CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
June 13, 2023 - 10:00 AM
300 North Loraine
Midland, Texas
Council Chamber - City Hall

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

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

OPENING ITEMS

1. Invocation – Pastor Bob Pase, Grace Lutheran Church

2. Pledge of Allegiance

PRESENTATIONS

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

   3a. Presentation of Proclamation for " Emancipation Proclamation Celebration Days"

   3b. Presentation of Proclamation for "Michael Trost Day"

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:

   4a. WORK SESSION OF MAY 23, 2023

   4b. REGULAR SESSION OF MAY 23, 2023

5. 2023-074 – RESOLUTION APPROVING THE PURCHASE OF SUPPLIES FOR THE LOUISIANA AND GARFIELD CONCRETE PAVING REINFORCEMENT PROJECT FOR THE TRANSPORTATION DIVISION FROM WHITE CAP OF EL PASO , TEXAS, AT A TOTAL COST OF $105,914.00; APPROVING $15,887.10 FOR CONTINGENCIES; AND AUTHORIZING PAYMENT (DISTRICT 3) (GENERAL SERVICES)

6. 2023-075 – RESOLUTION AUTHORIZING THE EXECUTION OF A FIVE-YEAR PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC., D/B/A PARKHILL FOR DESIGN SERVICES, OPERATIONAL SUPPORT AND

HYDROGEOLOGICAL EVALUATION FOR THE EXISTING T-BAR REMEDIATION INFRASTRUCTURE FOR A TOTAL COST OF $1,875,000.00 (DISTRICT: NONE) (GENERAL SERVICES)

7. 2023-076 – RESOLUTION AUTHORIZING THE PURCHASE OF CELLULAR COMMUNICATION SERVICES FOR A TERM OF TWO YEARS THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES FROM VERIZON WIRELESS TELECOM INC. AT A TOTAL COST OF $788,356.56 (DISTRICT: NONE) (GENERAL SERVICES)

8. 2023-077 – RESOLUTION REJECTING ALL BIDS RECEIVED FOR DRY CLEANING AND LAUNDRY SERVICES; ADOPTING A ONE-YEAR DRY CLEANING AND LAUNDRY STIPEND PILOT PROGRAM FOR CITY EMPLOYEES WHO REQUIRE DRY CLEANING AND LAUNDRY SERVICES; AND AUTHORIZING THE INTERIM CITY MANAGER TO IMPLEMENT CERTAIN POLICIES AND PROCEDURES ASSOCIATED WITH SAID PILOT PROGRAM (DISTRICT: ALL) (GENERAL SERVICES)

9. 063-2023 – MOTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE WINDLANDS SOCCER FIELDS IRRIGATION SYSTEM PROJECT, SAID PLANS AND SPECIFICATIONS BEING ON FILE IN THE CITY SECRETARY'S OFFICE REFERENCED BY THE NUMBER AND DATE OF THIS MOTION, AND AUTHORIZING THE INTERIM CITY MANAGER OR THE INTERIM CITY MANAGER'S DESIGNEE TO ADVERTISE FOR COMPETITIVE BIDS FOR SAID PROJECT PURSUANT TO THE STATUTES OF THE STATE OF TEXAS FOR ACCOMPLISHING THE WORK SET FORTH IN SAID PLANS AND SPECIFICATIONS (DISTRICT 3) (GENERAL SERVICES)

10. 064-2023 – MOTION AUTHORIZING THE EXECUTION OF AMENDMENT NO. 7 TO THE PROFESSIONAL SERVICES AGREEMENT DATED MARCH 23, 2021, BETWEEN THE CITY OF MIDLAND, TEXAS, AND PARKHILL, SMITH & COOPER, INC., DBA PARKHILL; SAID AMENDMENT PROVIDING FOR THE REHABILITATE/RECONSTRUCTION RUNWAY 7/25, RUNWAY 16/34 AND TAXIWAYS AT MIDLAND AIRPARK PROJECT, THE SPACEPORT BUSINESS PARK ENVIRONMENTAL PROJECT, AND THE PLANNING, PROGRAMMING, AND OPINION OF PROBABLE COST STUDY FOR A PROPOSED NEW OR RECONFIGURED TERMINAL BUILDING SECURITY CHECKPOINT, A PROPOSED NEW CUSTOMS FACILITY, AND A PROPOSED NEW CARGO FACILITY AT MIDLAND INTERNATIONAL AIR & SPACE PORT; AND APPROPRIATING $1,510,000.00 FOR THE REHABILITATE/RECONSTRUCTION RUNWAY 7/25, RUNWAY 16/34 AND TAXIWAYS AT MIDLAND AIRPARK PROJECT, APPROPRIATING $125,000.00 FOR THE SPACEPORT BUSINESS PARK ENVIRONMENTAL PROJECT, AND APPROPRIATING $100,000.00 FOR THE PLANNING, PROGRAMMING, AND OPINION OF PROBABLE COST STUDY FOR A PROPOSED NEW OR RECONFIGURED TERMINAL BUILDING SECURITY CHECKPOINT, A PROPOSED NEW CUSTOMS FACILITY, AND A PROPOSED NEW CARGO FACILITY AT MIDLAND INTERNATIONAL AIR & SPACE PORT (DISTRICT 4) (AIRPORTS)

11. 065-2023 – MOTION APPROVING A PARTNERSHIP BETWEEN THE CITY OF MIDLAND AND THE CITY OF ODESSA FOR THE PURPOSE OF RECRUITING A LICENSED VETERINARIAN TO PROVIDE VETERINARY SERVICES TO BOTH CITIES; AND AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AN AGREEMENT TO

RETAIN A SEARCH FIRM TO ASSIST WITH SAID RECRUITMENT; PROVIDED, HOWEVER, THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL (DISTRICT: ALL) (COMMUNITY SERVICES)

12. 2023-078 – RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PERMIAN DEEP ROCK OIL CO., LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED IN SECTION 14, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,878 FEET EAST OF NORTH A STREET EXTENSION AND 1,833 FEET SOUTH OF WEST LOOP 250 NORTH); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT (DISTRICT 3) (DEVELOPMENT SERVICES)

13. 066-2023 – MOTION AUTHORIZING THE EXECUTION OF A WATER PIPELINE EASEMENT WITH THE UNIVERSITY OF TEXAS SYSTEM BOARD OF REGENTS REGARDING UNIVERSITY OF TEXAS SYSTEM-OWNED PROPERTY DESCRIBED AS SECTIONS 1, 2, AND 14, BLOCK 7, UNIVERSITY LANDS, MARTIN COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)

14. 067-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-329-032) WITH CROWNQUEST OPERATING, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 4, 9,16, AND 20, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)

15. 068-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-317-005) WITH WTG GAS GATHERING COMPANY, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 36, BLOCK 39, TOWNSHIP 1 NORTH, T&P RR CO. SURVEY, MARTIN COUNTY (DISTRICT: NONE) (UTILITIES)

SECOND READINGS

16. 10407 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 7, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 220 FEET WEST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 23, 2023)

17. 10408 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,472-SQUARE FOOT PORTION OF LOT 2B, BLOCK 52, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LONGVIEW AVENUE, APPROXIMATELY 267 FEET EAST OF SOUTH BELMONT STREET), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 23, 2023)

18. 10409 – AN ORDINANCE VACATING AND ABANDONING A 0.068-ACRE PORTION OF DOUGLAS AVENUE RIGHT-OF-WAY LOCATED ADJACENT TO LOT 1 BLOCK 1, ORTLOFF ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 220 FEET WEST OF THE INTERSECTION OF WESTCLIFF DRIVE AND DOUGLAS AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $5,924.00; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 23, 2023)

19. 10410 – AN ORDINANCE AMENDING TITLE I, “ADMINISTRATIVE”, CHAPTER 12, “RECORDS RETENTION” OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CHANGE THE HEADING OF SAID CHAPTER 12 TO “RECORDS MANAGEMENT POLICY” AND TO ESTABLISH AN ACTIVE AND CONTINUING RECORDS MANAGEMENT PROGRAM; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (DISTRICT: ALL) (CITY SECRETARY'S OFFICE) (FIRST READING HELD MAY 23, 2023)

PUBLIC HEARINGS

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

20. 069-2023 – 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 2023-2024 CDBG GRANT APPLICATION SUBMISSIONS, AND THE FOURTH YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE-YEAR CONSOLIDATED PLAN GOALS; PUBLIC HEARING ONLY (DISTRICT: ALL) (DEVELOPMENT SERVICES)

21. 070-2023 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO ENDEAVOR ENERGY RESOURCES, L.P. (“OPERATOR”) FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: LELA 7-18 B #121; LELA 7-18 B #222; LELA C #131; LELA C #132; AND LELA C #233; SAID WELLS BEING GENERALLY LOCATED BETWEEN 1,397 FEET AND 1,497 FEET WEST OF SOUTH MIDLAND DRIVE AND BETWEEN 814 FEET AND 815 FEET NORTH OF WEST I-20; PUBLIC HEARING ONLY (DISTRICT 2) (DEVELOPMENT SERVICES)

22. 10411 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7 AND THE WEST 41.5 FEET OF LOT 8, BLOCK 35, COWDEN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH PECOS STREET AND WATSON STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES)

23. 10412 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 1, RENEW LIFE CHURCH ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO MF-16, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF OCCIDENTAL PARKWAY, APPROXIMATELY 280 FEET EAST OF NORTH STATE HIGHWAY 349); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

24. 10413 – AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 24.897-ACRE TRACT OF LAND OUT OF SECTIONS 38 AND 47, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF POTOMAC PARKWAY AND VICTORY PARKWAY); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT: NONE) (DEVELOPMENT SERVICES)

25. 10414 – AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 24.897-ACRE TRACT OF LAND OUT OF SECTIONS 38 AND 47, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN SF-3, SINGLE-FAMILY DWELLING DISTRICT; SAID TRACT BEING GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF POTOMAC PARKWAY AND VICTORY 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: NONE) (DEVELOPMENT SERVICES)

26. 10415 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 10, BLOCK 18, FAIRMONT PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF CLAREMONT DRIVE, APPROXIMATELY 154 FEET NORTH OF TREMONT AVENUE), BY PERMITTING A REDUCED MINIMUM REAR YARD SETBACK AND A REDUCED MINIMUM SEPARATION OF THE ACCESSORY BUILDING FROM THE PRINCIPAL BUILDING; 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 1) (DEVELOPMENT SERVICES)

27. 10416 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 86 FEET OF LOT 21, BLOCK 6, WESTERN MESA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST PINE AVENUE AND NORTH I STREET), BY PERMITTING A REDUCED MINIMUM REAR YARD SETBACK AND A REDUCED MINIMUM SIDE YARD SETBACK ON THE EAST SIDE OF THE PROPERTY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES)

PUBLIC COMMENT

28. 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

29. 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 551.087, Deliberate Economic Development Negotiations

a.1. Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

b. Section 551.071, Consultation with Attorney

b.1. Discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.

c. Section 551.074, Personnel Matters

c.1. Deliberate the appointment and duties of members of the Planning and Zoning Commission.

Respectfully Submitted,

Morris Williams Jr
Interim City Manager

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

MIDLAND CITY COUNCIL
COUNCIL WORK SESSION
MINUTES
May 23, 2023

DRAFT

The City Council convened in a work session in the Basement Conference Room, City Hall, Midland, Texas, at 9:30 AM, May 23, 2023.

Council Members present:	Amy Stretcher Burkes, Robin Poole, Lori Blong, Scott Dufford, Jack Ladd, John Norman
Council Members absent:	Dan Corrales
Staff members present:	City Attorney John Ohnemiller, Interim City Manager Morris Williams Jr.

The meeting was called to order at 9:31 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 a presentation from Dr. Eric J. Fritsch of Justice Research Consultants, LLC regarding the 2022 Racial Profiling Analysis.

Dr. Eric Fritsch gave an overview of the Midland Police Department 2022 Racial Profiling Analysis. First, information is gathered to be sure there is compliance with the law such as: a policy prohibiting racial profiling, officer training and education on racial profiling, the racial profiling complaint process and public education about the complaint process and the collection of racial profiling data.

Dr. Fritsch reported on Comparative Analysis #1, such as total stops by population, issues in assessing stop data, disproportionally and the problem of base rates (a valid measure of the driving population does not exist). Dr. Fritsch also reported on Comparative Analysis #2 – Traffic Stop Outcomes, Comparative Analysis #3 – Searches and Comparative Analysis #4 – Racial Profiling Complaints.

All the business at hand having been completed, the meeting adjourned at 9:49 a.m.

PASSED AND APPROVED June 13, 2023.

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer /City Secretary

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MIDLAND CITY COUNCIL
MINUTES
May 23, 2023

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., May 23, 2023.

Council Members present:	Amy Stretcher Burkes, Dan Corrales, Robin Poole, Lori Blong, Scott Dufford, Jack Ladd, John Norman
Council Members absent:	None
Staff members present:	City Attorney John Ohnemiller, Interim City Manager Morris Williams Jr.

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

OPENING ITEMS

1. Invocation – Pastor Jon Slayden, Hope Community Church

2. Pledge of Allegiance

CONSENT AGENDA

3. MOTION APPROVING THE FOLLOWING MINUTES:

   3a. BRIEFING SESSION OF MAY 9, 2023

   3b. REGULAR SESSION OF MAY 9, 2023

4. 2023-067 – RESOLUTION AWARDING A CONTRACT FOR THE MAIN STREET UTILITY BOND PROJECT TO TEC EXCAVATION, INC., FOR AN AMOUNT OF $3,554,040.00; APPROVING $355,404.00 FOR CONTINGENCIES; APPROVING $50,000.00 FOR PROJECT RELATED EXPENSES; AND APPROPRIATING FUNDS (DISTRICT 2) (GENERAL SERVICES)

5. 2023-068 – RESOLUTION AWARDING A CONTRACT FOR THE SH 191 WASTEWATER MAIN EXTENSION TO EDGARDO MADRID & ASSOCIATES, LLC, FOR A COST OF $2,984,109.25; APPROVING $596,822.00 FOR CONTINGENCIES; AND TRANSFERRING AND APPROPRIATING FUNDS (DISTRICT 4) (GENERAL SERVICES)

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6. 2023-069 – RESOLUTION APPROVING THE SELECTION OF DUNAWAY ASSOCIATES, LLC, FREESE AND NICHOLS, INC., HALFF ASSOCIATES, INC., KIMLEY-HORN AND ASSOCIATES, INC., LANDGRAF, CRUTCHER & ASSOCIATES, INC., MAGRYM CONSULTING, INC., MAVERICK ENGINEERING, PARKHILL SMITH & COOPER, INC. DOING BUSINESS AS PARKHILL, TRANSYSTEMS CORPORATION DOING BUSINESS AS TRANSYSTEMS CORPORATION CONSULTANTS, AND WESTWOOD PROFESSIONAL SERVICES, INC. TO ASSIST THE ENGINEERING SERVICES DEPARTMENT BY PROVIDING PROFESSIONAL ENGINEERING SERVICES AND OTHER SERVICES IN CONNECTION THEREWITH ON AN AS-NEEDED BASIS; AUTHORIZING THE NEGOTIATION AND EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH EACH FIRM; PROVIDING THAT EACH AGREEMENT SHALL BE FOR A TERM NOT TO EXCEED TWO YEARS; AUTHORIZING THE NEGOTIATION AND EXECUTION OF TASK ORDERS IN ACCORDANCE WITH SUCH AGREEMENTS; PROVIDING THAT THE PAYMENT FOR EACH TASK ORDER EXECUTED IN ACCORDANCE WITH SUCH AN AGREEMENT SHALL NOT EXCEED $200,000.00; PROVIDING THAT THE TOTAL COST TO THE CITY FOR ALL TASK ORDERS EXECUTED EACH YEAR IN ACCORDANCE WITH EACH AGREEMENT SHALL NOT EXCEED $750,000.00 PER AGREEMENT PER YEAR; AND AUTHORIZING PAYMENT (DISTRICT: ALL) (GENERAL SERVICES)

7. 2023-070 – RESOLUTION APPROVING A CONTRACT WITH 4B RECREATION GROUP, LLC, DBA PLAYGROUNDS ETC., THROUGH BUYBOARD, FOR THE PURCHASE AND INSTALLATION OF PLAYGROUND EQUIPMENT AND ASSOCIATED IMPROVEMENTS AT BUTLER PARK FOR A TOTAL COST OF $130,302.00; AND APPROVING $13,030.00 FOR PROJECT RELATED COSTS (DISTRICT 1) (GENERAL SERVICES)

8. 2023-071 – RESOLUTION APPROVING A CONTRACT WITH ASTOUND BUSINESS SOLUTIONS, LLC, THROUGH THE INTERLOCAL PURCHASING SYSTEM, FOR TEN YEARS OF DARK FIBER SERVICES FOR A TOTAL COST OF $300,000.00 (DISTRICT: ALL) (GENERAL SERVICES)

10. 059-2023 – MOTION AUTHORIZING THE EXECUTION OF AN ECONOMIC DEVELOPMENT AGREEMENT WITH THE MIDLAND DEVELOPMENT CORPORATION PROVIDING FOR CERTAIN INFRASTRUCTURE IMPROVEMENTS LOCATED AT THE INTERSECTION OF SINCLAIR AVENUE AND STATE HIGHWAY 158 (DISTRICT 4) (CITY MANAGER)

Robin Poole moved to approve consent agenda items 3-13, excluding items 9, 11, 12 and 13; seconded by Dan Corrales.

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

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

9. 058-2023 – MOTION APPROVING A PROMOTIONAL AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND BUSH TENNIS CENTER, INC., TO ADVERTISE AND PUBLICIZE THE CITY OF MIDLAND FOR THE PURPOSE OF DEVELOPING NEW AND EXPANDED BUSINESS ENTERPRISES (DISTRICT 4) (CITY MANAGER)

Council Member Norman wanted everyone to know he is for this agreement and wants a follow up on the project.

Tim Stallard, Executive Director of the Bush Tennis Center, gave a brief overview of the events occurring at the Bush Tennis Center. He also reiterated information he shared at the Council Briefing Session on April 25, 2023 and discussed the economic impact to the local economy.

Steve Beach, Odessa, representing the Bush Tennis Center. Mr. Beach is the Dean of the College of Business at UT Permian Basin and is also a Finance professor. Mr. Beach reported on the philanthropic importance of this project and the long-term impact it will have in Midland.

John Norman moved to approve Motion No. 058-2023; seconded by Amy Stretcher Burkes.

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

11. 060-2023 – MOTION APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND KIMLEY-HORN AND ASSOCIATES, INC., FOR PROFESSIONAL SERVICES RELATED THE WIDENING AND IMPROVING OF STATE HIGHWAY 158 FROM SINCLAIR AVENUE TO WADLEY AVENUE, AND FROM WADLEY AVENUE TO BRIARWOOD AVENUE (DISTRICT 4) (CITY MANAGER)

Council Member Ladd thanked Engineering Director Jose Ortiz and everyone who assisted with this project.

Jack Ladd moved to approve Motion No. 060-2023; seconded by John Norman.

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

12. 061-2023 – MOTION APPROVING AN AMENDMENT TO THAT CERTAIN DEMOLITION CONTRACT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND MIDWEST WRECKING CO. OF TEXAS, INC. (DISTRICT 2) (CITY MANAGER)

Lourcey Sams, Midland, spoke with the board and they are excited for the move to the new location

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for the Farmers Market.

Mayor Blong reported the City will be using the existing Western United Life demolition contract to tear down the Bank of America motor bank which will provide an open lot and available space downtown.

Council Member Poole reported that this will save money and Council Member Corrales mentioned the need to look into future skate park areas.

Jack Ladd moved to approve Motion No. 061-2023; seconded by Robin Poole.

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

13. 2023-072 – RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION'S 2023 TRANSPORTATION ALTERNATIVES SET-ASIDE PROGRAM FOR THE PROPOSED WILDCATTER TRAIL PROJECT; SUPPORTING THE FUNDING OF THE DEVELOPMENT, IMPLEMENTATION, CONSTRUCTION, MAINTENANCE, MANAGEMENT AND FINANCING OF SAID PROJECT; AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE BENEFIT OF THE PROJECT IF THE PROJECT IS SELECTED FOR FUNDING (DISTRICT 4) (COMMUNITY SERVICES)

Michele Hagermann, Grants Accountant, gave a brief overview of the item noting the different grants that have been applied for, the amounts of these grants and the other entities she is working with such as the City of Odessa and Midland County just to name a few.

Jack Ladd moved to approve Resolution No. 2023-072; seconded by John Norman.

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

SECOND READINGS

14. 10400 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 6, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 15, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED APPROXIMATELY 520 FEET SOUTH OF WEST LOOP 250 NORTH AND APPROXIMATELY 515 FEET WEST OF NORTH MIDLAND DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT

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SERVICES) (FIRST READING HELD MAY 9, 2023)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No.10400.

Robin Poole moved to approve the second and final reading of Ordinance No. 10400; seconded by Dan Corrales.

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

15. 10401 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1 AND THE EAST HALF OF LOT 2, BLOCK 76, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM O-1, OFFICE DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST TEXAS AVENUE AND NORTH N STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 9, 2023)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10401.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10401; seconded by Robin Poole.

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

16. 10402 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 4, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH, AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH CLAY STREET, APPROXIMATELY 200 FEET SOUTH OF EAST WASHINGTON AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 9, 2023)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10402.

John Norman moved to approve the second and final reading of Ordinance No. 10402; seconded by Dan Corrales.

DRAFT

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

17. 10403 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 5,200-SQUARE FOOT PORTION OF LOT 2, BLOCK 1, W.P. KNIGHT ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH POWELL STREET AND WEST WALL STREET), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 9, 2023)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10403.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10403; seconded by John Norman.

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

18. 10404 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR A 1,600-SQUARE FOOT PORTION OF LOT 8, BLOCK 2, PAVILION PARK, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH FAIRGROUNDS ROAD, APPROXIMATELY 310 FEET SOUTHEAST OF SAN FELIPE DRIVE), WHICH IS PRESENTLY ZONED AE, AGRICULTURAL ESTATE DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR WIRELESS COMMUNICATION SYSTEMS, INCLUDING A MONOPOLE ANTENNA STRUCTURE; 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 (DISTRICT1) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 9, 2023)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10404.

DRAFT

Jack Ladd moved to approve the second and final reading of Ordinance No. 10404; seconded by Robin Poole.

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

19. 10405 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 258.87-ACRE TRACT OF LAND OUT OF SECTION 18, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR HOUSING DEVELOPMENT TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTH SIDE OF EAST MOCKINGBIRD LANE, APPROXIMATELY 900 FEET EAST OF NORTH FAIRGROUNDS ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES) (FIRST READING HELD MAY 9, 2023)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10405.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10405; seconded by Scott Dufford.

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

PUBLIC HEARINGS

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

20. 062-2023 – 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 2023-2024 CDBG GRANT APPLICATION SUBMISSIONS AND THE FOURTH YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE-YEAR CONSOLIDATED PLAN GOALS; THIS IS A PUBLIC HEARING ONLY (DISTRICT: ALL) (DEVELOPMENT SERVICES)

THIS IS A PUBLIC HEARING ONLY. NO ACTION TAKEN.

Community Services Manager Isaac Garnett, reported on the applicants request for funding for the upcoming year. The action plan will focus on five pillars: affordable housing, economic development, infrastructure improvements, social services and community engagement.

DRAFT

Mr. Garnett gave a presentation on each of the different entities who applied for funding.

Mayor Blong opened the public hearing at 10:32 a.m.

Michelle McClellan, 8614 Fortuna Court, Odessa, thanked Council for the support of their programs. Ms. McClellan gave an update on the programs she is involved in and their needs.

Mikell McLaughin, 2614 Emerson Drive, with the Salvation Army, gave an update on the funding they use which goes to feeding the homeless. Children come in the summer to eat since schools are closed. Mr. McLaughin passed out a flyer for the Council which reports what the Salvation Army did last year.

Charlene Quinones, Midland, Community Care Coordinator for Juvenile Probation, reported on Culver youth and their needs. Ms. Quinones spoke on trauma the young adults face and how funding will help.

Lisa McGee, 4015 Dunkirk, with Midland Memorial, reported on the importance of mental health and having a licensed professional counselor assist individuals in need.

Tracy Renton, 4000 Compton, with Senior Life Midland, thanked Council for their support and reported on how funding helps their organization serve the senior citizens of Midland.

Victoria McCluskey, 4805 Briarwood, Thrive United Compliance Manager, and part of the grant writing team, spoke on the importance of peer support and the success of the program. Ms. McCluskey also spoke on the success of her own recovery and how funding can help others.

Tonya Elkert thanked Council and appreciates Isaac Garnett for the work he does with CDBG funds. Ms. Elkert gave a recap of the meals served and light housekeeping for seniors who can not do it themselves. Ms. Elkert also spoke on the Senior Resiliency Program.

Joey Hopkins, 305 E. Texas, with Habitat for Humanity spoke on the down-payment assistance program. Mr. Hopkins also reported on the intended use of funds for Habitat for Humanity. They would like to pave a portion of the road the City owns that connects their development to another paved road.

Mr. Hopkins also reported they have three developments coming in the future that will put about 300 affordable homes in District 2. The cost is about $11,000,000.00 just for roads, water and sewer. Mr. Hopkins would like the Council to keep this information in mind for what's coming in the future.

There being no one else wishing to speak, the public hearing was closed at 11:04 a.m.

