SE/4, ADDN: HOMESTEAD	0.241	BADILLO MINERVA M EST		\$ 194,040
R00003546	409 N MINEOLA ST	BLK: 014, S/50 OF N/100 OF E/2, ADDN: ORIGINAL TOWN	0.126	BAESA ANGELITA		\$ 61,890
R00003548	401 N MINEOLA ST	BLK: 014, LOT: 002 S/50 OF E/2, ADDN: ORIGINAL TOWN	0.482	BAESA ANGELITA		\$ 73,270
R00003548	407 N MINEOLA ST	BLK: 014, LOT: 001 S/50, ADDN: ORIGINAL TOWN	0.158	BAESA ALFREDO		\$ 241,680
R000026093	501 N BAIRD ST	BLK: 043, S/114.3 OF E/2, ADDN: HOMESTEAD	0.367	BAIRD STREET STORAGE LLC		\$ 153,170
R000025939	601 N TERRELL ST	BLK: 022, LOT: 005, ADDN: HOMESTEAD	0.161	BALIER JOSE R		\$ 153,820
R000035017	407 N FORT WORTH ST	BLK: 011, S/55 OF NE/4, ADDN: ORIGINAL TOWN	0.177	BANDA OSVALDO		\$ 93,470
R000035099	307 N FORT WORTH ST	BLK: 022, LOT: 003, ADDN: ORIGINAL TOWN	0.161	BECKER STEVE A		\$ 14,000
R000035020	303 E OHIO AV	BLK: 011, LOT: 003 E/70 OF S/100, ADDN: ORIGINAL TOWN	0.161	BECKER STEVE A		\$ 24,570
R000035098	311 N FORT WORTH ST	BLK: 022, LOT: 001 & 2, ADDN: ORIGINAL TOWN	0.321	BECKER STEVE A		\$ 28,000
R000035110	312 N WEATHERFORD ST	BLK: 022, LOT: 012 N/45, ADDN: ORIGINAL TOWN	0.145	BECKER STEVEN A		\$ 55,110
R000010949	702 N BAIRD ST	BLK: 015, LOT: 008, ADDN: HOMESTEAD SEC 3	0.172	BELL JACQUELINE R		\$ 157,010
R000017756	400 W KANSAS AV	BLK: 018, LOT: 004, ADDN: ELWOOD SEC 2	0.378	BELL NONGYOW R		\$ 134,960
R000035329	410 W WALL ST	BLK: 057, LOT: 007 & 8, ADDN: ORIGINAL TOWN	0.321	BEN MAR PARTNERS		\$ 193,730
R000041038	806 N LORAIN ST	BLK: 015, LOT: 012, ADDN: RICHARDSON ABILENE	0.13	BENITEZ MARTA		\$ 87,460
R000025924	611 N MINEOLA ST	BLK: 021, N/50 OF NE/4, ADDN: HOMESTEAD	0.172	BENNETT AUGUSTINE JR		\$ 162,770
R000041032	919 N MAIN ST	BLK: 002, LOT: 003 & 4, ADDN: RICHARDSON ABILENE	0.161	BETANCOURT ONIEL		\$ 14,000
R000025985	600 N BIG SPRING ST	BLK: 029, S/100 OF W/2, ADDN: HOMESTEAD	0.316	BEZINQUE CURTIS F		\$ 122,040
R000041586	724 W LOUISIANA AV	BLK: 001, LOT: 018A, ADDN: COUNTRY CLUB, HEIGHTS 2	0.321	BHUB HOLDINGS LLC		\$ 265,040
R000035184	213 N MAIN ST	BLK: 037, LOT: 003, ADDN: ORIGINAL TOWN	0.161	BIG BROTHERS BIG SISTERS	E	\$ -
R000025853	710 N BIG SPRING ST	BLK: 011, N/100 OF NW/4, ADDN: HOMESTEAD	0.321	BORLAND R MIKE		\$ 221,550
R000025880	610 N MAIN ST	BLK: 026, N/75 OF NW/4, ADDN: HOMESTEAD	0.241	BRANCH BANKING & TRUST CO		\$ 245,946
R000035372	501 E TEXAS AV	BLK: 042, LOT: 006 & 7, ADDN: ORIGINAL TOWN	0.321	BRANUM MARK L		\$ 142,910
R000035397	D N LEE ST	BLK: 006, LOT: 005, ADDN: MOODY	0.161	BROOKS JULIUS L		\$ 28,410
R000035398	401 N LEE ST	BLK: 006, LOT: 006, ADDN: MOODY	0.161	BUSTILLOS YSIDRO A JR		\$ 14,000
R000025852	300 W LOUISIANA AV	BLK: 011, E/2, ADDN: HOMESTEAD	0.964	BUSTILLOS YSIDRO A JR		\$ 27,010
R000058239	509 N DALLAS ST	BLK: 001, LOT: 002, ADDN: OLD PUEBLO PARK	0.115	CABRITO LTD		\$ 2,124,195
R000025952	608 N FORT WORTH ST	BLK: 023, N/50 OF THE M/100 OF W/2, ADDN: HOMESTEAD	0.16	CALLEROS MARIA DELALUZ		\$ 182,380
R000025486	604 N FORT WORTH ST	BLK: 023, S/50 OF THE M/100 OF W/2, ADDN: HOMESTEAD	0.16	CAMACHO FELICIANO RAMOS JR		\$ 194,850
R000035279	315 E WALL ST	BLK: 051, LOT: 010 THRU 12 W/40, ADDN: ORIGINAL TOWN	0.069	CAMACHO KARINA		\$ 221,930
R000035281	315 E WALL ST	BLK: 051, LOT: 013 THRU 15 E/65, ADDN: ORIGINAL TOWN	0.112	CAPROCK TITLE MIDLAND LLC		\$ 22,240
R000041036	809 N MAIN ST	BLK: 002, LOT: 010, ADDN: RICHARDSON ABILENE	0.158	CAPROCK TITLE MIDLAND LLC		\$ 149,730
R000025937	603 N TERRELL ST	BLK: 022, LOT: 004, ADDN: HOMESTEAD	0.161	CARRASCO ALEJANDRO		\$ 160,080
R000010952	708 N BAIRD ST	BLK: 015, LOT: 011, ADDN: HOMESTEAD SEC 3	0.172	CARRASCO RUBEN H		\$ 62,990
R000035088	310 N DALLAS ST	BLK: 020, LOT: 012, ADDN: ORIGINAL TOWN	0.161	CARRASCO VANESSA MAE		\$ 160,790
R000035078	306 N TERRELL ST	BLK: 019, LOT: 010, ADDN: ORIGINAL TOWN	0.161	CARTERS FURNITURE INC		\$ 14,000
R000035077	601 E ILLINOIS AV	BLK: 019, LOT: 007 THRU 9, ADDN: ORIGINAL TOWN	0.482	CARTERS FURNITURE INC		\$ 188,070
R000035087	501 E ILLINOIS AV	BLK: 020, LOT: 007 THRU 11, ADDN: ORIGINAL TOWN	0.803	CARTERS FURNITURE INC		\$ 476,910
R000025806	811 N FORT WORTH ST	BLK: 007N/75 OF E/2, ADDN: HOMESTEAD	0.241	CARTERS FURNITURE INC		\$ 91,050
R000051781	800 W WALL ST	BLK: 034, LOT: 011 E/26.67 &, ADDN: WEST END, W/9.66 OF LOT 12	0.119	CASTILLO CRUZ VIDALES		\$ 106,380
R000035790	800 W WALL ST	BLK: 014, LOT: 010 E/13 &, ADDN: WEST END, W/23.33 OF LOT 11	0.119	CENTENARY ENTERPRISES		\$ 106,390
R000035799	800 W WALL ST	BLK: 014, LOT: 010 W/37, ADDN: WEST END	0.121	CENTENARY ENTERPRISES		\$ 107,070
R000051782	800 W WALL ST	BLK: 014, LOT: 012 E/40.34, ADDN: WEST END	0.132	CENTENARY ENTERPRISES		\$ 110,540
R000025815	807 N WEATHERFORD ST	BLK: 008, S/50 OF NE/4, ADDN: HOMESTEAD	0.161	CHAVEZ RAMONA SEGURA		\$ 53,800
R000035790	615 W WALL ST	BLK: 061, LOT: 010 THRU 12 E/50, ADDN: ORIGINAL TOWN	0.172	CHIN ROBERT AND JULIE TATE AKA JULIE CHIN		\$ 144,610
R000025947	404 E LOUISIANA AV	BLK: 023, N/100 OF NE/4, ADDN: HOMESTEAD	0.321	CHURCH OF GOD SEVENTH DAY	E	\$ -
R000035894	404 N COLORADO ST	BLK: 007, ALL, ADDN: ORIGINAL TOWN	2.065	CITY OF MIDLAND		\$ 1,230,784
R00021026	209 E TEXAS AV	BLK: 038, LOT: 07A, ADDN: ORIGINAL TOWN, SEC 11	1.516	CITY OF MIDLAND TEXAS	E	\$ -

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00003547	310 W TEXAS AV	BLK: 035, LOTS: 007 & 8, ADDN: ORIGINAL TOWN	0.321	CITY OF MIDLAND TEXAS	E	\$ -
R00003548	111 N B ST	BLK: 015, LOT: 007, ADDN: WEST END	0.161	CLARK J A		\$ 96,080
R00003549	511 N TERRELL ST	BLK: 004, LOT: 001, N.50, ADDN: ORIGINAL TOWN	0.161	CLYDE L AND MATILDE REYES MASTER TRUST		\$ 126,770
R00003550	406 N MARSHALL ST	BLK: 016, N.15 OF S.65, ADDN: ORIGINAL TOWN	0.025	COATES W M		\$ 2,210
R000026114	408 N PECOS ST	BLK: 047, SEC: 5.25 OF NW/4, ADDN: HOMESTEAD	0.08	COG REALTY LLC		\$ 9,840
R000026027	607 N PECOS ST	BLK: 032, S.50 OF NE/4, ADDN: HOMESTEAD	0.161	COG REALTY LLC		\$ 14,000
R000026026	609 N PECOS ST	BLK: 032, M.50 OF NE/4, ADDN: HOMESTEAD	0.161	COG REALTY LLC		\$ 14,000
R000026025	611 N PECOS ST	BLK: 032, N.50 OF NE/4, ADDN: HOMESTEAD	0.161	COG REALTY LLC		\$ 14,000
R000026132	0 W TENNESSEE AV	BLK: 049, 140 X 150, ABANDONED ST, ADDN: HOMESTEAD	0.138	COG REALTY LLC		\$ 16,880
R000026069	0 N PECOS ST	BLK: 038, N.50 OF SW/4, ADDN: HOMESTEAD	0.161	COG REALTY LLC		\$ 19,690
R000026029	601 N PECOS ST	BLK: 032, S.50 OF SE/4, ADDN: HOMESTEAD	0.161	COG REALTY LLC		\$ 19,690
R000026031	600 N CARRIZO ST	BLK: 032, S.75 OF SW/4, ADDN: HOMESTEAD	0.241	COG REALTY LLC		\$ 21,000
R000026066	508 N PECOS ST	BLK: 038, S.75 OF NW/4, ADDN: HOMESTEAD	0.241	COG REALTY LLC		\$ 29,550
R000026030	605 N PECOS ST	BLK: 032, N.100 OF SE/4, ADDN: HOMESTEAD	0.321	COG REALTY LLC		\$ 30,960
R000026070	500 W TENNESSEE AV	BLK: 038, S.100 OF SW/4, ADDN: HOMESTEAD	0.321	COG REALTY LLC		\$ 39,380
R000057849	0 SAN ANGELO ST	BLK: 033, LOT: S 150 FT OF W/2, ADDN: HOMESTEAD	0.482	COG REALTY LLC		\$ 42,000
R0000203803	606 N CARRIZO ST	BLK: 032, LT 001, ADDN: HOMESTEAD, SEC 4, & E 10' OF N CARRIZO ST	0.775	COG REALTY LLC		\$ 42,190
R000026112	0 W PECOS ST	BLK: 047, LOT: 001 & N.50 OF S.5, ADDN: HOMESTEAD	0.161	COG REALTY LLC		\$ 45,730
R000026134	709 W TENNESSEE AV	BLK: 047, LOT: N/2 OF BLK 49 1/2, ADDN: HOMESTEAD	0.367	COG REALTY LLC		\$ 50,080
R000026113	506 W OHIO AV	BLK: 047, LOTS: 002 THRU 4 & S.10, ADDN: HOMESTEAD, OF LOT 5	0.321	COG REALTY LLC		\$ 75,780
R000026126	707 W TENNESSEE AV	BLK: 049, NW/4, ADDN: HOMESTEAD	0.482	COG REALTY LLC		\$ 161,110
R000026115	408 N PECOS ST	BLK: 047, SEC: N25 OF S50 OF NW/4, ADDN: HOMESTEAD	0.08	COG REALTY LLC		\$ 236,030
R000026065	510 N PECOS ST	BLK: 038, N/2 OF NW/4, ADDN: HOMESTEAD	0.241	COG REALTY LLC		\$ 339,820
R000035483	105 S MAIN ST	BLK: 066, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.241	COG REALTY LLC		\$ 1,624,865
R000035483	105 S MAIN ST	BLK: 037, LOT: 001, ADDN: HOMESTEAD SEC 11	1.551	COG REALTY LLC		\$ 4,310,600
R000035484	102 S MAIN ST	BLK: 066, LOT: 025, ADDN: ORIGINAL TOWN, SEC 15	0.723	COG REALTY LLC		\$ 9,330,110
R000035485	0 CARRIZO ST	BLK: 036, LOT: 001, ADDN: HOMESTEAD, SEC: 016	3.287	COG REALTY LLC		\$ 26,003,286
R000032446	1101 E FRONT ST	BLK: 014, LOT: 04A, ADDN: MOODY SEC 5	0.555	COMMUNITY CHILDREN'S MINISTRY INC	E	\$ -
R000026045	717 W LOUISIANA AV	BLK: 034, LOTS: 001 THRU 4, ADDN: HOMESTEAD	0.703	COMMUNITY NATIONAL BANK		\$ 721,676
R0000214855	811 N MAIN ST	BLK: 002, LOT: 009, ADDN: RICHARDSON ABILENE	0.158	CONCEPCION JOSUE M		\$ 222,710
R0000203136	511 N FORT WORTH ST	BLK: 002, LOT: 001, ADDN: OLD PUEBLO PARK, SEC 2	0.161	CORDERO BRENDA ELAINE		\$ 185,000
R000034950	500 N MINEOLA ST	BLK: 002, LOT: 01A, ADDN: ORIGINAL TOWN, SEC 16	0.383	CORNETT RICHARD		\$ 345,570
R000035312	0 N COLORADO ST	BLK: 056, LOTS: 005 THRU 7, ADDN: ORIGINAL TOWN	0.112	COWDEN MELANIE HOPE		\$ 52,290
R000035300	113 E WALL ST	BLK: 053, LOTS: 009 S 17 OF W 75, ADDN: ORIGINAL TOWN, & W 75 OF 10:11 & 12	0.158	COWDEN WRIGHT JR ESTATE		\$ 209,010
R000035301	100 N MAIN ST	BLK: 053, LOT: 13A, ADDN: HOMESTEAD, S.50 OF NW/4	1.01	COWDEN WRIGHT JR ESTATE		\$ 18,747,580
R000023854	706 N BIG SPRING ST	BLK: 011, N.60 OF SW/4 & ADDN: HOMESTEAD, S.50 OF NW/4	0.354	DAIRY QUEEN #420		\$ 158,000
R000051897	801 W MISSOURI AV	BLK: 032, LOT: 001, ADDN: WEST END	0.241	DEHLINGER MARK T		\$ 88,410
R000025932	605 N MINEOLA ST	BLK: 021, N.50 OF SE/4, ADDN: HOMESTEAD	0.161	DELAO ALEJANDRO G		\$ 262,150
R000041037	807 N MAIN ST	BLK: 002, LOT: 011, ADDN: RICHARDSON ABILENE	0.158	DELCO INVESTMENTS LP		\$ 150,810
R000035069	801 E FRONT ST	BLK: 017, ALL LESS 1351 SQ. ADDN: ORIGINAL TOWN	0.179	DIAZ DAVID		\$ 31,230
R000017753	800 N MARIENFELD ST	BLK: 018, LOT: 001, ADDN: ELMWOOD SEC 2	0.638	DISCOVERY PLAZA JOINT		\$ 992,115
R0000346987	505 N FORT WORTH ST	BLK: 006, N.50 OF SE/4, ADDN: ORIGINAL TOWN	0.161	DOMINGUEZ MANUEL A		\$ 226,380
R000022825	510 N BIG SPRING ST	BLK: 040, N.75 OF W/2, ADDN: HOMESTEAD	0.241	DOMINION RESERVES LLC		\$ 223,600
R000022826	502 N DALLAS ST	BLK: 003, LOT: 007, ADDN: OLD PUEBLO PARK SEC 3	0.106	DUARTE MARIA		\$ 147,040
R000026074	500 N MARIENFELD ST	BLK: 039, S.150 OF SW/4, ADDN: HOMESTEAD	0.482	DURHAM LYNN D JR &		\$ 373,700
R000026071	505 N BIG SPRING ST	BLK: 039, E/2, ADDN: HOMESTEAD	0.964	DURHAM LYNN D JR &		\$ 10,031,715
R000035485	500 N BIG SPRING ST	BLK: 040, S.100 OF SW/4, ADDN: HOMESTEAD	0.321	ELLIS PROPERTIES		\$ 131,170
R000109945	705 N WEATHERFORD ST	BLK: 015, LOT: 004, ADDN: HOMESTEAD SEC 3	0.172	ELY GLORIA A		\$ 163,690
R000035486	219 N BIG SPRING ST	BLK: 034, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.482	ENDEAVOR ENERGY RESOURCES LP		\$ 176,660
R000035489	414 W TEXAS AV	BLK: 034, LOTS: 7-9(W100) & ADDN: ORIGINAL TOWN, LOTS 10-12	0.964	ENDEAVOR ENERGY RESOURCES LP		\$ 3,367,660

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R000033451	110 N MARSHFIELD ST	BLK: 057, LOTS: 010 THRU 12, ADDN: ORIGINAL TOWN	0.482	ENDEAVOR ENERGY RESOURCES LP		\$ 11,978,465
R000033454	110 N MARSHFIELD ST	BLK: 035, LOTS: 003 & 4 PT, ADDN: ORIGINAL TOWN, (REAR 17 X 20)	0.008	ENERGAS		\$ 1,980
R000033457	123 W MISSOURI AV	BLK: 085, LOTS: 001 THRU 20, ADDN: ORIGINAL TOWN	1.497	ENERGIA TECH CENTER LLC		\$ 23,854,184
R000041090	105 W KANSAS AV	BLK: 002, LOT: 024, ADDN: RICHARDSON ABILENE	0.161	ESCAJEDA JACINTO		\$ 57,600
R000033502	406 N WEATHERFORD ST	BLK: 011, LOTS: 3IN/31 & 4(52/3), ADDN: ORIGINAL TOWN	0.482	ESCN INC		\$ 42,000
R000033503	410 N WEATHERFORD ST	BLK: 011, LOT: 004 N 50, ADDN: ORIGINAL TOWN	0.161	ESCN INC		\$ 76,970
R000033504	711 N WEATHERFORD ST	BLK: 035, LOT: 001, ADDN: HOMESTEAD SEC 3	0.172	ESPINOZA ALBERT VILLA II		\$ 166,460
R000041045	914 N LORAIN ST	BLK: 002, LOT: 019, ADDN: RICHARDSON ABILENE	0.158	ESPINOZA ESAN		\$ 39,000
R000041046	916 N LORAIN ST	BLK: 002, LOT: 020, ADDN: RICHARDSON ABILENE	0.158	ESPINOZA ESAN		\$ 86,960
R000217317	0 N CARRIZO ST	E/2 OF BLK: 033, ADDN: HOMESTEAD, SEC: 15	0.365	FIELDS DAVID B		\$ 84,030
R000033547	701 W INDIANA AV	BLK: 091, LOTS: 004 THRU 6, ADDN: ORIGINAL TOWN	0.482	FIRST H AND H HOLDINGS LLC		\$ 516,020
R000026105	403 N COLORADO ST	BLK: 045, M 50 OF SE 1/4, ADDN: HOMESTEAD	0.161	FIRST NATIONAL BANK OF STANTON		\$ 14,000
R000218596	400 N BIG SPRING ST	BLK: 045, LOT: 09A, ADDN: HOMESTEAD SEC 14	0.482	FIRST NATL BANK OF STANTON		\$ 2,184,703
R000033512	208 N A ST	BLK: 031, LOT: 008, ADDN: ORIGINAL TOWN	0.075	FIRST PRESBYTERIAN	E	\$ -
R000033515	201 N A ST	BLK: 031, LOT: 007, ADDN: ORIGINAL TOWN	0.115	FIRST PRESBYTERIAN	E	\$ -
R000033515	212 N A ST	BLK: 031, LOTS: 009 THRU 11, ADDN: ORIGINAL TOWN	0.31	FIRST PRESBYTERIAN	E	\$ -
R000033515	201 N CARRIZO ST	BLK: 031, LOTS: 003 THRU 6, ADDN: ORIGINAL TOWN	0.643	FIRST PRESBYTERIAN	E	\$ -
R000051893	906 W INDIANA AV	BLK: 031, LOTS: 009 & 010, ADDN: WEST END	0.321	FIRST PRESBYTERIAN CHURCH	E	\$ -
R000033510	201 E OHIO AV	BLK: 010, LOT: E(47X65) OF S1/3, ADDN: ORIGINAL TOWN	0.07	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033511	404 N BAIRD ST	BLK: 010, LOT: 003 N/3, ADDN: ORIGINAL TOWN	0.161	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033507	409 N WEATHERFORD ST	BLK: 010, S/3 OF NE 1/4, ADDN: ORIGINAL TOWN	0.161	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033509	201 E OHIO AV	BLK: 010, LOT: 3 LESS E 47 X 65, ADDN: ORIGINAL TOWN	0.247	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033506	411 N WEATHERFORD ST	BLK: 010, N 100 OF NE 1/4, ADDN: ORIGINAL TOWN	0.321	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033514	301 N MAIN ST	BLK: 025, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.482	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033517	405 N MAIN ST	BLK: 008, S/3 OF E/2, ADDN: ORIGINAL TOWN	0.321	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033505	411 N MAIN ST	BLK: 008, N/3 OF E/2, ADDN: ORIGINAL TOWN	0.321	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033502	401 N BAIRD ST	BLK: 009, E/2 LESS 48 X 60 IN N/PT, ADDN: ORIGINAL TOWN	0.876	FIRST UNITED METHODIST CHURCH	E	\$ -
R000033496	407 N MAIN ST	BLK: 008, M/3 OF E/2, ADDN: ORIGINAL TOWN	0.321	FIRST UNITED METHODIST CHURCH	E	\$ -
R000035001	413 N BAIRD ST	BLK: 009, 48 X 80 IN N/PT OF E/2, ADDN: ORIGINAL TOWN	0.088	FIRST UNITED METHODIST CHURCH	E	\$ -
R000035113	300 N MAIN ST	BLK: 024, LOTS: 001 THRU 12, ADDN: ORIGINAL TOWN	2.066	FIRST UNITED METHODIST CHURCH	E	\$ -
R000035157	311 S PECOS ST	BLK: 092, LOT: 007, ADDN: ORIGINAL TOWN	0.161	FIRST UNITED METHODIST CHURCH	E	\$ -
R000025859	705 N LORAIN ST	BLK: 012, LOT: 004, ADDN: HOMESTEAD, SEC 9	0.321	FIVE SEVEN PROPERTIES LLC		\$ 131,930
R000203971	512 N DALLAS ST	BLK: 003, LOT: 002, ADDN: OLD PUEBLO PARK SEC 3	0.103	FLORES OLIVIA F		\$ 587,550
R000025925	606 N TERRELL ST	BLK: 021, M 100 OF W/2, ADDN: HOMESTEAD	0.321	FLORES ROSARIO G EST		\$ 144,580
R000035277	125 N FORT WORTH ST	BLK: 051, LOTS: 001 THRU 5, ADDN: ORIGINAL TOWN	0.402	FOSTER BRUCE EVAN		\$ 163,650
R000035092	303 N DALLAS ST	BLK: 021, LOT: 005, ADDN: ORIGINAL TOWN	0.161	FOUNDATION FOR M H M R	E	\$ 343,040
R000035091	305 N DALLAS ST	BLK: 021, LOT: 004, ADDN: ORIGINAL TOWN	0.161	FOUNDATION FOR M H M R	E	\$ -
R000035090	307 N DALLAS ST	BLK: 021, LOT: 003, ADDN: ORIGINAL TOWN	0.161	FOUNDATION FOR M H M R	E	\$ -
R000035089	309 N DALLAS ST	BLK: 021, LOTS: 001 & 2, ADDN: ORIGINAL TOWN	0.964	FOUNDATION FOR M H M R	E	\$ -
R000035005	410 N MAIN ST	BLK: 009, N 100 OF W/2, ADDN: ORIGINAL TOWN	0.321	FOUNDATION FOR MENTAL HEALTH	E	\$ -
R000035344	0 W WALL ST	BLK: 059, LOT: 009, ADDN: ORIGINAL TOWN	0.161	FOUR TEN N MAIN INC		\$ 243,940
R000035347	701 W TEXAS AV	BLK: 060, LOTS: 001 THRU 4, ADDN: ORIGINAL TOWN	0.689	FRANKLIN MOUNTAIN PERMIAN I LLC		\$ 33,690
R000035341	303 N PECOS ST	BLK: 059, LOT: 004, ADDN: ORIGINAL TOWN	0.161	FRANKLIN MOUNTAIN PERMIAN I LLC		\$ 40,030
R000035340	109 N PECOS ST	BLK: 059, LOT: 003, ADDN: ORIGINAL TOWN	0.161	FRANKLIN MOUNTAIN PERMIAN I LLC		\$ 51,890
R000035343	626 W WALL ST	BLK: 059, LOTS: 007 & 8, ADDN: ORIGINAL TOWN	0.321	FRANKLIN MOUNTAIN PERMIAN I LLC		\$ 51,890
R000035342	0 N PECOS ST	BLK: 059, LOTS: 005 & 6, ADDN: ORIGINAL TOWN	0.321	FRANKLIN MOUNTAIN PERMIAN I LLC		\$ 67,380
R000035338	301 S PECOS ST	BLK: 092, LOTS: 008 THRU 12, ADDN: ORIGINAL TOWN	0.803	FRANKLIN MOUNTAIN PERMIAN I LLC		\$ 103,780
R000035345	508 W WALL ST	BLK: 058, LOTS: 007 THRU 9, ADDN: ORIGINAL TOWN	0.482	FRANKLIN MOUNTAIN PERMIAN I LLC		\$ 145,880
						\$ 32,887,265

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00003279	115 S COLORADO ST	BLK: 065, LOTS: 013 THRU 18, ADDN: ORIGINAL TOWN	0.482	FRANKLIN MOUNTAIN PERMAN II LP		\$ 5,634,060
R00003274	303 W WALL ST	BLK: 064, ALL, ADDN: ORIGINAL TOWN	2.066	FRANKLIN MOUNTAIN PERMAN II LP		\$ 49,693,378
R00003276	110 N BIG SPRING ST	BLK: 056, LOT: 014 W.25 OF N.35, ADDN: ORIGINAL TOWN, & N.35 OF LOT 15	0.06	FRANKLIN MOUNTAIN PERMAN III LP		\$ 13,130
R000033319	305 W TEXAS AV	BLK: 056, LOT: 018, ADDN: ORIGINAL TOWN	0.172	FRANKLIN MOUNTAIN PERMAN III LP		\$ 63,090
R000033317	114 N BIG SPRING ST	BLK: 056, LOTS: 016 & 17, ADDN: ORIGINAL TOWN	0.344	FRANKLIN MOUNTAIN PERMAN III LP		\$ 123,750
R000033315	310 W WALL ST	BLK: 056, LOT 014 S.115 OF W/2 & ADDN: ORIGINAL TOWN, LT 15	0.198	FRANKLIN MOUNTAIN PERMAN III LP		\$ 18,493,492
R000033311	115 N COLORADO ST	BLK: 056, LOTS: 003 & 4, ADDN: ORIGINAL TOWN	0.149	FRANKLIN MOUNTAIN PERMAN IV LP		\$ 32,300
R000033310	115 N COLORADO ST	BLK: 056, LOTS: 001 & 2, ADDN: ORIGINAL TOWN	0.149	FRANKLIN MOUNTAIN PERMAN IV LP		\$ 32,300
R000033313	300 W WALL ST	BLK: 056, LOTS: 008 THRU 12, ADDN: ORIGINAL TOWN	0.373	FRANKLIN MOUNTAIN PERMAN IV LP		\$ 81,250
R000033314	306 W WALL ST	BLK: 056, LOTS: 13 & 14(E/2), ADDN: ORIGINAL TOWN, ONE WALL PLAZA	0.258	FRANKLIN MOUNTAIN PERMAN IV LP		\$ 20,450,168
R000023862	110 W LOUISIANA AV	BLK: 013, ALL, ADDN: HOMESTEAD	2.066	FRANKLIN MOUNTAIN PERMAN V LP		\$ 10,685,578
R000203975	504 N DALLAS ST	BLK: 003, LOT: 006, ADDN: OLD PUEBLO PARK SEC 3	0.103	FUENTES MEGAN		\$ 138,660
R000035183	217 N MAIN ST	BLK: 037, LOT: 002 S/2, ADDN: ORIGINAL TOWN	0.08	FULCRUM PROPERTIES LLC		\$ 181,340
R000035004	406 N MAIN ST	BLK: 009, LOTS: 3(N50) & 4(S50), ADDN: ORIGINAL TOWN	0.321	G T PARTNERS		\$ 1,118,457
R000034976	509 N TERRELL ST	BLK: 004, LOT: 001 M.50, ADDN: ORIGINAL TOWN	0.161	GALLARDO MARCUS		\$ 213,040
R000032399	400 N LAMESA RD	BLK: 006, LOT: 007, ADDN: MOODY	0.161	GALVAN JUANITA RUBIO		\$ 48,070
R000214345	808 N WEATHERFORD ST	BLK: 007, LOT: 002, ADDN: HOMESTEAD, SEC 12	0.161	GAMINO STEPHANIE		\$ 245,110
R000058244	500 N FORT WORTH ST	BLK: 001, LOT: 007, ADDN: OLD PUEBLO PARK	0.112	GARCIA ADRIAN		\$ 182,640
R000035021	301 E OHIO AV	BLK: 011, LOT: 003 W.70 OF S.100, ADDN: ORIGINAL TOWN	0.161	GARCIA CEZAR G		\$ 180,280
R000035213	306 E ILLINOIS AV	BLK: 040, LOT: 012 E.55, ADDN: ORIGINAL TOWN	0.063	GARCIA ELEACER		\$ 37,980
R000035045	411 N MINEOLA ST	BLK: 014, LOT: 001 N.50, ADDN: ORIGINAL TOWN	0.072	GARCIA LUPE V		\$ 32,990
R000203802	802 N BAIRD ST	BLK: 008, LOT: 002, ADDN: HOMESTEAD, SEC 4	0.182	GARCIA MARTIN SR		\$ 29,730
R00025940	600 N DALLAS ST	BLK: 022, LOT: 007, ADDN: HOMESTEAD	0.161	GARCIA TERESA		\$ 14,000
R000035285	0 N DALLAS ST	BLK: 042, LOT: 010, ADDN: ORIGINAL TOWN	0.161	GARZA EDWARD T		\$ 14,000
R000035220	203 N TERRELL ST	BLK: 042, LOT: 003, ADDN: ORIGINAL TOWN	0.161	GARZA EDWARD T		\$ 15,030
R000035221	507 E FRONT ST	BLK: 042, LOTS: 004 & 5, ADDN: ORIGINAL TOWN	0.305	GARZA EDWARD T		\$ 149,670
R000035219	205 N TERRELL ST	BLK: 042, LOT: 002, ADDN: ORIGINAL TOWN	0.161	GEORGE VELOZ MNGT LP		\$ 14,000
R000034999	406 N LORAIN ST	BLK: 008, S.50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	GGB LEASING LP		\$ 19,690
R000035000	410 N LORAIN ST	BLK: 008, N.100 OF W/2, ADDN: ORIGINAL TOWN	0.321	GGB LEASING LP		\$ 206,130
R000034998	106 W OHIO AV	BLK: 008, SW/4, ADDN: ORIGINAL TOWN	0.482	GGB LEASING LP		\$ 212,830
R000058264	900 W WALL ST	BLK: 013, LOT: 014, ADDN: WEST END SEC 9	0.515	GLASS-JOHNSON HOSPICE HOUSE INC	E	\$ -
R000026087	501 N LORAIN ST	BLK: 041, S.100 OF E/2, ADDN: HOMESTEAD	0.321	GOD'S RAINBOW PROMISES FELLOWSHIP	E	\$ -
R000041031	921 N MAIN ST	BLK: 002, LOT: 002, ADDN: RICHARDSON ABILENE	0.158	GOLIHAR JOHN B		\$ 65,390
R000023814	0 N WEATHERFORD ST	BLK: 008, E/2 OF SE/4, ADDN: HOMESTEAD	0.241	GOMEZ ELIAS		\$ 35,310
R000203801	800 N BAIRD ST	BLK: 008, LOT: 001 W/2, ADDN: HOMESTEAD SEC 4	0.108	GOMEZ ELIAS		\$ 196,240
R000035055	403 N MARSHALL ST	BLK: 015, M.50 SE/4, ADDN: ORIGINAL TOWN, (AKA LOT 2B)	0.161	GONZALES DANIEL C		\$ 14,000
R000035059	400 N MINEOLA ST	BLK: 015, S.50 SW/4, ADDN: ORIGINAL TOWN, (AKA S.50 OF LOT 3)	0.161	GONZALES DANIEL C		\$ 15,220
R000058246	504 N FORT WORTH ST	BLK: 001, LOT: 009, ADDN: OLD PUEBLO PARK	0.115	GONZALES GEORGE M		\$ 183,600
R000035079	308 N TERRELL ST	BLK: 019, LOT: 011, ADDN: ORIGINAL TOWN	0.161	GONZALES SAVINO EST		\$ 78,770
R000025929	609 N MINEOLA ST	BLK: 021, M.50 OF NE/4, ADDN: HOMESTEAD	0.161	GONZALEZ LYDIA HUITRON		\$ 148,430
R000211388	201 E KANSAS AV	BLK: 008, LOT: 001 E/2, ADDN: HOMESTEAD SEC 4	0.108	GONZALEZ ROBERTO & NORMA		\$ 96,390
R000025933	600 N TERRELL ST	BLK: 021, S.50 OF SW/4, ADDN: HOMESTEAD	0.161	GOOL GARY		\$ 76,060
R000025930	305 N FORT WORTH ST	BLK: 022, LOT: 004, ADDN: ORIGINAL TOWN	0.161	GOOL GARY		\$ 188,570
R000025933	607 N MARINEFIELD ST	BLK: 031, S.50 OF NE/4, ADDN: HOMESTEAD	0.161	GRAHAM BUILDING LLC THE		\$ 14,000
R000025936	0 N MARINEFIELD ST	BLK: 031, N.50 OF SE/4, ADDN: HOMESTEAD	0.161	GRAHAM BUILDING LLC THE		\$ 36,750
R000025934	604 N PECOS ST	BLK: 031, S.5 OF W.70 OF, ADDN: HOMESTEAD, NW/4 & N.50 OF SW/4	0.169	GRAHAM BUILDING LLC THE		\$ 52,900
R000025995	511 W LOUISIANA AV	BLK: 031, W.70 OF NW/4 LESS S.5, ADDN: HOMESTEAD	0.233	GRAHAM BUILDING LLC THE		\$ 53,290
R000026038	602 N PECOS ST	BLK: 031, N.56 OF S.100 OF SW/4, ADDN: HOMESTEAD	0.18	GRAHAM BUILDING LLC THE		\$ 53,880
R000026039	600 N PECOS ST	BLK: 031, S.44 OF SW/4, ADDN: HOMESTEAD	0.141	GRAHAM BUILDING LLC THE		\$ 54,500

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street/Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00002092	601 N MARINEFIELD ST	BLK: 031, S.100 OF SE/4, ADDN: HOMESTEAD	0.321	GRAHAM BUILDING LLC THE		\$ 3,723,110
R00002098	700 W LOUISIANA AV	BLK: 001, LOTS: 021 THRU 26, ADDN: COUNTRY CLUB HEIGHTS	1.207	GREAT WESTERN DRUG		\$ 2,127,000
R00002098	710 N COLORADO ST	BLK: 032, N.100 OF NW/4, ADDN: HOMESTEAD	0.321	GRIMES AMY ET AL		\$ 184,040
R00002093	707 W INDIANA AV	BLK: 050, LOT: 001, ADDN: WEST END	0.161	GROVER DAVID B		\$ 84,670
R00003555	O S MARINEFIELD ST	BLK: 092, LOT: 005, ADDN: ORIGINAL TOWN	0.161	GTP ACQUISITION PARTNERS II LLC		\$ 19,690
R00003556	504 W KENTUCKY AV	BLK: 092, LOT: 006, ADDN: ORIGINAL TOWN	0.161	GTP ACQUISITION PARTNERS II LLC		\$ 36,750
R00003557	406 N MINEOLA ST	BLK: 015, N.50 SW/4, ADDN: ORIGINAL TOWN (AKA W/2 OF N.50 OF 3 & E/2 OF N.50 OF 3)	0.16	GUARDARDO MARGARITA L		\$ 13,940
R00003558	404 N MINEOLA ST	BLK: 015, SW/4(N50 OF S100), ADDN: ORIGINAL TOWN (AKA N50 S100 OF 3)	0.161	GUARDARDO MARGARITA L		\$ 14,000
R00003562	408 N MINEOLA ST	BLK: 015, S.50 NW/4, ADDN: ORIGINAL TOWN (AKA S.50 OF LOT 4)	0.161	GUARDARDO MARGARITA L		\$ 83,890
R00003574	307 N MINEOLA ST	BLK: 019, LOTS: 003 & 4 E/2, ADDN: ORIGINAL TOWN	0.161	GUERRERO VALERIO		\$ 19,010
R000035280	321 N WALL ST	BLK: 051, LOTS: 010 THRU 12 E.100, ADDN: ORIGINAL TOWN, LESS RIGHT OF WAY	0.172	GUZMAN AGAPITO		\$ 37,830
R000026096	O N MAIN ST	BLK: 043, N.50 OF SW/4 &, ADDN: HOMESTEAD, S.20 OF NW/4	0.225	HARTMAN DOYLE		\$ 42,260
R000026095	500 N MAIN ST	BLK: 043, S.100 OF SW/4, ADDN: HOMESTEAD	0.321	HARTMAN DOYLE		\$ 383,490
R000041043	910 N LORAIN ST	BLK: 002, LOT: 017, ADDN: RICHARDSON ABILENE	0.158	HASTINGS TIMOTHY B		\$ 13,800
R000041044	912 N LORAIN ST	BLK: 002, LOT: 018, ADDN: RICHARDSON ABILENE	0.158	HASTINGS TIMOTHY B		\$ 13,800
R000041042	814 N LORAIN ST	BLK: 002, LOT: 016, ADDN: RICHARDSON ABILENE	0.158	HASTINGS TIMOTHY B		\$ 13,800
R000035085	523 E ILLINOIS AV	BLK: 020, LOTS: (005 & 6) E.90, ADDN: ORIGINAL TOWN	0.207	HATFIELD DEREK W		\$ 66,950
R000035086	509 E ILLINOIS AV	BLK: 020, LOTS: (005 & 6) W.50, ADDN: ORIGINAL TOWN	0.115	HATFIELD DEREK W		\$ 103,270
R000035223	204 N DALLAS ST	BLK: 042, LOT: 008, ADDN: ORIGINAL TOWN	0.161	HBCO CORPORATION		\$ 14,000
R000035224	206 N DALLAS ST	BLK: 042, LOT: 009, ADDN: ORIGINAL TOWN	0.161	HBCO CORPORATION		\$ 14,000
R000052049	810 W KENTUCKY AV	BLK: 050, LOT: 6(69X126 SW COR), ADDN: WEST END	0.352	HENDERSON VERA P		\$ 159,320
R000035076	607 E ILLINOIS AV	BLK: 019, LOTS: 003 THRU 6 W/2, ADDN: ORIGINAL TOWN	0.321	HERB ERNEST		\$ 56,000
R000035075	617 E ILLINOIS AV	BLK: 019, LOTS: 005 & 6 E/2, ADDN: ORIGINAL TOWN	0.161	HERB ERNEST		\$ 177,910
R000026042	606 N DALLAS ST	BLK: 022, LOT: 009, ADDN: HOMESTEAD	0.161	HEREDIA MARIA		\$ 14,000
R000026043	802 N MAIN ST	BLK: 009, LOT: 008, ADDN: HOMESTEAD	0.161	HERNANDEZ AMABELIA		\$ 157,320
R000026095	803 N FORT WORTH ST	BLK: 007, S.75 OF N.250 OF E/2, ADDN: HOMESTEAD	0.241	HERNANDEZ AMABELIA		\$ 125,810
R000026098	603 N TERRELL ST	BLK: 022, LOT: 005, ADDN: HOMESTEAD	0.161	HERNANDEZ EFRAN		\$ 141,010
R000035043	408 N DALLAS ST	BLK: 013, M.50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	HERNANDEZ EFRAN		\$ 14,000
R000203972	510 N DALLAS ST	BLK: 013, LOT: 003, ADDN: OLD PUEBLO PARK SEC 3	0.103	HERNANDEZ JOAQUINA		\$ 142,090
R000025934	611 N TERRELL ST	BLK: 022, LOT: 001, ADDN: HOMESTEAD	0.161	HERNANDEZ JOAQUINA		\$ 14,000
R000205485	608 N FORT WORTH ST	BLK: 023, S.50 OF N.100' OF NW/4, ADDN: HOMESTEAD	0.161	HERNANDEZ JUAN AND LUZ		\$ 185,590
R000041034	911 N MAIN ST	BLK: 002, LOT: 006, ADDN: RICHARDSON ABILENE	0.158	HERRERA FRANCISCO		\$ 191,240
R000051889	903 W MISSOURI AV	BLK: 031, LOT: 003, ADDN: WEST END	0.161	HERRMANN KEVIN AND AMANDA		\$ 33,690
R000051888	901 W MISSOURI AV	BLK: 031, LOTS: 001 & 2, ADDN: WEST END	0.321	HERRMANN KEVIN AND AMANDA		\$ 116,250
R000216162	201 S C ST	BLK: 031, LOT: 013, ADDN: WEST END, SEC: 22	0.479	HERRMANN KEVIN AND AMANDA		\$ 926,010
R000035040	402 N DALLAS ST	BLK: 013, LOT: 003 S.55 OF N.100, ADDN: ORIGINAL TOWN	0.177	HIGGINS JAMIE L		\$ 217,610
R000025076	507 N COLORADO ST	BLK: 040, S.50 OF NE/4, ADDN: HOMESTEAD	0.161	HOMESTEAD MANAGEMENT TR		\$ 14,000
R000026077	511 N COLORADO ST	BLK: 040, N.50 OF NE/4, ADDN: HOMESTEAD	0.161	HOMESTEAD MANAGEMENT TR		\$ 16,720
R000026082	505 N COLORADO ST	BLK: 040, N.50 OF SE/4, ADDN: HOMESTEAD	0.161	HOMESTEAD MANAGEMENT TR		\$ 44,710
R000026078	509 N COLORADO ST	BLK: 040, S.50 OF N.100 OF NE/4, ADDN: HOMESTEAD	0.161	HOMESTEAD MANAGEMENT TR		\$ 64,380
R000025945	600 N FORT WORTH ST	BLK: 023, S.50 OF W/2, ADDN: HOMESTEAD	0.161	HUBBARD BOLES		\$ 14,000
R000025953	602 N FORT WORTH ST	BLK: 023, N.50 OF S.100 OF W/2, ADDN: HOMESTEAD	0.161	HUBBARD BOLES		\$ 14,000
R000035091	O N FORT WORTH ST	BLK: 022, LOT: 005, ADDN: ORIGINAL TOWN	0.161	HUGHES DAVID C		\$ 19,690
R000035093	311 E ILLINOIS AV	BLK: 022, LOT: 006, ADDN: ORIGINAL TOWN	0.161	HUGHES DAVID C		\$ 136,040
R000026372	600 W OHIO AV	BLK: 048, ALL, ADDN: HOMESTEAD	2.066	HUGHES DEVELOPMENT LLC		\$ 1,176,110
R000035325	401 W TEXAS AV	BLK: 057, LOTS: 1, 2(E90) & 3, ADDN: ORIGINAL TOWN	0.367	INDUSPAD MIDLAND CHARMS LLC		\$ 600,000
R000026374	308 E LOUISIANA AV	BLK: 024 E/2 ALL (AKA 1 THRU 6), ADDN: HOMESTEAD	0.964	JACKSON LEILA GHAI		\$ 113,830
R000269690	701 N LORAIN ST	BLK: 012, LOT: 003, ADDN: HOMESTEAD, SEC 9	0.347	JAMESON FAMILY PARTNERSHIP LP		\$ 30,250
R000026011	404 N DALLAS ST	BLK: 013, N.45 OF SW/4, ADDN: ORIGINAL TOWN	0.145	JARAMILLO JENNIFER		\$ 205,620
R000026013	506 N MARINEFIELD ST	BLK: 039, S/2 OF NW/4, ADDN: HOMESTEAD	0.241	JKL 20 LP		\$ 24,750

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00003527	113 N BIG SPRING ST	BLK: 057, LOT: 004 S/2, ADDN: ORIGINAL TOWN	0.08	JLC LLC		\$ 20,340
R00003536	111 N BIG SPRING ST	BLK: 057, LOT: 004 N/2, ADDN: ORIGINAL TOWN	0.08	JLC LLC		\$ 116,890
R00003538	400 W WALL ST	BLK: 057, LOT: 005 & 6, ADDN: ORIGINAL TOWN	0.321	JLC LLC		\$ 1,269,530
R00003541	501 W LOUISIANA AV	BLK: 031, N.100 OF NE/4, ADDN: HOMESTEAD	0.321	JOB RESIDENCES LLC		\$ 570,990
R00010947	701 N WEATHERFORD ST	BLK: 015, LOT: 006, ADDN: HOMESTEAD SEC 3	0.172	JOHNSON LAVONDA E		\$ 163,470
R000035033	410 N FORT WORTH ST	BLK: 012, N.50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	JOHNSON ROSEMARY E		\$ 85,530
R000025958	0 N BAIRD ST	BLK: 025, N/99.48 OF W/2, ADDN: HOMESTEAD	0.32	JONES JERRY		\$ 27,850
R000025965	0 N WEATHERFORD ST	BLK: 025, M.50 OF SE/4, ADDN: HOMESTEAD	0.161	JONES JERRY L		\$ 19,690
R000025964	0 N WEATHERFORD ST	BLK: 025, N.50 OF SE/4, ADDN: HOMESTEAD	0.161	JONES JERRY L		\$ 19,690
R000025962	607 N WEATHERFORD ST	BLK: 025, S.53 OF NE/4, ADDN: HOMESTEAD	0.17	JONES JERRY L		\$ 20,870
R000035139	500 W ILLINOIS AV	BLK: 029, E/2, ADDN: ORIGINAL TOWN	0.964	KAUFMAN KITTRIDGE LP ET AL		\$ 28,605,080
R000052048	0 W INDIANA AV	BLK: 050, LOT: 005, ADDN: WEST END	0.193	KEA BUILDERS LLC		\$ 33,000
R000052047	713 W INDIANA AV	BLK: 050, LOT: 004, ADDN: WEST END	0.198	KEA BUILDERS LLC		\$ 596,020
R000051788	805 W MISSOURI AV	BLK: 015, LOT: 009, ADDN: WEST END	0.161	KIMBROUGH ENGINEERING COMPANY LLC		\$ 50,750
R000051789	800 W MISSOURI AV	BLK: 015, LOT: 009, ADDN: WEST END	0.161	KIMBROUGH ENGINEERING COMPANY LLC		\$ 50,750
R000035367	401 W WALL ST	BLK: 063, LOT: 001 THRU 3 & 11 & ADDN: ORIGINAL TOWN, 12 E.35	0.258	KIMBROUGH ENGINEERING COMPANY LLC		\$ 157,990
R000035019	401 N FORT WORTH ST	BLK: 025, N/97 OF NE/4, ADDN: HOMESTEAD	0.312	KINCO PARTNERS LTD		\$ 4,487,980
R000025960	705 N WEATHERFORD ST	BLK: 011, LOT: 002 S.100, ADDN: ORIGINAL TOWN	0.321	KMISS LLC		\$ 129,960
R000035345	619 W TEXAS AV	BLK: 036, S. 50 OF NW/4 & ALL OF, ADDN: HOMESTEAD, SW/4	0.643	KMISS LLC		\$ 228,890
R000025931	0 N MINEOLA ST	BLK: 025, LOT: 010 E.86 OF S.40, ADDN: ORIGINAL TOWN, & W.54 OF 10 THRU 12	0.265	L & LAUSTEX LLC		\$ 696,030
R000058248	508 N FORT WORTH ST	BLK: 021, M.50 OF SE/4, ADDN: HOMESTEAD	0.161	LAABS DAVIS		\$ 14,000
R000025956	604 N WEATHERFORD ST	BLK: 001, LOT: 011, ADDN: OLD PUEBLO PARK	0.115	LANGSTON RACHEL MACKENZIE		\$ 190,990
R000025958	0 N MAIN ST	BLK: 024, ALL OF SW/4, ADDN: HOMESTEAD	0.482	LARSON HOLDINGS LLC		\$ 193,340
R000025957	710 N MAIN ST	BLK: 014, N.50 OF NW/4, ADDN: HOMESTEAD	0.161	LAURA CASTILLO GROUP LLC		\$ 14,000
R000025955	407 N TERRELL ST	BLK: 014, N.50 OF S.100 OF NW/4, ADDN: HOMESTEAD	0.161	LAURA CASTILLO GROUP LLC		\$ 14,560
R000035038	405 N TERRELL ST	BLK: 013, S/2 OF NE/4, ADDN: ORIGINAL TOWN	0.241	LEWALLEN GARCIA PARTNERS HOLDINGS LLC		\$ 55,060
R000035034	508 E TENNESSEE AV	BLK: 013, N.50 OF SE/4, ADDN: ORIGINAL TOWN	0.161	LEWALLEN GARCIA PARTNERS HOLDINGS LLC		\$ 216,780
R000025928	607 N MINEOLA ST	BLK: 013, N/2 OF NE/4, ADDN: ORIGINAL TOWN	0.241	LEWALLEN GARCIA PARTNERS		\$ 21,000
R000035044	410 N DALLAS ST	BLK: 021, S.50 OF NE/4, ADDN: HOMESTEAD	0.161	LEWIS LOVIE		\$ 24,520
R000047940	412 N TERRELL ST	BLK: 001, LOT: 001, ADDN: TENNESSEE SEC 1	0.161	ILENZA CHARLOTTE A		\$ 14,000
R000025976	107 W LOUISIANA AV	BLK: 027, E.70 OF N.100 OF NW/4, ADDN: HOMESTEAD	0.257	IONE STAR FLOORING SERVICES LLC		\$ 208,140
R000025809	802 N WEATHERFORD ST	BLK: 007, SW/4, ADDN: HOMESTEAD	0.161	LONG SARAH M		\$ 167,800
R000034978	505 N TERRELL ST	BLK: 004, LOT: 002 N.50, ADDN: ORIGINAL TOWN	0.482	LOPEZ ISABELLE TERESA		\$ 324,210
R000034957	503 N LAMESA RD	BLK: 002, M.50 OF SE/4 LESS, ADDN: ORIGINAL TOWN, TRI ON E SIDE	0.161	LOPEZ JASMINE F		\$ 68,990
R000034956	0 N LAMESA RD	BLK: 002, W PT OF N.50 OF SE/4, ADDN: ORIGINAL TOWN	0.142	LOPEZ JESSE RODRIGUEZ		\$ 12,960
R000034959	501 N MARSHALL ST	BLK: 002, S.50 OF SE/4, ADDN: ORIGINAL TOWN	0.112	LOPEZ JESSE RODRIGUEZ		\$ 13,590
R000035061	410 N MINEOLA ST	BLK: 002, S.50 OF SE/4, ADDN: ORIGINAL TOWN	0.161	LOPEZ JESSE RODRIGUEZ		\$ 21,160
R000035188	200 N LORAIN ST	BLK: 015, N.100 NW/4, ADDN: ORIGINAL TOWN, (AKA N.100 OF LOT 4)	0.321	LOPEZ REYMUENDO		\$ 32,460
R000052050	802 W KENTUCKY AV	BLK: 037, LOT: 007 THRU 12, ADDN: ORIGINAL TOWN	0.964	LORAIN AT TEXAS		\$ 26,408,990
R000052051	800 W KENTUCKY AV	BLK: 050, LOT: 007, ADDN: WEST END	0.153	LOUIS E INVESTMENTS LLC		\$ 48,190
R000052046	711 W INDIANA AV	BLK: 050, LOT: 008, ADDN: WEST END	0.158	LOUIS E INVESTMENTS LLC		\$ 49,990
R000052044	1109 E FRONT ST	BLK: 050, LOT: 003, ADDN: WEST END	0.149	LOUIS E INVESTMENTS LLC		\$ 221,170
R000052042	112 S LORAIN ST	BLK: 014, LOT: 001, 002 & 003 E/2, ADDN: MOODY	0.294	LOZANO OSBALDO		\$ 174,260
R000041030	923 N MAIN ST	BLK: 065, LOT: 022 THRU 24, ADDN: ORIGINAL TOWN	0.241	LS BRENTWAY LLC		\$ 834,620
R000026079	405 N FORT WORTH ST	BLK: 001, LOT: 001, ADDN: RICHARDSON ABILENE	0.158	LUEVANOS JOSE LOUIS		\$ 78,700
R000052001	205 N A ST	BLK: 011, LOT: 005, ADDN: ORIGINAL TOWN	0.16	LUPTA HOMES CONSTRUCTION		\$ 13,900
R000052000	204 S A ST	BLK: 040, N.50 OF SW/4 & ADDN: HOMESTEAD, S.75 OF NW/4	0.402	LWM COMMERCIAL PROPERTIES LTD		\$ 450,400
		BLK: 032, LOT: 004, ADDN: WEST END	0.177	M I S D	E	\$ -
		BLK: 032, LOT: 003, ADDN: WEST END	0.177	M I S D	E	\$ -

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R000025544	05 PECOS ST	BLK: 090, LOTS: 004 THRU 5, ADDN: ORIGINAL TOWN, MASHBURN BLDG PKLT	0.482	M I S D	E	\$ -
R000033545	615 W MISSOURI AV	BLK: 090, LOTS: 007 THRU 12 & PT, ADDN: ORIGINAL TOWN, CARRIZO ST ADJ TO W/SIDE, SCH: ADMINISTRATION BLDG	1.18	M I S D	E	\$ -
R000026104	401 N COLORADO ST	BLK: 045, S50 OF SE/4, ADDN: HOMESTEAD	0.161	M&M PROPERTIES		\$ 299,320
R000035319	400 N DALLAS ST	BLK: 013, LOT: 003 S50, ADDN: ORIGINAL TOWN	0.161	MADRID MARIA GONZALES		\$ 67,170
R000203113	811 N WEATHERFORD ST	BLK: 008, N50 OF NE/4, ADDN: HOMESTEAD	0.08	MAGALLANES CATRINA		\$ 46,220
R000203113	811 N WEATHERFORD ST	BLK: 008, E/2 OF N50 OF NE/4, ADDN: HOMESTEAD	0.08	MAGALLANES ELIZABETH		\$ 43,990
R000025817	818 N BAIRD ST	BLK: 008, N200 OF W/2, ADDN: HOMESTEAD	0.643	MAGALLANES FRANCO		\$ 100,250
R000035194	218 N MAIN ST	BLK: 038, LOT: 012 N/2, ADDN: ORIGINAL TOWN (UNIT # A)	0.027	MAIN STREET HOLDINGS AB LLC		\$ 194,780
R000025967	605 N BAIRD ST	BLK: 026, S36 OF NE/4, ADDN: HOMESTEAD	0.116	MALDONADO DORA EST		\$ 38,830
R000025966	108 E LOUISIANA AV	BLK: 026, N114 OF NE/4, ADDN: HOMESTEAD	0.366	MALDONADO DORA EST		\$ 125,100
R000025969	111 E MICHIGAN AV	BLK: 026, SE/4, ADDN: HOMESTEAD	0.482	MALDONADO DORA EST		\$ 223,870
R000032396	405 N LEE ST	BLK: 006, LOT: 004, ADDN: MOODY	0.161	MALDONADO IJUAN A		\$ 48,820
R000014585	718 W LOUISIANA AV	BLK: 001, LOTS: 16(E/2) & 17, ADDN: COUNTRY CLUB, HEIGHTS	0.241	MANULIK MATTHEW C		\$ 107,620
R000041049	108 W KANSAS AV	BLK: 002, LOT: 023, ADDN: RICHARDSON ABILENE	0.161	MAROC INDUSTRIES LLC		\$ 157,720
R000052044	709 W INDIANA AV	BLK: 050, LOT: 002 E50, ADDN: WEST END	0.152	MARTIN WATER LABORATORIES INC.		\$ 167,830
R000052045	406 N FORT WORTH ST	BLK: 050, LOT: 002 W5, ADDN: WEST END	0.015	MARTIN WATER LABORATORIES INC.		\$ 2,650
R000035031	807 N FORT WORTH ST	BLK: 012, LOT: 004 S50, ADDN: ORIGINAL TOWN	0.161	MARTINEZ JAVIER		\$ 14,000
R000025803	406 E TENNESSEE AV	BLK: 007, S50 OF N125 OF E/2, ADDN: HOMESTEAD	0.161	MARTINEZ JAVIER		\$ 58,110
R000035024	406 E TENNESSEE AV	BLK: 012, LOT: 001 W35 OF W/2, ADDN: ORIGINAL TOWN	0.121	MARTINEZ JAVIER		\$ 149,310
R000035024	406 E TENNESSEE AV	BLK: 012, LOT: 001 E35 OF W/2, ADDN: ORIGINAL TOWN	0.121	MARTINEZ PETRA		\$ 10,500
R000032404	410 N LAMESA RD	BLK: 006, LOT: 012, ADDN: MOODY	0.161	MARTINEZ ROSALVA		\$ 18,940
R000032403	408 N LAMESA RD	BLK: 006, LOT: 011, ADDN: MOODY	0.161	MARTINEZ ROSALVA		\$ 19,750
R000025927	610 N TERRELL ST	BLK: 021, N50 OF NW/4, ADDN: HOMESTEAD	0.161	MASTER MATILDE REYES		\$ 24,940
R000051866	900 W INDIANA AV	BLK: 031, LOT: 542.5 OF LOT 11, ADDN: WEST END, LOT 12	0.098	MATS MAINTENANCE		\$ 57,140
R000026031	705 W KENTUCKY AV	BLK: 010, S50 OF W/2, ADDN: HOMESTEAD	0.161	MC ANDREW MIKE		\$ 197,590
R000026031	705 W KENTUCKY AV	BLK: 031, LOTS: 1-4 & TR1(W/2), ADDN: WEST END	0.738	MCCONAUGHEY GEORGANNE HURT		\$ 273,080
R000026031	120 S LORAIN ST	BLK: 065, LOT: 021, ADDN: ORIGINAL TOWN	0.08	MEADOWS HENRY EDWARD JR ET AL		\$ 14,970
R000035380	120 S LORAIN ST	BLK: 065, LOTS: 019 & 20, ADDN: ORIGINAL TOWN	0.161	MEADOWS HENRY EDWARD JR ET AL		\$ 50,150
R000014584	724 W LOUISIANA AV	BLK: 011, LOTS: 14 & 15 & 16(W/2), ADDN: COUNTRY CLUB, HEIGHTS	0.402	MEISSNER MARTIN C REVO LIV TR EST		\$ 194,540
R000025930	608 N TERRELL ST	BLK: 021, M50 OF NW/4, ADDN: HOMESTEAD	0.161	MELENDEZ VIRGINIA		\$ 160,170
R000034992	504 N WEATHERFORD ST	BLK: 006, N150 & S100 OF SW/4, ADDN: ORIGINAL TOWN	0.803	MIDLAND ACADEMY CHARTER SCHOOL	E	\$ -
R000026097	500 N BAIRD ST	BLK: 044, ALL, ADDN: HOMESTEAD	2.066	MIDLAND ACADEMY CHARTER SCHOOL INC	E	\$ -
R000025963	601 N WEATHERFORD ST	BLK: 025, S50 OF SE/4, ADDN: HOMESTEAD	0.161	MIDLAND BUSINESS CENTER LLC		\$ 19,690
R000025959	600 N BAIRD ST	BLK: 025, S200.52 OF W/2, ADDN: HOMESTEAD	0.644	MIDLAND BUSINESS CENTER LLC		\$ 986,820
R000026068	500 W TENNESSEE AV	BLK: 038, S100 OF SE/4, ADDN: HOMESTEAD	0.321	MIDLAND CC DEVELOPMENT LLC		\$ 56,000
R000026118	405 N MARINEFELD ST	BLK: 047, NE/4, ADDN: HOMESTEAD	0.482	MIDLAND CC DEVELOPMENT LLC		\$ 1,235,760
R000035128	310 W ILLINOIS AV	BLK: 027, LOTS: 13A, ADDN: ORIGINAL TOWN, SEC 3	0.448	MIDLAND CHAMBER OF COMMERCE	E	\$ -
R000035127	301 N COLORADO ST	BLK: 027, LOTS: 07A, ADDN: ORIGINAL TOWN, SEC 3	0.451	MIDLAND CHAMBER OF COMMERCE	E	\$ -
R000034952	511 N LAMESA RD	BLK: 002, E/2 OF N50 OF NE/4, ADDN: ORIGINAL TOWN, REYES/SANCHEZ MEML PL, UNITY PLAZA	0.08	MIDLAND CITY OF	E	\$ -
R000034952	511 N LAMESA RD	BLK: 002, E/2 OF N50 OF NE/4, ADDN: ORIGINAL TOWN, REYES/SANCHEZ MEML PL, UNITY PLAZA	0.08	MIDLAND CITY OF	E	\$ -
R000034954	507 N LAMESA RD	BLK: 002, S50 OF NE/4, ADDN: ORIGINAL TOWN	0.161	MIDLAND CITY OF	E	\$ -
R000034953	507 N LAMESA RD	BLK: 002, M50 OF NE/4, ADDN: ORIGINAL TOWN	0.161	MIDLAND CITY OF	E	\$ -
R000034968	501 N MINEOLA ST	BLK: 003, LOTS: 005&6 AKA S 2/3, ADDN: ORIGINAL TOWN, OF SE/4	0.321	MIDLAND CITY OF	E	\$ -
R000025817	0 N MAIN ST	BLK: 037, LOT: 005, ADDN: ORIGINAL TOWN	0.161	MIDLAND CITY OF	E	\$ -
R000025380	0 N COLORADO ST	BLK: 028, W/2, ADDN: HOMESTEAD	0.964	MIDLAND CITY OF	E	\$ -
R000035276	406 E TEXAS AV	BLK: 050, ALL, ADDN: ORIGINAL TOWN	0.985	MIDLAND CITY OF	E	\$ -
R000012744	900 N BIG SPRING ST	BLK: 018, LOT: 002, ADDN: ELMWOOD SEC 2, VOLUNTEER PARK	0.501	MIDLAND CITY OF	E	\$ -
R000217757	105 W WALL ST	BLK: 054, LOT101A ADDN: ORIGINAL TOWN, SEC 14	1.514	MIDLAND CITY OF	E	\$ -
R000217757	105 N MAIN ST	BLK: 054, LOT2A, ADDN: ORIGINAL TOWN, SEC 14,	1.432	MIDLAND CITY OF	E	\$ -
R000026039	601 N LORAIN ST	BLK: 028, E/2, ADDN: HOMESTEAD	0.964	MIDLAND CITY OF	E	\$ -

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00003515	300 N LORRAINE ST	BLK: 025, LOTS: 004 THRU 12, ADDN: ORIGINAL TOWN	1.446	MIDLAND CITY OF	E	\$ -
R00003515	300 N LORRAINE ST	BLK: 025, LOTS: 004 THRU 12, ADDN: ORIGINAL TOWN	1.446	MIDLAND CITY OF	E	\$ -
R00021228	200 W WALL ST	BLK: 055, LOT: 001A, ADDN: ORIGINAL TOWN, SEC 14	2.066	MIDLAND CITY OF	E	\$ -
R000035244	108 E TEXAS AV	BLK: 053, LT 01A, ADDN: ORIGINAL TOWN, SEC 7	0.368	MIDLAND CITY OF	E	\$ -
R000035284	108 E TEXAS AV	BLK: 053, LT 01A, ADDN: ORIGINAL TOWN, SEC 7	0.368	MIDLAND CITY OF	E	\$ -
R000035093	407 E ILLINOIS AV	BLK: 021, LOT: 006, ADDN: ORIGINAL TOWN	0.161	MIDLAND CO REPUBLICAN PARTY	E	\$ 56,890
R000035181	105 W ILLINOIS AV	BLK: 037, LOT: 001, ADDN: ORIGINAL TOWN	0.161	MIDLAND COMMUNITY COLLEGE DISTRICT	E	\$ -
R000034939	611 N JAMESA RD	BLK: 001, LOT: 001, ADDN: ORIGINAL TOWN	0.107	MIDLAND COMMUNITY DEVELOPMENT CORP	E	\$ -
R000185323		COMMON AREA A & PUBLIC UTILITY EASEMENT, ADDN: OLD PUEBLO PARK				
R000034940	609 N JAMESA RD	BLK: 001, LOT: 002, ADDN: ORIGINAL TOWN	0.837	MIDLAND COMMUNITY DEVELOPMENT CORP	E	\$ -
R000034940	609 N JAMESA RD	BLK: 001, LOT: 002, ADDN: ORIGINAL TOWN	0.54	MIDLAND COMMUNITY DEVELOPMENT CORP	E	\$ -
R000035540	208 S MARINEFIELD ST	BLK: 089, LOTS: 005 & 6, ADDN: ORIGINAL TOWN	0.321	MIDLAND COMMUNITY DEVELOPMENT CORP	E	\$ -
R000035541	0 S PECOS ST	BLK: 089, LOTS: 007 THRU 9, ADDN: ORIGINAL TOWN	0.482	MIDLAND COMMUNITY DEVELOPMENT CORP	E	\$ -
R000035276	208 N COLORADO ST	BLK: 016, E/2, ADDN: HOMESTEAD	0.964	MIDLAND COMMUNITY DEVELOPMENT CORP	E	\$ -
R000025977	605 N MAIN ST	BLK: 036, LOTS: 010 THRU 15 (NORTH, ADDN: ORIGINAL TOWN, PARTS) & 7 O/O LOT 9	0.273	MIDLAND COMMUNITY THEATER	E	\$ -
R000025977	605 N MAIN ST	BLK: 027, N/50 OF SE/4, ADDN: HOMESTEAD	0.161	MIDLAND COUNTY	E	\$ -
R000025977	801 N FORT WORTH ST	BLK: 007, S/50 OF E/2, ADDN: HOMESTEAD	0.161	MIDLAND COUNTY	E	\$ -
R000025974	014 MAIN ST	BLK: 027, E/4, ADDN: HOMESTEAD	0.482	MIDLAND COUNTY	E	\$ -
R000026094	514 N MAIN ST	BLK: 043, N/30 OF NW/4, ADDN: HOMESTEAD	0.418	MIDLAND COUNTY	E	\$ -
R000185297	0 N BAIRD ST	BLK: 043, N/185.7' OF E/2, ADDN: HOMESTEAD	0.597	MIDLAND COUNTY	E	\$ -
R000025971	014 MAIN ST	BLK: 026, SW/4, ADDN: HOMESTEAD	0.482	MIDLAND COUNTY	E	\$ -
R000025978	601 N MAIN ST	BLK: 027, S/100 OF SE/4, ADDN: HOMESTEAD	0.321	MIDLAND COUNTY	E	\$ -
R000035565	200 W FRONT ST	BLK: 095, (S/1000 SQ FT), ADDN: ORIGINAL TOWN	1.171	MIDLAND COUNTY	E	\$ -
R000035497	213 N WEATHERFORD ST	BLK: 039, LOT: 003 & N/2 OF LOT 4, ADDN: ORIGINAL TOWN	0.241	MIDLAND COUNTY	E	\$ -
R000035496	800 W FRONT ST	BLK: 67 1/2, LOT: ALL, ADDN: WEST END	0.2	MIDLAND COUNTY	E	\$ -
R000035498	509 N LORRAINE ST	BLK: 041, N/100 OF E/2, ADDN: HOMESTEAD	0.321	MIDLAND COUNTY	E	\$ -
R000035190	301 W MISSOURI AV	BLK: 087, LOTS: 1-5 (LESS E/2), ADDN: ORIGINAL TOWN, OF E7 PLUS	0.964	MIDLAND COUNTY	E	\$ -
R000035190	200 N MAIN ST	BLK: 038, LOT: 007 & S/2 OF LOT 8, ADDN: ORIGINAL TOWN	0.241	MIDLAND COUNTY	E	\$ -
R000026092	500 N LORRAINE ST	BLK: 042, ALL, ADDN: HOMESTEAD	2.066	MIDLAND COUNTY	E	\$ -
R000025989	0 N COLORADO ST	BLK: 029, S/175 OF E/2, ADDN: HOMESTEAD	0.562	MIDLAND COUNTY	E	\$ 110,260
R000035168	210 N BIG SPRING ST	BLK: 035, LOTS: 009 THRU 12, ADDN: ORIGINAL TOWN	0.643	MIDLAND DEVELOPMENT CORP	E	\$ -
R000211781	211 N COLORADO ST	BLK: 035, LOT: 01A, ADDN: ORIGINAL TOWN, SEC 8	0.635	MIDLAND DEVELOPMENT CORP	E	\$ -
R000035166	304 W TEXAS AV	BLK: 035, LOTS: 005 & 6, ADDN: ORIGINAL TOWN	0.321	MIDLAND DEVELOPMENT CORP	E	\$ -
R000035209	303 E TEXAS AV	BLK: 040, LOTS: 007 THRU 11, ADDN: ORIGINAL TOWN	0.803	MIDLAND HABITAT FOR HUMANITY	E	\$ -
R000035207	205 N FORT WORTH ST	BLK: 040, LOT: 004, ADDN: ORIGINAL TOWN	0.161	MIDLAND NAUTICAL SOCIETY LLC	E	\$ -
R000035206	207 N FORT WORTH ST	BLK: 040, LOT: 003, ADDN: ORIGINAL TOWN	0.161	MIDLAND NAUTICAL SOCIETY LLC	E	\$ 14,000
R000035528	309 W MISSOURI AV	BLKS: 086, 087, 094 & 095, LOT: LESS 51000 SQ FT & CLOSED STREETS & ALLEYS	4.854	MIDLAND SUPERBLOCK	E	\$ 400,400
R000035528	309 W MISSOURI AV	BLKS: 086, 087, 094 & 095, LOT: LESS 51000 SQ FT & CLOSED STREETS & ALLEYS	4.854	MIDLAND SUPERBLOCK	E	\$ 400,400
R000035528	309 W MISSOURI AV	BLKS: 086, 087, 094 & 095, LOT: LESS 51000 SQ FT & CLOSED STREETS & ALLEYS	4.854	MIDLAND SUPERBLOCK	E	\$ 400,400
R000035204	312 E ILLINOIS AV	BLK: 040, LOT: 001 & 002, ADDN: ORIGINAL TOWN	0.321	MIDLAND YACHT CLUB LLC	E	\$ 162,350
R000035178	214 N COLORADO ST	BLK: 036, LOT: 017 S/2, ADDN: ORIGINAL TOWN	0.08	MIDLAND YUCCA REALTY INC	E	\$ 9,020
R000035179	216 N COLORADO ST	BLK: 036, LOT: 017 N/2, ADDN: ORIGINAL TOWN	0.08	MIDLAND YUCCA REALTY INC	E	\$ 9,020
R000035217	212 N COLORADO ST	BLK: 036, LOT: 016, ADDN: ORIGINAL TOWN	0.161	MIDLAND YUCCA REALTY INC	E	\$ 17,870
R000035240	220 N COLORADO ST	BLK: 036, LOT: 018, ADDN: ORIGINAL TOWN	0.161	MIDLAND YUCCA REALTY INC	E	\$ 17,870
R000035242	207 N LORRAINE ST	BLK: 036, LOT: 003, ADDN: ORIGINAL TOWN	0.161	MIDLAND YUCCA REALTY INC	E	\$ 19,230
R000035171	209 N LORRAINE ST	BLK: 036, LOT: 002, ADDN: ORIGINAL TOWN	0.161	MIDLAND YUCCA REALTY INC	E	\$ 19,230
R000035130	211 N LORRAINE ST	BLK: 036, LOT: 001, ADDN: ORIGINAL TOWN	0.161	MIDLAND YUCCA REALTY INC	E	\$ 25,270
R000035173	200 W TEXAS AV	BLK: 036, LOTS: 004 & 5, ADDN: ORIGINAL TOWN	0.149	MIDLAND YUCCA REALTY INC	E	\$ 30,860
R000035244	205 W TEXAS AV	BLK: 036, LOTS: 006 THRU 8 & E.18, ADDN: ORIGINAL TOWN, OF LOT 9	0.278	MIDLAND YUCCA REALTY INC	E	\$ 58,580
R000035245	212 W TEXAS AV	BLK: 036, LOT: 009 W/7 & ALL OF, ADDN: ORIGINAL TOWN, LOTS 10 THRU 15 LESS N/1 PT	0.195	MIDLAND YUCCA REALTY INC	E	\$ 3,429,494

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R000035950	106 N MARIENFELD ST	BLK: 057, LOT: 009, ADDN: ORIGINAL TOWN	0.161	MIDLANDMC LLC		\$ 88,500
R000025497	0 N MARIENFELD ST	BLK: 010, S50 OF N100 OF NW/4, ADDN: HOMESTEAD	0.161	MIDPAR LTD		\$ 14,000
R000025498	710 N MARIENFELD ST	BLK: 010, N50 OF NW/4, ADDN: HOMESTEAD	0.161	MIDPAR LTD		\$ 14,000
R000025499	0 N MARIENFELD ST	BLK: 010, N50 OF S100 OF W/2, ADDN: HOMESTEAD	0.161	MIDPAR LTD		\$ 19,690
R000025500	0 N MARIENFELD ST	BLK: 010, M100 OF W/2, ADDN: HOMESTEAD	0.321	MIDPAR LTD		\$ 39,380
R000026001	0 N MARIENFELD ST	BLK: 31A, LOT: 001A, ADDN: HOMESTEAD SEC 6	1.536	MIDPAR LTD		\$ 83,640
R000025990	600 N MARIENFELD ST	BLK: 030, ALL, ADDN: HOMESTEAD	2.066	MIDPAR LTD		\$ 34,470,266
R000035324	405 W TEXAS AV	BLK: 037, LOTS: 001 & 2 W/50, ADDN: ORIGINAL TOWN	0.115	MILLER ROBERT REECE		\$ 29,060
R000035680	610 W KENTUCKY AV	BLK: 112, 06 AC TR. N, SIDE OF FRONT & PECOS, ADDN: ORIGINAL TOWN	0.064	MISSOURI PACIFIC RR CO		\$ 5,550
R000035548	901 N MAIN ST	BLK: 091, LOTS: 007 THRU 9, ADDN: ORIGINAL TOWN	0.504	MIL CORP		\$ 204,200
R000214854	901 N MAIN ST	BLK: 002, LOT: 008, ADDN: RICHARDSON ABILENE	0.158	MOCTEZUMA NICOLAS		\$ 220,870
R000034970	500 N TERRELL ST	BLK: 003, SW/4 LESS S.75, ADDN: ORIGINAL TOWN	0.241	MONARREZ LAURA G		\$ 138,760
R000025819	809 N BAIRD ST	BLK: 009, N75 OF NE/4, ADDN: HOMESTEAD	0.241	MONTOYA ARMIDA		\$ 98,820
R000026120	403 N MARIENFELD ST	BLK: 047, N70 OF SE/4, ADDN: HOMESTEAD	0.225	MOORE WAYNE AND JO ANN	E	\$ -
R000214344	810 N WEATHERFORD ST	BLK: 007, LOT: 001, ADDN: HOMESTEAD, SEC 12	0.162	MORALES CESAR GUADALUPE		\$ 241,970
R000017947	805 N LORAIN ST	BLK: 001, LOT: 003 E.115, ADDN: ESTES	0.132	MORALES EDUARDO ET AL		\$ 242,880
R000025829	806 N MAIN ST	BLK: 009, LOT: 10(S50 OF NW/4), ADDN: HOMESTEAD	0.161	MORENO JOSE A		\$ 175,450
R000025830	808 N MAIN ST	BLK: 009, LOT: 11(M50 OF NW/4), ADDN: HOMESTEAD	0.161	MORENO JOSE ANTONIO		\$ 24,080
R000109946	703 N WEATHERFORD ST	BLK: 015, LOT: 005, ADDN: HOMESTEAD SEC 3	0.172	MORIN DANIEL ANTHONY		\$ 163,470
R000025944	500 E LOUISIANA AV	BLK: 022, LOTS: 010(011 & 012, ADDN: HOMESTEAD	0.482	MR PROPERTY HOLDINGS LLC		\$ 488,150
R000035378	223 W WALL ST	BLK: 065, LOT: 009 W.24.25 & ALL, ADDN: ORIGINAL TOWN, OF LOTS 10 THRU 12	0.296	MT223 LLC		\$ 8,866,995
R000211116	400 N FORT WORTH ST	BLK: 012, LOT: 003 S.68, ADDN: ORIGINAL TOWN	0.219	MUNOZ PEDRO		\$ 44,530
R000035030	600 W LOUISIANA AV	BLK: 012, LOT: 003 N.82, ADDN: ORIGINAL TOWN	0.263	MUNOZ PEDRO		\$ 182,650
R000017967	600 W LOUISIANA AV	BLK: 001, LOT: 018, ADDN: ELWOOD SEC 4	2.15	MY COMMUNITY FEDERAL CREDIT UNION		\$ 2,500,000
R000017970	704 N BAIRD ST	BLK: 015, LOT: 009, ADDN: HOMESTEAD SEC 3	0.172	NAJERA AGAPITO JR		\$ 155,360
R000035003	400 N MAIN ST	BLK: 009, S.100 OF W/2, ADDN: ORIGINAL TOWN	0.321	NAVIGATOR OIL & MINERALS INC		\$ 166,560
R000051740	908 W WALL ST	BLK: 013, LOT: 7(S96) & (8(W46), ADDN: WEST END, LOT 8(LESS N47 OF W23)	0.236	NELSON ROY E		\$ 163,170
R000035497	515 E TENNESSEE AV	BLK: 004, LOT: 002 S.100, ADDN: ORIGINAL TOWN	0.321	NLA LIVING TRUST		\$ 113,930
R000035284	300 E TEXAS AV	BLK: 051, LOTS: 018 THRU 24, ADDN: ORIGINAL TOWN	0.562	NNN REIT LP		\$ 285,500
R000035120	310 N COLORADO ST	BLK: 026, LOT: 011, ADDN: ORIGINAL TOWN	0.161	NOLLEY CAMILIA O		\$ 870,130
R000218744	504 N A ST	BLK: 035, LOT: 001, ADDN: HOMESTEAD, SEC 16	1.33	NORTH A & TENNESSEE	E	\$ -
R000035012	408 N BAIRD ST	BLK: 010, S.50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	NORTH MAIN LLC		\$ 19,690
R000035013	410 N BAIRD ST	BLK: 010, M.50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	NORTH MAIN LLC		\$ 19,690
R000035193	212 N MAIN ST	BLK: 038, LOTS: 10(N/2) & 11, ADDN: ORIGINAL TOWN	0.241	NORTH MAIN LLC		\$ 636,210
R000035133	400 W ILLINOIS AV	BLK: 028, LOT: 003 S/2 & ALL OF, ADDN: ORIGINAL TOWN, LOTS 4 THRU 6	0.562	NORTH WATERFRONT-TEXAS LLC		\$ 21,527,274
R000026111	410 W OHIO AV	BLK: 046, SW/4, ADDN: HOMESTEAD	0.482	O NEILL LEASING CO		\$ 1,313,124
R000025822	801 N BAIRD ST	BLK: 009, LOT: 005 W/2 & ALL OF 6, ADDN: HOMESTEAD	0.241	OCHOA VICTOR &		\$ 60,050
R000025821	805 N BAIRD ST	BLK: 009, LOT: 004 & N/2 OF LOT 5, ADDN: HOMESTEAD	0.241	OCHOA VICTOR &		\$ 62,840
R000017945	202 W KANSAS AV	BLK: 001, LOT: 001 & 2 LESS W.69, ADDN: ESTES	0.229	OCHOA VICTOR R		\$ 205,320
R000026067	0 N MARIENFELD ST	BLK: 038, N/3 OF SE/4, ADDN: HOMESTEAD	0.161	OGX REAL ESTATE LLC		\$ 19,690
R000026109	400 N MARIENFELD ST	BLK: 046, NW/4, ADDN: HOMESTEAD	0.482	OGX REAL ESTATE LLC		\$ 1,240,930
R000035282	301 E WALL ST	BLK: 015, LOTS: 013 THRU 15 W/75, ADDN: ORIGINAL TOWN	0.129	OK CARIOCA LLC		\$ 98,640
R000035043	501 N DALLAS ST	BLK: 001, LOT: 006, ADDN: OLD PUEBLO PARK	0.112	OLIVAREZ NOEMI		\$ 185,420
R000025969	701 N BAIRD ST	BLK: 014, S.50 OF SE/4, ADDN: HOMESTEAD	0.161	OLIVAS MARTINA L		\$ 96,370
R000025965	707 N BAIRD ST	BLK: 014, S.50 OF NE/4, ADDN: HOMESTEAD	0.161	OLIVAS SIXTO		\$ 14,000
R000025871	703 N BAIRD ST	BLK: 014, M.50 OF SE/4, ADDN: HOMESTEAD	0.161	OLIVAS SIXTO		\$ 49,250
R000025870	705 N BAIRD ST	BLK: 014, N.50 OF SE/4, ADDN: HOMESTEAD	0.161	OLIVAS SIXTO		\$ 57,370
R000047040	810 N LORAIN ST	BLK: 002, LOT: 014, ADDN: RICHARDSON ABILENE	0.158	ONTIVEROS SEVERIANA		\$ 74,160
R000109244	707 N WEATHERFORD ST	BLK: 015, LOT: 003, ADDN: HOMESTEAD SEC 3	0.172	OUDEMS LATOYA DENISE		\$ 187,250
R000017950	601 N DALLAS ST	BLK: 023, S.50 OF SE/4, ADDN: HOMESTEAD	0.161	PACHECO SANDRA C		\$ 182,290

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00002051	316 N BIG SPRING ST	BLK: 027, LOTS: 028 & 24, ADDN: ORIGINAL TOWN	0.161	PACHUCO LLC		\$ 31,000
R00003530	401 E TEXAS AV	BLK: 027, LOT: 022, ADDN: ORIGINAL TOWN	0.08	PACHUCO LLC		\$ 93,980
R00003536	401 E TEXAS AV	BLK: 041, LOTS: 007 & 8, ADDN: ORIGINAL TOWN	0.321	PATEL MOHANBHAI BALUBHAI ET AL		\$ 115,948
R00003537	503 N MINEOLA ST	BLK: 003, LOT: 4 (AKA N/3 OF SE/4), ADDN: ORIGINAL TOWN	0.161	PATILLO ARTHUR ET AL		\$ 14,000
R000035119	308 N COLORADO ST	BLK: 026, LOT: 008 N/2 & ALL OF, ADDN: ORIGINAL TOWN, LOTS 9 & 10	0.402	PEGASUS BUILDING MNGT LLC		\$ 668,150
R000109951	706 N BARD ST	BLK: 015, LOT: 010, ADDN: HOMESTEAD SEC 3	0.172	PEREZ NOEMI N		\$ 157,940
R0000351902	208 S A ST	BLK: 032, LOT: S 59.5 OF E/2, ADDN: WEST END	0.191	PERMIAN BASIN OFFICE PRODUCTS INC		\$ 239,800
R000035186	203 N MAIN ST	BLK: 037, LOT: 005, ADDN: ORIGINAL TOWN	0.161	PERMIAN BASIN PUBLIC TELECOM INC	E	\$ -
R000035346	617 W TEXAS AV	BLK: 059, LOT: 010 N 10 OF E 86, ADDN: ORIGINAL TOWN, & E 86 OF 11 & 12	0.217	PERMIAN COURT REPORTERS INC		\$ 45,530
R000035338	605 W TEXAS AV	BLK: 059, LOTS: 001 & 2 W 50, ADDN: ORIGINAL TOWN	0.115	PERMIAN COURT REPORTERS INC		\$ 64,140
R000035135	306 N MARIENFELD ST	BLK: 028, LOT: 010 S/2, ADDN: ORIGINAL TOWN	0.08	PERMIAN RESOURCES CORPORATION LLC		\$ 9,840
R000035136	306 N MARIENFELD ST	BLK: 028, LOT: 010 N/2, ADDN: ORIGINAL TOWN	0.08	PERMIAN RESOURCES CORPORATION LLC		\$ 9,840
R000035137	308 N MARIENFELD ST	BLK: 028, LOT: 011, ADDN: ORIGINAL TOWN	0.161	PERMIAN RESOURCES CORPORATION LLC		\$ 19,730
R000035138	310 N MARIENFELD ST	BLK: 028, LOT: 012, ADDN: ORIGINAL TOWN	0.161	PERMIAN RESOURCES CORPORATION LLC		\$ 75,890
R000035132	311 N BIG SPRING ST	BLK: 028, LOTS: 001 & 2 & N/2 OF 3, ADDN: ORIGINAL TOWN	0.402	PERMIAN RESOURCES CORPORATION LLC		\$ 1,612,420
R000035134	300 N MARIENFELD ST	BLK: 028, LOTS: 007 THRU 9, ADDN: ORIGINAL TOWN	0.482	PERMIAN RESOURCES CORPORATION LLC		\$ 19,948,339
R000035364	510 W MISSOURI AV	BLK: 062, LOT: 007 & S 20 OF 8, ADDN: ORIGINAL TOWN	0.225	PETROLEUM CLUB OF MIDLAND		\$ 37,360
R000035365	107 S PECOS ST	BLK: 062, LOT: 008 N 30 & ALL OF, ADDN: ORIGINAL TOWN, LOTS 9 & 10	0.418	PETROLEUM CLUB OF MIDLAND		\$ 113,750
R000035362	501 W WALL ST	BLK: 062, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.482	PETROLEUM CLUB OF MIDLAND		\$ 1,458,980
R000035363	106 S MARIENFELD ST	BLK: 062, LOTS: 004 THRU 6, ADDN: ORIGINAL TOWN	0.482	PETROLEUM CLUB OF MIDLAND INC		\$ 250,430
R000058240	507 N DALLAS ST	BLK: 001, LOT: 003, ADDN: OLD PUEBLO PARK	0.115	PINA LAURA		\$ 175,960
R000035348	702 W WALL ST	BLK: 060, LOTS: 003 & 6, ADDN: ORIGINAL TOWN	0.275	POPS STATION LLC		\$ 126,600
R000203138	507 N FORT WORTH ST	BLK: 002, LOT: 003, ADDN: OLD PUEBLO PARK, SEC 2	0.161	PRIETO PEDRO		\$ 187,300
R000017755	805 N BIG SPRING ST	BLK: 018, LOT: 003, ADDN: ELMWOOD SEC 2	0.402	PROSPERITY BANK		\$ 136,690
R000025703	405 N COLORADO ST	BLK: 045, N 50 OF SE/4, ADDN: HOMESTEAD	0.161	PURVIS HOLDINGS LLC		\$ 43,800
R000016089	407 N COLORADO ST	BLK: 045, S 50 OF NE/4, ADDN: HOMESTEAD	0.161	PURVIS HOLDINGS LLC		\$ 43,800
R000020602	409 N BIG SPRING ST	BLK: 045, S 50 OF NW/4, ADDN: HOMESTEAD	0.161	PURVIS HOLDINGS LLC		\$ 14,78,796
R0000353278	105 N FORT WORTH ST	BLK: 051, LOTS: 006 THRU 9, ADDN: ORIGINAL TOWN	0.321	QUADRIGA INVESTMENTS INC		\$ 121,990
R000025812	809 N WEATHERFORD ST	BLK: 008, S 50 OF N 100 OF NE/4, ADDN: HOMESTEAD	0.161	QUAIN JACK ROBERT		\$ 77,570
R000025831	503 N DALLAS ST	BLK: 001, LOT: 005, ADDN: OLD PUEBLO PARK	0.115	QUEZADA DAVID		\$ 180,550
R000203973	508 N DALLAS ST	BLK: 003, LOT: 004, ADDN: OLD PUEBLO PARK SEC 3	0.103	RAMOS MARK		\$ 141,170
R000026035	709 W LOUISIANA AV	BLK: 033, LOT: N 150 FT OF W/2, ADDN: HOMESTEAD	0.482	RAY ELLA L		\$ 495,690
R000051771	102 N C ST	BLK: 013, LOTS: 7 (N47) & 8 (N47X23), ADDN: WEST END	0.079	RESE DEBBIE P		\$ 50,610
R000035169	0 E KENTUCKY AV	BLK: 036 EAST-WEST & NORTH-SOUTH ALLEYS, ADDN: ORIGINAL TOWN	0.207	RENAISSANCE WEST JOINT		\$ 25,310
R000220096	410 S PECOS ST	BLK: 111, LOT: 002 S 75 & ALL OF, ADDN: ORIGINAL TOWN, 3 & TRI OFF E SIDE, OF BLK 51 WEST END, SUBDIVISION	2.038	RENEW LIFE CHURCH INC	E	\$ -
R000035677	410 S PECOS ST	BLK: 111, LOT: 002 S 75 & ALL OF, ADDN: ORIGINAL TOWN, 3 & TRI OFF E SIDE, OF BLK 51 WEST END, SUBDIVISION	0.562	RENEW LIFE CHURCH INC	E	\$ -
R000035677	410 S PECOS ST	BLK: 111, LOT: 002 S 75 & ALL OF, ADDN: ORIGINAL TOWN, 3 & TRI OFF E SIDE, OF BLK 51 WEST END, SUBDIVISION	0.562	RENEW LIFE CHURCH INC	E	\$ -
R000034973	510 N TERRELL ST	BLK: 003, N 50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	REYES LUIS		\$ 101,770
R000034972	508 N TERRELL ST	BLK: 003, S 50 OF N 100 OF NW/4, ADDN: ORIGINAL TOWN	0.161	REYES LUIS ET AL		\$ 70,610
R000025808	806 N WEATHERFORD ST	BLK: 007, S 50 OF NW/4, ADDN: HOMESTEAD	0.161	REYES MATILDE		\$ 157,900
R000034971	506 N TERRELL ST	BLK: 003, S 50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	REYES MATILDE ET AL		\$ 90,480
R000025806	607 N TERRELL ST	BLK: 022, LOT: 003, ADDN: HOMESTEAD	0.161	REYES MIQUELA		\$ 98,510
R000010943	709 N WEATHERFORD ST	BLK: 015, LOT: 002, ADDN: HOMESTEAD SEC 3	0.172	REYES RAUL B		\$ 165,000
R000040339	808 N LORRAINE ST	BLK: 002, LOT: 013, ADDN: RICHARDSON ABILENE	0.142	REYES RITO RICARDO		\$ 139,050
R000035135	315 N COLORADO ST	BLK: 027, LOT: 005, ADDN: ORIGINAL TOWN	0.08	REYNOLDS BROTHERS		\$ 88,650
R000035134	317 N COLORADO ST	BLK: 027, LOT: 004, ADDN: ORIGINAL TOWN	0.08	REYNOLDS BROTHERS		\$ 96,120
R000035126	313 N COLORADO ST	BLK: 027, LOT: 006, ADDN: ORIGINAL TOWN	0.08	REYNOLDS BROTHERS		\$ 100,720
R000035122	0 S BIG SPRING ST	BLK: 093, LOT: 006, ADDN: ORIGINAL TOWN	0.126	RIMT PROPERTY LP		\$ 26,650
R000035130	0 S BIG SPRING ST	BLK: 093, LOT: NORTH-SOUTH ALLEY, ADDN: ORIGINAL TOWN	0.138	RIMT PROPERTY LP		\$ 28,880

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00002563	0 S MARIENFELD ST	BLK: 093, LOTS: 007 & 8, ADDN: ORIGINAL TOWN	0.321	RMT PROPERTY LP		\$ 39,980
R000034561	0 S BIG SPRING ST	BLK: 093, LOTS: 004 & 5, ADDN: ORIGINAL TOWN	0.253	RMT PROPERTY LP		\$ 52,940
R000034564	405 W INDIANA AV	BLK: 093, LOTS: 009 THRU 12, ADDN: ORIGINAL TOWN	0.643	RMT PROPERTY LP		\$ 57,750
R000035349	0 S BIG SPRING ST	BLK: 093, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.379	RMT PROPERTY LP		\$ 79,410
R000035311	312 N COLORADO ST	BLK: 026, LOT: 012, ADDN: ORIGINAL TOWN	0.161	RITA & SMA PROPERTIES INC		\$ 19,690
R000035123	319 N COLORADO ST	BLK: 027, LOTS: 002 & 3, ADDN: ORIGINAL TOWN	0.161	RITA & SMA PROPERTIES INC		\$ 176,430
R000026091	0 W MICHIGAN AV	BLK: 041, N 60 OF W/2, ADDN: HOMESTEAD	0.193	RNC PROPERTY AND SERVICES LLC		\$ 44,260
R000216335	505 N LORAIN ST	BLK: 041, LOT: 001, ADDN: HOMESTEAD, 13TH	0.321	RNC PROPERTY AND SERVICES LLC		\$ 1,016,120
R000026064	507 N MARIENFELD ST	BLK: 038, NE 1/4, ADDN: HOMESTEAD	0.482	ROBINSON BUILDING LLC		\$ 2,881,081
R000034980	501 E TENNESSEE AV	BLK: 004, W 70 OF S 75 OF W/2, ADDN: ORIGINAL TOWN	0.121	ROBLES OSCAR		\$ 10,500
R000034981	505 E TENNESSEE AV	BLK: 004, E 70 OF S 75 OF W/2, ADDN: ORIGINAL TOWN	0.121	ROBLES OSCAR		\$ 77,890
R000035196	209 N WEATHERFORD ST	BLK: 039, LOT: 001 & 2, ADDN: ORIGINAL TOWN	0.321	ROCK HOUSE RESIDENTIAL PROP LTD		\$ 39,380
R000035214	300 E ILLINOIS AV	BLK: 040, LOT: 012 W 85, ADDN: ORIGINAL TOWN	0.098	RODEA MARTIN T		\$ 45,790
R000041052	803 N MAIN ST	Lot: 002, Bk: 001, Subd: ATRIUM, BLK: 001, LOT: 002, ADDN: ATRIUM	0.149	RODRIGUEZ ANDREA E		\$ 150,060
R000032394	409 N LEE ST	BLK: 006, LOT: 002, ADDN: MOODY	0.161	RODRIGUEZ CATHARINA NICOLE		\$ 236,700
R000035072	311 N MINEOLA ST	BLK: 019, LOT: 001, ADDN: ORIGINAL TOWN	0.161	RODRIGUEZ FELIPE		\$ 29,910
R000035073	309 N MINEOLA ST	BLK: 019, LOT: 002, ADDN: ORIGINAL TOWN	0.161	RODRIGUEZ FELIPE		\$ 191,880
R000035029	401 N DALLAS ST	BLK: 012, S 50 OF SE 1/4, ADDN: ORIGINAL TOWN	0.161	RODRIGUEZ FELIPE EST		\$ 49,300
R000025832	709 N BIG SPRING ST	BLK: 010, LOT: NE 1/4, ADDN: HOMESTEAD	0.482	ROSE HOLDINGS LTD		\$ 203,910
R000051787	808 W MISSOURI AV	BLK: 015, LOT: 008, ADDN: WEST END	0.161	ROYS NANCY		\$ 111,180
R000051892	908 W INDIANA AV	BLK: 031, LOTS: 007 & 8, ADDN: WEST END	0.321	RVS LLC		\$ 218,800
R000026046	600 N A ST	BLK: 034, LOT: 005 & W/2 OF LOT 6, ADDN: HOMESTEAD	0.186	RUBIO JONATHAN J		\$ 79,870
R000035026	411 N DALLAS ST	BLK: 012, LOT: 001 E/2, ADDN: ORIGINAL TOWN	0.241	RUIZ PEDRO		\$ 21,000
R000035050	406 N TERRELL ST	BLK: 014, LOT: 004 SOUTH PART & ADDN: ORIGINAL TOWN, NW/CORNER LOT 3	0.166	RUIZ RAFAEL E		\$ 49,230
R000035051	410 N TERRELL ST	BLK: 014, LOT: 004 NORTH PART, ADDN: ORIGINAL TOWN	0.132	RUIZ RAFAEL E		\$ 66,810
R000035052	408 N FORT WORTH ST	BLK: 012, S 50 OF N 100 OF NW 1/4, ADDN: ORIGINAL TOWN	0.161	RUTLEDGE MELISSA		\$ 100,850
R000035058	409 N COLORADO ST	BLK: 045, 5/2 OF NE 1/4 LESS S 50, ADDN: HOMESTEAD	0.08	S B W CORPORATION		\$ 7,880
R000026100	411 N COLORADO ST	BLK: 045, N 72 OF NE 1/4, ADDN: HOMESTEAD	0.241	S B W CORPORATION		\$ 23,750
R000031137	509 N FORT WORTH ST	BLK: 002, LOT: 002, ADDN: OLD PUEBLO PARK, SEC 2	0.161	SAENZ JESSICA MADRID		\$ 187,300
R000058249	510 N FORT WORTH ST	BLK: 001, LOT: 012, ADDN: OLD PUEBLO PARK	0.112	SAENZ LEROY		\$ 186,740
R0000203974	506 N DALLAS ST	BLK: 003, LOT: 005, ADDN: OLD PUEBLO PARK SEC 3	0.103	SAIZ ERNESTO		\$ 142,090
R0000203970	514 N DALLAS ST	BLK: 003, LOT: 001, ADDN: OLD PUEBLO PARK SEC 3	0.13	SALCIDO FRANCISCO		\$ 230,240
R000034989	501 N FORT WORTH ST	BLK: 006, S 50 OF SE 1/4, ADDN: ORIGINAL TOWN	0.161	SAMANIEGO ANITA V		\$ 14,000
R000034988	503 N FORT WORTH ST	BLK: 006, N 50 OF SE 1/4, ADDN: ORIGINAL TOWN	0.161	SAMANIEGO ANITA V		\$ 60,910
R000032402	406 N LAMESA RD	BLK: 006, LOT: 010, ADDN: MOODY	0.161	SANCHEZ JUAN		\$ 14,000
R000032401	404 N LAMESA RD	BLK: 006, LOT: 009 LESS 350, ADDN: MOODY	0.153	SANCHEZ JUAN		\$ 50,840
R000032400	402 N LAMESA RD	BLK: 006, LOT: 008 LESS 644, ADDN: MOODY	0.146	SANCHEZ JUAN J		\$ 12,710
R000052056	710 W WASHINGTON AV	BLK: 051, LOTS: 5 THRU 7, ADDN: WEST END	0.513	SANCHEZ OSCAR O		\$ 203,000
R000041033	913 N MAIN ST	BLK: 002, LOT: 005, ADDN: RICHARDSON ABILENE	0.158	SANCHEZ VELASCO MIGUEL A		\$ 252,560
R000025946	603 N DALLAS ST	BLK: 023, M 50 OF SE 1/4, ADDN: HOMESTEAD	0.161	SANDATE OSCAR MENCHACA		\$ 215,950
R000035208	317 E TEXAS AV	BLK: 040, LOTS: 005 & 6, ADDN: ORIGINAL TOWN	0.321	SCHMID S HOLDINGS LLC		\$ 124,820
R000051784	0 W WALL ST	BLK: 015, LOT: 003 W 20 & ALL OF, ADDN: WEST END, LOT 4	0.225	SCYTHIAN LTD		\$ 71,050
R000052945	0 W WALL ST	BLK: 015, LOTS: 005 & 6, ADDN: WEST END	0.321	SCYTHIAN LTD		\$ 103,780
R000052943	801 W WALL ST	BLK: 015, LOTS: 001 & 2 & E 30 OF, ADDN: WEST END, LOT 3	0.418	SCYTHIAN LTD		\$ 194,850
R000035359	401 S MARIENFELD ST	BLK: 109, LOT: 01A, ADDN: ORIGINAL TOWN, SEC 6	1.408	SHH ENTERPRISES LLC		\$ 2,047,190
R000051772	902 W WALL ST	BLK: 013, LOT: 013, ADDN: WEST END SEC 9	0.153	SHULL HAROLD		\$ 77,240
R000035317	509 W TENNESSEE AV	BLK: 047, E 48 OF W 94 OF, ADDN: HOMESTEAD, N 100 OF NW 1/4	0.11	SIGNAL MARIENFELD LLC		\$ 9,600
R000026116	0 W TENNESSEE AV	BLK: 047, W 46 OF N 100 OF NW 1/4, ADDN: HOMESTEAD	0.106	SIGNAL MARIENFELD LLC		\$ 24,900
R000035208	401 N WEATHERFORD ST	BLK: 010, LOT: 002, ADDN: ORIGINAL TOWN	0.482	SIGNAL WEATHERFORD LLC		\$ 139,740
R000035232	310 S PECOS ST	BLK: 091, LOTS: 010 THRU 12 S/2, ADDN: ORIGINAL TOWN	0.241	SIMS LARRY		\$ 53,510

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Taxable Value
R00001541	306 S PECOS ST	BLK: 091, LOTS: 010 THRU 12 W/2, ADDN: ORIGINAL TOWN	0.241	SIMS LARRY		\$ 94,740
R00001549	400 S PECOS ST	BLK: 111, LOT: 01A, ADDN: ORIGINAL TOWN, SEC 13	0.449	SIMS LARRY D		\$ 218,700
R000025004	604 N BIG SPRING ST	BLK: 029, S.50 OF M.100 OF W/2, ADDN: HOMESTEAD	0.161	SIR MANAGEMENT LLC		\$ 17,200
R000025002	0 N BIG SPRING ST	BLK: 029, N.50 OF M.100 OF W/2, ADDN: HOMESTEAD	0.161	SIR MANAGEMENT LLC		\$ 234,490
R000025068	608 N MAIN ST	BLK: 026, S/2 OF NW/4, ADDN: HOMESTEAD	0.241	SIX O EIGHT N MAIN		\$ 1,078,297
R000025063	711 N BAIRD ST	BLK: 014, N.50 OF NE/4, ADDN: HOMESTEAD	0.161	SMITH RONNIE D		\$ 14,000
R000025064	708 N BAIRD ST	BLK: 014, M.50 OF NE/4, ADDN: HOMESTEAD	0.161	SMITH RONNIE D		\$ 14,000
R000015790	106 S A ST	BLK: 015, LOTS: 010 THRU 12 N.65, ADDN: WEST END	0.224	SOSA ONE LLC		\$ 145,280
R000035351	103 S A ST	BLK: 060 1/2, LOTS: 002,3 & 4, ADDN: ORIGINAL TOWN	0.218	SOSA ONE LLC		\$ 160,550
R000015895	204 S B ST	BLK: 031, LOT: N 97.5 OF LOT 11, ADDN: WEST END, & LOT 12	0.224	SOUTH JK LLC		\$ 155,050
R000035339	0 N MARIENFELD ST	BLK: 089, LOT: 004, ADDN: ORIGINAL TOWN	0.161	SOUTHWESTERN BELL TELEPHONE CO		\$ 19,690
R000035338	0 N MARIENFELD ST	BLK: 089, LOT: 003, ADDN: ORIGINAL TOWN	0.161	SOUTHWESTERN BELL TELEPHONE CO		\$ 19,690
R000035337	0 N MARIENFELD ST	BLK: 089, LOTS: 001 & 2, ADDN: ORIGINAL TOWN	0.321	SOUTHWESTERN BELL TELEPHONE CO		\$ 39,380
R000026119	507 W TENNESSEE AV	BLK: 047, E.46 OF N.100 OF ADDN: HOMESTEAD	0.106	SPENCER GREGORY S		\$ 215,490
R000035105	301 E ILLINOIS AV	BLK: 022, LOTS: 007 & 8, ADDN: ORIGINAL TOWN	0.321	STACKING STONES LLC		\$ 143,740
R000015792	908 W MISSOURI AV	BLK: 016, LOTS: 007 & 8 S/2, ADDN: WEST END	0.161	STAGG 901 LTD		\$ 50,750
R000015793		BLK: 016, LOTS: 007 & 8 W/2 & ALL, ADDN: WEST END, OF LOTS 9 THRU 12	0.803	STAGG 901 LTD		\$ 253,750
R000015791	901 W WALL ST	BLK: 016, LOTS: 001 THRU 6, ADDN: WEST END	0.964	STAGG 901 LTD		\$ 6,406,495
R000035375	203 W WALL ST	BLK: 065, LOTS: 001 & 2 & E.23.5, ADDN: ORIGINAL TOWN, OF LOT 3	0.219	STAGG INVESTMENT III LTD		\$ 7,486,443
R000035376	203 W WALL ST	BLK: 065, LOTS: 3(W1.5); 4-6 & ADDN: ORIGINAL TOWN, LOT 7(E24.25)	0.301	STAGG INVESTMENT III LTD		\$ 11,988,486
R000025004	805 N FORT WORTH ST	BLK: 007, N.50 OF S.125 OF N.250, ADDN: HOMESTEAD, OF E/2	0.161	STATHAKOS NIKOAL		\$ 93,500
R000058247	508 N FORT WORTH ST	BLK: 001, LOT: 010, ADDN: OLD PUEBLO PARK	0.115	STENSON JACE		\$ 175,720
R000035554	302 S MARIENFELD ST	BLK: 092, LOTS: 002 THRU 4, ADDN: ORIGINAL TOWN	0.482	STROOPE BEVERLY MAXCINE		\$ 244,920
R000025005	608 N WEATHERFORD ST	BLK: 024, NW/4, ADDN: HOMESTEAD	0.482	SWEET COMMERCIAL PROPERTIES LLC		\$ 565,900
R000025006	600 N LORRAINE ST	BLK: 027, S.200 OF W/2, ADDN: HOMESTEAD	0.643	T J J C K LLC		\$ 410,490
R000025007	700 N BIG SPRING ST	BLK: 011, S.90 OF SW/4, ADDN: HOMESTEAD	0.289	TAING HANG KHANG		\$ 135,940
R000035405	500 W TEXAS AV	BLK: 022, LOT: 002, ADDN: HOMESTEAD, (AKA S.50 N.100 OF E/2)	4.684	TALL CITY TOWERS LLC		\$ 46,870
R000025935	603 N TERRELL ST	BLK: 009, LOT: 009, ADDN: HOMESTEAD	0.161	TARANGO SAMUEL EST		\$ 95,808,384
R000025827	804 N MAIN ST	BLK: 009, LOT: 009, ADDN: HOMESTEAD	0.161	TEAL JUDY A		\$ 151,290
R000035339	601 W TEXAS AV	BLK: 009, LOTS: 001 & 2 E.90, ADDN: ORIGINAL TOWN	0.207	TEJAS AVENUE LLC		\$ 416,370
R000035015	411 N FORT WORTH ST	BLK: 011, N.95 OF NE/4 LESS W.50, ADDN: ORIGINAL TOWN	0.196	TENNON HATTIE		\$ 72,900
R000035016	306 E TENNESSEE AV	BLK: 011, W.50 OF N.95 OF NE/4, ADDN: ORIGINAL TOWN	0.109	TENNON HATTIE		\$ 81,590
R000035108	308 N WEATHERFORD ST	BLK: 022, LOT: 011 S.25, ADDN: ORIGINAL TOWN	0.08	TEXAS ARMS OF LOVE INC	E	\$ -
R000035106	304 N WEATHERFORD ST	BLK: 022, LOT: 009, ADDN: ORIGINAL TOWN	0.161	TEXAS ARMS OF LOVE INC	E	\$ -
R000035109	310 N WEATHERFORD ST	BLK: 022, LOTS: 11(N25) & 12(S5), ADDN: ORIGINAL TOWN	0.096	TEXAS ARMS OF LOVE INC	E	\$ -
R000035107	308 N WEATHERFORD ST	BLK: 022, LOT: 010, ADDN: ORIGINAL TOWN	0.161	TEXAS ARMS OF LOVE INC	E	\$ -
R000035217	204 N FORT WORTH ST	BLK: 041, LOTS: 009 THRU 12, ADDN: ORIGINAL TOWN	0.643	TEXAS ARMS OF LOVE INC		\$ 35,000
R000035070	711 E FRONT ST	BLK: 018, LOTS: 001 THRU 4, ADDN: ORIGINAL TOWN	0.62	TEXAS BROTHERS LLC		\$ 156,190
R000035071	703 E FRONT ST	BLK: 018, LOTS: 005 THRU 10, ADDN: ORIGINAL TOWN	0.912	TEXAS BROTHERS LLC		\$ 637,670
R000035149	0 N CARRIZO ST	BLK: 031, LOT: 002, ADDN: ORIGINAL TOWN	0.161	TEXAS TEN LTD		\$ 14,000
R000035148	211 N CARRIZO ST	BLK: 031, LOT: 001, ADDN: ORIGINAL TOWN	0.161	TEXAS TEN LTD		\$ 14,000
R000051904	808 W INDIANA AV	BLK: 032, LOT: 5 & 6 S.180.1 OF W/2, ADDN: WEST END	0.515	TEXLAND 1031 HOLDINGS LLC		\$ 634,880
R000035041	412 N BAIRD ST	BLK: 010, N.50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	THB BRENTWAY LLC		\$ 36,750
R000035046	300 S PECOS ST	BLK: 091, LOTS: 001 THRU 3, ADDN: ORIGINAL TOWN	0.482	THB BRENTWAY LLC		\$ 77,830
R000035028	403 N DALLAS ST	BLK: 012, N.100 OF SE/4, ADDN: ORIGINAL TOWN	0.321	THRIFTY STORAGE INC		\$ 116,090
R000274634	0 E ILLINOIS AV	BLK: 023, LOT: 013, ADDN: ORIGINAL TOWN SEC 24	0.97	THRIVING UNITED INC		\$ 479,040
R000035111	201 E ILLINOIS AV	BLK: 023, LOTS: 7-12, ADDN: ORIGINAL TOWN	1.01	THRIVING UNITED INC		\$ 1,692,380
R000035102	219 N MAIN ST	BLK: 037, LOT: 002 N/2, ADDN: ORIGINAL TOWN	0.08	THUNDERBOLT PETROLEUM COMPANY LLC		\$ 118,140
R000035103	502 N FORT WORTH ST	BLK: 001, LOT: 008, ADDN: OLD PUEBLO PARK	0.115	TIERINA ROSA LINDA		\$ 177,650

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner Name	Exemption	Available Value
R00003478	218 W ILLINOIS AV	BLK: 026, LOT: 007 & 5/2 OF LOT 8, ADDN: ORIGINAL TOWN	0.241	TIN KEY 218 LLC		\$ 393,560
R00003540	205 N MAIN ST	BLK: 038, LOT: 008 N/2 & 3/9 OF 9, ADDN: ORIGINAL TOWN	0.109	TITLE TECHNOLOGIES INC		\$ 279,640
R00003478	411 N LEE ST	BLK: 006, LOT: 001, ADDN: MOODY	0.161	TORRES GILBERTO ANTONIO		\$ 242,320
R000034674	500 N TERRELL ST	BLK: 003, 5/75 OF SW/4, ADDN: ORIGINAL TOWN	0.241	TOVAR EMILIO &		\$ 81,110
R000035553	300 S MARSHALL ST	BLK: 032, LOT: 001, ADDN: ORIGINAL TOWN	0.161	TRINITY RHEMA INTERNATIONAL CHURCH		\$ 36,750
R000035157	400 W TEXAS AV	BLK: 034, LOTS: 004 & N/2 OF 005, ADDN: ORIGINAL TOWN	0.241	TUNA INVESTMENT LLC		\$ 279,443
R0000303779	400 W TEXAS AV	BLK: 034, LOTS: 005(S/2) & ALL OF 006, ADDN: ORIGINAL TOWN	0.241	TUNA INVESTMENT LLC		\$ 7,507,459
R000034990	500 N WEATHERFORD ST	BLK: 006, 50 OF SW/4, ADDN: ORIGINAL TOWN	0.161	TYLER REAL ESTATE LLC		\$ 14,000
R000026080	501 N COLORADO ST	BLK: 040, 5.100 OF SE/4, ADDN: HOMESTEAD	0.321	TYNER REAL ESTATE LLC		\$ 64,450
R000035289	0 N WEATHERFORD ST	BLK: 052, LOT: 008, ADDN: ORIGINAL TOWN	0.08	UNITED STATES OF	E	\$ -
R000035287	0 N WEATHERFORD ST	BLK: 052, LOT: 004, ADDN: ORIGINAL TOWN	0.08	UNITED STATES OF	E	\$ -
R000035286	0 N WEATHERFORD ST	BLK: 052, LOT: 003, ADDN: ORIGINAL TOWN	0.08	UNITED STATES OF	E	\$ -
R000035292	0 N WEATHERFORD ST	BLK: 052, LOTS: 017 & 18, ADDN: ORIGINAL TOWN	0.161	UNITED STATES OF	E	\$ -
R000035288	0 N WEATHERFORD ST	BLK: 052, LOTS: 005 THRU 7, ADDN: ORIGINAL TOWN	0.241	UNITED STATES OF	E	\$ -
R000035291	0 N BAIRD ST	BLK: 052, LOTS: 013 THRU 16, ADDN: ORIGINAL TOWN	0.321	UNITED STATES OF	E	\$ -
R000035290	0 N WEATHERFORD ST	BLK: 052, LOTS: 009 THRU 12, ADDN: ORIGINAL TOWN	0.321	UNITED STATES OF	E	\$ -
R000035293	0 N BAIRD ST	BLK: 052, LOTS: 019 THRU 24, ADDN: ORIGINAL TOWN	0.482	UNITED STATES OF	E	\$ -
R000035385	100 E WALL ST	BLK: 052, LOTS: 69 & 84, ADDN: ORIGINAL TOWN	5.125	UNITED STATES OF	E	\$ -
R000025948	607 N DALLAS ST	BLK: 023, 5.50 OF NE/4, ADDN: HOMESTEAD	0.161	URBINA JOSUE &		\$ 188,140
R000035037	403 N TERRELL ST	BLK: 013, 1/50 OF SE/4, ADDN: ORIGINAL TOWN	0.161	VALLE ARTHURO		\$ 30,280
R000035036	401 N TERRELL ST	BLK: 013, 5.50 OF SE/4, ADDN: ORIGINAL TOWN	0.161	VALLE ARTURO		\$ 24,140
R000035054	405 N MARSHALL ST	BLK: 015, 1/50 SE/4 (AKA 2A), ADDN: ORIGINAL TOWN, & 5.50 NE/4 (AKA 1C)	0.321	VALIN OSCAR		\$ 28,000
R000034993	409 N MARSHALL ST	BLK: 015, M/50 NE/4, ADDN: ORIGINAL TOWN, (AKA LOT 1B)	0.161	VALIN OSCAR M		\$ 14,000
R000035052	411 N MARSHALL ST	BLK: 015, N/50 NE/4, ADDN: ORIGINAL TOWN, (AKA LOT 1A)	0.161	VALIN OSCAR M		\$ 14,000
R000035059	312 N BIG SPRING ST	BLK: 027, LOTS: 019 THRU 21, ADDN: ORIGINAL TOWN	0.241	VANDERGRIF BUILDING MANAGEMENT LLC		\$ 326,020
R000034954	509 N MINDELA ST	BLK: 003, LOT: 001, ADDN: ORIGINAL TOWN	0.161	VARELA JUAN V &		\$ 79,910
R000035042	406 N DALLAS ST	BLK: 013, 5.50 OF NW/4, ADDN: ORIGINAL TOWN	0.161	VARELA MARCO		\$ 60,180
R000025882	710 N WEATHERFORD ST	BLK: 016, 1/100 OF W/2, ADDN: HOMESTEAD	0.321	VASQUEZ MARIO		\$ 238,910
R000025941	604 N DALLAS ST	BLK: 022, LOT: 008, ADDN: HOMESTEAD	0.161	VEGA RICARDO		\$ 186,580
R000035084	305 N TERRELL ST	BLK: 020, LOT: 004, ADDN: ORIGINAL TOWN	0.161	VELA IOE		\$ 15,730
R000035218	508 E ILLINOIS AV	BLK: 042, LOT: 001, ADDN: ORIGINAL TOWN	0.161	VELOZ GEORGE MANAGEMENT LP		\$ 134,700
R000034977	507 N TERRELL ST	BLK: 004, LOT: 001 5.50, ADDN: ORIGINAL TOWN	0.161	VERASTEGUI FRANCISCO JAVIER		\$ 14,000
R000041047	922 N LORAINNE ST	BLK: 002, LOT: 021, ADDN: RICHARDSON ABILENE	0.158	VILLELA ELVA ERICKA OLIVAS		\$ 13,800
R000041048	924 N LORAINNE ST	BLK: 002, LOT: 022, ADDN: RICHARDSON ABILENE	0.158	VILLELA ELVA ERICKA OLIVAS		\$ 63,080
R000025820	807 N BAIRD ST	BLK: 009, LOT: 002 5/2 & ALL OF 3, ADDN: HOMESTEAD	0.241	WALKER THEDIS		\$ 50,500
R000035349	703 W WALL ST	BLK: 060 1/2, LOT: 001 & N/30 OF LOT, ADDN: ORIGINAL TOWN, 2 & 10X80 OF CARRIZO ST	0.127	WALL ST COCINA LLC		\$ 121,150
R000035356	606 W MISSOURI AV	BLK: 061, LOTS: 007 & 8, ADDN: ORIGINAL TOWN	0.321	WALL ST JOINT VENTURE		\$ 333,470
R000035385	117 W WALL ST	BLK: 066, LOTS: 013 THRU 24, ADDN: ORIGINAL TOWN	0.964	WALL STREET		\$ 13,760,378
R000035359	106 S CARRIZO ST	BLK: 061, LOT: 009, ADDN: ORIGINAL TOWN	0.161	WALL STREET JOINT		\$ 28,620
R00026416	621 W WALL ST	BLK: 061, LOTS: 013, ADDN: ORIGINAL TOWN	0.345	WALL STREET JOINT		\$ 204,450
R000026047	712 W MICHIGAN AV	BLK: 034, LOT: 006 E/2 & ALL OF 7, ADDN: HOMESTEAD	0.382	WALTON TRENT A		\$ 650,850
R00002603	0 W TENNESSEE AV	BLK: 049, 40 X 65 ABANDONED ST, ADDN: HOMESTEAD	0.06	WE INCORPORATED	E	\$ -
R00002603	0 N CARRIZO ST	BLK: 049, 40 X 85 ADJACENT TO SW/4, ADDN: HOMESTEAD	0.078	WE INCORPORATED	E	\$ -
R00002603	0 N CARRIZO ST	BLK: 049, N/65 OF W/2 OF SW/4, ADDN: HOMESTEAD	0.104	WE INCORPORATED	E	\$ -
R000026135	712 W OHIO AV	BLK: 049, LOT: 5/2 OF BLK 49 1/2, ADDN: HOMESTEAD, & 40 X150 ABANDONED ST	0.237	WE INCORPORATED	E	\$ -
R000026139	706 W OHIO AV	BLK: 049, E/70 OF SW/4, ADDN: HOMESTEAD	0.241	WE INCORPORATED	E	\$ -
R000041041	812 N LORAINNE ST	BLK: 002, LOT: 015, ADDN: RICHARDSON ABILENE	0.158	WHITE MARIA		\$ 54,430
R000026136	711 N LORAINNE ST	BLK: 012, N/91 OF NE/4, ADDN: HOMESTEAD	0.292	WHITE STAR ENERGY INC.		\$ 25,480
R000026137	415 W WALL ST	BLK: 063, LOTS: 010;11&W.105 OF 12, ADDN: ORIGINAL TOWN	0.402	WILCO BUILDING PARTNER		\$ 19,187,708

APPENDIX A - CURRENT PROPERTY OWNERSHIP

Property ID	Street Address	Legal Description	Acres	Owner/Name	Exemption	Taxable Value
R00010953	710 N BAIRD ST	BLK: 015, LOT: 012, ADDN: HOMESTEAD SEC 3	0.172	WILEY JOE W		\$ 155,560
R00003541	505 N DALLAS ST	BLK: 001, LOT: 002, ADDN: OLD PUEBLO PARK	0.115	WILLIAMS DEBRA B		\$ 192,550
R00002741	412 N BIG SPRING ST	BLK: 045, N.100 OF NW/4, ADDN: HOMESTEAD	0.321	WRANGLER MIXT 130311 PORTFOLIO OWNER LLC		\$ 155,960
R000214218	610 N BIG SPRING ST	BLK: 029, LT 05A, ADDN: HOMESTEAD, SEC 10	0.349	WSE REALTY LLC		\$ 791,780
R000219719	706 N COLORADO ST	BLK: 012, LOT: 01A, ADDN: HOMESTEAD SEC 17	0.722	WSE REALTY LLC		\$ 1,977,920
R000035195	216 N MAIN ST	BLK: 038, LOT: 012 S/2, ADDN: ORIGINAL TOWN	0.08	WSV LLC		\$ 165,620
R000017990	907 WHITAKER ST	BLK: 006, LOT: 013, ADDN: ESTES	0.143	YM CA	E	\$ -
R000017991	903 WHITAKER ST	BLK: 006, LOT: 014, ADDN: ESTES	0.143	YM CA	E	\$ -
R000017992	0 WHITAKER ST	BLK: 006, LOT: 015, ADDN: ESTES	0.143	YM CA	E	\$ -
R000017993	1005 WHITAKER ST	BLK: 006, LOT: 016, ADDN: ESTES	0.143	YM CA	E	\$ -
R000017994	1007 WHITAKER ST	BLK: 006, LOT: 017, ADDN: ESTES	0.143	YM CA	E	\$ -
R000017995	1009 WHITAKER ST	BLK: 006, LOT: 018, ADDN: ESTES	0.143	YM CA	E	\$ -
R000017948	802 WHITAKER ST	BLK: 001, LOT: 003 4 & 5 W 50, ADDN: ESTES	0.172	YM CA	E	\$ -
R000226306	800 N BIG SPRING ST	BLK: 019, LOT: 002A, ADDN: ELMWOOD SEC 3	7.47	YM CA	E	\$ -
R000035377	211 W WALL ST	BLK: 065, LOT: 008, 49 IN ALL OF L OF 007 & 009, ADDN: ORIGINAL TOWN	0.079	YEI ACQUISITION LLC		\$ 176,560
R0000041051	803 N MAIN ST	Lot: 001, Blk: 001, Subd: ATRIUM, Blk: 001, LOT: 001, ADDN: ATRIUM	0.149	YHARTE BELINDA		\$ 152,120
R000025951	603 N DALLAS ST	BLK: 023, N.50 OF SE/4, ADDN: HOMESTEAD	0.161	YOUNG ANDRE		\$ 183,950
R000017952	807 N LORRAINE ST	BLK: 001, LOT: 004 E.115, ADDN: ESTES	0.132	YOUNG MENS CHRISTIAN ASSO	E	\$ -
R000017953	0 LORRAINE ST	BLK: 001, LOT: 005 E.115, ADDN: ESTES	0.132	YOUNG MENS CHRISTIAN ASSO	E	\$ -
R000017996	1011 WHITAKER ST	BLK: 006, LOT: 019, ADDN: ESTES	0.143	YOUNG MENS CHRISTIAN ASSO	E	\$ -
R000017997	1013 WHITAKER ST	BLK: 006, LOT: 020 & STRIP 15, ADDN: ESTES, WIDE N OF LOT 20	0.187	YOUNG MENS CHRISTIAN ASSO	E	\$ -
R000017955	808 WHITAKER ST	BLK: 001, LOT: 006 & 7 W/2, ADDN: ESTES	0.189	YOUNG MENS CHRISTIAN ASSO	E	\$ -
R000017971	1017 WHITAKER ST	BLK: 005, LOT: 1A, ADDN: SPW ESTES, SEC 2	0.445	YOUNG MENS CHRISTIAN ASSO	E	\$ -
R000017954	811 N LORRAINE ST	BLK: 001, LOT: 006 & 7 E/2, ADDN: ESTES	0.189	YOUNG MENS CHRISTIAN ASSO	E	\$ -
R000035061	311 N TERRELL ST	BLK: 020, LOT: 001, ADDN: ORIGINAL TOWN	0.161	ZARATE ERBY		\$ 98,560
R000035066	802 N TERRELL ST	BLK: 021, M.50 OF SW/4, ADDN: HOMESTEAD	0.161	ZARATE SANDY ETAL		\$ 45,220
R000041059	801 N MAIN ST	Lot: 003, Blk: 001, Subd: ATRIUM, Blk: 001, LOT: 003, ADDN: ATRIUM	0.178	ZUBIA LINDA HINOJOS		\$ 182,620
R000025823	800 N MAIN ST	BLK: 009, LOT: 007, ADDN: HOMESTEAD	0.161	ZUBIA RICARDO		\$ 155,190

April 22, 2025



APPROVED

10448



City Council Meeting

Item Number: 30
Meeting Date: October 24, 2023, November 14, 2023
To: City Council / City Manager
From: Cristina Odenborg Burns, Director of Community Services
Subject: 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 TWO, CITY OF MIDLAND, TEXAS (DISTRICT: 2 & 3) (COMMUNITY SERVICES)

Purpose:

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 Two, City of Midland, Texas.

