

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

CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
June 8, 2021 - 10:00 AM
300 North Loraine
Midland, Texas
Council Chamber - City Hall



Videoconference Information

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join. <https://zoom.us/j/92758921349?pwd=bzFqTy9mN0RQdHJ4UmhseXdHSEtpdz09>

Passcode: 003873

Or One tap mobile:

+13462487799,,92758921349# US (Houston)

+16699009128,,92758921349# US (San Jose)

Or join by phone:

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

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

Webinar ID: 927 5892 1349

International numbers available: <https://zoom.us/u/aelSz2uCIA>

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

OPENING ITEMS

1. Invocation – Pastor Roy Smith, True-Lite Christian Fellowship
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - 3a. Presentation of a proclamation for “Emancipation Proclamation Celebration Days”.

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:
 - 4a. BRIEFING SESSION OF MAY 25, 2021
 - 4b. REGULAR SESSION OF MAY 25, 2021
5. 059-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, L.P., REGARDING CITY OWNED PROPERTY DESCRIBED AS SECTION 9, BLOCK 39, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
6. 060-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND SCM CRUDE L.L.C.; REGARDING CITY OWNED PROPERTY DESCRIBED AS SECTIONS 18 AND 21, BLOCK C-23, P.S.L. SURVEY, ABSTRACT NO. 1388, WINKLER COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
7. 061-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND MEDALLION CRUDE OIL LOGISTICS, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 4, 9 AND 16, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
8. 2021-067 – RESOLUTION GRANTING A VARIANCE FOR A 57.55-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF INTERSTATE 20, APPROXIMATELY 700 FEET EAST OF SOUTH LAMESA ROAD), BY PERMITTING CONSTRUCTION OF COMMERCIAL BUILDINGS WHERE NO PORTION OF ANY STRUCTURE IS CLOSER THAN 474 FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS (DISTRICT: NONE) (DEVELOPMENT SERVICES)

SECOND READINGS

9. 10188 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 141.53-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND AND MARTIN COUNTIES, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTH STATE HIGHWAY 349 AND OCCIDENTAL PARKWAY); 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) (FIRST READING HELD MAY 25, 2021)

10. 10189 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 4, 5 AND 6, WEST WAY ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF WEST GOLF COURSE ROAD AND HUGHES STREET), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 25, 2021)
11. 10190 – AN ORDINANCE AMENDING TITLE III, “DEPARTMENTS”, CHAPTER 3, “HOTEL OCCUPANCY TAX”, SECTION 1, “DEFINITIONS”, OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DEFINE “HOTEL” IN ACCORDANCE WITH STATE LAW; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (CITY ATTORNEY) (FIRST READING HELD MAY 25, 2021)

PUBLIC HEARINGS

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

12. 10187 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 27.05-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-3, SINGLE-FAMILY DWELLING DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF OCCIDENTAL PARKWAY, APPROXIMATELY 1,335 FEET EAST OF CARRIAGE 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 1) (DEVELOPMENT SERVICES)
13. 10191 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 1 AND 2, BLOCK 37, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST INDIANA AVENUE AND SOUTH E STREET), BY PERMITTING A REDUCED MINIMUM LOT DEPTH IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE PROPERTY FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES)

14. 10192 – AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 97.05-ACRE TRACT OF LAND OUT OF SECTIONS 35 AND 36, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST STATE HIGHWAY 158, APPROXIMATELY 11 FEET WEST OF BRANDY HILL ROAD); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT: NONE) (DEVELOPMENT SERVICES)
15. 10193 – AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATIONS OF THE AREA INDICATED AS BEING A 97.05-ACRE TRACT OF LAND OUT OF SECTIONS 35 AND 36, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN SF-1, SINGLE-FAMILY DWELLING DISTRICT, IN PART, AND AN RR, REGIONAL RETAIL DISTRICT, IN PART; SAID TRACT BEING GENERALLY LOCATED ON THE NORTH SIDE OF WEST STATE HIGHWAY 158, APPROXIMATELY 11 FEET WEST OF BRANDY HILL 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: NONE) (DEVELOPMENT SERVICES)
16. 10194 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,712-SQUARE FOOT PORTION OF LOT 20A, BLOCK 17, GREATHOUSE ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND PORTICO WAY), WHICH IS PRESENTLY ZONED LR, LOCAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN AN EVENT CENTER 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)
17. 062-2021 – HOLD A PUBLIC HEARING IN ORDER FOR THE CITY OF MIDLAND AND THE CDBG PRIORITIZATION COMMITTEE TO RECEIVE PUBLIC COMMENTS, GUIDANCE AND RECOMMENDATIONS REGARDING THE 2021-2022 CDBG GRANT APPLICATION SUBMISSIONS AND THE SECOND YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE YEAR CONSOLIDATED PLAN GOALS (DISTRICT: NONE) (DEVELOPMENT SERVICES)

MISCELLANEOUS

18. 063-2021 – RECEIVE AN UPDATE ON THE TEMPORARY LAND USE PERMIT FOR A VENDOR MARKET AND CONCERT ON LOT 1A, BLOCK 54, ALL OF BLOCK 55, A 0.57-ACRE PORTION OF WEST WALL STREET RIGHT-OF-WAY, A 0.57-ACRE PORTION OF NORTH COLORADO STREET RIGHT-OF-WAY, AND A 0.57-ACRE

PORTION OF WEST TEXAS AVENUE RIGHT-OF-WAY, ALL ADJACENT TO BLOCK 55, ALL OUT OF ORIGINAL TOWN ADDITION, SECTION 14, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH COLORADO STREET AND WEST TEXAS AVENUE) (DISTRICT 2) (DEVELOPMENT SERVICES)

PUBLIC COMMENT

19. 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

20. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:
 - a. Section 551.072, Deliberation Regarding Real Property
 - a.1. Discuss the purchase, exchange, lease, or value of real property.

Respectfully Submitted,

Robert Patrick
City Manager

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

**MIDLAND CITY COUNCIL
BRIEFING SESSION
MINUTES
May 25, 2021**



The City Council convened in briefing session in the Council Chamber, City Hall, Midland, Texas, at 9:45 a.m. May 25, 2021.

Council Members present: Patrick Payton, Spencer Robnett, Michael Trost, Scott Dufford, John Norman, Jack Ladd, Lori Blong

Council Members absent: None

Staff members present: City Manager Robert Patrick, City Attorney John Ohnemiller

The meeting was called to order at 9:46 a.m.

The following matter(s), and any matter listed on the agenda for this meeting, may be discussed by the City Council:

1. Receive an update from the Finance Department regarding treasury guidance for the American Rescue Plan Act (ARPA).

City Manager Robert Patrick gave a brief overview noting that Finance Director Mark Mason would review possible uses of the ARPA money.

Finance Director Mark Mason reported they received interim guidelines for the use of ARPA funds. The rules may change, but it is likely there will not be material changes. Midland was awarded \$24,988,224.00 and the funds will be given in two separate tranches. The first tranche was received last week and the second is expected in one year. The purpose is to address the economic fallout due to COVID-19 and is designed to bring jobs back and to lay a foundation for a strong recovery. He reviewed the potential uses of the funds and how the revenue loss was calculated.

The timeline requires all funds to be obligated by December 31, 2024 and spent by December 31, 2026. Money not spent/obligated must be returned. There is a report that has to go out by August 31, 2021 and quarterly reporting through 2026.

City staff reviewed the guidelines and has a recommendation for the use of the funds. Staff believes the cleanest use is to use the funds for water and sewer utilities. There are four bond projects left to do and those could be paid for with the ARPA funds and then the bond funds could be used for other one time projects such as the Cloverdale project which is in a low income area and would be a perfect use of the funds. Discussion ensued about various projects. The projects listed by staff could all be completed by the deadline.

Council Member Trost asked if the funds could be used to make up for the shortfall in the hotel occupancy tax. Mr. Mason reported it could not refund the hotel tax.

All the business at hand having been completed, the meeting adjourned at 10:06 a.m.

PASSED AND APPROVED June 8, 2021.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

DRAFT

**MIDLAND CITY COUNCIL
MINUTES
May 25, 2021**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., May 25, 2021.

Council Members present: Patrick Payton, Spencer Robnett, Michael Trost, Scott Dufford, John Norman, Jack Ladd, Lori Blong

Council Members absent: None

Staff members present: City Attorney John Ohnemiller, City Manager Robert Patrick

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

OPENING ITEMS

1. Invocation – Minister Russ Hale, Stonegate Fellowship
2. Pledge of Allegiance

CONSENT AGENDA

Spencer Robnett moved to approve the Consent Agenda items 3-14, excluding items 5, 6, 8, 9, 12, 13, 14; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

3. MOTION APPROVING THE FOLLOWING MINUTES:

3a. BRIEFING SESSION OF MAY 11, 2021

3b. REGULAR MEETING OF MAY 11, 2021

4. 2021-059 – RESOLUTION AUTHORIZING THE EXECUTION OF A SOLE-SOURCE CONTRACT WITH AZTECA SYSTEMS, LLC, FOR THE PURCHASE OF THREE (3)

PACKET

4b.1

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MINUTES

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YEARS OF LICENSING AND SOFTWARE MAINTENANCE SUPPORT OF CITYWORKS SOFTWARE FOR THE COMMUNICATION AND INFORMATION SYSTEMS DEPARTMENT AT A TOTAL COST OF \$229,033.00 (DISTRICT: ALL) (GENERAL SERVICES)

7. 053-2021 – MOTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH TML MULTISTATE INTERGOVERNMENTAL EMPLOYEE BENEFITS POOL, DOING BUSINESS AS TML HEALTH BENEFITS POOL, FOR THE PURPOSE OF OBTAINING SERVICES FOR THE ADMINISTRATION OF ONE OR MORE LIFE, SICK, ACCIDENT AND OTHER HEALTH BENEFITS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY DOCUMENTS NECESSARY OR APPROPRIATE TO EFFECTUATE SAID INTERLOCAL AGREEMENT (DISTRICT: NONE) (ADMINISTRATIVE SERVICES)
10. 2021-063 – RESOLUTION AUTHORIZING THE MIDLAND CHAMBER OF COMMERCE TO HOLD THE ANNUAL STAR SPANGLED SALUTE AT CENTENNIAL PARK AND ON THE ADJACENT PUBLIC RIGHTS OF WAY ON JULY 3, 2021; AND AUTHORIZING THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT SAID EVENT (DISTRICT 2) (COMMUNITY SERVICES)
11. 055-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE AMENDMENT BETWEEN THE CITY OF MIDLAND AND SCM WATER, LLC, REGARDING CITY OWNED PROPERTY DESCRIBED AS SECTIONS 13, 17, 18, 19 AND 21, BLOCK C-23, P.S.L. SURVEY, ABSTRACT NO. 1388, WINKLER COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)

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

5. 2021-060 – RESOLUTION REJECTING ALL BIDS RECEIVED FOR THE MIDLAND DRAW WIDENING PROJECT (DISTRICT 2) (GENERAL SERVICES)

Council Member Blong understands the plan moving forward, but it seemed there was confusion in the bid. Engineering Services Director Jose Ortiz reported the confusion in the process was that they fused two projects together. They are requesting to reject all bids and will bid the projects separately. The construction is expected to take 12 months.

Lori Blong moved to approve Resolution No. 2021-060; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

6. 2021-061 – RESOLUTION AWARDED A CONTRACT FOR THE PARK AVENUE HEIGHTS 2 UTILITY PROJECT TO TEC EXCAVATION, INC., FOR A TOTAL COST NOT TO EXCEED \$1,164,771.00; APPROVING \$50,000.00 FOR PROJECT RELATED COSTS; AND APPROPRIATING FUNDS (DISTRICT 2) (GENERAL SERVICES)

PACKET

4b.2

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Utilities Director Carl Craigo reported that CDBG is refunding the street portion to the general fund, not utilities. Council Member Blong asked if there is enough money to do the utilities now. Mr. Craigo reported there was. Mayor Payton noted that he preferred not allocating funds from ARPA until they have further conversations.

Spencer Robnett moved to approve Resolution No. 2021-061 with the amendment to allocate funds from the water and sewer fund instead of ARPA; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

8. 054-2021 – MOTION AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE TO ADVERTISE A REQUEST FOR PROPOSALS FOR NON-EXCLUSIVE FIXED BASE OPERATOR SERVICES AT MIDLAND INTERNATIONAL AIR & SPACE PORT, AND TO NEGOTIATE A FIXED-BASE OPERATOR SERVICES AGREEMENT FOR SAID SERVICES; PROVIDED, HOWEVER, THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL (DISTRICT: FOUR) (AIRPORTS)

Council Member Trost noted this is an expensive operation to put up. He asked who is pushing this. Airports Director Justine Ruff reported there is a lot of outside interest who want to bring competition to the field and they have had a lot of requests from the outside who want to come in. When she started in the 90s there were two FBOs but they later consolidated into one. She clarified that this is at no expense to the airport. The new FBO will be located where CAF was. They will advertise in the American Association of Airports.

Michael Trost moved to approve Motion No. 054-2021; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

9. 2021-062 – RESOLUTION APPROVING AN AMENDMENT TO THAT CERTAIN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND KEPLER AEROSPACE, LTD (DISTRICT: NONE) (CITY MANAGER)

Council Member Robnett reported he pulled this for a record vote.

MDC Executive Director Sara Harris reported this amendment will extend all of the contract dates by one year. Kepler has three aircraft in the UK and Japan and they are working to import them. They have been delayed due to the pandemic. As soon as the aircraft are

here they will be in compliance. This amendment gives them an extra year.

Michael Trost moved to approve Resolution No. 2021-062; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Trost, Dufford, Norman, Ladd, Blong

NAY: Robnett

ABSTAIN: None

ABSENT: None

12. 2021-064 – RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 7.097-ACRE RIGHT-OF-WAY GRANT LOCATED IN SECTIONS 18 AND 19, BLOCK 38, T-1-S, T&P RR. CO SURVEY, MIDLAND, TEXAS FROM MORIAH LAND & CATTLE, LLC; ORDERING THE CITY SECRETARY TO RECORD SAID INSTRUMENT IN THE OFFICIAL REAL PROPERTY RECORDS OF MIDLAND COUNTY, TEXAS; AND APPROPRIATING FUNDS (DISTRICT: ALL) (UTILITIES)

Council Member Trost asked what this is for. Utilities Director Carl Craig reported this is for the new sewer from the waste water plant to the northeast side of town.

Michael Trost moved to approve Resolution No. 2021-064; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

13. 056-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND NUSTAR PERMIAN TRANSPORTATION & STORAGE, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 2, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)

Utilities Director Carl Craig reported that a right-of-way license operator in Spraberry wants to connect two pads together. They are paying us for this.

Michael Trost moved to approve Motion No. 056-2021; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

14. 2021-065 – RESOLUTION AMENDING CHAPTER IV, "APPLICATIONS, APPLICANTS, AND CONDITIONS OF EMPLOYMENT," SECTION 15, "CITY OF MIDLAND DRUG AND ALCOHOL TESTING POLICY," SUBSECTION D, "REQUIRED TESTS," PARAGRAPH 3, "REASONABLE SUSPICION TESTING," CHAPTER VIII, "ADVERSE ACTION," AND CHAPTER IX, "GRIEVANCE PROCEDURES," OF THE CITY OF MIDLAND PERSONNEL PACKET

4b.4

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POLICIES; AND ESTABLISHING AN EFFECTIVE DATE OF JUNE 1, 2021 (CITY ATTORNEY)

Council Member Trost reported that years ago he worked for someone who had reasonable suspicion testing and any employee could turn in another employee to management and there did not have to be due process. City Attorney John Ohnemiller reported that is not how this reasonable suspicion policy works. This policy has not been updated in years and they are clarifying the process. The substance has not changed. Assistant City Attorney Nicholas Toulet-Crump added that there were references in the policy that were no longer accurate and those have now been corrected.

Michael Trost moved to approve Resolution No. 2021-065; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

SECOND READINGS

15. 10185 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 9.92-ACRE TRACT OF LAND OUT OF SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH STATE HIGHWAY 349 AND TEJAS); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 11, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10185.

Jack Ladd moved to approve the second and final reading of Ordinance No.10185; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

16. 10186 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 10,250-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT

PACKET

4b.5

June 8, 2021

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 (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 11, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10186.

Lori Blong moved to approve the second and final reading of Ordinance No. 10186; seconded by Spencer Robnett.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

PUBLIC HEARINGS

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

17. 10187 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 27.05-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-3, SINGLE-FAMILY DWELLING DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF OCCIDENTAL PARKWAY, APPROXIMATELY 1,335 FEET EAST OF CARRIAGE 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 1) (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10187.

Development Services Director Chuck Harrington reported this item was inadvertently placed on this meeting before it was ready. It will be on the next meeting. No action was taken.

18. 10188 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 141.53-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND AND MARTIN COUNTIES, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTH STATE HIGHWAY 349 AND OCCIDENTAL PARKWAY); 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
PACKET 4b.6 June 8, 2021

SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10188.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request to rezone 141 acres for SF3. All departments have reviewed it with no objections. It is in compliance with the comprehensive plan. No letters of objection were received and staff recommends approval.

Council Member Blong asked if there will be a frontage road on 349. Mr. Harrington reported he recalled some commercial properties on the frontage. When asked about the lots that did not meet minimum requirements Mr. Harrington noted that because of the curve it didn't meet requirements but the lots are big enough.

Mayor Payton opened the public hearing at 10:36 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Lori Blong moved to approve the first of two readings of Ordinance No. 10188; seconded by Michael Trost.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

19. 10189 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 4, 5 AND 6, WEST WAY ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF WEST GOLF COURSE ROAD AND HUGHES STREET), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10189.

Mayor Payton opened the public hearing at 10:37 a.m.

Mike Eastman was available if there were any questions.

There being no one else wishing to speak, the public hearing was closed at 10:38 a.m.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10189; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

PACKET

4b.7

June 8, 2021

NAY: None
ABSTAIN: None
ABSENT: None

20. 057-2021 – HOLD A PUBLIC HEARING IN ORDER FOR THE CITY OF MIDLAND AND THE CDBG PRIORITIZATION COMMITTEE TO RECEIVE PUBLIC COMMENTS, GUIDANCE AND RECOMMENDATIONS REGARDING THE 2021-2022 CDBG GRANT APPLICATION SUBMISSIONS AND THE SECOND YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE YEAR CONSOLIDATED PLAN GOALS (DISTRICT: NONE) (DEVELOPMENT SERVICES) (PUBLIC HEARING ONLY)

CDBG Manager Isaac Garnett reported this is the first step in creating an action plan for the upcoming funding year. This is a public hearing where the community can provide input. Staff has developed a preliminary plan including the following: 1) Owner housing minor repair program \$250,000; 2) Homebuyers Assistance \$150,000; 3) SE Senior Center nutrition program \$32,000; 4) Home cleaning program \$45,000; 5) Take Home Terrific meal program \$32,000; 6) Baird/Gist Street to Longview Avenue \$672,356; 7) Administrative personnel \$200,000; 8) Parks & Recreation various minor improvements \$122,500; 9) Cloverdale Housing Infrastructure Project \$170,000. In total, the amounts suggested will exceed the \$1,083,000 they will receive, but they have \$600,000 from prior years to help fund the programs.

Mayor Payton opened the public hearing at 10:47 a.m.

Tonya Eckert, Executive Director Casa de Amigas, reported that as a contractor for the senior centers they have had a lot of work to get them ready. They are proposing to reopen on August 2nd but have two picnics planned prior to that on June 23rd from 8:30 a.m. to 11:30 a.m. at Washington Park and another one in July to get the seniors back together and to feel safe with each other.

Dan Corrales, 1600 North Weatherford, put in context what the programs do noting they all make a difference to the community. He advocated for the programs suggested.

David Diaz, 208 South Marienfeld suggested they return to paving streets on the south side as a one time opportunity for funds. He also suggested adding more personnel to the CDBG office so that the homebuyer assistance program can be taken off pause. He added that MCDC and Habitat both use that program and while it has been on pause they have had people who could not qualify for a home without that assistance.

There being no one else wishing to speak, the public hearing was closed at 10:54 a.m. No further action was taken.

21. 2021-066 – RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A VENDOR MARKET AND CONCERT ON LOT 1A, BLOCK 54, ALL OF BLOCK 55, A 0.57-ACRE PORTION OF WEST WALL STREET RIGHT-OF-WAY, A 0.57-ACRE PORTION OF NORTH COLORADO STREET RIGHT-OF-WAY, AND A 0.57-ACRE PORTION OF THE WEST TEXAS AVENUE RIGHT-OF-WAY, ALL ADJACENT TO BLOCK 55, ALL OUT OF ORIGINAL TOWN ADDITION, SECTION 14, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE

INTERSECTION OF NORTH COLORADO STREET AND WEST TEXAS AVENUE)
SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS (DISTRICT 2)
(DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting that two letters of objection were received to this request. One wanted clarification about traffic engineering concerns on Texas Avenue.

Mayor Payton opened the public hearing at 10:58 a.m.

Stephanie Martin, Executive Director of Centennial Park, wanted to ensure that this application does not reserve any portion of Centennial Park. She thinks the micro market is a great fit for the community but has concerns for the limitations of her facilities. At this point, they do not have an executed agreement in place. They have agreed to do a trial run on the first three dates June 5, August 7 and September 4 to ensure they can provide a great experience and accomodate the needs of the community. They do have concern about the three adjacent roads being closed for ingress and egress and noted that they have contracts with mobile food vendors and designated spaces on Colorado Street. Their restrooms cannot accomodate more than 400-500 people and they would need to bring in porta-potties.

Following discussions it was also noted that the micro market needs to allow access for food trucks under contract with Centennial Park. It was noted that the traffic plan calls for barricades and not fencing so the trucks could easily be allowed ingress and egress.

It was noted that all three streets would be closed for Tex Mex and the Star Spangled Salute.

Seth Streun reported they had 5,000 – 7,000 people at their last two micro markets and confirmed that they do bring in porta-potties. When asked about leaving Texas Street open, Mr. Struen reported they have programming on that location for a band and/or car club. He added that he needs a one year committment to get the project off the ground as most contracts are booked out 6-12 months.

Council Member Robnett emphasized that he doesn't want anyone having disagreements over parking spaces. He thinks this is a great idea but everyone needs to figure out how to make this work.

Mayor Payton suggested approving the first three events and then revisit. If the agreement is honored, there probably will not be a problem for the remaining dates.

Mayor Payton asked for this item to come back June 8th to receive a report from every interested party.

There being no one else wishing to speak, the public hearing was closed at 11:17a.m.

Jack Ladd moved to approve Resolution No. 2021-066 with the amendment to approve the first three dates, June 5, August 7 and September 4 and return on June 8 for a briefing from all interested parties; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

MISCELLANEOUS

22. 10190 – AN ORDINANCE AMENDING TITLE III, “DEPARTMENTS”, CHAPTER 3, “HOTEL OCCUPANCY TAX”, SECTION 1, “DEFINITIONS”, OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DEFINE “HOTEL” IN ACCORDANCE WITH STATE LAW; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (CITY ATTORNEY)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10190.

Council Member Trost thanked City Attorney John Ohnemiller for all of his work on this item. This will add a lot of revenue to the bottom line of the hotel occupancy tax going forward. It is a new source of revenue that we did not have before. Mr. Ohnemiller gave credit to Council Member Trost as this was Mr. Trost's idea.

Michael Trost moved to approve the first of two readings of Ordinance No. 10190; seconded by Spencer Robnett.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

23. 058-2021 – MOTION GRANTING CACTUS SIGN COMPANY'S APPEAL AND REVERSING THE BUILDING OFFICIAL'S DENIAL OF A SIGN PERMIT FOR THE SOUTH HALF OF LOTS 7 THROUGH 9 AND THE SOUTH 93.32 FEET OF LOTS 10 THROUGH 12, BLOCK 5, AND ALL OF BLOCKS 1, 2, 6 AND 7, ALL OUT OF HIGH SCHOOL ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH A STREET AND WEST ILLINOIS AVENUE) (DISTRICT 3) (DEVELOPMENT SERVICES)

Spencer Robnett moved to approve Motion No. 058-2021; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

24. 059-2021 – MOTION APPOINTING A MAYOR PRO TEMPORE (CITY MANAGER)

Spencer Robnett moved to appoint Lori Blong as Mayor Pro Tempore; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

PUBLIC COMMENT

25. 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.)

There were no citizens present wishing to speak.

EXECUTIVE SESSION

Mayor Payton recessed the meeting to go to Executive Session at 11:22 a.m.

26. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:
- a. Section 551.072, Deliberation Regarding Real Property
 - a.1. Discuss the purchase, exchange, lease or value of real property

All the business at hand having been completed, the meeting adjourned at 12:02 p.m.

PASSED AND APPROVED June 8, 2021.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary



City Council Meeting

Item Number: 5
Meeting Date: June 8, 2021
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: motion authorizing the execution of a Right-of-Way License between the City of Midland and Endeavor Energy Resources, L.P., regarding City owned property described as Section 9, Block 39, Township 2 South, T&P RR Co. Survey, Midland County, Texas. (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion will provide a right of way to bore 60.12' in this location and place a private water pipeline under City of Midland owned Sunglo Road. Both bore pits will be on private property and the pipeline will be cased.

This Right-of-Way License is proposed for a single five (5) year period with the option for a single five (5) year renewal. Terms are consistent with the City's standard license for pipeline facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee (one time): \$1,000

Annual Lease Rate (3.75 rods x \$20/rod): \$75.15 / \$400.00 minimum per year

Surface Damages: none

Total Collected: \$1,400.00

Discussion:

This is a privately-owned, 16" poly construction, water pipeline running North – South, bored under the road and required to be cased for the duration of the crossing and buried at a minimum depth of seventeen (17) feet to meet spacing requirements below city sewer infrastructure. Requesting 30' wide right of way adjacent to existing Endeavor pipelines.

Certificates of Insurance are on file

City Secretary to record all documents



City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

Date: June 9, 2021

Licensor: CITY OF MIDLAND, TEXAS, a home-rule municipal corporation

Licensor's Representative: Robert Patrick, City Manager

Licensor's Mailing Address: P.O. Box 1152
Midland, Texas 79702

Licensee: Endeavor Energy Resources, L.P.

Licensee's Representative: **R. Ben Carter, Vice President - Land**

Licensee's Mailing Address: 110 N. Marienfeld Suite 200
Midland, Texas 79701

Property: See Exhibit A attached hereto and incorporated herein for all purposes.

Licensee desires use of property owned by Licensor in Midland County, Texas (the "Property"), for purposes set forth below. Licensee acknowledges and agrees that it must obtain a license (the "License") in order to use the public lands of Licensor.

WITNESSETH:

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

I. Term

A. Initial Term. This License shall be for a term of five (5) years (the "Initial Term"), commencing with the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Renewal Term. This License shall automatically renew at the end of the Initial Term for one (1) additional term of five (5) years, upon the written request of Licensee received by Licensor on or before one hundred twenty (120) days prior to the expiration of the Initial Term then in effect, subject to the express written consent of the governing body of Licensor.

C. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee

commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

Additionally, Licensor may terminate this License at will for any or no reason upon giving at least three hundred sixty-five (365) days' written notice to Licensee. The parties to this License understand and agree that it is in Licensor's sole discretion to cancel the License during the term of the License without penalty to Licensor. Licensee has no expectation and has received no guarantees that this License will not be terminated before the end of the License term. The parties have bargained for the flexibility of terminating this License upon tender of the requisite notice at any time during the term of the License. All work and services under the License shall be suspended upon termination of the License becoming effective.

Upon termination of this License, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface shall be restored at the expense of Licensee to its original condition, as close thereto as may be practical, subject to the approval of Licensor upon inspection by Licensor's Representative, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred and eighty (180) days after termination of this License.

II. Financial Consideration

A. License Fee. The first year's license fee in the amount of FOUR HUNDRED and No/100 Dollars (\$400.00) shall be due and payable on or prior to the Commencement Date of this License ("License Fee"). Licensee's failure to make the License Fee payment within thirty (30) days after the License Fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%).

B. Surface Damage Fee. Purposefully omitted.

C. Annual Fee. Licensee shall pay to Licensor an annual fee in the amount of FOUR HUNDRED and No/100 Dollars (\$400.00), which shall be payable each year on or before the anniversary of the Commencement Date of this License.

D. Application Fee. At the same time the first year License Fee is due, Licensee shall pay a non-refundable one-time fee of ONE THOUSAND and No/100 Dollars (\$1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for the License.

E. Fee Adjustment. Prior to commencement of any renewal term, Licensor and Licensee shall negotiate in good faith to agree to an adjustment of the License Fee. If Licensor and Licensee are unable to reach an agreement regarding an adjustment to the License Fee, then the License Fee shall be determined by Licensor in its sole discretion, provided the new License Fee shall not exceed twenty-five percent (25%) of the License Fee paid for the last year of the Initial Term.

F. Delivery of Payment. The License Fee payment shall be made to Licensor at the office of Licensor's Representative, Attn: Right of Way Manager, P.O. Box 1152, Midland, Texas, 79702. The License Fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon certain property of Licensor, being thirty (30) feet in width of the pipeline location as shown on Exhibit A attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline location, poly-construction pipeline not to exceed sixteen (16) inches in diameter, for the transportation of water. **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein. The parties agree Licensee's failure to provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein may result in the termination of this License. The decision to accept a complete as-built survey after the sixty-day deadline prescribed herein, or, conversely, to terminate this License shall be in the sole and absolute discretion of Licensor.**

B. Road Repair. Licensee covenants and agrees that it will repair any of Licensor's roads that Licensee damages on Licensor's property so that such roads will comply with Licensor's Standard Specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines and water meters owned by Licensor that Licensee, its employees, its agents or assigns, damage so that such water lines, sewer lines and water meters shall comply with the requirements of Licensor's Standard Specifications.

D. Depth. Licensee covenants and agrees that it will bury the pipeline(s) to be constructed hereunder no less than seventeen (17) feet in depth. All backfill used in burying such line shall be compacted to a density of ninety percent (90%), except where such pipeline(s) crosses under a paved or traveled portion of City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). Licensor shall be afforded the opportunity to test the density on all backfill. Notwithstanding any provision to the contrary contained herein, Licensee covenants and agrees that, at any point that Licensee's pipeline(s) intersects with a City of Midland utility line location, the pipeline(s) shall be bored at a depth of at least (i) nine (9) feet under all City of Midland water utility lines and (ii) two (2) feet under all City of Midland sewer utility lines. Licensee agrees that it shall comply with 30 Tex. Admin. Code § 290.44(e), as amended, to the extent applicable to this License.

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, the specifications shall be approved by Licensor's Representative.

F. Reservation of Rights. Licensor expressly reserves the right to install, repair, or reconstruct

streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of Licensor, in, on, across, along, over, under, and through any property occupied by Licensee. In permitting such work to be done, Licensor shall not (except to the extent of Licensor's gross negligence or willful misconduct) be liable to Licensee for any damage so caused to Licensee's system or property, **NOR SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY DAMAGES TO LICENSEE'S PIPELINE(S), CASING, OR COMPRESSOR STATION, ARISING OUT OF THE NEGLIGENCE, BUT EXCLUDING THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OF LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS.** If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

G. Non-exclusive. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

H. Abandonment. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances to the undertakings contemplated by this License, or the Property ceases to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty (120) days' written notice, then and in that event, this License shall automatically revert to Licensor, its successors or assigns, free and clear of any right, title, or interest in Licensee, or any re-entry by Licensor.

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, maintain, replace or remove any pipeline or casing system built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her approval. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor work day. If not on a work day, Licensee shall notify Licensor's Representative on the first work day after repairs have begun.

J. Gates and Fences. Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed."

Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

Licensee agrees that Licensee shall not cut or go over any fence at any time or in connection with any operations on the Property without first obtaining Licensor's express consent thereto in writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensor and shall be constructed as reasonably required by Licensor. Upon the termination of this License, at Licensor's election, gates in fences shall be left in place and shall thereafter be owned by Licensor or Licensee shall remove such gates and restore the fence to its original condition as nearly as reasonably practicable. The terms, provisions and requirements of this provision shall survive the termination or expiration of this License.

K. Trash. Licensee shall keep the Property free of trash and debris at all times. Under no circumstances, will Licensee be allowed to bury any trash, debris or foreign material of any kind on or under the Property. Licensor shall have the right to expel and permanently ban from the Property any person observed disposing of trash on the Property. Upon the completion of any operations, all ribbons, flags, stakes and similar items shall be promptly removed from the Property.

L. Hunting, Fishing and Alcohol Prohibited. No agent, employee, representative, contractor or subcontractor of Licensee or any other person allowed to enter the Property by Licensee shall be permitted to hunt, fish, trap, camp, picnic, ride motorcycles or four-wheelers or otherwise conduct any social gathering on the Property, nor shall any such persons be permitted to bring firearms, archery equipment, dogs, alcoholic beverages or illegal drugs on the Property at any time. Violations of this provision shall cause the violator to be regarded as a trespasser and subject to prosecution under trespass laws of the State of Texas. Licensor shall have the right to expel and permanently ban from the Property any person observed on the Property in violation of this provision.

M. Storage of Machinery and Equipment. Licensee shall use no part of the Property to store machinery, equipment, or other property of Licensee while it is not being used.

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace above the land covered by this License for any purpose allowed by law and deemed necessary by Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensor in, on, across, along, over, under, and through said right of way occupied by Licensee. In the event of such work in connection with said purposes it shall be deemed necessary by Licensor, at Licensor's sole discretion, to alter, change, adapt, conform or relocate any pipeline, property, or casing of Licensee, such alteration or change or relocation shall be commenced and completed by Licensee within one hundred eighty (180) days after being ordered in writing by Licensor pursuant to directions from Licensor's City Council without any claim for reimbursement for the cost of the relocation or damages against Licensor. The relocation or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding Licensor, payment

for alteration or relocation of its system to which it may be lawfully entitled to under applicable federal or state laws with respect to relocation payments.

IV. Standard General Conditions

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

Commercial General Liability (including Contractual liability):

- Personal Injury: \$1,000,000.00 per person
\$1,000,000.00 per occurrence
- Property Damage: \$100,000.00 per occurrence

Business Automobile Liability: \$1,000,000.00 combined single limit--
Personal Injury and Property Damage

Workers' Compensation: Statutory limits

Employers' Liability: \$1,000,000.00 per accident or occurrence

Excess Liability: \$10,000,000.00 each occurrence
\$10,000,000.00 aggregate

The Commercial General Liability shall be on an occurrence basis. This insurance shall name Licensors as an additional insured and all insurance shall waive subrogation in favor of Licensors.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this License. The Workers' Compensation insurance shall waive all rights of subrogation against Licensors.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this License. This insurance shall name Licensors as an additional insured and all insurance shall waive subrogation in favor of Licensors.

The parties agree that, prior to the execution of the License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. This decision shall be in Licensors' sole discretion.

Licensors shall be provided the notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Licensors shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required by Licensee, and name the City of Midland as an additional insured. Licensee certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Licensee shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Licensee.

B. Indemnity. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING 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 LICENSEE, LICENSEE'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES, BUT ONLY TO THE EXTENT LICENSEE OWES LICENSOR AN INDEMNITY UNDER THIS PARAGRAPH.

LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY AND SAVE LICENSOR 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, ALL SUPPLIES, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION DESCRIBED HEREIN.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, 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 LICENSOR, LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, AND ALL COSTS AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY OF LICENSEE'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR ANY OF LICENSEE'S HANDLING, STORING, RELEASING, TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING, BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE PARTIES HEREBY EXPRESSLY WAIVE THEIR RIGHT TO RECOVER ANY PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. FURTHERMORE, IN NO EVENT SHALL LICENSEE'S INDEMNIFICATION OBLIGATIONS HEREUNDER EXTEND TO ANY CLAIMS, DAMAGES, INJURIES, DEATH, DAMAGES, LOSSES OR EXPENSES OF ANY CHARACTER WHATSOEVER TO THE EXTENT ARISING OUT TO THE GROSS NEGLIGENCE OF WILLFUL MISCONDUCT OF LICENSOR OR ANY OF LICENSOR'S OFFICERS, AGENTS, CONTRACTORS, SUBCONTRACTORS OR EMPLOYEES.

C. Assignment. The rights granted by this License inure to the benefit of Licensee. The rights and privileges shall not be assignable by Licensee without the express written consent of Licensor's City Manager. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager.

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

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

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

AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN LICENSOR AND LICENSEE. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

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

F. Governing Law & Venue. All performance and payment made pursuant to this License shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this License or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be construed, interpreted and enforced under the laws of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all other claims or disputes, arising from or relating in any way to the subject matter of this License, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS LICENSE, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE HAS OR MIGHT HAVE IN THE FUTURE WITH REGARDS TO THIS LICENSE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, TORT CLAIMS, LICENSOR'S NEGLIGENCE OR CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS; PROVIDED, HOWEVER, THAT SAID RELEASE SHALL NOT EXTEND TO ANY DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION RELATING TO INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE ON THE PART OF LICENSOR.

H. Governmental Immunity. By executing this License, Licensor is not waiving its right of governmental immunity. Licensor is retaining its immunity from suit. Licensor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

I. Third Party Beneficiary. Licensor's approval of this License does not create a third party beneficiary. There is no third party beneficiary to this License. No person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

J. Notices. Any notice or communication required in the administration of this License shall be sent by certified mail, return receipt requested, to the parties' respective mailing addresses as set forth hereinabove.

K. Notice of Alleged Breach; Statutory Prerequisite. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License,

Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

M. Waiver of Governmental Immunity; Chapter 271, TEX. LOC. GOV'T CODE. The parties agree that this License does not constitute a License or Contract for providing goods and/or services to Licensor as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the greatest extent allowed by law, nothing in this License constitutes a waiver of Licensor's governmental immunity and the parties expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental immunity for the benefit of any third party lacking privity to the License.

This License does not obligate Licensee to use the Property to construct, repair, operate, replace, and maintain Licensor's facilities or structures described herein, it merely prohibits Licensee from using the Property for any other purpose. This License restricts the use of the Property to a specific purpose, but does not require the use of the Property for a specific purpose. This License does not require Licensee to construct, operate, repair, maintain, replace or remove any of Licensee's facilities or structures described herein. Licensee is not providing a service to Licensor but is providing a service to Licensee's customers. Licensee is paying Licensor for a temporary interest in real property not for a service. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of the Property in compliance with a

restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

N. Compliance. Licensee agrees that it shall comply with Texas Government Code Section 2252.908, as amended, to the extent that this statute applies to this License. Licensee agrees that it shall comply with Texas Local Government Code Section 176.006, as amended, to the extent that this statute applies to this License.

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensor. Notwithstanding any provision contained herein, in the event that any site, object, artifact, or other feature of archaeological, scientific, educational, cultural, or historical interest is encountered during the operations authorized by this License, Licensee will immediately notify Licensor and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensor or the Commission.

**LICENSOR:
CITY OF MIDLAND, TEXAS**

By: _____
Robert Patrick, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT AND
COMPLETENESS:

Morris Williams, Assistant City Manager

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

LICENSEE:
ENDEAVOR ENERGY RESOURCES, L.P.

By: R. Ben Carter
Printed Name: R. Ben Carter
Title: VICE PRESIDENT - LAND

R. Ben Carter
JCX

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

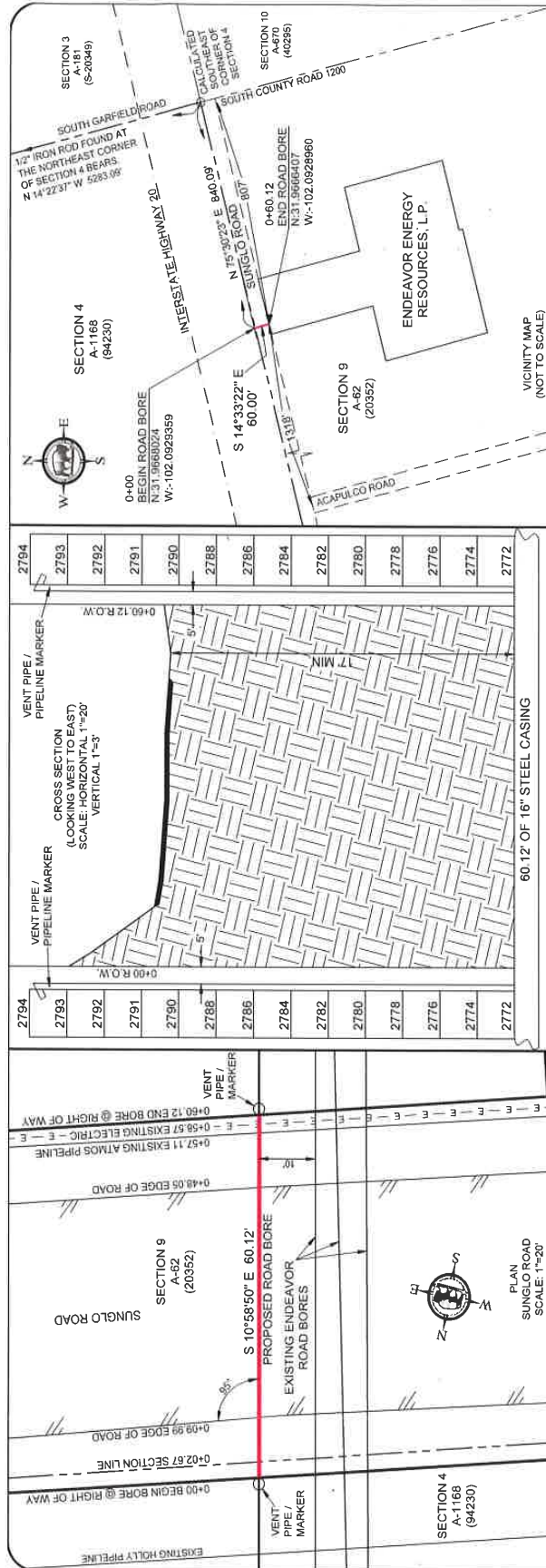
BEFORE ME, the undersigned authority, on this 20th day of May, 2021 personally appeared R. Ben Carter an officer of Endeavor Energy Resources, L.P. known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 20th day of May, 2021.



Laura D Swopes
Notary Public, State of TEXAS

Z:\BISON CREEK, LLC\2019\16-02-490-ENDEAVOR MIDLAND COUNTY\MIDLAND CO PROJECT\T\50SH HOISAGER-PROPOSED SWD-WINDOWPANE-BANKHEAD-GARFIELD\DRAWINGS\PROPOS



1-800-245-4545
WWW.TEXASONECALL.COM

TEXAS ONE CALL SYSTEM

Scale: 1"=20'
DATE: 04-26-21
DRAWN BY: GR
APPROVED: JPK
PARTY CHIEF: JR
PROJECT NO.: 16-02490

Pipeline located 1318 feet east of Acapulco Road @ intersection of Sunglo Road.

BISON CREEK LAND SERVICES, LLC 24443 I-20 BLDG. 9, WILLS POINT, TEXAS 75169 PHONE: (803) 873-3600 WWW.BISON-CREEK.COM

NOTES:
PROPOSED ROAD BORE = (1) 12" WATERLINE / 16" STEEL CASING.
MAXIMUM OPERATING PRESSURE NOT TO EXCEED 200 PSI.
SPACING BETWEEN EXISTING BORE AND PROPOSED BORE IS 10.00 FEET.

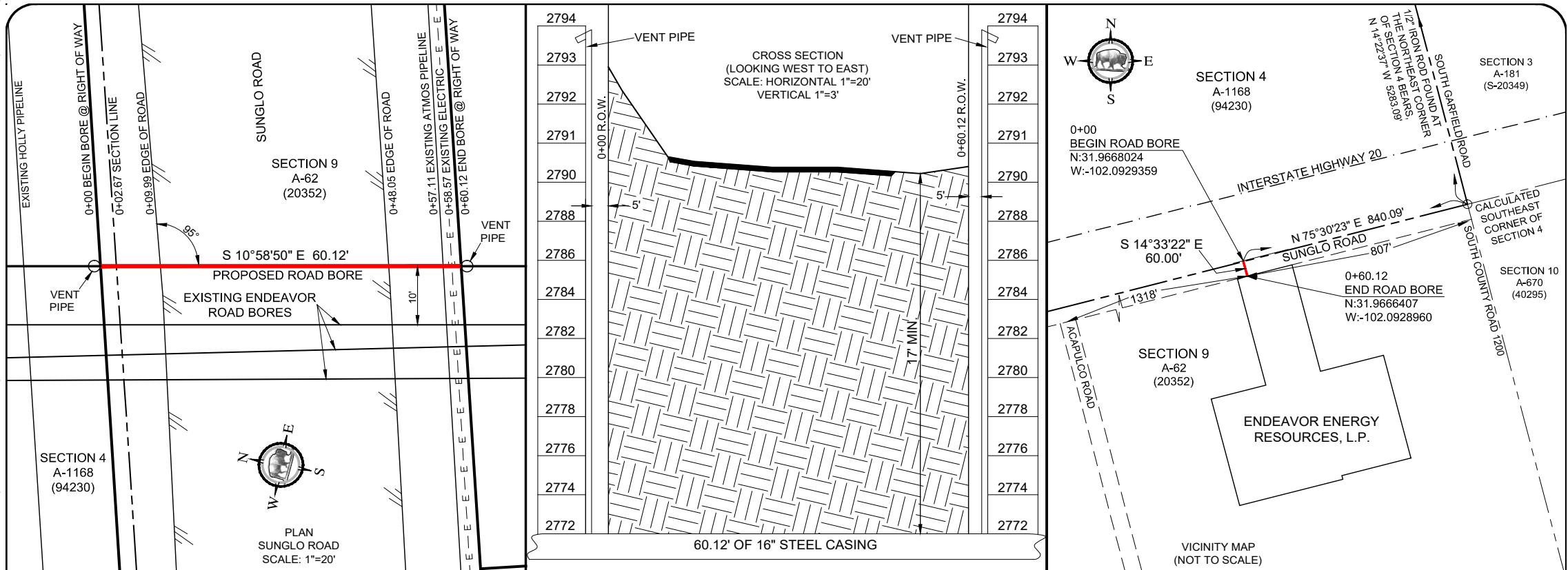
James P. Keene
State of Texas
Registered Professional Land Surveyor
No. 5100



PROPOSED PIPELINE CROSSING
ENDEAVOR ENERGY RESOURCES, L.P.
PROPOSED PIPELINE
IN RIGHT-OF-WAY OF
SUNGLO ROAD
SECTION 4 AND 9, BLOCK 39, T-2-S
T. & P. RR CO. SURVEY,
MIDLAND COUNTY, TEXAS
SCALE: SHOWN IN ILLUSTRATIONS

Coordinates: NAD 83 Texas Central Zone
Base of Bearing is the Texas State Plane
Coordinate System Central Zone, NAD 83

Z:\BISON CREEK, LLC\2016\16-02490-ENDEAVOR MIDLAND COUNTY\MIDLAND CO PROJECTS\JOSEPH HOISAGER-PROPOSED SWD-WINDOWPAINE-BANKHEAD-GARRETT DRAWINGS\PROPOS



1-800-245-4545

WWW.TEXASONECALL.COM

TEXAS ONE CALL SYSTEM

Scale: 1"= 20'	DATE: 04-26-21
DRAWN BY: CR	
APPROVED: JPK	
PARTY CHIEF: JR	
PROJECT NO. 16-02490	

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SPACING BETWEEN EXISTING BORE AND PROPOSED BORE IS 10.00 FEET.

Pipeline located 1318 feet east of
Acapulco Road @ intersection of
Sunglo Road.

BISON CREEK
LAND SERVICES, LLC

FIRM LICENSE NO. 10193880



BISON CREEK LAND SERVICES, LLC 24443 I-20, BLDG. 9, WILLS POINT, TEXAS 75169 PHONE: (903) 873 - 3600 WWW.BISON-CREEK.COM

James P. Keene
James P. Keene
State of Texas
Registered Professional Land Surveyor
No. 5100



Coordinates: NAD 83 Texas Central Zone.
Basis of Bearing is the Texas State Plane
Coordinate System Central Zone, NAD 83.

PROPOSED PIPELINE CROSSING

ENDEAVOR ENERGY RESOURCES, L.P.
PROPOSED PIPELINE
IN RIGHT-OF-WAY OF
SUNGLO ROAD
SECTION 4 AND 9, BLOCK 39, T-2-S
T. & P. RR CO. SURVEY,
MIDLAND COUNTY, TEXAS

SCALE: SHOWN IN ILLUSTRATIONS



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/30/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MCGRUFF, SEIBELS & WILLIAMS OF TEXAS, INC. 10100 Katy Freeway, #400 Houston, TX 77043		CONTACT NAME: PHONE (A/C, No, Ext): 713-877-8975 FAX (A/C, No): 713-877-8974 E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Starr Indemnity & Liability Company	
		INSURER B: Lloyd's of London	
		INSURER C: The First Liberty Insurance Corporation	
		INSURER D: Liberty Insurance Corporation	
		INSURER E:	
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER: L86M7RRP

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Self-Insured Retention \$250,000 ☒ Time Element Poll - Incl GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:		EB6-641-443771-110	11/01/2020	11/01/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
C	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY		AS6-641-443771-100	11/01/2020	11/01/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$		1000095483201	11/01/2020	11/01/2021	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
D	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A		WA7-64D-443771-090	11/01/2020	11/01/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Excess Liability \$5m xs \$5m		20XS2H13266	11/01/2020	11/01/2021	Each Occurrence \$ 5,000,000 Aggregate \$ 5,000,000 \$ \$ \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is included as Additional Insured as respects to General Liability and Automobile Liability as required by written contract subject to policy terms, conditions and exclusions. A Waiver of Subrogation is provided as respects to General Liability, Automobile Liability, Excess Liability and Workers' Compensation as required by written contract subject to policy terms, conditions and exclusions.