21. 10407 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 7, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS

DRAFT

(GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 220 FEET WEST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10407.

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

Jack Ladd moved to approve the first of two readings of Ordinance No. 10407; seconded by Dan Corrales.

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

22. 10408 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,472-SQUARE FOOT PORTION OF LOT 2B, BLOCK 52, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LONGVIEW AVENUE, APPROXIMATELY 267 FEET EAST OF SOUTH BELMONT STREET), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10408.

Mayor Blong opened the public hearing at 11:06 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Jack Ladd moved to approve the first of two readings of Ordinance No. 10408; seconded by John Norman.

The motion passed by the following vote:
AYE: Stretcher Burkes, Corrales, Poole, Blong, Dufford, Ladd, Norman

DRAFT

NAY: None
ABSTAIN: None
ABSENT: None

23. 10409 – AN ORDINANCE VACATING AND ABANDONING A 0.068-ACRE PORTION OF DOUGLAS AVENUE RIGHT-OF-WAY LOCATED ADJACENT TO LOT 1 BLOCK 1, ORTLOFF ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 220 FEET WEST OF THE INTERSECTION OF WESTCLIFF DRIVE AND DOUGLAS AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $5,924.00; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT 3) (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10409.

Mayor Blong opened the public hearing at 11:07 a.m.

Andrew Mellan, 1909 West Wall Street, with Maverick Engineering and representing Cornerstone Housing requested to waive the cost of right-of-way fees.

There being no one else wishing to speak, the public hearing was closed at 11:08 a.m.

Jack Ladd moved to approve with the amendment to wave the cost, the first of two readings of Ordinance No. 10409; seconded by John Norman.

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

24. 2023-073 – RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A STEAK SALE ON LOT 1A, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH MIDKIFF ROAD) SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS (DISTRICT 1) (DEVELOPMENT SERVICES)

Mayor Blong opened the public hearing at 11:10 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Jack Ladd moved to approve Resolution No. 2023-073; seconded by Dan Corrales.

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

MISCELLANEOUS

DRAFT

25. 10410 – AN ORDINANCE AMENDING TITLE I, “ADMINISTRATIVE”, CHAPTER 12, “RECORDS RETENTION” OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CHANGE THE HEADING OF SAID CHAPTER 12 TO “RECORDS MANAGEMENT POLICY” AND TO ESTABLISH AN ACTIVE AND CONTINUING RECORDS MANAGEMENT PROGRAM; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (DISTRICT: ALL) (CITY SECRETARY'S OFFICE)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10410.

Dan Corrales moved to approve the first of two readings of Ordinance No. 10410; seconded by Robin Poole.

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

26. MOTION MAKING VARIOUS APPOINTMENTS TO BOARDS AND COMMISSIONS (CITY SECRETARY’S OFFICE)

John Norman moved to reappoint Derek Cook to the Permian Basin Community Center for MHMR (PermiaCare) board; seconded by Dan Corrales.

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

Dan Corrales moved to appoint Brennen Berry to the Planning and Zoning Commission; seconded by Scott Dufford.

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

Jack Ladd moved to appoint Steven Villela to the Planning and Zoning Commission; seconded by Amy Stretcher Burkes.

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

DRAFT

Dan Corrales moved to appoint Judge Terry Johnson to the Animal Control Advisory Commission; seconded by Jack Ladd.

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

PUBLIC COMMENT

27. 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.)

Tina Nevot, 3600 W. Michigan, asked questions regarding any improvements to Animal Services since Ty Coleman is no longer there. Ms. Nevot also inquired why Tommy Johnson was appointed as a temporary manager.

Euiel Rosa, 3603 Humble Ave., spoke on leadership and transparency.

Janet Harris, 2201 Shell, wants to know why there was no investigation into the allegation of improper anesthesia procedures causing animals to wake up during surgery. Ms. Harris also had personnel questions regarding Ty Coleman.

Council Member Norman mentioned the loss of former Midland City Council Member Michael Trost. Several Council Members gave their condolences.

All the business at hand having been completed, the meeting adjourned at 11:33 a.m.

PASSED AND APPROVED June 13, 2023.

_____
Lori Blong, Mayor

ATTEST:

_____
Marcia Bentley-German
City Governance Officer/City Secretary

DRAFT

City Council Meeting

Item Number: 5

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: **RESOLUTION APPROVING THE PURCHASE OF SUPPLIES FOR THE LOUISIANA AND GARFIELD CONCRETE PAVING REINFORCEMENT PROJECT FOR THE TRANSPORTATION DIVISION FROM WHITE CAP OF EL PASO , TEXAS, AT A TOTAL COST OF $105,914.00; APPROVING $15,887.10 FOR CONTINGENCIES; AND AUTHORIZING PAYMENT (DISTRICT 3) (GENERAL SERVICES)**

Purpose:

Resolution approving the purchase of supplies for the Garfield Concrete Paving Reinforcement project for the Transportation Division from White Cap Supply Holdings, LLC of El Paso, Texas for a cost of $105,914.00 approving $15,887.10 for contingencies; for a total cost of $121,801.10.

Recommended City Council Action:

Approve

Fiscal Impact:

$121,801.10 is available in the Garfield Street Paving Project.

Discussion:

The City Manager approved specifications and authorized advertisement for bids for the Garfield Concrete Paving Reinforcement Supplies purchase for the Transportation Division. The bid request was sent to twenty-three (23) companies. We received two (2) bids. Staff recommends awarding the purchase to White Cap Holdings, LLC. Please see the attached memo from Abe Langston, Transportation Manager, for more information.

Therefore, please consider a resolution approving the purchase of supplies for the Garfield Concrete Paving Reinforcement project for the Transportation Division to White Cap Holdings,

LLC of El Paso, Texas for a cost of $105,914.00 approving $15,887.10 for contingencies; for a total cost of $121,801.10.

Tina Daugherty

City Manager's Office

INTEROFFICE MEMORANDUM

TO: Erika Martinez, Purchasing Manager

FROM: Abe Langston, Transportation Manager

SUBJECT: Garfield Street Concrete Paving Reinforcement Supplies
Bid# 23002828R-2; Recommend Award

DATE: May 25, 2023

CC: Gabe McClelland, Senior Engineering Manager

Steel reinforcement in concrete paving is used to keep adjoining slabs from separating, to keep the surface across the joints flat, and to provide continuity and support as traffic loads move between the slabs. Longitudinal and transverse steel is designed to keep cracks tight to prevent water or foreign materials from penetrating the pavement structure or prevent seepage through the concrete cracks. Dowel bars are used to provide load transfer at the transverse contraction joints. Tie bars are installed at the longitudinal construction joints and maintain the concrete slabs' structure, which prevents lane separation.

We have reviewed the bid tabulation for the Garfield Street Concrete Paving Reinforcement Supplies. White Cap is the apparent low bidder and has a track record of successfully distributing concrete accessories and building materials to professional contractors across Texas. In addition, the unit prices appear to be in line with current pricing trends. Therefore, we are recommending award of the Garfield Street Concrete Paving Reinforcement Supplies to White Cap in the amount of $121,801.10 (Base Bid + 15% Contingency).

Base Bid (Garfield Street Paving Project 981014-178):	$105,914.00
Contingency 15% (Garfield Street Paving Project 981014-178):	$15,887.10
Total Amount:	**$121,801.10**

RESOLUTION NO._____

RESOLUTION APPROVING THE PURCHASE OF SUPPLIES FOR THE LOUISIANA AND GARFIELD CONCRETE PAVING REINFORCEMENT PROJECT FOR THE TRANSPORTATION DIVISION FROM WHITE CAP OF EL PASO , TEXAS, AT A TOTAL COST OF $105,914.00; APPROVING $15,887.10 FOR CONTINGENCIES; AND AUTHORIZING PAYMENT

WHEREAS, the Interim City Manager approved the specifications and authorized advertisement for bids for the purchase of supplies for the Louisiana and Garfield Concrete Paving Reinforcement Project (the "Goods") for the Transportation Division; and

WHEREAS, Bid No. 23002828R-2 was opened on May 24, 2023, with the lowest responsible bidder being White Cap of El Paso, Texas ("Seller"), having submitted a bid of $105,914.00 as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

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

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

SECTION ONE. That the Interim City Manager is hereby authorized and directed to purchase the Goods from Seller at a total cost of $105,914.00.

SECTION TWO. That the Interim City Manager is hereby authorized and directed to pay Seller pursuant for the Goods purchased in accordance with this resolution, including change orders in total, do not increase the original purchase price by more than 15 percent upon receipt of proper invoices or statements approved by the Interim City Manager.

SECTION THREE. That the City Comptroller is hereby authorized and directed to execute, on behalf of the City of Midland, change orders to said purchase if (1) each change order involves a decrease or an increase of $50,000.00 or less and (2) the Goods purchased pursuant to change orders authorized by this resolution, in an amount not to exceed $121,801.10 from funds available in the Garfield Street Paving Project ($15,887.10). The sum of $15,887.10 is approved for contingencies.

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. , 2023, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____

Lori Merritt Blong, Mayor

ATTEST:

_____

Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____

Morris Williams, Jr., Interim City Manager

APPROVED AS TO CONTENT

AND COMPLETENESS:

_____

Regina Stephenson, General Services Director

_____

Jose Ortiz, Engineering Services Director

APPROVED ONLY AS TO FORM:

_____

John Ohnemiller, City Attorney

EXHIBIT "A"

City of Midland - Bid Tabulation

BID # 23002828R-2 Louisiana & Garfield Concrete Paving Reinforcement Supplies OPENED: May 24, 2023 at 2:00PM			White Cap 1180 Rojas Dr El Paso, Tx 915-727-3814 sergio.ulloa@whitecap.com		Core & Main Lp 930 Pendale Rd El Paso, TX 79907 800-783-6730 arnold.osuna@coreandmain.com	
ITEM	**QTY**	**DESCRIPTION**	**UNIT**	**TOTAL**	**UNIT**	**TOTAL**
1	605	10' Dowel Basket 1 1/4" x 18" dowel plain 12 C/C Spacing	$77.20	$46,706.00	$109.08	$65,993.40
2	800	10' Tie Bar Basket with #6 x 50" plain 24 C/C Spacing	$53.00	$42,400.00	$70.44	$56,352.00
3	11,500	6" long 60D Nail Basket Stake with 2" long crosswire	$0.48	$5,520.00	$0.65	$7,475.00
4	30	2"x 8"x16' Spruce Pine Fir lumber	$18.00	$540.00	$47.50	$1,425.00
5	8	55 Gallon Drum White Wax-Base Concrete Curing Compound	$382.00	$3,056.00	$412.50	$3,300.00
6	2	55 Gallon Drum Duogard Citrus Form Release or Equivalent	$596.00	$1,192.00	$675.00	$1,350.00
7	1	Freight / Delivery	$6,500.00	$6,500.00	$11,000.00	$11,000.00
		TOTAL		$105,914.00		$146,895.40

Bidding Summary:

23 Bid requests were issued.

2 Bids listed above

0 NO BIDS were received.

21 Bidders did not respond.

City of Midland - Bid Tabulation

BID # 23002828R-2 Louisiana & Garfield Concrete Paving Reinforcement Supplies OPENED: May 24, 2023 at 2:00PM			White Cap 1180 Rojas Dr El Paso, Tx 915-727-3814 sergio.ulloa@whitecap.com		Core & Main Lp 930 Pendale Rd El Paso, TX 79907 800-783-6730 arnold.osuna@coreandmain.com	
ITEM	**QTY**	**DESCRIPTION**	**UNIT**	**TOTAL**	**UNIT**	**TOTAL**
1	605	10' Dowel Basket 1 1/4" x 18" dowel plain 12 C/C Spacing	$77.20	$46,706.00	$109.08	$65,993.40
2	800	10' Tie Bar Basket with #6 x 50" plain 24 C/C Spacing	$53.00	$42,400.00	$70.44	$56,352.00
3	11,500	6" long 60D Nail Basket Stake with 2" long crosswire	$0.48	$5,520.00	$0.65	$7,475.00
4	30	2"x 8"x16' Spruce Pine Fir lumber	$18.00	$540.00	$47.50	$1,425.00
5	8	55 Gallon Drum White Wax-Base Concrete Curing Compound	$382.00	$3,056.00	$412.50	$3,300.00
6	2	55 Gallon Drum Duogard Citrus Form Release or Equivalent	$596.00	$1,192.00	$675.00	$1,350.00
7	1	Freight / Delivery	$6,500.00	$6,500.00	$11,000.00	$11,000.00
		TOTAL		$105,914.00		$146,895.40

Bidding Summary:

23 Bid requests were issued.

2 Bids listed above

0 NO BIDS were received.

21 Bidders did not respond.

City Council Meeting

Item Number: 6

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A FIVE-YEAR PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC., D/B/A PARKHILL FOR DESIGN SERVICES, OPERATIONAL SUPPORT AND HYDROGEOLOGICAL EVALUATION FOR THE EXISTING T-BAR REMEDIATION INFRASTRUCTURE FOR A TOTAL COST OF $1,875,000.00 (DISTRICT: NONE) (GENERAL SERVICES)

Purpose:

Resolution authorizing the execution of a professional services agreement for design services, operational support, and hydrogeological evaluation for the existing TBar Remediation infrastructure with Parkhill, Smith & Cooper Services as directed by City Staff for a total cost of $1,875,000.00; and transferring and appropriating funds; and authorizing payment.

Recommended City Council Action:

Approve

Fiscal Impact:

$375,000.00 is available in the FY2023 Utilities operating budget and a total of $1,500,000.00 will be available in each annual Utilities operating budget for years 2-5.

Discussion:

Resolution 2020-091 approved the selection of Parkhill, Smith & Cooper Services, for performance of on-call engineering support services for the Utilities Department. Parkhill will provide design services, operational support, and hydrogeological evaluation for the existing TBar Remediation infrastructure. The annual budgeted operational cost of the services is $375,000.00 and the term is expected to be for 5 years for a possible total cost of $1,875,000.00.

Please see the attached memo from Carl Craigo, Utilities Director, for additional information.

Therefore, please consider a resolution authorizing the execution of a professional services agreement with Parkhill, Smith & Cooper Services for design services, operational support, and hydrogeological evaluation for the existing TBar Remediation infrastructure for a total cost of $1,875,000.00; and transferring and appropriating funds; and authorizing payment.

Tina Gauz

City Manager's Office

INTEROFFICE MEMORANDUM

TO: Erika Munoz Martinez, Purchasing Manager

FROM: Carl Craigo, PE, Utilities Director

SUBJECT: Consider a Resolution approving a professional services agreement PSC Services including design services, operational support, and hydrogeological evaluation for the Tbar remediation system.

DATE: June 13, 2023

Utilities advertised for proposals for the remediation of the T-Bar well field plan as approved by the Texas Railroad Commission in August 2021 (Resolution 086-2021). Two proposals were accepted and PSC services was demeaned, by the committee, to be in the best interest of the City of Midland. The estimated cost of implementing the RRC plan would be $9,636,495. PSC services completed phase one of the project including the construction of three remediation wells, a remediation pit, and associated infrastructure.

Utilities is requesting acceptance of PSC services phase two services of the Tbar remediation project which will include continual operation of the infrastructure, evaluating the remediation process and possibly update to the remediation plan. The annual budgeted operational cost of the services is $375,000 and the term is expected to be for 5 years for a possible total cost of $1,875,000.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A FIVE-YEAR PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC., D/B/A PARKHILL FOR DESIGN SERVICES, OPERATIONAL SUPPORT AND HYDROGEOLOGICAL EVALUATION FOR THE EXISTING T-BAR REMEDIATION INFRASTRUCTURE FOR A TOTAL COST OF $1,875,000.00

WHEREAS, the Utilities Department has selected Parkhill, Smith & Cooper, Inc., d/b/a Parkhill ("Parkhill"), to provide design services, operational support and hydrogeological evalutation for the existing T-Bar remediation infrastructure; and

WHEREAS, Parkhill has agreed to perform said professional services at a total cost of $1,875,000.00; and

WHEREAS, the City Council finds that Parkhill is qualified to perform said professional services; and

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

WHEREAS, the City Council finds that Parkhill provides professional services for a fair and reasonable price; and

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

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

SECTION ONE. That the Interim City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a professional services agreement with Parkhill for said professional services. A copy of said agreement is attached hereto as Exhibit "1" and incorporated herein for all purposes.

SECTION TWO. That $375,000.00 shall be available in the FY2023 Utilities operating budget and a total of $1,500,000.00 shall be available in each annual Utilities operating budget for contract years two through five.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Parkhill pursuant to the terms of said professional services agreement upon receipt of proper invoices or statements approved by the Interim City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2023, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____
Morris Williams, Jr., Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

PROFESSIONAL SERVICES AGREEMENT
23004074

THIS AGREEMENT is made and effective the 25 day of May, 2023, by and between the CITY OF MIDLAND, TEXAS ("*CITY*"), a home-rule municipal corporation, and Parkhill Smith & Cooper Services. ("*COMPANY*"). CITY and COMPANY are at times individually referred to as a "*Party*" and collectively referred to as the "*Parties*."

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which COMPANY shall perform T- Bar Remediation System Engineering and Operational Services (the "*Services*") for CITY. The Services are more specifically set forth in **Exhibit A**, which is attached hereto and incorporated herein for all purposes.

ARTICLE II. SERVICES TO BE PERFORMED

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

ARTICLE III. FINANCIAL CONSIDERATIONS

CITY agrees to pay COMPANY an amount not to exceed $1,875,000.00 for the performance of the Services. CITY agrees to pay COMPANY according to the schedule set forth in **Exhibit A** upon presentation of a monthly invoice. The monthly invoice shall set forth all service fees for the month and those expenses described in **Exhibit A** that COMPANY incurs during the previous month for which COMPANY receives advanced written approval from the City Manager. All additional and/or reimbursable expenses must be approved by the City Manager prior to incurring such expenses.

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

effort to settle the disputed portion of the invoice. Notwithstanding the foregoing, CITY shall pay every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from June 14, 2023 until June 14, 2028, unless the Services are completed sooner or the Agreement is terminated as provided below. City may, at its option, renew this Agreement for four (4) additional one (1) year periods. City shall give Company notice of its intent to renew not less than thirty (30) days prior to the expiration of this Agreement.

ARTICLE V. TERMINATION AT WILL

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

ARTICLE VI. ASSIGNMENT

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

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

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

ARTICLE VIII. INDEPENDENT CONTRACTOR

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

ARTICLE IX. INSURANCE

During the term of this Agreement, COMPANY shall maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

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

The Commercial General Liability policy shall be on a per project aggregate, including

completed operations, and shall be on a claims-occurred basis. This policy shall name CITY as an additional insured and waive subrogation in favor of CITY.

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

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

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

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

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

By executing this Agreement, COMPANY certifies that the certificate of insurance provided pursuant to this Article complies with the requirements of Chapter 1811 of the Texas Insurance Code. COMPANY shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law and this Agreement is the sole and exclusive responsibility of COMPANY.

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

ARTICLE X. ATTORNEY FEES

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

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

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

SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE XI. GOVERNMENTAL IMMUNITY

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

ARTICLE XII. NO THIRD-PARTY BENEFICIARY

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

ARTICLE XIII. RELEASE

NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND ITS AGENTS, COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF AGREEMENT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE XIV. GENERAL PROVISIONS

A. Waiver. No waiver by CITY of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. The laws of the State of Texas shall govern, construe and enforce all rights and duties of the Parties, including, but not limited to, tort claims and any contractual claims or disputes arising from or relating in any way to the subject matter of this Agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction. All performance and payment made pursuant to this Agreement shall be

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

C. Notice. Any notice or demand made regarding this Agreement shall be made in writing and delivered, either in person or by certified or registered mail, at the addresses provided below. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service.

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

If to COMPANY: Parkhill Smith & Cooper Services
1700 W. Wall St.
Midland TX. 79701

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

D. Severability. If one or more of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision were never contained herein.

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of this Agreement shall be binding unless such is evidenced in writing, dated subsequent to the date of this Agreement, and duly executed by the Parties.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

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

I. Notice of Alleged Breach; Statutory Prerequisites. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, COMPANY or its legal representative shall give the City Manager, or any other reasonable official of CITY, written notice (consisting of one (1) original and seven (7) copies of such notice attached to a copy of this Agreement) of such duly-verified damages within one hundred fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of such notice. The notice shall include when, where, and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which COMPANY will settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented, the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim. COMPANY's failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except CITY from any liability whatsoever. CITY is under no obligation to provide notice to COMPANY that COMPANY'S notice is insufficient. CITY reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after COMPANY's receipt of such notice.

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

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

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

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

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

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

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

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

O. Conflict of Terms. If a conflict of terms or language exists between: (i) any of the provisions of this Agreement; and (ii) any of the provisions contained in any exhibit(s) attached to this Agreement, precedence shall be given to the provisions of this Agreement. For the avoidance of any doubt, the provisions contained in this Agreement shall supersede any and all conflicting provisions contained in any exhibit(s) attached hereto. Furthermore, the Parties acknowledge and agree that any provision contained in an exhibit(s) attached to this Agreement that imposes an additional express or implied obligation on CITY is hereby made void and of no force or effect.

CITY's sole and exclusive obligations under this Agreement are contained in the provisions of this Agreement that precede the signature page(s), which evidences the Parties' execution and acceptance hereof.

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

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

ARTICLE XV. INDEMNITY

COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF COMPANY, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER

WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH COMPANY OR COMPANY'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

COMPANY AGREES THAT IT WILL INDEMNIFY AND SAVE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS AND ALL SUPPLIES, INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN CITY SO DESIRES, COMPANY SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED. COMPANY, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF COMPANY OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS AGREEMENT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION XV SHALL SURVIVE THE TERMINATION OF THIS

AGREEMENT.

[Signature Page(s) Follows]

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

_____
Morris Williams Jr., Interim City Manager

ATTEST:

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

APPROVED AS TO FORM ONLY:

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF _____§
§
COUNTY OF _____§

BEFORE ME, the undersigned authority, on this ____ day of _____, 20____ personally appeared, _____, an officer of Parkhill Smith & Cooper Services. known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the __day of _____, 2023.

_____
Notary Public, State of Texas

DocuSign Envelope ID: 471232CE-F181-48CB-9A99-D6FAA4939ADF

Exhibit A

PSC SERVICES

May 17, 2023

Mr. Carl Craigo, PE
Utilities Director
City of Midland
300 North Loraine, 5th Floor
Midland, Texas 79701

RE: Proposal for Professional Services
T-Bar Remediation System Engineering and Operational Support
2215 County Rd 101, Kermit, Texas 79745

Dear Mr. Craigo:

PSC Services, LLC (PSC) is pleased to have the opportunity to provide this Proposal for design services, operational support, and hydrogeological evaluation to the City of Midland (Owner) for the referenced Project.

OVERVIEW

This Proposal generally includes engineering and hydrogeology support services for the existing T-Bar Remediation infrastructure. Operational support and management are also accounted for to aid with the delivery and sale of the developed groundwater source.

SCOPE OF SERVICES

The following items have been identified as necessary components for delivery of a complete and effective project.

- Task 1 – Engineering Support Services:
  - Provide technical assistance to wellfield operators.
  - Review operational reports and financials.
  - Support hydrogeologist efforts and monitoring goals.
  - Compile infrastructure maintenance and data records.
  - Progress updates to City personnel.

- Task 2 – Operational Oversight and Technical Support:
  - Facilitate delivery of groundwater to third party entities
    - Maximum production of 5,000,000 barrels accounted for in detailed compensation.
  - Advise on operational and efficiency protocol.
  - Maintain well operation and communication standards.
  - Maintain operational data and daily report logs.
  - Laboratory quality testing.
  - Coordinate with sub-contractors as needed for maintenance items.
  - Aid Hydrogeologist with groundwater sampling and monitoring.
  - Oversee general upkeep of water infrastructure.

4222 85th Street | Lubbock, Texas 79423 | 806.473.2200

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- Task 3 – Hydrogeology:
  - Develop reporting standard for regulatory compliance.
  - Assimilate maintenance data and reports for regulatory compliance.
  - Provide oversight for interval testing of groundwater characteristics.
  - Update baseline hydraulic model from aquifer testing results.

- Task 4 – Ad-Hoc Service Allowance:
  - Budget to address maintenance items (City approval required for basic expenditures).

Special services specifically excluded from our Scope include, but are not limited to, the following:

- Surveys and Geotechnical Reports
- Third-Party Independent Construction Inspection Services
- Construction Material Testing
- Construction Observation Services (RPR)
- Preparation of Construction Documents
- Entitlement Services
- Archeological Investigation/Survey
- Easement Negotiation and Acquisition

Any required services shall be authorized in writing by the Owner. Basis of payment is to be determined at the time of authorization. These items are examples and are not intended to be all-inclusive of types of special services which may be required.

OWNER'S SERVICES

- Provide formal compliance to regulatory agencies.
- Attend project related meetings.
- Process engineering and construction pay-application requests.

SCHEDULE

Services as described will initiate after notification from the Owner and conclude within one calendar year from the date of execution.
**Proposal as described is assumed to be renewed on an annual basis*

COMPENSATION

Our fee for the Scope of Services described above will be based on a lump sum and reimbursable basis. We estimate this cost to be **$375,000.00**. Owner shall deliver compensation in accordance with the fee summary below. Invoices shall be submitted monthly by PSC, in a format acceptable to the Owner, based upon the percentage of work completed to date. PSC shall not exceed the stated fee by more than 10% without prior written consent from the Owner.