Recommended City Council Action:

Approve

Fiscal Impact:

All incremental tax value above the 2023 base value will go into the TIRZ fund to support development projects.

Discussion:

Tax increment financing originated as a tool for governments to publicly finance needed improvements and enhance infrastructure within a defined area in order to stimulate private development and redevelopment. An ad valorem valuation base is established the year in which the TIRZ is created, and the revenue from the increased valuation from subsequent years is allocated into a tax increment reinvestment zone (TIRZ) fund to support development projects. The City of Midland previously established TIRZ #1 on March 20, 2001, which included approximately 449 acres in central Midland (the downtown area).

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30.1
12.43

November 14, 2023
April 22, 2025

With the renewed interest in downtown development that has been catalyzed by Centennial Park, establishing TIRZ #2 will benefit the community by fostering economic growth, revitalizing infrastructure, and enhancing the overall quality of life for residents and businesses.

This creation ordinance establishes five key elements of the TIRZ:

- Boundary
- Term
- City Participation Level
- TIRZ Board
- Preliminary Project and Financing Plan

The TIRZ will encompass the downtown area with the boundaries being generally located north of Industrial Avenue, east of C Street, south of Cuthbert Avenue, and west of Lee Street. The proposed boundaries are the same as those of TIRZ #1.

The proposed term of the TIRZ is 30 years, with an expiration on December 31, 2053.

The City will have a 100% participation level, which means all incremental tax revenue above the 2023 base value will go into the TIRZ fund. The City will also have discussions with other taxing entities for potential future participation.

The TIRZ Board will consist of seven individuals, which can be City Council members and/or individuals appointed by City Council. Additionally, each taxing entity that chooses to participate in the TIRZ may appoint two members to the board. The maximum number of directors shall not exceed fifteen (15).

Exhibit C of this ordinance is the preliminary project and financing plan for the TIRZ. Proposed projects to be funded by the TIRZ fund are public utility projects; parking and transit improvements; street and intersection improvements; pedestrian enhancements; open space, park and recreation, and public facilities improvements; and economic development grants. Upon the TIRZ's creation, the Final Project and Financing Plan is approved by the TIRZ Board and then by the City Council by separate ordinance.

David L. [Signature]

City Manager's Office

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30.3
12.45

November 14, 2023
April 22, 2025



City Council Meeting

Item Number: 13
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Elizabeth Triggs, Director
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT BETWEEN THE CITY OF MIDLAND AND CINERGY 108, LLC, AS AUTHORIZED BY CHAPTER 380 OF THE TEXAS LOCAL GOVERNMENT CODE (DISTRICT 1) (DEVELOPMENT SERVICES) (STRONG ECONOMY WITH MORE QUALITY JOBS)

Purpose:

The City of Midland proposes entering into a Chapter 380 Economic Development Program and Performance Agreement with Cinergy 108, LLC to support the redevelopment and expansion of a currently vacant entertainment venue at 4915 Loop 250 North in West Midland. The project will repurpose an existing 68,500-square-foot building and add a 35,000-square-foot expansion to create a high-performance, multi-level indoor electric karting facility. The agreement incentivizes private investment along a key commercial corridor while fostering economic growth, generating new tax revenue, and delivering a net fiscal benefit to the City.

Recommended City Council Action:

Approve

Fiscal Impact:

The agreement is performance-based, with incentives tied to new tax revenue generated by the project, and contingent on a \$24 million private investment, among other commitments. The City retains 100% of the base property tax and 25% of all new property and sales tax revenue during the maximum 20-year grant period, resulting in a net fiscal benefit even while incentives are active. After the grant period, the City retains 100% of its share of tax revenue generated by the project.

Strategic Priority:

(Strong Economy with More Quality Jobs)

Discussion:

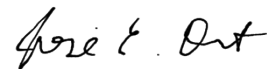
This agreement supports the development of a 100,000-square-foot entertainment center—featuring a cinema and indoor electric go-kart track—by redeveloping a vacant commercial building in a high-visibility corridor.

The project aligns with the City of Midland's Strategic Plan by:

- Promoting Economic Development: Cinergy will be the only high-performance electric karting facility between Dallas and Phoenix, strengthening Midland's regional draw and supporting visitor-related spending.
- Encouraging Infill Redevelopment: The project revitalizes underused property without requiring additional City infrastructure.
- Supporting Workforce Recruitment & Retention: With 18% of residents under age 10 and over half the population under 35, quality amenities like this help attract and retain families and employers.

Under the agreement, Cinergy must, among other things, invest at least \$24 million (excluding land), begin construction by December 2025, and complete it by December 2026. Only after meeting these commitments will the City provide incentives—75% rebates on new property and sales tax revenue for up to 20 years (capped at \$2.5 million NPV) and a one-time waiver of development fees upon construction completion. An up to 10 percent reduction in the minimum capital investment is permitted with a proportionate reduction in the total incentive.

A performance-based incentive such as this ensures funds are awarded only after the project delivers measurable results – such as private investment, job creation, and tax revenue – and are paid solely from new revenue generated by the project itself, ensuring incentives don't divert funds from current services and guaranteeing a return on investment for the community.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF
A CHAPTER 380 ECONOMIC DEVELOPMENT
PROGRAM AND PERFORMANCE AGREEMENT
BETWEEN THE CITY OF MIDLAND AND CINERGY
108, LLC, AS AUTHORIZED BY CHAPTER 380 OF
THE TEXAS LOCAL GOVERNMENT CODE**

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of a Chapter 380 Economic Development Program and Performance Agreement between the City of Midland and Cinergy 108, LLC, as authorized by Chapter 380 of the Texas Local Government Code; and

WHEREAS, said agreement is in recognition of the positive economic and community benefits that will accrue to the City of Midland and the State of Texas through Cinergy 108, LLC's redevelopment of property located at 4915 Loop 250 West, Midland, Texas, and legally described as Lot 3, Block 45, Fairmont Park Addition, Section 13, City and County of Midland, Texas; and

WHEREAS, the City Council finds and determines that said agreement establishes and provides for the administration of a program to promote local economic development and to stimulate business and commercial activity in the City in accordance with Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City Council finds and determines that the terms and conditions of said agreement are in the furtherance of public purposes; and

WHEREAS, the City Council finds and determines that said agreement promotes new and expanded business enterprises in the City of Midland and the State of Texas;

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

SECTION ONE. That the above recitals are hereby approved and adopted for all purposes.

SECTION TWO. That the City Manager is hereby authorized and directed to execute, on behalf of the City of Midland, a Chapter 380 Economic Development Program and Performance Agreement between the City of Midland and Cinergy 108, LLC, for the

purposes described herein. Said agreement being in a form substantially similar to that of Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Cinergy 108, LLC in accordance the terms and conditions of said agreement upon receipt of proper invoice or statement 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:

Jose Ortiz, Assistant City Manager

APPROVED AS TO FORM ONLY:

Nicholas Toulet, Interim City Attorney

**CITY OF MIDLAND, TEXAS
AND
CINERGY 108, LLC**

**CHAPTER 380 ECONOMIC DEVELOPMENT
PROGRAM AND PERFORMANCE AGREEMENT**

This **CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT** (the “Agreement”) is made and entered into by and between the **CITY OF MIDLAND, TEXAS**, a Texas home-rule municipality (the “City”), and **CINERGY 108, LLC**, (the “Company”), for the purposes and considerations stated below.

WHEREAS, the Company proposes to (i) repurpose and redevelop an existing 68,500 square-foot building and (ii) construct an approximate 35,000 square-foot expansion of such existing building, the combination of which shall comprise a single family cinema and entertainment center containing a high-performance, multi-level indoor electric karting facility to include approximately 2,500 linear feet of track with elevation changes (the “Cinergy Venue”) to be located on certain real property described as an approximate 7.88-acre tract of land located at 4915 Loop 250 West, Midland, Texas, and legally described as Lot 3, Block 45, Fairmont Park Addition, Section 13, City and County of Midland, Texas (the “Property”), as described in *Exhibit A* attached hereto and incorporated herein for all purposes; and

WHEREAS, the Company desires to enter into this Agreement pursuant to Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City desires to provide, pursuant to Chapter 380 of the Texas Local Government Code, certain incentives to the Company to redevelop the Property; and

WHEREAS, the City possesses the legal and statutory authority under Chapter 380 of the Texas Local Government Code to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, the City has determined that a grant of funds to the Company will serve the public purpose of promoting local economic development, with the development and diversification of the economy of the State and City, will eliminate unemployment and underemployment in the State and City, and will enhance business and commercial activity within the City; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City, and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code, and further, is in the best interests of the City and the Company; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly

promotes economic development in the City, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution by assisting in the development and diversification of the economy of the State, by eliminating unemployment or underemployment in the State, and by the development or expansion of commerce within the State; and

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Company agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. DEFINITIONS.

The following words and phrases shall have the following meanings when used in this Agreement.

- (a) **Agreement.** The word “Agreement” means this Chapter 380 Economic Development Program and Performance Agreement, authorized by Chapter 380 of the Texas Local Government Code, together with all exhibits and schedules attached to this Agreement from time to time, if any, and any amendments to this Agreement and/or exhibits and schedules.
- (b) **Annual Employment Compliance Verification.** The phrase “Annual Employment Compliance Verification” shall have the meaning set forth in Section 4(e).
- (c) **Appraisal District.** The phrase “Appraisal District” shall mean the Midland Central Appraisal District and any successors thereto.
- (d) **Base Year Value.** The phrase “Base Year Value” shall mean the value of the Property’s real and personal property on the Appraisal District tax rolls as of January 1st of the year 2025. The Base Year Value shall not be interpreted as equivalent or determinative for appraisal purposes or used in any way to determine market value. For the purposes of this Agreement, the Base Year Value is **Five Million Two Hundred Thirty-Three Thousand Sixty Dollars and No/100 Dollars (\$5,233,060.00)**.
- (e) **Capital Investment.** The phrase “Capital Investment” shall have the meaning set forth in Section 3(c)(2).
- (f) **Certificate of Occupancy.** The phrase “Certificate of Occupancy” means a certificate of occupancy issued by the City, indicating that the Cinergy Venue complies with the applicable provisions of the building codes and laws of the City, including, if applicable, a temporary certificate of occupancy under which the Company is permitted to open for

business within the Cinergy Venue. A Certificate of Occupancy shall not include a certificate issued in error, by mistake, or based upon a misrepresentation of facts by the Company.

- (g) **Cinergy Venue.** The phrase “Cinergy Venue” shall have the meaning set forth in the Recitals.
- (h) **City.** The word “City” means the City of Midland, Midland County, Texas, a Texas home-rule municipality. For the purposes of this Agreement, City’s address is 300 N. Loraine, Midland, Texas 79701.
- (i) **City Parties.** The phrase “City Parties” shall have the meaning set forth in Section 4(f)(2).
- (j) **City’s Code of Ordinances.** The phrase “City’s Code of Ordinances” means the official Municipal Code of the City of Midland.
- (k) **Company.** The word “Company” means Cinergy 108, LLC, its affiliates, subsidiaries, parent company, entities under common ownership, successors, and assigns.
- (l) **Company Fiscal Year.** The phrase “Company Fiscal Year” means the twelve-month accounting period that the Company uses for financial and reporting purposes.
- (m) **Conditions Satisfaction Deadline.** The phrase “Condition Satisfaction Deadline” means December 31, 2026, as such Conditions Satisfaction Deadline may be extended by delays caused by Force Majeure or as otherwise provided for herein.
- (n) **Effective Date.** The phrase “Effective Date” means the date of the latter to execute this Agreement by and between the City and the Company.
- (o) **Event of Default.** The phrase “Event of Default” means and include any of the Events of Default set forth below in Section 7 hereof entitled “Events of Default.”
- (p) **Existing Venue.** The phrase “Existing Venue” means the Cinergy Midland facility located at 1917 Liberty Dr., Midland, Texas, which is currently operational and open for business to the general public.
- (q) **Full-Time Equivalent Employment Position.** The phrase “Full-Time Equivalent Employment Position” means and includes either (i) a position by an individual scheduled to work a minimum of Two Thousand (2,000) hours of work within a Company Fiscal Year or (ii) two or more individuals scheduled to work a minimum of Two Thousand (2,000) hours of work hours within a Company Fiscal Year collectively, with such hours in each case to also include any vacation and sick leave. To determine the number of Full-Time Equivalent Employment Positions that the Company has had in a given Company Fiscal Year, the Company will divide the total number of hours that employees worked at the Cinergy Venue in such Company Fiscal Year by 2,000.

- (r) **Grant Submittal Package.** The phrase “Grant Submittal Package” means the documentation required to be supplied to the City as a condition of receipt of any Program Grant Payments, with such documentation more fully described in *Exhibit C*, which is attached hereto and incorporated herein for all purposes. The initial Grant Submittal Package shall be due no later than April 30, 2028, for the compliance of the previous calendar year. Continuing every year thereafter, for a maximum of 20 years, the Company shall deliver to the City an Annual Compliance Verification signed by a duly authorized representative of the Company. A failure by the Company to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Company to receive a Program Grant payment for the period covered by the late Grant Submittal Package. The City, in its sole discretion, shall assess the completeness of the Grant Submittal Package.
- (s) **Minimum Required Employment Hours.** The phrase “Minimum Required Employment Hours” means the hours of 49.6 Full-Time Equivalent Employment Positions for a total of 99,200 hours (2000 X 49.6).
- (t) **Notice.** The word “Notice” shall have the meaning set forth in Section 10(i) hereof.
- (u) **NPV.** The initialism “NPV” stands for ‘net present value’ and shall have the meaning set forth in Section 6(b) hereof.
- (v) **Overpayment.** The word “Overpayment” shall have the meaning set forth in Section 4(f)(3) hereof.
- (w) **Personal Property.** The phrase “Personal Property” means the tangible taxable personal property, including furniture, fixtures, inventory, and equipment, which is added to the Property after the Effective Date of this Agreement.
- (x) **Program Grant Payments.** The phrase “Program Grant Payments” means the economic development grants paid by the City to the Company in accordance with Section 5(a) of this Agreement computed with reference to Sales and Use Tax revenue generated by the Property and the City ad valorem taxes paid on the Property and Personal Property.
- (y) **Program Grant Payments Cap.** The phrase “Program Grant Payments Cap” shall have the meaning set forth in Section 6(a) hereof.
- (z) **Property.** The word “Property” shall have the meaning set forth in the Recitals of this Agreement.
- (aa) **Sales and Use Tax.** The phrase “Sales and Use Tax” or “Sales and Use Taxes” means the City’s municipal sales and use tax, at the current rate of one percent (1.0%), pursuant to section 321.103(a) of the Texas Tax Code, as amended.
- (bb) **Shortage.** The word “Shortage” shall have the meaning set forth in Section 4(f)(3) hereof.

- (cc) **State Comptroller.** The phrase “State Comptroller” means the Office of the Texas Comptroller of Public Accounts, or any successor agency.
- (dd) **Term.** The word “Term” means the term of this Agreement as specified in Section 3(a) of this Agreement.

SECTION 3. TERM; CONDITIONS PRECEDENT.

- (a) **Term.** This Agreement shall be effective as of the Effective Date, and the term (the “Term”) shall begin on the Effective Date and terminate on the earlier to occur of: (i) the expiration of the twenty (20) year period referenced in Section 5(a)(1) below, (ii) the expiration of the twenty (20) year period referenced in Section 5(a)(2) below, or (iii) the payment in full of the Program Grant Payments in accordance with this Agreement, unless terminated sooner as provided for herein; provided, however, that this Agreement shall not terminate until the all Program Grant Payments due under this Agreement are paid to the Company, subject to the Company’s compliance with its obligations contained herein.
- (b) **Commencement of Construction Condition.** This Agreement is contingent upon the Company having commenced construction of the Cinergy Venue by December 1, 2025 (as such date may be extended by Force Majeure or as provided for herein), which condition shall be deemed satisfied upon issuance of a City-approved permit for the construction of the Cinergy Venue and the Company has commenced construction and/or renovation activities on the Property.
- (c) **Additional Conditions Precedent.** The Company must satisfy all the following conditions precedent by no later than the Conditions Satisfaction Deadline:
- (1) Completion of construction of the Cinergy Venue. This condition shall be satisfied by delivery of a certificate from an architect licensed in the State of Texas to the City certifying substantial completion of the same.
 - (2) The Company shall have incurred a capital investment between **Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00)** and **Twenty-Four Million No/100 Dollars (\$24,000,000.00)**, including, without limitation, hard and soft construction costs, such as architectural, engineering, accounting and legal costs and fees, relating to the Cinergy Venue, including any necessary off-site improvements, and the costs of equipping the Cinergy Venue (collectively, the “Capital Investment”). For the purposes of this Agreement, the Capital Investment shall not include acquisition costs. This condition shall be satisfied by delivery from the Company to the City of a certificate in the form attached hereto as **Exhibit C-2** certifying that the Company has made the Capital Investment, which shall be delivered with the initial Grant Submittal Package.
 - (3) A Certificate of Occupancy shall have been issued for the Cinergy Venue.

- (4) The Cinergy Venue shall have been built in a manner similar in nature with (i) the preliminary site plan, attached hereto as **Exhibit B** and the City-approved building or construction permit for the construction of the Cinergy Venue, subject in each case, to changes and modifications in the course of construction, which, to the extent required, shall be subject to the review and approval of City and/or other governmental entities with jurisdiction, as applicable, and (ii) the City's Code of Ordinances and other applicable laws. This condition shall be satisfied by the issuance of the Certificate of Occupancy.
- (5) The Cinergy Venue shall have been open for business to the general public for at least one day.
- (d) **Failure to Satisfy Conditions.** A failure by the Company to satisfy all of the conditions set forth in subsections (b) and (c) of this Section 3 shall not in any such case constitute a breach or default by the Company under this Agreement, but as a result of such failure, the City shall have no obligation to pay any Program Grant Payments to the Company under this Agreement, and this Agreement shall be terminated and the parties shall have no further rights or obligations under this Agreement.
- (e) **Administrative Extensions.** Notwithstanding anything to the contrary contained in this Agreement, the City hereby delegates authority to the City Manager, or his designee, for the City to extend the construction commencement deadline referenced in Section 3(b) and the Conditions Satisfaction Deadline upon written request of the Company for an additional sixty (60) days. The City also hereby grants the Company a one-time right to extend the construction commencement deadline or the Conditions Satisfaction Deadline for up to sixty (60) days in the event the Company is experiencing planning or contracting delays. The City Manager is hereby authorized to execute an amendment to this Agreement setting forth such extension without any further action from the City Council.

SECTION 4. AFFIRMATIVE OBLIGATIONS OF THE COMPANY.

The Company covenants and agrees while this Agreement is in effect to comply with the following terms and conditions:

- (a) **Construction of Cinergy Venue.** The Company covenants and agrees to construct or cause to be constructed the Cinergy Venue on the Property, which shall result in total capital investments and expenditures between **Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00)** and **Twenty-Four Million and No/100 Dollars (\$24,000,000.00)**, as further defined in Section 3(c)(2) of this Agreement. Further, the Company covenants and agrees to submit to the City invoices, receipts, or other documentation evidencing the Capital Investment. Said documentation evidencing the Capital Investment shall be in a form acceptable to the City and submitted to the same within sixty (60) days after the Conditions Satisfaction Deadline.

- (b) **Certificate of Occupancy.** The Company covenants and agrees to obtain or cause to be obtained from the City a Certificate of Occupancy for the Cinergy Venue consisting of a minimum of 100,000 square feet of space located on the Property by the Conditions Satisfaction Deadline.
- (c) **Operate Cinergy Venue and Existing Venue.**
- (1) The Company covenants and agrees by the Conditions Satisfaction Deadline, and during the Term of this Agreement to maintain and keep open to the general public the Cinergy Venue located on the Property.
 - (2) Beginning on the Effective Date and continuously thereafter for a period of ten (10) years following the Conditions Satisfaction Deadline, the Company, subject to closure for Force Majeure reasons or during repairs or renovations, covenants and agrees to operate, maintain, and keep open to the general public the Existing Venue, and shall ensure that the Existing Venue is maintained such that its appearance remains clean, neat, and aesthetically pleasing, free and clear from hazards and obstructions.
- (d) **Reporting of Sales and Use Tax Revenue.** The Company covenants and agrees to provide to the City, on an annual basis, with the annual Grant Submittal Package, a copy of the financial reports being submitted to the State Comptroller relating to the remission of all local sales and use taxes collected at the Property as a result of the operation of the Cinergy Venue and the total annual sales occurring at the Property (“Sales Tax Report”). The sales and use taxes to be included within said Sales Tax Report include the Sales and Use Tax revenue collected at the Property at the current rate of **one percent (1.00%)**, and remitted by the State Comptroller to the City. Additionally, the Company covenants and agrees to obtain any third party’s consent for the State Comptroller’s office to release the annual reported figures along with any State audit adjustments to the City. The City hereby agrees to keep this information “Confidential” consistent with the Section 321.3022(f) of the Texas Tax Code, and to the extent allowed by law. The first Sales Tax Report from the Company shall be due with the initial Grant Submittal Package and annually thereafter.
- (e) **Job Creation and Retention.** The Company covenants and agrees, during the Term of this Agreement, to employ and maintain an average of **49.6** Full-Time Equivalent Employment Positions for each Company Fiscal Year such that the total hours of employees working at the Cinergy Venue for each Company Fiscal Year equals the Minimum Required Employment Hours. Within sixty (60) days after the first full Company Fiscal Year, the Company shall deliver to the City an annual compliance verification in the form attached hereto as **Exhibit C-3** signed by a duly authorized representative of the Company that shall certify the Minimum Required Employment Hours for such Company Fiscal Year (the “Annual Employment Compliance Verification”) and then each full Company Fiscal Year thereafter that coincides with the Term of this Agreement. All Annual Employment Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports or a similar report prepared by a Certified Public

Accountant and certified by a duly authorized representative of the Company. The City agrees that the Company shall be entitled to relief upon request for the employment requirements set forth in this Section upon showing justifiable hardships to the City, including due to Force Majeure reasons or other reasons not within the control of the Company.

(f) **Sales Tax Waiver; Confidentiality.**

- (1) As a condition to obtaining any Program Grant Payment based upon Sales and Use Tax revenues, the Company shall sign and submit to the City and maintain during the Term of this Agreement the Waiver of Sales Tax Confidentiality form attached as ***Exhibit C-1***, or other similar form required by the Texas Comptroller as may be required from time to time during the Term of this Agreement to permit the release of sales tax information relating to the Cinergy Venue to the City alone. The Company also covenants and agrees to obtain any third party's consent for the State Comptroller's office to release any State audit adjustments to the City.
- (2) The City acknowledges that the information regarding sales taxes generated by the Cinergy Venue is commercial or financial information, which is proprietary and confidential, the disclosure of which could cause competitive harm to the Company and/or its respective tenants, subtenants and/or licensees, as applicable. To the maximum extent permitted by law, the City and its officers, Council members, and employees, and their respective agents or contractors retained to perform economic development services for the City (the "City Parties") (A) shall maintain the confidentiality of all sales tax information filed by the Company and/or its respective tenants, subtenants and/or licensees, as applicable, with the State of Texas and all other information regarding the Sales and Use Tax revenue generated by the Cinergy Venue at the Property; (B) shall treat as confidential any other proprietary or financial information of the Company and/or its respective tenants, subtenants, and/or licensees; and (C) shall not release any of the foregoing information to the public, unless required by law or court order. The City shall promptly notify the Company of open records requests and court orders to release such information. The City Parties shall be permitted to disclose the foregoing information to such of the City Parties as the City, in its reasonable discretion, deems appropriate in furtherance of the purposes of this Agreement, so long as the City makes such disclosure subject to compliance by such City Parties with the terms of this Section 4(f)(2).
- (3) **Adjustments.** If the State of Texas determines (i) the City erroneously received Sales Tax and Use revenue or (ii) the amount of Sales and Use Tax paid by the Company exceeds ("Overpayment") or was less than ("Shortage") the correct amount of Sales and Use Tax for a previous year for which the Company has received a Program Grant Payment, then the City shall notify the Company in writing specifying the amount of such Overpayment or Shortage, as applicable, and that the next Program Grant Payment shall be adjusted by the amount of such

Overpayment or Shortage. The foregoing shall not apply if the amount of subsequent Sales and Use Tax revenue received by the City during the Term of this Agreement was already adjusted to reflect such Overpayment or Shortage. If there are no further Program Grant Payments to be paid, the City shall pay any such Shortage to the Company within sixty (60) days of such State of Texas determination; and the Company shall pay any such Overpayment to the City not later than sixty (60) days after receipt of written demand from the City.

- (g) **Maintenance Obligation.** The Company agrees to maintain the Cinergy Venue and the Property in a clean and slightly conditioned manner similar in nature to other Company venues, and to ensure that all equipment associated with the Cinergy Venue (or that is otherwise kept or stored on the Property) that is visible to the general public is kept in a clean, neat, and functional condition during the Term of this Agreement. This obligation shall include, but is not limited to, the following:
- (1) Regular cleaning and upkeep of the Cinergy Venue and the Property to ensure a neat and orderly appearance in accordance with Company practices;
 - (2) Maintenance and repair of all structural components, fixtures, and systems (e.g., plumbing, electrical, HVAC, and mechanical systems) in accordance with Company practices to ensure proper functionality and compliance with applicable standards; and
 - (3) Preservation of the Property's landscaping, parking areas, and other exterior features in a manner that is aesthetically similar to other Company operations.
- (h) **Performance.** The Company agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement, and any other agreements by and between the City and the Company.

SECTION 5. AFFIRMATIVE OBLIGATIONS OF THE CITY.

Subject to the Company's satisfaction of the conditions precedent referenced in Section 3(c) above, the City covenants and agrees to comply with the following terms and conditions:

- (a) **Program Grant Payments; Cap.**
- (1) Property Tax. The City shall make annual Program Grant Payments to the Company based on the incremental real and personal ad valorem taxes assessed on the Property above the ad valorem real and personal property tax revenue that would have been generated at the Base Year Value for the Property for each tax year for a maximum twenty (20) year period. The first year of the Program Grant Payment pursuant to this Section 5(a)(1) shall be the first tax year that begins after (i) the satisfaction of all the conditions set forth in Section 3(c) above, and (ii) the Property, Cinergy Venue, and Personal Property are assessed by the taxing authorities. The Program Grant Payments shall be based upon the following

schedule:

Tax Years	Percentage of Ad Valorem Taxes Reimbursed
Years 1 to 20	75%

The City covenants and agrees to provide each Program Grant Payment under this Section 5(a)(1) to the Company within thirty (30) days following receipt of the above-reference ad valorem taxes paid to the City. The City shall be required to issue only one (1) check or wire transfer (per wiring instructions provided by the Company) for each annual payment under this Section 5(a)(1) to the Company or the Company's designee. Nothing in this Agreement shall require the City to make payment from revenue sources other than from the ad valorem tax revenue from the Property, Cinergy Venue, and Personal Property. A delay in the City's payment obligation in this Section 5(a)(1) due to a delay in receiving the ad valorem tax revenues shall not be considered a default on the part of the City so long as the City uses reasonable efforts to obtain the ad valorem tax revenues and makes the annual payments to the Company within thirty (30) days after receipt of such ad valorem tax revenues.

- (2) Sales and Use Tax. Additionally, the City shall make annual Program Grant Payments to the Company based on the Sales and Use Tax revenue received by the City from the Texas Comptroller for the previous calendar year, as reconciled with the sales and use tax information provided by the Texas Comptroller's office for a twenty (20) year period. The Program Grant Payments under this Section 5(a)(2) shall be based upon the following schedule:

Tax Years	Percentage of Sales and Use Tax Revenue Reimbursed
Years 1 to 20	75%

The City shall make such payments annually by June 1st, commencing with the June 1st next following the satisfaction of all the conditions set forth in Section 3(c) above. The payments shall be for sales tax-generating transactions that occurred during January 1 to December 31 of the prior calendar year. The City shall be required to issue only one (1) check or wire transfer (per wiring instructions provided by the Company) for each annual payment under this Section 5(a)(2) to the Company or the Company's designee. Nothing in this Agreement shall require the City to make payment from revenue sources other than from the Sales and Use Tax revenue. A delay in the City's payment obligation in this Section 5(a)(2) due to a delay in receiving the Sales and Use Tax revenues and/or sales and use tax information from the State Comptroller's office shall not be considered a default on the part of the City so long as the City uses reasonable efforts to obtain the Sales and Use Tax revenues and/or sales and use tax information and makes the annual

payments to the Company within thirty (30) days after receipt of such Sales and Use Tax revenues and/or sales and use tax information.

- (b) **Permit Fees.** The City covenants and agrees to provide a one-time, one hundred percent (100%) waiver of the following fees in connection with the development of the Property and the Cinergy Venue: (1) permitting fees; (2) inspection fees; (3) utility connection fees; (4) plan examination fees; and (5) water and sewer tap fees.
- (c) **Cooperation.** The City agrees to cooperate with the Company to expeditiously and in good faith process permits, applications, and other approvals as required for the Property and Cinergy Venue. This Section does not waive any requirements of the City's Code of Ordinances as they apply to the Company or the Property, however, the City hereby approves the designs and renderings of the Cinergy Venue attached hereto as ***Exhibit D***.
- (d) **Performance.** The City agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement, and any other agreements by and between the City and the Company.

SECTION 6. PROGRAM GRANT PAYMENTS CAP.

Notwithstanding Section 5(a) above or any contrary provision contained herein, the City's total Program Grant Payments due to Company under this Agreement shall be subject to the following:

- (a) **Program Grant Payments Cap.** The total amount of Program Grant Payments made by the City to the Company shall be subject to a cap of **Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000)** (the "Program Grant Payments Cap"), if the total of the capital investments and expenditures specified in this Agreement is no less than **Twenty-Four Million and No/100 Dollars (\$24,000,000.00)**, which shall be calculated in accordance with Section 6(b) below. If the total of the capital investments and expenditures specified in this Agreement is less than Twenty-Four Million and No/100 Dollars (\$24,000,000.00) (but in no event shall it ever be less than Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00)), the Program Grant Payments Cap shall be proportionally decreased (i.e. if the total capital investments and expenditures is Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00), the Program Grant Payments Cap shall be Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000)).
- (b) **Calculation of Program Grant Payments Cap.** The Program Grant Payments Cap shall be calculated by determining the net present value ("NPV") of the Program Grant Payments over the respective maximum 20-year periods referenced in Section 5(a) above. The NPV shall be calculated as of the Effective Date using a discount rate of **six percent (6%) per annum** to ensure that the NPV of the Program Grant Payments does not exceed the Program Grant Payments Cap.

- (c) **Termination of Program Grant Payments.** The City's obligation to make Program Grant Payments shall continue until the earlier of: (i) the expiration of the respective 20-year periods referenced in Section 5(a) above; (ii) the date on which the cumulative NPV of the Program Grant Payments reaches the Program Grant Payments Cap; or (iii) the earlier termination of this Agreement.
- (d) **Review.** The City and the Company agree to review the NPV calculations on a yearly basis to ensure compliance with the Program Grant Payments Cap. Any discrepancies identified shall be addressed promptly to maintain the integrity of the payment schedule and observance of the Program Grant Payments Cap.

SECTION 7. EVENTS OF DEFAULT.

- (a) **Events of Default.** Each of the following shall constitute an Event of Default under this Agreement:
 - (1) **General Event of Default.** Failure of the Company or the City to comply with or to perform any material term, obligation, or covenant contained in this Agreement, including those contained in Section 4 and Section 5 above, that is not cured prior to the expiration of the notice and cure period set forth in Section 7(b) below, is an Event of Default by such party.
 - (2) **False Statements.** A breach of a material representation under this Agreement by the Company or the City that is not cured prior to the expiration of the notice and cure period set forth in Section 7(b) below is an Event of Default by such party.
 - (3) **Insolvency.** The dissolution or termination of the Company's or the City's existence, insolvency, appointment of receiver for any part of such party's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against the Company or the City, and such proceedings are not dismissed within ninety (90) days after the filing thereof is an Event of Default by such party.
 - (4) **Ad Valorem Taxes.** The Company allows its ad valorem taxes owed to the City to become delinquent and fails to pay them prior to the expiration of the notice and cure period set forth in Section 7(b) below is an Event of Default by the Company, provided, however, the Company retains the right to timely and properly protest and contest any such ad valorem taxes and the same shall not be deemed delinquent during the pendency of such proceedings and so long as the Company is timely and properly following the legal procedures for protest and/or contest of such taxes.
 - (5) **Property Tax Contest.** The Company contests the ad valorem taxes assessed on the Existing Venue such that (i) the Company seeks a valuation of less than **Nine Million Two Hundred Eighty-Six Thousand Seven Hundred Twenty and**

No/100 Dollars (\$9,286,720.00), or (ii) the valuation is less than Nine Million Two Hundred Eighty-Six Thousand Seven Hundred Twenty and No/100 Dollars (\$9,286,720.00) at the time Company initiates such tax contest.

- (b) **Notice and Cure.** Upon a breach or default by the Company or the City, as applicable, as described in Sections 7(a)(1), (2), (4), or (5) above, the non-defaulting party may give written notice to the other party of such default, and the defaulting party shall have sixty (60) days thereafter to cure said breach or default, or if the defaulting party is diligently pursuing the cure of such breach or default but such breach or default is not reasonably curable within sixty (60) days, then the defaulting party shall have such additional amount of time as is reasonably necessary to cure such default. Should a breach or default as described in Sections 7(a)(1), (2), (4), or (5) above remain uncured after such cure period it shall constitute an Event of Default by such defaulting party, and a non-defaulting party shall have the right to exercise the remedies set forth in Section 8 below

SECTION 8. EFFECT OF DEFAULT; RECAPTURE AND OTHER REMEDIES.

- (a) **General Rights and Remedies Following Default.** Should a default remain uncured by a defaulting party following any applicable cure periods, the non-defaulting party shall have the right to terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default. Should a default by the Company remain uncured following any applicable cure periods, the City shall have the right to cease all Program Grant Payments, terminate this Agreement, enforce specific performance, or maintain a cause of action for damages caused by the Company's default.
- (b) **Recapture and Other Remedies Following Certain Defaults.** Notwithstanding Section 8(a) above, if the Company defaults on an obligation contained in the sections listed below, the following recapture provisions shall apply:
- (1) **Failure to Operate Existing Venue.** If the Company, subject to closures for Force Majeure reasons or for repairs or renovations, fails to continuously operate the Existing Venue as of the Effective Date and continuously thereafter for a period of ten (10) years following the Conditions Satisfaction Deadline in accordance with Section 4(c)(2) above, then the City shall have the right to cease all Program Grant Payments and the City shall have no obligation to provide the Company with the fee waivers referenced in Section 5(b) above.
- (2) **Failure to Meet Job Creation and Retention Obligations.** If the Company fails to comply with the obligations related to the creation and retention of Full-Time Equivalent Employment Positions contained in Section 4(e), then the City shall be entitled to recapture Program Grant Payments previously paid by the City to the Company; provided, however, that the City shall only be entitled to recapture Program Grant Payments in the same proportion as the Company's shortfall of created/retained Full-Time Equivalent Employment Positions.

SECTION 9. INDEMNITY.

TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Midland County, Texas. Exclusive venue for any action arising under this Agreement shall lie in the state district courts of Midland County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party, which shall not be unreasonably withheld or delayed, unless the assignment is from the Company to an affiliated entity or an entity with common control in which case such assignment is permitted without consent but with notice to the City. In addition, if the Company is sold or merged into, or transfers substantially all of its then owned assets to another entity, the City hereby consents to such sale, merger, or transfer and consents to any assignment of the sold, merged, or transferred entity's rights and obligations under this Agreement to such receiving entity as a result of such sale, merger, or transfer. The Company shall provide the City with written notice of any such assignment.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. The Company warrants and represents that the individual executing this Agreement on the Company's behalf has full authority to execute this Agreement and bind the Company to the same. The City warrants and represents that all necessary actions under applicable law have been taken to approve and authorize this

Agreement.

- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.
- (f) **Counterparts.** This Agreement may be executed by a pen and ink signature or by Electronic Signature (including by facsimile, pdf or another file sent by email, or by DocuSign). This Agreement may be in the form of an Electronic Record, and any Electronic Signatures shall be considered an original, having the same legal effect, validity and enforceability as a paper record. For purposes hereof, "Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC § 7006, as it may be amended from time to time. This Agreement may be executed by the parties in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. The signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.
- (g) **Entire Agreement.** This written agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.
- (h) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of (i) war, riots, acts of terrorism, acts of the public enemy, insurrections, civil commotion; (ii) labor disputes, a general inability to obtain labor or materials or reasonable substitutes for either, delays in delivery of materials, unusual delay in transportation, strikes, slowdowns, work stoppages, or contractor delays or defaults not caused by a party hereto; (iii) acts of God, casualties, explosions, floods, fire, earthquake, tornado, hurricane, high winds, extreme rains, or other severe and adverse weather conditions; (iv) pandemics, epidemics, infectious disease outbreaks, public health emergencies, health and safety circumstances that require individual isolation, quarantine or quarantine-like restrictions, or other methods of social distancing, (v) delays caused by actions or inactions, or other acts or omissions on the part of any public utility or local, state, or federal government (or de facto governmental entity), government official or their respective agents or employees (including, but not limited to, any government-mandated or suggested work stoppages or slowdowns (such as, by way of example and not limitation, any reduction in the number of workers allowed to work at one time, or any limitation on the allowable working hours) and/or the closing or slowing of governmental offices or procedures (such as, by way of example and not limitation, any significant change in the time required to file or obtain permits or record documents), (vi) delays caused by governmental restrictions, regulations or controls, including, without limitation, any moratoriums (i.e., zoning, platting, building or similar moratoriums), (vii) a failure of the City to comply with any obligations under this Agreement, and (viii) any other cause outside the control of the party who is to perform under this Agreement, then the party so obligated shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such

party was delayed. An inability to obtain funds shall not be considered Force Majeure (unless directly caused by one of the events specifically described above).

- (i) **Notices.** Any notice or other communication (“Notice”) given under this Agreement shall be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the Party; (iii) by depositing the notice with Federal Express or another nationally recognized courier service for next day delivery; or (iii) sent by electronic transmission confirmed by providing written confirmation at substantially the same time as such electronic transmission by one of the manners specified in (i) or (ii) above. Notice shall be effective upon receipt or refusal of delivery by the Party to be notified. For the purposes of Notice, the addresses of the Parties are, until changed as provided below, be as follows:

if to the City: City of Midland, Texas
300 N. Loraine Street
Midland, Texas 79701
Attn: Tommy Gonzalez, City Manager
Telephone: (432) 685-7200
E-mail: tgonzalez@midlandtexas.gov

if to the Company: Cinergy 108, LLC
505 Lyndon B Johnson Freeway, Suite 525
Dallas, Texas 75244
Attn: Kade Pittman
Telephone: (214) 477-4895
E-mail: kpittman@cinergy.com

Either party may designate a different address at any time by giving Notice to the other party.

- (j) **Revenue Sharing Agreement.** The parties designate this Agreement as a revenue sharing agreement, thereby entitling the City to request Sales and Use Tax information from the State Comptroller, pursuant to section 321.3022 of the Texas Tax Code, as amended.
- (k) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of this Agreement shall be enforced as if the invalid provision had never been included.
- (l) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (m) **Change in Law.** If, during the Term of this Agreement, state law applicable to municipal sales taxes changes and, as a result, any Program Grant Payments differ from the amount

which would have been paid to the Company under the laws in effect as of the Effective Date, then the City, in its sole discretion, may adjust the Program Grant Payments utilizing whatever discretionary taxes and revenues are legally available to the City to be allocated to the Program Grant Payments. The foregoing does not require the City to use funds from sources that are not within its discretion to allocate to the Property in order to achieve the same economic benefits to the Company, which would have resulted if the law had not changed. Should any other legal impediment arise during the Term of this Agreement, including without limitation a change in law, that prevents or prohibits the City from complying with or making any payments under this Agreement, the City and the Company agree to terminate this Agreement; provided, however, that, to the extent feasible and permitted by applicable law, the City and the Company agree to work together in good faith to modify this Agreement or enter into a new agreement or otherwise provide the Company with a remedy or reasonably equivalent value to otherwise accomplish the purpose of this Agreement.

- (n) **Undocumented Workers Provision.** Pursuant to Chapter 2264 of the Texas Government Code, the Company certifies that as of the Effective Date of this Agreement and throughout the Term of this Agreement, the Company's business, or a branch, division, or department thereof, does not and will not knowingly employ an undocumented worker (as defined in Section 2264.001 of the Texas Government Code), and if the Company's business, or a branch, division, or department thereof, is convicted of a violation of 8 U.S.C. § 1324a(f) occurring during the Term of this Agreement, the Company shall repay to the City the total amount of Program Grant Payments paid to the Company under this Agreement, plus interest at the Agreed Rate, not later than the 120th day after the date the City notifies the Company of the violation. It is agreed that for purposes of this Section, but only if permissible under Chapter 2264 of the Texas Government Code: (i) "the Company's business, or a branch, division, or department thereof" shall be limited to the Company's business in Midland, Texas; (ii) the Company shall not be liable for a violation of Chapter 2264 of the Texas Government Code by a person or entity with whom the Company contracts; (iii) neither the Company nor its business, or branch, division, or department thereof, shall be deemed to have been "convicted of a violation" until all appeals have been exhausted and/or the time for all appeals has expired; and (iv) the date that "the City notifies the Company of the violation" may not be earlier than the date that the Company has been "convicted of a violation" as provided above in this Section. For purposes of this Section, "Agreed Rate" shall mean the lesser of: (i) the Wall Street Journal prime rate announced by and as quoted in Wall Street Journal, from time to time, as its prime commercial rate or, if the Wall Street Journal prime rate ceases to be made available by the publisher, or any successor to the publisher, a similar reference interest rate based on the interest large United States money center commercial banks charge on short term uninsured loans to their most creditworthy borrowers; and (ii) the highest lawful rate.
- (o) **Non-Boycott of Israel Provision.** In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (i) does not boycott Israel; and (ii) will

not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to: (i) a company that is a sole proprietorship; (ii) a company that has fewer than ten (10) full-time employees; or (iii) a contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the Company is not subject to Chapter 2270 of the Texas Government Code for the reasons stated herein, the Company verifies that the Company does not boycott Israel and will not boycott Israel during the Term of this Agreement.

- (p) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the parties covenant and agree that the Company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.
- (q) **Report Agreement to Comptroller's Office.** The City covenants and agrees to report this Agreement to the State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with Section 380.004 of the Texas Local Government Code, as added by Texas House Bill 2404, 87th Tex. Reg. Session (2021) (effective September 1, 2021).
- (r) **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Company employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the Company represents that: (i) the Company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) the Company will not discriminate during the Term of this Agreement against a firearm entity or firearm trade association. Deed restrictions against a gun store or gun range in a development in which the Company has a business shall not violate this Section 10(r).
- (s) **Verification Against Discrimination Company Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2276, (as added by Texas Senate Bill 13, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Company employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000.00 that is paid wholly or partly from public funds of the City, the Company represents that: (i) the Company does not boycott energy companies; and (ii) the Company will not boycott energy companies during the Term of this Agreement.
- (t) **Repeal of Law.** The Company agrees to comply with the provisions of Sections 10(n), (o), (p), (r) and (s) only so long as they remain required by applicable law.
- (u) **Exhibits.** The following exhibits are attached to and incorporated into this Agreement and made a part of this Agreement for all purposes as if they were set forth herein in their entirety:

Exhibit A – Legal Description of the Property

- Exhibit B – Preliminary Site Plan
- Exhibit C – Grant Submittal Package form
- Exhibit C-1 – Waiver of Sales Tax Confidentiality form
- Exhibit C-2 – Form of Certificate Regarding Capital Investment
- Exhibit C-3 – Form of Annual Employment Compliance Verification
- Exhibit D – Designs and Renderings

[The Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

CITY:

CITY OF MIDLAND, TEXAS,
A Texas home-rule municipality

Lori Merritt Blong, Mayor

Date: _____

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO FORM ONLY:

Nicholas Toulet, Interim City Attorney

COMPANY:

CINERGY 108, LLC

By: 
Name: KADE L. PITTMAN
Title: VICE PRESIDENT
Date: 4/2/25

STATE OF Texas
COUNTY OF Dallas

§
§
§

This instrument was acknowledged before me on the 2nd day of April 2025, by KADE L. PITTMAN, VICE PRESIDENT, of CINERGY 108, LLC, on behalf of said entity.




Notary Public, State of Texas

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

Lot 3, Block 45, Fairmont Park Addition, Section 13, City and County of Midland, Texas.

PRELIMINARY SITE PLAN

Exhibit C

GRANT SUBMITTAL PACKAGE FORM

Cinergy 108, LLC (the “Company”) believes that it has substantially met its obligations under the Chapter 380 Economic Development Program Agreement dated _____ day of _____, 2025 (the “Agreement”). Pursuant to the Agreement, Company submits this Grant Submittal Package Form in compliance with the Agreement and in anticipation of receiving the Program Grant Payments referenced in the Agreement in consideration for its obligations met therein.

As required by the Agreement, the following information is submitted:

1. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Reasonable documentation (which may be a construction or building permit issued by the City) to evidence that construction of the Cinergy Venue commenced _____ of _____.
2. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Copy of permanent Certificate of Occupancy.
3. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Copy of completed ***Exhibit C-2*** and documentation to evidence Capital Investment, including:
 - a. Stamped ***PAID*** invoices;
 - b. Copies of checks proving payment – corresponding to paid invoices;
 - c. Bank statements (in the event a transaction was paid with credit or debit card); and
 - d. Contractor pay applications, notarized with lien releases.
4. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Copy of completed ***Exhibit C-1*** and documentation to evidence the local sales and use taxes collected at the Property as a result of the operation of the Cinergy Venue and the total annual sales occurring at the Property, as further described by Section 4(d) of this Agreement.
5. Copy of completed ***Exhibit C-3*** and documentation to evidence that job creation and retention metrics at the Cinergy Venue have been met, as further described by Section 4(e) of this Agreement.
6. Property tax payment receipts showing proof of payment for the immediately preceding tax year.

It is understood by the Company that the City of Midland has up to 90 days to process this request from receipt of complete submittal and reserves the right to deny the Program Grant Payment claim if the terms of the Agreement have not been met.

Cinergy 108, LLC

By: _____

Name: _____

Title: _____

Date of Submission: _____

Exhibit C-1

WAIVER OF SALES TAX CONFIDENTIALITY FORM

AGREEMENT FOR DISCLOSURE OF CONFIDENTIAL TAX INFORMATION

This Agreement for Disclosure of Confidential Tax Information (this “Agreement”) is entered into between the City of Midland, Texas (the “City”) and _____ (the “Taxpayer”) for the purposes indicated herein.

The undersigned Taxpayer hereby authorizes the Texas Comptroller’s Office to release and disclose to the City any and all sales and use tax information pertaining to Taxpayer’s business located at the physical location specified below. This authorization applies only to Taxpayer’s business located at the physical location specified below.

The undersigned Taxpayer understands and agrees that this release will be made by the Texas Comptroller’s Office to the City on an ongoing monthly basis beginning on the date this Agreement is executed. Taxpayer waives any and all rights of confidentiality of tax information under Sections 111.006, 151.027 of the Texas Tax Code to the extent, and only to the extent, necessary to permit the Texas Comptroller’s Office to release and disclose Taxpayer’s sales and use tax information as provided in this Agreement.

The City agrees that the City will use the sales and use tax information disclosed by the Texas Comptroller pursuant to this Agreement solely and exclusively for the purposes under the Development Agreement between City of Midland, Texas, and Cinergy 108, LLC, and subject to the terms thereof.

This Agreement is entered into in the City of Midland, Midland County, Texas, and Texas law shall apply to its interpretation and enforcement.

(signatures on following page)

SIGNED AND AGREED TO on this ____ day of _____, 20__.

Name of Taxpayer Listed on Texas Sales Tax Permit

Name Under Which Taxpayer is Doing Business (d/b/a or Outlet Name)

Taxpayer Mailing Address

Physical Location of Business Permitted for Sales Tax

Texas Taxpayer ID Number

Tax Outlet Number
(As Shown on Texas Sales Tax Permit)

Taxpayer's Authorized Signature*

Print Name of Authorized Signature

Position of Authorized Signature

*The authorized signature must be that of an owner, officer, director, partner, or agent authorized to sign a Texas Sales Tax Return. If you have any questions concerning this waiver of confidentiality, please contact the Texas Comptroller of Public Accounts at 1 (800) 531-5441.

City of Midland, Texas

City's Authorized Signature*

Print Name of Authorized Signature

Position of Authorized Signature

Page 27 of 30

Exhibit C-2

FORM OF CAPITAL INVESTMENT CERTIFICATION

Re: CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT AMONG THE CITY OF MIDLAND, TEXAS, AND CINERGY 108, LLC; CAPITAL INVESTMENT CERTIFICATION

This Capital Investment Certification is being delivered by Cinergy 108, LLC (the “Company”), in connection with that certain Economic Development Program and Performance Agreement between the City of Midland, Texas (the “City”) and the Company effective as of _____, 2025 (the “Agreement”). All terms used herein have the meanings ascribed to them in this Agreement unless otherwise defined herein.

The undersigned authorized officer of the Company hereby certifies to the City that the Company has made a Capital Investment of not less than Twenty-Four Million Dollars (\$24,000,000.00) on the Property and in Cinergy Venue.

The undersigned hereby certifies that I am a duly authorized representative of the Company and am duly authorized to execute this Cost Certification.

CINERGY 108, LLC

BY: _____

NAME – SIGNATURE

NAME – PRINTED

TITLE DATE _____ 20____

STATE OF _____

COUNTY OF _____

Sworn to and subscribed to before me on the ____ day of _____, 20____, by _____.

NOTARY NAME

Exhibit C-3

FORM OF ANNUAL EMPLOYMENT COMPLIANCE VERIFICATION

Re: CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT AMONG THE CITY OF MIDLAND, TEXAS, AND CINERGY 108, LLC; ANNUAL EMPLOYMENT COMPLIANCE VERIFICATION

This Annual Employment Compliance Verification is being delivered by Cinergy 108, LLC (the “Company”) in connection with that certain Economic Development Program and Performance Agreement between the City of Midland, Texas (the “City”), and the Company effective as of _____, 2025 (the “Agreement”). All terms used herein have the meanings ascribed to them in this Agreement unless otherwise defined herein.

1. The undersigned authorized officer of the Company hereby certifies to the City that the Company has maintained __ Full-Time Equivalent Employment Positions for the period commencing January 1, 20__, and expiring December 31, 20__.

The undersigned hereby certifies that I am a duly authorized representative of the Company and am duly authorized to execute this Cost Certification.

CINERGY 108, LLC

BY:

NAME – SIGNATURE

NAME – PRINTED

TITLE

DATE _____ 20__

STATE OF _____

COUNTY OF _____

Sworn to and subscribed to before me on the ____ day of _____, 20____, by _____.

NOTARY NAME

Exhibit D

DESIGNS AND RENDERINGS

(exhibit on following pages)



CINERGY

ENTERTAINMENT

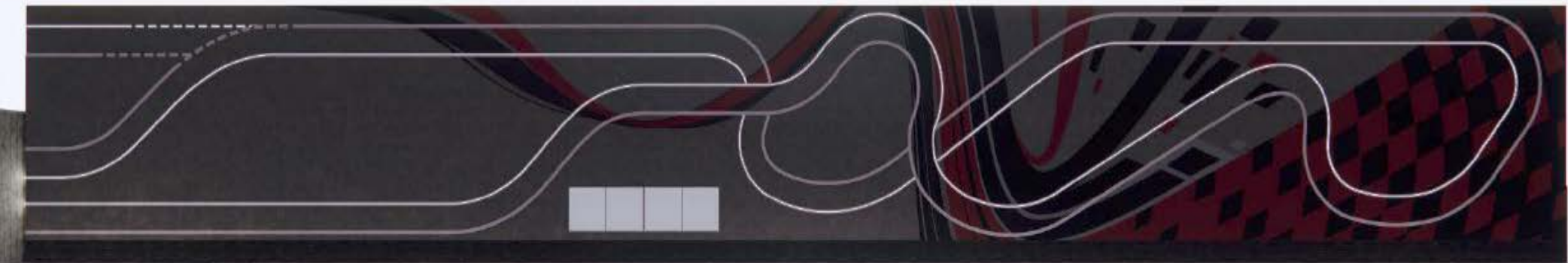
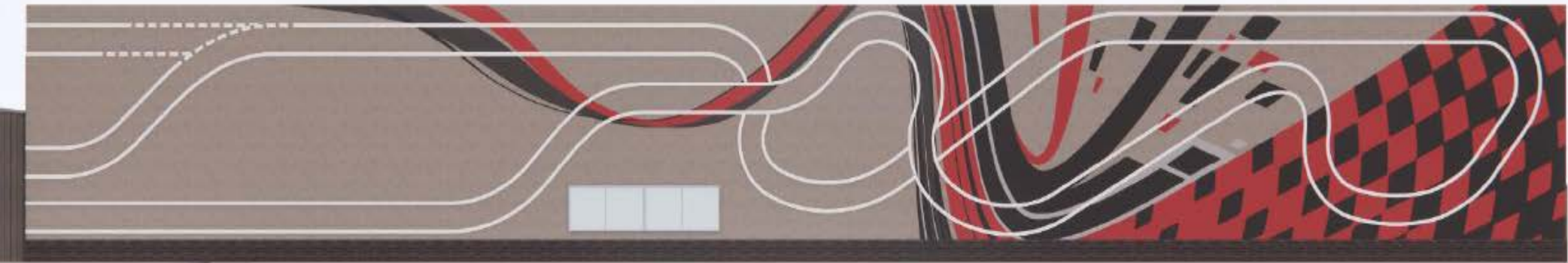


Existing Building





SPEEDWAY SIGNAGE
IN BOX



OPTION 2: A SIMPLER GRAPHIC WITH ONLY ONE SIDE OF THE RACETRACK LANES LIT BY LED.
THE LOWEST POINT OF THE LED IS 6'-6".





CINERGY
ENTERTAINMENT



OPTION 2 - Facade
DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



PACKET

* For Design Intent Only

13.40

April 22, 2025

idstudio⁴



PACKET

* For Design Intent Only

13.41

idstudio⁴



CINERGY
ENTERTAINMENT



OPTION 2

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR

01.29.2025 REVISION 2

idstudio⁴



PACKET

13.42

April 22, 2025

* For Design Intent Only

idstudio⁴



CINERGY
ENTERTAINMENT



DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



PACKET

* For Design Intent Only

13.43

April 22, 2025

idstudio⁴



CINEMAS & ENTERTAINMENT



* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



13.45

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



CINERGY
ENTERTAINMENT



DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



PACKET

13.46

April 22, 2025

* For Design Intent Only

idstudio⁴



* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



13.47

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



CINERGY
ENTERTAINMENT



DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



**BOTH RED MESH
PANELS AT
STAIRWELL HAVE
BEEN REMOVED
FROM THE SCOPE**

PACKET

13.48

April 22, 2025

idstudio⁴

* For Design Intent Only



* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



13.49
DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴





* For Design Intent Only



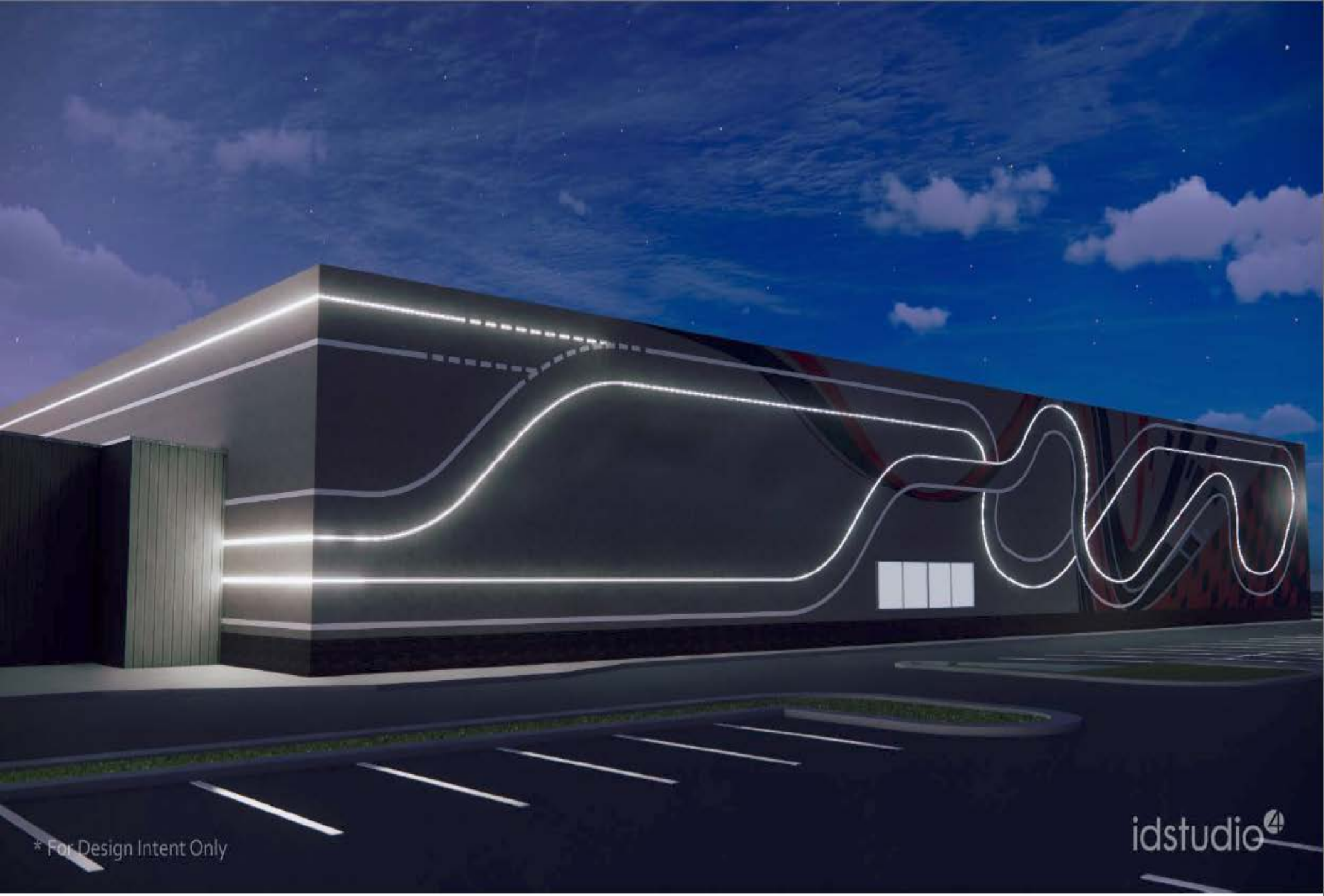
PACKET

13.52

April 22, 2025

* For Design Intent Only

idstudio⁴



* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



OPTION 2
13.53

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



* For Design Intent Only

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PACKET
CINERGY
ENTERTAINMENT



OPTION 2

13.54

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT

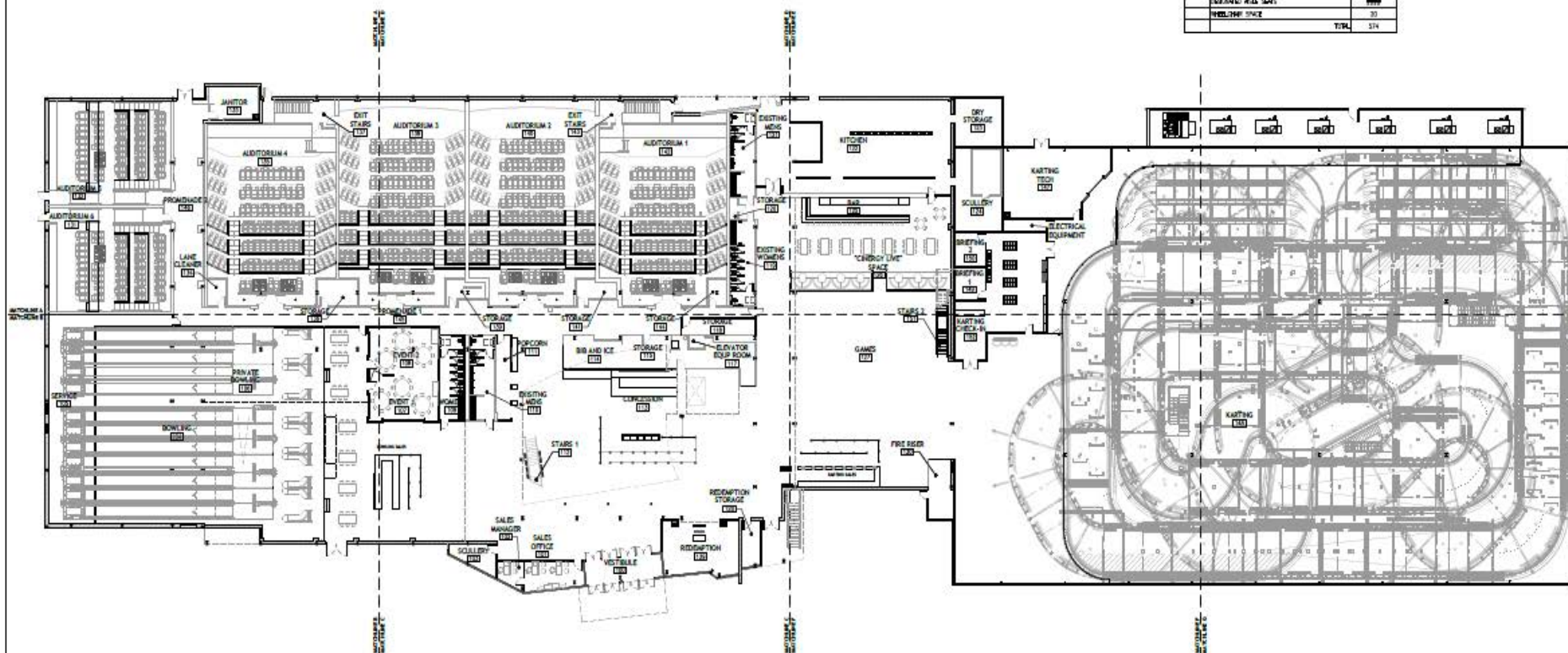


OPTION 2
13.55

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



AUDITORIUM SEATING SCHEDULE			GENERAL NOTES		
ROOM TYPE	SEAT COUNT		1	2	3
AUDITORIUMS			4	5	6
140 AUDITORIUM 01			7	8	9
STANDARD SEAT	124		10	11	12
SEMI-PRIVATE AREA SEAT	0		13	14	15
WHEELCHAIR SPACE	4		16	17	18
TOTAL	128		19	20	21
140 AUDITORIUM 02			22	23	24
STANDARD SEAT	124		25	26	27
SEMI-PRIVATE AREA SEAT	0		28	29	30
WHEELCHAIR SPACE	4		31	32	33
TOTAL	128		34	35	36
138 AUDITORIUM 03			37	38	39
STANDARD SEAT	124		40	41	42
SEMI-PRIVATE AREA SEAT	0		43	44	45
WHEELCHAIR SPACE	4		46	47	48
TOTAL	128		49	50	51
136 AUDITORIUM 04			52	53	54
STANDARD SEAT	124		55	56	57
SEMI-PRIVATE AREA SEAT	0		58	59	60
WHEELCHAIR SPACE	4		61	62	63
TOTAL	128		64	65	66
TOTALS			67	68	69
AUDITORIUM SEATING TOTAL			70	71	72
STANDARD SEAT	574		73	74	75
SEMI-PRIVATE AREA SEAT	0		76	77	78
WHEELCHAIR SPACE	20		79	80	81
TOTAL	594		82	83	84

idstudio
ARCHITECTURAL & INTERIOR DESIGN
DALLAS, TEXAS 75201

CLIENT: CENERGY 108 LLC
4415 LUCKY 250 RICH FARM ROAD
HEB AND, TX 76107

CLIENT: CENERGY 108 LLC
4415 LUCKY 250 RICH FARM ROAD
HEB AND, TX 76107

CENERGY 108 LLC
MIDLAND TALL CITY

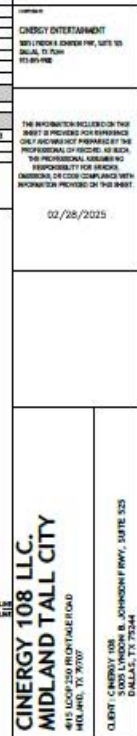
KEY PLAN

OVERALL FURNITURE PLAN
GROUND LEVEL

A1.4

OVERALL FURNITURE PLAN - GROUND LEVEL
Sheet 1 of 1

DATE: 02/26/2025



**CITY OF MIDLAND, TEXAS
AND
CINERGY 108, LLC**

**CHAPTER 380 ECONOMIC DEVELOPMENT
PROGRAM AND PERFORMANCE AGREEMENT**

This **CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT** (the “Agreement”) is made and entered into by and between the **CITY OF MIDLAND, TEXAS**, a Texas home-rule municipality (the “City”), and **CINERGY 108, LLC**, (the “Company”), for the purposes and considerations stated below.

WHEREAS, the Company proposes to (i) repurpose and redevelop an existing 68,500 square-foot building and (ii) construct an approximate 35,000 square-foot expansion of such existing building, the combination of which shall comprise a single family cinema and entertainment center containing a high-performance, multi-level indoor electric karting facility to include approximately 2,500 linear feet of track with elevation changes (the “Cinergy Venue”) to be located on certain real property described as an approximate 7.88-acre tract of land located at 4915 Loop 250 West, Midland, Texas, and legally described as Lot 3, Block 45, Fairmont Park Addition, Section 13, City and County of Midland, Texas (the “Property”), as described in ***Exhibit A*** attached hereto and incorporated herein for all purposes; and

WHEREAS, the Company desires to enter into this Agreement pursuant to Chapter 380 of the Texas Local Government Code; and

WHEREAS, the City desires to provide, pursuant to Chapter 380 of the Texas Local Government Code, certain incentives to the Company to redevelop the Property; and

WHEREAS, the City possesses the legal and statutory authority under Chapter 380 of the Texas Local Government Code to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, the City has determined that a grant of funds to the Company will serve the public purpose of promoting local economic development, with the development and diversification of the economy of the State and City, will eliminate unemployment and underemployment in the State and City, and will enhance business and commercial activity within the City; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly promotes economic development in the City, and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code, and further, is in the best interests of the City and the Company; and

WHEREAS, the City has concluded and hereby finds that this Agreement clearly

promotes economic development in the City, and, as such, meets the requirements of Article III, Section 52-a of the Texas Constitution by assisting in the development and diversification of the economy of the State, by eliminating unemployment or underemployment in the State, and by the development or expansion of commerce within the State; and

NOW, THEREFORE, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Company agree as follows:

SECTION 1. FINDINGS INCORPORATED.

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

SECTION 2. DEFINITIONS.

The following words and phrases shall have the following meanings when used in this Agreement.

- (a) **Agreement.** The word “Agreement” means this Chapter 380 Economic Development Program and Performance Agreement, authorized by Chapter 380 of the Texas Local Government Code, together with all exhibits and schedules attached to this Agreement from time to time, if any, and any amendments to this Agreement and/or exhibits and schedules.
- (b) **Annual Employment Compliance Verification.** The phrase “Annual Employment Compliance Verification” shall have the meaning set forth in Section 4(e).
- (c) **Appraisal District.** The phrase “Appraisal District” shall mean the Midland Central Appraisal District and any successors thereto.
- (d) **Base Year Value.** The phrase “Base Year Value” shall mean the value of the Property’s real and personal property on the Appraisal District tax rolls as of January 1st of the year 2025. The Base Year Value shall not be interpreted as equivalent or determinative for appraisal purposes or used in any way to determine market value. For the purposes of this Agreement, the Base Year Value is **Five Million Two Hundred Thirty-Three Thousand Sixty Dollars and No/100 Dollars (\$5,233,060.00)**.
- (e) **Capital Investment.** The phrase “Capital Investment” shall have the meaning set forth in Section 3(c)(2).
- (f) **Certificate of Occupancy.** The phrase “Certificate of Occupancy” means a certificate of occupancy issued by the City, indicating that the Cinergy Venue complies with the applicable provisions of the building codes and laws of the City, including, if applicable, a temporary certificate of occupancy under which the Company is permitted to open for

business within the Cinergy Venue. A Certificate of Occupancy shall not include a certificate issued in error, by mistake, or based upon a misrepresentation of facts by the Company.

- (g) **Cinergy Venue.** The phrase “Cinergy Venue” shall have the meaning set forth in the Recitals.
- (h) **City.** The word “City” means the City of Midland, Midland County, Texas, a Texas home-rule municipality. For the purposes of this Agreement, City’s address is 300 N. Loraine, Midland, Texas 79701.
- (i) **City Parties.** The phrase “City Parties” shall have the meaning set forth in Section 4(f)(2).
- (j) **City’s Code of Ordinances.** The phrase “City’s Code of Ordinances” means the official Municipal Code of the City of Midland.
- (k) **Company.** The word “Company” means Cinergy 108, LLC, its affiliates, subsidiaries, parent company, entities under common ownership, successors, and assigns.
- (l) **Company Fiscal Year.** The phrase “Company Fiscal Year” means the twelve-month accounting period that the Company uses for financial and reporting purposes.
- (m) **Conditions Satisfaction Deadline.** The phrase “Condition Satisfaction Deadline” means December 31, 2026, as such Conditions Satisfaction Deadline may be extended by delays caused by Force Majeure or as otherwise provided for herein.
- (n) **Effective Date.** The phrase “Effective Date” means the date of the latter to execute this Agreement by and between the City and the Company.
- (o) **Event of Default.** The phrase “Event of Default” means and include any of the Events of Default set forth below in Section 7 hereof entitled “Events of Default.”
- (p) **Existing Venue.** The phrase “Existing Venue” means the Cinergy Midland facility located at 1917 Liberty Dr., Midland, Texas, which is currently operational and open for business to the general public.
- (q) **Full-Time Equivalent Employment Position.** The phrase “Full-Time Equivalent Employment Position” means and includes either (i) a position by an individual scheduled to work a minimum of Two Thousand (2,000) hours of work within a Company Fiscal Year or (ii) two or more individuals scheduled to work a minimum of Two Thousand (2,000) hours of work hours within a Company Fiscal Year collectively, with such hours in each case to also include any vacation and sick leave. To determine the number of Full-Time Equivalent Employment Positions that the Company has had in a given Company Fiscal Year, the Company will divide the total number of hours that employees worked at the Cinergy Venue in such Company Fiscal Year by 2,000.

- (r) **Grant Submittal Package.** The phrase “Grant Submittal Package” means the documentation required to be supplied to the City as a condition of receipt of any Program Grant Payments, with such documentation more fully described in *Exhibit C*, which is attached hereto and incorporated herein for all purposes. The initial Grant Submittal Package shall be due no later than April 30, 2028, for the compliance of the previous calendar year. Continuing every year thereafter, for a maximum of 20 years, the Company shall deliver to the City an Annual Compliance Verification signed by a duly authorized representative of the Company. A failure by the Company to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Company to receive a Program Grant payment for the period covered by the late Grant Submittal Package. The City, in its sole discretion, shall assess the completeness of the Grant Submittal Package.
- (s) **Minimum Required Employment Hours.** The phrase “Minimum Required Employment Hours” means the hours of 49.6 Full-Time Equivalent Employment Positions for a total of 99,200 hours (2000 X 49.6).
- (t) **Notice.** The word “Notice” shall have the meaning set forth in Section 10(i) hereof.
- (u) **NPV.** The initialism “NPV” stands for ‘net present value’ and shall have the meaning set forth in Section 6(b) hereof.
- (v) **Overpayment.** The word “Overpayment” shall have the meaning set forth in Section 4(f)(3) hereof.
- (w) **Personal Property.** The phrase “Personal Property” means the tangible taxable personal property, including furniture, fixtures, inventory, and equipment, which is added to the Property after the Effective Date of this Agreement.
- (x) **Program Grant Payments.** The phrase “Program Grant Payments” means the economic development grants paid by the City to the Company in accordance with Section 5(a) of this Agreement computed with reference to Sales and Use Tax revenue generated by the Property and the City ad valorem taxes paid on the Property and Personal Property.
- (y) **Program Grant Payments Cap.** The phrase “Program Grant Payments Cap” shall have the meaning set forth in Section 6(a) hereof.
- (z) **Property.** The word “Property” shall have the meaning set forth in the Recitals of this Agreement.
- (aa) **Sales and Use Tax.** The phrase “Sales and Use Tax” or “Sales and Use Taxes” means the City’s municipal sales and use tax, at the current rate of one percent (1.0%), pursuant to section 321.103(a) of the Texas Tax Code, as amended.
- (bb) **Shortage.** The word “Shortage” shall have the meaning set forth in Section 4(f)(3) hereof.

- (cc) **State Comptroller.** The phrase “State Comptroller” means the Office of the Texas Comptroller of Public Accounts, or any successor agency.
- (dd) **Term.** The word “Term” means the term of this Agreement as specified in Section 3(a) of this Agreement.

SECTION 3. TERM; CONDITIONS PRECEDENT.

- (a) **Term.** This Agreement shall be effective as of the Effective Date, and the term (the “Term”) shall begin on the Effective Date and terminate on the earlier to occur of: (i) the expiration of the twenty (20) year period referenced in Section 5(a)(1) below, (ii) the expiration of the twenty (20) year period referenced in Section 5(a)(2) below, or (iii) the payment in full of the Program Grant Payments in accordance with this Agreement, unless terminated sooner as provided for herein; provided, however, that this Agreement shall not terminate until the all Program Grant Payments due under this Agreement are paid to the Company, subject to the Company’s compliance with its obligations contained herein.
- (b) **Commencement of Construction Condition.** This Agreement is contingent upon the Company having commenced construction of the Cinergy Venue by December 1, 2025 (as such date may be extended by Force Majeure or as provided for herein), which condition shall be deemed satisfied upon issuance of a City-approved permit for the construction of the Cinergy Venue and the Company has commenced construction and/or renovation activities on the Property.
- (c) **Additional Conditions Precedent.** The Company must satisfy all the following conditions precedent by no later than the Conditions Satisfaction Deadline:
- (1) Completion of construction of the Cinergy Venue. This condition shall be satisfied by delivery of a certificate from an architect licensed in the State of Texas to the City certifying substantial completion of the same.
 - (2) The Company shall have incurred a capital investment between **Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00)** and **Twenty-Four Million No/100 Dollars (\$24,000,000.00)**, including, without limitation, hard and soft construction costs, such as architectural, engineering, accounting and legal costs and fees, relating to the Cinergy Venue, including any necessary off-site improvements, and the costs of equipping the Cinergy Venue (collectively, the “Capital Investment”). For the purposes of this Agreement, the Capital Investment shall not include acquisition costs. This condition shall be satisfied by delivery from the Company to the City of a certificate in the form attached hereto as **Exhibit C-2** certifying that the Company has made the Capital Investment, which shall be delivered with the initial Grant Submittal Package.
 - (3) A Certificate of Occupancy shall have been issued for the Cinergy Venue.

- (4) The Cinergy Venue shall have been built in a manner similar in nature with (i) the preliminary site plan, attached hereto as **Exhibit B** and the City-approved building or construction permit for the construction of the Cinergy Venue, subject in each case, to changes and modifications in the course of construction, which, to the extent required, shall be subject to the review and approval of City and/or other governmental entities with jurisdiction, as applicable, and (ii) the City's Code of Ordinances and other applicable laws. This condition shall be satisfied by the issuance of the Certificate of Occupancy.
- (5) The Cinergy Venue shall have been open for business to the general public for at least one day.
- (d) **Failure to Satisfy Conditions.** A failure by the Company to satisfy all of the conditions set forth in subsections (b) and (c) of this Section 3 shall not in any such case constitute a breach or default by the Company under this Agreement, but as a result of such failure, the City shall have no obligation to pay any Program Grant Payments to the Company under this Agreement, and this Agreement shall be terminated and the parties shall have no further rights or obligations under this Agreement.
- (e) **Administrative Extensions.** Notwithstanding anything to the contrary contained in this Agreement, the City hereby delegates authority to the City Manager, or his designee, for the City to extend the construction commencement deadline referenced in Section 3(b) and the Conditions Satisfaction Deadline upon written request of the Company for an additional sixty (60) days. The City also hereby grants the Company a one-time right to extend the construction commencement deadline or the Conditions Satisfaction Deadline for up to sixty (60) days in the event the Company is experiencing planning or contracting delays. The City Manager is hereby authorized to execute an amendment to this Agreement setting forth such extension without any further action from the City Council.

SECTION 4. AFFIRMATIVE OBLIGATIONS OF THE COMPANY.

The Company covenants and agrees while this Agreement is in effect to comply with the following terms and conditions:

- (a) **Construction of Cinergy Venue.** The Company covenants and agrees to construct or cause to be constructed the Cinergy Venue on the Property, which shall result in total capital investments and expenditures between **Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00)** and **Twenty-Four Million and No/100 Dollars (\$24,000,000.00)**, as further defined in Section 3(c)(2) of this Agreement. Further, the Company covenants and agrees to submit to the City invoices, receipts, or other documentation evidencing the Capital Investment. Said documentation evidencing the Capital Investment shall be in a form acceptable to the City and submitted to the same within sixty (60) days after the Conditions Satisfaction Deadline.

- (b) **Certificate of Occupancy.** The Company covenants and agrees to obtain or cause to be obtained from the City a Certificate of Occupancy for the Cinergy Venue consisting of a minimum of 100,000 square feet of space located on the Property by the Conditions Satisfaction Deadline.
- (c) **Operate Cinergy Venue and Existing Venue.**
- (1) The Company covenants and agrees by the Conditions Satisfaction Deadline, and during the Term of this Agreement to maintain and keep open to the general public the Cinergy Venue located on the Property.
 - (2) Beginning on the Effective Date and continuously thereafter for a period of ten (10) years following the Conditions Satisfaction Deadline, the Company, subject to closure for Force Majeure reasons or during repairs or renovations, covenants and agrees to operate, maintain, and keep open to the general public the Existing Venue, and shall ensure that the Existing Venue is maintained such that its appearance remains clean, neat, and aesthetically pleasing, free and clear from hazards and obstructions.
- (d) **Reporting of Sales and Use Tax Revenue.** The Company covenants and agrees to provide to the City, on an annual basis, with the annual Grant Submittal Package, a copy of the financial reports being submitted to the State Comptroller relating to the remission of all local sales and use taxes collected at the Property as a result of the operation of the Cinergy Venue and the total annual sales occurring at the Property (“Sales Tax Report”). The sales and use taxes to be included within said Sales Tax Report include the Sales and Use Tax revenue collected at the Property at the current rate of **one percent (1.00%)**, and remitted by the State Comptroller to the City. Additionally, the Company covenants and agrees to obtain any third party’s consent for the State Comptroller’s office to release the annual reported figures along with any State audit adjustments to the City. The City hereby agrees to keep this information “Confidential” consistent with the Section 321.3022(f) of the Texas Tax Code, and to the extent allowed by law. The first Sales Tax Report from the Company shall be due with the initial Grant Submittal Package and annually thereafter.
- (e) **Job Creation and Retention.** The Company covenants and agrees, during the Term of this Agreement, to employ and maintain an average of **49.6** Full-Time Equivalent Employment Positions for each Company Fiscal Year such that the total hours of employees working at the Cinergy Venue for each Company Fiscal Year equals the Minimum Required Employment Hours. Within sixty (60) days after the first full Company Fiscal Year, the Company shall deliver to the City an annual compliance verification in the form attached hereto as **Exhibit C-3** signed by a duly authorized representative of the Company that shall certify the Minimum Required Employment Hours for such Company Fiscal Year (the “Annual Employment Compliance Verification”) and then each full Company Fiscal Year thereafter that coincides with the Term of this Agreement. All Annual Employment Compliance Verifications shall include quarterly IRS 941 returns, or Texas Workforce Commission Employer Quarterly Reports or a similar report prepared by a Certified Public

Accountant and certified by a duly authorized representative of the Company. The City agrees that the Company shall be entitled to relief upon request for the employment requirements set forth in this Section upon showing justifiable hardships to the City, including due to Force Majeure reasons or other reasons not within the control of the Company.

(f) **Sales Tax Waiver; Confidentiality.**

- (1) As a condition to obtaining any Program Grant Payment based upon Sales and Use Tax revenues, the Company shall sign and submit to the City and maintain during the Term of this Agreement the Waiver of Sales Tax Confidentiality form attached as **Exhibit C-1**, or other similar form required by the Texas Comptroller as may be required from time to time during the Term of this Agreement to permit the release of sales tax information relating to the Cinergy Venue to the City alone. The Company also covenants and agrees to obtain any third party's consent for the State Comptroller's office to release any State audit adjustments to the City.
- (2) The City acknowledges that the information regarding sales taxes generated by the Cinergy Venue is commercial or financial information, which is proprietary and confidential, the disclosure of which could cause competitive harm to the Company and/or its respective tenants, subtenants and/or licensees, as applicable. To the maximum extent permitted by law, the City and its officers, Council members, and employees, and their respective agents or contractors retained to perform economic development services for the City (the "City Parties") (A) shall maintain the confidentiality of all sales tax information filed by the Company and/or its respective tenants, subtenants and/or licensees, as applicable, with the State of Texas and all other information regarding the Sales and Use Tax revenue generated by the Cinergy Venue at the Property; (B) shall treat as confidential any other proprietary or financial information of the Company and/or its respective tenants, subtenants, and/or licensees; and (C) shall not release any of the foregoing information to the public, unless required by law or court order. The City shall promptly notify the Company of open records requests and court orders to release such information. The City Parties shall be permitted to disclose the foregoing information to such of the City Parties as the City, in its reasonable discretion, deems appropriate in furtherance of the purposes of this Agreement, so long as the City makes such disclosure subject to compliance by such City Parties with the terms of this Section 4(f)(2).
- (3) **Adjustments.** If the State of Texas determines (i) the City erroneously received Sales Tax and Use revenue or (ii) the amount of Sales and Use Tax paid by the Company exceeds ("Overpayment") or was less than ("Shortage") the correct amount of Sales and Use Tax for a previous year for which the Company has received a Program Grant Payment, then the City shall notify the Company in writing specifying the amount of such Overpayment or Shortage, as applicable, and that the next Program Grant Payment shall be adjusted by the amount of such

Overpayment or Shortage. The foregoing shall not apply if the amount of subsequent Sales and Use Tax revenue received by the City during the Term of this Agreement was already adjusted to reflect such Overpayment or Shortage. If there are no further Program Grant Payments to be paid, the City shall pay any such Shortage to the Company within sixty (60) days of such State of Texas determination; and the Company shall pay any such Overpayment to the City not later than sixty (60) days after receipt of written demand from the City.

- (g) **Maintenance Obligation.** The Company agrees to maintain the Cinergy Venue and the Property in a clean and slightly conditioned manner similar in nature to other Company venues, and to ensure that all equipment associated with the Cinergy Venue (or that is otherwise kept or stored on the Property) that is visible to the general public is kept in a clean, neat, and functional condition during the Term of this Agreement. This obligation shall include, but is not limited to, the following:
- (1) Regular cleaning and upkeep of the Cinergy Venue and the Property to ensure a neat and orderly appearance in accordance with Company practices;
 - (2) Maintenance and repair of all structural components, fixtures, and systems (e.g., plumbing, electrical, HVAC, and mechanical systems) in accordance with Company practices to ensure proper functionality and compliance with applicable standards; and
 - (3) Preservation of the Property's landscaping, parking areas, and other exterior features in a manner that is aesthetically similar to other Company operations.
- (h) **Performance.** The Company agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement, and any other agreements by and between the City and the Company.

SECTION 5. AFFIRMATIVE OBLIGATIONS OF THE CITY.

Subject to the Company's satisfaction of the conditions precedent referenced in Section 3(c) above, the City covenants and agrees to comply with the following terms and conditions:

- (a) **Program Grant Payments; Cap.**
- (1) Property Tax. The City shall make annual Program Grant Payments to the Company based on the incremental real and personal ad valorem taxes assessed on the Property above the ad valorem real and personal property tax revenue that would have been generated at the Base Year Value for the Property for each tax year for a maximum twenty (20) year period. The first year of the Program Grant Payment pursuant to this Section 5(a)(1) shall be the first tax year that begins after (i) the satisfaction of all the conditions set forth in Section 3(c) above, and (ii) the Property, Cinergy Venue, and Personal Property are assessed by the taxing authorities. The Program Grant Payments shall be based upon the following

schedule:

Tax Years	Percentage of Ad Valorem Taxes Reimbursed
Years 1 to 20	75%

The City covenants and agrees to provide each Program Grant Payment under this Section 5(a)(1) to the Company within thirty (30) days following receipt of the above-reference ad valorem taxes paid to the City. The City shall be required to issue only one (1) check or wire transfer (per wiring instructions provided by the Company) for each annual payment under this Section 5(a)(1) to the Company or the Company's designee. Nothing in this Agreement shall require the City to make payment from revenue sources other than from the ad valorem tax revenue from the Property, Cinergy Venue, and Personal Property. A delay in the City's payment obligation in this Section 5(a)(1) due to a delay in receiving the ad valorem tax revenues shall not be considered a default on the part of the City so long as the City uses reasonable efforts to obtain the ad valorem tax revenues and makes the annual payments to the Company within thirty (30) days after receipt of such ad valorem tax revenues.

- (2) Sales and Use Tax. Additionally, the City shall make annual Program Grant Payments to the Company based on the Sales and Use Tax revenue received by the City from the Texas Comptroller for the previous calendar year, as reconciled with the sales and use tax information provided by the Texas Comptroller's office for a twenty (20) year period. The Program Grant Payments under this Section 5(a)(2) shall be based upon the following schedule:

Tax Years	Percentage of Sales and Use Tax Revenue Reimbursed
Years 1 to 20	75%

The City shall make such payments annually by June 1st, commencing with the June 1st next following the satisfaction of all the conditions set forth in Section 3(c) above. The payments shall be for sales tax-generating transactions that occurred during January 1 to December 31 of the prior calendar year. The City shall be required to issue only one (1) check or wire transfer (per wiring instructions provided by the Company) for each annual payment under this Section 5(a)(2) to the Company or the Company's designee. Nothing in this Agreement shall require the City to make payment from revenue sources other than from the Sales and Use Tax revenue. A delay in the City's payment obligation in this Section 5(a)(2) due to a delay in receiving the Sales and Use Tax revenues and/or sales and use tax information from the State Comptroller's office shall not be considered a default on the part of the City so long as the City uses reasonable efforts to obtain the Sales and Use Tax revenues and/or sales and use tax information and makes the annual

payments to the Company within thirty (30) days after receipt of such Sales and Use Tax revenues and/or sales and use tax information.

- (b) **Permit Fees.** The City covenants and agrees to provide a one-time, one hundred percent (100%) waiver of the following fees in connection with the development of the Property and the Cinergy Venue: (1) permitting fees; (2) inspection fees; (3) utility connection fees; (4) plan examination fees; and (5) water and sewer tap fees.
- (c) **Cooperation.** The City agrees to cooperate with the Company to expeditiously and in good faith process permits, applications, and other approvals as required for the Property and Cinergy Venue. This Section does not waive any requirements of the City's Code of Ordinances as they apply to the Company or the Property, however, the City hereby approves the designs and renderings of the Cinergy Venue attached hereto as **Exhibit D**.
- (d) **Performance.** The City agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement, and any other agreements by and between the City and the Company.

SECTION 6. PROGRAM GRANT PAYMENTS CAP.

Notwithstanding Section 5(a) above or any contrary provision contained herein, the City's total Program Grant Payments due to Company under this Agreement shall be subject to the following:

- (a) **Program Grant Payments Cap.** The total amount of Program Grant Payments made by the City to the Company shall be subject to a cap of **Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000)** (the "Program Grant Payments Cap"), if the total of the capital investments and expenditures specified in this Agreement is no less than **Twenty-Four Million and No/100 Dollars (\$24,000,000.00)**, which shall be calculated in accordance with Section 6(b) below. If the total of the capital investments and expenditures specified in this Agreement is less than Twenty-Four Million and No/100 Dollars (\$24,000,000.00) (but in no event shall it ever be less than Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00)), the Program Grant Payments Cap shall be proportionally decreased (i.e. if the total capital investments and expenditures is Twenty-One Million Six Hundred Thousand and No/100 Dollars (\$21,600,000.00), the Program Grant Payments Cap shall be Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000)).
- (b) **Calculation of Program Grant Payments Cap.** The Program Grant Payments Cap shall be calculated by determining the net present value ("NPV") of the Program Grant Payments over the respective maximum 20-year periods referenced in Section 5(a) above. The NPV shall be calculated as of the Effective Date using a discount rate of **six percent (6%) per annum** to ensure that the NPV of the Program Grant Payments does not exceed the Program Grant Payments Cap.

- (c) **Termination of Program Grant Payments.** The City's obligation to make Program Grant Payments shall continue until the earlier of: (i) the expiration of the respective 20-year periods referenced in Section 5(a) above; (ii) the date on which the cumulative NPV of the Program Grant Payments reaches the Program Grant Payments Cap; or (iii) the earlier termination of this Agreement.
- (d) **Review.** The City and the Company agree to review the NPV calculations on a yearly basis to ensure compliance with the Program Grant Payments Cap. Any discrepancies identified shall be addressed promptly to maintain the integrity of the payment schedule and observance of the Program Grant Payments Cap.

SECTION 7. EVENTS OF DEFAULT.

- (a) **Events of Default.** Each of the following shall constitute an Event of Default under this Agreement:
 - (1) **General Event of Default.** Failure of the Company or the City to comply with or to perform any material term, obligation, or covenant contained in this Agreement, including those contained in Section 4 and Section 5 above, that is not cured prior to the expiration of the notice and cure period set forth in Section 7(b) below, is an Event of Default by such party.
 - (2) **False Statements.** A breach of a material representation under this Agreement by the Company or the City that is not cured prior to the expiration of the notice and cure period set forth in Section 7(b) below is an Event of Default by such party.
 - (3) **Insolvency.** The dissolution or termination of the Company's or the City's existence, insolvency, appointment of receiver for any part of such party's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors or the commencement of any proceedings under any bankruptcy or insolvency laws by or against the Company or the City, and such proceedings are not dismissed within ninety (90) days after the filing thereof is an Event of Default by such party.
 - (4) **Ad Valorem Taxes.** The Company allows its ad valorem taxes owed to the City to become delinquent and fails to pay them prior to the expiration of the notice and cure period set forth in Section 7(b) below is an Event of Default by the Company, provided, however, the Company retains the right to timely and properly protest and contest any such ad valorem taxes and the same shall not be deemed delinquent during the pendency of such proceedings and so long as the Company is timely and properly following the legal procedures for protest and/or contest of such taxes.
 - (5) **Property Tax Contest.** The Company contests the ad valorem taxes assessed on the Existing Venue such that (i) the Company seeks a valuation of less than **Nine Million Two Hundred Eighty-Six Thousand Seven Hundred Twenty and**

No/100 Dollars (\$9,286,720.00), or (ii) the valuation is less than Nine Million Two Hundred Eighty-Six Thousand Seven Hundred Twenty and No/100 Dollars (\$9,286,720.00) at the time Company initiates such tax contest.

- (b) **Notice and Cure.** Upon a breach or default by the Company or the City, as applicable, as described in Sections 7(a)(1), (2), (4), or (5) above, the non-defaulting party may give written notice to the other party of such default, and the defaulting party shall have sixty (60) days thereafter to cure said breach or default, or if the defaulting party is diligently pursuing the cure of such breach or default but such breach or default is not reasonably curable within sixty (60) days, then the defaulting party shall have such additional amount of time as is reasonably necessary to cure such default. Should a breach or default as described in Sections 7(a)(1), (2), (4), or (5) above remain uncured after such cure period it shall constitute an Event of Default by such defaulting party, and a non-defaulting party shall have the right to exercise the remedies set forth in Section 8 below

SECTION 8. EFFECT OF DEFAULT; RECAPTURE AND OTHER REMEDIES.

- (a) **General Rights and Remedies Following Default.** Should a default remain uncured by a defaulting party following any applicable cure periods, the non-defaulting party shall have the right to terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default. Should a default by the Company remain uncured following any applicable cure periods, the City shall have the right to cease all Program Grant Payments, terminate this Agreement, enforce specific performance, or maintain a cause of action for damages caused by the Company's default.
- (b) **Recapture and Other Remedies Following Certain Defaults.** Notwithstanding Section 8(a) above, if the Company defaults on an obligation contained in the sections listed below, the following recapture provisions shall apply:
- (1) **Failure to Operate Existing Venue.** If the Company, subject to closures for Force Majeure reasons or for repairs or renovations, fails to continuously operate the Existing Venue as of the Effective Date and continuously thereafter for a period of ten (10) years following the Conditions Satisfaction Deadline in accordance with Section 4(c)(2) above, then the City shall have the right to cease all Program Grant Payments and the City shall have no obligation to provide the Company with the fee waivers referenced in Section 5(b) above.
- (2) **Failure to Meet Job Creation and Retention Obligations.** If the Company fails to comply with the obligations related to the creation and retention of Full-Time Equivalent Employment Positions contained in Section 4(e), then the City shall be entitled to recapture Program Grant Payments previously paid by the City to the Company; provided, however, that the City shall only be entitled to recapture Program Grant Payments in the same proportion as the Company's shortfall of created/retained Full-Time Equivalent Employment Positions.

SECTION 9. INDEMNITY.

TO THE EXTENT ALLOWED BY LAW, EACH PARTY AGREES TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND ITS OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT.

SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Midland County, Texas. Exclusive venue for any action arising under this Agreement shall lie in the state district courts of Midland County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party, which shall not be unreasonably withheld or delayed, unless the assignment is from the Company to an affiliated entity or an entity with common control in which case such assignment is permitted without consent but with notice to the City. In addition, if the Company is sold or merged into, or transfers substantially all of its then owned assets to another entity, the City hereby consents to such sale, merger, or transfer and consents to any assignment of the sold, merged, or transferred entity's rights and obligations under this Agreement to such receiving entity as a result of such sale, merger, or transfer. The Company shall provide the City with written notice of any such assignment.
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. The Company warrants and represents that the individual executing this Agreement on the Company's behalf has full authority to execute this Agreement and bind the Company to the same. The City warrants and represents that all necessary actions under applicable law have been taken to approve and authorize this

Agreement.

- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.
- (f) **Counterparts.** This Agreement may be executed by a pen and ink signature or by Electronic Signature (including by facsimile, pdf or another file sent by email, or by DocuSign). This Agreement may be in the form of an Electronic Record, and any Electronic Signatures shall be considered an original, having the same legal effect, validity and enforceability as a paper record. For purposes hereof, “Electronic Record” and “Electronic Signature” shall have the meanings assigned to them, respectively, by 15 USC § 7006, as it may be amended from time to time. This Agreement may be executed by the parties in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. The signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.
- (g) **Entire Agreement.** This written agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.
- (h) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of (i) war, riots, acts of terrorism, acts of the public enemy, insurrections, civil commotion; (ii) labor disputes, a general inability to obtain labor or materials or reasonable substitutes for either, delays in delivery of materials, unusual delay in transportation, strikes, slowdowns, work stoppages, or contractor delays or defaults not caused by a party hereto; (iii) acts of God, casualties, explosions, floods, fire, earthquake, tornado, hurricane, high winds, extreme rains, or other severe and adverse weather conditions; (iv) pandemics, epidemics, infectious disease outbreaks, public health emergencies, health and safety circumstances that require individual isolation, quarantine or quarantine-like restrictions, or other methods of social distancing, (v) delays caused by actions or inactions, or other acts or omissions on the part of any public utility or local, state, or federal government (or de facto governmental entity), government official or their respective agents or employees (including, but not limited to, any government-mandated or suggested work stoppages or slowdowns (such as, by way of example and not limitation, any reduction in the number of workers allowed to work at one time, or any limitation on the allowable working hours) and/or the closing or slowing of governmental offices or procedures (such as, by way of example and not limitation, any significant change in the time required to file or obtain permits or record documents), (vi) delays caused by governmental restrictions, regulations or controls, including, without limitation, any moratoriums (i.e., zoning, platting, building or similar moratoriums), (vii) a failure of the City to comply with any obligations under this Agreement, and (viii) any other cause outside the control of the party who is to perform under this Agreement, then the party so obligated shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such

party was delayed. An inability to obtain funds shall not be considered Force Majeure (unless directly caused by one of the events specifically described above).

- (i) **Notices.** Any notice or other communication (“Notice”) given under this Agreement shall be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the Party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the Party; (iii) by depositing the notice with Federal Express or another nationally recognized courier service for next day delivery; or (iii) sent by electronic transmission confirmed by providing written confirmation at substantially the same time as such electronic transmission by one of the manners specified in (i) or (ii) above. Notice shall be effective upon receipt or refusal of delivery by the Party to be notified. For the purposes of Notice, the addresses of the Parties are, until changed as provided below, be as follows:

if to the City: City of Midland, Texas
300 N. Loraine Street
Midland, Texas 79701
Attn: Tommy Gonzalez, City Manager
Telephone: (432) 685-7200
E-mail: tgonzalez@midlandtexas.gov

if to the Company: Cinergy 108, LLC
505 Lyndon B Johnson Freeway, Suite 525
Dallas, Texas 75244
Attn: Kade Pittman
Telephone: (214) 477-4895
E-mail: kpittman@cinergy.com

Either party may designate a different address at any time by giving Notice to the other party.

- (j) **Revenue Sharing Agreement.** The parties designate this Agreement as a revenue sharing agreement, thereby entitling the City to request Sales and Use Tax information from the State Comptroller, pursuant to section 321.3022 of the Texas Tax Code, as amended.
- (k) **Severability.** The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation have the force and effect of the law, the remaining portions of this Agreement shall be enforced as if the invalid provision had never been included.
- (l) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (m) **Change in Law.** If, during the Term of this Agreement, state law applicable to municipal sales taxes changes and, as a result, any Program Grant Payments differ from the amount

which would have been paid to the Company under the laws in effect as of the Effective Date, then the City, in its sole discretion, may adjust the Program Grant Payments utilizing whatever discretionary taxes and revenues are legally available to the City to be allocated to the Program Grant Payments. The foregoing does not require the City to use funds from sources that are not within its discretion to allocate to the Property in order to achieve the same economic benefits to the Company, which would have resulted if the law had not changed. Should any other legal impediment arise during the Term of this Agreement, including without limitation a change in law, that prevents or prohibits the City from complying with or making any payments under this Agreement, the City and the Company agree to terminate this Agreement; provided, however, that, to the extent feasible and permitted by applicable law, the City and the Company agree to work together in good faith to modify this Agreement or enter into a new agreement or otherwise provide the Company with a remedy or reasonably equivalent value to otherwise accomplish the purpose of this Agreement.

- (n) **Undocumented Workers Provision.** Pursuant to Chapter 2264 of the Texas Government Code, the Company certifies that as of the Effective Date of this Agreement and throughout the Term of this Agreement, the Company's business, or a branch, division, or department thereof, does not and will not knowingly employ an undocumented worker (as defined in Section 2264.001 of the Texas Government Code), and if the Company's business, or a branch, division, or department thereof, is convicted of a violation of 8 U.S.C. § 1324a(f) occurring during the Term of this Agreement, the Company shall repay to the City the total amount of Program Grant Payments paid to the Company under this Agreement, plus interest at the Agreed Rate, not later than the 120th day after the date the City notifies the Company of the violation. It is agreed that for purposes of this Section, but only if permissible under Chapter 2264 of the Texas Government Code: (i) "the Company's business, or a branch, division, or department thereof" shall be limited to the Company's business in Midland, Texas; (ii) the Company shall not be liable for a violation of Chapter 2264 of the Texas Government Code by a person or entity with whom the Company contracts; (iii) neither the Company nor its business, or branch, division, or department thereof, shall be deemed to have been "convicted of a violation" until all appeals have been exhausted and/or the time for all appeals has expired; and (iv) the date that "the City notifies the Company of the violation" may not be earlier than the date that the Company has been "convicted of a violation" as provided above in this Section. For purposes of this Section, "Agreed Rate" shall mean the lesser of: (i) the Wall Street Journal prime rate announced by and as quoted in Wall Street Journal, from time to time, as its prime commercial rate or, if the Wall Street Journal prime rate ceases to be made available by the publisher, or any successor to the publisher, a similar reference interest rate based on the interest large United States money center commercial banks charge on short term uninsured loans to their most creditworthy borrowers; and (ii) the highest lawful rate.
- (o) **Non-Boycott of Israel Provision.** In accordance with Chapter 2270 of the Texas Government Code, a Texas governmental entity may not enter into an agreement with a business entity for the provision of goods or services unless the agreement contains a written verification from the business entity that it: (i) does not boycott Israel; and (ii) will

not boycott Israel during the term of the agreement. Chapter 2270 of the Texas Government Code does not apply to: (i) a company that is a sole proprietorship; (ii) a company that has fewer than ten (10) full-time employees; or (iii) a contract has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the Company is not subject to Chapter 2270 of the Texas Government Code for the reasons stated herein, the Company verifies that the Company does not boycott Israel and will not boycott Israel during the Term of this Agreement.

- (p) **Prohibition on Contracts with Certain Companies Provision.** In accordance with Section 2252.152 of the Texas Government Code, the parties covenant and agree that the Company is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.
- (q) **Report Agreement to Comptroller's Office.** The City covenants and agrees to report this Agreement to the State Comptroller's office within fourteen (14) days of the Effective Date of this Agreement, in accordance with Section 380.004 of the Texas Local Government Code, as added by Texas House Bill 2404, 87th Tex. Reg. Session (2021) (effective September 1, 2021).
- (r) **Verification Against Discrimination of Firearm or Ammunition Industries.** Pursuant to Texas Government Code Chapter 2274, (as added by Texas Senate Bill 19, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Company employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000 that is paid wholly or partly from public funds of the City, the Company represents that: (i) the Company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) the Company will not discriminate during the Term of this Agreement against a firearm entity or firearm trade association. Deed restrictions against a gun store or gun range in a development in which the Company has a business shall not violate this Section 10(r).
- (s) **Verification Against Discrimination Company Does Not Boycott Energy Companies.** Pursuant to Texas Government Code Chapter 2276, (as added by Texas Senate Bill 13, 87th Tex. Reg. Session (2021) (effective September 1, 2021)) unless otherwise exempt, if the Company employs at least ten (10) full-time employees and this Agreement has a value of at least \$100,000.00 that is paid wholly or partly from public funds of the City, the Company represents that: (i) the Company does not boycott energy companies; and (ii) the Company will not boycott energy companies during the Term of this Agreement.
- (t) **Repeal of Law.** The Company agrees to comply with the provisions of Sections 10(n), (o), (p), (r) and (s) only so long as they remain required by applicable law.
- (u) **Exhibits.** The following exhibits are attached to and incorporated into this Agreement and made a part of this Agreement for all purposes as if they were set forth herein in their entirety:

Exhibit A – Legal Description of the Property

- Exhibit B – Preliminary Site Plan
- Exhibit C – Grant Submittal Package form
- Exhibit C-1 – Waiver of Sales Tax Confidentiality form
- Exhibit C-2 – Form of Certificate Regarding Capital Investment
- Exhibit C-3 – Form of Annual Employment Compliance Verification
- Exhibit D – Designs and Renderings

[The Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed.

CITY:

CITY OF MIDLAND, TEXAS,
A Texas home-rule municipality

Lori Merritt Blong, Mayor

Date: _____

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO FORM ONLY:

Nicholas Toulet, Interim City Attorney

COMPANY:

CINERGY 108, LLC

By: 
Name: KADE L. PITTMAN
Title: VICE PRESIDENT
Date: 4/2/25

STATE OF Texas
COUNTY OF Dallas

§
§
§

This instrument was acknowledged before me on the 2nd day of April 2025, by KADE L. PITTMAN, VICE PRESIDENT, of CINERGY 108, LLC, on behalf of said entity.




Notary Public, State of Texas

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

Lot 3, Block 45, Fairmont Park Addition, Section 13, City and County of Midland, Texas.

PRELIMINARY SITE PLAN

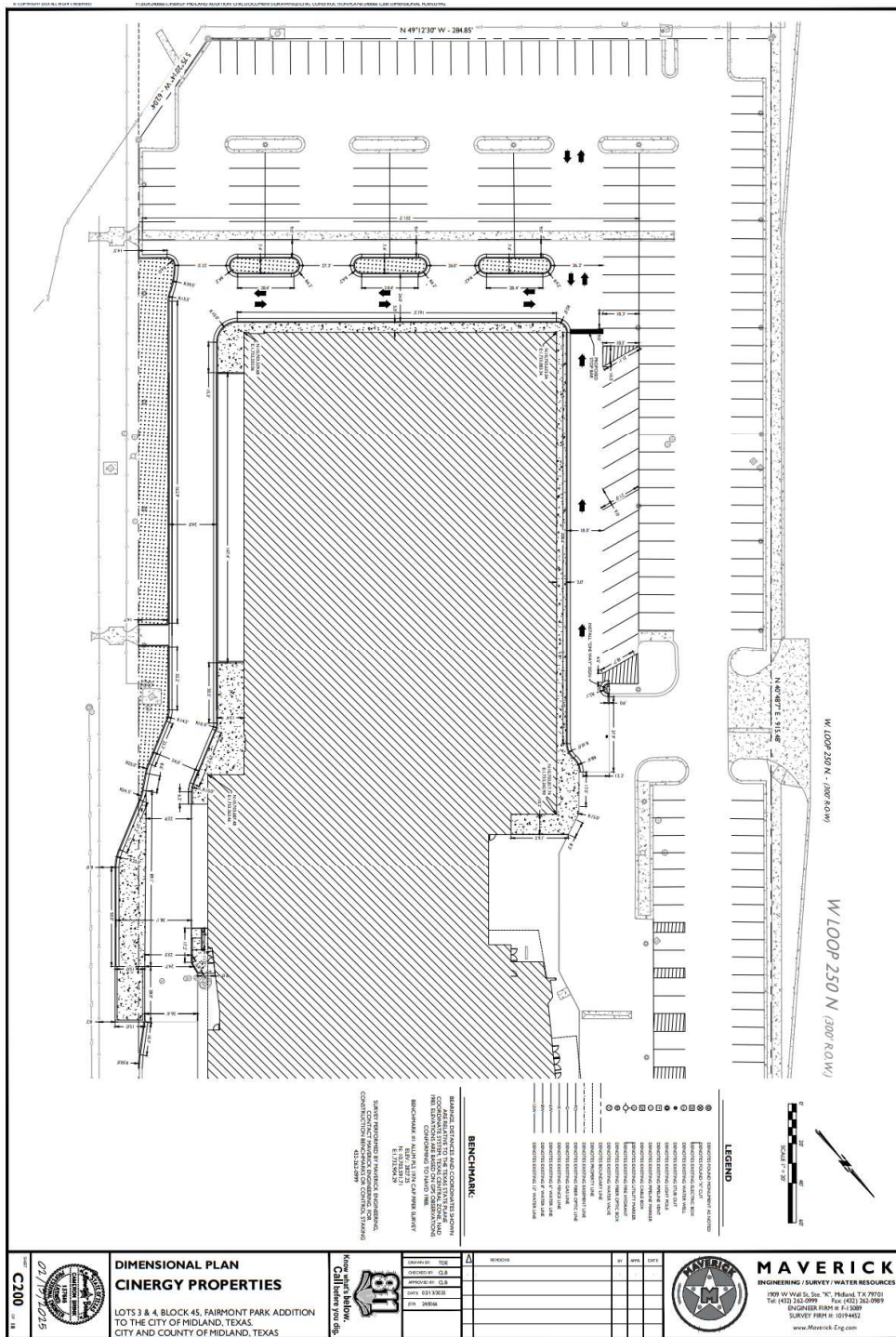


Exhibit C

GRANT SUBMITTAL PACKAGE FORM

Cinergy 108, LLC (the “Company”) believes that it has substantially met its obligations under the Chapter 380 Economic Development Program Agreement dated _____ day of _____, 2025 (the “Agreement”). Pursuant to the Agreement, Company submits this Grant Submittal Package Form in compliance with the Agreement and in anticipation of receiving the Program Grant Payments referenced in the Agreement in consideration for its obligations met therein.

As required by the Agreement, the following information is submitted:

1. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Reasonable documentation (which may be a construction or building permit issued by the City) to evidence that construction of the Cinergy Venue commenced _____ of _____.
2. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Copy of permanent Certificate of Occupancy.
3. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Copy of completed ***Exhibit C-2*** and documentation to evidence Capital Investment, including:
 - a. Stamped ***PAID*** invoices;
 - b. Copies of checks proving payment – corresponding to paid invoices;
 - c. Bank statements (in the event a transaction was paid with credit or debit card); and
 - d. Contractor pay applications, notarized with lien releases.
4. **[INITIAL GRANT SUBMITTAL PACKAGE ONLY]** Copy of completed ***Exhibit C-1*** and documentation to evidence the local sales and use taxes collected at the Property as a result of the operation of the Cinergy Venue and the total annual sales occurring at the Property, as further described by Section 4(d) of this Agreement.
5. Copy of completed ***Exhibit C-3*** and documentation to evidence that job creation and retention metrics at the Cinergy Venue have been met, as further described by Section 4(e) of this Agreement.
6. Property tax payment receipts showing proof of payment for the immediately preceding tax year.

It is understood by the Company that the City of Midland has up to 90 days to process this request from receipt of complete submittal and reserves the right to deny the Program Grant Payment claim if the terms of the Agreement have not been met.

Cinergy 108, LLC

By: _____

Name: _____

Title: _____

Date of Submission: _____

Exhibit C-1

WAIVER OF SALES TAX CONFIDENTIALITY FORM

AGREEMENT FOR DISCLOSURE OF CONFIDENTIAL TAX INFORMATION

This Agreement for Disclosure of Confidential Tax Information (this “Agreement”) is entered into between the City of Midland, Texas (the “City”) and _____ (the “Taxpayer”) for the purposes indicated herein.

The undersigned Taxpayer hereby authorizes the Texas Comptroller’s Office to release and disclose to the City any and all sales and use tax information pertaining to Taxpayer’s business located at the physical location specified below. This authorization applies only to Taxpayer’s business located at the physical location specified below.

The undersigned Taxpayer understands and agrees that this release will be made by the Texas Comptroller’s Office to the City on an ongoing monthly basis beginning on the date this Agreement is executed. Taxpayer waives any and all rights of confidentiality of tax information under Sections 111.006, 151.027 of the Texas Tax Code to the extent, and only to the extent, necessary to permit the Texas Comptroller’s Office to release and disclose Taxpayer’s sales and use tax information as provided in this Agreement.

The City agrees that the City will use the sales and use tax information disclosed by the Texas Comptroller pursuant to this Agreement solely and exclusively for the purposes under the Development Agreement between City of Midland, Texas, and Cinergy 108, LLC, and subject to the terms thereof.

This Agreement is entered into in the City of Midland, Midland County, Texas, and Texas law shall apply to its interpretation and enforcement.

(signatures on following page)

SIGNED AND AGREED TO on this ____ day of _____, 20__.

Name of Taxpayer Listed on Texas Sales Tax Permit

Name Under Which Taxpayer is Doing Business (d/b/a or Outlet Name)

Taxpayer Mailing Address

Physical Location of Business Permitted for Sales Tax

Texas Taxpayer ID Number

Tax Outlet Number
(As Shown on Texas Sales Tax Permit)

Taxpayer's Authorized Signature*

Print Name of Authorized Signature

Position of Authorized Signature

*The authorized signature must be that of an owner, officer, director, partner, or agent authorized to sign a Texas Sales Tax Return. If you have any questions concerning this waiver of confidentiality, please contact the Texas Comptroller of Public Accounts at 1 (800) 531-5441.

City of Midland, Texas

City's Authorized Signature*

Print Name of Authorized Signature

Position of Authorized Signature

Page 27 of 30

Exhibit C-2

FORM OF CAPITAL INVESTMENT CERTIFICATION

Re: CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT AMONG THE CITY OF MIDLAND, TEXAS, AND CINERGY 108, LLC; CAPITAL INVESTMENT CERTIFICATION

This Capital Investment Certification is being delivered by Cinergy 108, LLC (the "Company"), in connection with that certain Economic Development Program and Performance Agreement between the City of Midland, Texas (the "City") and the Company effective as of _____, 2025 (the "Agreement"). All terms used herein have the meanings ascribed to them in this Agreement unless otherwise defined herein.

The undersigned authorized officer of the Company hereby certifies to the City that the Company has made a Capital Investment of not less than Twenty-Four Million Dollars (\$24,000,000.00) on the Property and in Cinergy Venue.

The undersigned hereby certifies that I am a duly authorized representative of the Company and am duly authorized to execute this Cost Certification.

CINERGY 108, LLC

BY: _____

NAME – SIGNATURE

NAME – PRINTED

TITLE DATE _____ 20__

STATE OF _____

COUNTY OF _____

Sworn to and subscribed to before me on the ____ day of _____, 20_____, by _____.

NOTARY NAME

Exhibit C-3

FORM OF ANNUAL EMPLOYMENT COMPLIANCE VERIFICATION

Re: CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AND PERFORMANCE AGREEMENT AMONG THE CITY OF MIDLAND, TEXAS, AND CINERGY 108, LLC; ANNUAL EMPLOYMENT COMPLIANCE VERIFICATION

This Annual Employment Compliance Verification is being delivered by Cinergy 108, LLC (the “Company”) in connection with that certain Economic Development Program and Performance Agreement between the City of Midland, Texas (the “City”), and the Company effective as of _____, 2025 (the “Agreement”). All terms used herein have the meanings ascribed to them in this Agreement unless otherwise defined herein.

1. The undersigned authorized officer of the Company hereby certifies to the City that the Company has maintained __ Full-Time Equivalent Employment Positions for the period commencing January 1, 20__, and expiring December 31, 20__.

The undersigned hereby certifies that I am a duly authorized representative of the Company and am duly authorized to execute this Cost Certification.

CINERGY 108, LLC

BY:

NAME – SIGNATURE

NAME – PRINTED

TITLE

DATE _____ 20__

STATE OF _____

COUNTY OF _____

Sworn to and subscribed to before me on the ____ day of _____, 20____, by _____.

NOTARY NAME

Exhibit D
DESIGNS AND RENDERINGS
(exhibit on following pages)



CINERGY

ENTERTAINMENT



PACKET

DESIGN DEVELOPMENT (DD) PRESENTATION: EXTERIOR
Date: 01.29.2025 Revision 2

13.88

April 22, 2025

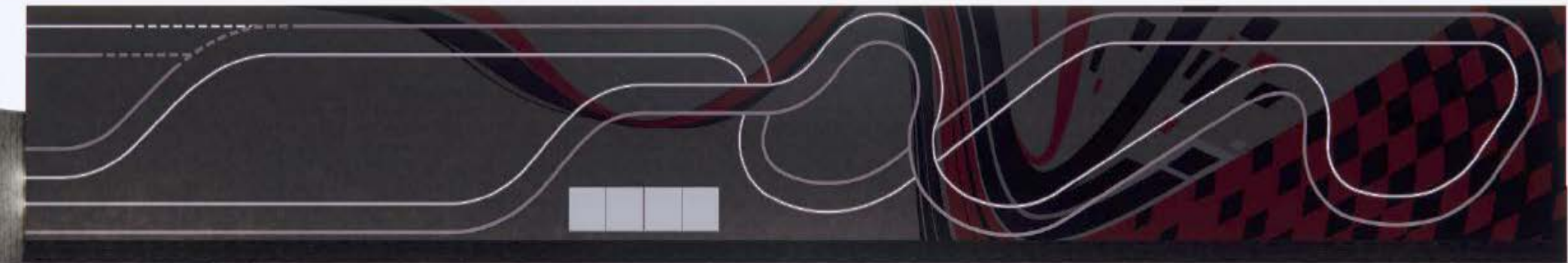
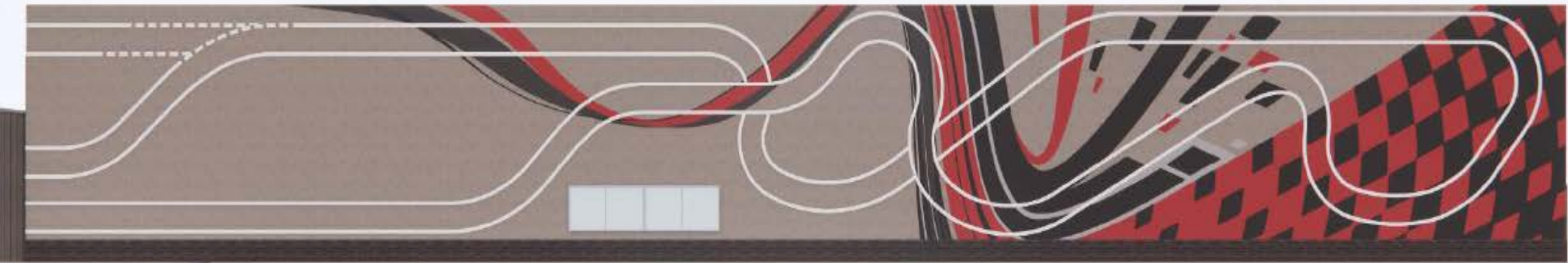
idstudio⁴

Existing Building





SPEEDWAY SIGNAGE
IN BOX



OPTION 2: A SIMPLER GRAPHIC WITH ONLY ONE SIDE OF THE RACETRACK LANES LIT BY LED.
THE LOWEST POINT OF THE LED IS 6'-6".



CINERGY
ENTERTAINMENT



OPTION 2 - Facade
DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



PACKET

* For Design Intent Only

13.92

April 22, 2025

idstudio⁴



PACKET

13.93

* For Design Intent Only

idstudio⁴



PACKET

13.94

April 22, 2025

* For Design Intent Only

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CINERGY
ENTERTAINMENT



DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



PACKET

* For Design Intent Only

13.95

April 22, 2025

idstudio⁴



* For Design Intent Only

idstudio⁴



CINEMAS & ENTERTAINMENT



* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



13.97

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



CINERGY
ENTERTAINMENT



DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



PACKET

13.98

April 22, 2025

* For Design Intent Only

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* For Design Intent Only

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PACKET
CINERGY
ENTERTAINMENT



13.99
DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



CINERGY
ENTERTAINMENT



DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

idstudio⁴



**BOTH RED MESH
PANELS AT
STAIRWELL HAVE
BEEN REMOVED
FROM THE SCOPE**

PACKET

13.100

April 22, 2025

idstudio⁴

* For Design Intent Only



* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



13.101
DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴





* For Design Intent Only



CINERGY
ENTERTAINMENT



OPTION 2

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR

01.29.2025 REVISION 2

idstudio⁴



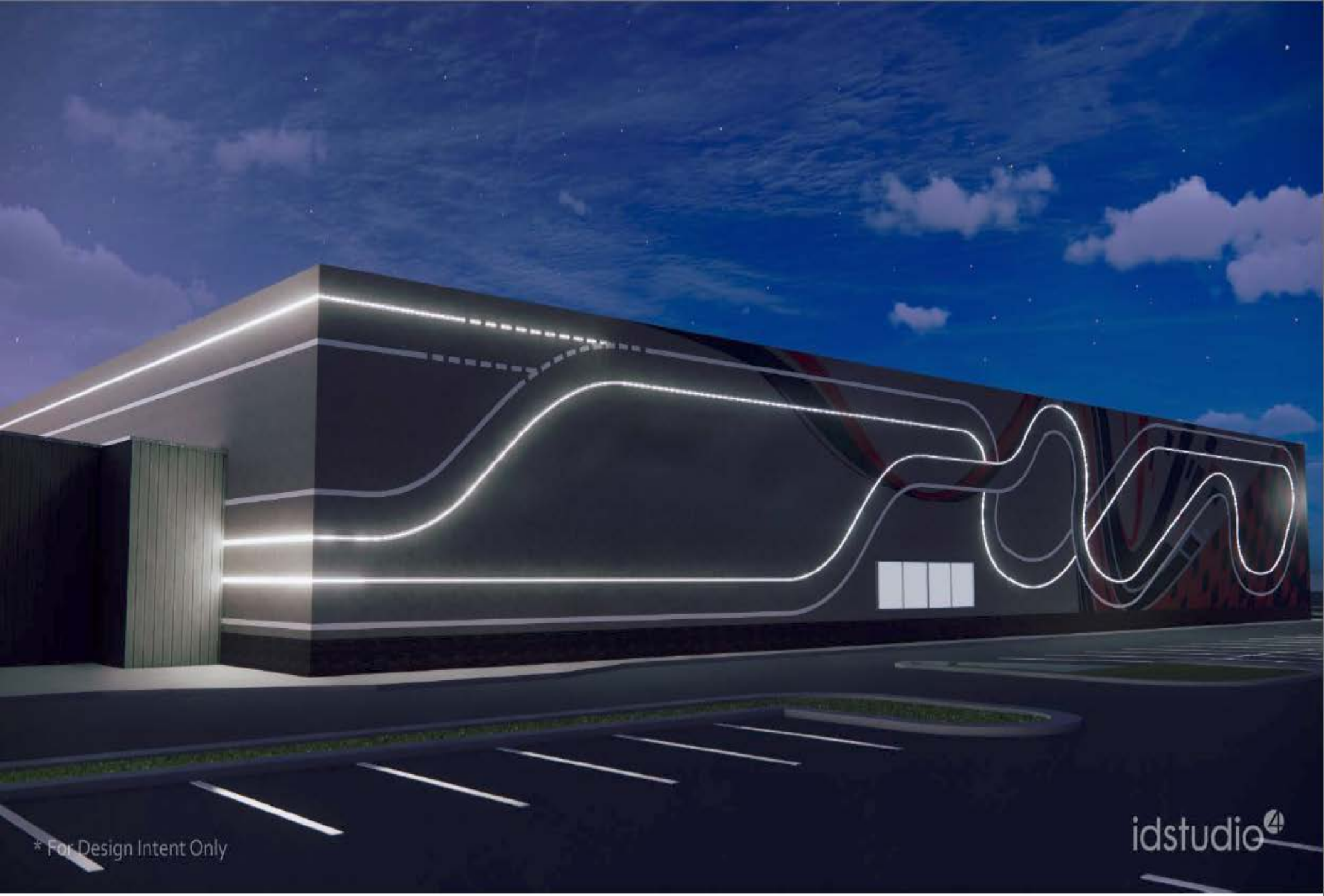
PACKET

13.104

April 22, 2025

* For Design Intent Only

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* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



OPTION 2
13.105

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

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* For Design Intent Only

idstudio⁴



PACKET
CINERGY
ENTERTAINMENT



OPTION 2
13.106

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



* For Design Intent Only

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PACKET
CINERGY
ENTERTAINMENT

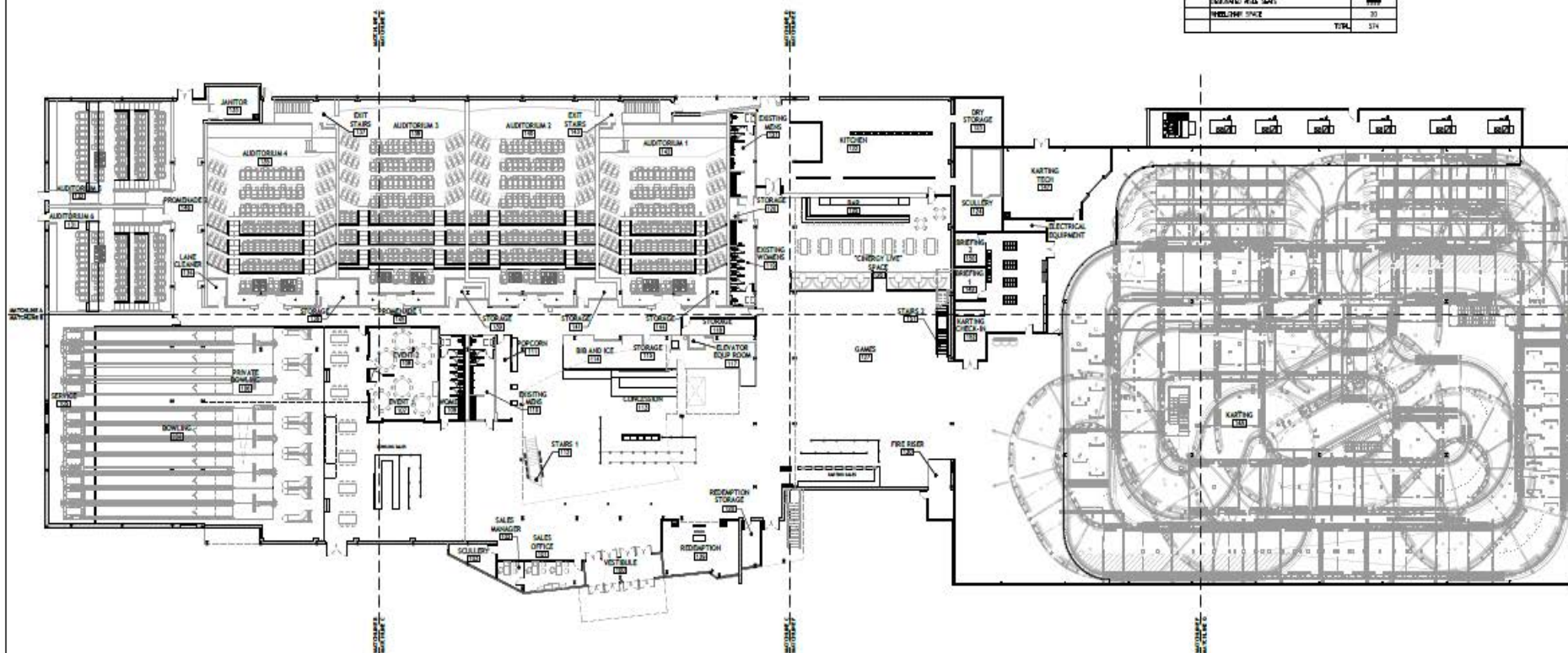


OPTION 2
13.107

DESIGN DEVELOPMENT PRESENTATION: EXTERIOR
01.29.2025 REVISION 2

April 22, 2025

idstudio⁴



AUDITORIUM SEATING SCHEDULE			SEAT COUNT	
150 THIS				
AUDITORIUM 1				
STANDARD SEAT			124	
SEMI-PRIVATE SEAT			0	
WHEELCHAIR SPACE			4	
		TOTAL	128	
AUDITORIUM 2				
STANDARD SEAT			124	
SEMI-PRIVATE SEAT			0	
WHEELCHAIR SPACE			4	
		TOTAL	128	
AUDITORIUM 3				
STANDARD SEAT			124	
SEMI-PRIVATE SEAT			0	
WHEELCHAIR SPACE			4	
		TOTAL	128	
AUDITORIUM 4				
STANDARD SEAT			124	
SEMI-PRIVATE SEAT			0	
WHEELCHAIR SPACE			4	
		TOTAL	128	
AUDITORIUM 5				
STANDARD SEAT			40	
SEMI-PRIVATE SEAT			0	
WHEELCHAIR SPACE			2	
		TOTAL	42	
TOTALS				
AUDITORIUM SEATING TOTAL			524	
STANDARD SEAT			524	
SEMI-PRIVATE SEAT			0	
WHEELCHAIR SPACE			20	
		TOTAL	544	

idstudio
ARCHITECTURAL & INTERIOR DESIGN
4405 W. 14TH STREET, SUITE 100
DALLAS, TEXAS 75244

02/26/2025

ENERGY ENTERTAINMENT
5001 PERRY AVENUE, SUITE 100
DALLAS, TEXAS 75205

THE INFORMATION CONTAINED ON THIS SHEET IS PROVIDED FOR REFERENCE ONLY AND DOES NOT CONSTITUTE A PROFESSIONAL DESIGN OR CONSTRUCTION DOCUMENT. THE PROFESSIONAL LIABILITY OF THE ARCHITECT IS LIMITED TO THE DESIGN OF THE BUILDING. THE ARCHITECT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION PROVIDED ON THIS SHEET.

CINERGY 108 LLC
MIDLAND TALL CITY
4415 LOOP 250, SUITE 100
MIDLAND, TEXAS 79701

CLIENT: CINERGY 108 LLC
PROJECT: CINERGY 108 LLC
DALLAS, TEXAS 75204

KEY PLAN

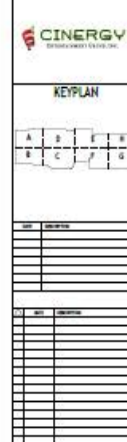
A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

OVERALL FURNITURE PLAN
GROUND LEVEL

A1.4

CIN23005

CINERGY 108 LLC. MIDLAND TALL CITY #15 LOOP 350 FRONTAGE ROAD MIDLAND, TX 79701	CLIENT: CINERGY 108 5000 LYNDON B. JOHNSON FWAY, SUITE 325
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City Council Meeting

Item Number: 14
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Elizabeth Triggs, Director
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CAPITAL IMPROVEMENTS DEVELOPMENT AGREEMENT WITH BETENBOUGH HOMES FOR THE CONSTRUCTION OF CERTAIN CAPITAL IMPROVEMENTS RELATED TO THE DEVELOPMENT OF MOCKINGBIRD RIDGE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$933,601.12; SAID AGREEMENT BEING AUTHORIZED BY CHAPTER 212, SUBCHAPTER C AND CHAPTER 395, SUBCHAPTER B OF THE TEXAS LOCAL GOVERNMENT CODE (DISTRICT 1) (DEVELOPMENT SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

Purpose:

To consider approval of a Capital Improvements Development Agreement with Betenbough Homes ("Developer") for the construction of Todd Drive and a 16-inch water line in the Mockingbird Ridge subdivision, extending from Firewheel Road north to Occidental Parkway. The roadway will be constructed on a combination of Developer- and City-owned land. The agreement allows the City to share in the project costs and provide roadway and water impact fee credits for eligible expenses incurred by the Developer.

Recommended City Council Action:

Approve

Fiscal Impact:

The City's participation is capped at \$933,601.12 and shall not exceed 30% of the actual cost of roadway improvements unless specific procurement requirements are met. Funds are available in the Road Bond and will be appropriated for this purpose.

Strategic Priority:

(Strengthen and Sustain our Infrastructure)

Discussion:

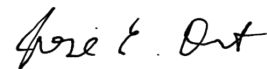
The Mockingbird Ridge subdivision is a new residential community in northeast Midland (Council District 1), an area that has experienced sustained and significant growth over the past several years. To support the continued development of this high-growth area, Betenbough Homes will construct critical off-site infrastructure, including full-width paving of Todd Drive and the installation of a 16-inch water line, extending from Firewheel Road to Occidental Parkway.

Todd Drive will be built across both Betenbough- and City-owned land. In addition to serving the Mockingbird Ridge subdivision, this new collector roadway will provide essential access to large tracts of undeveloped, Airport-owned land in northeast Midland. This connectivity is key to the City's long-term development strategy and will help unlock future residential, commercial, and industrial opportunities.

Under the terms of the agreement, Betenbough Homes will be responsible for constructing the roadway and water line improvements. The City will contribute up to 30% of the cost of the roadway improvements, not to exceed \$933,601.12. Any roadway and water line costs not reimbursed by the City are eligible for impact fee credits.

The total estimated cost of the roadway improvements is \$3,112,003.75, which includes excavation, grading, paving, curb and gutter, sidewalk, and a management fee, as outlined in Exhibit A of the agreement.

This infrastructure investment is driven by the explosive growth in northeast Midland. Since 2019, District 1 has consistently led the city in new single-family residential construction, issuing more than 3,000 permits over the past six years. In both 2023 and 2024, the district accounted for nearly half of all new permits citywide, underscoring the urgent need for expanded infrastructure to keep pace with demand.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF
A CAPITAL IMPROVEMENTS DEVELOPMENT
AGREEMENT WITH BETENBOUGH HOMES FOR
THE CONSTRUCTION OF CERTAIN CAPITAL
IMPROVEMENTS RELATED TO THE
DEVELOPMENT OF MOCKINGBIRD RIDGE
ADDITION, CITY AND COUNTY OF MIDLAND,
TEXAS; AND APPROPRIATING FUNDS IN THE
AMOUNT OF \$933,601.12; SAID AGREEMENT BEING
AUTHORIZED BY CHAPTER 212, SUBCHAPTER C
AND CHAPTER 395, SUBCHAPTER B OF THE TEXAS
LOCAL GOVERNMENT CODE**

WHEREAS, the developer of Mockingbird Ridge Addition, City and County of Midland, Texas (the “Property”), Betenbough Homes (the “Developer”), has requested City participation in the construction of certain capital improvements related to the development of the Property; and

WHEREAS, said capital improvements are public improvements; and

WHEREAS, the City Code allows City participation; and

WHEREAS, the City Council finds it to be in the public interest to execute a development agreement with the Developer that sets forth the extent of the City’s participation in the construction of capital improvements related to the development of the Property, and to appropriate funds therefor, said agreement being authorized by Chapter 212, Subchapter C and Chapter 395, Subchapter B of the Texas Local Government Code;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a Capital Improvements Development Agreement with the Developer. Said agreement shall be in a form substantially similar to that attached hereto as Exhibit A and incorporated herein for all purposes.

SECTION TWO. That the sum of \$933,601.12 is hereby appropriated from the Road Bond to a project account for the purpose of paying for said agreement.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay for said agreement, in an amount not to exceed \$933,601.12, out of funds appropriated in accordance with Section Two hereof upon receipt of proper invoice or statement therefor 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, Engineering Services Director

Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

Nicholas Toulet, Interim City Attorney

EXHIBIT A

CAPITAL IMPROVEMENTS DEVELOPMENT AGREEMENT BETWEEN BETENBOUGH HOMES AND THE CITY OF MIDLAND, TEXAS

THIS CAPITAL IMPROVEMENTS DEVELOPMENT AGREEMENT (the “Agreement”) is made and effective this ____ day of _____, 20____, by and between **BETENBOUGH HOMES** (“Developer”) and the **CITY OF MIDLAND, TEXAS** (the “City”), a home rule municipal corporation.

W I T N E S S E T H:

WHEREAS, Developer owns a new development and desires to construct the capital improvements or facility expansions described herein (the “Improvements”); and

WHEREAS, the City and Developer find it to be to their mutual advantage to enter into this Agreement under which (i) Developer may construct the Improvements and (ii) the City will credit Developer’s costs incurred for such construction against the related impact fees otherwise due from Developer’s new development;

NOW, THEREFORE, in consideration of the covenants, conditions, and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer does hereby agree to the terms set forth in this Agreement:

1. Developer’s new development is described as Mockingbird Ridge, City and County of Midland, Texas (the “Property”). The City and Developer expressly agree that, in the absence of credits provided in this Agreement, Developer shall pay the applicable impact fee(s) attributable to the development of the Property in accordance with Title XI, Chapter 14 of the City Code. Developer agrees to construct the

Improvements as set forth below. Such Improvements are more particularly described in specifications and contract documents related to the construction of the Improvements prepared by Maverick Engineering (hereafter collectively called “the Specifications”). The Specifications are incorporated herein by reference and made a part hereof for all purposes, and Developer shall comply with the Specifications in the performance of all work pursuant to this Agreement. No amendment to the Specifications may be made without the written approval of the City Manager.

2. The Improvements to be constructed by Developer pursuant to this Agreement shall be generally described as follows:

See Exhibit A, attached hereto and incorporated herein by reference.

3. Developer shall submit any bids it receives for the proposed Improvements to the City for approval prior to engaging any contractor or subcontractor in such work, which approval shall not be unreasonably withheld. If the City fails to object within ten (10) days (excluding weekends and City holidays) after receipt from Developer of the bid tabulations and written notification of whom Developer intends to award the contract, the bid which Developer indicated it is accepting shall be deemed to have been accepted by the City. The City reserves the right to reject any and all bids for work that involves City participation. In rejecting any bid pursuant to the provisions of this Section 3, the City shall issue a notice of rejection in writing to Developer stating each and every ground or reason relied upon by the City for such rejection.

4. Upon completion of the Improvements called for in Section 2, Developer shall notify the City’s Director of Engineering Services for inspection. Project inspection

for the Improvements will be done by the City during the construction phase. The City's Director of Engineering Services shall cause such work to be inspected within five (5) days, excluding weekends and holidays, of being notified by Developer. Notwithstanding anything herein to the contrary, project inspection must be completed prior to water or sewer systems being backfilled. If the Director of Engineering Services determines that all work has been completed in conformance with the Specifications, then the Director of Engineering Services shall give his approval for that improvement work.

5. After completion and acceptance of all work, Developer shall furnish to the City an affidavit of all bills paid with respect to the completed work and any other records requested by the City Manager documenting Developer's costs incurred in constructing the Improvements.

6. In consideration of the obligations incurred by Developer pursuant to this Agreement, the City agrees to participate in the funding of the construction of the Improvements, said amount to be no more than \$933,601.12. In no case shall the City's contribution to the Improvements exceed 30 percent of the actual cost of the Improvements without Developer complying with the applicable competitive sealed bid procedures set forth in state law and the ordinances and regulations of the City of Midland, Texas. If the City's contribution for the Improvements exceeds 30 percent of the total cost of the Improvements and such Improvements were constructed without complying with said applicable competitive sealed bid procedures, then the City's maximum contribution under this Agreement shall not exceed 30 percent of the actual cost of the Improvements.

Provided, however, that Developer shall not have to comply with said applicable competitive sealed bid procedures where the City's contribution exceeds 30 percent of the total cost of the Improvements if the City's participation is for the oversizing of such Improvements in accordance with Section 212.072 of the Texas Local Government Code.

The City further agrees to credit Developer's costs incurred in constructing the Improvements against the roadway impact fee assessed by the City; provided, however, that the City Manager, in the City Manager's sole discretion, shall determine Developer's costs incurred in constructing the Improvements for the purpose of granting the credit, which shall not include the amount of funds provided by the City pursuant to this Agreement (e.g., if the total cost of constructing the Improvements were to be \$3,112,003.75 and the City were to participate by funding \$933,601.12 of the Improvements, Developer would not be entitled to receive a credit for costs exceeding \$2,178,402.63). Developer shall not be entitled to receive reimbursement from the City of Developer's costs incurred in constructing the Improvements that exceed the amount of the roadway impact fee owed.

Developer also proposes the construction of a 16-inch water line (the "Water Line"), which shall be co-located with the Improvements and which shall be constructed in accordance with the approved plans and specifications for the Water Line that are on file with the City. The City agrees to credit Developer's costs incurred in constructing the Water Line against the water impact fee assessed by the City; provided, however, that the City Manager, in the City Manager's sole discretion, shall determine Developer's costs incurred in constructing the Water Line for the purpose of granting the credit.

Developer shall not be entitled to receive reimbursement from the City of Developer's costs incurred in constructing the Water Line that exceed the amount of the water impact fee owed.

7. DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY AND ALL OF THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, INCLUDING 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 DEVELOPER, ITS 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 AGREEMENT, AND DEVELOPER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY AND ALL OF THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, INCLUDING ACCIDENTAL DEATH, PROPERTY

DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CITY, THE 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 DEVELOPER OR DEVELOPER'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 DEVELOPER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8. Developer agrees to indemnify and save the City harmless from all claims growing out of any demands of subcontractors, laborers, workmen, mechanics, materialmen, and suppliers of machinery and parts thereof, equipment, power tools, all supplies, including commissary incurred in the furtherance of the performance of this Agreement. When the City so desires, Developer shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

9. Developer shall obtain and maintain continuously in effect at all times during the construction of the Improvements at Developer's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to the City.

A. The following requirements shall be met in regard to workers' compensation insurance coverage: Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. Developer shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of Developer providing services on the project, for the duration of the project.

C. Developer must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on Developer's current certificate of coverage ends during the duration of the project, Developer must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. Developer shall obtain from each person providing services on a project, and provide to the governmental entity:

- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
- (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. Developer shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. Developer shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after Developer knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. Developer shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. Developer shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to Developer, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide Developer, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to Developer:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this Agreement or providing or causing to be provided a certificate of coverage, Developer is representing to the governmental entity that all employees of Developer who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. Developer's failure to comply with any of these provisions is a breach of contract by Developer which entitles the governmental entity to declare the Agreement void if Developer does not remedy the breach within 10 days after receipt of notice of breach from the governmental entity.

Developer shall also comply with the following:

L. Comprehensive General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Property, in at least the amount of \$250,000.00 per individual, \$1,000,000.00 per occurrence and \$100,000.00 with respect to property damage; said insurance shall name the City as an additional insured and shall waive all rights of subrogation against the City.

M. Automobile Liability Coverage on all motor vehicles owned, leased and/or operated by Developer or its employees in amounts of not less than \$1,000,000.00 combined single limit or equivalent, provided, however, separate automobile coverage shall not be required if such coverage is provided under Developer's comprehensive general liability policy. The insurance shall name the City as an additional insured and waive all rights of subrogation against the City.

All insurance herein required shall apply as primary and not in excess of or contributing with other insurance which Developer may carry.

10. **All insurance required pursuant to Section 9, except worker's compensation, shall name the City as an additional insured.** The comprehensive general liability policy shall provide contractual liability coverage sufficiently broad so as to include the liability assumed by Developer in the indemnity and hold harmless provisions included in this Agreement. Developer's insurance as required by this Agreement shall not be subject to cancellation or material alteration until at least thirty (30) days written notice has been provided to the City. Developer shall furnish to the City a certificate of insurance showing the City as an additional insured and evidencing that all of the herein stated requirements have been met. **All insurance coverage required pursuant to Section 9 shall include in its provisions a waiver of any rights of subrogation against the City.**

DEVELOPER SHALL CONTRACTUALLY REQUIRE ALL CONTRACTORS, SUBCONTRACTORS, AND SUB-SUBCONTRACTORS THAT WORK ON ANY PORTION OF THE WORK THAT IS THE SUBJECT OF THIS CAPITAL IMPROVEMENT DEVELOPMENT AGREEMENT TO OBTAIN INSURANCE COVERAGE THAT MEETS OR EXCEEDS THE 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 (EXCEPT WORKERS COMPENSATION).

11. Insurance must be approved by the City Attorney's office prior to this Agreement being executed.

12. This Agreement may be modified or amended only by the mutual consent of the parties hereto.

13. This Agreement contains the complete and entire agreement between the parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the parties respecting such matters.

14. Except as may be otherwise specifically provided in this Agreement, all notices required or permitted hereunder shall be in writing as follows:

If to Developer:

Betenbough Homes
6307 82nd Street
Lubbock, Texas 79424
Attn: Chris Berry, Authorized Agent

If to the City:

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

15. Any clause, sentence, provision, paragraph or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal or ineffective shall not impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph or article so held to be invalid, illegal or ineffective.

16. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have been performed in Midland County, Texas. This Agreement shall be construed 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 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.

17. In the event of any conflict between the parties hereto such that either party brings or commences any legal action or proceeding related to this Agreement, including but not limited to any action pursuant to the provisions of the Texas Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE §37.001 et seq., as amended), the parties hereto agree to waive any and all rights to recovery of attorneys fees to which the prevailing party might otherwise be entitled.

BY EXECUTING THIS AGREEMENT, DEVELOPER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. DEVELOPER SPECIFICALLY AGREES THAT IF DEVELOPER 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), CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, OR CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE, DEVELOPER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND

ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH DEVELOPER MIGHT OTHERWISE BE ENTITLED.

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

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

18. It is expressly understood and agreed that Developer shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that Developer 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 the City and Developer, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall

be construed as creating a partnership or joint enterprise between the City and Developer. No person performing any of the work and services described hereunder by Developer shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Developer 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 City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of Developer's work. Developer shall assume exclusive responsibility for the work. Developer is entirely free to do the work in its own way.

19. RELEASE: DEVELOPER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES THE CITY, THE CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING UNDER OR ASSOCIATED WITH THIS AGREEMENT WHICH DEVELOPER HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS OR THE CITY'S NEGLIGENCE, OR CLAIMS UNDER CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE.

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

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

21. 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, Developer or its legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Developer will settle, the physical and mailing addresses of Developer at the time and date the claim was presented and the physical and mailing addresses of Developer for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Developer relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Developer that Developer's notice is insufficient. The City reserves the right to request reasonable additional information regarding the claim.

Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

22. This agreement is made under the authority of Section 395.019 of the Texas Local Government Code and the laws of the State of Texas and Ordinances and the Charter of the City of Midland.

23. Notwithstanding any other provision hereof, the City shall not be obligated to provide payment to Developer under this Agreement or to provide credit(s) against the impact fee(s) under this Agreement until Developer has met all requirements of this Agreement, including, but not limited to, the City's approval of the improvement work as set forth in Section 4 and the City's determination that Developer has furnished satisfactory evidence that all obligations described in Section 8 have been paid, discharged or waived. Determination of whether Developer has furnished satisfactory evidence that all such obligations have been paid, discharged or waived shall be in the sole discretion of the City.

24. 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 Agreement, Developer hereby verifies:

A. that Developer does not boycott Israel and will not boycott Israel during the term of this Agreement;

B. that Developer does not boycott energy companies and will not boycott energy companies during the term of this Agreement; and

C. that Developer 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 a firearm entity or firearm trade association.

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

25. With respect to the portion of the Improvements that will be constructed on land owned by the City (the “City Property”), the City hereby grants Developer a license to use the City Property to the extent necessary to construct the Improvements and the Water Line; provided, however, that such license shall be subject to all valid and subsisting encumbrances, conditions, covenants, restrictions, reservations, exceptions, rights of way, and easements of records affecting the City Property or any part thereof, including building and zoning ordinances, and all laws, regulations and restrictions applicable to and enforceable against the City Property. For the avoidance of doubt, this license does not authorize Developer to use City Property for any purposes other than for the construction of the Improvements and the Water Line, nor does this license authorize

Developer to use any portion of City Property that is not necessary for the construction of the Improvements and the Water Line.

The license granted herein shall terminate upon the earlier of the following: the date when the City accepts the completed Improvements and the completed Water Line; or the date when the City gives Developer written notice of termination of the license. The City will not unreasonably give written notice of termination of the license.

Upon Developer's completion of the Improvements and the Water Line, Developer shall promptly restore the surface of the area of the City Property disturbed by Developer's construction activity, except for the area covered by the Improvements, to as near its natural contour as is reasonably practical. Developer shall replace any trees or landscaping that are damaged during construction or shall compensate the City therefor; provided, however, that Developer need not replace or compensate the City for any trees or landscaping that were located within the area covered by the Improvements.

Developer understands and agrees that the license to use the City Property granted herein is not a conveyance of any land but is a grant solely of a license to use the City Property to the extent necessary to construct the Improvements and the Water Line. The City, its successors and its assigns shall have the right to use the City Property for any purpose or purposes whatsoever, provided that such use does not unreasonably interfere with or obstruct Developer's use of the City Property for the purpose of constructing the Improvements and the Water Line.

DEVELOPER AGREES TO DEFEND AND SHALL DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS THE CITY AND ALL OF THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LOSSES, EXPENSES, DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION, SUITS, AND LIABILITY IN TORT, CONTRACT, OR ANY OTHER BASIS AND OF EVERY KIND AND CHARACTER WHATSOEVER, FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, WHICH ARISE FROM DEVELOPER'S USE OF THE CITY PROPERTY.

26. To the extent that Developer will construct the Improvements and the Water Line on land other than land owned by Developer or the City Property, Developer shall be responsible for ensuring that either the City or Developer, on behalf of the City, has obtained the real property interests necessary for Developer to construct the Improvements and the Water Line and for the City to use and maintain such land for the use and benefit of the public for street, road, drainage, and public utility purposes, and for any other ancillary public use as is usual and customary in connection therewith.

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

EXECUTED in duplicate the day and year first above written.

CITY OF MIDLAND, TEXAS

By: _____
Lori Merritt Blong, Mayor

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Gabriel McClelland, Engineering Services Director

Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

Nicholas Toulet, Interim City Attorney

BETENBOUGH HOMES

By: _____

Printed Name: _____

Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of _____, in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 20____.

Notary Public, State of Texas

EXHIBIT A



MAVERICK ENGINEERING
P.O. Box 6040 • Midland, Texas 79704
Office 432.262.0999 • Fax 432.262.0989
www.maverick-eng.com

Todd Drive to Occidental Full Width Variable Width

PROJECT: Todd Road
CLIENT: Betenbough

PREPARED BY: ANDREW L. MELLEN, P.E.
DATE: 11-19-24

Offsite Paving

ITEM	DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
	PAVING Todd South				
1	Prep ROW; Excavation; and, Proof-Roll Subgrade	28813	SY	\$4.50	\$129,658.50
2	FlexBase (12") (compacted, in-place)	28813	SY	\$15.75	\$453,804.75
3	Dense-Graded Hotmix Asphalt (2") (Type D) (3") (Type C) (in-place)	28813	SY	\$55.00	\$1,584,715.00
4	Total Subgrade Cut	4580	CY	\$36.00	\$164,880.00
4	Total Subgrade Fill	11516	CY	\$25.50	\$293,658.00
5	Curb and Gutter	11235	LF	\$22.50	\$252,787.50
6	Sidewalk	5250	LF	\$30.00	\$157,500.00
7	Management Fee	1	LS	\$75,000.00	\$75,000.00
Total Project					\$3,112,003.75

Since Maverick Engineering LLC (Maverick) has no control over the cost of labor, materials, equipment, services furnished by others, or over methods of determining price, competitive bidding, or market conditions, any and all opinions as to cost rendered herein, including but not limited to opinions as to the cost of construction materials shall be made on the basis of experience and best available data. Maverick cannot and does not guarantee that proposals, bids or actual costs will not vary from the opinions of costs shown herein. Contingencies have been included to account for unforeseen items and are not intended to account for market fluctuation in unit pricing. Contingencies reflect a level of uncertainty consistent with the stage of the project, with a minimum of 10% per Maverick policy.

**CAPITAL IMPROVEMENTS DEVELOPMENT AGREEMENT
BETWEEN BETENBOUGH HOMES
AND THE CITY OF MIDLAND, TEXAS**

THIS CAPITAL IMPROVEMENTS DEVELOPMENT AGREEMENT (the “Agreement”) is made and effective this ____ day of _____, 20____, by and between **BETENBOUGH HOMES** (“Developer”) and the **CITY OF MIDLAND, TEXAS** (the “City”), a home rule municipal corporation.

W I T N E S S E T H:

WHEREAS, Developer owns a new development and desires to construct the capital improvements or facility expansions described herein (the “Improvements”); and

WHEREAS, the City and Developer find it to be to their mutual advantage to enter into this Agreement under which (i) Developer may construct the Improvements and (ii) the City will credit Developer’s costs incurred for such construction against the related impact fees otherwise due from Developer’s new development;

NOW, THEREFORE, in consideration of the covenants, conditions, and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer does hereby agree to the terms set forth in this Agreement:

1. Developer’s new development is described as Mockingbird Ridge, City and County of Midland, Texas (the “Property”). The City and Developer expressly agree that, in the absence of credits provided in this Agreement, Developer shall pay the applicable impact fee(s) attributable to the development of the Property in accordance with Title XI, Chapter 14 of the City Code. Developer agrees to construct the

Improvements as set forth below. Such Improvements are more particularly described in specifications and contract documents related to the construction of the Improvements prepared by Maverick Engineering (hereafter collectively called “the Specifications”). The Specifications are incorporated herein by reference and made a part hereof for all purposes, and Developer shall comply with the Specifications in the performance of all work pursuant to this Agreement. No amendment to the Specifications may be made without the written approval of the City Manager.

2. The Improvements to be constructed by Developer pursuant to this Agreement shall be generally described as follows:

See Exhibit A, attached hereto and incorporated herein by reference.

3. Developer shall submit any bids it receives for the proposed Improvements to the City for approval prior to engaging any contractor or subcontractor in such work, which approval shall not be unreasonably withheld. If the City fails to object within ten (10) days (excluding weekends and City holidays) after receipt from Developer of the bid tabulations and written notification of whom Developer intends to award the contract, the bid which Developer indicated it is accepting shall be deemed to have been accepted by the City. The City reserves the right to reject any and all bids for work that involves City participation. In rejecting any bid pursuant to the provisions of this Section 3, the City shall issue a notice of rejection in writing to Developer stating each and every ground or reason relied upon by the City for such rejection.

4. Upon completion of the Improvements called for in Section 2, Developer shall notify the City’s Director of Engineering Services for inspection. Project inspection

for the Improvements will be done by the City during the construction phase. The City's Director of Engineering Services shall cause such work to be inspected within five (5) days, excluding weekends and holidays, of being notified by Developer. Notwithstanding anything herein to the contrary, project inspection must be completed prior to water or sewer systems being backfilled. If the Director of Engineering Services determines that all work has been completed in conformance with the Specifications, then the Director of Engineering Services shall give his approval for that improvement work.

5. After completion and acceptance of all work, Developer shall furnish to the City an affidavit of all bills paid with respect to the completed work and any other records requested by the City Manager documenting Developer's costs incurred in constructing the Improvements.

6. In consideration of the obligations incurred by Developer pursuant to this Agreement, the City agrees to participate in the funding of the construction of the Improvements, said amount to be no more than \$933,601.12. In no case shall the City's contribution to the Improvements exceed 30 percent of the actual cost of the Improvements without Developer complying with the applicable competitive sealed bid procedures set forth in state law and the ordinances and regulations of the City of Midland, Texas. If the City's contribution for the Improvements exceeds 30 percent of the total cost of the Improvements and such Improvements were constructed without complying with said applicable competitive sealed bid procedures, then the City's maximum contribution under this Agreement shall not exceed 30 percent of the actual cost of the Improvements.

Provided, however, that Developer shall not have to comply with said applicable competitive sealed bid procedures where the City's contribution exceeds 30 percent of the total cost of the Improvements if the City's participation is for the oversizing of such Improvements in accordance with Section 212.072 of the Texas Local Government Code.

The City further agrees to credit Developer's costs incurred in constructing the Improvements against the roadway impact fee assessed by the City; provided, however, that the City Manager, in the City Manager's sole discretion, shall determine Developer's costs incurred in constructing the Improvements for the purpose of granting the credit, which shall not include the amount of funds provided by the City pursuant to this Agreement (e.g., if the total cost of constructing the Improvements were to be \$3,112,003.75 and the City were to participate by funding \$933,601.12 of the Improvements, Developer would not be entitled to receive a credit for costs exceeding \$2,178,402.63). Developer shall not be entitled to receive reimbursement from the City of Developer's costs incurred in constructing the Improvements that exceed the amount of the roadway impact fee owed.

Developer also proposes the construction of a 16-inch water line (the "Water Line"), which shall be co-located with the Improvements and which shall be constructed in accordance with the approved plans and specifications for the Water Line that are on file with the City. The City agrees to credit Developer's costs incurred in constructing the Water Line against the water impact fee assessed by the City; provided, however, that the City Manager, in the City Manager's sole discretion, shall determine Developer's costs incurred in constructing the Water Line for the purpose of granting the credit.

Developer shall not be entitled to receive reimbursement from the City of Developer's costs incurred in constructing the Water Line that exceed the amount of the water impact fee owed.

7. DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY AND ALL OF THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, INCLUDING 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 DEVELOPER, ITS 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 AGREEMENT, AND DEVELOPER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY AND ALL OF THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, INCLUDING ACCIDENTAL DEATH, PROPERTY

DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CITY, THE 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 DEVELOPER OR DEVELOPER'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 DEVELOPER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

8. Developer agrees to indemnify and save the City harmless from all claims growing out of any demands of subcontractors, laborers, workmen, mechanics, materialmen, and suppliers of machinery and parts thereof, equipment, power tools, all supplies, including commissary incurred in the furtherance of the performance of this Agreement. When the City so desires, Developer shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

9. Developer shall obtain and maintain continuously in effect at all times during the construction of the Improvements at Developer's sole expense, at least the following minimum insurance with a carrier or carriers licensed to do business in the State of Texas and satisfactory to the City.

A. The following requirements shall be met in regard to workers' compensation insurance coverage: Definitions:

Certificate of coverage ("certificate") - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. Developer shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of Developer providing services on the project, for the duration of the project.

C. Developer must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on Developer's current certificate of coverage ends during the duration of the project, Developer must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. Developer shall obtain from each person providing services on a project, and provide to the governmental entity:

- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
- (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. Developer shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. Developer shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after Developer knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. Developer shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. Developer shall contractually require each person with whom it contracts to provide services on a project, to:

- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
- (2) provide to Developer, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide Developer, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to Developer:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this Agreement or providing or causing to be provided a certificate of coverage, Developer is representing to the governmental entity that all employees of Developer who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. Developer's failure to comply with any of these provisions is a breach of contract by Developer which entitles the governmental entity to declare the Agreement void if Developer does not remedy the breach within 10 days after receipt of notice of breach from the governmental entity.

Developer shall also comply with the following:

L. Comprehensive General Liability Insurance against claims for bodily injury, death, or property damage occurring on, in or about the Property, in at least the amount of \$250,000.00 per individual, \$1,000,000.00 per occurrence and \$100,000.00 with respect to property damage; said insurance shall name the City as an additional insured and shall waive all rights of subrogation against the City.

M. Automobile Liability Coverage on all motor vehicles owned, leased and/or operated by Developer or its employees in amounts of not less than \$1,000,000.00 combined single limit or equivalent, provided, however, separate automobile coverage shall not be required if such coverage is provided under Developer's comprehensive general liability policy. The insurance shall name the City as an additional insured and waive all rights of subrogation against the City.

All insurance herein required shall apply as primary and not in excess of or contributing with other insurance which Developer may carry.

10. **All insurance required pursuant to Section 9, except worker's compensation, shall name the City as an additional insured.** The comprehensive general liability policy shall provide contractual liability coverage sufficiently broad so as to include the liability assumed by Developer in the indemnity and hold harmless provisions included in this Agreement. Developer's insurance as required by this Agreement shall not be subject to cancellation or material alteration until at least thirty (30) days written notice has been provided to the City. Developer shall furnish to the City a certificate of insurance showing the City as an additional insured and evidencing that all of the herein stated requirements have been met. **All insurance coverage required pursuant to Section 9 shall include in its provisions a waiver of any rights of subrogation against the City.**

DEVELOPER SHALL CONTRACTUALLY REQUIRE ALL CONTRACTORS, SUBCONTRACTORS, AND SUB-SUBCONTRACTORS THAT WORK ON ANY PORTION OF THE WORK THAT IS THE SUBJECT OF THIS CAPITAL IMPROVEMENT DEVELOPMENT AGREEMENT TO OBTAIN INSURANCE COVERAGE THAT MEETS OR EXCEEDS THE 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 (EXCEPT WORKERS COMPENSATION).

11. Insurance must be approved by the City Attorney's office prior to this Agreement being executed.

12. This Agreement may be modified or amended only by the mutual consent of the parties hereto.

13. This Agreement contains the complete and entire agreement between the parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations and understandings, if any, between the parties respecting such matters.

14. Except as may be otherwise specifically provided in this Agreement, all notices required or permitted hereunder shall be in writing as follows:

If to Developer:

Betenbough Homes
6307 82nd Street
Lubbock, Texas 79424
Attn: Chris Berry, Authorized Agent

If to the City:

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

15. Any clause, sentence, provision, paragraph or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal or ineffective shall not impair, invalidate or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph or article so held to be invalid, illegal or ineffective.

16. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have been performed in Midland County, Texas. This Agreement shall be construed 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 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.

17. In the event of any conflict between the parties hereto such that either party brings or commences any legal action or proceeding related to this Agreement, including but not limited to any action pursuant to the provisions of the Texas Uniform Declaratory Judgments Act (TEX. CIV. PRAC. & REM. CODE §37.001 et seq., as amended), the parties hereto agree to waive any and all rights to recovery of attorneys fees to which the prevailing party might otherwise be entitled.

BY EXECUTING THIS AGREEMENT, DEVELOPER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. DEVELOPER SPECIFICALLY AGREES THAT IF DEVELOPER 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), CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, OR CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE, DEVELOPER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND

ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH DEVELOPER MIGHT OTHERWISE BE ENTITLED.

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

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

18. It is expressly understood and agreed that Developer shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that Developer 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 the City and Developer, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall

be construed as creating a partnership or joint enterprise between the City and Developer. No person performing any of the work and services described hereunder by Developer shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Developer 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 City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of Developer's work. Developer shall assume exclusive responsibility for the work. Developer is entirely free to do the work in its own way.

19. RELEASE: DEVELOPER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES THE CITY, THE CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING UNDER OR ASSOCIATED WITH THIS AGREEMENT WHICH DEVELOPER HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO QUANTUM MERUIT, DUE PROCESS AND TAKINGS CLAUSES UNDER THE TEXAS AND UNITED STATES CONSTITUTION, TORT CLAIMS OR THE CITY'S NEGLIGENCE, OR CLAIMS UNDER CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE.

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

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

21. 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, Developer or its legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Developer will settle, the physical and mailing addresses of Developer at the time and date the claim was presented and the physical and mailing addresses of Developer for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Developer relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Developer that Developer's notice is insufficient. The City reserves the right to request reasonable additional information regarding the claim.

Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

22. This agreement is made under the authority of Section 395.019 of the Texas Local Government Code and the laws of the State of Texas and Ordinances and the Charter of the City of Midland.

23. Notwithstanding any other provision hereof, the City shall not be obligated to provide payment to Developer under this Agreement or to provide credit(s) against the impact fee(s) under this Agreement until Developer has met all requirements of this Agreement, including, but not limited to, the City's approval of the improvement work as set forth in Section 4 and the City's determination that Developer has furnished satisfactory evidence that all obligations described in Section 8 have been paid, discharged or waived. Determination of whether Developer has furnished satisfactory evidence that all such obligations have been paid, discharged or waived shall be in the sole discretion of the City.

24. 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 Agreement, Developer hereby verifies:

A. that Developer does not boycott Israel and will not boycott Israel during the term of this Agreement;

B. that Developer does not boycott energy companies and will not boycott energy companies during the term of this Agreement; and

C. that Developer 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 a firearm entity or firearm trade association.

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

25. With respect to the portion of the Improvements that will be constructed on land owned by the City (the “City Property”), the City hereby grants Developer a license to use the City Property to the extent necessary to construct the Improvements and the Water Line; provided, however, that such license shall be subject to all valid and subsisting encumbrances, conditions, covenants, restrictions, reservations, exceptions, rights of way, and easements of records affecting the City Property or any part thereof, including building and zoning ordinances, and all laws, regulations and restrictions applicable to and enforceable against the City Property. For the avoidance of doubt, this license does not authorize Developer to use City Property for any purposes other than for the construction of the Improvements and the Water Line, nor does this license authorize

Developer to use any portion of City Property that is not necessary for the construction of the Improvements and the Water Line.

The license granted herein shall terminate upon the earlier of the following: the date when the City accepts the completed Improvements and the completed Water Line; or the date when the City gives Developer written notice of termination of the license. The City will not unreasonably give written notice of termination of the license.

Upon Developer's completion of the Improvements and the Water Line, Developer shall promptly restore the surface of the area of the City Property disturbed by Developer's construction activity, except for the area covered by the Improvements, to as near its natural contour as is reasonably practical. Developer shall replace any trees or landscaping that are damaged during construction or shall compensate the City therefor; provided, however, that Developer need not replace or compensate the City for any trees or landscaping that were located within the area covered by the Improvements.

Developer understands and agrees that the license to use the City Property granted herein is not a conveyance of any land but is a grant solely of a license to use the City Property to the extent necessary to construct the Improvements and the Water Line. The City, its successors and its assigns shall have the right to use the City Property for any purpose or purposes whatsoever, provided that such use does not unreasonably interfere with or obstruct Developer's use of the City Property for the purpose of constructing the Improvements and the Water Line.

DEVELOPER AGREES TO DEFEND AND SHALL DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS THE CITY AND ALL OF THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, LOSSES, EXPENSES, DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION, SUITS, AND LIABILITY IN TORT, CONTRACT, OR ANY OTHER BASIS AND OF EVERY KIND AND CHARACTER WHATSOEVER, FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, WHICH ARISE FROM DEVELOPER'S USE OF THE CITY PROPERTY.

26. To the extent that Developer will construct the Improvements and the Water Line on land other than land owned by Developer or the City Property, Developer shall be responsible for ensuring that either the City or Developer, on behalf of the City, has obtained the real property interests necessary for Developer to construct the Improvements and the Water Line and for the City to use and maintain such land for the use and benefit of the public for street, road, drainage, and public utility purposes, and for any other ancillary public use as is usual and customary in connection therewith.

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

EXECUTED in duplicate the day and year first above written.

CITY OF MIDLAND, TEXAS

By: _____
Lori Merritt Blong, Mayor

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Gabriel McClelland, Engineering Services Director

Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

Nicholas Toulet, Interim City Attorney

BETENBOUGH HOMES

By: Chris Berry

Printed Name: CHRIS BERRY

Title: AUTHORIZED AGENT

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared Chris Berry, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Betenbough Homes LLC, in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 14th day of APRIL, 2025.

Jason Paul Price
Notary Public, State of Texas

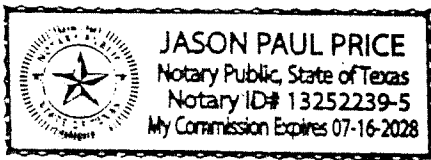


EXHIBIT A



MAVERICK ENGINEERING
P.O. Box 6040 • Midland, Texas 79704
Office 432.262.0999 • Fax 432.262.0989
www.maverick-eng.com

Todd Drive to Occidental Full Width Variable Width

PROJECT: Todd Road
CLIENT: Betenbough

PREPARED BY: ANDREW L. MELLEN, P.E.
DATE: 11-19-24

Offsite Paving

ITEM	DESCRIPTION	QUANTITY	UNIT	COST/UNIT	TOTAL COST
	PAVING Todd South				
1	Prep ROW; Excavation; and, Proof-Roll Subgrade	28813	SY	\$4.50	\$129,658.50
2	FlexBase (12") (compacted, in-place)	28813	SY	\$15.75	\$453,804.75
3	Dense-Graded Hotmix Hotmix Asphalt (2") (Ty D) (3") (Type C) (in-place)	28813	SY	\$55.00	\$1,584,715.00
4	Total Subgrade Cut	4580	CY	\$36.00	\$164,880.00
4	Total Subgrade Fill	11516	CY	\$25.50	\$293,658.00
5	Curb and Gutter	11235	LF	\$22.50	\$252,787.50
6	Sidewalk	5250	LF	\$30.00	\$157,500.00
7	Management Fee	1	LS	\$75,000.00	\$75,000.00
Total Project					\$3,112,003.75

Since Maverick Engineering LLC (Maverick) has no control over the cost of labor, materials, equipment, services furnished by others, or over methods of determining price, competitive bidding, or market conditions, any and all opinions as to cost rendered herein, including but not limited to opinions as to the cost of construction materials shall be made on the basis of experience and best available data. Maverick cannot and does not guarantee that proposals, bids or actual costs will not vary from the opinions of costs shown herein. Contingencies have been included to account for unforeseen items and are not intended to account for market fluctuation in unit pricing. Contingencies reflect a level of uncertainty consistent with the stage of the project, with a minimum of 10% per Maverick policy.



City Council Meeting

Item Number: 15
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Madelim Jaquez, Planner
Subject: MOTION APPROVING, WITH STAFF'S RECOMMENDED CONDITIONS, A PRELIMINARY PLAT OF RICHLAND ADDITION, BEING A 79.22 ACRE TRACT OF LAND OUT OF THE SOUTHEAST QUARTER OF SECTION 13 AND THE NORTHEAST QUARTER OF SECTION 24, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH COUNTY ROAD 1232, APPROXIMATELY 455 FEET NORTH OF WEST COUNTY ROAD 133) (EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

Newton Engineering, PC is requesting to plat a property generally located on the west side of South County Road 1232, approximately 455 feet north of West County Road 133, to create fourteen lots for industrial development.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

(Quality of Life and Place)

Discussion:

Current Zoning:

ETJ, Extraterritorial Jurisdiction.

This request has been routed to all respective departments for internal review. The comments are below.

BUILDING CODE: (Approved)

ETJ, no jurisdiction

ENGINEERING: (Approved with Conditions)

IMPACT FEES: Plat outside designated service areas. Remove impact fee note [For Applicant's Information Only.]

ROW: Refer to transportation's comments for ROW. Provide 120' of R.O.W. for CR 130. [For Applicant's Information Only.]

PAVING: Deferral Letter has been submitted and is in review. [For Applicant's Information Only.]

WATER: Deferral Letter has been submitted and is in review. [For 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 Applicant's Information Only.]

PRO RATA: None. [For the Applicant's information only.]

SEWER: Deferral Letter has been submitted and is in review. [For Applicant's Information Only.]

DRAINAGE: Drainage report has been submitted and is in review. Show the FEMA recognized floodplain boundary on the plat face. Revise flood zone note to specify the correct flood zone of the floodplain. [Reference Midland City Code 11-2-3(D)8]

EASEMENTS: Show existing and proposed. [For Applicant's Information Only.]

DIMENSION: * * * OTHER: * * *

TRANSPORTATION: (Approved)

No objections to plat. [For the Applicant's information only.]

FIRE: (Approved)

No comments or objections.

OIL AND GAS: (Approved)

Not in the City limits- no oil or gas jurisdiction. Informational: No Oil or Gas wells identified within 135 ft. well radius of location on plat. Please note if oil & gas wells are not identified or left off plat, this could prevent receiving city permits for structures. Any plugged and abandoned (P&A) well would need to be identified. No structure shall be built over an abandoned well.

GIS: (Approved)

Detention basin should be in a lot or common area with a detention basin easement. (confirm with Engineering)

CRMWD: (Approved)

We do not have any comments on this plat.

HEALTH DEPARTMENT: (Approved)

Yes, the health department will review applications from the 14 proposed lots of RICHLAND Addition, PLAT OF A 79.2 ACRE TRACT OF LAND OUT OF THE SOUTHEAST ¼ OF SECTION 13, AND NORTHEAST/4 OF SECTION 24, BLOCK 40, T-2-S, T. & P. RR. CO. SURVEY, block 3 lots 1-5 are 3 acres and above, block 2 lots 1-3 are 3 acres, block 1 lots 1-6 are 3 acres, owners 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 water well on the property and the water wells on the adjacent properties.

PUBLIC WORKS: (Approved)

Drainage Plan should define slab elevations on Lots 1-5 per BLE; not just state 1' above road elevations.

CR 130 extension west should be built to county standard and dedicated to the County for maintenance.

They will need to apply for a permit to tie into the county road.

PLANNING: (Approved with Conditions)

Update Chairman to Abraham Bejil. [Informational]

The following note shall be placed on the plat: "The boundaries of the 100-year floodplain (and

floodway) [include if applicable] as shown hereon are as designated by _____ [insert reference], dated _____ [insert date of document], and are subject to change. Current information regarding flood hazard areas, including the minimum slab or floor elevation required for construction on any lot located wholly or partly within the 100- year floodplain, may be obtained from the City of Midland. Before any development (including fill, channel modification, etc.) proceeds on any land encumbered by the 100- year floodplain, or within any drainageway or basin, a development permit application must be filed at the City of Midland." [Midland City Code 11-2-5(D)6(e)]

The P&Z Commission recommended approval of this request on April 7, 2025.

Staff recommends approval of the Preliminary Plat of Richland Addition subject to condition A.

Conditions:

A. 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. [11-2]

Attachments:

Application
Preliminary Plat
Maps
PowerPoint Presentation.

City Manager's Office

Frederick

City Manager's Office



Preliminary Plat Application

Project Number: SUB-25-0797
Case Number: P-25-2229

Proposed Subdivision Plat Name: Richland Addition

Legal Description (attached sealed Metes and Bounds): _____

Richland Addition being a 79.22 acre tract of land out of the SE/4 of Section 13, and NE/4 of Section 24, Block 40, T-2-S,
T&P RR CO Survey, Midland County, Texas

Property Owner

Printed Name: B2S I, LLC - Jason Rich

Phone (432) 631-9492

Email njrich55@gmail.com

Address 517 E County Road 120

City Midland

State TX

Zip 79706

Developer (if different than Owner)

Printed Name: _____

Phone () _____

Email _____

Address _____

City _____

State _____

Zip _____

Representative (if acting as Agent, see affidavit on page 2)

Firm: Newton Engineering, PC

Phone (432) 770-0499

Email _____

Printed Name: John M. Newton

john@newtoncivil.com

Address 4501A Santa Rosa Drive

City Midland

State TX

Zip 79707

Current Zoning: _____

Reason for Platting: Create 14 lots for industrial development purposes.

Plat Information

Total Acreage: 79.22 ac

Type: ☐ Single-Family Residential

☐ Multi-Family Residential

☒ Commercial

☐ Extraterritorial Jurisdiction (ETJ)

Number of Lots: 14

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: March 12, 2025

Property Owner (printed):

Amy Phillips
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 Amy Phillips who, being by me duly sworn, upon oath says: That (s)he is authorized by Jason Rich, 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.

Amy Phillips
Authorized Agent (signature)

Subscribed and sworn to before me, this 12 day of March, 20 25, to certify which witness my hand and seal of office.



Gina Aaron
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 # 1792

RECEIVED

Received By: Madeline DePaz

Date:

MAR 12 2025

PACKET

Application will not be considered for scheduling until reviewed by a planner.

PACKET

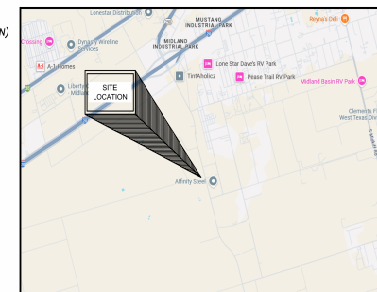
RICHLAND ADDITION

A 79.22 ACRE TRACT OF LAND OUT OF THE
SOUTHEAST 1/4 OF SECTION 13, AND NORTHEAST 1/4 OF
SECTION 24, BLOCK 43, T-2-S, T&P RR CO SURVEY,
MIDLAND COUNTY, TEXAS

LEGEND

- PROPERTY CORNER FOUND (SEE PLAN)
- 1/2" IRON ROD WITH CAP "RPLS 5707" SET WHERE POSSIBLE
- BOUNDARY LINE
- - - ADJACENT PROPERTY

GRAPHIC SCALE
0 200 400
1" = 200 FT.



LOCATION MAP

N.T.S.

OWNER'S CERTIFICATE

STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, B2S I, LLC IS THE RECORD OWNER OF ALL OF THAT CERTAIN LAND SHOWN ON THIS
PLAT AND DESIGNATED AS RICHLAND ADDITION, BEING A 79.22 ACRE TRACT OF LAND OUT OF THE
SE 1/4 OF SECTION 13, AND NE 1/4 OF SECTION 24, BLOCK 43, T-2-S, T&P RR CO SURVEY,
COUNTY OF MIDLAND, TEXAS AND BEING MORE PARTICULARLY DESCRIBED HEREON.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT I, JASON RICH, DO HEREBY ADOPT THIS PLAT DESIGNATING THE HEREIN ABOVE DESCRIBED
PROPERTY AS RICHLAND ADDITION, AN ADDITION MIDLAND COUNTY, TEXAS, AND, HEREBY DEDICATE
TO THE PUBLIC USE FOREVER OF THE STREETS, ALLEYS AND EASEMENTS SHOWN THEREON.

WITNESS OUR HANDS AT MIDLAND, TEXAS, THIS 31 DAY OF 2025.

B2S I, LLC
JASON RICH, SOLE MEMBER

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF MIDLAND

THIS PLAT WAS ACKNOWLEDGED BEFORE ME ON 31 DAY OF 2025 BY JASON RICH.

NOTARY PUBLIC, STATE OF TEXAS

CERTIFICATE OF APPROVAL: FOR APPROVAL BY THE COMMISSION:

THIS IS TO CERTIFY THAT THE ABOVE AND FOREGOING PLAT OF RICHLAND
ADDITION, WAS APPROVED BY PROPER ACTION OF THE PLANNING AND ZONING
COMMISSION OF THE CITY OF MIDLAND, TEXAS, ON THIS 31 DAY OF
2025.

Signed: Lucy Stariega, Chairman

Signed: Landon Ochoa, Secretary

UTILITY COMPANY CERTIFICATE:
This plot has been checked for accessibility of utilities.

Signed: MARTIN ARIZUELO, Onstar Electric Delivery Company

Signed: JERRY UNDERWOOD, A. T. & T.

Signed: MARK LEB, Atmos Energy

Signed: LUIS MONTEZ, Optimum

Signed: RUBEN GUERRA, Atsund Broadband

OWNER:

B2S I, LLC
(432) 631-5492
577 EAST COUNTY ROAD 120
MIDLAND, TEXAS 79706

PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS

NO. _____
DATE _____

SURVEYOR'S CERTIFICATE:

THAT I, DOW E KELLY, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY
CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL AND ACCURATE SURVEY
OF THE LAND AND THAT THE CORNER MONUMENTS SHOWN WERE FOUND 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 OR VIEWED
OR RELIED UPON AS A FINAL SURVEY DOCUMENT.

DATED: 20 APR 22, 2025 REGISTERED PROFESSIONAL SURVEYOR

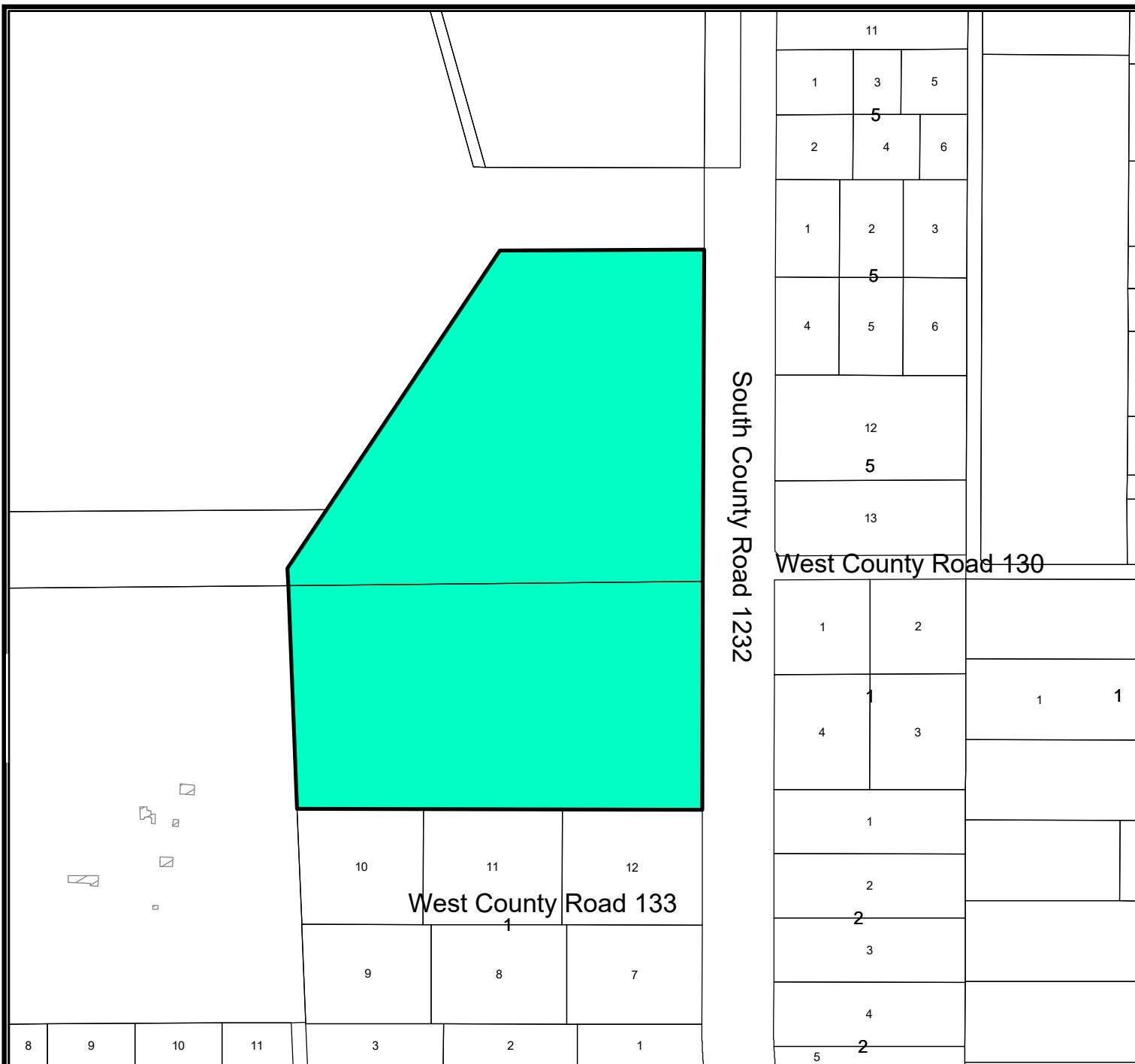


APR 22, 2025

RICHLAND ADDITION
SCALE: 1" = 200' DRAWN BY:
DATE: March 2025 FILE NAME:
NEWTON ENGINEERING, P.C.
4581A Santa Rosa Dr. F-13855 2481 E. 3rd St.
Midland, Texas 79707 F-9194049 Odessa, Texas 79701
(432) 779-0485 (932) 935-0107

PRELIMINARY PLAT

PROJECT NUMBER: 24-ME08191



Location Map

SUB-24-0797

Scale: 1" = 603'

Proposed plat of Richland Addition being a 79.22-acre tract of land out of the southeast quarter of Section 13, and northeast quarter of Section 24, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas.

Generally located on the west side of South County Road 1232, approximately 455 feet north of West County Road 133. (Extrajurisdiction)

LEGEND

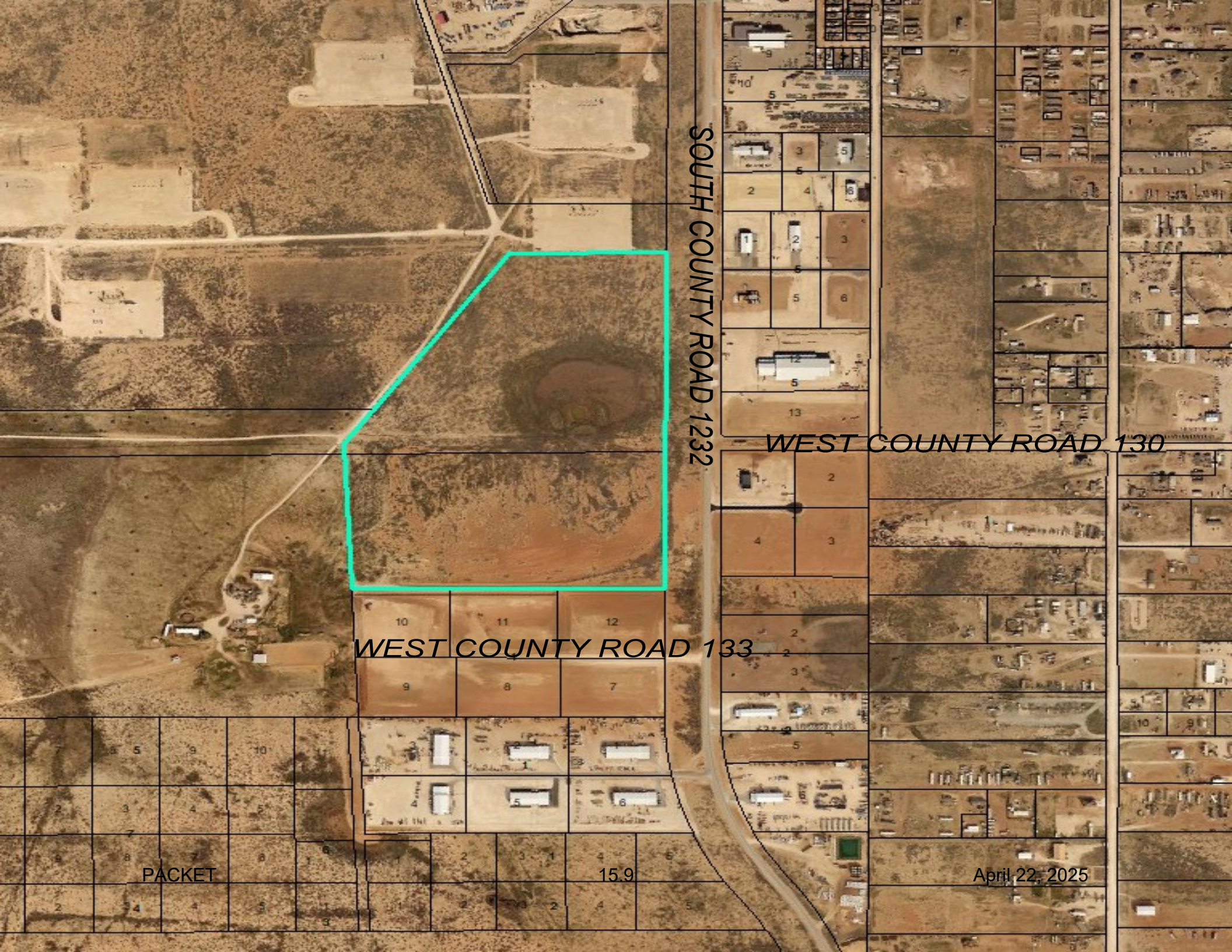
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR IS IT DESIGNED TO BE USED AS A 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.

April 22, 2025



SOUTH COUNTY ROAD 1232

WEST COUNTY ROAD 130

WEST COUNTY ROAD 133

PACKET

15.9

April 22, 2025



RICHLAND ADDITION

PRELIMINARY PLAT



Visit Our Website

MIDLANDTEXAS.GOV

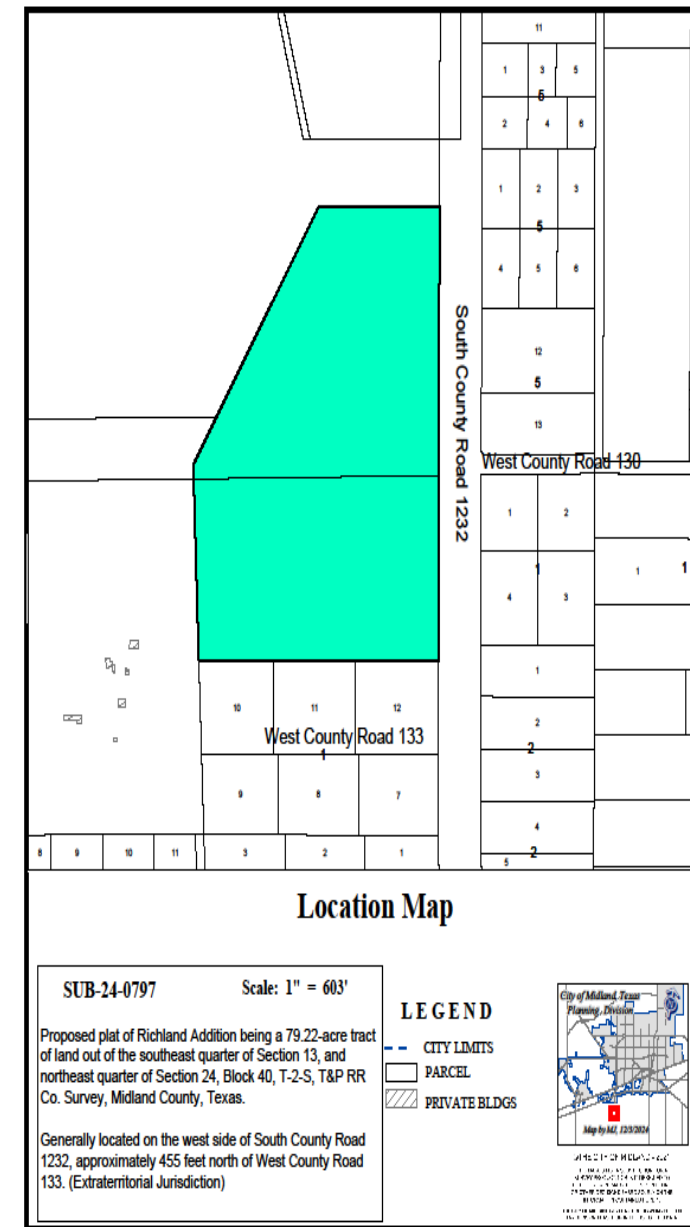
PACKET

15.10

April 22, 2025

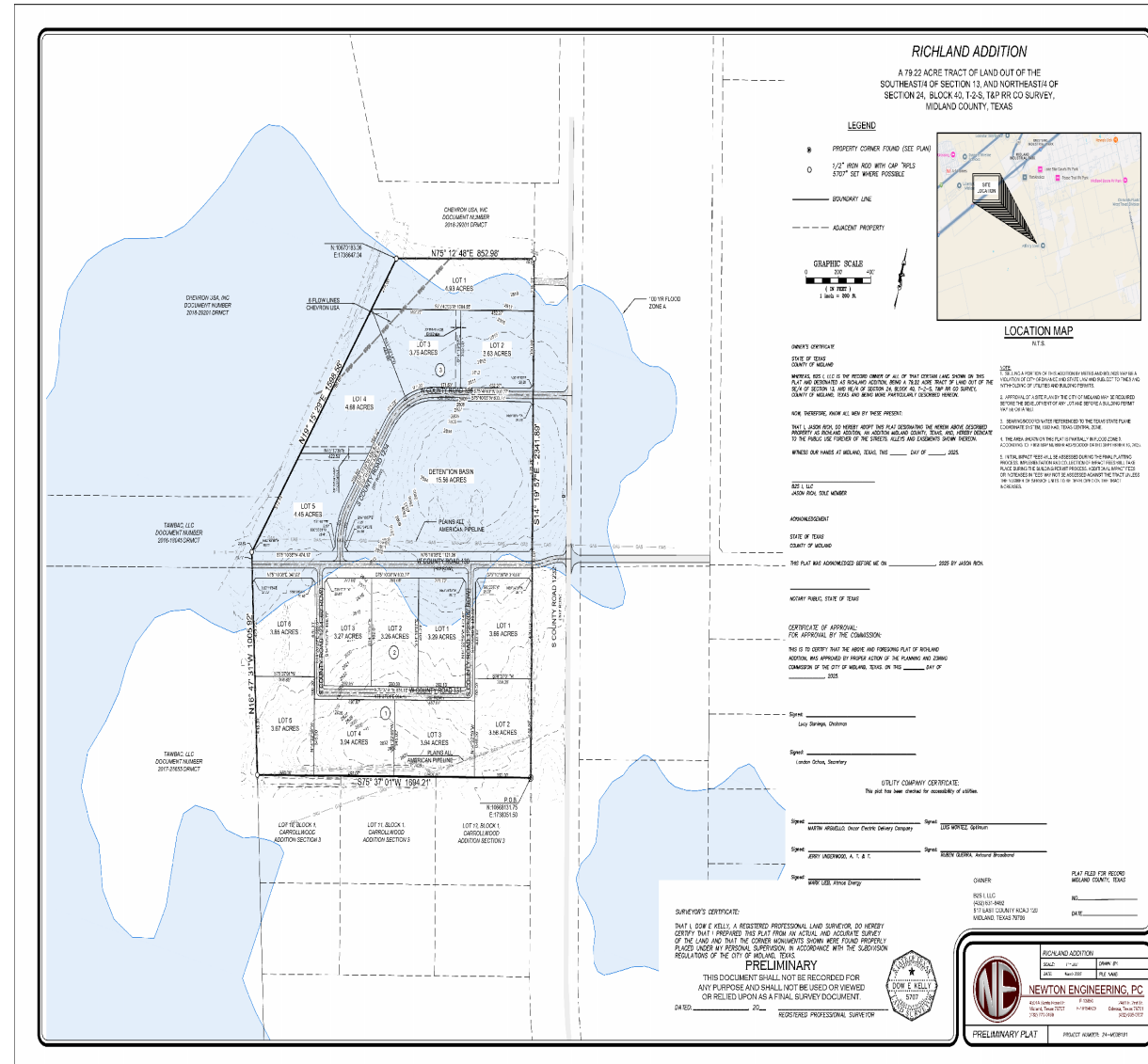
APPLICATION SUMMARY

- **Property Owner:** B2S, LLC
- Jason Rich
- **Applicant/Representative:**
Newton Engineering
- **Preliminary Plat**
- **Location:** 4718 South
County Road 1232



PLAT DETAILS

- **Acreage:** 79.22-acre tract
- **Number of lots:** Fourteen lots
- **Reason for Request:** To create 14 lots for industrial development



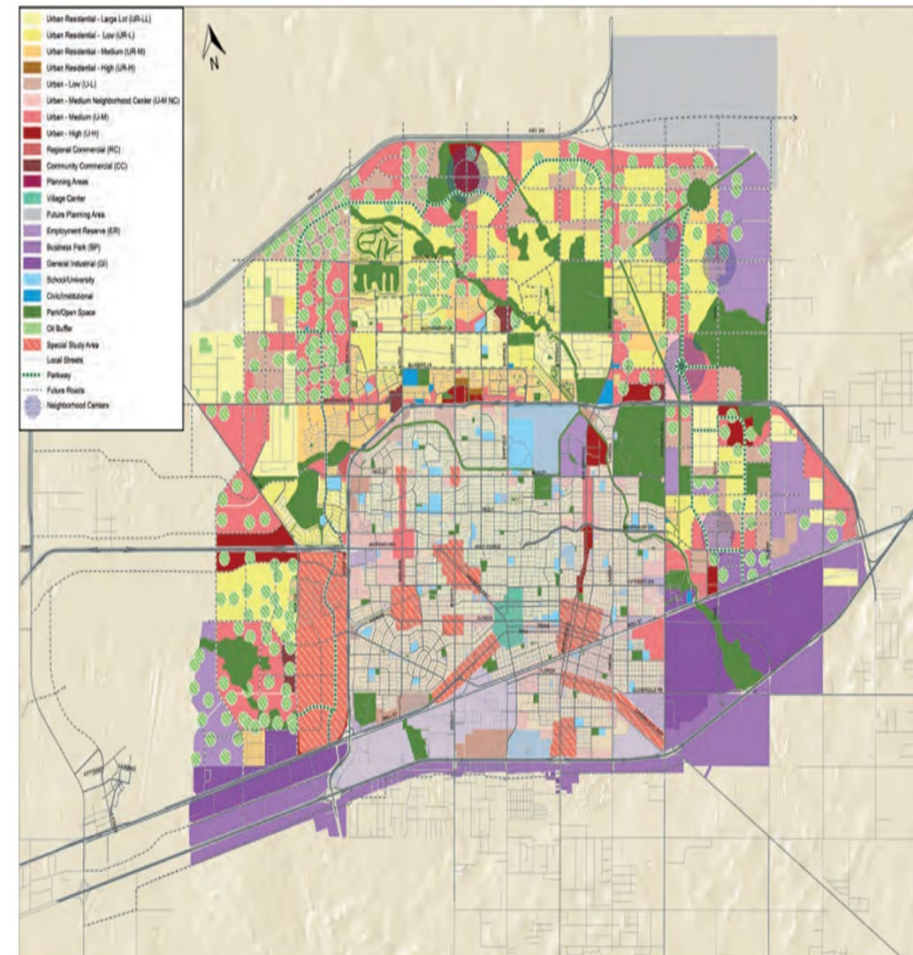
LAND USE

- **Current Use of the Property:**
Vacant
- **Proposed Use of the Property:**
Industrial
- **Surrounding Uses:**
 - **North/South/West:** Vacant
 - **East:** Industrial companies



COMPREHENSIVE PLAN

- TCT Land Use Designation:
Not designated



STAFF'S RECOMMENDATION

- The Planning & Zoning Commission recommended approval of this request on April 7, 2025.
- Staff recommends **APPROVAL** of this Preliminary Plat of Richland Addition, subject to condition A.
- **Conditions:**
 - A. 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. [11-2]**



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 16
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Lindsey Adams, Strategic Partnerships Officer
Subject: MOTION AUTHORIZING THE CITY MANAGER TO ENTER THE CITY INTO A MEMBERSHIP WITH THE PORTS TO PLAINS ALLIANCE AND TO EXECUTE ALL DOCUMENTS NECESSARY FOR THE MEMBERSHIP; AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$80,100.00 (DISTRICT: ALL) (ENGINEERING SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

Purpose:

The Ports to Plains Alliance is an organization that advocates for the nationally designated I-27 corridor, which will run through Midland. Membership to the Ports to Plains Alliance will benefit the city, as it will give us a seat at the table in discussions about planning and ROW for I-27. Currently, the new interstate is designated, however there is a lot of work to be done including, acquiring funding, ROW and getting the corridor designed and constructed. I-27 plays a vital role in Midland's economy as it will allow for easier and more efficient movement of goods and will provide for safer options on our roadways.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds are available in the General Fund operating fund balance and will be allocated for this purpose.

Strategic Priority:

(Strengthen and Sustain our Infrastructure)

Discussion:

Membership Benefits:

Eligible for election on Ports-to-Plains Alliance Board of Directors

Participation in all Policy Development, Events and Organization Activities

Invitation to join us at our annual Washington DC Fly-in to meet with federal legislators

One year of regular Membership including general listing on www.portstoplains.com

Membership registration rate for all representatives to all Ports-to-Plains Events

Subscription to Ports-to-Plains newsletter, updates and action alerts

City Manager's Office



City Council Meeting

Item Number: 23
Meeting Date: April 8, 2025, April 22, 2025
To: City Council / City Manager
From: Daniel Humbert, Senior Planner
Subject: AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT: NONE) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

Midland County is requesting an annexation of a tract of land located in Section 12, Block 39, T-2-S, T&P RR. Co Survey, Midland County, Texas, for an extension of the City of Midland's water and sewer services for use at the new Midland County Sheriff's Office.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds are required to process this request.

Strategic Priority:

Quality of Life and Place

Discussion:

The property is currently in the process of being annexed into city limits. An annexation of the property will need to be approved first before the initial zoning can be approved. A petition for annexation has been submitted and a service agreement was executed between the City and the property owner on February 13, 2025.

The Tall City Tomorrow Comprehensive Plan has no designation for this area.

The initial zoning request is scheduled for the April 8, City Council meeting. The Planning and Zoning Commission deferred the initial zoning request on March 17, 2025. The request will go before the P&Z commission again on April 7, 2025.

This project has been circulated to all respective departments for internal review and received no objections.

Engineering: (Approved)

No objections. [For the Applicant's information only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Fire: (Approved)

No Objections.

Building Code: (Approved)

No Objection.

Oil and Gas: (Approved)

No Oil and Gas issues. Note as discussed in prior meetings, it appears this plat is annexing an oil well location (Pioneer-Satterfield A #5, tank battery near the east side and plugged and abandoned (P&A) well location-Satterfield #1). Will need to maintain 135 ft. radius around well, 150 ft. radius around tank battery, 330 ft. radius from flare, and no building permits will be allowed on top of P&A well bore. These identified radiuses are addressing no building permit inside these areas.

GIS: (Approved)

No comments

Planning: (Approved)

No Planning issues.

Letters of Objection:

As of April 2, staff has not received any objection letters.

Attachments:

Application
Service Agreement
Maps
PowerPoint Presentation



City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, a public hearing before the City Council of the City of Midland, Texas, a home rule municipal corporation, was held in the City Council Chamber on April 8, 2025, during which all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory; and

WHEREAS, notice of the public hearing was published on the City of Midland, Texas's Internet website on March 20, 2025, and the notice remained posted until the date of the public hearing; and

WHEREAS, notice of the public hearing was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on March 21, 2025; and

WHEREAS, all required notices of the proposed annexation and the public hearing were given in accordance with applicable laws; and

WHEREAS, the City of Midland has entered into a written agreement with the owner(s) of the hereinafter described territory for the provision of services in said area;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 15.6-acre tract of land out of Section 7, Block 38, and Section 12, Block 39, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds in the petition for annexation attached hereto as Exhibit A and incorporated herein by reference for all legal

purposes. For the avoidance of doubt, the portion of Farm-to-Market Road 715 right-of-way described in Exhibit A is included in the aforementioned tract of land.

SECTION TWO. That this ordinance shall be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication thereof.

SECTION THREE. That the City Secretary is hereby authorized and directed to file a certified copy of this ordinance with the County Clerk of Midland County, Texas, for the purpose of recording in the Deed Records of Midland County, Texas.

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:

Nicholas Toulet, Interim City Attorney

EXHIBIT A

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract of land described in the attached Exhibit A, except for the FM 715 right-of-way described therein, Midland County, Texas submits this petition for annexation and hereby requests that land described in Exhibit A be added to and annexed to the City of Midland.

MIDLAND COUNTY, TEXAS

By: [Signature]
Signature of Owner or Authorized Representative

Terry Johnson
Printed Name

County Judge
Title

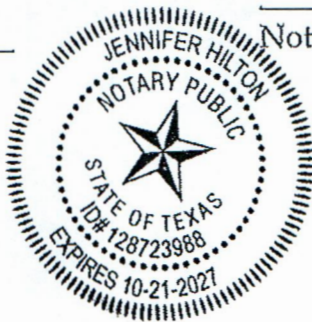
THE STATE OF TEXAS §
COUNTY OF MIDLAND §

This instrument was acknowledged before me on the 8 day of JANUARY, 2025, by TERRY JOHNSON in the capacity herein stated.

MY COMMISSION EXPIRES

10/21/2027

[Signature]
Notary Public, State of TEXAS



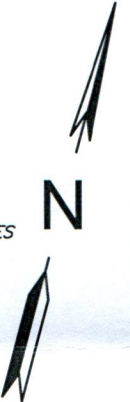
AN ANNEXATION TRACT IN SECTION 7, BLOCK 38, T-2-S & SECTION 12, BLOCK 39, T-2-S, T. & P. RR. CO. SURVEYS, MIDLAND COUNTY, TEXAS



SCALE: 1" = 600'

LEGEND:

- ANNEXATION TRACT LIMITS LINE
- TRACT ADJOINER/DEED/LOT LINES
- SECTION LINE
- RIGHT-OF-WAY LINE



SURVEYOR'S REPORT:

BEARINGS AND COORDINATES SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE 4203, NAD83. DISTANCES REPORTED HEREON ARE AT SURFACE. AREAS REPORTED HEREON ARE BASED ON CALCULATIONS MADE AT SURFACE DISTANCES.

THIS SURVEY IS SUBJECT TO ANY FACTS WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH. RECORD DOCUMENTS OTHER THAN THOSE SHOWN MAY AFFECT THIS TRACT.

MONUMENTS INDICATED AS FOUND BY THIS SURVEY ARE NOT "PHYSICAL MONUMENTS OF RECORD DIGNITY" UNLESS SO NOTED.

FOUND MONUMENTS ARE ACCEPTED BY THIS SURVEYOR AS CONTROLLING EVIDENCE DUE TO SUBSTANTIAL AGREEMENT WITH RECORD DOCUMENTS.

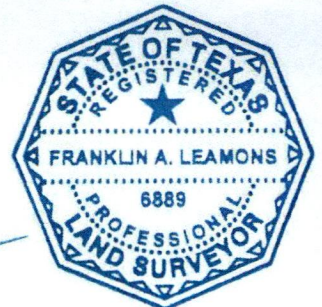
THIS PLAT IS INVALID UNLESS IT BEARS THE SURVEYOR'S ORIGINAL SEAL AND SIGNATURE.

A METES AND BOUNDS DESCRIPTION OF THIS TRACT IS INCLUDED ON A SEPARATE DOCUMENT ATTACHED HERewith.

THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY AND THE INFORMATION HEREON REPRESENTS THE FINDINGS OF THIS SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SURVEYED: OCTOBER 11, 2023

SIGNED: FEBRUARY 29, 2024



Franklin Leamons

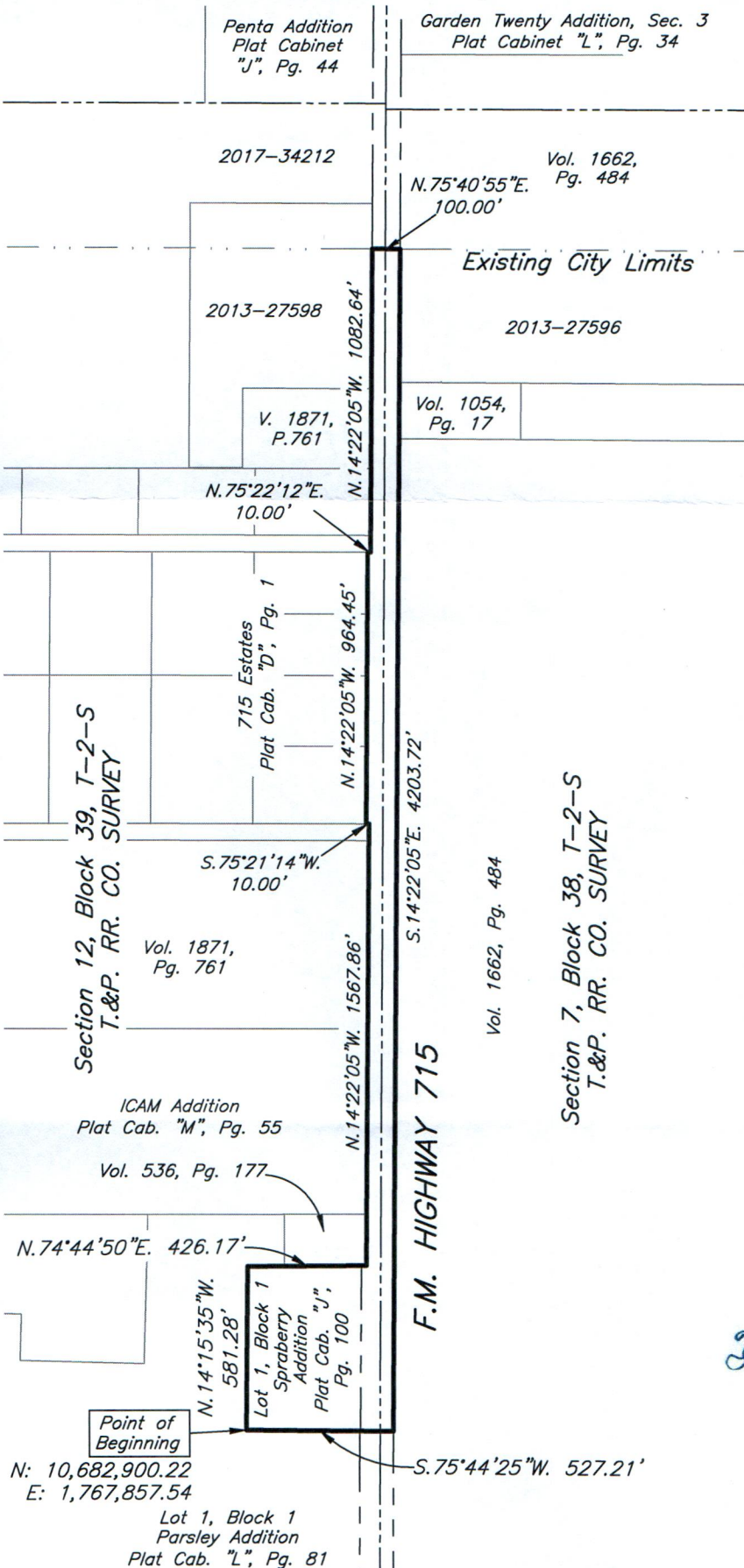
FRANKLIN LEAMONS
R.P.L.S. 6889

Parkhill

April 22, 2025

Parkhill.com

TBPELS FIRM REGISTRATION NO. 10194091



E. C. R. PACKE SEC 12 SWC 7

17.8

**EXHIBIT "A" TO
PETITION FOR ANNEXATION**

**AN ANNEXATION TRACT IN
SECTION 7, BLOCK 38, T-2-S & SECTION 12, BLOCK 39, T-2-S,
T. & P. RR. CO. SURVEYS,
MIDLAND COUNTY, TEXAS**

A proposed annexation tract in Section 7, Block 38, T-2-S and Section 12, Block 39, T-2-S, T. & P. Railroad Company Surveys, Midland County, Texas, said proposed annexation tract being more particularly described as follows and as surveyed on-the-ground under the supervision of Parkhill on October 11, 2023:

BEGINNING at the southwest corner of Lot 1, Block 1, Spraberry Addition as shown on the plat recorded in Plat Cabinet "J", Page 100 of the Plat Records of Midland County, Texas and a corner of Lot 1, Block 1, Parsley Addition as shown on the plat recorded in Plat Cabinet "L", Page 81 of said Plat Records, said beginning point having coordinates of NORTHING: 10,682,900.22 and EASTING: 1,767,857.54, Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983;

(1) THENCE *North 14 degrees 15 minutes 35 seconds West*, along the west line of said Spraberry Addition and the east line of said Parsley Addition, a distance of 581.28 feet more or less to a point at the northwest corner of said Spraberry Addition and a corner of said Parsley Addition;

(2) THENCE *North 74 degrees 44 minutes 50 seconds East*, along the north line of said Lot 1, Block 1, Spraberry Addition, a distance of 426.17 feet more or less to a point of intersection for a corner of this tract in the west right-of-way line of F.M. Highway 715, as described in right-of-way dedications recorded in Volume 97, Page 319, Volume 98, Page 132, Volume 97, Page 306 and Volume 95, Page 597 of the Deed Records of Midland County, Texas;

(3) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 1567.86 feet more or less to a point of intersection for a corner of this tract;

(4) THENCE *South 75 degrees 21 minutes 14 seconds West* a distance of 10.00 feet more or less to a point of intersection in the west right-of-way line of said FM Highway 715, dedicated with the plat of 715 Estates, recorded in Plat Cabinet "D", Page 1 of the Plat Records of Midland County, Texas, for a corner of this tract;

(5) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 964.45 feet more or less to a point of intersection for a corner of this tract;

(6) THENCE *North 75 degrees 22 minutes 12 seconds East* a distance of 10.00 feet more or less to a point of intersection for a corner of this tract;

(7) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 1082.64 feet more or less to the existing south line of the city limits of Midland, Texas, described in Ordinance 4262, for the most northerly northwest corner of this tract;

(8) THENCE *North 75 degrees 40 minutes 55 seconds East*, along the existing south city limits line, a distance of 100.00 feet more or less to a point in the east right-of-way line of said FM Highway 715, for the northeast corner of this tract;

(9) THENCE *South 14 degrees 22 minutes 05 seconds East*, along the east right-of-way line of said FM Highway 715, a distance of 4203.72 feet more or less to a point of intersection for the southeast corner of this tract;

(10) THENCE *South 75 degrees 44 minutes 25 seconds West*, crossing said FM Highway 715 and continuing along the south line of said Spraberry Addition, a distance of 527.21 feet more or less to the **POINT OF BEGINNING** and as shown on certified plat herewith.

Note: Bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983. Distances reported hereon are at surface. Areas reported hereon are based on calculations made from surface distances.

Surveyed by

Franklin Leamons

Franklin Leamons
Registered Professional Land Surveyor #6889
Date Signed: February 29, 2024





**Annexation/Initial Zoning
Application**

Project Number: _____

Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: Terry Johnson, Midland County Judge

Phone 432-688-4312

Email
tjohnson@mcounty.com

Address
500 North Loraine, 11th Floor

City
Midland

State
Texas

Zip
79701

Property Owner

Printed Name: Midland County

Phone 432-688-4312

Email

Address
3314 FM 715

City
Midland

State
Texas

Zip
79706

Representative (if different from Applicant or Property Owner)

Firm: Midland County

Printed Name: Terry Johnson, Midland County Judge

Phone 432-688-4312

Email
aavis@mcounty.com

Address
500 North Loraine, 11th Floor

City
Midland

State
Texas

Zip
79701

Street Address: 3314 FM 715

Legal Description

Lot: 1 Block: 1 Subdivision: Sprayberry Addition

Current Zoning:

n/a

Proposed Zone: RR

(List by tracts if more than one district is requested)

Reason for Annexation/Zone Change Request: Extension of city services - sewer and water - for use at a county facility - Sheriffs Office

Present Use of Property: Industrial

Proposed Use of Property: Sheriffs Office

How would this annexation/zone change affect the public health, safety and welfare? n/a

Describe how this annexation/zone change will affect adjacent properties: 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)

PACKET

17.10

April 22, 2025

Signature (by property owner only – authorized agent must sign affidavit below)

Applicant (signature):

Date:

6/12/23

Applicant (printed): Terry Johnson, Midland County Judge

Property Owner (signature):

Date:

Property Owner (printed) : Midland County

The Annexation/Initial Zoning 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 _____ who, being by me duly sworn, upon oath says: That (s)he is 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☐ Metes and Bounds (Sealed by Surveyor)☐ Application Fee☐ Files in Digital Format (PDF/JPEG)

Check # _____

☐ Petition

Received By:

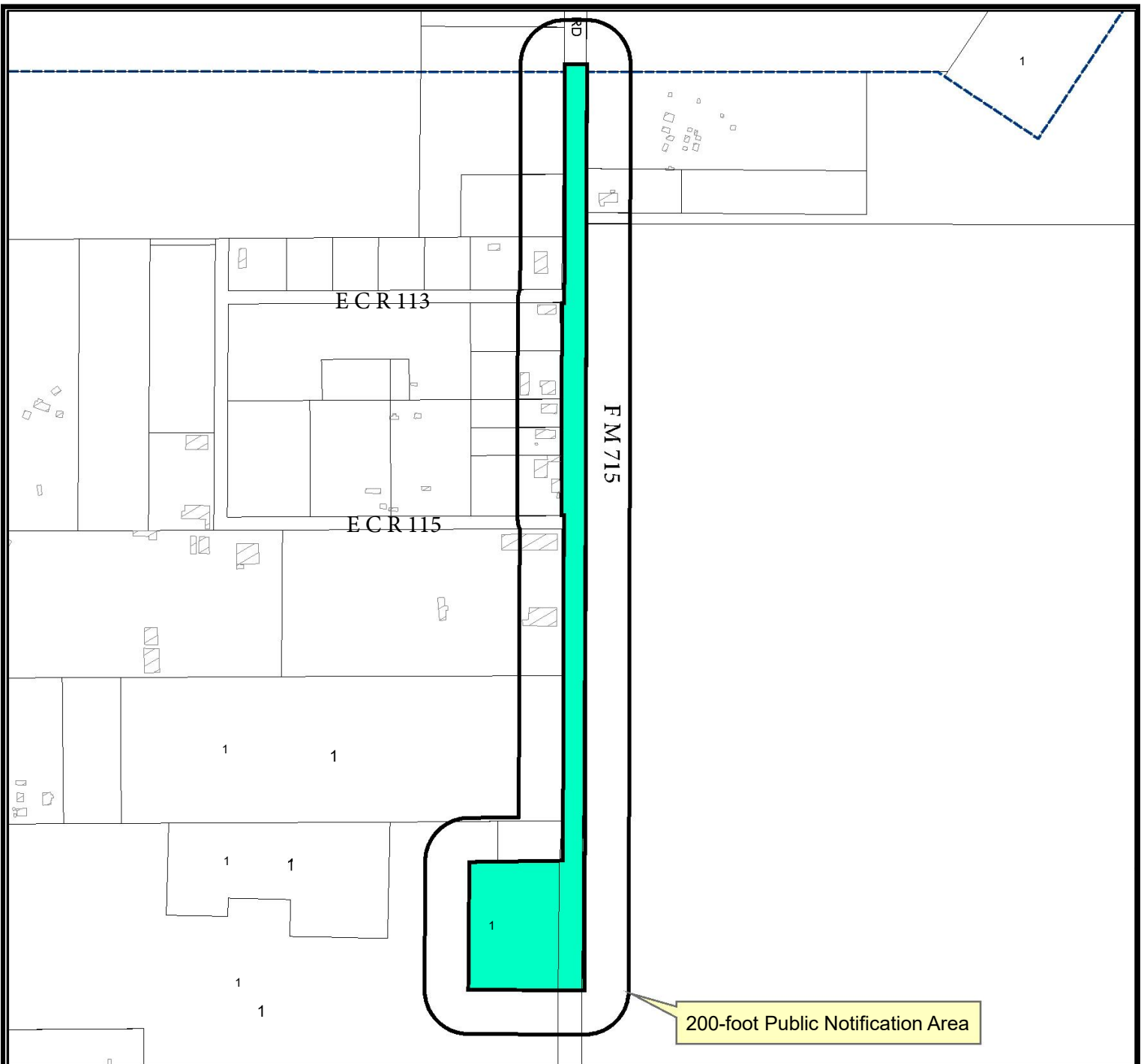
Date:

PACKET

17.11

April 22, 2025

****Application will not be considered for scheduling until reviewed by a planner.****



Location Map

A-23-0043

Scale: 1" = 653'

An ordinance on a request by Midland County, for an annexation of a 15.6-acre tract of land out of Section 7, Block 38, and Section 12, Block 39, T-2-S, T&P RR Co. Survey, Midland County, Texas.

Generally located on the west side of Farm-To-Market Road 715, approximately 500 feet north of East County Road 120. (ETJ)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



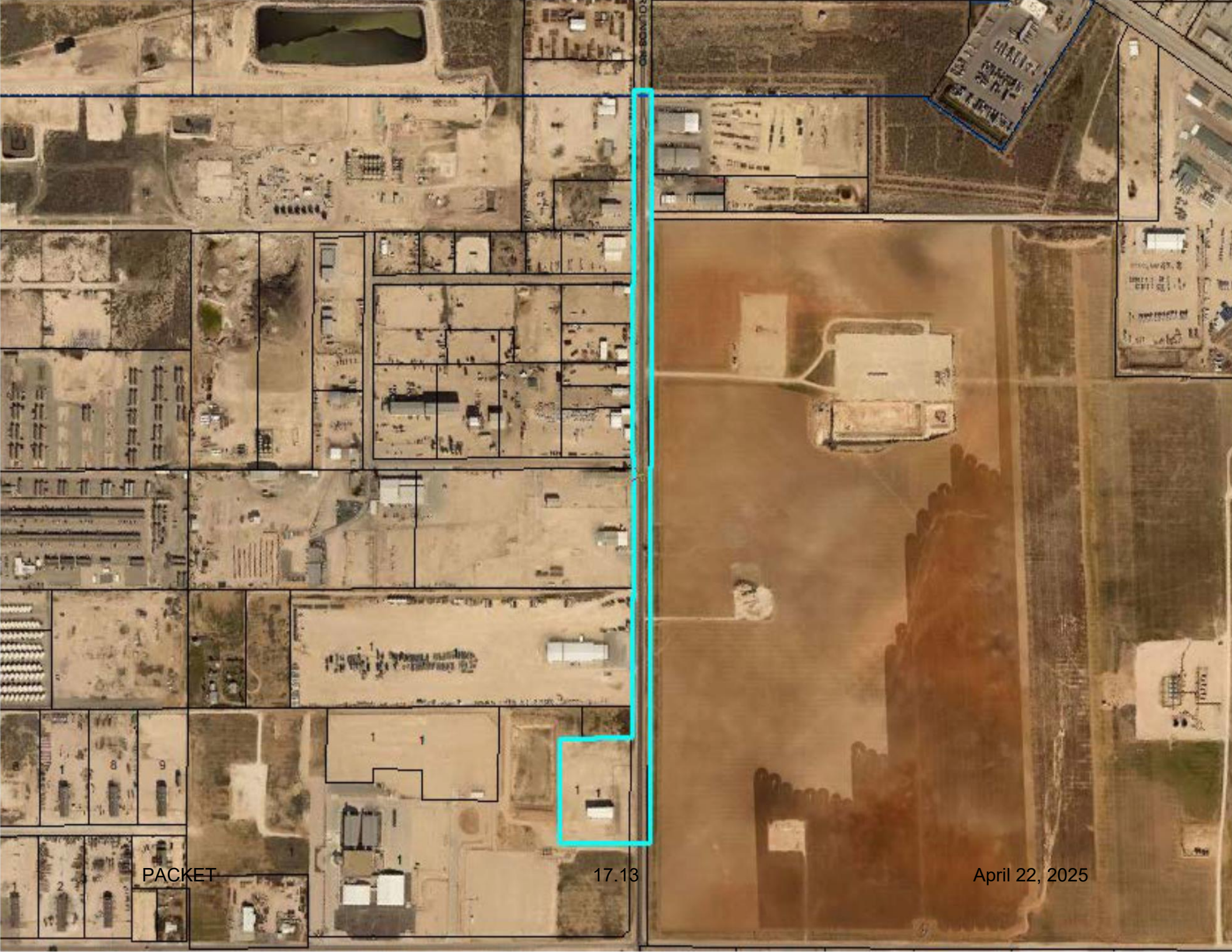
©THE CITY OF MIDLAND - 2021

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY, ENGINEERING, OR OTHER PROFESSIONAL SERVICE. IT IS DESIGNED TO BE USED AS A 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.

April 22, 2025

17.12



PACKET

17.13

April 22, 2025



SERVICE AGREEMENT

THIS AGREEMENT is made and effective the 13 day of February, 2025, by and between the CITY OF MIDLAND, TEXAS, hereinafter called "CITY," and Midland County, hereinafter referred to as "PETITIONER," whether one or more.

WHEREAS, a petition for annexation of a tract of land out of Section 7, Block 38, and Section 12, Block 39, T-2-S, T&P RR Co. Survey, Midland County, Texas, said tract being more fully described by metes and bounds therein (the "Area"), has been submitted to CITY by PETITIONER, the owner(s) of the land located in the Area, a copy of which is attached hereto as Exhibit "A" and incorporated herein for all purposes; and

WHEREAS, before CITY annexes the Area, CITY and PETITIONER must enter into a written agreement for the provision of services in the Area in accordance with Section 43.0672 of the Local Government Code;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

ARTICLE I. PURPOSE

The purpose of this Agreement is (1) to list each service CITY will provide in the Area on the effective date of the annexation, (2) to establish a schedule that includes the period within which CITY will provide each service in the Area that is not provided on the effective date of the annexation, if any, and (3) to establish the duty of PETITIONER to pay fees similar to impact fees in the event that CITY has adopted, or adopts in the future, one or more ordinances establishing impact fees. PETITIONER understands and agrees that CITY is not required to provide a service that is not included in this Agreement. PETITIONER further understands and agrees that the execution of this Agreement does not constitute a promise by CITY to annex the Area and that this Agreement is not a permit for purposes of Chapter 245 of the Local Government Code.

ARTICLE II. TERM

The term of this Agreement shall be one year; provided, however, that if CITY annexes the Area within one year from the effective date, the term of this Agreement shall continue until such time when all services described in this Agreement are provided in the Area, and at such time, the Agreement shall terminate and shall be of no further force or effect except for those provisions that expressly survive

termination. If CITY does not annex the Area during the term of this Agreement, this Agreement shall terminate and shall be of no further force or effect, and CITY shall have no duty to provide services to the Area.

ARTICLE III. SERVICES TO BE PROVIDED UPON ANNEXATION

CITY will provide the following services in the Area on the date that the ordinance annexing the Area becomes effective:

- A. Engineering:** CITY's Engineering Services Department will maintain streets, drainage facilities, and rights-of-way in accordance with CITY policies, procedures, and ordinances and applicable laws. PETITIONER understands and agrees that PETITIONER may be required to construct public improvements, including but not limited to (i) roadways adjacent to property located in the Area upon platting and (ii) roadway connections to existing facilities in the Area upon issuance of building permits in accordance with applicable laws and ordinances. PETITIONER understands and agrees that the Area will be included in CITY's service area of CITY's drainage utility.
- B. Utilities:** CITY will provide water services and wastewater collection services, upon platting property in the Area, in accordance with the City Code at rates established by ordinances for such services; provided, however, that no such service shall be provided until the public improvements necessary therefor have been constructed and CITY has approved said improvements. PETITIONER understands and agrees that CITY may require PETITIONER to construct such public improvements in accordance with applicable laws and ordinances.
- C. Development:** CITY's Development Services Department will provide planning, land development, land use, building review and inspection, and code enforcement services in accordance with applicable laws, rules, regulations, and ordinances.
- D. Police:** CITY's Police Department will provide emergency and routine call response, traffic enforcement, and law enforcement services in the Area.
- E. Fire:** CITY's Fire Department will provide emergency service for fire protection services and emergency medical services.
- F. Community Services:** CITY's Community Services Department will provide access to services and programs that may be offered by the Health and Senior Services Division, services and programs that may be offered by Animal Services Division, and access to City-owned parks.
- G. Solid Waste:** CITY's Solid Waste Department will provide residential garbage pickup service only. PETITIONER understands and agrees that CITY will not provide garbage pickup services to new commercial developments.

Regarding the services described above, PETITIONER understands and agrees that CITY

will provide a level of services that is comparable to the level of services available in other parts of the City of Midland with topography, land use, and population density similar to those reasonably contemplated or projected for the Area. PETITIONER understands and acknowledges that any CITY departments or divisions identified above may change names or be reorganized. Any reference to a specific CITY department or division also includes any subsequent CITY department or division that will provide the same or similar services.

ARTICLE IV. INTENTIONALLY OMITTED

ARTICLE V. 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. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE VI. RELEASE

NOTWITHSTANDING ANY OTHER PROVISIONS, PETITIONER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH PETITIONER 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, CITY'S NEGLIGENCE, OR CLAIMS UNDER CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE VII. ATTORNEYS' FEES

In the event of any conflict between the parties hereto such that either party brings or commences any legal action or proceeding related to this Agreement, including but not limited to

any action pursuant to the provisions of the Texas Uniform Declaratory Judgments Act (Tex. Civ. Prac. & Rem. Code §37.001, et seq., as amended), the parties hereto agree to waive any and all rights to recovery of attorneys' fees to which the prevailing party might otherwise be entitled.

BY EXECUTING THIS AGREEMENT, THE PARTIES AGREE TO WAIVE AND DO HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM EITHER PARTY HAS OR MAY HAVE IN THE FUTURE AGAINST THE OTHER PARTY, SPECIFICALLY AND SOLELY REGARDING THE AWARD OF ATTORNEYS' FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. THE PARTIES SPECIFICALLY AGREE THAT IF A PARTY 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 PARTY BRINGING THE ACTION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEYS' FEES TO WHICH THE PARTY MIGHT OTHERWISE BE ENTITLED.

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

THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE TERMINATION OF THIS AGREEMENT. PETITIONER AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS

AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE VIII. INDEMNIFICATION

PETITIONER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEYS' FEES, THAT ARE RELATED IN ANY WAY TO ANY ACTION THAT CITY TAKES IN FURTHERANCE OF THE ANNEXATION OF THE AREA OR A CONTIGUOUS RIGHT-OF-WAY, INCLUDING BUT NOT LIMITED TO AN ACTION TAKEN BY CITY THAT IS ALLEGED TO HAVE BEEN TAKEN IN VIOLATION OF CHAPTER 43 OF THE LOCAL GOVERNMENT CODE OR ANY OTHER APPLICABLE LAW, RULE OR REGULATION. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

ARTICLE IX. GENERAL PROVISIONS

- A. Governing law and venue.** This Agreement shall be governed by the laws of the State of Texas. All performance made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Agreement or the performance of this Agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas. This Agreement shall be governed by, interpreted, enforced and construed under the 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 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.
- B. Notice.** Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

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

If to PETITIONER: Midland County
500 North Loraine,
Midland, Texas 79701

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

- C. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.
- D. **Use of language.** Words in the singular shall be held to include the plural, unless the context otherwise requires.
- E. **Amendments, modifications, alterations.** No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.
- F. **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.
- G. **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, PETITIONER or PETITIONER'S legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one original and seven copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one-hundred fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which PETITIONER will settle, the physical and mailing addresses of PETITIONER at the time and date the claim was presented and the physical and mailing addresses of PETITIONER for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom PETITIONER relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except CITY from any liability whatsoever. CITY is under no obligation to provide notice to PETITIONER that PETITIONER'S notice is insufficient. CITY reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements

pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, PETITIONER'S failure to comply with the requirements herein shall perpetually bar PETITIONER'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. **PETITIONER AGREES THAT THE REQUIREMENTS OF THIS ENTIRE AGREEMENT ARE REASONABLE.**

H. **Covenants run with the land.** The provisions of this Agreement are covenants that run with the land located in the Area. CITY and PETITIONER agree that this Agreement may be recorded in the deed records of the county in which the Area is located. CITY and PETITIONER acknowledge and agree that this Agreement is binding upon CITY and PETITIONER and their respective successors, executors, heirs, and assigns, as applicable.

I. The provisions of this Article shall survive termination of this Agreement.

[Signature pages follow]

EXECUTED the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: *for* *Tommy Gonzalez, ACM*
Tommy Gonzalez, City Manager

ATTEST

for *Marcia Bentley-German*
Marcia Bentley-German, City Secretary



APPROVED ONLY AS TO FORM

for *John Ohnemiller*
John Ohnemiller, City Attorney

PETITIONER:

By: [Signature]

Name: TERRY JOHNSON

Title: COUNTY JUDGE

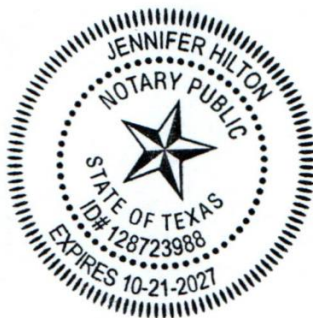
STATE OF TEXAS §

§

COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this 11 day of FEBRUARY, 2025, personally appeared TERRY JOHNSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that said person 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 the 11 day of FEBRUARY, 2025.



[Signature]

Notary Public, State of Texas

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract of land described in the attached Exhibit A, except for the FM 715 right-of-way described therein, Midland County, Texas submits this petition for annexation and hereby requests that land described in Exhibit A be added to and annexed to the City of Midland.

MIDLAND COUNTY, TEXAS

By: [Signature]
Signature of Owner or Authorized Representative

Terry Johnson
Printed Name

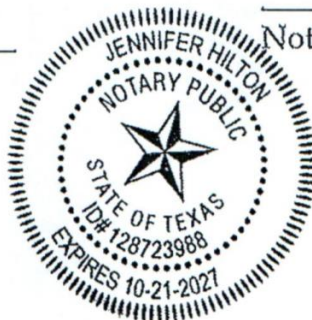
County Judge
Title

THE STATE OF TEXAS §
COUNTY OF MIDLAND §

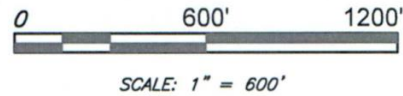
This instrument was acknowledged before me on the 8 day of JANUARY, 2025, by TERRY JOHNSON in the capacity herein stated.

MY COMMISSION EXPIRES
10/21/2027

[Signature]
Notary Public, State of TEXAS



AN ANNEXATION TRACT IN SECTION 7, BLOCK 38, T-2-S & SECTION 12, BLOCK 39, T-2-S, T. & P. RR. CO. SURVEYS, MIDLAND COUNTY, TEXAS



LEGEND:

- ANNEXATION TRACT LIMITS LINE
- TRACT ADJOINER/DEED/LOT LINES
- SECTION LINE
- RIGHT-OF-WAY LINE



SURVEYOR'S REPORT:

BEARINGS AND COORDINATES SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE 4203, NAD83. DISTANCES REPORTED HEREON ARE AT SURFACE. AREAS REPORTED HEREON ARE BASED ON CALCULATIONS MADE AT SURFACE DISTANCES.

THIS SURVEY IS SUBJECT TO ANY FACTS WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH. RECORD DOCUMENTS OTHER THAN THOSE SHOWN MAY AFFECT THIS TRACT.

MONUMENTS INDICATED AS FOUND BY THIS SURVEY ARE NOT "PHYSICAL MONUMENTS OF RECORD DIGNITY" UNLESS SO NOTED.

FOUND MONUMENTS ARE ACCEPTED BY THIS SURVEYOR AS CONTROLLING EVIDENCE DUE TO SUBSTANTIAL AGREEMENT WITH RECORD DOCUMENTS.

THIS PLAT IS INVALID UNLESS IT BEARS THE SURVEYOR'S ORIGINAL SEAL AND SIGNATURE.

A METES AND BOUNDS DESCRIPTION OF THIS TRACT IS INCLUDED ON A SEPARATE DOCUMENT ATTACHED HERewith.

THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY AND THE INFORMATION HEREON REPRESENTS THE FINDINGS OF THIS SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SURVEYED: OCTOBER 11, 2023

SIGNED: FEBRUARY 29, 2024



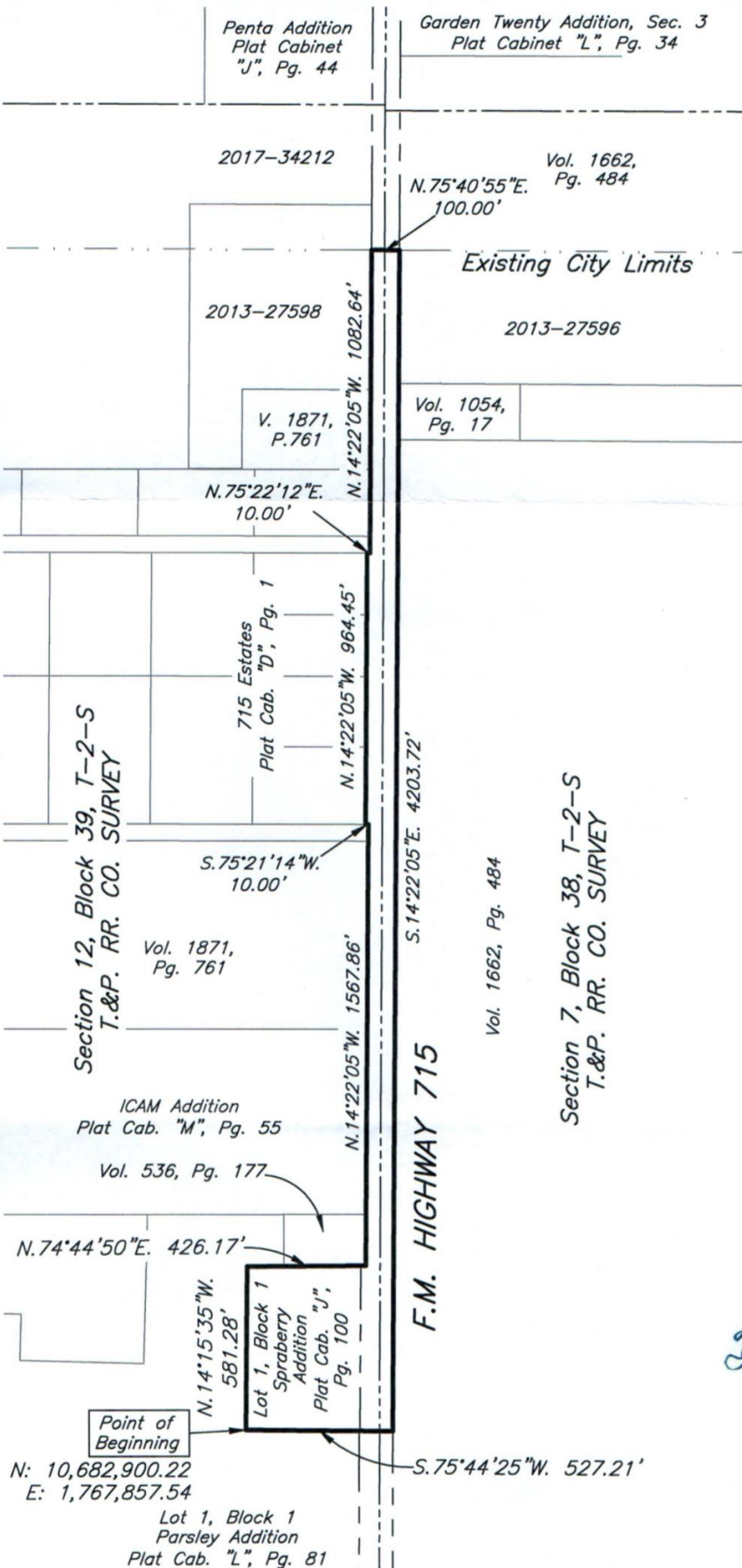
Franklin Leamons
FRANKLIN LEAMONS
R.P.L.S. 6889

Parkhill

April 22, 2025

Parkhill.com

TBPELS FIRM REGISTRATION NO. 10194091



E. C. R. P. C. K. E. SEC 12 SWC 7

17.25

**EXHIBIT "A" TO
PETITION FOR ANNEXATION**

AN ANNEXATION TRACT IN SECTION 7, BLOCK 38, T-2-S & SECTION 12, BLOCK 39, T-2-S, T. & P. RR. CO. SURVEYS, MIDLAND COUNTY, TEXAS

A proposed annexation tract in Section 7, Block 38, T-2-S and Section 12, Block 39, T-2-S, T. & P. Railroad Company Surveys, Midland County, Texas, said proposed annexation tract being more particularly described as follows and as surveyed on-the-ground under the supervision of Parkhill on October 11, 2023:

BEGINNING at the southwest corner of Lot 1, Block 1, Spraberry Addition as shown on the plat recorded in Plat Cabinet "J", Page 100 of the Plat Records of Midland County, Texas and a corner of Lot 1, Block 1, Parsley Addition as shown on the plat recorded in Plat Cabinet "L", Page 81 of said Plat Records, said beginning point having coordinates of NORTHING: 10,682,900.22 and EASTING: 1,767,857.54, Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983;

- (1) THENCE *North 14 degrees 15 minutes 35 seconds West*, along the west line of said Spraberry Addition and the east line of said Parsley Addition, a distance of 581.28 feet more or less to a point at the northwest corner of said Spraberry Addition and a corner of said Parsley Addition;
- (2) THENCE *North 74 degrees 44 minutes 50 seconds East*, along the north line of said Lot 1, Block 1, Spraberry Addition, a distance of 426.17 feet more or less to a point of intersection for a corner of this tract in the west right-of-way line of F.M. Highway 715, as described in right-of-way dedications recorded in Volume 97, Page 319, Volume 98, Page 132, Volume 97, Page 306 and Volume 95, Page 597 of the Deed Records of Midland County, Texas;
- (3) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 1567.86 feet more or less to a point of intersection for a corner of this tract;
- (4) THENCE *South 75 degrees 21 minutes 14 seconds West* a distance of 10.00 feet more or less to a point of intersection in the west right-of-way line of said FM Highway 715, dedicated with the plat of 715 Estates, recorded in Plat Cabinet "D", Page 1 of the Plat Records of Midland County, Texas, for a corner of this tract;
- (5) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 964.45 feet more or less to a point of intersection for a corner of this tract;
- (6) THENCE *North 75 degrees 22 minutes 12 seconds East* a distance of 10.00 feet more or less to a point of intersection for a corner of this tract;
- (7) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 1082.64 feet more or less to the existing south line of the city limits of Midland, Texas, described in Ordinance 4262, for the most northerly northwest corner of this tract;
- (8) THENCE *North 75 degrees 40 minutes 55 seconds East*, along the existing south city limits line, a distance of 100.00 feet more or less to a point in the east right-of-way line of said FM Highway 715, for the northeast corner of this tract;
- (9) THENCE *South 14 degrees 22 minutes 05 seconds East*, along the east right-of-way line of said FM Highway 715, a distance of 4203.72 feet more or less to a point of intersection for the southeast corner of this tract;
- (10) THENCE *South 75 degrees 44 minutes 25 seconds West*, crossing said FM Highway 715 and continuing along the south line of said Spraberry Addition, a distance of 527.21 feet more or less to the **POINT OF BEGINNING** and as shown on certified plat herewith.

Note: Bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983. Distances reported hereon are at surface. Areas reported hereon are based on calculations made from surface distances.

Surveyed by



Franklin Leamons
Registered Professional Land Surveyor #6889
Date Signed: February 29, 2024





VG-36-2025-3739

Midland County
Alison Haley
Midland County Clerk

Instrument Number: 3739

Real Property Recordings

Recorded On: February 14, 2025 08:54 AM

Number of Pages: 13

" Examined and Charged as Follows: "

Total Recording: \$69.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 3739
Receipt Number: 20250214000039
Recorded Date/Time: February 14, 2025 08:54 AM
User: Dyleana H
Station: cc10299

Record and Return To:

CITY OF MIDLAND
ATTN: RACHEL GUENTENSBERGER
P O BOX 1152
MIDLAND TX 79701



STATE OF TEXAS
Midland County

I hereby certify that this Instrument was filed in the File Number sequence on the date/time
printed hereon, and was duly recorded in the Official Records of Midland County, Texas

Alison Haley
Midland County Clerk
Midland County, TX

17.27

April 22, 2025
Alison Haley



SHERIFF'S OFFICE ANNEXATION



Visit Our Website

MIDLANDTEXAS.GOV

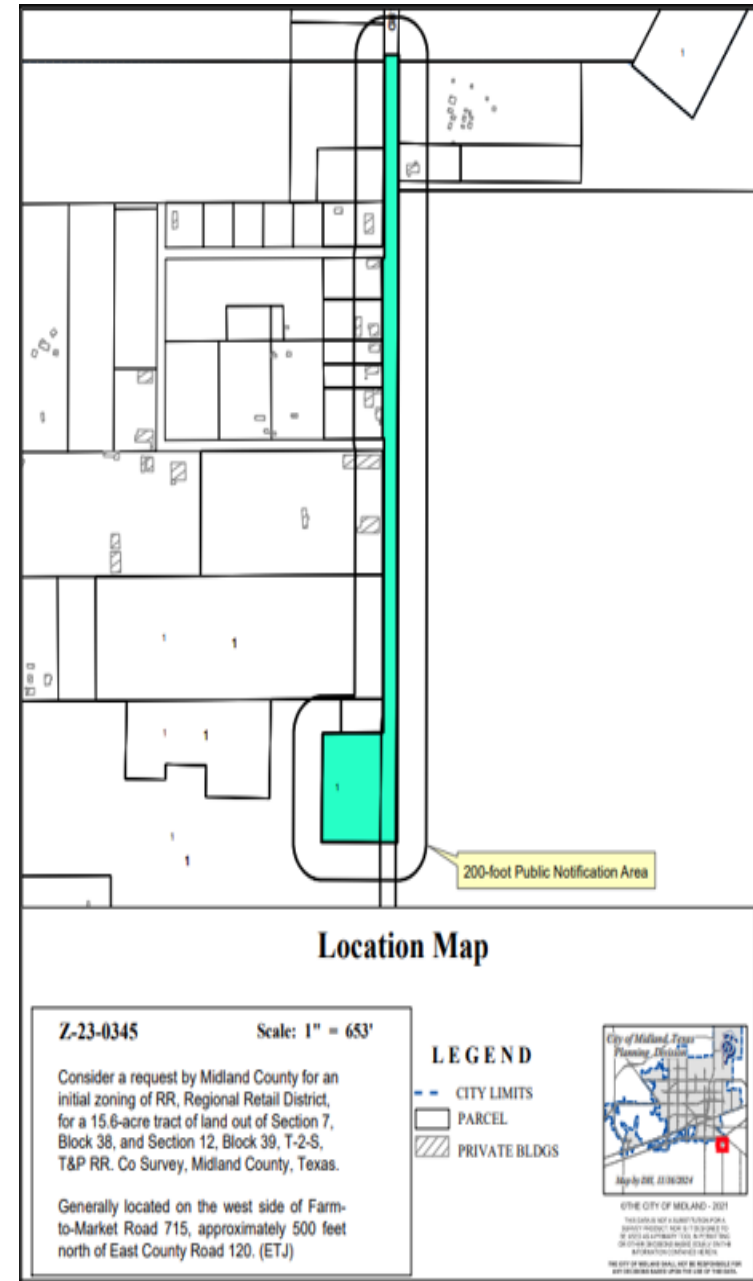
PACKET

17.28

April 22, 2025

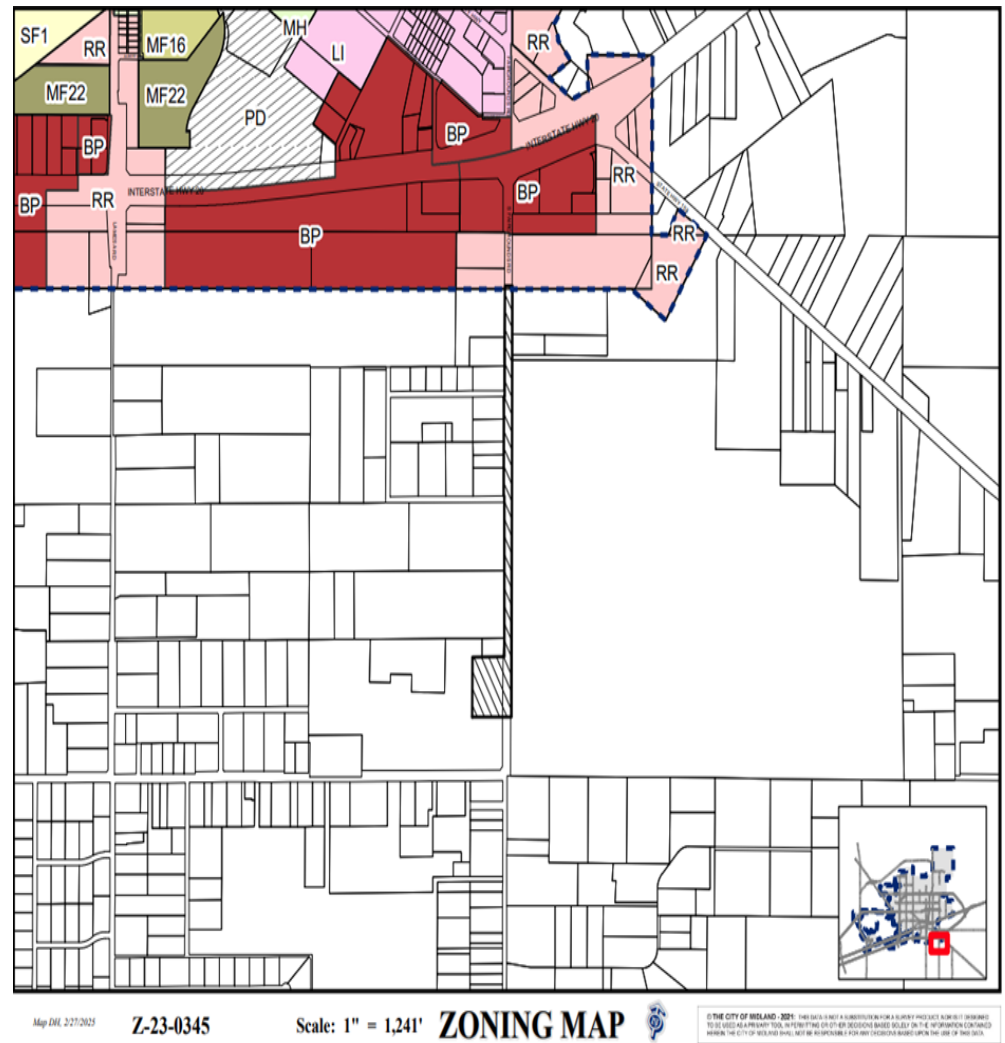
APPLICATION SUMMARY

- **Property Owner & Developer:** Midland County
- **Representative:** Terry Johnson, with Midland County
- **Application Type:** Annexation
- **Location:** Generally located on the west side of Farm-to-Market Road 715, approximately 500 feet north of East County Road 120 (ETJ)



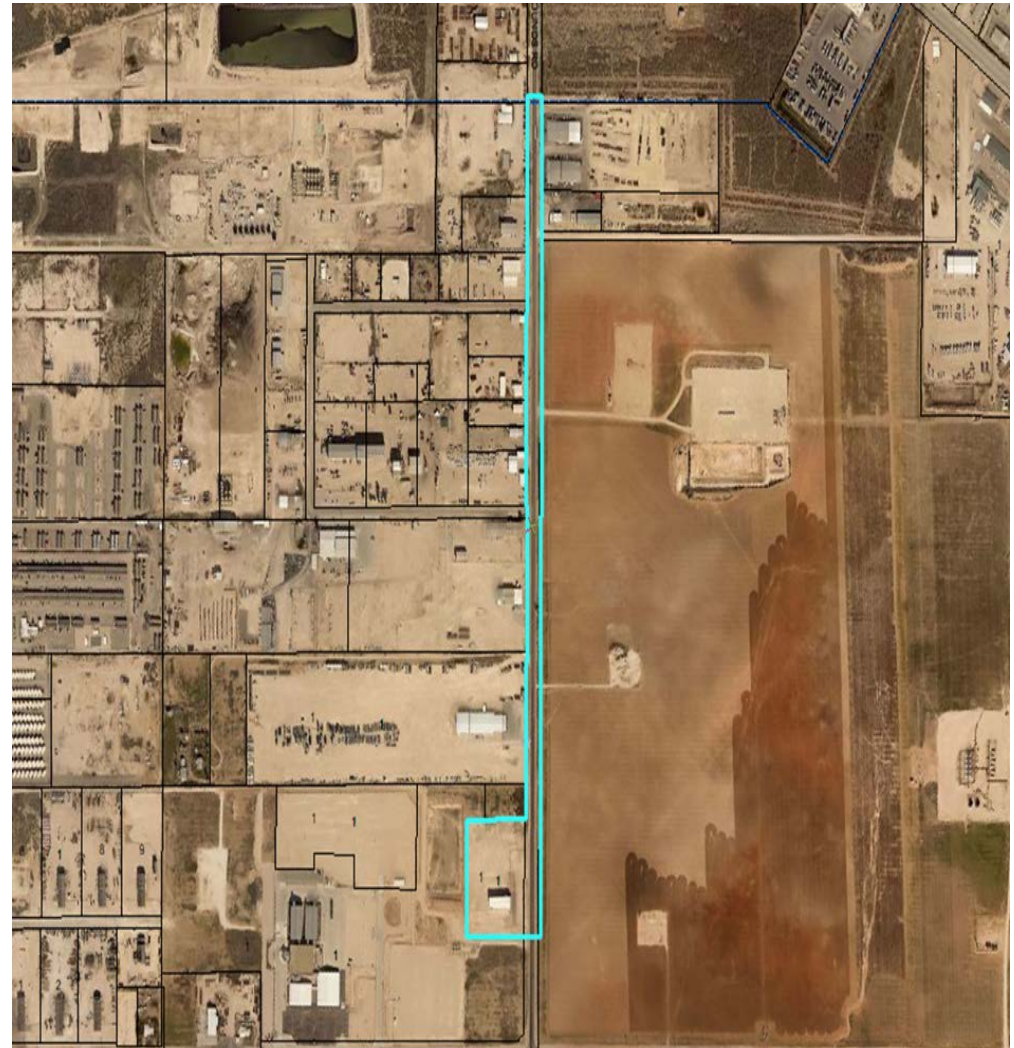
ZONING

- **Current Zoning:** None
- **Surrounding Zoning:**
 - **North:** RR, Regional Retail District
 - **South/East/West:** Extraterritorial Jurisdiction



LAND USE

- **Current Use:** Right-of-Way and industrial use
- **Surrounding Uses:**
 - **North:** Right-of-Way
 - **South/East/West:** Industrial uses





On Farm to-Market Road 715, Looking West

COMPREHENSIVE PLAN ANALYSIS

- **TCT Land Use Designation:**
 - No designation



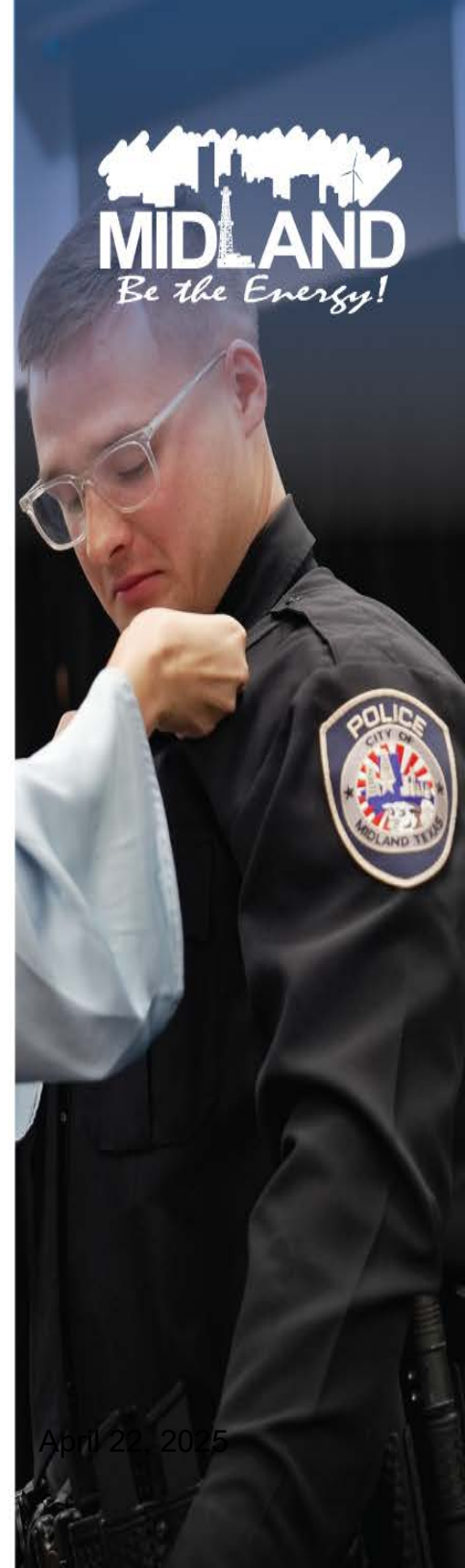
RELATED ITEMS

- The initial zoning was deferred by the Planning and Zoning Commission on March 17, 2025. It is scheduled for the April 7, 2025 P&Z meeting.
- The initial zoning request is scheduled for the April 8, 2025, City Council meeting.



STAFF RECOMMENDATION

- No objections received.
- Staff recommends APPROVAL of this request for annexation.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 18
Meeting Date: April 8, 2025, April 22, 2025
To: City Council / City Manager
From: Daniel Humbert, Senior Planner
Subject: AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120; 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: NONE) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

Midland County is requesting an initial zoning of RR, Regional Retail District for a tract of land located in Section 7, Block 38, and Section 12, Block 39, T-2-S, T&P RR. Co Survey, Midland County, Texas, for an extension of the City of Midland's utilities for use at the Midland County Sheriff's Office.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

Quality of Life and Place

Discussion:**Surrounding Zoning and Land Use:**

Surrounding zoning includes RR, Regional Retail District, to the north and all adjacent property to the South, East and West are located in the City of Midland's Extraterritorial Jurisdiction and therefore have no zoning.

Surrounding land uses include industrial uses to the South, East and West and South Fairgrounds Road right-of-way to the north.

Analysis:

The property is currently in the process of being annexed into city limits. An annexation of the property will need to be approved first before the initial zoning can be approved.

The Tall City Tomorrow Comprehensive Plan has no designation for this area.

The associated annexation request is scheduled for the April 8, 2025, City Council meeting.

Fire: (Approved)

No objections.

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.

Engineering: (Approved)

No objections. [For the Applicant's information only.]

Oil & 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, 135 ft. radius for non-permitted well, 150 ft. radius around tank battery and 330 ft. radius from flare 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.

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Planning:

The Planning and Zoning Commission deferred this request on March 17, 2025. The Commission will see the request again on April 7.

Staff recommends approval of this request.

Letters of Objection:

As of April 4, 2025, staff has not received any objection letters.

Attachments:

Service agreement
Application
Maps
PowerPoint

Frederick D. Out

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 15.6-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, AND SECTION 12, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 715, APPROXIMATELY 500 FEET NORTH OF EAST COUNTY ROAD 120; 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise of a public hearing to be held before the City Council on April 8, 2025 (the “Hearing Date”), to consider an amendment to the Zoning District Map of the City of Midland, Texas, so as to establish the initial zoning classification of the property described in Section One hereof as an RR, Regional Retail District, as set out in Title XI, Chapter 1 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers on the Hearing Date, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the Zoning District Map accordingly;

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

SECTION ONE. That the initial zoning classification of the area indicated on Exhibit A, attached hereto and incorporated herein by reference, is hereby established as

an RR, Regional Retail District, and the Zoning District Map of the City of Midland, Texas, is hereby amended to reflect the establishment of this initial zoning classification.

SECTION TWO. 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 THREE. 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 FOUR. 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 FIVE. 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:

Nicholas Toulet, Interim City Attorney

EXHIBIT A

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract of land described in the attached Exhibit A, except for the FM 715 right-of-way described therein, Midland County, Texas submits this petition for annexation and hereby requests that land described in Exhibit A be added to and annexed to the City of Midland.

MIDLAND COUNTY, TEXAS

By: [Signature]
Signature of Owner or Authorized Representative

Terry Johnson
Printed Name

County Judge
Title

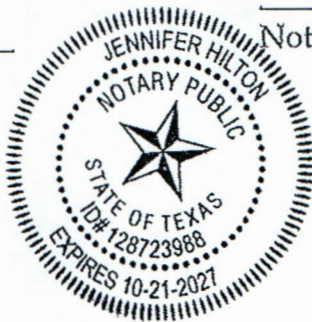
THE STATE OF TEXAS §
COUNTY OF MIDLAND §

This instrument was acknowledged before me on the 8 day of JANUARY, 2025, by TERRY JOHNSON in the capacity herein stated.

MY COMMISSION EXPIRES

10/21/2027

[Signature]
Notary Public, State of TEXAS



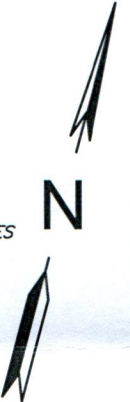
AN ANNEXATION TRACT IN SECTION 7, BLOCK 38, T-2-S & SECTION 12, BLOCK 39, T-2-S, T. & P. RR. CO. SURVEYS, MIDLAND COUNTY, TEXAS



SCALE: 1" = 600'

LEGEND:

- ANNEXATION TRACT LIMITS LINE
- TRACT ADJOINER/DEED/LOT LINES
- SECTION LINE
- RIGHT-OF-WAY LINE



SURVEYOR'S REPORT:

BEARINGS AND COORDINATES SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE 4203, NAD83. DISTANCES REPORTED HEREON ARE AT SURFACE. AREAS REPORTED HEREON ARE BASED ON CALCULATIONS MADE AT SURFACE DISTANCES.

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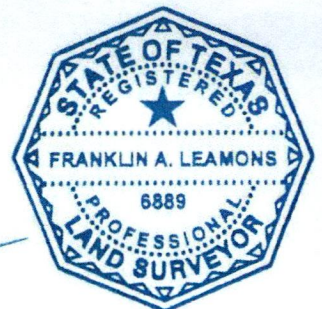
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THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY AND THE INFORMATION HEREON REPRESENTS THE FINDINGS OF THIS SURVEY TO THE BEST OF MY KNOWLEDGE AND BELIEF.

SURVEYED: OCTOBER 11, 2023

SIGNED: FEBRUARY 29, 2024



Franklin Leamons

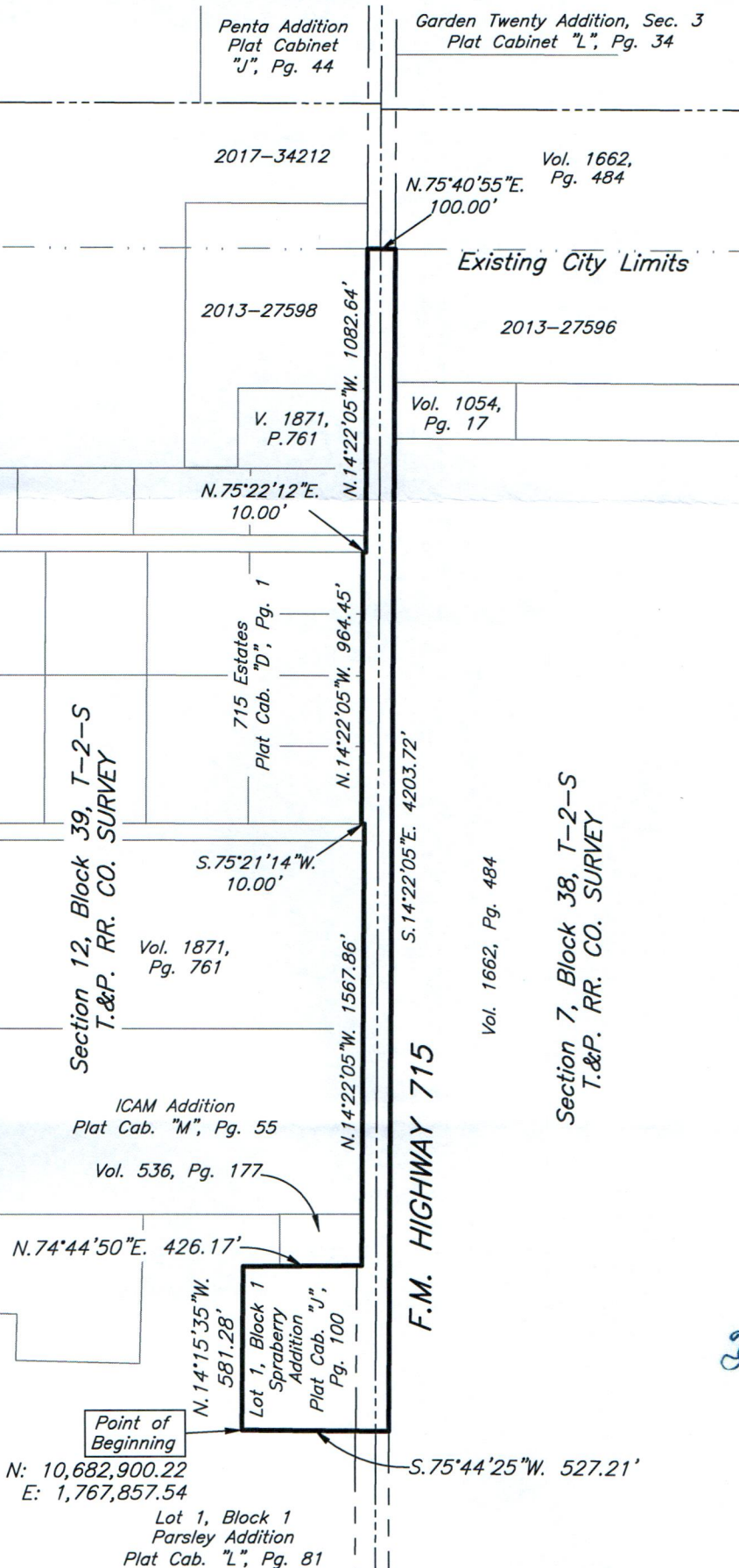
FRANKLIN LEAMONS
R.P.L.S. 6889

Parkhill

April 22, 2025

Parkhill.com

TBPELS FIRM REGISTRATION NO. 10194091



E. C. R. P. C. R. E. SEC 12 SWC 7

18.8

**EXHIBIT "A" TO
PETITION FOR ANNEXATION**

AN ANNEXATION TRACT IN SECTION 7, BLOCK 38, T-2-S & SECTION 12, BLOCK 39, T-2-S, T. & P. RR. CO. SURVEYS, MIDLAND COUNTY, TEXAS

A proposed annexation tract in Section 7, Block 38, T-2-S and Section 12, Block 39, T-2-S, T. & P. Railroad Company Surveys, Midland County, Texas, said proposed annexation tract being more particularly described as follows and as surveyed on-the-ground under the supervision of Parkhill on October 11, 2023:

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- (1) THENCE *North 14 degrees 15 minutes 35 seconds West*, along the west line of said Spraberry Addition and the east line of said Parsley Addition, a distance of 581.28 feet more or less to a point at the northwest corner of said Spraberry Addition and a corner of said Parsley Addition;
- (2) THENCE *North 74 degrees 44 minutes 50 seconds East*, along the north line of said Lot 1, Block 1, Spraberry Addition, a distance of 426.17 feet more or less to a point of intersection for a corner of this tract in the west right-of-way line of F.M. Highway 715, as described in right-of-way dedications recorded in Volume 97, Page 319, Volume 98, Page 132, Volume 97, Page 306 and Volume 95, Page 597 of the Deed Records of Midland County, Texas;
- (3) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 1567.86 feet more or less to a point of intersection for a corner of this tract;
- (4) THENCE *South 75 degrees 21 minutes 14 seconds West* a distance of 10.00 feet more or less to a point of intersection in the west right-of-way line of said FM Highway 715, dedicated with the plat of 715 Estates, recorded in Plat Cabinet "D", Page 1 of the Plat Records of Midland County, Texas, for a corner of this tract;
- (5) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 964.45 feet more or less to a point of intersection for a corner of this tract;
- (6) THENCE *North 75 degrees 22 minutes 12 seconds East* a distance of 10.00 feet more or less to a point of intersection for a corner of this tract;
- (7) THENCE *North 14 degrees 22 minutes 05 seconds West*, along the west right-of-way line of said FM Highway 715, a distance of 1082.64 feet more or less to the existing south line of the city limits of Midland, Texas, described in Ordinance 4262, for the most northerly northwest corner of this tract;
- (8) THENCE *North 75 degrees 40 minutes 55 seconds East*, along the existing south city limits line, a distance of 100.00 feet more or less to a point in the east right-of-way line of said FM Highway 715, for the northeast corner of this tract;
- (9) THENCE *South 14 degrees 22 minutes 05 seconds East*, along the east right-of-way line of said FM Highway 715, a distance of 4203.72 feet more or less to a point of intersection for the southeast corner of this tract;
- (10) THENCE *South 75 degrees 44 minutes 25 seconds West*, crossing said FM Highway 715 and continuing along the south line of said Spraberry Addition, a distance of 527.21 feet more or less to the **POINT OF BEGINNING** and as shown on certified plat herewith.

Note: Bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983. Distances reported hereon are at surface. Areas reported hereon are based on calculations made from surface distances.

Surveyed by



Franklin Leamons
Registered Professional Land Surveyor #6889
Date Signed: February 29, 2024





**Annexation/Initial Zoning
Application**

Project Number: _____

Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: Terry Johnson, Midland County Judge

Phone 432-688-4312

Email
tjohnson@mcounty.com

Address

500 North Loraine, 11th Floor

City

Midland

State

Texas

Zip

79701

Property Owner

Printed Name: Midland County

Phone 432-688-4312

Email

Address

3314 FM 715

City

Midland

State

Texas

Zip

79706

Representative (if different from Applicant or Property Owner)

Firm: Midland County

Printed Name: Terry Johnson, Midland County Judge

Phone 432-688-4312

Email

aavis@mcounty.com

Address

500 North Loraine, 11th Floor

City

Midland

State

Texas

Zip

79701

Street Address: 3314 FM 715

Legal Description

Lot: 1

Block: 1

Subdivision: Sprayberry Addition

Current Zoning:

n/a

Proposed Zone: RR

(List by tracts if more than one district is requested)

Reason for Annexation/Zone Change Request: Extension of city services - sewer and water - for use at a county facility - Sheriffs Office

Present Use of Property: Industrial

Proposed Use of Property: Sheriffs Office

How would this annexation/zone change affect the public health, safety and welfare? n/a

Describe how this annexation/zone change will affect adjacent properties: 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)

PACKET

18.10

April 22, 2025

Signature (by property owner only – authorized agent must sign affidavit below)

Applicant (signature):

Date:

Applicant (printed): Terry Johnson, Midland County Judge

Property Owner (signature):

Date:

Property Owner (printed) : Midland County

The Annexation/Initial Zoning 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 _____ who, being by me duly sworn, upon oath says: That (s)he is 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☐ Metes and Bounds (Sealed by Surveyor)☐ Application Fee☐ Files in Digital Format (PDF/JPEG)

Check # _____

☐ Petition

Received By:

Date:

PACKET

18.12

April 22, 2025

****Application will not be considered for scheduling until reviewed by a planner.****

0 600' 1200'

SCALE: 1" = 600'

 ANNEXATION TRACT LIMITS LINE
 TRACT ADJOINER/DEED/LOT LINES
 SECTION LINE
 RIGHT-OF-WAY LINE

BEARINGS AND COORDINATES SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM, CENTRAL ZONE 4203, NAD83
DISTANCES REPORTED HEREON ARE AT SURFACE.
AREAS REPORTED HEREON ARE BASED ON CALCULATIONS MADE AT SURFACE DISTANCES.

MONUMENTS INDICATED AS FOUND BY THIS SURVEY ARE NOT
"PHYSICAL MONUMENTS OF RECORD DIGNITY" UNLESS SO NOTED.

THIS PLAT IS INVALID UNLESS IT BEARS THE SURVEYOR'S ORIGINAL SEAL AND SIGNATURE.

THIS PLAT WAS PREPARED FROM AN ACTUAL SURVEY OF THE
PROPERTY AND THE INFORMATION HEREON REPRESENTS THE
FINDINGS OF THIS SURVEY TO THE BEST OF MY KNOWLEDGE AND
BELIEF.

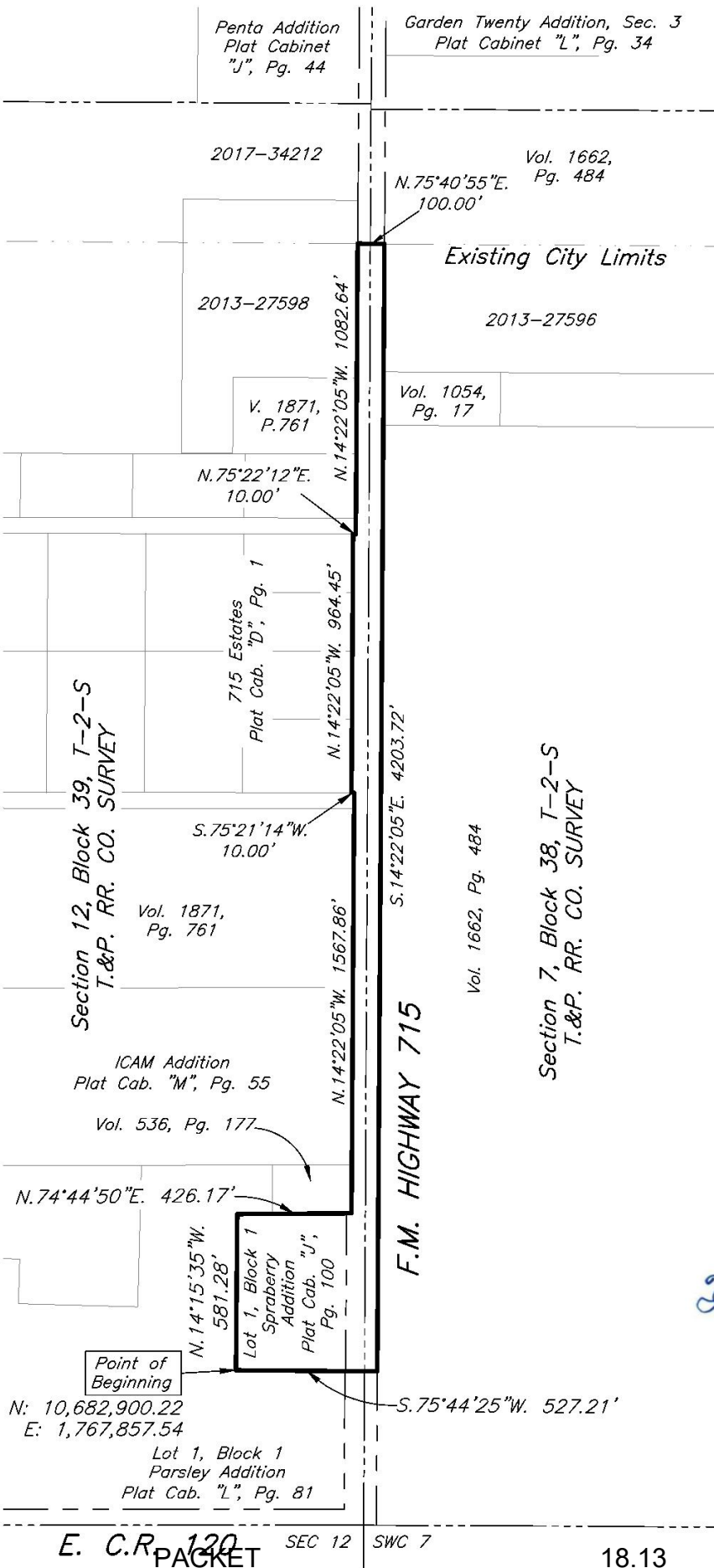
SIGNED: FEBRUARY 29, 2024

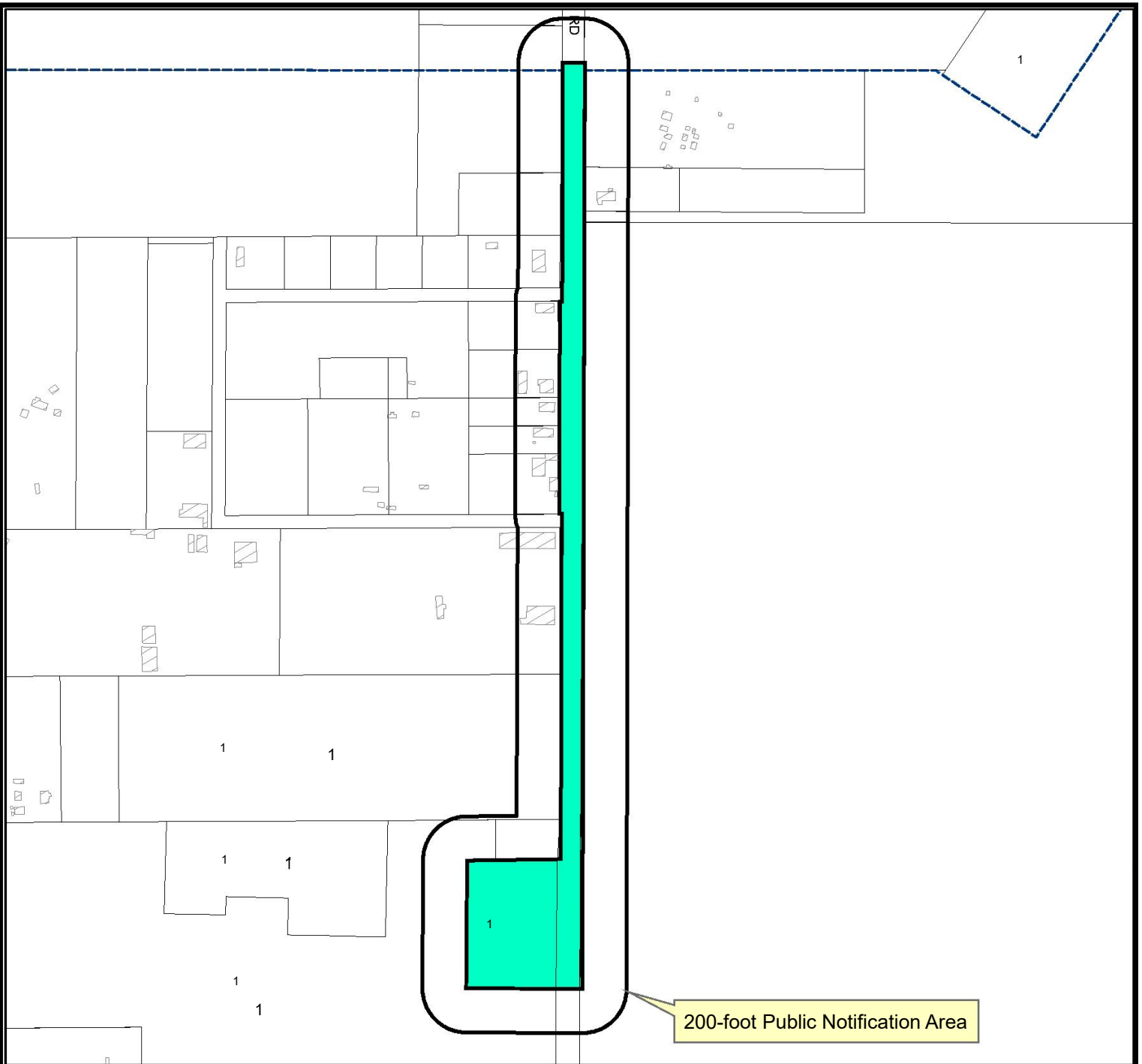


FRANKLIN LEAMONS
R.P.L.S. 6889

April 22, 2025

TBPELS FIRM REGISTRATION NO. 10194091





200-foot Public Notification Area

Location Map

Z-23-0345

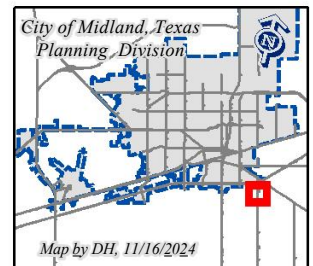
Scale: 1" = 653'

Consider a request by Midland County for an initial zoning of RR, Regional Retail District, for a 15.6-acre tract of land out of Section 7, Block 38, and Section 12, Block 39, T-2-S, T&P RR. Co Survey, Midland County, Texas.

Generally located on the west side of Farm-to-Market Road 715, approximately 500 feet north of East County Road 120. (ETJ)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



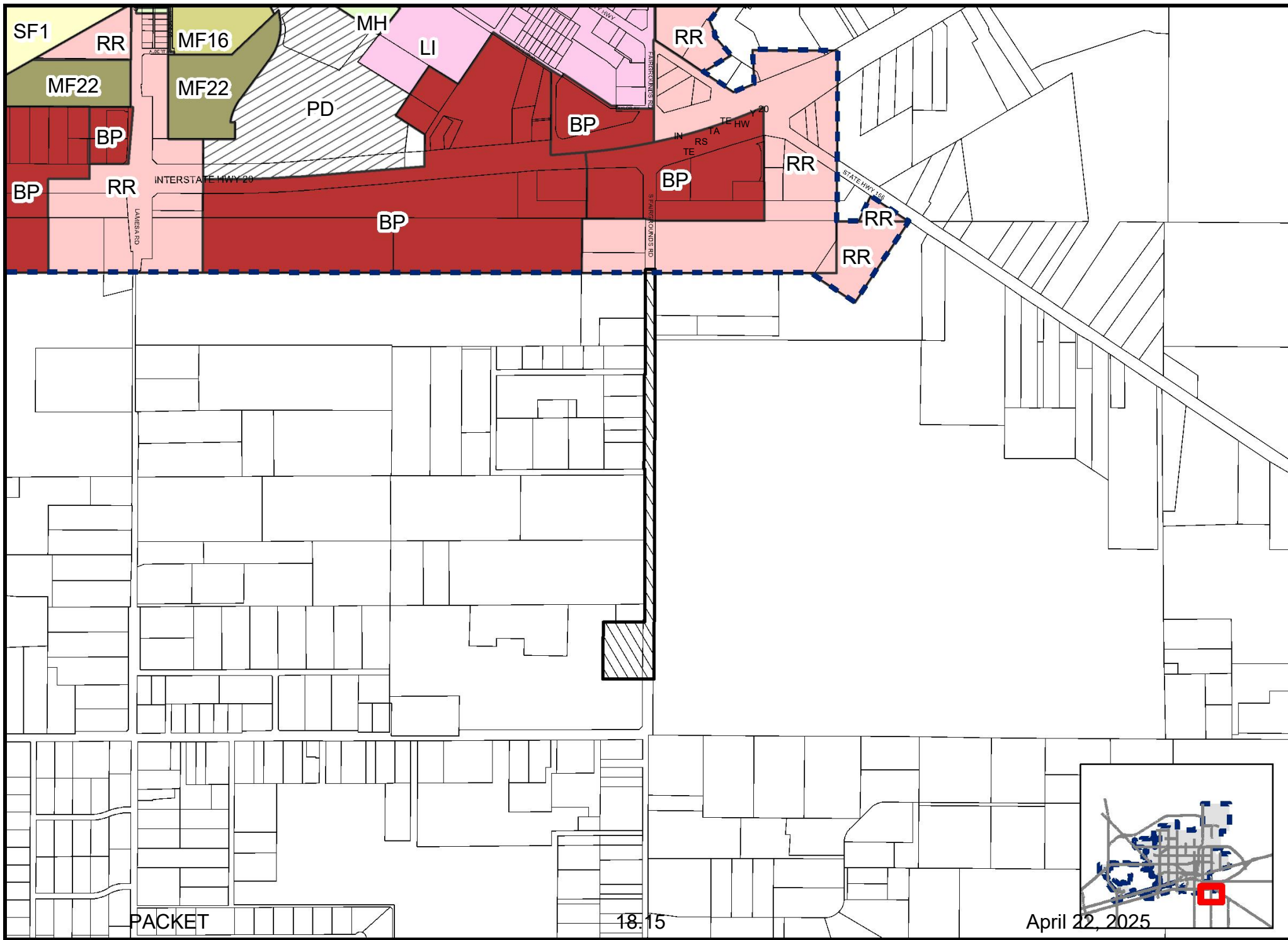
©THE CITY OF MIDLAND - 2021

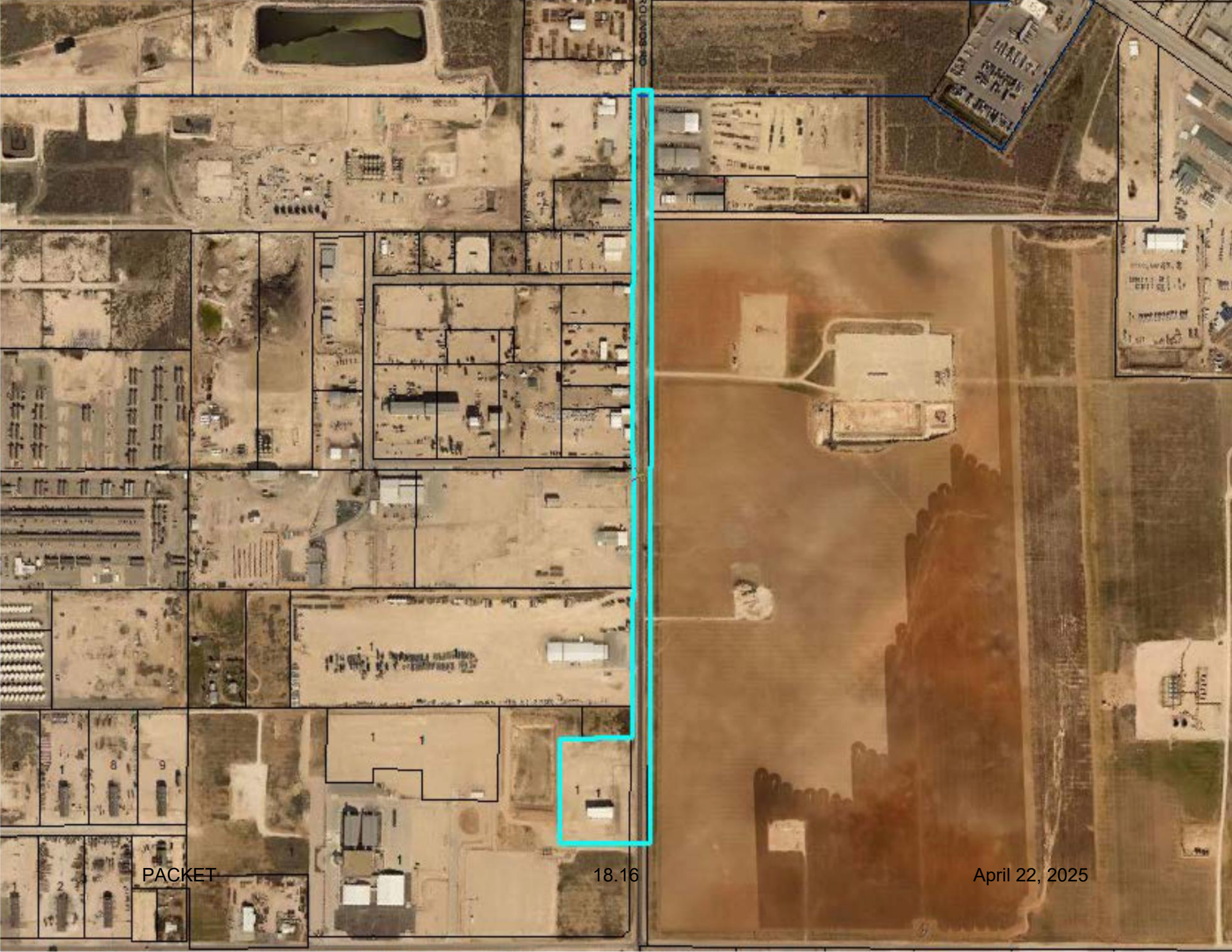
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR ENGINEERING DRAWING. NOR IS IT DESIGNED TO BE USED AS A TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

April 22, 2025

18.14





PACKET

18.16

April 22, 2025





SHERIFF'S OFFICE

INITIAL ZONING



Visit Our Website

MIDLANDTEXAS.GOV

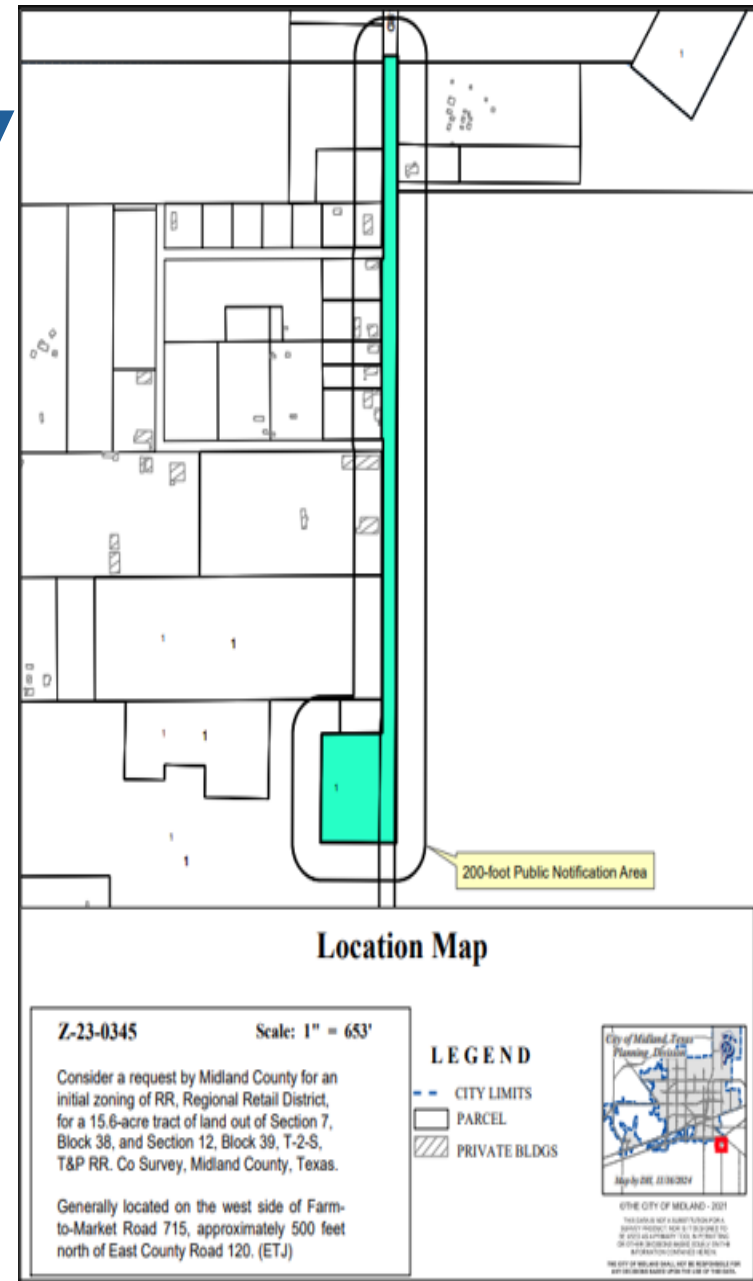
PACKET

18.18

April 22, 2025

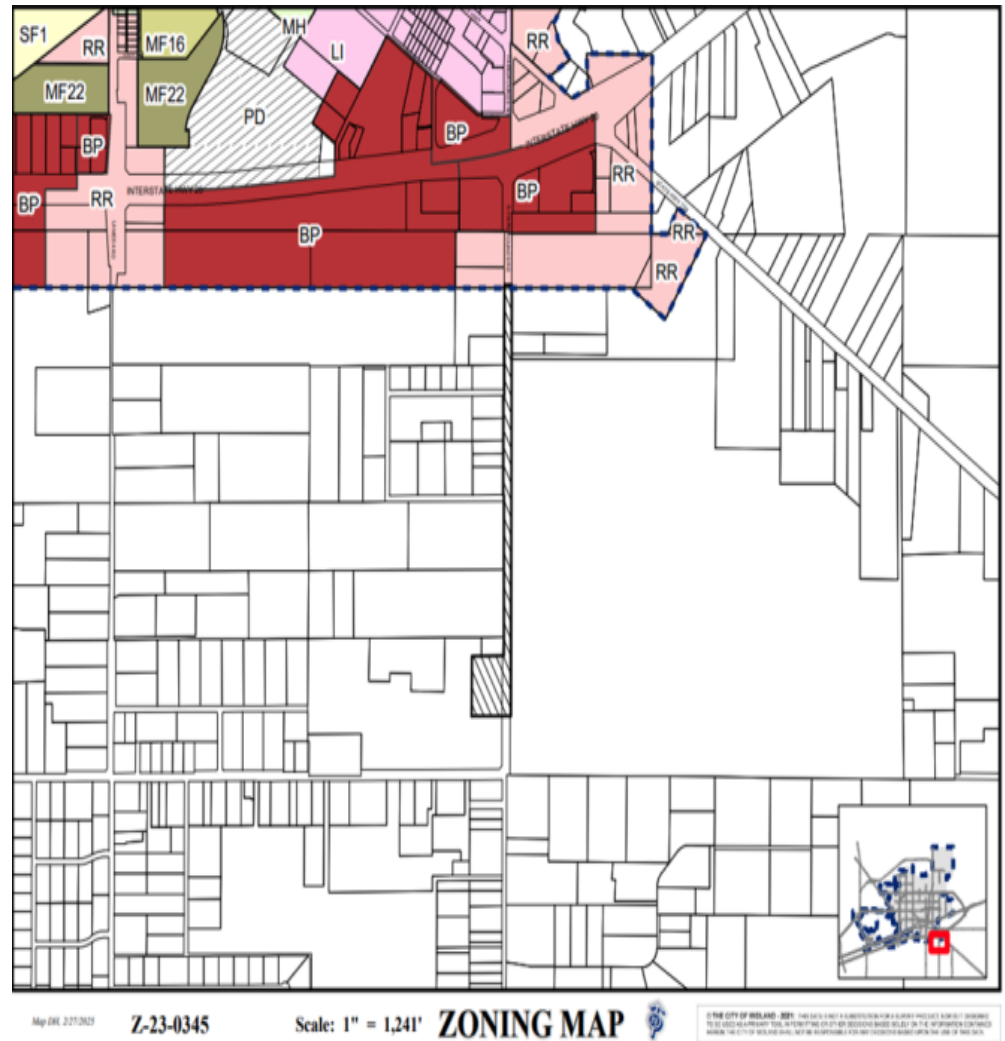
APPLICATION SUMMARY

- **Property Owner & Developer:** Midland County
- **Representative:** Terry Johnson, with Midland County
- **Application Type:** Initial Zoning
- **Location:** Generally located on the west side of Farm-to-Market Road 715, approximately 500 feet north of East County Road 120 (ETJ)



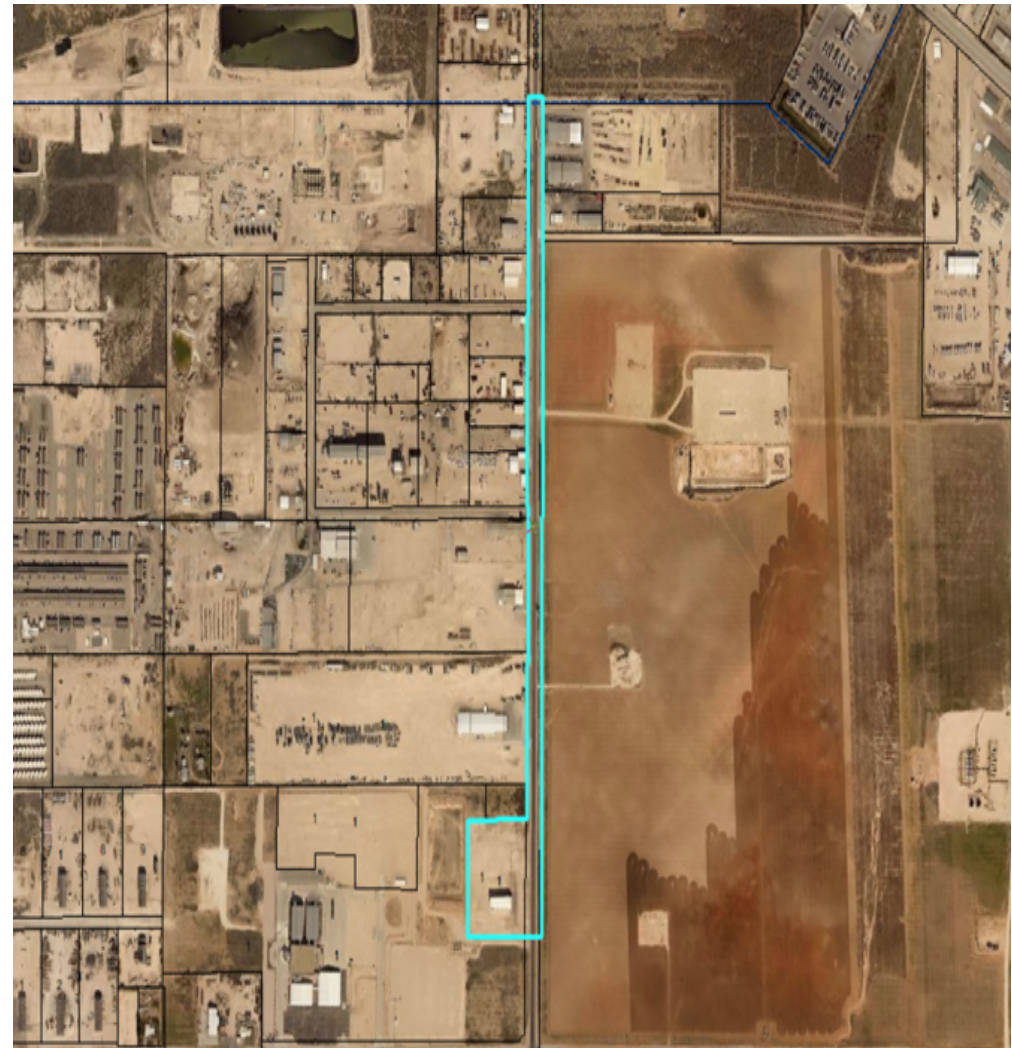
ZONING

- **Current Zoning:** None
- **Surrounding Zoning:**
 - **North:** RR, Regional Retail District
 - **South/East/West:** Extraterritorial Jurisdiction



LAND USE

- **Current Use:** Right-of-Way and industrial use
- **Surrounding Uses:**
 - **North:** Right-of-Way
 - **South/East/West:** Industrial uses

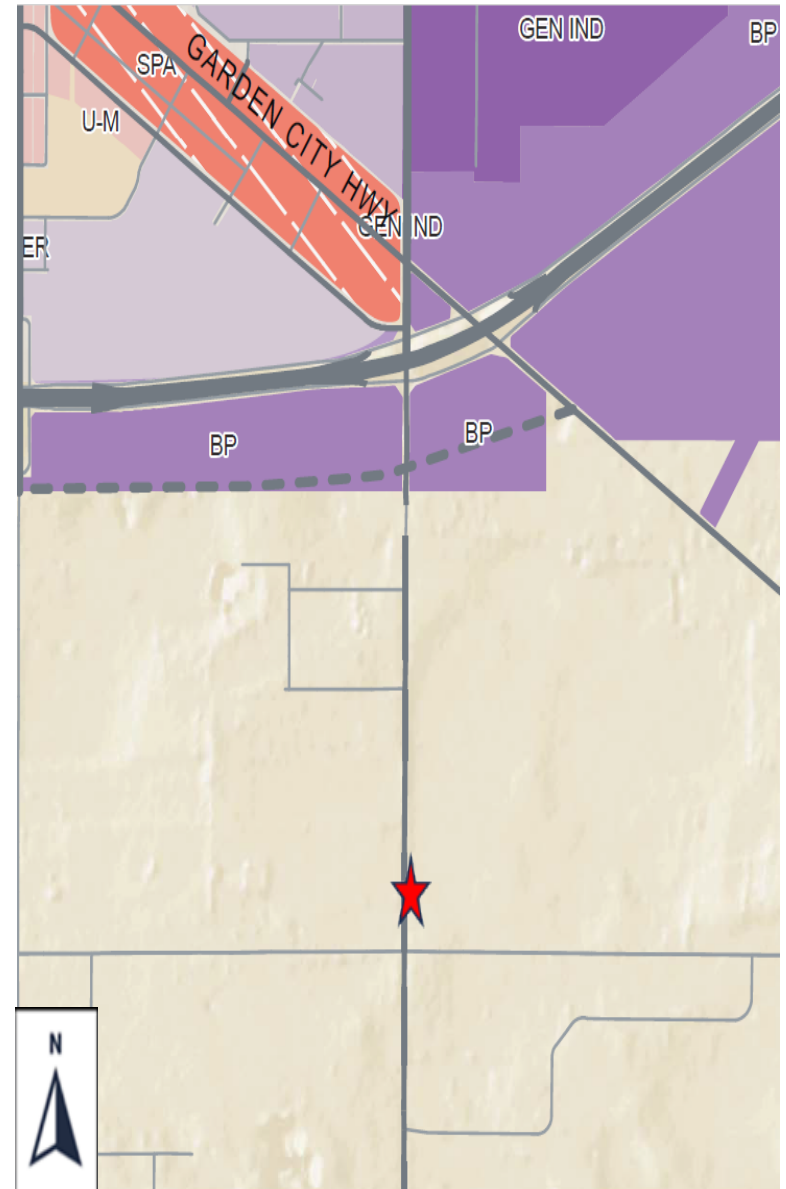




On Farm to-Market Road 715, Looking West

COMPREHENSIVE PLAN ANALYSIS

- **TCT Land Use Designation:**
 - No designation



RELATED ITEMS

- The initial zoning was deferred by the Planning and Zoning Commission on March 17, 2025. It is scheduled for the April 7, 2025 P&Z meeting.
- The associated annexation request is scheduled for the April 8, 2025, City Council meeting.



STAFF RECOMMENDATION

- No objections received.
- Staff recommends approval of this request for an initial zoning of RR, Regional Retail District.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 19
Meeting Date: April 8, 2025, April 22, 2025
To: City Council / City Manager
From: Daniel Humbert, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR A 16.66-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF COTTON FLAT ROAD AND ALTA VISTA DRIVE), WHICH IS PRESENTLY ZONED SF-1, SINGLE-FAMILY DWELLING DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR A VACATION TRAVEL TRAILER PARK; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

Maverick Engineering, on behalf of Bull Mountain LLC, is requesting a Specific Use Designation without Term for a Vacation Travel Trailer Park with 122 RV parking spaces on a property located on Cotton Flat Road.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

Quality of Life and Place

Discussion:

Surrounding Zoning and Land Use:

The properties to the north are zoned RR, Regional Retail District, and BP, I-20 Business Park District. The property to the east is zoned SF-1, Single-Family Dwelling District. Zoning to the west includes SF-1, Single-Family Dwelling District, and RR, Regional Retail District. The properties to the south belong to the C, Commercial District, and ETJ, Extraterritorial Jurisdiction.

Uses to the north include oil field, single-family residential and vacant lots. The properties to the west are single-family residential use. Uses for the properties to the south include water well drilling services and vehicle dent repair services and the property to the east is a vacant lot.

Analysis:

The property is located the northeast corner of the intersection of Cotton Flat Road and Alta Vista Drive and is currently a vacant and undeveloped lot. The property is zoned SF-1, Single-Family Dwelling District, which allows for the use of *Vacation Travel Trailer Park*, with a Specific Use Designation without Term. Per the definition of *Vacation Travel Trailer Park*, as defined in Section 11-1-2.01.312:

A Vacation Travel Trailer Park is any tract of land under single ownership and where accommodation is provided for transient trailer use for a maximum of seven days. [11-1-2.01.312]

The hours of operation for the **Nomad RV Park** are:

Monday through Sunday, all day

The proposed hours of operation for the *Vacation Travel Trailer Park* are:

Monday through Sunday, all day

The request is in compliance with the Tall City Tomorrow Comprehensive Plan as the Tall City Tomorrow Plan designated this area as BP, Business Park I-20. The BP, Business Park I-20 designation supports larger scale visitor services. The Nomad RV Park and the *Vacation Travel Trailer Park* is a use that is complementary to the surrounding area.

The request is also in compliance with Chapter 6-Character Plan Goal 4, which is to “Create vibrant multi-use destinations that support activities and residential settings for multiple generations.” This Vacation Travel Trailer Park will create a destination for Midland residents or visitors to gather and socialize.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

No objections. All future structures must adhere to the 2015 International Fire Code.

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:

This request meets all requirements; therefore, staff recommends approval of the request of the Specific Use Designation without Term for a *Vacation Travel Trailer Park*, subject to Conditions A through F.

Conditions:

- A. That the use and development of the Property for the Establishment shall significantly conform to the site plan, which is attached hereto as Exhibit B and incorporated herein for all purposes. For the avoidance of doubt, this condition shall not apply to any portion of the land shown in Exhibit B that is not located within the boundaries of the City.**
- B. That the Establishment may be operated Monday through Sunday, 24 hours per day.**
- C. That a person shall not operate the Establishment on the Property without first applying for and obtaining a license in accordance with Section 11-1-4.04.A.2 of the City Code.**
- D. That a person shall not operate the Establishment on the Property unless the person complies with all applicable requirements of Section 11-1-4.04.A.2 of the City Code and all other applicable City ordinances and state laws, rules, and regulations.**

- E. That this ordinance does not permit, approve, authorize, or allow the extension of or the provision of City utilities, including water and wastewater, to any portion of the Establishment that is not located within the boundaries of the City.
- F. That the operator of the Establishment 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 Without Term are satisfied.

Letters of Objection:

As of March 31, 2025, staff has received 5 letters of objection. Due to the complexity of calculating the objection percentage for this particular property since some of the properties are partially outside City limits, an objection percentage has not been determined. But staff is working diligently to determine an objection percentage and will have the percentage calculated by the time of the meeting.

Attachments:

Application
Maps
Site Plan
PowerPoint
Objection Letters



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 A 16.66-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF COTTON FLAT ROAD AND ALTA VISTA DRIVE), WHICH IS PRESENTLY ZONED SF-1, SINGLE-FAMILY DWELLING DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR A VACATION TRAVEL TRAILER PARK; 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 a 16.66-acre tract of land out of Section 10, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas (the “Property”), said Property being more specifically described by metes and bounds in Exhibit A, which is attached hereto and incorporated herein, 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 a vacation travel trailer park (the “Establishment”), together with the uses permitted in the present SF-1, Single-Family Dwelling 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 Establishment shall significantly conform to the site plan, which is attached hereto as Exhibit B and incorporated herein for all purposes. For the avoidance of doubt, this condition shall not apply to any portion of the land shown in Exhibit B that is not located within the boundaries of the City.
- B. That the Establishment may be operated Monday through Sunday, 24 hours per day.
- C. That a person shall not operate the Establishment on the Property without first applying for and obtaining a license in accordance with Section 11-1-4.04.A.2 of the City Code.
- D. That a person shall not operate the Establishment on the Property unless the person complies with all applicable requirements of Section 11-1-4.04.A.2 of the City Code and all other applicable City ordinances and state laws, rules, and regulations.
- E. That this ordinance does not permit, approve, authorize, or allow the extension of or the provision of City utilities, including water and wastewater, to any portion of the Establishment that is not located within the boundaries of the City.
- F. That the operator of the Establishment 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 Without 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., 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:

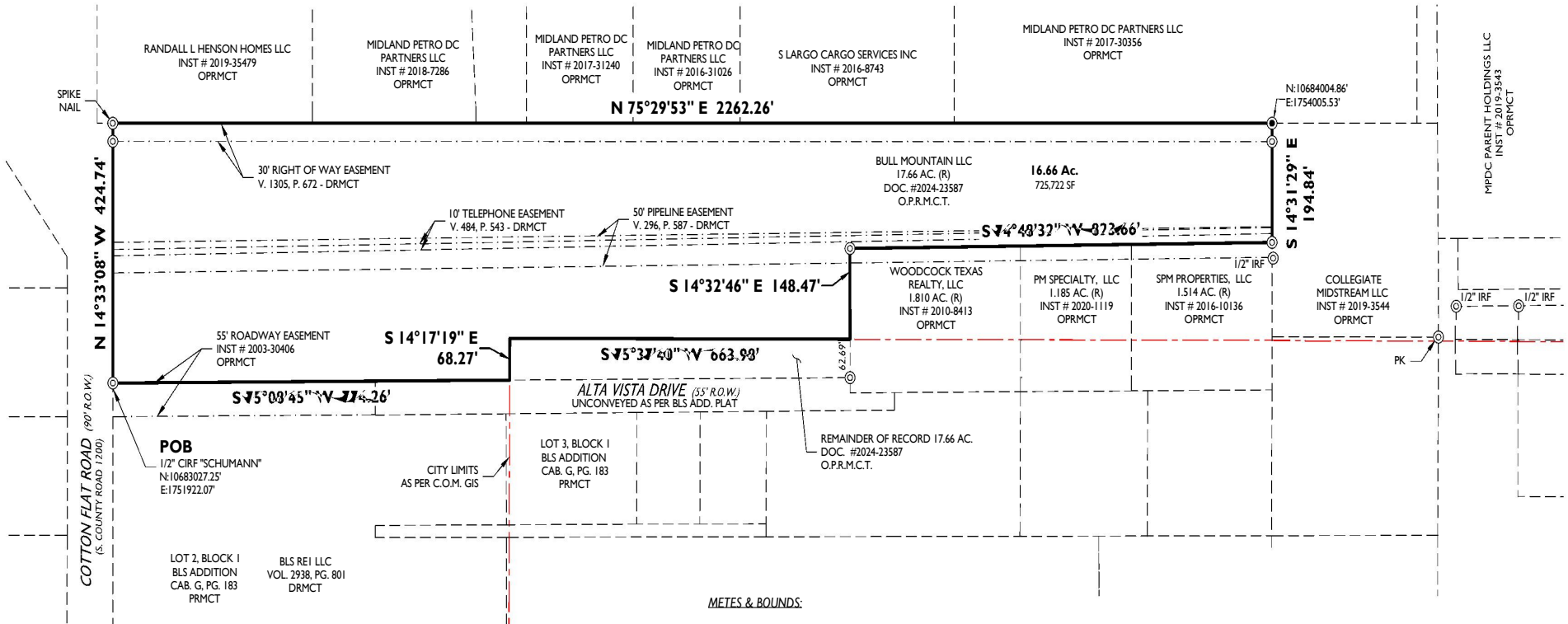
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

Nicholas Toulet, Interim City Attorney

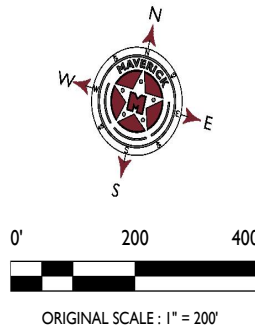


SURVEY NOTES:

- I. BASIS OF BEARING, COORDINATES, DISTANCES AND ACREAGE ARE A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NORTH AMERICAN DATUM 1983, U.S. SURVEY FOOT, WITH A CONVERGENCE ANGLE (theta) OF -0°54'48.40\"

LEGEND

- FOUND 1/2\"



METES & BOUNDS:

FIELD NOTE DESCRIPTION OF A 16.66 ACRE TRACT OF LAND, SITUATED IN SECTION 10, BLOCK 39, TOWNSHIP 2 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS AND BEING THE PORTION WITHIN THE CITY LIMITS OF THAT SAME TRACT AS DESCRIBED IN DOCUMENT NUMBER 2024-23587 OF THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT N(10683027.25, E(1751922.07), A ONE HALF INCH IRON ROD WITH A YELLOW PLASTIC CAP MARKED "SCHUMANN" (YPC) FOUND IN THE EAST LINE OF COTTON FLAT ROAD (SOUTH COUNTY ROAD 1200) AT THE NORTHWEST CORNER OF LOT 2, BLOCK 1, BLS ADDITION, AS SHOWN ON A PLAT RECORDED IN CABINET G ON PAGE 183 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, FOR THE SOUTHWEST CORNER HEREOF;

THENCE N.14°33'08"W., ALONG SAID COTTON FLAT ROAD, AT 370.56 FEET PASSING A "YPC" FOUND AT THE SOUTHWEST CORNER OF A CALLED 30 FOOT RIGHT OF WAY EASEMENT AS DESCRIBED AND DEPICTED IN VOLUME 1305 ON PAGE 672 IN SAID "OPR", IN ALL 424.74 FEET TO A SPIKE NAIL FOUND FOR THE NORTHWEST CORNER HEREOF;

THENCE N.75°29'53"E., ALONG THE NORTH LINE OF SAID RIGHT OF WAY EASEMENT 2262.26 FEET TO A ONE HALF INCH IRON ROD WITH A RED PLASTIC CAP MARKED "MAVERICK FIRM #10194514" SET FOR THE NORTHWEST CORNER OF A CALLED 2.58 ACRE TRACT IN DOCUMENT NUMBER 2019-3544 IN SAID "OPR" FOR THE NORTHEAST CORNER OF SAID RIGHT OF WAY EASEMENT FOR THE NORTHEAST CORNER HEREOF;

THENCE S.14°31'29"E., ALONG THE WEST LINE OF SAID CALLED 2.58 ACRE TRACT, AT 30.00 FEET PASSING A "YPC" FOUND FOR THE SOUTHEAST CORNER OF SAID RIGHT OF WAY EASEMENT, IN ALL 194.84 FEET TO A "YPC" FOUND AT THE NORTHEAST CORNER OF A CALLED 1.514 ACRE TRACT IN DOCUMENT NUMBER 2016-10136 OF SAID "OPR" FOR THE EAST SOUTHEAST CORNER HEREOF;

THENCE S.74°48'32"W., ALONG THE NORTH LINE OF SAID CALLED 1.514 ACRE TRACT, A CALLED 1.185 ACRE TRACT (2020-1119) 823.66 FEET TO A "YPC" FOUND AT THE NORTHWEST CORNER OF A CALLED 1.81 ACRE TRACT IN DOCUMENT NUMBER 2010-8413 IN SAID "OPR" FOR AN INTERIOR CORNER HEREOF;

THENCE S.14°32'46"E., ALONG SAID CALLED 1.81 ACRE TRACT 148.47 FEET TO A POINT ON THE CITY LIMITS LINE FROM WHICH A "YPC" FOUND IN THE NORTH LINE OF THE UNCONVEYED ALTA VISTA DRIVE BEARS S.14°32'46"E., 62.69 FEET FOR AN EXTERIOR CORNER HEREOF;

THENCE S.75°37'40"W., ALONG SAID CITY LIMITS LINE, 663.98 FEET TO AN ANGLE POINT HEREOF;

THENCE S.14°17'19"E., ALONG SAID CITY LIMITS, 68.27 FEET TO A POINT ON THE NORTH LINE OF THE UNCONVEYED ALTA VISTA FOR AN EXTERIOR CORNER HEREOF;

THENCE S.75°08'45"W., ALONG SAID ALTA VISTA DRIVE, AT 262.97 FEET PASSING AT OR NEAR THE NORTHEAST CORNER OF SAID BLS ADDITION, IN ALL 774.26 FEET TO THE POINT OF BEGINNING, CONTAINING 16.66 ACRES OF LAND.



MAVERICK

CIVIL ENGINEERING / LAND SURVEYING

1909 West Wall Street, Suite "K"

Midland, Texas 79701

ENGINEER FIRM #: F-15089

SURVEY FIRM #: 10194514

Tel: (432) 262-0999 Fax: (432) 262-0989

www.maverick-eng.com

PACKET

I, GREGORY W. SHOULTS, DO HEREBY CERTIFY THAT THE SURVEY INFORMATION FOUND ON THIS PLAT WAS DERIVED FROM FIELD NOTES AND/OR ELECTRONIC DATA OF AN ACTUAL ON-THE-GROUND SURVEY MADE BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND NO WARRANTY IS MADE OR INTENDED FOR THE LOCATION OF ANY OR ALL EASEMENTS THAT MAY EXIST WITHIN THE BOUNDS OF THIS SURVEY.

GREGORY W. SHOULTS, RPLS #5356
FIRM NO. TX #10194514

19.9

FEBRUARY 28, 2025

EXHIBIT A



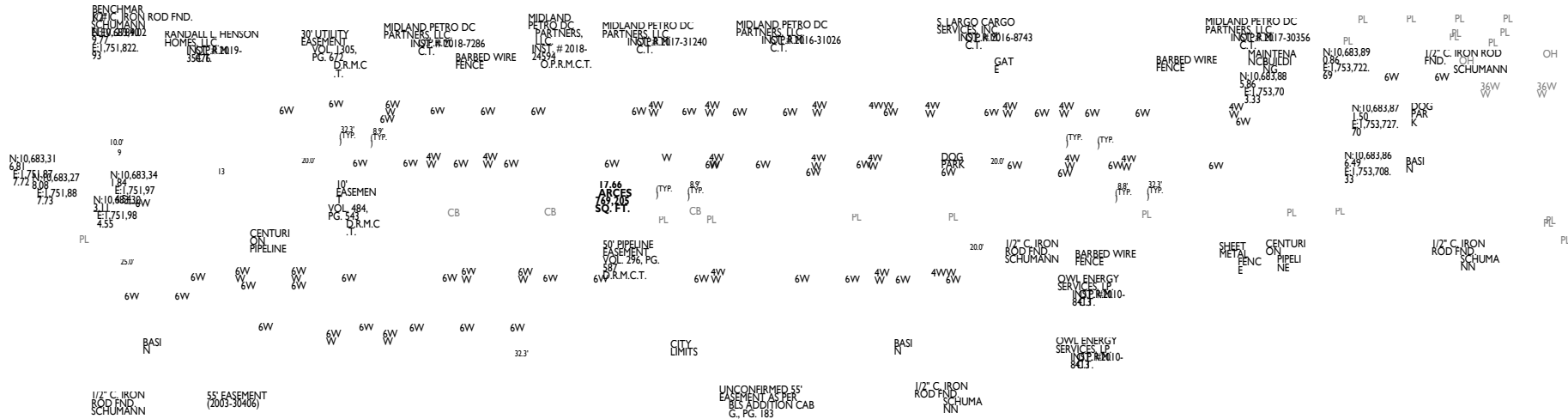
NOMAD RV PARK

SUD BOUNDARY EXHIBIT

April 22, 2025

OF A 16.66 ACRE TRACT OF LAND, SITUATED IN SECTION 10, BLOCK 39, TOWNSHIP 2 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

JOB NO.: 240176 FIELD WORK: 10.24.2024 DRAWN BY: AD REV 1: REV 2:



DEVELOPMENT NOTES:

- GENERAL: SITE PLAN IS FOR A PROPOSED ±4,000 SQUARE FOOT BUILDING AND A PROPOSED 17.66 TRACT OF LAND SHOWN IN SECTION 10, BLOCK 39, TOWNSHIP 2 SOUTH AND PACIFIC RAILWAY COMPANY SURVEY, COUNTY OF MIDLAND, TEXAS. THE PROPOSED BUILDING IS LOCATED NEAR THE INTERSECTION OF STATE HIGHWAY 163 AND COUNTY ROAD 183.
- BUILDING CONSTRUCTION: STRUCTURE IS PLANNED TO BE CONSTRUCTED WITH A MAXIMUM BUILDING HEIGHT OF 25' ET AND THE EAST STRUCTURE IS PLANNED TO BE CONSTRUCTED WITH A MAXIMUM BUILDING HEIGHT OF 10' ET.
- ACCESS: THE BUILDING IS PLANNED TO HAVE ONE (1) ACCESS POINT, OUT TO THE PROPERTY. ACCESS POINTS ARE PLANNED FOR BOTH INGRESS AND EGRESS.
- FIRE ACCESS: ACCESS FOR FIRE TRUCKS WILL BE ALONG THE PROPERTY LINE TO THE BUILDING OR ALONG THE ROAD.
- PARKING: ON-SITE PARKING WILL BE PROVIDED WITH 22 STANDARD PARKING SPACES AND AN ADDITIONAL 2 ACCESSIBLE PARKING SPACES.
- UTILITIES: PUBLIC UTILITIES ARE PRESENT. NEW WATER & SEWER SERVICE TAPS WILL BE REQUIRED.
- DRAINAGE: STORM WATER RUNOFF WILL BE DETAINED SO AS NOT TO INCREASE EXISTING PEAK RUNOFF.