CERTIFICATE HOLDER

City of Midland
300 N. Lorraine
Midland, TX 79701

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

AGENCY CUSTOMER ID: _____
LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

PRODUCER MCGRIFF, SEIBELS & WILLIAMS OF TEXAS, INC.		INSURED Endeavor Energy Resources, L.P. and Per Attached Named Insureds
POLICY NUMBER		
CARRIER	NAIC CODE	ISSUE DATE: 10/30/2020

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: _____ FORM TITLE: _____

ENDEAVOR ENERGY RESOURCES, L.P.
Named Insured List:
Endeavor Energy Resources L.P. dba EER Energy Services
Endeavor Energy Resources L.P. dba Energy Services Well Servicing Division fka Endeavor Energy Resources, L.P. dba J & L Well Service
Endeavor Energy Resources L.P. dba Energy Services Roustabout Division fka Endeavor Energy Resources, L.P. dba Compadre Roustabout Service
Endeavor Energy Resources L.P. dba Energy Services Trucking Division fka Endeavor Energy Resources, L.P. dba C & W Transports
Endeavor Energy Resources L.P. dba Energy Services Wireline Division fka Endeavor Energy Resources, L.P. dba Jones Wireline Service
Endeavor Energy Resources, L.P. dba Electrical Maintenance and Construction
Endeavor Energy Resources, L.P. dba ACS Pump & Supply
Endeavor Energy Resources L.P. dba Energy Services Construction Division fka Endeavor Energy Resources, L.P. dba Red Dog Construction
Endeavor Petroleum, LLC
Endeavor Energy Resources L.P. dba Energy Services Vehicle Maintenance Division fka Endeavor Energy Resources, L.P. dba Vehicle Service Company
Environmental Disposal Systems, LLC



City Council Meeting

Item Number: 6
Meeting Date: June 8, 2021
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way License between the City of Midland and SCM Crude L.L.C.; regarding City owned property described as sections 18 and 21, Block C-23, P.S.L. Survey, Abstract No. 1388, Winkler County, Texas. (DISTRICT: NONE) (UTILITIES)

Purpose:

This License is for a 30' wide, 789.68 feet of right of way for a common carrier, crude oil pipeline. This will allow applicant to tie an active pipeline to the current lease holders new tank battery collection point.

This Right-of-Way License is proposed for a single five (5) year period with the option for a single five (5) year renewal. Terms are consistent with the City's standard license for pipeline facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee (one time): \$1,000

Annual rate: (47.86 rods x \$20.00): \$957.20

One-time Surface damages: (47.86 rods x \$10): \$478.60

Total Collected: \$2,535.80

Discussion:

This pipeline is proposed to be a 4.5" diameter, common carrier, steel construction crude oil tie-in pipeline and will be buried a minimum thirty-six inches (36) deep and does not interfere with the City Water operations in this area.

Certificates of Insurance (COI) with City of Midland named as additional insured and a waiver of subrogation in favor of the City of Midland has been collected and on file.

City Secretary to record completed License Agreement



City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

Date: June 9, 2021

Licensor: CITY OF MIDLAND, TEXAS, a home-rule municipal corporation

Licensor's Representative: Robert Patrick, City Manager

Licensor's Mailing Address: P.O. Box 1152
Midland, Texas 79702

Licensee: SCM Crude, LLC

Licensee's Representative: John Nicholson

Licensee's Mailing Address: 5825 N. Sam Houston Pkwy. #150
Houston, Texas 77086

Property: See **Exhibit A** attached hereto and incorporated herein for all purposes.

Licensee desires use of property owned by Licensor in Midland County, Texas (the "Property"), for purposes set forth below. Licensee acknowledges and agrees that it must obtain a license (the "License") in order to use the public lands of Licensor.

W I T N E S S E T H:

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

I. Term

A. Initial Term. This License shall be for a term of five (5) years (the "Initial Term"), commencing with the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Renewal Term. This License shall automatically renew at the end of the Initial Term for one (1) additional term of five (5) years, upon the written request of Licensee received by Licensor on or before one hundred twenty (120) days prior to the expiration of the Initial Term then in effect, subject to the express written consent of the governing body of Licensor.

C. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee

commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

Additionally, Licensor may terminate this License at will for any or no reason upon giving at least three hundred sixty-five (365) days' written notice to Licensee. The parties to this License understand and agree that it is in Licensor's sole discretion to cancel the License during the term of the License without penalty to Licensor. Licensee has no expectation and has received no guarantees that this License will not be terminated before the end of the License term. The parties have bargained for the flexibility of terminating this License upon tender of the requisite notice at any time during the term of the License. All work and services under the License shall be suspended upon termination of the License becoming effective.

Upon termination of this License, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface shall be restored at the expense of Licensee to its original condition, as close thereto as may be practical, subject to the approval of Licensor upon inspection by Licensor's Representative, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred and eighty (180) days after termination of this License.

II. Financial Consideration

A. License Fee. The first year's license fee in the amount of NINE HUNDRED FIFTY-SEVEN and 20/100 Dollars (\$957.20) shall be due and payable on or prior to the Commencement Date of this License ("License Fee"). Licensee's failure to make the License Fee payment within thirty (30) days after the License Fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%).

B. Surface Damage Fee. Licensee shall pay a one-time surface damage fee to Licensor in the amount of FOUR HUNDRED SEVENTY-EIGHT and 60/100 Dollars (\$478.60), payable on or prior to the Commencement Date.

C. Annual Fee. Licensee shall pay to Licensor an annual fee in the amount of NINE HUNDRED FIFTY-SEVEN and 20/100 Dollars (\$957.20), which shall be payable each year on or before the anniversary of the Commencement Date of this License.

D. Application Fee. At the same time the first year License Fee is due, Licensee shall pay a non-refundable one-time fee of ONE THOUSAND and No/100 Dollars (\$1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for the License.

E. Fee Adjustment. Prior to commencement of any renewal term, Licensor and Licensee shall negotiate in good faith to agree to an adjustment of the Annual Fee. If Licensor and Licensee are unable to reach an agreement regarding an adjustment to the Annual Fee, then the Annual Fee shall be determined by Licensor in its sole discretion, provided the new Annual Fee shall not exceed twenty-five percent (25%) of the Annual Fee paid for the last year of the Initial Term.

F. Delivery of Payment. The License Fee payment shall be made to Licensor at the office of Licensor's Representative, Attn: Right of Way Manager, P.O. Box 1152, Midland, Texas, 79702. The License Fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being fifty (50) feet in width of the pipeline location as shown on Exhibit A attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline locations, a steel construction pipeline, not to exceed four and a half (4.5) inches in diameter, for the transportation of crude oil, to have the right of ingress and egress at convenient points for such purpose, and said construction width shall revert to thirty (30) feet after the pipeline is laid. **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein. The parties agree Licensee's failure to provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein may result in the termination of this License. The decision to accept a complete as-built survey after the sixty-day deadline prescribed herein, or, conversely, to terminate this License shall be in the sole and absolute discretion of Licensor.**

B. Road Repair. Licensee covenants and agrees that it will repair any of Licensor's roads that Licensee damages on Licensor's property so that such roads will comply with Licensor's Standard Specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines and water meters owned by Licensor that Licensee, its employees, its agents or assigns, damage so that such water lines, sewer lines and water meters shall comply with the requirements of Licensor's Standard Specifications.

D. Depth. Licensee covenants and agrees that it will bury the pipeline(s) to be constructed hereunder no less than thirty-six (36) inches in depth. All backfill used in burying such line shall be compacted to a density of ninety percent (90%), except where such pipeline(s) crosses under a paved or traveled portion of City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). Licensor shall be afforded the opportunity to test the density on all backfill. Notwithstanding any provision to the contrary contained herein, Licensee covenants and agrees that, at any point that Licensee's pipeline(s) intersects with a City of Midland utility line location, the pipeline(s) shall be bored at a depth of a least (i) nine (9) feet under all City of Midland water utility lines and (ii) two (2) feet under all City of Midland sewer utility lines. Licensee agrees that it shall comply with 30 Tex. Admin. Code § 290.44(e), as amended, to the extent applicable to this License.

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, the specifications shall be approved by Licensor's Representative.

F. Reservation of Rights. Licensor expressly reserves the right to install, repair, or reconstruct streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of Licensor, in, on, across, along, over, under, and through any property occupied by Licensee. In permitting such work to be done, Licensor shall not be liable to Licensee for any damage so caused to Licensee's system or property, **NOR SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY DAMAGES TO LICENSEE'S PIPELINE(S), CASING, OR COMPRESSOR STATION, ARISING OUT OF THE NEGLIGENCE BY LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS.** If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

G. Non-exclusive. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

H. Abandonment. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances to the undertakings contemplated by this License, or the Property ceases to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty (120) days' written notice, then and in that event, this License shall automatically revert to Licensor, its successors or assigns, free and clear of any right, title, or interest in Licensee, or any re-entry by Licensor.

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, maintain, replace or remove any pipeline or casing system built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her approval. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor work day. If not on a work day, Licensee shall notify Licensor's Representative on the first work day after repairs have begun.

J. Gates and Fences. Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed." Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely closed except during operations related

to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

Licensee agrees that Licensee shall not cut or go over any fence at any time or in connection with any operations on the Property without first obtaining Licensor's express consent thereto in writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensor and shall be constructed as reasonably required by Licensor. Upon the termination of this License, at Licensor's election, gates in fences shall be left in place and shall thereafter be owned by Licensor or Licensee shall remove such gates and restore the fence to its original condition as nearly as reasonably practicable. The terms, provisions and requirements of this provision shall survive the termination or expiration of this License.

K. Trash. Licensee shall keep the Property free of trash and debris at all times. Under no circumstances, will Licensee be allowed to bury any trash, debris or foreign material of any kind on or under the Property. Licensor shall have the right to expel and permanently ban from the Property any person observed disposing of trash on the Property. Upon the completion of any operations, all ribbons, flags, stakes and similar items shall be promptly removed from the Property.

L. Hunting, Fishing and Alcohol Prohibited. No agent, employee, representative, contractor or subcontractor of Licensee or any other person allowed to enter the Property by Licensee shall be permitted to hunt, fish, trap, camp, picnic, ride motorcycles or four-wheelers or otherwise conduct any social gathering on the Property, nor shall any such persons be permitted to bring firearms, archery equipment, dogs, alcoholic beverages or illegal drugs on the Property at any time. Violations of this provision shall cause the violator to be regarded as a trespasser and subject to prosecution under trespass laws of the State of Texas. Licensor shall have the right to expel and permanently ban from the Property any person observed on the Property in violation of this provision.

M. Storage of Machinery and Equipment. Licensee shall use no part of the Property to store machinery, equipment, or other property of Licensee while it is not being used.

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace above the land covered by this License for any purpose allowed by law and deemed necessary by Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensor in, on, across, along, over, under, and through said right of way occupied by Licensee. In the event of such work in connection with said purposes it shall be deemed necessary by Licensor, at Licensor's sole discretion, to alter, change, adapt, conform or relocate any pipeline, property, or casing of Licensee, such alteration or change or relocation shall be commenced and completed by Licensee within one hundred eighty (180) days after being ordered in writing by Licensor pursuant to directions from Licensor's City Council without any claim for reimbursement for the cost of the relocation or damages against Licensor. The relocation or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding Licensor, payment for alteration or relocation of its system to which it may be lawfully entitled to under applicable federal or state laws with respect to relocation payments.

IV. Standard General Conditions

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

Commercial General Liability (including Contractual liability):

- Personal Injury: \$1,000,000.00 per person
\$1,000,000.00 per occurrence
- Property Damage: \$100,000.00 per occurrence

Business Automobile Liability: \$1,000,000.00 combined single limit--
Personal Injury and Property Damage

Workers' Compensation: Statutory limits

Employers' Liability: \$1,000,000.00 per accident or occurrence

Umbrella Liability: \$10,000,000.00 each occurrence
\$10,000,000.00 aggregate

The Commercial General Liability shall be on an occurrence basis. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this License. The Workers' Compensation insurance shall waive all rights of subrogation against Licensor.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this License. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The parties agree that, prior to the execution of the License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. This decision shall be in Licensor's sole discretion.

Licensor shall be provided the notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Licensor shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required by Licensee, and name the City of Midland as an additional insured. Licensee certifies that the one or more

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

B. Indemnity. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSEE, LICENSEE'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY AND SAVE LICENSOR 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, ALL SUPPLIES, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION DESCRIBED HEREIN.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSOR, LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY

CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, AND ALL COSTS AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY OF LICENSEE'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR ANY OF LICENSEE'S HANDLING, STORING, RELEASING, TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING, BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

C. Assignment. The rights granted by this License inure to the benefit of Licensee. The rights and privileges shall not be assignable by Licensee without the express written consent of Licensor's City Manager. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager.

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of Licensor. Further, it is specifically understood and agreed that nothing in this License is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Licensee shall be an independent contractor under this License and shall assume all of the rights, obligations and liabilities applicable to it as such

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

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

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

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

F. Governing Law & Venue. All performance and payment made pursuant to this License shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this License or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be construed, interpreted and enforced under the laws of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all other claims or disputes, arising from or relating in any way to the subject matter of this License, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS,

CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LICENSOR'S NEGLIGENCE.

H. Governmental Immunity. By executing this License, Licensor is not waiving its right of governmental immunity. Licensor is retaining its immunity from suit. Licensor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

I. Third Party Beneficiary. Licensor's approval of this License does not create a third party beneficiary. There is no third party beneficiary to this License. No person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

J. Notices. Any notice or communication required in the administration of this License shall be sent by certified mail, return receipt requested, to the parties' respective mailing addresses as set forth hereinabove.

K. Notice of Alleged Breach; Statutory Prerequisite. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

M. Waiver of Governmental Immunity; Chapter 271, TEX. LOC. GOV'T CODE. The parties

agree that this License does not constitute a License or Contract for providing goods and/or services to Licensor as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the greatest extent allowed by law, nothing in this License constitutes a waiver of Licensor's governmental immunity and the parties expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental immunity for the benefit of any third party lacking privity to the License.

This License does not obligate Licensee to use the Property to construct, repair, operate, replace, and maintain Licensor's facilities or structures described herein, it merely prohibits Licensee from using the Property for any other purpose. This License restricts the use of the Property to a specific purpose, but does not require the use of the Property for a specific purpose. This License does not require Licensee to construct, operate, repair, maintain, replace or remove any of Licensee's facilities or structures described herein. Licensee is not providing a service to Licensor but is providing a service to Licensee's customers. Licensee is paying Licensor for a temporary interest in real property not for a service. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of the Property in compliance with a restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

N. Compliance. Licensee agrees that it shall comply with Texas Government Code Section 2252.908, as amended, to the extent that this statute applies to this License. Licensee agrees that it shall comply with Texas Local Government Code Section 176.006, as amended, to the extent that this statute applies to this License.

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensor. Notwithstanding any provision contained herein, in the event that any site, object, artifact, or other feature of archaeological, scientific, educational, cultural, or historical interest is encountered during the operations authorized by this License, Licensee will immediately notify Licensor and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensor or the Commission.

**LICENSOR:
CITY OF MIDLAND, TEXAS**

By: _____
Robert Patrick, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

LICENSEE:
SCM CRUDE, LLC

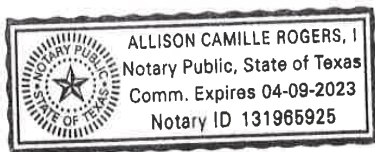
By: 
Printed Name: John Nicholson
Title: Chief Operating Officer

THE STATE OF Texas
COUNTY OF Harris

§
§
§

BEFORE ME, the undersigned authority, on this 13 day of May, 2021 personally appeared John Nicholson an officer of SCM Crude, LLC known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 13 day of May, 2021.

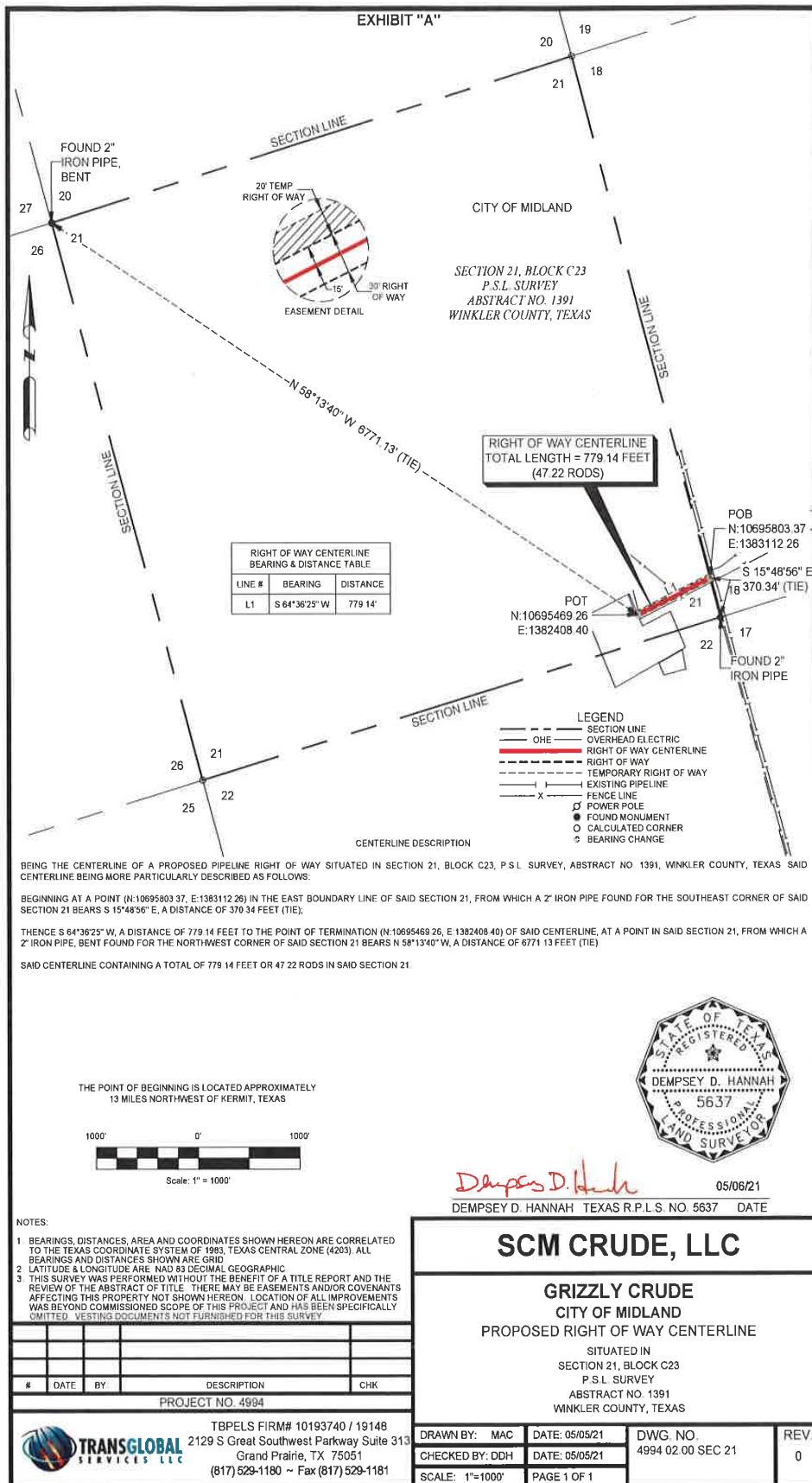


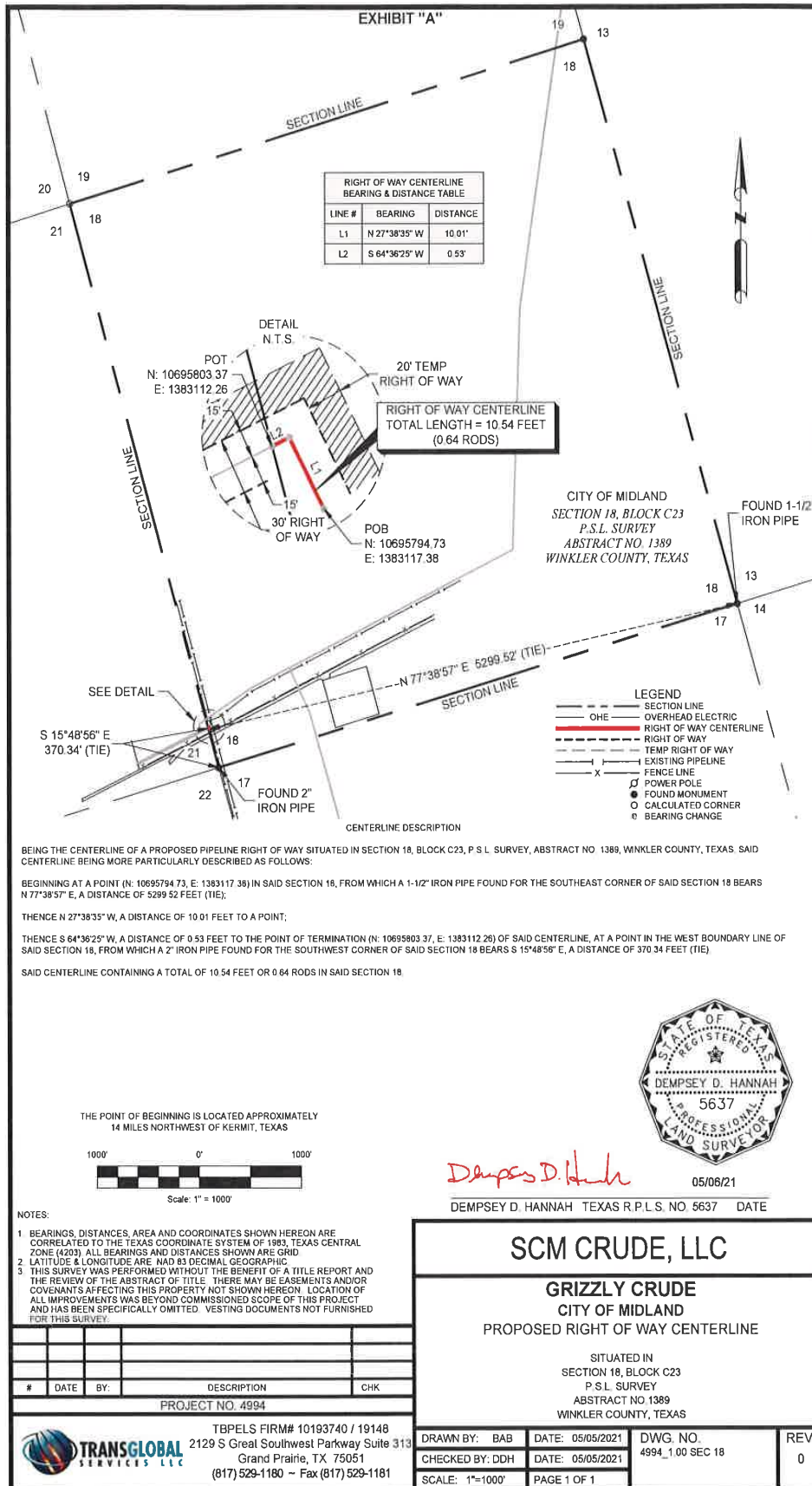
Allison Rogers
Notary Public, State of Texas

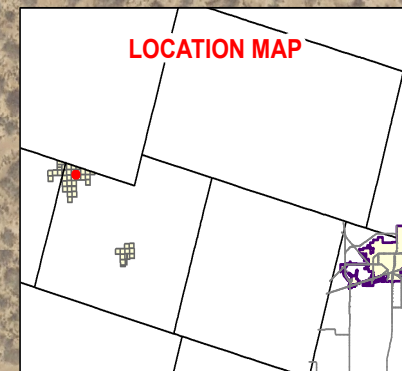
Reference No. 21-429-016

12 | Page

PACKET
6.14
June 8, 2021







SEC 21
BLK C23
PSL

SEC 18
BLK C23
PSL

Proposed ROW
47.86 Rods (789.68 Feet)

SEC 22
BLK C23
PSL

SEC 17
BLK C23
PSL

Date: 5/10/2021

Legend

PACKET

Proposed ROW
Survey Section

SCM Crude, LLC
Grizzly Crude Proposed Right of Way (ROW)

June 8, 2021



0 50 100 Feet

©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.



CERTIFICATE OF LIABILITY INSURANCE

11/2/2021

DATE (MM/DD/YYYY)
11/4/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED 1445999 SCM Water, LLC 5825 N. Sam Houston Pkwy, Suite 150 Houston TX 77086	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Starr Indemnity & Liability Company	
	NAIC #	
	INSURER B:	
	INSURER C:	
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 16379553

REVISION NUMBER: XXXXXXXX

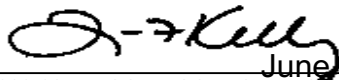
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATION MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	Y	1000090463201	11/2/2020	11/2/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	Y	Y	1000635757201	11/2/2020	11/2/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
A	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$	Y	Y	1000095299201	11/2/2020	11/2/2021	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 Other Aggregate \$ 10,000,000
A	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	1000004323	11/2/2020	11/2/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THIS CERTIFICATE SUPERSEDES ALL PREVIOUSLY ISSUED CERTIFICATES FOR THIS HOLDER, APPLICABLE TO THE CARRIERS LISTED AND THE POLICY TERM(S) REFERENCED.
Re: Tract 01.00, Tract 02.00, Tract 03.00 Tract 04.00.

CERTIFICATE HOLDER**CANCELLATION** See Attachment

16379553 City of Midland 300 N Loraine Midland TX 79701	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

PACKET

6.18

June 8, 2021

All policies (except Workers' Compensation/EL) include a blanket automatic additional insured [provision] that confers additional insured status to the certificate holder only if there is a written contract between the named insured and the certificate holder that requires the named insured to name the certificate holder as an additional insured. In the absence of such a contractual obligation on the part of the named insured, the certificate holder is not an additional insured under the policy. All policies include a blanket automatic waiver of subrogation endorsement [provision] that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. In the absence of such a contractual obligation on the part of the named insured, the waiver of subrogation feature does not apply. All policies include a blanket notice of cancellation to certificate holders endorsement, providing for 30 days' advance notice if the policy is cancelled by the company other than for nonpayment of premium, 10 days' notice if the policy is cancelled for nonpayment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company. The endorsement does not provide for notice of cancellation if the named insured requests cancellation.

Named Insured Schedule

SCM Intermediate Topco, LLC
SCM Intermediate Holdco, LLC
ARM Midstream Management, LLC
SCM Topco, LLC
Salt Creek Holdco, LLC
Salt Creek Aggregator Holdco, LLC
SCM Intermediate Crude, LLC
SCM Intermediate Water, LLC
Imperial Crude, LLC
SCM Crude, LLC
SCM Water, LLC
Salt Creek Midstream, LLC
Delaware Crossing, LLC
SCM Water Pecos, LLC
Delaware Crossing Holdings, LLC
Delaware Crossing Operating, LLC
SCM Epic, LLC
SCM Intermediate Alpine, LLC
SCM Alpine, LLC
SCM Operations, LLC



City Council Meeting

Item Number: 7
Meeting Date: June 8, 2021
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a right-of-way license between the City of Midland and Medallion Crude Oil Logistics, LLC, regarding city-owned property described as Sections 4, 9 and 16, Block 37, Township 3 South, T&P RR Co. Survey, Midland County, Texas. (DISTRICT: NONE) (UTILITIES)

Purpose:

Applicant is requesting a 30' wide right of way to place an 8 inch (8") private, steel construction, crude pipeline on City of Midland owned real property known as the Spraberry Farm. Pipeline is located away from farming operations.

This Right-of-Way License is proposed for a single five (5) year period with the option for a single five (5) year renewal. Terms are consistent with the City's standard license for pipeline facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee (one time): \$1,000

Annual Lease Rate (957.8 rods x \$20/rod): \$19,156.00

Surface Damages: (957.8 rods x \$10/rod): \$9,578.00

Total Collected: \$29,734.00

Discussion:

This private, X-52 - .250" FBE coated, steel construction crude line is 8 inches (8) in diameter and will be buried forty-eight inches (48) deep. Applicant is requesting a 40' wide construction

right of way and 2 additional spaces as needed for boring under existing pipelines which will be removed after completion.

All fees have been collected.

Certificates of Insurance (COI) with City of Midland named as additional insured and a waiver of subrogation in favor of the City of Midland has been collected and on file.

City Secretary to record completed License Agreement



City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

Date: June 9, 2021

Licensor: CITY OF MIDLAND, TEXAS, a home-rule municipal corporation

Licensor's Representative: Robert Patrick, City Manager

Licensor's Mailing Address: P.O. Box 1152
Midland, Texas 79702

Licensee: Medallion Crude Oil Logistics, LLC

Licensee's Representative: **Steven R. Heape**

Licensee's Mailing Address: 909 Lake Carolyn Parkway, Ste. 1600
Irving, Texas 75039

Property: See Exhibit A attached hereto and incorporated herein for all purposes.

Licensee desires use of property owned by Licensor in Midland County, Texas (the "Property"), for purposes set forth below. Licensee acknowledges and agrees that it must obtain a license (the "License") in order to use the public lands of Licensor.

W I T N E S S E T H:

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

I. Term

A. Initial Term. This License shall be for a term of five (5) years (the "Initial Term"), commencing with the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Renewal Term. This License shall automatically renew at the end of the Initial Term for one (1) additional term of five (5) years, upon the written request of Licensee received by Licensor on or before one hundred twenty (120) days prior to the expiration of the Initial Term then in effect, subject to the express written consent of the governing body of Licensor.

C. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee

commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

Additionally, Licensor may terminate this License at will for any or no reason upon giving at least three hundred sixty-five (365) days' written notice to Licensee. The parties to this License understand and agree that it is in Licensor's sole discretion to cancel the License during the term of the License without penalty to Licensor. Licensee has no expectation and has received no guarantees that this License will not be terminated before the end of the License term. The parties have bargained for the flexibility of terminating this License upon tender of the requisite notice at any time during the term of the License. All work and services under the License shall be suspended upon termination of the License becoming effective.

Upon termination of this License, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface shall be restored at the expense of Licensee to its original condition, as close thereto as may be practical, subject to the approval of Licensor upon inspection by Licensor's Representative, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred and eighty (180) days after termination of this License.

II. Financial Consideration

A. License Fee. The first year's license fee in the amount of NINETEEN THOUSAND ONE HUNDRED FIFTY-SIX and 00/100 Dollars (\$19,156.00) shall be due and payable on or prior to the Commencement Date of this License ("License Fee"). Licensee's failure to make the License Fee payment within thirty (30) days after the License Fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%).

B. Surface Damage Fee. Licensee shall pay a one-time surface damage fee to Licensor in the amount of NINE THOUSAND FIVE HUNDRED SEVENTY-EIGHT and 00/100 Dollars (\$9,578.00), payable on or prior to the Commencement Date.

C. Annual Fee. Licensee shall pay to Licensor an annual fee in the amount of NINETEEN THOUSAND ONE HUNDRED FIFTY-SIX and 00/100 Dollars (\$19,156.00), which shall be payable each year on or before the anniversary of the Commencement Date of this License.

D. Application Fee. At the same time the first year License Fee is due, Licensee shall pay a non-refundable one-time fee of ONE THOUSAND and No/100 Dollars (\$1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for the License.

E. Fee Adjustment. Prior to commencement of any renewal term, Licensor and Licensee shall negotiate in good faith to agree to an adjustment of the Annual Fee. If Licensor and Licensee are unable to reach an agreement regarding an adjustment to the Annual Fee, then the Annual Fee shall be determined by Licensor in its sole discretion, provided the new Annual Fee shall not exceed twenty-five percent (25%) of the Annual Fee paid for the last year of the Initial Term.

F. Delivery of Payment. The License Fee payment shall be made to Licensor at the office of Licensor's Representative, Attn: Right of Way Manager, P.O. Box 1152, Midland, Texas, 79702. The License Fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being forty (40) feet in width of the pipeline location and two (2) temporary bore sites as shown on Exhibit A attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline locations, a X52-.250 FBE coated steel construction pipeline, not to exceed eight (8) inches in diameter, for the transportation of crude oil, to have the right of ingress and egress at convenient points for such purpose, and said construction width shall revert to thirty (30) feet after the pipeline is laid. **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein. The parties agree Licensee's failure to provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein may result in the termination of this License. The decision to accept a complete as-built survey after the sixty-day deadline prescribed herein, or, conversely, to terminate this License shall be in the sole and absolute discretion of Licensor.**

B. Road Repair. Licensee covenants and agrees that it will repair any of Licensor's roads that Licensee damages on Licensor's property so that such roads will comply with Licensor's Standard Specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines and water meters owned by Licensor that Licensee, its employees, its agents or assigns, damage so that such water lines, sewer lines and water meters shall comply with the requirements of Licensor's Standard Specifications.

D. Depth. Licensee covenants and agrees that it will bury the pipeline(s) to be constructed hereunder no less than forty-eight (48) inches in depth. All backfill used in burying such line shall be compacted to a density of ninety percent (90%), except where such pipeline(s) crosses under a paved or traveled portion of City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). Licensor shall be afforded the opportunity to test the density on all backfill. Notwithstanding any provision to the contrary contained herein, Licensee covenants and agrees that, at any point that Licensee's pipeline(s) intersects with a City of Midland utility line location, the pipeline(s) shall be bored at a depth of at least (i) nine (9) feet under all City of Midland water utility lines and (ii) two (2) feet under all City of Midland sewer utility lines. Licensee agrees that it shall comply with 30 Tex. Admin. Code § 290.44(e), as amended, to the extent applicable to this License.

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, the specifications shall be approved by Licensor's Representative.

F. Reservation of Rights. Licensor expressly reserves the right to install, repair, or reconstruct streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of Licensor, in, on, across, along, over, under, and through any property occupied by Licensee. In permitting such work to be done, Licensor shall not be liable to Licensee for any damage so caused to Licensee's system or property, **NOR SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY DAMAGES TO LICENSEE'S PIPELINE(S), CASING, OR COMPRESSOR STATION, ARISING OUT OF THE NEGLIGENCE BY LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS.** If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

G. Non-exclusive. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

H. Abandonment. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances to the undertakings contemplated by this License, or the Property ceases to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty (120) days' written notice, then and in that event, this License shall automatically revert to Licensor, its successors or assigns, free and clear of any right, title, or interest in Licensee, or any re-entry by Licensor.

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, maintain, replace or remove any pipeline or casing system built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her approval. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor work day. If not on a work day, Licensee shall notify Licensor's Representative on the first work day after repairs have begun.

J. Gates and Fences. Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed." Licensee and all persons entering or leaving the Property in connection with Licensee's operations

hereunder shall keep all outside and interior gates securely closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

Licensee agrees that Licensee shall not cut or go over any fence at any time or in connection with any operations on the Property without first obtaining Licensor's express consent thereto in writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensor and shall be constructed as reasonably required by Licensor. Upon the termination of this License, at Licensor's election, gates in fences shall be left in place and shall thereafter be owned by Licensor or Licensee shall remove such gates and restore the fence to its original condition as nearly as reasonably practicable. The terms, provisions and requirements of this provision shall survive the termination or expiration of this License.

K. Trash. Licensee shall keep the Property free of trash and debris at all times. Under no circumstances, will Licensee be allowed to bury any trash, debris or foreign material of any kind on or under the Property. Licensor shall have the right to expel and permanently ban from the Property any person observed disposing of trash on the Property. Upon the completion of any operations, all ribbons, flags, stakes and similar items shall be promptly removed from the Property.

L. Hunting, Fishing and Alcohol Prohibited. No agent, employee, representative, contractor or subcontractor of Licensee or any other person allowed to enter the Property by Licensee shall be permitted to hunt, fish, trap, camp, picnic, ride motorcycles or four-wheelers or otherwise conduct any social gathering on the Property, nor shall any such persons be permitted to bring firearms, archery equipment, dogs, alcoholic beverages or illegal drugs on the Property at any time. Violations of this provision shall cause the violator to be regarded as a trespasser and subject to prosecution under trespass laws of the State of Texas. Licensor shall have the right to expel and permanently ban from the Property any person observed on the Property in violation of this provision.

M. Storage of Machinery and Equipment. Licensee shall use no part of the Property to store machinery, equipment, or other property of Licensee while it is not being used.

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace above the land covered by this License for any purpose allowed by law and deemed necessary by Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensor in, on, across, along, over, under, and through said right of way occupied by Licensee. In the event of such work in connection with said purposes it shall be deemed necessary by Licensor, at Licensor's sole discretion, to alter, change, adapt, conform or relocate any pipeline, property, or casing of Licensee, such alteration or change or relocation shall be commenced and completed by Licensee within one hundred eighty (180) days after being ordered in writing by Licensor pursuant to directions from Licensor's City Council without any claim for reimbursement for the cost of the relocation or damages against Licensor. The relocation or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding Licensor, payment for alteration or relocation of its system to which it may be lawfully entitled to under applicable federal or state laws with respect to relocation payments.

IV. Standard General Conditions

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

Commercial General Liability (including Contractual liability):

- Personal Injury: \$1,000,000.00 per person
\$1,000,000.00 per occurrence
- Property Damage: \$100,000.00 per occurrence

Business Automobile Liability: \$1,000,000.00 combined single limit--
Personal Injury and Property Damage

Workers' Compensation: Statutory limits

Employers' Liability: \$1,000,000.00 per accident or occurrence

Umbrella Liability: \$10,000,000.00 each occurrence
\$10,000,000.00 aggregate

The Commercial General Liability shall be on an occurrence basis. This insurance shall name Licensors as an additional insured and all insurance shall waive subrogation in favor of Licensors.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this License. The Workers' Compensation insurance shall waive all rights of subrogation against Licensors.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this License. This insurance shall name Licensors as an additional insured and all insurance shall waive subrogation in favor of Licensors.

The parties agree that, prior to the execution of the License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. This decision shall be in Licensors' sole discretion.

Licensors shall be provided the notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Licensors shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required by Licensee, and

name the City of Midland as an additional insured. Licensee certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Licensee shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Licensee.

B. Indemnity. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSEE, LICENSEE'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY AND SAVE LICENSOR 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, ALL SUPPLIES, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION DESCRIBED HEREIN.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSOR, LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS

LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, AND ALL COSTS AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY OF LICENSEE'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR ANY OF LICENSEE'S HANDLING, STORING, RELEASING, TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING, BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

C. Assignment. The rights granted by this License inure to the benefit of Licensee. The rights and privileges shall not be assignable by Licensee without the express written consent of Licensor's City Manager. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager.

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of Licensor. Further, it is specifically understood and agreed that nothing in this License is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Licensee shall be an independent contractor under this

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

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

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

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

F. Governing Law & Venue. All performance and payment made pursuant to this License shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this License or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be construed, interpreted and enforced under the laws of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all other claims or disputes, arising from or relating in any way to the subject matter of this License, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR,

LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LICENSOR'S NEGLIGENCE.

H. Governmental Immunity. By executing this License, Licensor is not waiving its right of governmental immunity. Licensor is retaining its immunity from suit. Licensor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

I. Third Party Beneficiary. Licensor's approval of this License does not create a third party beneficiary. There is no third party beneficiary to this License. No person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

J. Notices. Any notice or communication required in the administration of this License shall be sent by certified mail, return receipt requested, to the parties' respective mailing addresses as set forth hereinabove.

K. Notice of Alleged Breach; Statutory Prerequisite. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

M. Waiver of Governmental Immunity; Chapter 271, TEX. LOC. GOV'T CODE. The parties agree that this License does not constitute a License or Contract for providing goods and/or services to Licensor as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the greatest extent allowed by law, nothing in this License constitutes a waiver of Licensor's governmental immunity and the parties expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental immunity for the benefit of any third party lacking privity to the License.

This License does not obligate Licensee to use the Property to construct, repair, operate, replace, and maintain Licensor's facilities or structures described herein, it merely prohibits Licensee from using the Property for any other purpose. This License restricts the use of the Property to a specific purpose, but does not require the use of the Property for a specific purpose. This License does not require Licensee to construct, operate, repair, maintain, replace or remove any of Licensee's facilities or structures described herein. Licensee is not providing a service to Licensor but is providing a service to Licensee's customers. Licensee is paying Licensor for a temporary interest in real property not for a service. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of the Property in compliance with a restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

N. Compliance. Licensee agrees that it shall comply with Texas Government Code Section 2252.908, as amended, to the extent that this statute applies to this License. Licensee agrees that it shall comply with Texas Local Government Code Section 176.006, as amended, to the extent that this statute applies to this License.

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensor. Notwithstanding any provision contained herein, in the event that any site, object, artifact, or other feature of archaeological, scientific, educational, cultural, or historical interest is encountered during the operations authorized by this License, Licensee will immediately notify Licensor and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensor or the Commission.

**LICENSOR:
CITY OF MIDLAND, TEXAS**

By: _____
Robert Patrick, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

LICENSEE:
MEDALLION CRUDE OIL LOGISTICS, LLC

By: _____

Printed Name: Steven R. Heape

Title: VP Land and Right of Way

THE STATE OF

Texas

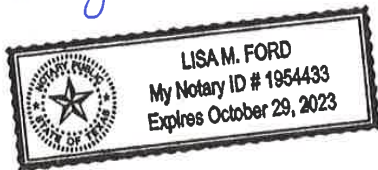
COUNTY OF

Dallas

§
§
§

BEFORE ME, the undersigned authority, on this 19th day of May, 2021 personally appeared Steven R. Heape an officer of Medallion Crude Oil Logistics, LLC known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 19th day of may, 2021.



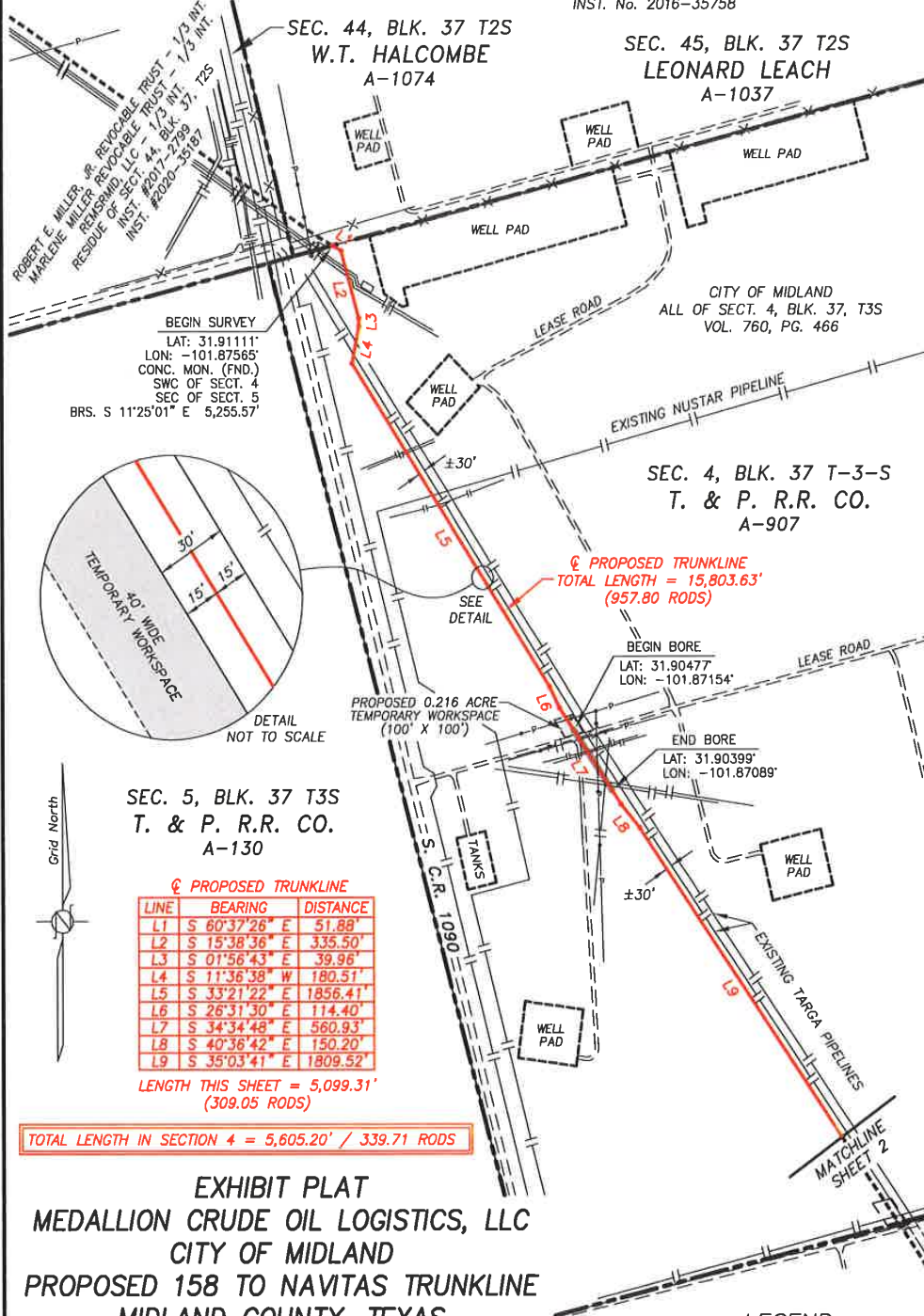
Lisa M. Ford
Notary Public, State of Texas

All Bearings, Distances, and Coordinates shown herein are based on the Texas State Plane Coordinate System, N.A.D. 83 Datum (Central Zone.)
The information contained on this plat is intended for the sole use of MEDALLION CRUDE OIL LOGISTICS, LLC.
Acreage's shown herein were furnished by others, and are deed called or scaled from deed.

TBPLS FIRM REGISTRATION NO. 10025700

EXHIBIT "A" (SHEET 1 OF 3)

TEXAS TEN TWO, LTD.
ALL OF SECT. 45, BLK. 37, T2S
INST. No. 2016-35758



PROPOSED TRUNKLINE

LINE	BEARING	DISTANCE
L1	S 80°37'26" E	51.88'
L2	S 15°38'36" E	335.50'
L3	S 01°56'43" E	39.96'
L4	S 11°36'38" W	180.51'
L5	S 33°21'22" E	1856.41'
L6	S 26°31'30" E	114.40'
L7	S 34°34'48" E	560.93'
L8	S 40°36'42" E	150.20'
L9	S 35°03'41" E	1809.52'

LENGTH THIS SHEET = 5,099.31'
(309.05 RODS)

TOTAL LENGTH IN SECTION 4 = 5,605.20' / 339.71 RODS

EXHIBIT PLAT
MEDALLION CRUDE OIL LOGISTICS, LLC
CITY OF MIDLAND
PROPOSED 158 TO NAVITAS TRUNKLINE
MIDLAND COUNTY, TEXAS
SCALE: 1" = 600'



I, the undersigned, do hereby certify that this plat is true and correct to the best of my knowledge and belief.

BY: *Kenny Williams* Date: 05/13/2021



2358/26

T210183-158 TO NAVITAS-SEC 4 BLK 37 (CITY OF MIDLAND) 1 OF 3 - REV

PACKET
7.15
June 8, 2021

EXHIBIT "A"
(SHEET 2 OF 3)

TOTAL LENGTH IN SECTION 9 = 5,679.39' / 344.21 RODS

SEC. 4, BLK. 37 T-3-S
T. & P. R.R. CO.
A-907

CITY OF MIDLAND
ALL OF SECT. 4, BLK. 37, T3S
VOL. 760, PG. 466

DETAIL
NOT TO SCALE

PROPOSED 0.320 ACRE
TEMPORARY WORKSPACE
(100' X 150')

END BORE
LAT: 31.89817
LON: -101.86591

BEGIN BORE
LAT: 31.89848°
LON: -101.86617°

Grid North

SEE
DETAILS

@ PROPOSED TRUNKLINE
 TOTAL LENGTH = 15,803.63'
 (957.80 RODS)

CITY OF MIDLAND
ALL OF SECT. 9, BLK. 37, T3S
VOL. 1278, PG. 577

SEC. 9, BLK. 37 T3S
T. & P. R.R. CO.
A-132

BEGIN BORE
LAT: 31.89141°
LON: -101.86018°

PROPOSED 0.215 AC.
TEMPORARY WORKSPACE
(100' X 100')

END BORE
LAT: 31.89118
LON: -101.85998

€ PROPOSED TRUNKLINE

LINE	BEARING	DISTANCE
L10	S 35°03'41" E	1095.74'
L11	S 28°03'02" E	178.56'
L12	S 42°03'15" E	178.51'
L13	S 35°03'55" E	311.481'
L14	S 28°02'00" E	181.45'
L15	S 42°04'20" E	181.25'
L16	S 35°04'08" E	519.05'
L17	S 28°03'52" E	139.64'
L18	S 42°04'18" E	139.72'
L19	S 35°03'47" E	289.83'
L20	S 16°57'37" E	166.72'

LENGTH THIS SHEET = 6,185.28
(374.87 RODS)

EXHIBIT PLAT
MEDALLION CRUDE OIL LOGISTICS, LLC
CITY OF MIDLAND
PROPOSED 158 TO NAVITAS TRUNKLINE
MIDLAND COUNTY, TEXAS
SCALE: 1" = 600'

I, the undersigned, do hereby certify that this plat is true and correct to the best of my knowledge and belief.

BY: Ramond Williams Date: 05/13/2021



LEGEND

 EXISTING PIPELINE
 OVERHEAD ELECTRIC

PREPARED BY:
STANGER
SURVEYING TYLER LLC
1595 EAST GRANDE BLVD.
TYLER, TEXAS 75703
(903) 534-0174

"SPRABERRY" Quadrangle
Sited 13.6 Miles SE of Midland, TX.