- Task 1 – Engineering Support Services.....$75,000
- Task 2 – Operational Oversight and Technical Support.....$200,000
- Task 3 – Hydrogeology.....$50,000
- Task 3 – Ad-Hoc Service Allowance.....$50,000

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We appreciate the opportunity to provide these services to you and look forward to the successful implementation of your project. If you have any questions, please do not hesitate to contact Ryan Kennerly at 817.633.0434 or by email at rkennerly@parkhill.com

Sincerely,

PSC SERVICES

DocuSigned by:

By _____
7981323D1E69497...
Jay Edwards, PE
Manager

RK/kg

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City Council Meeting

Item Number: 7

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION AUTHORIZING THE PURCHASE OF CELLULAR COMMUNICATION SERVICES FOR A TERM OF TWO YEARS THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES FROM VERIZON WIRELESS TELECOM INC. AT A TOTAL COST OF $788,356.56 (DISTRICT: NONE) (GENERAL SERVICES)

Purpose:

Resolution approving a 2-year purchase of cellular communications services for City of Midland personnel from Verizon Wireless through Texas Department of Information Resources (DIR) contract DIR-TELE-CTSA-003 for a total cost of $788,356.56.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds are available in the General Fund operating budget. and FY24 payments are budgeted in the Technology Fund

Discussion:

Staff is recommending approving 2-year purchase of cellular communications services for City of Midland personnel. Based on service area coverage, pricing, customer references, customer support and deployment, staff recommends awarding the cellular services to Verizon Wireless through Department of Information Resources (DIR) contract number DIR-TELE-CTSA-00. Please see the attached memo from Jennifer Frescaz, Chief Information Officer, for additional information.

Therefore, please consider a resolution approving a 2-year purchase of cellular communications

services for City of Midland personnel from Verizon Wireless through Texas Department of Information Resources (DIR) contract DIR-TELE-CTSA-003 for a total cost of $788,356.56.

Tina Gaug

City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE PURCHASE OF CELLULAR COMMUNICATION SERVICES FOR A TERM OF TWO YEARS THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES FROM VERIZON WIRELESS TELECOM INC. AT A TOTAL COST OF $788,356.56

WHEREAS, the Texas Department of Information Resources ("DIR") is a cooperative program in which the City participates on purchases; and

WHEREAS, Verizon Wireless Telecom Inc. has agreed to provide cellular communication services for a term of two years through the DIR at a total cost of $788,356.56; and

WHEREAS, the City Council finds the price proposed for the purchase of cellular communication services for a term of two years through the DIR to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the purchase of cellular communication services for a term of two years through the DIR from Verizon Wireless Telecom Inc.;

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

SECTION ONE. That the Interim City Manager is hereby authorized and directed to purchase cellular communication services for a term of two years through the DIR from Verizon Wireless Telecom Inc. at a total cost of $788,356.56.

SECTION TWO. That funds are available in the General Fund operating budget and FY24 payments are budgeted in the Technology Fund.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Verizon Wireless Telecom Inc upon receipt of proper invoices approved by the Interim City Manager.

On motion of Council member _____, seconded by Council member

_____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2023, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____
Morris Williams, Jr., Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

City Council Agenda Item

DATE: **May 30, 2023**

TO: Erika Munoz, Purchasing Manager

FROM: Jennifer Frescaz, Chief Information Officer

SUBJECT: Consider a resolution approving a 2-year renewal agreement with Verizon Wireless for a total cost of $788,356.56 via DIR-TELE-CTSA-003.

Purpose:
Consider a resolution approving a 2-year renewal agreement with Verizon Wireless for a total cost of $788,356.56 via DIR-TELE-CTSA-003 for cellular communications.

Discussion:
Renewing the contract with Verizon benefits the city of Midland in multiple ways. It offers exclusive discounts and tailored special offers, allowing for effective cost control and maximum savings. Verizon's reliable network coverage and advanced technology ensure high-quality communication services, supporting seamless operations and efficient collaboration among city departments. The contract provides priority communication for public safety lines, ensuring reliable and prompt communication during critical situations. Additionally, the contract provides detailed billing and usage reports, enhancing transparency and enabling better financial planning and optimization of telecom expenses.

The monthly payment is $32,848.19, and the total cost of the 2-year agreement is $788,356.56. FY23 payments are budgeted in the ITSD Communication Fund, and FY24 payments are budgeted in the Tech Fund.

verizon

WIRELESS TELECOM PROPOSAL FOR WIRELESS VOICE, DATA SERVICES AND EQUIPMENT

WIRELESS PROPOSAL FOR: City of Midland
SERVICE PLAN, CALLING FEATURES, AND EQUIPMENT QUOTES

QUOTE ID	23530113425
DATE	5/30/2023
TERM	24 months
PAGE	1 of 2

RATE PLAN AND FEATURES

RATE PLAN - SHARE	Line Count	Discounted Monthly Access	Plan Included Minutes	Included TEXT / PIX / FLIX	Included Data	Total Shared Minutes	Voice Overage	Monthly Cost	Term Cost
NATIONWIDE 1000 SHARE EMAIL & DATA UNL + MHS N&W/M2M/MSG UNL $69.99	4	$69.99	4,000	unlimited	unlimited	4,000		$279.96	$6,719.04
NATIONWIDE SHARE VOICE EMAIL & DATA UNL + MHS MSG UNL $34.99	24	$34.99	0	unlimited	unlimited	0		$839.76	$20,154.24
NATIONWIDE 400 SHARE EMAIL & DATA UNL + MHS N&W/M2M/MSG UNL $47.99	1	$47.99	400	unlimited	unlimited	400		$47.99	$1,151.76
NATIONWIDE FOR BUSINESS VOICE SHARE $14.99	30	$14.99	0	100	0	0		$449.70	$10,792.80
	59					4400		$1,617.41	$38,817.84

RATE PLAN - NON SHARE	Line Count	Discounted Monthly Access	Plan Included Minutes	Included TEXT / PIX / FLIX	Included Data	Voice Overage	Monthly Cost	Term Cost
4G CUSTOM BUSINESS UNL MINS+MSG UNL EMAIL&DATA+MHS $65.00 1218	4	$50.05	unlimited	unlimited	unlimited		$200.20	$4,804.80
4G CUSTOM PUBLIC SAFETY SMARTPHONE UNLIMITED WITH MBP $39.99	235	$39.99	unlimited	unlimited	unlimited		$9,397.65	$225,543.60
CUSTOM NATIONWIDE BASIC DEVICE UNL MINS+MSG 100MB EMAIL $10/GB $22.99	3	$22.99	unlimited	unlimited	unlimited		$68.97	$1,655.28
	242						$9,666.82	$232,003.68

RATE PLAN - MOBILE BROADBAND	Line Count	Discounted Monthly Access	Included TEXT / PIX / FLIX	Included Data	Data Overage	Monthly Cost	Term Cost
CUSTOM PUBLIC SAFETY MOBILE BROADBAND UNLIMITED WITH MBP $37.99	279	$37.99	0	unlimited		$10,599.21	$254,381.04
FLEXIBLE BUSINESS DATA DEVICE 100MB SHARED DATA $10	39	$10.00	0	3,900MB		$390.00	$9,360.00
FLEXIBLE BUSINESS DATA DEVICE 10GB SHARED DATA $75	19	$48.29	0	0		$917.51	$22,020.24
FLEXIBLE BUSINESS DATA DEVICE 2GB SHARED DATA $35	6	$22.54	0	12GB		$135.24	$3,245.76
DISCOUNTED CUSTOM PUBLIC SAFETY MOBILE BROADBAND UNLIMITED WITH MBP $31.74	300	$31.74	0	unlimited		$9,522.00	$228,528.00
	643					$21,563.96	$517,535.04

INVESTMENT ESTIMATE	Monthly	Term Total
RATE PLAN AND FEATURES ESTIMATED COST FOR TERM [24 months]:	$32,848.19	$788,356.56

QUOTE ID 23530113425

Additional Notes:

** Charge does not include roaming charges, minutes used over allowance, etc. Please consult with your Sales Representative for more information.
*** Equipment pricing and availability is subject to change.
**** All applicable price plan and feature discounts have already been applied

*Custom 4G Unlimited MB Plan: 1) Data usage on this rate plan is not subject to speed reductions ("throttling") within a given billing cycle. However, in the event a user consumes more than 25GB each billing cycle for three (3) consecutive billing cycles, data throughput speeds will automatically be reduced for data usage exceeding 25GB per billing cycle on a go-forward basis. Data usage for actively engaged and deployed fire, police, emergency medical technicians, emergency management agency, and assigned federal law enforcement users on this plan will not be subject to speed reductions regardless of data usage during any billing cycle. To ensure users are able to maximize their high-speed data use for business applications, video applications will stream at 480p. This service plan includes Mobile Broadband Priority. Mobile Broadband Priority ensures customers can connect to the network with priority by leveraging a pool of radio resources dedicated to enable their connection. Mobile Broadband Priority identifies the user with an Access Priority setting, giving them higher priority for network access than lower Access Class users. This service plan is available to National Security, Public Safety, and Emergency Preparedness customers only as defined by the following NAICS (formerly SIC) Codes: 621910,922110, 922120, 922130, 922140, 922150, 922160, 922190, 928110, 926120, 926150, 926130, 921190

Service Pricing provided is for Government Liability Accounts Only and is subject to the terms, provisions and conditions of the State of Texas Department of Information Resources (DIR) Contract No. DIR-TELE-CTSA-003 Coverage, service and offers not available in all areas. Full terms and conditions, along with additional price plans offered by Verizon Wireless can be found on the http://www.dir.state.tx.us/ internet website. Price quotes do not reflect Federal Universal Service, E911 and Regulatory Fees, charges, or pass-through assessments. Please see information on Regulatory Surcharges and Fees below for additional details.

All quotes contained in this proposal are subject to the terms and conditions of the State of Texas DIR contract. Your accounts must be in good standing with Verizon wireless to migrate your existing lines of service to the pricing offered in this proposal if your Agency currently has service with Verizon Wireless.

Price Plan changes and discounts may take up to two bill cycles to appear on your Verizon Wireless billing statement for accounts transitioning to an approved State of Texas contract vehicle. As part of our compliance with FCC requirements, Verizon Wireless allows only GPS-compliant devices to be activated on our network. If your current device is not GPS-compliant you will not be able to activate service on our network with your existing equipment.

This Quotation is valid for ninety (90) days from date listed on quote (except for promotional pricing which may expire sooner). Data furnished in this document shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the document.

verizon

One-Time Mobile Broadband Retention Credit Offer

Verizon Wireless is pleased to introduce this one-time Offer to
City of Midland Police Department ("Customer").

Availability:	**Eligible Subscriber Lines:** Customer's existing Government Subscriber Lines qualify to receive this offer in accordance with the **Offer Requirements** below**.** This Offer must be accepted and completed by **June 19, 2023** or it will expire ("Promo Period").
$150.00 Mobile Broadband Retention Invoice Credit Offer:	**$150.00 Mobile Broadband Retention Invoice Credit Offer:** Verizon Wireless will provide Customer with a $150.00 Mobile Broadband Retention Invoice Credit for up to a maximum of three-hundred (300) existing Government Mobile Broadband Subscriber Lines, actively billing, upgrade eligible, on a plan with a monthly access fee of $37.99 or higher, within the Promo Period, The credit will be applied to Customer's invoice within thirty (30) days following the conclusion of the "Promo Period", and will appear as "Other Charges and Credits". Each qualifying Line will receive a maximum of twenty-four (24) monthly invoice credits of $6.25 each, for a maximum of $150.00 total monthly invoice credits. The monthly credit will be forfeited on any subscriber line that disconnects service or changes to an ineligible rate plan. **No exceptions.**
Terms and Conditions:	This Offer is subject to availability and is not subject to any substitutions. This Offer **cannot** be combined with any other generally available equipment or accessory offers, credits, discount programs, or promotions. This Offer is not available for entities eligible for E-Rate funding that purchase under City of Midland Police Department account. Deployment, equipment and/or accessory incentives are extended for net new business from City of Midland Police Department and expressly exclude business from E-Rate eligible customers. This Offer is subject to the terms and conditions of the **State of Texas (DIR)** Contract.

Customer Acknowledgement:

I acknowledge that I have received the attached limited time equipment and subsidy Offer and that I agree to the terms and conditions set forth.

Eligible Customer/Company Name: **City of Midland Police Department** Profile ID: **4101263, 4101345**

Customer Print Name/Title:

Authorized Signature: Effective Date:

MAM/NAM/BAE Completed By:

Data furnished in this document shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the document.

City Council Meeting

Item Number: 8

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION REJECTING ALL BIDS RECEIVED FOR DRY CLEANING AND LAUNDRY SERVICES; ADOPTING A ONE-YEAR DRY CLEANING AND LAUNDRY STIPEND PILOT PROGRAM FOR CITY EMPLOYEES WHO REQUIRE DRY CLEANING AND LAUNDRY SERVICES; AND AUTHORIZING THE INTERIM CITY MANAGER TO IMPLEMENT CERTAIN POLICIES AND PROCEDURES ASSOCIATED WITH SAID PILOT PROGRAM (DISTRICT: ALL) (GENERAL SERVICES)

Purpose:

Resolution rejecting all bids received for dry cleaning and laundry services for various City Departments and adopting a dry cleaning and laundry stipend pilot program for one (1) year.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is not required at this time.

Discussion:

Due to their working environments, a number of City employees require professional dry cleaning and laundry services for their uniforms because their uniforms are soiled by oil, diesel, gasoline, asphalt and wastewater.

Since March 2022, the Purchasing Division has been tracking dry cleaning and laundry costs for approximately one hundred ten (110) employees in the Facilities Services, Fire, Garage, Landfill, Municipal Court, Police, Transportation, Vehicle Services and Water & Wastewater Departments. Employees in these departments have been using various dry cleaning companies

in Midland to have their clothes cleaned. Due to the estimated annual cost for cleaning staff requested approval from Council to issue a request for bids.

Motion 028-2023 authorized the issuance of a request for bids for a dry cleaning and laundry services contract. Bid requests were issued to twelve (12) vendors and we received three (3) bids. Staff is recommending rejecting all bids received for the dry cleaning and laundry service contract and is also recommending instituting a pilot program for one (1) year offering a stipend to City employees who require dry cleaning and laundry services. The first available payment date for an employee to begin receiving the stipend is August 4, 2023. Please see the attached memo from Regina Stephenson, General Services Department, for additional information.

Therefore, please consider a resolution rejecting all bids received for dry cleaning and laundry services for various City Departments and adopting a dry cleaning and laundry stipend pilot program for one (1) year for various City Departments.

Tina Gaug

City Manager's Office

INTEROFFICE MEMORANDUM

TO: Tina Jauz, Assistant City Manager

FROM: Regina Stephenson, General Services Director

SUBJECT: 23003168 Annual Dry Cleaning, Pressing and Laundry Services Contract

DATE: June 1, 2023

The Purchasing Team began tracking dry cleaning and laundry expenditures for the City in March 2022 to discover what the City was actually spending for these services. Currently, some of the employees with the Facilities Services Division, Fire Department, Garage Division, Landfill Division, Municipal Court, Police Department, Transportation Division, Vehicle Services Division and Water & Wastewater Division have their uniforms laundered or dry cleaned. The expenditure from March 2022 to February 2023 was $72,057.64. As a result of this finding, staff sent out a request for sealed bids for an Annual Dry Cleaning, Pressing and Laundry Services Contract. The bid request opened on May 3, 2023 at 2:00 PM. We received three (3) bids. The bids were received from Midland Cleaning LLC, Snowhite Cleaners and Comet Cleaners. Shown below are the low bids by total:

	Midland Cleaning LLC	Snowhite Cleaners	Comet Cleaners
Low Bid by Total	$164,013.86	$122,797.25	$215,055.00

After consulting with the Department Managers associated with the departments and divisions listed in the first paragraph, staff is recommending rejecting all bids received for the dry cleaning and laundry service contract and instituting a pilot program for one (1) year offering a stipend to the City employees who require dry cleaning and laundry services.

This stipend program will help pay for the dry cleaning and laundry costs for qualified employees. The stipend amount will be determined by the type of work the employee performs and the frequency that they need to have their uniforms cleaned. The frequency has been established by the study done from March 2022 to February 2023. The employee will be required to complete an application to receive the stipend which will need Director and Administrative Services approval. The first available payment date for an employee to begin receiving the stipend is August 4, 2023. Also, two (2) of the dry cleaning establishments listed one (1) laundry drop off location. The stipend option will allow the employee the convenience of using the dry cleaning and laundry establishment of their choice. As shown below there are different cost levels depending on the amount of dry cleaning and laundry services needed per

employee per month. The stipend for one hundred ten (110) employees is estimated at approximately $129,000.00 annually. See table below:

Est # Employees	Allowance per Mo	Est Annual Cost
70	$75.00	$63,000.00
22	$100.00	$26,400.00
6	$150.00	$10,800.00
12	$200.00	$28,800.00
		$129,000.00

The difference of the estimated cost for the stipend program verses the estimated cost of an annual dry cleaning and laundry contract is $6,202.75 per year.

Therefore, please consider a resolution rejecting all bids received for the dry cleaning and laundry service contract and approving a dry cleaning and laundry stipend pilot program for one (1) year to provide a stipend to each employee (with appropriate approvals) who requires laundry and dry cleaning services.

RESOLUTION NO. _____

RESOLUTION REJECTING ALL BIDS RECEIVED FOR DRY CLEANING AND LAUNDRY SERVICES; ADOPTING A ONE-YEAR DRY CLEANING AND LAUNDRY STIPEND PILOT PROGRAM FOR CITY EMPLOYEES WHO REQUIRE DRY CLEANING AND LAUNDRY SERVICES; AND AUTHORIZING THE INTERIM CITY MANAGER TO IMPLEMENT CERTAIN POLICIES AND PROCEDURES ASSOCIATED WITH SAID PILOT PROGRAM

WHEREAS, the City of Midland advertised for competitive bids for dry cleaning and laundry services; and

WHEREAS, the City Council finds it to be in the public interest to reject all bids received for dry cleaning and laundry services; and

WHEREAS, the City staff recommends the adoption of a one-year dry cleaning and laundry stipend pilot program for City employees who require dry cleaning and laundry services; and

WHEREAS, the City Council finds it to be in the public interest to adopt a one-year dry cleaning and laundry stipend pilot program for City employees who require dry cleaning and laundry services; and

WHEREAS, the City Council finds it to be in the public interest to authorize the Interim City Manager to implement certain policies and procedures associated with said pilot program;

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

SECTION ONE. That the recitals stated above are hereby adopted and approved.

SECTION TWO. That the bids received for dry cleaning and laundry services, which were opened on May 3, 2023, are hereby rejected.

SECTION THREE. That a one-year dry cleaning and laundry stipend pilot program for City employees who require dry cleaning and laundry services is hereby adopted and approved.

SECTION FOUR. That the Interim City Manager is hereby authorized and directed to implement policies and procedures associated with said pilot program. Said policies and procedures shall address matters pertaining to the selection of employees who qualify to participate in the pilot program, the frequency that employees may use the pilot program, effective dates for the pilot program, stipend amounts according to position, and the total cost of the pilot program.

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., 2023, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____
Morris Williams Jr., Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED AS TO FORM ONLY:

_____
John Ohnemiller, City Attorney

City of Midland - Bid Tabulation

BID # 23003168 **Dry Cleaning Services** **OPENED May 3, 2023**			Midland Cleaning LLC 4218 W Wadley Ave Midland, TX 79707 432-699-3200 midland.dcsc@gmail.com		Snowhite Cleaners 2509 W Illinois Ave Midland, TX 79701 432-682-2420 snowhitecleanerstx@yahoo.com		Comet Cleaners 4711 Briarwood Midland, TX 79707 432-557-3419 burtafisher@gmail.com	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL			COST EA.	TOTAL
		Exhibit A1						
		Midland Police Department & Municipal Court: Men & Women						
1	3500	Uniform Shirts	$3.28	$11,480.00	$1.00	$3,500.00	$5.00	$17,500.00
2	2500	Uniform Pants (100% Polyester & Poly/Wool Blends)	$3.83	$9,575.00	$1.00	$2,500.00	$5.00	$12,500.00
3	500	Uniform "Cargo" Pants (65/35 Poly/Cotton – Laundered)	$3.83	$1,915.00	$1.00	$500.00	$5.00	$2,500.00
4	500	SWAT Shirts (BDU Shirts, ie: camos, blacks, navy blues)	$3.28	$1,640.00	$11.00	$5,500.00	$5.00	$2,500.00
5	200	SWAT Pants (BDU Pants, ie: camos, blacks, navy blues)	$3.83	$766.00	$11.00	$2,200.00	$5.00	$1,000.00
6	25	SWAT Field Jackets	$7.67	$191.75	$11.00	$275.00	$5.00	$125.00
7	150	Winter Jackets and Coats	$7.67	$1,150.50	$1.25	$187.50	$5.00	$750.00
8	60	Ties	$1.96	$117.60	$11.00	$660.00	$5.00	$300.00
9	25	Parade Attire (white gloves, ascots, braids)	$4.38	$109.50	$11.00	$275.00	$5.00	$125.00
10	5	Police Cap Tops	$3.28	$16.40	$11.00	$55.00	$5.00	$25.00
11	25	Uniform "Cargo" Shorts (also includes bike shorts)	$3.28	$82.00	$11.00	$275.00	$5.00	$125.00
12	50	Polo Style Uniform Shirts	$3.83	$191.50	$11.00	$550.00	$5.00	$250.00
13	10	T-Shirts (w/printed POLICE logos)	$3.28	$32.80	$11.00	$110.00	$5.00	$50.00
14	40	Table Cloths	$10.96	$438.40	$11.00	$440.00	$5.00	$200.00
15	6	Judges Robes (Dry Clean)	$8.76	$52.56	$11.00	$66.00	$5.00	$30.00
16	1560	Uniform Shirts	$3.28	$5,116.80	$0.50	$780.00	$5.00	$7,800.00
17	1560	Uniform Pants (100% Polyster & Poly/wood Blends)	$3.83	$5,974.80	$0.50	$780.00	$5.00	$7,800.00
		Plainclothes: Men & Women						
18	75	2 Pc. Suits	$10.96	$822.00	$11.00	$825.00	$5.00	$375.00
19	625	Dress Slacks (Dockers, etc.)	$4.38	$2,737.50	$7.00	$4,375.00	$5.00	$3,125.00
20	875	Dress Shirts/Blouses	$4.38	$3,832.50	$6.00	$5,250.00	$5.00	$4,375.00
21	10	Ladies 2 pc. Pants Suits	$10.96	$109.60	$11.00	$110.00	$5.00	$50.00
22	430	Jeans (Wrangler "colored" dress jeans & reg. Denim)	$4.38	$1,883.40	$0.75	$322.50	$5.00	$2,150.00
23	15	Dress Coats	$7.67	$115.05	$11.00	$165.00	$5.00	$75.00
24	10	Ladies Skirts	$4.38	$43.80	$1.00	$10.00	$5.00	$50.00
25	10	Ladies Dresses	$7.67	$76.70	$11.00	$110.00	$5.00	$50.00

		TOTAL COST FOR MPD & COURT		**$48,471.16**		**$29,821.00**		**$63,830.00**
		FIRE DEPARTMENT: Dry Cleaning						
26	50	Uniform Pants (100% Polyester), Slacks, Trousers, EMS Pants	$3.83	$191.50	$0.25	$12.50	$5.00	$250.00
27	50	Dress Uniform Coats	$8.76	$438.00	$0.25	$12.50	$5.00	$250.00
28	25	Ties	$1.96	$49.00	$0.25	$6.25	$5.00	$125.00
		TOTAL COST FOR MFD		**$678.50**		**$31.25**		**$625.00**
		Name of Insurance Company:	Hartford Insurance/ Nationwide		Farmers Insurance		Nationwide	
		Tyoe of Coverage Carried:	CGL/ Auto/ Workers Comp/ Employers Liability					
		Amount of Insurance Carried:	$1,000,000/$250,000/$500,000 stat min/ $500,000				$1,000,000.00	
		Address of the Night Drop Location:	4218 W Wadley		2509 W Illinois Ave		NA	
		Addresses of alternate Drops:	4218 W Wadley				417 Wadley	
							4212 W Wadley	
							2100 A S Belmont St	
							3108 Cuthbert Ave	
							1601 Midland Dr	
							4711 Briarwood Ave	
		SUBTOTAL FOR EXHIBIT A1		**$49,149.66**		**$29,852.25**		**$64,455.00**
		Maximum number of garments placed in a single garment bag:	4		12			5
		Exhibit A2						
		Water and Wastewater, Garage, and Transportation: Men & Women						
		Water and Wastewater:						
1	5500	Uniform Shirts	$3.28	$18,040.00	$3.00	$16,500.00	$5.00	$27,500.00
2	5500	Uniform Pants	$3.83	$21,065.00	$0.25	$1,375.00	$5.00	$27,500.00
3	2750	Jeans	$4.38	$12,045.00	$11.00	$30,250.00	$5.00	$13,750.00
4	240	Coveralls	$7.67	$1,840.80	$1.25	$300.00	$5.00	$1,200.00
		TOTAL COST FOR WATER & WASTEWATER		**$52,990.80**		**$48,425.00**		**$69,950.00**
		Garage:						
5	3250	Uniform Shirts	$3.28	$10,660.00	$4.00	$13,000.00	$5.00	$16,250.00
6	1250	Uniform Pants	$3.83	$4,787.50	$11.00	$13,750.00	$5.00	$6,250.00
7	3250	Jeans	$4.38	$14,235.00	$0.50	$1,625.00	$5.00	$16,250.00
8	100	Coveralls	$7.67	$767.00	$1.25	$125.00	$5.00	$500.00
9	100	Jackets	$7.67	$767.00	$1.25	$125.00	$5.00	$500.00
10	100	Sweaters	$4.38	$438.00	$1.25	$125.00	$5.00	$500.00
		TOTAL COST FOR GARAGE		**$31,654.50**		**$28,750.00**		**$40,250.00**
		Transportation:						
11	2000	Uniform Shirts	$3.28	$6,560.00	$0.75	$1,500.00	$5.00	$10,000.00

12	1800	Denim Jeans	$3.83	$6,894.00	$0.75	$1,350.00	$5.00	$9,000.00
13	20	Coveralls	$7.67	$153.40	$11.00	$220.00	$5.00	$100.00
		TOTAL COST FOR TRANSPORTATION		**$13,607.40**		**$3,070.00**		**$19,100.00**
		Vehicle Services:						
42	1500	Uniform Shirts	$3.28	$4,920.00	$0.75	$1,125.00	$5.00	$7,500.00
43	1500	Uniforms Pants	$3.83	$5,745.00	$7.00	$10,500.00	$5.00	$7,500.00
44	1000	Denim Jeans	$4.38	$4,380.00	$0.75	$750.00	$5.00	$5,000.00
46	130	Sweaters	$4.38	$569.40	$1.25	$162.50	$5.00	$650.00
47	130	Jackets	$7.67	$997.10	$1.25	$162.50	$5.00	$650.00
		TOTAL COST FOR VEHICLE SERVICES		**$16,611.50**		**$12,700.00**		**$21,300.00**
		Name of Insurance Company:					Nationwide	
		Type of Coverage Carried:	CGL/ Auto/ Workers Comp/ Employers Liability		Farmers Insurance			
		Amount of Insurance Carried:	$1,000,000/ $250,000/$500,000 stat min/ $500,000				$1,000,000.00	
		Address of the Night Drop Location:	4218 W Wadley				NA	
		Addresses of alternate Drops:	4218 W Wadley		2509 W Illinois Ave		417 Wadley	
							4212 W Wadley	
							2100 A S Belmont St	
							3108 Cuthbert Ave	
							1601 Midland Dr	
							4711 Briarwood Ave	
		SUBTOTAL FOR EXHIBIT A2		**$114,864.20**		**$92,945.00**		**$150,600.00**
		Maximum number of garments placed in a single garment bag:	4					
		Discount:						
		Delivery Can be made:						
		QUANTITY IS FOR ONE YEAR - ESTIMATED QUANTITIES						
		TOTAL PROPOSAL		**$164,013.86**		**$122,797.25**		**$215,055.00**

Instructions: Print and Fill out this form, sign it, Obtain Managers signatures and forward to Human Resources.