FEMA FIRM NOTES:

COMMUNITY NUMBER	PANEL NUMBER	SUFFIX	DATE OF FIRM	ZONE	BASE FLOOD ELEVATION
481239	0204	F	09/16/2003	X	N/A

THE PLAN MATERIALLY ADHERES TO ALL APPLICABLE ZONING, SITE DEVELOPMENT, AND BUILDING CODE REQUIREMENTS.

PARKING CALCULATIONS:

TRADITIONAL PARKING SPACES = 22
RV PARKING SPACES = 1
BURN COVERED PARKING SPACES PROVIDED = 11
TOTAL PARKING SPACES PROVIDED = 34

LANDSCAPE NOTES:

- LANDSCAPING ELEMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATIVE PURPOSES ONLY, AND ARE NOT TO BE CONSIDERED AS A REQUIREMENT FOR ANY LANDSCAPING.

SITE LOCATION

VICINITY MAP

MIDLAND, TEXAS

April 22, 2025

PACKET

EXHIBIT B

Know what's



Specific Use Designation Application (Non-Alcohol)

Project Number:

Case Number:

SUDwo-25-0046

Applicant (if acting as Agent, see affidavit on page 2) Printed Name: BULL MOUNTAIN LLC		Phone (254) 631-7787 Email: zachrobinson87@gmail.com	
Address 132 LEGACY CANYON DRIVE	City CISCO	State TX	Zip 76437

Property Owner Printed Name: SEE APPLICANT		Phone () Email:	
Address	City	State	Zip

Representative (if different from Applicant or Property Owner) Firm: MAVERICK ENGINEERING Printed Name: ASHLEE DEVINE		Phone (432) 262-0999 Email: adevine@maverick-eng.com	
Address 1909 W WALL STREET, SUITE K	City MIDLAND	State TX	Zip 79701

Type of Permit:	For Office Use Only ☐ with Term ☐ without Term
Is there any Code Enforcement action pending on property? ☐ Yes ☒ No	

Street Address: N/A
Legal Description Lot: Block: Subdivision: SEE ATTACHED

Current Zoning: SF1
Maximum Floor Area: N/A Maximum Occupancy: 122
Proposed hours and days of use or operation: 24/7
Reason for request: TO BE ABLE TO INSTALL LUXURY RV PARK
Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: THE PROJECT IS SURROUNDED BY LIGHT INDUSTRIAL THE ACCESS FOR TRUCKS AND TRAILERS SHOULD NOT COMPROMISE THE BUSINESSES IN THE AREA

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

Signed by: [Signature] Date: 1/22/2025

Applicant (signature): [Signature]
 Applicant (printed): Zach Robinson

Property Owner (signature): SEE APPLICANT Date:

Property Owner (printed): SEE APPLICANT

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.

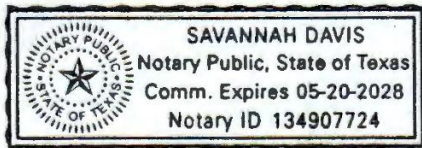
If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

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 Zach Robinson, 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.

Ashlee Devine
 Authorized Agent (signature)

Subscribed and sworn to before me, this 22nd day of January, 20 25, to certify which witness my hand and seal of office.



[Signature]
 NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☒ Property Owner Authorization

☒ Dimensioned Site Plan

☒ Application Fee

☒ Site Plan in Digital Format (PDF/JPEG)

Check # 5161

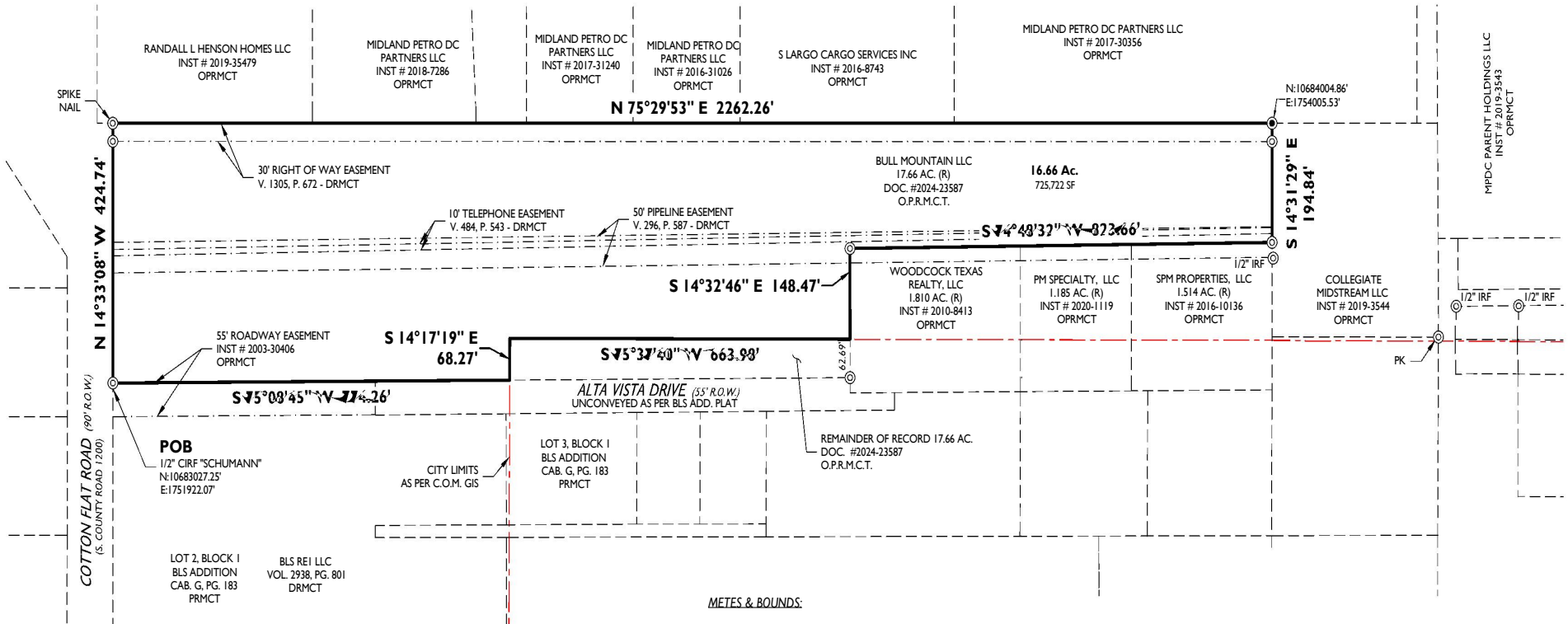
Received By: [Signature]

Date:

RECEIVED

JAN 23 2025

Initial: A.M.

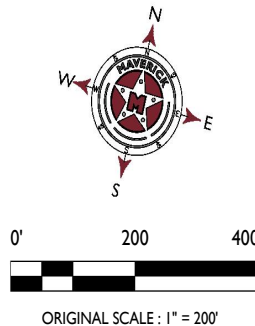


SURVEY NOTES:

- I. BASIS OF BEARING, COORDINATES, DISTANCES AND ACREAGE ARE A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NORTH AMERICAN DATUM 1983, U.S. SURVEY FOOT, WITH A CONVERGENCE ANGLE (theta) OF -0°54'48.40\"

LEGEND

- FOUND 1/2\"



METES & BOUNDS:

FIELD NOTE DESCRIPTION OF A 16.66 ACRE TRACT OF LAND, SITUATED IN SECTION 10, BLOCK 39, TOWNSHIP 2 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS AND BEING THE PORTION WITHIN THE CITY LIMITS OF THAT SAME TRACT AS DESCRIBED IN DOCUMENT NUMBER 2024-23587 OF THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT N(10683027.25, E(1751922.07), A ONE HALF INCH IRON ROD WITH A YELLOW PLASTIC CAP MARKED "SCHUMANN" (YPC) FOUND IN THE EAST LINE OF COTTON FLAT ROAD (SOUTH COUNTY ROAD 1200) AT THE NORTHWEST CORNER OF LOT 2, BLOCK 1, BLS ADDITION, AS SHOWN ON A PLAT RECORDED IN CABINET G ON PAGE 183 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, FOR THE SOUTHWEST CORNER HEREOF;

THENCE N.14°33'08"W., ALONG SAID COTTON FLAT ROAD, AT 370.56 FEET PASSING A "YPC" FOUND AT THE SOUTHWEST CORNER OF A CALLED 30 FOOT RIGHT OF WAY EASEMENT AS DESCRIBED AND DEPICTED IN VOLUME 1305 ON PAGE 672 IN SAID "OPR", IN ALL 424.74 FEET TO A SPIKE NAIL FOUND FOR THE NORTHWEST CORNER HEREOF;

THENCE N.75°29'53"E., ALONG THE NORTH LINE OF SAID RIGHT OF WAY EASEMENT 2262.26 FEET TO A ONE HALF INCH IRON ROD WITH A RED PLASTIC CAP MARKED "MAVERICK FIRM #10194514" SET FOR THE NORTHWEST CORNER OF A CALLED 2.58 ACRE TRACT IN DOCUMENT NUMBER 2019-3544 IN SAID "OPR" FOR THE NORTHEAST CORNER OF SAID RIGHT OF WAY EASEMENT FOR THE NORTHEAST CORNER HEREOF;

THENCE S.14°31'29"E., ALONG THE WEST LINE OF SAID CALLED 2.58 ACRE TRACT, AT 30.00 FEET PASSING A "YPC" FOUND FOR THE SOUTHEAST CORNER OF SAID RIGHT OF WAY EASEMENT, IN ALL 194.84 FEET TO A "YPC" FOUND AT THE NORTHEAST CORNER OF A CALLED 1.514 ACRE TRACT IN DOCUMENT NUMBER 2016-10136 OF SAID "OPR" FOR THE EAST SOUTHEAST CORNER HEREOF;

THENCE S.74°48'32"W., ALONG THE NORTH LINE OF SAID CALLED 1.514 ACRE TRACT, A CALLED 1.185 ACRE TRACT (2020-1119) 823.66 FEET TO A "YPC" FOUND AT THE NORTHWEST CORNER OF A CALLED 1.81 ACRE TRACT IN DOCUMENT NUMBER 2010-8413 IN SAID "OPR" FOR AN INTERIOR CORNER HEREOF;

THENCE S.14°32'46"E., ALONG SAID CALLED 1.81 ACRE TRACT 148.47 FEET TO A POINT ON THE CITY LIMITS LINE FROM WHICH A "YPC" FOUND IN THE NORTH LINE OF THE UNCONVEYED ALTA VISTA DRIVE BEARS S.14°32'46"E., 62.69 FEET FOR AN EXTERIOR CORNER HEREOF;

THENCE S.75°37'40"W., ALONG SAID CITY LIMITS LINE, 663.98 FEET TO AN ANGLE POINT HEREOF;

THENCE S.14°17'19"E., ALONG SAID CITY LIMITS, 68.27 FEET TO A POINT ON THE NORTH LINE OF THE UNCONVEYED ALTA VISTA FOR AN EXTERIOR CORNER HEREOF;

THENCE S.75°08'45"W., ALONG SAID ALTA VISTA DRIVE, AT 262.97 FEET PASSING AT OR NEAR THE NORTHEAST CORNER OF SAID BLS ADDITION, IN ALL 774.26 FEET TO THE POINT OF BEGINNING, CONTAINING 16.66 ACRES OF LAND.



MAVERICK

CIVIL ENGINEERING / LAND SURVEYING

1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514

Tel: (432) 262-0999 Fax: (432) 262-0989

www.maverick-eng.com

PACKET

JOB NO.: 240176 FIELD WORK: 10.24.2024 DRAWN BY: AD REV 1: REV 2:

I, GREGORY W. SHOULTS, DO HEREBY CERTIFY THAT THE SURVEY INFORMATION FOUND ON THIS PLAT WAS DERIVED FROM FIELD NOTES AND/OR ELECTRONIC DATA OF AN ACTUAL ON-THE-GROUND SURVEY MADE BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND NO WARRANTY IS MADE OR INTENDED FOR THE LOCATION OF ANY OR ALL EASEMENTS THAT MAY EXIST WITHIN THE BOUNDS OF THIS SURVEY.

GREGORY W. SHOULTS, RPLS #5356
FIRM NO. TX #10194514

19.13

FEBRUARY 28, 2025

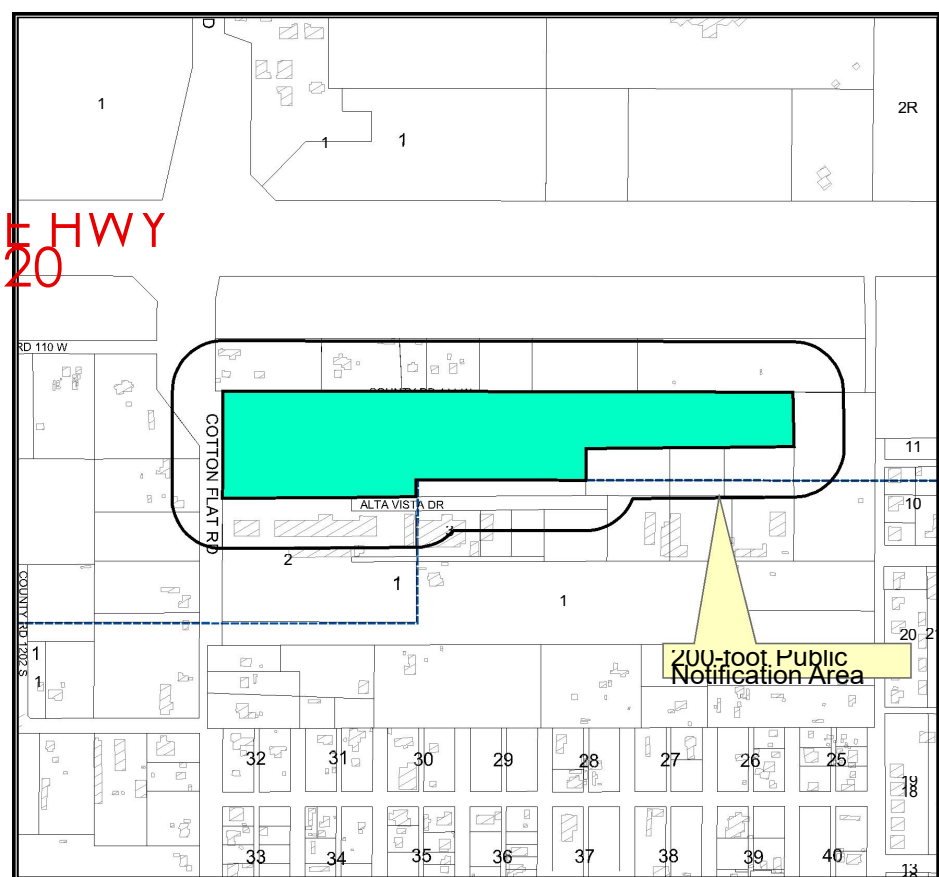


NOMAD RV PARK

SUD BOUNDARY EXHIBIT

April 22, 2025

OF A 16.66 ACRE TRACT OF LAND, SITUATED IN SECTION 10, BLOCK 39, TOWNSHIP 2 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS



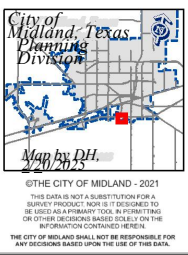
5

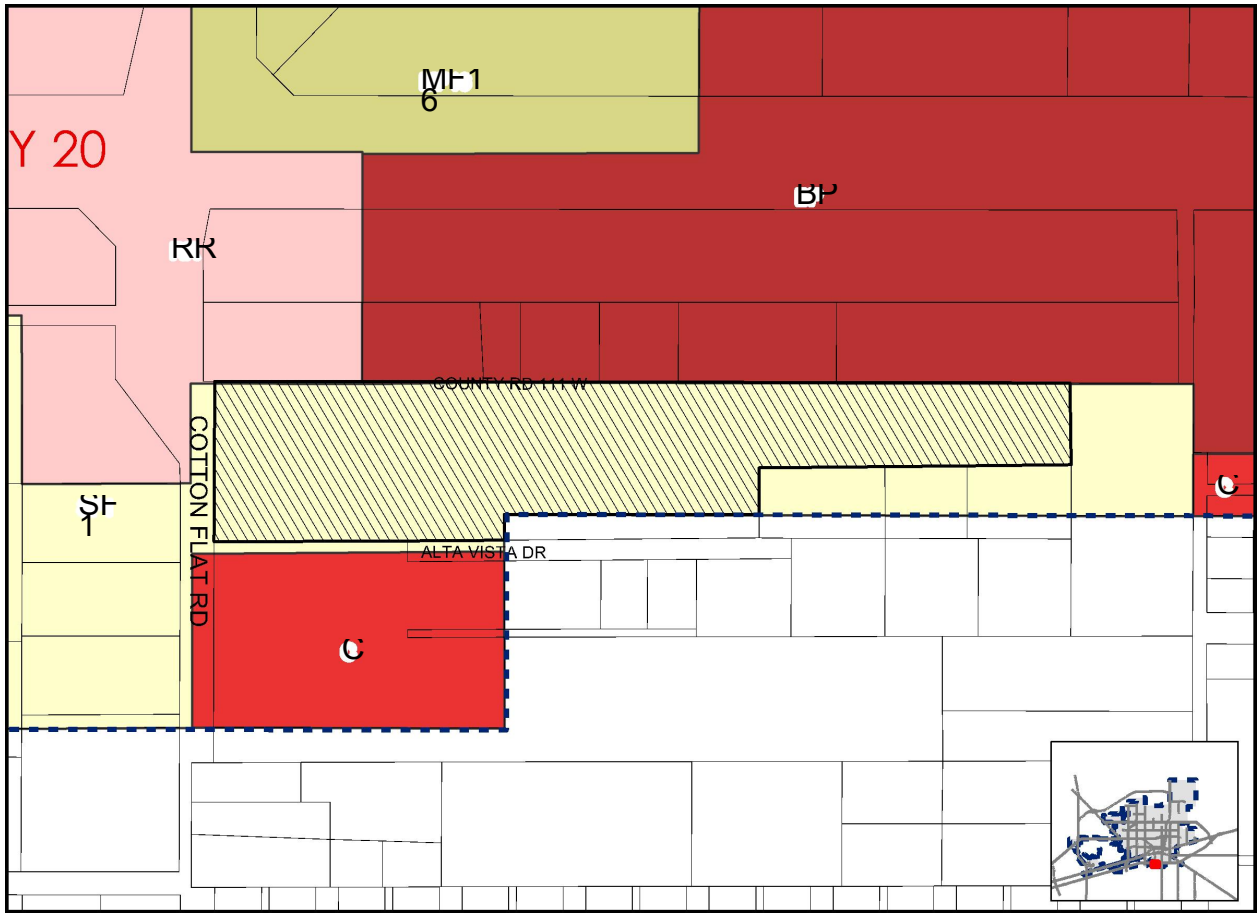
Location Map

SUDwo-25-0046
 Consider a request by Maverick Engineering, on behalf of Bull Mountain LLC, for a Specific Use Designation without Term for a Vacation Travel Trailer Park, on a 16.66-acre tract of land located at the northwest corner of Section 10, intersection of Cotton Flat Road and Alta Vista Drive and County of Midland (Council District 2)

Scale: 1" = 465'

LEGEND
 CITY LIMITS
 PARCEL
 PRIVATE BLDGS





Map 12/15

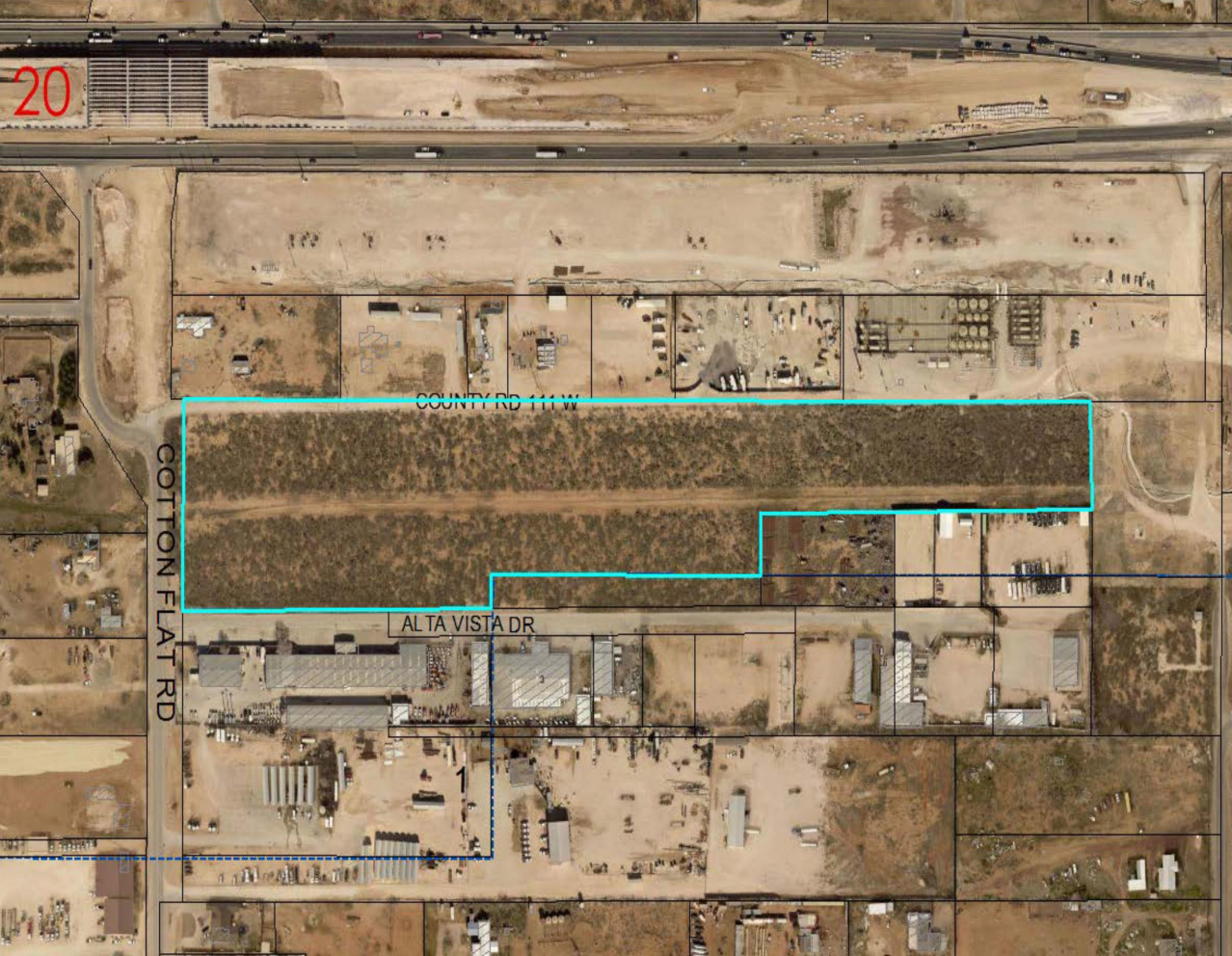
SUDwo-
25-0046

Scale: 1" = 310'

**ZONING
MAP**



© THE CITY OF MIDLAND - 2021. THIS DATA IS NOT A SUBSTITUTE 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.





BULL MOUNTAIN LLC (RV PARK)

ITEM

SPECIFIC USE DESIGNATION WITHOUT TERM



Visit Our Website

MIDLANDTEXAS.GOV

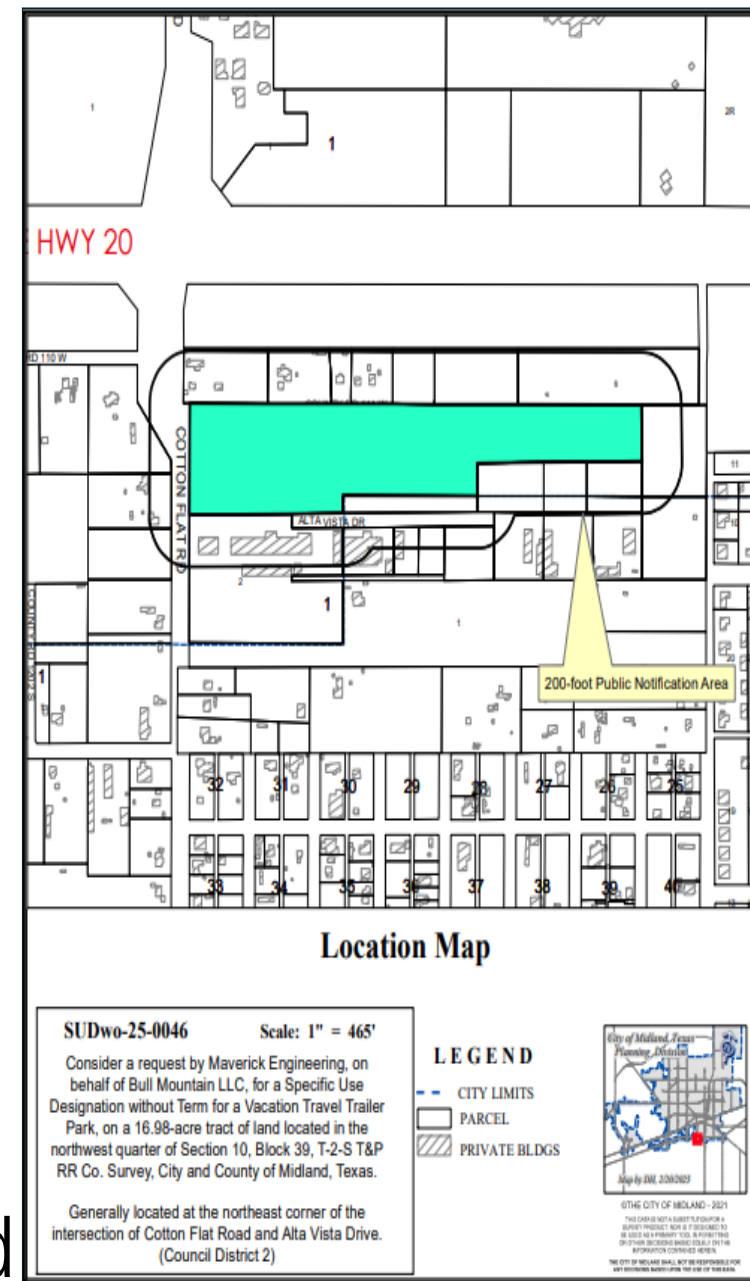
PACKET

19.19

April 22, 2025

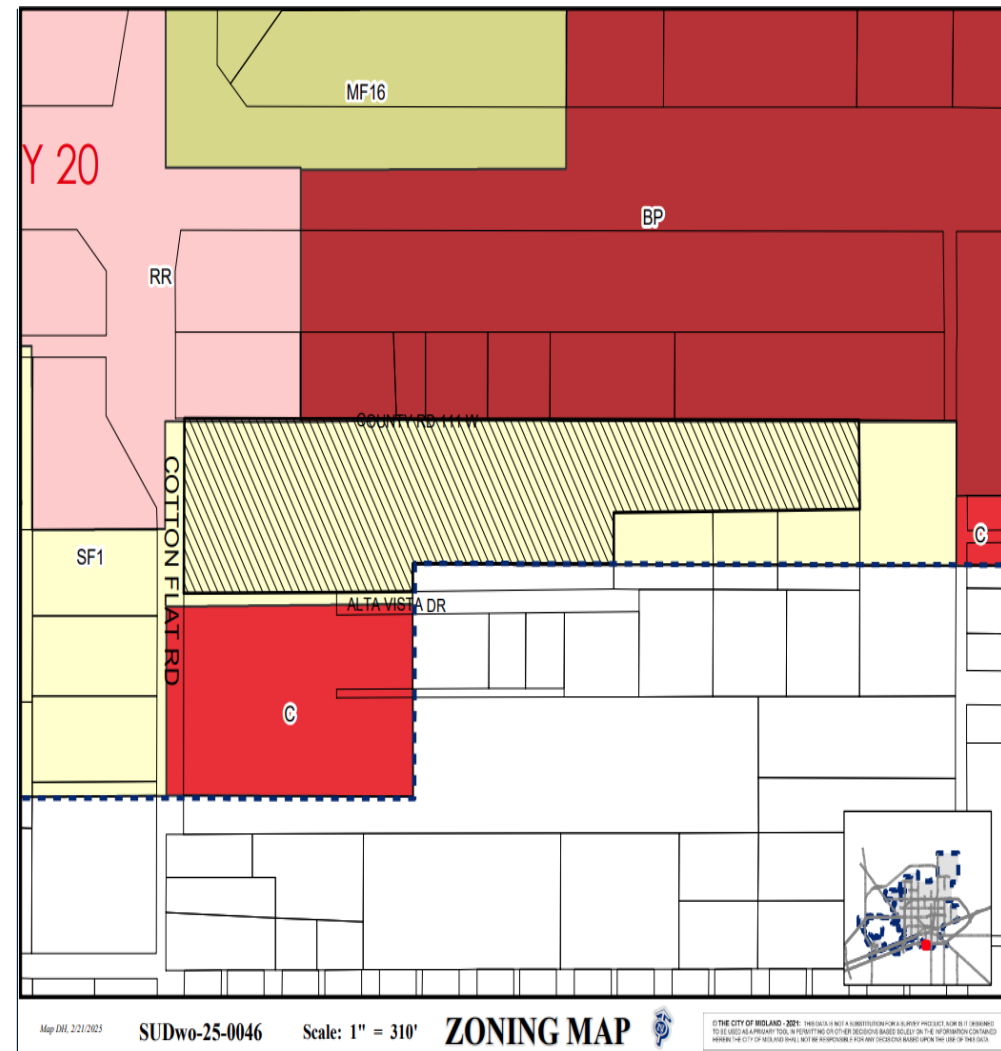
APPLICATION SUMMARY

- **Property Owner & Developer:** Bull Mountain LLC
- **Representative:** Ashlee Devine, with Maverick Engineering
- **Application Type:** Specific Use Designation Without Term
- **Address:** Generally located at the northeast corner of the intersection of Cotton Flat Road and Alta Vista Drive (District 2 and ETJ)



ZONING

- **Current Zoning:** SF-1, Single-Family Dwelling District
- **Surrounding Zoning:**
 - **North:** RR, Regional Retail District, and BP, I-20 Business Park District
 - **South:** C, Commercial District and ETJ, Extraterritorial Jurisdiction



ZONING

- **East:** SF-1, Single-Family Dwelling District and ETJ, Extraterritorial Jurisdiction
- **West:** SF-1, Single-Family Dwelling District and RR, Regional Retail District

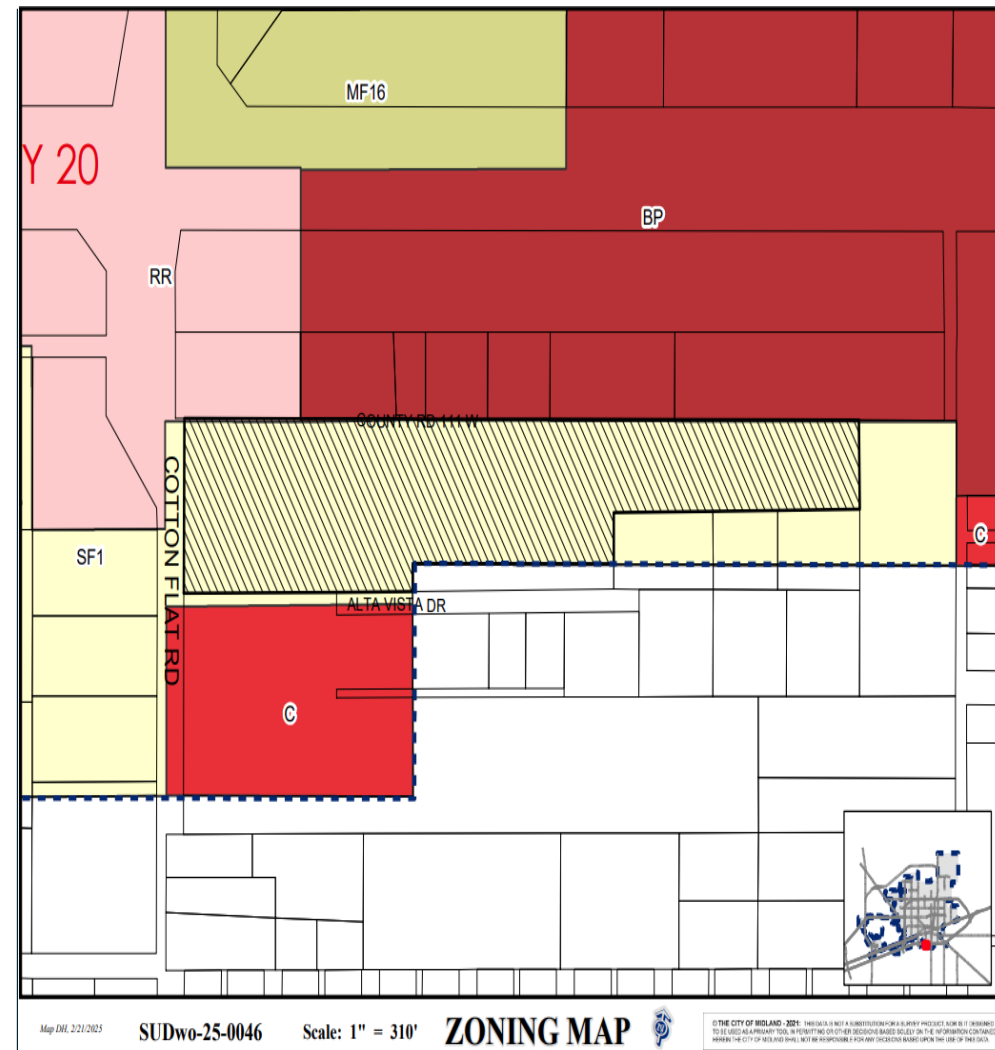
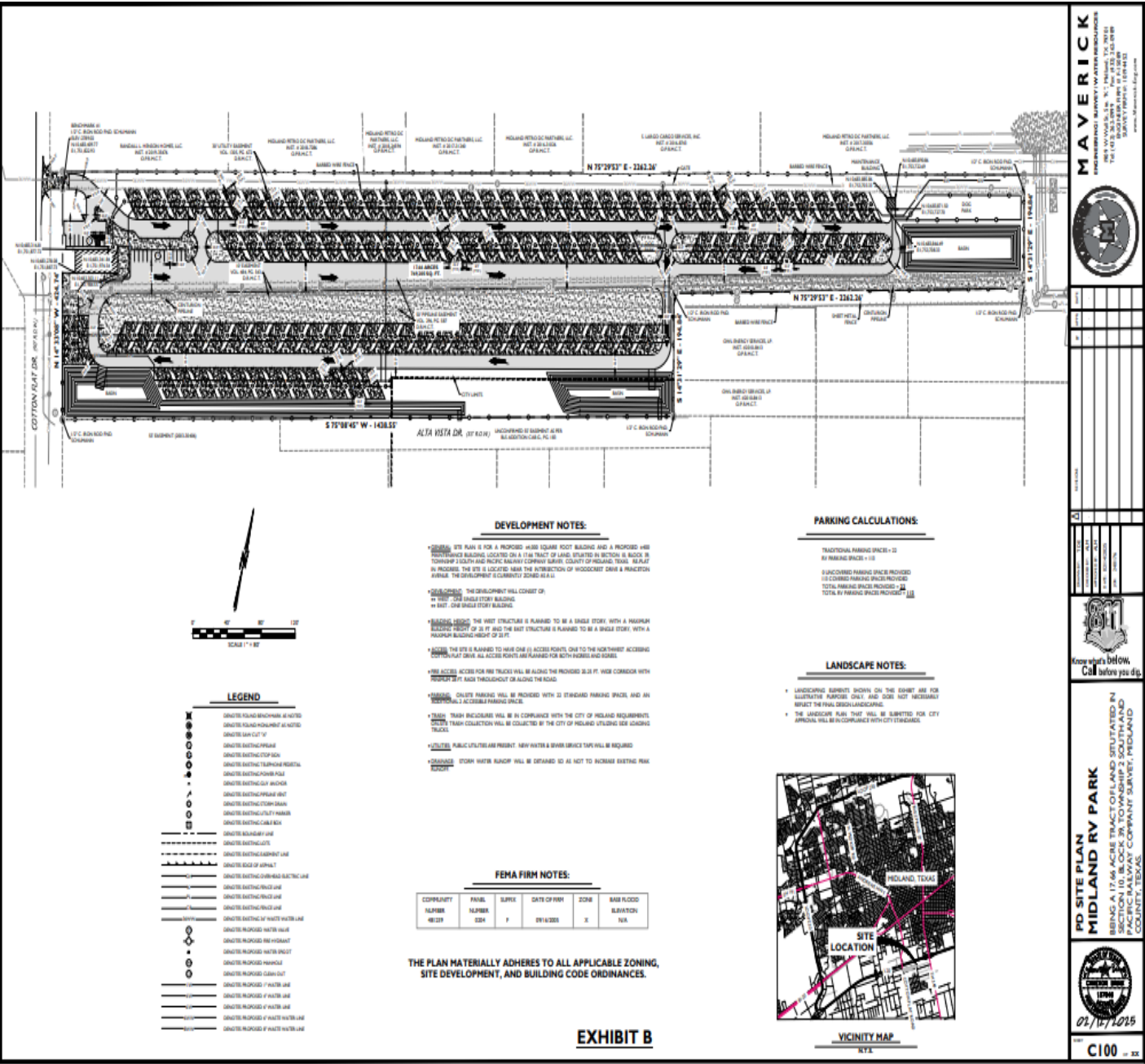


EXHIBIT B



LAND USE

- **Current Use:** Vacant lot
- **Proposed Use:** Vacation Travel Trailer Park
- **Surrounding Uses:**
 - **North:** Oil field, single-family residential and vacant lots
 - **South:** Water well drilling services and vehicle dent repair services
 - **East:** Vacant lot
 - **West:** Single-family residential



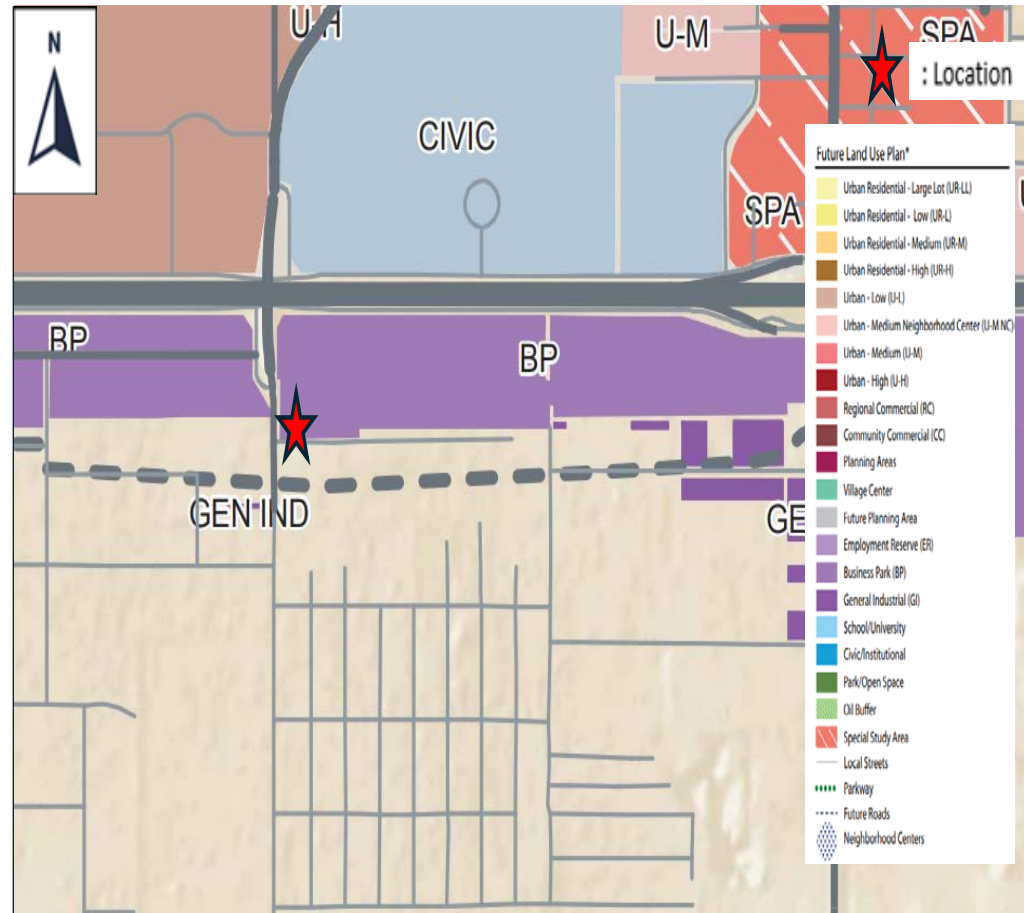
LAND USE



On Alta Vista Drive, Looking North

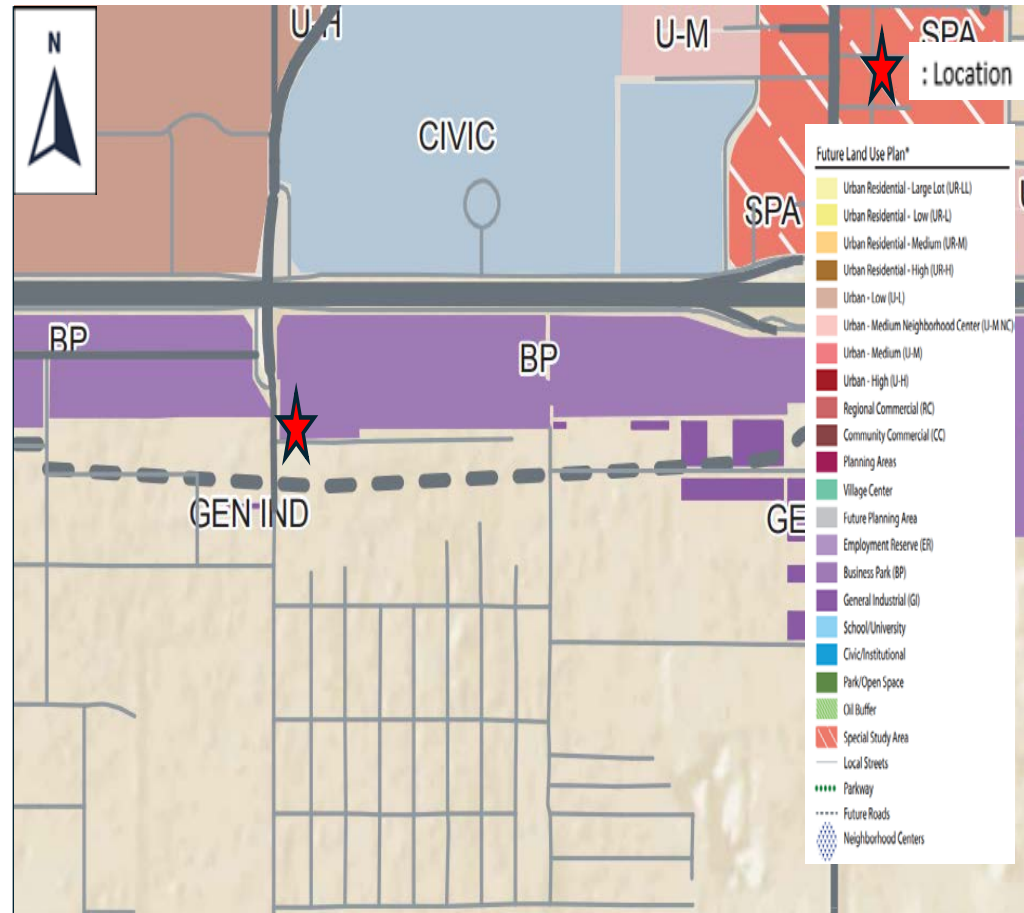
COMPREHENSIVE PLAN ANALYSIS

- **TCT Land Use Designation:**
 - Business Park I-20 (BP)
- **Supported Uses:**
 - Warehousing and distribution
 - Larger scale visitor services located at the major intersections



COMPREHENSIVE PLAN ANALYSIS

- Multifamily may be appropriate when integrated as part of a holistic development that incorporates retail and office uses.
- Land use is **compatible** with surrounding area & TCT Plan



RELATED ITEMS

- The sketch plat associated with this request was submitted on January 24, 2025.
- This request was recommended for approval by the Planning & Zoning Commission on March 3, 2025.



STAFF'S RECOMMENDATION

- Staff has received 5 objections.
- Staff recommends approval of the request of the Specific Use Designation without Term for a Vacation Travel Trailer Park, subject to Conditions A through F.



STAFF'S RECOMMENDATION

- A. That the use and development of the Property for the Establishment shall significantly conform to the site plan, which is attached hereto as Exhibit B and incorporated herein for all purposes. For the avoidance of doubt, this condition shall not apply to any portion of the land shown in Exhibit B that is not located within the boundaries of the City.
- B. That the Establishment may be operated Monday through Sunday, 24 hours per day.



STAFF'S RECOMMENDATION

- C. That a person shall not operate the Establishment on the Property without first applying for and obtaining a license in accordance with Section 11-1-4.04.A.2 of the City Code.
- D. That a person shall not operate the Establishment on the Property unless the person complies with all applicable requirements of Section 11-1-4.04.A.2 of the City Code and all other applicable City ordinances and state laws, rules, and regulations.



STAFF'S RECOMMENDATION

- E. That this ordinance does not permit, approve, authorize, or allow the extension of or the provision of City utilities, including water and wastewater, to any portion of the Establishment that is not located within the boundaries of the City.
- F. That the operator of the Establishment 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 Without 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: 26

Meeting Date: April 8, 2025, April 22, 2025

To: City Council / City Manager

From: Britton Murry, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR THE WEST HALF OF LOT 6 AND ALL OF LOTS 7 AND 8, BLOCK 3, PARKLEA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 80 FEET EAST OF WEST CIRCLE DRIVE), 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 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

Heliodoro Gaytan is requesting a Specific Use Designation without Term for an Automobile or Other Motorized Vehicle Sales and Service on a property located at 2810 West Wall Street.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority: Quality

of Life and Place

Discussion:

Surrounding Zoning and Land Use:

The surrounding zoning to the north is SF-2, Single-Family Dwelling District. The surrounding properties to the south, east and west are zoned RR, Regional Retail District.

Surrounding land uses to the north consist of a residential neighborhood and a tire shop. Land use to the south consists of a residential neighborhood and a bakery store. Surrounding land use to the east and south consist of a moving company and an auto parts store.

Analysis:

The property is located at 2810 West Wall Street and is currently being developed into an *Automobile or Other Motorized Vehicle Sales and Service*. The property is zoned RR, Regional Retail District which allows for the use of *Automobile or Other Motorized Vehicle Sales and Service* with a Specific Use Designation with a Term. Per the definition of *Automobile or Other Motorized Vehicle Sales and Service* 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 hours of operation for the Doksa Motors Dealership are:

Monday through Saturday from 9:00 a.m. to 7:00 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 7:00 p.m.

The Tall City Tomorrow Comprehensive Plan designated this area as a Special Study Area. The special study area designation has no specific policies established for future land use. The Doksa Motors Dealership and the Automobile or Other Motorized Vehicle Sales and Service is a use that is complementary to the surrounding land use.

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

Oil and Gas: (Approved)

No Oil & Gas issues

Planning:

The Planning & Zoning Commission recommended approval of this request on March 17, 2025.

This request meets all requirements; therefore, staff recommends approval of the request for 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 Without Term are satisfied.

Letters of Objection:

As of April 4, 2025, staff no objections have been received.

Attachments:

Application

Maps

Photos

PowerPoint

For E. Out

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 THE WEST HALF OF LOT 6 AND ALL OF LOTS 7 AND 8, BLOCK 3, PARKLEA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 80 FEET EAST OF WEST CIRCLE DRIVE), 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 the west half of Lot 6 and all of Lots 7 and 8, Block 3, Parklea 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 Without 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., 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:

Nicholas Toulet, Interim City Attorney

PARKLEA ADDITION
CAB. B, PG. 116
P.R.M.C.T.

ALLEY (20' R.O.W.)

N 38°53'00" E 125.00' (RECORD)

CHAIN LINK FENCE

W/2 LOT 6
LOTS 7-8
BLOCK 3

CHAIN LINK FENCE

EXISTING
BUILDING
±600 SF

CHAIN LINK FENCE

ASPHALT DRIVE

EXISTING BUILDING
±3,750 SF
11 PARKING SPACES
PROVIDED

N 51°10'00" W 132.64' (RECORD)

CHAIN LINK FENCE

S 51°10'00" E 132.64' (RECORD)

ASPHALT DRIVE

S 38°53'00" W 125.00' (RECORD)

W. WALL STREET

PACKET

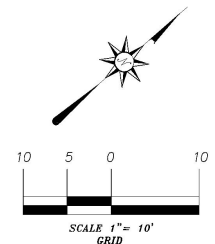
20.8

SITE PLAN 2810 W. WALL ST.

WEST-HALF OF LOT SIX (6) AND ALL OF LOTS
SEVEN (7) AND EIGHT (8), BLOCK THREE (3),
PARKLEA ADDITION, AN ADDITION TO THE CITY
OF MIDLAND, MIDLAND COUNTY, TEXAS
ACCORDING TO THE MAP OR PLAT THEREOF,
RECORDED IN CABINET B, PAGE 116, PLAT
RECORDS, MIDLAND COUNTY, TEXAS

EXHIBIT

A



April 22, 2025
SAM

15 Smith Road
Suite 2000
Midland, Texas 79705
Ofc: 432.520.2400
Fax: 432.520.2404
email: info@sam.biz

Texas Firm Registration No. 10064300



**Specific Use Designation
Application (Non-Alcohol)**

Case Number: Sub 200-25-0047

Ord. Number: _____

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: _____

Phone ()
Email _____

Address _____

City _____

State _____

Zip _____

Property Owner

Printed Name: Heliadora Gaytan

Phone (432) 528-1670
Email h.gaytan@yahoo.com

Address 1318 E Jax

City Midland

State TX

Zip 79701

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: _____

Phone ()
Email _____

Address _____

City _____

State _____

Zip _____

Type of Permit:

For Office Use Only

☐ with Term ☐ without Term

Is there any Code Enforcement action pending on property? ☐ Yes ☐ No

Street Address: 2810 W WALL ST

Legal Description

Lot: 7 & 8 Block: 003 Subdivision: Parklea

Current Zoning:

Maximum Floor Area: _____

Maximum Occupancy: _____

Proposed hours and days of use or operation: 9-7

Reason for request: Required By zoning

Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: NO

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

Applicant (signature):

Anita Martinez

Date:

1/22/25

Applicant (printed):

Anita Martinez

Property Owner (signature):

Heliodoro Graytan

Date:

1/22/25

Property Owner (printed):

Heliodoro Graytan

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.

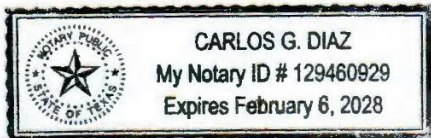
If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Anita Martinez who, being by me duly sworn, upon oath says: That (s)he is authorized by Heliodoro Graytan, 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 22nd day of January, 2025, 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

☐ Site Plan in Digital Format (PDF/JPEG)

Check # _____

Received By: _____

Date: _____

****Application will not be considered for scheduling until reviewed by a planner.****

PACKET

20.10

April 22, 2025

PARKLEA ADDITION
CAB. B, PG. 116
P.R.M.C.T.

ALLEY (20' R.O.W.)

N 38°53'00" E 125.00' (RECORD)

CHAIN LINK FENCE

W/2 LOT 6
LOTS 7-8
BLOCK 3

CHAIN LINK FENCE

EXISTING
BUILDING
±600 SF

CHAIN LINK FENCE

ASPHALT DRIVE

EXISTING BUILDING
±3,750 SF
11 PARKING SPACES
PROVIDED

N 51°10'00" W 132.64' (RECORD)

CHAIN LINK FENCE

S 51°10'00" E 132.64' (RECORD)

ASPHALT DRIVE

S 38°53'00" W 125.00' (RECORD)

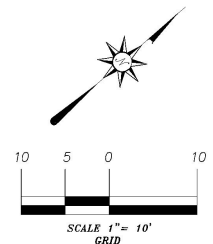
W. WALL STREET

PACKET

20.11

SITE PLAN 2810 W. WALL ST.

WEST-HALF OF LOT SIX (6) AND ALL OF LOTS
SEVEN (7) AND EIGHT (8), BLOCK THREE (3),
PARKLEA ADDITION, AN ADDITION TO THE CITY
OF MIDLAND, MIDLAND COUNTY, TEXAS
ACCORDING TO THE MAP OR PLAT THEREOF,
RECORDED IN CABINET B, PAGE 116, PLAT
RECORDS, MIDLAND COUNTY, TEXAS



51' 11 - 3/4

70' 7 - 7/8

GARAGE DOOR
12X12

WAREHOUSE
34X50

RESTROOM
3'2"

RESTROOM
7'2"

WATER HEATER
4'2"

OFFICE
13'X9'

10'X10'

OFFICE
13.5'X18'

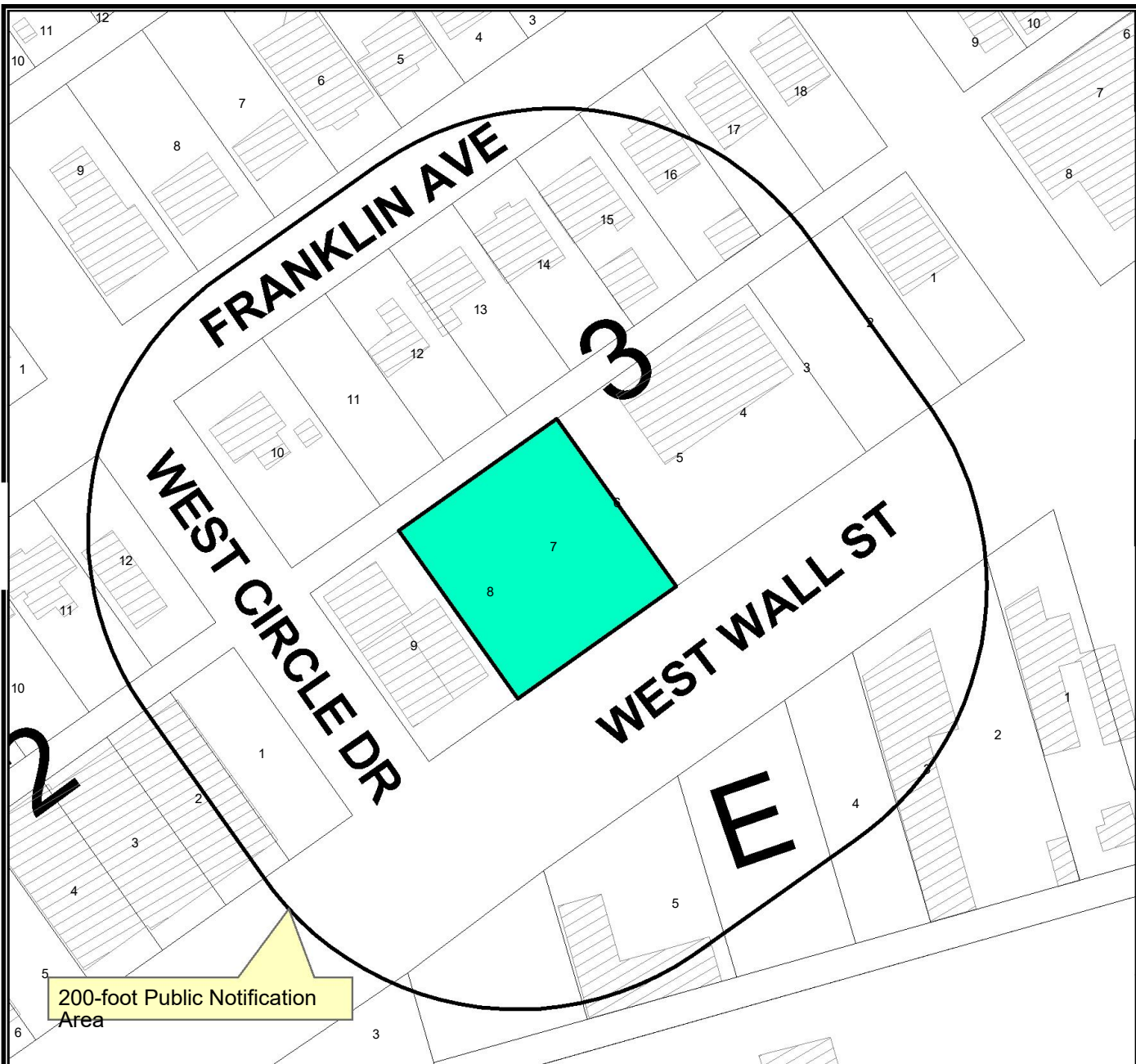
BREAKROOM
8.5'X18'

13'X14'

OFFICE
10'X8.5'

SHOWROOM
35'X26'

2810 W. WALL ST.
MIDLAND, TX 79701



Location Map

SUDwo-25-0047

Scale: 1" = 93'

Consider a request by Heliodoro Gaytan, for a Specific Use Designation without Term for Automobile or Other Motorized Vehicle Sales and Service on all of Lots 7 and 8, and the western quarter of lot 6, Block 3, Parklea Addition, City and County of Midland, Texas. Parcel is located on the north side of West Wall Street, approximately 80 feet east of West

LEGEND

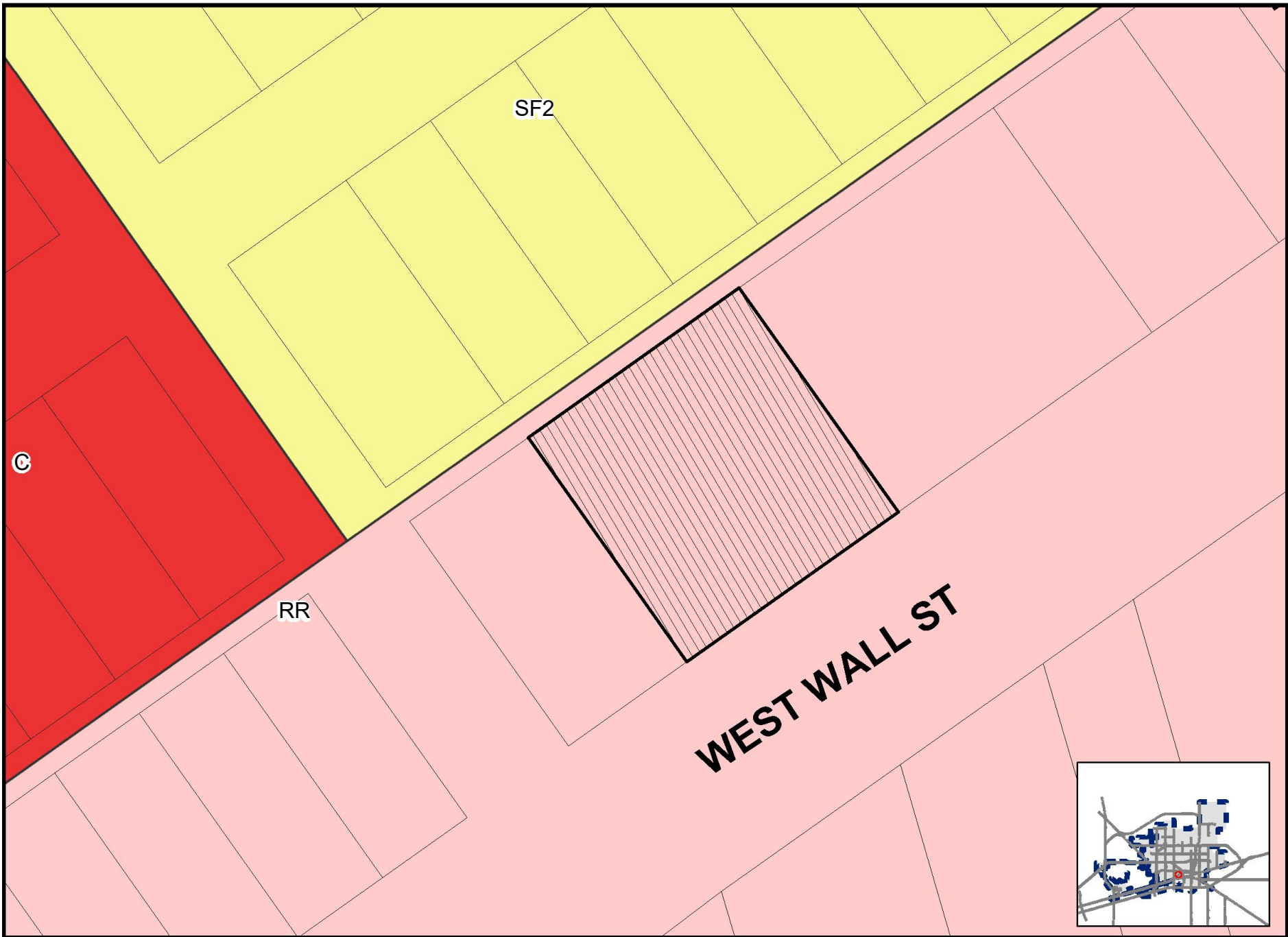
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

Circle Drive. (Council District 2)



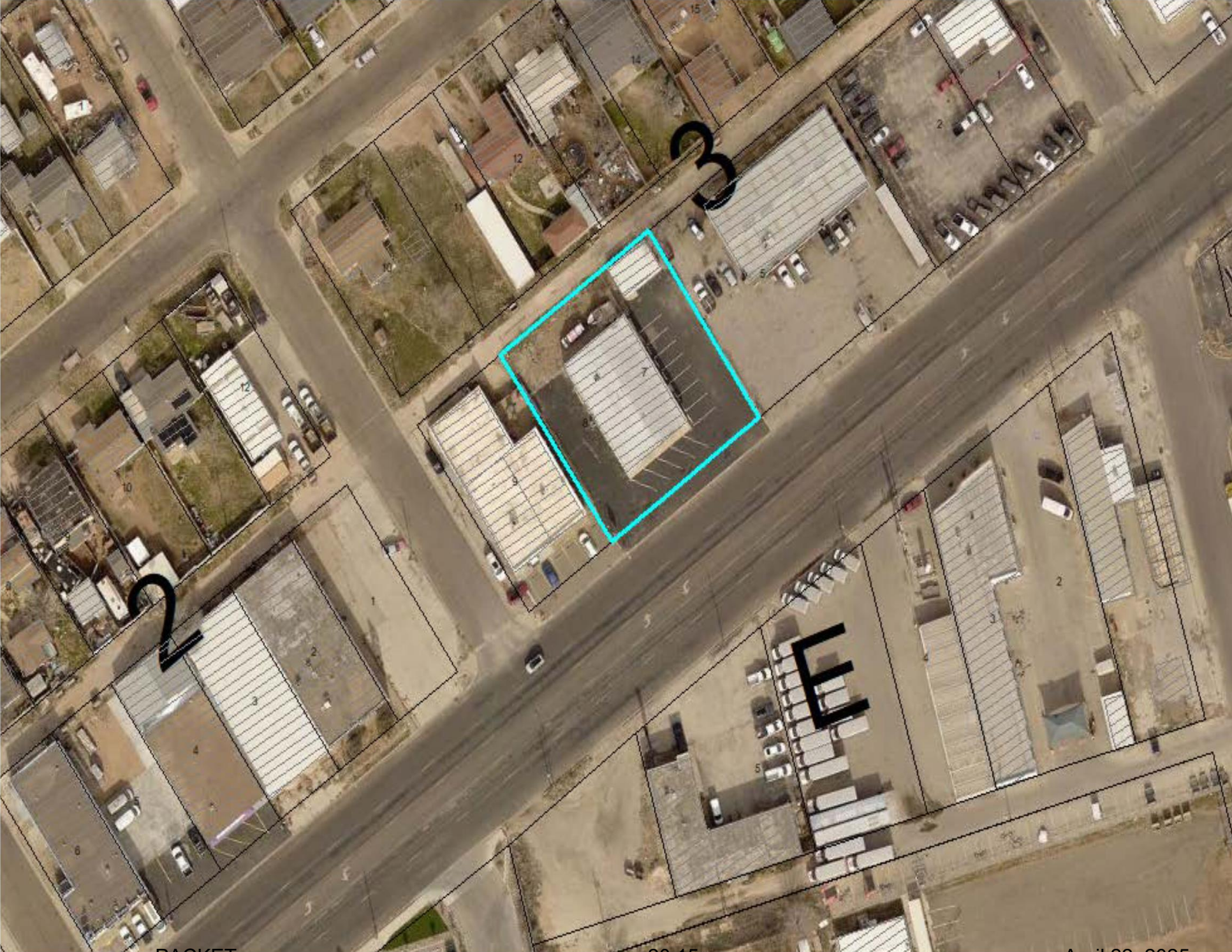
Map BM, 2/10/2025

SUDwo-25-0047
PACKET

Scale: 1" = 58'

ZONING
MAP 20.14

April 22, 2025







2810 WEST WALL STREET

SPECIFIC USE DESIGNATION WITHOUT TERM



Visit Our Website

MIDLANDTEXAS.GOV

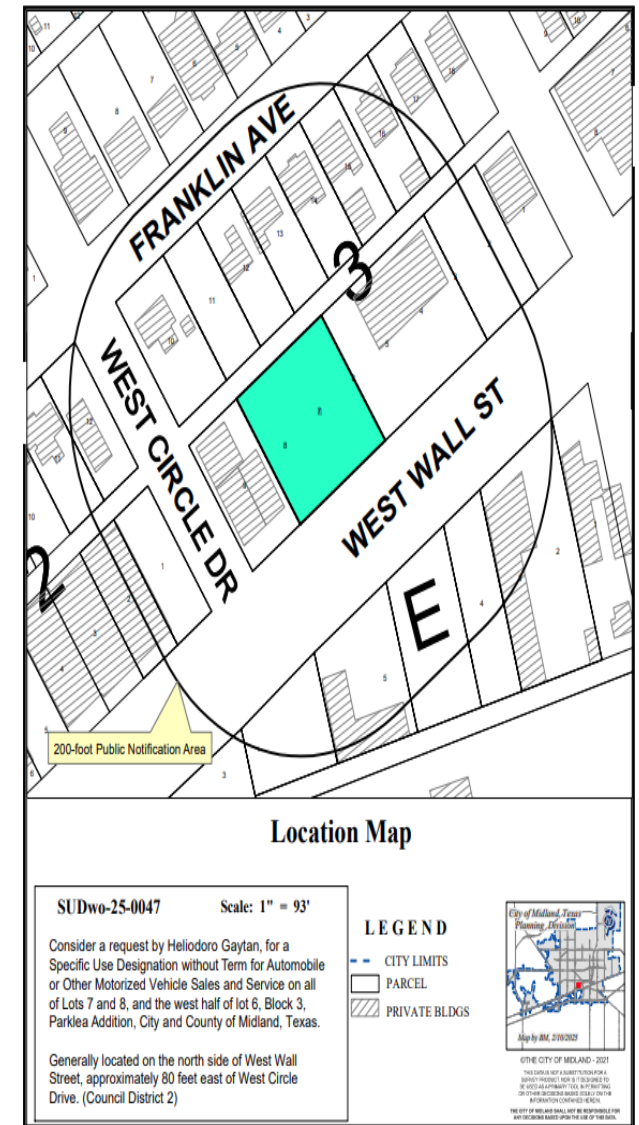
PACKET

20.17

April 22, 2025

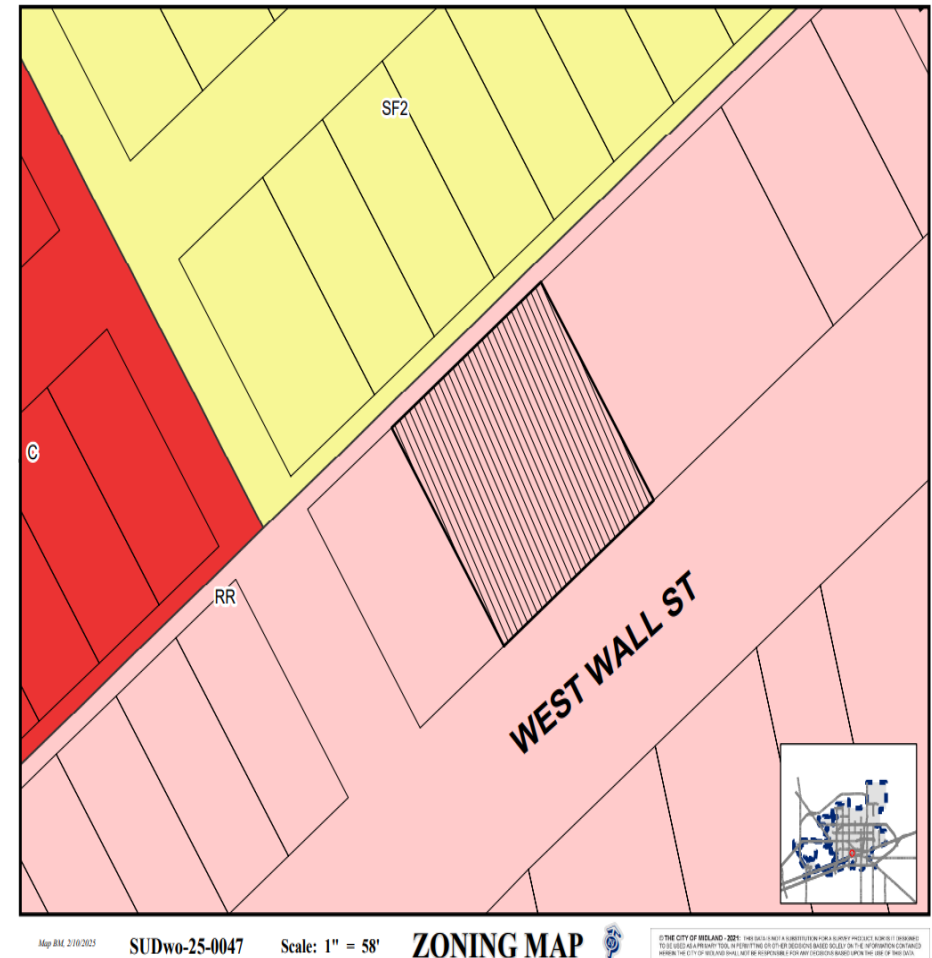
APPLICATION SUMMARY

- **Property Owner/Applicant:** Heliodoro Gaytan
- **Type:** SUD Without Term for an Automobile or Other Motorized Vehicle Sales and Service
- **Address:** 2810 West Wall Street (District 2)



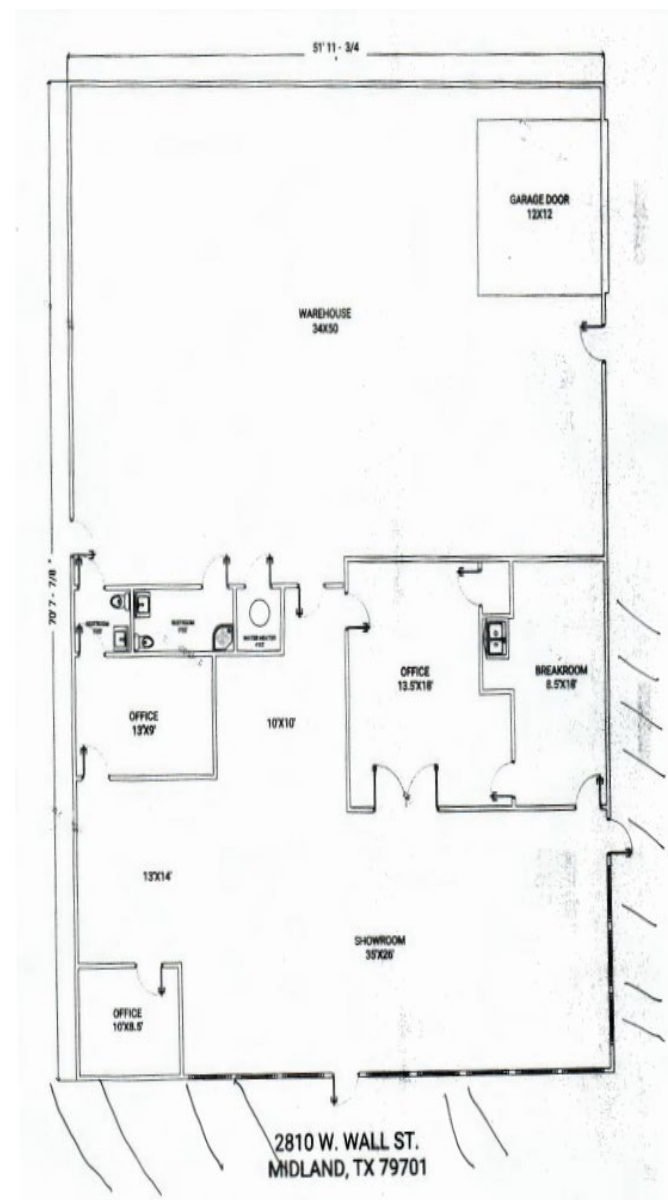
ZONING

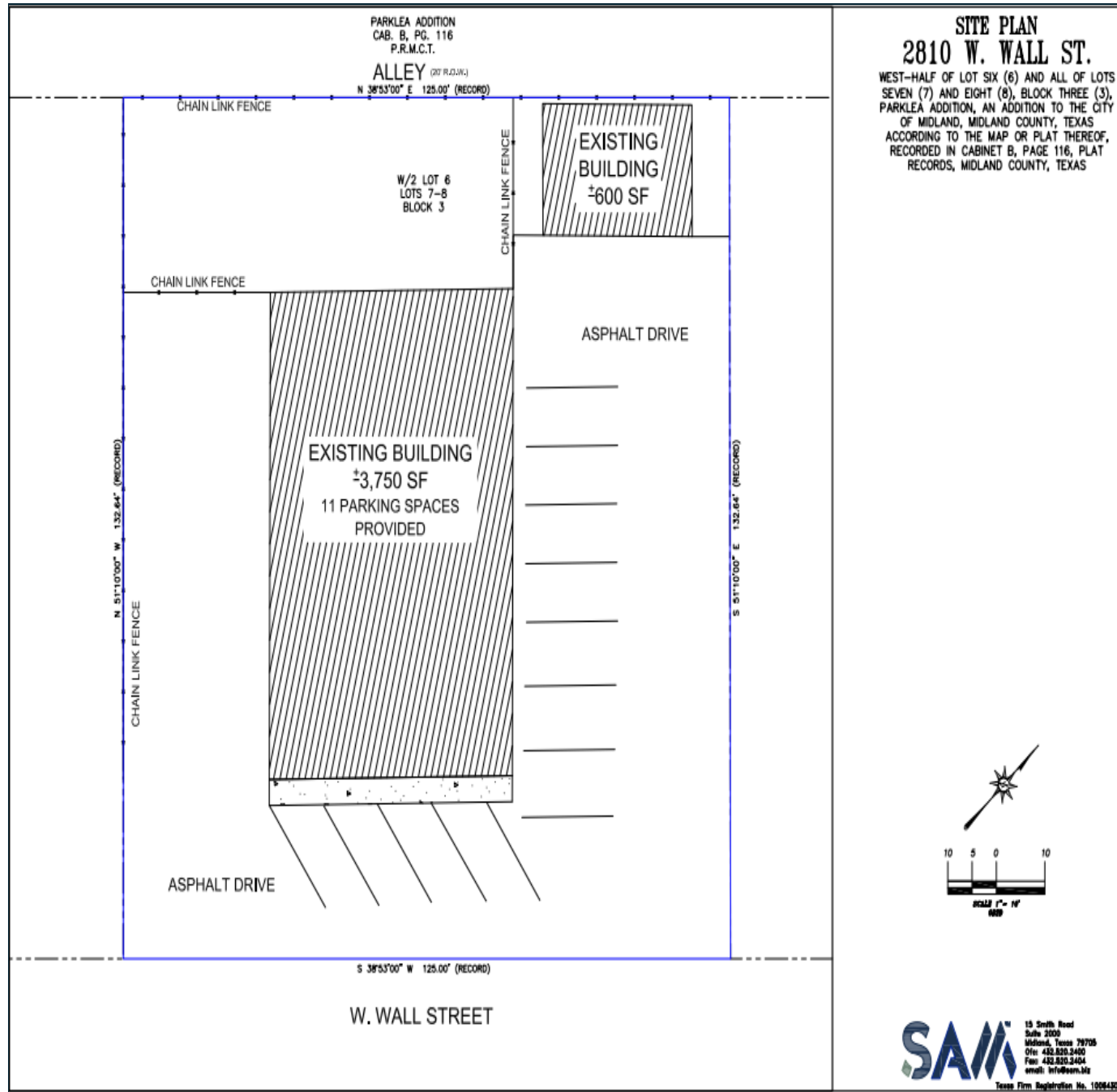
- **Current Zoning:** RR, Regional Retail District
- **Surrounding Zoning:**
 - **North:** SF-2, Single-Family Dwelling District
 - **South/East/West:** RR, Regional Retail District



INFORMATION

- **Proposed Days and Hours of Operation:**
 - Monday – Saturday, 9:00 a.m. to 7:00 p.m.
- **Proposed Days and Hours of SUDwo:**
 - Monday – Saturday, 9:00 a.m. to 7:00 p.m.

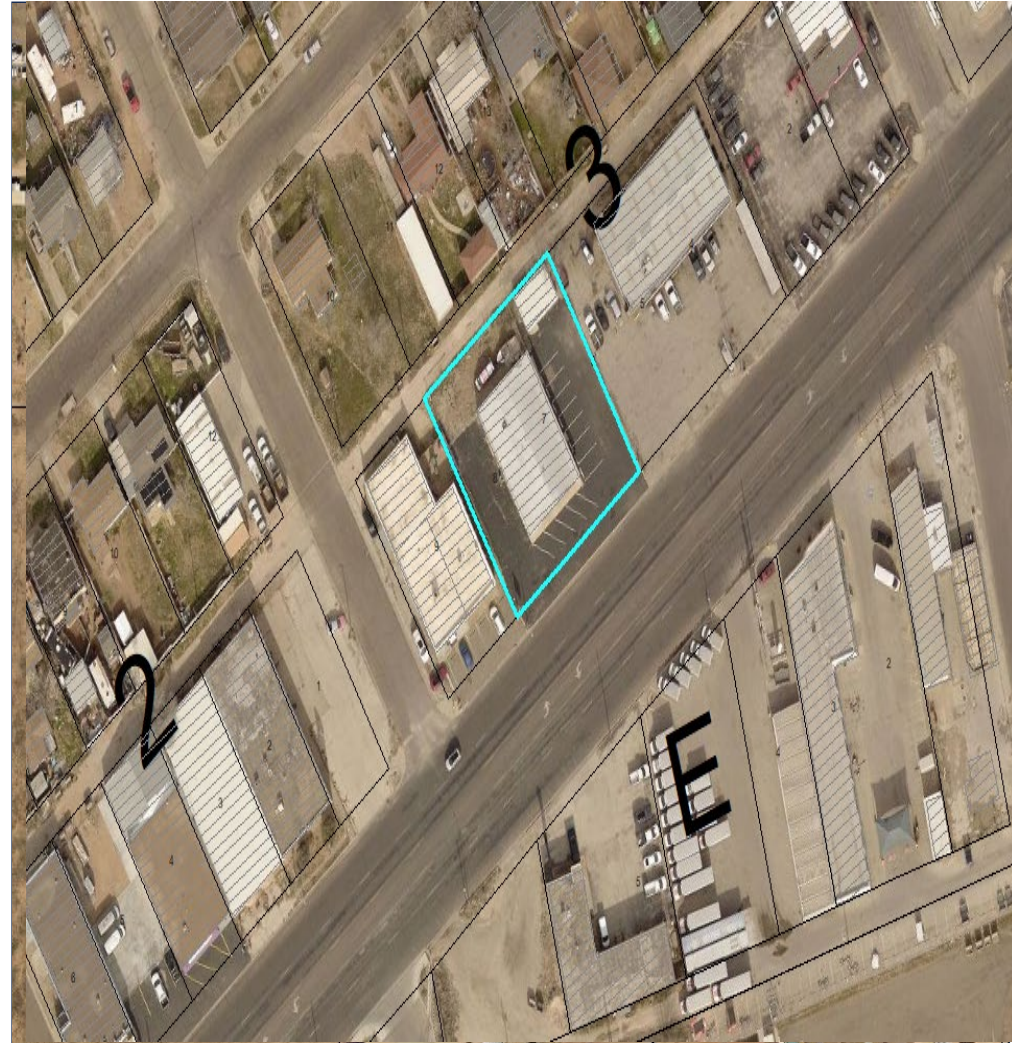




SITE PLAN

LAND USE

- **Current Use:** Vacant Building
- **Proposed Use:** Automobile sales and service center
- **Surrounding Uses:**
 - **North:** Neighborhood and tire shop
 - **South:** Auto parts shop
 - **West:** Neighborhood and bakery
 - **East:** Moving company



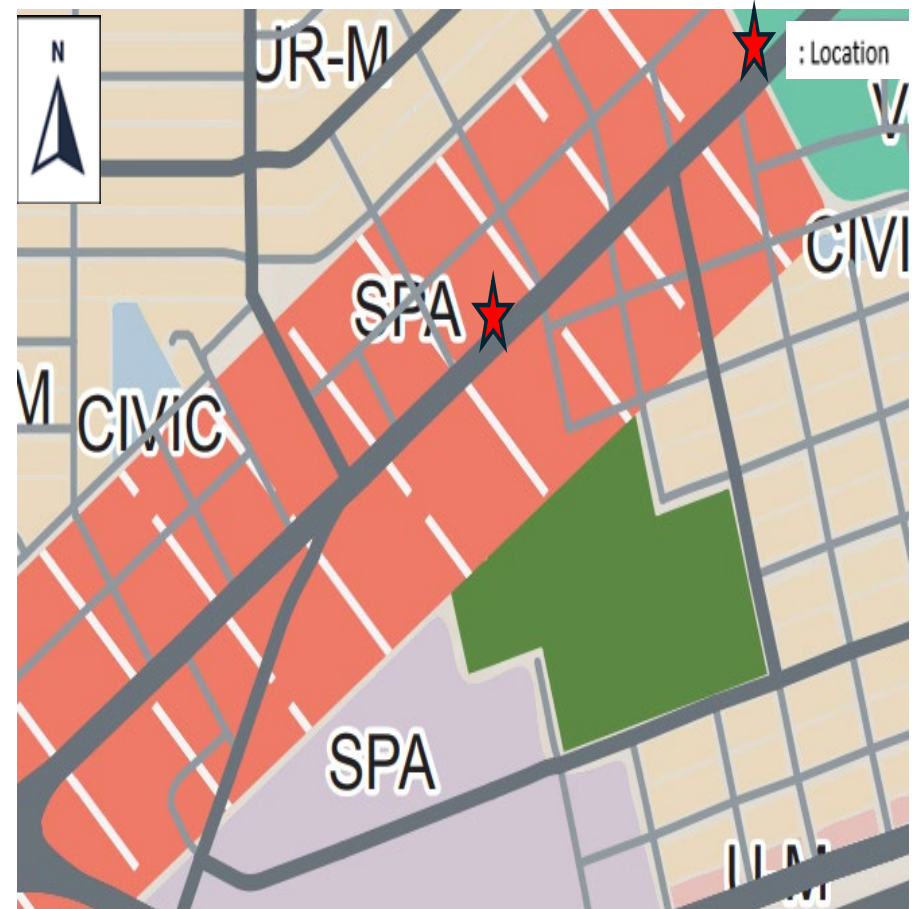
Site Photo



On West Wall Street, Looking north

COMPREHENSIVE PLAN ANALYSIS

- **TCT Land Use Designation:**
Special Study Area
- **Supported Uses:**
 - This is a special study area and there are no policies established for this location.
- Request is compatible with the surrounding area and the Tall City Tomorrow Plan.



RELATED ITEMS

- The Planning & Zoning Commission recommended approval of this request on March 17, 2025.



STAFF'S RECOMMENDATION

- No objections received.
 - 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.**



STAFF'S RECOMMENDATION

- 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 Without 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: April 8, 2025, April 22, 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 ON LOT 8, BLOCK 44, FAIRMONT PARK ADDITION, SECTION 27, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 230 FEET SOUTH OF HENRY KOONTZ BOULEVARD.), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SUCH PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION, MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

The applicant, Rudy's New Mexico Bar-B-Q, LLC, is requesting a Specific Use Designation (SUD) with Term for Alcoholic Beverages Sales for On-Premises Consumption in a restaurant on the property located at 4711 West Loop 250 North for Rudy's Country Store and Bar-B-Q.

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:

PD, Planned District for a Shopping Center

Surrounding Zoning and Land Use:

The properties to the north and south are zoned PD, planned district for shopping center and the location of Chuck E. Cheese and an old movie theater. The properties to the east and west are zoned PD, planned district for shopping center and the location of Home Depot and a hotel

Analysis:

The property is zoned PD, Planned District for a shopping center, with an underlying zone of RR, Regional Retail District. RR zoning allows Alcoholic Beverages Sales for On-Premises Consumption in a restaurant with the approval of an SUD. The total area of the restaurant, Rudy's Country Store and Bar-B-Q, is 8,013 square feet and the proposed alcohol serviceable area is 4,711 square feet.

The proposed hours of operation:

***Monday through Saturday from 7 a.m. to 10 p.m.
Sundays from 10 a.m. to 10 p.m.***

The proposed hours of alcohol service:

***Monday through Saturday from 7 a.m. to 10 p.m.
Sundays from 10 a.m. to 10 p.m.***

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no 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." Rudy's Country Store and BBQ, 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)

No objections. The structure must meet the IFC 2015 standards.

Engineering: (Approved)

No objection.

Transportation: (Approved)

No objection.

Building Code: (Approved)

The SUD for Rudy's is acceptable. The property must adhere to the maximum occupant load of 286 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 Condition A through G.

Conditions:

- A. That the serviceable area of the establishment shall be limited to approximately 4,711 square feet as shown in Exhibit "A".**
- B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.**
- C. That the permitted hours of the sale of alcoholic beverages sales and consumption shall be limited to:**

***Monday through Saturday from 7 a.m. to 10 p.m.
Sunday from 10 a.m. to 10 p.m.***

- D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.**

E. That the Establishment shall meet all requirements of the Fire Department and Code Administration.

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 zoning ordinance, the establishment shall be in operation within 120 days from the final adoption date of

Letters of Objection:

As of April 2, 2024, staff received three letters of objections.

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 8, BLOCK 44, FAIRMONT PARK ADDITION, SECTION 27, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 230 FEET SOUTH OF HENRY KOONTZ BOULEVARD), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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 8, Block 44, Fairmont Park Addition, Section 27, City and County of Midland, Texas (the “Property”), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a restaurant (the “Establishment”) for on-premises consumption, together with the uses permitted in the present PD, Planned Development District for a Shopping Center.

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 4,711 square feet as shown in Exhibit “A”, which is attached hereto and incorporated herein for all purposes.
- B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.
- C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Saturday from 7:00 a.m. to 10:00 p.m.; and
Sunday from 10:00 a.m. to 10:00 p.m.
- D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.
- E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.
- F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.
- G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

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

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

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 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

PACKET

21.7

April 22, 2025

APPROVED AS TO CONTENT
AND COMPLETENESS:

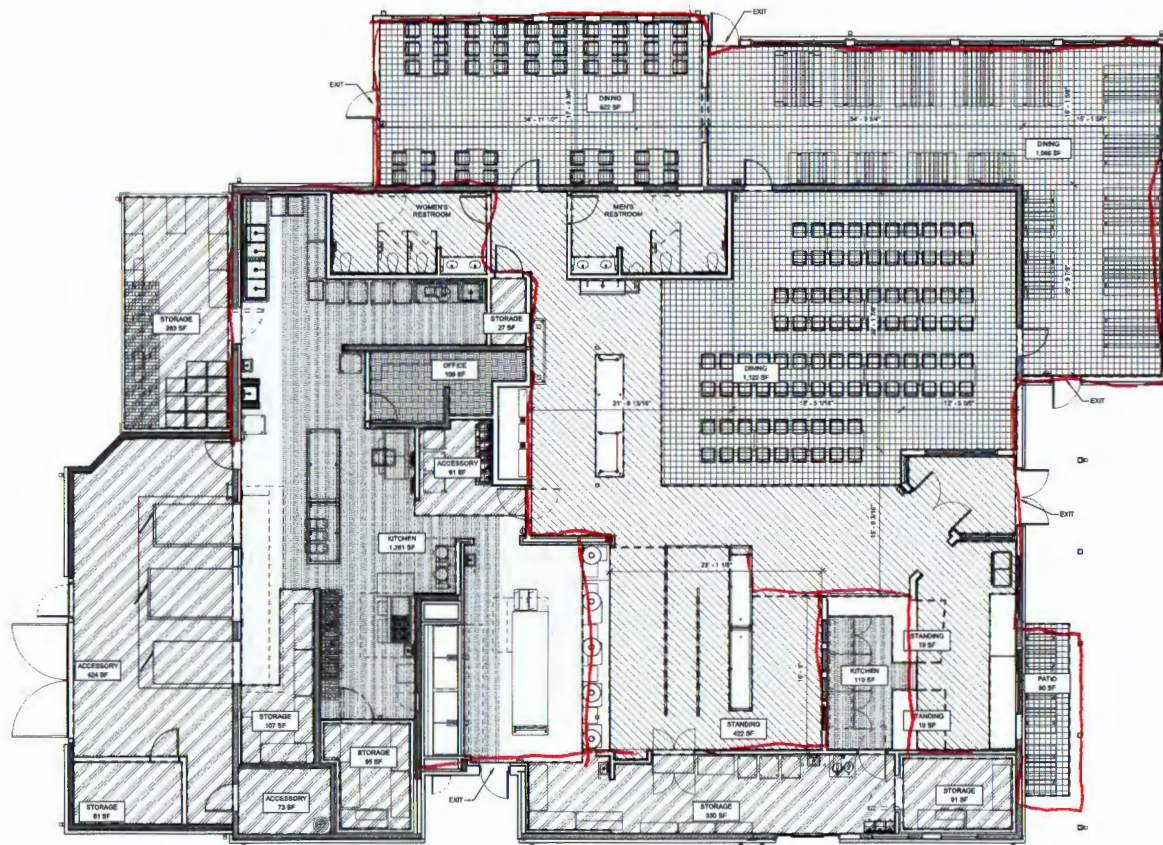
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

Nicholas Toulet, Interim City Attorney

EXHIBIT "A"

Total - 8,013 sq ft
 Servicable area - 4,711 sq ft



FLOOR PLAN
 3/16/17
 PACKET

21.9

OCCUPANCY LOAD (PER 2015 INTERNATIONAL FIRE PREVENTION CODE, TABLE 1004.5)			
ASSEMBLY AREAS	TOTAL	CALCULATED OCCUPANT LOAD	ACTUAL BEAT COUNTRY EMPLOYEES
DINING (ASSEMBLY) TWO FIXED SEATING - UNCONCENTRATED: 1.6 NET SF PER OCCUPANT	3,614 SF	186	306
STANDING SPACE ASSEMBLY TWO FIXED SEATING: 3 NET SF PER OCCUPANT	488 SF	86	-
KITCHENS COMMERCIAL: 300 GROSS SF PER OCCUPANT	1,391 SF	7	8
ACCESSORY/STORAGE: 300 GROSS SF PER OCCUPANT	1,800 SF	6	-
OFFICE BUSINESS AREA: 100 GROSS SF PER OCCUPANT	108 SF	1	-
TOTAL INTERIOR OCCUPANTS		284	314
TOTAL EXTERIOR OCCUPANTS		6	6
TOTAL OCCUPANTS		290	320
CIRCULATION SPACE: 0.5 SF PER OCCUPANT	1,422 SF	-	-
TOTAL SQUARE FOOTAGE	8,013 SF	-	-
ACCESSIBLE SEATING CALCULATIONS			
TOTAL SEATING: 306 INT. 6 EXT.			
TOTAL REQUIRED ACCESSIBLE SEATING (5% OF TOTAL)		15	
REQUIRED ACCESSIBLE SEATING (5% OF TOTAL)		15	

April 22, 2025

150 West Main Street
 Suite 2, 76104
 1704 West Street
 Dallas, TX 75208
 Phone: 817-552-4155
 Fax: 817-552-4155
 www.lmb-usa.com

1. This drawing is prepared in accordance with the requirements of the International Fire Prevention Code, 2015 Edition, and the International Building Code, 2015 Edition.



PROJECT: 21.9
 COUNTY: Allen
 DISCIPLINE: Other

10/1/17, PERMIT SET
 1
 2
 3
 4
 5
 6
 7
 8
 9
 10

RELATED SEE PLAN CABLE, 80

Ridley's
 COUNTRY STORE
 AND BAKERY

4711 LOOP 250
 FRONTAGE RD.
 MIDLAND, TX 79707

REVISIONS

Floor Plan

SHEET NUMBER

1



**Specific Use Designation with
Term for the Sale of Alcoholic
Beverages for On-Premises
Consumption**

Project Number: _____

Case Number: SWD-25-0193

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: Rudy's New Mexico Bar-B-Q, LLC

Phone 512-263-0929

Email hfordrehme@frg99.com

Address 22101 W. State HWY 71

City Spicewood

State TX

Zip 78669

Property Owner

Printed Name: Moondance Investments Ltd.

Phone 512-263-0929

Email hfordrehme@frg99.com

Address 22101 W. State Hwy 71

City Spicewood

State TX

Zip 78669

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: _____

Phone 512-263-0929

Email

hfordrehme@frg99.com

Address _____

City _____

State _____

Zip _____

Street Address: 4711 W. Loop 250, Midland, TX 79707

Business Name: Rudy's "Country Store" and Bar-B-Q

Legal Description

Lot: 8

Block: 44

Subdivision: Fairmont Park Addition, Section 27

Current Zoning: PD288 Restaurant

Reason for Request: Liquor License

Type of Business (restaurant, bar, lounge, nightclub, etc.): Restaurant

Proposed/Current Days and Hours of Operation: 7 days/week, 7am to 10pm

Proposed Days and Hours of Alcohol Service: 7 days/week, 7am to 10pm

Total Square Footage of Business: 8013 sf

Square Footage of Alcohol Serviceable Area: 4711 sf

Restroom Fixtures:

Men

Toilets/Urinals: 2

/ 3

Bathroom Sinks: 2

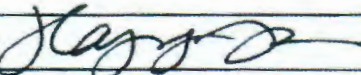
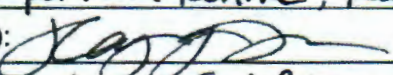
Women

Toilets: 3

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)

SignaturesApplicant (signature):  Date: 1-22-2025Applicant (printed): Rudy's New Mexico Bar-B-Q LLCProperty Owner (signature):  Date: 1-22-2025Property Owner (printed): Moondance Investments, Ltd

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

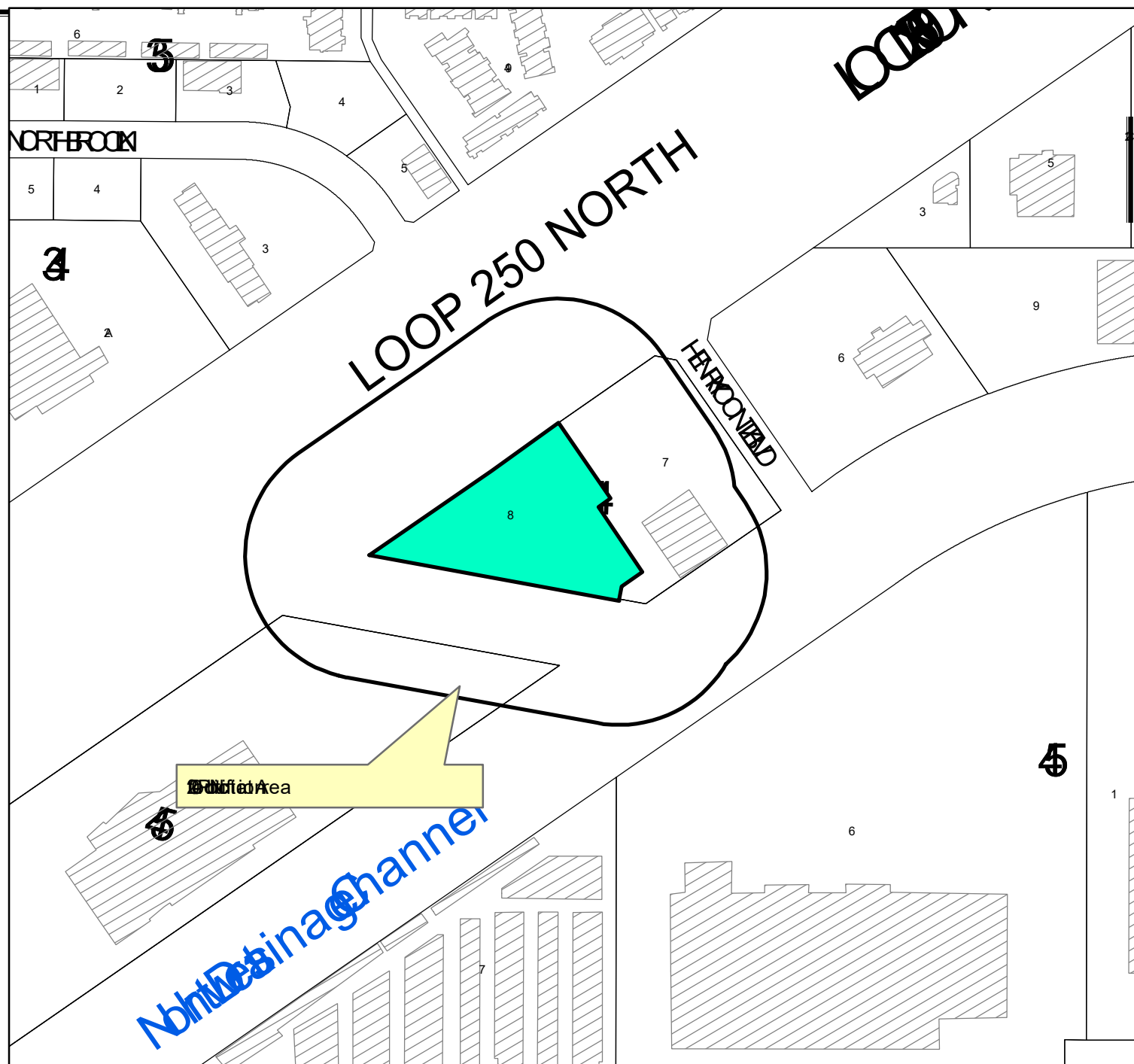
Before me, the undersigned authority, on this day personally appeared _____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority 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 Floor Plan
☐ Application Fee	☐ Site Plan
Check # _____	☐ Plans in Digital Format (PDF/JPEG)
Received By: _____	Date: _____



Location Map

SUD-25-0193

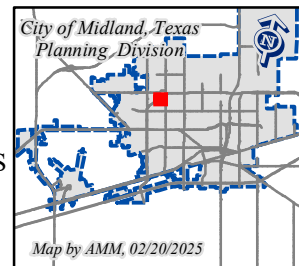
Scale: 1" = 792'

Consider a request by Rudy's New Mexico Bar-B-Q, LLC for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages for on premises consumption in a restaurant on Lot 8, Block 44, Fairmont Park Addition, Section 27, City and County of Midland, Texas.

Generally located on the east side of West Loop 250 North, approximately 230 feet south of Henry Koontz Boulevard. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

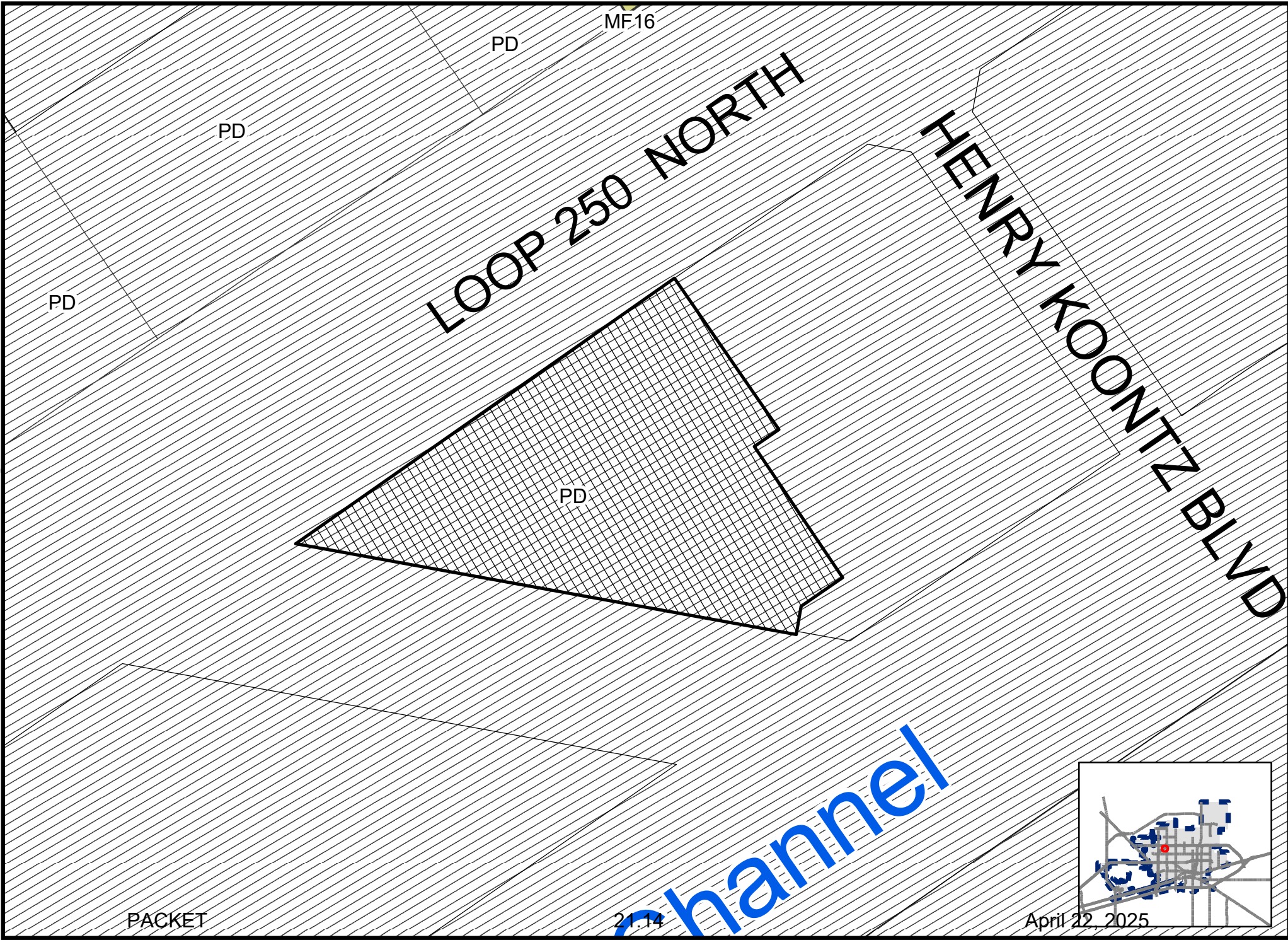


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April 22, 2025

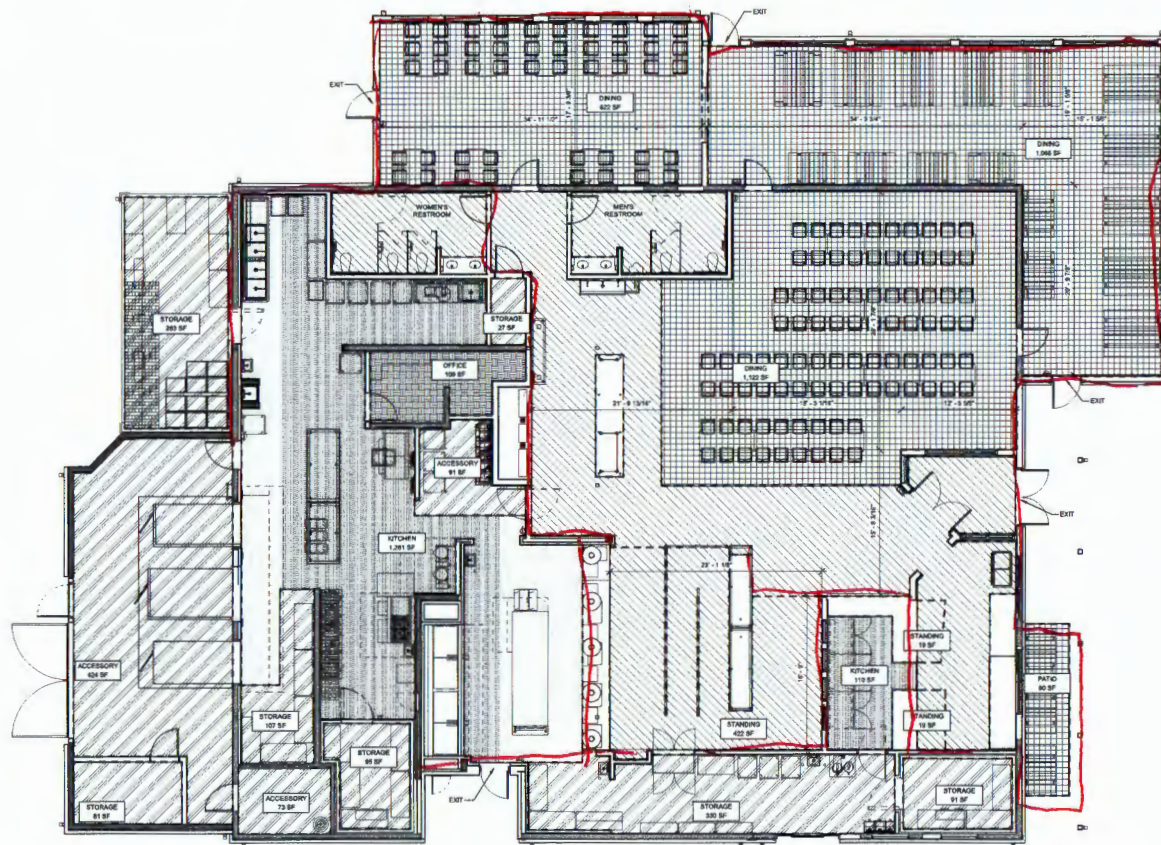
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR FOR IS IT DESIGNED TO BE USED AS A TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.