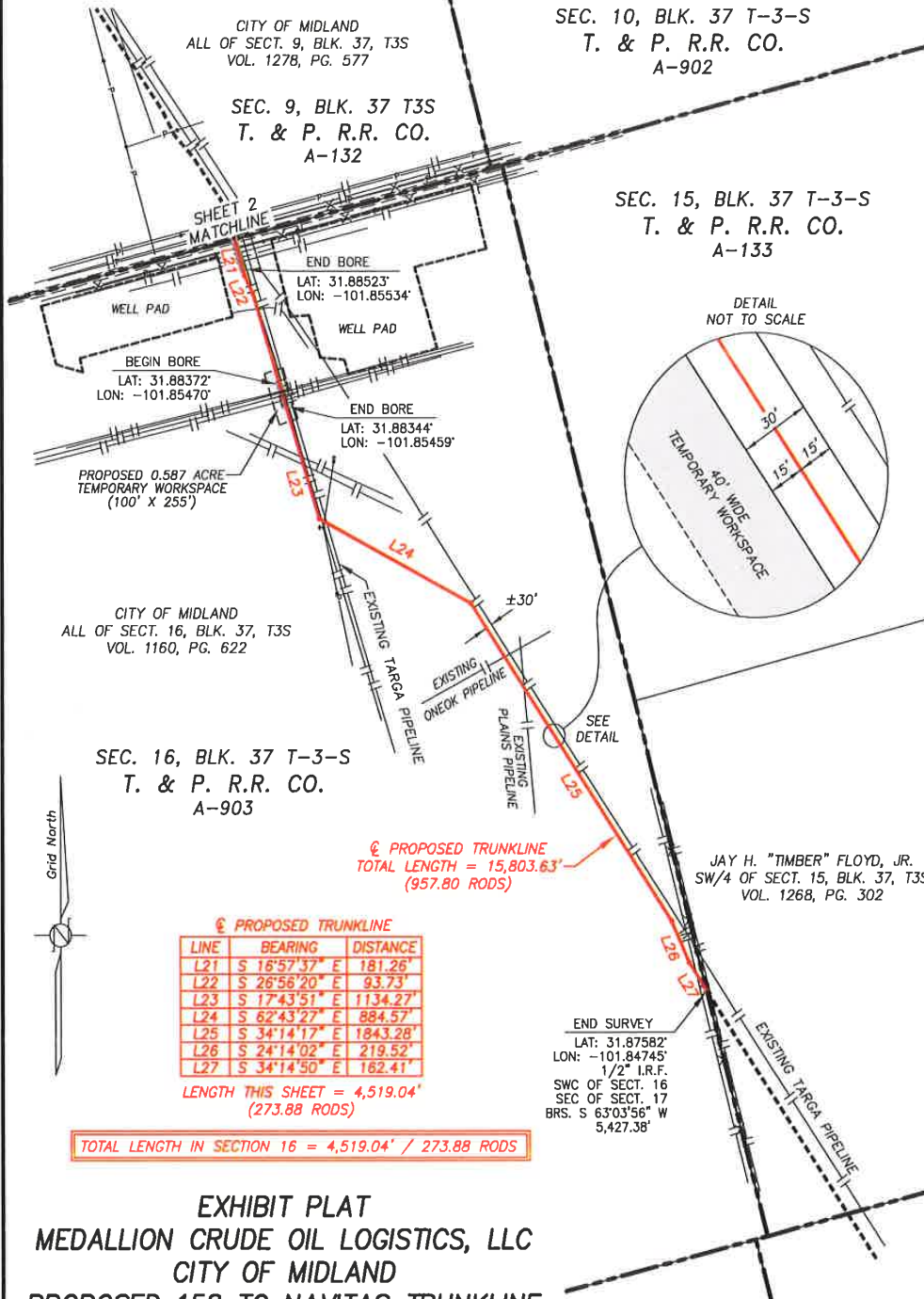
All Bearings, Distances, and Coordinates shown hereon are based on the Texas State Plane Coordinate System, N.A.D. 83 Datum (Central Zone.)
The information contained on this plat is intended for the sole use of MEDALLION CRUDE OIL LOGISTICS, LLC.
Acreage's shown hereon were furnished by others, and are deed called or scaled from deed.

EXHIBIT "A" (SHEET 3 OF 3)

SEC. 10, BLK. 37 T-3-S
T. & P. R.R. CO.
A-902

SEC. 9, BLK. 37 T3S
T. & P. R.R. CO.
A-132

SEC. 15, BLK. 37 T-3-S
T. & P. R.R. CO.
A-133



SEC. 16, BLK. 37 T-3-S
T. & P. R.R. CO.
A-903

LINE	BEARING	DISTANCE
L21	S 16°57'37\"	E 181.26'
L22	S 26°56'20\"	E 93.73'
L23	S 17°43'51\"	E 1134.27'
L24	S 62°43'27\"	E 884.57'
L25	S 34°14'17\"	E 1843.28'
L26	S 24°14'02\"	E 219.52'
L27	S 34°14'50\"	E 162.41'

LENGTH THIS SHEET = 4,519.04'
(273.88 RODS)

TOTAL LENGTH IN SECTION 16 = 4,519.04' / 273.88 RODS

EXHIBIT PLAT
MEDALLION CRUDE OIL LOGISTICS, LLC
CITY OF MIDLAND
PROPOSED 158 TO NAVITAS TRUNKLINE
MIDLAND COUNTY, TEXAS
SCALE: 1" = 600'



I, the undersigned, do hereby certify that this plat is true and correct to the best of my knowledge and belief.

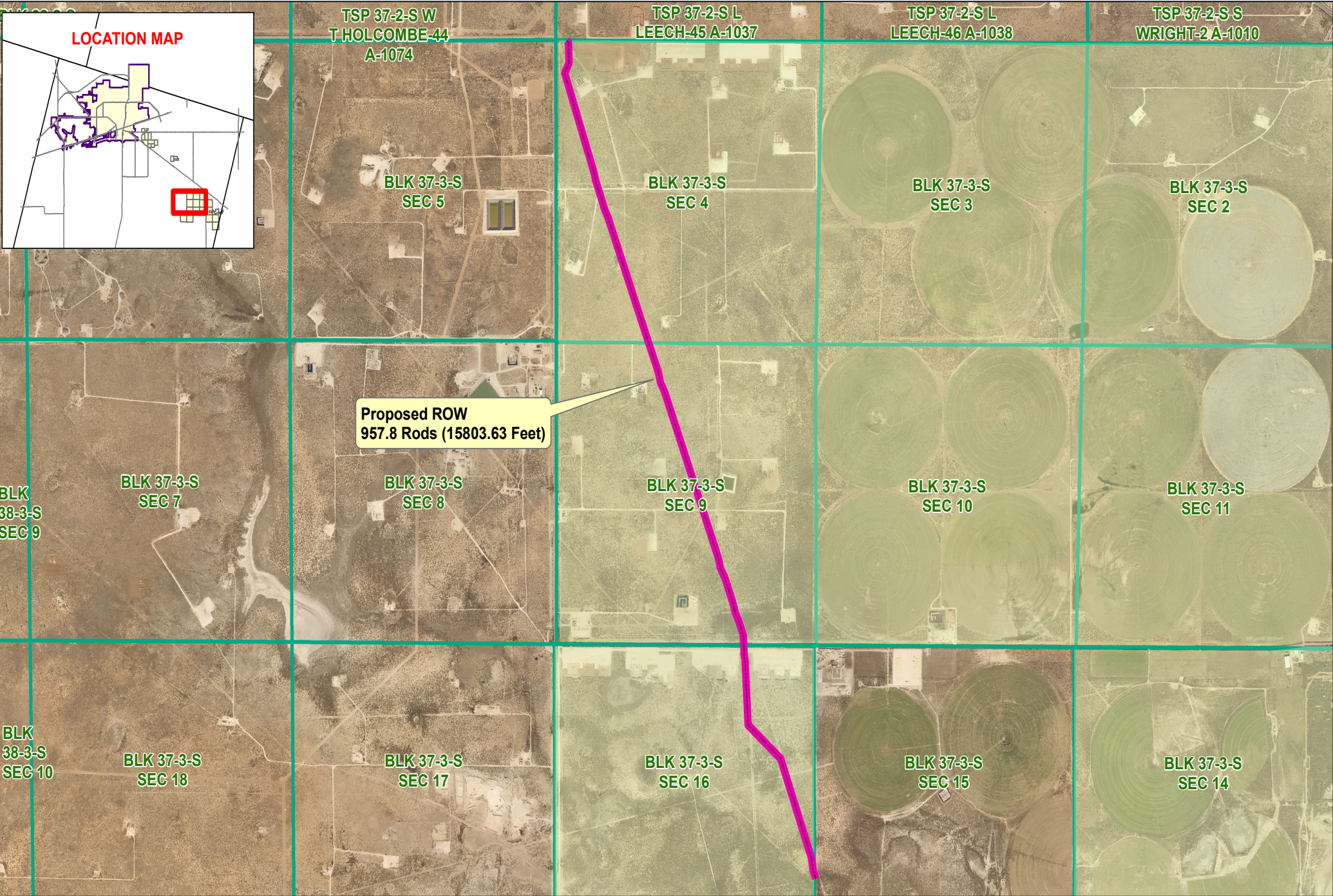
BY: *Kenny Williams* Date: 05/13/2021



LEGEND
—|—|— EXISTING PIPELINE
— OVERHEAD ELECTRIC
TBPLS FIRM REGISTRATION NO. 10025700

PREPARED BY:
STANGER
SURVEYING TYLER LLC
1595 EAST GRANDE BLVD.
TYLER, TEXAS 75703
(903) 534-0174

"SPRABERRY" Quadrangle
Situated 13.6 Miles SE of Midland, TX.



Date: 5/17/2021

Legend

— Proposed ROW

City Owned Parcels

Survey Section

PACKET

Medallion Crude Oil Logistics, LLC Proposed 158 To Navitas Trunkline

June 8, 2021



0 500 1,000 Feet

©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTE FOR A SURVEY PROJECT 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.



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
04/21/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Southwest, Inc. Houston TX Office 5555 San Felipe Suite 1500 Houston TX 77056 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105 E-MAIL ADDRESS:														
INSURED Medallion Midland Acquisition, LLC 909 Lake Carolyn Pkwy. Suite 1600 Irving TX 75039 USA	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: Starr Indemnity & Liability Company</td><td>38318</td></tr><tr><td>INSURER B:</td><td></td></tr><tr><td>INSURER C:</td><td></td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Starr Indemnity & Liability Company	38318	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A: Starr Indemnity & Liability Company	38318														
INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☒ LOC ☐ OTHER:			1000090570201	10/24/2020	10/24/2021	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☒ Comp Ded \$1,000 ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY ☒ Coll Ded \$1,000			1000635733201	10/24/2020	10/24/2021	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION			1000095416201	10/24/2020	10/24/2021	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N N N/A			1000003920	10/24/2020	10/24/2021	☒ PER STATUTE ☐ OTH E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Right of Way License
City of Midland is included as Additional Insured in accordance with the policy provisions of the General Liability, Auto Liability and Umbrella Liability. General Liability policy evidenced here in is Primary and Non-Contributory to other insurance available to Additional Insured, but only in accordance with the policy's provisions. A waiver of Subrogation is granted in favor of the City of Midland and the Licensor in accordance with the policy provisions of the General Liability, Auto Liability, Umbrella Liability and workers Compensation policies.

CERTIFICATE HOLDER City of Midland City Hall, Room 520 300 North Loraine Midland, TX 79701 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Southwest, Inc.</i>
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ACORD 25 (2016/03)

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City Council Meeting

Item Number: 8
Meeting Date: June 8, 2021
To: City Council / City Manager
From: Jeff Pinkstaff,
Subject: RESOLUTION GRANTING A VARIANCE FOR A 57.55-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF INTERSTATE 20, APPROXIMATELY 700 FEET EAST OF SOUTH LAMESA ROAD), BY PERMITTING CONSTRUCTION OF COMMERCIAL BUILDINGS WHERE NO PORTION OF ANY STRUCTURE IS CLOSER THAN 474 FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS (DISTRICT: NONE) (DEVELOPMENT SERVICES)

Purpose:

Consider a resolution granting a variance to Ordinance 8769, (January 1, 2010 Oil and Gas Well Drilling Ordinance), for a 57.55-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, (Generally located north of the service road of Interstate 20 and 700 feet east of S. Lamesa Rd.), by permitting construction of a commercial development where no portion of any structure is closer than 474 feet of an existing oil and gas well (McClurg-B#1).

Recommended City Council Action:

Approve

Fiscal Impact:

NA

Discussion:

Ordinance 8769 states from the application filing date of the oil and gas well permit, any building permit for construction of a building within 500 feet of the well, requires a distance

variance.

The applicants, Casey Maxwell of LCA representing Brandon Ryckman, are developing a property located in Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas that lies within 500 feet of previously permitted oil and gas wells. Mr. Maxwell is requesting this variance to allow a reduction in the radius to 474 feet for the development of this property. Upon granting of the variance building permits meeting the allowed distance may be issued.

The Operator of the McClurg-B#1 is Permian Deep Rock Oil Company, LLC and are aware of the variance request before the council. LCA has notified the Operator Permian Deep Rock Oil Company concerning the variance request and Permian Deep Rock is in agreeance.

The ordinance states, "In no event shall a building permit be issued by the City of Midland for any private residence or commercial building to be constructed, either in whole or in part, within three hundred (300) feet of a previously permitted but undrilled Oil and Gas Well or one hundred thirty-five (135) feet of an existing oil and gas well or within one hundred fifty (150) feet of a previously permitted tank battery."

Previously, variances have been granted for other properties within the city limits to allow permits to be issued for residences and commercial buildings as close as 135 feet of existing oil and gas well. Therefore staff recommends approval of this variance.

Attachments: Signed request letter, Survey



City Manager's Office



City Council Agenda

MEETING DATE: June 8, 2021

TO: CITY COUNCIL/CITY MANAGER

FROM: Jeff Pinkstaff, Building Official

SUBJECT: Consider a resolution granting a variance to Ordinance 8769, (January 1, 2010 Oil and Gas Well Drilling Ordinance), for a 57.55-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, (Generally located north of the service road of Interstate 20 and 700 feet east of S. Lamesa Rd.), by permitting construction of a commercial development where no portion of any structure is closer than 474 feet of an existing oil and gas well (McClurg-B#1).

Purpose:

Consider a resolution granting a variance to Ordinance 8769, (January 1, 2010 Oil and Gas Well Drilling Ordinance), for a 57.55-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, (Generally located north of the service road of Interstate 20 and 700 feet east of S. Lamesa Rd.), by permitting construction of a commercial development where no portion of any structure is closer than 474 feet of an existing oil and gas well (McClurg-B#1).

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

NA

Discussion:

Ordinance 8769 states from the application filing date of the oil and gas well permit, any building permit for construction of a building within 500 feet of the well, requires a distance variance.

The applicants, Casey Maxwell of LCA representing Brandon Ryckman, are developing a property located in Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas that lies within 500 feet of previously permitted oil and gas wells. Mr. Maxwell is requesting this variance to allow a reduction in the radius to 474 feet for the development of this property. Upon granting of the variance building permits meeting the allowed distance may be issued.

The Operator of the McClurg-B#1 is Permian Deep Rock Oil Company, LLC and are aware of the variance request before the council. LCA has notified the Operator Permian Deep Rock Oil Company concerning the variance request and Permian Deep Rock noted review of the request.

The ordinance states, *"In no event shall a building permit be issued by the City of Midland for any private residence or commercial building to be constructed, either in whole or in part, within three hundred (300) feet of a previously permitted but undrilled Oil and Gas Well or one hundred thirty-five (135) feet of an existing oil and gas well or within one hundred fifty (150) feet of a previously permitted tank battery."*

Previously, variances have been granted for other properties within the city limits to allow permits to be issued for residences and commercial buildings as close as 135 feet of existing oil and gas well. Therefore staff recommends approval of this variance.

Attachments: Signed request letter, Survey

RESOLUTION NO. _____

RESOLUTION GRANTING A VARIANCE FOR A 57.55-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF INTERSTATE 20, APPROXIMATELY 700 FEET EAST OF SOUTH LAMESA ROAD), BY PERMITTING CONSTRUCTION OF COMMERCIAL BUILDINGS WHERE NO PORTION OF ANY STRUCTURE IS CLOSER THAN 474 FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS

WHEREAS, pursuant to Section 6-1-23(H)(2)(c) of the City Code of Midland, Texas, the owner of the property described in Section One hereof has applied for a variance in order to receive building permits for the construction of commercial buildings where no portion of any structure is closer than 474 feet of an oil and gas well; and

WHEREAS, the City Council finds and determines that granting a variance for such purpose will not present a health or safety risk to the applicant or subsequent occupants of the structures;

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

SECTION ONE. That a variance is hereby granted for a 57.55-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, being more fully described by metes and bounds in Exhibit "A", which is attached hereto and incorporated herein for all purposes, permitting construction of commercial buildings where no portion of a structure is closer than 474 feet of an oil and gas well.

SECTION TWO. That the Building Official is hereby authorized and directed to issue building permits to the applicant and to other appropriate parties, entities, individuals, successors or assigns for such purpose with the following notation: "This building permit is issued for a structure to be constructed on a lot or tract located within 500 feet of a previously permitted Oil and Gas Well, but no portion of the structure shall be closer than 474 feet of a previously permitted Oil and Gas Well."

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., 2021, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Robert Patrick, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT "A"

§ COUNTY OF MIDLAND
§ STATE OF TEXAS

BEING A 57.55-ACRE REMAINDER OF THAT CERTAIN 101.49-ACRE TRACT AS DESCRIBED IN DOCUMENT NO. 2010-4195 OF THE OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS, IN SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT (Y=10,688,784.49' & X= 1,762,775.17') A 3/8" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE NORTHEAST CORNER OF LOT 1 BLOCK 1 TAHOE LAKES ADDITION, AS RECORDED IN CABINET I, PAGE 190 OF THE MIDLAND COUNTY PLAT RECORDS AND ALSO BEING ON THE SOUTH RIGHT-OF-WAY LINE OF THE CURVED SOUTH RIGHT-OF-WAY LINE OF LATTA STREET AS DESCRIBED IN DOCUMENT NO. 2008-22815 OF SAID OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS HAVING A RADIAL BEARING OF NORTH 37°19'47" WEST;

THENCE ALONG SAID CURVE TO THE LEFT IN A NORTHEASTERLY DIRECTION, HAVING A RADIUS LENGTH OF 330.00 FEET, A DELTA ANGLE OF 33°32'10", AN ARC LENGTH OF 193.15 FEET, A CHORD LENGTH OF 190.41 FEET BEARING NORTH 35°54'06" EAST TO A ½" IRON ROD WITH PLASTIC CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF TANGENCY;

THENCE NORTH 19°08'00" EAST WITH THE SOUTH RIGHT-OF-WAY OF SAID LATTA STREET, A DISTANCE OF 195.48 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT A POINT OF CURVATURE OF A CURVE TO THE LEFT;

THENCE ALONG SAID CURVE TO THE LEFT IN A NORTHEASTERLY DIRECTION, HAVING A RADIUS LENGTH OF 330.00 FEET, A DELTA ANGLE OF 23°09'45", AN ARC LENGTH OF 133.41 FEET, A CHORD LENGTH OF 132.50 FEET BEARING NORTH 07°33'08" EAST TO A ½" IRON ROD WITH PLASTIC CAP MARKED "LCA ODESSA TX" SET FOR THE POINT OF TANGENCY;

THENCE NORTH 04°01'57" WEST WITH THE EASTERN RIGHT-OF-WAY OF SAID LATTA STREET, A DISTANCE OF 24.19 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF CURVATURE OF A CURVE TO THE RIGHT;

THENCE ALONG SAID CURVE TO THE RIGHT IN A NORTHEASTERLY DIRECTION, HAVING A RADIUS LENGTH OF 295.00 FEET, A DELTA ANGLE

OF 23°10'30", AN ARC LENGTH OF 119.32 FEET, A CHORD LENGTH OF 118.51 FEET BEARING NORTH 07°33'31" EAST TO A ½" IRON ROD WITH PLASTIC CAP MARKED "LCA ODESSA TX" SET FOR THE POINT OF TANGENCY;

THENCE NORTH 19°04'24" EAST WITH THE EAST RIGHT-OF-WAY OF SAID LATTA STREET, A DISTANCE OF 36.38 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX SET AT THE WEST CORNER OF THAT CERTAIN 7.53-ACRE TRACT CURRENTLY IN THE NAME OF MIDLAND COUNTY ON THE EAST RIGHT-OF-WAY LINE OF SAID LATTA STREET, WHENCE A 3/8" IRON ROD (CONTROL MONUMENT) FOUND AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY OF SAID LATTA STREET AND THE SOUTHERN RIGHT-OF-WAY OF E. TAYLOR AVENUE BEARS NORTH 19°03'10" EAST, A DISTANCE OF 300.00 FEET;

THENCE SOUTH 71°05'09" EAST WITH THE SOUTHERN LINE OF SAID 7.53-ACRE TRACT, A DISTANCE OF 467.02 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND AT AN ELL CORNER OF THIS SURVEY AND THE NORTHERNMOST CORNER OF THAT CERTAIN 5.57-ACRE TRACT AS DESCRIBED IN DOCUMENT NO. 2014-17375 OF SAID OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY TEXAS;

THENCE SOUTH 23°20'09" WEST WITH A WEST LINE OF SAID 5.57-ACRE TRACT, A DISTANCE OF 48.93 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT A POINT OF DEFLECTION OF THIS SURVEY;

THENCE SOUTH 71°08'48" EAST WITH A SOUTH LINE OF SAID 5.57-ACRE TRACT, A DISTANCE OF 152.80 FEET TO A FOUND 3/8" IRON ROD (CONTROL MONUMENT);

THENCE SOUTH 23°29'35" WEST WITH A WEST LINE OF SAID 5.57-ACRE TRACT, A DISTANCE OF 300.87 FEET TO A 3/8" IRON ROD FOUND AT THE SOUTHERNMOST WEST CORNER OF SAID 5.57-ACRE TRACT AND AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 71°49'04" EAST WITH THE SOUTHERN LINE OF SAID 5.57-ACRE TRACT, A DISTANCE OF 570.74 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE NORTH CORNER OF THAT CERTAIN 4.92-ACRE TRACT AS DESCRIBED IN DOCUMENT NO. 2010-12057 OF SAID OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY TEXAS AND A POINT OF DEFLECTION OF THIS SURVEY;

THENCE SOUTH 23°35'54" WEST WITH THE WESTERN LINE OF SAID 4.92-ACRE TRACT, A DISTANCE OF 363.93 FEET TO A ½" IRON ROD (CONTROL MONUMENT) FOUND AT THE WEST CORNER OF SAID 4.92-ACRE TRACT AND AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 72°30'41" EAST, WITH THE SOUTH LINE OF SAID 4.92-ACRE TRACT, A DISTANCE OF 627.03 FEET TO A ½" IRON ROD FOUND AT THE SOUTH CORNER OF SAID 4.92-ACRE TRACT, THE NORTH CORNER OF THAT CERTAIN 2.15-ACRE TRACT AS DESCRIBED IN VOLUME 1817, PAGE 300 OF THE DEED RECORDS OF MIDLAND COUNTY TEXAS AND AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 19°04'38" WEST WITH THE WESTERN LINE OF SAID 2.15-ACRE TRACT, A DISTANCE OF 269.33 FEET TO A ½" IRON ROD FOUND AT THE WEST CORNER OF SAID 2.15-ACRE TRACT AND AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 73°48'45" EAST WITH THE SOUTHERN LINE OF SAID 2.15-ACRE TRACT, A DISTANCE OF 157.05 FEET TO A ½" IRON ROD FOUND AT THE NORTHWEST CORNER OF THAT CERTAIN 1.01-ACRE TRACT AS DESCRIBED IN SAID VOLUME 1817 PAGE 300 OF SAID MIDLAND COUNTY DEED RECORDS FOR AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 08°35'01" EAST WITH THE WESTERN LINE OF SAID 1.01-ACRE TRACT, A DISTANCE OF 293.86 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE SOUTHWEST CORNER OF SAID 1.01-ACRE TRACT ON THE NORTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 20 FOR THE EASTERNMOST SOUTHEAST CORNER OF THIS SURVEY;

THENCE SOUTH 70°34'45" WEST WITH THE NORTH RIGHT-OF-WAY LINE OF SAID INTERSTATE HIGHWAY 20, A DISTANCE OF 899.28 FEET TO A TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) CONCRETE MONUMENT WITH A BRASS DISK (CONTROL MONUMENT) FOR THE POINT OF CURVATURE OF A CURVE TO THE RIGHT;

THENCE ALONG SAID CURVE TO THE RIGHT IN A SOUTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 11,309.20 FEET, A DELTA ANGLE OF 04°59'56", AN ARC LENGTH OF 986.68 FEET, A CHORD LENGTH OF 986.37 FEET BEARING SOUTH 73°03'27" WEST TO A TXDOT CONCRETE MONUMENT WITH BRASS DISK AT THE POINT OF TANGENCY;

THENCE SOUTH 75°34'27" WEST WITH THE NORTH RIGHT-OF-WAY OF SAID INTERSTATE HIGHWAY 20, A DISTANCE OF 192.73 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE SOUTHEAST CORNER OF THAT CERTAIN 3.30-ACRE TRACT AS DESCRIBED IN VOLUME 1198 PAGE 204 OF SAID MIDLAND COUNTY DEED RECORDS FOR THE WESTERNMOST SOUTHWEST CORNER OF THIS SURVEY;

THENCE NORTH 14°32'03" WEST WITH THE EAST LINE OF SAID 3.30-ACRE TRACT, A DISTANCE OF 242.05 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT A POINT OF CURVATURE;

THENCE ALONG SAID CURVE TO THE LEFT IN A NORTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 18.61 FEET, A DELTA ANGLE OF 89°59'12", AN ARC LENGTH OF 29.23 FEET, A CHORD LENGTH OF 26.32 FEET BEARING NORTH 59°31'38" WEST TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE POINT OF TANGENCY;

THENCE NORTH 75°41'32" EAST, A DISTANCE OF 349.07 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF DEFLECTION OF THIS TRACT;

THENCE NORTH 14°33'23" WEST, A DISTANCE OF 173.46 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF DEFLECTION OF THIS TRACT;

THENCE SOUTH 75°37'36" WEST, A DISTANCE OF 45.07 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIAL BEARING OF NORTH 83°54'09" EAST;

THENCE ALONG SAID CURVE TO THE RIGHT IN A NORTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 530.00 FEET, A DELTA ANGLE OF 27°47'11", AN ARC LENGTH OF 257.03 FEET, A CHORD LENGTH OF 254.52 FEET BEARING NORTH 07°47'45" EAST TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE END OF THIS CURVE;

THENCE NORTH 21°41'20" EAST, A DISTANCE OF 522.76 FEET TO 3/8" IRON ROD SET AT THE POINT OF CURVATURE OF A CURVE TO THE LEFT;

THENCE ALONG SAID CURVE TO THE RIGHT IN A NORTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 556.30 FEET, A DELTA ANGLE OF 44°23'54", AN ARC LENGTH OF 431.07 FEET, A CHORD LENGTH OF 420.37 FEET BEARING NORTH 00°30'36" WEST TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF TANGENCY;

THENCE NORTH 22°42'31" WEST, DISTANCE OF 86.39 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT AN ELL CORNER OF THIS TRACT;

THENCE SOUTH 32°04'31" WEST, DISTANCE OF 61.92 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT AN ELL CORNER OF THIS TRACT;

**THENCE NORTH 42°34'20" WEST, DISTANCE OF 168.30 FEET TO THE POINT
OF THE BEGINNING CONTAINING 57.55 SURFACE ACRES.**



ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
ENG. FIRM# 001363 • SURV. FIRM# 10034300
521 NORTH TEXAS • ODESSA, TEXAS 79761
(432) 332-5058 OR 580-8812 • FAX (432) 332-8812

April 28, 2021

Jeff Pinkstaff
Building Official at City of Midland
300 N. Loraine
Midland, TX 79701
432-685-7387
jepinkstaff@midlandtexas.gov

Re: McClurg-B Oil and Gas Well Set Back Variance

Mr. Pinkstaff,

LCA is working on behalf of Land Design Studio and Zekelman Properties for a land development project on the northside Interstate 20 between Lamesa Road and Fairgrounds Road. The land developer is planning on putting in single family housing, multi-family housing, mixed use retail, public charter school, public parks, and two motels for lodging. Only the location of one of the motels falls within the 500 ft set back of an oil and gas well. The purpose of this particular set back variance is to allow for construction of a multi-story motel within the land development project's property.

The McClurg-B oil and gas well is located on the southside of Interstate 20 from the land development project. It should be noted that Interstate 20 bisects the set back and should be considered a buffer between the McClurg-B well and the land development project. This letter requests a reduction in the set back variance from 500 ft to 474 ft for the McClurg-B well along the southern boundary of the property of the land development project.

See "Exhibit A – Existing Well (McClurg-B) Set Back Variance" drawing for a visual description of the request.

Well Information taken from Railroad Commission Public GIS Viewer:

API No.	32931937
Well No.	1B
Lease Name	McClurg "B"
Survey	T&P RR Co.
Block	39, T-2-S
Section	1
District	8
Lease ID	31743
Permitted on	01-26-1988
Case	0-87-008
Operator No.	655805
Operator	Permian Deep Rock Oil Co., LLC
Type Well	Shut In

It should also be noted that the Railroad Commissions website shows that the McClurg-B well's status is shown as "shut in" and that the well has no produced oil or gas since June of 2019. See attachment "McClurg-B RRC Production Data".

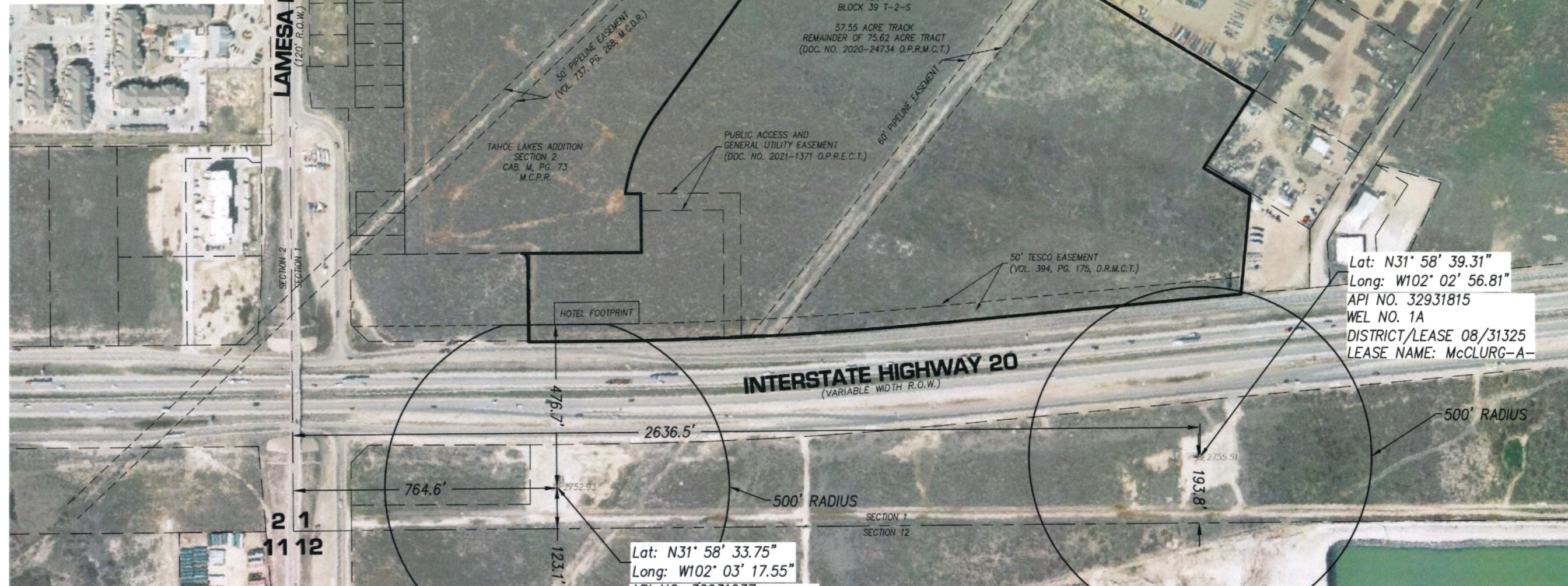
Respectfully Submitted,
LCA

A handwritten signature in blue ink, appearing to read "Casey Maxwell".

Casey Maxwell P.E.

EXHIBIT A
**EXISTING WELL (McCLURG-B)
 SET BACK VARIANCE**

Randy Anderson
 5-11-21



Lat: N31° 58' 39.31"
 Long: W102° 02' 56.81"
 API NO. 32931815
 WEL NO. 1A
 DISTRICT/LEASE 08/31325
 LEASE NAME: McCLURG-A-

Lat: N31° 58' 33.75"
 Long: W102° 03' 17.55"
 API NO. 32931937
 WEL NO. 1B
 DISTRICT/LEASE 08/31743
 LEASE NAME: McCLURG-B-

ENG. _____ E.T. _____
 SVY. _____ DFT. _____

LCA JOB No. 2021-001

LCA ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
 521 North Texas, Odessa Tx. 79761 F-001363 F-10034300
 Phone # (432) 332-5058 E-Mail : lca@lcaodessa.com
Personal Service, Today and Tomorrow

§ COUNTY OF MIDLAND
§ STATE OF TEXAS

BEING A 57.55-ACRE REMAINDER OF THAT CERTAIN 101.49-ACRE TRACT AS DESCRIBED IN DOCUMENT NO. 2010-4195 OF THE OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS, IN SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT (Y=10,688,784.49' & X= 1,762,775.17') A 3/8" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE NORTHEAST CORNER OF LOT 1 BLOCK 1 TAHOE LAKES ADDITION, AS RECORDED IN CABINET I, PAGE 190 OF THE MIDLAND COUNTY PLAT RECORDS AND ALSO BEING ON THE SOUTH RIGHT-OF-WAY LINE OF THE CURVED SOUTH RIGHT-OF-WAY LINE OF LATTA STREET AS DESCRIBED IN DOCUMENT NO. 2008-22815 OF SAID OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS HAVING A RADIAL BEARING OF NORTH 37°19'47" WEST;

THENCE ALONG SAID CURVE TO THE LEFT IN A NORTHEASTERLY DIRECTION, HAVING A RADIUS LENGTH OF 330.00 FEET, A DELTA ANGLE OF 33°32'10", AN ARC LENGTH OF 193.15 FEET, A CHORD LENGTH OF 190.41 FEET BEARING NORTH 35°54'06" EAST TO A ½" IRON ROD WITH PLASTIC CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF TANGENCY;

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THENCE ALONG SAID CURVE TO THE RIGHT IN A NORTHEASTERLY DIRECTION, HAVING A RADIUS LENGTH OF 295.00 FEET, A DELTA ANGLE

OF 23°10'30", AN ARC LENGTH OF 119.32 FEET, A CHORD LENGTH OF 118.51 FEET BEARING NORTH 07°33'31" EAST TO A ½" IRON ROD WITH PLASTIC CAP MARKED "LCA ODESSA TX" SET FOR THE POINT OF TANGENCY;

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THENCE SOUTH 71°05'09" EAST WITH THE SOUTHERN LINE OF SAID 7.53-ACRE TRACT, A DISTANCE OF 467.02 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND AT AN ELL CORNER OF THIS SURVEY AND THE NORTHERNMOST CORNER OF THAT CERTAIN 5.57-ACRE TRACT AS DESCRIBED IN DOCUMENT NO. 2014-17375 OF SAID OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY TEXAS;

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THENCE SOUTH 23°29'35" WEST WITH A WEST LINE OF SAID 5.57-ACRE TRACT, A DISTANCE OF 300.87 FEET TO A 3/8" IRON ROD FOUND AT THE SOUTHERNMOST WEST CORNER OF SAID 5.57-ACRE TRACT AND AN ELL CORNER OF THIS SURVEY;

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THENCE SOUTH 72°30'41" EAST, WITH THE SOUTH LINE OF SAID 4.92-ACRE TRACT, A DISTANCE OF 627.03 FEET TO A ½" IRON ROD FOUND AT THE SOUTH CORNER OF SAID 4.92-ACRE TRACT, THE NORTH CORNER OF THAT CERTAIN 2.15-ACRE TRACT AS DESCRIBED IN VOLUME 1817, PAGE 300 OF THE DEED RECORDS OF MIDLAND COUNTY TEXAS AND AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 19°04'38" WEST WITH THE WESTERN LINE OF SAID 2.15-ACRE TRACT, A DISTANCE OF 269.33 FEET TO A ½" IRON ROD FOUND AT THE WEST CORNER OF SAID 2.15-ACRE TRACT AND AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 73°48'45" EAST WITH THE SOUTHERN LINE OF SAID 2.15-ACRE TRACT, A DISTANCE OF 157.05 FEET TO A ½" IRON ROD FOUND AT THE NORTHWEST CORNER OF THAT CERTAIN 1.01-ACRE TRACT AS DESCRIBED IN SAID VOLUME 1817 PAGE 300 OF SAID MIDLAND COUNTY DEED RECORDS FOR AN ELL CORNER OF THIS SURVEY;

THENCE SOUTH 08°35'01" EAST WITH THE WESTERN LINE OF SAID 1.01-ACRE TRACT, A DISTANCE OF 293.86 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE SOUTHWEST CORNER OF SAID 1.01-ACRE TRACT ON THE NORTH RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 20 FOR THE EASTERNMOST SOUTHEAST CORNER OF THIS SURVEY;

THENCE SOUTH 70°34'45" WEST WITH THE NORTH RIGHT-OF-WAY LINE OF SAID INTERSTATE HIGHWAY 20, A DISTANCE OF 899.28 FEET TO A TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) CONCRETE MONUMENT WITH A BRASS DISK (CONTROL MONUMENT) FOR THE POINT OF CURVATURE OF A CURVE TO THE RIGHT;

THENCE ALONG SAID CURVE TO THE RIGHT IN A SOUTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 11,309.20 FEET, A DELTA ANGLE OF 04°59'56", AN ARC LENGTH OF 986.68 FEET, A CHORD LENGTH OF 986.37 FEET BEARING SOUTH 73°03'27" WEST TO A TXDOT CONCRETE MONUMENT WITH BRASS DISK AT THE POINT OF TANGENCY;

THENCE SOUTH 75°34'27" WEST WITH THE NORTH RIGHT-OF-WAY OF SAID INTERSTATE HIGHWAY 20, A DISTANCE OF 192.73 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE SOUTHEAST CORNER OF THAT CERTAIN 3.30-ACRE TRACT AS DESCRIBED IN VOLUME 1198 PAGE 204 OF SAID MIDLAND COUNTY DEED RECORDS FOR THE WESTERNMOST SOUTHWEST CORNER OF THIS SURVEY;

THENCE NORTH 14°32'03" WEST WITH THE EAST LINE OF SAID 3.30-ACRE TRACT, A DISTANCE OF 242.05 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT A POINT OF CURVATURE;

THENCE ALONG SAID CURVE TO THE LEFT IN A NORTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 18.61 FEET, A DELTA ANGLE OF 89°59'12", AN ARC LENGTH OF 29.23 FEET, A CHORD LENGTH OF 26.32 FEET BEARING NORTH 59°31'38" WEST TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE POINT OF TANGENCY;

THENCE NORTH 75°41'32" EAST, A DISTANCE OF 349.07 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF DEFLECTION OF THIS TRACT;

THENCE NORTH 14°33'23" WEST, A DISTANCE OF 173.46 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF DEFLECTION OF THIS TRACT;

THENCE SOUTH 75°37'36" WEST, A DISTANCE OF 45.07 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIAL BEARING OF NORTH 83°54'09" EAST;

THENCE ALONG SAID CURVE TO THE RIGHT IN A NORTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 530.00 FEET, A DELTA ANGLE OF 27°47'11", AN ARC LENGTH OF 257.03 FEET, A CHORD LENGTH OF 254.52 FEET BEARING NORTH 07°47'45" EAST TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE END OF THIS CURVE;

THENCE NORTH 21°41'20" EAST, A DISTANCE OF 522.76 FEET TO 3/8" IRON ROD SET AT THE POINT OF CURVATURE OF A CURVE TO THE LEFT;

THENCE ALONG SAID CURVE TO THE RIGHT IN A NORTHWESTERLY DIRECTION, HAVING A RADIUS LENGTH OF 556.30 FEET, A DELTA ANGLE OF 44°23'54", AN ARC LENGTH OF 431.07 FEET, A CHORD LENGTH OF 420.37 FEET BEARING NORTH 00°30'36" WEST TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT THE POINT OF TANGENCY;

THENCE NORTH 22°42'31" WEST, DISTANCE OF 86.39 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT AN ELL CORNER OF THIS TRACT;

THENCE SOUTH 32°04'31" WEST, DISTANCE OF 61.92 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET AT AN ELL CORNER OF THIS TRACT;

**THENCE NORTH 42°34'20" WEST, DISTANCE OF 168.30 FEET TO THE POINT
OF THE BEGINNING CONTAINING 57.55 SURFACE ACRES.**



City Council Meeting

Item Number: 9
Meeting Date: June 08, 2021
To: City Council / City Manager
From: Kelly Martinez, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 141.53-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND AND MARTIN COUNTIES, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTH STATE HIGHWAY 349 AND OCCIDENTAL PARKWAY); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Purpose:

To consider a request Shenandoah Bar M Ranch, for a zone change from AE, Agricultural Estate District to SF-3, Single Family Dwelling District to construct single-family homes.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the city.

Surrounding Zoning and Land Use:

The properties to the north and east are zoned AE, Agricultural Estate District and the locations of vacant lots. The properties to the south are zoned PD, Planned District, and LR, Local Retail District and the locations of single-family homes and vacant lots. The property to the west is zoned ETJ, Extraterritorial Jurisdiction and the location of pump jacks.

Analysis:

The applicant is requesting approval of a zone change for the development of single-family homes. The property is currently vacant and in the process of being platted. This subdivision will have a total of five hundred and thirty-two (532) residential lots. The minimum lot width of SF-3, Single-Family Dwelling District is 55 feet for corner lots. With that being said, not all corner lots will meet the minimum lot width requirement.

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.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2017 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary.

Engineering: (Approve)

No objection to zone change.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

Our staff has examined the FEMA flood map and it appears that this property lies partially within Zone AH, which is a Special Flood Hazard Area subject to inundation by the 1% annual chance flood.

An elevation certificate based off of construction drawings will be required to get a building permit to show compliance to the 1 foot of freeboard above the base flood elevation for residential structures. An elevation certificate based off of finish construction will be required for the Certificate of Occupancy.

Code: (Approved)

There are three Oil and Gas permitted wells of the ones identified on the plat. (1) Mabee #6 permitted as the #4 with city on 1-25-11, (2) Mabee D #5 permitted on 1-24-12 (3) Mabee #5

permitted as #3 with city on 1-24-12. All currently operated by Pioneer Natural Resources. A 500' radius needs to be included around these wells to identify the area that will need a future variance. A 250' radius is identified, assume that is a working distance that has been worked out with Pioneer. Any occupied residential/commercial permits inside the 500 ft. radius would require a variance to the permitted well from the City Council. A variance would have to be presented to the City Council by the City Building Official. The variance request would be best if it included a letter of endorsement/support to the approved requested distance from the Operator. The needed information/example for variance request can be provided from the City Building Official- Jeff Pinkstaff. Access to well is shown as an ingress/egress. Developer will want to visit with operator to identify exact location of flow lines and electrical lines for all Wells identified on the plat. Recommend that flow lines are located and follow Engineering requirements of depth and location under any city streets.

Transportation: (Approved with Conditions)

Access spacing will be required to adhere to the TxDOT Access Management Standards along the state highway.

Depending on the nature and scale of the proposed development, a Traffic Impact Analysis MAY be required prior to approval of construction drawings.

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.

No objection to zone change.

Planning:

This request is in compliance with the *Tall City Tomorrow Comprehensive Plan, Chapter 3 An Integrated Land Use Vision, Principle 8*, "Land use policies and regulations should create and support balanced neighborhoods." (Tall City Tomorrow pg. 59). This request will aid in promoting balanced neighborhoods offering a variety of housing options.

This request has been recommended for approval by a unanimous vote at the May 3, 2021 Planning and Zoning Commission meeting.

Staff recommends approval of this zone change from AE, Agriculture Estates District, to SF-3, Single-Family Dwelling District, subject to the following condition.

Condition:

- A. That the use and development of the property shall conform to the regulations of the SF-3, Single-Family Dwelling District.**

Letters of Objection:

Staff has not received any objections as of May 12, 2021.

Attachments:

Application
Site Plan (Exhibit A)
Meets and Bounds (Exhibit B)
Maps

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

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 141.53-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND AND MARTIN COUNTIES, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTH STATE HIGHWAY 349 AND OCCIDENTAL PARKWAY); 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 141.53-acre tract of land out of Section 12, Block 39, T-1-S, T&P RR Co. Survey, City of Midland, Midland and Martin Counties, Texas, said tract being more specifically described by metes and bounds in Exhibit “A”, which is attached hereto and incorporated herein (the “Property”) to SF-3, Single-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from AE, Agricultural Estate District to SF-3, Single-Family Dwelling District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all

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

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

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2021; 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., 2021, at a regular

meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT "A"

MAVERICK

ENGINEERING · SURVEY · WATER RESOURCES

1909 West Wall Street, Suite K - Midland, TX 79701

Tel: 432.262.0999 - Fax: 432.262.0989 - maverick-eng.com

ENGINEER FIRM #: F-15089 | SURVEY FIRM #: 10194514



FIELD NOTE DESCRIPTION OF A 141.53 ACRE TRACT OF LAND

FIELD NOTE DESCRIPTION OF A 141.53 ACRE TRACT SITUATED IN AND BEING OUT OF SECTION 12, BLOCK 39, TOWNSHIP 1 SOUTH, TEXAS and PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS AND BEING THE REMAINDER OF SAID SECTION 12, AND BEING TRACT 10 IN EXHIBIT "A", AS CONVEYED IN DOCUMENT NUMBER 2007-3688, IN VOLUME 2814 ON PAGE 708 OF THE OFFICIAL PUBLIC RECORDS OF SAID MIDLAND COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT N.(Y)10724912.06 AND E.(X)1752128.54, A ONE HALF INCH IRON ROD WITH A RED PLASTIC CAP MARKED "MAVERICK FIRM #10194514" (RPC) SET IN THE EAST LINE OF STATE HIGHWAY 349, AS RECORDED IN VOLUME 56 ON PAGE 365 OF THE DEED RECORDS OF SAID MIDLAND COUNTY, AT THE NORTHWEST CORNER OF A 60 FOOT WIDE ROADWAY EASEMENT ON THE LONE STAR TRAILS, SECTION 1 PLAT RECORDED AS PLAT NUMBER 2014-22017 IN PLAT CABINET J ON PAGE 32 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, TEXAS AND BEING THE SOUTHWEST CORNER HEREOF;

THENCE N.14°34'43"W., ALONG THE EAST LINE OF SAID STATE HIGHWAY 349, 1222.43 FEET TO AN "RPC" SET IN POSITION OF A SPIKE NAIL FOUND FOR THE WESTERN MOST SOUTHWEST CORNER OF A CALLED 1.712 ACRE TRACT OF LAND DESCRIBED IN A RESOLUTION OF LIMITED LIABILITY COMPANY WITH CONSENT TO SELL PROPERTY AND AN ANGLE CORNER HEREOF;

THENCE THE FOLLOWING FOUR CALLS OF BEARING AND DISTANCE, ALL TO RPC'S, GOING AROUND SAID 1.712 ACRE TRACT AND BACK TO THE NORTHWEST OF SAID 1.712 ACRE TRACT ON THE EAST LINE OF SAID STATE HIGHWAY 349 AND AN ANGLE CORNER HEREOF; N.82°35'43"E., 120.00 FEET; S.68°34'43"E., 347.26 FEET; N.14°34'43"W., 321.10 FEET; S.75°25'17"W., 400.00 FEET;

THENCE N.14°34'43"W., ALONG THE EAST LINE OF SAID STATE HIGHWAY 349, 423.52 FEET TO AN "RPC" SET FOR THE WEST NORTHWEST CORNER HEREOF;

THENCE S.59°30'36"E., 28.32 FEET TO AN "RPC" SET FOR AN ANGLE CORNER HEREOF;

THENCE N.75°33'31"E., 271.23 FEET TO AN "RPC" SET FOR AN ANGLE CORNER HEREOF;

THENCE N.14°26'20"W., AT 456.17 FEET CROSSING THE LINE COMMON TO SAID MIDLAND COUNTY AND MARTIN COUNTY, TEXAS, IN ALL 670.00 FEET TO AN "RPC" SET FOR THE NORTH NORTHWEST CORNER HEREOF;

THENCE N.75°33'31"E., 2761.96 FEET TO AN "RPC" SET FOR NORTHEAST CORNER HEREOF;

THENCE S.14°26'20"E., AT 969.77 FEET CROSSING THE LINE COMMON TO SAID MARTIN COUNTY AND MIDLAND COUNTY, IN ALL 1833.58 FEET TO AN RPC SET FOR THE POINT OF CURVATURE ON A CURVE TO THE LEFT WITH A RADIUS OF 470.00 FEET AND A CHORD BEARING AND DISTANCE OF S.25°33'39"E., 181.33 FEET;

THENCE ALONG THE ARC OF SAID CURVE 182.47 FEET TO AN "RPC" SET FOR THE POINT OF REVERSE CURVATURE FOR A CURVE TO THE RIGHT HAVING A RADIUS OF 530.00 FEET AND A CHORD BEARING AND DISTANCE OF S.25°33'39"E., 204.47 FEET;

THENCE ALONG THE ARC OF SAID CURVE 205.76 FEET TO AN "RPC" SET FOR THE POINT OF TANGENCY

THENCE S.14°26'20"E., 185.94 FEET TO AN "RPC" SET IN THE NORTH LINE OF A 60 FOOT WIDE ROADWAY EASEMENT ON THE LONE STAR TRAILS, SECTION 5 PLAT RECORDED IN CABINET J ON PAGES 172 AND 173 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, TEXAS AND BEING THE SOUTHEAST CORNER HEREOF;

THENCE S.75°33'40"W., ALONG THE NORTH LINE OF SAID 60 FOOT WIDE ROADWAY EASEMENT 1500.63 FEET TO AN RPC SET FOR THE SOUTHEAST CORNER OF RENEW LIFE CHURCH AS SHOWN ON A PLAT IN DOCUMENT NUMBER 2018-3291 IN CABINET L, ON PAGE 23 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, TEXAS AND BEING AN ANGLE CORNER HEREOF;

THENCE THE FOLLOWING FOUR CALLS OF BEARING AND DISTANCE, ALL TO RPC'S, GOING AROUND SAID RENEW LIFE CHURCH AND BACK TO A P.K. NAIL WITH A WASHER FOUND FOR THE SOUTHWEST CORNER OF SAID RENEW LIFE CHURCH AND ON THE NORTH LINE OF SAID 60 FOOT WIDE ROADWAY EASEMENT FOR AN ANGLE CORNER HEREOF; N.14°26'20"W., 364.66 FEET; S.75°33'40"W., 521.32 FEET; N.14°26'20"W., 512.34 FEET; S.75°33'40"W., 823.58 FEET; S.14°34'43"E., 877.00 FEET;

THENCE S.75°33'40"W., ALONG THE NORTH LINE OF SAID 60 FOOT WIDE ROADWAY EASEMENT 280.00 FEET TO THE **POINT OF BEGINNING**, CONTAINING 141.53 ACRES OF LAND.