Request for Dry Cleaning/Laundry Allowance

DATE: _____

TO: Human Resources

FROM: _____

Please Check one of the following: Department Manager ☐ Division Manager ☐

SUBJECT: Request for Dry Cleaning/Laundry Allowance

I am requesting a Dry Cleaning/Laundry allowance for the employee named below:

Name (Print): _____

City of Midland ID#__ __ __ __ (For Verification)

Org: _____

Work Phone No.: _____ Fax: _____ Email: _____@midlandtexas.gov

Physical work (street) address (No PO box): _____

Building ☐, Suite ☐ or Room No. ☐: _____ ZIP Code: _____

Choose one: ☐ $75 per month ☐ $100 per month ☐ $150 per month ☐ $200 per month

Reason(s) for request:_____

Employee Signature: _____

Division Manager or Supervisor: _____

Department Manager: _____

Human Resources: _____

A personnel action form (PAF) must be completed and accompany this form to Human Resources.

Copy to: Applicant
Department /Division Manager

CITY OF MIDLAND

PURCHASING DIVISION

BID REQUEST

DATE: April 12, 2023

PAGE: 1

(THIS IS NOT AN ORDER)

BID NO: 23003168

OPENING TIME: 2:00 PM

CLOSING DATE: May 3, 2023

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

BIDS WILL BE RECEIVED IN THE OFFICE OF THE City Secretary, 300 N Loraine St., Suite 330, Midland, TX 79702 UNTIL 2:00 P.M. on May 3, 2023 FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO: Municipal Court, Police, Fire, Garage, Water & Waste Water, Transportation, and Vehicle Services.

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
			Dry Cleaning, Pressing and Laundry Service for various departments for the City of Midland in accordance with the attached specifications, bid detail sheet and agreement. Estimated for a one (1) year period.	TOTAL	$122,903.

NOTICE TO BIDDERS:

1. FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
2. BIDS SHALL BE DELIVERED TO THE CITY IN A SEALED PACKAGE (ENVELOPE, ETC) **UNLESS THE CITY STATES** THAT THE BID MAY BE FAXED OR E-MAILED, OTHERWISE, BIDS FAXED OR E-MAILED DIRECTLY TO THE CITY WILL BE REJECTED. A SEALED BID MAY BE FAXED TO A THIRD PARTY FOR SEALED DELIVERY TO THE CITY. PLEASE CALL FOR MORE INFORMATION.
3. IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED CONTRACT AND INSURANCE REQUIREMENTS ARE **NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/CONTRACTOR OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/CONTRACTOR MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.
4. IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF PARAGRAPH 3, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER.
5. **IMPORTANT NOTICE** – IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.
6. BIDDER/CONTRACTOR/COMPANY IS RESPONSIBLE FOR ACQUIRING AND ACKNOWLEDGING ALL ADDENDA.
7. **Public Information.** To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder agrees as follows in accordance with Section 552.372(b) of the Texas Government Code: The requirements of Subchapter J, Chapter 552, Government Code, may apply to this bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR 685-7233. FAX NO. (432) 685-0523

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.

THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: Snowhite Cleaners
ADDRESS 2509 W Illinois ave
CITY Midland ST TX ZIP 79701
PHONE NO. 432 682-2420 FAX NO. _____
EMAIL: Snowhitecleanerstx@yahoo.com

CASH DISCOUNT: _____ % _____ DAYS

DELIVERY CAN BE MADE _____

AUTHORIZED SIGNATURE Larry H. Carrasco

PLEASE READ CONDITIONS FOR BIDDING ON BACK BEFORE SUBMITTING

Vendor Name:_____

MIDLAND
Purchasing Division

Detail Sheet
For
Dry Cleaning & Laundry
(Exhibit A1)

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Midland Police Department & Municipal Court: Men & Women			
1	Uniform Shirts	3500	$ 1	$ 3,500
2	Uniform Pants (100% Polyester & Poly/Wool Blends)	2500	$ 1	$ 2,500
3	Uniform "Cargo" Pants (65/35 Poly/Cotton – Laundered)	500	$ 1	$ 500
4	SWAT Shirts (BDU Shirts, ie: camos, blacks, navy blues)	500	$ 11	$ 5,500
5	SWAT Pants (BDU Pants, ie: camos, blacks, navy blues)	200	$ 11	$ 2,200
6	SWAT Field Jackets	25	$ 11	$ 275
7	Winter Jackets and Coats	150	$ 1.25	$ 187.50
8	Ties	60	$ 11	$ 660
9	Parade Attire (white gloves, ascots, braids)	25	$ 11	$ 275
10	Police Cap Tops	5	$ 11	$ 55
11	Uniform "Cargo" Shorts (also includes bike shorts)	25	$ 11	$ 275
12	Polo Style Uniform Shirts	50	$ 11	$ 550
13	T-Shirts (w/printed POLICE logos)	10	$ 11	$ 110
14	Table Cloths	40	$ 11	$ 440
15	Judges Robes (Dry Clean)	6	$ 11	$ 66
16	Uniform Shirts	1560	$ 0.50	$ 780
17	Uniform Pants (100% Polyester & Poly/Wool Blends)	1560	$ 0.50	$ 780
	Plainclothes: Men & Women			
18	2 Pc. Suits	75	$ 11	$ 825
19	Dress Slacks (Dockers, etc.)	625	$ 7	$ 4,375
20	Dress Shirts/Blouses	875	$ 6	$ 5,250
21	Ladies 2 pc. Pants Suits	10	$ 11	$ 110
22	Jeans (Wrangler "colored" dress jeans & reg. Denim)	430	$ 0.75	$ 322.50
23	Dress Coats	15	$ 11	$ 165
24	Ladies Skirts	10	$ 11	$ 110
25	Ladies Dresses	10	$ 11	$ 110
	TOTAL COST FOR MPD & COURT			$ 29,921.00

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	FIRE DEPARTMENT: Dry Cleaning			
26	Uniform Pants (100% Polyester), Slacks, Trousers, EMS Pants	50	$ 0.25	$ 12.50
27	Dress Uniform Coats	50	$ 0.25	$ 12.50
28	Ties	25	$ 0.25	$ 12.50
	TOTAL COST FOR MFD			$ 37.50
	Quantity is for one year – Estimated Quantities			
			GRAND TOTAL COST:	$ 29,958.50

NOTE: No 100% Silk, Leather, Fur, Fleece or other exotic materials will be submitted for cleaning nor should be accepted by the contractor according to this contract. Any special requests will be the responsibility of the employee unless otherwise specified. If the contractor chooses to clean these items it is her/her responsibility to collect the fees for such from the individual employee.

Name of Insurance Company: Farmers Insurance
Type of Coverage Carried:
Amount of Insurance Carried:
Address of the Night Drop Location: 2509 W. Illinois ave Midland, TX 79701
Addresses of alternate drop locations for daytime drops and pick-ups:

Maximum number of garments that will be placed in a single garment bag: 12

This detail sheet must be completed and submitted with the bid for the bid to be considered

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

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

OR

FAX: (432) 685-0523
E-mail: purchasing@midlandtexas.gov

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

Award:
If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:

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

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

SOVEREIGN IMMUNITY.

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

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

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

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE

INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

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

5-2-2023
Delivery Date

Snowwhitecleanerstx@yahoo.com
E-mail Address

Snowhite Cleaners
Company Name

5-2-23
Date

Larry H. Carrasco
Authorized Signature

432 266-8520
Phone

Larry H. Carrasco
Print Above Name

Fax

MIDLAND
Purchasing Division

On-line responses will not be allowed for this solicitation.

Delivery of Submittals: Bid packets must be received in the City Secretary's Office no later than designated bid date and time. Bidders are responsible for the means of timely delivering the bid packet. Delays due to any instrumentality used to transmit the bid packet (e.g., delay occasioned by a bidder, City's internal mailing system, etc.) are the sole responsibility of the bidder. **Late bid packets will not be accepted under any circumstances.**

Please print these documents and submit your bid in a sealed envelope to:

Mailing Address:

The City Secretary's Office
City of Midland
P. O. Box 1152
Midland, TX 79702

OR

Physical Address:

The City Secretary's Office
City of Midland
300 N. Loraine, Suite 330
Midland, TX 79701

ATTENTION: The deadline for submitting additional questions is 72 working hours before the bid opening date. Questions submitted before the Noon deadline will be included in the Addendum. Questions submitted after the Noon deadline will not receive any additional information and will instead only be directed to the information already provided.

CITY OF MIDLAND
SPECIFICATION
23003168
Laundry & Dry Cleaning for
Police & Fire Departments
And, Municipal Court
Exhibit "B"

1. SCOPE:
Dry cleaning, pressing and laundry service for the Midland Municipal Court, Police and Fire Departments will be provided in accordance with these specifications and the attached "Dry Cleaning and Laundry Service Agreement".

2. INTENT:
The City intends to contract the services herein for a two-year period with a possibility of two additional one-year extension. The City desires to have as many locations as possible for personnel to be able to drop off their cleaning and/or laundry.

3. VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:
The City of Midland
Office of the Purchasing Agent OR FAX: (432)685-0523
PO BOX 1152
Midland, TX 79702
All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.

4. DEFINITIONS
4.1. UNIFORMSHIRTS:
Dark Navy or Light Blue or White long sleeve and short sleeve shirts with shoulder patches. These shirts can have the following fabric contents: Poly/cotton blend, Poly/wool blend, Dacron/Polyester or 100% polyester.
4.2. UNIFORMPANTS:
Dark Navy pants with or without striping. These pants can have the following fabric contents: 100% Polyester, Poly/wool or Poly/cotton blends.
4.3. UNIFORM "CARGO" PANTS:
Dark Navy pants with cargo pockets on sides of pants just above the knee. Fabric content: Poly/cotton blend. These pants should be laundered and starched, NOT DRY CLEANED.

4.4. SWAT SHIRTS:
Black, Navy or Urban Camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style. These shirts can have the following fabric contents: poly/cotton, cotton ripstop.

4.5. SWATPANTS:
Black, Navy or Urban Camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style. These pants can have the following fabric contents: poly/cotton, cotton ripstop.

4.6. SWAT FIELDJACKETS:
Black, Navy or Urban camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style which includes (4) bellowed pockets on the front of the jacket. These jackets can have the following fabric contents: poly/cotton, cotton ripstop.

4.7. \VINTER JACKETS/ COATS:
Dark Navy in color. These jackets will have department shoulder patches and the manufacturer will be Blauer, Inc. or Fechheimer for the Police Dept. The Fire Dept has various brands of winter jackets/coats. These jackets/coats will have detachable fur collars and removable liners. These jackets have the following fabric contents: 100% nylon outer shell with removable "thinsulate" liner.

4.8. WINDBREAKERS (embroidered or silk screened for Police):
Dark Navy in color. These jackets will have snap closures in front and will be either embroidered or silk screened with department insignia on sleeves, back and front sides of the jacket. These jackets will also either be lined or unlined. The fabric content can be 100% polyester.

4.9. WINDBREAKERS (silk screened for Fire Department):
Dark Navy with "Fire Dept." screen printed on the backside of the jacket. These will need to be laundered not dry cleaned. The fabric content contains the following: 100% nylon.

4.10. TIES:
Dark Navy in color, or multi colored/multi patterned for "plain clothes" officers. These ties may either be regular or clip on styles. Fabric Contents can consist of 100% polyester.

4.11. PARADE ATTIRE:
These items are used for the Honor Guard. They consist of white cotton or polyester gloves, nylon white braids, cotton or polyester white ascots.

4.12. POLICE CAPTOPS:
Dark Navy or White police cap tops can consist of 100% polyester or 100% wool blends.

4.13. UNIFORM "CARGO" SHORTS:
Dark Navy in color. The fabric consists of the following: Poly/cotton blend.

4.14. BIKE SHORTS:
Dark Navy shorts. These shorts have a 100% nylon outer shell with lycra spandex inner short with built-in padding.

4.15. POLO STYLE UNIFORM SHIRTS:

These shirts will be of various colors, have department insignia embroidered on them and of

"pull over" style. These shirts will also include "dress" polo style shirts for "plain clothes" officers. (Sometimes referred to as golf shirts.)

4.16. T-SHIRTS:
These shirts will be of poly/cotton blend or 100% cotton and have department insignia silk-screened on front and/or back of the shirts.
4.17. 2 PC. SUITS:
These shall consist of a matching men's or ladies dress jacket and dress slacks.
4.18. TABLECLOTHS:
These are of various colors and consist of cotton/polyester blends.
4.19. SUIT JACKETS:
These include sport jackets, dress suit jackets, dress western style jackets and blazers. Fabric contents can include wool blends, cotton/poly blends, polyester, etc. No leather jackets or jackets with leather elbow patches will be accepted.
4.20. DRESS SLACKS:
These shall include dress slacks, Levi's Dockers or similar style pants.
4.21. JEANS:
These shall include Wrangler or other brand name denim jeans in either denim blue or other various colors. Western style in nature. These shall also include ladies Roper brand, Silverlake brand, Rockies brand, etc. The fabric content can contain 100% cotton.
4.22. DRESS SHIRTS/BLOUSES:
These shall include all men's and ladies dress style shirts and blouses of various colors and styles. The fabric contents can include: Cotton, cotton/poly blends, rayon, Dacron blends, etc. All 100% silk, leather, fur or fleece is unacceptable.
4.23. LADIES SKIRTS:
These include several different styles and fabric contents.
4.24. DRESS COATS/JACKETS:
These include heavy winter type jackets for wear with plain clothes. The fabric contents are various.
4.25. LADIES DRESSES:
These shall consist of either one or two piece dresses. No 100% silk items should be accepted.
4.26. EMS PANTS:
These pants are dark navy or black. The fabric contents can include: poly/cotton or cotton.

4.27. HOODS:

These hoods are Nomex or PBI fabric. These will need to be laundered not dry cleaned.
4.28. UNIFORM SHORTS:
These shorts are dark navy or black. The fabric contents can include poly/cotton or cotton.

5. REQUIREMENTS
5.1. INSURANCE:
The successful bidder shall have insurance to cover all articles in their possession at all times (See Contract Minimum). Bidder to furnish the following information:
5.1.1. NAME OF INSURANCE COMPANY

5.1.2. TYPE OF COVERAGE CARRIED
5.1.3. AMOUNT OF INSURANCE CARRIED
Selected Bidder shall be required to provide an Insurance Certificate prior to execution of the Agreement.
5.2. QUANTITIES:
All quantities shown on the detail sheet are estimates ONLY. Actual quantities will vary.
5.3. CONTRACT PERIOD:
Bids are requested to cover two years dry cleaning and pressing and laundry service.
5.4. GARMENTS:
Bids are requested for dry cleaning and pressing and laundry service for items as shown on the attached detail sheet, EXHIBIT A.
5.5. COSTS:
The bidder shall indicate on the detail sheet the cost of this service for each item for each cleaning. The costs shall include all charges as noted below.
5.6. REPAIRS:
5.6.1. MINOR REPAIRS:
The successful bidder shall at no extra charge do all minor repairs to all uniforms as required to maintain them in a serviceable condition. Such repairs shall include:
rips and tears less than 6".
worn spots.
loose or open seams.
& lost OR broken buttons.

NOTE: **Repairs of any other description shall not be considered a minor repair, and are beyond the scope of this agreement and shall have prior approval of charges by the designated representative before any work is performed.**
5.7. SERVICE:
5.7.1. TURNAROUND:
The successful bidder must be able to provide two-day or less service, except in the case of minor repairs which may be up to two (2) additional days.
5.7.2. NIGHT DEPOSITORY:
Night depository facility is mandatory. A night depository facility, secure from theft, and convenient for use by Police and Fire personnel is mandatory.
5.7.3. MULTIPLE STORES/DROPS:
5.7.3.1. Where the successful bidder has more than one store location taking in Dry cleaning/laundry, all the stores/drops shall be available for the purpose of dropping off and picking up articles falling within the scope of this bid request and Agreement.
5.7.3.2. Articles shall be picked up at the location where dropped unless otherwise noted on the drop tickets.
5.7.3.3. The successful bidder shall have ample storage space for cleaned uniforms etc., until picked up by City.
5.7.4. PERSONNEL & EQUIPMENT:
All bidders shall have enough employees and equipment (not coin operated machines) to do professional work, this includes starching uniform shirts, repairs and etc. Any portion of work that will be sub-contracted shall be noted in the bid. The City reserves the right to approve sub-contractors. Sub-contractors shall supply the City with the same insurance coverages and endorsed as required by the Agreement and specifications herein.

5.7.4.1. If, under *extraordinary circumstances,* clothing has to be cleaned at another location, the clothes shall not be left unattended.

5.7.5. JACKETS:
5.7.5.1. Most jackets have removable liners that must be removed before dry cleaning.
5.7.5.2. These liners are zipped and buttoned-in for easy removal.
5.7.5.3. Bidders should note that these liners must be removed before dry cleaning.
5.7.6. PACKAGING:
Only one pair of pants, one shirt or other article of clothing shall be hung on a single hanger. However, more than one article, as may be practical, may be placed in a plastic garment

- ALL ARTICLES SHALL BE DELIVERED IN A PLASTIC GARMENT BAG.
- ALL PANTS SHALL BE DELIVERED ON HANGERSWITH CARDBOARD SLEEVES.

5.7.7. DOCUMENTATION:
The successful bidder will furnish an adding machine tape with each bundle of tickets indicating the dollar amount of each employee.

6. QUALITY ASSURANCE:

6.1. Odors:
6.1.1. The use of cleaning fluid or material that leaves an unpleasant odor in clothing shall be cause for rejection of cleaned articles and they shall be re-cleaned at no additional charge.
6.1.2. Laundered articles that are picked up which have sour or other unpleasant odors shall be rejected and re-laundered at no additional charge.
6.1.3. Any article received without necessary repairs being made shall be rejected and returned for
repair. If repairs necessitate re-laundering, dry cleaning or pressing, it shall be performed at no additional charge.
6.2. Continued complaints of the above shall be cause for termination of this agreement.
NOTE TO ALL BIDDERS: Bidders are responsible for meeting or exceeding the requirements set forth in these specifications and agreement and should bid accordingly.

7. AWARD

7.1. The City and Bidder agree that, if the Agreement is awarded, that it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Further, City reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City reserves the right to award the bid to the lowest responsible bidder.

CITY OF MIDLAND
SPECIFICATION
23003168

Laundry & Dry Cleaning for the Water & Wastewater Division, the Garage Division, and the Transportation Division

Exhibit "B"

1. SCOPE:
Dry cleaning for the Water & Wastewater Division and the Garage Division will be provided in accordance with these specifications and the attached "Dry Cleaning Service Agreement".

2. INTENT:
The City intends to contract the services herein for a two-year period with a possibility of two additional one-year extensions. The City desires to have as many locations as possible for personnel to be able to drop off their cleaning.

3. VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:
The City of Midland
Office of the Purchasing Agent OR FAX: (432)685-0523
P.O. Box 1152 EMAIL: purchasing@midlandtexas.gov
Midland, TX 79702
All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.
If the contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

4. REQUIREMENTS:
4.1. INSURANCE:
The successful bidder shall have insurance to cover all articles in their possession always (See Contract Minimum). Bidder to furnish the following information:

4.1.1 NAME OF INSURANCE COMPANY
4.1.2 TYPE OF COVERAGE CARRIED
4.1.3 AMOUNT OF INSURANCE CARRIED

Selected Bidder shall be required to provide an Insurance Certificate prior to execution of the Agreement.

4.2. QUANTITIES:

All quantities shown on the detail sheet are estimates ONLY. Actual quantities will vary.

4.3. CONTRACT PERIOD:

Bids are requested to cover two years dry cleaning service only.

4.4. GARMENTS:

Bids are requested for dry cleaning service for items as shown on the attached detail sheet, EXHIBIT A.

4.5. COSTS:

The bidder shall indicate on the detail sheet the cost of this service for each item for each cleaning. The costs shall include all charges as noted below.

4.6. REPAIRS:

4.6.1 MINOR REPAIRS:

The successful bidder shall at no extra charge do all minor repairs to all uniforms as required to maintain them in a serviceable condition. Such repairs shall include:

- rips and tears less than 6".
- worn spots.
- loose or open seams.
- lost OR broken buttons.

NOTE: **Repairs of any other description shall not be considered a minor repair and is beyond the scope of this agreement and have prior approval of charges by the designated representative before any work is performed.**

4.7 SERVICE:

4.7.1 TURNAROUND:

The successful bidder must be able to provide two-day or less service, except in the case of minor repairs which may be up to two (2) additional days.

4.7.2 NIGHT DEPOSITORY:

Night depository facility is mandatory. A night depository facility, secure from theft, and convenient for use by Water & Wastewater personnel is mandatory.

4.7.3. MULTIPLE STORES/DROPS:

4.7.3.1. Where the successful bidder has more than one store location taking in Dry cleaning, all of the stores/drops shall be available for the purpose of dropping off and picking up articles falling within the scope of this bid request and Agreement.

4.7.3.2. Articles shall be picked up at the location where dropped unless otherwise noted on the drop ticket.

4.7.3.3. The successful bidder shall have ample storage space for cleaned uniforms etc., until picked up by City.

4.7.4. PERSONNEL & EQUIPMENT:

All bidders shall have sufficient employees and equipment (not coin operated machines) to do professional work; this includes starching uniform shirts, repairs and etc.

4.7.4.1. If under *extraordinary circumstances*, clothing has to be cleaned at another location, the clothes shall not be left unattended.

4.7.5. JACKETS:

4.7.5.1. Most jackets have removable liners that must be removed before dry cleaning.

4.7.5.2. These liners are zipped and buttoned-in for easy removal.

4.7.5.3. Bidders should note that these liners must be removed before dry cleaning.

4.8 PACKAGING:

4.8.1. Only one pair of pants, one shirt or other article of clothing shall be hung on a single hanger.

4.8.1.1. However, more than one article, as may be practical, may be placed in a plastic garment protector bag.

4.8.1.2. ALL ARTICLES SHALL BE DELIVERED IN A PLASTIC GARMENT BAG.

4.9 DOCUMENTATION:

The successful bidder will furnish an adding machine tape with each bundle of tickets indicating the dollar amount of each bundle per employee.

5. QUALITY ASSURANCE:

5.1. CLEANING FLUIDS:

5.1.1. The use of cleaning fluid or material that leaves an unpleasant odor in clothing shall be cause for rejection of cleaned articles and they shall be re-cleaned at no additional charge.