Total - 8,013 sq ft
 Servicable area - 4,711 sq ft



OCCUPANCY LOAD (PER 2015 INTERNATIONAL FIRE PREVENTION CODE, TABLE 1004.5)			
ASSEMBLY AREAS	TOTAL	CALCULATED OCCUPANT LOAD	ACTUAL BEAT COUNTRY EMPLOYEES
DINING (ASSEMBLY) TWO FIXED SEATING - UNCONCENTRATED: 1.67 NET SF PER OCCUPANT	3,614 SF	186	306
STANDING SPACE ASSEMBLY TWO FIXED SEATING: 3 NET SF PER OCCUPANT	488 SF	82	-
KITCHENS COMMERCIAL: 300 GROSS SF PER OCCUPANT	1,391 SF	7	8
ACCESSORY/STORAGE: 300 GROSS SF PER OCCUPANT	1,800 SF	6	-
OFFICE BUSINESS AREAS: 100 GROSS SF PER OCCUPANT	108 SF	1	-
TOTAL INTERIOR OCCUPANTS		284	314
TOTAL EXTERIOR OCCUPANTS		6	6
TOTAL OCCUPANTS		290	320
CIRCULATION SPACE: 0.5 SF PER OCCUPANT	1,422 SF	-	-
TOTAL SQUARE FOOTAGE	8,013 SF	-	-
ACCESSIBLE SEATING CALCULATIONS			
TOTAL SEATING: 306 INT. 6 EXT.			
TOTAL REQUIRED ACCESSIBLE SEATING (5% OF TOTAL)	15		
REQUIRED ACCESSIBLE SEATING (5% OF TOTAL)	15		

April 22, 2025



NORTHBROOK LN

34

44

HENRY KOONTZ BLVD

PACKET

45

Drainage Channel

2117

April 27, 2025

45



RUDY'S BAR-B-Q

ITEM

SPECIFIC USE DESIGNATION WITH

TERM



Visit Our Website

MIDLANDTEXAS.GOV

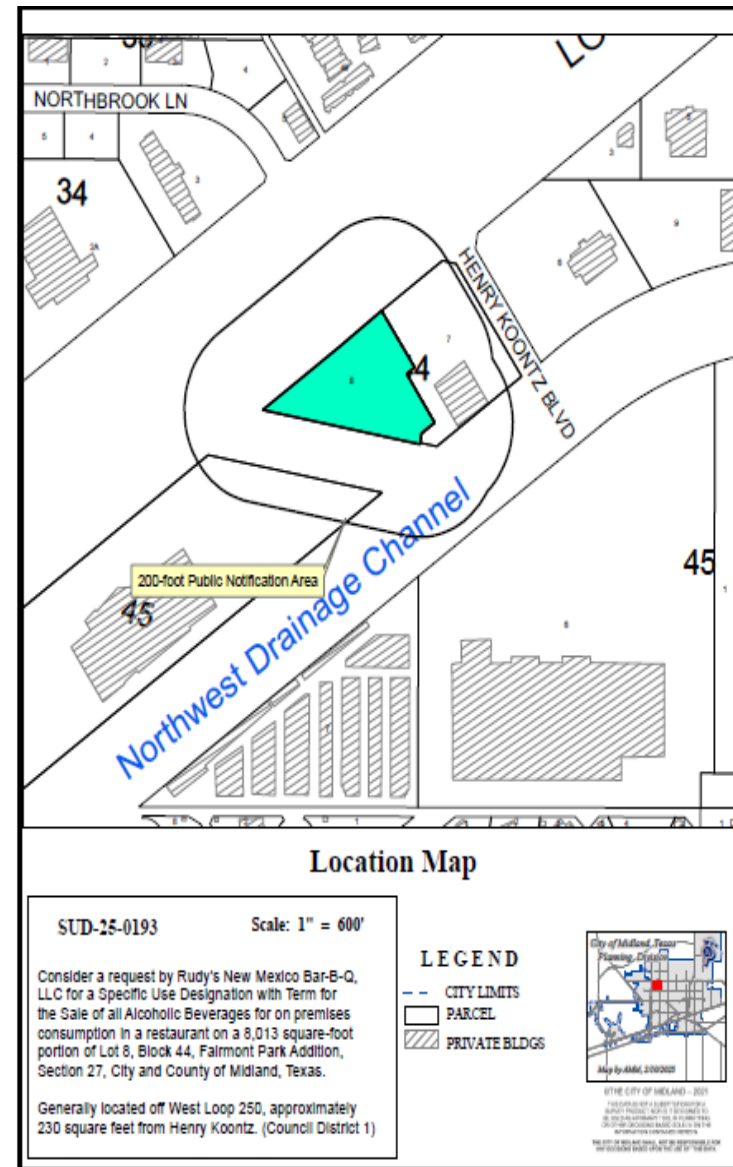
PACKET

21.18

April 22, 2025

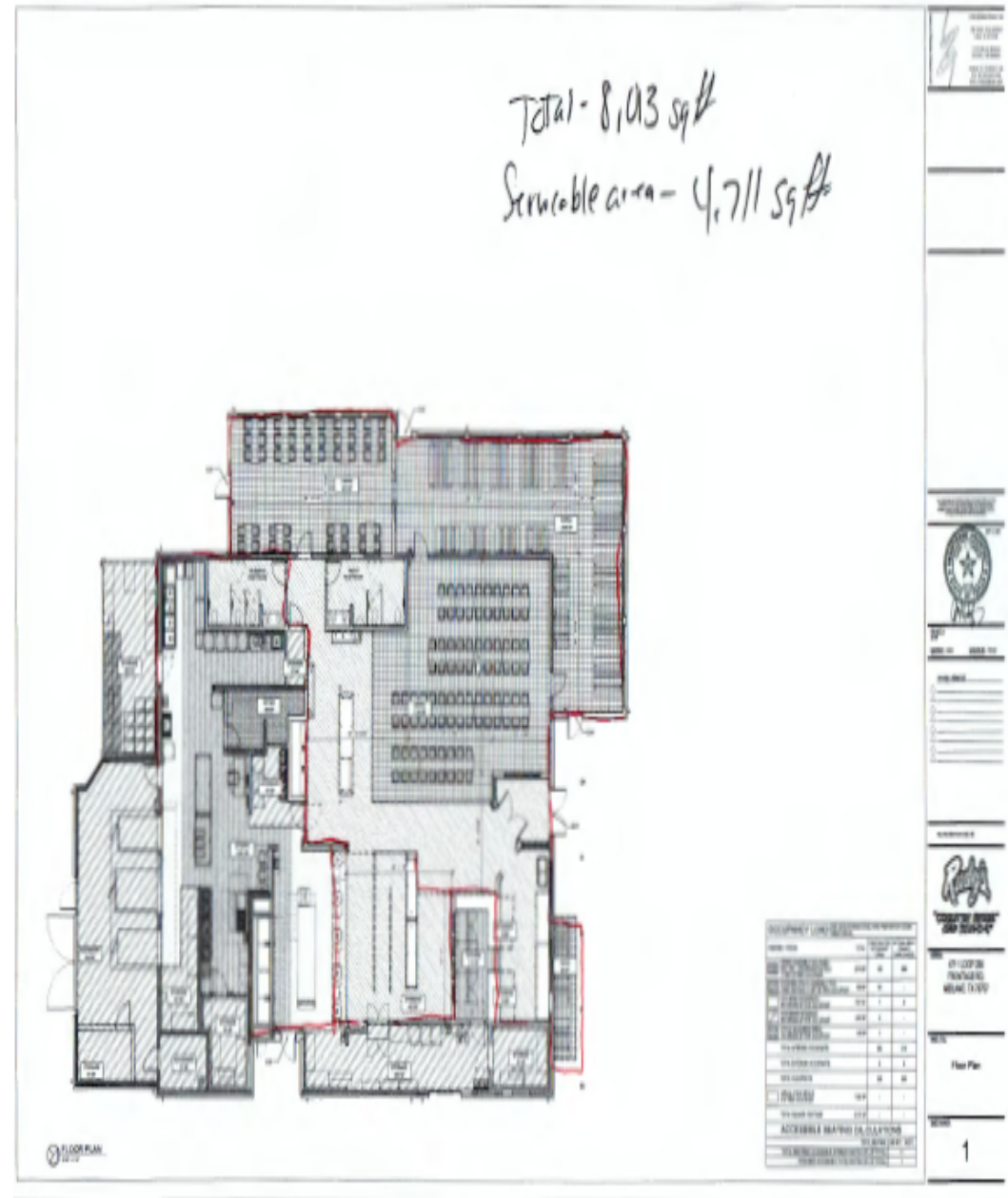
APPLICATION SUMMARY

- **Property owner:** Moondance Investments Ltd.
- **Applicant:** Rudy's New Mexico Bar-B-Q, LLC
- **Application Type:** Specific Use Designation With Term
- **Address:** 4711 West Loop 250 North. (District 1)



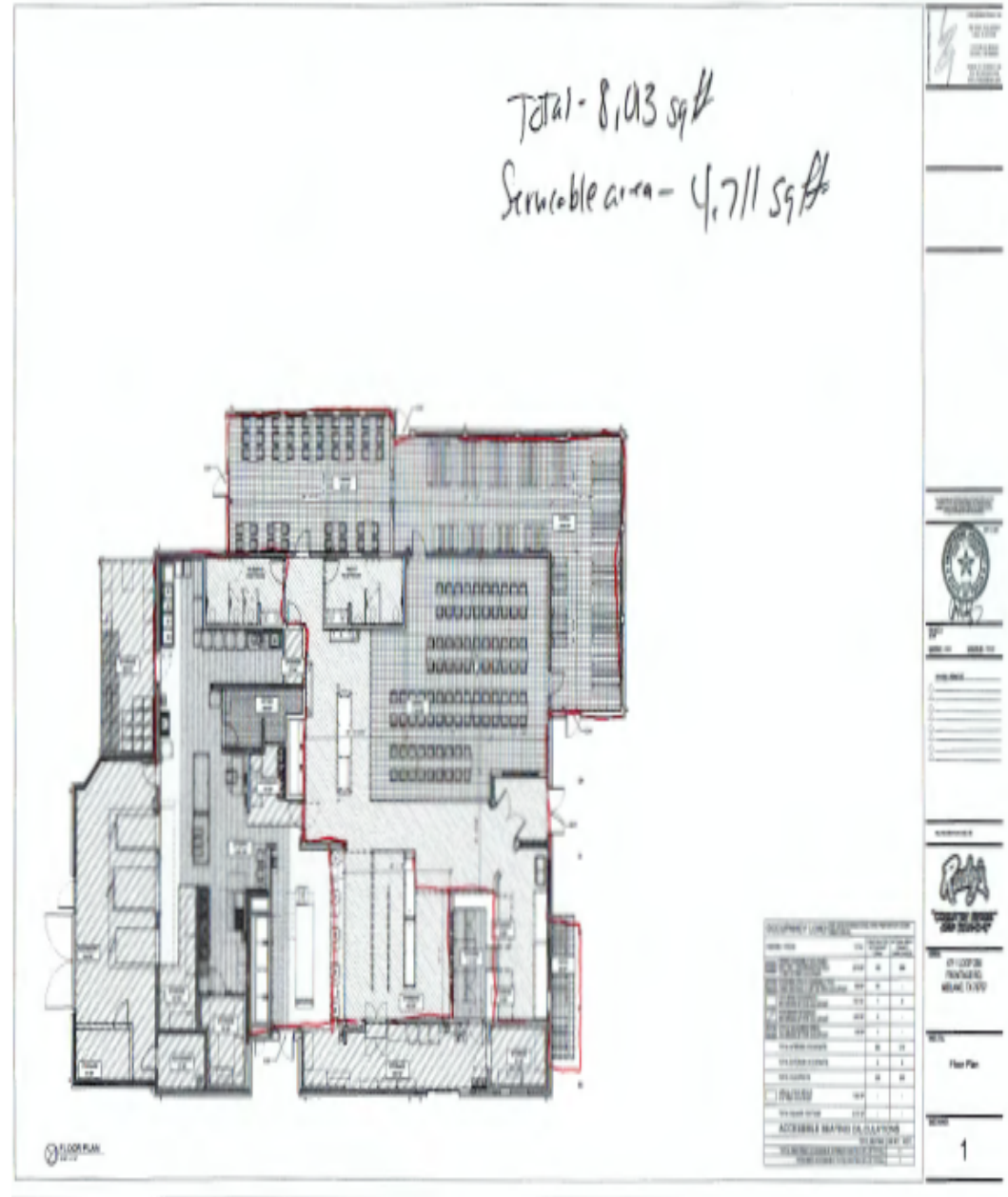
SUD DETAILS

- **Square Footage of SUD:** 8,013 sq feet
- **Alcohol Serviceable Area:** 4,711 sq ft
- **Proposed Days and Hours of Operation:**
 - Monday through Saturday from 7 a.m. to 10 p.m.
 - Sundays from 10 a.m. to 10 p.m.



SUD DETAILS

- **Proposed Days and Hours of SUD:**
 - Monday through Saturday from 7 a.m. to 10 p.m.
 - Sundays from 10 a.m. to 10 p.m.

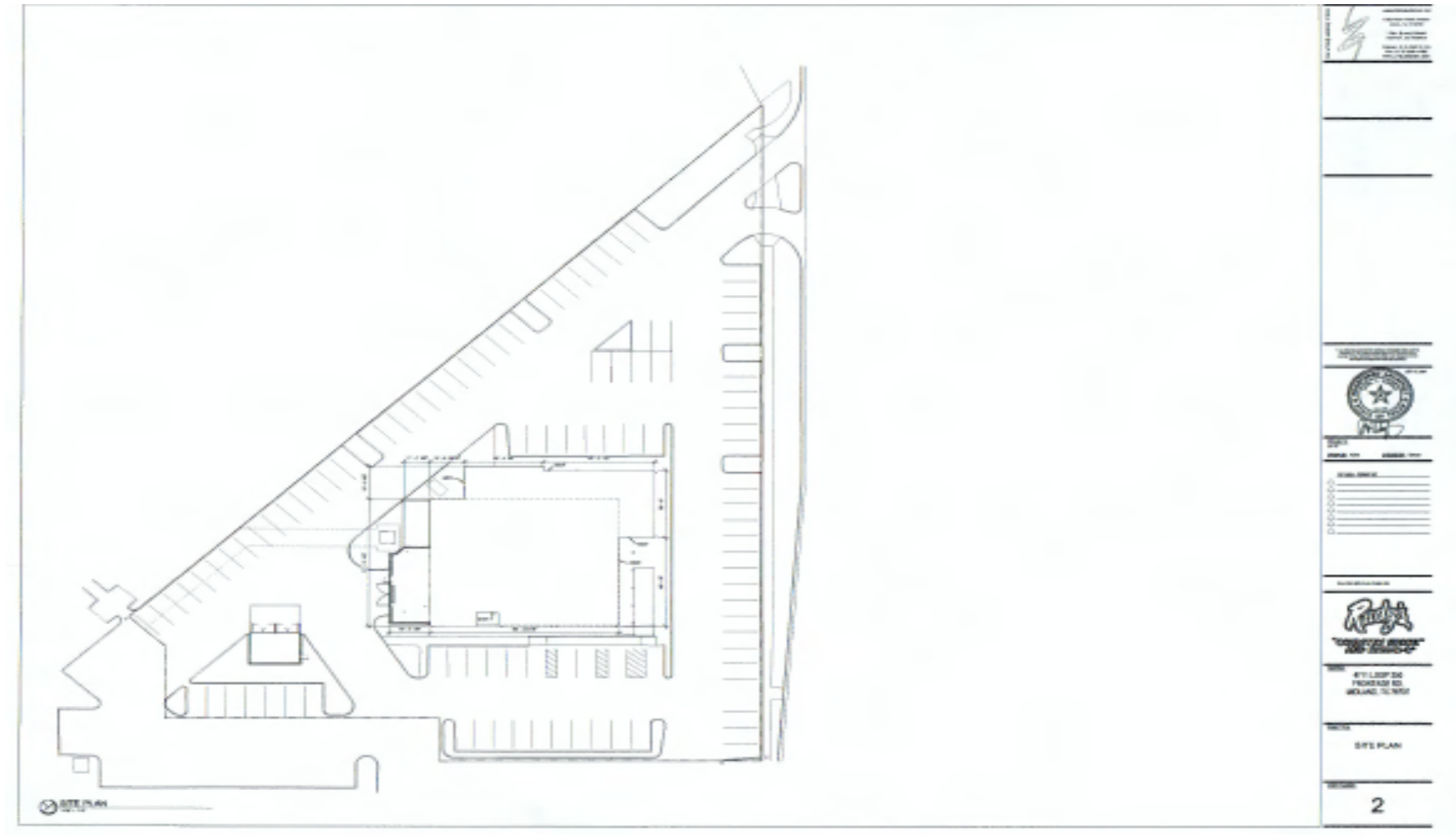


SUD DETAILS

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.

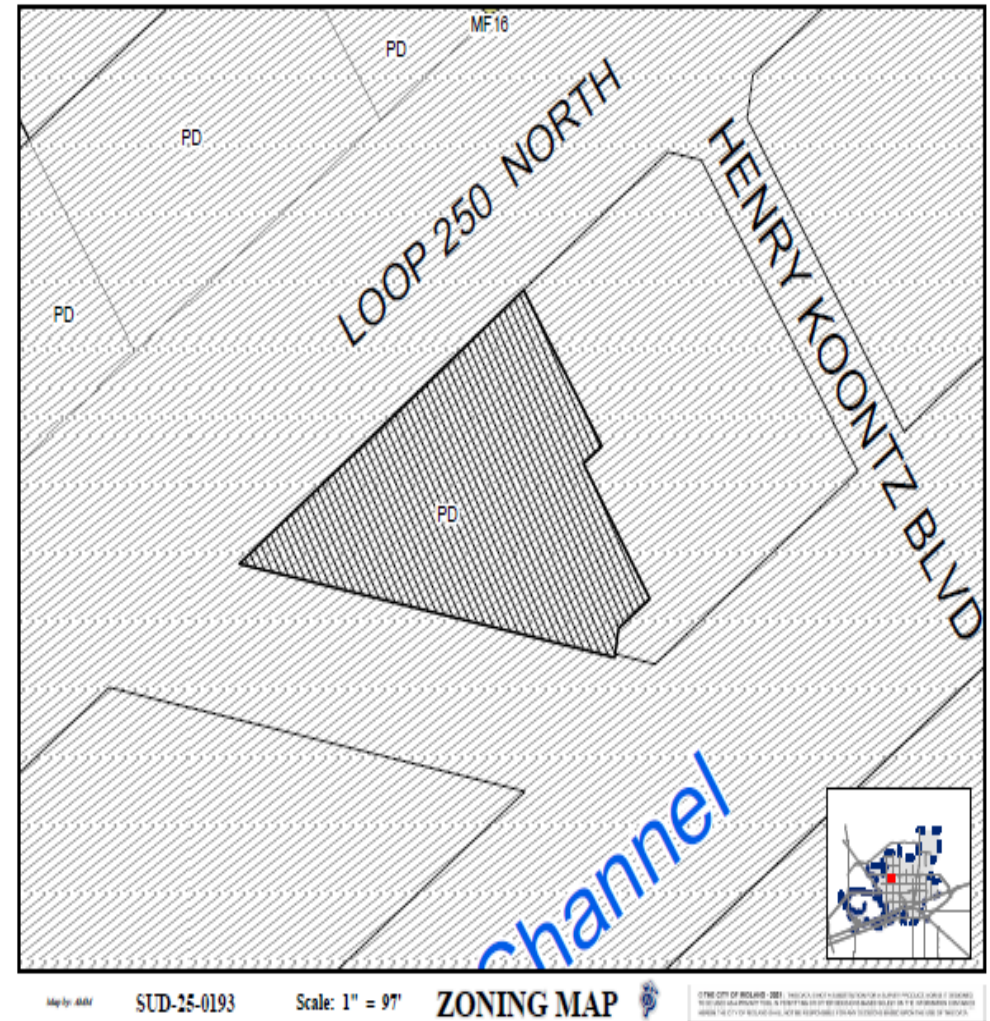


SITE PLAN



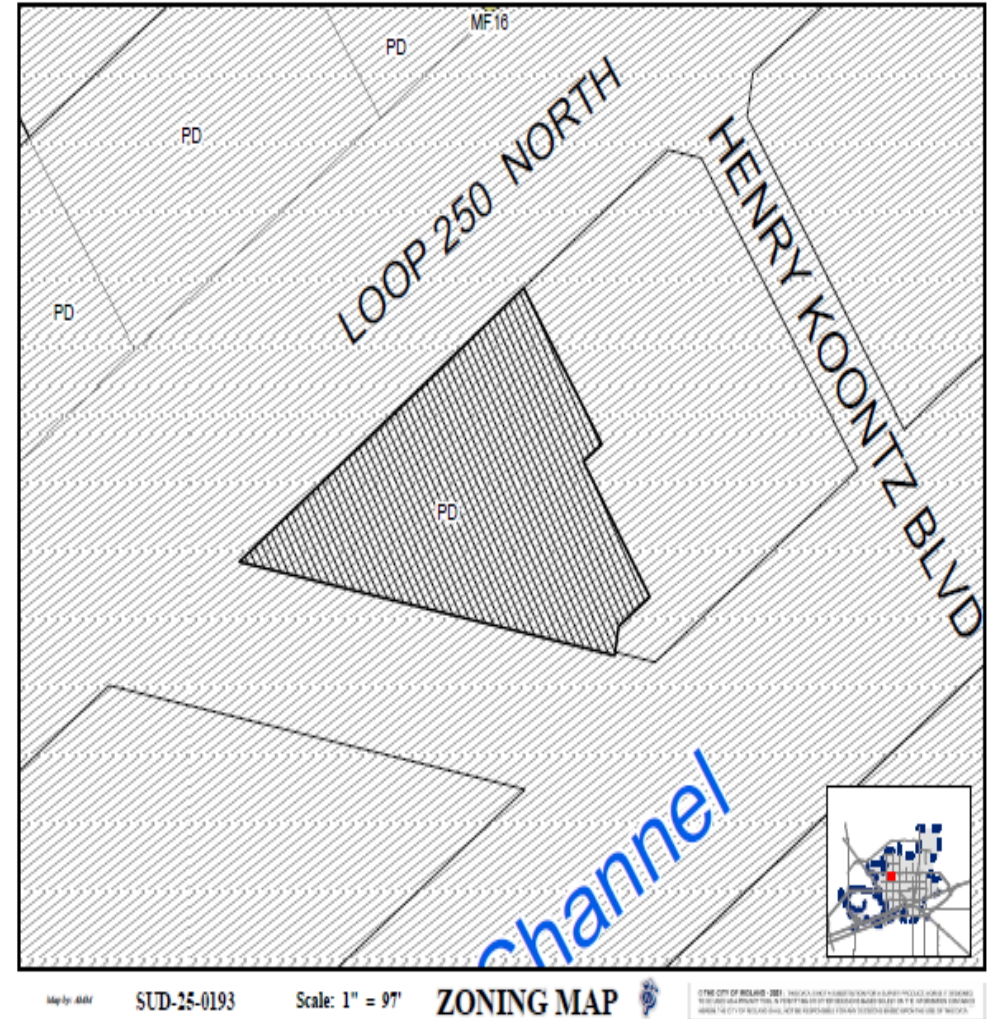
ZONING

- **Current Zoning:** PD, Planned Development District for a shopping center with an underlying zone of RR, Regional Retail District
- **Surrounding Zoning:** PD, Planned Development District for a shopping center.



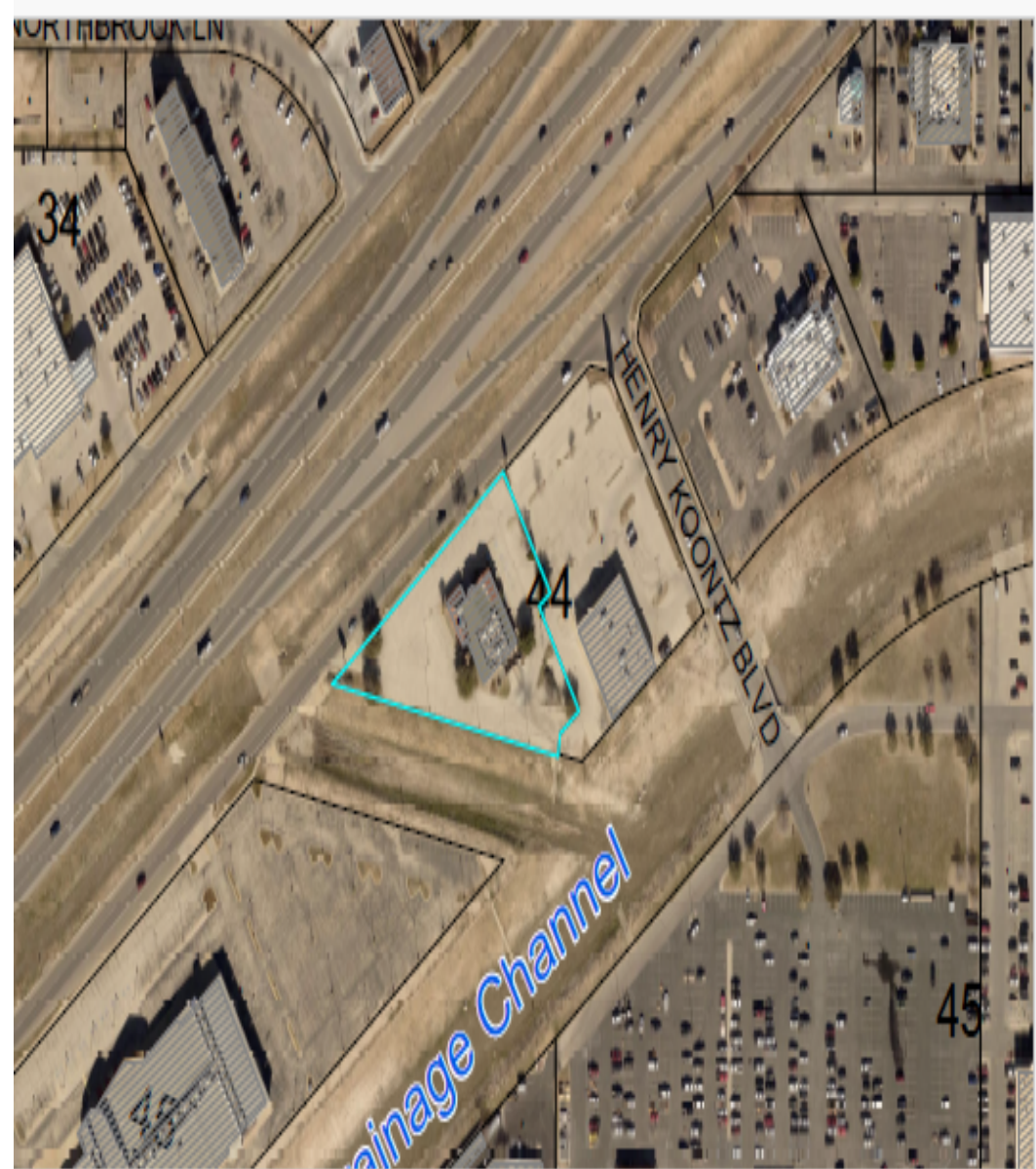
ZONING

- **Current Use of the Property:**
A Restaurant: The use of Alcohol is allowed with a Specific Use Designation per the Use Chart in Section 11-1-4.03



LAND USE

- **Surrounding Uses:**
 - North: Chuck E. Cheese.
 - South: Movie Theater
 - East: Home Depot
 - West: Hotel



SITE PHOTO



10

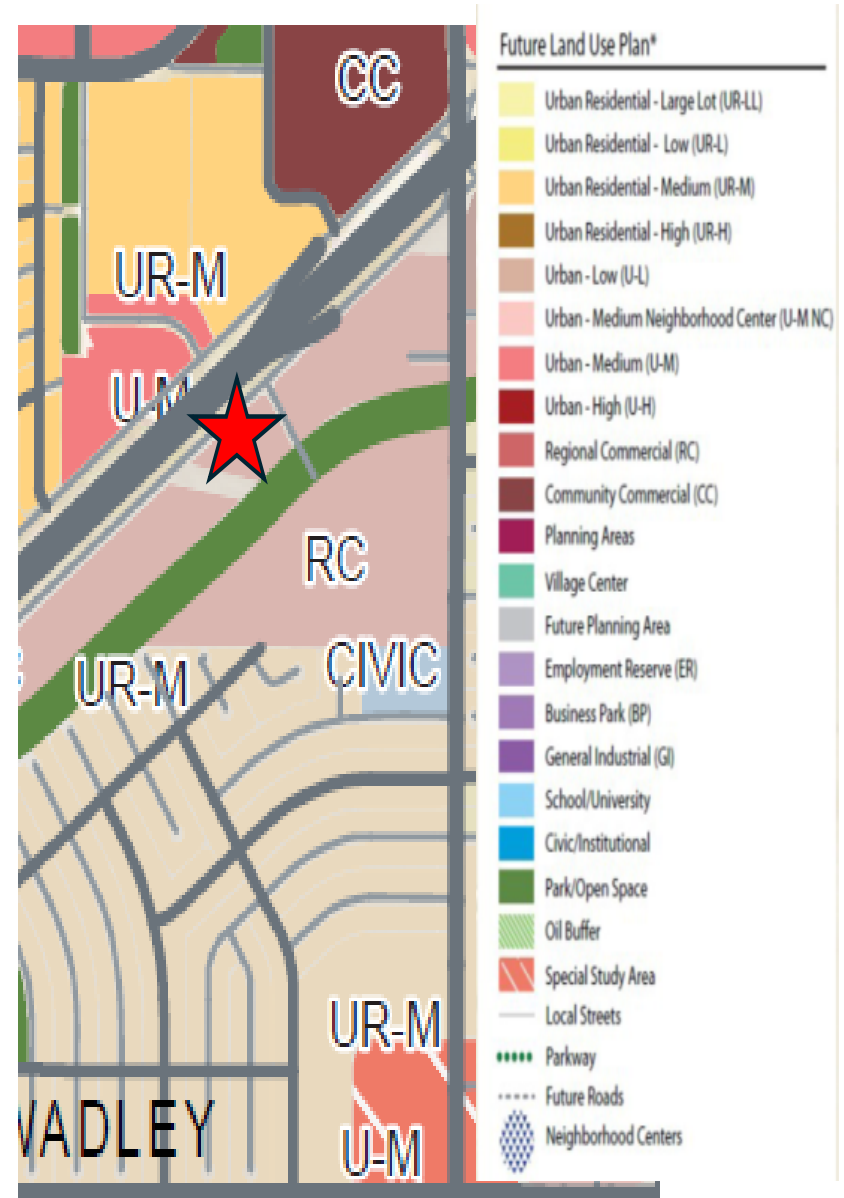
PACKET

On West Loop 250 North, Looking East

21127

COMPREHENSIVE PLAN

- **TCT Land Use Designation: RC,**
Regional Commercial
- **Supported Uses**
 - A broad range of retail services, including large-scale stores and services, auto related services, and large offices. Shopping and commercial uses total at least 150,000 sq. ft. Multi-family uses can be mixed in with commercial, but commercial would be the dominate use.



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.

A. That the serviceable area of the establishment shall be limited to approximately 4,711 square feet as shown in Exhibit “A”.

B. That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

STAFF RECOMMENDATION

C. That the permitted hours of the sale of alcoholic beverages sales and consumption shall be limited to:

Monday through Saturday from 7 a.m. to 10 p.m.

Sundays from 10 a.m. to 10 p.m.

D. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

E. That the establishment shall meet all requirements of the Fire Department and Code Administration.

STAFF RECOMMENDATION

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 22
Meeting Date: April 22, 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 1, BLOCK 1, LONE STAR BUSINESS PARK, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS, FROM O-1, OFFICE DISTRICT TO LR, LOCAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MAVERICK LANE AND NORTH STATE HIGHWAY 349); 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, TJ Henson is requesting a Zone Change from O1-Office District, to LR, Local Retail District located at 6718 North State Highway 349 to operate a bank as an allowed use.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

(Quality of Life and Place)

(Quality of Life and Place)

Discussion:

Current Zoning:

O-1, Office District

Surrounding Zoning and Land Use:

The properties located south and north of 6718 North State Highway 349 are zoned LR, Local Retail District. The properties to the east are zoned PD, Planned Development District for Housing Development. The properties to the west are within the Extraterritorial Jurisdiction. Current land use south of the property is vacant. To the east of the property is a residential neighborhood and north of the property is a shopping center. West of the property is the office for Occidental Petroleum Corporation.

Analysis:

The subject property is currently zoned O-1, Office District. TJ Henson, representing Real Property Resources Inc., is requesting a zone change to facilitate the use of the existing building, previously occupied by Betenbough as an office, to be utilized as a bank. Under the current O-1 zoning, the property is not permitted to operate a bank. The proposed zone change to LR, Local Retail District, would allow the property to be used as a bank or financial institution. The property will comply with all requirements set forth for the LR zoning district.

This request aligns with the Tall City Tomorrow Comprehensive Plan, specifically Chapter 3, which designates the area as U-M (Urban-Medium). This designation envisions a mix of housing types, as well as neighborhood and community commercial, office, and service-oriented uses.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections or comments.

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 O-1, Office District, to LR, Local Retail District.

Letters of Objection:

Staff has not received any letters of objection as of April 18, 2025.

Attachments:

Application
Survey (Exhibit A)
Maps
PowerPoint

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 1, LONE STAR BUSINESS PARK, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS, FROM O-1, OFFICE DISTRICT TO LR, LOCAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MAVERICK LANE AND NORTH STATE HIGHWAY 349); 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 1, Block 1, Lone Star Business Park, Section 1, City and County of Midland, Texas (the “Property”) to LR, Local Retail District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from O-1, Office District to LR, Local Retail District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances

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

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

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 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:

Nicholas Toulet, Interim City Attorney



**Zone Change/Planned District
Amendment/Site Plan Approval**

Project Number: _____

Case Number: 2-25-0411

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: TJ Henson

Phone (432) 559-4859

Email
tj@hddwtx.com

Address
200 West Illinois suite 120

City
Midland

State
Texas

Zip
79701

Property Owner

Printed Name: **REAL PROPERTY RESOURCES INC**

Phone (432) 559-4859

Email
432 559-4859

Address
6305 82ND ST

City
Lubbock

State
Texas

Zip
79424

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: TJ Henson

Phone (432) 559-4859

Email

Address

City

State

Zip

Street Address: 6718 HWY 349 Midland Texas 6717 HWY 349 Midland, Texas

Legal Description

Lot: 1 & 2 Block: 1 Subdivision: Lone Star Business Park section 2

Current Zoning:

O-1

Proposed Zone: LR

(List by tracts if more than one district is requested)

Reason for Zone Change Request: _____

Present Use of Property: Office Building

Proposed Use of Property: Bank

How would this zone change affect the public health, safety and welfare? I will Not

Describe how conditions affecting the property have changed since present zoning designation: No Change

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): TJ Henson

Date 2.4.25

Applicant (printed): TJ Henson

Property Owner (signature): Lara Robertson

Date: 2.4.25

Property Owner (printed): Lara Robertson, Betenbough Homes Authorized Agent

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 Lara Robertson who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or authorized by Betenbough Homes, 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.



Regina Sanders
Authorized Agent (signature)

Subscribed and sworn to before me, this 16th day of February, 2025, to certify which witness my hand and seal of office.

Regina Sanders

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☐ Property Owner Authorization

☐ Dimensioned Site Plan

☐ Application Fee

☐ Plans in Digital Format (PDF/JPEG)

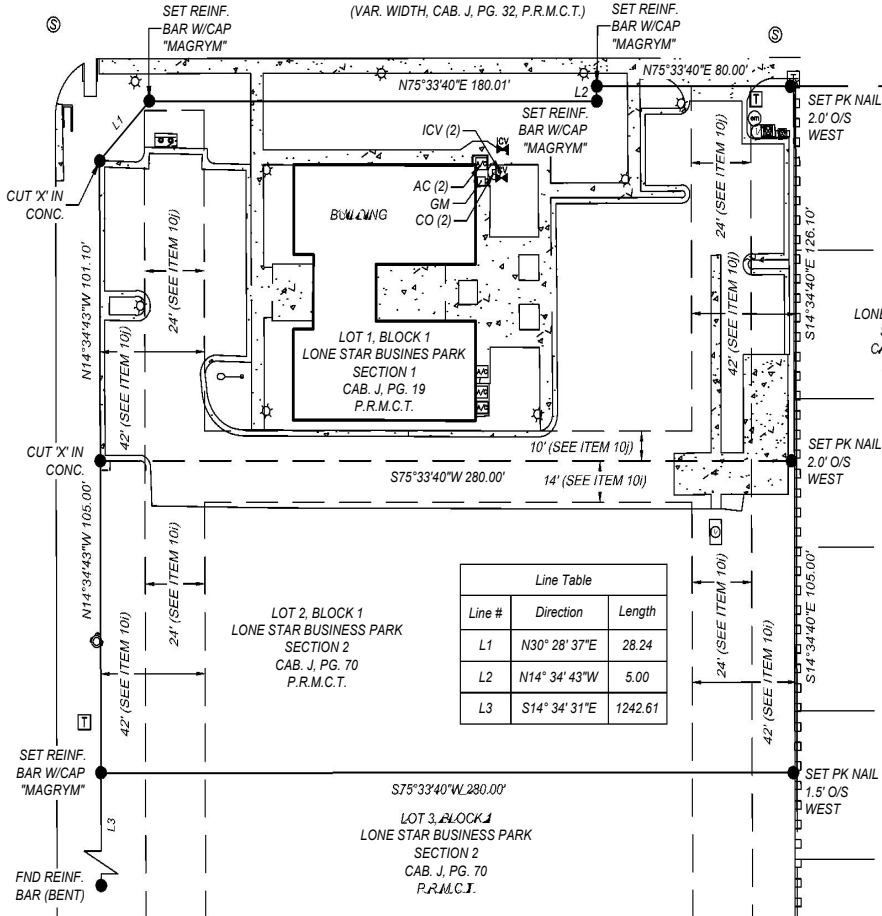
Check # _____

Received By: _____

Date: _____

STATE HIGHWAY 349
(120' WIDE, VOL. 105, PG. 293, D.R.M.C.T.)

MAVERICK LANE
(VAR. WIDTH, CAB. J, PG. 32, P.R.M.C.T.)



Line Table		
Line #	Direction	Length
L1	N30° 28' 37"E	28.24
L2	N14° 34' 43"W	5.00
L3	S14° 34' 31"E	1242.61

NOTES:

THIS SURVEY WAS PREPARED WITH BENEFIT OF CHICAGO TITLE INSURANCE COMPANY TITLE COMMITMENT T-7 GF NO. WTA-80C-48802428976-MR, WITH AN EFFECTIVE DATE OF JANUARY 5, 2025. SCHEDULE B ITEM(S) AS FOLLOW(S):

1. THE FOLLOWING RESTRICTIVE COVENANTS OF RECORD UNDER C.F. NO. 2022-8129, R.P.R.M.C.T.

10. THE FOLLOWING MATTERS AND ALL TERMS OF THE DOCUMENTS CREATING OR OFFERING EVIDENCE OF THE MATTERS:

i. BUILDING LINES AND EASEMENT(S) RECORDED IN CAB. J, PG. 70, P.R.M.C.T.; (AS TO TRACT 1)

- 24' AND 14' ACCESS EASEMENT (SHOWN HEREON)
- 42' UNDERGROUND UTILITY & DRAINAGE EASEMENT (SHOWN HEREON)

j. BUILDING LINES AND EASEMENT(S) RECORDED IN CAB. J, PG. 19, P.R.M.C.T.; (AS TO TRACT 2)

- 24' AND 10' ACCESS EASEMENT (SHOWN HEREON)
- 42' UNDERGROUND UTILITY & DRAINAGE EASEMENT (SHOWN HEREON)

k. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO MAGNOLIA PIPE LINE COMPANY, RECORDED IN VOL. 37, PG. 568, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

l. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO WEST TEXAS GAS COMPANY, RECORDED IN VOL. 87, PG. 550, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

m. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO STATE OF TEXAS, RECORDED IN VOL. 105, PG. 293, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

n. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO COLORADO RIVER MUNICIPAL WATER DISTRICT, RECORDED IN VOL. 161, PG. 478, VOL. 314, PG. 644, VOL. 511, PG. 238, VOL. 511, PG. 243, AND VOL. 511, PG. 248, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

o. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO TEXAS-NEW MEXICO PIPE LINE COMPANY, RECORDED IN VOL. 498, PG. 299, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

p. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO TEXAS ELECTRIC SERVICE COMPANY, RECORDED IN VOL. 512, PG. 519, VOL. 541, PG. 175, VOL. 518, PG. 318, VOL. 541, PG. 322, VOL. 541, PG. 325, AND VOL. 541, PG. 327, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

q. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO CAP ROCK ELECTRIC COOPERATIVE, INC., RECORDED IN VOL. 623, PG. 17, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

r. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO TEXAS UTILITIES ELECTRIC COMPANY, RECORDED IN VOL. 869, PG. 567, VOL. 869, PG. 571, VOL. 869, PG. 575, VOL. 869, PG. 577, AND VOL. 869, PG. 579, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

s. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO CAP ROCK ELECTRIC COOPERATIVE, INC., RECORDED IN VOL. 1123, PG. 345, VOL. 1123, PG. 350, VOL. 1123, PG. 355, VOL. 1123, PG. 360, VOL. 1123, PG. 365, VOL. 1123, PG. 370, AND VOL. 1123, PG. 375, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

t. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO CAP ROCK ELECTRIC COOPERATIVE, INC., RECORDED IN VOL. 1175, PG. 245, VOL. 1175, PG. 250, VOL. 1175, PG. 256, VOL. 1175, PG. 261, VOL. 1175, PG. 266, VOL. 1175, PG. 271, AND VOL. 1175, PG. 276, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

u. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO MOBIL PIPE LINE COMPANY, RECORDED IN VOL. 1537, PG. 367, VOL. 1537, PG. 373, VOL. 1537, PG. 379, VOL. 1537, PG. 385, VOL. 1537, PG. 391, AND VOL. 1537, PG. 397, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

v. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO DUKE ENERGY FIELD SERVICES, LP, RECORDED IN VOL. 2812, PG. 125, VOL. 2812, PG. 137, VOL. 2812, PG. 141, AND VOL. 2812, PG. 149, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

w. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO DCP MIDSTREAM, L.P., RECORDED IN VOL. 2869, PG. 341, R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

x. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO PATRIOT RESOURCES, INC., RECORDED UNDER C.F. NO. 2010-8055 R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

y. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO PLAINS PIPELINE, L.P., RECORDED UNDER C.F. NO. 2011-16551 R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

z. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO ENTERPRISE CRUDE PIPELINE LLC, RECORDED UNDER C.F. NO. 2011-24415 R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

aa. EASEMENT(S) AND RIGHTS INCIDENTAL THERETO, AS GRANTED TO WEST TEXAS LPG PIPELINE LIMITED PARTNERSHIP, RECORDED UNDER C.F. NO. 2018-7311 R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

ab. LAND DEVELOPMENT/USE AGREEMENT BY REAL PROPERTY RESOURCES, INC., RECORDED UNDER C.F. NO. 2014-2860 R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

ac. LAND DEVELOPMENT/USE AGREEMENT BY REAL PROPERTY RESOURCES, INC., RECORDED UNDER C.F. NO. 2014-7082 R.P.R.M.C.T. (NOT LOCATED HEREON PER PLAT)

Surveyor Certification BETENBOUGH COMPANIES, PBC, BETENBOUGH HOMES, LLC,
CHICAGO TITLE INSURANCE COMPANY, &
TO THE LIENHOLDERS, HERITAGE USA COMMUNITY FEDERAL CREDIT UNION
(OWNER) OF THE PREMISES AND TO THE ISSUING TITLE INSURANCE UNDERWRITER:
THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND
OF THE PROPERTY LEGALLY DESCRIBED HEREON
AND THAT THERE ARE NO KNOWN DISCREPANCIES,
CONFLICTS, SHORTAGES IN AREA, BOUNDARY
LINE CONFLICTS, ENCROACHMENTS,
OVERLAPPING OF IMPROVEMENTS,
EASEMENTS OR RIGHTS-OF-WAY,
EXCEPT AS SHOWN HEREON.

DATED THIS 5TH DAY OF FEBRUARY, 2025.

RJ DAUM
TEXAS RPLS 4826



NOTES:

THIS PROPERTY LIES WITHIN THE ETJ (EXTRA TERRITORIAL JURISDICTION) OF THE CITY OF MIDLAND, NO 911 ADDRESS OR SEPTIC PERMIT WILL BE ISSUED WITHOUT THE LAND BEING PLATTED ACCORDING TO THE CURRENT CITY OF MIDLAND SUBDIVISION ORDINANCE. AS REVISED SEPTEMBER 23, 2014.

ACREAGE, BEARINGS, AND DISTANCES SHOWN ARE GRID MEASUREMENTS BASED ON GPS OBSERVATIONS AND CONFORM TO THE "TEXAS COORDINATE SYSTEM" TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

MONUMENTS ARE A REINFORCING BAR SET WITH PLASTIC CAP STAMPED "MAGRYM" UNLESS OTHERWISE NOTED.

THIS SURVEY DOES NOT GUARANTEE OWNERSHIP.

MAGRYM

800 N. MARIENFELD STREET TEXAS FIRM
SUITE 100 No. 10149500
MIDLAND, TEXAS 79701 Office (432) 684-5548

SURVEY

LOT 1, BLOCK 1

LONE STAR BUSINESS PARK, SECTION 1

CABINET J, PAGE 19

&

LOT 2, BLOCK 1

LONE STAR BUSINESS PARK, SECTION 2

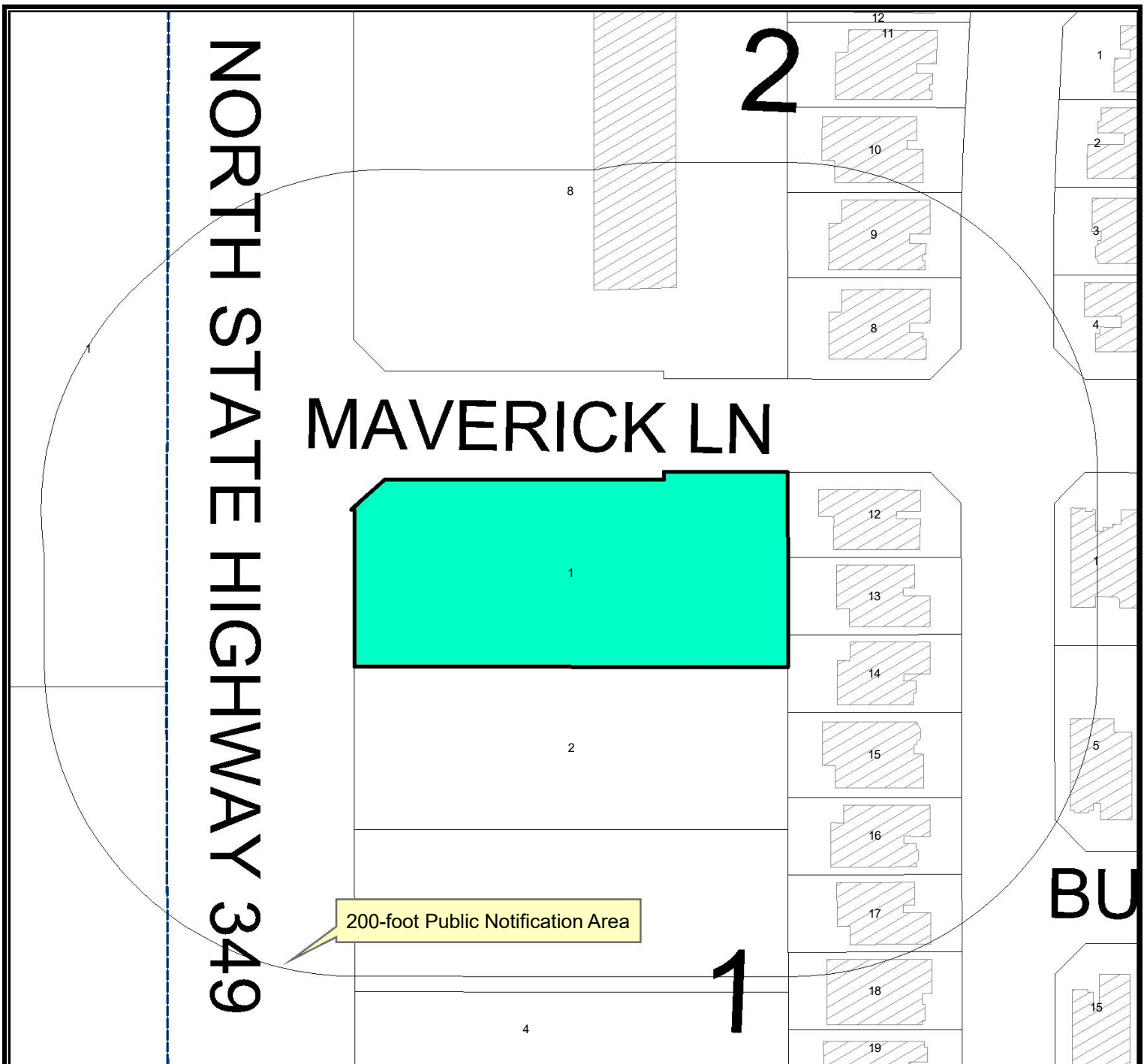
CABINET J, PAGE 70

April 22, 2025 RECORDS

MIDLAND COUNTY, TEXAS

SCALE: 1" = 50'

JOB NO.: 25-133



Location Map

Z-25-0411

Scale: 1" = 600'

Consider a request by TJ Henson for a Zone Change from O-1, Office District, to LR, Local Retail District, on Lot 1, Block 1, Lone Star Business Park, Section 1, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of Maverick Lane and North State Highway 349. (Council Packet)

22.10

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR IS IT DESIGNED TO BE USED AS A 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.

April 22, 2025

N SH 349

MAVERICK LN

LR

PD

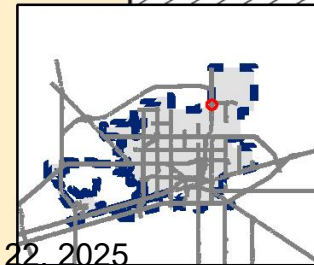
O1

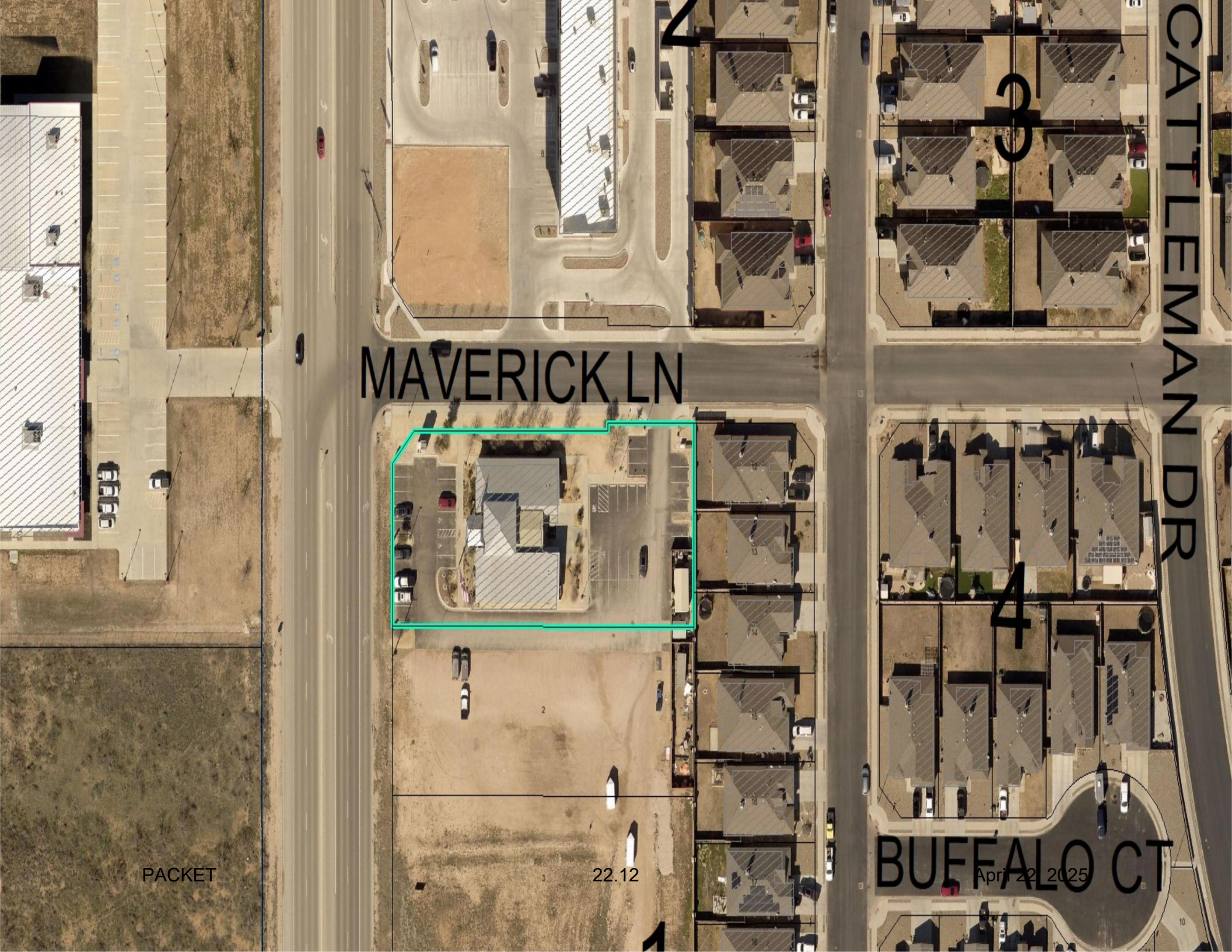
LR

22.11

PACKET

April 22, 2025





MAVERICK LN

CATTLEMAN DR

BUFFALO CT

PACKET

22.12

April 22, 2025



6718 N HWY 349

ITEM#

ZONE CHANGE REQUEST



Visit Our Website

MIDLANDTEXAS.GOV

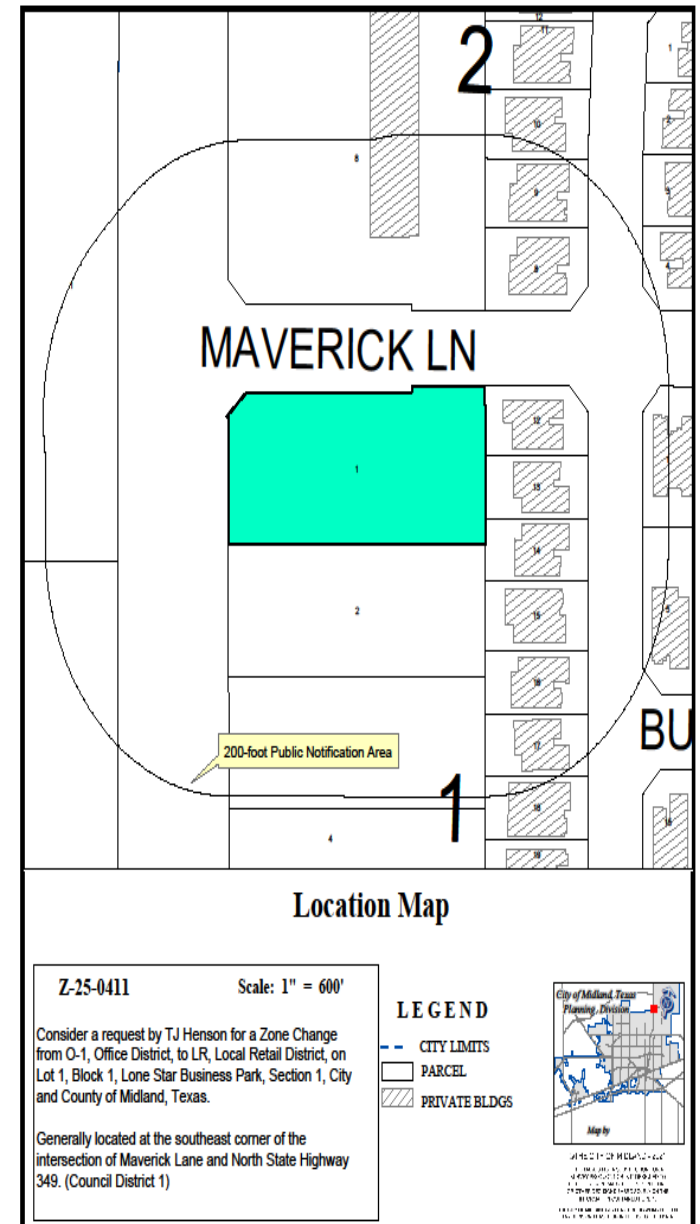
PACKET

22.14

April 22, 2025

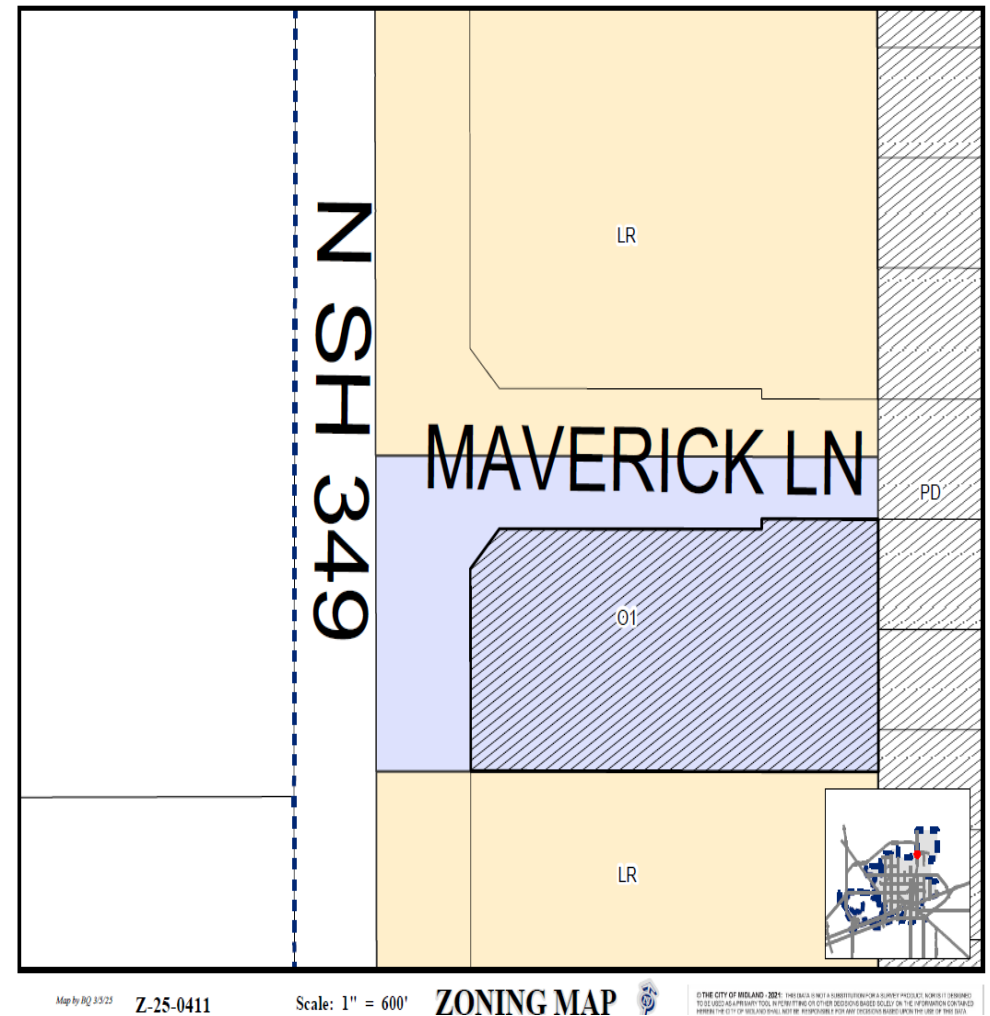
APPLICATION SUMMARY

- **Property Owner:** Real Property Resources Inc.
- **Applicant:** TJ Henson
- **Zone Change**
- **Address:** 6718 N Highway 349 (District 1)
- **Reason for Request:** To be able to operate existing building as a bank.



ZONING

- **Current Zoning:** O-1, Office District
- **Surrounding Zoning:**
 - **North/South:** LR, Local Retail District
 - **East:** PD, Planned Development District for Housing Development
- **Proposed Zoning:** LR, Local Retail District

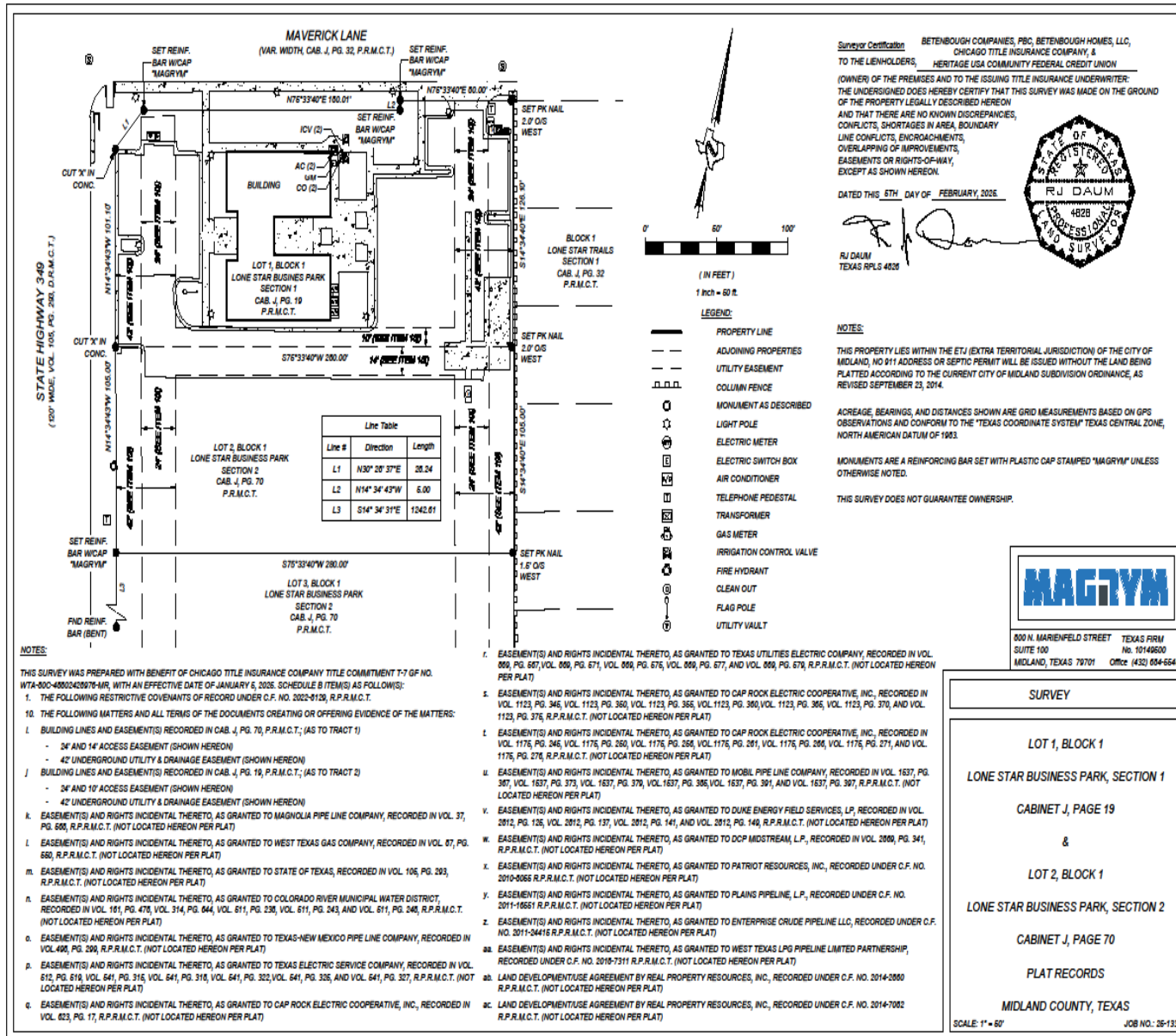


LAND USE

- **Current Use of the Property:**
Office
- **Proposed Use of the Property:**
Bank
- **Surrounding Uses:**
 - **North:** Shopping Center
 - **South:** Vacant
 - **East:** Residential
 - **West:** Office

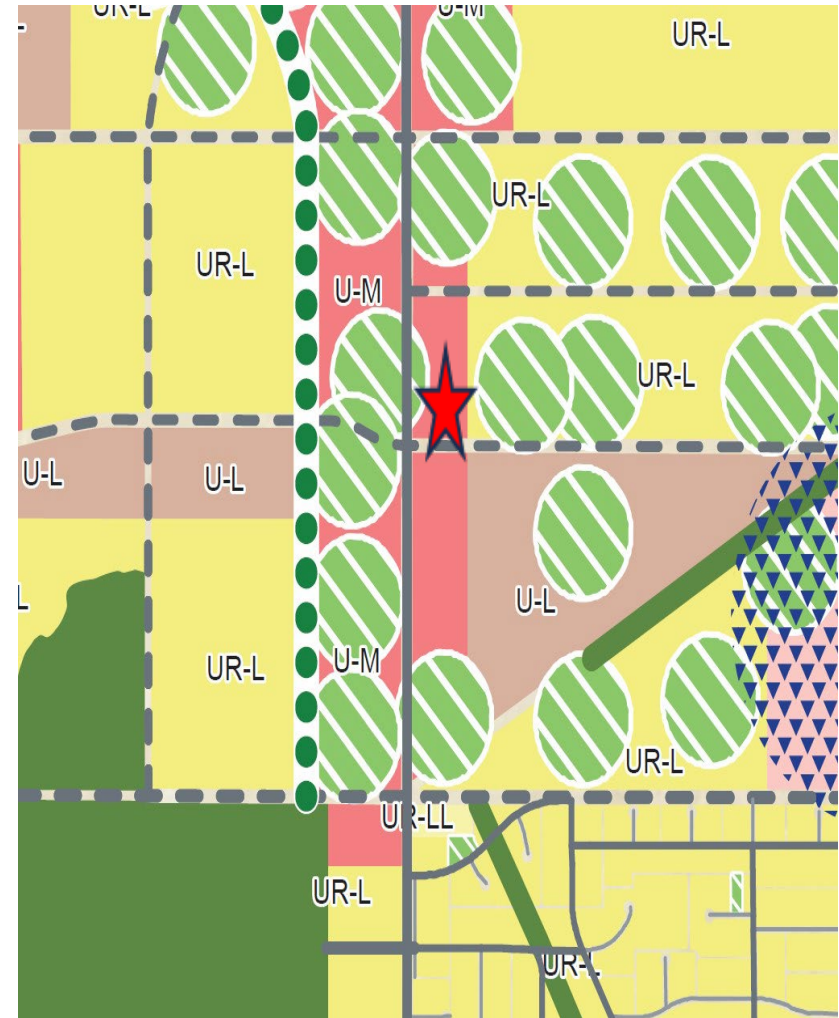






COMPREHENSIVE PLAN

- **TCT Land Use Designation:**
Urban-Medium, U-M
- **Supported Uses:**
 - This designation envisions a mix of housing types, as well as neighborhood and community commercial, office, and service-oriented uses.
- Request is compatible with the surrounding area and the Tall City Tomorrow Plan.



STAFF'S RECOMMENDATION

- No objections received.
- Planning and Zoning approved this request on March 17, 2025.
- Staff recommends **APPROVAL** of this zone change from **O-1, Office District** to **LR, Local Retail District**.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 23
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Britton Murry, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 15.44-ACRE TRACT OF LAND OUT OF SECTION 31, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 220 FEET WEST OF HOLDRIDGE ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 4) (DEVELOPMENT SERVICES) (STRONG ECONOMY WITH MORE QUALITY JOBS)

Purpose:

Maverick Engineering, on behalf of MM&E Holdings, LLC, is requesting a Zone Change from RR, Regional Retail District, to LI, Light Industrial District, to develop industrial warehouse buildings on two properties located on West County Road 77.

Recommended City Council Action:

Approve

Fiscal Impact:

The request has no significant impact on the City's budget.

Strategic Priority:

Strong Economy With More Quality Jobs

Discussion:**Current Zoning:**

RR, Regional Retail District

Surrounding Zoning and Land Use:

The properties to the north are located in the ETJ, Extraterritorial Jurisdiction, and are being used for industrial warehouses. The properties to the south are also in the ETJ and are currently vacant lots. The property to the west is zoned RR, Regional Retail District, and the current land use is for a refrigeration company. The property to the east is zoned PD, Planned Development District for a Shopping Center, and the current land use is a storage facility.

Analysis:

The applicant is seeking this zone change in order to develop industrial warehouse buildings. These vacant tracts of land are currently zoned RR, Regional Retail District, which does not allow for the use of industrial warehouses. A zone change to LI, Light Industrial District, would allow for the development of industrial warehouse structures per the City of Midland Zoning Ordinance Use Chart. [Midland City Code Section 4.03]

These tracts of land are concurrently going through the platting process in addition to this zone change request. This tract of land will be developed into three lots that would all fall under the proposed LI, Light Industrial District zoning regulations. LI, Light Industrial District zoning does not have an established minimum lot area, lot width, or lot depth per the Nonresidential Zoning District Dimensional Regulations Chart. [Midland City Code Section 5.05.]

While this property does not directly abut any LI zones, the surrounding land use is similar in nature to what would typically be found in LI, Light Industrial zoning. Furthermore, just to the east of this tract of land, there are several lots that are zoned LI, Light Industrial District, and reflect the same characteristics of this proposed use.

The Tall City Tomorrow Comprehensive Plan does not have an established designation for this property.

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. All future structures must adhere to the IFC 2015.

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)

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.]

No objection to zone change. [For the Applicant's information only.]

Planning:

The Planning & Zoning Commission recommended approval of this request on February 3, 2025.

Therefore, staff recommends approval of this Zone Change from RR, Regional Retail District to LI, Light Industrial District.

Letters of Objection:

Staff has not received any letters of objection as of April 11, 2025.

Attachments:

Application

Maps

PowerPoint Presentation

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 15.44-ACRE TRACT OF LAND OUT OF SECTION 31, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 220 FEET WEST OF HOLDRIDGE ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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 15.44-acre tract of land out of Section 31, Block 40, 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 LI, Light Industrial 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 LI, Light Industrial 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:

Nicholas Toulet, Interim City Attorney

EXHIBIT "A"

FIELD NOTE DESCRIPTION OF A 15.44 AC RE TRACT OF LAND, SITUATED IN SECTION 31, BLOCK 40, TOWNSHIP 1 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS AND BEING THE AGGREGATE OF A CALLED 11.461 ACRE TRACT AS DESCRIBED IN DOCUMENT NUMBER 2007-24354 AND A CALLED 4.0 ACRE TRACT IN DOCUMENT NUMBER 2009-10929, BOTH IN THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT N.(Y): 10688335.53, E.(X): 1705960.38, A ONE HALF INCH IRON ROD WITH A PLASTIC CAP MARKED "HOWELL RPLS 280" (HOWELL) FOUND AND ACCEPTED AS BEING THE SOUTHWEST CORNER OF LOT 1, BLOCK 5, WEST 191 INDUSTRIAL PARK ADDITION, SECTION 2 AS SHOWN ON A PLAT RECORDED AS DOCUMENT NUMBER 2009-7917 IN CABINET 1 ON PAGE 44 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, IN THE NORTH LINE OF STATE HIGHWAY 191 AS DESCRIBED IN VOLUME 711 ON PAGE 328 OF THE DEED RECORDS OF SAID MIDLAND COUNTY FOR THE SOUTHEAST CORNER HEREOF;

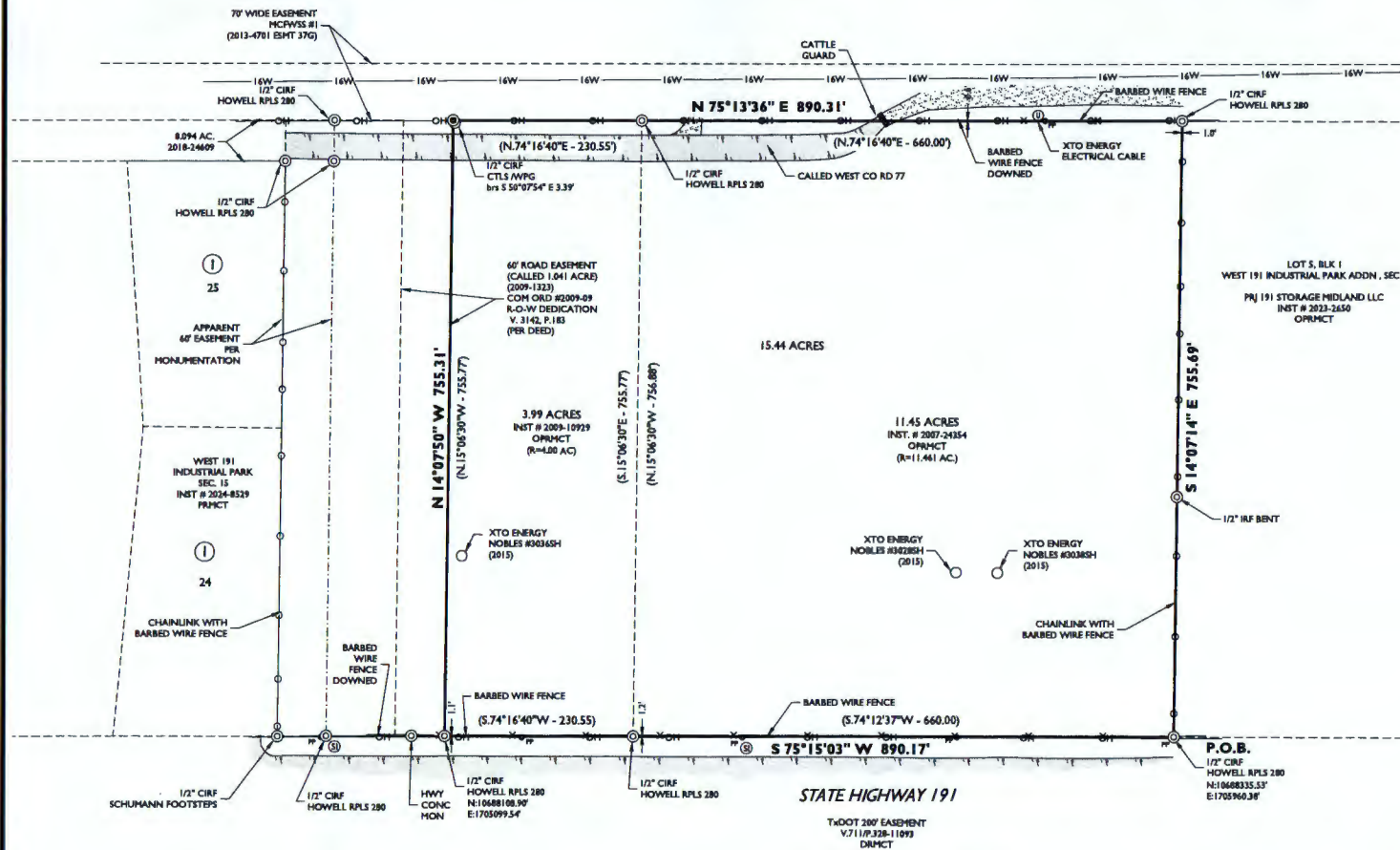
THENCE S.75°15'03"W., ALONG SAID STATE HIGHWAY 191, AT 659.85 FEET PASSING A "HOWELL" AT THE SOUTH COMMON CORNER OF THESE TWO TRACTS, IN ALL 890.17 FEET TO A "HOWELL" FOUND AT THE SOUTHEAST CORNER OF A CALLED 1.041 ACRE TRACT, BEING A 60 FOOT ROAD EASEMENT IN ORDINANCE NUMBER 2009-09 AS DESCRIBED IN DOCUMENT NUMBER 2009-1323 OF SAID "OPR" FOR THE SOUTHWEST CORNER HEREOF;

THENCE N.14°07'50"W., ALONG SAID CALLED 1.041 ACRE TRACT, 755.31 FEET TO A ONE HALF INCH IRON ROD WITH A RED PLASTIC CAP MARKED "MAVERICK FIRM#10194514" SET IN THE SOUTH LINE OF A CALLED 70 FOOT WIDE EASEMENT BEING DESCRIBED IN DOCUMENT NUMBER 2013-4701 OF SAID "OPR" FOR THE NORTHWEST CORNER HEREOF;

THENCE N.75°13'36"E., ALONG SAID EASEMENT, 890.31 FEET TO A "HOWELL" FOUND AT THE NORTHWEST CORNER OF SAID LOT 5, FOR THE NORTHEAST CORNER HEREOF;

THENCE S.14°07'14"E., ALONG SAID LOT 5, 755.69 FEET TO THE **POINT OF BEGINNING**, CONTAINING 15.44 ACRES OF LAND.

EXHIBIT "A" (cont'd)



0' 100' 200'
ORIGINAL SCALE 1" = 100'

LEGEND

- ① 1/2" IRON ROD FOUND W/ RED PLASTIC CAP MARKED "MAVERICK FIRM # 10194514" MONUMENTS FOUND AS NOTED
- ② SIGN
- ③ UTILITY MARKER
- ⊕ POWER POLE
- WELL LOCATION
- BOLLARD
- BOUNDARY LINE
- - - PROPERTY LINES
- - - CHAINLINK FENCE
- - - FENCE AS NOTED
- - - OVERHEAD ELECTRIC LINE
- - - 16" WATER MAIN
- CAULICHE
- PAVEMENT

SURVEY NOTES

1. BASIS OF BEARING, COORDINATES, DISTANCES AND ACREAGE ARE A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NORTH AMERICAN DATUM 1983, U.S. SURVEY FOOT, WITH A CONVERGENCE ANGLE (theta) OF -0°57'44.73" AND A COMBINED SCALE FACTOR OF 0.999983304 AT NGS ARP 2 MAP.
2. 1/2" IRON ROD WITH RED PLASTIC CAP MARKED "MAVERICK FIRM # 10194514" AT ALL SET CORNERS, UNLESS OTHERWISE SPECIFIED.
3. SEE DOCUMENTS ON ELECTRONIC DATA FILED IN THE OFFICE OF MAVERICK ENGINEERING FOR COMPLETE RECONSTRUCTION OF THIS SURVEY.
4. LOCATION OF BURNED UTILITIES AND PIPELINES, IF ANY, IS APPROXIMATE BASED UPON OBSERVED EXISTING DIGANCE, CITY OF MIDLAND GAS AND VISUAL EVIDENCE, OR BY ONE-CALL 811 SITE MARKINGS AT THE TIME OF THIS SURVEY. DUE CARE IS RECOMMENDED; CALL 1-800-ONE-CALL FOR LOCATES PRIOR TO ANY CONSTRUCTION OR EXCAVATION.
5. FENCES ARE ON OR WITHIN 0.5' OF THE PROPERTY LINE UNLESS OTHERWISE NOTED OR SHOWN HEREON.

FIELD NOTES

FIELD NOTE DESCRIPTION OF A 15.44 AC RE TRACT OF LAND, SITUATED IN SECTION 31, BLOCK 46, TOWNSHIP 1 SOUTH, RANGE 10 WEST AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS AND BEING THE AGGREGATE OF A CALLED 11.461 ACRE TRACT AS DESCRIBED IN DOCUMENT NUMBER 2807-24354 AND A CALLED 4.9 ACRES TRACT IN DOCUMENT NUMBER 2809-18919, BOTH IN THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT N(75) 1088333.53, S(10) 705940.38, A ONE HALF INCH IRON ROD WITH A PLASTIC CAP MARKED "HOWELL RPLS 280" (HOWELL) FOUND AND ACCEPTED AS BEING THE SOUTHWEST CORNER OF LOT 1, BLOCK 5, WEST 191 INDUSTRIAL PARK ADDN, SECTION 2 AS SHOWN ON A PLAT RECORDED AS DOCUMENT NUMBER 2009-79117 IN CARNET 1 ON PAGE 84 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, IN THE NORTH LINE OF STATE HIGHWAY 191 AS DESCRIBED IN VOLUME 711 ON PAGE 238 OF THE DEED RECORDS OF SAID MIDLAND COUNTY FOR THE SOUTHEAST CORNER HEREOF;

THENCE S(75) 1703"W, ALONG SAID STATE HIGHWAY 191, AT 689.85 FEET PASSING A "HOWELL" AT THE SOUTH COMMON CORNER OF THESE TWO TRACTS IN ALL 891.17 FEET TO A "HOWELL" FOUND AT THE SOUTHWEST CORNER OF A CALLED 1.041 ACRE TRACT, BEING A 60 FOOT ROAD EASEMENT IN DOCUMENT NUMBER 2009-49 AL DESCRIBED IN DOCUMENT NUMBER 2009-1323 OF SAID "OPR" FOR THE SOUTHWEST CORNER HEREOF;

THENCE N(14) 07'30"W, ALONG SAID CALLED 1.041 ACRE TRACT, 755.31 FEET TO A ONE HALF INCH IRON ROD WITH A RED PLASTIC CAP MARKED "MAVERICK FIRM # 10194514" SET IN THE SOUTH LINE OF A CALLED 70 FOOT WIDE EASEMENT BEING DESCRIBED IN DOCUMENT NUMBER 2013-4701 OF SAID "OPR" FOR THE NORTHWEST CORNER HEREOF;

THENCE N(75) 1735"W, ALONG SAID EASEMENT, 890.17 FEET TO A "HOWELL" FOUND AT THE NORTHWEST CORNER OF SAID LOT 5, FOR THE NORTHWEST CORNER HEREOF;

THENCE S(14) 07'14"E, ALONG SAID LOT 5, 755.69 FEET TO THE POINT OF BEGINNING, CONTAINING 15.44 ACRES OF LAND.

P:\2024\03\01\65-REX OILFIELD SERVICES LP-1-20 INDUSTRIAL\DRAWINGS\BOUNDARY SURVEY\240165 BOUNDARY SURVEY.DWG Last Save by: AKabank 10/16/24

SURVEYOR: GWS	SCALE: 1" = 100'	APPROVAL DATE:
DRAWN BY: AK	JOB NO.: 240165	REV 1:
APPROVED:	FIELD PACKET	REV 2: 10.09.24

TO REX OILFIELD SERVICES, LP: THIS SURVEY WAS PERFORMED ON THE GROUND AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND COMPLIES WITH THE TUPLES STANDARDS FOR A BOUNDARY SURVEY.

Gregory W. Shultz
GREGORY W. SHULTZ, RPLS 85354
FIRM NO. TX 010194514

OCTOBER 16, 2024



MAVERICK
CIVIL ENGINEERING / LAND SURVEYING
ENGINEER FIRM #: F-15089 | SURVEY FIRM #: 10194514
1909 West Wall Street, Suite "K" - Midland, Texas 79701
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com



REX OILFIELD SERVICES, LP

BOUNDARY SURVEY WITH IMPROVEMENTS

FOR A 15.44 ACRE TRACT OF LAND, SITUATED IN SECTION 31, BLOCK 46, TOWNSHIP 1 SOUTH, RANGE 10 WEST AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS
April 20, 2024



**Zone Change/Planned District
Amendment/Site Plan Approval**

Project Number: _____

Case Number: 2-25-0408

Applicant (if acting as Agent, see affidavit on page 2)

Phone (432) 813-2969

Email
isai@rexoilfield.com

Printed Name: MM&E HOLDINGS LLC

Address PO BOX 60261

City MIDLAND

State TX

Zip 79711

Property Owner

Printed Name:

Phone ()

Email

Address

City

State

Zip

Representative (if different from Applicant or Property Owner)

Firm: MAVERICK ENGINEERING

Printed Name: ASHLEE DEVINE

Phone (432) 262-0999

Email
adevine@maverick-eng.com

Address 1909 W WALL STREET, SUITE K

City MIDLAND

State TX

Zip 79701

Street Address: NOT AVAILABLE

Legal Description

Lot: Block: Subdivision: SEE ATTACHED M&B

Current Zoning: RR

Proposed Zone: LIGHT INDUSTRIAL
(List by tracts if more than one district is requested)

Reason for Zone Change Request: TO DEVELOP LIGHT INDUSTRIAL WAREHOUSE BUILDINGS

Present Use of Property: VACANT

Proposed Use of Property: LIGHT INDUSTRIAL BUSINESS TYPE DEVELOPMENT

How would this zone change affect the public health, safety and welfare?

NO CHANGE

Describe how conditions affecting the property have changed since present zoning designation: NO CHANGE, PROPOSED USE WILL CONFORM TO SURROUNDING BUSINESSES

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): [Signature] Date: 1/7/2025

Applicant (printed): Isai Bracamontes

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.

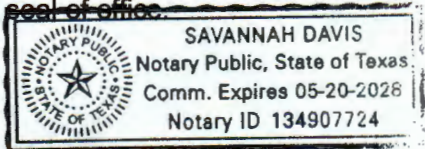
All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

**STATE OF TEXAS
COUNTY OF MIDLAND**

Before me, the undersigned authority, on this day personally appear Ashlee Devine who, being by me duly sworn, upon oath says: That (s)he is the owner of W. M. Industrial or authorized by MMGE 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.

Ashlee Devine
Authorized Agent (signature)

Subscribed and sworn to before me, this 8th day of January, 2025, to certify which witness my hand and seal of office.



[Signature]

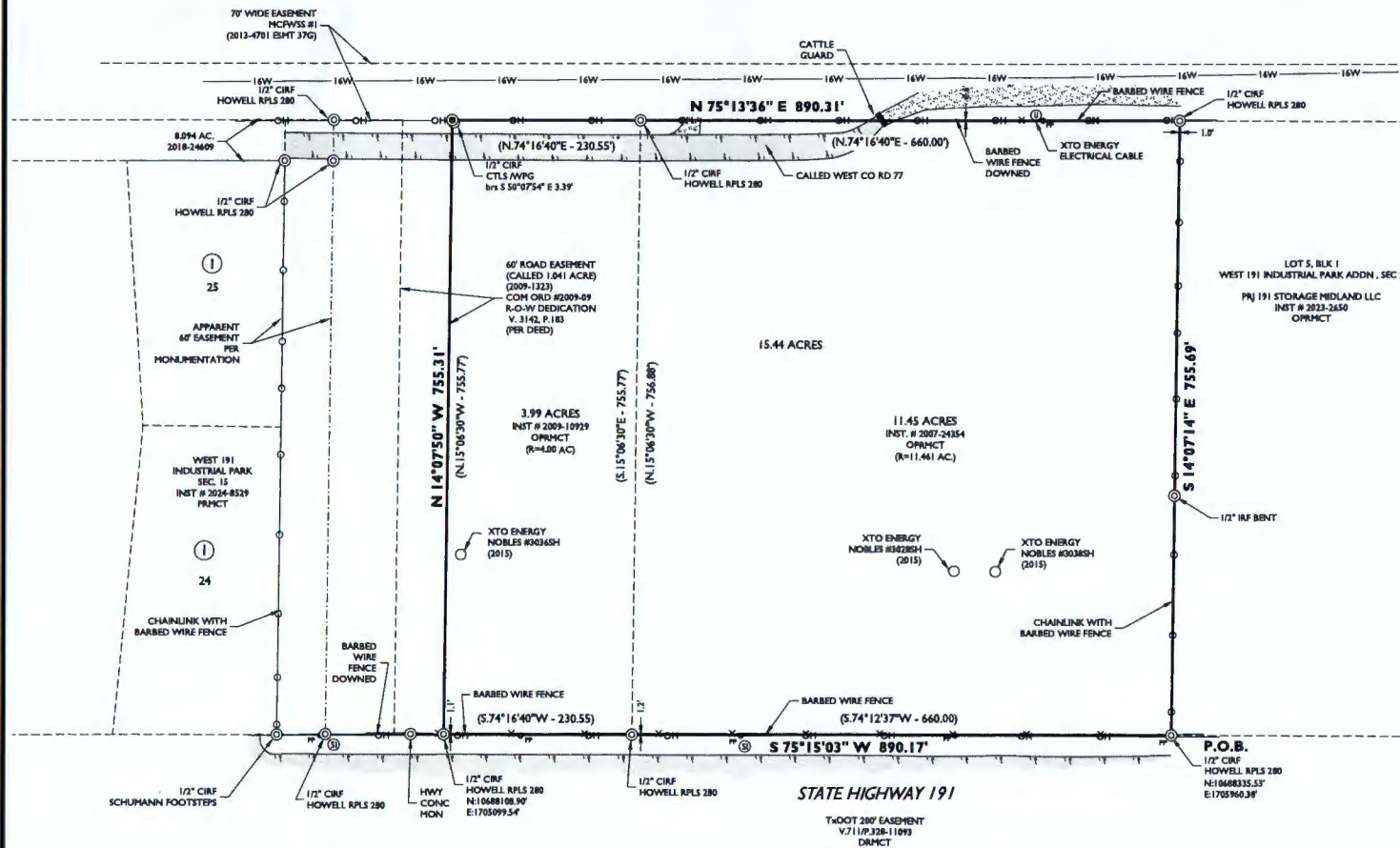
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☒ Property Owner Authorization ☒ Dimensioned Site Plan
☒ Application Fee ☒ Plans in Digital Format (PDF/JPEG)
 Check # 5087

Received By: [Signature] Date: Jan 8 2025

Application will not be considered for scheduling until reviewed by Applicant 1/22/2025



LEGEND

- ① 1/2\"
- ② MONUMENTS FOUND AS NOTED
- ③ SIGN
- ④ UTILITY MARKER
- ⊕ POWER POLE
- WELL LOCATION
- BOLLARD
- BOUNDARY LINE
- - - PROPERTY LINES
- - - CHAINLINK FENCE
- - - FENCE AS NOTED
- - - OVERHEAD ELECTRIC LINE
- - - 16\"
- CAULICHE
- PAVEMENT

SURVEY NOTES

1. BASIS OF BEARING, COORDINATES, DISTANCES AND ACREAGE ARE A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NORTH AMERICAN DATUM 1983, U.S. SURVEY FOOT, WITH A CONVERGENCE ANGLE (theta) OF -0°57'44.73\"
2. 1/2\"
3. SEE DOCUMENTS ON ELECTRONIC DATA FILED IN THE OFFICE OF MAVERICK ENGINEERING FOR COMPLETE RECONSTRUCTION OF THIS SURVEY.
4. LOCATION OF BURNED UTILITIES AND PIPELINES, IF ANY, IS APPROXIMATE BASED UPON OBSERVED EXISTING DIGRAGE, CITY OF MIDLAND GAS AND VISUAL EVIDENCE, OR BY ONE-CALL 811 SITE MARKINGS AT THE TIME OF THIS SURVEY. DUE CARE IS RECOMMENDED; CALL 1-800-ONE-CALL FOR LOCATES PRIOR TO ANY CONSTRUCTION OR EXCAVATION.
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FIELD NOTES

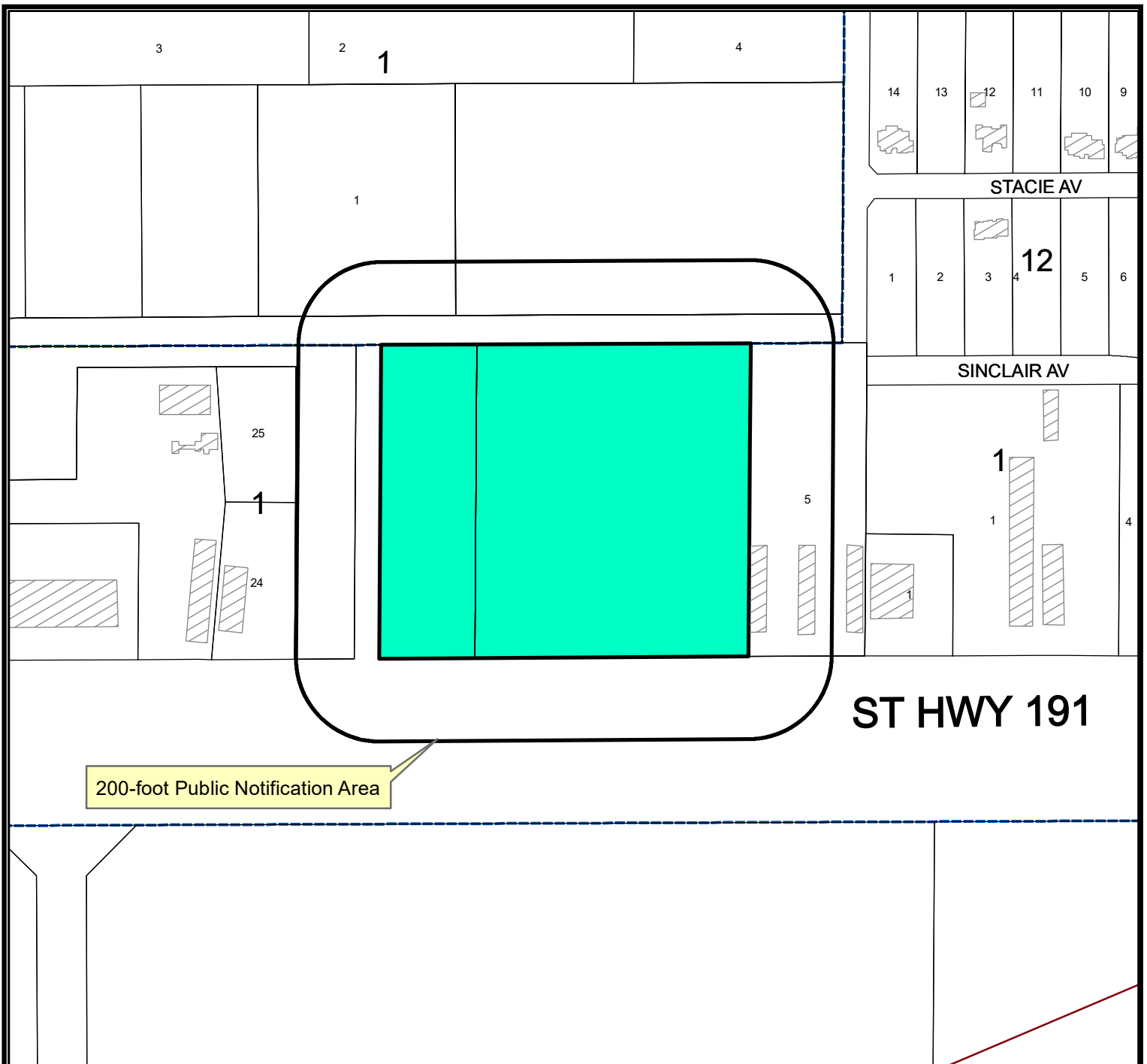
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BEGINNING AT N(75) 1688333.53, S(10) 1709430.38, A ONE HALF INCH BORN ROD WITH A PLASTIC CAP MARKED \"HOWELL RPLS 280\" (HOWELL) FOUND AND ACCEPTED AS BEING THE SOUTHWEST CORNER OF LOT 1, BLOCK 5, WEST 191 INDUSTRIAL PARK ADDN, SECTION 2 AS SHOWN ON A PLAT RECORDED AS DOCUMENT NUMBER 2009-79117 IN CARNET 1 ON PAGE 84 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, IN THE NORTH LINE OF STATE HIGHWAY 191 AS DESCRIBED IN VOLUME 711 ON PAGE 238 OF THE DEED RECORDS OF SAID MIDLAND COUNTY FOR THE SOUTHEAST CORNER HEREOF;

THENCE S(75) 1703\"

P:\2024\240165-REX OILFIELD SERVICES LP-1-20 INDUSTRIAL\DRAWINGS\BOUNDARY SURVEY\240165 BOUNDARY SURVEY.DWG Last Save by: AKabank 10/16/24

SURVEYOR: GWS		SCALE: 1" = 100'		APPROVAL DATE:		TO REX OILFIELD SERVICES, LP: THIS SURVEY WAS PERFORMED ON THE GROUND AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND COMPLIES WITH THE TUPLES STANDARDS FOR A BOUNDARY SURVEY.				MAVERICK CIVIL ENGINEERING / LAND SURVEYING ENGINEER FIRM #: F-15089 SURVEY FIRM #: 10194514 1909 West Wall Street, Suite "K" - Midland, Texas 79701 Tel: (432) 262-0999 Fax: (432) 262-0989 www.Maverick-Eng.com		REX OILFIELD SERVICES, LP BOUNDARY SURVEY WITH IMPROVEMENTS FOR A 15.44 ACRE TRACT OF LAND, SITUATED IN SECTION 31, BLOCK 46, TOWNSHIP 1 SOUTH, RANGE 14 NORTH, PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS	
DRAWN BY: AK		JOB NO.: 240165		REV 1:		APPROVED:		FIELD NO. 2: 10.09.24		DATE: OCTOBER 16, 2024		APR 20 2025	



Location Map

Z-25-0408

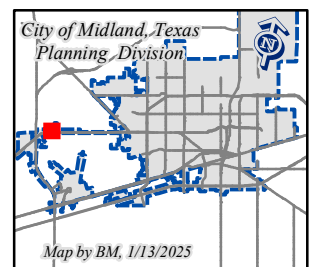
Scale: 1" = 348'

Consider a request by Maverick Engineering, on behalf of MM&E Holdings, LLC, for a Zone Change from RR, Regional Retail District, to LI, Light Industrial District, for a 15.44-acre tract of land located in the southeast quarter of Section 31, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas.

Generally located on the north side of State Highway 191, approximately 420 feet west of Holdridge Road. (Corner of District 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

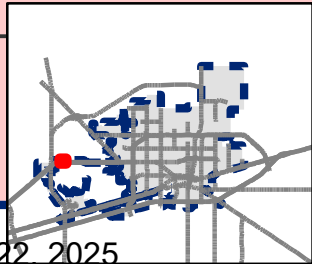


©THE CITY OF MIDLAND - 2021

April 22, 2025

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR FOR IT IS DESIGNED TO BE USED AS A 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.





PACKET

23.15

April 22, 2025



PACKET

23.16

April 22, 2025



WEST 191 INDUSTRIAL PARK, SECTION 16

ZONE CHANGE



Visit Our Website

MIDLANDTEXAS.GOV

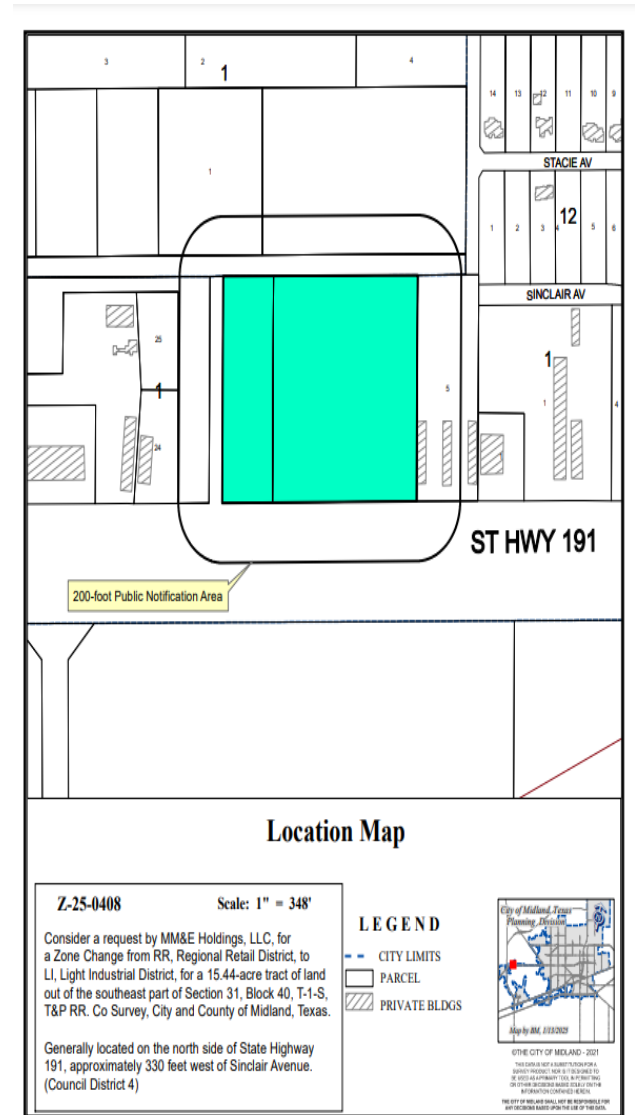
PACKET

23.17

April 22, 2025

APPLICATION SUMMARY

- **Property Owner/Applicant:** MM&E Holdings, LLC
- **Representative:** Ashlee Devine, with Maverick Engineering
- **Zone Change**
- **Address:** Generally located on the north side of State Highway 191, approximately 220 feet west of Holdridge Road. (Council District 4)



3

- # PACKET



LAND USE

- **Current Use of the Property:**
Vacant
- **Proposed Use of the Property:**
Industrial Warehouse Buildings
- **Surrounding Uses:**
 - **North:** Industrial Buildings
 - **West:** Refrigeration Company
 - **East:** Storage Facility
 - **South:** Vacant

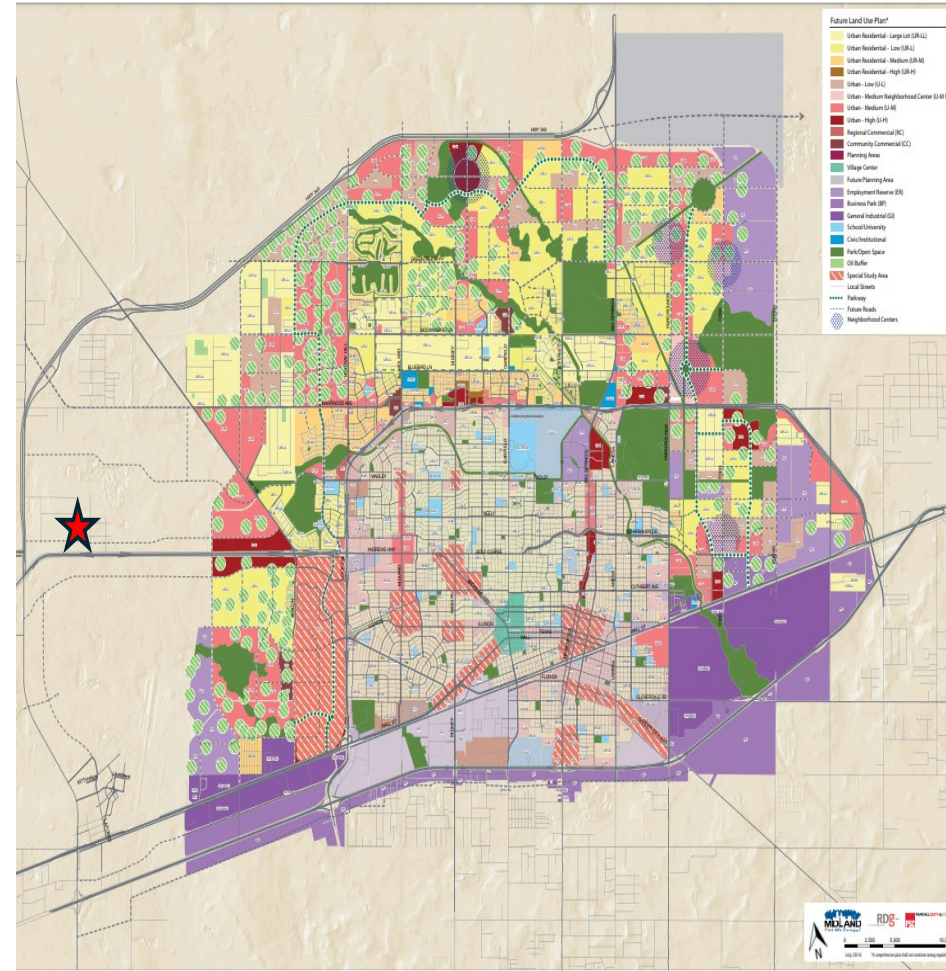


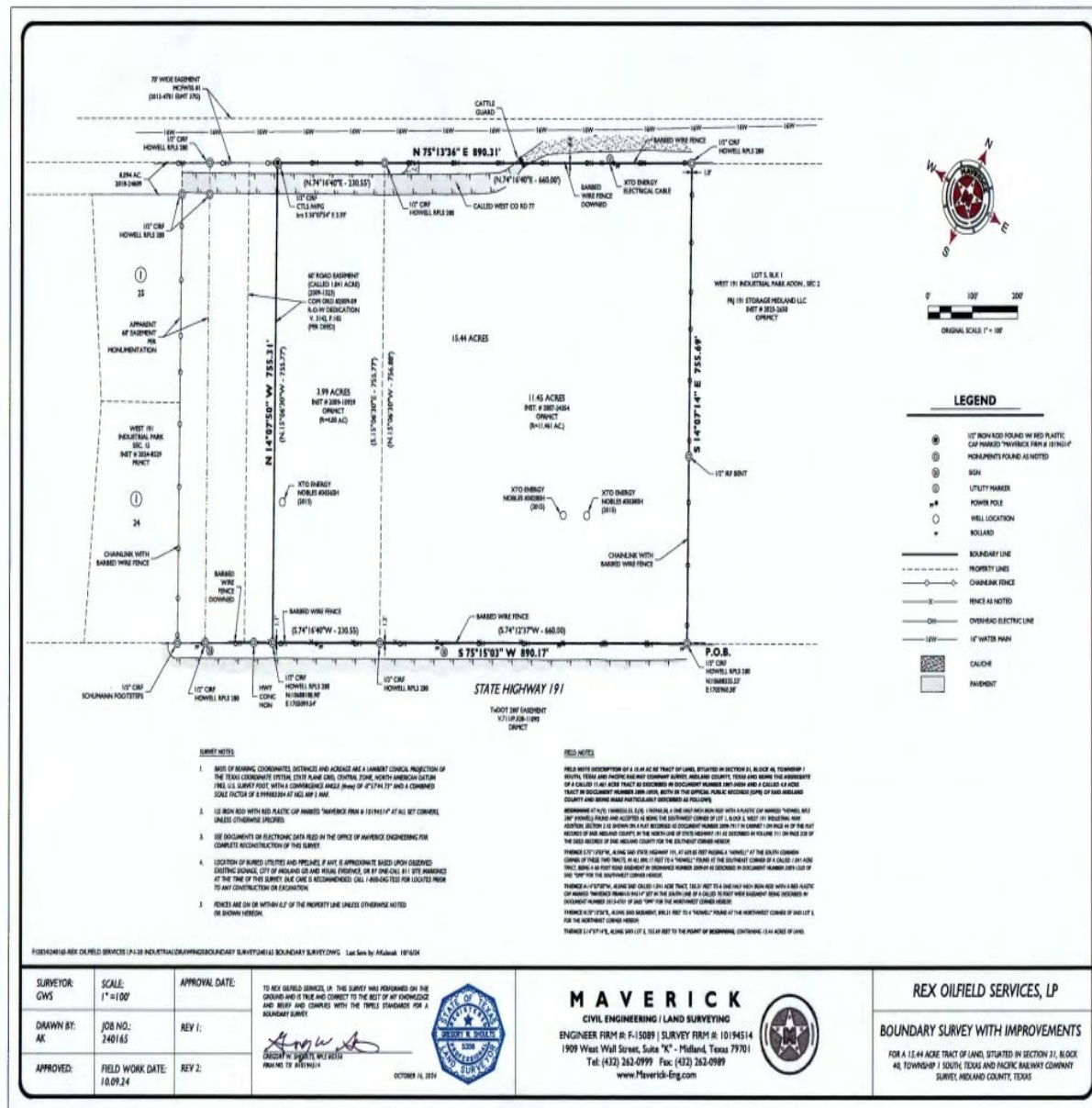


On State Highway 191, Looking North

COMPREHENSIVE PLAN

- **TCT Land Use Designation: Not designated**





STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended approval of this request on February 3, 2025.
- Staff recommends **APPROVAL** of this zone change from RR, Regional Retail District to LI, Light Industrial District.



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: April 22, 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 0.994-ACRE TRACT OF LAND OUT OF SECTION 33, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT, IN PART, AND C, COMMERCIAL DISTRICT, IN PART, TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST WALL STREET AND SOUTH MIDKIFF ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION(DISTRICT 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

The applicant, Maverick Engineering is requesting a Zone Change from RR, Regional Retail District, in part, and C, Commercial District, in part to RR, Regional Retail District to develop a Murphy's Gas Station and Convenience Store on a property located at the southeast corner of the intersection of West Wall Street and South Midkiff Road.

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, in part, and C, Commercial District, in part.

Surrounding Zoning and Land Use:

The properties to the north are zoned RR, Regional Retail District, and the land is currently being used as a gas station, gym, and motel. The properties to the east are zoned C, Commercial District, and are currently an electrical supply store, window tinting shops, and a collision center. The properties to the west are zoned RR, Regional Retail District, and C, Commercial District, and are currently used with a gas station, fast food restaurants, and Inns. The properties to the south are zoned C, Commercial District, and consist of a vacant building and Inns.

Analysis:

The applicant is seeking this zone change from RR, Regional Retail District, in part, and C, Commercial District, in part, to RR, Regional Retail District, in order to develop a Murphy's Gas Station and Convenience Store, which is an allowed use in the RR, Regional Retail District and C, Commercial District, zoning. Changing this zoning would help the future retail development of this area. This lot does meet the minimum lot requirements for the RR, Regional Retail District.

This request is consistent with the Tall City Tomorrow Comprehensive Plan, Chapter 3; which designated this area as Special Study Area, which has no current policies.

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.

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, in part, and C, Commercial District, in part to RR, Regional Retail District.

Letters of Objection:

Staff has not received any letters of objection as of April 18, 2025.