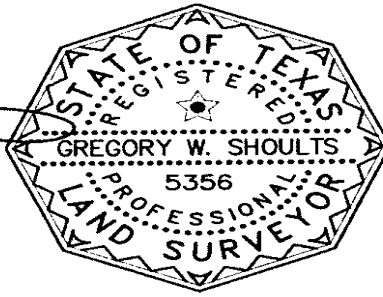
March 28, 2021

Gregory W. Shoults

www.maverick-eng.com

Texas RPLS - No. 5356

Maverick Engineering (FIRM – No. 10194514)





**FIELD NOTE DESCRIPTION OF
A 141.53 ACRE TRACT OF LAND**

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THENCE S.59°30'36"E., 28.32 FEET TO AN "RPC" SET FOR AN ANGLE CORNER HEREOF;

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THENCE ALONG THE ARC OF SAID CURVE 182.47 FEET TO AN "RPC" SET FOR THE POINT OF REVERSE CURVATURE FOR A CURVE TO THE RIGHT HAVING A RADIUS OF 530.00 FEET AND A CHORD BEARING AND DISTANCE OF S.25°33'39"E., 204.47 FEET;

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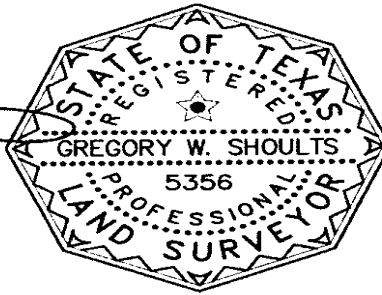
March 28, 2021

Gregory W. Shoults

www.maverick-eng.com

Texas RPLS - No. 5356

Maverick Engineering (FIRM – No. 10194514)





Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 2-21-0234

Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: _____

Phone ()
Email _____

Address _____

City _____

State _____

Zip _____

Property Owner

Printed Name: Shenandoah Bar M Ranch LLC

Phone ()
Email _____

Address 24 Smith Rd Ste 601

City Midland

State TX

Zip 79705

Representative (if different from Applicant or Property Owner)

Firm: Maverick Engineering

Printed Name: Paladin Huckaba

Phone (432) 262-0999
Email _____

phuckaba@maverick-eng.com

Address 1909 W Wall St Ste K

City Midland

State TX

Zip 79701

Street Address: NA (N Hwy 349/Occidental Pkwy)**Legal Description** Section 12

Lot: _____ Block: 39 Subdivision: _____

Current Zoning: AE**Proposed Zone:** SF3

(List by tracts if more than one district is requested)

Reason for Zone Change Request: Allow for the construction of Single Family homes**Present Use of Property:** Vacant**Proposed Use of Property:** Single Family Homes**How would this zone change affect the public health, safety and welfare?** No adverse affect.**Describe how conditions affecting the property have changed since present zoning designation:** none**Submittal and Fees****Items to be submitted with this application form:**

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

PACKET

9.12

June 8, 2021

Signature (by property owner only – authorized agent must sign affidavit below)

Applicant (signature):

Date:

Applicant (printed):

Property Owner (signature):

DocuSigned by:

Troy Martin

Date: 3/31/2021

Property Owner (printed):

Troy Martin

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.

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 Andrew L Mellen who, being by me duly sworn, upon oath says: That (s)he is authorized by Troy Martin, 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.

Andrew L Mellen
Authorized Agent (signature)

Subscribed and sworn to before me, this 31st day of March, 20 21, to certify which witness my hand and seal of office.



Kelsey Ann Stine

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY
☒ Property Owner Authorization

☐ Dimensioned Site Plan

☒ Application Fee

☐ Plans in Digital Format (PDF/JPEG)

Check # 3922

Received By: V. Shering

Date:

RECEIVED
MAR 31 2021

BT:

PACKET

Application will not be considered for scheduling until reviewed by a planner.

SKETCH PLAT SHENANDOAH RIDGE

BEING A 141.53 AC. ACRE TRACT OF
LAND IN SECTION 12, BLOCK 39,
T-1-S, & T&P RR Co. SURVEY,
CITY OF MIDLAND, MIDLAND
AND MARTIN COUNTIES, TEXAS



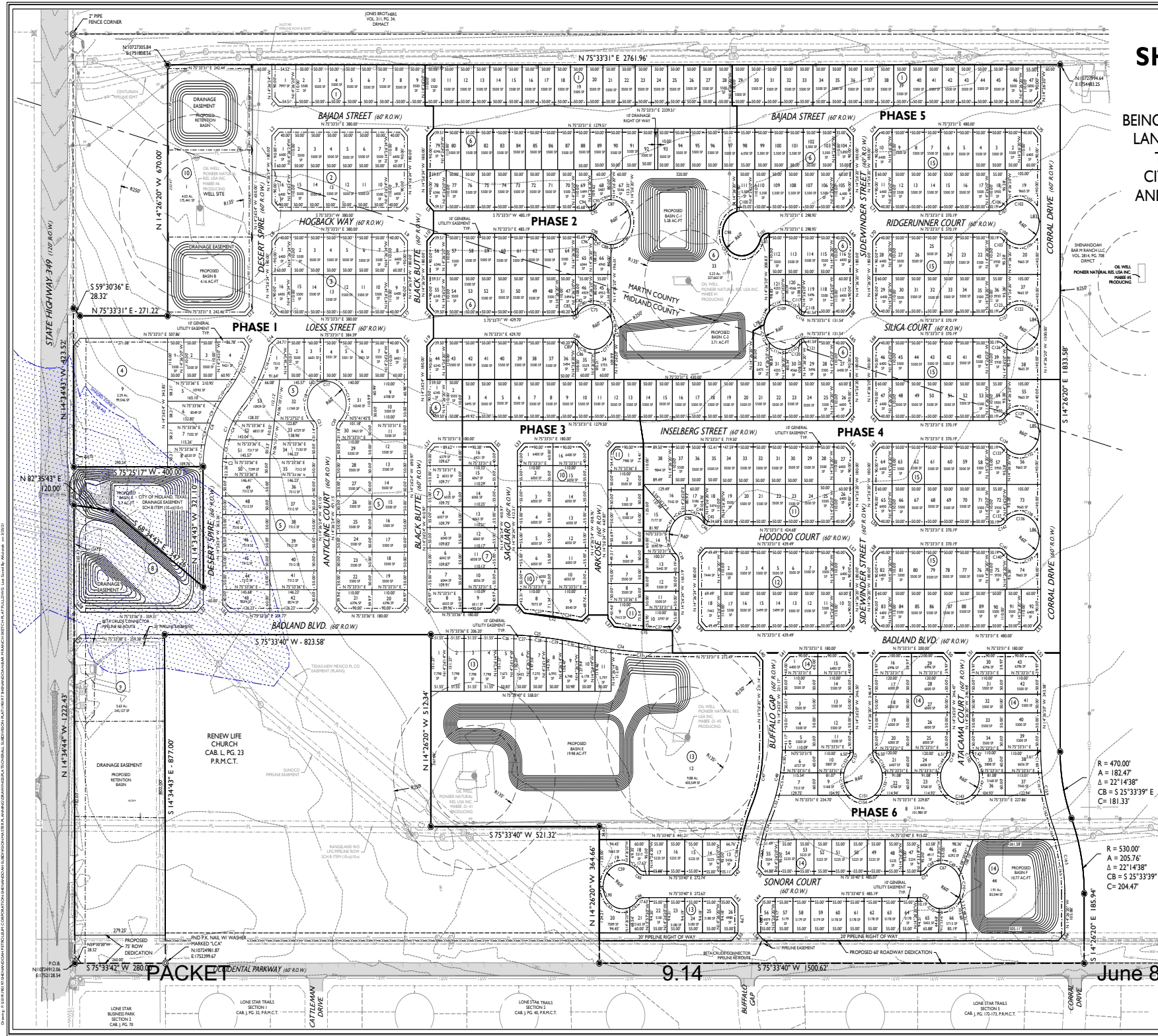
BEARING, DISTANCES AND COORDINATES
ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM,
TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983,
U.S. SURVEY FOOT.

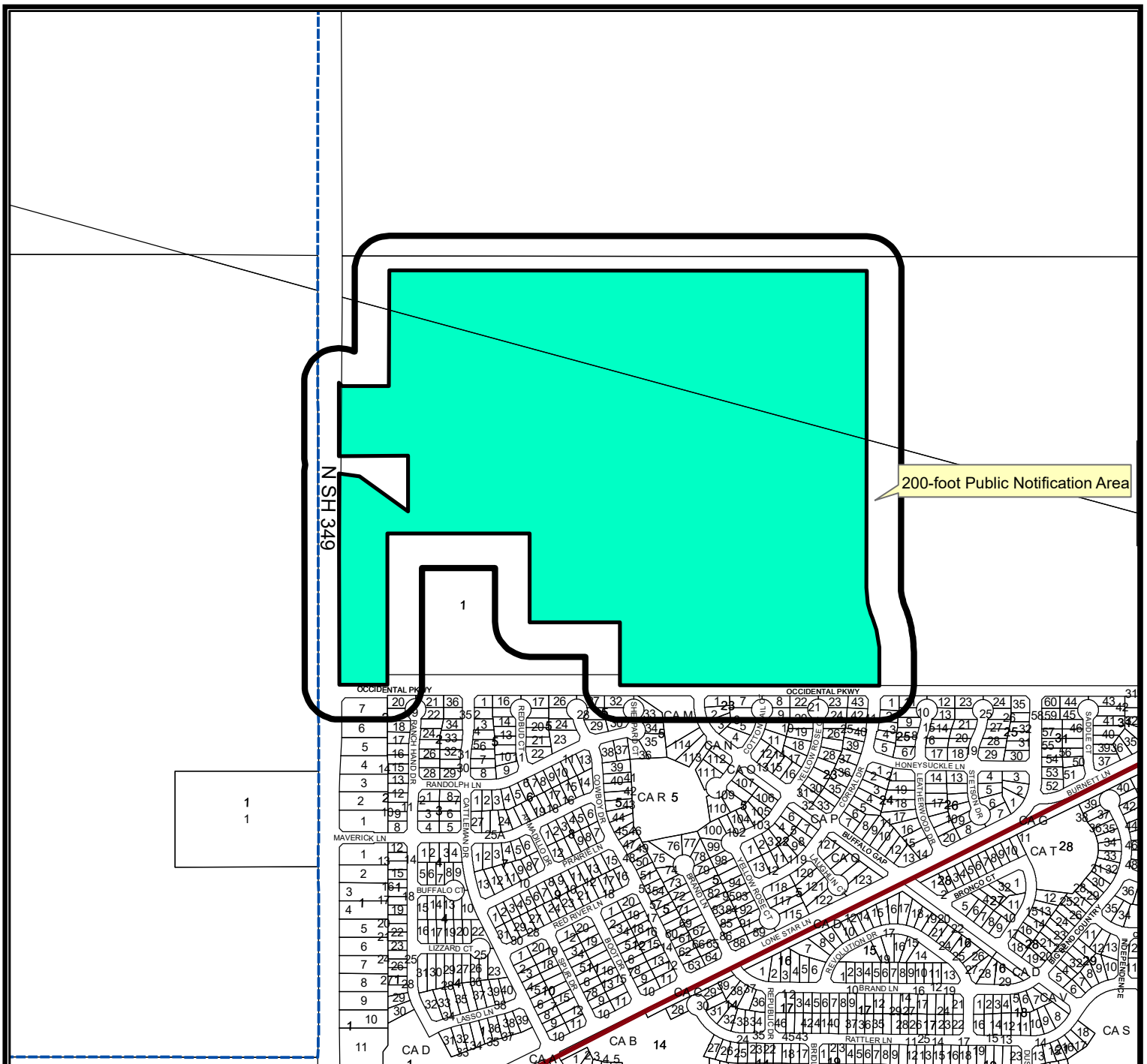
LEGEND

- DENOTES TEXAS DOT HIGHWAY MONUMENT
 - DENOTES 1/2 INCH X 3/4 INCH WOOD WIRE PLASTIC CAP MARKED "MAVERICK RPHS 101945"
 - DENOTES FOUND MONUMENT AS NOTED
 - DENOTES EXISTING ELECTRIC BOX
 - DENOTES EXISTING FIRE HYDRANT
 - DENOTES EXISTING GUY ANCHOR
 - DENOTES EXISTING LIGHT POLE
 - DENOTES EXISTING POWER MARKER
 - DENOTES EXISTING WATER VALVE
 - DENOTES EXISTING FLAG
 - DENOTES EXISTING SIGN
 - DENOTES EXISTING STOP SIGN
 - DENOTES EXISTING PNEUMATIC TEST STATION
 - DENOTES EXISTING POWER POLE
 - DENOTES EXISTING UTILITY MARKER
 - DENOTES PROPOSED BOUNDARY LINE
 - DENOTES EXISTING PROPERTY LINE
 - DENOTES PROPOSED EASEMENT LINE
 - DENOTES EXISTING EASEMENT LINE
 - DENOTES EXISTING SECTION LINE
 - DENOTES EXISTING OVERHEAD ELECTRIC LINE
 - DENOTES EXISTING UNDERGROUND ELECTRIC LINE
 - DENOTES EXISTING FENCE LINE
 - DENOTES EXISTING PIPELINE
 - DENOTES EXISTING ASPHALT EDGE
 - DENOTES EXISTING PAVEMENT
 - DENOTES EXISTING ROAD PLAIN
- OPRM.CT. OFFICIAL PUBLIC RECORDS, MIDLAND CO., TX
DRP.CT. DEED RECORDS, MIDLAND CO., TX
PRM.CT. PLAT RECORDS, MIDLAND CO., TX
OPRM.CT. OFFICIAL PUBLIC RECORDS, MARTIN CO., TX
DRP.CT. DEED RECORDS, MARTIN CO., TX
PRM.CT. PLAT RECORDS, MARTIN CO., TX

MAVERICK
ENGINEERING / SURVEY / WATER RESOURCES
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER: FRANK A. J. JENSEN
SURVEY FIRM # 1019454
Tel: (409) 362-0999 Fax: (409) 362-0999
www.Maverick-Eng.com

June 8, 2021
SHENANDOAH RIDGE
SHEET 2 OF 2





LOCATION MAP

Z-21-0234

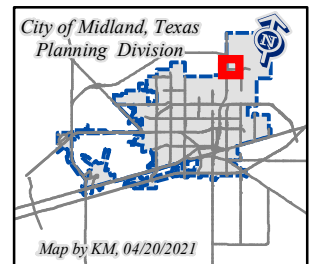
Scale: 1" = 833'

Consider a request by Shenandoah Bar M Ranch for a zone change from AE, Agricultural Estate District to SF-3, Single-Family Dwelling District on a 141.53-acre tract of land located in Section 12, Block 39, T-1-S, T&P. RR. Co. Survey, City of Midland, Midland and Martin Counties, Texas.

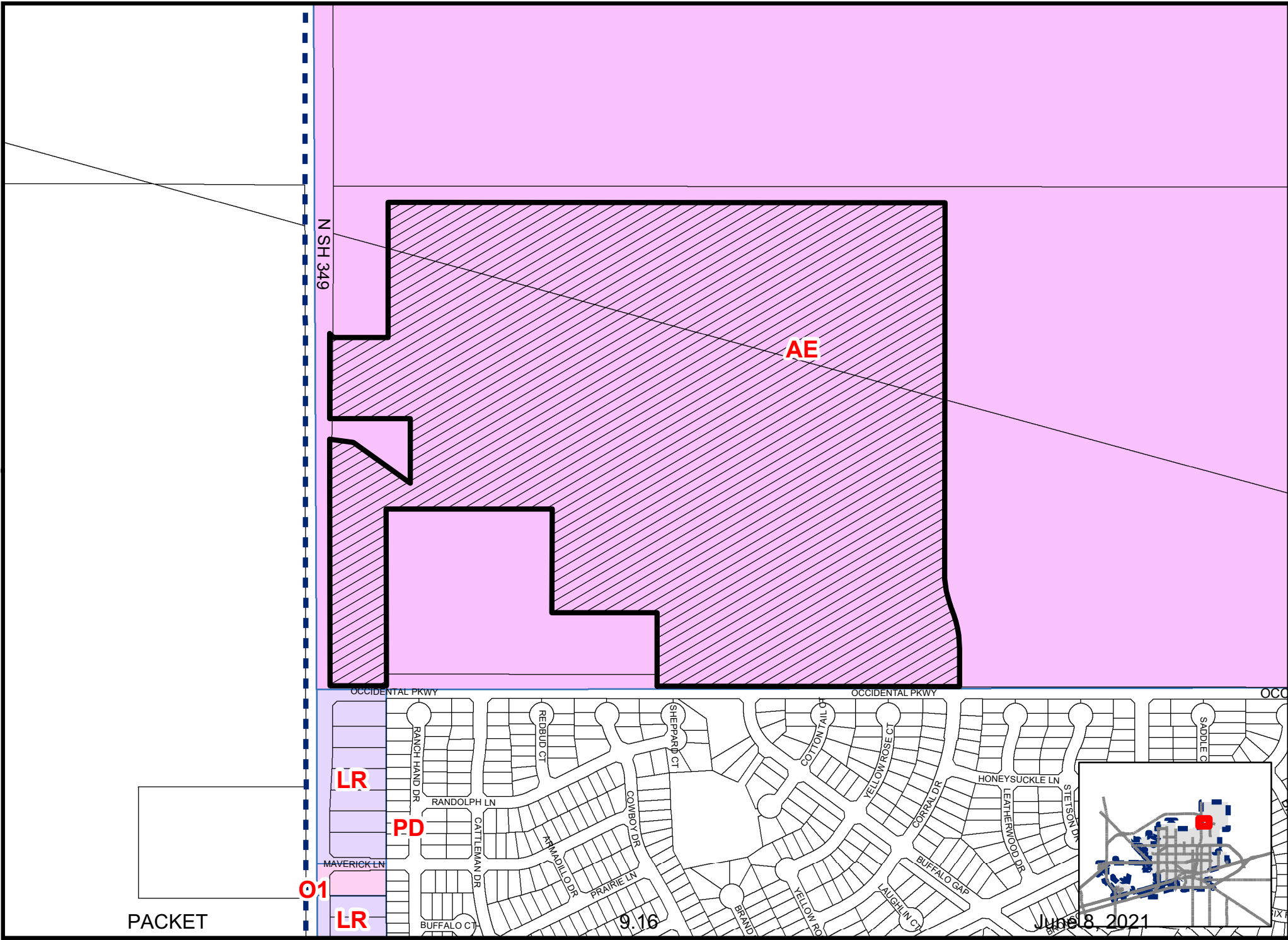
Generally located on the northeast corner of North State Highway 349 and Occidental Parkway.
(Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 8, 2021



PACKET













City Council Meeting

Item Number: 10
Meeting Date: June 08, 2021
To: City Council / City Manager
From: Valerie A. Sherman, Senior Planner
Subject: AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 4, 5 AND 6, WEST WAY ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF WEST GOLF COURSE ROAD AND HUGHES STREET), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Purpose:

The applicant, Mark Pelletier, is requesting a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum front yard setback for a corner lot to be able to construct an addition for two new restrooms, on the east side of the building.

Recommended City Council Action:

Deny

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located at 1701 Hughes Street. This property is currently zoned SF-1, Single-Family Dwelling District and is the location of a church.

Per our City of Midland Zoning Ordinance, *Section 5.04 – Residential Zoning District Dimensional Regulations Chart*:

SF-1, Single-Family Dwelling District
Lot Setbacks
Minimum Front Yard Setback: 25 feet

The applicant's property would have to meet the minimum front yard setback of 25 feet, as listed in the zoning ordinance.

The applicant is requesting to construct an addition for two new restrooms, which would be built at 19 feet and 11 inches from the east front yard lot line, encroaching 5' – 1" into the front yard setback.

This request has been circulated to all pertinent City departments for review. Below are the departments' comments.

Engineering: (Approved)

No objection to zone change.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

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.

No objection to zone change.

Fire: (Approved)

No objection to zone change.

Code Compliance: (Approved)

No oil or Gas issues.

Building: (Approved)

No objections. Addition must be built to the 2018 International Building Codes.

Planning Analysis:

As this request represents a deviation from the existing Zoning Ordinance and no hardship has been shown, staff recommends denial of this request for a Special Exception to the City of Midland Zoning Ordinance, *Section 5.04 – Residential Zoning District Dimensional Regulations Chart*, concerning the minimum front yard setback on the east property line. If approved, staff recommends it should be subject to conditions A and B:

Conditions:

- A. That the property shall significantly conform to the site plan as shown in Exhibit “A”, which is attached hereto and incorporated herein for all purposes.**
- B. That the minimum front yard setback on the east side of the lot shall be nineteen (19) feet and eleven (11) inches.**

Letters of Objection:

As of May 21, 2021, staff has not received any letters of objections.

Attachments:

Site Plan (Exhibit A)
Application
Maps



City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 4, 5 AND 6, WEST WAY ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF WEST GOLF COURSE ROAD AND HUGHES STREET), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

WHEREAS, the City Council modified the authority of the Board of Adjustment in Title XI, Chapter 1, Section 7 ("Section 11-1-7") of the Midland City Code; and

WHEREAS, Section 11-1-7 provides for the consideration of requests for special exceptions to the Midland Zoning Ordinance; and

WHEREAS, the Council finds that satisfactory evidence has been presented that the use to be authorized by the granting of the special exception will not be detrimental to the health, safety, comfort and welfare of the occupants of the land area near the tract on which the use to be allowed by special exception will be located; and

WHEREAS, the Council finds that it is clearly and specifically authorized by the terms of Section 11-1-7 to grant such a special exception, and said exception will be in harmony with the general purposes and intent of the zoning provisions of the Midland City Code; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to grant a special exception to the Zoning Code, pursuant to Section 11-1-7, for the purposes herein stated, subject to special conditions;

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

SECTION ONE. That a special exception is hereby granted for the property

PACKET 10.4 June 8, 2021

described as Lots 4, 5 and 6, West Way Addition, Section 4, City and County of Midland, Texas. Said special exception shall allow a reduced minimum front yard setback.

SECTION TWO. Said special exception is subject to the following special conditions:

- A. That the minimum front yard setback shall be nineteen feet, eleven inches (19' 11").
- B. That the Property shall significantly conform to Exhibit "A", which is attached hereto and incorporated herein for all purposes.

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

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

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to file this ordinance with the Office of the County Clerk for purposes of recordation.

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2021; 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., 2021, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

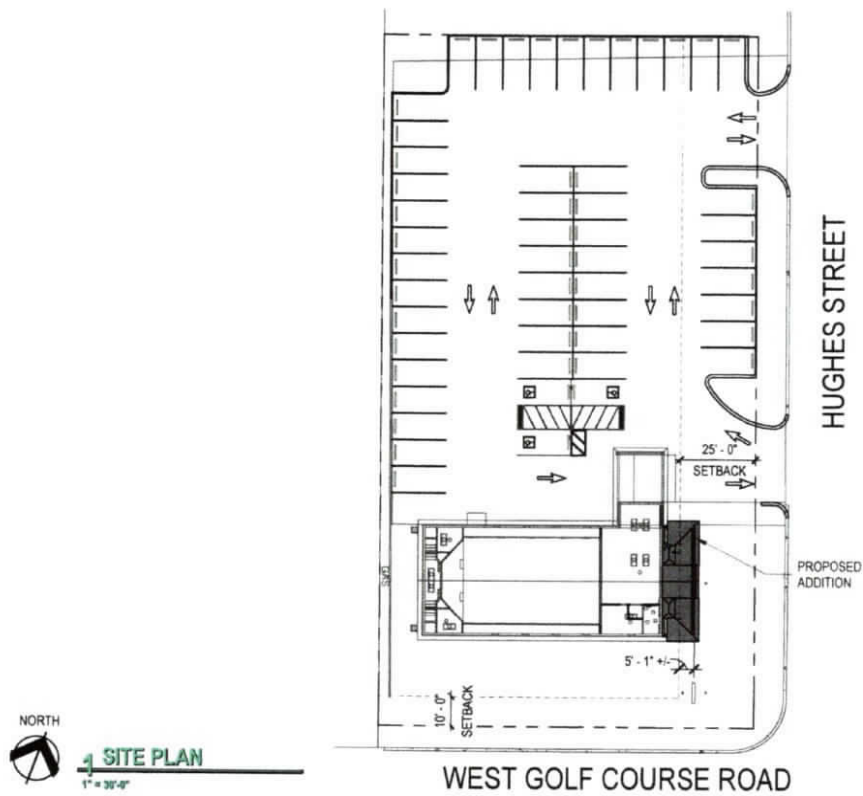
APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

Exhibit A



X2.02

SITE PLAN

SCALE: 1" = 30'-0"
DATE: 2-20-2020
PROJECT: 00120 - WESTWAY CHURCH of CHRIST 00120 - Westway Church of Christ VJLM

WESTWAY CHURCH of CHRIST
INTERIOR RENOVATIONS

VANDERGRIF GROUP
ARCHITECTS • PC
312 N. BIG SPRING SUITE 100 | (432) 687-8781 | MIDLAND, TEXAS
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Special Exception Application

Project Number: E-21-0052

Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2)Printed Name: MARK PELLETIERPhone (432) 687-0781Email mpelletier@vandergriff-group.comAddress 312 N. BIG SPRING ST.City MIDLANDState TXZip 79701**Property Owner**Printed Name: CHRIST TRUSTEESPhone (432) 889-6987Email WESTWAYCHURCH@gmail.comAddress 1701 HUGHES ST.City MIDLANDState TXZip 79705**Representative** (if different from Applicant or Property Owner)

Firm: _____

Printed Name: _____

Phone () _____

Email _____

Address _____

City _____

State _____

Zip _____

Street Address: 1701 HUGHES ST. MIDLAND, TX.**Legal Description**Lot: 004-006 Block: 001 Subdivision: ADD'N WEST WAY SEC 4**Current Zoning:****This property qualifies as an exception to the City Code because:**

- ☐ It is an expansion of a nonconforming use.
- ☐ There are existing nonconforming structures in the area.
- ☒ The addition of architectural or other projections of a minor extent.

Reason for Request: WOULD LIKE TO ENCR OACH ON FRONT YARD SETBACK 5'-1" FOR A BATHROOM ADDITION. PLACEMENT ON NADLEY HAS SAFETY CONCERNS AS THE MONUMENT SIGN HAS BEEN HIT IN THE PAST.

Submittal and Fees**Items to be submitted with this application form:**

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan showing:
 - Parking
 - Building Footprint
- Digital Copies of Site Plan (PDF/JPEG)

Signatures

Applicant (signature):

Mark R. Pelletier

Date: 4/23/21

Applicant (printed):

MARK R. PELLETIER

Property Owner (signature):

KCF Christ Trustees Representative

Date: 4/27/21

Property Owner (printed):

Kevin A. Fox Christ Trustees Representative

The Special Exception 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 MARK R. PELLETIER who, being by me duly sworn, upon oath says: That (s)he is authorized by KEVIN FOX, CHRIST TRUSTEES REPRESENTATIVE, 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.

Mark R. Pelletier
Authorized Agent (signature)

Subscribed and sworn to before me, this 27th day of APRIL, 2021, to certify which witness my hand and seal of office.



Jeri Lin Getz
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☒ Property Owner Authorization

☐ Dimensioned Site Plan

☒ Application Fee

☒ Plans in Digital Format (PDF/JPEG)

Check # 22139

Received By:

Joseph M. Mays

Date:

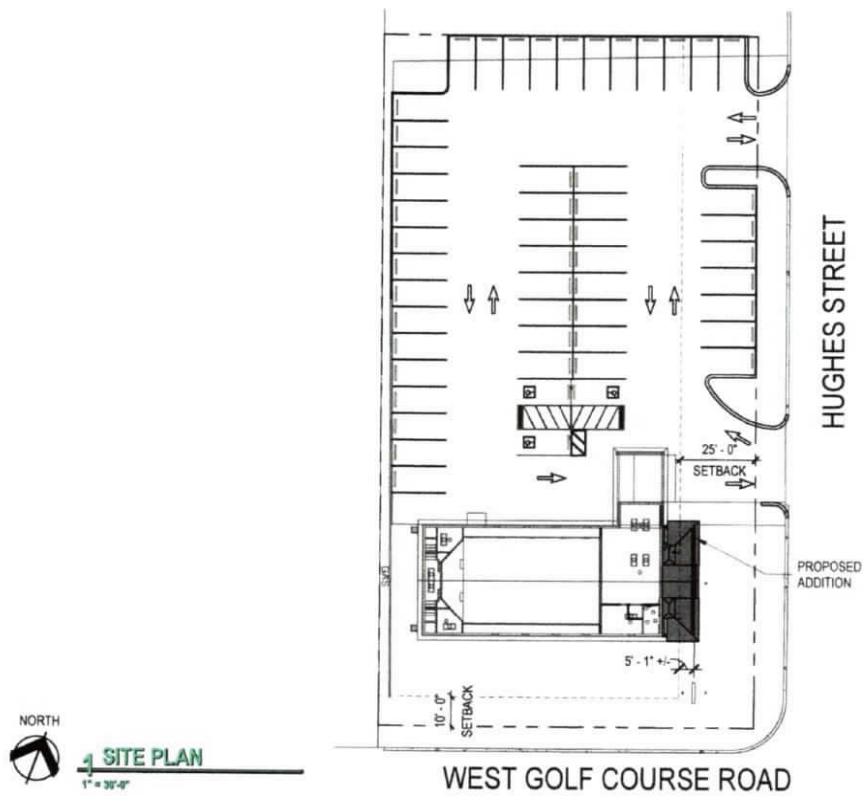
RECEIVED
APR 30 2021

BY:

JM

*PACKET
Application will not be considered for scheduling until reviewed by a planner.*

Exhibit A



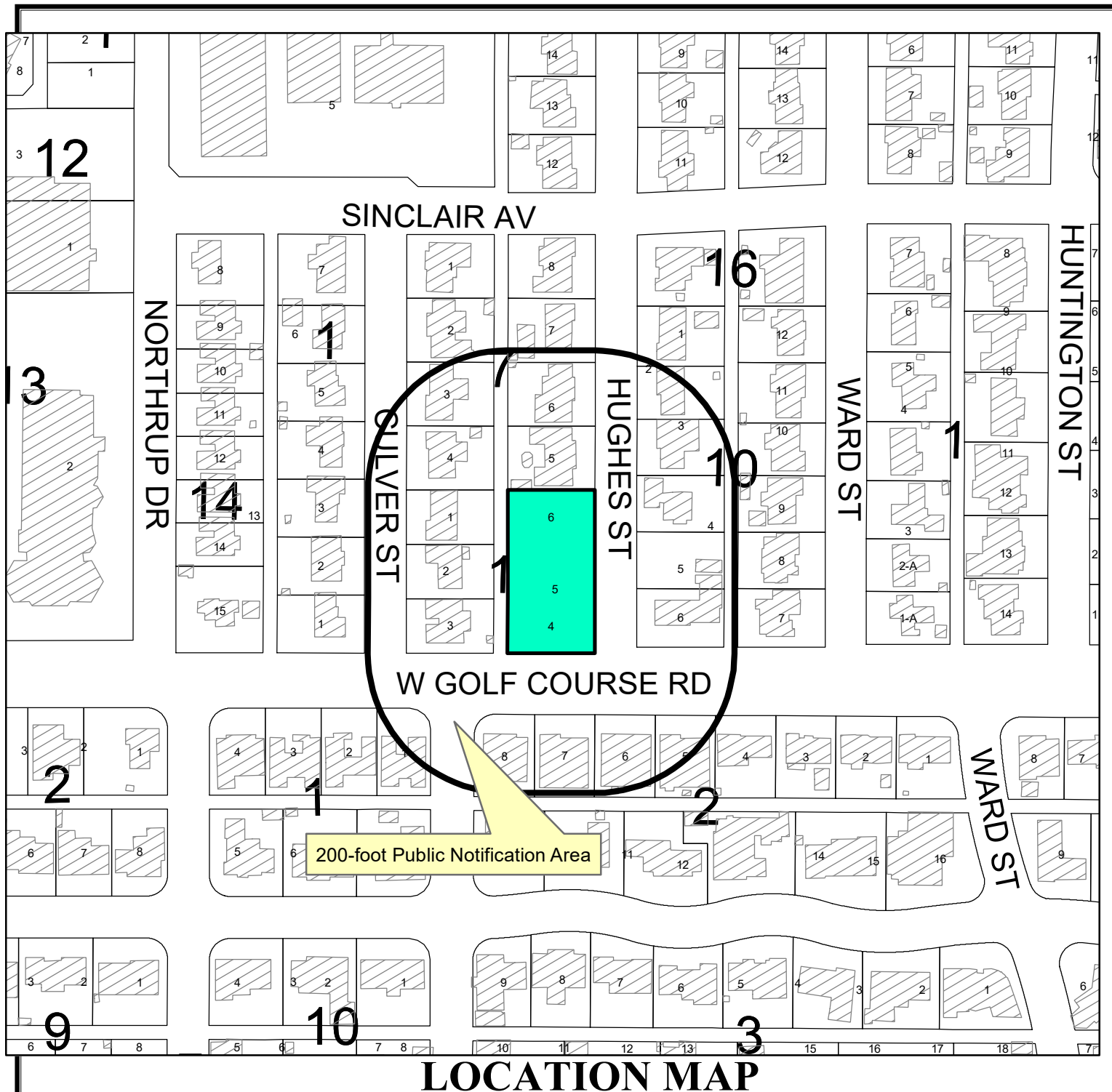
X2.02

SITE PLAN

SCALE: 1" = 30'-0"
DATE: 2-20-2020
PROJECT: 00120 - WESTWAY CHURCH of CHRIST 00120-Westway Church of Christ-VJL/ML

WESTWAY CHURCH of CHRIST
INTERIOR RENOVATIONS

VANDERGRIF GROUP
ARCHITECTS • PC
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E-21-0052

Scale: 1" = 200'

Consider a request by Mark Pelletier for a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum front yard setback for a corner lot on Lots 4, 5, and 6, Block 1, West Way Addition, Section 4, City and County of Midland, Texas.

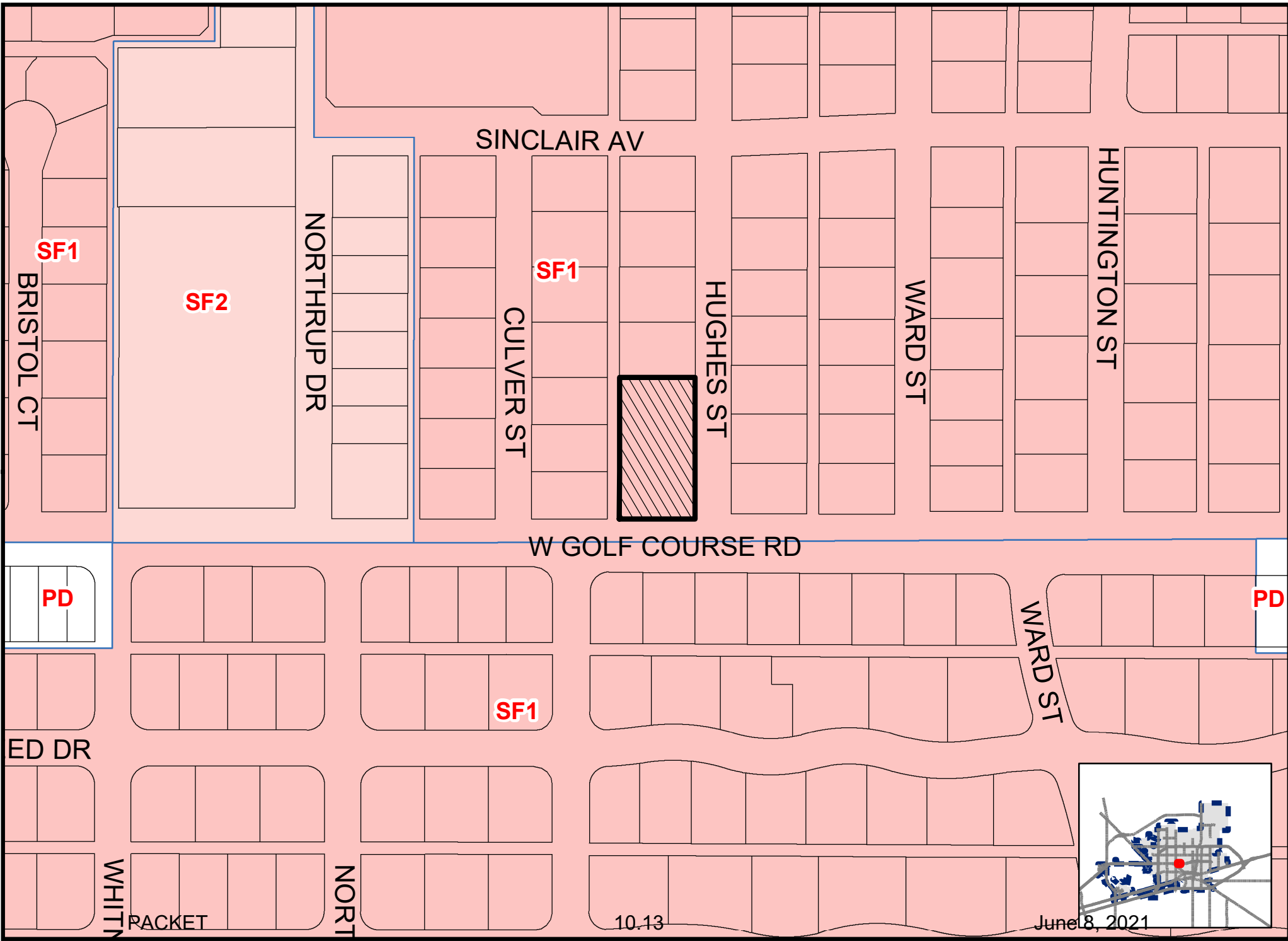
Generally located on the northwest corner of the intersection of W. Golf Course Road and Hughes Street. (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 8, 2021











MIDLAND
City Attorney's Office
City of Midland
Office Memorandum

DATE: May 25, 2021

TO: The Honorable Mayor and City Council Members

FROM: John Ohnemiller, City Attorney

SUBJECT: A proposed ordinance amending Title III, “Departments”, Chapter 3, “Hotel Occupancy Tax”, Section 1, “Definitions”, of the City Code of Midland, Texas, so as to define “hotel” in accordance with state law.

The proposed ordinance amends Title III, “Departments”, Chapter 3, “Hotel Occupancy Tax”, Section 1, “Definitions”, of the City Code of Midland, Texas, by defining “hotel” in accordance with Section 156.001 of the Texas Government Code.

The ordinance would expressly include “short-term rental” in the definition of “hotel.” “Short-term rental” means “the rental of all or part of a residential property to a person who is not a permanent resident” (e.g., an Airbnb rental). Section 156.001(b) of the Texas Government Code includes “short-term rental” in the definition of “hotel,” and expressing this in the City Code will prevent confusion among local short-term rental operators regarding whether the City’s hotel occupancy tax must be collected and paid.

Additionally, the ordinance would exclude “oilfield portable unit,” as that term is defined by Section 152.001 of the Texas Government Code, from the definition of “hotel.” Section 156.001(a) of the Texas Government Code excludes “oilfield portable unit” from the definition of “hotel,” so it is not subject to state or local hotel occupancy tax. Thus, it would be prudent to exclude it from the City’s definition of “hotel.” Section 152.001 of the Texas Government Code defines “oilfield portable unit” as “a bunkhouse, manufactured home, trailer, or semitrailer that:

- (A) is not a travel trailer, as defined by Section 502.166(e), Transportation Code;
- (B) is designed to be used for temporary lodging or as temporary office space;
- (C) is used exclusively at any oil, gas, water disposal, or injection well site to provide to well site employees, contractors, or other workers sleeping accommodations or temporary work space, including office space; and
- (D) does not require attachment to a foundation or to real property to be functional.”

Please do not hesitate to contact me should you have any questions.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE III, “DEPARTMENTS”, CHAPTER 3, “HOTEL OCCUPANCY TAX”, SECTION 1, “DEFINITIONS”, OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DEFINE “HOTEL” IN ACCORDANCE WITH STATE LAW; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, the City Council finds it to be in the public interest to make certain amendments to the Midland City Code so as to define “hotel” in accordance with Section 156.001, Government Code;

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

SECTION ONE. That the Midland City Code Title III, “Departments”, Chapter 3, “Hotel Occupancy Tax”, Section 1, “Definitions”, shall hereby be amended to read in its entirety as follows:

3-3-1. Definitions.

As used in this Chapter:

- (A) “Hotel” means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, bed and breakfast, or short-term rental. The term does not include:
- (1) a hospital, sanitarium, or nursing home;
 - (2) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Education Code, as amended, used by the institution for the purpose of providing sleeping

accommodations for persons engaged in an educational program or activity at the institution; or

- (3) an oilfield portable unit, as defined by Section 152.001, Government Code, as amended.
- (B) “Permanent resident” means a person who has the right to use or possess a room in a hotel for at least 30 consecutive days, so long as there is no interruption of payment for the period.
- (C) “Short-term rental” means the rental of all or part of a residential property to a person who is not a permanent resident.
- (D) “Tourism” means the guidance or management of tourists.
- (E) “Tourist” means an individual who travels from the individual’s residence to a different municipality, county, state, or country for pleasure, recreation, education, or culture.

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

SECTION 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 five hundred dollars (\$500.00) pursuant to State law.

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., 2021; 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., 2021, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Morris Williams, Assistant City Manager

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 12
Meeting Date: June 08, 2021
To: City Council / City Manager
From: Elizabeth Shaughnessy, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 27.05-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-3, SINGLE-FAMILY DWELLING DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF OCCIDENTAL PARKWAY, APPROXIMATELY 1,335 FEET EAST OF CARRIAGE 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 (DEVELOPMENT SERVICES)

Purpose:

The applicant, Betenbough Homes is requesting approval of a zone change to allow for the development of smaller, more affordable homes.

Recommended City Council Action:

Deny

Fiscal Impact:

This proposal does not have a significant financial impact to the city.

Surrounding Zoning and Land Use:

The properties to the north and east are zoned AE, Agricultural Estate District, and the location of vacant land; The property to the south is zoned SF-3, Single Family Dwelling District, and the location of vacant land. The property to the west is zoned PD, Planned Development District and

the location of vacant land.

Discussion:

The applicant, Betenbough Homes, is requesting approval of a zone change for the development of smaller, more affordable homes. This proposed subdivision will have a total of one hundred and twenty-one (121) residential lots and one (1) common area. The current zoning of this property is SF-3, Single-Family Dwelling District, which requires a minimum lot area of 5,500 square feet; interior lots to measure 50'x100' and corner lots to measure 55'x100'. In addition, a maximum lot area allowed coverage of 65%.

With this zone change, the developer will be able to plat 78 lots with widths ranging from 37.14 - 45 feet, and depths ranging from 65 – 85 feet. The lot areas will range from 4,145 to 5,192 square feet, with a majority of the lots with a square footage of 4,250. The breakdown that the developer has provided as average lot sizes are as followed:

- 50' x 85' = 57 (approx. 4,250 sqft)
- 45' x 115' = 21 (approx. 5,175 sqft)
- 50' x 115' = 42 (approx. 5,750 sqft)

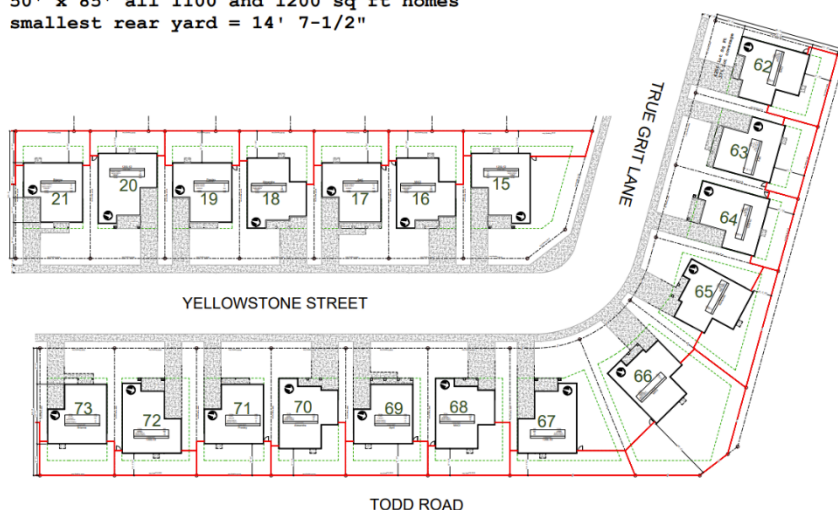
In addition, the developer has provided some data in retrospect to the smaller rear yard dimensions (14' 7-1/2").

Chart 1

Lot Size	Least Lot Ft ²	Product	Smallest Rear Yard Depth	Avg Lot Coverage
50' x 85'	4145	1100 – 1200 Ft ²	14' 7-1/2"	38%
45' x 115'	5175	1300 - 1600 Ft ²	25'	39%
50' x 115'	5500	1300 – 2000 Ft ²	25'	44%

And a diagram laying out some of the smallest rear yards.

50' x 85' all 1100 and 1200 sq ft homes
smallest rear yard = 14' 7-1/2"



The appropriate setbacks and maximum height of future development must meet the regulations as described in Section 5.04 Residential Zoning District Dimensional Regulations chart. For an SF-3, Single Family Dwelling District the minimum front yard setback is of 20'; minimum interior lot side yard setback is of 5' and corner lot yard setback is of 10'; and a minimum rear yard lot seatback where no alley adjoins the rear lot line is 10' for a 1-story structure.

This proposed zone change has been circulated to and reviewed by respective City departments and their comments, conditions, and requirements are as follows:

Engineering: (Approved)

No objection to zone change.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

Fire: (Approved)

No objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary.

Code Compliance: (Approved)

No Oil or Gas wells or tank battery identified within 500 ft. permitted well radius or in the 135 ft.

non-permitted well radius of location on plat.

Transportation: (Approved with Conditions)

Street layout may need to be adjusted as per discussion with the Applicant's engineer regarding the plat.

Provide 20 ft x 20 ft intersection corner clips at property corners adjacent to all public street intersections, including at Todd Dr.

No objection to zoning variances.

Planning:

This request overall does not comply with the Tall City Tomorrow Comprehensive Plan. The proposed development does satisfy one aspect of the comprehensive plan, however they ignore several others which are equally if not more important.

Principle 4 of Chapter 3 of the Tall City Tomorrow Plan seeks to increase the diversity of the housing stock in Midland specifically including the need of smaller lot homes. Principle 5 of the same chapter, however, requests planning for community amenities such as parks and open space to support “community activity, personal interaction a sense of place, and ultimately a sense of ownership in the community.” Additionally, Principle 8 of the same chapter requests that land use policies and regulations support the creation of more balanced neighborhoods, which include “a variety of housing options, access to open space, and contain activity centers such as parks...” The applicant is not proposing to provide recreation amenities throughout the subdivision, meaning that the yards of these properties will serve this purpose for residents. With the reduced lot sizes, each property would have approximately 30% smaller yards when compared to the same size house placed on a standard SF-3 sized lot. This is a significant reduction in open space for the residents, especially due to the lack of proposed community amenities in this subdivision.

Chapter 9 of the Tall City Tomorrow Plan also seeks to keep us aware of the need for parks and recreational development as Midland continues to expand. Goal 1 of Chapter 9 seeks to provide park facilities accessible to the growing population, nothing that “Midland’s historic trend has been to focus on the need for housing and commercial needs during growth periods without the consideration of additional open space needs.” Allowing this development to continue as it is planned would fall directly into this trend and make it difficult to supply this community with the needed recreation amenities in the future. Chapter 9 also highlights that creating park space in the area outside of Loop 250 should be a priority as developments continue. Ignoring this opportunity to create park space.

In conclusion, this project does not represent a true planned district as it lacks an overall scheme of a diverse mix use of residential development and no appreciable amenities for the planned district. In addition, due to the reduced lot size, lot coverage would be increased compared to putting the small house on an appropriately sized SF-3 lot.

Therefore, staff recommends denial of the Zone Change from SF-3, Single Family Dwelling District to PD, Planned Development District for a Housing Development. However, if is approved, staff recommends that it should be subject to conditions A through D.

Conditions:

- A. That the use and development of this property shall conform to the regulations of the SF-3, Single-Family Dwelling District, except as stated below.**
- B. That this property shall significantly conform to the site plan, attached hereto and incorporated herein as Exhibit B.**
- C. That the minimum lot width shall be 37.14 feet.**
- D. That the minimum lot area shall be 4,145 square feet.**

Letters of Objection:

As of April 29, 2021, staff has not received any letters of objection.

Attachments:

Application
Site Plan (Exhibit A)
Diagram (Exhibit B)
Letter of Developer
Maps

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 27.05-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-3, SINGLE-FAMILY DWELLING DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF OCCIDENTAL PARKWAY, APPROXIMATELY 1,335 FEET EAST OF CARRIAGE 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 27.05-acre tract of land out of Section 7, Block 38, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “A”, which is attached hereto and incorporated herein (the “Property”) to PD, Planned Development District for a Housing Development and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from SF-3, Single-Family Dwelling District to PD, Planned Development District for a Housing Development.

SECTION TWO. That the base zoning district to which the use and development of the Property shall conform, except as modified by Section Three of this ordinance, is the

SF-3, Single-Family Dwelling District.

SECTION THREE. That a site plan, which is attached hereto as Exhibit “A” and incorporated herein for all purposes, is hereby adopted, and the use and development of the Property shall be subject to the following conditions and restrictions:

- A. That the Property shall significantly conform to the site plan attached hereto as Exhibit “A”.
- B. That the minimum lot width shall be 37.14 feet.
- C. That the minimum lot area shall be 4,145 square feet.

SECTION FOUR. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

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

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

SECTION SEVEN. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION EIGHT. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed

by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2021; 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., 2021, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

**LONE STAR TRAILS II, SECTION 13
BEING A 27.05 ACRE TRACT OF LAND IN
SECTION 7, BLOCK 38, T-1-S,
T. & P. RR. CO. SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS**



Legal Description for Lone Star Trails II, Section 13.

Being a 27.05 Acre Tract of Land in a 354.08 Acre Tract recorded in Document No. 2017-36824, Official Public Records, located in Section 7, Block 38, T-1-S, T&P RR Co. Survey, City of Midland, Midland County, Texas.