5.2. CLEANED ARTICLES SHALL BE RENDERED BACTERIA FREE

5.3. ODORS:

5.3.1. Cleaned articles that are picked up which have sour or other unpleasant odors shall be rejected and re-laundered at no additional charge.

5.4. UNNECESSARY REPAIRS:

5.4.1. Any article received without necessary repairs being made shall be rejected and returned for repair. If repairs necessitate dry cleaning, it shall be performed at no additional charge.

5.5. UNRESOLVED PROBLEMS & COMPLAINTS:

5.5.1. Continued complaints of the above shall be cause for termination of this agreement.

6. AWARD:

The City and Bidder agree that, if the Agreement is awarded, that it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the city of midland in determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Further, City reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City reserves the right to award the bid to the lowest responsible bidder.

NOTE TO ALL BIDDERS: Bidders are responsible for meeting or exceeding the requirements set forth in these specifications and agreement and should bid accordingly.

Vendor Name: _____

MIDLAND
Purchasing Division

Detail Sheet

For

Dry Cleaning & Laundry

(Exhibit A2)

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Water and Wastewater, Garage, and Transportation: Men & Women			
	Water and Wastewater:			
1	Uniform Shirts	5500	$ 3	$ 16,500
2	Uniform Pants	5500	$ 0.25	$ 1,375
3	Jeans	2750	$ 11	$ 30,250
4	Coveralls	240	$ 1.25	$ 300
	TOTAL COST FOR WATER & WASTEWATER			$ 48,425
	Garage:			
5	Uniform Shirts	3250	$ 4	$ 13,000
6	Uniform Pants	1250	$ 11	$ 13,750
7	Jeans	3250	$ 0.50	$ 1,625
8	Coveralls	100	$ 1.25	$ 125
9	Jackets	100	$ 1.25	$ 125
10	Sweaters	100	$ 1.25	$ 125
	TOTAL COST FOR GARAGE			$ 28,750
	Transportation:			
11	Uniform Shirts	2000	$ 0.75	$ 1,500
12	Denim Jeans	1800	$ 0.75	$ 1,350
13	Coveralls	20	$ 11	$ 220
	TOTAL COST FOR TRANSPORTATION			$ 3,070
	Vehicle Services:			
14	Uniform Shirts	1500	$ 0.75	$ 1,125
15	Uniform Pants	1500	$ 7	$ 10,500
16	Denim Jeans	1000	$ 0.75	$ 750
17	Sweaters	130	$ 1.25	$ 162.50
18	Jackets	130	$ 1.25	$ 162.50
	TOTAL COST FOR VEHICLE SERVICES			$ 12,700.00

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Quantity is for one year – ESTIMATED quantities			
	GRAND TOTAL COST:			$ 92,945.00

NOTE: No 100% Silk, Leather, Fur, Fleece or other exotic materials will be submitted for cleaning nor should be accepted by the contractor according to this contract. Any special requests will be the responsibility of the employee unless otherwise specified. If the contractor chooses to clean these items it is her/her responsibility to collect the fees for such from the individual employee.

Name of Insurance Company: Farmers Insurance
Type of Coverage Carried:
Amount of Insurance Carried:
Address of the Night Drop Location: 2509 W. Illinois ave. Midland, TX 79701
Addresses of alternate drop locations for daytime drops and pick-ups:

Maximum number of garments that will be placed in a single garment bag: 12

This detail sheet must be completed and submitted with the bid for the bid to be considered

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

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

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

Award:
If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:

A. <u>WAIVER OF ATTORNEY FEES</u>: BY SUBMITTING THIS BID, BIDDER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED

TO THE BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

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

SOVEREIGN IMMUNITY.

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

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

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

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

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

5-2-23
Delivery Date

Snowwhitecleanerstx@yahoo.com
E-mail Address

Snowhite Cleaners
Company Name

5-2-23
Date

Larry H Carrasco
Authorized Signature

432 246-8520
Phone

Larry H. Carrasco
Print Above Name

Fax

CITY OF MIDLAND
SERVICE CONTRACT
#23003136 Dry Cleaning

THIS CONTRACT, effective this __ day _____ 2023 by and between the City of Midland, hereinafter referred to as the "CITY" and _____, hereinafter referred to as the "COMPANY".

Projected Annual Cost: $ _____

For and in consideration of the payments and Contracts hereinafter mentioned, COMPANY and CITY hereby agree as follows:

1. COMPANY shall perform all work as set forth in the Specifications and Instructions to Bidders, which are incorporated as part of this Contract. In performing the work, COMPANY shall, at its own cost and expense furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said work, in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with the Notice to Bidders, Instructions to Bidders, and the Specifications and addenda therefor, and the Performance Bond hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

2. COMPANY hereby agrees to commence work within fifteen (15) days after the date written notice to do so shall have been given to it by CITY.

3. CITY agrees to pay COMPANY in current funds the price or prices shown in the Proposal, which forms a part of this Contract. No payment shall be due until the monthly service report has been delivered to CITY.

4. COMPANY shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws and building codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of Associated General Contractors of America, except where incompatible with federal, state or municipal laws or regulations.

5. <u>INDEMNITY:</u> COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES

RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF COMPANY, IT'S AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

5.1. COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH COMPANY OR COMPANY'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5.1 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

INDEMNIFY AND SAVE HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF COMPANY OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5.2 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

6. COMPANY Hereby waives all rights to any attorney`s fees awarded as a result of any action brought under the Texas Declaratory Judgment Act relating to this Contract.

7. CITY shall have the right to withhold payment for:

a. defective work not corrected;

b. completed service report not submitted;

c. failure of COMPANY to pay subcontractors or suppliers;

d. damage to other work or CITY's property or equipment; or

e. default of COMPANY in performance of this Contract.

The Initial term of this Contract shall be one (1) year. CITY shall have the right to extend the term of this Contract for four (4) additional one (1) year periods by providing written notice to COMPANY of CITY's desire to extend the Contract not later than sixty (60) days prior to the end of the then current term. Extensions of this Contract will be based on acceptable performance as long as the price does not exceed administrative parameters.

8. Prices for the extension of the Contract described in Paragraph 7 shall be adjusted by a percentage equal to the percentage increase in the Consumer Price Index All Items, Dallas-Fort Worth SMA as of the first date of the Contract to the date of request for change, but in no case shall the price for the option period increase more than fifteen percent (15%) above the amount set forth in the proposal.

9. COMPANY shall:

a. comply with all applicable laws, rules, codes and regulations of Local, State and U.S. Governments;

b. have a designated supervisor on the job site at all times work is in progress;

c. make no changes in the scheduled work without written authorization from CITY;

e. permit and facilitate inspection of the work in progress by CITY;

f. not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex or national origin;

g. be responsible for any damage caused by COMPANY to CITY property and repair such damage at his own cost;

h. remedy all defects in workmanship which develop within a period of one (l) year from the date of service report acceptance by CITY; and

i. not permit any worker to labor more than eight (8) hours during any one (l) calendar day or more than forty (40) hours during any one (l) calendar week, except as permitted by law; pay all royalties, license, and permit fees and applicable taxes required to execute this Contract.

10. In the event COMPANY is in noncompliance with any of the covenants or provisions of this Contract, and such noncompliance is not cured within thirty (30) days after receipt of written notice from CITY, CITY may terminate this Contract at the end of said thirty (30) day period, and may seek such other remedies as may be available in law or equity. Notwithstanding the above, CITY may, at its option, terminate this Contract in the event COMPANY fails on at least three (3) occasions to provide emergency services in a timely manner as required by the Specifications.

11. Failure of CITY to declare any default immediately upon occurrence thereof, or delay in taking any action in connection therewith, shall not waive COMPANY's responsibility to rectify such default, but CITY shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, either in law or in equity.

12. Any notice which may or shall be given under the terms of this Contract shall, unless otherwise provided herein, be in writing and shall be either delivered by hand or sent by United States Registered or Certified Mail, postage prepaid:

To CITY:

(If mailed) P. O. Box 1152
Midland, Texas 79702

(If hand delivered) 300 North Loraine
Suite 220
Midland, Texas 79701

To COMPANY.

The above addresses may be changed at any time by providing written notice to the other party.

13. **GOVERNING LAW AND VENUE:** This contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this contract shall be deemed to have occurred in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this contract or the performance of this contract shall be in Midland County, Texas.

14. This obligation and undertakings of each of the parties to this Contract shall be performed in Midland County, Texas.

15. This Contract may not be altered, changed or amended, except by an instrument in writing signed by all parties hereto.

16. This Contract and all incorporated Contract documents constitute the entire agreement among CITY and COMPANY; no prior written or contemporaneous oral promises or representations shall be binding.

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

18. RELEASE: NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND CITY'S COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE. THE OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

19. WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR

BREACH OF THIS CONTRACT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

20. **NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Contract) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which COMPANY shall settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented and the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification within the time and manner provided herein shall exonerate, excuse and

except CITY from any liability whatsoever. CITY is under no obligation to provide notice to COMPANY that COMPANY's notice is insufficient. CITY reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

21. **GOVERNMENTAL IMMUNITY:** By executing this Contract CITY is not waiving its right of governmental immunity. CITY is retaining its immunity from suit. CITY is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

22. **ASSIGNMENTS:** COMPANY shall not, either directly or indirectly assign all or any part of this Contract or any interest, right, or privilege herein, without the prior consent of CITY. The issue on whether or not to grant consent to an assignment is in the sole discretion of CITY.

23. **THIRD PARTY BENEFICIARY:** CITY's approval of this Contract does not create a third party beneficiary. There is no third party beneficiary to this Contract. No person or entity who is not a party to this Contract shall have any third party beneficiary or other rights hereunder.

24. **INDEPENDENT CONTRACTOR:** COMPANY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of CITY. COMPANY shall have exclusive control of, and the exclusive right to control the details of the services and work to be performed hereunder, and all persons performing the same. COMPANY shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors and the doctrine of respondeat superior shall not apply as between CITY and COMPANY, its officers, agents, employees, contractors and subcontractors. Nothing in this Contract shall be construed as creating a partnership or joint enterprise between CITY and COMPANY. No person performing any of the work and services described hereunder by COMPANY shall be considered an officer, agent, servant or employee of

CITY. Further, it is specifically understood and agreed that nothing in this contract is intended or construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

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

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

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

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

29. **INSURANCE**

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

Commercial General Liability (including Contractual liability):

-Personal Injury: $1,000,000.00 per person

	$1,000,000.00 per occurrence
-Property Damage:	$500,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Worker's Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

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

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

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

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

COMPANY certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code.

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

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

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

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

32. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements applicable to CITY for the duration of this Contract; (ii) promptly provide to CITY any contracting information related to the Contract that is in the custody or possession of COMPANY on request of CITY; and (iii) on completion of the Contract, either: (a) provide at no cost to CITY all contracting information related to the Contract that is in the custody or possession of COMPANY; or (b) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to CITY.

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

34. **Conflict of Terms.** If a conflict of terms or language exists between: (i) any of the provisions of this Contract and (ii) any of the provisions contained in any exhibit(s) attached to this Contract, precedence shall be given to the provisions of this Contract. For the avoidance of any doubt, the provisions contained in this Contract shall supersede any and all conflicting provisions contained in any exhibit(s) attached hereto. Furthermore, the parties acknowledge and agree that any provision contained in an exhibit(s)

attached to this Contract that imposes an additional express or implied obligation on CITY is hereby made void and of no force or effect. CITY's sole and exclusive obligations under this Contract are contained in the provisions of this Contract that precede the signature page(s), which evidences the parties' execution.

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Robert Patrick, City Manager

ATTEST

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

APPROVED ONLY AS TO FORM

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name: _____

Title: _____

STATE OF _____ §

§

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2023 personally appeared, _____, an officer of _____, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____day of _____, 2023.

_____
Notary Public, State of _____

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

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

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

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

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

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

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

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

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

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY

Date Received

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

Snowhite Cleaners

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

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

Jesus D. Corrales

Name of Officer

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

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

☐ Yes ☑ No

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

☐ Yes ☑ No

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

None

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

7

Larry H Carrasco

Signature of vendor doing business with the governmental entity

5/2/23

Date

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

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

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

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

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

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

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

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

***

(2) the vendor:

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

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

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

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

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

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

(2) the date the vendor becomes aware:

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

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

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

CITY OF MIDLAND

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

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

(1) the lowest bidder; or

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

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

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

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: Snowhite Cleaners

Local Address (must be within the City limits): 2509 W. Illinois ave, Midland, TX 79701

1. Is the above address the principal place of business for the business named above? ☑ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? 4
3. Year your business was established in the City of Midland: 2009
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

   Reseller Permit Number: 17523328676

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

   Snowhite cleaners
   2509 W. Illinois ave Midland, TX 79701

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

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

   ☑ Yes ☐ No

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

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

Authorized Signature: Larry H. Carrasco Date: 5/2/23

Printed Name and Title: Larry H. Carrasco owner

NOTICE TO BIDDERS

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

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

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

COMPLIANCE: Company agrees that it shall comply with Texas Government Code Section 2252.908, *et seq.*, as amended. Company agrees that it shall comply with Texas Local Government Code Section 176.006, *et seq.*, as amended. For further instructions on how to comply with Texas Government Code Section 2252.908 and Texas Local Government Code Section 176.006,

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

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

IMPORTANT: READ CAREFULLY BEFORE MAKING BID
GENERAL CONDITIONS OF BIDDING

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

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

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

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

5. If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. The City of Midland reserves the right to award by item or by total bid, or to reject any or all bids or parts of bids. Further, the City of Midland reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City of Midland reserves the right to award the bid to the lowest responsible bidder.

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

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

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

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

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

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

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

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

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

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

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

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

Seller and Buyer agree as follows:

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

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

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

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

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

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

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

8. WARRANTY - PRICE -

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

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

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

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

11. RIGHT OF INSPECTION - Buyer shall have the right to inspect the goods at delivery before accepting them.

12. CANCELLATION - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breached any of the terms hereof including warranties of Seller if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13. TERMINATION - The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 13, herein.

14. FORCE MAJEURE - Neither party shall be held responsible for losses, resulting if the fulfillment of any terms or provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

15. ASSIGNMENT - DELEGATION - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

16. MODIFICATIONS - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

17. INTERPRETATION - PAROL EVIDENCE - This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, is intended by the parties as a final expression of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

18. ADVERTISING - Seller shall not advertise or publish without Buyer's prior consent the fact that Buyer has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

19. RIGHT TO ASSURANCE - Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

20. PROTECTION AGAINST ROYALTIES OR PATENT INFRINGEMENT - The Seller shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with Patentee or Owner thereof. The Seller shall defend all suits or claims for infringement of any patent or copyrights and shall indemnify and save the Buyer harmless from any loss on account thereof, except that Buyer shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process is allowed to the Seller, the Seller shall indemnify and save Buyer harmless from any loss on account thereof. If the material or process specified or required by Buyer is an infringement, the Seller shall be responsible for such loss unless he promptly gives written notice to the buyer of such infringement.

21. TIME - It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and any failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

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

23. **INSURANCE –**

The following provisions apply unless the agreement is for the supply of goods only:

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

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

The Commercial General Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Workers' Compensation coverage provided by Seller shall inure to the benefit of employees injured during the course and scope of their employment by Seller pursuant to this agreement.

The Business Automobile Liability insurance provided by Seller shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $250,000.00 covering any vehicle used for the execution of the work that is the subject of this agreement.

All insurance required pursuant to this agreement, except for Worker's Compensation Insurance, shall name the Buyer as an additional insured on a claims occurred basis. All insurance required pursuant to this agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Buyer.

The parties agree that, prior to the execution of the agreement, Seller shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."
Buyer shall be provided the notice by Seller's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Buyer shall not be required to provide any insurance whatsoever pursuant to this agreement.

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

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

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

26. GOVERNING LAW AND VENUE - This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas.

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

28. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES - As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Seller or his legal representative, shall give the City Manager, or any other reasonable official of the Buyer, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the Seller will settle, the physical and mailing addresses of Seller at the time and date the claim was presented and the physical and mailing addresses of Seller for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Seller relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the Buyer from any liability whatsoever. The Buyer is under no obligation to provide notice to Seller that Seller's notice is insufficient. Buyer reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

29. INDEMNITY (NOT APPLICABLE TO PURCHASE AGREEMENTS) - SELLER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES,

BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF SELLER, its agents or employees, or any subcontractor, arising out of, or resulting from, Seller's use of, or activities on, the agreement premises, and Seller will be required to pay any judgment with costs which may be obtained against Buyer or any of its officers, agents or employees, including reasonable attorney's fees.

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

30. SOVEREIGN IMMUNITY - By executing this agreement the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY**.

31. THIRD PARTY BENEFICIARY - The Buyer's approval of this agreement does not create a third party beneficiary. There is no third party beneficiary to this agreement. No person or entity who is not a party to this agreement shall have any third party beneficiary or other rights hereunder.

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

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

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

33. CONSIDERATION - The terms of this agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

34. CERTIFICATION - In accordance with the Texas Local Government Code, the City of Midland Department of Facilities and Fleet Management does hereby certify that the City of Midland is in compliance with Sections 252, 271 and all applicable sections of the Texas Local Government Code and other state law as it applies to procurement and contracting issues.

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

36. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

No-Bid
Response
For
Request #: 23003168

If your firm has made a decision not to bid on this request, please complete this form and return to:

Office of the Purchasing Manager
City of Midland
P.O. BOX 1152
Midland, TX 79702-1152

or

Fax to: (432) 685-0523

Email: purchasing@midlandtexas.gov

Please Check all reasons below that apply:

- ☐ Cannot provide items requested.
- ☐ Cannot be competitive.
- ☐ Cannot meet the specifications in the request.
- ☐ Cannot provide the liability insurance required by the City of Midland.
- ☐ Cannot provide the Worker's Compensation Insurance required by the City of Midland.
- ☐ Cannot provide the required bonding.
- ☐ Cannot comply with the indemnification requirements.
- ☐ Job too large.
- ☐ Job too small.
- ☐ Do not wish to do business with the City of Midland.
- ☐ Other. Please explain below:

_____

_____

Company Name: _____

Authorized Officer or Agent Signature: _____

Telephone Number: _____ Fax: _____

Email Address: _____

PLEASE NOTE: THIS COMPLETED FORM MAY BE FAXED TO 432-685-0523. IT IS NOT NECESSARY TO RETURN ANY OTHER DOCUMENTS.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/02/2023

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

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

PRODUCER	CONTACT NAME:	
David Corrales(3575398) 1100 E Estes Ave Midland TX 79701-2818	PHONE (A/C, NO, EXT): 432-683-7559	FAX (A/C, NO): 432-684-8121
	E-MAIL ADDRESS: dcorrales@farmersagent.com	

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
NEW METHOD CLEANERS, INC. 2810 N BIG SPRING ST DBA: Snowhite Laundry & Cleaners MIDLAND TX 79705	INSURER A: Truck Insurance Exchange	21709
	INSURER B: Farmers Insurance Exchange	21652
	INSURER C: Farmers Insurance Exchange	21687
	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 NAME 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	ADDTL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [X] PROJECT [ ] LOC [ ] OTHER:	y	y	069006818	10/07/2022	10/07/2023	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea Occurrence)	$ 75,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 1,000,000
								$
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY	y	y	069126105	1007/2022	10/07/2023	COMBINED SINGLE LIMIT (Ea accident)	$ 500,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/ EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	y	A07518875	10/07/2022	10/07/2023	[ ] PER STATUTE [X] OTHER	$
							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)

2810 N BIG SPRING ST, MIDLAND, TX, 79705
2509 W ILLINOIS AVE, MIDLAND, TX 79701

Certificate holder is listed as additional insured and wavier of subrogation endorsement is included

CERTIFICATE HOLDER	CANCELLATION
City of Midland PO Box 1152 Midland, TX 79702	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

ACORD 25 (2016/03)
31-1769 11-15
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CITY OF MIDLAND

PURCHASING DIVISION

BID REQUEST

DATE: April 12, 2023

PAGE: 1

(THIS IS NOT AN ORDER)

BID NO: 23003168

OPENING TIME: 2:00 PM

CLOSING DATE: May 3, 2023

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

BIDS WILL BE RECEIVED IN THE OFFICE OF THE City Secretary, 300 N Loraine St., Suite 330, Midland, TX 79702 UNTIL 2:00 P.M. on May 3, 2023 FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO: Municipal Court, Police, Fire, Garage, Water & Waste Water, Transportation, and Vehicle Services.

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
			Dry Cleaning, Pressing and Laundry Service for various departments for the City of Midland in accordance with the attached specifications, bid detail sheet and agreement. Estimated for a one (1) year period.		
				TOTAL	$164,013.86

NOTICE TO BIDDERS:

1. FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
2. BIDS SHALL BE DELIVERED TO THE CITY IN A SEALED PACKAGE (ENVELOPE, ETC) **UNLESS THE CITY STATES** THAT THE BID MAY BE FAXED OR E-MAILED, OTHERWISE, BIDS FAXED OR E-MAILED DIRECTLY TO THE CITY WILL BE REJECTED. A SEALED BID MAY BE FAXED TO A THIRD PARTY FOR SEALED DELIVERY TO THE CITY. PLEASE CALL FOR MORE INFORMATION.
3. IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED CONTRACT AND INSURANCE REQUIREMENTS ARE **NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/CONTRACTOR OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/CONTRACTOR MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.
4. IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF PARAGRAPH 3, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER.
5. **IMPORTANT NOTICE** – IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.
6. BIDDER/CONTRACTOR/COMPANY IS RESPONSIBLE FOR ACQUIRING AND ACKNOWLEDGING ALL ADDENDA.
7. **Public Information.** To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder agrees as follows in accordance with Section 552.372(b) of the Texas Government Code: The requirements of Subchapter J, Chapter 552, Government Code, may apply to this bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR 685-7233. FAX NO. (432) 685-0523

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.

THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: Midland Cleaning LLC
ADDRESS 4218 W Wadley Ave
CITY Midland ST _____ ZIP 79707-5460
PHONE NO. (432) 699-3200 FAX NO. _____
EMAIL: midland.dcsc@gmail.com

CASH DISCOUNT: _____ % _____ DAYS

DELIVERY CAN BE MADE 24/7

AUTHORIZED SIGNATURE _____

PLEASE READ CONDITIONS FOR BIDDING ON BACK BEFORE SUBMITTING

MIDLAND
Purchasing Division

On-line responses will not be allowed for this solicitation.

Delivery of Submittals: Bid packets must be received in the City Secretary's Office no later than designated bid date and time. Bidders are responsible for the means of timely delivering the bid packet. Delays due to any instrumentality used to transmit the bid packet (e.g., delay occasioned by a bidder, City's internal mailing system, etc.) are the sole responsibility of the bidder. **Late bid packets will not be accepted under any circumstances.**

Please print these documents and submit your bid in a sealed envelope to:

Mailing Address:

The City Secretary's Office
City of Midland
P. O. Box 1152
Midland, TX 79702

OR

Physical Address:

The City Secretary's Office
City of Midland
300 N. Loraine, Suite 330
Midland, TX 79701

ATTENTION: The deadline for submitting additional questions is 72 working hours before the bid opening date. Questions submitted before the Noon deadline will be included in the Addendum. Questions submitted after the Noon deadline will not receive any additional information and will instead only be directed to the information already provided.

Vendor Name: Midland Cleaning LLC

MIDLAND
Purchasing Division

Detail Sheet
For
Dry Cleaning & Laundry
(Exhibit A1)

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Midland Police Department & Municipal Court: Men & Women			
1	Uniform Shirts	3500	$ 3.28	$ 11,480.00
2	Uniform Pants (100% Polyester & Poly/Wool Blends)	2500	$ 3.83	$ 9,575.00
3	Uniform "Cargo" Pants (65/35 Poly/Cotton – Laundered)	500	$ 3.83	$ 1,915.00
4	SWAT Shirts (BDU Shirts, ie: camos, blacks, navy blues)	500	$ 3.28	$ 1,640.00
5	SWAT Pants (BDU Pants, ie: camos, blacks, navy blues)	200	$ 3.83	$ 766.00
6	SWAT Field Jackets	25	$ 7.67	$ 191.75
7	Winter Jackets and Coats	150	$ 7.67	$ 1,150.50
8	Ties	60	$ 1.96	$ 117.60
9	Parade Attire (white gloves, ascots, braids)	25	$ 4.38	$ 109.50
10	Police Cap Tops	5	$ 3.28	$ 16.40
11	Uniform "Cargo" Shorts (also includes bike shorts)	25	$ 3.28	$ 82.00
12	Polo Style Uniform Shirts	50	$ 3.83	$ 191.50
13	T-Shirts (w/printed POLICE logos)	10	$ 3.28	$ 32.80
14	Table Cloths	40	$ 10.96	$ 438.40
15	Judges Robes (Dry Clean)	6	$ 8.76	$ 52.56
16	Uniform Shirts	1560	$ 3.28	$ 5,116.80
17	Uniform Pants (100% Polyester & Poly/Wool Blends)	1560	$ 3.83	$ 5,974.80
	Plainclothes: Men & Women			
18	2 Pc. Suits	75	$ 10.96	$ 822.00
19	Dress Slacks (Dockers, etc.)	625	$ 4.38	$ 2,737.50
20	Dress Shirts/Blouses	875	$ 4.38	$ 3,832.50
21	Ladies 2 pc. Pants Suits	10	$ 10.96	$ 109.60
22	Jeans (Wrangler "colored" dress jeans & reg. Denim)	430	$ 4.38	$ 1,883.40
23	Dress Coats	15	$ 7.67	$ 115.05
24	Ladies Skirts	10	$ 4.38	$ 43.80
25	Ladies Dresses	10	$ 7.67	$ 76.70
	TOTAL COST FOR MPD & COURT			$ 48,471.16

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	FIRE DEPARTMENT: Dry Cleaning			
26	Uniform Pants (100% Polyester), Slacks, Trousers, EMS Pants	50	$ 3.83	$ 191.50
27	Dress Uniform Coats	50	$ 8.76	$ 438.00
28	Ties	25	$ 1.96	$ 49.00
	TOTAL COST FOR MFD			$ 678.50
	Quantity is for one year – Estimated Quantities			
			GRAND TOTAL COST:	$ 49,149.66

NOTE: No 100% Silk, Leather, Fur, Fleece or other exotic materials will be submitted for cleaning nor should be accepted by the contractor according to this contract. Any special requests will be the responsibility of the employee unless otherwise specified. If the contractor chooses to clean these items it is her/her responsibility to collect the fees for such from the individual employee.