Attachments:

Application
Survey
Maps
PowerPoint Presentation

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.994-ACRE TRACT OF LAND OUT OF SECTION 33, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT, IN PART, AND C, COMMERCIAL DISTRICT, IN PART, TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST WALL STREET AND SOUTH MIDKIFF ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 0.994-acre tract of land out of Section 33, Block 39, 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 RR, Regional Retail District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from RR, Regional Retail District, in part, and C, Commercial District, in part, to RR, Regional Retail District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

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

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

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 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

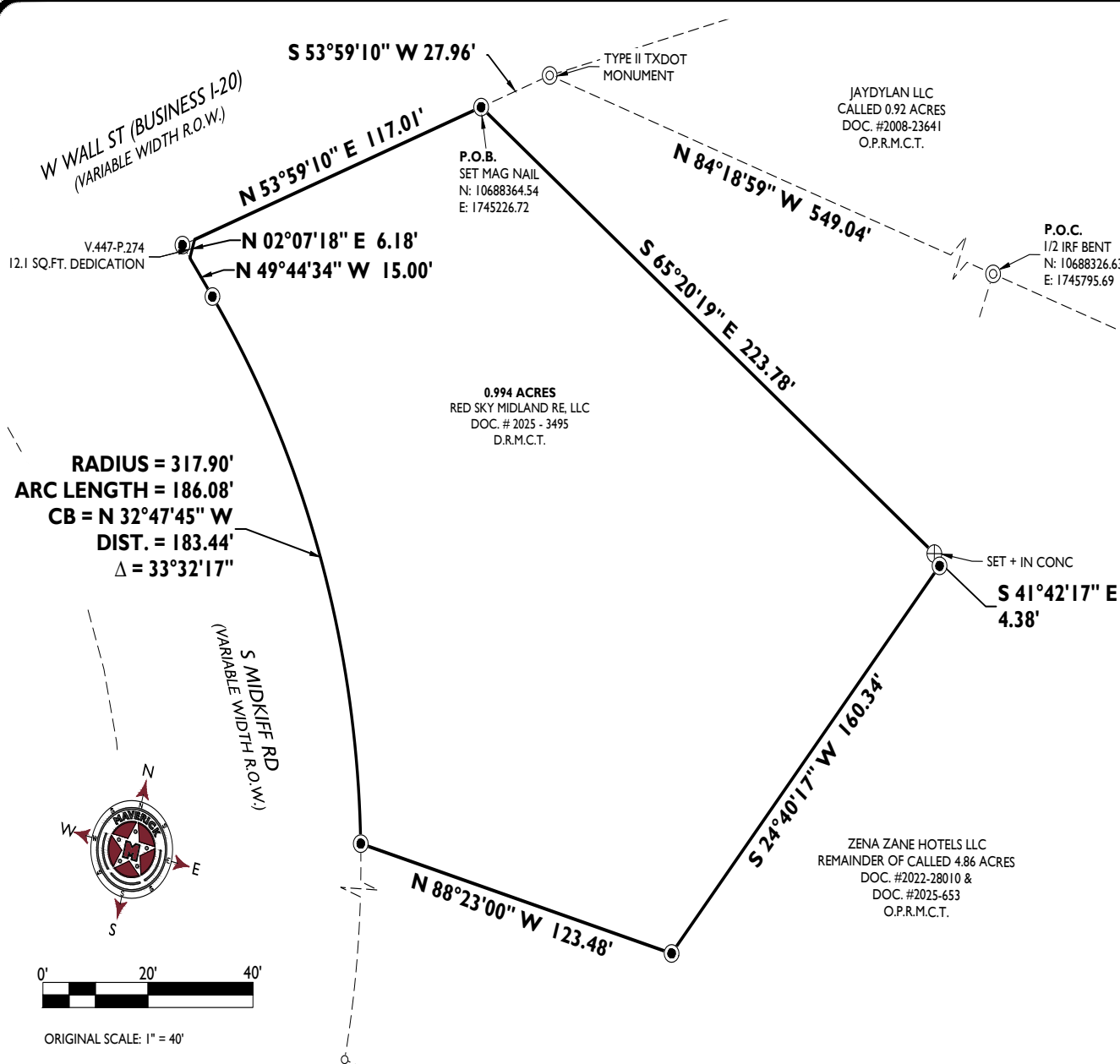
APPROVED AS TO CONTENT
AND COMPLETENESS:

Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

Nicholas Toulet, Interim City Attorney

Drawing: F:\2024\240162-RED SKY HOLDINGS-MURPHY'S MIDLAND-MIDKIFF AND WALL STREET\DRAWINGS\EXHIBIT\240162 - ZONING EXHIBIT.DWG Last Saved By: Adevine on 2/18/25



LEGEND		
⊗	"+" SET IN CONCRETE	PROPOSED EASEMENT
●	MAG NAIL SET	PROPERTY LINES
⊙	FOUND MONUMENT AS NOTED	OFFICIAL PUBLIC RECORDS, MIDLAND CO., TX
○	LOT CORNER	

METES & BOUNDS

FIELD NOTE DESCRIPTION OF A 0.994 ACRE TRACT OF LAND, SITUATED IN SECTION 33, BLOCK 39, TOWNSHIP 1 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS AND BEING A PORTION OF A CALLED 4.86 ACRE TRACT DESCRIBED IN DOCUMENT NUMBER 2022-28010 AND CORRECTED IN DOCUMENT NUMBER 2025-653 OF THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT N.(y):10688326.63, E.(x):1745795.69, A BENT ONE HALF INCH IRON ROD FOUND IN THE SOUTH LINE OF LOT 2, BLOCK 6, BANKHEAD ADDITION SECTION 12 AS SHOWN ON A PLAT RECORDED IN CABINET M ON PAGE 43 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, AT THE NORTHWEST CORNER OF A CALLED 1 ACRE TRACT AS DESCRIBED IN VOLUME 1030 ON PAGE 342 OF SAID "OPR"; BEING THE NORTHEAST CORNER OF SAID CALLED 4.86 ACRE TRACT, THENCE N.84°18'59"W, 549.04 FEET (550.00') TO A TYPE II TxDOT MONUMENT, FOUND ON THE SOUTHEAST LINE OF BUSINESS IH 20, THENCE S.53°59'10"W, 27.96 FEET TO A MAG NAIL SET FOR THE POINT OF BEGINNING AND BEING THE NORTH CORNER HEREOF;

THENCE S.65°20'19"E, SEVERING SAID 4.86 ACRE TRACT, 223.78 FEET TO A "+" MARKED IN CONCRETE FOR THE NORTH, NORTHEAST CORNER HEREOF;

THENCE S.41°42'17"E, 4.38 FEET TO A MAG NAIL SET FOR THE SOUTH, NORTHEAST CORNER HEREOF;

THENCE S.24°40'17"W, 160.34 FEET TO A MAG NAIL SET FOR THE SOUTHEAST CORNER HEREOF;

THENCE N.88°23'00"W, 123.48 FEET TO A MAG NAIL SET IN THE EAST LINE OF MIDKIFF ROAD FOR A POINT OF DEFLECTION RIGHT FOR A CURVE TO THE LEFT HAVING A RADIUS OF 317.90 FEET AND A CHORD BEARING AND DISTANCE OF N.32°47'45"W, 175.08 FEET;

THENCE ALONG THE ARC OF SAID CURVE BEING CONCAVE TO THIS TRACT AN ARC DISTANCE OF 186.08 FEET TO A MAG NAIL SET AT THE POINT OF TANGENCY HEREOF;

THENCE N.49°44'34"W, ALONG SAID MIDKIFF ROAD, 15.00 FEET TO A POINT AS DESCRIBED IN A DEDICATION DEED RECORDED IN VOLUME 447 ON PAGE 274 OF SAID "OPR" FOR A CUTBACK CORNER HEREOF;

THENCE N.02°07'18"E, ACROSS SAID CUTBACK, 6.18 FEET TO A POINT IN THE SOUTHEAST LINE OF BUSINESS IH 20 FOR THE MOST NORTHERLY WEST CORNER HEREOF;

THENCE N.53°59'10"E, ALONG SAID BUSINESS IH 20 117.01 FEET TO THE POINT OF BEGINNING CONTAINING 43,322 SQUARE FEET OR 0.994 ACRE OF LAND.

SURVEY NOTES:

1. BASIS OF BEARING, COORDINATES, DISTANCES AND ACREAGE ARE A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NORTH AMERICAN DATUM 1983, U.S. SURVEY FOOT, WITH A CONVERGENCE ANGLE (theta) OF -0°54'48.40" AND A COMBINED SCALE FACTOR OF 0.999896911 AT NGS MIDLAND.



MAVERICK

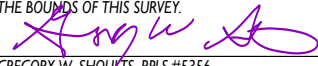
CIVIL ENGINEERING / LAND SURVEYING

1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
maverick-eng.com

PACKET

JOB NO.: 240162 FIELD WORK: 10.4.24 DRAWN BY: BK REV 1: REV 2:

I THE UNDERSIGNED, DO HEREBY CERTIFY THAT THE SURVEY INFORMATION FOUND ON THIS PLAT WAS DERIVED FROM FIELD NOTES OR ELECTRONIC DATA OF AN ACTUAL ON-THE-GROUND SURVEY MADE BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. NO WARRANTY IS MADE OR INTENDED FOR THE LOCATION OF ANY OR ALL EASEMENTS THAT MAY EXIST WITHIN THE BOUNDS OF THIS SURVEY.



GREGORY W. SHOULTS, RPLS #5356
FIRM NO. TX #10194514

FEBRUARY 16, 2025



EXHIBIT A

ZONING BOUNDARY EXHIBIT

BEING A 0.994 ACRE TRACT OF LAND, SITUATED IN SECTION 33, BLOCK 39, TOWNSHIP 1 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY TEXAS.

April 22, 2025



**Zone Change/Planned District
Amendment/Site Plan Approval**

Project Number: _____
Case Number: 2-25-0412

Applicant (if acting as Agent, see affidavit on page 2) Printed Name: <u>SEE REPRESENTATIVE</u>		Phone () Email	
Address	City	State	Zip

Property Owner Printed Name: <u>RED SKY MIDLAND, RE LLC</u>		Phone (918) 760-7793 Email <u>phil@redskyholdings.com</u>	
Address <u>15110 DALLAS PARKWAY #440</u>	City <u>DALLAS</u>	State <u>TX</u>	Zip <u>75248</u>

Representative (if different from Applicant or Property Owner) Firm: <u>MAVERICK ENGINEERING</u> Printed Name: <u>ASHLEE DEVINE</u>		Phone (432) 262-0999 Email <u>adevine@maverick-eng.com</u>	
Address <u>1909 W WALL STREET, SUITE K</u>	City <u>MIDLAND</u>	State <u>TX</u>	Zip <u>79701</u>

Street Address: <u>SEE ATTACHED</u>		
Legal Description Lot: Block: Subdivision:		

Current Zoning: <u>RR AND C</u>	Proposed Zone: <u>RR</u> (List by tracts if more than one district is requested)
---	--

Reason for Zone Change Request: TO PLAT AND MAKE A SINGLE ZONE DESIGNATION

Present Use of Property: CURRENTLY BEING USED AS A RESTURANT

Proposed Use of Property: DEVELOPED INTO A MURPHYS GAS STATION AND CONVIENCE STORE

How would this zone change affect the public health, safety and welfare? NO AFFECT

Describe how conditions affecting the property have changed since present zoning designation: CURRENTLY GOING THROUGH THE PLATTING PROCESS AND WILL BE REDEVELOPED

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): SEE PROPERTY OWNER	Date:
Applicant (printed): SEE PROPERTY OWNER	
Property Owner (signature): <u>[Signature]</u>	Date: <u>2/17/25</u>
Property Owner (printed): <u>Kevin Mutton - Manager</u>	
The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office <u>only</u> when it has been submitted in <u>full compliance</u> 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 ASHLEE DEWINE who, being by me duly sworn, upon oath says: That (s)he is the owner of Red Sky Midland RE or authorized by Kevin Mutton, 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.

ASHLEE DEWINE
Authorized Agent (signature)

Subscribed and sworn to before me, this 17th day of February, 2025, to certify which witness my hand and seal of office.

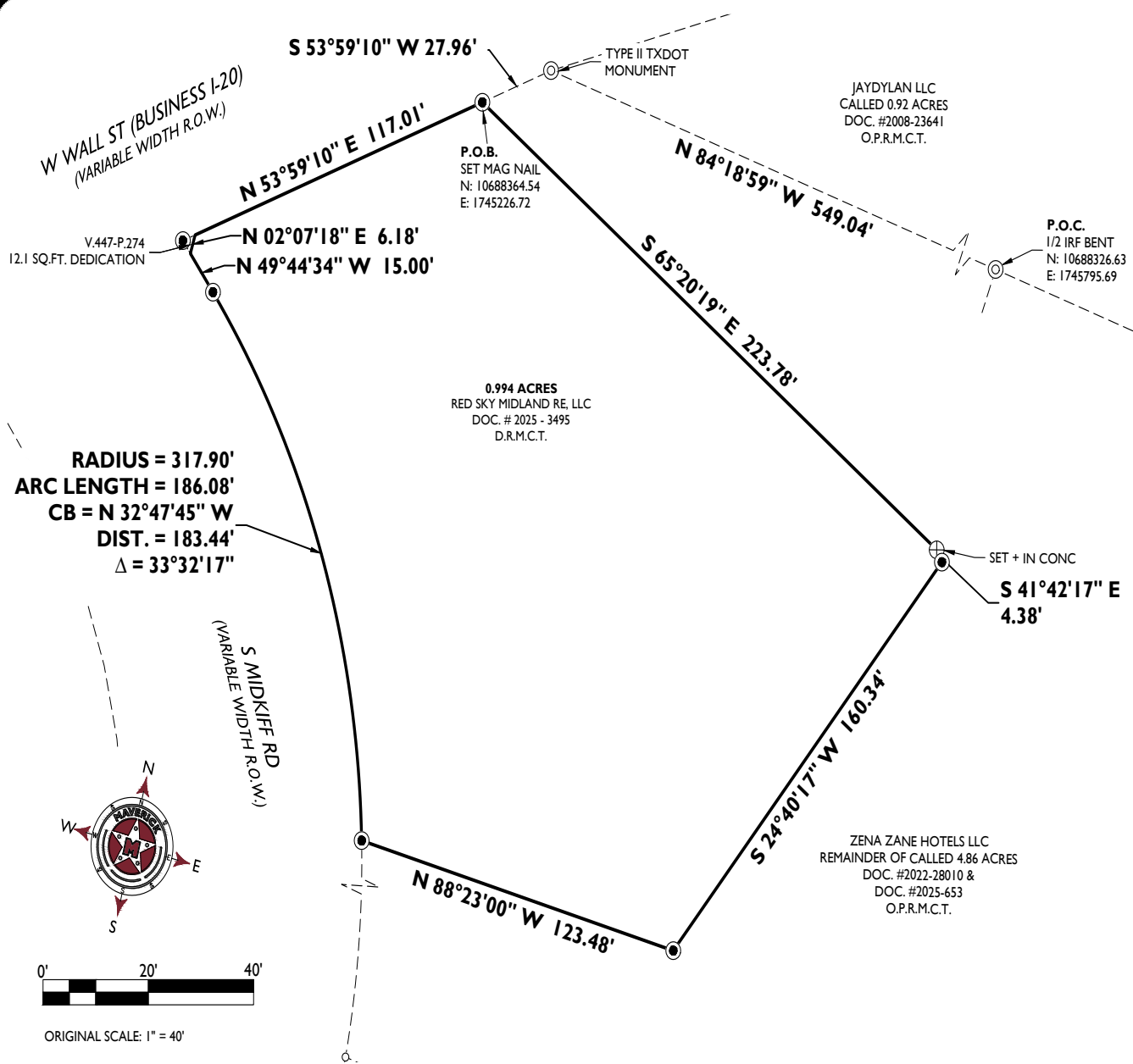


SAVANNAH DAVIS
Notary Public, State of Texas
Comm. Expires 05-20-2028
Notary ID 13490772

[Signature]
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☒ Property Owner Authorization	☒ Dimensioned Site Plan
☒ Application Fee	☒ Plans in Digital Format (PDF/JPEG)
Check # <u>5188</u>	RECEIVED
Received By: <u>Beatriz Rueda</u>	Date: <u>FEB 19 2025</u>
	Initial <u> </u>

Drawing: F:\2024\240162-RED SKY HOLDINGS-MURPHY'S MIDLAND-MIDKIFF AND WALL STREET\DRAWINGS\EXHIBIT\240162 - ZONING EXHIBIT.DWG Last Saved By: Adevine on 2/18/25



LEGEND		
⊗	"+" SET IN CONCRETE	PROPOSED EASEMENT
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⊙	FOUND MONUMENT AS NOTED	OFFICIAL PUBLIC RECORDS, MIDLAND CO., TX
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METES & BOUNDS

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GREGORY W. SHOULTS, RPLS #5356
FIRM NO. TX #10194514

24-10

FEB 11 2025

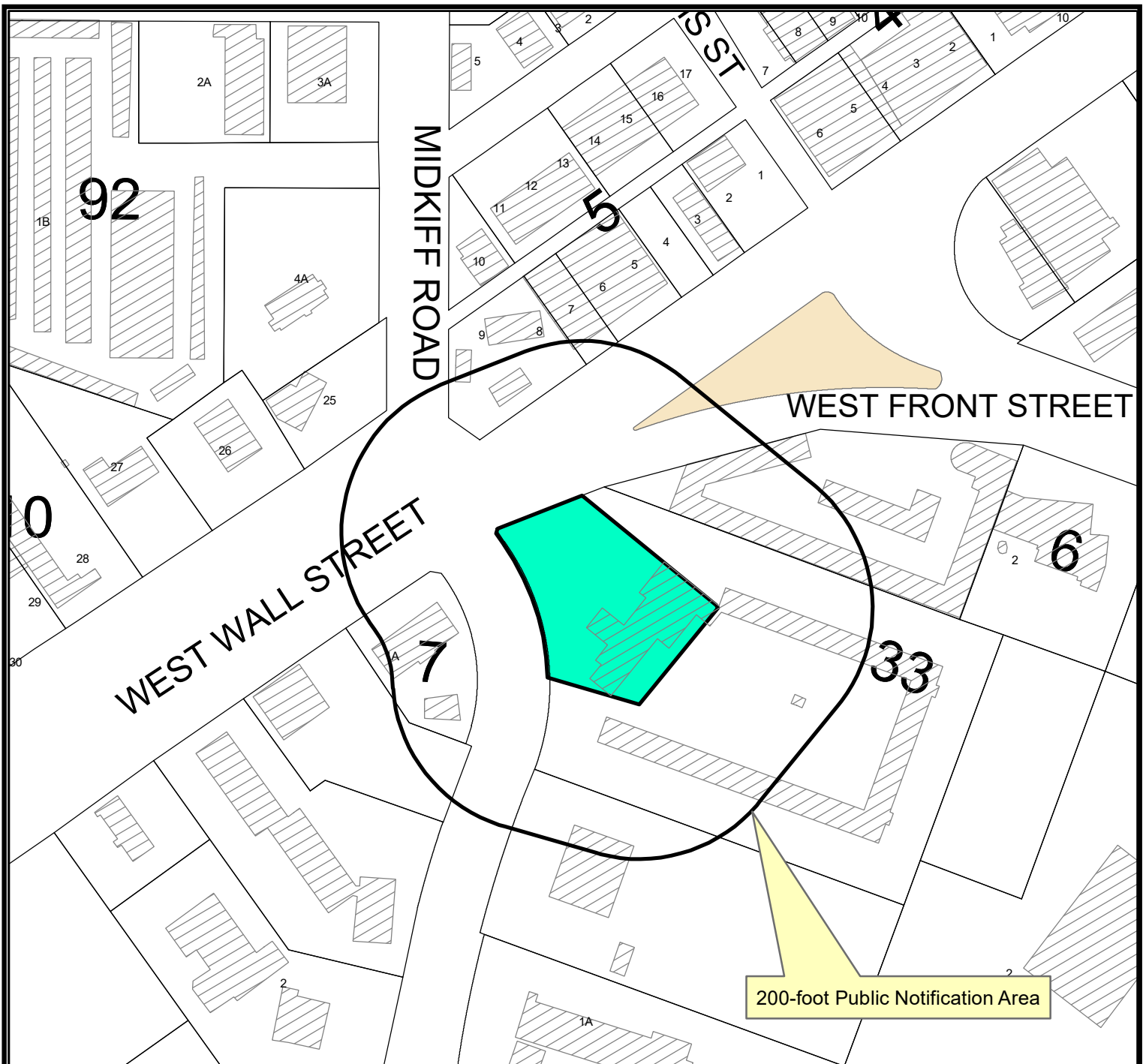


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BEING A 0.994 ACRE TRACT OF LAND, SITUATED IN SECTION 33, BLOCK 39, TOWNSHIP 1 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY TEXAS.

April 22, 2025



Location Map

Z-25-0412

Scale: 1" = 186'

Consider a request by Maverick Engineering for a zone change from RR, Regional Retail District, in part, and C, Commercial District, in part to RR, Regional Retail District on a 0.994-acre tract of land out of Section 33, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of West Wall Street and South Midkiff Road. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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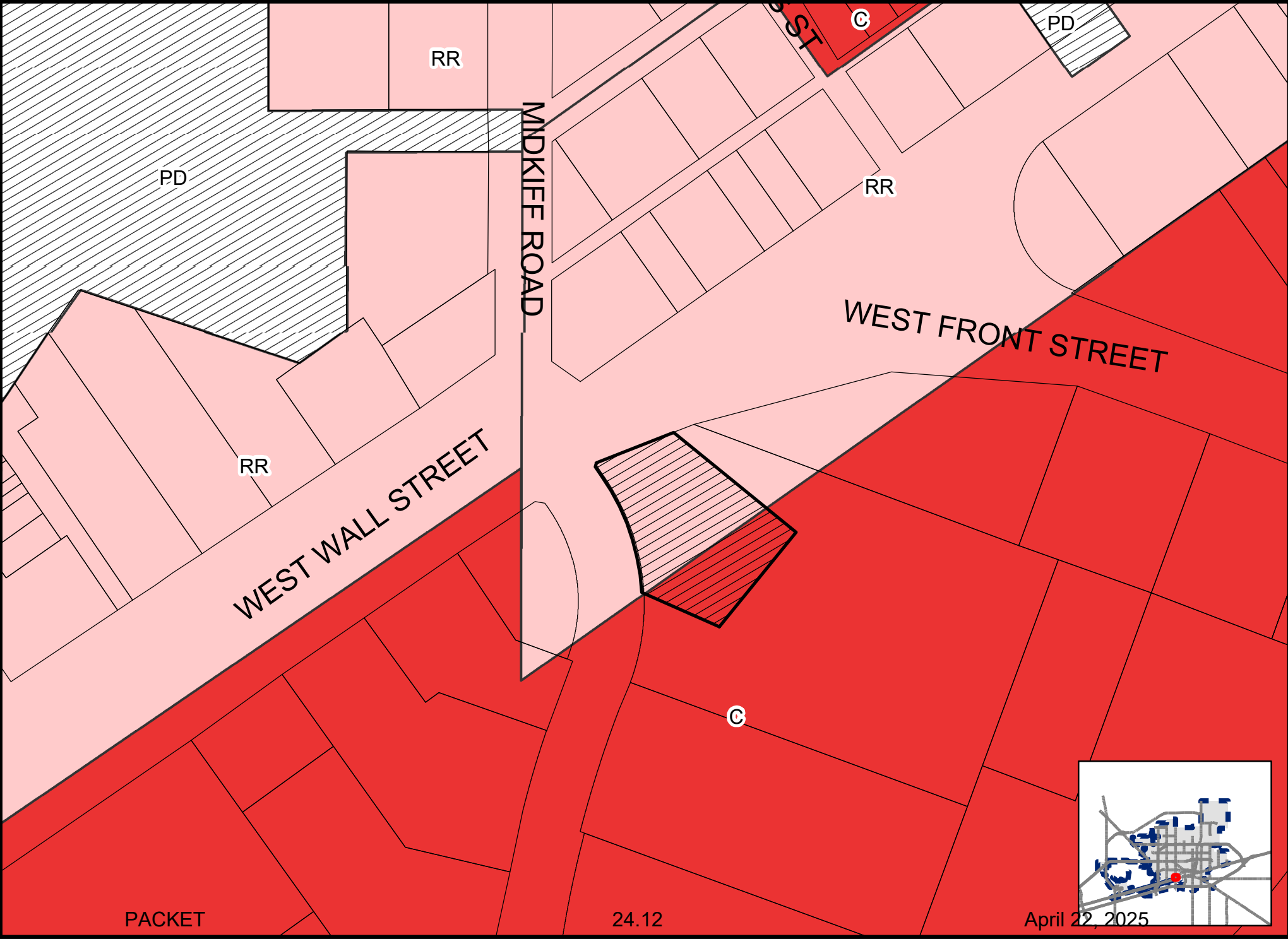
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR FOR IS IT DESIGNED TO BE USED AS A SURVEY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

PACKET

24.11

April 22, 2025





92

MIDKIFF RD

5

WEST FRONT ST

10

WEST WALL ST

7

33

PACKET

24.13

April 22, 2025





BANKHEAD ADDITION, SECTION 13 ZONE CHANGE



Visit Our Website

MIDLANDTEXAS.GOV

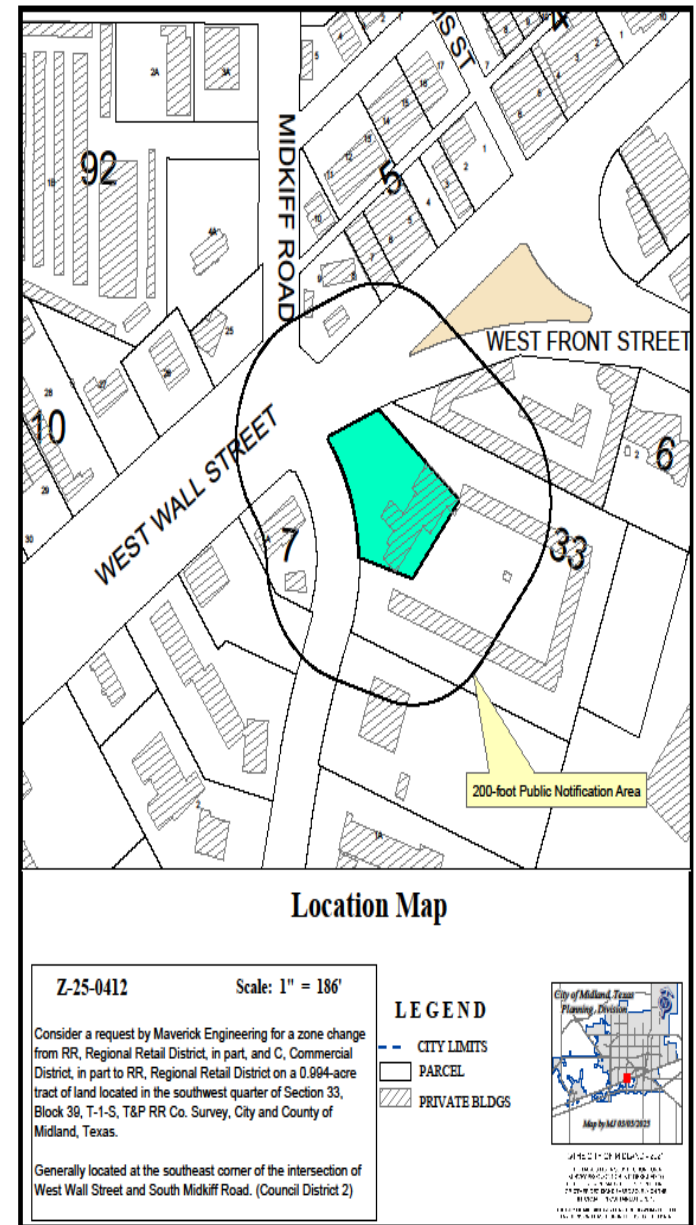
PACKET

24.15

April 22, 2025

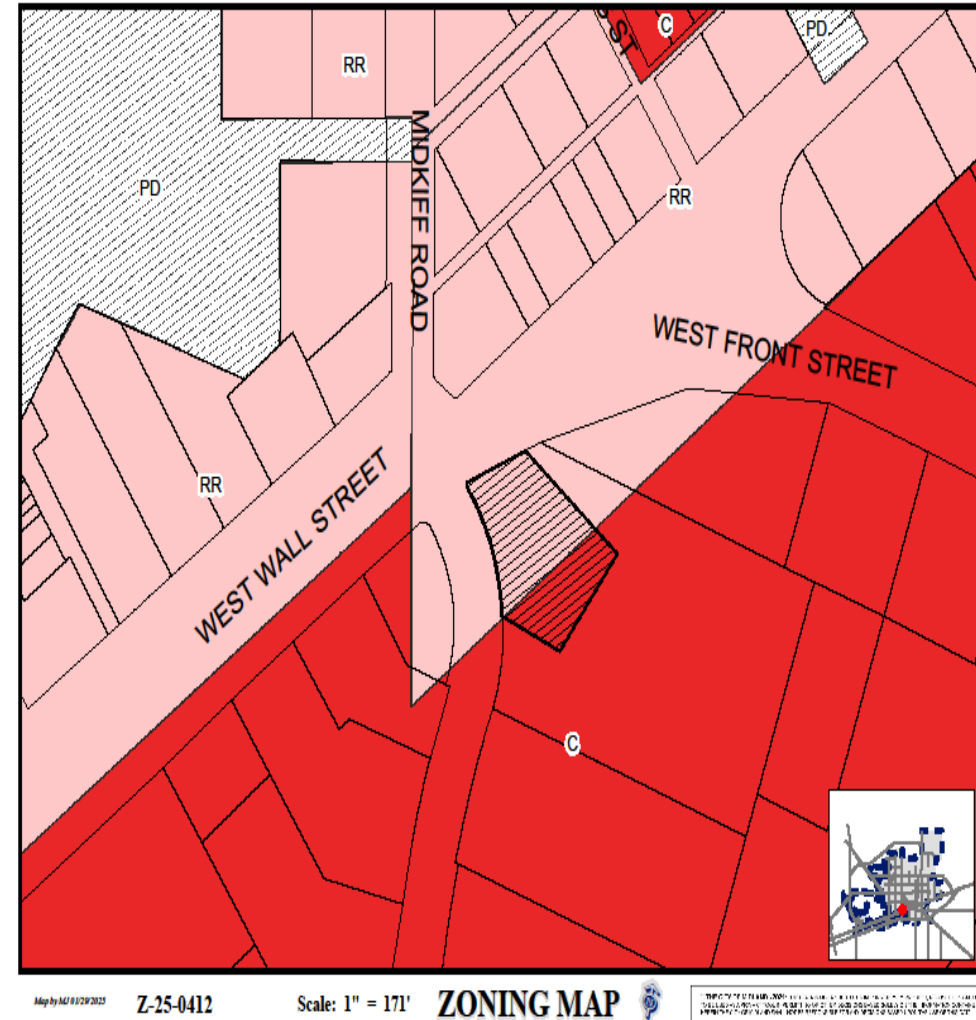
APPLICATION SUMMARY

- **Property Owner:** Red Sky Midland, RE LLC
- **Applicant/Representative:** Maverick Engineering
- **Zone Change**
- **Address:** 3601 West Wall Street



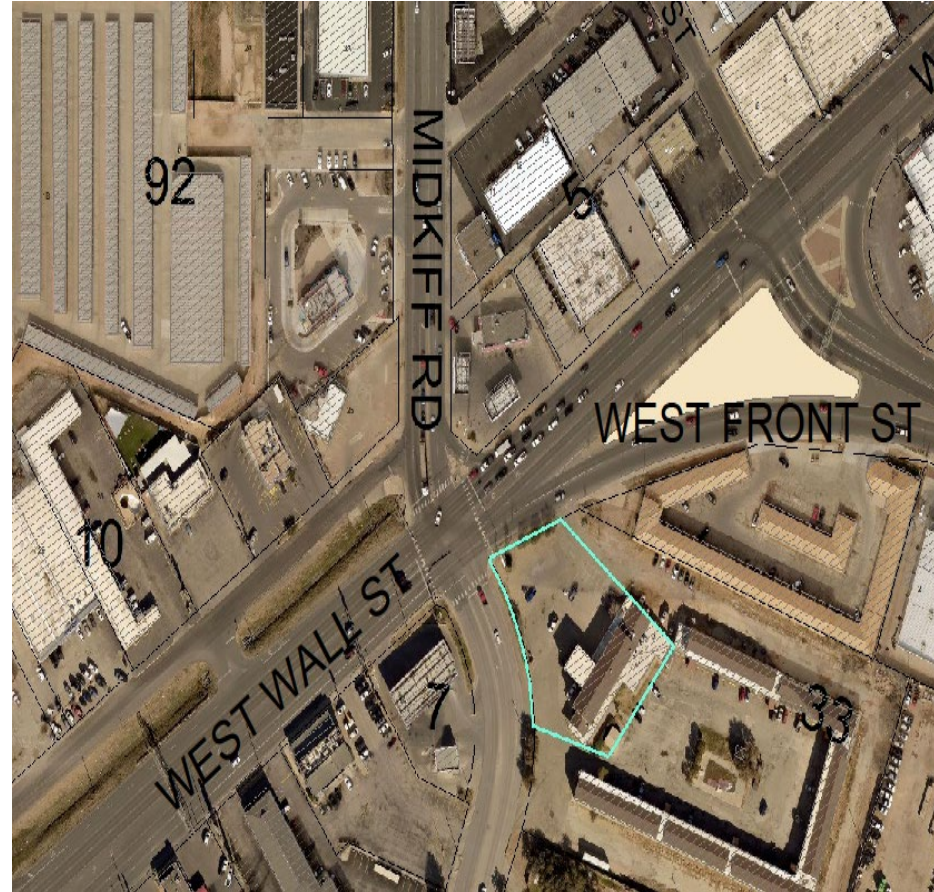
ZONING

- **Current Zoning:** RR, Regional Retail District, in part, and C, Commercial District, in part.
- **Proposed Zoning:** RR, Regional Retail District
- **Surrounding Zoning:**
 - **North:** RR, Regional Retail
 - **West:** RR, Regional Retail District, and C, Commercial District
 - **South/East:** C, Commercial District



LAND USE

- **Current Use of the Property:**
Restaurant
- **Proposed Use of the Property:**
Murphys Gas Station and Convenience Store
- **Surrounding Uses:**
- **North:** Gas station, gym and motel
- **South:** Vacant building, and Inns
- **East:** Electrical supply store, window tinting shops, and a collision center
- **West:** Gas station, fast food restaurants, and Inns



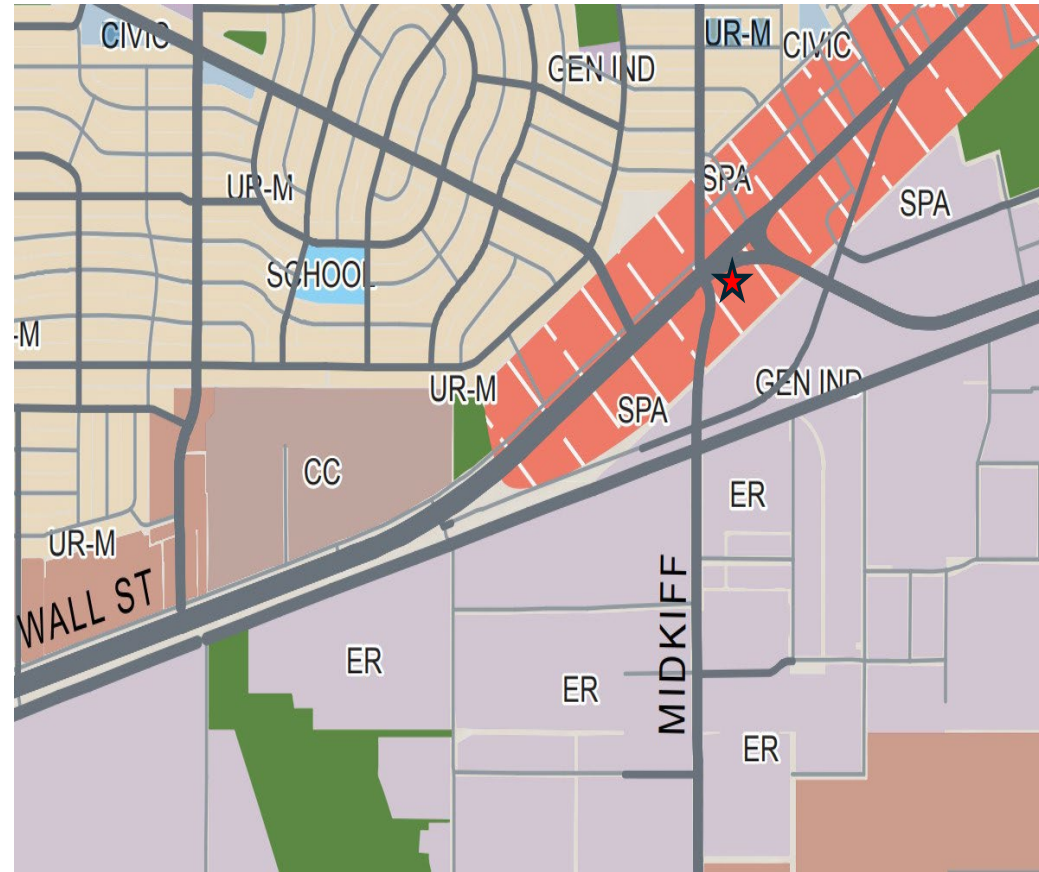


On West Wall Street, Looking South

24.19

COMPREHENSIVE PLAN

- **TCT Land Use Designation:**
Special Study Area
- **Supported Uses:**
 - This is a special study area and there are no policies established for this location.
 - Request is compatible with the surrounding area and the Tall City Tomorrow Plan.



RELATED ITEMS

- The preliminary plat associated with this request was approved at the March 17, 2025, Planning & Zoning Commission meeting.



STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended approval of this request on March 17, 2025.
- Staff recommends **APPROVAL** of this zone change from RR, Regional Retail District, in part, and C, Commercial District, in part, to RR, Regional Retail District.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 25
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Britton Murry, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 3, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 450 FEET SOUTH OF HENRY KOONTZ BOULEVARD); 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, Cinergy 108, LLC, is requesting a Zone Change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District, to expand an existing vacant movie theater located at 4915 West Loop 250 North.

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:**

PD, Planned Development District for a Shopping Center

Surrounding Zoning and Land Use:

The properties to the north are zoned PD, Planned Development District for a Shopping Center, TH, Townhouse Dwelling District, with uses that include a car dealership and townhomes. The zoning to the east and west is PD, Planned Development District for a Shopping Center with a restaurant and a hotel as current uses. Zoning to the south includes PD, Planned Development District for a Shopping Center and SF-2, Single-Family Dwelling District, with storage units and single-family residential dwellings for current uses..

Analysis:

The applicant is seeking this zone change in in order to expand a vacant Regal Movie Theater and turn it into a Cinergy Movie Theater. A movie theater is an allowed use in the Regional Retail zoning district per the City of Midland Zoning Ordinance Use Chart. [Midland City Code Section 4.03]

Per Ordinance 7433, a detailed site plan must be submitted and approved in the same manner prescribed for a zone change. This zone change would allow for both the proposed expansion of the current structure and any future development on this lot without having to amend the PD ordinance. Per the Nonresidential Zoning District Dimensional Regulations Chart, this lot meets the requirements for the RR, Regional Retail District zoning. [Midland City Code Section 5.05] This request is consistent with the Tall City Tomorrow Comprehensive Plan, which designated this area as Regional Commercial (RC). This designation calls for multiple different types of commercial zoning.

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 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.]

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. [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)

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:

The Planning and Zoning Commission recommended approval of this zone change on January 21, 2025.

Therefore, staff recommends approval of this Zone Change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District.

Letters of Objection:

As of April 18, 2025, staff has received no letters of objection for this request.

Attachments:

Application
Site Plan

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 3, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 450 FEET SOUTH OF HENRY KOONTZ BOULEVARD); 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 3, Block 45, Fairmont Park Addition, Section 13, City and County of Midland, Texas (the “Property”) to RR, Regional Retail District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned Development District for a Shopping Center to RR, Regional Retail District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances

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

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

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 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:

Nicholas Toulet, Interim City Attorney



**Zone Change/Planned District
Amendment/Site Plan Approval**

Project Number: _____

Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2) Printed Name: Polo Padilla		Phone: (ilman@)cinergy.com Email: epadilla@idstudio4.com	
Address 6201 Campus Circle Dr E	City Irving	State TX	Zip 75063

Property Owner Printed Name: Cinergy 108, LLC		Phone: (kgillman@)cinergy.com Email: kgillman@cinergy.com	
Address Corporate office: 5005 LBJ Freeway, Suite 525	City Dallas	State TX	Zip 75244

Representative (if different from Applicant or Property Owner) Firm: IDStudio4, LLC Printed Name: Polo Padilla		Phone: (kgillman@)cinergy.com Email: epadilla@idstudio4.com	
Address 6201 Campus Circle Dr E	City Irving	State TX	Zip 75063

Street Address: 4915 Loop 250 Frontage Rd - Midland, TX 79707	
Legal Description Lot: 3&4 Block: 45 Subdivision: Fairmount Park Addition	

Current Zoning: PD – Planned Development	Proposed Zone: RR-2, Regional Retail (List by tracts if more than one district is requested)
--	--

Reason for Zone Change Request: Proposed expansion of a prior Regal Cinemas movie theatre
Zone change based off recommendation of City of Midland Planning
Zone change to RR-2 should alleviate any issues

Present Use of Property: A3 - vacant movie theatre

Proposed Use of Property: A3 - Cinergy Entertainment facility
Family Entertainment Center and Cinemas

How would this zone change affect the public health, safety and welfare?
Zone change based off recommendation of City of Midland Planning
Zoning change will not negatively affect public health, safety or welfare. Site current zoned as part of base zone RR-2

Describe how conditions affecting the property have changed since present zoning designation: Site is currently vacant, so working on updating the parking lot to accommodate new tenant and use
Zone change based off recommendation of City of Midland Planning

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: 12.10.2024

Applicant (printed): Polo Padilla

Property Owner (signature): Kathleen Gillman

Date: 12.10.2024

Property Owner (printed): Kathleen Gillman

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.

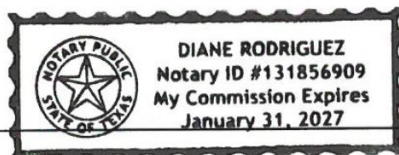
All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear Polo Padilla who, being by me duly sworn, upon oath says: That (s)he is the owner of Cinergy 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 11th day of December, 2024, 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 By: _____

Date: _____

[illegible]

THEATERS, MEETING ROOMS, AND
PARKING SPACE PER 4 SEATS
TOTAL AMOUNT OF SEATS = 686
FOOTING
BREAKING SPACES PER
TOTAL AMOUNT OF
SEATS = 11
TOTAL AMOUNT OF KITCHEN AREA
PARKING SPACE PER 4 SEATS, PLUS 1 SPACE
TOTAL AMOUNT OF SEATS = 101 = 26 SPACES
PARKING SPACES REQUIRED: 34 = 28 SPACES
FOOTING
SPACES REQUIRED
309 IN COVERED PARKING
UNCOVERED PARKING SPACES
PROVIDED
PARKING SPACES
PROVIDED = 309

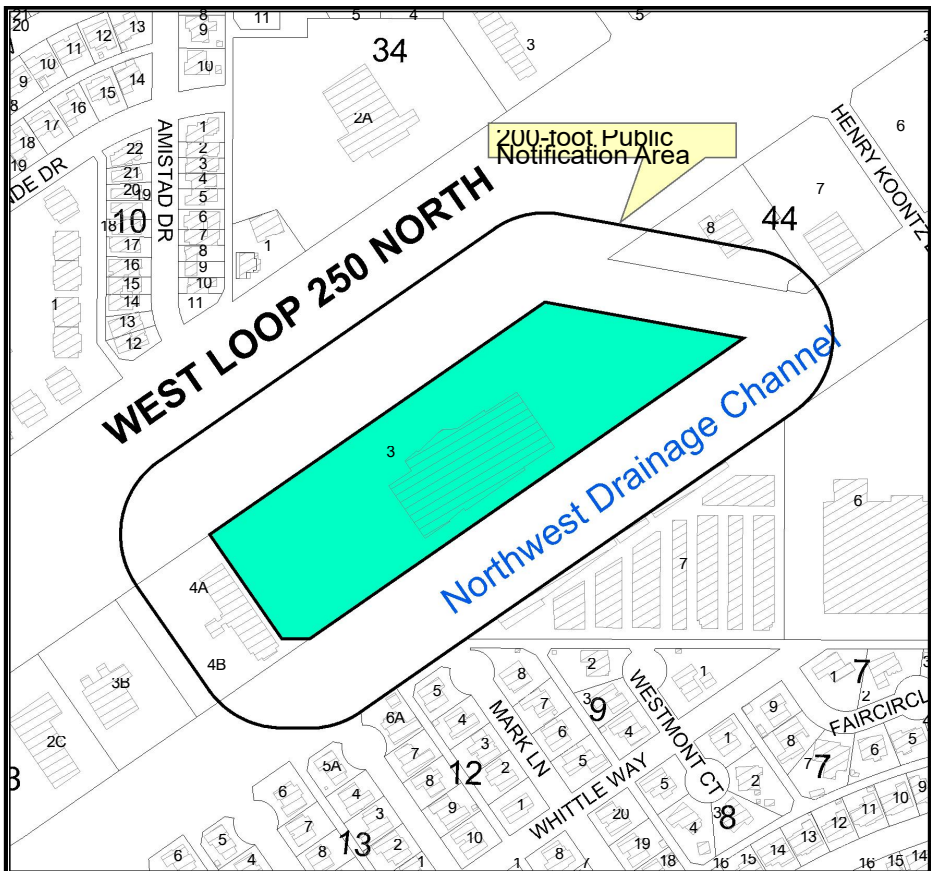
NOTE: ACCORDING TO FLOOD STATEMENT INSURANCE RATE MAP #48329C0069F, DATED SEPTEMBER 14TH, 2005, THIS PROPERTY IS WITHIN THE SHADED PORTION OF ZONE AND DESIGNATED AS FLOODPLAIN WITH LIMITED FLOOD CAPACITY. ANY REQUIRED AN FODAL AMOUNT OF MATERIAL IS TO BE CUT FROM THE FLOODPLAIN AREA.

VICINITY MAP

Know what's

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OF 18



Location Map

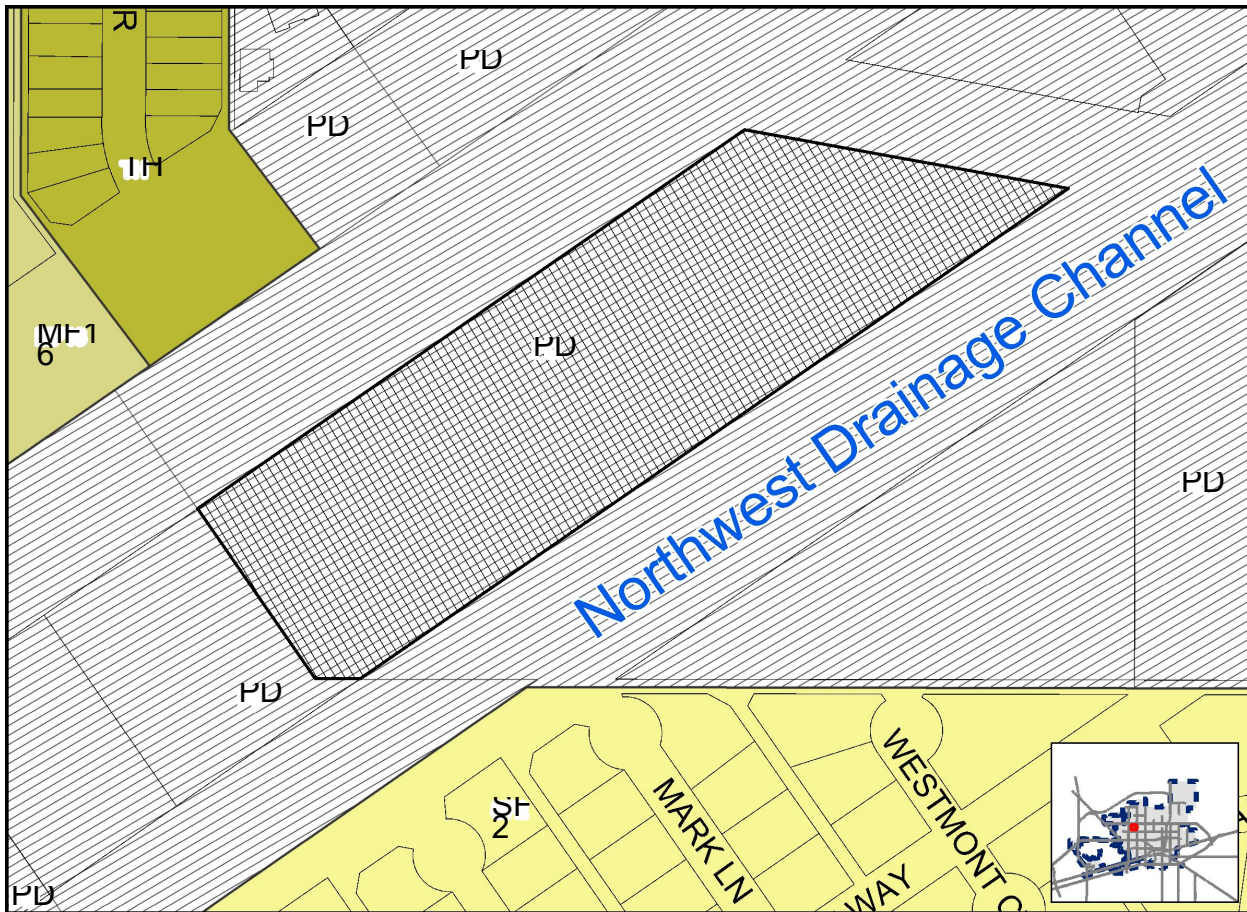
Z-24-0405
 Consider a request by Cinergy 108, LLC, for a zone change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District on General Block 45, Fairmont Park Addition, Section 250, Noting approximately 1400 feet south of Henry Koontz Boulevard. (Council District 1)

Scale: 1" = 263'

LEGEND
 CITY LIMITS
 PARCEL
 PRIVATE BLDGS



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Map BM
12/31/2024

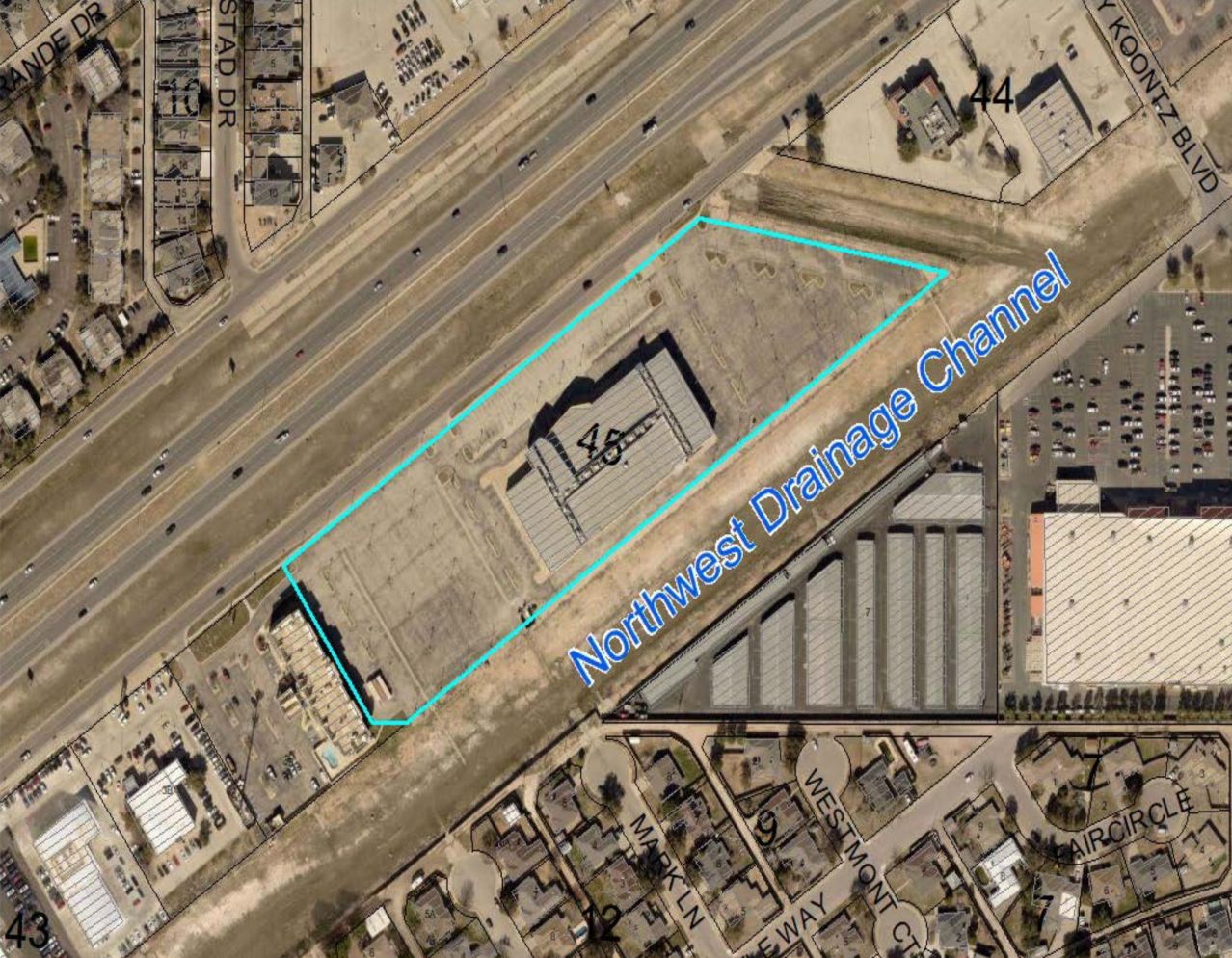
6-24-
0405

Scale: 1" = 162'

**ZONING
MAP**



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CINERGY 108, LLC

ZONE CHANGE



Visit Our Website

MIDLANDTEXAS.GOV

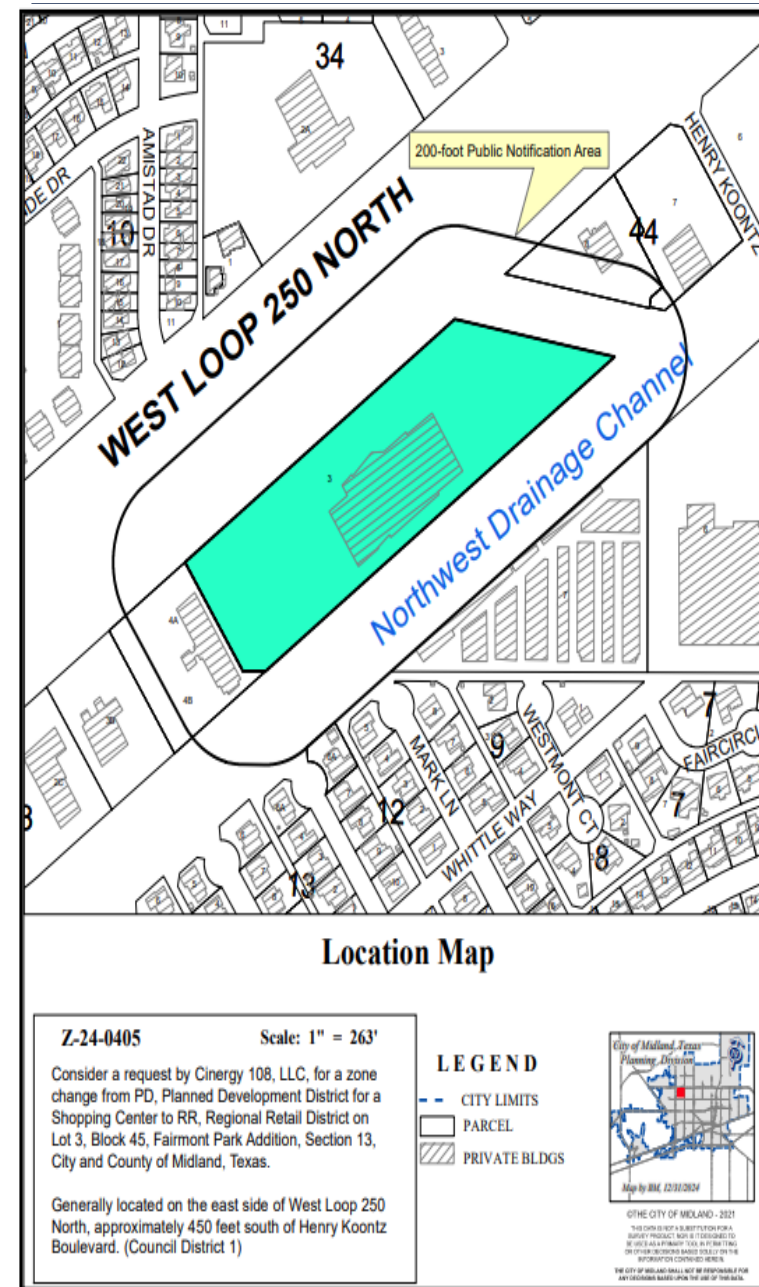
PACKET

25.15

April 22, 2025

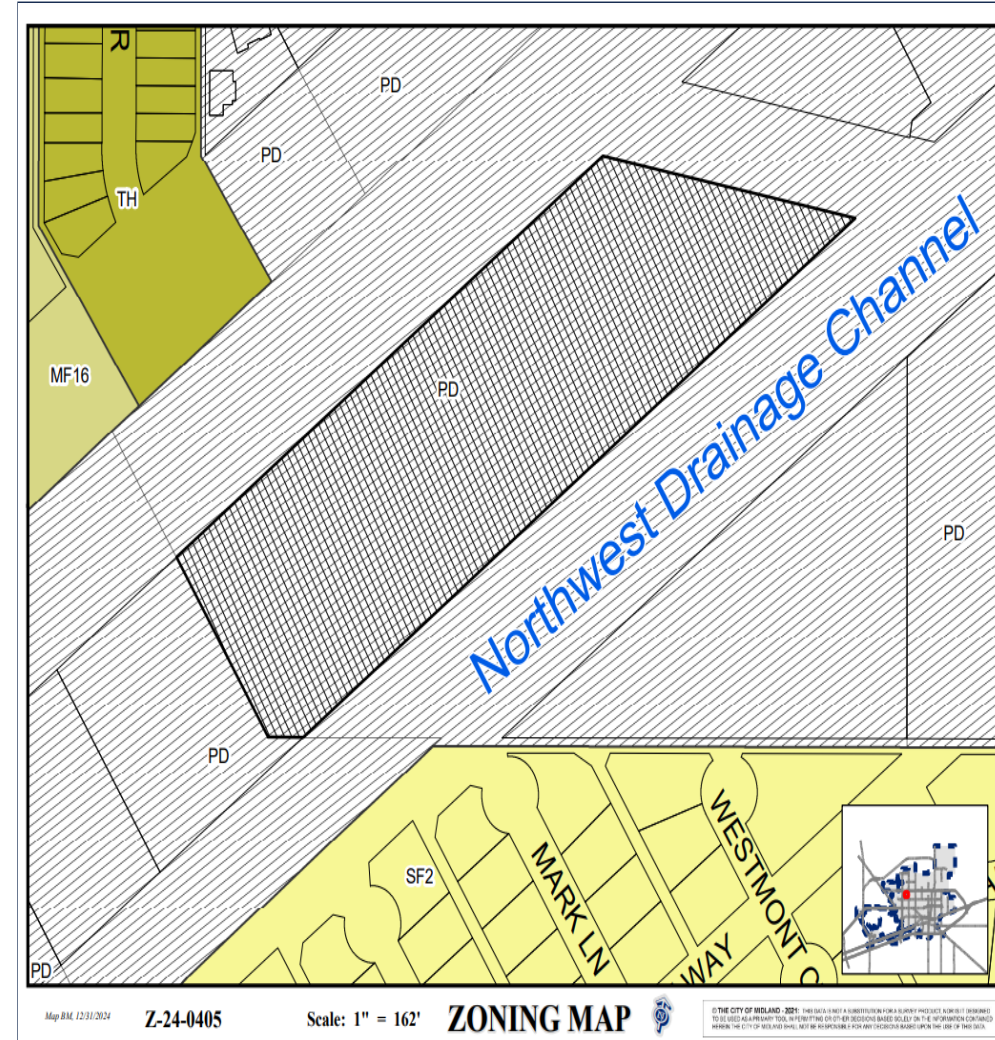
APPLICATION SUMMARY

- **Property Owner:** Cinergy 108, LLC
- **Applicant/Representative:** Polo Padilla, with IDStudio4, LLC
- **Zone Change**
- **Address:** 4915 West Loop 250 North (Council District 2)



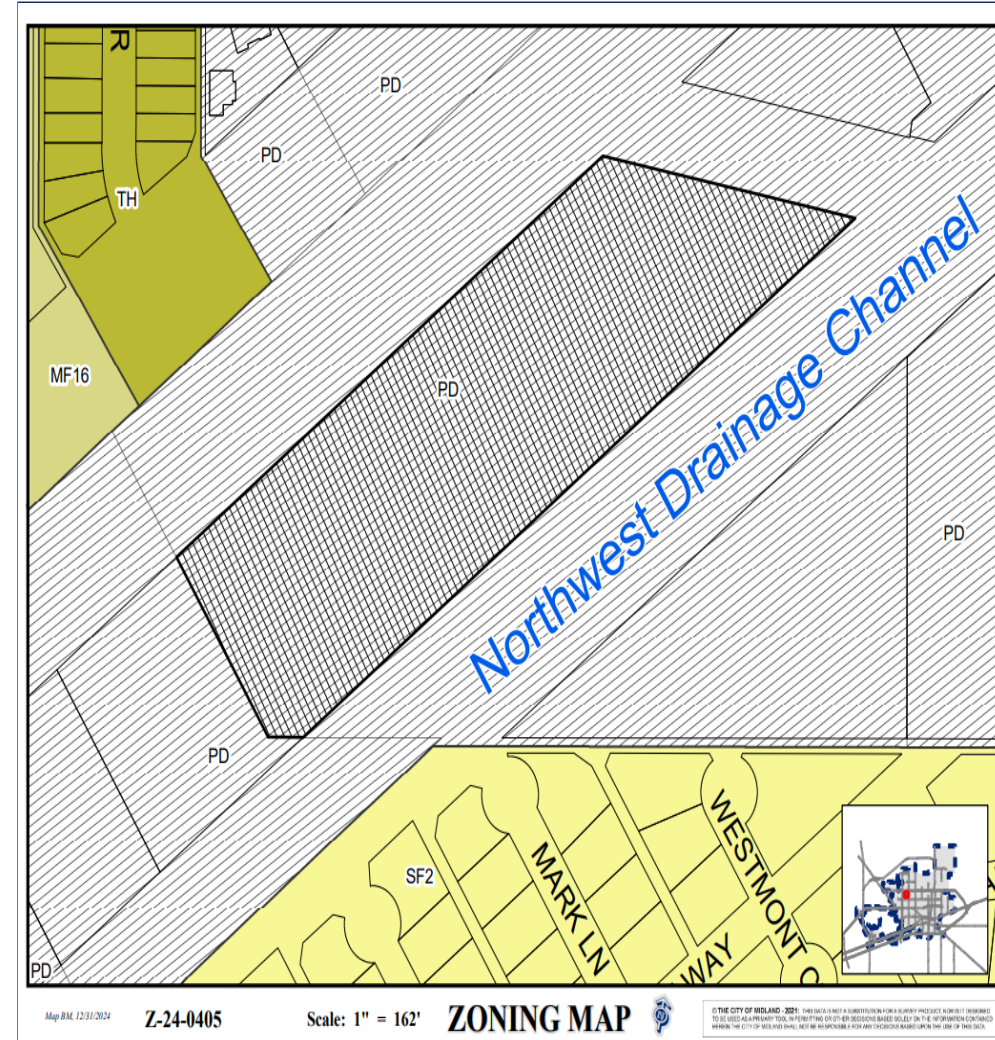
ZONING

- **Current Zoning:** PD, Planned Development District for a Shopping Center
- **Surrounding Zoning:**
 - **North:** PD, Planned Development District for a Shopping Center and TH, Townhouse Dwelling District
 - **East/West:** PD, Planned Development District for a Shopping Center



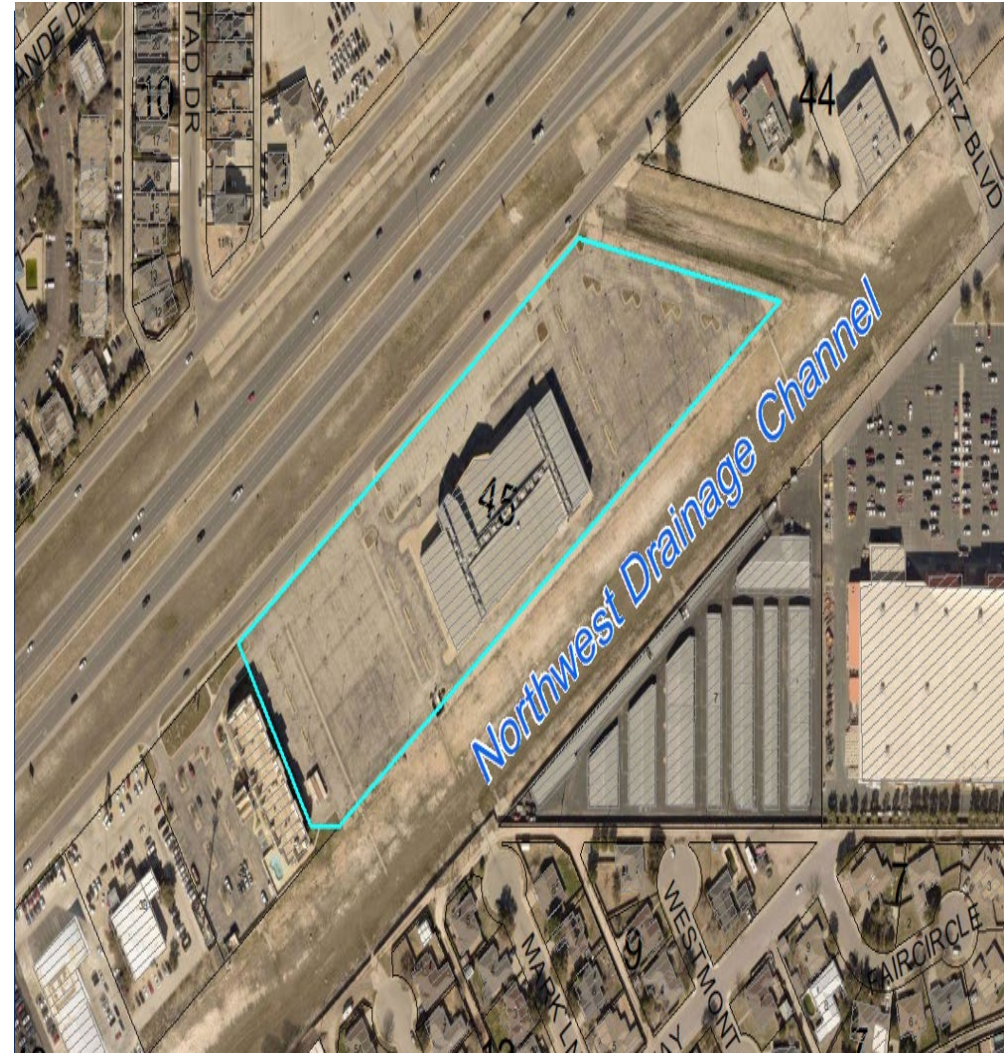
ZONING

- **Surrounding Zoning:**
 - **South:** PD, Planned Development District for a Shopping Center and SF-2, Single-Family Dwelling District
- **Proposed Zoning:** RR, Regional Retail District



LAND USE

- **Current Use:** Vacant Movie Theater
- **Proposed Use:** Movie Theater
- **Surrounding Uses:**
 - **North:** Retail and residential
 - **East/West:** Retail
 - **South:** Drainage easement, storage units, and residential



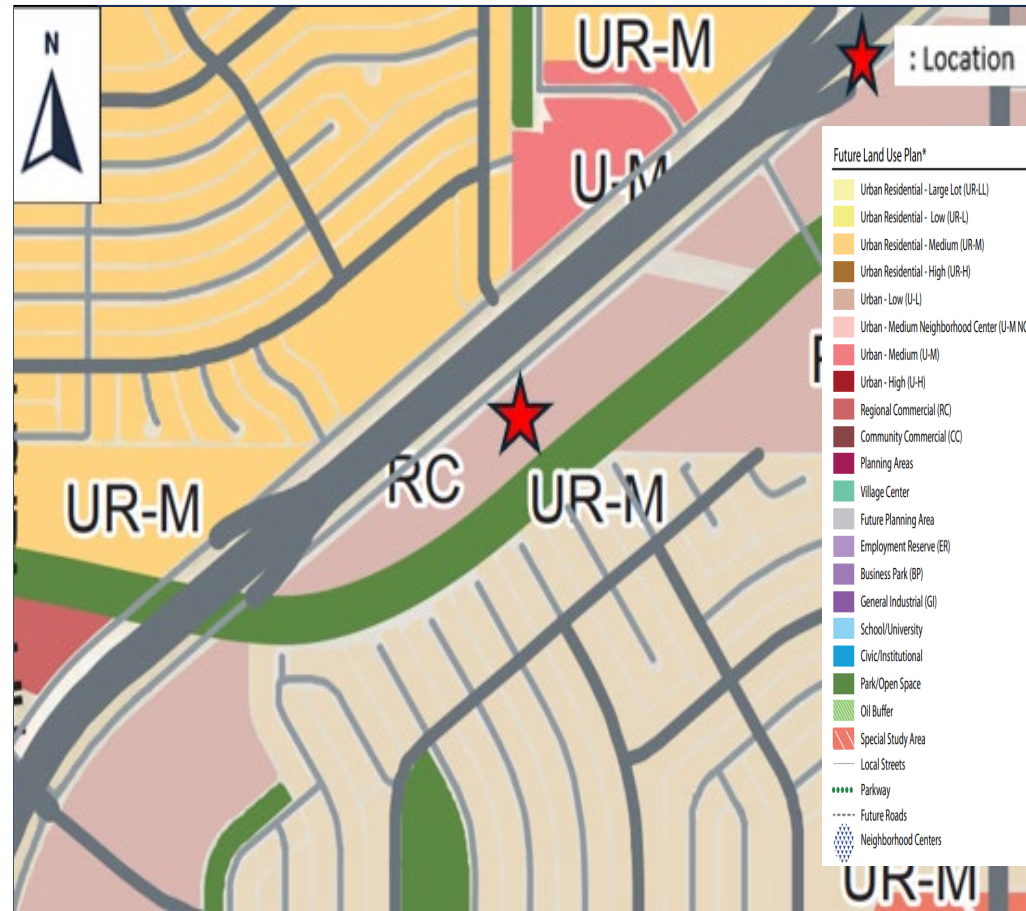
SITE PHOTO



On West Loop 250 North, Looking South

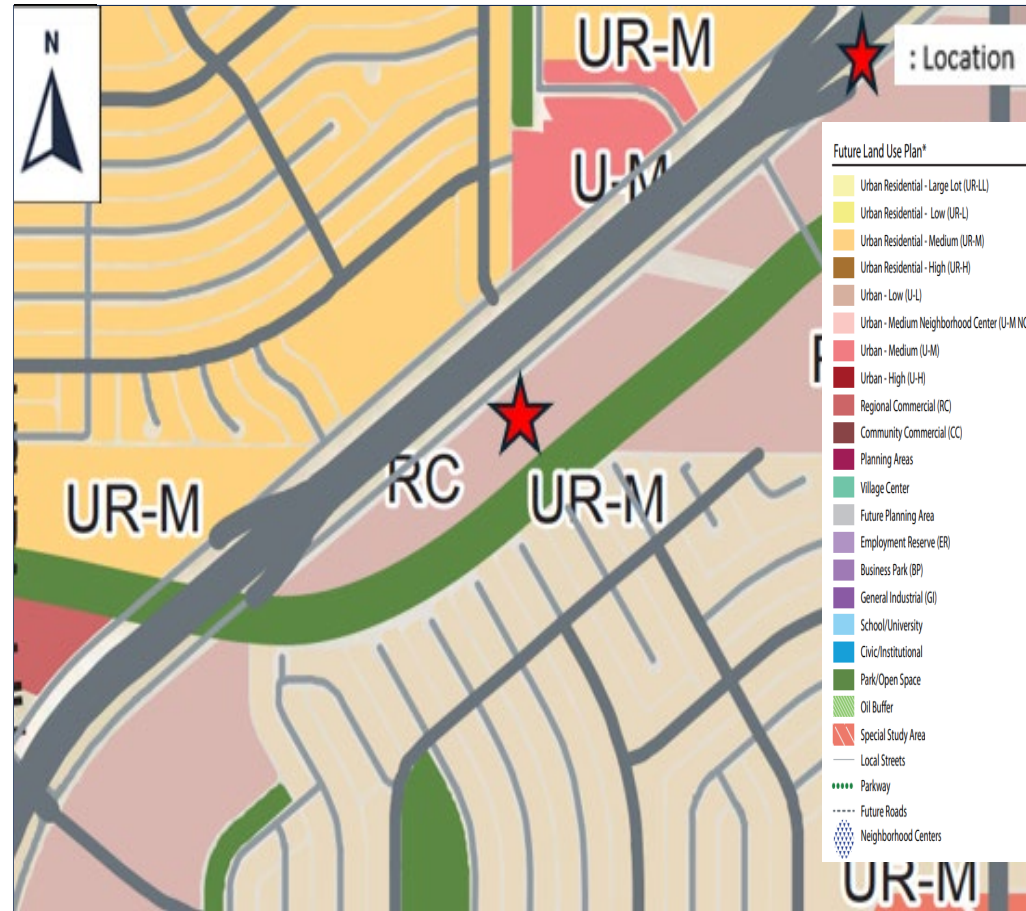
COMPREHENSIVE PLAN ANALYSIS

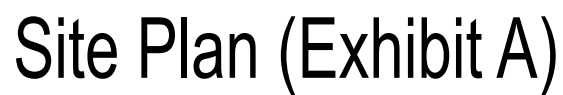
- **TCT Land Use Designation:**
 - Regional Commercial (RC)
- **Supported Uses:**
 - Supports A broad range of retail services, including large-scale stores and services, auto related services, and large offices.



COMPREHENSIVE PLAN ANALYSIS

- **Supported Uses:**
 - Shopping and commercial uses total at least 150,000sq. ft. Multi-family uses can be mixed in with commercial, but commercial would be the dominate use.
 - Request is **compatible** with the surrounding area and the Tall City Tomorrow Plan.





STAFF RECOMMENDATION

- No objections received.
- The Planning and Zoning Commission recommended approval of this request on January 21, 2025.
- Staff recommends **APPROVAL** of this zone change from PD, Planned Development District for a Shopping Center, to RR, Regional Retail District.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 26
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Britton Murry, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 5.57-ACRE TRACT OF LAND OUT OF SECTION 2, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM O-1, OFFICE DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND SOLOMON LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

Kent Distributors, Incorporated, is requesting a Zone Change from O-1, Office District, to RR, Regional Retail District, to develop a Lite Automotive Services Center on a property located on North Big Spring Street.

Recommended City Council Action:

Deny

Fiscal Impact:

None.

Strategic Priority:

Quality of Life and Place

Discussion:**Current Zoning:**

O-1, Office District

Surrounding Zoning and Land Use:

Surrounding zoning includes PD, Planned Development District for Industrial District to the north and east and SF-3, Single-Family Dwelling District, also to the east. The properties to the west are zoned PD, Planned Development District for Housing Development and the adjacent property to the south is zoned AE, Agricultural Estate District.

Surrounding uses include a fire station to the north, a window tinting service and single-family residential to the east, single-family residential to the west and a funeral home to the south.

Analysis:

The subject property is zoned O-1, Office District. Kent Distributors, Incorporated, is seeking this zone change to develop an Automobile Service Garage, which is not an allowed use in the O-1, Office District [Midland City Code 4.03]. Due to the presence of adjacent single-family residential uses to the east and west, this request would introduce more intense commercial uses and therefore would not be compatible with the surrounding area. Given that the property is almost surrounded by residential, this request would also be inconsistent with the surrounding SF-3, Single-Family Dwelling District, and PD, Planned Development District for Housing Development zoning to the east and west.

This request is inconsistent with the Tall City Tomorrow Comprehensive Plan, Chapter 3; which designated this area as U-M, Urban-Medium. This designation calls for mix of complementary uses, including single-family housings, multi-family housing, schools, mid-sized parks and churches uses.

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. 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).]

Depending on the nature and scale of the proposed development, a Traffic Impact Analysis MAY be required prior to approval of construction drawings. [For the Applicant's information only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

Planning: (Denied)

This item is scheduled for the April 21, 2025 P&Z meeting.

Therefore, staff recommends denial of this Zone Change from O-1, Office District, to RR, Regional Retail District.

Letters of Objection:

As of April 11, 2025, staff has received 15 letters of objection. 9 of the letters are within the 200-foot buffer and have been counted towards the percentage. 6 of the letters are outside of the 200-foot buffer and are therefore not to be counted towards the objection percentage. However, we have still included them in the City Council packet. The objection percentage within the 200-foot buffer is 32.8%. This item will require a three-fourths vote by Council to be approved.

Attachments:

Application
Survey
Maps
Aerial
Site Photo
PowerPoint Presentation

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 5.57-ACRE TRACT OF LAND OUT OF SECTION 2, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM O-1, OFFICE DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND SOLOMON LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 5.57-acre tract of land out of Section 2, Block X, H.P. Hilliard Survey, City and County of Midland, Texas (the “Property”), said Property being more specifically described by metes and bounds in Exhibit A, which is attached hereto and incorporated herein, to RR, Regional Retail District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from O-1, Office District to RR, Regional Retail District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as

that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

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

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 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:

Nicholas Toulet, Interim City Attorney

EXHIBIT A

5.57 Acres out of
Section 2, Block "X"
H.P. Hilliard Survey
Midland County, Texas
(N. Big Spring Street & Soloman Lane)

SOLOMAN LANE (60' R.O.W.)
(Vol. 198, Pg. 463 & Vol. 198, Pg. 465, D.R.M.C.T.)



N. BIG SPRING STREET
(STATE HIGHWAY 349)
(Vol. 102, Pg. 94, D.R.M.C.T.)

5.57 Acres.
242360.0 Sq.ft.

N. LAMESA ROAD (58' R.O.W.)

LEGEND

- Set 1/2" I.R.
- W/Cap "RPLS 6832"
- Fnd. 1/2" I.R.
- ⊞ Gas Riser
- ⊞ Water Meter
- ⊞ Power Pole
- Overhead Electric Line
- ⊞ Fire Hydrant
- ⊞ Guy Wire
- ⊞ "AT&T" Sign Post
- ⊞ "Featherlight" Sign Post
- ⊞ "Atmos" Sign Post
- ⊞ "Atmos" Pin Flag/Point Mark
- ⊞ Sanitary Sewer Manhole
- ⊞ Pipe Barricade
- Misc. Traffic Sign
- Approximate location of Buried Water Line (COM GIS)
- Approximate location of Buried Sewer Line (COM GIS)



VICINITY MAP
not to scale

TITLE COMMITMENT Prepared by:

West Texas Abstract & Title Co. - GP No. WTA-JOC-4802529174
Issued Date: February 3, 2025, 8:00 a.m.
Effective Date: January 20, 2025, 8:00 a.m.

LEGAL DESCRIPTION:

BEING a description of a 5.57 acre tract of land out of Section 2, Block "X", H.P. Hilliard Survey, Midland County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod with pink plastic cap marked "RPLS 6832" set in the West Right-of-Way of North Lamesa Road, for the Southeast corner of the 5.57 acre tract, the same being the Northeast corner of a 1.97 acre tract, as described in Instrument No. 2014-2458, Official Public Records of Midland County, Texas, from which a 1 inch G.I.P. found for the Southeast corner of said 1.97 acre tract bears S 14°23'58" E, a distance of 157.22 feet;

THENCE S 75°37'04" W, with the North line of said 1.97 acre tract, a distance of 508.42 feet to a spike nail found in the East Right-of-Way of North Big Spring Street (State Highway 349), for the Northwest corner of said 1.97 acre tract, the same being the Southwest corner of this 5.57 acre tract;

THENCE with the East Right-of-Way of said North Big Spring Street, a curve to the left, having a radius of 5789.58 feet and an arc length of 710.04 (Chord: N 07°32'55" E, 709.80 feet) to a 1/2 inch iron with an orange cap found in the East Right-of-Way of said North Big Spring Street and the South Right-of-Way of Soloman Lane, for the Northwest corner of this 5.57 acre tract;

THENCE N 75°21'41" E, with the South Right-of-Way of said Soloman Lane, a distance of 243.18 feet to an "X" cut in concrete, in the South Right-of-Way of said Soloman Lane and said West Right-of-Way of North Lamesa Road, for the Northeast corner of this 5.57 acre tract;

THENCE S 14°23'58" E, with the West Right-of-Way of said North Lamesa Road, a distance of 659.34 feet to the POINT OF BEGINNING.

SCHEDULE "B"

10. The following matters and all terms of the documents creating or offering evidence of the matters (We must insert matters or delete this exception.):

- a. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.
- b. Blanket Easement and Right of Way to Magnolia Pipe Line Company, recorded in Volume 67, Page 518, Deed Records, Midland County, Texas. Company makes no representation as to the present ownership of this interest. (Blanket Easement - Exact Location Unavailable. Subject Tract is within the Blanket Easement Scope)
- c. Blanket Right of Way to Gulf Refining Company and Gulf Oil Corporation, recorded in Volume 81, Page 492, Deed Records, Midland County, Texas. Company makes no representation as to the present ownership of this interest. (Blanket Easement - Exact Location Unavailable. Subject Tract is within the Blanket Easement Scope)
- d. Right of Way Deed to the State of Texas, recorded in Volume 102, Page 94, Deed Records, Midland County, Texas. (State Highway 349) (Shown on Plat)
- e. Right of Way Easement to Midland County, recorded in Volume 198, Page 463, and Volume 198, Page 465, Deed Records, Midland County, Texas. (Soloman Lane) (Shown on Plat)
- f. Easement and Right of Way to Texas Electric Service Company, recorded in Volume 426, Page 389, Deed Records, Midland County, Texas. Company makes no representation as to the present ownership of this interest. (Recorded Easement shown on Plat)
- g. Right of Way Easement to Cap Rock Electric Cooperative, Inc., recorded in Volume 671, Page 423 (Blanket Easement - Exact Location Unavailable. Subject Tract is within the Blanket Easement Scope) and Volume 671, Page 428 (Blanket Easement - Exact Location Unavailable. Subject Tract is within the Blanket Easement Scope) Deed Records, Midland County, Texas. Company makes no representation as to the present ownership of this interest.

ALTA/NSPS CERTIFICATION DETAIL

1. Measurements placed for a reference monument or witness to the corner of all major corners of the boundary of the property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner.
2. NONE Address(es) of the surveyed property if discussed in documents provided to or obtained by the surveyor, or observed when conducting survey.
3. NONE Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by under map location and proper shading only.
4. NONE Gross land area (and other areas if specified by the client).
5. NONE (a) If set forth in a zoning report or letter provided to the surveyor by client, list the zoning classification, setback requirements, the height and floor space restrictions, and parking requirements. Identify the date and source of the report or letter.
NONE (b) If the zoning setback requirements are set forth in a zoning report or letter provided to the surveyor by the client, and if those requirements do not require an interpretation by the surveyor, practically report the zoning setback requirements. Identify the date and source of the report or letter.
6. NONE (a) Elevation elevations of all buildings at ground level.
NONE (b) Elevation heights of all buildings at ground level.
NONE (c) Measured height of all buildings above grade at a location specified by client. If no location is specified, the point of measurement shall be identified.
8. NONE Substantial features observed in the process of conducting the fieldwork (in addition to the improvements and features required in pursuant to Section 5 above) (e.g., parking lots, driveways, signs, manuring ponds, landscaped areas, substantial areas of reforestation).
9. NONE Number and type (e.g., disabled, motorcyclist, regular and other marked) of clearly identifiable parking spaces on surface parking areas, lots and in parking structures. Identify or clearly identify parking spaces on surface parking areas and lots.
11. NONE Location of address existing on or serving the surveyed property as determined by:
Observed evidence.
13. NONE Names of adjoining owners according to current tax records. If more than one owner, identify the first owner's name listed in the tax records followed by "et al."
14. NONE Evidence of recent earth moving work, building construction, or building additions observed in the process of conducting fieldwork.
17. NONE Proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction. Evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork.

FLOOD NOTE:

NOTE: With reference to the Federal Emergency Management Agency Flood Insurance Rate Map for Midland County, Texas and Incorporated Areas, Map No. 48329C0087 F, revised September 16, 2005, this surveyor has determined, by using GIS Data available from the Department of Homeland Security, Federal Emergency Management Agency Database (NFH), web site located at www.fema.gov, that this Property is located in Zone "X". Zone "X" is defined as "areas determined to be outside the 0.2% Annual Chance Floodplain." For an exact determination of the Flood status of this property, contact the Floodplain Management Coordinator for the City of Midland and Midland County, Texas, Department of Engineering, City of Midland Offices, 300 N. Loraine, Midland, Texas 79701 or the Department of Homeland Security, Federal Emergency Management Agency at www.fema.gov.

PENNELL LAND SURVEYING, LLC

SURVEYING FIRM #: 10193978
2030 W. Cuthbert, Midland, Texas 79701
(432) 750-6256, brucepennell@yahoo.com

TOTAL
LAND AREA:
Acres: 5.57
Square Feet: 242360.0

0 60 120
20.8

NOTE: Coordinates, Bearings, Distances and Areas shown hereon conform to the Texas State Plane Coordinate System, Texas Central Zone, North American Datum of 1983.

To: West Texas Abstract & Title Co. and Kent Lubrication Centers, LTD:

This is to certify that 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 Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 11, 13, 16 and 17 of Table "A" thereof. The field work was completed on October 8, 2024.

Date of Plot or Map: February 14, 2025.

DURYIN HENNINGTON

2-24-2025

TEXAS R.P.L.S. No. 6832



KENT LUBRICATION CENTERS, LTD

5.57 Acres out of
Section 2, Block "X", H.P. Hilliard Survey
(North Big Spring St. & Soloman Lane)
Midland, Texas 79701

Drawn By: D.L.H. Survey Date: February 19, 2025

Scale: 1"=50' Date: February 20, 2025

Sheet: 1 of 1 sheets

DATA FILE: 2-27-2025

JOB FILE: 1555158



**Zone Change/Planned District
Amendment/Site Plan Approval**

Project Number: _____

Case Number: 2-25-0413

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: KEVIN FRYER

Phone (432) 520-4000
Email

Address
3510 N A ST

City
MIDLAND

State
TX

Zip
79705

Property Owner

Printed Name: STEVE R SHERMAN AND JANICE SHERMAN REV TRUST

Phone ()
Email

Address
2432 VIA DE LOS MILAGOS

City
PLEASANTON

State
CA

Zip
94566

Representative (if different from Applicant or Property Owner)

Firm: KENT DISTRIBUTORS, INCORPORATED

Printed Name: KEVIN FRYER

Phone (432) 520-4000
Email

Address
3510 N A ST

City
MIDLAND

State
TX

Zip
79705

Street Address: N/A Legal: Acres: 5.570, SEC: 2 SE/4, SURV: H P HILLIARD, BLK: X

Legal Description

Lot: Block: X Subdivision: H P HILLIARD

Current Zoning:

O-1, Office District

Proposed Zone: RR, Regional Retail District

(List by tracts if more than one district is requested)

Reason for Zone Change Request: To allow for the highest and best use of the subject property while reflecting the most prevalent zoning district along the entire Big Spring St/Rankin Hwy/SH 349 corridor

Present Use of Property: Vacant Land

Proposed Use of Property: Retail

How would this zone change affect the public health, safety and welfare? _____

Retail Development of this vacant site would be a public benefit bringing much needed services to this fast growing area

Describe how conditions affecting the property have changed since present zoning designation:

The surrounding parcels along N Big Spring, both North and South of Loop 250, have experienced major retail centric growth leaving this parcel as one of the last undeveloped properties with substantial highway frontage

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 2/25/2025

Applicant (printed): KEVIN FRYER

Property Owner (signature):

Date: 2/25/2025

Property Owner (printed): Steve Sherman

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.

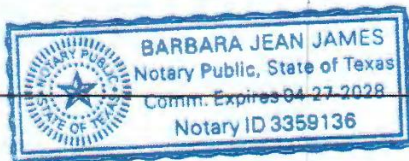
STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear KEVIN FRYER who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or authorized by STEVE SHERMAN, 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 25 day of February, 2025, to certify which witness my hand and seal of office.

Barbara Jean James



NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☒ Property Owner Authorization

☐ Dimensioned Site Plan N/A

☐ Application Fee

☐ Plans in Digital Format (PDF/JPEG)

Check # Paying via invoice

Received By: Jordan

Date:

RECEIVED
FEB 26 2025

PACKET

26.10

April 22, 2025

****Application will not be considered for scheduling until reviewed by a planner.****

5.57 Acres out of
Section 2, Block "X"
H.P. Hilliard Survey
Midland County, Texas
(N. Big Spring Street & Soloman Lane)

SOLOMAN LANE (60' R.O.W.)
(Vol. 198, Pg. 463 & Vol. 198, Pg. 465, D.R.M.C.T.)



N. BIG SPRING STREET
(STATE HIGHWAY 349)
(Vol. 102, Pg. 94, D.R.M.C.T.)
L=710.04'
R=5789.58'
(CH. N07°32'55"E 708.60')

5.57 Acres.
242360.0 Sq.ft.

N. LAMESA ROAD (58' R.O.W.)

LEGEND

- Set 1/2" I.R.
- W/Cap "RPLS 6832"
- Fnd. 1/2" I.R.
- ⊞ Gas Riser
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- ⊞ Power Pole
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- ⊞ "Featherlight" Sign Post
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- ⊞ "Atmos" Pin Flag/Point Mark
- ⊞ Sanitary Sewer Manhole
- ⊞ Pipe Barricade
- Misc. Traffic Sign
- Approximate location of Buried Water Line (COM GIS)
- Approximate location of Buried Sewer Line (COM GIS)



VICINITY MAP
not to scale

TITLE COMMITMENT Prepared by:

West Texas Abstract & Title Co. - GP No. WTA-80C-4802529174
Issued Date: February 3, 2025, 8:00 a.m.
Effective Date: January 20, 2025, 8:00 a.m.

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SCHEDULE "B"

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- NONE** Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by water area location and proper shading only.
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- NONE** (a) If set forth in a zoning report or letter provided to the surveyor by client, list the zoning classification, setback requirements, the height and floor space restrictions, and parking requirements. Identify the date and source of the report or letter.
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- NONE** (a) Exterior dimensions of all buildings at ground level.
NONE (b) Square footage of all buildings at ground level.
NONE (c) Measured height of all buildings above grade at a location specified by client. If no location is specified, the point of measurement shall be identified.
- NONE** Substantial features observed in the process of conducting the fieldwork (in addition to the improvements and features required in pursuant to Section 5 above) (e.g., parking lots, driveways, signs, manuring ponds, landscaped areas, substantial areas of reforestation).
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- Location of address existing on or serving the surveyed property as determined by:
Observed evidence.
- Names of adjoining owners according to current tax records. If more than one owner, identify the first owner's name listed in the tax records followed by "et al."
- NONE** Evidence of recent earth moving work, building construction, or building additions observed in the process of conducting fieldwork.
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FLOOD NOTE:

NOTE: With reference to the Federal Emergency Management Agency Flood Insurance Rate Map for Midland County, Texas and Incorporated Areas, Map No. 48329C0087 F, revised September 16, 2005, this surveyor has determined, by using GIS Data available from the Department of Homeland Security, Federal Emergency Management Agency Database (NFH), web site located at www.fema.gov, that this Property is located in Zone "X". Zone "X" is defined as "areas determined to be outside the 0.2% Annual Chance Floodplain." For an exact determination of the Flood status of this property, contact the Floodplain Management Coordinator for the City of Midland and Midland County, Texas, Department of Engineering, City of Midland Offices, 300 N. Loraine, Midland, Texas 79701 or the Department of Homeland Security, Federal Emergency Management Agency at www.fema.gov.

PENNELL LAND SURVEYING, LLC
SURVEYING FIRM #: 10193978
2030 W. Cuthbert, Midland, Texas 79701
(432) 750-6256, brucepennell@yahoo.com

TOTAL LAND AREA:
Acres: 5.57
Square Feet: 242360.0



NOTE: Coordinates, Bearings, Distances and Areas shown hereon conform to the Texas State Plane Coordinate System, Texas Central Zone, North American Datum of 1983.

To: West Texas Abstract & Title Co. and Kent Lubrication Centers, LTD:

This is to certify that 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 Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 11, 13, 16 and 17 of Table "A" thereof. The field work was completed on October 8, 2024.

Date of Plat or Map: February 14, 2025.

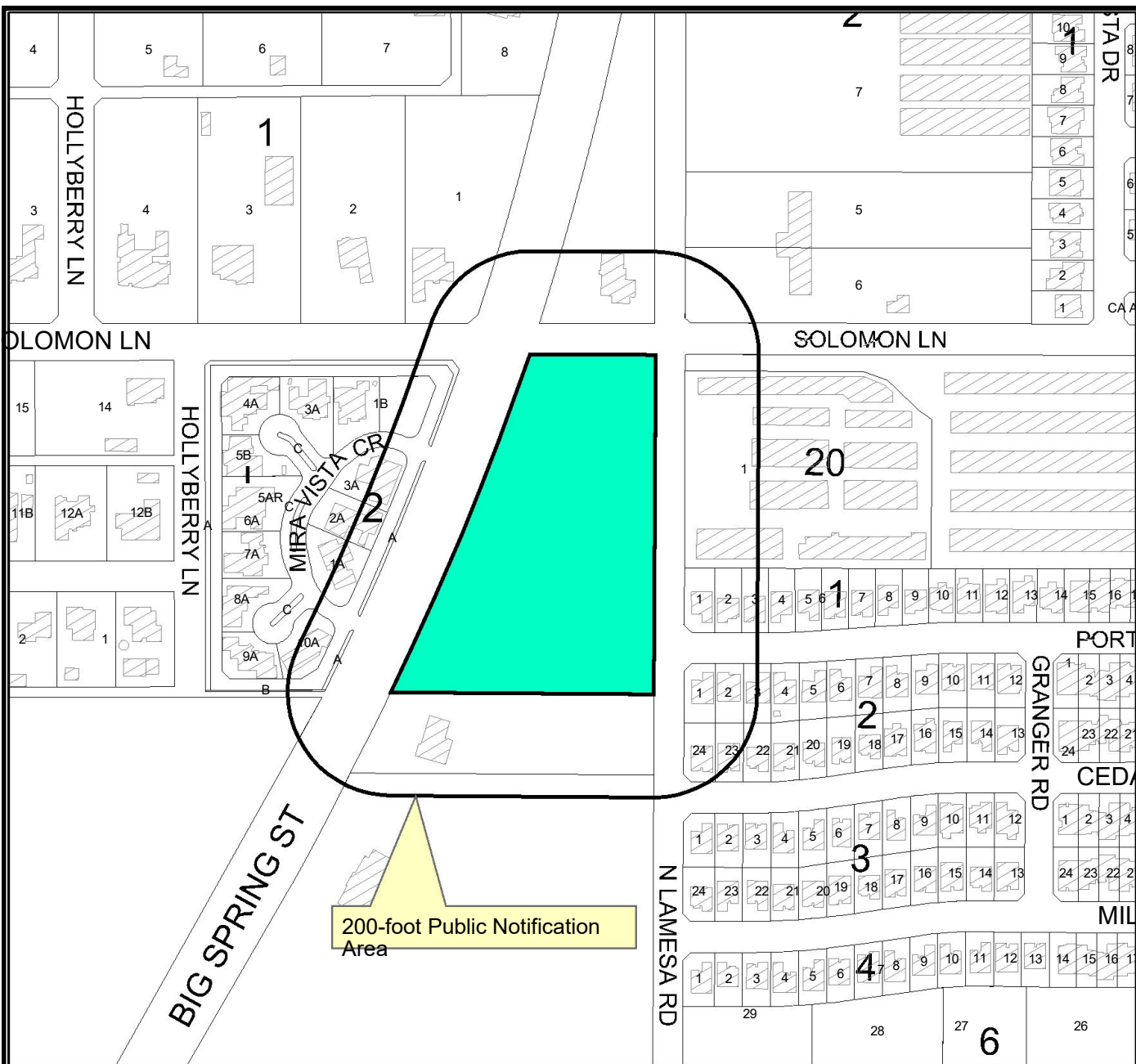
DURYIN HENNINGTON

2-24-2025

TEXAS R.P.L.S. No. 6832



KENT LUBRICATION CENTERS, LTD
ALTA/NSPS SURVEY
5.57 Acres out of
Section 2, Block "X", H.P. Hilliard Survey
(North Big Spring St. & Soloman Lane)
Midland, Texas 79701
Drawn By: D.L.H. Survey Date: February 19, 2025
Scale: 1"=50' Date: February 20, 2025
Sheet: 1 of 1 sheets
DATA FILE: 2-27-2025
JOB FILE: 1555158



Location Map

Z-25-0413

Scale: 1" = 279'

Consider a request by Kent Distributors, Incorporated for a zone change from O-1, Office District to RR, Regional Retail District, on a 5.57-acre tract of land out of Section 2, Block X, H.P. Hilliard Survey, City and County of Midland, Texas, generally located at the southeast corner of the intersection of North Big Spring Street and Solomon Lane. (Council District 1)

LEGEND

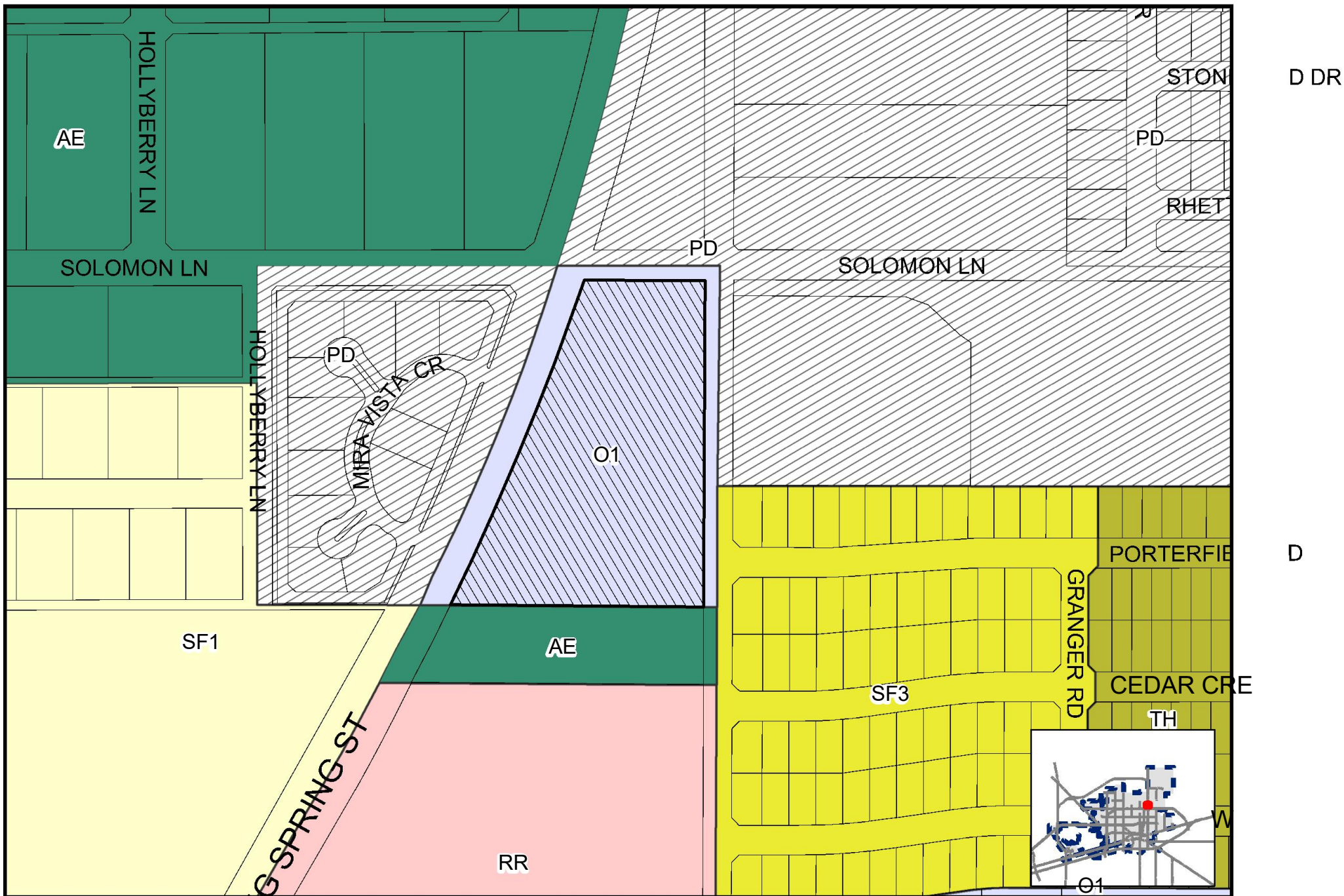
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map DH, 3/7/2025

Z-25-0413
PACKET

Scale: 1" = 233'

ZONING
MAP 26.13



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April 22, 2025





SALCONE MARK A
100 SOLOMON LN
MIDLAND TX 79705

PUBLIC NOTICE

The **Planning and Zoning Commission** of the City of Midland, Texas will hold a public hearing at **3:30 p.m.** on **Monday, April 7, 2025**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Kent Distributors, Incorporated** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: A 5.57-acre tract of land out of Section 2, Block X, H.P. Hilliard Survey, City and County of Midland, Texas.

LOCATION: Generally located at the southeast corner of the intersection of North Big Spring Street and Solomon Lane. (Council District 1)

PROPOSED ZONING: **From:** O-1, Office District
To: RR, Regional Retail District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered in writing** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request ☒ Comments:

Required Information:

[Signature]
Property Owner's Signature

The corner of Solomon and Big Spring is already heavily trafficked Re Zoning presents an additional safety concern.
Mark Salcone
Printed Name

100 Solomon Lane
Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 25

Date Mailed: March 27, 2025

Case Number: Z-25-0413

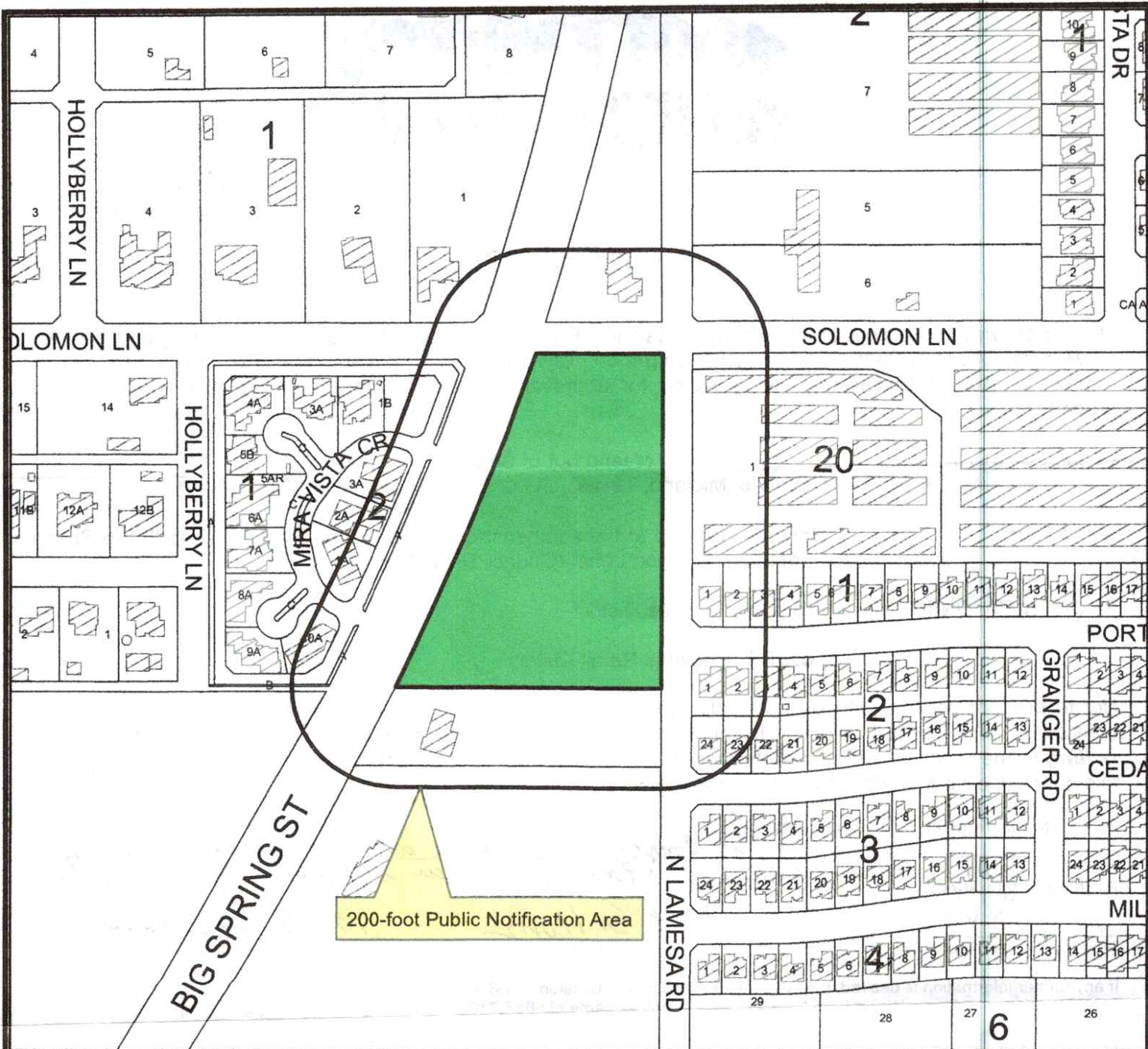
Case Name: Lite Automotive Services Center

DH Planner's Initials

[Signature] *for*
Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989. Videoconference information will be available by accessing the meeting agenda at <https://www.midlandtexas.gov/967/primegov-meeting>

www.MidlandTexas.gov



Location Map

Z-25-0413

Scale: 1" = 279'

Consider a request by Kent Distributors, Incorporated for a zone change from O-1, Office District to RR, Regional Retail District, on a 5.57-acre tract of land out of Section 2, Block X, H.P. Hilliard Survey, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of North Big Spring Street and Solomon Lane, (Council District 1)

PACKET

26.18

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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April 22, 2025



RECEIVED

APR 07 2025

Initial: Bm

BLACK GARRETT DOUGLAS
5018 MIRA VISTA CIR
MIDLAND TX 79705

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I object to this request ☒ Comments: *safety and traffic issue with curve in HWY 349*

Required Information

Property Owner's Signature

Garrett Black
Printed Name*5018 Mira Vista Cir. Midland, TX*
Property Address (No P. O. Boxes) *79705*

If any further information is desired, please contact the Planning Division, at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

L *Far*
Landon Ochoa
Planning Division Manager
Department of Development Services

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www.MidlandTexas.gov

Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400

HUNTER ISABELL
5028 MIRA VISTA



RECEIVED

APR 07 2025

Initial: BM

BLACK GARRETT DOUGLAS
5018 MIRA VISTA CIR
MIDLAND TX 79705

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I object to this request ☒ Comments: Dangerous Traffic issue

Required Information:

[Signature]
Property Owner's Signature

James H Isbell
Printed Name

5028 Mira Vista
Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

[Signature] Far
Landon Ochoa
Planning Division Manager
Department of Development Services

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www.MidlandTexas.gov

Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400



WELLS JONATHAN
5008 MIRA VISTA CIRCLE
MIDLAND TX 79705

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I object to this request ☒ Comments: *Dangerous traffic concerns on existing busy roadway, trash*

Required Information:


Property Owner's Signature

Jonathan Wells
Printed Name

5008 Mira Vista Circle
Property Address (No P. O. Boxes)

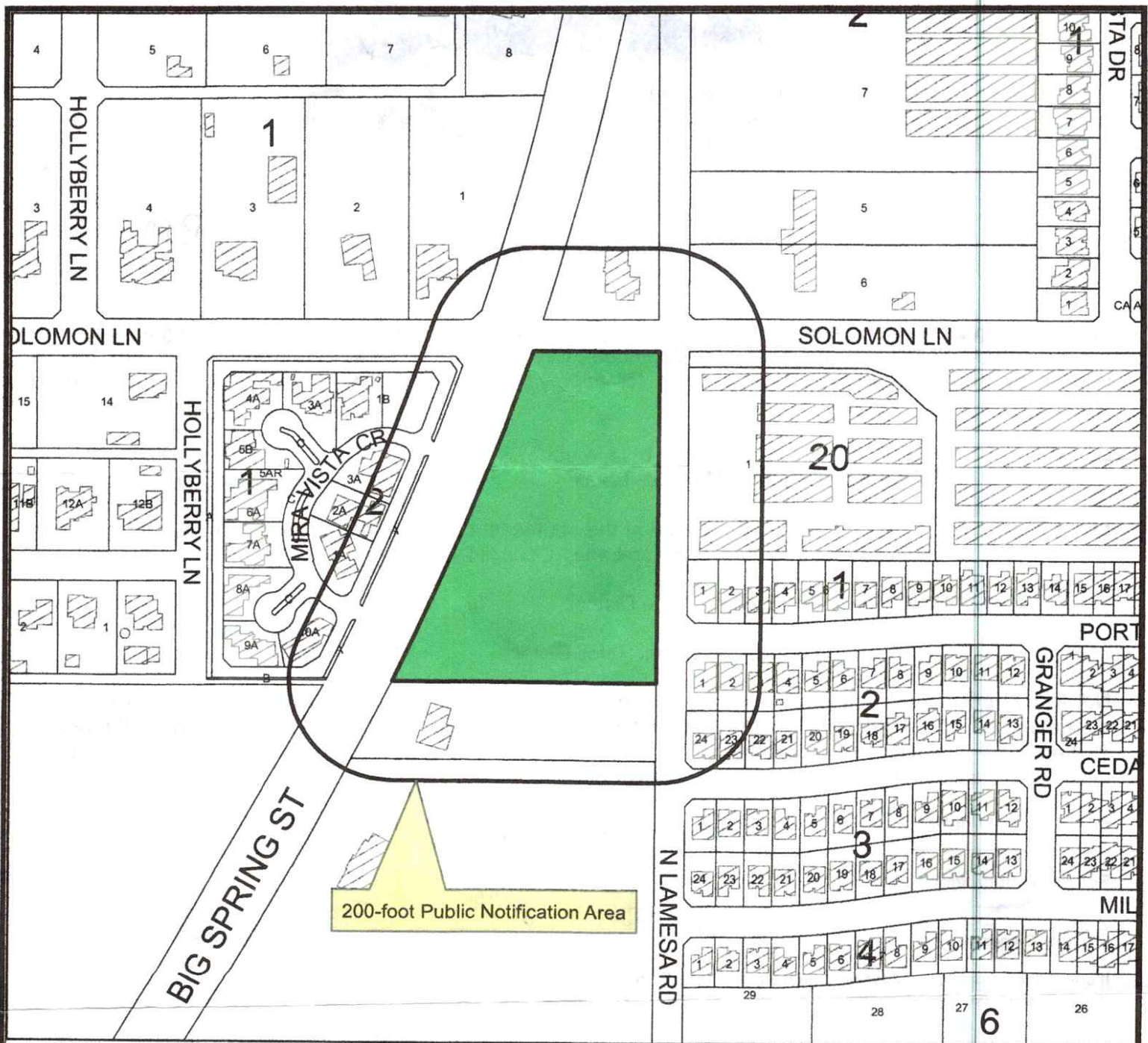
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Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

 *Far*
Landon Ochoa
Planning Division Manager
Department of Development Services

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Location Map

Z-25-0413

Scale: 1" = 279'

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PACKET

26.23

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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April 22, 2025



OSWALT CARTER CUMMING
5001 MIRA VISTA CIRCLE
MIDLAND TX 79705

PUBLIC NOTICE

RECEIVED

APR 07 2025

Initial: BM

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I object to this request _____ Comments:

Safety concern with curve
increased traffic, traffic flow, left hand turn conflict

Required Information:

CARTER OSWALT 5001 MIRA VISTA CIR. MIDLAND, TX 79705
Property Owner's Signature Printed Name Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH _____ Planner's Initials

for
Landon Ochoa
Planning Division Manager
Department of Development Services

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www.MidlandTexas.gov

Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400

PACKET

26.24

April 22, 2025



MIDLAND MIRA VISTA HOA
5013 MIRA VISTA CIRCLE
MIDLAND, TX 79705

PUBLIC NOTICE

RECEIVED

APR 07 2025

Initial: BM

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I object to this request ☒ Comments:

Required Information:

Property Owner's Signature

Printed Name

Property Address (No P. O. Boxes)

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Notices Mailed: 25

Date Mailed: March 27, 2025

Case Number: Z-25-0413

Case Name: Lite Automotive Services Center

DH Planner's Initials


Landon Ochoa
Planning Division Manager
Department of Development Services

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www.MidlandTexas.gov

PACKET Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400
26.25 April 22, 2025



RECEIVED

APR 9 2025

Initial: JS

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I object to this request ☒ Comments: 349 Blind Spot, Dangerous Traffic Issues, Already Congested - Will Not allow for left hand turns

Required Information:

Janet Walton Janet Walton 5037 Mira Vista
Property Owner's Signature Printed Name Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
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Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
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DH Planner's Initials

for
Landon Ochoa
Planning Division Manager
Department of Development Services

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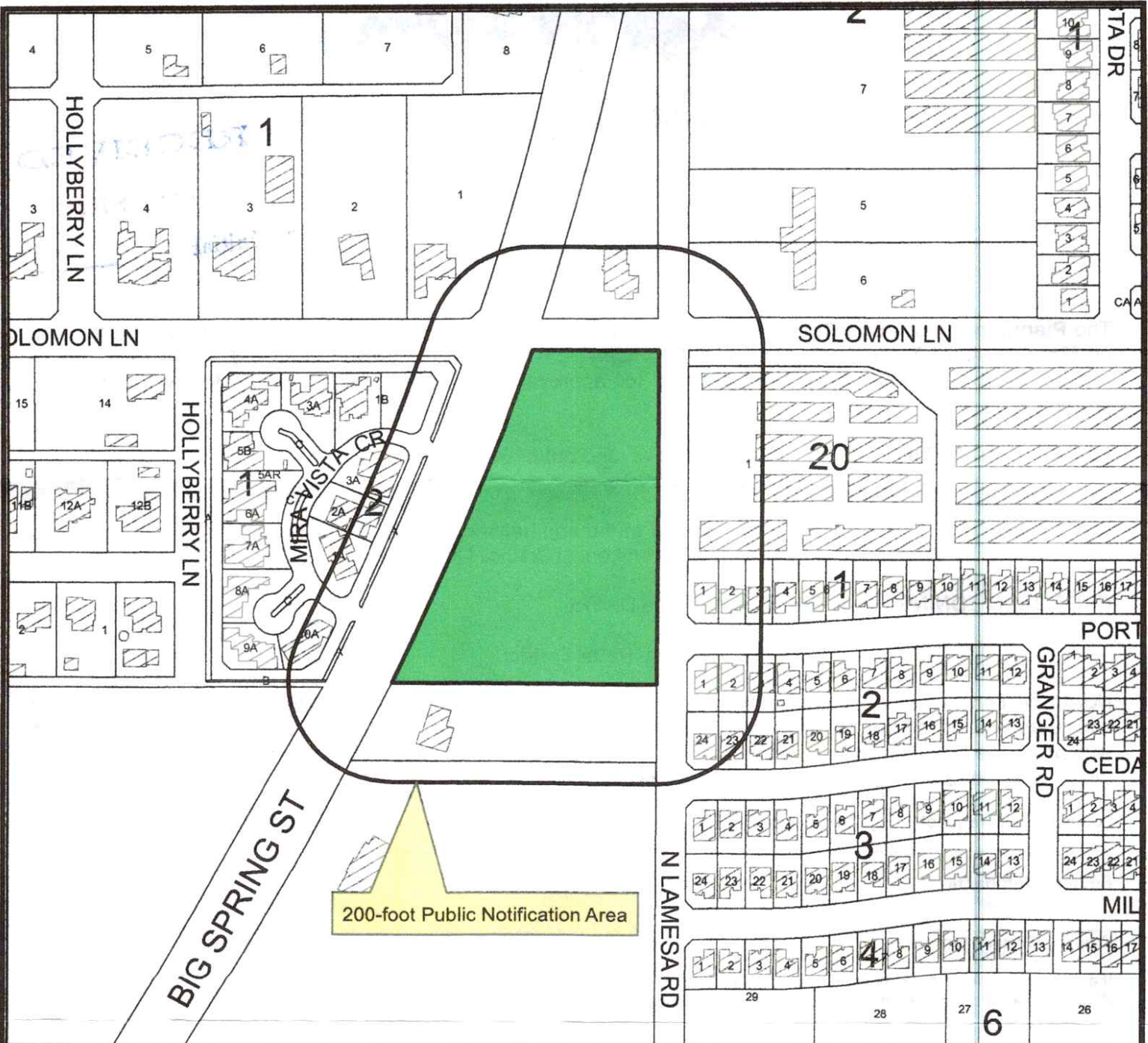
www.MidlandTexas.gov

Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400

PACKET

26.26

April 22, 2025



Location Map

Z-25-0413

Scale: 1" = 279'

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PACKET

26.27

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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April 22, 2025



PIMENTEL KRISTIAN
ALEXANDER
1105 PORTERFIELD RD
MIDLAND TX 79705

PUBLIC NOTICE

RECEIVED

APR 9 2025

Initial: SKS

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I object to this request ☒ Comments:

DAINGEROUS TRAFFIC ON LAUGHA & BIG SPRING ST.