Boundary more fully described by metes and bounds as follows:

Beginning at (N10726946.26', E1762525.45') a 7" iron rod found in the north line of said 354.08 acre tract, the Midland-Martin County Line, the east line of said Section 7, and the west line of Section 8, said Block 38, T-1-S, for the northeast corner of this tract, whence a 7" iron rod found at the southeast corner of said Section 7 bears South 14°32'16" East, a distance of 2182.80 feet;

Thence South 14°32'16" East with the east line of said Section 7 and the west line of said Section 8, a distance of 1882.93 feet to a 7" iron rod found for the southeast corner of this tract;

Thence through said 354.08 acre tract the following nine (9) courses and distances:

1. South 76°04'30" West, a distance of 752.13 feet to a 7" iron rod found for the southeast corner of this tract;
2. North 13°50'23" West, a distance of 120.65 feet to a 7" iron rod found for a point of curvature in the west line of this tract;
3. With a curve to the left in a northerly direction, said curve having a radius length of 80.00 feet, an arc length of 95.77 feet, a delta angle of 68°35'30", and a chord length of 90.15 feet bearing North 19°45'29" East to a 7" iron rod found for a point of tangency in the west line of this tract;
4. North 14°32'16" West, a distance of 3.70 feet to a 7" iron rod found for a point of deflection in the west line of this tract;
5. North 75°27'44" East, a distance of 106.00 feet to a 7" iron rod found for a point of deflection in the west line of this tract;
6. North 13°50'23" West, a distance of 115.13 feet to a 7" iron rod found for a point of deflection in the west line of this tract;
7. North 75°27'44" East, a distance of 7.77 feet to a 7" iron rod found for a point of deflection in the west line of this tract;
8. North 14°32'16" West, a distance of 1722.33 feet to a 7" iron rod found in the north line of said 354.08 acre tract and the Midland-Martin County Line for the northeast corner of this tract;
9. Thence South 89°06'49" East, with the north line of said 354.08 acre tract and the Midland-Martin County Line, a distance of 606.85 feet to a Point of Beginning.

Containing 27.05 surface acres of land.

Bearings, distances, and coordinates are based on the Texas Coordinate System, NAD 1983, Central Zone (CORS).

Betenbough PD

50' X 85' = 57
45' X 115' = 21
50' X 115' = 42

Total: 120

Block	Section	Length	Width	Area	Block	Section	Length	Width	Area
1	13	100.00	100.00	10000.00	11	13	100.00	100.00	10000.00
2	13	100.00	100.00	10000.00	12	13	100.00	100.00	10000.00
3	13	100.00	100.00	10000.00	13	13	100.00	100.00	10000.00
4	13	100.00	100.00	10000.00	14	13	100.00	100.00	10000.00
5	13	100.00	100.00	10000.00	15	13	100.00	100.00	10000.00
6	13	100.00	100.00	10000.00	16	13	100.00	100.00	10000.00
7	13	100.00	100.00	10000.00	17	13	100.00	100.00	10000.00
8	13	100.00	100.00	10000.00	18	13	100.00	100.00	10000.00
9	13	100.00	100.00	10000.00	19	13	100.00	100.00	10000.00
10	13	100.00	100.00	10000.00	20	13	100.00	100.00	10000.00
11	13	100.00	100.00	10000.00	21	13	100.00	100.00	10000.00
12	13	100.00	100.00	10000.00	22	13	100.00	100.00	10000.00
13	13	100.00	100.00	10000.00	23	13	100.00	100.00	10000.00
14	13	100.00	100.00	10000.00	24	13	100.00	100.00	10000.00
15	13	100.00	100.00	10000.00	25	13	100.00	100.00	10000.00
16	13	100.00	100.00	10000.00	26	13	100.00	100.00	10000.00
17	13	100.00	100.00	10000.00	27	13	100.00	100.00	10000.00
18	13	100.00	100.00	10000.00	28	13	100.00	100.00	10000.00
19	13	100.00	100.00	10000.00	29	13	100.00	100.00	10000.00
20	13	100.00	100.00	10000.00	30	13	100.00	100.00	10000.00
21	13	100.00	100.00	10000.00	31	13	100.00	100.00	10000.00
22	13	100.00	100.00	10000.00	32	13	100.00	100.00	10000.00
23	13	100.00	100.00	10000.00	33	13	100.00	100.00	10000.00
24	13	100.00	100.00	10000.00	34	13	100.00	100.00	10000.00
25	13	100.00	100.00	10000.00	35	13	100.00	100.00	10000.00
26	13	100.00	100.00	10000.00	36	13	100.00	100.00	10000.00
27	13	100.00	100.00	10000.00	37	13	100.00	100.00	10000.00
28	13	100.00	100.00	10000.00	38	13	100.00	100.00	10000.00
29	13	100.00	100.00	10000.00	39	13	100.00	100.00	10000.00
30	13	100.00	100.00	10000.00	40	13	100.00	100.00	10000.00
31	13	100.00	100.00	10000.00	41	13	100.00	100.00	10000.00
32	13	100.00	100.00	10000.00	42	13	100.00	100.00	10000.00
33	13	100.00	100.00	10000.00	43	13	100.00	100.00	10000.00
34	13	100.00	100.00	10000.00	44	13	100.00	100.00	10000.00
35	13	100.00	100.00	10000.00	45	13	100.00	100.00	10000.00
36	13	100.00	100.00	10000.00	46	13	100.00	100.00	10000.00
37	13	100.00	100.00	10000.00	47	13	100.00	100.00	10000.00
38	13	100.00	100.00	10000.00	48	13	100.00	100.00	10000.00
39	13	100.00	100.00	10000.00	49	13	100.00	100.00	10000.00
40	13	100.00	100.00	10000.00	50	13	100.00	100.00	10000.00

Block	Section	Length	Width	Area	Block	Section	Length	Width	Area
1	13	100.00	100.00	10000.00	11	13	100.00	100.00	10000.00
2	13	100.00	100.00	10000.00	12	13	100.00	100.00	10000.00
3	13	100.00	100.00	10000.00	13	13	100.00	100.00	10000.00
4	13	100.00	100.00	10000.00	14	13	100.00	100.00	10000.00
5	13	100.00	100.00	10000.00	15	13	100.00	100.00	10000.00
6	13	100.00	100.00	10000.00	16	13	100.00	100.00	10000.00
7	13	100.00	100.00	10000.00	17	13	100.00	100.00	10000.00
8	13	100.00	100.00	10000.00	18	13	100.00	100.00	10000.00
9	13	100.00	100.00	10000.00	19	13	100.00	100.00	10000.00
10	13	100.00	100.00	10000.00	20	13	100.00	100.00	10000.00
11	13	100.00	100.00	10000.00	21	13	100.00	100.00	10000.00
12	13	100.00	100.00	10000.00	22	13	100.00	100.00	10000.00
13	13	100.00	100.00	10000.00	23	13	100.00	100.00	10000.00
14	13	100.00	100.00	10000.00	24	13	100.00	100.00	10000.00
15	13	100.00	100.00	10000.00	25	13	100.00	100.00	10000.00
16	13	100.00	100.00	10000.00	26	13	100.00	100.00	10000.00
17	13	100.00	100.00	10000.00	27	13	100.00	100.00	10000.00
18	13	100.00	100.00	10000.00	28	13	100.00	100.00	10000.00
19	13	100.00	100.00	10000.00	29	13	100.00	100.00	10000.00
20	13	100.00	100.00	10000.00	30	13	100.00	100.00	10000.00
21	13	100.00	100.00	10000.00	31	13	100.00	100.00	10000.00
22	13	100.00	100.00	10000.00	32	13	100.00	100.00	10000.00
23	13	100.00	100.00	10000.00	33	13	100.00	100.00	10000.00
24	13	100.00	100.00	10000.00	34	13	100.00	100.00	10000.00
25	13	100.00	100.00	10000.00	35	13	100.00	100.00	10000.00
26	13	100.00	100.00	10000.00	36	13	100.00	100.00	10000.00
27	13	100.00	100.00	10000.00	37	13	100.00	100.00	10000.00
28	13	100.00	100.00	10000.00	38	13	100.00	100.00	10000.00
29	13	100.00	100.00	10000.00	39	13	100.00	100.00	10000.00
30	13	100.00	100.00	10000.00	40	13	100.00	100.00	10000.00
31	13	100.00	100.00	10000.00	41	13	100.00	100.00	10000.00
32	13	100.00	100.00	10000.00	42	13	100.00	100.00	10000.00
33	13	100.00	100.00	10000.00	43	13	100.00	100.00	10000.00
34	13	100.00	100.00	10000.00	44	13	100.00	100.00	10000.00
35	13	100.00	100.00	10000.00	45	13	100.00	100.00	10000.00
36	13	100.00	100.00	10000.00	46	13	100.00	100.00	10000.00
37	13	100.00	100.00	10000.00	47	13	100.00	100.00	10000.00
38	13	100.00	100.00	10000.00	48	13	100.00	100.00	10000.00
39	13	100.00	100.00	10000.00	49	13	100.00	100.00	10000.00
40	13	100.00	100.00	10000.00	50	13	100.00	100.00	10000.00

CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plot of "LONE STAR TRAILS II, SECTION 13" was approved by proper action of the City Planning and Zoning Commission of the City of Midland, on this _____ day of _____, 2021.

SIGNED: _____

Chairman

ATTEST: _____

Secretary

THAT I, ARON S. BURRELL, A REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL AND ACCURATE SURVEY OF THE LAND AND THAT THE CORNER MONUMENTS SHOWN THEREON WERE PROPERLY PLACED UNDER MY PERSONAL SUPERVISION, IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF THE CITY OF MIDLAND, TEXAS.

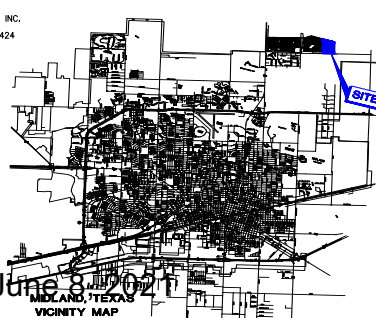


23 March 2021

DATE

ARON SCOTT BURRELL TX TPLS 15689

OWNER:
BETENBOUGH HOMES INC.
6305 BOND STREET
LUBBOCK, TEXAS 79424
806-797-9404



PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS
NO. _____ CABINET
DATE _____ PAGE

**PRELIMINARY PLAT
LONE STAR TRAILS II, SECTION 13**

UTILITY COMPANY'S CERTIFICATE

THIS PLAT HAS BEEN CHECKED FOR ACCESSIBILITY OF UTILITIES.

SIGNED: _____ PRINT NAME

SIGNED: _____ PRINT NAME

SIGNED: _____ PRINT NAME

SIGNED: _____ PRINT NAME

SIGNED: _____ PRINT NAME

OWNERS' CERTIFICATE:

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, _____, Agent of Betenbough Homes Inc. as the recorded owner of a 27.05 Acre Tract of Land, out of a 354.08 Acre Tract of Land, as recorded in Instrument No. 2017-36824, Official Public Records, Midland County, Texas, located in Section 7, Block 38, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, and more particularly shown and described herein;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT, I, _____, Agent of Betenbough Homes Inc., do hereby adopt this plat designating the herein above described property as "LONE STAR TRAILS II, SECTION 13" on Addition to the City of Midland, Midland County, Texas, and do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon.

WITNESS our hands at Midland, Texas, this _____ day of _____, 2021.

By: _____
Agent of Betenbough Homes Inc.

PACKET



LEGEND
● 7" Iron Rod
○ 1/2" Iron Rod
--- UTILITY EASEMENT

NOTES:

1. BEARING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHDRAWAL OF UTILITIES AND BUILDING PERMITS.

2. APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.

FLOOD NOTE:
Special Flood Hazard Areas as graphically shown from FEMA Map No. 48329C00100F, Dated September 16, 2005, Prepared for Midland County, Texas are shown herein.



**Zone Change/Planned
District Amendment/Site
Plan Approval**

Project Number: 2-21-0231
Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2) Printed Name: <u>Ronnie Wallace, Betenbough Homes</u>		Phone (806) 412 - 6611 Email <u>Ronniew@betenbough.com</u>	
Address <u>6305 82nd Street</u>	City <u>Lubbock</u>	State <u>Texas</u>	Zip <u>79424</u>

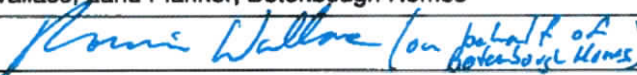
Property Owner Printed Name: <u>Betenbough Homes</u>		Phone (806) 412 - 6611 Email <u>Ronniew@betenbough.com</u>	
Address <u>6305 82nd Street</u>	City <u>Lubbock</u>	State <u>Texas</u>	Zip <u>79424</u>

Representative (if different from Applicant or Property Owner) Firm: <u>N / A</u> Printed Name: _____		Phone () Email <u>N / A</u>	
Address _____	City _____	State _____	Zip _____

Street Address: <u>See Attached Site Plan</u>			
Legal Description		27.32 Acre Tract In Section 7, Block 38, T-1-S, T. & P. RR. Co.	
Lot: <u>See Attached Plat</u>	Block: <u>See Attached Plat</u>	Subdivision: <u>Survey, City and County of Midland, Texas (Lone Star Trails)</u>	

Current Zoning: <u>SF-3</u>	Proposed Zone: <u>PD (Planned District)</u> <i>(List by tracts if more than one district is requested)</i>
Reason for Zone Change Request <u>Request to build affordable, smaller homes on lots less than 5,500 Total Square Feet and therefore requesting PD (Planned District) Zone designation. (See attached Site Plan)</u>	
Present Use of Property: <u>Vacant</u>	
Proposed Use of Property: <u>Single Family Homes</u>	
How would this zone change affect the public health, safety and welfare? <u>Our smaller homes provide an additional, affordable option for new homeowners in Midland.</u>	
Describe how conditions affecting the property have changed since present zoning designation: <u>We want to meet the needs of future homebuyers in Midland.</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): 	Date: March 24th, 2021
Applicant (printed): Ronnie Wallace, Land Planner, Betenbough Homes	
Property Owner (signature):  (on behalf of Betenbough Homes)	Date: March 24th, 2021
Property Owner (printed): Ronnie Wallace, Land Planner, Betenbough Homes	
<i>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.</i> <i>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.</i>	

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)

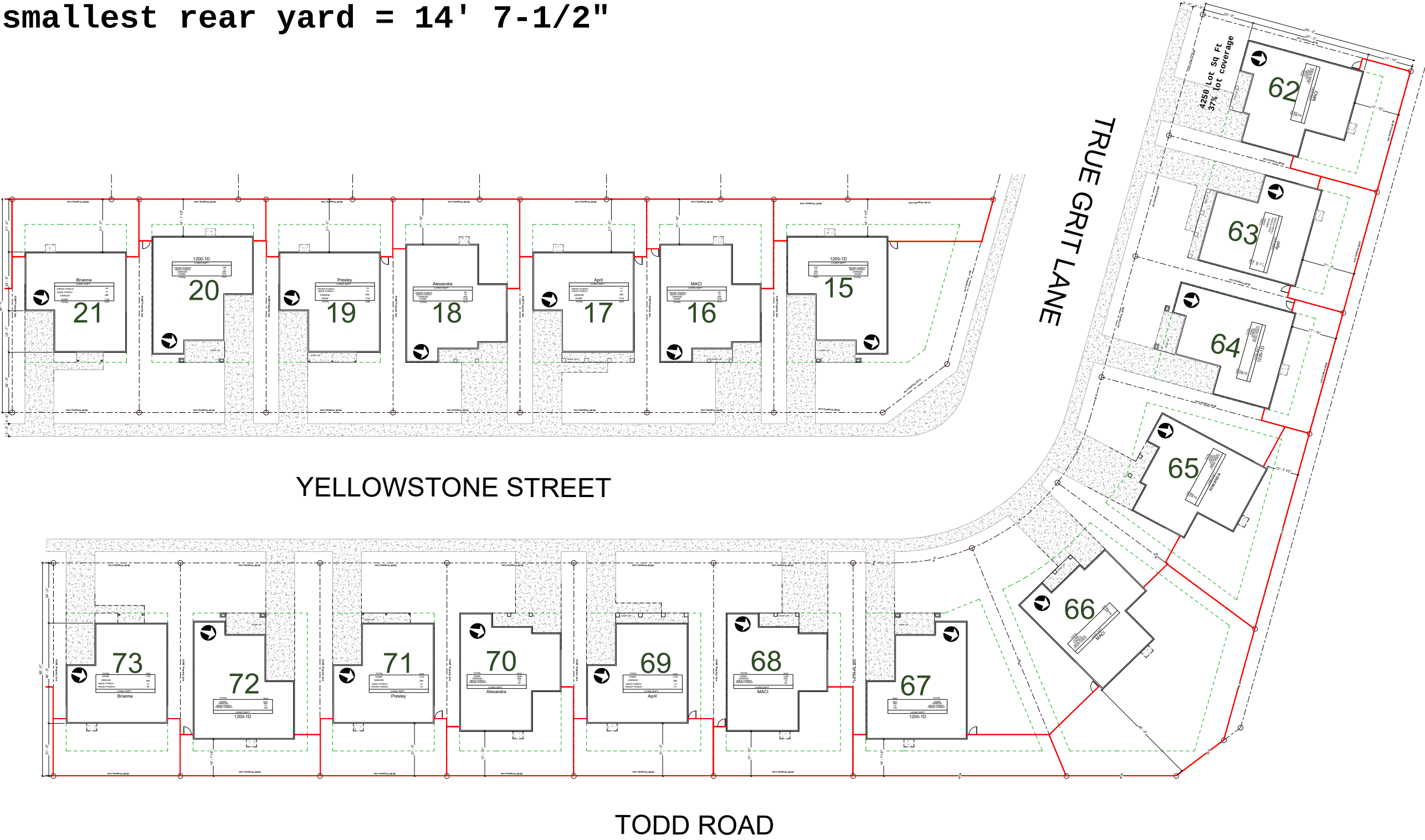
Subscribed and sworn to before me, this ____ day of _____, 20 ____, to certify which witness my hand and seal of office.

 NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☐ Property Owner Authorization ☐ Application Fee Check # _____	☐ Dimensioned Site Plan ☐ Plans in Digital Format (PDF/JPEG)
Received By: _____	Date: _____

****Application will not be considered for scheduling until reviewed by a planner.****

50' x 85' all 1100 and 1200 sq ft homes
smallest rear yard = 14' 7-1/2"



To whom it may concern,

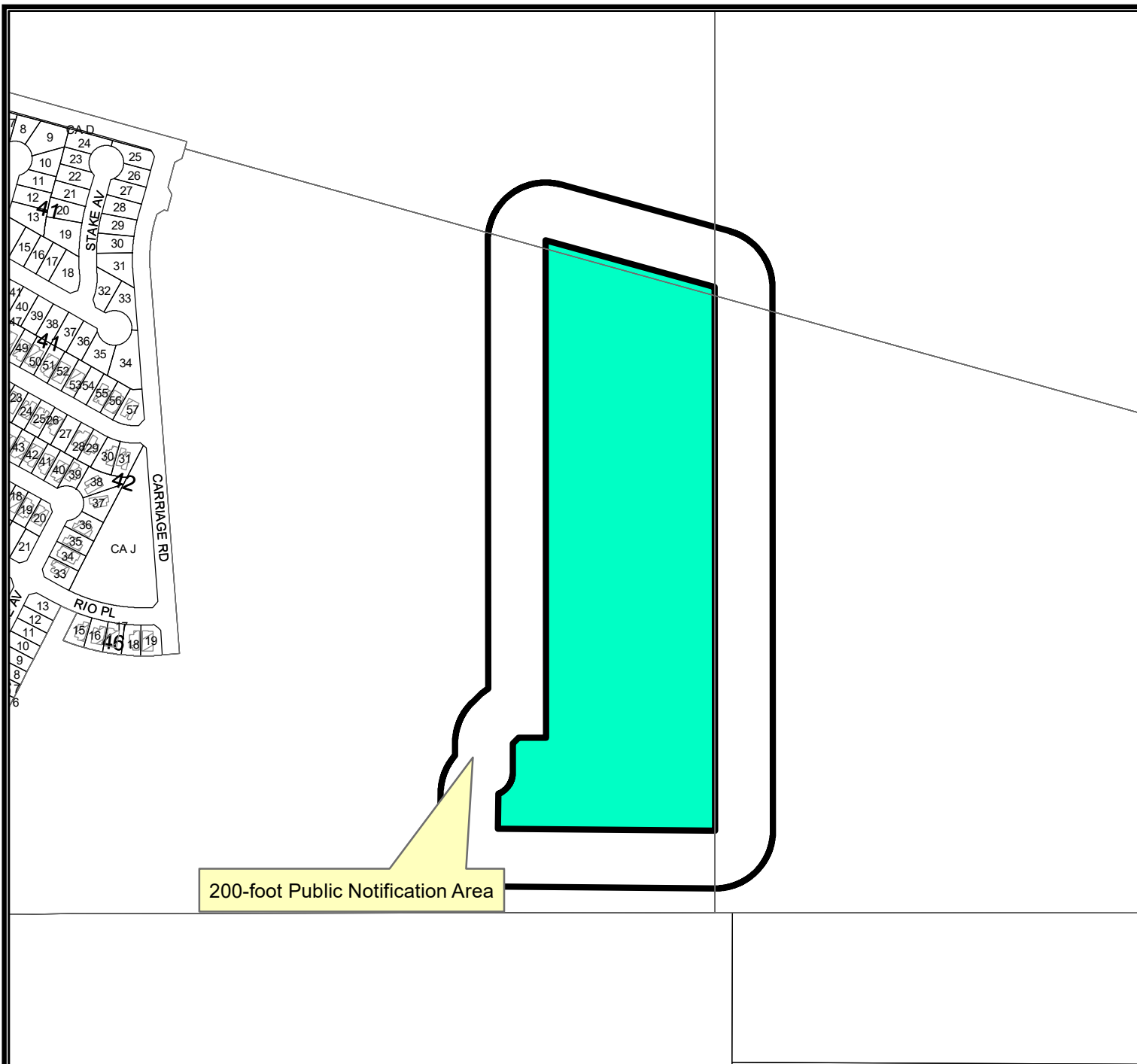
Over the years we have worked closely with the planning department. We are currently seeking a zone change request for our last portion of LST II which buffers the future Todd rd. Within this Planned District request, we have a couple of different types of homesites. (see table) We feel that this is market has a true need for this more affordable product. Over the past year, only 37 homes sold, were above 2,050 Ft² with the top spot at 1,350 Ft². We are aware that this smaller lot size is outside the norms of the current zoning code. We feel although it is a smaller lot size, it is proportional to the standard 50' x 115' lots. The smallest rear yard dimension is 14' 7-1/2" with most at 17' or 21'. This equates to a little bit smaller lot coverage than our standard lots (see chart). It is for these reasons we are asking staff to help support this request for a true mixed use of SFR in this PD. We have also attached a few exhibits to help give a visual of how homes (1100 and 1200 Ft²) would be laid out on a site plan.

Lot Size	Least Lot Ft ²	Product	Smallest Rear Yard Depth	Avg Lot Coverage
50' x 85'	4145	1100 – 1200 Ft ²	14' 7-1/2"	38%
45' x 115'	5175	1300 - 1600 Ft ²	25'	39%
50' x 115'	5500	1300 – 2000 Ft ²	25'	44%

Sincerely



Chris Berry
Land Planning Manager



LOCATION MAP

Z-21-0231

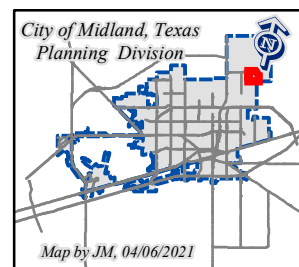
Scale: 1" = 500'

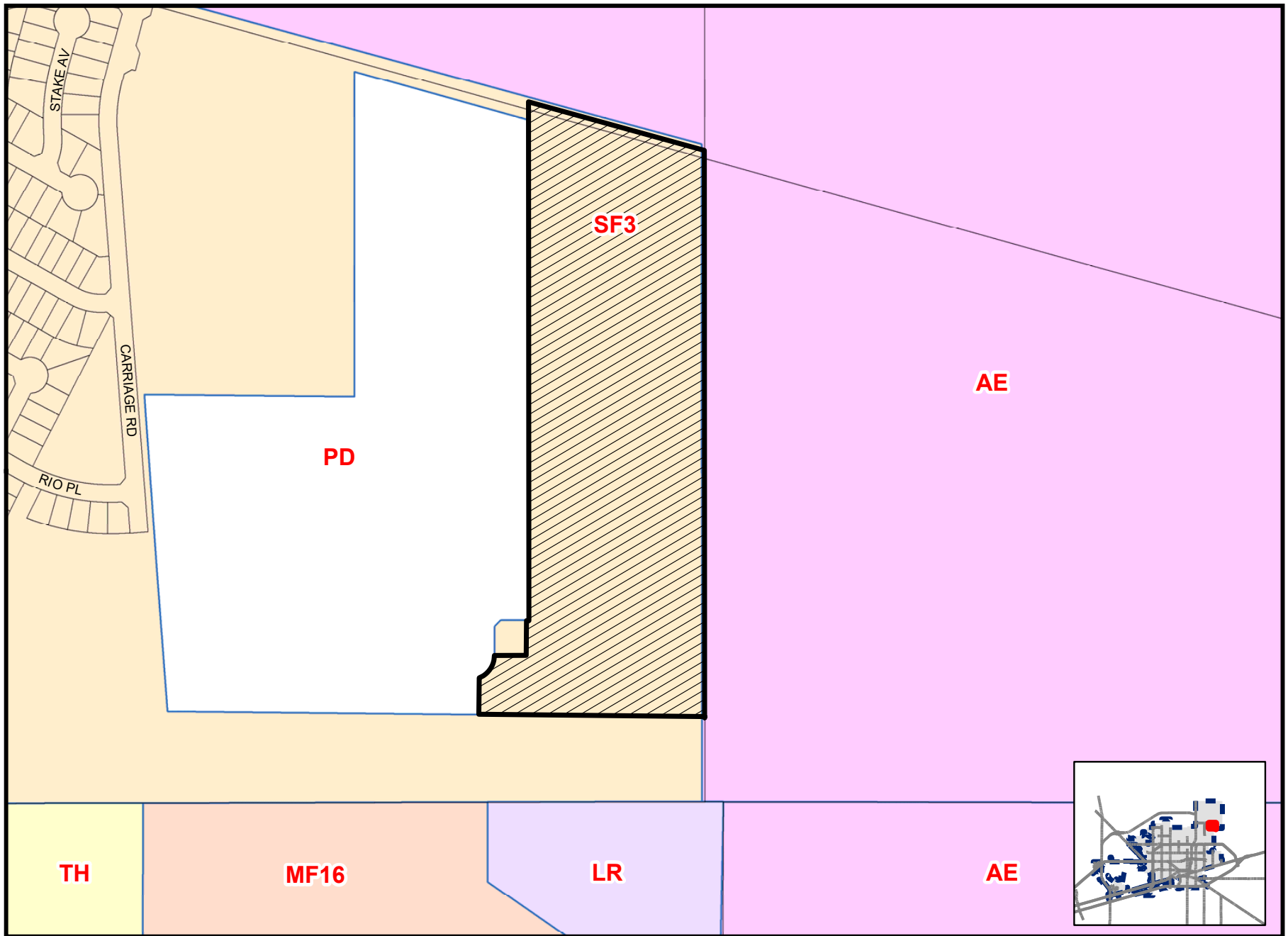
Consider a request by Betenbough Homes for a Zone Change from SF-3, Single Family Dwelling District to PD, Planned Development District for a Housing Development on a 27.05-acre tract of land located in Section 7, Block 38, T-1-S, T&P, R.R. Co. Survey, City and County of Midland, Texas.

Generally located on the south side of Occidental Parkway, approximately 1, 335- feet east of Carriage Road..(Council District)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS















City Council Meeting

Item Number: 13
Meeting Date: June 8, 2021
To: City Council / City Manager
From: Elizabeth Shaughnessy, Senior Planner
Subject: AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 1 AND 2, BLOCK 37, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST INDIANA AVENUE AND SOUTH E STREET), BY PERMITTING A REDUCED MINIMUM LOT DEPTH IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE PROPERTY FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Alamo Heights Homes, LLC., is requesting a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum lot dimensions for a corner lot to be able to replat the described property.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located at 1205 and 1207 W. Indiana Avenue and currently has a residential house at 1207 and 1205 is vacant. This property is zoned MF-16, Multiple-Family Dwelling District and, if this special exception is granted, will be requesting a zone change to SF-3, Single-Family Dwelling District.

Per our City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart:

SF-3, Single-Family Dwelling District
Lot dimensions

Minimum Lot Depth:
Lot: 100 Feet

The applicant is requesting to reduce the required minimum lot depth dimension for the proposed lot to be approximately 81.43-feet to be able to proceed with the replat process.

This request has been circulated to all pertinent City departments for review. Below are the departments' comments.

Engineering: (Approved)

No objection to zone change.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

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.

No objection to zone change.

Fire: (Approved)

No objections.

Code Compliance: (Approved)

No Oil and Gas issues.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2017 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary.

Planning Analysis:

While this request represents a deviation from the existing Zoning Ordinance, staff would recommend approval of this application for a Special Exception due to the unique circumstance of this lot. This lot is already platted with a lot depth of 81.43 feet and exceeds the minimum lot width requirement for the SF-3 district with a lot width of approximately 75 feet. The applicant is currently in the process of re-platting the lots to match the tax parcels on record with the Midland Central Appraisal District. This will reduce the lot width to approximately 66 feet, which still exceeds the SF-3 requirement of 55 feet for a corner lot. This special exception is required in order to continue with the re-plat, as well as change the zoning to SF-3 to better conform to develop a single family residence.

This request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 3 An Integrated Land Use Vision, "Future Land Use Map" as it designates this area for Urban Residential-Medium, a classification which calls for "a mix of housing styles including sing-family detached, single-family attached, and townhouses." This special exception would allow for the development of a single family residence on this lot that would otherwise remain vacant.

Should the City Council approve this request, the property shall be subject to conditions A and B:

Conditions:

- A. That the minimum lot depth for this property shall be 81.43-feet.
- B. That said special exception shall be of no force or effect unless and until the Property is rezoned as described in Section One of this ordinance.

Letters of Objection:

As of May 28, 2020, staff has not received any letters of objection

Attachments:

Proposed Plat
Application
Maps

Marino Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 1 AND 2, BLOCK 37, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST INDIANA AVENUE AND SOUTH E STREET), BY PERMITTING A REDUCED MINIMUM LOT DEPTH IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE PROPERTY FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

WHEREAS, the City Council modified the authority of the Board of Adjustment in Title XI, Chapter 1, Section 7 (“Section 11-1-7”) of the Midland City Code; and

WHEREAS, Section 11-1-7 provides for the consideration of requests for special exceptions to the Midland Zoning Ordinance; and

WHEREAS, the Council finds that satisfactory evidence has been presented that the use to be authorized by the granting of the special exception will not be detrimental to the health, safety, comfort and welfare of the occupants of the land area near the tract on which the use to be allowed by special exception will be located; and

WHEREAS, the Council finds that it is clearly and specifically authorized by the terms of Section 11-1-7 to grant such a special exception, and said exception will be in harmony with the general purposes and intent of the zoning provisions of the Midland City Code; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to grant a special exception to the Zoning Code, pursuant to Section 11-1-7, for the purposes herein stated, subject to special conditions;

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

SECTION ONE. That a special exception is hereby granted for the property described as Lots 1 and 2, Block 37, West End Addition, City and County of Midland, Texas (the “Property”). Said special exception shall allow a reduced minimum lot depth in the event that the Zoning District Map of the City of Midland, Texas, is amended to rezone the Property from MF-16, Multiple-Family Dwelling District to SF-3, Single-Family Dwelling District.

SECTION TWO. That said special exception is subject to the following special conditions:

- A. That the minimum lot depth for this Property shall be 81.43 feet.
- B. That said special exception shall be of no force or effect unless and until the Property is rezoned as described in Section One 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 file this ordinance with the Office of the County Clerk for purposes of recordation.

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2021; 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., 2021, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



Special Exception Application

Project Number: 2-21-0053
Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: Alamo Heights Homes, LLC

Phone (806) 441-6453

Email
mdawson@dawsonparrish.com

Address 309 W 7TH ST STE 915

City Ft Worth

State Tx

Zip 76102

Property Owner

Printed Name: Alamo Heights Homes, LLC

Phone (806) 441-6453

Email
mdawson@dawsonparrish.com

Address 309 W 7TH ST STE 915

City Ft Worth

State Tx

Zip 76102

Representative (if different from Applicant or Property Owner)

Firm: Parkhill Job # 1076.21

Printed Name: Josh Wallender

Phone (432) 697-1447

Email
jwallender@parkhill.com

Address 1700 W. Wall Street, Suite 100

City Midland

State Tx

Zip 79701

Street Address: 1205 and 1207 W Indiana Ave

Legal Description

Lot: 1 & 2 Block: 37 Subdivision: West End Addition

Current Zoning: MF16

This property qualifies as an exception to the City Code because:

- ☒ It is an expansion of a nonconforming use.
- ☐ There are existing nonconforming structures in the area.
- ☐ The addition of architectural or other projections of a minor extent.

Reason for Request: Current platted lot layouts do not conform to SF3 zoning minimum requirements.

Submittal and Fees**Items to be submitted with this application form:**

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan showing:
 - Parking
 - Building Footprint
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
MAY 10 2021

BY: _____

Signatures	
Applicant (signature): <u><i>Michael Dawson</i></u>	Date: 05/05/2021
Applicant (printed): Michael Dawson	
Property Owner (signature): <u><i>Michael Dawson</i></u>	Date: 05/05/2021
Property Owner (printed): Alamo Heights Homes, LLC, Michael Dawson, Member	
<i>The Special Exception 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.</i> <i>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.</i>	

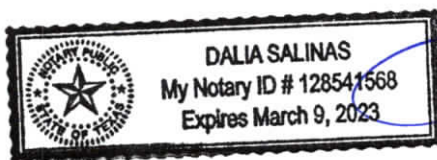
If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Josh Wallender (Parkhill) who, being by me duly sworn, upon oath says: That (s)he is authorized by Alamo Heights Homes, 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.

[Signature]
Authorized Agent (signature)

Subscribed and sworn to before me, this 10th day of May, 2021, to certify which witness my hand and seal of office.



Dalia Salinas
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☐ Property Owner Authorization ☒ Application Fee Check # <u>1502</u>	☐ Dimensioned Site Plan ☐ Plans in Digital Format (PDF/JPEG)
Received By: <u><i>ES</i></u>	Date: <u>MAY 10 2021</u>

BT:

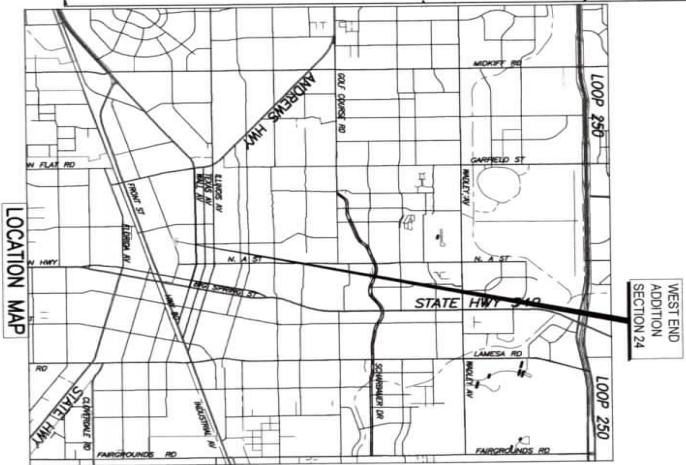
PACKET 13 10 June 8, 2024
Application will not be considered for scheduling until reviewed by a planner.

WEST END ADDITION SECTION 24

Being a Subdivision of Lots 1 and 2, Block 37
West End Addition
City and County of Milwaukee, Wisconsin

NOTES:

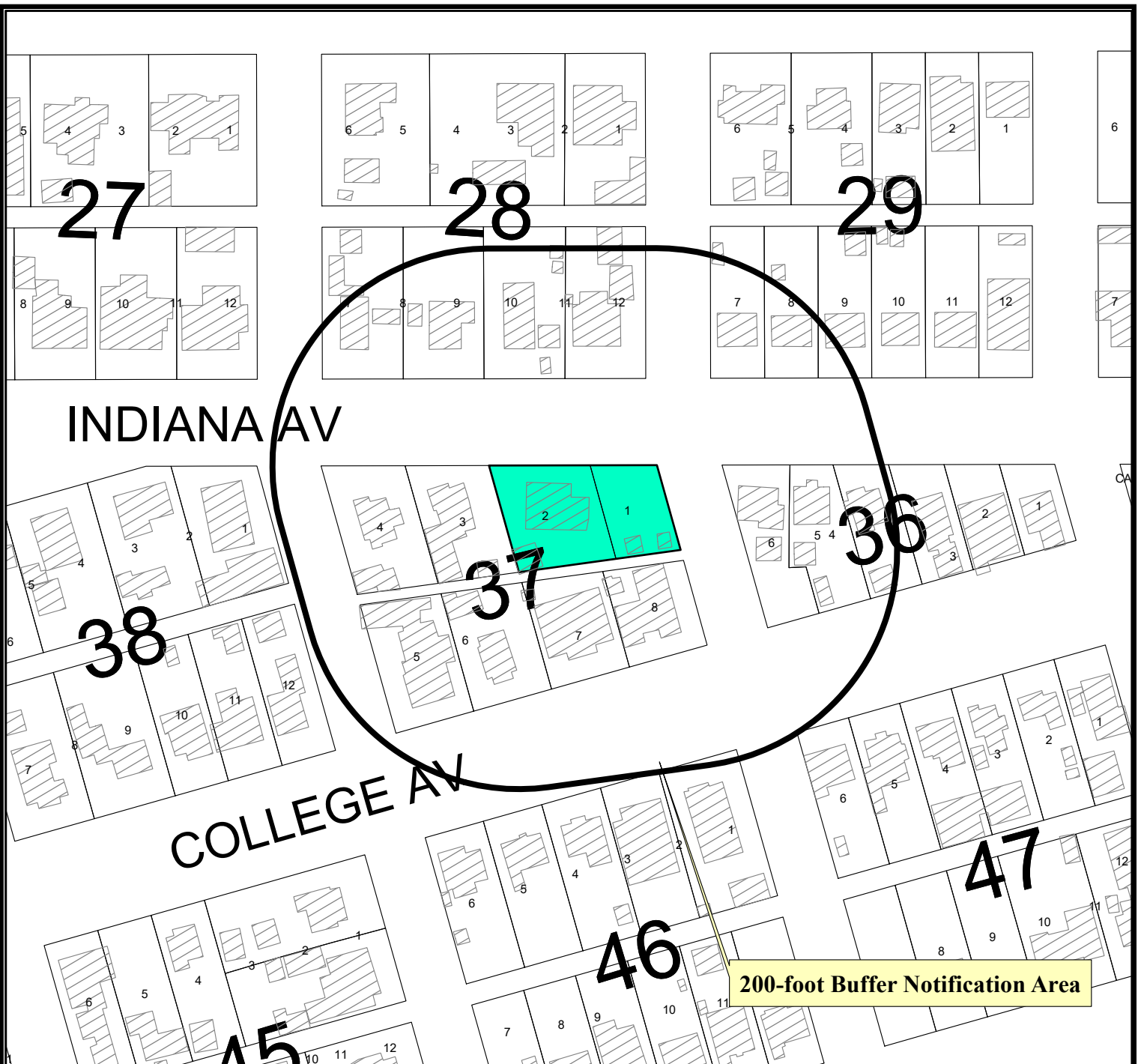
1. Setting a portion of this addition by means and bounds may be a violation of city ordinance and state law and subject to review and withholding of utilities and building permits.
2. 1/2" iron rod with plastic cap marked "75C 4915 6453" set as indicated on this plat.
3. Approval of a site plan by the City of Milwaukee is required. No construction shall be commenced or begun or building permit may be obtained.



Parkhill
PARKHILL.COM
THREE EIGHT FOUR SEVEN TWO ONE ZERO

OWNER & DEVELOPER:
ALVARO HERGENROTTER, LLC
300 W. WISCONSIN AVE. #100
MILWAUKEE, WI 53233

ENGINEER:
PARKHILL
300 W. WISCONSIN AVE. #100
MILWAUKEE, WI 53233
(414) 481-1417



LOCATION MAP

E-21-0053

Scale: 1" = 250'

Consider a request by Alamo Heights Homes, LLC for a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum lot depth for a corner lot of Lots 1 & 2, Block 37, West End Addition, City and County of Midland, Texas.

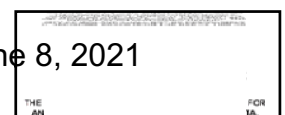
Generally located on the southwest corner of the intersection of West Indiana Avenue and South E Street. (Council District 3)

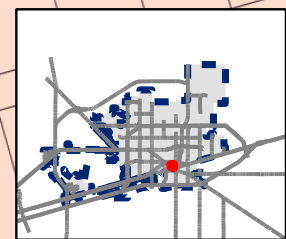
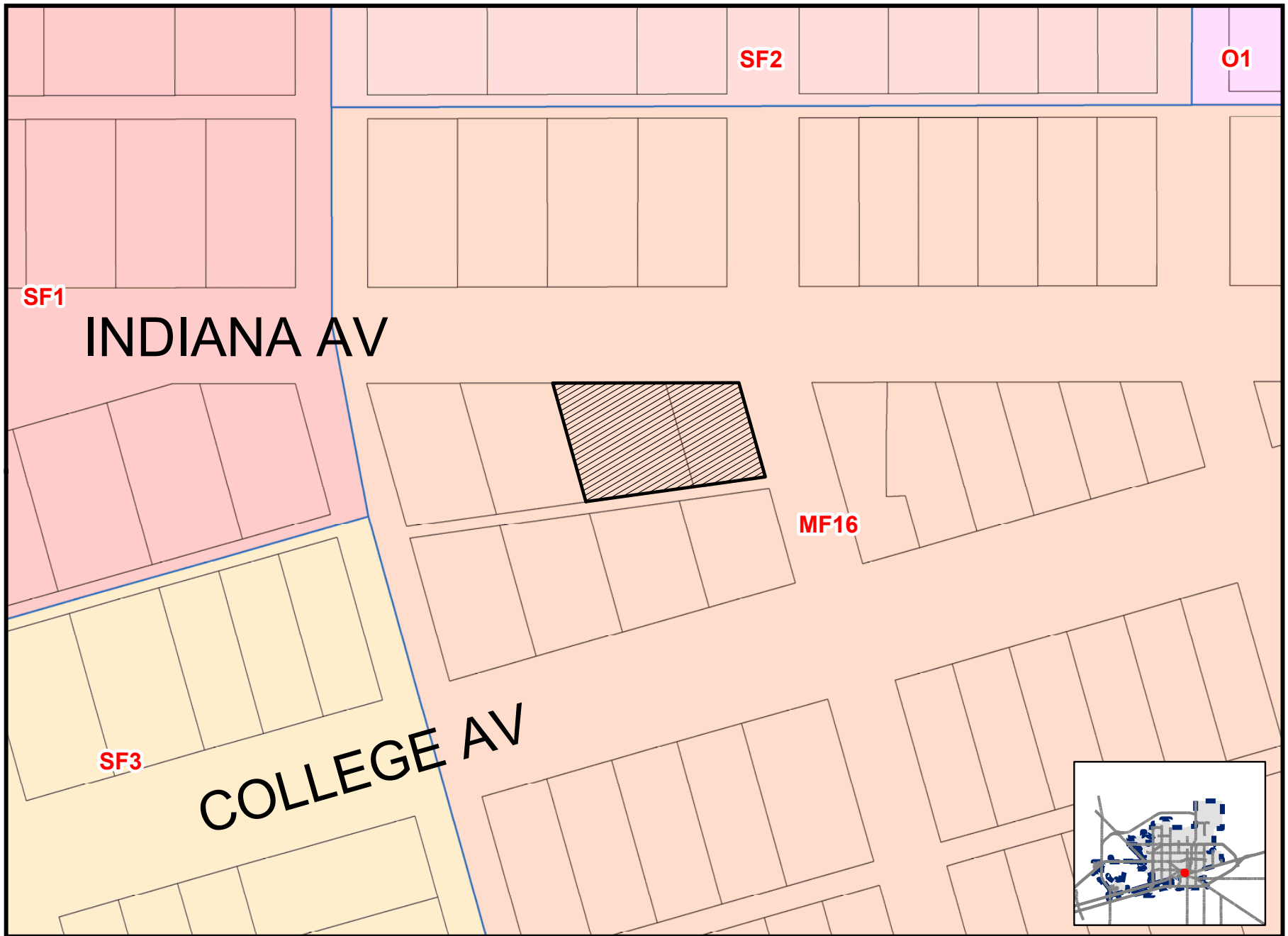
LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 8, 2021















City Council Meeting

Item Number: 14
Meeting Date: June 8, 2021
To: City Council / City Manager
From: Valerie A. Sherman, 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 97.05-ACRE TRACT OF LAND OUT OF SECTIONS 35 AND 36, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST STATE HIGHWAY 158, APPROXIMATELY 11 FEET WEST OF BRANDY HILL ROAD); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT: NONE) (DEVELOPMENT SERVICES)

Purpose:

Consider an ordinance for an annexation of a 97.05-acres tract of land located in Sections 35 and 36, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, located on the north side of W. State Highway 158, approximately 11 feet west of Brandy Hill Road.

Recommended City Council Action:

Approve

Fiscal Impact:

Additional land to be developed under City regulations in an expanded growth area.

Discussion:

The applicant, Grasslands IV, LTD, is requesting to annex a 97.05-acres tract of land located in Sections 35 and 36, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. The proposed annexation will allow the provision of City services to the property. This is considered a voluntary annexation.

On May 3, 2021, the service agreement between the City and the property was executed. This is the next step in the annexation process.

This project has been circulated to all respective departments for internal review and received no objections.

Engineering: (Approved)

No objection to annexation.

Transportation: (Approved)

No objection to annexation.

Fire: (Approved)

No comments.

Code Administration: (Approved)

No objections.

Building Code: (Approved)

No objections.

Oil and Gas: (Approved)

No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat.

Planning:

As this proposed development will conform with the Tall City Tomorrow Comprehensive Plan, staff recommends approval of this annexation.

Attachments:

Petition (Exhibit A)
Service Agreement (Exhibit B)
Application
Maps

Dolet Patel

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 97.05-ACRE TRACT OF LAND OUT OF SECTIONS 35 AND 36, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST STATE HIGHWAY 158, APPROXIMATELY 11 FEET WEST OF BRANDY HILL ROAD); 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 June 8, 2021, 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' Internet website on May 20, 2021, 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 May 22, 2021; 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 97.05-acre tract of land out of Sections 35 and 36, Block 40, T-1-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.

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., 2021; 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., 2021, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT A

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract(s) of land described in Exhibit(s) "A" (the "Property"), said Exhibit(s) being attached hereto and incorporated herein, GRASSLANDS IV, LTD. ("Owner") submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.



Signature of Owner or Owner's Authorized Representative

LARRY H. WALKER, P.E.

Printed Name

V.P. ENGINEERING

Title

THE STATE OF Texas §
COUNTY OF Midland §

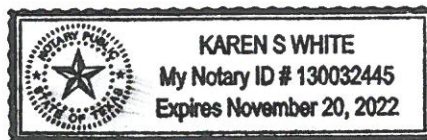
This instrument was acknowledged before me on the 16th day of March, 2021, by Larry H. Walker in the capacity herein stated.