Name of Insurance Company: Hartford Insurance / Nationwide
Type of Coverage Carried: CGL/Auto/Workers Comp/Employers Liability
Amount of Insurance Carried: $1,000,000/$250,000/$500,000 stat min/$500,000
Address of the Night Drop Location: 4218 W Wadley Ave. Midland, TX. 79707
Addresses of alternate drop locations for daytime drops and pick-ups:
4218 W Wadley Ave. Midland, TX. 79707

Maximum number of garments that will be placed in a single garment bag: 4

This detail sheet must be completed and submitted with the bid for the bid to be considered

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

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

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

Award:
If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:

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

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

SOVEREIGN IMMUNITY.

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

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

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

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE

INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

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

April 28, 2023 Delivery Date	midland.dcsc@gmail.com E-mail Address
Midland Cleaning LLC Company Name	April 28, 2023 Date
 Authorized Signature	(859) 333-0154 Phone
Jag Gurung Print Above Name	 Fax

CITY OF MIDLAND
SPECIFICATION
23003168
Laundry & Dry Cleaning for
Police & Fire Departments
And, Municipal Court
Exhibit "B"

1. SCOPE:
Dry cleaning, pressing and laundry service for the Midland Municipal Court, Police and Fire Departments will be provided in accordance with these specifications and the attached "Dry Cleaning and Laundry Service Agreement".

2. INTENT:
The City intends to contract the services herein for a two-year period with a possibility of two additional one-year extension. The City desires to have as many locations as possible for personnel to be able to drop off their cleaning and/or laundry.

3. VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:
The City of Midland
Office of the Purchasing Agent OR FAX: (432)685-0523
PO BOX 1152
Midland, TX 79702
All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.

4. DEFINITIONS
4.1. UNIFORMSHIRTS:
Dark Navy or Light Blue or White long sleeve and short sleeve shirts with shoulder patches. These shirts can have the following fabric contents: Poly/cotton blend, Poly/wool blend, Dacron/Polyester or 100% polyester.
4.2. UNIFORMPANTS:
Dark Navy pants with or without striping. These pants can have the following fabric contents: 100% Polyester, Poly/wool or Poly/cotton blends.
4.3. UNIFORM "CARGO" PANTS:
Dark Navy pants with cargo pockets on sides of pants just above the knee. Fabric content: Poly/cotton blend. These pants should be laundered and starched, NOT DRY CLEANED.

4.4. SWAT SHIRTS:
Black, Navy or Urban Camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style. These shirts can have the following fabric contents: poly/cotton, cotton ripstop.

4.5. SWATPANTS:
Black, Navy or Urban Camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style. These pants can have the following fabric contents: poly/cotton, cotton ripstop.

4.6. SWAT FIELDJACKETS:
Black, Navy or Urban camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style which includes (4) bellowed pockets on the front of the jacket. These jackets can have the following fabric contents: poly/cotton, cotton ripstop.

4.7. \VINTER JACKETS/ COATS:
Dark Navy in color. These jackets will have department shoulder patches and the manufacturer will be Blauer, Inc. or Fechheimer for the Police Dept. The Fire Dept has various brands of winter jackets/coats. These jackets/coats will have detachable fur collars and removable liners. These jackets have the following fabric contents: 100% nylon outer shell with removable "thinsulate" liner.

4.8. WINDBREAKERS (embroidered or silk screened for Police):
Dark Navy in color. These jackets will have snap closures in front and will be either embroidered or silk screened with department insignia on sleeves, back and front sides of the jacket. These jackets will also either be lined or unlined. The fabric content can be 100% polyester.

4.9. WINDBREAKERS (silk screened for Fire Department):
Dark Navy with "Fire Dept." screen printed on the backside of the jacket. These will need to be laundered not dry cleaned. The fabric content contains the following: 100% nylon.

4.10. TIES:
Dark Navy in color, or multi colored/multi patterned for "plain clothes" officers. These ties may either be regular or clip on styles. Fabric Contents can consist of 100% polyester.

4.11. PARADE ATTIRE:
These items are used for the Honor Guard. They consist of white cotton or polyester gloves, nylon white braids, cotton or polyester white ascots.

4.12. POLICE CAPTOPS:
Dark Navy or White police cap tops can consist of 100% polyester or 100% wool blends.

4.13. UNIFORM "CARGO" SHORTS:
Dark Navy in color. The fabric consists of the following: Poly/cotton blend.

4.14. BIKE SHORTS:
Dark Navy shorts. These shorts have a 100% nylon outer shell with lycra spandex inner short with built-in padding.

4.15. POLO STYLE UNIFORM SHIRTS:

These shirts will be of various colors, have department insignia embroidered on them and of

"pull over" style. These shirts will also include "dress" polo style shirts for "plain clothes" officers. (Sometimes referred to as golf shirts.)

4.16. T-SHIRTS:
These shirts will be of poly/cotton blend or 100% cotton and have department insignia silk-screened on front and/or back of the shirts.
4.17. 2 PC. SUITS:
These shall consist of a matching men's or ladies dress jacket and dress slacks.
4.18. TABLECLOTHS:
These are of various colors and consist of cotton/polyester blends.
4.19. SUIT JACKETS:
These include sport jackets, dress suit jackets, dress western style jackets and blazers. Fabric contents can include wool blends, cotton/poly blends, polyester, etc. No leather jackets or jackets with leather elbow patches will be accepted.
4.20. DRESS SLACKS:
These shall include dress slacks, Levi's Dockers or similar style pants.
4.21. JEANS:
These shall include Wrangler or other brand name denim jeans in either denim blue or other various colors. Western style in nature. These shall also include ladies Roper brand, Silverlake brand, Rockies brand, etc. The fabric content can contain 100% cotton.
4.22. DRESS SHIRTS/BLOUSES:
These shall include all men's and ladies dress style shirts and blouses of various colors and styles. The fabric contents can include: Cotton, cotton/poly blends, rayon, Dacron blends, etc. All 100% silk, leather, fur or fleece is unacceptable.
4.23. LADIES SKIRTS:
These include several different styles and fabric contents.
4.24. DRESS COATS/JACKETS:
These include heavy winter type jackets for wear with plain clothes. The fabric contents are various.
4.25. LADIES DRESSES:
These shall consist of either one or two piece dresses. No 100% silk items should be accepted.
4.26. EMS PANTS:
These pants are dark navy or black. The fabric contents can include: poly/cotton or cotton.

4.27. HOODS:

These hoods are Nomex or PBI fabric. These will need to be laundered not dry cleaned.
4.28. UNIFORM SHORTS:
These shorts are dark navy or black. The fabric contents can include poly/cotton or cotton.

5. REQUIREMENTS
5.1. INSURANCE:
The successful bidder shall have insurance to cover all articles in their possession at all times (See Contract Minimum). Bidder to furnish the following information:
5.1.1. NAME OF INSURANCE COMPANY

5.1.2. TYPE OF COVERAGE CARRIED
5.1.3. AMOUNT OF INSURANCE CARRIED
Selected Bidder shall be required to provide an Insurance Certificate prior to execution of the Agreement.
5.2. QUANTITIES:
All quantities shown on the detail sheet are estimates ONLY. Actual quantities will vary.
5.3. CONTRACT PERIOD:
Bids are requested to cover two years dry cleaning and pressing and laundry service.
5.4. GARMENTS:
Bids are requested for dry cleaning and pressing and laundry service for items as shown on the attached detail sheet, EXHIBIT A.
5.5. COSTS:
The bidder shall indicate on the detail sheet the cost of this service for each item for each cleaning. The costs shall include all charges as noted below.
5.6. REPAIRS:
5.6.1. MINOR REPAIRS:
The successful bidder shall at no extra charge do all minor repairs to all uniforms as required to maintain them in a serviceable condition. Such repairs shall include:
rips and tears less than 6".
worn spots.
loose or open seams.
& lost OR broken buttons.

NOTE: **Repairs of any other description shall not be considered a minor repair, and are beyond the scope of this agreement and shall have prior approval of charges by the designated representative before any work is performed.**
5.7. SERVICE:
5.7.1. TURNAROUND:
The successful bidder must be able to provide two-day or less service, except in the case of minor repairs which may be up to two (2) additional days.
5.7.2. NIGHT DEPOSITORY:
Night depository facility is mandatory. A night depository facility, secure from theft, and convenient for use by Police and Fire personnel is mandatory.
5.7.3. MULTIPLE STORES/DROPS:
5.7.3.1. Where the successful bidder has more than one store location taking in Dry cleaning/laundry, all the stores/drops shall be available for the purpose of dropping off and picking up articles falling within the scope of this bid request and Agreement.
5.7.3.2. Articles shall be picked up at the location where dropped unless otherwise noted on the drop tickets.
5.7.3.3. The successful bidder shall have ample storage space for cleaned uniforms etc., until picked up by City.
5.7.4. PERSONNEL & EQUIPMENT:
All bidders shall have enough employees and equipment (not coin operated machines) to do professional work, this includes starching uniform shirts, repairs and etc. Any portion of work that will be sub-contracted shall be noted in the bid. The City reserves the right to approve sub-contractors. Sub-contractors shall supply the City with the same insurance coverages and endorsed as required by the Agreement and specifications herein.

5.7.4.1. If, under *extraordinary circumstances,* clothing has to be cleaned at another location, the clothes shall not be left unattended.

5.7.5. JACKETS:
5.7.5.1. Most jackets have removable liners that must be removed before dry cleaning.
5.7.5.2. These liners are zipped and buttoned-in for easy removal.
5.7.5.3. Bidders should note that these liners must be removed before dry cleaning.
5.7.6. PACKAGING:
Only one pair of pants, one shirt or other article of clothing shall be hung on a single hanger. However, more than one article, as may be practical, may be placed in a plastic garment

- ALL ARTICLES SHALL BE DELIVERED IN A PLASTIC GARMENT BAG.
- ALL PANTS SHALL BE DELIVERED ON HANGERSWITH CARDBOARD SLEEVES.

5.7.7. DOCUMENTATION:
The successful bidder will furnish an adding machine tape with each bundle of tickets indicating the dollar amount of each employee.

6. QUALITY ASSURANCE:

6.1. Odors:
6.1.1. The use of cleaning fluid or material that leaves an unpleasant odor in clothing shall be cause for rejection of cleaned articles and they shall be re-cleaned at no additional charge.
6.1.2. Laundered articles that are picked up which have sour or other unpleasant odors shall be rejected and re-laundered at no additional charge.
6.1.3. Any article received without necessary repairs being made shall be rejected and returned for
repair. If repairs necessitate re-laundering, dry cleaning or pressing, it shall be performed at no additional charge.
6.2. Continued complaints of the above shall be cause for termination of this agreement.
NOTE TO ALL BIDDERS: Bidders are responsible for meeting or exceeding the requirements set forth in these specifications and agreement and should bid accordingly.

7. AWARD

7.1. The City and Bidder agree that, if the Agreement is awarded, that it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Further, City reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City reserves the right to award the bid to the lowest responsible bidder.

Vendor Name: Midland Cleaning LLC

MIDLAND
Purchasing Division

Detail Sheet
For
Dry Cleaning & Laundry
(Exhibit A2)

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Water and Wastewater, Garage, and Transportation: Men & Women			
	Water and Wastewater:			
1	Uniform Shirts	5500	$ 3.28	$ 18,040.00
2	Uniform Pants	5500	$ 3.83	$ 21,065.00
3	Jeans	2750	$ 4.38	$ 12,045.00
4	Coveralls	240	$ 7.67	$ 1,840.80
	TOTAL COST FOR WATER & WASTEWATER			$ 52,990.80
	Garage:			
5	Uniform Shirts	3250	$ 3.28	$ 10,660.00
6	Uniform Pants	1250	$ 3.83	$ 4,787.50
7	Jeans	3250	$ 4.38	$ 14,235.00
8	Coveralls	100	$ 7.67	$ 767.00
9	Jackets	100	$ 7.67	$ 767.00
10	Sweaters	100	$ 4.38	$ 438.00
	TOTAL COST FOR GARAGE			$ 31,654.50
	Transportation:			
11	Uniform Shirts	2000	$ 3.28	$ 6,560.00
12	Denim Jeans	1800	$ 3.83	$ 6,894.00
13	Coveralls	20	$ 7.67	$ 153.40
	TOTAL COST FOR TRANSPORTATION			$ 13,607.40
	Vehicle Services:			
14	Uniform Shirts	1500	$ 3.28	$ 4,920.00
15	Uniform Pants	1500	$ 3.83	$ 5,745.00
16	Denim Jeans	1000	$ 4.38	$ 4,380.00
17	Sweaters	130	$ 4.38	$ 569.40
18	Jackets	130	$ 7.67	$ 997.10
	TOTAL COST FOR VEHICLE SERVICES			$ 16,611.50

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Quantity is for one year – ESTIMATED quantities			
	GRAND TOTAL COST:			$ 114,864.20

NOTE: No 100% Silk, Leather, Fur, Fleece or other exotic materials will be submitted for cleaning nor should be accepted by the contractor according to this contract. Any special requests will be the responsibility of the employee unless otherwise specified. If the contractor chooses to clean these items it is her/her responsibility to collect the fees for such from the individual employee.

Name of Insurance Company: Hartford Insurance / Nationwide
Type of Coverage Carried: CGL/Auto/Workers Comp/Employers Liability
Amount of Insurance Carried: $1,000,000/$250,000/$500,000 stat min/$500,000
Address of the Night Drop Location: 4218 W Wadley Ave. Midland, TX. 79707
Addresses of alternate drop locations for daytime drops and pick-ups:
4218 W Wadley Ave. Midland, TX. 79707

Maximum number of garments that will be placed in a single garment bag: 4

This detail sheet must be completed and submitted with the bid for the bid to be considered

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

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

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

Award:
If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:
A. WAIVER OF ATTORNEY FEES: BY SUBMITTING THIS BID, BIDDER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED

TO THE BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

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

SOVEREIGN IMMUNITY.

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

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

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

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

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

April 28, 2023	midland.dcsc@gmail.com
Delivery Date	E-mail Address
Midland Cleaning LLC	April 28, 2023
Company Name	Date
	(859) 333-0154
Authorized Signature	Phone
Jag Gurung	
Print Above Name	Fax

CITY OF MIDLAND
SPECIFICATION
23003168

Laundry & Dry Cleaning for the Water & Wastewater Division, the Garage Division, and the Transportation Division

Exhibit "B"

1. SCOPE:
Dry cleaning for the Water & Wastewater Division and the Garage Division will be provided in accordance with these specifications and the attached "Dry Cleaning Service Agreement".

2. INTENT:
The City intends to contract the services herein for a two-year period with a possibility of two additional one-year extensions. The City desires to have as many locations as possible for personnel to be able to drop off their cleaning.

3. VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:
The City of Midland
Office of the Purchasing Agent OR FAX: (432)685-0523
P.O. Box 1152 EMAIL: purchasing@midlandtexas.gov
Midland, TX 79702
All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.
If the contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

4. REQUIREMENTS:
4.1. INSURANCE:
The successful bidder shall have insurance to cover all articles in their possession always (See Contract Minimum). Bidder to furnish the following information:
4.1.1 NAME OF INSURANCE COMPANY
4.1.2 TYPE OF COVERAGE CARRIED
4.1.3 AMOUNT OF INSURANCE CARRIED
Selected Bidder shall be required to provide an Insurance Certificate prior to execution of the Agreement.

4.2. QUANTITIES:

All quantities shown on the detail sheet are estimates ONLY. Actual quantities will vary.

4.3. CONTRACT PERIOD:

Bids are requested to cover two years dry cleaning service only.

4.4. GARMENTS:

Bids are requested for dry cleaning service for items as shown on the attached detail sheet, EXHIBIT A.

4.5. COSTS:

The bidder shall indicate on the detail sheet the cost of this service for each item for each cleaning. The costs shall include all charges as noted below.

4.6. REPAIRS:

4.6.1 MINOR REPAIRS:

The successful bidder shall at no extra charge do all minor repairs to all uniforms as required to maintain them in a serviceable condition. Such repairs shall include:

- rips and tears less than 6".
- worn spots.
- loose or open seams.
- lost OR broken buttons.

NOTE: **Repairs of any other description shall not be considered a minor repair and is beyond the scope of this agreement and have prior approval of charges by the designated representative before any work is performed.**

4.7 SERVICE:

4.7.1 TURNAROUND:

The successful bidder must be able to provide two-day or less service, except in the case of minor repairs which may be up to two (2) additional days.

4.7.2 NIGHT DEPOSITORY:

Night depository facility is mandatory. A night depository facility, secure from theft, and convenient for use by Water & Wastewater personnel is mandatory.

4.7.3. MULTIPLE STORES/DROPS:

4.7.3.1. Where the successful bidder has more than one store location taking in Dry cleaning, all of the stores/drops shall be available for the purpose of dropping off and picking up articles falling within the scope of this bid request and Agreement.

4.7.3.2. Articles shall be picked up at the location where dropped unless otherwise noted on the drop ticket.

4.7.3.3. The successful bidder shall have ample storage space for cleaned uniforms etc., until picked up by City.

4.7.4. PERSONNEL & EQUIPMENT:

All bidders shall have sufficient employees and equipment (not coin operated machines) to do professional work; this includes starching uniform shirts, repairs and etc.

4.7.4.1. If under *extraordinary circumstances,* clothing has to be cleaned at another location, the clothes shall not be left unattended.

4.7.5. JACKETS:

4.7.5.1. Most jackets have removable liners that must be removed before dry cleaning.

4.7.5.2. These liners are zipped and buttoned-in for easy removal.

4.7.5.3. Bidders should note that these liners must be removed before dry cleaning.

4.8 PACKAGING:

4.8.1. Only one pair of pants, one shirt or other article of clothing shall be hung on a single hanger.

4.8.1.1. However, more than one article, as may be practical, may be placed in a plastic garment protector bag.

4.8.1.2. ALL ARTICLES SHALL BE DELIVERED IN A PLASTIC GARMENT BAG.

4.9 DOCUMENTATION:

The successful bidder will furnish an adding machine tape with each bundle of tickets indicating the dollar amount of each bundle per employee.

5. QUALITY ASSURANCE:

5.1. CLEANING FLUIDS:

5.1.1. The use of cleaning fluid or material that leaves an unpleasant odor in clothing shall be cause for rejection of cleaned articles and they shall be re-cleaned at no additional charge.

5.2. CLEANED ARTICLES SHALL BE RENDERED BACTERIA FREE

5.3. ODORS:

5.3.1. Cleaned articles that are picked up which have sour or other unpleasant odors shall be rejected and re-laundered at no additional charge.

5.4. UNNECESSARY REPAIRS:

5.4.1. Any article received without necessary repairs being made shall be rejected and returned for repair. If repairs necessitate dry cleaning, it shall be performed at no additional charge.

5.5. UNRESOLVED PROBLEMS & COMPLAINTS:

5.5.1. Continued complaints of the above shall be cause for termination of this agreement.

6. AWARD:

The City and Bidder agree that, if the Agreement is awarded, that it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the city of midland in determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Further, City reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City reserves the right to award the bid to the lowest responsible bidder.

NOTE TO ALL BIDDERS: Bidders are responsible for meeting or exceeding the requirements set forth in these specifications and agreement and should bid accordingly.

CITY OF MIDLAND
SERVICE CONTRACT
#23003136 Dry Cleaning

THIS CONTRACT, effective this __ day _____2023 by and between the City of Midland, hereinafter referred to as the "CITY" and _____, hereinafter referred to as the "COMPANY".

Projected Annual Cost: $ _____

For and in consideration of the payments and Contracts hereinafter mentioned, COMPANY and CITY hereby agree as follows:

1. COMPANY shall perform all work as set forth in the Specifications and Instructions to Bidders, which are incorporated as part of this Contract. In performing the work, COMPANY shall, at its own cost and expense furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said work, in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with the Notice to Bidders, Instructions to Bidders, and the Specifications and addenda therefor, and the Performance Bond hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

2. COMPANY hereby agrees to commence work within fifteen (15) days after the date written notice to do so shall have been given to it by CITY.

3. CITY agrees to pay COMPANY in current funds the price or prices shown in the Proposal, which forms a part of this Contract. No payment shall be due until the monthly service report has been delivered to CITY.

4. COMPANY shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws and building codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of Associated General Contractors of America, except where incompatible with federal, state or municipal laws or regulations.

5. <u>INDEMNITY:</u> COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES

RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF COMPANY, IT'S AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

5.1. COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH COMPANY OR COMPANY'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5.1 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

INDEMNIFY AND SAVE HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF COMPANY OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5.2 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

6. COMPANY Hereby waives all rights to any attorney's fees awarded as a result of any action brought under the Texas Declaratory Judgment Act relating to this Contract.

7. CITY shall have the right to withhold payment for:

a. defective work not corrected;

b. completed service report not submitted;

c. failure of COMPANY to pay subcontractors or suppliers;

d. damage to other work or CITY's property or equipment; or

e. default of COMPANY in performance of this Contract.

The Initial term of this Contract shall be one (1) year. CITY shall have the right to extend the term of this Contract for four (4) additional one (1) year periods by providing written notice to COMPANY of CITY's desire to extend the Contract not later than sixty (60) days prior to the end of the then current term. Extensions of this Contract will be based on acceptable performance as long as the price does not exceed administrative parameters.

8. Prices for the extension of the Contract described in Paragraph 7 shall be adjusted by a percentage equal to the percentage increase in the Consumer Price Index All Items, Dallas-Fort Worth SMA as of the first date of the Contract to the date of request for change, but in no case shall the price for the option period increase more than fifteen percent (15%) above the amount set forth in the proposal.

9. COMPANY shall:

a. comply with all applicable laws, rules, codes and regulations of Local, State and U.S. Governments;

b. have a designated supervisor on the job site at all times work is in progress;

c. make no changes in the scheduled work without written authorization from CITY;

e. permit and facilitate inspection of the work in progress by CITY;

f. not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex or national origin;

g. be responsible for any damage caused by COMPANY to CITY property and repair such damage at his own cost;

h. remedy all defects in workmanship which develop within a period of one (l) year from the date of service report acceptance by CITY; and

i. not permit any worker to labor more than eight (8) hours during any one (l) calendar day or more than forty (40) hours during any one (l) calendar week, except as permitted by law; pay all royalties, license, and permit fees and applicable taxes required to execute this Contract.

10. In the event COMPANY is in noncompliance with any of the covenants or provisions of this Contract, and such noncompliance is not cured within thirty (30) days after receipt of written notice from CITY, CITY may terminate this Contract at the end of said thirty (30) day period, and may seek such other remedies as may be available in law or equity. Notwithstanding the above, CITY may, at its option, terminate this Contract in the event COMPANY fails on at least three (3) occasions to provide emergency services in a timely manner as required by the Specifications.

11. Failure of CITY to declare any default immediately upon occurrence thereof, or delay in taking any action in connection therewith, shall not waive COMPANY's responsibility to rectify such default, but CITY shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, either in law or in equity.

12. Any notice which may or shall be given under the terms of this Contract shall, unless otherwise provided herein, be in writing and shall be either delivered by hand or sent by United States Registered or Certified Mail, postage prepaid:

To CITY:

(If mailed) P. O. Box 1152
Midland, Texas 79702

(If hand delivered) 300 North Loraine
Suite 220
Midland, Texas 79701

To COMPANY.

The above addresses may be changed at any time by providing written notice to the other party.

13. **GOVERNING LAW AND VENUE:** This contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this contract shall be deemed to have occurred in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this contract or the performance of this contract shall be in Midland County, Texas.

14. This obligation and undertakings of each of the parties to this Contract shall be performed in Midland County, Texas.

15. This Contract may not be altered, changed or amended, except by an instrument in writing signed by all parties hereto.

16. This Contract and all incorporated Contract documents constitute the entire agreement among CITY and COMPANY; no prior written or contemporaneous oral promises or representations shall be binding.

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

18. RELEASE: NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND CITY'S COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE. THE OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

19. WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR

BREACH OF THIS CONTRACT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

20. **NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Contract) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which COMPANY shall settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented and the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification within the time and manner provided herein shall exonerate, excuse and

except CITY from any liability whatsoever. CITY is under no obligation to provide notice to COMPANY that COMPANY's notice is insufficient. CITY reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

21. **GOVERNMENTAL IMMUNITY:** By executing this Contract CITY is not waiving its right of governmental immunity. CITY is retaining its immunity from suit. CITY is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

22. **ASSIGNMENTS:** COMPANY shall not, either directly or indirectly assign all or any part of this Contract or any interest, right, or privilege herein, without the prior consent of CITY. The issue on whether or not to grant consent to an assignment is in the sole discretion of CITY.