Required Information:

Property Owner's Signature

KRISTIAN PIMENTEL
Printed Name

1105 PORTERFIELD RD.
Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
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Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

Landon Ochoa
Planning Division Manager
Department of Development Services

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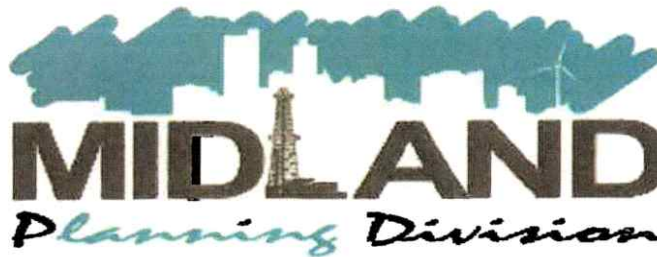
PACKET Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400
26.28 April 22, 2025

RECEIVED

APR 10 2025

Initial

JS & BQ



CEMETERY MANAGEMENT
CORP % PROPERTY TAX 8TH
FLOOR

P O BOX 130548

HOUSTON TX 77219

PUBLIC NOTICE

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I object to this request ☒ Comments: Big Spring St is already busy & dangerous. This could drive more people to cut through my parking lot when I have elderly walking to visit loved ones.

Required Information:

Property Owner's Signature

Abbey J. Collins

Printed Name

4616 N Big Spring St Midland 79705

Property Address (No P. O. Boxes)

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Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 25

Date Mailed: March 27, 2025

Case Number: Z-25-0413

Case Name: Lite Automotive Services Center

DH Planner's Initials

Landon Ochoa
Planning Division Manager
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www.MidlandTexas.gov

PACKET Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400 April 22, 2025

SCOTT BETH DUFFORD
5025 MIRA VISTA CIRCLE
79705



RECEIVED

APR 07 2025

Initial: BM

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I object to this request ☒ Comments:

THIS IS NOT N. BIG SPRING OF 20 YEARS AGO. TRAFFIC IS HEAVY MOVING EAST AND LEFT TURN CONFLICTS ARE CRAZY THESE DAYS - EVERYONE ILLEGALLY USES MIDDLE TURN LANE AS AN ACCELERATION LANE

Required Information:

A. Scott Dufford
Property Owner's Signature

A. SCOTT DUFFORD
Printed Name

5025 MIRA VISTA CIRCLE
Property Address (No P. O. Boxes)

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Notices Mailed: 25
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Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400

MATT CHITWOOD
5005 MIRA VISTA



RECEIVED

APR 07 2025

Initial BM

~~BLACK GARRETT DOUGLAS~~
5018 MIRA VISTA CIR
MIDLAND TX 79705

PUBLIC NOTICE

The Planning and Zoning Commission of the City of Midland, Texas will hold a public hearing at 3:30 p.m. on Monday, April 7, 2025, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by Kent Distributors, Incorporated for approval of a Zone Change on the following described property:

LEGAL DESCRIPTION: A 5.57-acre tract of land out of Section 2, Block X, H.P. Hilliard Survey, City and County of Midland, Texas.

LOCATION: Generally located at the southeast corner of the intersection of North Big Spring Street and Solomon Lane. (Council District 1)

PROPOSED ZONING: From: O-1, Office District
To: RR, Regional Retail District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response must be submitted by mail or delivered in writing to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request ☒ Comments: noise and light pollution, dangerous cross traffic

Required Information:

Property Owner's Signature

Matthew A. Chitwood
Printed Name

5005 Mira Vista Circle Midland TX 79705
Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989. Videoconference information will be available by accessing the meeting agenda at <https://www.midlandtexas.gov/967/primegov-meeting>

www.MidlandTexas.gov

Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400

SCOTT: BETH DUFFORD
5025 MIRA VISTA CIRCLE
79705



RECEIVED
APR 07 2025
Initial: BM

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I object to this request ☒ Comments: *THIS IS NOT N. BIG SPRING OF 20 YEARS AGO. TRAFFIC IS HEAVY MOVING EAST AND LEFT TURN CONFLICTS ARE CRAZY THESE DAYS - EVERYONE ILLEGALLY USES MIDDLE TURN LANE AS AN ACCELERATION LANE*

Required Information:
Property Owner's Signature: *A. Scott Dufford*
Printed Name: *A. SCOTT DUFFORD*
Property Address (No P. O. Boxes): *5025 MIRA VISTA CIRCLE SEE MAP (X)*

If any further information is desired, please contact the Planning Division, at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

for
Landon Ochoa
Planning Division Manager,
Department of Development Services

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Randy Sims
5009 Mira Vista
79705

BLACK GARRETT DOUGLAS
5018 MIRA VISTA CIR
MIDLAND TX 79705



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APR 07 2025

Initial: BM

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I object to this request ☒ Comments: dangerous cross traffic, noise and light pollution

Required Information:

	Randy Sims	5009 Mira Vista Cr, Midland, TX 79705
Property Owner's Signature	Printed Name	Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

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Landon Ochoa
Planning Division Manager
Department of Development Services

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Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400

PACKET

26.36

April 22, 2025



RECEIVED

APR 9 2025

Initial: SKS

PUBLIC NOTICE

The **Planning and Zoning Commission** of the City of Midland, Texas will hold a public hearing at **3:30 p.m.** on **Monday, April 7, 2025**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Kent Distributors, Incorporated** for approval of a **Zone Change** on the following described property:

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I object to this request ☒ Comments: Blocking Solomon Lane dangerous traffic w 349 curve
Blocking Ingress/Egress to Miravista Circle

Required Information: [Signature] Trent Walton 5033 Miravista Cir
Property Owner's Signature Printed Name Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division, at 685-7400.
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Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

[Signature] for
Landon Ochoa
Planning Division Manager
Department of Development Services

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PACKET Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400
26.37

April 22, 2025



RECEIVED

APR 9 2025

Initial: JKS

Richard D & Robbie S Campbell
5029 MIRA VISTA CIR
MIDLAND TX 79705

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I object to this request Yes! Comments: The property is currently properly Zoned as O-1, Office District for the traffic & safety on Hwy 349 Plus the residential west across 349 and for neighborhood east and south of property!

Required Information:

[Signature]
Property Owner's Signature

Richard D Campbell
Printed Name

5029 Mira Vista Cir. 79705
Property Address (No P. O. Boxes)

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Notices Mailed: 25
Date Mailed: March 27, 2025
Case Number: Z-25-0413
Case Name: Lite Automotive Services Center
DH Planner's Initials

[Signature] Far
Landon Ochoa
Planning Division Manager
Department of Development Services

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LITE AUTOMOTIVE SERVICES CENTER

ZONE CHANGE



Visit Our Website

MIDLANDTEXAS.GOV

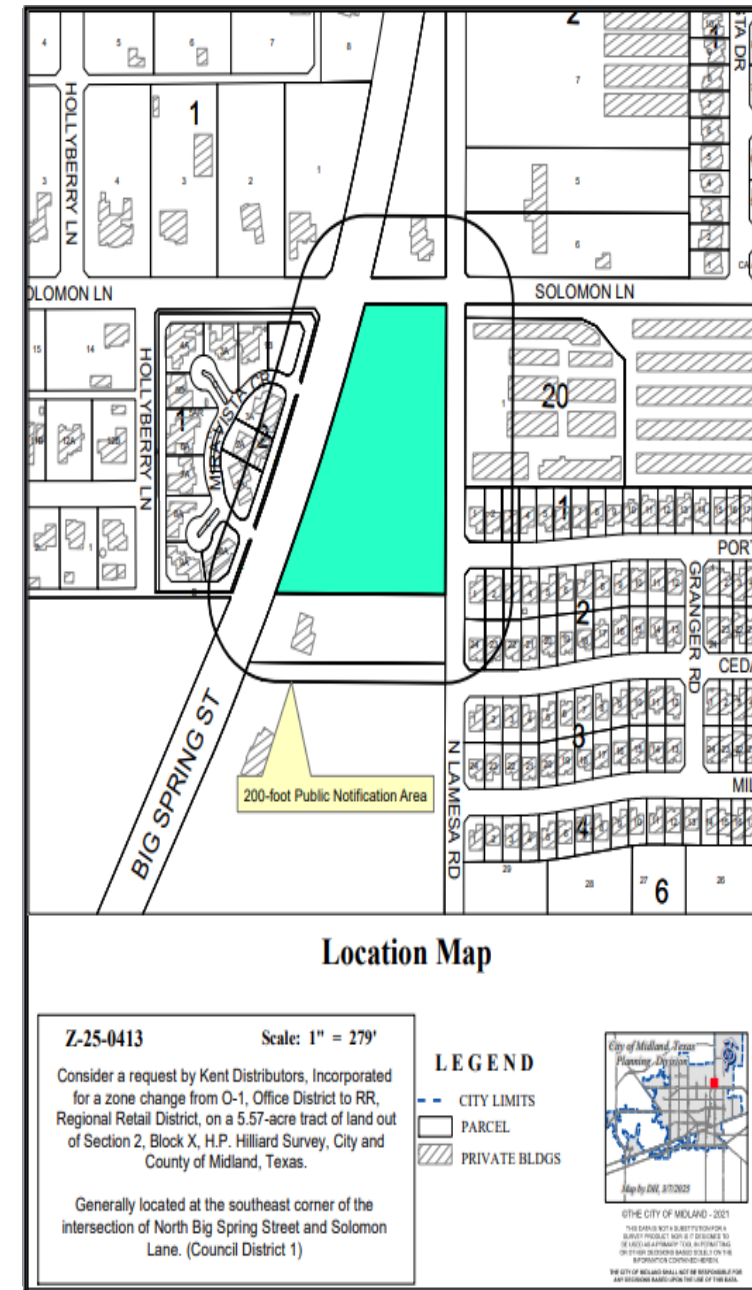
PACKET

26.39

April 22, 2025

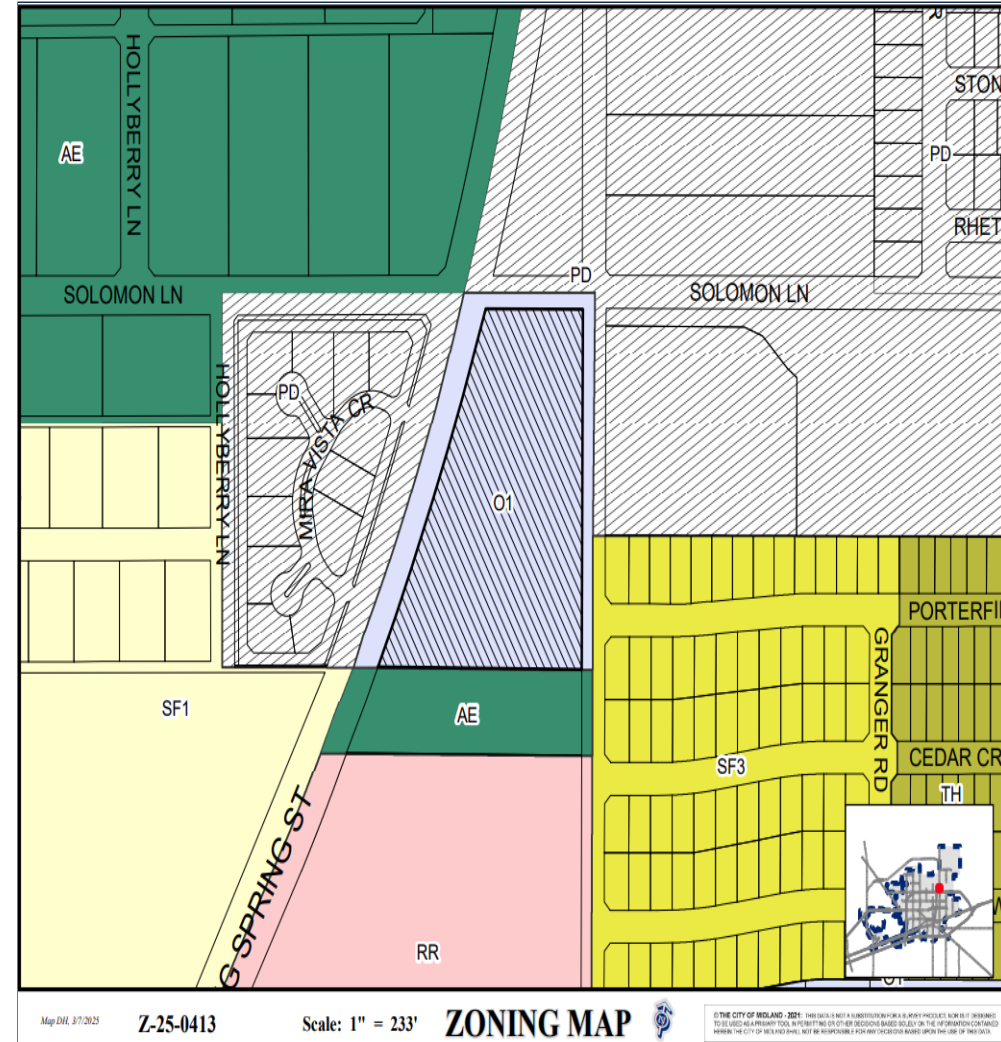
APPLICATION SUMMARY

- **Property Owner & Developer:** Steven R Sherman and Janice Sherman Rev Trust
- **Representative:** Kevin Fryer, with Kent Distributors, Incorporated
- **Zone Change**
- **Address:** Generally located at the southeast corner of the intersection of North Big Spring Street and Solomon Lane (District 1)



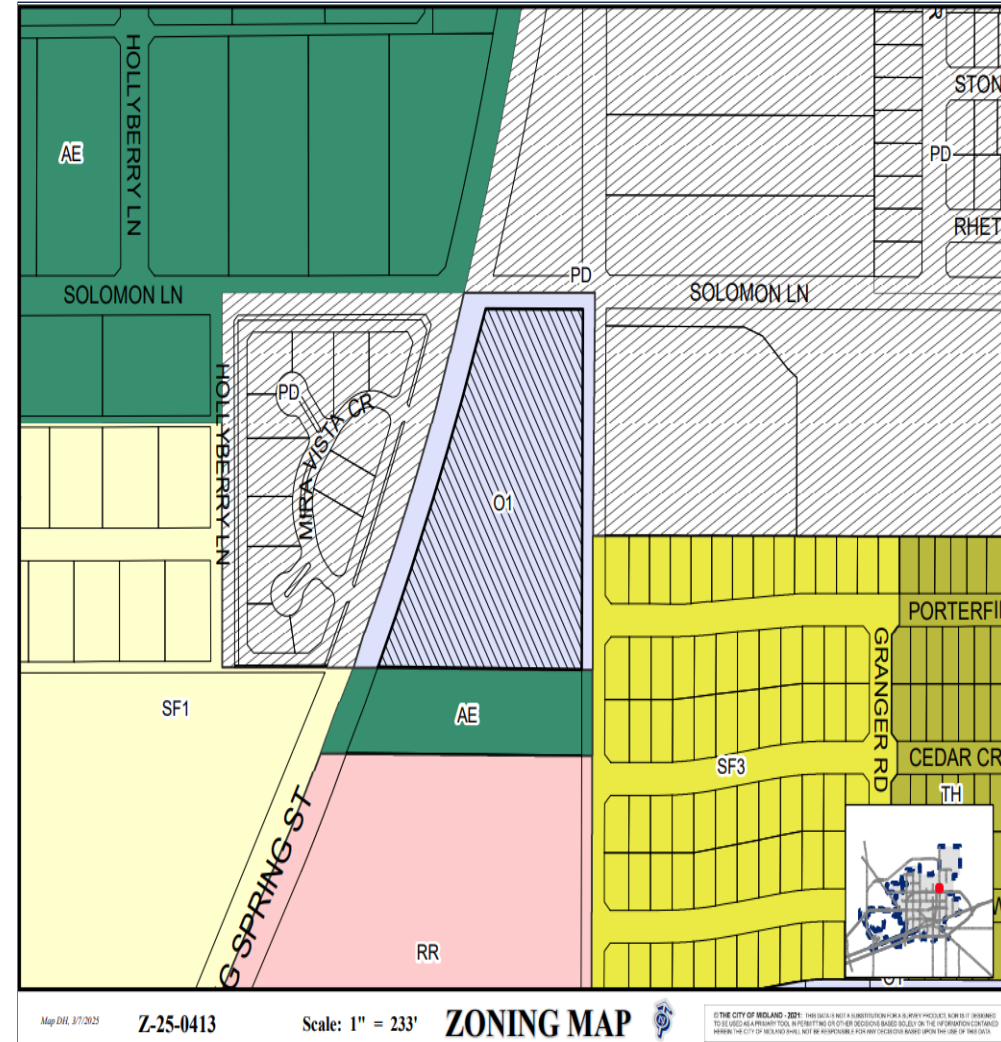
ZONING

- **Current Zoning:** O-1, Office District
- **Surrounding Zoning:**
 - **North:** PD, Planned Development District for an Industrial District
 - **South:** AE, Agricultural Estate District
 - **West:** PD, Planned Development District for a Housing Development



ZONING

- **Surrounding Zoning:**
 - **East:** PD, Planned Development District for an Industrial District and SF-3, Single-Family Dwelling District
 - **Proposed Zoning:** RR, Regional Retail District



LAND USE

- **Current Use:** Vacant
- **Proposed Use:** Lite Automotive Services Center
- **Surrounding Uses:**
 - **North:** Fire station
 - **South/West:** Single-family dwellings
 - **East:** Window tinting company and single-family dwellings



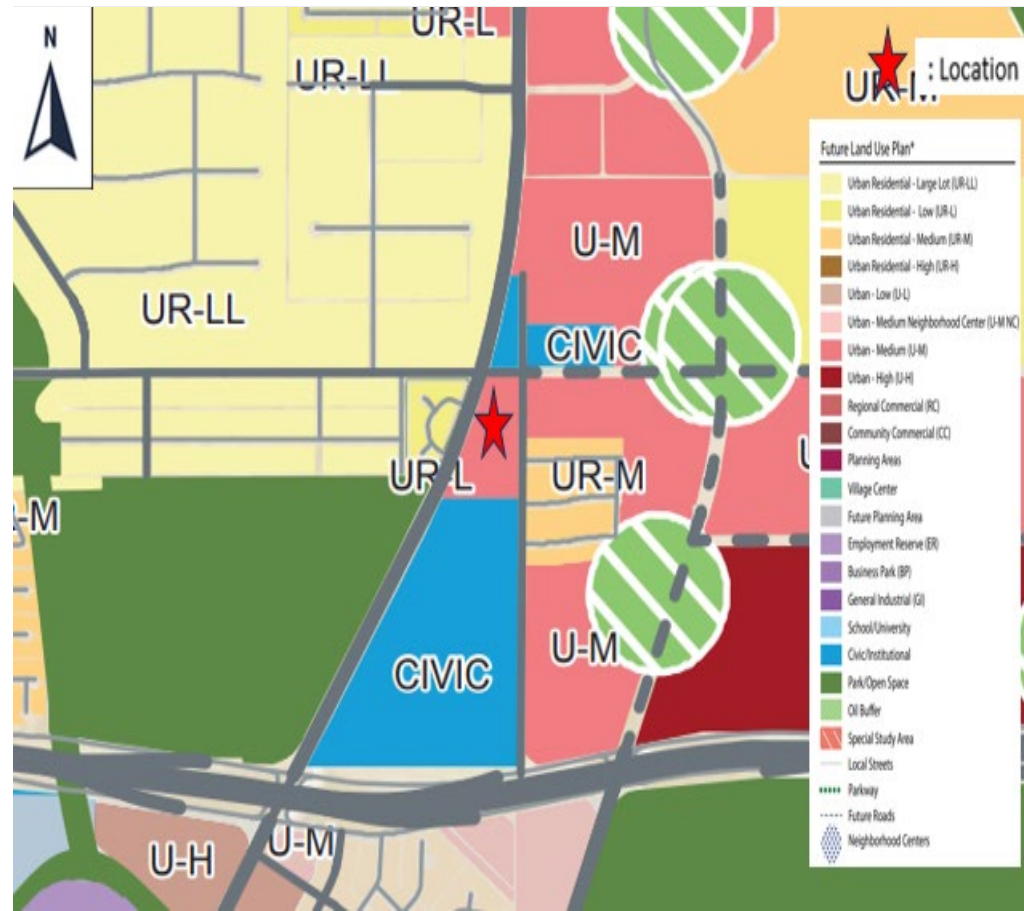
SITE PHOTO



On North Big Spring Street, Looking East

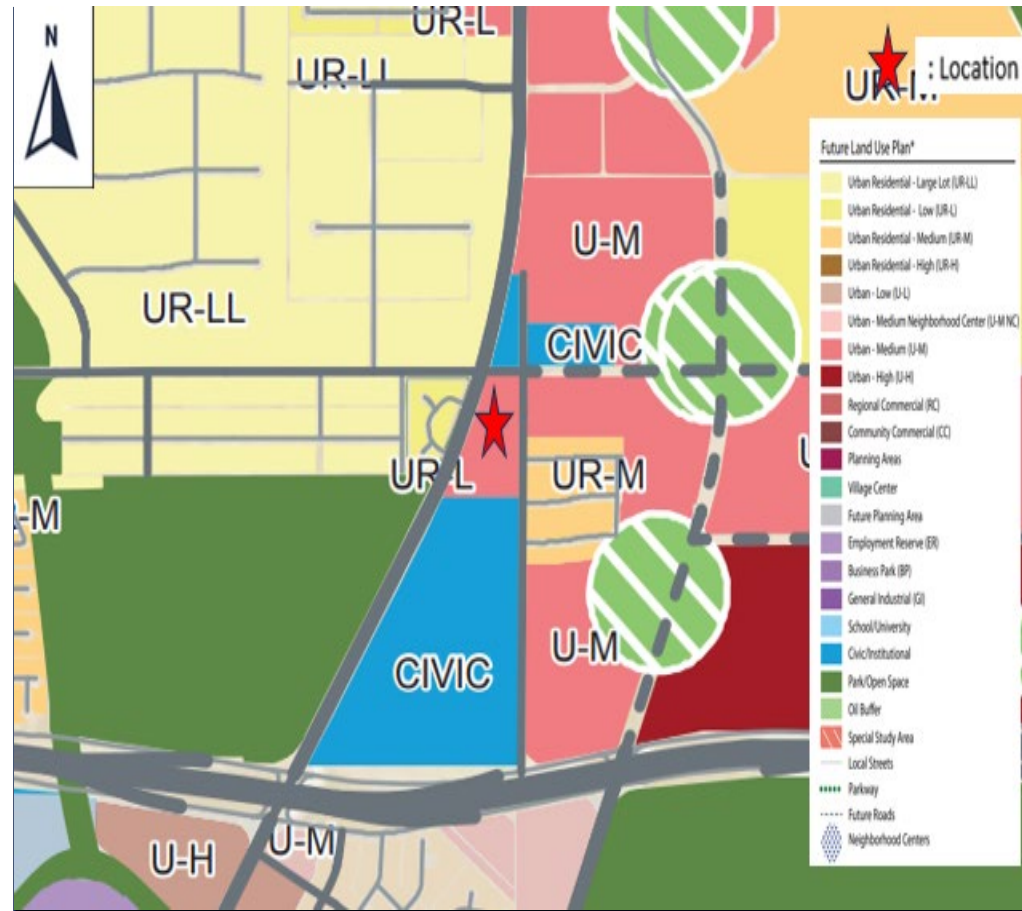
COMPREHENSIVE PLAN ANALYSIS

- **TCT Land Use Designation:**
 - Urban-Medium (U-M)
- **Supported Uses:**
 - A mix of complementary uses, including single-family housings, multi-family housing, schools, mid-sized parks and churches, commercial and mixed use



COMPREHENSIVE PLAN ANALYSIS

- Request is not **compatible** with the surrounding area or the Tall City Tomorrow Plan.



April 22, 2025

MIDLAND

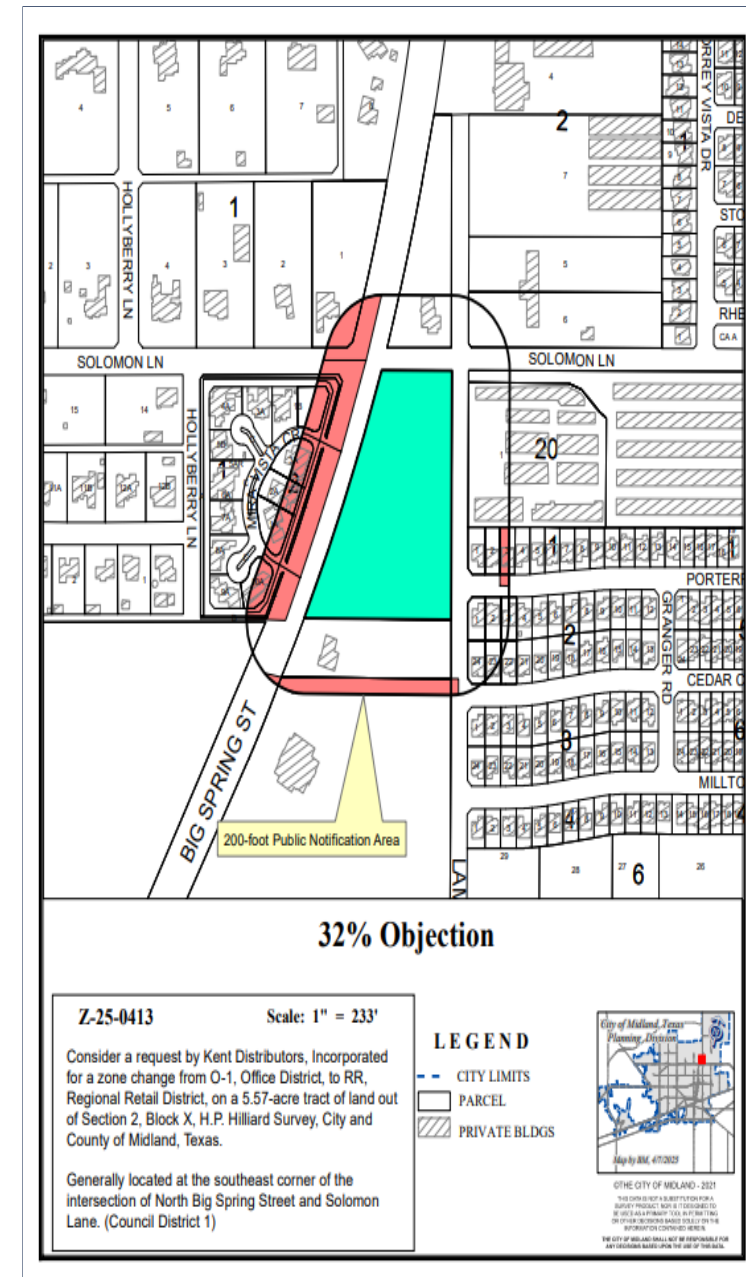
Be the Energy!



26.47

APPLICATION SUMMARY

- 15 objections were received for this zone change request. 9 of the objections being within the 200-foot buffer, and 6 objections being outside of the 200-foot buffer.
- The total objection percentage within the 200-foot buffer is 32.8%



STAFF RECOMMENDATION

- This is scheduled for the April 21, 2025, Planning and Zoning Commission Meeting
- Staff recommends **DENIAL** of this zone change from, O-1, Office District, to RR, Regional Retail 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: April 22, 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 THE EAST 50 FEET OF LOTS 10 THROUGH 12, BLOCK 61, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WALL STREET APPROXIMATELY 110 FEET EAST OF SOUTH CARRIZO STREET), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS 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, David Chin, 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 615 West Wall Street for Hot Shots.

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:

CB, Central Business District

Surrounding Zoning and Land Use:

All surrounding properties are zoned CB, Central Business District. Property to the north is office buildings. Property to the east is BTA Oil. Property to the south is The Bar. The property to the west is Double Bar Saloon.

Analysis:

The property is zoned CB, Central Business District. CB zoning allows Alcoholic Beverages Sales for On-Premises Consumption in a lounge with the approval of an SUD. The business has received citations for selling alcohol while having an expired SUD. However, they are attempting to come into compliance by requesting this SUD. Additionally, due to the volume of incidents reported at this business, staff is recommending that a condition which, if approved by Council, will require the business to have two security guards present during 9pm and 1:45am. The total area of the lounge, Hot Shots, is 4,200 square feet and the proposed alcohol serviceable area is 4,000 square feet.

The proposed hours of operation:

Tuesday through Saturday from 6 p.m. to 1:45 a.m.

The proposed hours of alcohol service:

Tuesday through Saturday from 6 p.m. to 1:45 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.” Hot Shots, 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)

No additional comments or objections.

Engineering: (Approved)

No objection.

Transportation: (Approved)

No objection.

Building Code: (Approved)

The SUD is approved based on the current occupant load pending that no changes to the occupancy, seating count, physical structure, and/or the floor layout has taken place when compared to previously approved SUDs. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning: (Approved with Conditions)

The Planning & Zoning Commission recommended approval with the following amendment: that Condition D be modified to only require police officers on Fridays and Saturdays.

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 Condition A through H.

Conditions:

- A. That the serviceable area of the establishment shall be limited to approximately 4,000 square feet as shown in Exhibit “A”.**
- B. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.**
- C. That the permitted hours of the sale of alcoholic beverages sales and consumption shall be limited to: Tuesday through Saturday from 6 p.m. to 1:45 a.m.**
- D. That the operator of the Establishment shall provide a minimum of two certified peace officers as security guards on the premises of the Establishment during**

hours of operation that occur between 9:00 p.m. and 1:45 a.m.

- 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 That in accordance with Section 11-1-9.07. E.3 of the zoning ordinance, the establishment shall be in operation within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of April 11, 2025 staff has received one letter of objection. resulting in a 32.4% objection. Per 11-1-9.02.E, a three-fourths vote is required for approval.

Attachments:

Application
Floor Plan (Exhibit A)
Maps
Objection Letter
PowerPoint

Frederick D. Out

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 THE EAST 50 FEET OF LOTS 10 THROUGH 12, BLOCK 61, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WALL STREET APPROXIMATELY 110 FEET EAST OF SOUTH CARRIZO STREET), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS 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 the east 50 feet of Lots 10 through 12, Block 61, Original Town 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 CB, Central Business 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 4,000 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.
- B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.
- C. That the days and hours of alcoholic beverage sales and consumption shall be limited to Tuesday through Saturday from 6:00 p.m. to 1:45 a.m. of the following day.
- D. That the operator of the Establishment shall provide a minimum of two certified peace officers as security guards on the premises of the Establishment during hours of operation that occur between 9:00 p.m. and 1:45 a.m.
- 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., 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

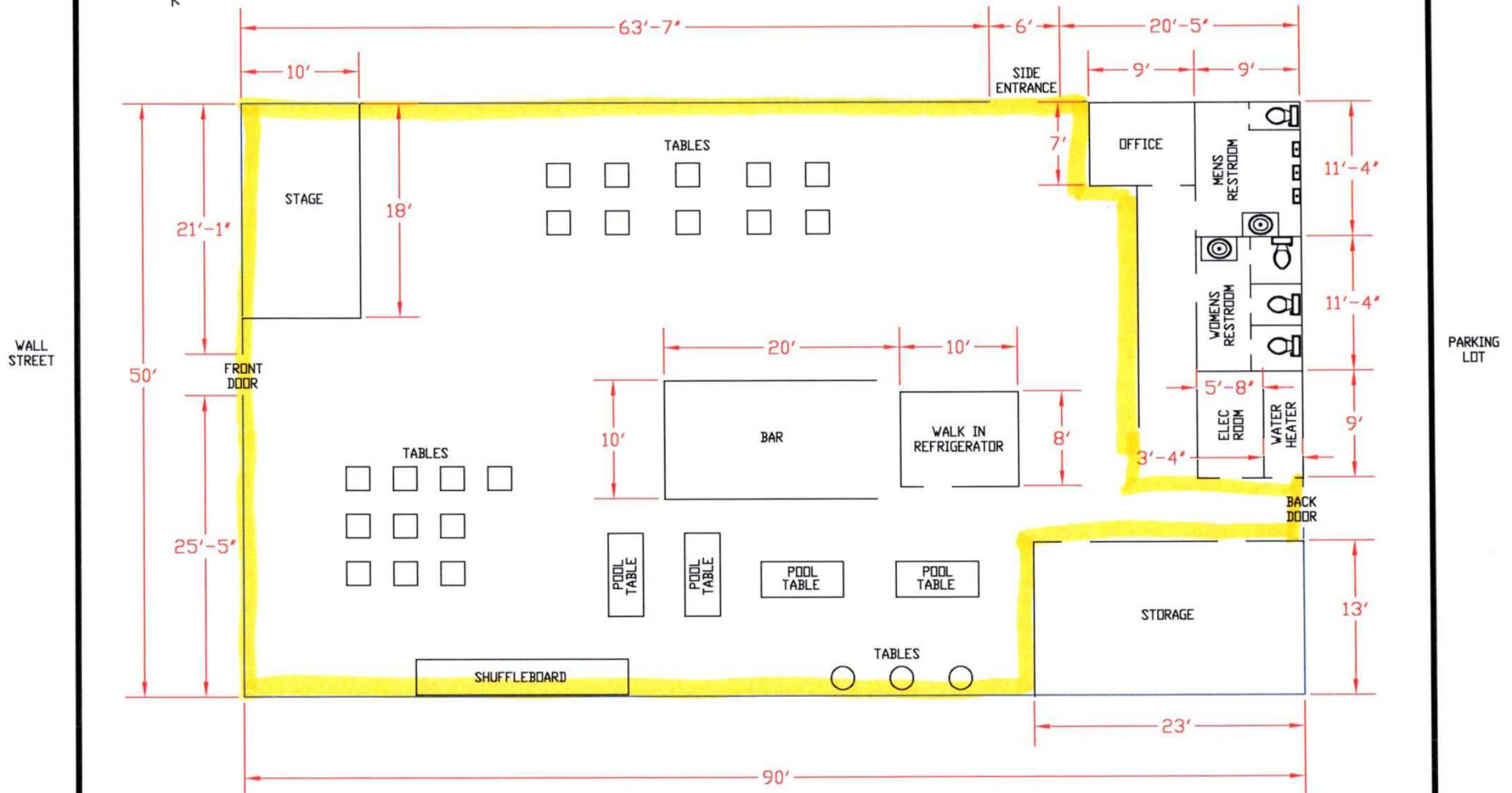
APPROVED ONLY AS TO FORM:

Nicholas Toulet, Interim City Attorney

EXHIBIT A



HOT SHOTS
615 WEST WALL
MIDLAND, TX 79701





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: DAVID CHIN

Phone (432) 352-7986

Email MANIX782@yahoo.com

Address 615 W. WALL STREET

City MIDLAND

State TX

Zip 79701

Property Owner

Printed Name: Same as above

Phone ()

Email

Address

City

State

Zip

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: _____

Phone ()

Email

Address

City

State

Zip

Street Address: 615 W. WALL STREET MIDLAND, TEXAS 79701

Business Name: HOT SHOTS

Legal Description

Lot: _____ Block: _____ Subdivision: _____

Current Zoning: _____

Reason for Request: _____

Type of Business (restaurant, bar, lounge, nightclub, etc.): BAR

Proposed/Current Days and Hours of Operation: TUESDAYS THROUGH SATURDAY

Proposed Days and Hours of Alcohol Service: 6:00 PM - 1:45 AM

Total Square Footage of Business: 4,200

Square Footage of Alcohol Serviceable Area: 4,000

Restroom Fixtures: Men _____
Women _____

Toilets/Urinals: 1 / 3
Toilets: 2

Bathroom Sinks: 1
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):

[Signature]

Date:

3/5/25

Applicant (printed):

DAVID CHIN

Property Owner (signature):

[Signature]

Date:

3/5/25

Property Owner (printed):

DAVID CHIN

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.

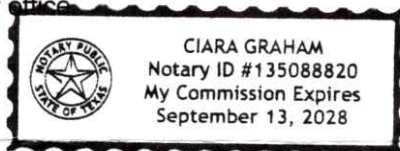
If an agent is authorized by the property owner to file and execute application on behalf of property owner, agent must complete the affidavit below.

STATE OF TEXAS COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared David Chin who, being by me duly sworn, upon oath says: That (s)he is authorized by David Chin, 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.

[Signature]

Subscribed and sworn to before me, this 6th day of March, 2025, to certify which witness my hand and seal of office.



[Signature]
Notary Public

FOR OFFICE USE ONLY

☒ Property Owner Authorization

☒ Dimensioned Floor Plan

☒ Application Fee

☒ Site Plan

Check # 8975

☐ Plans in Digital Format (PDF/JPEG)

RECEIVED

Received By: *[Signature]*

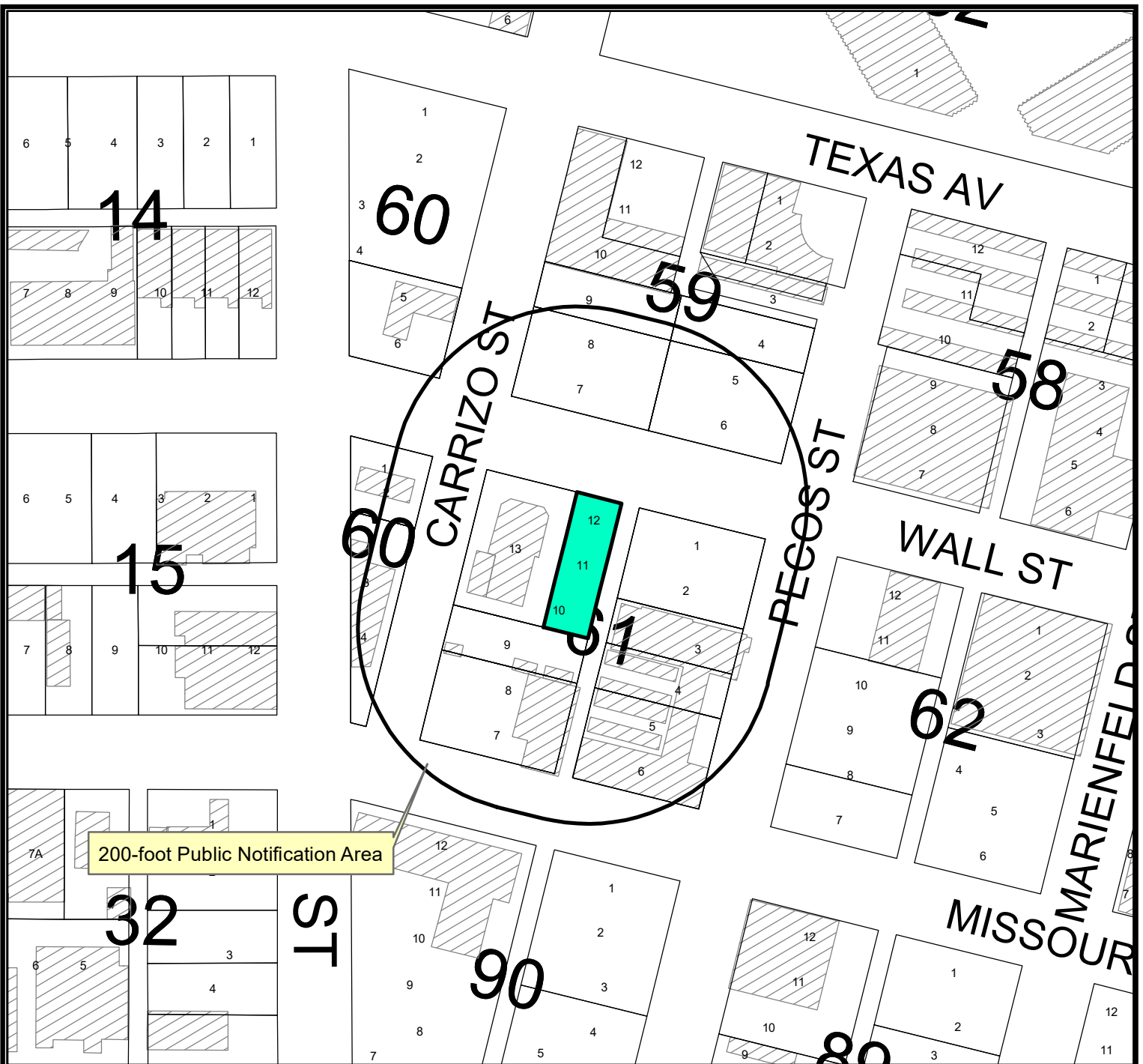
Date:

MAR 10 2025

Initials

PACKET

**Application will not be considered for scheduling until reviewed by a planner.



Location Map

SUD-25-0195

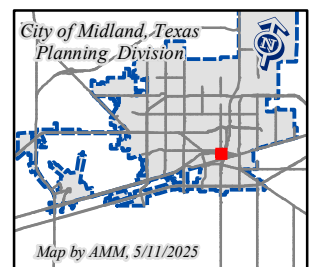
Scale: 1" = 861'

Consider a request by David Chin for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages for on premises consumption in a bar on the east 50 feet of Lot 10 through and 12, Block 39, Original Town, City and County of Midland, Texas.

Generally located on the south side of West Wall Street approximately 110 feet east of South Carrizo Street. (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

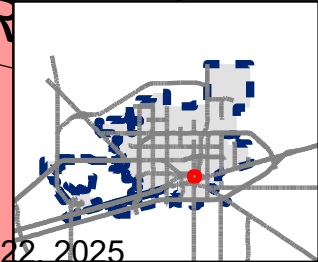


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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR RECORD OR IS IT DESIGNED TO BE USED AS A TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

April 22, 2025







TEXAS AV

CARRIZO ST

PECOS ST

WALL ST

MISSOURI AV
MARIENFELD ST

B ST

A ST

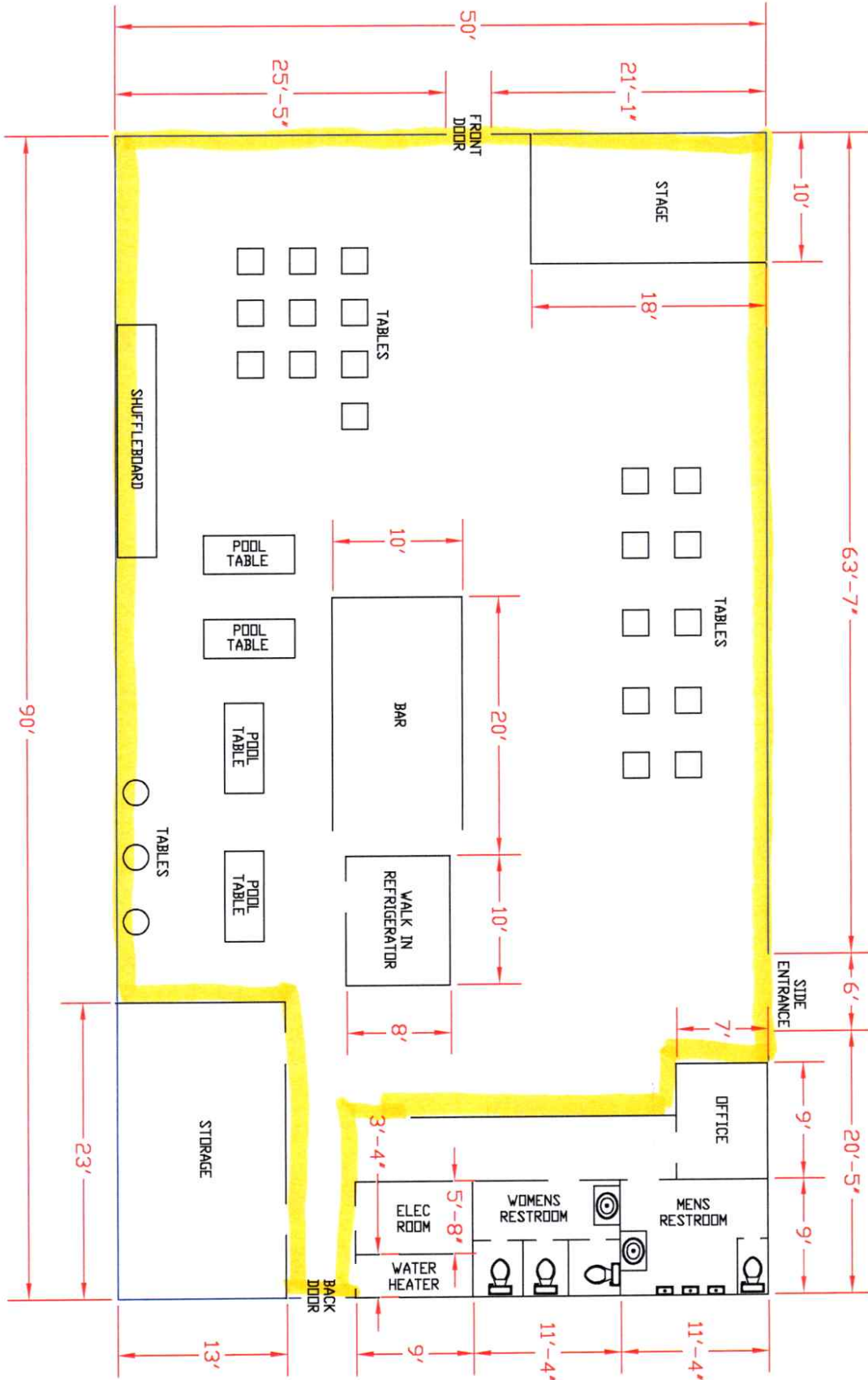
PACKET

27.15

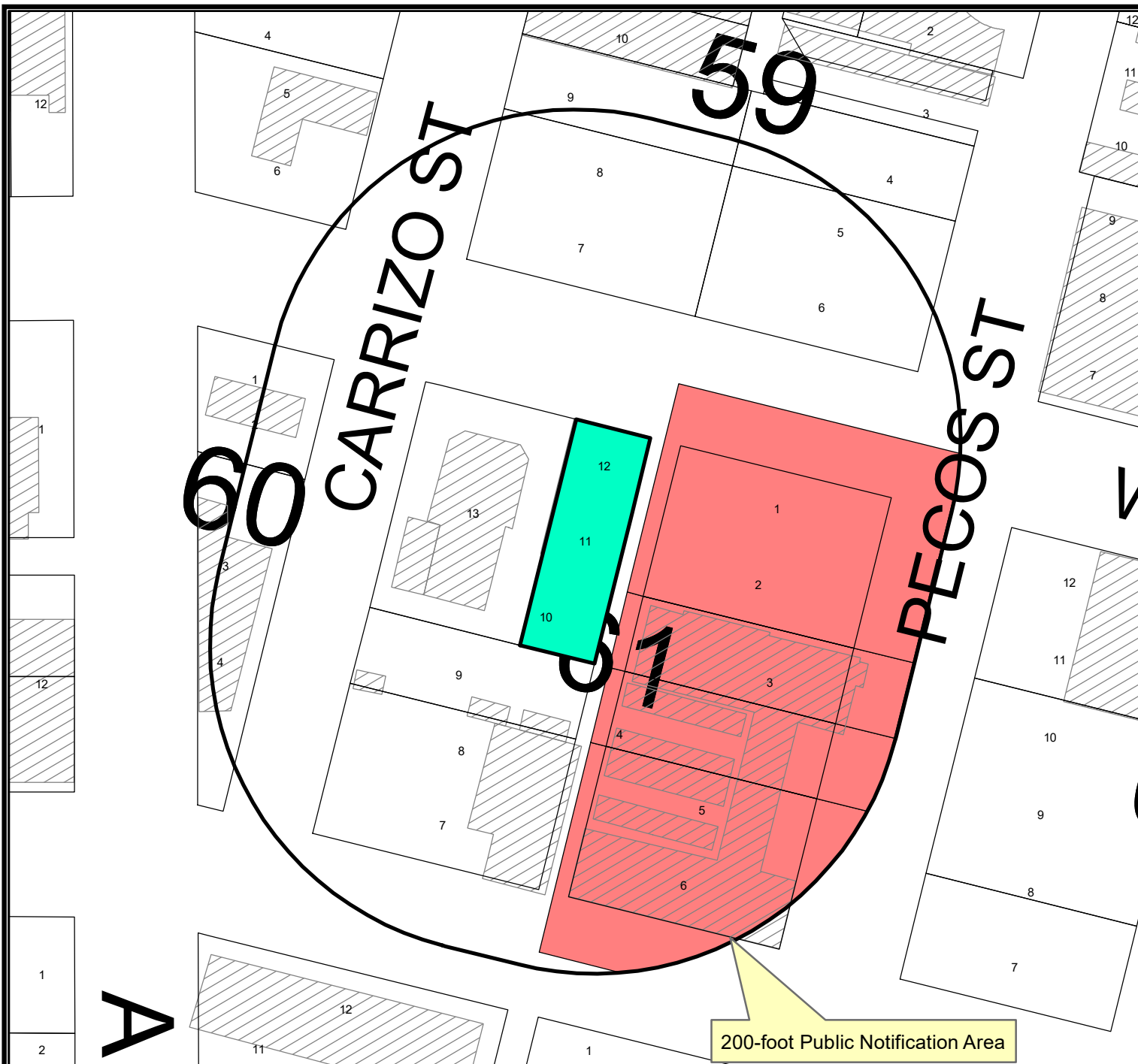
April 22, 2025



HOT SHOTS
615 WEST WALL
MIDLAND, TX 79701



WALL
STREET



32.4% Objection

SUD-25-0195

Scale: 1" = 1,117'

Consider a request by David Chin for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages for on premises consumption in a bar on the east 50 feet of Lots 10 through 12, Block 61, Original Town, City and County of Midland, Texas.

Generally located on the south side of West Wall Street approximately 110 feet east of South Carrizo Street. (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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April 22, 2025

PACKET

27.17



HOT SHOTS

ITEM

SPECIFIC USE DESIGNATION WITH TERM



Visit Our Website

MIDLANDTEXAS.GOV

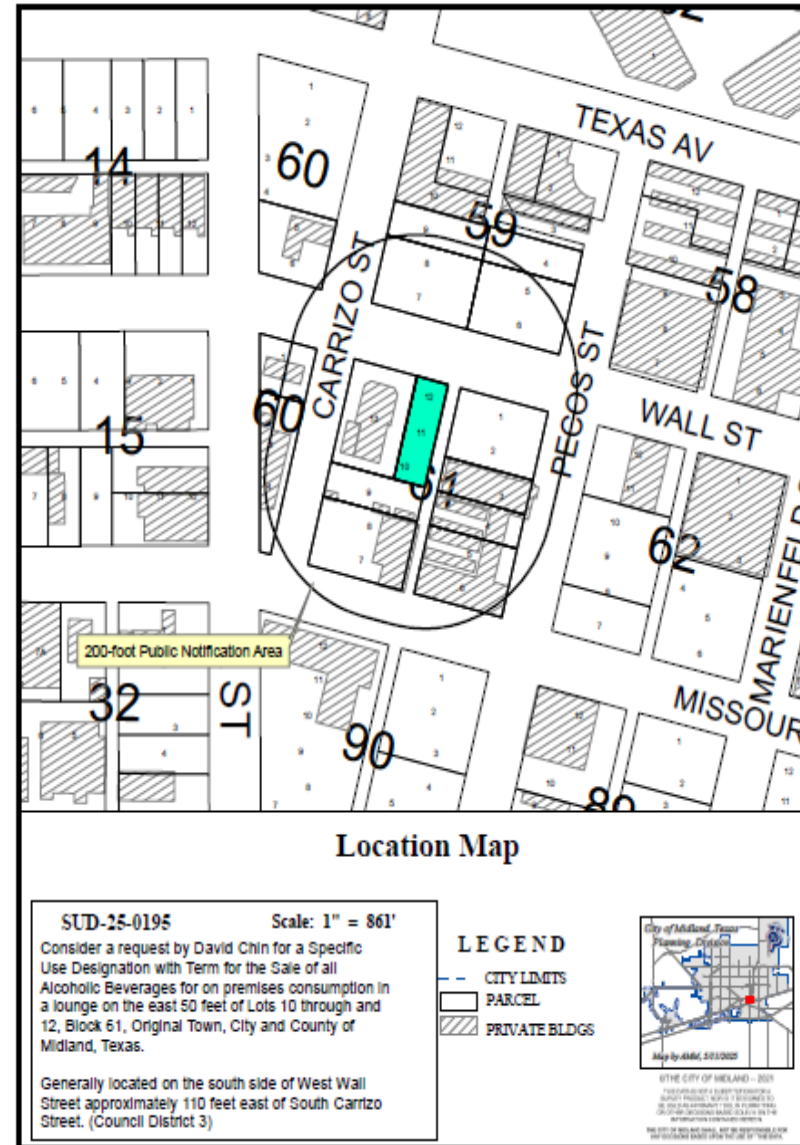
PACKET

27.18

April 22, 2025

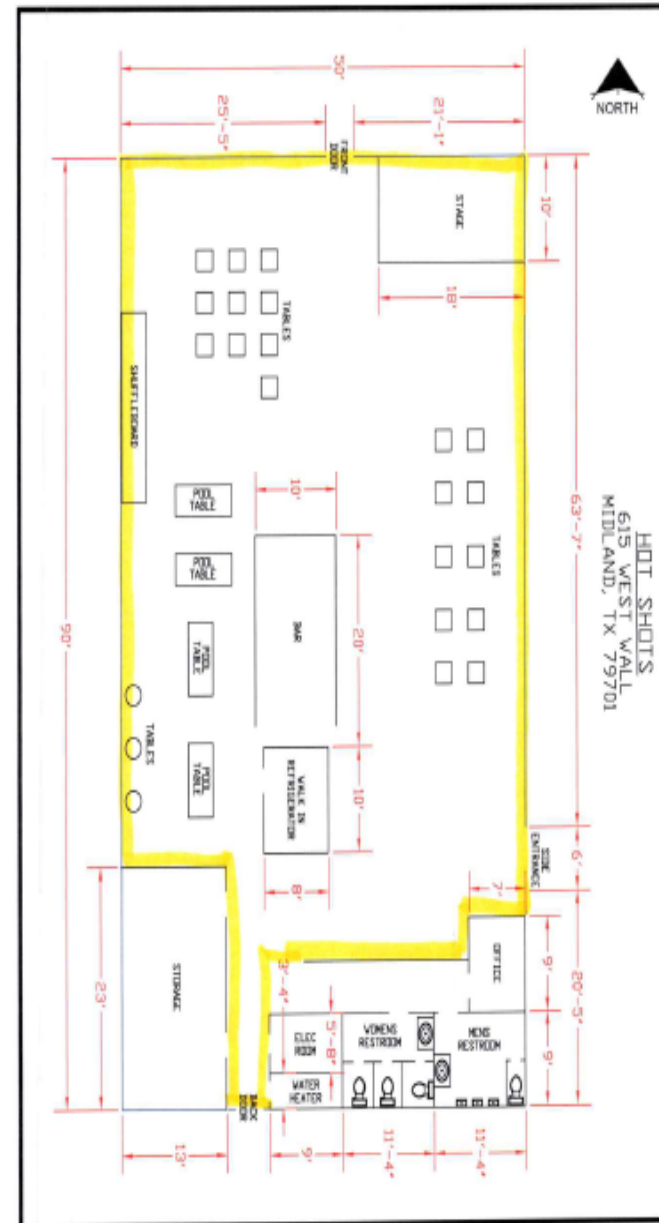
APPLICATION SUMMARY

- **Property owner:** David Chin
- **Application Type:** Specific Use Designation With Term
- **Address:** 615 West Wall Street (District 3)



SUD DETAILS

- **Square Footage of SUD:** 4,200 sq feet
- **Alcohol Serviceable Area:** 4,000 sq ft
- **Proposed Days and Hours of Operation:**
 - Tuesday through Saturday from 6 p.m. to 1:45 a.m.



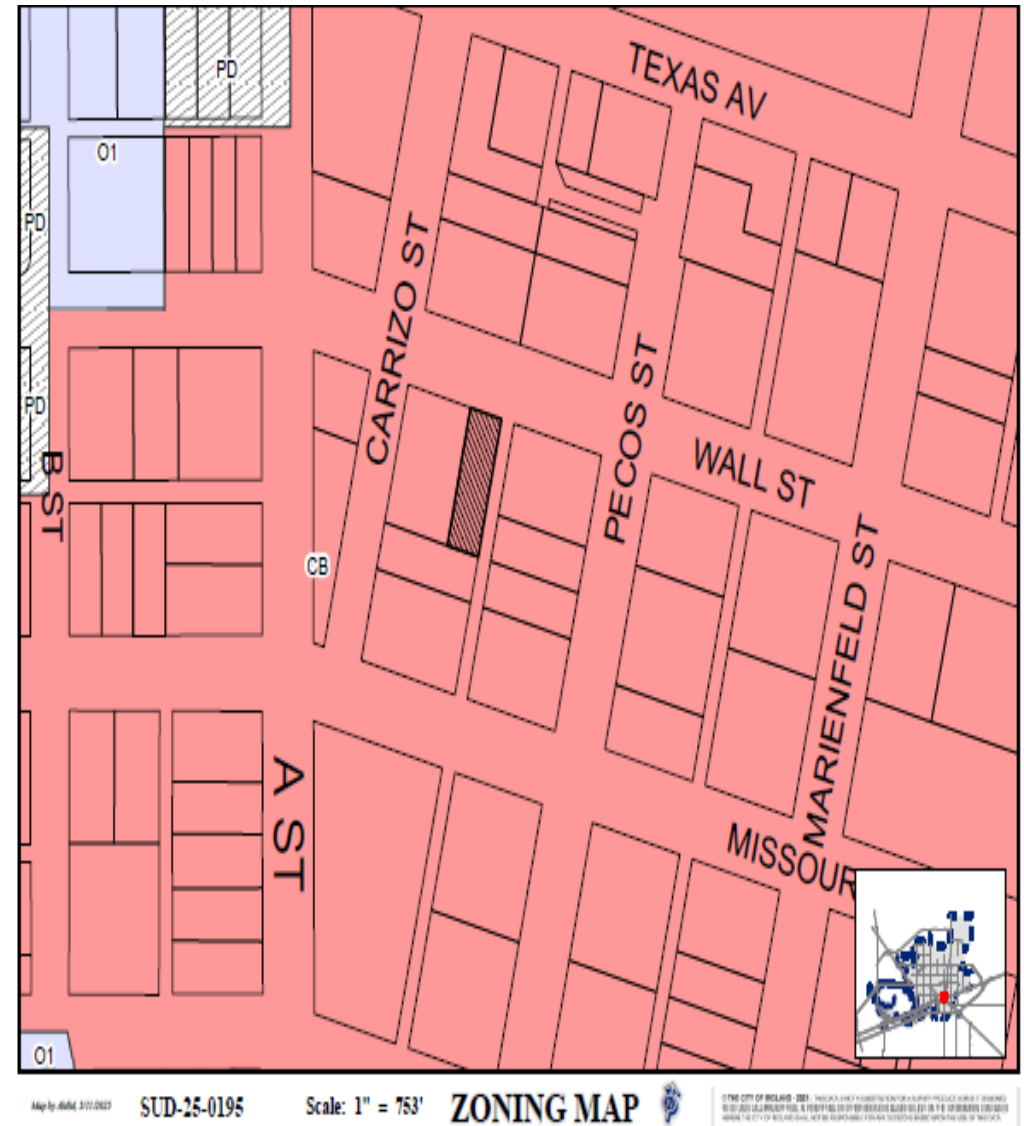
SUD DETAILS

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.



ZONING

- **Current Zoning:** CB, Central Business
- **Surrounding Zoning:** CB, Central Business.
- **Current Use of the Property:**
A Lounge: The use of Alcohol is allowed with a Specific Use Designation per the Use Chart in Section 11-1-4.03



LAND USE

- **Surrounding Uses:**
 - North: Commercial Building
 - South: The Bar
 - East: BTA Oil Building
 - West: Double Bar Saloon

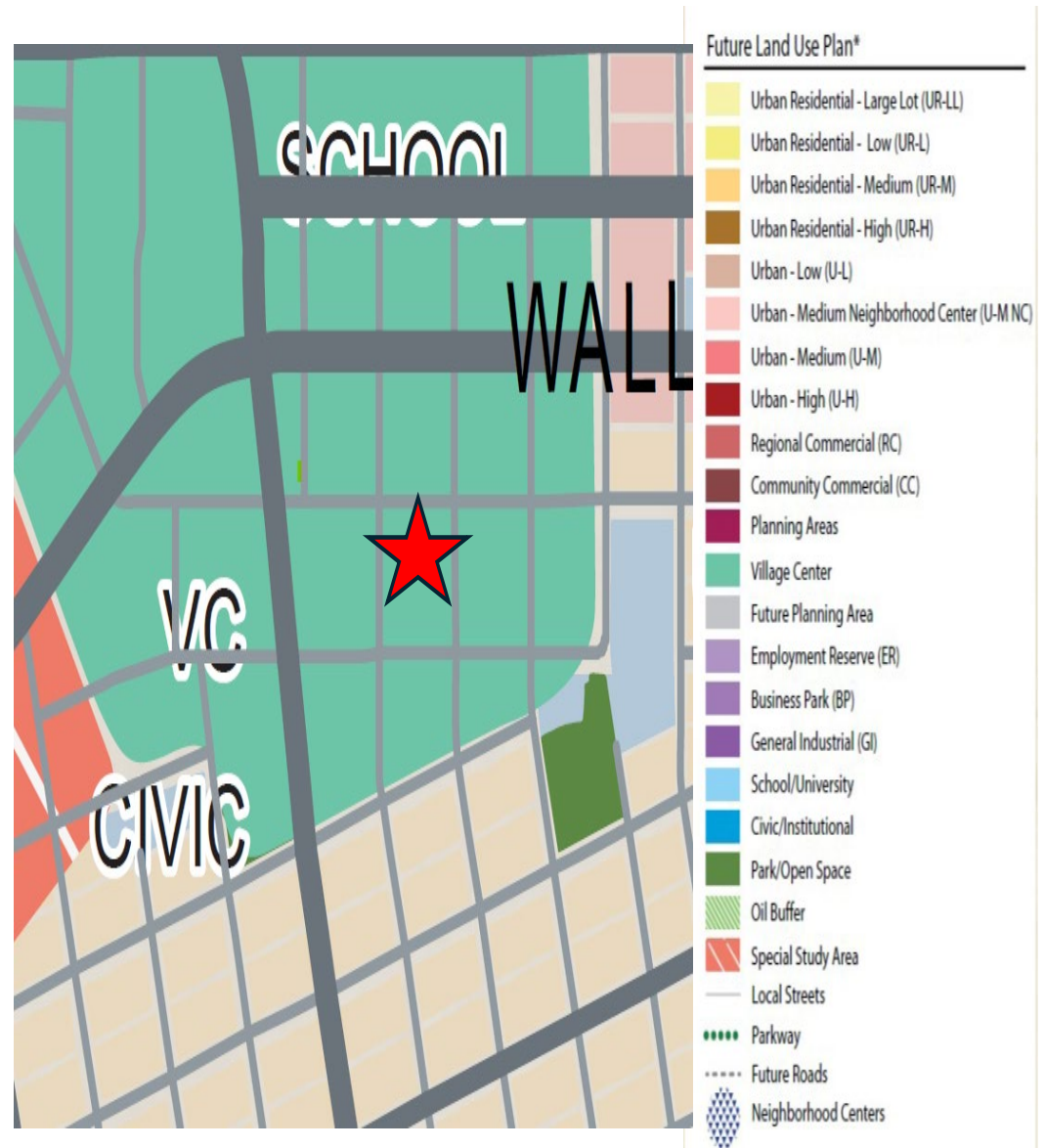


SITE PHOTO



COMPREHENSIVE PLAN

- **TCT Comprehensive Plan:**
 - Village Center
- **Supported Uses:**
 - This is a village center area and there are no policies established for this location.
 - Request is compatible with the surrounding area and the Tall City Tomorrow Plan.



STAFF RECOMMENDATION

- One objection has been received.
- Planning and Zoning approved it on April 7, 2025 with the condition of only having two peace officers Fridays and Saturdays.
- Staff recommends **APPROVAL** of this Specific Use Designation With Term for a restaurant subject to the following conditions.

A. That the serviceable area of the establishment shall be limited to approximately 4,000 square feet as shown in Exhibit “A”.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

STAFF RECOMMENDATION

C. That the permitted hours of the sale of alcoholic beverages sales and consumption shall be limited to:

Tuesday through Saturday from 6 p.m. to 1:45 a.m.

D. That the operator of the Establishment shall provide a minimum of two certified peace officers as security guards during hours of operation that occur between 9 p.m. and 1:45 a.m.

STAFF RECOMMENDATION

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.

STAFF 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 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.



Am
RECEIVED
APR 08 2025

B T A OIL PRODUCERS
104 S PECOS ST
TX MIDLAND 79701-5021

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas, will hold a public hearing at **10:00 a.m. on April 22, 2025**, in the Council Chamber, City Hall, 300 N. Loraine Street, Midland, TX 79701, on a request by **David Chin** for a **Specific Use Designation with Term** on the following described property:

LEGAL DESCRIPTION: The east 50 feet of Lots 10 through 12, Block 61, Original Town, City and County of Midland, Texas.

LOCATION: Generally located on the south side of West Wall Street, approximately 110 feet east of south Carrizo Street. (Council District 3)

CURRENT ZONING: CB, Central Business District.

SPECIFIC USE: For the sale of all Alcoholic Beverages for On-Premises Consumption, in a Lounge.

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered in writing** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request X Comments:

Required Information:

Property Owner's Signature

Richard Fagan
Printed Name *Partn BTA Oil Producer*

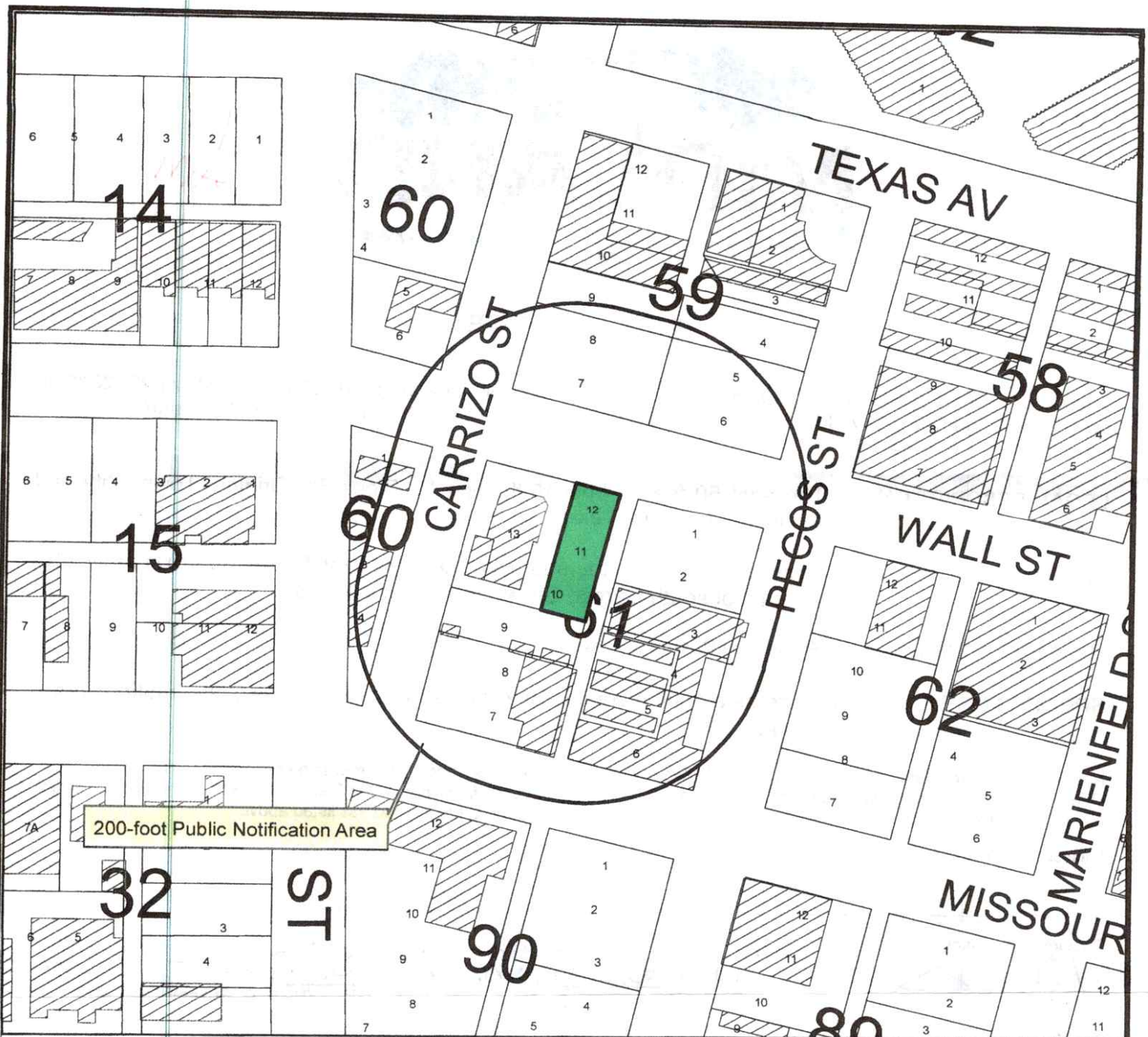
104 S. Pecos St. (Property 1-6 on map)
Property Address (No P. O. Boxes)

If any further information is desired, please contact the Planning Division at (432) 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al: (432) 685-7400.

Notices Mailed: 9
Date Mailed: 4/4/2025
Case Number: SUD-25-0195
Case Name: Hot Shots
AMM : Planner's Initials

Landon Ochoa
Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.



Location Map

SUD-25-0195

Scale: 1" = 861'

Consider a request by David Chin for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages for on premises consumption in a lounge on the east 50 feet of Lots 10 through and 12, Block 61, Original Town, City and County of Midland, Texas.

Generally located on the south side of West Wall Street approximately 10 feet east of South Carrizo Street. (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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April 22, 2025

27.32



City Council Meeting

Item Number: 28
Meeting Date: April 22, 2025
To: City Council / City Manager
From: Britton Murry, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 6 THROUGH 9, BLOCK 121, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO MH, MANUFACTURED HOUSING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF EAST NEW YORK AVENUE, APPROXIMATELY 70 FEET WEST OF SOUTH TERRELL 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:

Pennell Land Surveying, LLC, on behalf of Carl Englestad, is requesting a Zone Change for a property located at 511 East New York Avenue from RR, Regional Retail District to MH, Manufactured Housing District, to allow for future residential development.

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 property to the north is zoned LI, Light Industrial District, and is being used for a store. The property to the east is zoned RR, Regional Retail District, and is the location of a single-family dwelling. The properties to the west are zoned MH, Manufactured Housing District, and consist of manufactured homes and single-family dwellings. The property to the south is zoned RR, Regional Retail District, and is the location of a single-family dwelling.

Analysis:

The applicant is seeking this zone change in order to place two manufactured homes on these vacant lots. These vacant lots are currently zoned RR, Regional Retail District, and manufactured homes are not a permitted use. A zone change to MH, Manufactured Housing District, would allow for the placement of the two proposed manufactured homes at these properties per the City of Midland Zoning Ordinance Use Chart. [Midland City Code Section 4.03]

These four vacant lots are concurrently being replatted into two lots in addition to this zone change request, so that they are in compliance with the Residential Zoning District Dimensional Regulations Chart for the MH, Manufactured Housing District zoning regulations [Midland City Code Section 5.04]

These vacant lots are located in a residential neighborhood that is developed with a mix of single-family dwellings and manufactured homes. The properties that these lots abut to the west are zoned MH, which further supports this zone change request. MH zoning can also be found just southwest of these lots. Changing this zoning would allow for these lots to reflect the predominantly residential use that can be found in this area.

This request is not consistent with the Tall City Tomorrow Comprehensive Plan, which designated this area as Urban-Medium (U-M). This designation does not call for the MH, Manufactured Housing District. However, it does call for multiple types of residential zonings such as all of the Single-Family Dwelling Districts, as well as the Townhouse 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 comments or 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 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:

The Planning & Zoning Commission recommended approval of this request on March 17, 2025.

Therefore, staff recommends approval of this Zone Change from RR, Regional Retail District to MH, Manufactured Housing District.

Letters of Objection:

Staff has not received any letters of objection as of April 18, 2025.

Attachments:

Application
Survey
Maps
PowerPoint

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 6 THROUGH 9, BLOCK 121, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO MH, MANUFACTURED HOUSING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF EAST NEW YORK AVENUE, APPROXIMATELY 70 FEET WEST OF SOUTH TERRELL 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 Lots 6 through 9, Block 121, Southern Addition, City and County of Midland, Texas (the “Property”) to MH, Manufactured Housing 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 MH, Manufactured Housing 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:

Nicholas Toulet, Interim City Attorney



**Zone Change/Planned District
Amendment/Site Plan Approval**

Project Number: _____

Case Number: 2-25-0410

Applicant (if acting as Agent, see affidavit on page 2) Printed Name: <u>CARL ENGLESTAD</u>		Phone (432) <u>664.2355</u> Email: <u>CARLENGLESTAD@gmail.com</u>	
Address: <u>1066 E. New Jersey</u>	City: <u>Midland</u>	State: <u>TX</u>	Zip: <u>79701</u>

Property Owner Printed Name: <u>SAME</u>		Phone () _____ Email _____	
Address _____	City _____	State _____	Zip _____

Representative (if different from Applicant or Property Owner) Firm: <u>PENNEL LAND SURVEYING LLC</u> Printed Name: <u>MARCY NEELY / SURVEYOR</u>		Phone (432) <u>576-6256</u> Email: <u>BRUCEPENNEL@YAHOO.COM</u> <u>BRUCE PENNEL@YAHOO.COM</u>	
Address: <u>2030 W. Cuthbert Ave</u>	City: <u>Midland</u>	State: <u>TX</u>	Zip: <u>79701</u>

Street Address: <u>511 E. New York</u>	
Legal Description Lot: <u>6-9</u> Block: <u>121</u> Subdivision: <u>Southern</u>	

Current Zoning: <u>LOCAL RETAIL?</u> <u>* HAD HOUSE AROUND 2009</u>	Proposed Zone: _____ (List by tracts if more than one district is requested) <u>MH</u>
Reason for Zone Change Request: <u>MATCH SURROUNDING AREA / NEIGHBOR FROM (LR TO MH)</u> <u>MOBILE HOMES ALL AROUND THE NEIGHBORHOOD</u>	
Present Use of Property: <u>VACANT LOT</u>	
Proposed Use of Property: <u>MH TO MATCH SURROUNDING AREA</u>	
How would this zone change affect the public health, safety and welfare? <u>NOT AT ALL, WOULD MATCH NEIGHBORS & AREA NEXT DOOR</u>	
Describe how conditions affecting the property have changed since present zoning designation: <u>NEW MOBILE HOME PLACED NEXT DOOR / LOT</u>	

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):

CARL Englestad

Date:

1/29/2025

Applicant (printed):

CARL Englestad

Property Owner (signature):

[Signature]

Date:

1/29/2025

Property Owner (printed):

CARL Englestad

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.

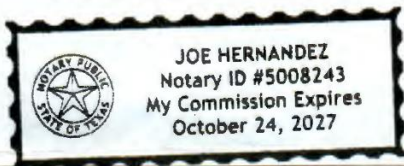
STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear Carl Englestad who, being by me duly sworn, upon oath says: That (s)he is the owner of 511 E. NEW YORK or authorized by CARL Englestad, 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.

[Signature]

Authorized Agent (signature) owner

Subscribed and sworn to before me, this 29th day of January, 2025, to certify which witness my hand and seal of office.



[Signature]

Rockwall

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 By: _____

Date: _____

ZONING EXHIBIT SOUTHERN ADDITION

LOTS 6, 7, 8 & 9, BLOCK 121
SOUTHERN ADDITION, AN ADDITION TO THE
CITY AND COUNTY OF MIDLAND, TEXAS,

Being lots 6, 7, 8 & 9, Block 121, Southern Addition, according to the plat recorded in Volume 2, Page 2 of the Deed Records of Midland County Texas and being more particularly described by metes and bounds as follows:

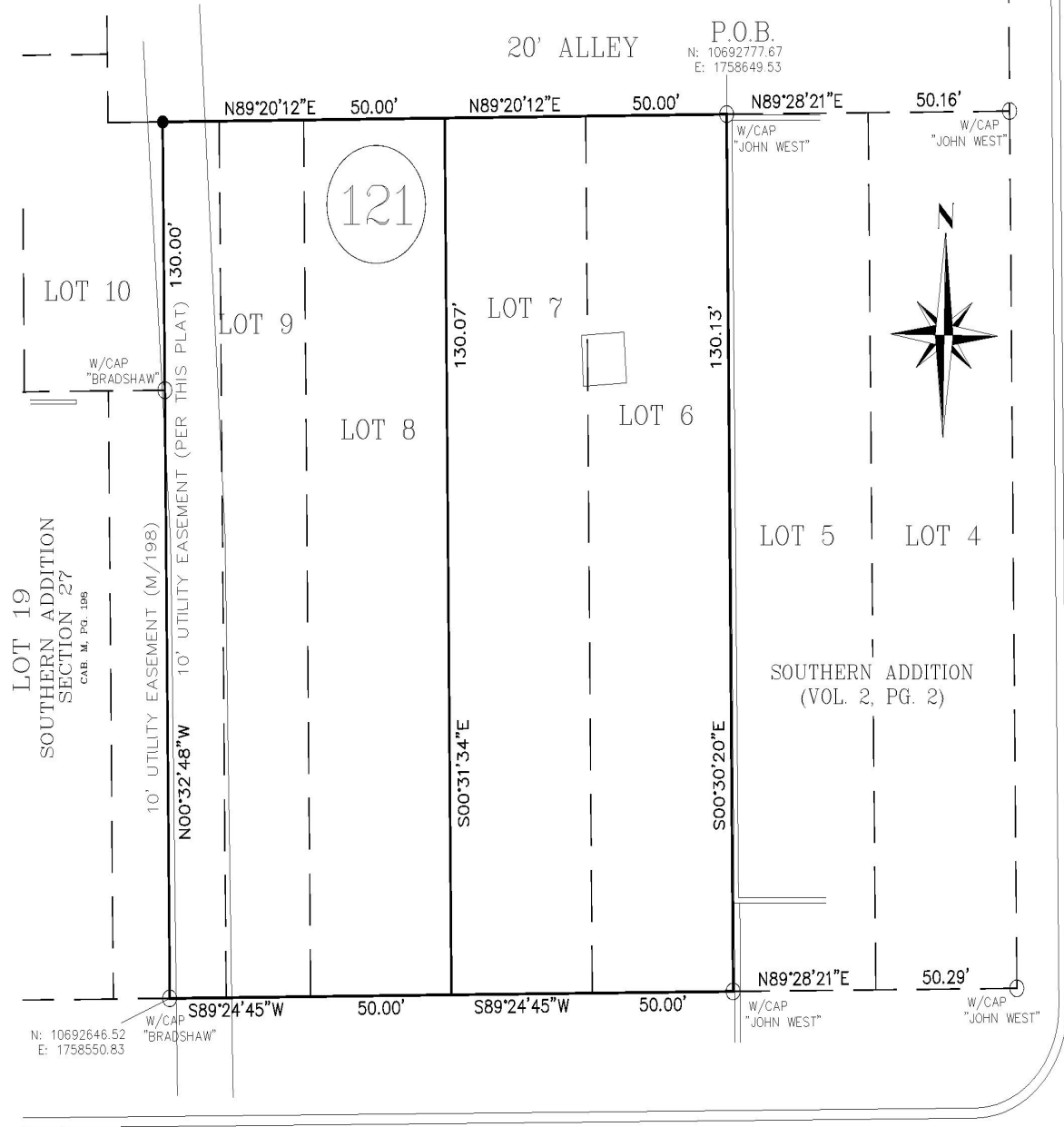
BEGINNING at a 1/2 inch iron rod with cap marked "JOHN WEST" found for the Northeast corner of said Lot 6;

THENCE S 00°30'20" E, with the East line of said Lot 6, a distance of 130.13 feet to a 1/2 inch iron rod with cap marked "JOHN WEST" found for the Southeast corner of said Lot 6;

THENCE S 89°24'45" W, a distance of 100.00 feet to a 1/2 inch iron rod with cap marked "BRADSHAW" found for the Southwest corner of said Lot 9, the same being the Southeast corner of Lot 19, Block 121, Southern Addition, Section 27, according to the plat recorded in Cabinet M, Page 198 of the Plat Records of Midland County, Texas;

THENCE N 00°32'48" W, a distance of 130.00 feet to a 1/2 inch iron rod with cap marked "RPLS 6832" set for the Northwest corner of said Lot 9;

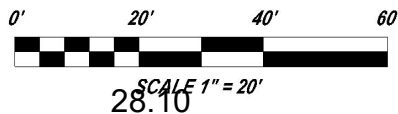
THENCE N 89°20'12" E, a distance of 100.00 feet to the POINT OF BEGINNING.



The undersigned does hereby certify that this survey was made on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way, except as shown hereon, and that said property has access to and from a dedicated roadway.

DURYN HENINGTON, R.P.L.S. 6832
2030 W. CUTHBERT, SUITE 200
MIDLAND, TEXAS 79701
432-570-6256

PACKET



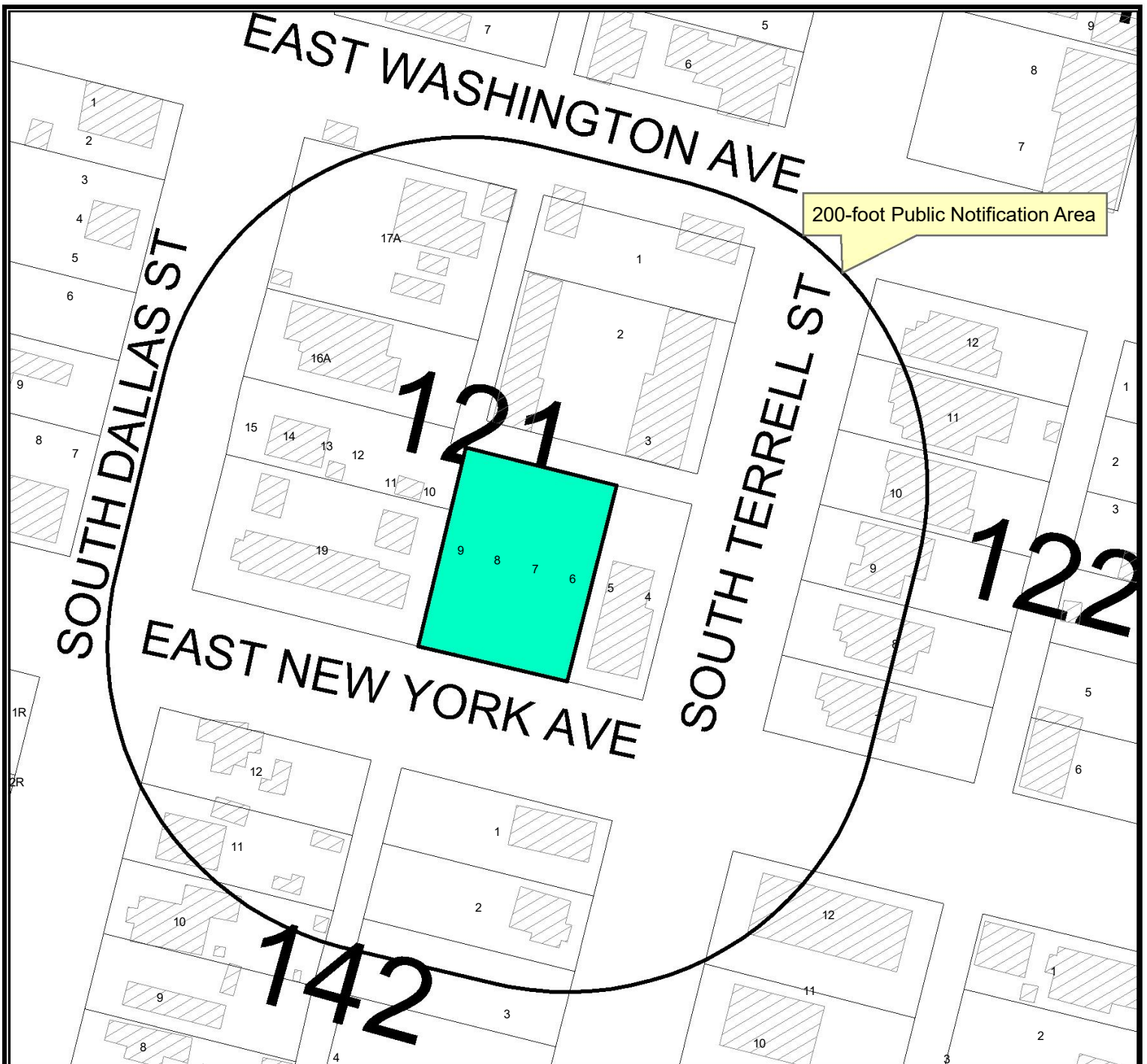
LEGEND
● Set 1/2" I.R.
W/Cap "RPLS 6832"
○ End 1/2" I.R.

PENNELL LAND SURVEYING, LLC

SURVEYING FIRM #: 10193978

April 22, 2025

(432)570-6256, brucepennell@yahoo.com



Location Map

Z-25-0410

Scale: 1" = 93'

Consider a request by Pennell Land Surveying, LLC, on behalf of Carl Englestad, for a Zone Change from RR, Regional Retail District, to MH, Manufactured Housing District, on Lots 6 through 9, Block 121, Southern Addition, City and County of Midland, Texas.

Generally located on the north side of East New York Avenue, approximately 70 feet west of South Terrell Street. (COUNCIL District 2)

28.11

LEGEND

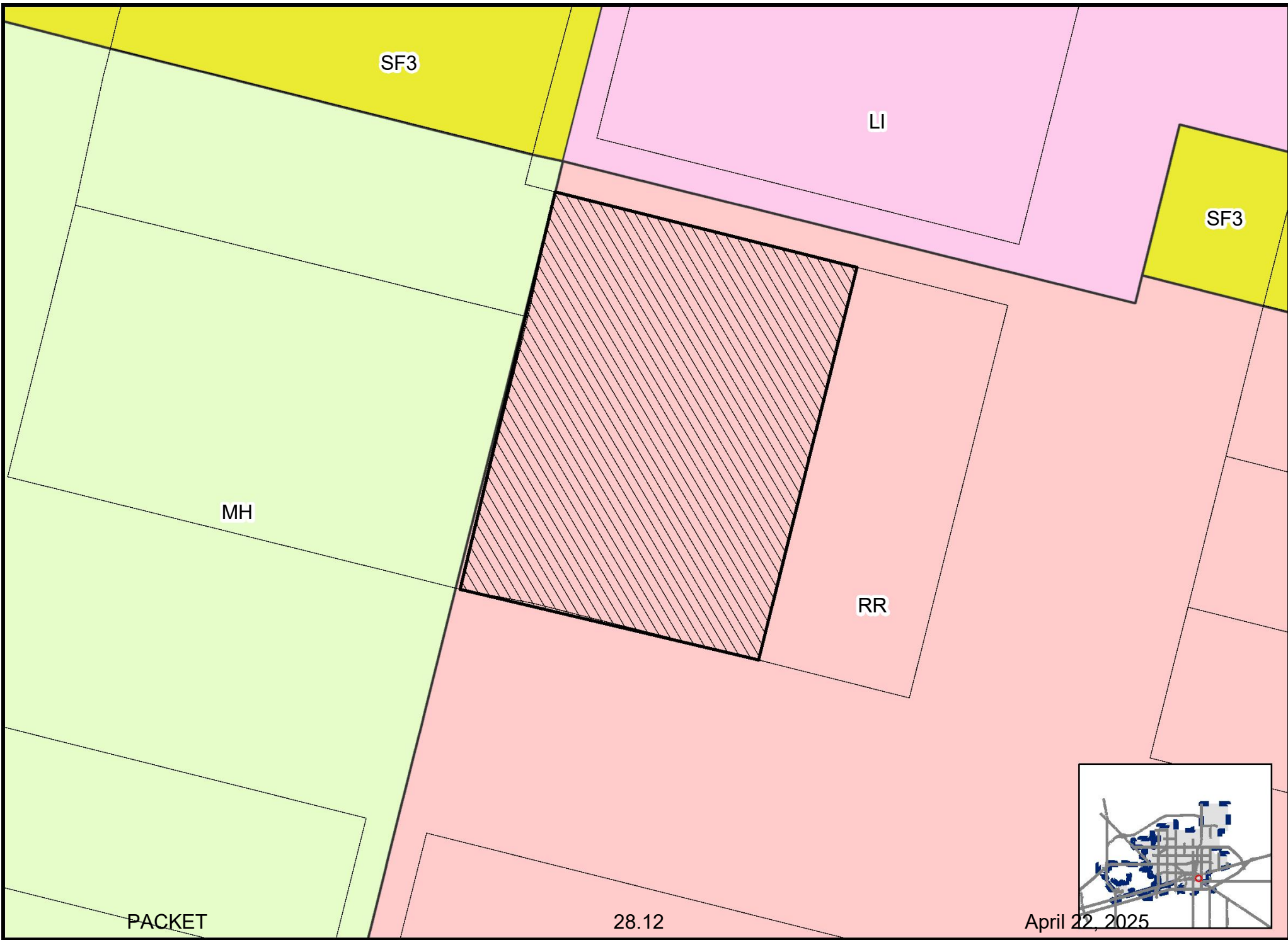
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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April 22, 2025

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEYOR'S PROFESSIONAL OPINION OR IS IT DESIGNED TO BE USED AS A DESIGN OR 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.





PACKET

28.13

April 22, 2025



PACKET

28.14

April 22, 2025



511 EAST NEW YORK STREET

ZONE CHANGE



Visit Our Website

MIDLANDTEXAS.GOV

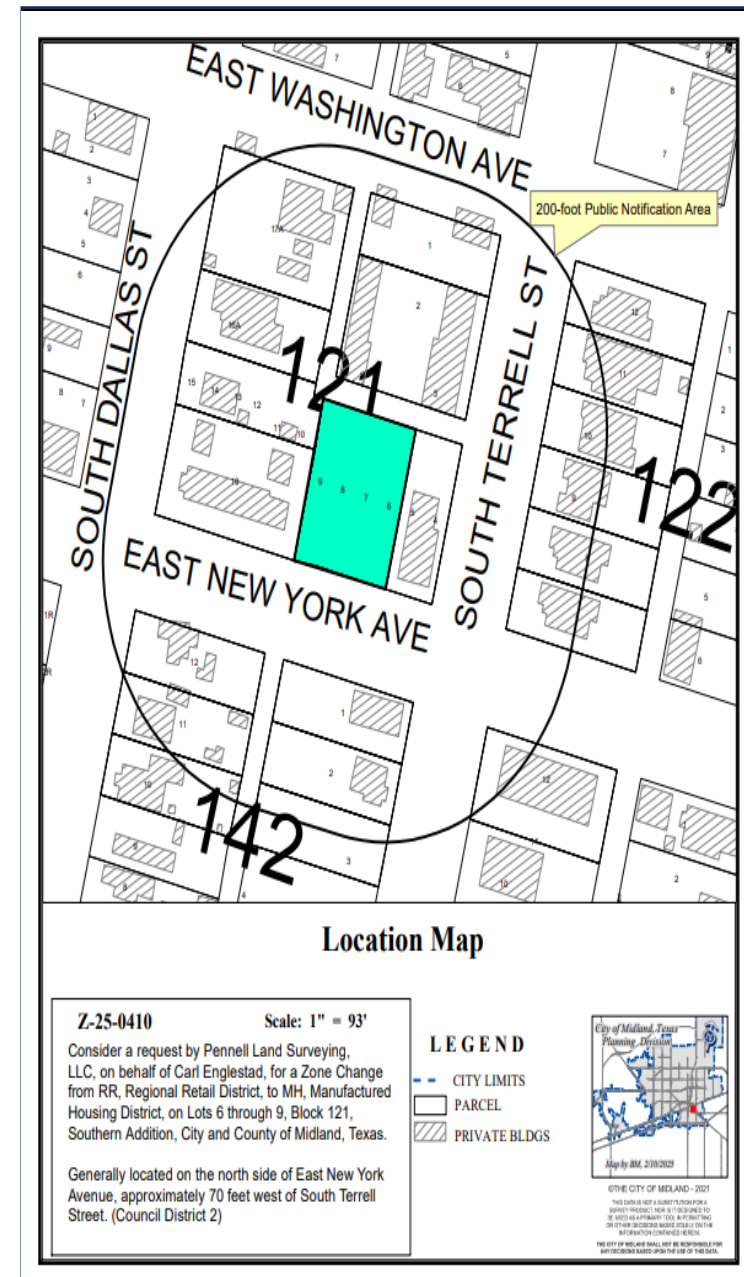
PACKET

28.15

April 22, 2025

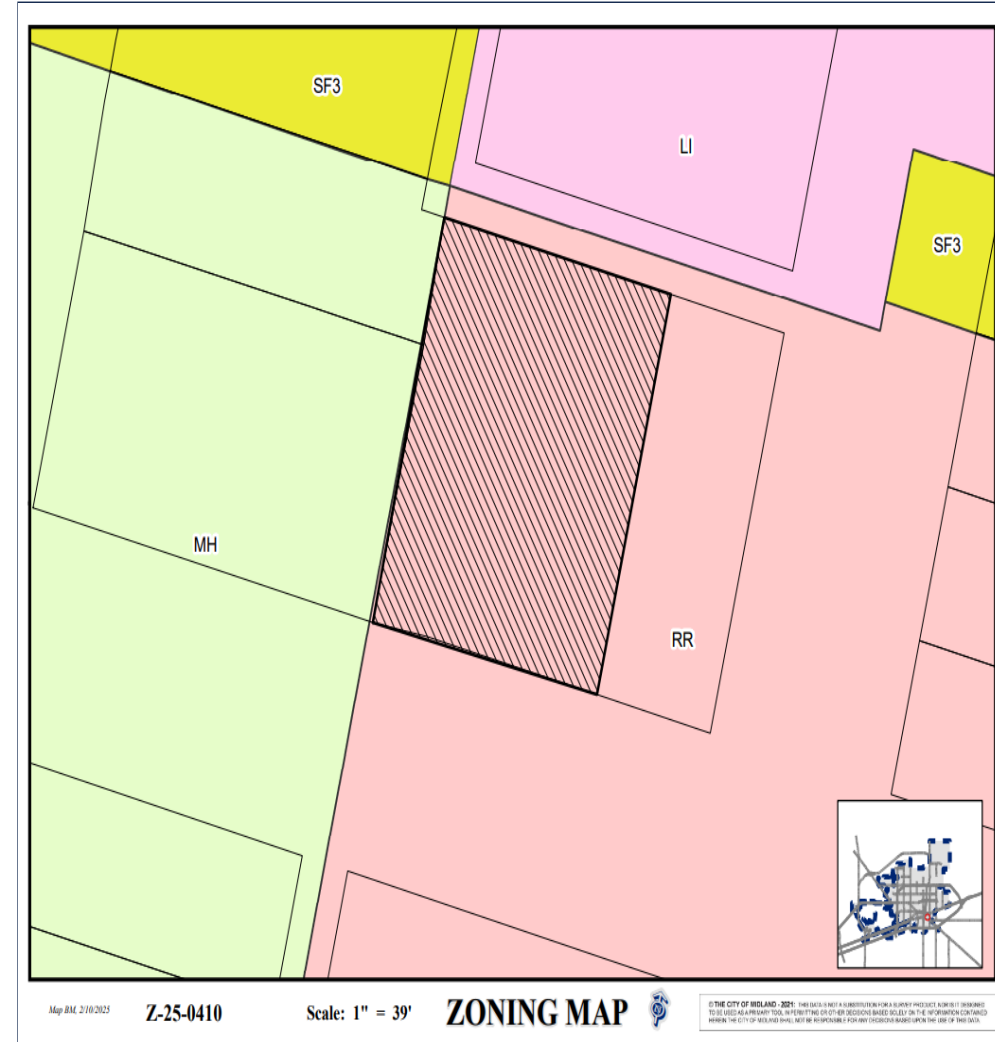
APPLICATION SUMMARY

- **Property Owner & Developer:** Carl Englestad
- **Representative:** Bruce Pennell, with Pennell Land Surveying, LLC
- **Zone Change**
- **Address:** 102 North Madison Street (Council District 2)



ZONING

- **Current Zoning:** RR, Regional Retail District
- **Surrounding Zoning:**
 - **North:** LI, Light Industrial District
 - **South/East:** RR, Regional Retail District
 - **West:** MH, Manufactured Housing District
- **Proposed Zoning:** MH, Manufactured Housing District



LAND USE

- **Current Use:** Vacant
- **Proposed Use:** Manufactured Housing
- **Surrounding Uses:**
 - **North:** Commercial
 - **South/East:** Single-Family homes
 - **West:** Manufactured homes and single-family homes



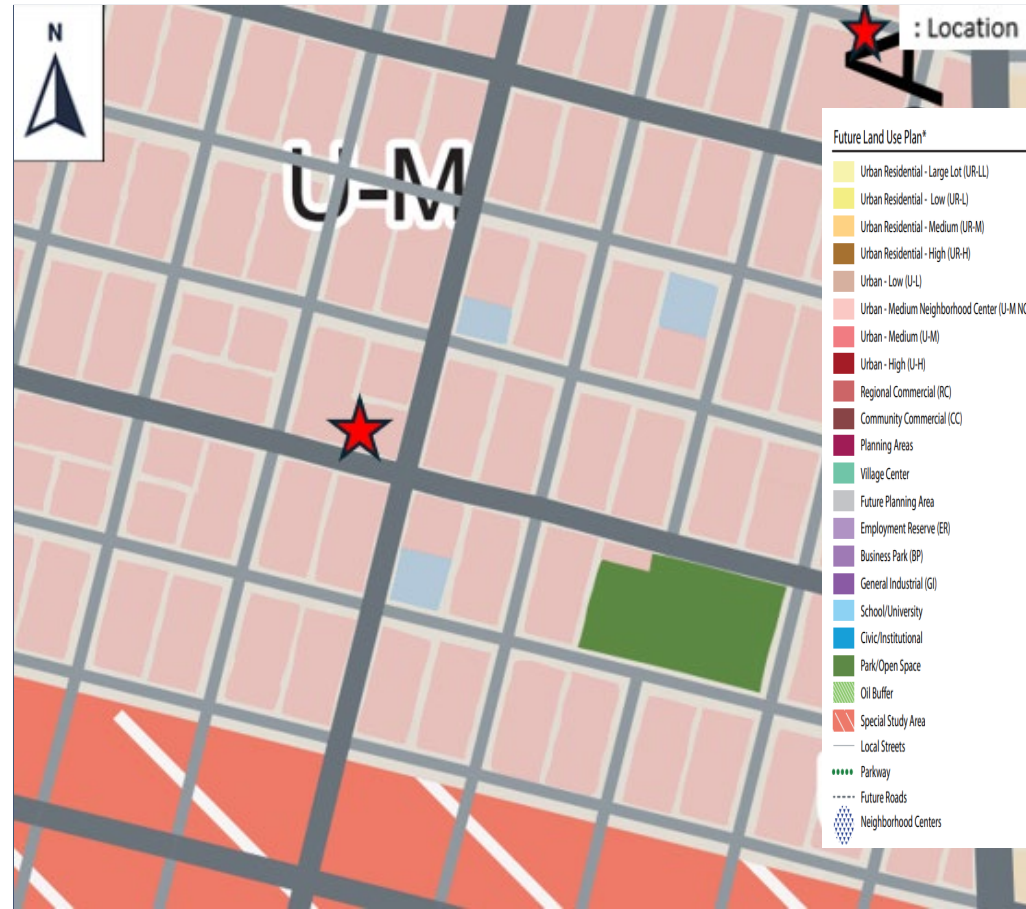
SITE PHOTO



On East New York Avenue, Looking North

COMPREHENSIVE PLAN ANALYSIS

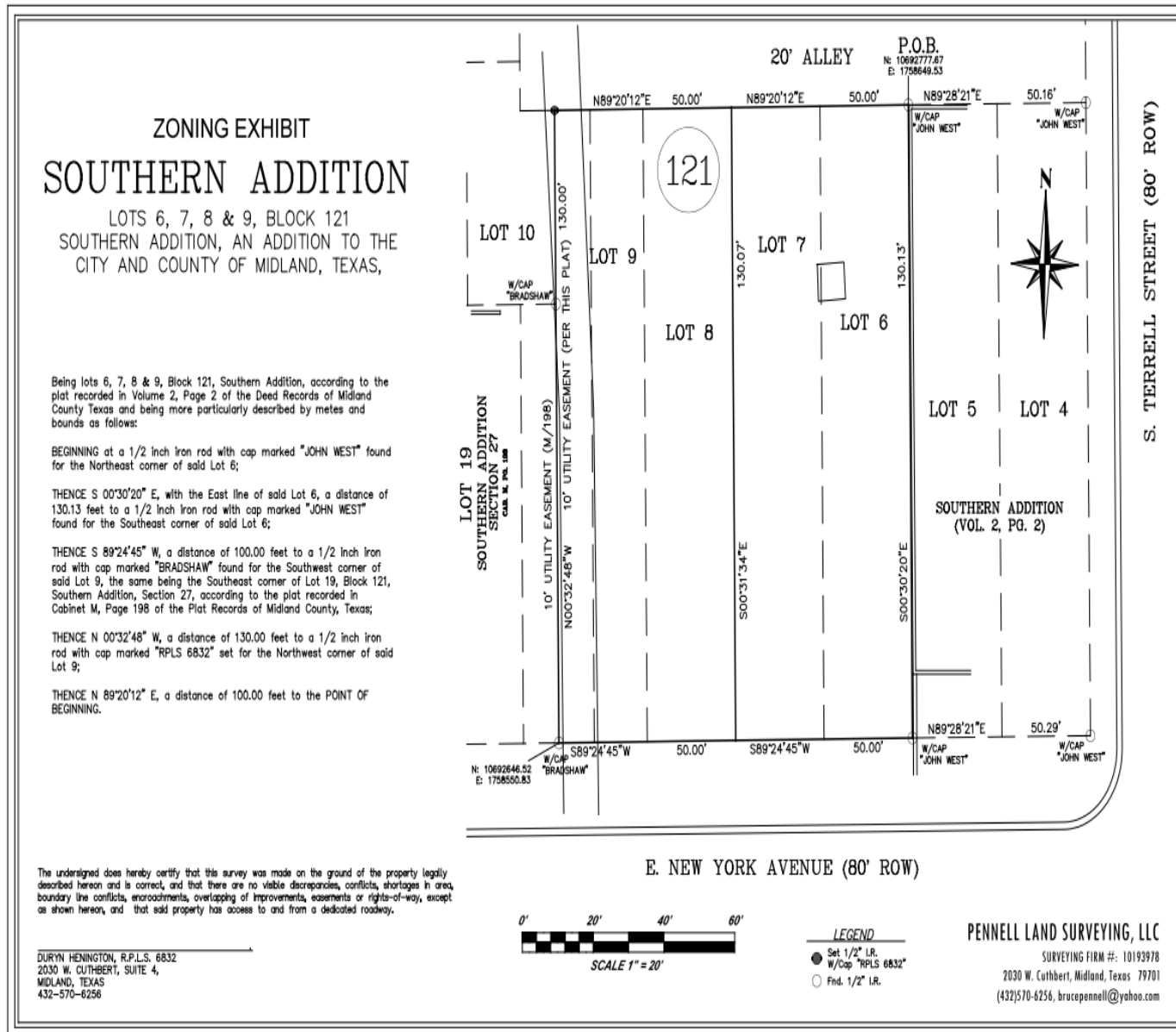
- **TCT Land Use Designation:**
 - Urban-Medium (U-M)
- **Supported Uses:**
 - A mix of complementary uses, including single-family housings, multi-family housing, schools, mid-sized parks and churches, commercial and mixed use.



COMPREHENSIVE PLAN ANALYSIS

- **Supported Uses:**
 - Amenities such as parks, plazas and quality streetscapes should be more prevalent than in U-L areas.
 - Request is **compatible** with the surrounding area, but not with the Tall City Tomorrow Plan.





Survey

STAFF RECOMMENDATION

- No objections received.
- The Planning and Zoning Commission recommended approval of this request on March 17, 2025.
- Staff recommends **APPROVAL** of this zone change from RR, Regional Retail District, to MH, Manufactured Housing District



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.