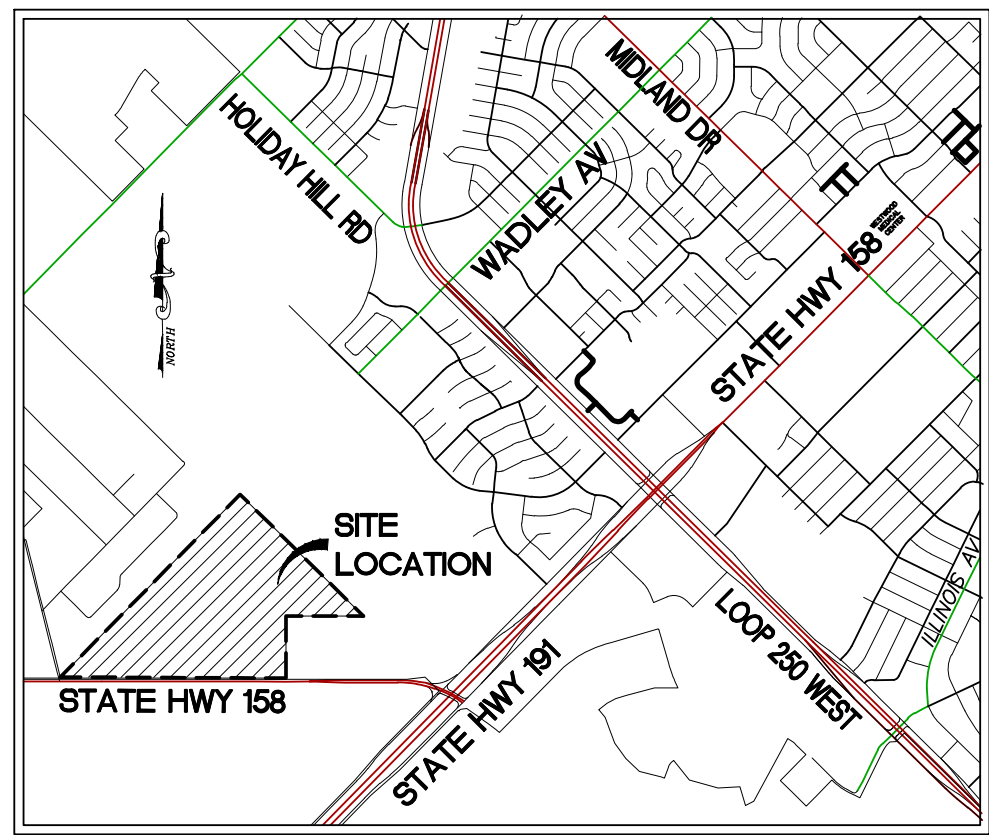
MY COMMISSION EXPIRES

11/20/2022



Notary Public, State of Texas





VICINITY MAP
(NOT TO SCALE)

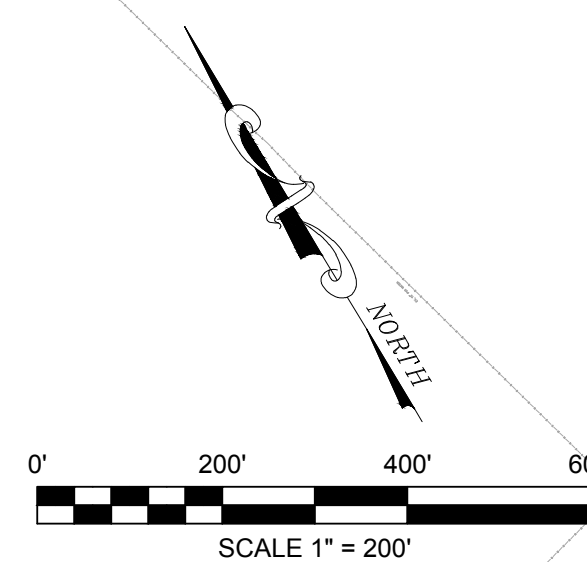
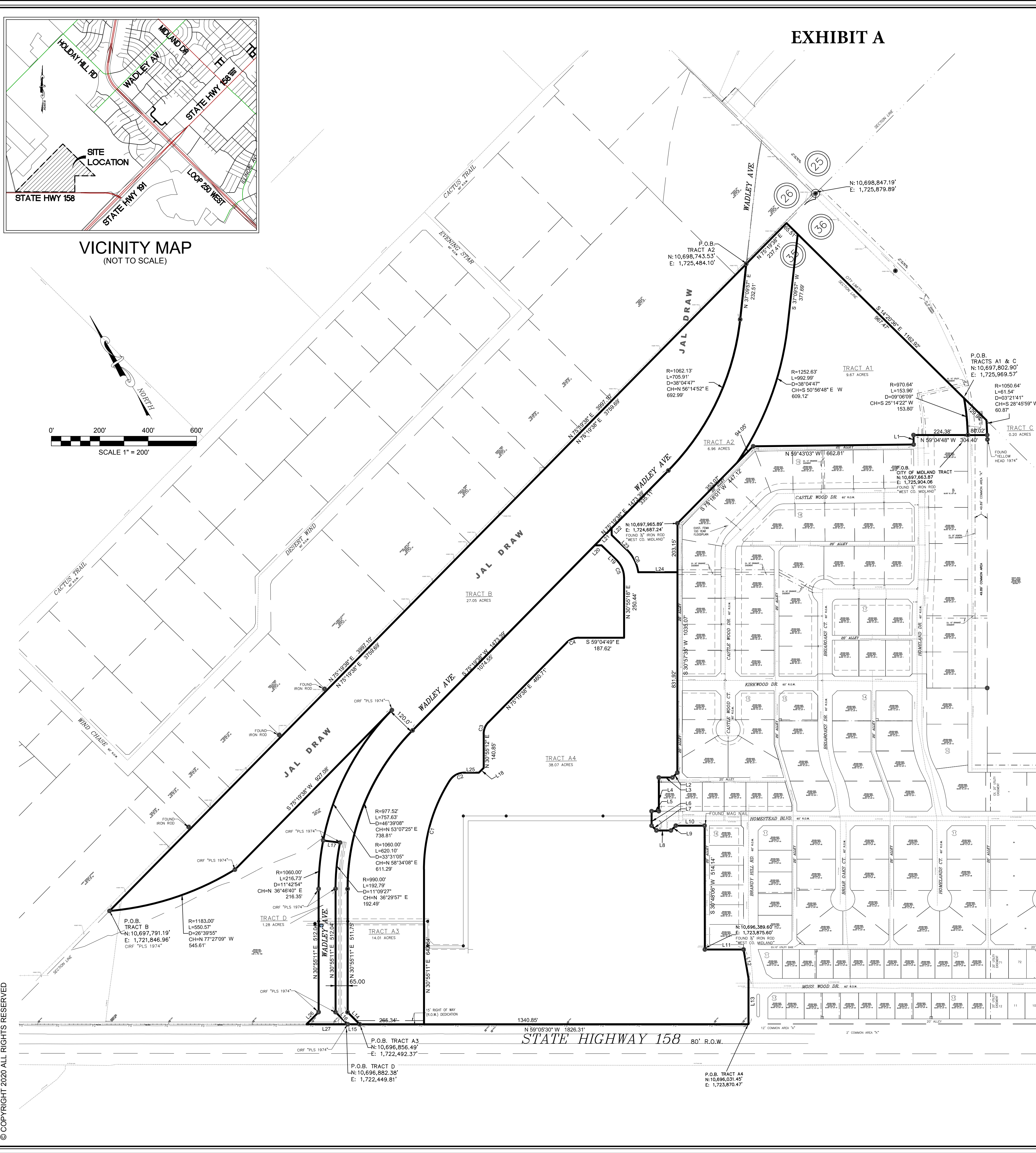


EXHIBIT A

ANNEXATION EXHIBIT
GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]
68.71 ACRES (TRACTS A1, A2, A3, A4)
&
TRACT TO BE DEDICATED TO THE CITY OF MIDLAND
27.05 ACRES (TRACT B)
&
EXISTING TRACT OWNED BY THE CITY OF MIDLAND
0.20 ACRES (TRACT C)
&
EXISTING R.O.W. OF WADLEY ROAD
1.28 ACRES (TRACT D)
LOCATED IN SECTION 35, BLOCK 40, T-1-S, T & P RR Co. SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND MONUMENT AS NOTED
- DENOTES EXISTING FIRE HYDRANT
- DENOTES EXISTING TOPOGRAPHIC POINTS & ELEVATIONS
- DENOTES POWER POLE
- DENOTES FLOODWAY BOUNDARY
- DENOTES ZONE A5 REGULATORY FLOODWAY
- DENOTES ZONE A6 WITH BASE FLOOD ELEVATION
- DENOTES BOUNDARY LINE
- DENOTES LOT LINE
- DENOTES RIGHT OF WAY (R.O.W.) DEDICATION
- DENOTES EASEMENT LINE
- DENOTES EXISTING EASEMENT LINE
- DENOTES ADJACENT DEED OR PROPERTY LINE
- DENOTES EXISTING WATER LINE
- DENOTES EXISTING SANITARY SEWER
- DENOTES EXISTING ELECTRIC LINE
- DENOTES EXISTING FENCE LINE
- DENOTES FIRM R.O.W. LINE
- DENOTES EXISTING CONTOURS
- DENOTES SECTION LINE
- DENOTES SECTION NUMBER

Curve Table

CURVE	RADIUS	DELTA	Length	CHORD BEARING	DIST.
C1	693.27'	32°13'03"	389.35'	N 47°03'46" E	384.24'
C2	70.61'	57°25'53"	70.48'	S 87°56'14" E	62.57'
C3	70.20'	44°16'14"	54.25'	N 53°07'25" E	52.91'
C4	71.05'	45°18'41"	55.66'	S 81°52'36" E	54.24'
C5	101.46'	45°05'04"	79.59'	N 88°06'19" E	77.56'
C6	160.23'	37°44'45"	105.53'	S 04°13'36" W	103.66'

Parcel Line Table		
Line #	Length	Direction
L1	39.26'	S 30°17'37" W
L2	28.30'	S 75°56'28" W
L3	56.44'	N 59°04'16" W
L4	139.92'	S 30°55'01" W
L5	30.01'	N 59°04'41" W
L6	60.00'	S 30°55'44" W
L7	28.29'	S 14°03'57" E
L8	60.00'	S 59°04'48" E
L9	28.28'	N 75°55'12" E
L10	119.09'	S 59°04'42" E
L11	159.85'	S 59°06'24" E
L12	121.75'	S 21°12'09" W
L13	190.12'	S 30°55'45" W
L14	70.88'	N 14°04'48" W
L15	50.00'	S 59°02'26" E
L16	70.88'	N 14°04'48" W
L17	70.16'	N 51°58'36" W
L18	28.28'	N 75°55'12" E
L19	88.30'	N 14°42'41" W
L20	28.29'	N 59°41'31" W
L21	100.00'	N 75°19'38" W
L22	28.28'	S 30°18'29" W
L23	88.48'	S 14°39'13" E
L24	162.08'	S 59°04'40" E
L25	60.75'	N 51°58'36" W
L26	70.88'	N 75°55'12" E
L27	170.12'	N 59°05'30" W

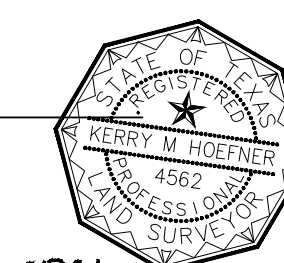
SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Kerry M. Hoefner, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this plat was prepared from an actual and accurate survey of the land and that the corner monuments shown thereon were properly located under my personal supervision, in accordance with the Subdivision Regulations of the City of Midland, Texas.

Kerry M. Hoefner
KERRY M. HOEFNER, R.L.S. 4562
2713 CANTRELL ST.
IRVING, TX 75062
214.714.2340

18 JAN, 2021
REV. 28 FEB, 2021
REV. 16 MAR, 2021



OWNER:
GRASSLAND IV, LTD.
5908 Homestead Blvd
Midland, TX 79702115



SURVEYORS - ENGINEERS - PLANNERS ,
ENGINEER REGISTRATION: FIRM 2184
SURVEYOR REGISTRATION: FIRM 100682-00
110 W. LOUISIANA AVE., SUITE 110,
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868

FEBRUARY 2021

GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]

CONTINUATION OF EXHIBIT A

ANNEXATION DESCRIPTION - OVERALL

BEING a 97.05 acre tract or parcel of land situated in Section 35, Block 40, T-1-S of the T & P RR Co. Survey, Midland County, Texas and being a portion of that certain tract described in Warranty Deed to SBC Corporation, recorded in Volume 1464, Page 174, Official Public Records, Midland County, Texas (O.P.R.M.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at [N= 10,697,791.19; E= 1,721,846.96] a found capped iron rod marked "PLS 1974" located North 75 degrees 19 minutes 38 seconds East a distance of 657.97 feet from a found 60d nail for the most westerly corner of said SBC tract; said iron rod also being the most northerly west corner of that certain tract described in Special Warranty Deed to SCP Hwy 158 Land, LLC, recorded in Document Number 2019-15764, O.P.R.M.C.T., and being located on the north line of said Section 35;

THENCE North 75 degrees 19 minutes 38 seconds East, along the north line of said SBC tract and said section line, a distance of 3997.10 feet to a set iron rod with red plastic cap marked "WEST CO MIDLAND" (hereinafter referred to as a set iron rod) located at or near the northeast corner of said Section 35;

THENCE South 14 degrees 20 minutes 36 seconds East, along the east line of said Section 35, a distance of 1162.92 feet to a point for the beginning of a non-tangent curve to the right having a radius of 1050.64 feet and a chord bearing South 28 degrees 45 minutes 59 seconds West, 60.87 feet;

THENCE Southerly, along said curve to the right, through a central angle of 03 degrees 21 minutes 41 seconds, an arc distance of 61.54 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND" for the end of said curve and the northeast corner of GRASSLAND ESTATES WEST Section 10, recorded in Cabinet L, Page 50A, O.P.R.M.C.T.;

THENCE along the northeast, north and northwest line of said GRASSLAND ESTATES WEST Section 10 the following:

North 59 degrees 04 minutes 48 seconds West, a distance of 304.40 feet to 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND"

South 30 degrees 17 minutes 37 seconds West, a distance of 39.26 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 43 minutes 03 seconds West, a distance of 662.80 feet to a found iron rod with red plastic cap marked "WEST CO MIDLAND";

South 75 degrees 18 minutes 01 seconds West, a distance of 447.12 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 57 minutes 35 seconds West, a distance of 1,035.07 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

(Description continues on Page 2 of 3)

(Description continued from Page 3 of 3)

South 75 degrees 56 minutes 28 seconds West, a distance of 28.30 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 16 seconds West, a distance of 56.44 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 01 seconds West, a distance of 139.92 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 41 seconds West, a distance of 30.01 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 44 seconds West, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 14 degrees 03 minutes 57 seconds East, a distance of 30.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 75 degrees 55 minutes 12 seconds East, a distance of 28.28 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 120.15 feet to a set Mag Nail for the most westerly northwest corner of GRASSLAND ESTATES WEST Section 9, recorded in Cabinet I, Page 198, O.P.R.M.C.T.;

THENCE along the west line of said GRASSLAND ESTATES WEST, Section 9 the following:

South 30 degrees 55 minutes 12 seconds West, a distance of 514.14 feet to set Mag Nail;

South 59 degrees 04 minutes 41 seconds East, a distance of 159.85 feet to a set iron rod;

South 21 degrees 12 minutes 11 seconds West, a distance of 121.75 feet to a set iron rod;

South 30 degrees 55 minutes 12 seconds West, a distance of 190.00 feet to a set iron rod for the southwest corner of said GRASSLAND ESTATES WEST Section 9 on the southwest line of said SBC tract; said set iron rod being located on the northeasterly right-of-way line of State Highway 158 (a 120' right-of-way per Cabinet I, Page 198, O.P.R.M.C.T.);

(Description continues on Page 3 of 3)

(Description continued from Page 2 of 3)

THENCE North 59 degrees 05 minutes 30 seconds West, along the southwest line of said SBC tract and said northeast right-of-way line, a distance of 1826.31 feet to a Point for the southwest corner of the right-of-way of Wadley Drive (Cabinet L, Page 189, O.P.R.M.C.T.);

THENCE Northeasterly, along said right-of-way line, the following:

North 75 degrees 55 minutes 12 seconds East, a distance of 70.88 feet to a found capped iron rod marked "PLS 1974";

THENCE North 30 degrees 55 minutes 11 seconds East, a distance of 512.04 feet to a found capped iron rod marked "PLS 1974" for the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 36 degrees 40 minutes 40 seconds East, 216.35 feet;

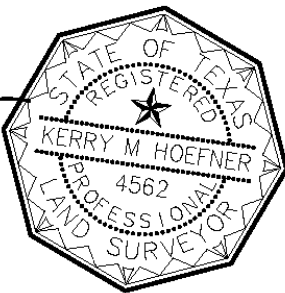
THENCE Northeasterly, along said curve to the right, through a central angle of 11 degrees 42 minutes 54 seconds, an arc distance of 216.73 feet to a found capped iron rod marked "PLS 1974" for the end of said right-of-way of Wadley Drive and the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 58 degrees 34 minutes 08 seconds East, 611.29 feet; said found iron rod also being located on the remainder of the aforementioned SCP Hwy 158, LLC tract;

THENCE Northeasterly, along said curve to the right and said SCP Hwy 158, LLC tract, through a central angle of 33 degrees 31 minutes 05 seconds, an arc distance of 620.11 feet to a found capped iron rod marked "PLS 1974" for the end of said curve;

THENCE South 75 degrees 19 minutes 38 seconds West, along the north line of said SCP Hwy 158 Land, LLC tract, a distance of 927.08 feet to a found capped iron rod marked "PLS 1974" for the beginning of a non-tangent curve to the right having a radius of 1183.00 feet and a chord bearing North 77 degrees 24 minutes 09 seconds West, 545.61 feet;

THENCE Westerly, along said curve to the right and continuing along the north line of said SCP Hwy 158 Land, LLC tract, through a central angle of 26 degrees 39 minutes 55 seconds, an arc distance of 550.57 feet, to the Point of Beginning and containing 97.05 acres of land.

Kerry M Hoefner
16 MAR, 2021

The seal is an octagonal emblem. The outer border contains the text "STATE OF TEXAS" at the top and "LAND SURVEYOR" at the bottom. Inside the border, the word "REGISTERED" is at the top, a five-pointed star is in the center, and "KERRY M HOEFNER" and "4562" are at the bottom. The words "PROFESSIONAL" and "SURVEYOR" are also visible within the seal's design.



**Annexation/Initial Zoning
Application**

Project Number A-21-0025
Case Number E-21-0213

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: Larry H. Walker, PE

Phone (432) 528-3159

Email
lwalker@team-west.com

Address
110 W. Louisiana St., Suite 110

City
Midland

State
Texas

Zip
79701

Property Owner

Printed Name: GRASSLANDS IV, LTD

Phone (432) 697-9866

Email

Address
5908 Homestead Blvd.

City
Midland

State
Texas

Zip
797072215

Representative (if different from Applicant or Property Owner)

Firm: WEST COMPANY OF MIDLAND, LLC

Printed Name: Larry H. Walker, PE

Phone (432) 528-3159

Email
lwalker@team-west.com

Address
110 W. Louisiana St., Suite 110

City
Midland

State
Texas

Zip
79701

Street Address: Approximate location S.H.158 between Brandy Hill Road & Future W. Wadley Ave.

Legal Description

Lot: _____ Block: _____ Subdivision: GRASSLAND ESTATES WEST, SECTION 12

Current Zoning:

Proposed Zone: (A1&4-SF1), (A2&A3-Regional Retail)
(B&C-CITY OF MIDLAND)

Reason for Annexation/Zone Change Request: _____

Tracts 1 & 4 will be used to build a subdivision of single family homes. Tracts A2&3
will be used for commercial and Tracts B&C are to be dedicated to the City of Midland

Present Use of Property: Agncultural

Proposed Use of Property: Subdivision of single family homes & Commercial development

How would this annexation/zone change affect the public health, safety and welfare? It would
have a positive impact by providing additional living and business resources. No negative impacts.

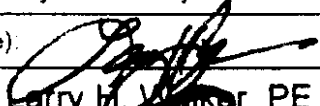
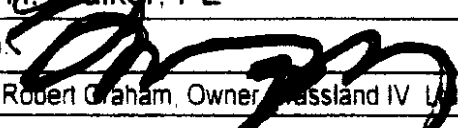
Describe how this annexation/zone change will affect adjacent properties: _____

Annexation of this property will expand the current residential area with no adverse effects to the
adjacent properties

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: <u>3.16.21</u>
Applicant (printed): <u>Larry H. Walker, PE</u>	
Property Owner (signature): 	Date: <u>3.16.21</u>
Property Owner (printed): <u>Robert Graham, Owner, Grassland IV, LLC</u>	
<i>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.</i> <i>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</i>	

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.

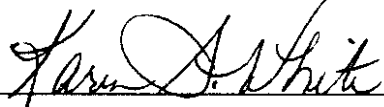
**STATE OF TEXAS
COUNTY OF MIDLAND**

Before me, the undersigned authority, on this day personally appeared LARRY H. WALKER, PE who, being by me duly sworn, upon oath says That (s)he is authorized by ROBERT GRAHAM 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 16th day of March, 2021 to certify which witness my hand and seal of office.




NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☐ Property Owner Authorization ☐ Application Fee Check # _____	☐ Metes and Bounds (Sealed by Surveyor) ☐ Files in Digital Format (PDF/JPEG) Petition
Received By: _____	Date: _____

****Application will not be considered for scheduling until reviewed by a planner.****

EXHIBIT A

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract(s) of land described in Exhibit(s) "A" (the "Property"), said Exhibit(s) being attached hereto and incorporated herein, GRASSLANDS IV, LTD. ("Owner") submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.



Signature of Owner or Owner's Authorized Representative

LARRY H. WALKER, P.E.

Printed Name

V.P. ENGINEERING

Title

THE STATE OF Texas §
COUNTY OF Midland §

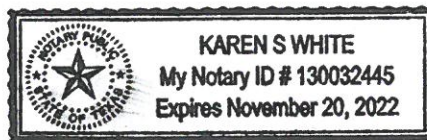
This instrument was acknowledged before me on the 16th day of March, 2021, by Larry H. Walker in the capacity herein stated.

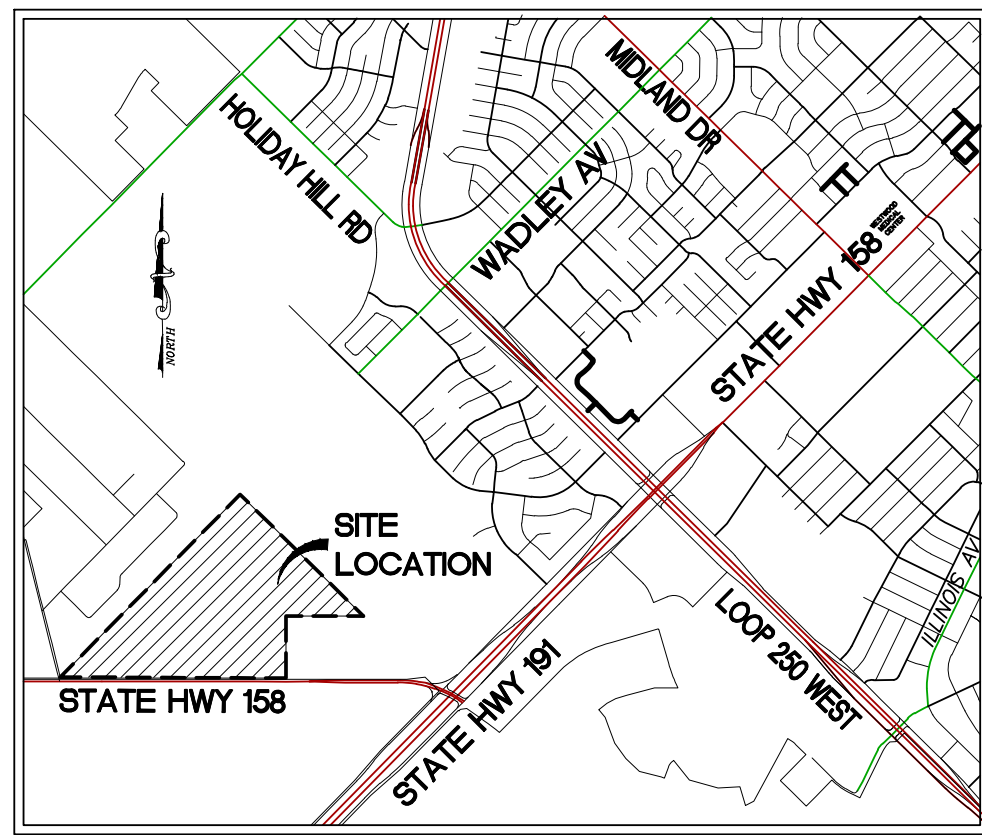
MY COMMISSION EXPIRES

11/20/2022



Notary Public, State of Texas





VICINITY MAP
(NOT TO SCALE)

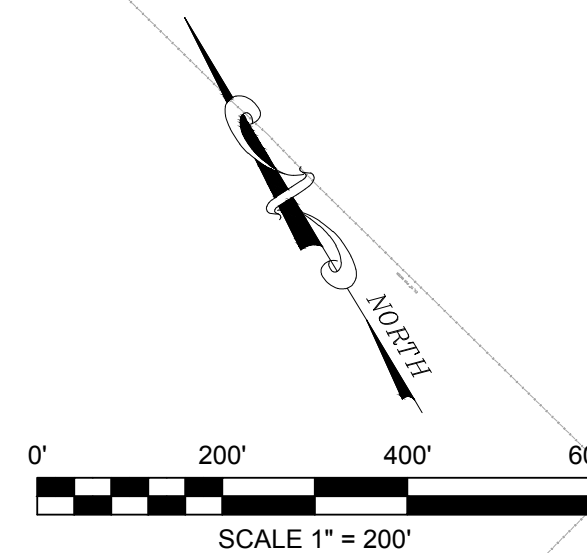


EXHIBIT A

ANNEXATION EXHIBIT

GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]
68.71 ACRES (TRACTS A1, A2, A3, A4)

&

TRACT TO BE DEDICATED TO THE CITY OF MIDLAND
27.05 ACRES (TRACT B)

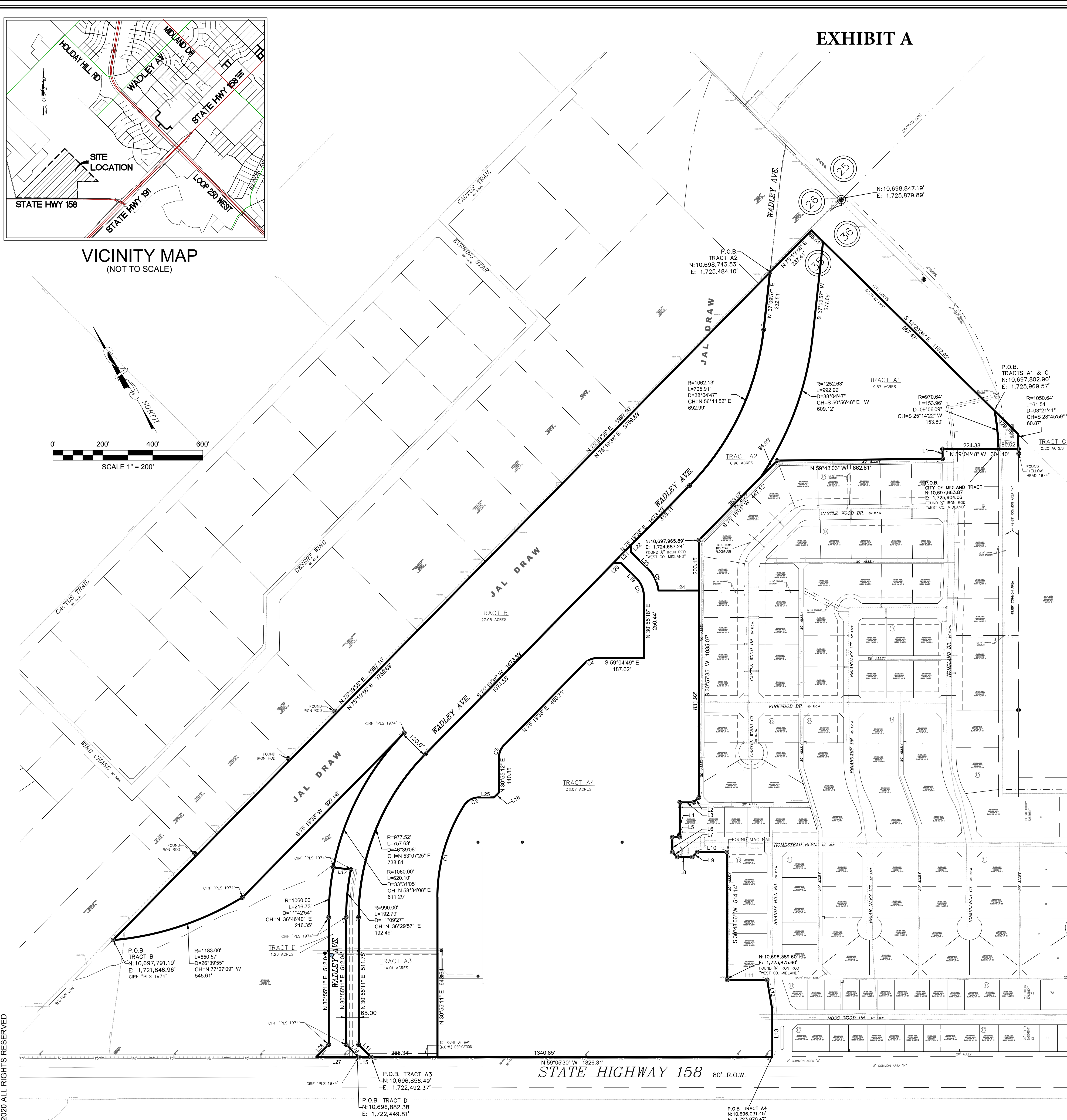
&

EXISTING TRACT OWNED BY THE CITY OF MIDLAND
0.20 ACRES (TRACT C)

&

EXISTING R.O.W. OF WADLEY ROAD
1.28 ACRES (TRACT D)

LOCATED IN SECTION 35, BLOCK 40, T-1-S, T & P RR Co. SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND MONUMENT AS NOTED
- DENOTES EXISTING FIRE HYDRANT
- DENOTES EXISTING TOPOGRAPHIC POINTS & ELEVATIONS
- DENOTES POWER POLE
- DENOTES FLOODWAY BOUNDARY
- DENOTES ZONE A5 REGULATORY FLOODWAY
- DENOTES ZONE A6 WITH BASE FLOOD ELEVATION
- DENOTES BOUNDARY LINE
- DENOTES LOT LINE
- DENOTES RIGHT OF WAY (R.O.W.) DEDICATION
- DENOTES EASEMENT LINE
- DENOTES EXISTING EASEMENT LINE
- DENOTES ADJACENT DEED OR PROPERTY LINE
- DENOTES EXISTING WATER LINE
- DENOTES EXISTING SANITARY SEWER
- DENOTES EXISTING ELECTRIC LINE
- DENOTES EXISTING FENCE LINE
- DENOTES FIRM R.O.W. LINE
- DENOTES EXISTING CONTOURS
- DENOTES SECTION LINE
- DENOTES SECTION NUMBER

Curve Table

CURVE	RADIUS	DELTA	Length	CHORD BEARING	DIST.
C1	693.27'	32°13'03"	389.35'	N 47°03'46" E	384.24'
C2	70.61'	57°25'53"	70.48'	S 87°56'14" E	62.57'
C3	70.20'	44°16'14"	54.25'	N 53°07'25" E	52.91'
C4	71.05'	45°18'41"	55.66'	S 81°52'36" E	54.24'
C5	101.46'	45°05'04"	79.59'	N 88°06'19" E	77.56'
C6	160.23'	37°44'45"	105.53'	S 04°13'36" W	103.66'

Parcel Line Table

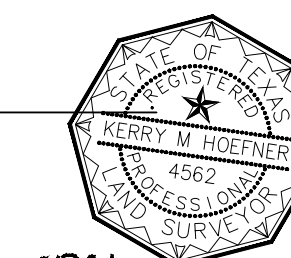
Line #	Length	Direction
L1	39.26'	S 30°17'37" W
L2	28.30'	S 75°56'28" W
L3	56.44'	N 59°04'16" W
L4	139.92'	S 30°55'01" W
L5	30.01'	N 59°04'41" W
L6	60.00'	S 30°55'44" W
L7	28.29'	S 14°03'57" E
L8	60.00'	S 59°04'48" E
L9	28.28'	N 75°55'12" E
L10	119.09'	S 59°04'42" E
L11	159.85'	S 59°06'24" E
L12	121.75'	S 21°12'09" W
L13	190.12'	S 30°55'45" W
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KNOW ALL MEN BY THESE PRESENTS:

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Kerry M. Hoefner
KERRY M. HOEFNER, R.L.S. 4562
2713 CANTRELL ST.
IRVING, TX 75062
214.714.2340



18 JAN, 2021
REV. 28 FEB, 2021
REV. 16 MAR, 2021

OWNER:
GRASSLAND IV, LTD.
5908 Homestead Blvd
Midland, TX 79702115



SURVEYORS - ENGINEERS - PLANNERS,
ENGINEER REGISTRATION: FIRM 2184
SURVEYOR REGISTRATION: FIRM 100682-00
110 W. LOUISIANA AVE., SUITE 110,
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868

FEBRUARY 2021

GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]

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THENCE South 14 degrees 20 minutes 36 seconds East, along the east line of said Section 35, a distance of 1162.92 feet to a point for the beginning of a non-tangent curve to the right having a radius of 1050.64 feet and a chord bearing South 28 degrees 45 minutes 59 seconds West, 60.87 feet;

THENCE Southerly, along said curve to the right, through a central angle of 03 degrees 21 minutes 41 seconds, an arc distance of 61.54 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND" for the end of said curve and the northeast corner of GRASSLAND ESTATES WEST Section 10, recorded in Cabinet L, Page 50A, O.P.R.M.C.T.;

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North 59 degrees 43 minutes 03 seconds West, a distance of 662.80 feet to a found iron rod with red plastic cap marked "WEST CO MIDLAND";

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South 30 degrees 57 minutes 35 seconds West, a distance of 1,035.07 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

(Description continues on Page 2 of 3)

(Description continued from Page 3 of 3)

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South 30 degrees 55 minutes 01 seconds West, a distance of 139.92 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

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South 59 degrees 04 minutes 42 seconds East, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

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(Description continues on Page 3 of 3)

(Description continued from Page 2 of 3)

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North 75 degrees 55 minutes 12 seconds East, a distance of 70.88 feet to a found capped iron rod marked "PLS 1974";

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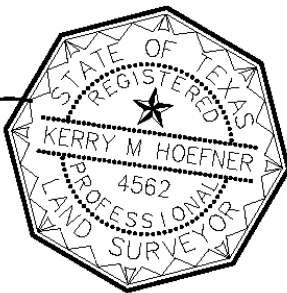
THENCE Northeasterly, along said curve to the right, through a central angle of 11 degrees 42 minutes 54 seconds, an arc distance of 216.73 feet to a found capped iron rod marked "PLS 1974" for the end of said right-of-way of Wadley Drive and the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 58 degrees 34 minutes 08 seconds East, 611.29 feet; said found iron rod also being located on the remainder of the aforementioned SCP Hwy 158, LLC tract;

THENCE Northeasterly, along said curve to the right and said SCP Hwy 158, LLC tract, through a central angle of 33 degrees 31 minutes 05 seconds, an arc distance of 620.11 feet to a found capped iron rod marked "PLS 1974" for the end of said curve;

THENCE South 75 degrees 19 minutes 38 seconds West, along the north line of said SCP Hwy 158 Land, LLC tract, a distance of 927.08 feet to a found capped iron rod marked "PLS 1974" for the beginning of a non-tangent curve to the right having a radius of 1183.00 feet and a chord bearing North 77 degrees 24 minutes 09 seconds West, 545.61 feet;

THENCE Westerly, along said curve to the right and continuing along the north line of said SCP Hwy 158 Land, LLC tract, through a central angle of 26 degrees 39 minutes 55 seconds, an arc distance of 550.57 feet, to the Point of Beginning and containing 97.05 acres of land.

Kerry M. Hoefner
16 MAR, 2021



SERVICE AGREEMENT

THIS AGREEMENT is made and effective the 3 day of May 2021, by and between the CITY OF MIDLAND, TEXAS, hereinafter called "CITY," and GRASSLANDS IV, LTD, hereinafter referred to as "PETITIONER" whether one or more.

WHEREAS, a petition for annexation of a **97.05-acres tract of land, located in Sections 35 and 36, Block 40, T-1-S, T&P Railroad 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, 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. IMPACT FEES

- A. **Fees to be assessed and collected.** Except as otherwise described herein, if CITY has adopted, or adopts in the future, one or more ordinances establishing impact fees in accordance with Chapter 395 of the Local Government Code, CITY shall assess and collect fees associated with the development of the Area as described for impact fees in the applicable impact fee ordinance(s) (the "Fees").
- B. **Service areas.** For purposes of assessing and collecting Fees for water and wastewater under this Agreement, the Area is deemed to be located within CITY's capital improvements plan service area therefor. For the purpose of assessing and collecting Fees for roadways under this Agreement, the Area is deemed to be located in CITY's capital improvements plan roadway service area(s) immediately adjacent thereto; provided, however, that if the Area is not located immediately adjacent to a roadway service area and is located immediately adjacent to a tract of land that is associated with an agreement regarding fees similar to the Fees in this Agreement, the Area is deemed to be located in the roadway service area(s) specified in such similar agreement associated with the adjacent tract of land.
- C. **Capital improvements and facility expansions.** For purposes of this Agreement, a capital improvement or facility expansion that will serve the Area shall be deemed to be included in CITY's capital improvements plan if:
- a. said capital improvement or facility expansion is substantially similar to a type of capital improvement or facility expansion identified in CITY's capital improvements plan; or
 - b. said capital improvement or facility expansion is an extension of a capital improvement or facility expansion identified in CITY's capital improvements plan.
- D. **Time of assessment.** Fees shall be assessed at the time of recordation of a final plat of any portion of the Area, at the time the Area is annexed, or on the effective date(s) of the applicable impact fee ordinance(s), whichever is later.
- E. **Time of collection.** CITY shall collect the Fees from PETITIONER at the time of issuance of a building permit. PETITIONER acknowledges and agrees that no building permit or certificate of occupancy shall be issued until PETITIONER has paid the applicable Fees.
- F. **Amendment to land use assumptions, capital improvements plan, or impact fees.** Notwithstanding any provision in this Agreement to the contrary, if CITY amends its land use assumptions, capital improvements plan, or impact fees such that PETITIONER would be required to pay impact fees, CITY shall assess and PETITIONER shall pay the applicable impact fees in accordance with the applicable impact fee ordinance(s), as amended; provided, however, that to the extent CITY assesses applicable Fees for service units under this Agreement, PETITIONER shall pay such Fees in accordance with this Agreement and shall not be required to pay the applicable impact fees for the same service units.
- G. **Article to survive termination.** If CITY annexes the Area within one year from the

effective date, the provisions of this Article shall survive termination of this Agreement.

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

PACKET

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. 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. The provisions of this Article VIII.A. shall survive termination of this Agreement.
- 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: Grasslands IV, LTD
5908 Homestead Boulevard
Midland, Texas 79707

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

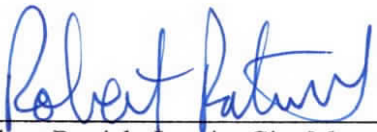
supplied within thirty (30) days after receipt of notice.

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. The provisions of this Article VIII.G. shall survive termination of this agreement. **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. The provisions of this Article VIII.H. shall survive termination of this Agreement.

EXECUTED the day and year first above mentioned.

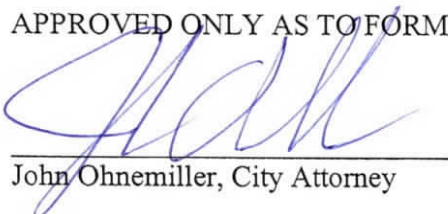
THE CITY OF MIDLAND, TEXAS

By: 
Robert Patrick, Interim City Manager

ATTEST


Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM


John Ohnemiller, City Attorney

PETITIONER:

By: [Signature]

Name: ROBERT W. GRAHAM

Title: PRES

STATE OF Texas §

COUNTY OF Midland §

BEFORE ME, the undersigned authority, on this 29th day of April, 2021 personally appeared, Robert W. Graham, an officer of Grasslands IV, LTD, 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 29th day of April, 2021.



[Signature]
Notary Public, State of Texas

EXHIBIT "A" TO SERVICE AGREEMENT

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract(s) of land described in Exhibit(s) "A" (the "Property"), said Exhibit(s) being attached hereto and incorporated herein, GRASSLANDS IV, LTD. ("Owner") submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.



Signature of Owner or Owner's Authorized Representative

LARRY H. WALKER, P.E.

Printed Name

Title

V.P. ENGINEERING

Title

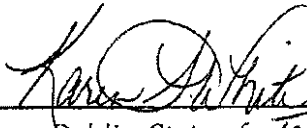
THE STATE OF Texas §

COUNTY OF Midland §

This instrument was acknowledged before me on the 16th day of March 2021 by Larry H. Walker in the capacity herein stated.

MY COMMISSION EXPIRES

11/20/2022



Notary Public, State of Texas



(continued)

June 8, 2021

Parcel		Line	Table
Line #	Length	Direction	
L1	34.26	S 30N77.337° W	
L2	28.30	S 75N56.28° W	
L3	56.43	N 58N04.16° W	
L4	13.98	S 30N50.51° W	
L5	36.00	N 58N04.41° W	
L6	60.00	S 30N54.43° W	
L7	28.26	S 14N03.37° E	
L8	60.00	S 59N48.48° E	
L9	28.26	N 75N50.72° E	
L10	119.08	S 59N04.42° E	
L11	158.85	S 59N08.24° E	
L12	121.75	N 21N06° W	
L13	190.12	S 30N53.45° W	
L14	70.86	N 58N02.48° W	
L15	50.00	S 40N26.26° E	
L16	70.86	N 14N04.48° W	
L17	70.85	N 51N56.35° W	
L18	28.26	N 75N50.72° E	
L19	90.30	N 14N52.41° W	
L20	28.23	N 59N41.33° W	
L21	100.00	N 75N19.26° E	
L22	28.26	S 30N16.28° W	
L23	80.49	N 51N59.13° E	
L24	162.05	S 59N04.40° E	
L25	90.78	N 51N56.35° W	
L26	70.86	N 75N50.72° E	

CURVE	RADIUS	DELTA	Length	CHORD BEARING	DIST.
C1	683.27	321.93°	389.35'	N 47°03'48" E	384.24'
C2	70.61	57°25'53"	70.48'	S 87°30'14" E	82.57'
C3	70.20	44°15'54"	54.23'	N 13°07'25" E	52.91'
C4	71.05'	45°18'41"	55.68'	S 81°32'38" E	54.24'
C5	101.48'	43°02'04"	79.36'	N 88°06'19" E	77.56'
C6	540.25'	37°04'44"	108.55'	S 89°13'58" E	107.64'

[illegible]

KNOW ALL MEN BY THESE PRESENTS:

That I, Kerry M. Mortimer, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this plat was prepared from an actual and accurate survey of the land and that the corner monuments shown thereon were properly located under my personal supervision, in accordance with the Subdivision Regulations of the City of Midland, Texas.

Kerry M. Hoefner
KERRY M. HOEFNER, RBLS 4582
2713 CANIBRELL ST.
IRVING, TX 75062
214.714.2340

SURVEYORS - ENGINEERS - PLANNERS,
ENGINEER REGISTRATION: FIRM 2184
SURVEYOR REGISTRATION: FIRM 100682-0
110 W. LOUISIANA AVE., SUITE 110,
MIAMI, TEXAS 79701

FEBRUARY 2021

GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]

CONTINUATION OF EXHIBIT A

ANNEXATION DESCRIPTION - OVERALL

BEING a 97.05 acre tract or parcel of land situated in Section 35, Block 40, T-1-S of the T & P RR Co. Survey, Midland County, Texas and being a portion of that certain tract described in Warranty Deed to SBC Corporation, recorded in Volume 1464, Page 174, Official Public Records, Midland County, Texas (O.P.R.M.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at [N= 10,697,791.19; E= 1,721,846.96] a found capped iron rod marked "PLS 1974" located North 75 degrees 19 minutes 38 seconds East a distance of 657.97 feet from a found 60d nail for the most westerly corner of said SBC tract; said iron rod also being the most northerly west corner of that certain tract described in Special Warranty Deed to SCP Hwy 158 Land, LLC, recorded in Document Number 2019-15764, O.P.R.M.C.T., and being located on the north line of said Section 35;

THENCE North 75 degrees 19 minutes 38 seconds East, along the north line of said SBC tract and said section line, a distance of 3997.10 feet to a set iron rod with red plastic cap marked "WEST CO MIDLAND" (hereinafter referred to as a set iron rod) located at or near the northeast corner of said Section 35;

THENCE South 14 degrees 20 minutes 36 seconds East, along the east line of said Section 35, a distance of 1162.92 feet to a point for the beginning of a non-tangent curve to the right having a radius of 1050.64 feet and a chord bearing South 28 degrees 45 minutes 59 seconds West, 60.87 feet;

THENCE Southerly, along said curve to the right, through a central angle of 03 degrees 21 minutes 41 seconds, an arc distance of 61.54 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND" for the end of said curve and the northeast corner of GRASSLAND ESTATES WEST Section 10, recorded in Cabinet L, Page 50A, O.P.R.M.C.T.;

THENCE along the northeast, north and northwest line of said GRASSLAND ESTATES WEST Section 10 the following:

North 59 degrees 04 minutes 48 seconds West, a distance of 304.40 feet to 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND"

South 30 degrees 17 minutes 37 seconds West, a distance of 39.26 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 43 minutes 03 seconds West, a distance of 662.80 feet to a found iron rod with red plastic cap marked "WEST CO MIDLAND";

South 75 degrees 18 minutes 01 seconds West, a distance of 447.12 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 57 minutes 35 seconds West, a distance of 1,035.07 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

(Description continues on Page 2 of 3)

(Description continued from Page 3 of 3)

South 75 degrees 56 minutes 28 seconds West, a distance of 28.30 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 16 seconds West, a distance of 56.44 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 01 seconds West, a distance of 139.92 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 41 seconds West, a distance of 30.01 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 44 seconds West, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 14 degrees 03 minutes 57 seconds East, a distance of 30.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 75 degrees 55 minutes 12 seconds East, a distance of 28.28 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 120.15 feet to a set Mag Nail for the most westerly northwest corner of GRASSLAND ESTATES WEST Section 9, recorded in Cabinet I, Page 198, O.P.R.M.C.T.;

THENCE along the west line of said GRASSLAND ESTATES WEST, Section 9 the following:

South 30 degrees 55 minutes 12 seconds West, a distance of 514.14 feet to set Mag Nail;

South 59 degrees 04 minutes 41 seconds East, a distance of 159.85 feet to a set iron rod;

South 21 degrees 12 minutes 11 seconds West, a distance of 121.75 feet to a set iron rod;

South 30 degrees 55 minutes 12 seconds West, a distance of 190.00 feet to a set iron rod for the southwest corner of said GRASSLAND ESTATES WEST Section 9 on the southwest line of said SBC tract; said set iron rod being located on the northeasterly right-of-way line of State Highway 158 (a 120' right-of-way per Cabinet I, Page 198, O.P.R.M.C.T.);

(Description continues on Page 3 of 3)

(Description continued from Page 2 of 3)

THENCE North 59 degrees 05 minutes 30 seconds West, along the southwest line of said SBC tract and said northeast right-of-way line, a distance of 1826.31 feet to a Point for the southwest corner of the right-of-way of Wadley Drive (Cabinet L, Page 189, O.P.R.M.C.T.);

THENCE Northeasterly, along said right-of-way line, the following:

North 75 degrees 55 minutes 12 seconds East, a distance of 70.88 feet to a found capped iron rod marked "PLS 1974";

THENCE North 30 degrees 55 minutes 11 seconds East, a distance of 512.04 feet to a found capped iron rod marked "PLS 1974" for the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 36 degrees 40 minutes 40 seconds East, 216.35 feet;

THENCE Northeasterly, along said curve to the right, through a central angle of 11 degrees 42 minutes 54 seconds, an arc distance of 216.73 feet to a found capped iron rod marked "PLS 1974" for the end of said right-of-way of Wadley Drive and the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 58 degrees 34 minutes 08 seconds East, 611.29 feet; said found iron rod also being located on the remainder of the aforementioned SCP Hwy 158, LLC tract;

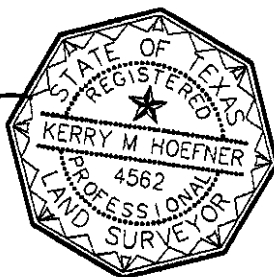
THENCE Northeasterly, along said curve to the right and said SCP Hwy 158, LLC tract, through a central angle of 33 degrees 31 minutes 05 seconds, an arc distance of 620.11 feet to a found capped iron rod marked "PLS 1974" for the end of said curve;

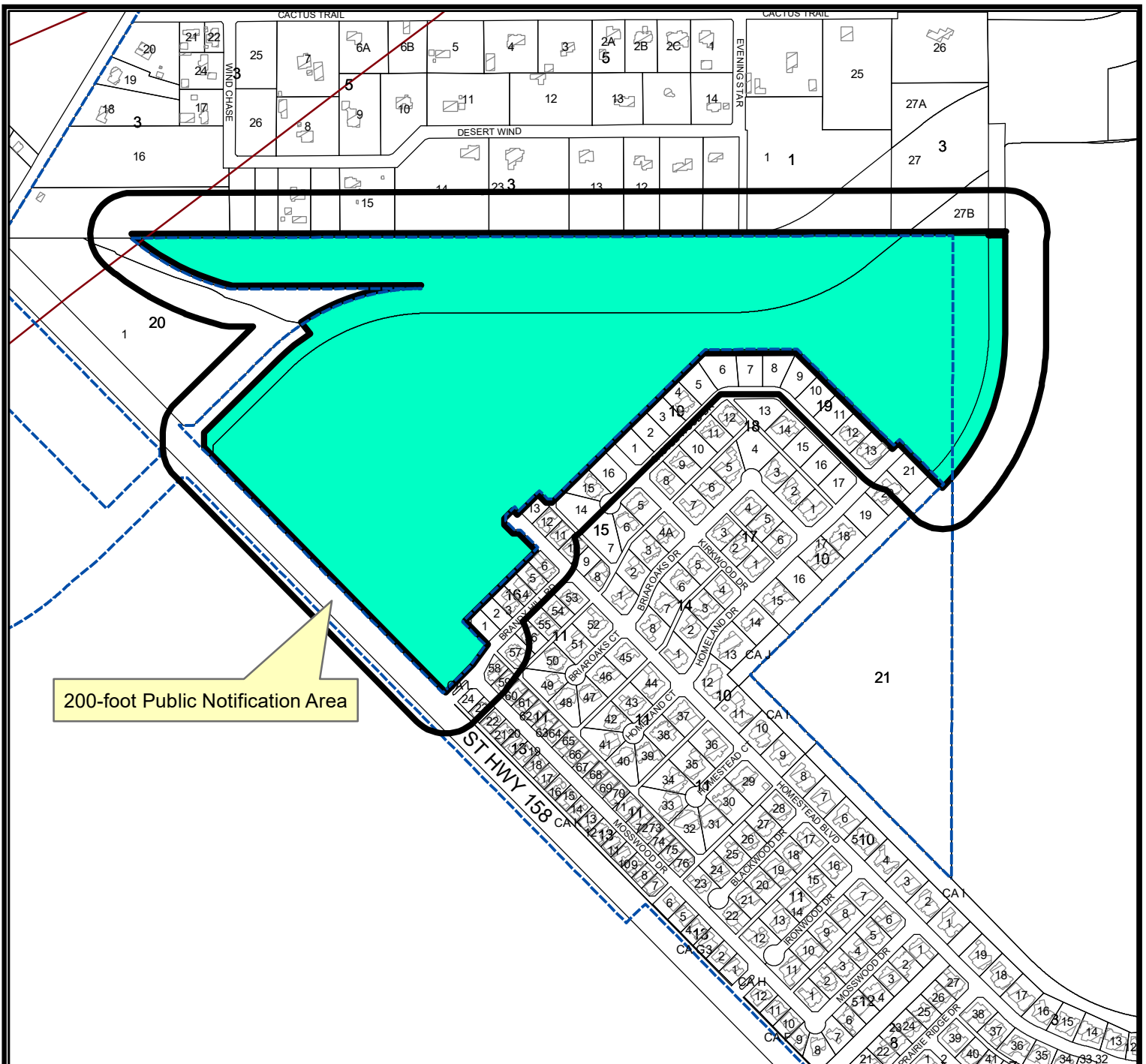
THENCE South 75 degrees 19 minutes 38 seconds West, along the north line of said SCP Hwy 158 Land, LLC tract, a distance of 927.08 feet to a found capped iron rod marked "PLS 1974" for the beginning of a non-tangent curve to the right having a radius of 1183.00 feet and a chord bearing North 77 degrees 24 minutes 09 seconds West, 545.61 feet;

THENCE Westerly, along said curve to the right and continuing along the north line of said SCP Hwy 158 Land, LLC tract, through a central angle of 26 degrees 39 minutes 55 seconds, an arc distance of 550.57 feet, to the Point of Beginning and containing 97.05 acres of land.