23. **THIRD PARTY BENEFICIARY:** CITY's approval of this Contract does not create a third party beneficiary. There is no third party beneficiary to this Contract. No person or entity who is not a party to this Contract shall have any third party beneficiary or other rights hereunder.

24. **INDEPENDENT CONTRACTOR:** COMPANY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of CITY. COMPANY shall have exclusive control of, and the exclusive right to control the details of the services and work to be performed hereunder, and all persons performing the same. COMPANY shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors and the doctrine of respondeat superior shall not apply as between CITY and COMPANY, its officers, agents, employees, contractors and subcontractors. Nothing in this Contract shall be construed as creating a partnership or joint enterprise between CITY and COMPANY. No person performing any of the work and services described hereunder by COMPANY shall be considered an officer, agent, servant or employee of

CITY. Further, it is specifically understood and agreed that nothing in this contract is intended or construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

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

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

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

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

29. **INSURANCE**

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

Commercial General Liability (including Contractual liability):

-Personal Injury: $1,000,000.00 per person

	$1,000,000.00 per occurrence
-Property Damage:	$500,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Worker's Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

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

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

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

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

COMPANY certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code.

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

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

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

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

32. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements applicable to CITY for the duration of this Contract; (ii) promptly provide to CITY any contracting information related to the Contract that is in the custody or possession of COMPANY on request of CITY; and (iii) on completion of the Contract, either: (a) provide at no cost to CITY all contracting information related to the Contract that is in the custody or possession of COMPANY; or (b) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to CITY.

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

34. **Conflict of Terms.** If a conflict of terms or language exists between: (i) any of the provisions of this Contract and (ii) any of the provisions contained in any exhibit(s) attached to this Contract, precedence shall be given to the provisions of this Contract. For the avoidance of any doubt, the provisions contained in this Contract shall supersede any and all conflicting provisions contained in any exhibit(s) attached hereto. Furthermore, the parties acknowledge and agree that any provision contained in an exhibit(s)

attached to this Contract that imposes an additional express or implied obligation on CITY is hereby made void and of no force or effect. CITY's sole and exclusive obligations under this Contract are contained in the provisions of this Contract that precede the signature page(s), which evidences the parties' execution.

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Robert Patrick, City Manager

ATTEST

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

APPROVED ONLY AS TO FORM

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF_____§

§

COUNTY OF_____§

BEFORE ME, the undersigned authority, on this ____ day of _____, 2023 personally appeared, _____, an officer of _____, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____day of _____, 2023.

_____
Notary Public, State of _____

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

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

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

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

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

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

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

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

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

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY

Date Received

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

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

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

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

7

Signature of vendor doing business with the governmental entity

Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 1/1/2021

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

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

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

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

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

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

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

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

***

(2) the vendor:

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

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

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

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

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

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

(2) the date the vendor becomes aware:

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

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

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

CITY OF MIDLAND

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

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

(1) the lowest bidder; or

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

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

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

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: Midland Cleaning LLC

Local Address (must be within the City limits): 4218 W Wadley Ave, Midland, TX 79707

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

   Reseller Permit Number: _____

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

   _____

   _____

   _____

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

   _____

   _____

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

   ☒ Yes ☐ No

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

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

Authorized Signature: _____ Date: April 28, 2023

Printed Name and Title: Jag Gurung, President

NOTICE TO BIDDERS

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

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

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

COMPLIANCE: Company agrees that it shall comply with Texas Government Code Section 2252.908, *et seq.*, as amended. Company agrees that it shall comply with Texas Local Government Code Section 176.006, *et seq.*, as amended. For further instructions on how to comply with Texas Government Code Section 2252.908 and Texas Local Government Code Section 176.006,

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

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

IMPORTANT: READ CAREFULLY BEFORE MAKING BID
GENERAL CONDITIONS OF BIDDING

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

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

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

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

5. If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. The City of Midland reserves the right to award by item or by total bid, or to reject any or all bids or parts of bids. Further, the City of Midland reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City of Midland reserves the right to award the bid to the lowest responsible bidder.

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

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

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

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

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

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

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

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

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

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

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

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

Seller and Buyer agree as follows:

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

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

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

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

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

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

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

8. WARRANTY - PRICE -

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

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

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

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

11. RIGHT OF INSPECTION - Buyer shall have the right to inspect the goods at delivery before accepting them.

12. CANCELLATION - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breached any of the terms hereof including warranties of Seller if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13. TERMINATION - The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 13, herein.

14. FORCE MAJEURE - Neither party shall be held responsible for losses, resulting if the fulfillment of any terms or provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

15. ASSIGNMENT - DELEGATION - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

16. MODIFICATIONS - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

17. INTERPRETATION - PAROL EVIDENCE - This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, is intended by the parties as a final expression of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

18. ADVERTISING - Seller shall not advertise or publish without Buyer's prior consent the fact that Buyer has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

19. RIGHT TO ASSURANCE - Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

20. PROTECTION AGAINST ROYALTIES OR PATENT INFRINGEMENT - The Seller shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with Patentee or Owner thereof. The Seller shall defend all suits or claims for infringement of any patent or copyrights and shall indemnify and save the Buyer harmless from any loss on account thereof, except that Buyer shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process is allowed to the Seller, the Seller shall indemnify and save Buyer harmless from any loss on account thereof. If the material or process specified or required by Buyer is an infringement, the Seller shall be responsible for such loss unless he promptly gives written notice to the buyer of such infringement.

21. TIME - It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and any failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

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

23. **INSURANCE –**

The following provisions apply unless the agreement is for the supply of goods only:

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

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

The Commercial General Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Workers' Compensation coverage provided by Seller shall inure to the benefit of employees injured during the course and scope of their employment by Seller pursuant to this agreement.

The Business Automobile Liability insurance provided by Seller shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $250,000.00 covering any vehicle used for the execution of the work that is the subject of this agreement.

All insurance required pursuant to this agreement, except for Worker's Compensation Insurance, shall name the Buyer as an additional insured on a claims occurred basis. All insurance required pursuant to this agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Buyer.

The parties agree that, prior to the execution of the agreement, Seller shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

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

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

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

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

26. GOVERNING LAW AND VENUE - This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas.

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

28. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES - As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Seller or his legal representative, shall give the City Manager, or any other reasonable official of the Buyer, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the Seller will settle, the physical and mailing addresses of Seller at the time and date the claim was presented and the physical and mailing addresses of Seller for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Seller relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the Buyer from any liability whatsoever. The Buyer is under no obligation to provide notice to Seller that Seller's notice is insufficient. Buyer reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

29. INDEMNITY (NOT APPLICABLE TO PURCHASE AGREEMENTS) - SELLER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES,

BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF SELLER, its agents or employees, or any subcontractor, arising out of, or resulting from, Seller's use of, or activities on, the agreement premises, and Seller will be required to pay any judgment with costs which may be obtained against Buyer or any of its officers, agents or employees, including reasonable attorney's fees.

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

30. SOVEREIGN IMMUNITY - By executing this agreement the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY**.

31. THIRD PARTY BENEFICIARY - The Buyer's approval of this agreement does not create a third party beneficiary. There is no third party beneficiary to this agreement. No person or entity who is not a party to this agreement shall have any third party beneficiary or other rights hereunder.

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

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

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

33. CONSIDERATION - The terms of this agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

34. CERTIFICATION - In accordance with the Texas Local Government Code, the City of Midland Department of Facilities and Fleet Management does hereby certify that the City of Midland is in compliance with Sections 252, 271 and all applicable sections of the Texas Local Government Code and other state law as it applies to procurement and contracting issues.

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

36. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

No-Bid
Response
For
Request #: 23003168

If your firm has made a decision not to bid on this request, please complete this form and return to:

Office of the Purchasing Manager
City of Midland
P.O. BOX 1152
Midland, TX 79702-1152

or

Fax to: (432) 685-0523

Email: purchasing@midlandtexas.gov

Please Check all reasons below that apply:

- ☐ Cannot provide items requested.
- ☐ Cannot be competitive.
- ☐ Cannot meet the specifications in the request.
- ☐ Cannot provide the liability insurance required by the City of Midland.
- ☐ Cannot provide the Worker's Compensation Insurance required by the City of Midland.
- ☐ Cannot provide the required bonding.
- ☐ Cannot comply with the indemnification requirements.
- ☐ Job too large.
- ☐ Job too small.
- ☐ Do not wish to do business with the City of Midland.
- ☐ Other. Please explain below:

_____

_____

Company Name: _____

Authorized Officer or Agent Signature: _____

Telephone Number: _____ Fax: _____

Email Address: _____

PLEASE NOTE: THIS COMPLETED FORM MAY BE FAXED TO 432-685-0523. IT IS NOT NECESSARY TO RETURN ANY OTHER DOCUMENTS.

CITY OF MIDLAND

PURCHASING DIVISION DATE: April 12, 2023

BID REQUEST PAGE: 1

(THIS IS NOT AN ORDER) **BID NO: 23003168**

OPENING TIME: 2:00 PM **CLOSING DATE: May 3, 2023**

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

BIDS WILL BE RECEIVED IN THE OFFICE OF THE City Secretary, 300 N Loraine St., Suite 330, Midland, TX 79702 UNTIL 2:00 P.M. on May 3, 2023 FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO: Municipal Court, Police, Fire, Garage, Water & Waste Water, Transportation, and Vehicle Services.

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
			Dry Cleaning, Pressing and Laundry Service for various departments for the City of Midland in accordance with the attached specifications, bid detail sheet and agreement. Estimated for a one (1) year period.	5	
				TOTAL	210,180

NOTICE TO BIDDERS:

1. FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
2. BIDS SHALL BE DELIVERED TO THE CITY IN A SEALED PACKAGE (ENVELOPE, ETC) **UNLESS THE CITY STATES** THAT THE BID MAY BE FAXED OR E-MAILED, OTHERWISE, BIDS FAXED OR E-MAILED DIRECTLY TO THE CITY WILL BE REJECTED. A SEALED BID MAY BE FAXED TO A THIRD PARTY FOR SEALED DELIVERY TO THE CITY. PLEASE CALL FOR MORE INFORMATION.
3. IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED CONTRACT AND INSURANCE REQUIREMENTS ARE **NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/CONTRACTOR OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/CONTRACTOR MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.
4. IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF PARAGRAPH 3, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER.
5. **IMPORTANT NOTICE** – IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.
6. BIDDER/CONTRACTOR/COMPANY IS RESPONSIBLE FOR ACQUIRING AND ACKNOWLEDGING ALL ADDENDA.
7. **Public Information.** To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder agrees as follows in accordance with Section 552.372(b) of the Texas Government Code: The requirements of Subchapter J, Chapter 552, Government Code, may apply to this bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR 685-7233. FAX NO. (432) 685-0523

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.

THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: COMET CLEANERS
ADDRESS 2711 E 8TH AVENUE
CITY MIDLAND ST TX ZIP 79707
PHONE NO. 432 697 8419 FAX NO. —
EMAIL: BURT A FISHER @ GMAIL . COM

CASH DISCOUNT: 0 % _____ DAYS

DELIVERY CAN BE MADE _____

AUTHORIZED SIGNATURE [signature]

PLEASE READ CONDITIONS FOR BIDDING ON BACK BEFORE SUBMITTING

MIDLAND
Purchasing Division

On-line responses will not be allowed for this solicitation.

Delivery of Submittals: Bid packets must be received in the City Secretary's Office no later than designated bid date and time. Bidders are responsible for the means of timely delivering the bid packet. Delays due to any instrumentality used to transmit the bid packet (e.g., delay occasioned by a bidder, City's internal mailing system, etc.) are the sole responsibility of the bidder. **Late bid packets will not be accepted under any circumstances.**

Please print these documents and submit your bid in a sealed envelope to:

Mailing Address:

The City Secretary's Office
City of Midland
P. O. Box 1152
Midland, TX 79702

OR

Physical Address:

The City Secretary's Office
City of Midland
300 N. Loraine, Suite 330
Midland, TX 79701

ATTENTION: The deadline for submitting additional questions is 72 working hours before the bid opening date. Questions submitted before the Noon deadline will be included in the Addendum. Questions submitted after the Noon deadline will not receive any additional information and will instead only be directed to the information already provided.

Vendor Name: Comet

MIDLAND
Purchasing Division

Detail Sheet
For
Dry Cleaning & Laundry
(Exhibit A1)

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Midland Police Department & Municipal Court: Men & Women			
1	Uniform Shirts	3500	$ 5	$ 17500
2	Uniform Pants (100% Polyester & Poly/Wool Blends)	2500	$	$ 12500
3	Uniform "Cargo" Pants (65/35 Poly/Cotton – Laundered)	500	$	$ 2500
4	SWAT Shirts (BDU Shirts, ie: camos, blacks, navy blues)	500	$	$ 2500
5	SWAT Pants (BDU Pants, ie: camos, blacks, navy blues)	200	$	$ 1000
6	SWAT Field Jackets	25	$	$ 125
7	Winter Jackets and Coats	150	$	$ 750
8	Ties	60	$	$ 300
9	Parade Attire (white gloves, ascots, braids)	25	$	$ 125
10	Police Cap Tops	5	$	$ 25
11	Uniform "Cargo" Shorts (also includes bike shorts)	25	$	$ 125
12	Polo Style Uniform Shirts	50	$	$ 250
13	T-Shirts (w/printed POLICE logos)	10	$	$ 50
14	Table Cloths	40	$	$ 200
15	Judges Robes (Dry Clean)	6	$	$ 30
16	Uniform Shirts	1560	$	$ 7800
17	Uniform Pants (100% Polyester & Poly/Wool Blends)	1560	$	$ 7800
	Plainclothes: Men & Women			
18	2 Pc. Suits	75	$	$ 375
19	Dress Slacks (Dockers, etc.)	625	$	$ 3125
20	Dress Shirts/Blouses	875	$	$ 4375
21	Ladies 2 pc. Pants Suits	10	$	$ 50
22	Jeans (Wrangler "colored" dress jeans & reg. Denim)	430	$	$ 2150
23	Dress Coats	15	$	$ 75
24	Ladies Skirts	10	$	$ 50
25	Ladies Dresses	10	$	$ 50
	TOTAL COST FOR MPD & COURT			$ 58,830

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	FIRE DEPARTMENT: Dry Cleaning			
26	Uniform Pants (100% Polyester), Slacks, Trousers, EMS Pants	50	$ 5	$ 250
27	Dress Uniform Coats	50	$ 5	$ 250
28	Ties	25	$ 10	$ 250
	TOTAL COST FOR MFD			$ 750
	Quantity is for one year – Estimated Quantities			
			GRAND TOTAL COST:	$ 5,580

NOTE: No 100% Silk, Leather, Fur, Fleece or other exotic materials will be submitted for cleaning nor should be accepted by the contractor according to this contract. Any special requests will be the responsibility of the employee unless otherwise specified. If the contractor chooses to clean these items it is her/her responsibility to collect the fees for such from the individual employee.

Name of Insurance Company: NATIONWIDE
Type of Coverage Carried: BAILEE
Amount of Insurance Carried: 1 MILLION
Address of the Night Drop Location: —
Addresses of alternate drop locations for daytime drops and pick-ups:
417 WADLEY
4417 WADLEY
3108 CAMBRIGHT
1705 TRADEWINDS
2700 MIDLAND DR
2600 BELMONT

Maximum number of garments that will be placed in a single garment bag: 5

This detail sheet must be completed and submitted with the bid for the bid to be considered

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

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

OR

FAX: (432) 685-0523
E-mail: purchasing@midlandtexas.gov

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

Award:
If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:

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

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

SOVEREIGN IMMUNITY.

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

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

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

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE

INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

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

4-13-23

Delivery Date

BurtAFisher@Gmail.com

E-mail Address

City of Clewiston

Company Name

4-13-23

Date

Authorized Signature

432-557-3419

Phone

Burt A. Fisher

Print Above Name

Fax

CITY OF MIDLAND
SPECIFICATION
23003168
Laundry & Dry Cleaning for
Police & Fire Departments
And, Municipal Court
Exhibit "B"

1. SCOPE:
Dry cleaning, pressing and laundry service for the Midland Municipal Court, Police and Fire Departments will be provided in accordance with these specifications and the attached "Dry Cleaning and Laundry Service Agreement".

2. INTENT:
The City intends to contract the services herein for a two-year period with a possibility of two additional one-year extension. The City desires to have as many locations as possible for personnel to be able to drop off their cleaning and/or laundry.

3. VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:
The City of Midland
Office of the Purchasing Agent OR FAX: (432)685-0523
PO BOX 1152
Midland, TX 79702
All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.

4. DEFINITIONS
4.1. UNIFORMSHIRTS:
Dark Navy or Light Blue or White long sleeve and short sleeve shirts with shoulder patches. These shirts can have the following fabric contents: Poly/cotton blend, Poly/wool blend, Dacron/Polyester or 100% polyester.
4.2. UNIFORMPANTS:
Dark Navy pants with or without striping. These pants can have the following fabric contents: 100% Polyester, Poly/wool or Poly/cotton blends.
4.3. UNIFORM "CARGO" PANTS:
Dark Navy pants with cargo pockets on sides of pants just above the knee. Fabric content: Poly/cotton blend. These pants should be laundered and starched, NOT DRY CLEANED.

4.4. SWAT SHIRTS:
Black, Navy or Urban Camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style. These shirts can have the following fabric contents: poly/cotton, cotton ripstop.

4.5. SWATPANTS:
Black, Navy or Urban Camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style. These pants can have the following fabric contents: poly/cotton, cotton ripstop.

4.6. SWAT FIELDJACKETS:
Black, Navy or Urban camouflage in color with department shoulder patches and/or SWAT patches. BDU or Battle Dress Uniform in style which includes (4) bellowed pockets on the front of the jacket. These jackets can have the following fabric contents: poly/cotton, cotton ripstop.

4.7. \VINTER JACKETS/ COATS:
Dark Navy in color. These jackets will have department shoulder patches and the manufacturer will be Blauer, Inc. or Fechheimer for the Police Dept. The Fire Dept has various brands of winter jackets/coats. These jackets/coats will have detachable fur collars and removable liners. These jackets have the following fabric contents: 100% nylon outer shell with removable "thinsulate" liner.

4.8. WINDBREAKERS (embroidered or silk screened for Police):
Dark Navy in color. These jackets will have snap closures in front and will be either embroidered or silk screened with department insignia on sleeves, back and front sides of the jacket. These jackets will also either be lined or unlined. The fabric content can be 100% polyester.

4.9. WINDBREAKERS (silk screened for Fire Department):
Dark Navy with "Fire Dept." screen printed on the backside of the jacket. These will need to be laundered not dry cleaned. The fabric content contains the following: 100% nylon.

4.10. TIES:
Dark Navy in color, or multi colored/multi patterned for "plain clothes" officers. These ties may either be regular or clip on styles. Fabric Contents can consist of 100% polyester.

4.11. PARADE ATTIRE:
These items are used for the Honor Guard. They consist of white cotton or polyester gloves, nylon white braids, cotton or polyester white ascots.

4.12. POLICE CAPTOPS:
Dark Navy or White police cap tops can consist of 100% polyester or 100% wool blends.

4.13. UNIFORM "CARGO" SHORTS:
Dark Navy in color. The fabric consists of the following: Poly/cotton blend.

4.14. BIKE SHORTS:
Dark Navy shorts. These shorts have a 100% nylon outer shell with lycra spandex inner short with built-in padding.

4.15. POLO STYLE UNIFORM SHIRTS:

These shirts will be of various colors, have department insignia embroidered on them and of

"pull over" style. These shirts will also include "dress" polo style shirts for "plain clothes" officers. (Sometimes referred to as golf shirts.)

4.16. T-SHIRTS:
These shirts will be of poly/cotton blend or 100% cotton and have department insignia silk-screened on front and/or back of the shirts.
4.17. 2 PC. SUITS:
These shall consist of a matching men's or ladies dress jacket and dress slacks.
4.18. TABLECLOTHS:
These are of various colors and consist of cotton/polyester blends.
4.19. SUIT JACKETS:
These include sport jackets, dress suit jackets, dress western style jackets and blazers. Fabric contents can include wool blends, cotton/poly blends, polyester, etc. No leather jackets or jackets with leather elbow patches will be accepted.
4.20. DRESS SLACKS:
These shall include dress slacks, Levi's Dockers or similar style pants.
4.21. JEANS:
These shall include Wrangler or other brand name denim jeans in either denim blue or other various colors. Western style in nature. These shall also include ladies Roper brand, Silverlake brand, Rockies brand, etc. The fabric content can contain 100% cotton.
4.22. DRESS SHIRTS/BLOUSES:
These shall include all men's and ladies dress style shirts and blouses of various colors and styles. The fabric contents can include: Cotton, cotton/poly blends, rayon, Dacron blends, etc. All 100% silk, leather, fur or fleece is unacceptable.
4.23. LADIES SKIRTS:
These include several different styles and fabric contents.
4.24. DRESS COATS/JACKETS:
These include heavy winter type jackets for wear with plain clothes. The fabric contents are various.
4.25. LADIES DRESSES:
These shall consist of either one or two piece dresses. No 100% silk items should be accepted.
4.26. EMS PANTS:
These pants are dark navy or black. The fabric contents can include: poly/cotton or cotton.

4.27. HOODS:

These hoods are Nomex or PBI fabric. These will need to be laundered not dry cleaned.
4.28. UNIFORM SHORTS:
These shorts are dark navy or black. The fabric contents can include poly/cotton or cotton.

5. REQUIREMENTS

5.1. INSURANCE:
The successful bidder shall have insurance to cover all articles in their possession at all times (See Contract Minimum). Bidder to furnish the following information:
5.1.1. NAME OF INSURANCE COMPANY

5.1.2. TYPE OF COVERAGE CARRIED
5.1.3. AMOUNT OF INSURANCE CARRIED
Selected Bidder shall be required to provide an Insurance Certificate prior to execution of the Agreement.
5.2. QUANTITIES:
All quantities shown on the detail sheet are estimates ONLY. Actual quantities will vary.
5.3. CONTRACT PERIOD:
Bids are requested to cover two years dry cleaning and pressing and laundry service.
5.4. GARMENTS:
Bids are requested for dry cleaning and pressing and laundry service for items as shown on the attached detail sheet, EXHIBIT A.
5.5. COSTS:
The bidder shall indicate on the detail sheet the cost of this service for each item for each cleaning. The costs shall include all charges as noted below.
5.6. REPAIRS:
5.6.1. MINOR REPAIRS:
The successful bidder shall at no extra charge do all minor repairs to all uniforms as required to maintain them in a serviceable condition. Such repairs shall include:
rips and tears less than 6".
worn spots.
loose or open seams.
& lost OR broken buttons.

NOTE: **Repairs of any other description shall not be considered a minor repair, and are beyond the scope of this agreement and shall have prior approval of charges by the designated representative before any work is performed.**
5.7. SERVICE:
5.7.1. TURNAROUND:
The successful bidder must be able to provide two-day or less service, except in the case of minor repairs which may be up to two (2) additional days.
5.7.2. NIGHT DEPOSITORY:
Night depository facility is mandatory. A night depository facility, secure from theft, and convenient for use by Police and Fire personnel is mandatory.
5.7.3. MULTIPLE STORES/DROPS:
5.7.3.1. Where the successful bidder has more than one store location taking in Dry cleaning/laundry, all the stores/drops shall be available for the purpose of dropping off and picking up articles falling within the scope of this bid request and Agreement.
5.7.3.2. Articles shall be picked up at the location where dropped unless otherwise noted on the drop tickets.
5.7.3.3. The successful bidder shall have ample storage space for cleaned uniforms etc., until picked up by City.
5.7.4. PERSONNEL & EQUIPMENT:
All bidders shall have enough employees and equipment (not coin operated machines) to do professional work, this includes starching uniform shirts, repairs and etc. Any portion of work that will be sub-contracted shall be noted in the bid. The City reserves the right to approve sub-contractors. Sub-contractors shall supply the City with the same insurance coverages and endorsed as required by the Agreement and specifications herein.

5.7.4.1. If, under *extraordinary circumstances,* clothing has to be cleaned at another location, the clothes shall not be left unattended.

5.7.5. JACKETS:
5.7.5.1. Most jackets have removable liners that must be removed before dry cleaning.
5.7.5.2. These liners are zipped and buttoned-in for easy removal.
5.7.5.3. Bidders should note that these liners must be removed before dry cleaning.
5.7.6. PACKAGING:
Only one pair of pants, one shirt or other article of clothing shall be hung on a single hanger. However, more than one article, as may be practical, may be placed in a plastic garment

• ALL ARTICLES SHALL BE DELIVERED IN A PLASTIC GARMENT BAG.
• ALL PANTS SHALL BE DELIVERED ON HANGERSWITH CARDBOARD SLEEVES.

5.7.7. DOCUMENTATION:
The successful bidder will furnish an adding machine tape with each bundle of tickets indicating the dollar amount of each employee.