Kerry M. Hoefner

16 MAR, 2021





LOCATION MAP

A-21-0025

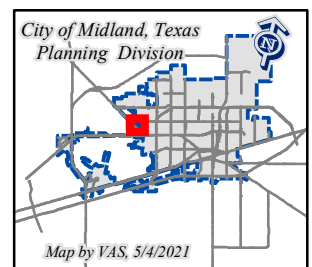
Scale: 1" = 600'

Consider an ordinance for an annexation of a 97.05-acres tract of land located in Sections 35 and 36, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas.

Generally located on the north side of W. State Highway 158, approximately 11 feet west of Brandy Hill Road. (Extraterritorial Jurisdiction)

LEGEND

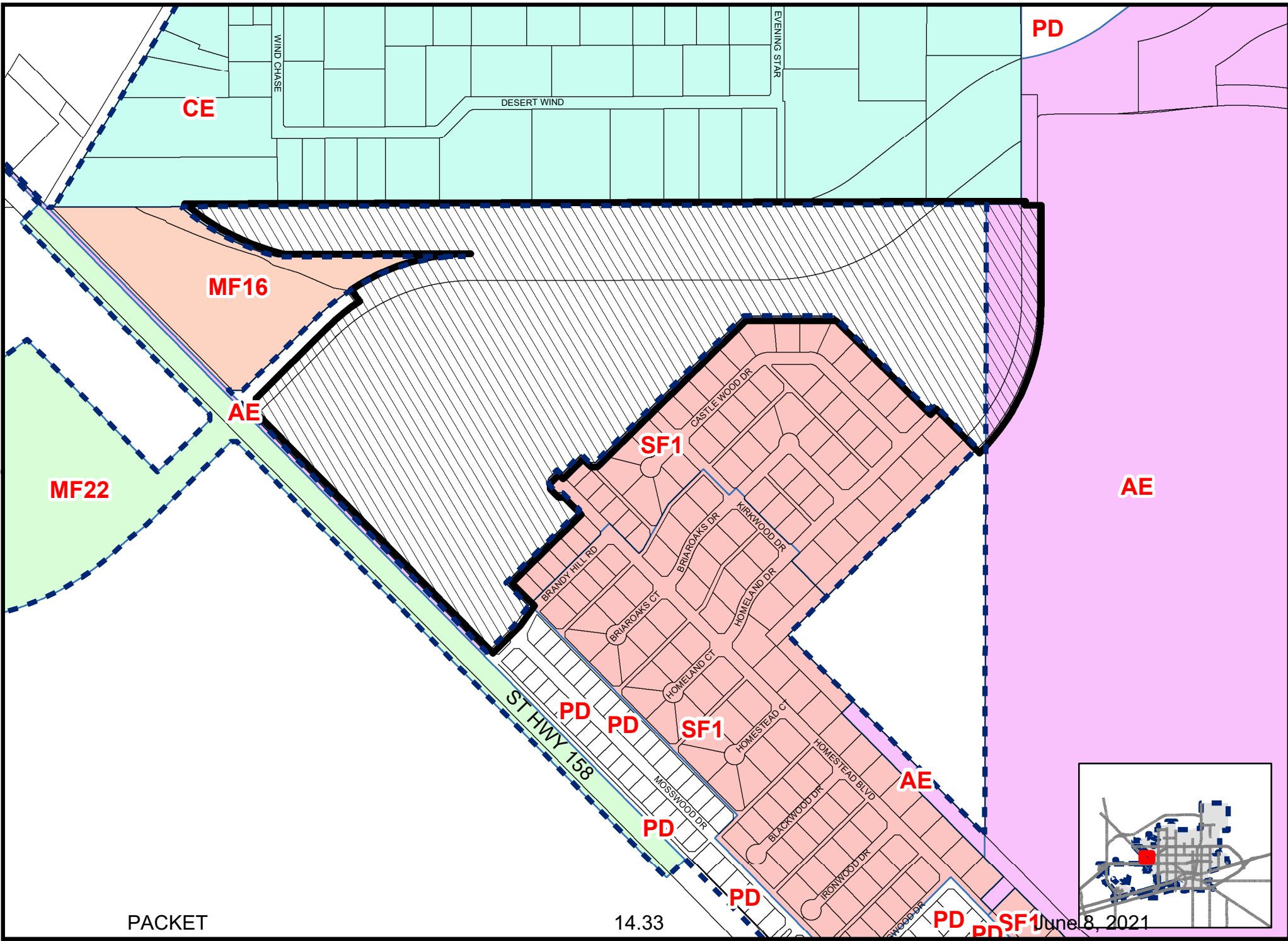
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 8, 2021

PACKET

14.32













City Council Meeting

Item Number: 15
Meeting Date: June 8, 2021
To: City Council / City Manager
From: Valerie A. Sherman, Senior Planner
Subject: AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATIONS OF THE AREA INDICATED AS BEING A 97.05-ACRE TRACT OF LAND OUT OF SECTIONS 35 AND 36, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN SF-1, SINGLE-FAMILY DWELLING DISTRICT, IN PART, AND AN RR, REGIONAL RETAIL DISTRICT, IN PART; SAID TRACT BEING GENERALLY LOCATED ON THE NORTH SIDE OF WEST STATE HIGHWAY 158, APPROXIMATELY 11 FEET WEST OF BRANDY HILL 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: NONE) (DEVELOPMENT SERVICES)

Purpose:

Consider an ordinance on a request by Grasslands IV, LTD for the initial zoning of a 97.05-acres tract of land located in Sections 35 and 36, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, located on the north side of W. State Highway 158, approximately 11 feet west of Brandy Hill Road.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the city.

Discussion:

The applicant, Grasslands IV, LTD, is requesting the initial zoning of a 97.05- acres tract of

land located in Sections 35 and 36, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, located on the north side of W. State Highway 158, approximately 11 feet west of Brandy Hill Road, which is currently being annexed to be SF-1, Single-Family Dwelling District, in part; and RR, Regional Retail District, in part.

The applicant is requesting for the initial zoning of the land to be annexed to be SF-1, Single-Family Dwelling District for Tracts A1 and A4 (refer to Diagram A) and RR, Regional Retail District for Tracts A2 and A3 (refer to Diagram A).

The site is currently in the process of being annexed into City Limits as well as in the process of being platted.

This case has been circulated to and reviewed by all pertinent City departments for internal review and has received no objections. Their comments are as follows.

Engineering: (Approved)

Annexation exhibit needs to be revised to show correct Wadley R.O.W.

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.

No objection to zone change.

Transportation: (Approved)

Access spacing will be required to adhere to the TxDOT Access Management Standards along the state highway.

Depending on the nature and scale of the proposed development, a Traffic Impact Analysis MAY be required prior to approval of construction drawings.

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.

No objection to zone change.

Fire: (Approved)

No comments.

Code Administration: (Approved)

No objections.

Oil and Gas: (Approved)

No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat.

Planning:

The Future Land Use Map in Tall City Tomorrow Comprehensive Plan calls for Urban-Medium uses in this location, encompassing a mix of housing types, neighborhood and community commercial, office and service uses.

This request was recommended for approval at the May 17, 2021 Planning and Zoning Commission meeting.

Staff recommends approval of this initial zoning of SF-1, Single-Family Dwelling District, in part; and RR, Regional Retail District, subject to condition A.

Conditions:

- A. That the use and development of the property shall conform to the regulations of the SF-1, Single-Family Dwelling District and RR, Regional Retail District.**

Letters of Objection:

As of June 4, 2021, staff has received no letters of objection to this request.

Attachments:

Petition (Exhibit A)
Service Agreement (Exhibit B)
Application
Diagram A
Maps



City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATIONS OF THE AREA INDICATED AS BEING A 97.05-ACRE TRACT OF LAND OUT OF SECTIONS 35 AND 36, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN SF-1, SINGLE-FAMILY DWELLING DISTRICT, IN PART, AND AN RR, REGIONAL RETAIL DISTRICT, IN PART; SAID TRACT BEING GENERALLY LOCATED ON THE NORTH SIDE OF WEST STATE HIGHWAY 158, APPROXIMATELY 11 FEET WEST OF BRANDY HILL 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, 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 June 8, 2021 (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 classifications of the property described in Section One hereof as an SF-1, Single-Family Dwelling District, in part, and an RR, Regional Retail District, in part, 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 classifications of the area indicated on Exhibit “A”, attached hereto and incorporated herein by reference, are hereby established as follows:

- A. The zoning classification of the tracts identified in Exhibit “A” as Tracts A1 and A4 is established as an SF-1, Single-Family Dwelling District.
- B. The zoning classification of the tracts identified in Exhibit “A” as Tracts A2 and A3 is established as an RR, Regional Retail District.

The Zoning District Map of the City of Midland, Texas, is hereby amended to reflect the establishment of these initial zoning classifications.

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., 2021; 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., 2021, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT A

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract(s) of land described in Exhibit(s) "A" (the "Property"), said Exhibit(s) being attached hereto and incorporated herein, GRASSLANDS IV, LTD. ("Owner") submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.



Signature of Owner or Owner's Authorized Representative

LARRY H. WALKER, P.E.

Printed Name

V.P. ENGINEERING

Title

THE STATE OF Texas §
COUNTY OF Midland §
§

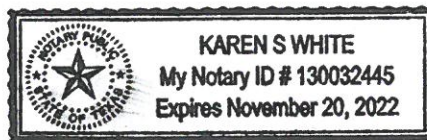
This instrument was acknowledged before me on the 16th day of March, 2021, by Larry H. Walker in the capacity herein stated.

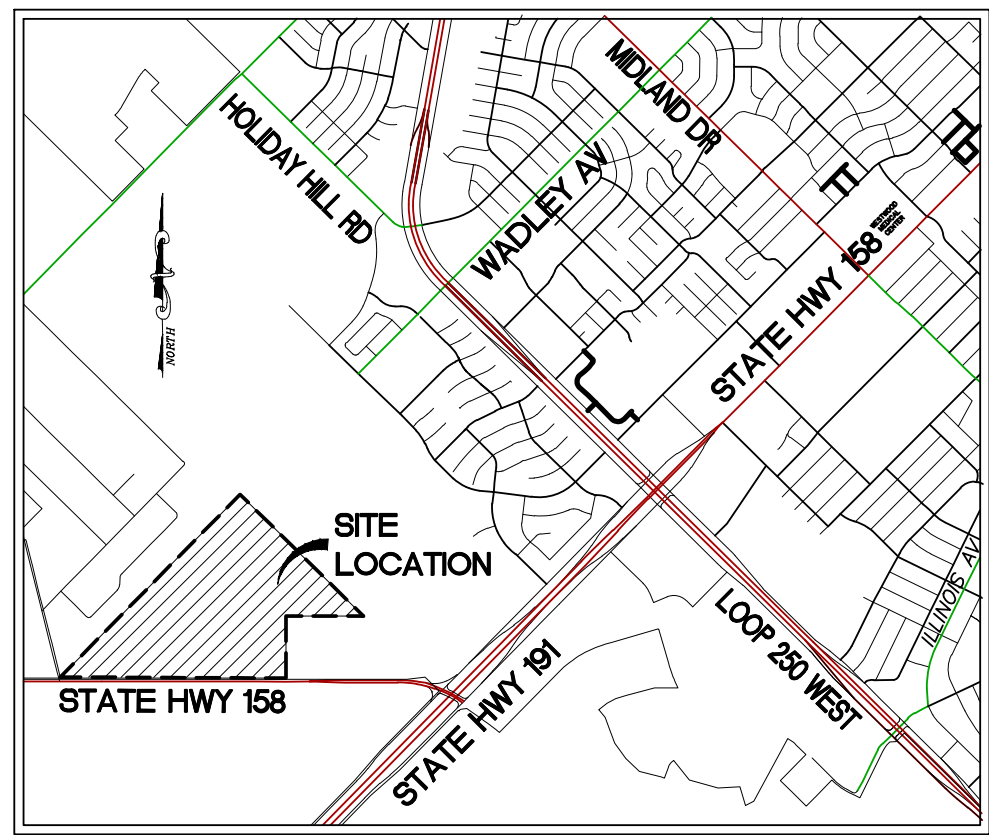
MY COMMISSION EXPIRES

11/20/2022



Notary Public, State of Texas





VICINITY MAP
(NOT TO SCALE)

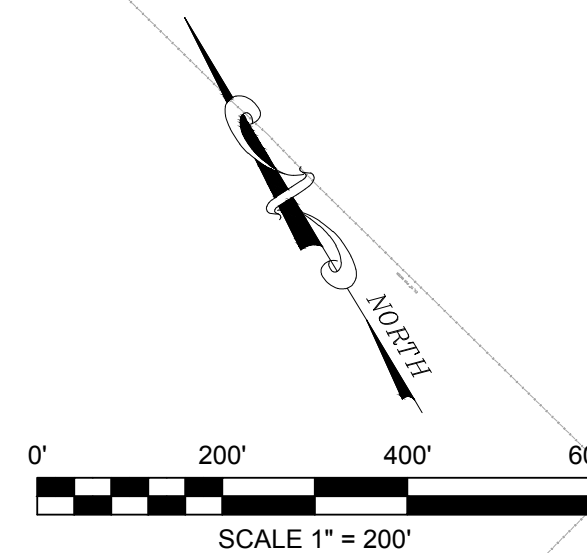
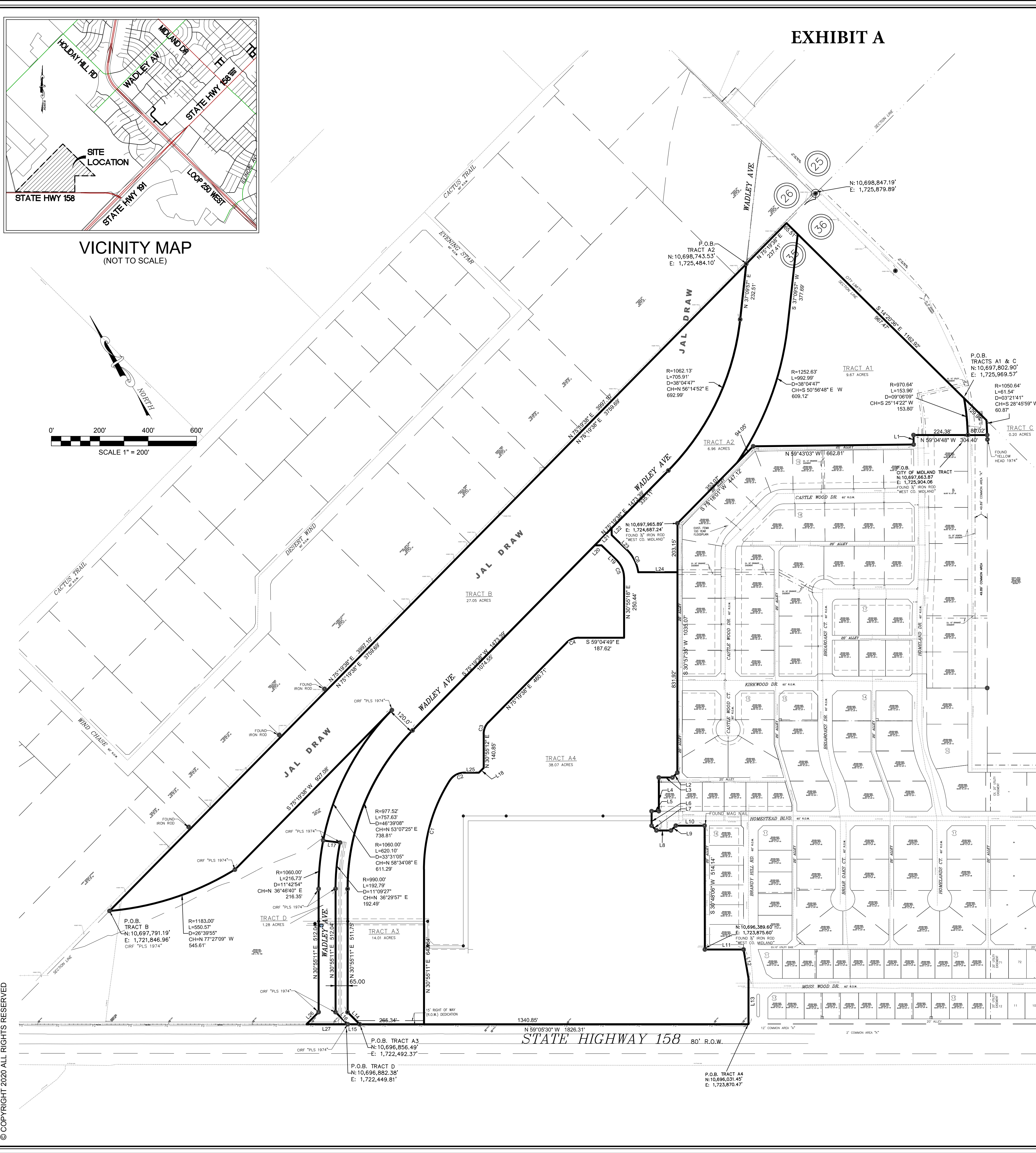


EXHIBIT A

ANNEXATION EXHIBIT
GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]
68.71 ACRES (TRACTS A1, A2, A3, A4)
&
TRACT TO BE DEDICATED TO THE CITY OF MIDLAND
27.05 ACRES (TRACT B)
&
EXISTING TRACT OWNED BY THE CITY OF MIDLAND
0.20 ACRES (TRACT C)
&
EXISTING R.O.W. OF WADLEY ROAD
1.28 ACRES (TRACT D)
LOCATED IN SECTION 35, BLOCK 40, T-1-S, T & P RR Co. SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND MONUMENT AS NOTED
- DENOTES EXISTING FIRE HYDRANT
- DENOTES EXISTING TOPOGRAPHIC POINTS & ELEVATIONS
- DENOTES POWER POLE
- DENOTES FLOODWAY BOUNDARY
- DENOTES ZONE A5 REGULATORY FLOODWAY
- DENOTES ZONE A6 WITH BASE FLOOD ELEVATION
- DENOTES BOUNDARY LINE
- DENOTES LOT LINE
- DENOTES RIGHT OF WAY (R.O.W.) DEDICATION
- DENOTES EASEMENT LINE
- DENOTES EXISTING EASEMENT LINE
- DENOTES ADJACENT DEED OR PROPERTY LINE
- DENOTES EXISTING WATER LINE
- DENOTES EXISTING SANITARY SEWER
- DENOTES EXISTING ELECTRIC LINE
- DENOTES EXISTING FENCE LINE
- DENOTES FIRM R.O.W. LINE
- DENOTES EXISTING CONTOURS
- DENOTES SECTION LINE
- DENOTES SECTION NUMBER

Curve Table

CURVE	RADIUS	DELTA	Length	CHORD BEARING	DIST.
C1	693.27'	32°13'03"	389.35'	N 47°03'46" E	384.24'
C2	70.61'	57°25'53"	70.48'	S 87°56'14" E	62.57'
C3	70.20'	44°16'14"	54.25'	N 53°07'25" E	52.91'
C4	71.05'	45°18'41"	55.66'	S 81°52'36" E	54.24'
C5	101.46'	45°05'04"	79.59'	N 88°06'19" E	77.56'
C6	160.23'	37°44'45"	105.53'	S 04°13'36" W	103.66'

Parcel Line Table		
Line #	Length	Direction
L1	39.26'	S 30°17'37" W
L2	28.30'	S 75°56'28" W
L3	56.44'	N 59°04'16" W
L4	139.92'	S 30°55'01" W
L5	30.01'	N 59°04'41" W
L6	60.00'	S 30°55'44" W
L7	28.29'	S 14°03'57" E
L8	60.00'	S 59°04'48" E
L9	28.28'	N 75°55'12" E
L10	119.09'	S 59°04'42" E
L11	159.85'	S 59°06'24" E
L12	121.75'	S 21°12'09" W
L13	190.12'	S 30°55'45" W
L14	70.88'	N 14°04'48" W
L15	50.00'	S 59°02'26" E
L16	70.88'	N 14°04'48" W
L17	70.16'	N 51°58'36" W
L18	28.28'	N 75°55'12" E
L19	88.30'	N 14°42'41" W
L20	28.29'	N 59°41'31" W
L21	100.00'	N 75°19'38" W
L22	28.28'	S 30°18'29" W
L23	88.48'	S 14°39'13" E
L24	162.08'	S 59°04'40" E
L25	60.75'	N 51°58'36" W
L26	70.88'	N 75°55'12" E
L27	170.12'	N 59°05'30" W

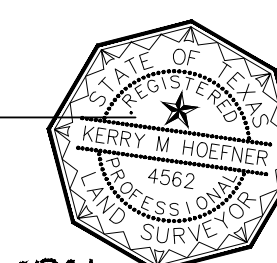
SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Kerry M. Hoefner, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this plat was prepared from an actual and accurate survey of the land and that the corner monuments shown thereon were properly located under my personal supervision, in accordance with the Subdivision Regulations of the City of Midland, Texas.

Kerry M. Hoefner
KERRY M. HOEFNER, R.L.S. 4562
2713 CANTRELL ST.
IRVING, TX 75062
214.714.2340

18 JAN, 2021
REV. 28 FEB, 2021
REV. 16 MAR, 2021



OWNER:
GRASSLAND IV, LTD.
5908 Homestead Blvd
Midland, TX 79702115



SURVEYORS - ENGINEERS - PLANNERS,
ENGINEER REGISTRATION: FIRM 2184
SURVEYOR REGISTRATION: FIRM 100682-00
110 W. LOUISIANA AVE., SUITE 110,
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868

FEBRUARY 2021

GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]

CONTINUATION OF EXHIBIT A

ANNEXATION DESCRIPTION - OVERALL

BEING a 97.05 acre tract or parcel of land situated in Section 35, Block 40, T-1-S of the T & P RR Co. Survey, Midland County, Texas and being a portion of that certain tract described in Warranty Deed to SBC Corporation, recorded in Volume 1464, Page 174, Official Public Records, Midland County, Texas (O.P.R.M.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at [N= 10,697,791.19; E= 1,721,846.96] a found capped iron rod marked "PLS 1974" located North 75 degrees 19 minutes 38 seconds East a distance of 657.97 feet from a found 60d nail for the most westerly corner of said SBC tract; said iron rod also being the most northerly west corner of that certain tract described in Special Warranty Deed to SCP Hwy 158 Land, LLC, recorded in Document Number 2019-15764, O.P.R.M.C.T., and being located on the north line of said Section 35;

THENCE North 75 degrees 19 minutes 38 seconds East, along the north line of said SBC tract and said section line, a distance of 3997.10 feet to a set iron rod with red plastic cap marked "WEST CO MIDLAND" (hereinafter referred to as a set iron rod) located at or near the northeast corner of said Section 35;

THENCE South 14 degrees 20 minutes 36 seconds East, along the east line of said Section 35, a distance of 1162.92 feet to a point for the beginning of a non-tangent curve to the right having a radius of 1050.64 feet and a chord bearing South 28 degrees 45 minutes 59 seconds West, 60.87 feet;

THENCE Southerly, along said curve to the right, through a central angle of 03 degrees 21 minutes 41 seconds, an arc distance of 61.54 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND" for the end of said curve and the northeast corner of GRASSLAND ESTATES WEST Section 10, recorded in Cabinet L, Page 50A, O.P.R.M.C.T.;

THENCE along the northeast, north and northwest line of said GRASSLAND ESTATES WEST Section 10 the following:

North 59 degrees 04 minutes 48 seconds West, a distance of 304.40 feet to 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND"

South 30 degrees 17 minutes 37 seconds West, a distance of 39.26 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 43 minutes 03 seconds West, a distance of 662.80 feet to a found iron rod with red plastic cap marked "WEST CO MIDLAND";

South 75 degrees 18 minutes 01 seconds West, a distance of 447.12 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 57 minutes 35 seconds West, a distance of 1,035.07 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

(Description continues on Page 2 of 3)

(Description continued from Page 3 of 3)

South 75 degrees 56 minutes 28 seconds West, a distance of 28.30 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 16 seconds West, a distance of 56.44 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 01 seconds West, a distance of 139.92 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 41 seconds West, a distance of 30.01 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 44 seconds West, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 14 degrees 03 minutes 57 seconds East, a distance of 30.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 75 degrees 55 minutes 12 seconds East, a distance of 28.28 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 120.15 feet to a set Mag Nail for the most westerly northwest corner of GRASSLAND ESTATES WEST Section 9, recorded in Cabinet I, Page 198, O.P.R.M.C.T.;

THENCE along the west line of said GRASSLAND ESTATES WEST, Section 9 the following:

South 30 degrees 55 minutes 12 seconds West, a distance of 514.14 feet to set Mag Nail;

South 59 degrees 04 minutes 41 seconds East, a distance of 159.85 feet to a set iron rod;

South 21 degrees 12 minutes 11 seconds West, a distance of 121.75 feet to a set iron rod;

South 30 degrees 55 minutes 12 seconds West, a distance of 190.00 feet to a set iron rod for the southwest corner of said GRASSLAND ESTATES WEST Section 9 on the southwest line of said SBC tract; said set iron rod being located on the northeasterly right-of-way line of State Highway 158 (a 120' right-of-way per Cabinet I, Page 198, O.P.R.M.C.T.);

(Description continues on Page 3 of 3)

(Description continued from Page 2 of 3)

THENCE North 59 degrees 05 minutes 30 seconds West, along the southwest line of said SBC tract and said northeast right-of-way line, a distance of 1826.31 feet to a Point for the southwest corner of the right-of-way of Wadley Drive (Cabinet L, Page 189, O.P.R.M.C.T.);

THENCE Northeasterly, along said right-of-way line, the following:

North 75 degrees 55 minutes 12 seconds East, a distance of 70.88 feet to a found capped iron rod marked "PLS 1974";

THENCE North 30 degrees 55 minutes 11 seconds East, a distance of 512.04 feet to a found capped iron rod marked "PLS 1974" for the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 36 degrees 40 minutes 40 seconds East, 216.35 feet;

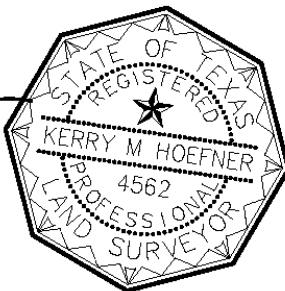
THENCE Northeasterly, along said curve to the right, through a central angle of 11 degrees 42 minutes 54 seconds, an arc distance of 216.73 feet to a found capped iron rod marked "PLS 1974" for the end of said right-of-way of Wadley Drive and the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 58 degrees 34 minutes 08 seconds East, 611.29 feet; said found iron rod also being located on the remainder of the aforementioned SCP Hwy 158, LLC tract;

THENCE Northeasterly, along said curve to the right and said SCP Hwy 158, LLC tract, through a central angle of 33 degrees 31 minutes 05 seconds, an arc distance of 620.11 feet to a found capped iron rod marked "PLS 1974" for the end of said curve;

THENCE South 75 degrees 19 minutes 38 seconds West, along the north line of said SCP Hwy 158 Land, LLC tract, a distance of 927.08 feet to a found capped iron rod marked "PLS 1974" for the beginning of a non-tangent curve to the right having a radius of 1183.00 feet and a chord bearing North 77 degrees 24 minutes 09 seconds West, 545.61 feet;

THENCE Westerly, along said curve to the right and continuing along the north line of said SCP Hwy 158 Land, LLC tract, through a central angle of 26 degrees 39 minutes 55 seconds, an arc distance of 550.57 feet, to the Point of Beginning and containing 97.05 acres of land.

Kerry M Hoefner
16 MAR, 2021





**Annexation/Initial Zoning
Application**

Project Number A-21-0025
Case Number E-21-0213

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: Larry H. Walker, PE

Phone (432) 528-3159

Email
lwalker@team-west.com

Address
110 W. Louisiana St., Suite 110

City
Midland

State
Texas

Zip
79701

Property Owner

Printed Name: GRASSLANDS IV, LTD

Phone (432) 697-9866

Email

Address
5908 Homestead Blvd.

City
Midland

State
Texas

Zip
797072215

Representative (if different from Applicant or Property Owner)

Firm: WEST COMPANY OF MIDLAND, LLC

Printed Name: Larry H. Walker, PE

Phone (432) 528-3159

Email
lwalker@team-west.com

Address
110 W. Louisiana St., Suite 110

City
Midland

State
Texas

Zip
79701

Street Address: Approximate location S.H.158 between Brandy Hill Road & Future W. Wadley Ave.

Legal Description

Lot: _____ Block: _____ Subdivision: GRASSLAND ESTATES WEST, SECTION 12

Current Zoning:

Proposed Zone: (A1&4-SF1), (A2&A3-Regional Retail)
(B&C-CITY OF MIDLAND)

Reason for Annexation/Zone Change Request: _____

Tracts 1 & 4 will be used to build a subdivision of single family homes. Tracts A2&3
will be used for commercial and Tracts B&C are to be dedicated to the City of Midland

Present Use of Property: Agncultural

Proposed Use of Property: Subdivision of single family homes & Commercial development

How would this annexation/zone change affect the public health, safety and welfare? It would
have a positive impact by providing additional living and business resources. No negative impacts.

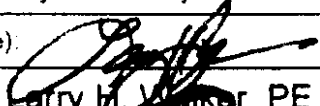
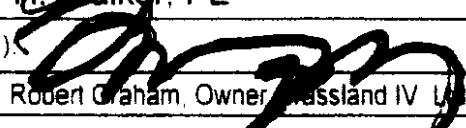
Describe how this annexation/zone change will affect adjacent properties: _____

Annexation of this property will expand the current residential area with no adverse effects to the
adjacent properties

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: <u>3.16.21</u>
Applicant (printed): <u>Larry H. Walker, PE</u>	
Property Owner (signature): 	Date: <u>3.16.21</u>
Property Owner (printed): <u>Robert Graham, Owner, Grassland IV, LLC</u>	
<i>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.</i> <i>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</i>	

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.

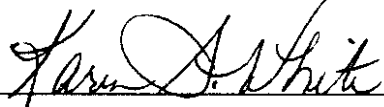
**STATE OF TEXAS
COUNTY OF MIDLAND**

Before me, the undersigned authority, on this day personally appeared LARRY H. WALKER, PE who, being by me duly sworn, upon oath says That (s)he is authorized by ROBERT GRAHAM 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 16th day of March, 2021 to certify which witness my hand and seal of office.




NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☐ Property Owner Authorization ☐ Application Fee Check # _____	☐ Metes and Bounds (Sealed by Surveyor) ☐ Files in Digital Format (PDF/JPEG) Petition
Received By: _____	Date: _____

****Application will not be considered for scheduling until reviewed by a planner.****

EXHIBIT A

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract(s) of land described in Exhibit(s) "A" (the "Property"), said Exhibit(s) being attached hereto and incorporated herein, GRASSLANDS IV, LTD. ("Owner") submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.



Signature of Owner or Owner's Authorized Representative

LARRY H. WALKER, P.E.

Printed Name

V.P. ENGINEERING

Title

THE STATE OF Texas §
COUNTY OF Midland §

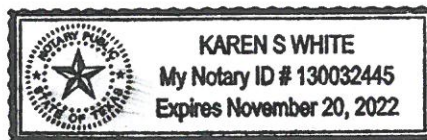
This instrument was acknowledged before me on the 16th day of March, 2021, by Larry H. Walker in the capacity herein stated.

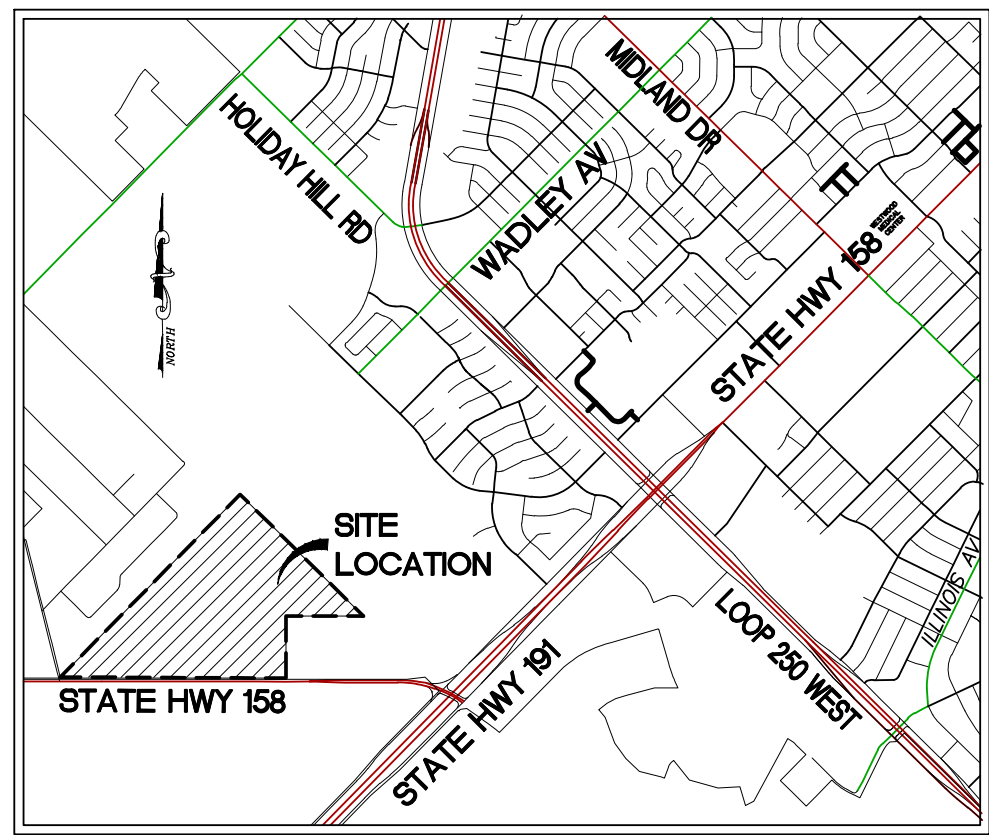
MY COMMISSION EXPIRES

11/20/2022



Notary Public, State of Texas





VICINITY MAP
(NOT TO SCALE)

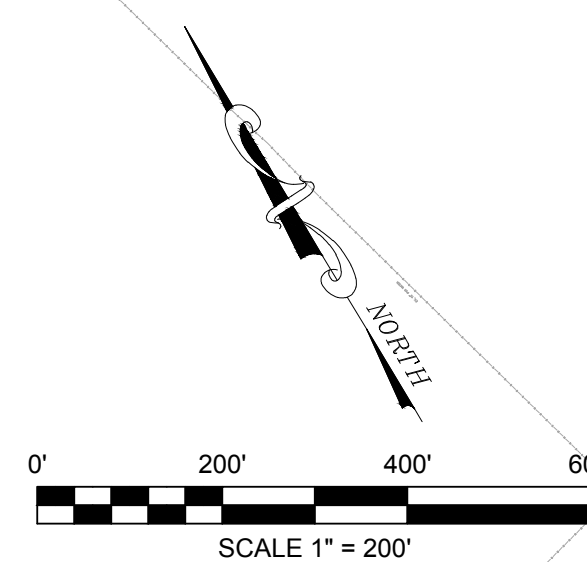
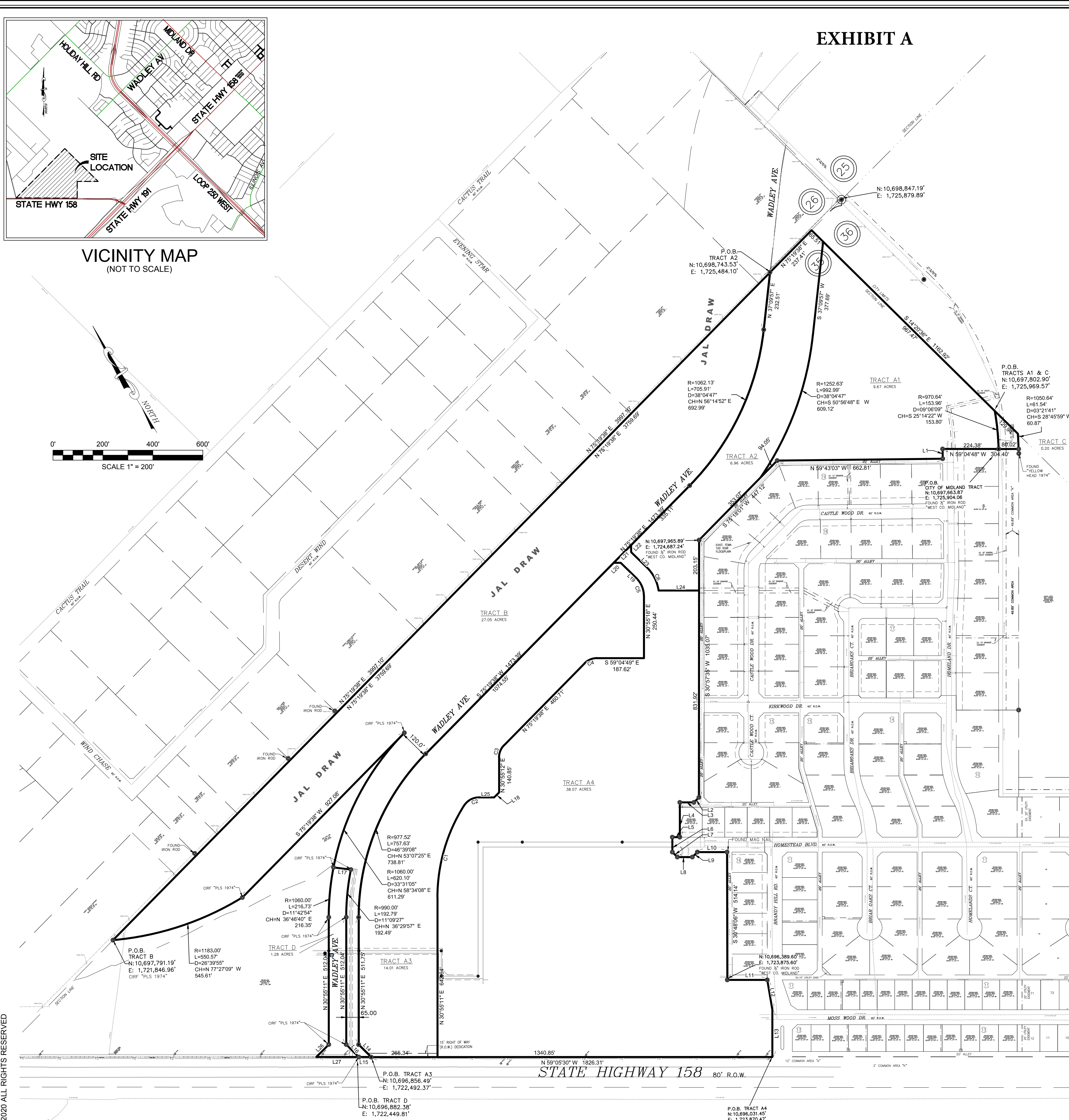


EXHIBIT A

ANNEXATION EXHIBIT
GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]
68.71 ACRES (TRACTS A1, A2, A3, A4)
&
TRACT TO BE DEDICATED TO THE CITY OF MIDLAND
27.05 ACRES (TRACT B)
&
EXISTING TRACT OWNED BY THE CITY OF MIDLAND
0.20 ACRES (TRACT C)
&
EXISTING R.O.W. OF WADLEY ROAD
1.28 ACRES (TRACT D)
LOCATED IN SECTION 35, BLOCK 40, T-1-S, T & P RR Co. SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND MONUMENT AS NOTED
- DENOTES EXISTING FIRE HYDRANT
- DENOTES EXISTING TOPOGRAPHIC POINTS & ELEVATIONS
- DENOTES POWER POLE
- DENOTES FLOODWAY BOUNDARY
- DENOTES ZONE A5 REGULATORY FLOODWAY
- DENOTES ZONE A6 WITH BASE FLOOD ELEVATION
- DENOTES BOUNDARY LINE
- DENOTES LOT LINE
- DENOTES RIGHT OF WAY (R.O.W.) DEDICATION
- DENOTES EASEMENT LINE
- DENOTES EXISTING EASEMENT LINE
- DENOTES ADJACENT DEED OR PROPERTY LINE
- DENOTES EXISTING WATER LINE
- DENOTES EXISTING SANITARY SEWER
- DENOTES EXISTING ELECTRIC LINE
- DENOTES FENCE LINE
- DENOTES EXISTING CONTOURS
- DENOTES SECTION LINE
- DENOTES SECTION NUMBER

Curve Table

CURVE	RADIUS	DELTA	Length	CHORD BEARING	DIST.
C1	693.27'	32°13'03"	389.35'	N 47°03'46" E	384.24'
C2	70.61'	57°25'53"	70.48'	S 87°56'14" E	62.57'
C3	70.20'	44°16'14"	54.25'	N 53°07'25" E	52.91'
C4	71.05'	45°18'41"	55.66'	S 81°52'36" E	54.24'
C5	101.46'	45°05'04"	79.59'	N 88°06'19" E	77.56'
C6	160.23'	37°44'45"	105.53'	S 04°13'36" W	103.66'

Parcel Line Table

Line #	Length	Direction
L1	39.26'	S 30°17'37" W
L2	28.30'	S 75°56'28" W
L3	56.44'	N 59°04'16" W
L4	139.92'	S 30°55'01" W
L5	30.01'	N 59°04'41" W
L6	60.00'	S 30°55'44" W
L7	28.29'	S 14°03'57" E
L8	60.00'	S 59°04'48" E
L9	28.28'	N 75°55'12" E
L10	119.09'	S 59°04'42" E
L11	159.85'	S 59°06'24" E
L12	121.75'	S 21°12'09" W
L13	190.12'	S 30°55'45" W
L14	70.88'	N 14°04'48" W
L15	50.00'	S 59°02'26" E
L16	70.88'	N 14°04'48" W
L17	70.16'	N 51°58'36" W
L18	28.28'	N 75°55'12" E
L19	88.30'	N 14°42'41" W
L20	28.29'	N 59°41'31" W
L21	100.00'	N 75°19'38" W
L22	28.28'	S 30°18'29" W
L23	88.48'	S 14°39'13" E
L24	162.08'	S 59°04'40" E
L25	60.75'	N 51°58'36" W
L26	70.88'	N 75°55'12" E
L27	170.12'	N 59°05'30" W

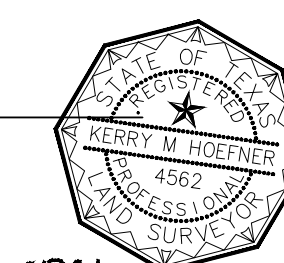
SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Kerry M. Hoefner, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this plat was prepared from an actual and accurate survey of the land and that the corner monuments shown thereon were properly located under my personal supervision, in accordance with the Subdivision Regulations of the City of Midland, Texas.

Kerry M. Hoefner
KERRY M. HOEFNER, R.L.S. 4562
2713 CANTRELL ST.
IRVING, TX 75062
214.714.2340

18 JAN, 2021
REV. 28 FEB, 2021
REV. 16 MAR, 2021



OWNER:
GRASSLAND IV, LTD.
5908 Homestead Blvd
Midland, TX 79702115



SURVEYORS - ENGINEERS - PLANNERS,
ENGINEER REGISTRATION: FIRM 2184
SURVEYOR REGISTRATION: FIRM 100682-00
110 W. LOUISIANA AVE., SUITE 110,
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868

FEBRUARY 2021

GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]

CONTINUATION OF EXHIBIT A

ANNEXATION DESCRIPTION - OVERALL

BEING a 97.05 acre tract or parcel of land situated in Section 35, Block 40, T-1-S of the T & P RR Co. Survey, Midland County, Texas and being a portion of that certain tract described in Warranty Deed to SBC Corporation, recorded in Volume 1464, Page 174, Official Public Records, Midland County, Texas (O.P.R.M.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at [N= 10,697,791.19; E= 1,721,846.96] a found capped iron rod marked "PLS 1974" located North 75 degrees 19 minutes 38 seconds East a distance of 657.97 feet from a found 60d nail for the most westerly corner of said SBC tract; said iron rod also being the most northerly west corner of that certain tract described in Special Warranty Deed to SCP Hwy 158 Land, LLC, recorded in Document Number 2019-15764, O.P.R.M.C.T., and being located on the north line of said Section 35;

THENCE North 75 degrees 19 minutes 38 seconds East, along the north line of said SBC tract and said section line, a distance of 3997.10 feet to a set iron rod with red plastic cap marked "WEST CO MIDLAND" (hereinafter referred to as a set iron rod) located at or near the northeast corner of said Section 35;

THENCE South 14 degrees 20 minutes 36 seconds East, along the east line of said Section 35, a distance of 1162.92 feet to a point for the beginning of a non-tangent curve to the right having a radius of 1050.64 feet and a chord bearing South 28 degrees 45 minutes 59 seconds West, 60.87 feet;

THENCE Southerly, along said curve to the right, through a central angle of 03 degrees 21 minutes 41 seconds, an arc distance of 61.54 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND" for the end of said curve and the northeast corner of GRASSLAND ESTATES WEST Section 10, recorded in Cabinet L, Page 50A, O.P.R.M.C.T.;

THENCE along the northeast, north and northwest line of said GRASSLAND ESTATES WEST Section 10 the following:

North 59 degrees 04 minutes 48 seconds West, a distance of 304.40 feet to 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND"

South 30 degrees 17 minutes 37 seconds West, a distance of 39.26 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 43 minutes 03 seconds West, a distance of 662.80 feet to a found iron rod with red plastic cap marked "WEST CO MIDLAND";

South 75 degrees 18 minutes 01 seconds West, a distance of 447.12 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 57 minutes 35 seconds West, a distance of 1,035.07 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

(Description continues on Page 2 of 3)

(Description continued from Page 3 of 3)

South 75 degrees 56 minutes 28 seconds West, a distance of 28.30 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 16 seconds West, a distance of 56.44 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 01 seconds West, a distance of 139.92 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 41 seconds West, a distance of 30.01 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 44 seconds West, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 14 degrees 03 minutes 57 seconds East, a distance of 30.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 75 degrees 55 minutes 12 seconds East, a distance of 28.28 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 120.15 feet to a set Mag Nail for the most westerly northwest corner of GRASSLAND ESTATES WEST Section 9, recorded in Cabinet I, Page 198, O.P.R.M.C.T.;

THENCE along the west line of said GRASSLAND ESTATES WEST, Section 9 the following:

South 30 degrees 55 minutes 12 seconds West, a distance of 514.14 feet to set Mag Nail;

South 59 degrees 04 minutes 41 seconds East, a distance of 159.85 feet to a set iron rod;

South 21 degrees 12 minutes 11 seconds West, a distance of 121.75 feet to a set iron rod;

South 30 degrees 55 minutes 12 seconds West, a distance of 190.00 feet to a set iron rod for the southwest corner of said GRASSLAND ESTATES WEST Section 9 on the southwest line of said SBC tract; said set iron rod being located on the northeasterly right-of-way line of State Highway 158 (a 120' right-of-way per Cabinet I, Page 198, O.P.R.M.C.T.);

(Description continues on Page 3 of 3)

(Description continued from Page 2 of 3)

THENCE North 59 degrees 05 minutes 30 seconds West, along the southwest line of said SBC tract and said northeast right-of-way line, a distance of 1826.31 feet to a Point for the southwest corner of the right-of-way of Wadley Drive (Cabinet L, Page 189, O.P.R.M.C.T.);

THENCE Northeasterly, along said right-of-way line, the following:

North 75 degrees 55 minutes 12 seconds East, a distance of 70.88 feet to a found capped iron rod marked "PLS 1974";

THENCE North 30 degrees 55 minutes 11 seconds East, a distance of 512.04 feet to a found capped iron rod marked "PLS 1974" for the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 36 degrees 40 minutes 40 seconds East, 216.35 feet;

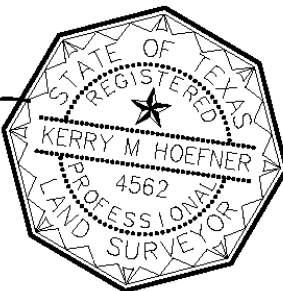
THENCE Northeasterly, along said curve to the right, through a central angle of 11 degrees 42 minutes 54 seconds, an arc distance of 216.73 feet to a found capped iron rod marked "PLS 1974" for the end of said right-of-way of Wadley Drive and the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 58 degrees 34 minutes 08 seconds East, 611.29 feet; said found iron rod also being located on the remainder of the aforementioned SCP Hwy 158, LLC tract;

THENCE Northeasterly, along said curve to the right and said SCP Hwy 158, LLC tract, through a central angle of 33 degrees 31 minutes 05 seconds, an arc distance of 620.11 feet to a found capped iron rod marked "PLS 1974" for the end of said curve;

THENCE South 75 degrees 19 minutes 38 seconds West, along the north line of said SCP Hwy 158 Land, LLC tract, a distance of 927.08 feet to a found capped iron rod marked "PLS 1974" for the beginning of a non-tangent curve to the right having a radius of 1183.00 feet and a chord bearing North 77 degrees 24 minutes 09 seconds West, 545.61 feet;

THENCE Westerly, along said curve to the right and continuing along the north line of said SCP Hwy 158 Land, LLC tract, through a central angle of 26 degrees 39 minutes 55 seconds, an arc distance of 550.57 feet, to the Point of Beginning and containing 97.05 acres of land.

Kerry M Hoefner
16 MAR, 2021



SERVICE AGREEMENT

THIS AGREEMENT is made and effective the 3 day of May 2021, by and between the CITY OF MIDLAND, TEXAS, hereinafter called "CITY," and GRASSLANDS IV, LTD, hereinafter referred to as "PETITIONER" whether one or more.

WHEREAS, a petition for annexation of a **97.05-acres tract of land, located in Sections 35 and 36, Block 40, T-1-S, T&P Railroad 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, 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. IMPACT FEES

- A. **Fees to be assessed and collected.** Except as otherwise described herein, if CITY has adopted, or adopts in the future, one or more ordinances establishing impact fees in accordance with Chapter 395 of the Local Government Code, CITY shall assess and collect fees associated with the development of the Area as described for impact fees in the applicable impact fee ordinance(s) (the "Fees").
- B. **Service areas.** For purposes of assessing and collecting Fees for water and wastewater under this Agreement, the Area is deemed to be located within CITY's capital improvements plan service area therefor. For the purpose of assessing and collecting Fees for roadways under this Agreement, the Area is deemed to be located in CITY's capital improvements plan roadway service area(s) immediately adjacent thereto; provided, however, that if the Area is not located immediately adjacent to a roadway service area and is located immediately adjacent to a tract of land that is associated with an agreement regarding fees similar to the Fees in this Agreement, the Area is deemed to be located in the roadway service area(s) specified in such similar agreement associated with the adjacent tract of land.
- C. **Capital improvements and facility expansions.** For purposes of this Agreement, a capital improvement or facility expansion that will serve the Area shall be deemed to be included in CITY's capital improvements plan if:
- a. said capital improvement or facility expansion is substantially similar to a type of capital improvement or facility expansion identified in CITY's capital improvements plan; or
 - b. said capital improvement or facility expansion is an extension of a capital improvement or facility expansion identified in CITY's capital improvements plan.
- D. **Time of assessment.** Fees shall be assessed at the time of recordation of a final plat of any portion of the Area, at the time the Area is annexed, or on the effective date(s) of the applicable impact fee ordinance(s), whichever is later.
- E. **Time of collection.** CITY shall collect the Fees from PETITIONER at the time of issuance of a building permit. PETITIONER acknowledges and agrees that no building permit or certificate of occupancy shall be issued until PETITIONER has paid the applicable Fees.
- F. **Amendment to land use assumptions, capital improvements plan, or impact fees.** Notwithstanding any provision in this Agreement to the contrary, if CITY amends its land use assumptions, capital improvements plan, or impact fees such that PETITIONER would be required to pay impact fees, CITY shall assess and PETITIONER shall pay the applicable impact fees in accordance with the applicable impact fee ordinance(s), as amended; provided, however, that to the extent CITY assesses applicable Fees for service units under this Agreement, PETITIONER shall pay such Fees in accordance with this Agreement and shall not be required to pay the applicable impact fees for the same service units.
- G. **Article to survive termination.** If CITY annexes the Area within one year from the

effective date, the provisions of this Article shall survive termination of this Agreement.

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

PACKET

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. 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. The provisions of this Article VIII.A. shall survive termination of this Agreement.
- 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: Grasslands IV, LTD
5908 Homestead Boulevard
Midland, Texas 79707

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

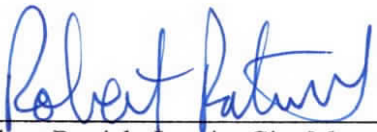
supplied within thirty (30) days after receipt of notice.

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. The provisions of this Article VIII.G. shall survive termination of this agreement. **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. The provisions of this Article VIII.H. shall survive termination of this Agreement.

EXECUTED the day and year first above mentioned.

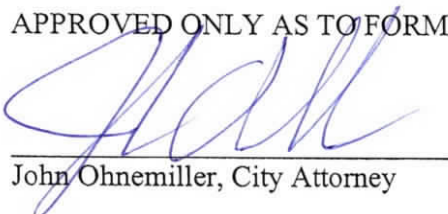
THE CITY OF MIDLAND, TEXAS

By: 
Robert Patrick, Interim City Manager

ATTEST


Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM


John Ohnemiller, City Attorney

PETITIONER:

By: [Signature]

Name: Robert W. Graham

Title: PPCS

STATE OF Texas §

COUNTY OF Midland §

BEFORE ME, the undersigned authority, on this 29th day of April, 2021 personally appeared, Robert W. Graham, an officer of Grasslands IV, LTD, 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 29th day of April, 2021.



[Signature]
Notary Public, State of Texas

EXHIBIT "A" TO SERVICE AGREEMENT

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract(s) of land described in Exhibit(s) "A" (the "Property"), said Exhibit(s) being attached hereto and incorporated herein, GRASSLANDS IV, LTD. ("Owner") submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.


Signature of Owner or Owner's Authorized Representative

LARRY H. WALKER, P.E.

Printed Name

V.P. ENGINEERING

Title

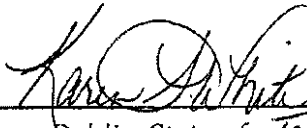
THE STATE OF Texas §

COUNTY OF Midland §

This instrument was acknowledged before me on the 16th day of March 2021 by Larry H. Walker in the capacity herein stated.

MY COMMISSION EXPIRES

11/20/2022


Notary Public, State of Texas



(continued)

June 8, 2021

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GRASSLAND ESTATES WEST, SECTION 12 [PHASE 1]

CONTINUATION OF EXHIBIT A

ANNEXATION DESCRIPTION - OVERALL

BEING a 97.05 acre tract or parcel of land situated in Section 35, Block 40, T-1-S of the T & P RR Co. Survey, Midland County, Texas and being a portion of that certain tract described in Warranty Deed to SBC Corporation, recorded in Volume 1464, Page 174, Official Public Records, Midland County, Texas (O.P.R.M.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at [N= 10,697,791.19; E= 1,721,846.96] a found capped iron rod marked "PLS 1974" located North 75 degrees 19 minutes 38 seconds East a distance of 657.97 feet from a found 60d nail for the most westerly corner of said SBC tract; said iron rod also being the most northerly west corner of that certain tract described in Special Warranty Deed to SCP Hwy 158 Land, LLC, recorded in Document Number 2019-15764, O.P.R.M.C.T., and being located on the north line of said Section 35;

THENCE North 75 degrees 19 minutes 38 seconds East, along the north line of said SBC tract and said section line, a distance of 3997.10 feet to a set iron rod with red plastic cap marked "WEST CO MIDLAND" (hereinafter referred to as a set iron rod) located at or near the northeast corner of said Section 35;

THENCE South 14 degrees 20 minutes 36 seconds East, along the east line of said Section 35, a distance of 1162.92 feet to a point for the beginning of a non-tangent curve to the right having a radius of 1050.64 feet and a chord bearing South 28 degrees 45 minutes 59 seconds West, 60.87 feet;

THENCE Southerly, along said curve to the right, through a central angle of 03 degrees 21 minutes 41 seconds, an arc distance of 61.54 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND" for the end of said curve and the northeast corner of GRASSLAND ESTATES WEST Section 10, recorded in Cabinet L, Page 50A, O.P.R.M.C.T.;

THENCE along the northeast, north and northwest line of said GRASSLAND ESTATES WEST Section 10 the following:

North 59 degrees 04 minutes 48 seconds West, a distance of 304.40 feet to 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND"

South 30 degrees 17 minutes 37 seconds West, a distance of 39.26 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 43 minutes 03 seconds West, a distance of 662.80 feet to a found iron rod with red plastic cap marked "WEST CO MIDLAND";

South 75 degrees 18 minutes 01 seconds West, a distance of 447.12 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 57 minutes 35 seconds West, a distance of 1,035.07 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

(Description continues on Page 2 of 3)

(Description continued from Page 3 of 3)

South 75 degrees 56 minutes 28 seconds West, a distance of 28.30 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 16 seconds West, a distance of 56.44 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 01 seconds West, a distance of 139.92 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 59 degrees 04 minutes 41 seconds West, a distance of 30.01 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 30 degrees 55 minutes 44 seconds West, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 14 degrees 03 minutes 57 seconds East, a distance of 30.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 60.00 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

North 75 degrees 55 minutes 12 seconds East, a distance of 28.28 feet to a 1/2 inch iron rod with red plastic cap marked "WEST CO MIDLAND";

South 59 degrees 04 minutes 42 seconds East, a distance of 120.15 feet to a set Mag Nail for the most westerly northwest corner of GRASSLAND ESTATES WEST Section 9, recorded in Cabinet I, Page 198, O.P.R.M.C.T.;

THENCE along the west line of said GRASSLAND ESTATES WEST, Section 9 the following:

South 30 degrees 55 minutes 12 seconds West, a distance of 514.14 feet to set Mag Nail;

South 59 degrees 04 minutes 41 seconds East, a distance of 159.85 feet to a set iron rod;

South 21 degrees 12 minutes 11 seconds West, a distance of 121.75 feet to a set iron rod;

South 30 degrees 55 minutes 12 seconds West, a distance of 190.00 feet to a set iron rod for the southwest corner of said GRASSLAND ESTATES WEST Section 9 on the southwest line of said SBC tract; said set iron rod being located on the northeasterly right-of-way line of State Highway 158 (a 120' right-of-way per Cabinet I, Page 198, O.P.R.M.C.T.);

(Description continues on Page 3 of 3)

(Description continued from Page 2 of 3)

THENCE North 59 degrees 05 minutes 30 seconds West, along the southwest line of said SBC tract and said northeast right-of-way line, a distance of 1826.31 feet to a Point for the southwest corner of the right-of-way of Wadley Drive (Cabinet L, Page 189, O.P.R.M.C.T.);

THENCE Northeasterly, along said right-of-way line, the following:

North 75 degrees 55 minutes 12 seconds East, a distance of 70.88 feet to a found capped iron rod marked "PLS 1974";

THENCE North 30 degrees 55 minutes 11 seconds East, a distance of 512.04 feet to a found capped iron rod marked "PLS 1974" for the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 36 degrees 40 minutes 40 seconds East, 216.35 feet;

THENCE Northeasterly, along said curve to the right, through a central angle of 11 degrees 42 minutes 54 seconds, an arc distance of 216.73 feet to a found capped iron rod marked "PLS 1974" for the end of said right-of-way of Wadley Drive and the beginning of a curve to the right having a radius of 1060.00 feet and a chord bearing North 58 degrees 34 minutes 08 seconds East, 611.29 feet; said found iron rod also being located on the remainder of the aforementioned SCP Hwy 158, LLC tract;

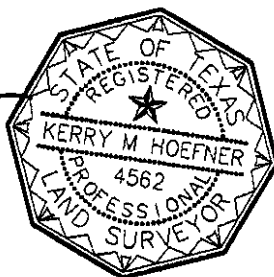
THENCE Northeasterly, along said curve to the right and said SCP Hwy 158, LLC tract, through a central angle of 33 degrees 31 minutes 05 seconds, an arc distance of 620.11 feet to a found capped iron rod marked "PLS 1974" for the end of said curve;

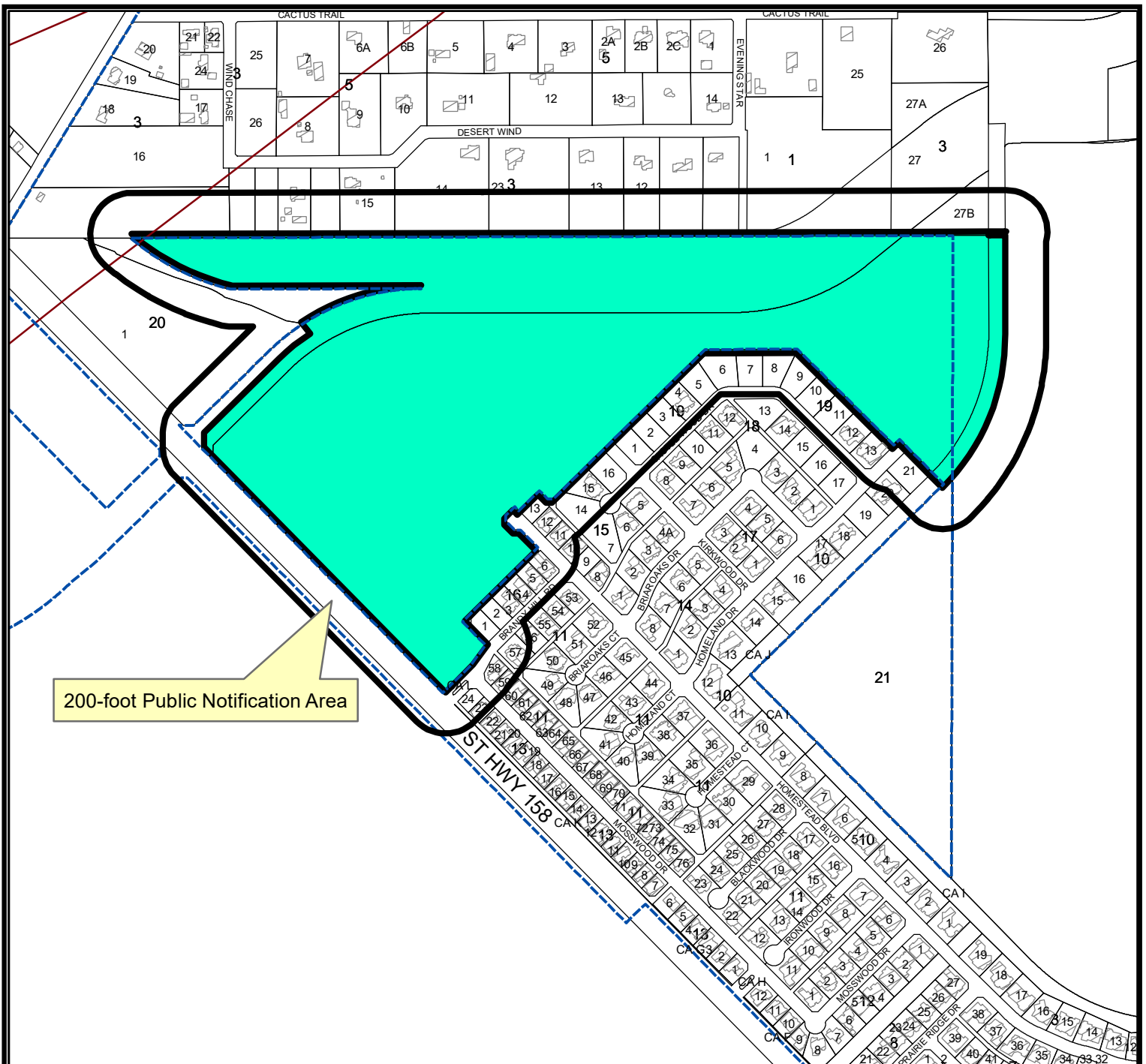
THENCE South 75 degrees 19 minutes 38 seconds West, along the north line of said SCP Hwy 158 Land, LLC tract, a distance of 927.08 feet to a found capped iron rod marked "PLS 1974" for the beginning of a non-tangent curve to the right having a radius of 1183.00 feet and a chord bearing North 77 degrees 24 minutes 09 seconds West, 545.61 feet;

THENCE Westerly, along said curve to the right and continuing along the north line of said SCP Hwy 158 Land, LLC tract, through a central angle of 26 degrees 39 minutes 55 seconds, an arc distance of 550.57 feet, to the Point of Beginning and containing 97.05 acres of land.

Kerry M. Hoefner

16 MAR, 2021





LOCATION MAP

Z-21-0213

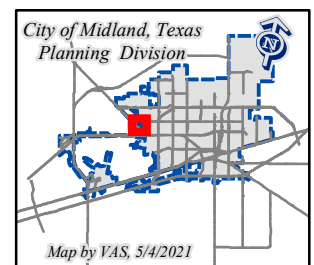
Scale: 1" = 600'

Consider a request for the initial zoning of a 97.05-acres tract of land located in Sections 35 and 36, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas.

Generally located on the north side of W. State Highway 158, approximately 11 feet west of Brandy Hill Road. (Extraterritorial Jurisdiction)

LEGEND

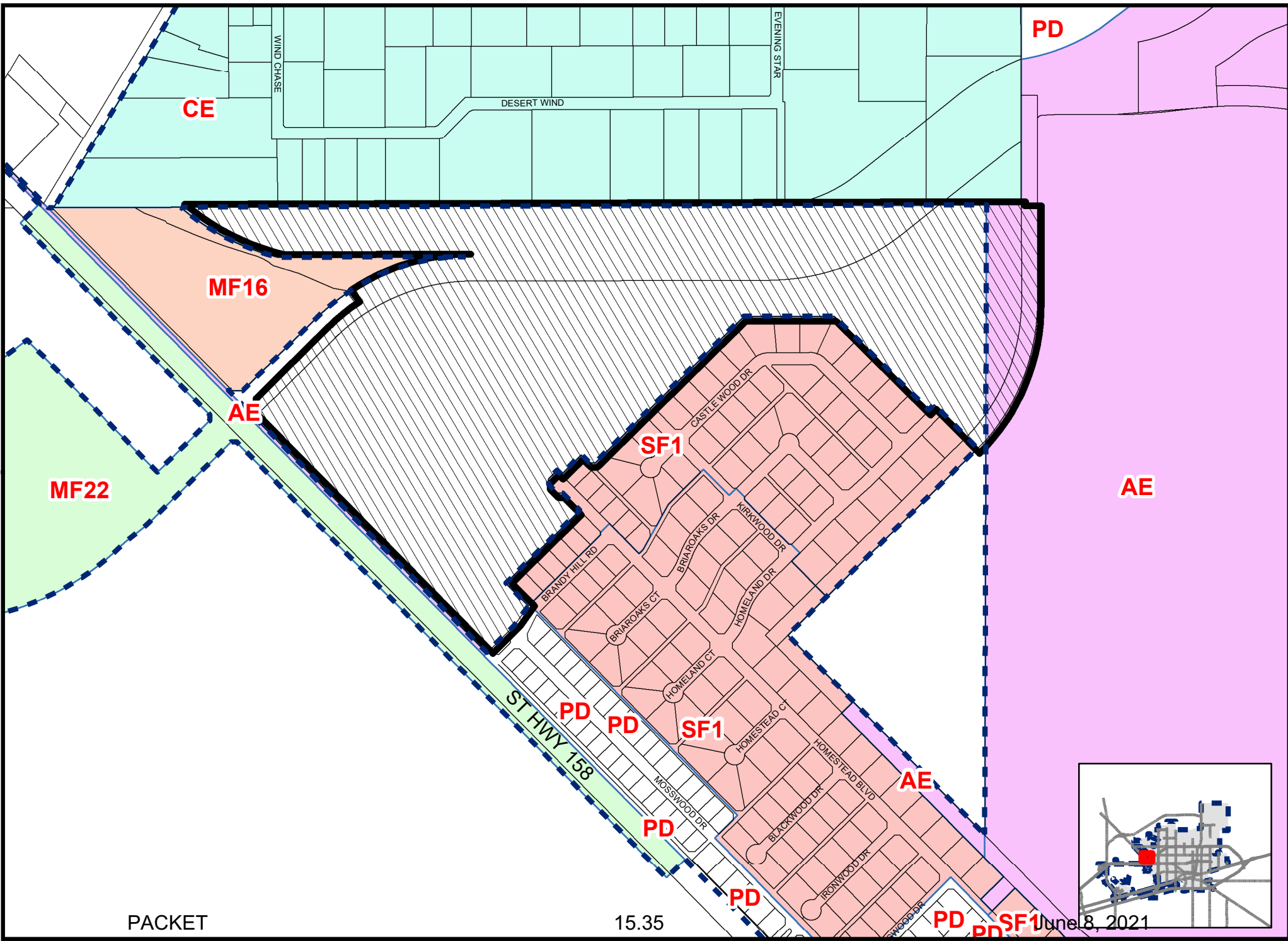
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 8, 2021

PACKET

15.34



PACKET

15.35

June 8, 2021













City Council Meeting

Item Number: 16
Meeting Date: June 8, 2021
To: City Council / City Manager
From: Kelly Martinez, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,712-SQUARE FOOT PORTION OF LOT 20A, BLOCK 17, GREATHOUSE ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND PORTICO WAY), WHICH IS PRESENTLY ZONED LR, LOCAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN AN EVENT CENTER 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)

Purpose:

The applicant, Monica Leclair, is requesting a Specific Use Designation with Term (SUD) for the sale of all alcoholic beverages, for on-premises consumption, in an event center for Indulgence Catering, LLC., located at 4906 Briarwood Avenue.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Current Zoning:

LR, Local Retail District.

Surrounding Zoning and Land Use:

This property is located at 4906 Briarwood Avenue, in the LR, Local Retail District. The properties to the north are zoned O1, Office District, and the locations of vacant lots. The properties to the east and west are zoned LR, Local Retail District, and the locations of West Texas Allergy and a vacant lot. The property to the south is zoned SF-2, Single Family Dwelling District, and the location of residential homes.

Discussion:

Monica Leclair is requesting a Specific Use Designation with term, for the property located at 4906 Briarwood Avenue to be able to sell all alcoholic beverages for on premises consumption, in an event center. The property is in the LR, Local Retail District, which allows for the sale of all alcoholic beverages for on-premises consumption with a Specific Use Designation with Term.

The floor plan attached hereto as "Exhibit A" illustrates that the establishment, will have a total square footage of 8,024 square feet, with an alcohol serviceable area of 4,712 square feet.

Indulgence Catering, LLC is a full-service catering company, diner and event center. They host private events throughout the year. They also have a diner located within the property called Gloria's Diner. The diner serves food Monday through Friday from 11 a.m. to 3 p.m. However, the SUD will solely be for the purpose of private events on the property. The restaurant will be closed if the private event takes place during restaurant hours. The event hours and days depend on the occasion. Typically, they can range anywhere between the following:

Sunday through Saturday from 9:00 a.m. to 2:00 a.m. (the following day)

The applicant is proposing the following hours for all alcoholic beverages service:

Sunday through Saturday from 11:00 a.m. to 12:00 a.m. (midnight)

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public school, public school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property.

Engineering: (Approved)

No objections.

Fire: (Approved)

No objections.

Transportation: (Approved)

No objection to zone change.

Code Administration: (Approved)

The SUD for Indulgence Catering is acceptable. The property must adhere to the maximum occupant load of 314. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

The request is in compliance with the *Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4*, "Encourage the development of places where Midland residents can gather and socialize to build connections." (Tall City Tomorrow page 137).

This request was recommended for approval by a unanimous vote at the May 17, 2021 Planning and Zoning Commission meeting.

Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in an event center, subject to the following conditions A through F.

Conditions:

- A. That the serviceable area of the establishment shall be limited to approximately 4,712-square feet, as shown in Exhibit A.**
- B. That the permitted hours of the sale of alcoholic beverages shall be limited to the hours of operation for private events that occur:**
 - Sunday through Saturday, from 11:00 a.m. to 12:00 a.m. (midnight)***
- C. That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.**
- D. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.**

- E. That the establishment shall meet the requirements of the Fire Department and the Code Administration Division.**
- F. That when the establishment is operating as a restaurant the sale and consumption of alcoholic beverages shall be prohibited.**

Letters of Objection:

As of May 26, 2021, staff has received one letter of objection.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan (Exhibit B)
Maps

A handwritten signature in black ink, appearing to read "Robert Patrick".

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,712-SQUARE FOOT PORTION OF LOT 20A, BLOCK 17, GREATHOUSE ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND PORTICO WAY), WHICH IS PRESENTLY ZONED LR, LOCAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN AN EVENT CENTER FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 4,712-square foot portion of Lot 20A, Block 17, Greathouse Addition, Section 13, 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 an event center (the “Establishment”) for on-premises consumption, together with the uses permitted in the present LR, Local Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and

restrictions:

- A. That the serviceable area of the Establishment shall be limited to approximately 4,712 square feet as shown in Exhibit “A”, which is attached hereto and incorporated herein for all purposes.
- B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.
- C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Sunday through Saturday from 11:00 a.m. to 12:00 a.m. (midnight) during the operation of private events when the Establishment is not open to the general public.
- D. That except as provided in Subsection C above, alcoholic beverage sales and consumption shall be prohibited, including when the Establishment is operating as a restaurant that is open to the general public.
- 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.

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., 2021; 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., 2021, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2021.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

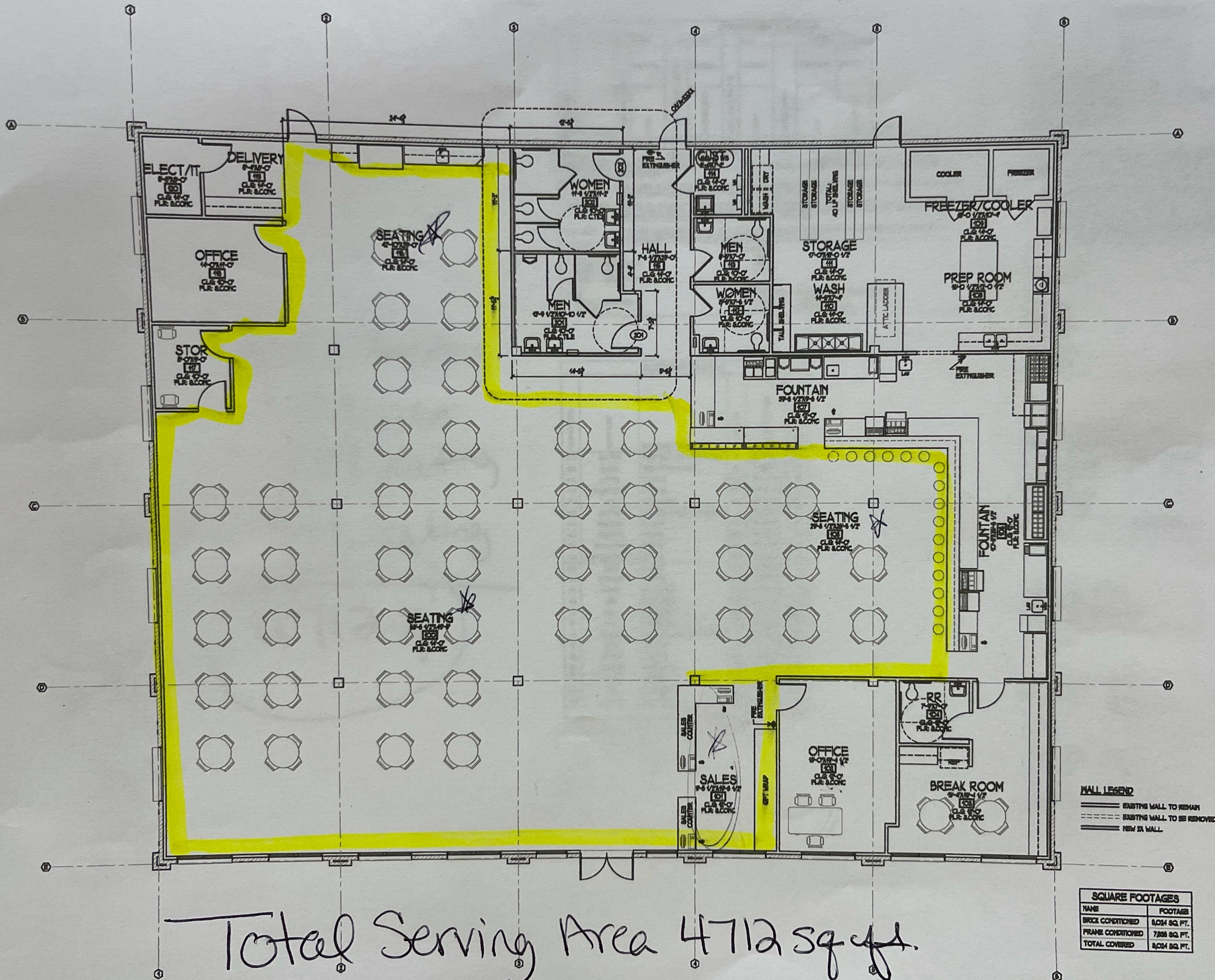
APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT "A"



Total Serving Area 4712 sq. ft.

01 NEW PLAN
SCALE 1/4" = 1'-0"

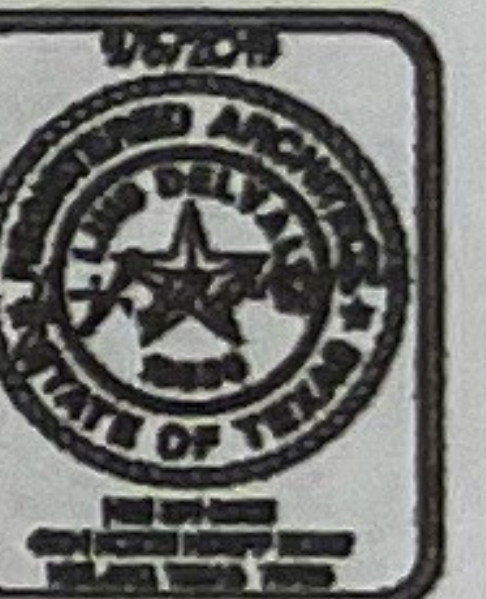
WALL LEGEND
 ——— EXISTING WALL TO REMAIN
 - - - - - EXISTING WALL TO BE REMOVED
 = = = = = NEW EX. WALL

SQUARE FOOTAGES	
NAME	FOOTAGE
BRICK CONDITIONED	8,024 SQ. FT.
FRAME CONDITIONED	7,888 SQ. FT.
TOTAL COVERED	8,024 SQ. FT.

DATE: 5/6/2019
 REVISION:
 DRAWN BY: LBS

DESIGN & DRAFTING BY:
CORNERSTONE
 DESIGN GROUP
 PROJECT: 102544-0001

SHEET TITLE
NEW PLAN



INDULGENCE CATERING AND EVENTS
 4006 BRIARWOOD
 MIDLAND, TEXAS
 PROJECT NUMBER: 102544-0001

SHEET NUMBER
A-23
 SHEET 23 OF 23



Specific Use Designation with
Term for the Sale of Alcoholic
Beverages for On-Premises
Consumption

Project Number: SWD-21-0099
Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2)

Printed Name: Kimberley Herard

Address 4906 Briarwood Ave

City Midland

Phone (432) 218-7595

Email indulgencecatering@hotmail.com

State TX

Zip 79707

Property Owner

Printed Name: Lyn-San LLC

Address 2009 NEELY

City Midland

Phone (432) 296-2834

Email millweecolinc@sbcglobal.net

State TX

Zip 79705

Representative (if different from Applicant or Property Owner)

Firm: Monica Leclair

Printed Name: Monica Leclair

Address 5701 EER 55

City Midland

Phone (432) 3521915

Email monica.leclair@gmail.com

State TX

Zip 79705

Street Address: 4906 Briarwood Ave Midland TX 79707

Business Name: Indulgence Catering, LLC

Legal Description

Lot: 201A Block: 17 Subdivision: Greathouse Addition Sec. 13

Current Zoning:

Reason for Request: Sell alcohol

Type of Business (restaurant, bar, lounge, nightclub, etc.): restaurant

Proposed/Current Days and Hours of Operation: Monday-Friday 11am-3pm

Proposed Days and Hours of Alcohol Service: Sunday-Saturday 11am-12am

Total Square Footage of Business: 18,000

Square Footage of Alcohol Serviceable Area:

Restroom Fixtures:	Men	Toilets/Urinals: <u>3 / 1</u>	Bathroom Sinks: <u>3</u>
	Women	Toilets: <u>4</u>	Bathroom Sinks: <u>3</u>

RECEIVED
APR 19 2021

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): <u>Kimberley Herard</u>	Date: <u>4/9/21</u>
Applicant (printed): <u>Kimberley Herard</u>	
Property Owner (signature): <u>Lynda Krol</u>	Date: <u>4/11/21</u>
Property Owner (printed): <u>Lynda Krol</u>	

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.

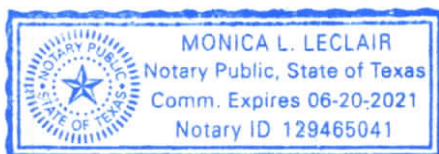
If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Kimberley Herard who, being by me duly sworn, upon oath says: That (s)he is authorized by Lynda Krol, 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.

K Herard
Authorized Agent (signature)

Subscribed and sworn to before me, this 9th day of April, 2021, to certify which witness my hand and seal of office.



Monica L. Leclair

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☒ Property Owner Authorization	☒ Dimensioned Floor Plan
☒ Application Fee	☒ Site Plan
Check # <u>3216</u>	☒ Plans in Digital Format (PDF/JPEG)
Received By: <u>April 21, 21</u>	Date: <u>JS</u>

RECEIVED
APR 19 2021

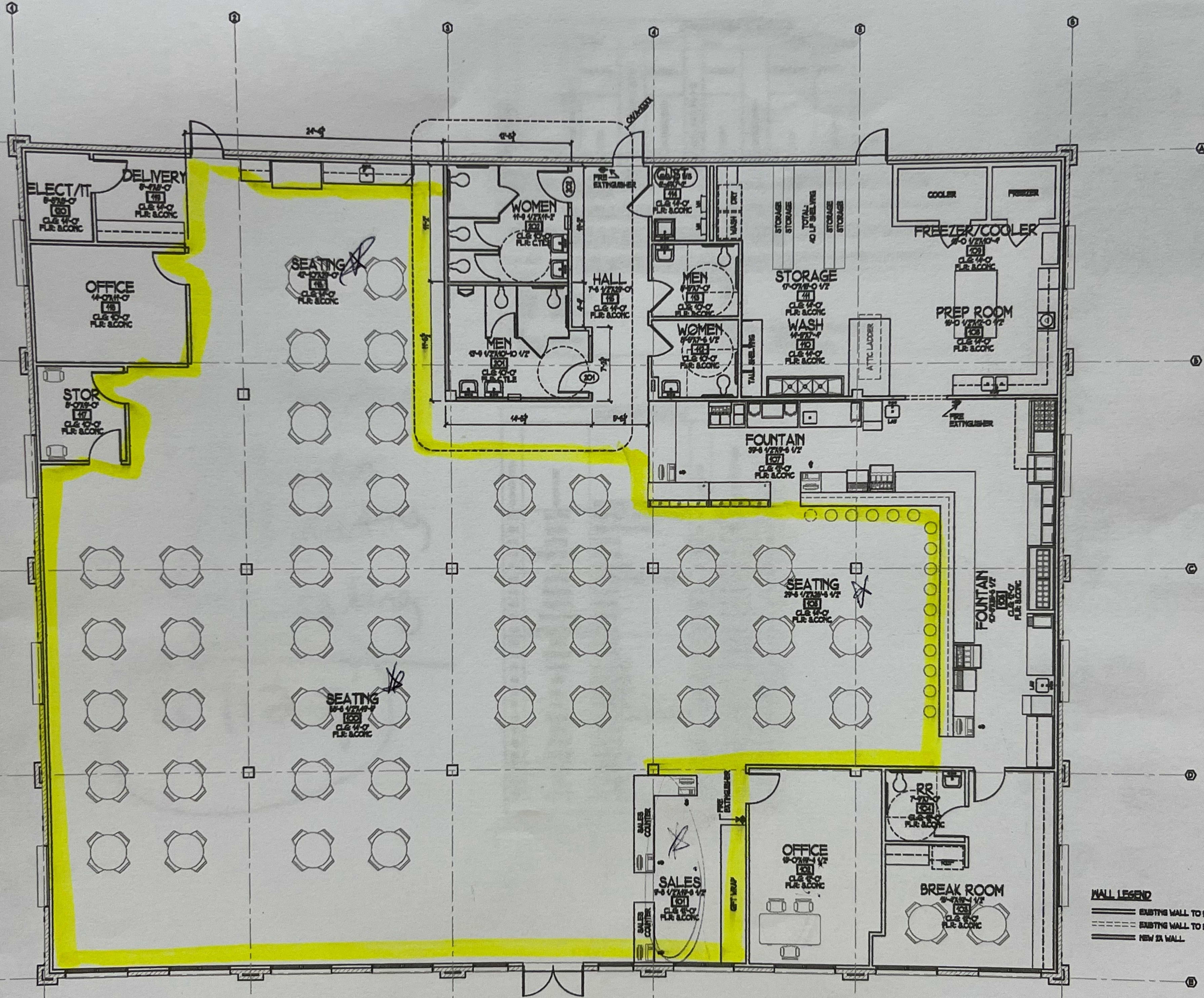
BY:

01 NEW PLAN
SCALE 1/4" = 1'-0"

Total Serving Area 4712 sq. ft.

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 ——— EXISTING WALL TO REMAIN
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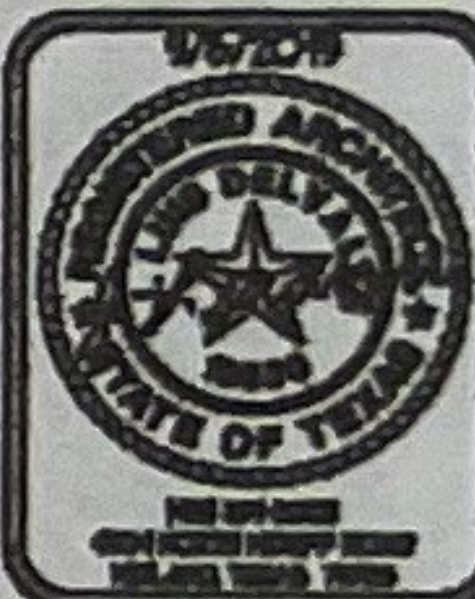
SQUARE FOOTAGES	
NAME	FOOTAGE
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FRAME CONDITIONED	7,888 SQ. FT.
TOTAL COVERED	8,024 SQ. FT.



INDULGENCE CATERING AND EVENTS

4006 BRIARWOOD
MIDLAND, TEXAS
PROJECT NUMBER: 1902

NEW PLAN



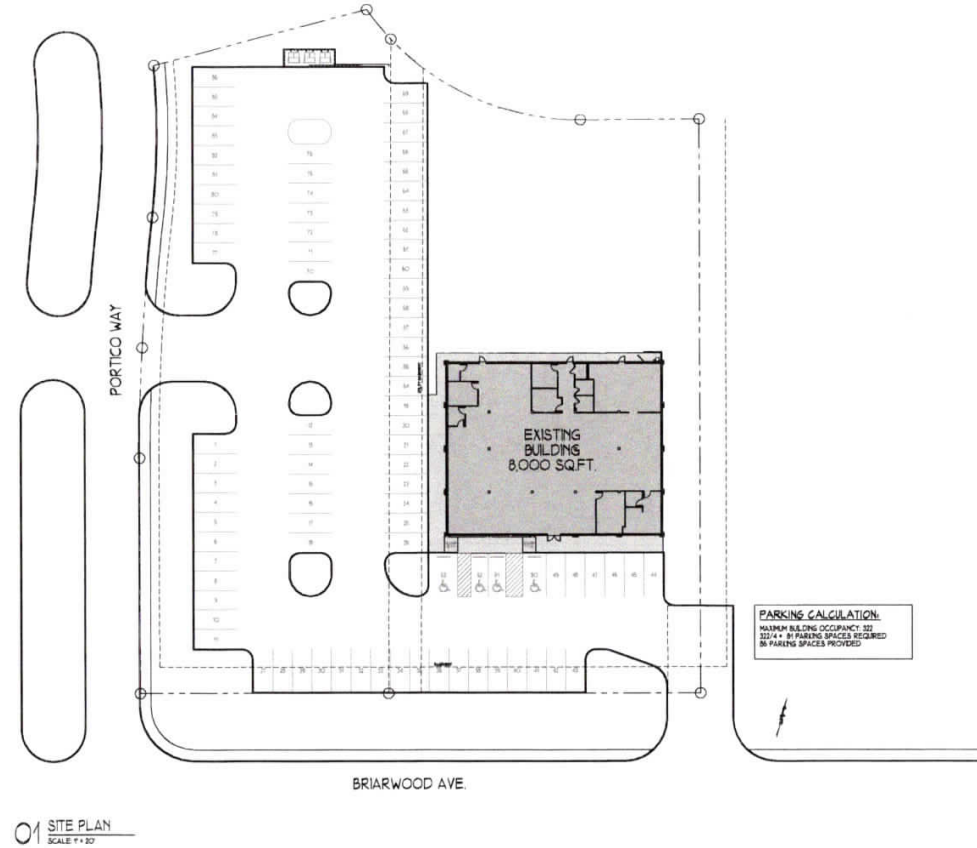
CORNERSTONE
DESIGN GROUP
PROJECT: 100544-0001

DATE: 05/20/19
REVISION:
DRAWN BY: LBS

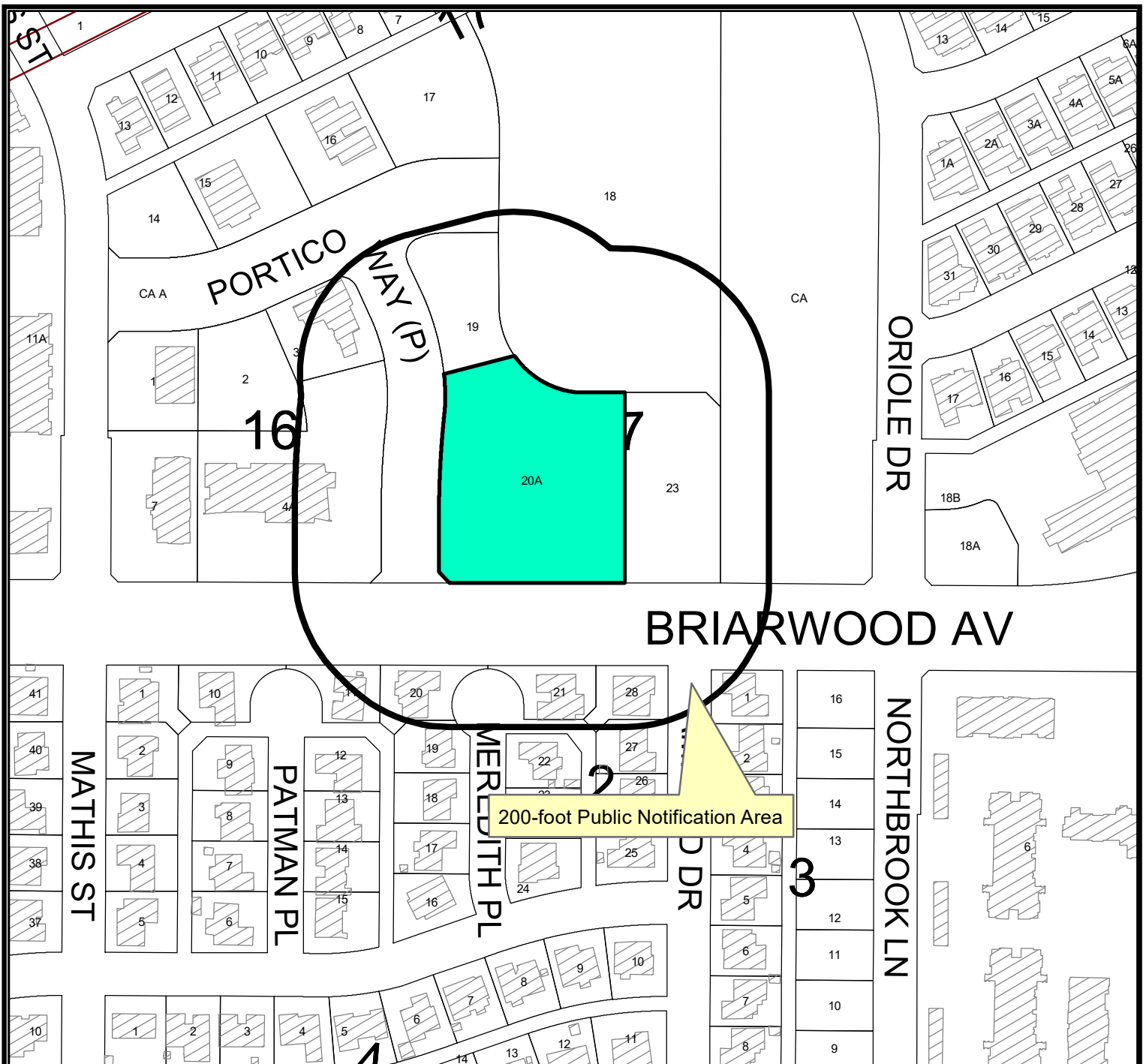
A-23

RECEIVED
APR 19 2021

BY:



SHEET NUMBER A-1.1 SHEET 02 OF 10	INDULGENCE CATERING AND EVENTS 4906 BRIARWOOD MIDLAND, TEXAS PROJECT NUMBER: 1602		SHEET TITLE ARCHITECTURAL SITE PLAN	 CORNERSTONE DESIGN GROUP ARCHITECTS & PLANNERS 14000 MIDLAND AVENUE, SUITE 100 MIDLAND, TEXAS 79701	DATE 5/19/2021 REVISION
					DRAWN BY LUB



LOCATION MAP

SUD-21-0099

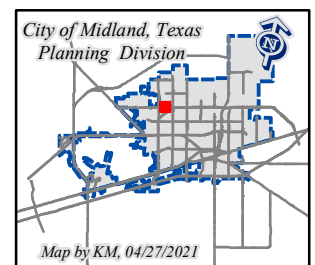
Scale: 1" = 200'

Consider a request by Monica Leclair for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages, for on premises consumption in an event center, on a 4,712 square foot portion of Lot 20A, Block 17, Greathouse Addition, Section 13, City and County of Midland, Texas.

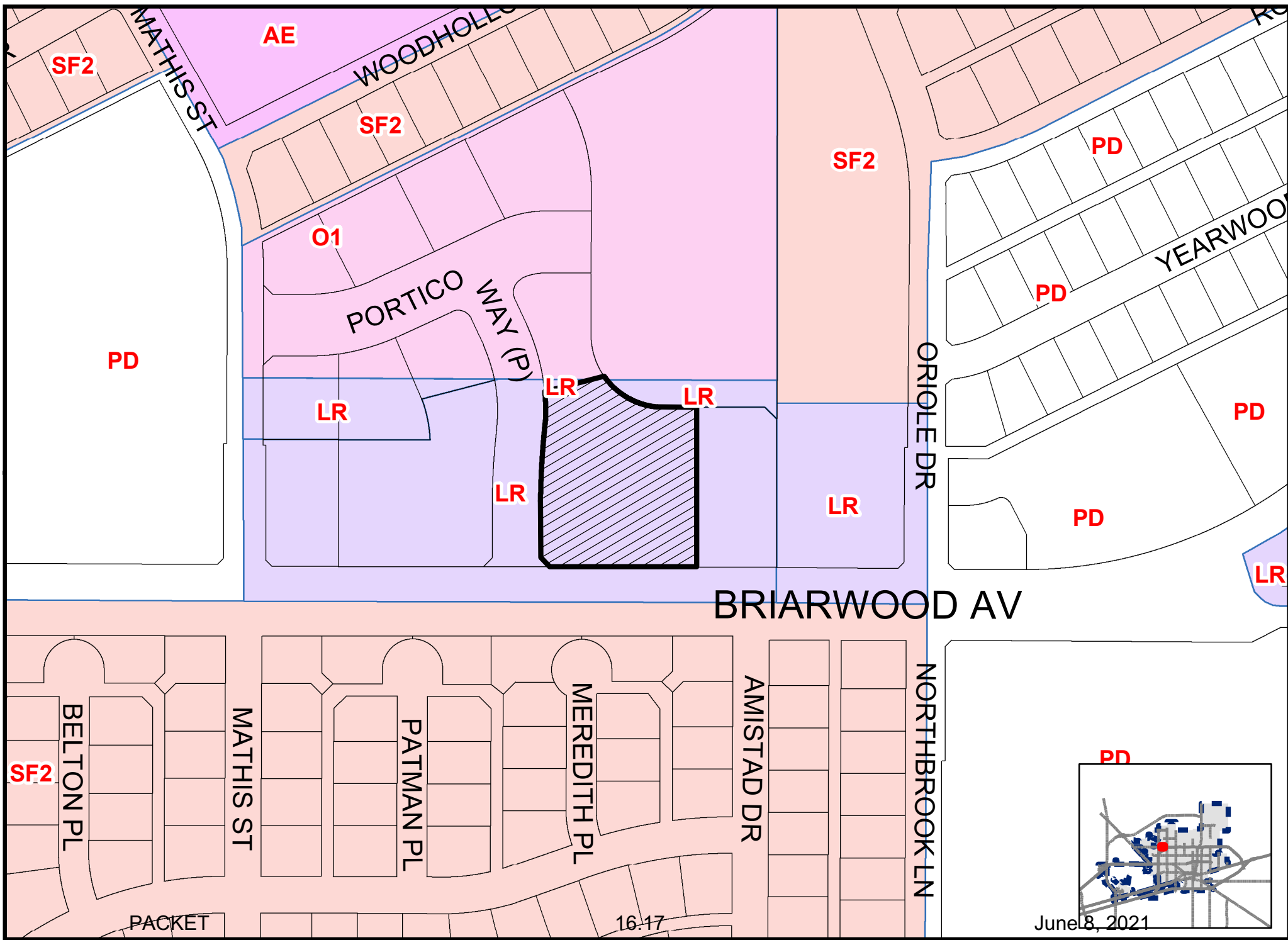
Generally located on the northeast corner of the intersection of Briarwood Avenue and Portico Way. 16.16
(Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 8, 2021













City Council Meeting

Item Number: 17
Meeting Date: June 8, 2021
To: City Council / City Manager
From: Isaac Garnett, Manager, Community Development
Subject: Hold a public hearing in order for the City of Midland and the CDBG Prioritization Committee to receive public comments, guidance and recommendations regarding the 2021-2022 CDBG grant application submissions and the Second Year Action Plan in accordance with the Five Year Consolidated Plan goals. (DISTRICT: NONE)
(DEVELOPMENT SERVICES)

Purpose:

Hold a public hearing in order for the City of Midland and the CDBG Prioritization Committee to receive public comments, guidance and recommendations regarding the 2021-2022 CDBG grant application submissions and the Second Year Action Plan in accordance with the Five Year Consolidated Plan goals.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

No fiscal impact to the City of Midland budget.

Discussion:

The purpose of the public hearing is to allow the citizens to participate in the development of the City's 2021/2022 Community Development Program and the Second Year Action Plan. Past usage of Community Development Block Grant (CDBG) funds, community development and housing needs, and proposed uses of 2021/2022 CDBG funds will be discussed. The City will receive a grant of approximately \$1,083,648 for 2021/2022 from the U.S. Department of Housing and Urban Development. The City also expects to receive \$80,000 in program income which is included in the CDBG program-year (PY 2021-2022) allocation. A minimum 70% of

CDBG funds must be allocated to projects that benefit low and moderate-income persons. Examples of activities eligible for CDBG funding are housing rehabilitation, sidewalk and street improvement, park improvements, code enforcement, lot clearance, economic development and public services.



City Manager's Office



City Council Meeting

Item Number: 18
Meeting Date: June 8, 2021
To: City Council / City Manager
From: Elizabeth Shaughnessy, Senior Planner
Subject: RECEIVE AN UPDATE ON THE TEMPORARY LAND USE PERMIT FOR A VENDOR MARKET AND CONCERT ON LOT 1A, BLOCK 54, ALL OF BLOCK 55, A 0.57-ACRE PORTION OF WEST WALL STREET RIGHT-OF-WAY, A 0.57-ACRE PORTION OF NORTH COLORADO STREET RIGHT-OF-WAY, AND A 0.57-ACRE PORTION OF WEST TEXAS AVENUE RIGHT-OF-WAY, ALL ADJACENT TO BLOCK 55, ALL OUT OF ORIGINAL TOWN ADDITION, SECTION 14, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH COLORADO STREET AND WEST TEXAS AVENUE). (DISTRICT 2) (DEVELOPMENT SERVICES)

Purpose:

Receive an update on the first market event.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

NA

Discussion:

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Morris Williams Jr.

City Manager's Office