6. QUALITY ASSURANCE:

6.1. Odors:
6.1.1. The use of cleaning fluid or material that leaves an unpleasant odor in clothing shall be cause for rejection of cleaned articles and they shall be re-cleaned at no additional charge.
6.1.2. Laundered articles that are picked up which have sour or other unpleasant odors shall be rejected and re-laundered at no additional charge.
6.1.3. Any article received without necessary repairs being made shall be rejected and returned for
repair. If repairs necessitate re-laundering, dry cleaning or pressing, it shall be performed at no additional charge.
6.2. Continued complaints of the above shall be cause for termination of this agreement.
NOTE TO ALL BIDDERS: Bidders are responsible for meeting or exceeding the requirements set forth in these specifications and agreement and should bid accordingly.

7. AWARD

7.1. The City and Bidder agree that, if the Agreement is awarded, that it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Further, City reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City reserves the right to award the bid to the lowest responsible bidder.

Vendor Name: Comet

MIDLAND
Purchasing Division

Detail Sheet
For
Dry Cleaning & Laundry
(Exhibit A2)

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Water and Wastewater, Garage, and Transportation: Men & Women			
	Water and Wastewater:			
1	Uniform Shirts	5500	$ 5	$ 27500
2	Uniform Pants	5500	$	$ 27500
3	Jeans	2750	$	$ 13750
4	Coveralls	240	$	$ 1200
	TOTAL COST FOR WATER & WASTEWATER			$ 69950
	Garage:			
5	Uniform Shirts	3250	$	$ 16250
6	Uniform Pants	1250	$	$ 6250
7	Jeans	3250	$	$ 16250
8	Coveralls	100	$	$ 500
9	Jackets	100	$	$ 500
10	Sweaters	100	$	$ 500
	TOTAL COST FOR GARAGE			$ 40250
	Transportation:			
11	Uniform Shirts	2000	$	$ 10000
12	Denim Jeans	1800	$	$ 9000
13	Coveralls	20	$	$ 100
	TOTAL COST FOR TRANSPORTATION			$ 19100
	Vehicle Services:			
14	Uniform Shirts	1500	$	$ 7500
15	Uniform Pants	1500	$	$ 7500
16	Denim Jeans	1000	$	$ 5000
17	Sweaters	130	$	$ 650
18	Jackets	130	$	$ 650
	TOTAL COST FOR VEHICLE SERVICES			$ 21300

ITEM	DESCRIPTION	QTY*	COST EA.	TOTAL
	Quantity is for one year – ESTIMATED quantities			
	GRAND TOTAL COST:			$150,600

NOTE: No 100% Silk, Leather, Fur, Fleece or other exotic materials will be submitted for cleaning nor should be accepted by the contractor according to this contract. Any special requests will be the responsibility of the employee unless otherwise specified. If the contractor chooses to clean these items it is her/her responsibility to collect the fees for such from the individual employee.

Name of Insurance Company: NATIONWIDE
Type of Coverage Carried: BAILEE
Amount of Insurance Carried: 1 MILLION
Address of the Night Drop Location: —
Addresses of alternate drop locations for daytime drops and pick-ups:

417 WADLEY
4212 WADLEY
3708 CUTHBERT
1205 TRADEWINDS
1401 MIDLAND DR
2100 BELMONT

Maximum number of garments that will be placed in a single garment bag:

This detail sheet must be completed and submitted with the bid for the bid to be considered

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

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

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

Award:
If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:

A. WAIVER OF ATTORNEY FEES: BY SUBMITTING THIS BID, BIDDER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED

TO THE BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET. SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, THE BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

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SOVEREIGN IMMUNITY.

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

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

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

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

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

4-13-23

Delivery Date

Comet Cleaners

Company Name

Authorized Signature

Burt A. Fisher

Print Above Name

BurtAFisher@Gmail.com

E-mail Address

4-13-23

Date

432-557-3419

Phone

Fax

CITY OF MIDLAND
SPECIFICATION
23003168
Laundry & Dry Cleaning for the Water & Wastewater Division, the Garage Division, and the Transportation Division
Exhibit "B"

1. SCOPE:
Dry cleaning for the Water & Wastewater Division and the Garage Division will be provided in accordance with these specifications and the attached "Dry Cleaning Service Agreement".

2. INTENT:
The City intends to contract the services herein for a two-year period with a possibility of two additional one-year extensions. The City desires to have as many locations as possible for personnel to be able to drop off their cleaning.

3. VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:
The City of Midland
Office of the Purchasing Agent OR FAX: (432)685-0523
P.O. Box 1152 EMAIL: purchasing@midlandtexas.gov
Midland, TX 79702
All vendors on the bid list will then be notified of the questions and presented an answer. Information provided by other City personnel shall not be considered binding.
If the contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

4. REQUIREMENTS:
4.1. INSURANCE:
The successful bidder shall have insurance to cover all articles in their possession always (See Contract Minimum). Bidder to furnish the following information:
4.1.1 NAME OF INSURANCE COMPANY
4.1.2 TYPE OF COVERAGE CARRIED
4.1.3 AMOUNT OF INSURANCE CARRIED
Selected Bidder shall be required to provide an Insurance Certificate prior to execution of the Agreement.

4.2. QUANTITIES:
All quantities shown on the detail sheet are estimates ONLY. Actual quantities will vary.

4.3. CONTRACT PERIOD:
Bids are requested to cover two years dry cleaning service only.

4.4. GARMENTS:
Bids are requested for dry cleaning service for items as shown on the attached detail sheet, EXHIBIT A.

4.5. COSTS:
The bidder shall indicate on the detail sheet the cost of this service for each item for each cleaning. The costs shall include all charges as noted below.

4.6. REPAIRS:
4.6.1 MINOR REPAIRS:
The successful bidder shall at no extra charge do all minor repairs to all uniforms as required to maintain them in a serviceable condition. Such repairs shall include:

- rips and tears less than 6".
- worn spots.
- loose or open seams.
- lost OR broken buttons.

NOTE: **Repairs of any other description shall not be considered a minor repair and is beyond the scope of this agreement and have prior approval of charges by the designated representative before any work is performed.**

4.7 SERVICE:
4.7.1 TURNAROUND:
The successful bidder must be able to provide two-day or less service, except in the case of minor repairs which may be up to two (2) additional days.

4.7.2 NIGHT DEPOSITORY:
Night depository facility is mandatory. A night depository facility, secure from theft, and convenient for use by Water & Wastewater personnel is mandatory.

4.7.3. MULTIPLE STORES/DROPS:
4.7.3.1. Where the successful bidder has more than one store location taking in Dry cleaning, all of the stores/drops shall be available for the purpose of dropping off and picking up articles falling within the scope of this bid request and Agreement.

4.7.3.2. Articles shall be picked up at the location where dropped unless otherwise noted on the drop ticket.

4.7.3.3. The successful bidder shall have ample storage space for cleaned uniforms etc., until picked up by City.

4.7.4. PERSONNEL & EQUIPMENT:
All bidders shall have sufficient employees and equipment (not coin operated machines) to do professional work; this includes starching uniform shirts, repairs and etc.

4.7.4.1. If under *extraordinary circumstances,* clothing has to be cleaned at another location, the clothes shall not be left unattended.

4.7.5. JACKETS:

4.7.5.1. Most jackets have removable liners that must be removed before dry cleaning.

4.7.5.2. These liners are zipped and buttoned-in for easy removal.

4.7.5.3. Bidders should note that these liners must be removed before dry cleaning.

4.8 PACKAGING:

4.8.1. Only one pair of pants, one shirt or other article of clothing shall be hung on a single hanger.

4.8.1.1. However, more than one article, as may be practical, may be placed in a plastic garment protector bag.

4.8.1.2. ALL ARTICLES SHALL BE DELIVERED IN A PLASTIC GARMENT BAG.

4.9 DOCUMENTATION:

The successful bidder will furnish an adding machine tape with each bundle of tickets indicating the dollar amount of each bundle per employee.

5. QUALITY ASSURANCE:

5.1. CLEANING FLUIDS:

5.1.1. The use of cleaning fluid or material that leaves an unpleasant odor in clothing shall be cause for rejection of cleaned articles and they shall be re-cleaned at no additional charge.

5.2. CLEANED ARTICLES SHALL BE RENDERED BACTERIA FREE

5.3. ODORS:

5.3.1. Cleaned articles that are picked up which have sour or other unpleasant odors shall be rejected and re-laundered at no additional charge.

5.4. UNNECESSARY REPAIRS:

5.4.1. Any article received without necessary repairs being made shall be rejected and returned for repair. If repairs necessitate dry cleaning, it shall be performed at no additional charge.

5.5. UNRESOLVED PROBLEMS & COMPLAINTS:

5.5.1. Continued complaints of the above shall be cause for termination of this agreement.

6. AWARD:

The City and Bidder agree that, if the Agreement is awarded, that it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the city of midland in determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Further, City reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City reserves the right to award the bid to the lowest responsible bidder.

NOTE TO ALL BIDDERS: Bidders are responsible for meeting or exceeding the requirements set forth in these specifications and agreement and should bid accordingly.

CITY OF MIDLAND
SERVICE CONTRACT
#23003136 Dry Cleaning

THIS CONTRACT, effective this __ day _____2023 by and between the City of Midland, hereinafter referred to as the "CITY" and _____, hereinafter referred to as the "COMPANY".

Projected Annual Cost: $ 210,180

For and in consideration of the payments and Contracts hereinafter mentioned, COMPANY and CITY hereby agree as follows:

1. COMPANY shall perform all work as set forth in the Specifications and Instructions to Bidders, which are incorporated as part of this Contract. In performing the work, COMPANY shall, at its own cost and expense furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said work, in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with the Notice to Bidders, Instructions to Bidders, and the Specifications and addenda therefor, and the Performance Bond hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

2. COMPANY hereby agrees to commence work within fifteen (15) days after the date written notice to do so shall have been given to it by CITY.

3. CITY agrees to pay COMPANY in current funds the price or prices shown in the Proposal, which forms a part of this Contract. No payment shall be due until the monthly service report has been delivered to CITY.

4. COMPANY shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws and building codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of Associated General Contractors of America, except where incompatible with federal, state or municipal laws or regulations.

5. <u>INDEMNITY:</u> COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES

RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF COMPANY, IT'S AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

5.1. COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH COMPANY OR COMPANY'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5.1 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

INDEMNIFY AND SAVE HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF COMPANY OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5.2 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

6. COMPANY Hereby waives all rights to any attorney's fees awarded as a result of any action brought under the Texas Declaratory Judgment Act relating to this Contract.

7. CITY shall have the right to withhold payment for:

a. defective work not corrected;

b. completed service report not submitted;

c. failure of COMPANY to pay subcontractors or suppliers;

d. damage to other work or CITY's property or equipment; or

e. default of COMPANY in performance of this Contract.

The Initial term of this Contract shall be one (1) year. CITY shall have the right to extend the term of this Contract for four (4) additional one (1) year periods by providing written notice to COMPANY of CITY's desire to extend the Contract not later than sixty (60) days prior to the end of the then current term. Extensions of this Contract will be based on acceptable performance as long as the price does not exceed administrative parameters.

8. Prices for the extension of the Contract described in Paragraph 7 shall be adjusted by a percentage equal to the percentage increase in the Consumer Price Index All Items, Dallas-Fort Worth SMA as of the first date of the Contract to the date of request for change, but in no case shall the price for the option period increase more than fifteen percent (15%) above the amount set forth in the proposal.

9. COMPANY shall:

a. comply with all applicable laws, rules, codes and regulations of Local, State and U.S. Governments;

b. have a designated supervisor on the job site at all times work is in progress;

c. make no changes in the scheduled work without written authorization from CITY;

e. permit and facilitate inspection of the work in progress by CITY;

f. not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex or national origin;

g. be responsible for any damage caused by COMPANY to CITY property and repair such damage at his own cost;

h. remedy all defects in workmanship which develop within a period of one (l) year from the date of service report acceptance by CITY; and

i. not permit any worker to labor more than eight (8) hours during any one (l) calendar day or more than forty (40) hours during any one (l) calendar week, except as permitted by law; pay all royalties, license, and permit fees and applicable taxes required to execute this Contract.

10. In the event COMPANY is in noncompliance with any of the covenants or provisions of this Contract, and such noncompliance is not cured within thirty (30) days after receipt of written notice from CITY, CITY may terminate this Contract at the end of said thirty (30) day period, and may seek such other remedies as may be available in law or equity. Notwithstanding the above, CITY may, at its option, terminate this Contract in the event COMPANY fails on at least three (3) occasions to provide emergency services in a timely manner as required by the Specifications.

11. Failure of CITY to declare any default immediately upon occurrence thereof, or delay in taking any action in connection therewith, shall not waive COMPANY's responsibility to rectify such default, but CITY shall have the right to declare any such default at any time and take such action as might be lawful or authorized hereunder, either in law or in equity.

12. Any notice which may or shall be given under the terms of this Contract shall, unless otherwise provided herein, be in writing and shall be either delivered by hand or sent by United States Registered or Certified Mail, postage prepaid:

To CITY:

(If mailed) P. O. Box 1152
Midland, Texas 79702

(If hand delivered) 300 North Loraine
Suite 220
Midland, Texas 79701

To COMPANY.

The above addresses may be changed at any time by providing written notice to the other party.

13. **GOVERNING LAW AND VENUE:** This contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this contract shall be deemed to have occurred in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this contract or the performance of this contract shall be in Midland County, Texas.

14. This obligation and undertakings of each of the parties to this Contract shall be performed in Midland County, Texas.

15. This Contract may not be altered, changed or amended, except by an instrument in writing signed by all parties hereto.

16. This Contract and all incorporated Contract documents constitute the entire agreement among CITY and COMPANY; no prior written or contemporaneous oral promises or representations shall be binding.

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

18. RELEASE: NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND CITY'S COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE. THE OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

19. WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR

BREACH OF THIS CONTRACT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

20. **NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Contract) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which COMPANY shall settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented and the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification within the time and manner provided herein shall exonerate, excuse and

except CITY from any liability whatsoever. CITY is under no obligation to provide notice to COMPANY that COMPANY's notice is insufficient. CITY reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

21. **GOVERNMENTAL IMMUNITY:** By executing this Contract CITY is not waiving its right of governmental immunity. CITY is retaining its immunity from suit. CITY is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

22. **ASSIGNMENTS:** COMPANY shall not, either directly or indirectly assign all or any part of this Contract or any interest, right, or privilege herein, without the prior consent of CITY. The issue on whether or not to grant consent to an assignment is in the sole discretion of CITY.

23. **THIRD PARTY BENEFICIARY:** CITY's approval of this Contract does not create a third party beneficiary. There is no third party beneficiary to this Contract. No person or entity who is not a party to this Contract shall have any third party beneficiary or other rights hereunder.

24. **INDEPENDENT CONTRACTOR:** COMPANY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of CITY. COMPANY shall have exclusive control of, and the exclusive right to control the details of the services and work to be performed hereunder, and all persons performing the same. COMPANY shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors and the doctrine of respondeat superior shall not apply as between CITY and COMPANY, its officers, agents, employees, contractors and subcontractors. Nothing in this Contract shall be construed as creating a partnership or joint enterprise between CITY and COMPANY. No person performing any of the work and services described hereunder by COMPANY shall be considered an officer, agent, servant or employee of

CITY. Further, it is specifically understood and agreed that nothing in this contract is intended or construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

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

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

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

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

29. **INSURANCE**

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

Commercial General Liability (including Contractual liability):

-Personal Injury: $1,000,000.00 per person

	$1,000,000.00 per occurrence
-Property Damage:	$500,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit -
	Personal Injury and Property Damage
Worker's Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis.

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

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

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

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

COMPANY certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code.

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

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

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

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

32. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements applicable to CITY for the duration of this Contract; (ii) promptly provide to CITY any contracting information related to the Contract that is in the custody or possession of COMPANY on request of CITY; and (iii) on completion of the Contract, either: (a) provide at no cost to CITY all contracting information related to the Contract that is in the custody or possession of COMPANY; or (b) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to CITY.

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

34. **Conflict of Terms.** If a conflict of terms or language exists between: (i) any of the provisions of this Contract and (ii) any of the provisions contained in any exhibit(s) attached to this Contract, precedence shall be given to the provisions of this Contract. For the avoidance of any doubt, the provisions contained in this Contract shall supersede any and all conflicting provisions contained in any exhibit(s) attached hereto. Furthermore, the parties acknowledge and agree that any provision contained in an exhibit(s)

attached to this Contract that imposes an additional express or implied obligation on CITY is hereby made void and of no force or effect. CITY's sole and exclusive obligations under this Contract are contained in the provisions of this Contract that precede the signature page(s), which evidences the parties' execution.

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Robert Patrick, City Manager

ATTEST

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

APPROVED ONLY AS TO FORM

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name: _____

Title: _____

STATE OF _____§

§

COUNTY OF _____§

BEFORE ME, the undersigned authority, on this ____ day of _____, 2023 personally appeared, _____, an officer of _____, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____day of _____, 2023.

_____
Notary Public, State of _____

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

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

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

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

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

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

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

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

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

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY

Date Received

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

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

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

_____

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

7

_____ _____

Signature of vendor doing business with the governmental entity Date

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 1/1/2021

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

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

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

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

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

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

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

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

***

(2) the vendor:

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

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

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

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

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

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

(2) the date the vendor becomes aware:

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

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

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

CITY OF MIDLAND

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

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

(1) the lowest bidder; or

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

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

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

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: COMET CLEANERS

Local Address (must be within the City limits): 4711 BRIARWOOD

1. Is the above address the principal place of business for the business named above? ☒ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? 20
3. Year your business was established in the City of Midland: 1997
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

   Reseller Permit Number: _____

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

   _____

   _____

   _____

5. Does your business have more than one office in the State of Texas? ☒ Yes ☐ No
   If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:
   3108 GLENHOLLY - 1601 MIDLAND DR - 417 WADLEY
   4212 WADLEY - 1201 TROPICANA - 2100 BELLAIRE
6. Was the local business required to pay business and/or real property tax for the most recent tax year?
   ☒ Yes ☐ No
   If Yes, did the local business pay any of this tax to the City of Midland? ☒ Yes ☐ No

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

Authorized Signature: _____ Date: 4-13-23

Printed Name and Title: Burt Fisher OWNER

NOTICE TO BIDDERS

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

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

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

COMPLIANCE: Company agrees that it shall comply with Texas Government Code Section 2252.908, *et seq.*, as amended. Company agrees that it shall comply with Texas Local Government Code Section 176.006, *et seq.*, as amended. For further instructions on how to comply with Texas Government Code Section 2252.908 and Texas Local Government Code Section 176.006,

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

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

IMPORTANT: READ CAREFULLY BEFORE MAKING BID
GENERAL CONDITIONS OF BIDDING

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

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

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

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

5. If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. The City of Midland reserves the right to award by item or by total bid, or to reject any or all bids or parts of bids. Further, the City of Midland reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City of Midland reserves the right to award the bid to the lowest responsible bidder.

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

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

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

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

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

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

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

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

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

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

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

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

Seller and Buyer agree as follows:

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

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

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

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

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

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

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

8. WARRANTY - PRICE -

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

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

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

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

11. RIGHT OF INSPECTION - Buyer shall have the right to inspect the goods at delivery before accepting them.

12. CANCELLATION - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breached any of the terms hereof including warranties of Seller if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13. TERMINATION - The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 13, herein.

14. FORCE MAJEURE - Neither party shall be held responsible for losses, resulting if the fulfillment of any terms or provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

15. ASSIGNMENT - DELEGATION - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

16. MODIFICATIONS - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

17. INTERPRETATION - PAROL EVIDENCE - This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, is intended by the parties as a final expression of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

18. ADVERTISING - Seller shall not advertise or publish without Buyer's prior consent the fact that Buyer has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

19. RIGHT TO ASSURANCE - Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

20. PROTECTION AGAINST ROYALTIES OR PATENT INFRINGEMENT - The Seller shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with Patentee or Owner thereof. The Seller shall defend all suits or claims for infringement of any patent or copyrights and shall indemnify and save the Buyer harmless from any loss on account thereof, except that Buyer shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process is allowed to the Seller, the Seller shall indemnify and save Buyer harmless from any loss on account thereof. If the material or process specified or required by Buyer is an infringement, the Seller shall be responsible for such loss unless he promptly gives written notice to the buyer of such infringement.

21. TIME - It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and any failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

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

23. **INSURANCE –**

The following provisions apply unless the agreement is for the supply of goods only:

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

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

The Commercial General Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Workers' Compensation coverage provided by Seller shall inure to the benefit of employees injured during the course and scope of their employment by Seller pursuant to this agreement.

The Business Automobile Liability insurance provided by Seller shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $250,000.00 covering any vehicle used for the execution of the work that is the subject of this agreement.

All insurance required pursuant to this agreement, except for Worker's Compensation Insurance, shall name the Buyer as an additional insured on a claims occurred basis. All insurance required pursuant to this agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Buyer.

The parties agree that, prior to the execution of the agreement, Seller shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."
Buyer shall be provided the notice by Seller's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Buyer shall not be required to provide any insurance whatsoever pursuant to this agreement.

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

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

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

26. GOVERNING LAW AND VENUE - This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas.

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

28. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES - As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Seller or his legal representative, shall give the City Manager, or any other reasonable official of the Buyer, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the Seller will settle, the physical and mailing addresses of Seller at the time and date the claim was presented and the physical and mailing addresses of Seller for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Seller relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the Buyer from any liability whatsoever. The Buyer is under no obligation to provide notice to Seller that Seller's notice is insufficient. Buyer reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

29. INDEMNITY (NOT APPLICABLE TO PURCHASE AGREEMENTS) - SELLER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES,

BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF SELLER, its agents or employees, or any subcontractor, arising out of, or resulting from, Seller's use of, or activities on, the agreement premises, and Seller will be required to pay any judgment with costs which may be obtained against Buyer or any of its officers, agents or employees, including reasonable attorney's fees.

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

30. SOVEREIGN IMMUNITY - By executing this agreement the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

31. THIRD PARTY BENEFICIARY - The Buyer's approval of this agreement does not create a third party beneficiary. There is no third party beneficiary to this agreement. No person or entity who is not a party to this agreement shall have any third party beneficiary or other rights hereunder.

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

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

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

33. CONSIDERATION - The terms of this agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

34. CERTIFICATION - In accordance with the Texas Local Government Code, the City of Midland Department of Facilities and Fleet Management does hereby certify that the City of Midland is in compliance with Sections 252, 271 and all applicable sections of the Texas Local Government Code and other state law as it applies to procurement and contracting issues.

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

36. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

No-Bid
Response
For
Request #: 23003168

If your firm has made a decision not to bid on this request, please complete this form and return to:

Office of the Purchasing Manager
City of Midland
P.O. BOX 1152
Midland, TX 79702-1152

or

Fax to: (432) 685-0523

Email: purchasing@midlandtexas.gov

Please Check all reasons below that apply:

- ☐ Cannot provide items requested.
- ☐ Cannot be competitive.
- ☐ Cannot meet the specifications in the request.
- ☐ Cannot provide the liability insurance required by the City of Midland.
- ☐ Cannot provide the Worker's Compensation Insurance required by the City of Midland.
- ☐ Cannot provide the required bonding.
- ☐ Cannot comply with the indemnification requirements.
- ☐ Job too large.
- ☐ Job too small.
- ☐ Do not wish to do business with the City of Midland.
- ☐ Other. Please explain below:

_____

_____

Company Name: _____

Authorized Officer or Agent Signature: _____

Telephone Number: _____ Fax: _____

Email Address: _____

PLEASE NOTE: THIS COMPLETED FORM MAY BE FAXED TO 432-685-0523. IT IS NOT NECESSARY TO RETURN ANY OTHER DOCUMENTS.

City Council Meeting

Item Number: 9

Meeting Date: May 9, 2023

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: **Motion approving the plans and specifications for the Windlands Soccer Fields Irrigation System Project, said plans and specifications being on file in the City Secretary's office referenced by the number and date of this Motion, and authorizing the Interim City Manager or the Interim City Manager's designee to advertise for competitive bids for said project pursuant to the statutes of the State of Texas for accomplishing the work set forth in said plans and specifications (DISTRICT 3) (GENERAL SERVICES)**

Purpose:

Motion authorizing the Interim City Manager or the Interim City Manager's Designee to advertise a request for bids for a new irrigation system at Windlands soccer fields project.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is not required at this time.

Discussion:

Please consider approving a motion authorizing the Interim City Manager or the Interim City Manager's designee to advertise a request for bids for a new irrigation system at Windlands soccer fields. Please see the attached memo from Cristina Burns, Community Services Director for more information.

Tina Dawg

City Manager's Office

Parks Division
Interoffice Memorandum

Date: May 30, 2022
To: Morris Williams Jr., Interim City Manager
From: Cristina Burns, Community Services Director
Subject: Plans for a new irrigation system out for bids at Windlands Soccer Fields.

Windlands Park soccer fields are used extensively by Midland Soccer Association (MSA), who provides recreational soccer for Midland youth. Regular league play and the annual Turkey Shoot Out Tournament are held on these fields during the Spring and Fall soccer seasons. MSA is seeing organizational growth each season, as their number of participants is increasing at a rate of approximately 200 players each year.

The quality of the playing turf on the fields is less than adequate. The first step toward making improvements is to renovate the existing irrigation system, providing adequate coverage to support the playing fields. Once an improved irrigation system is installed, the turf can be renovated by management practices such as over seeding and fertilizer applications that will improve the playing conditions.

Dunaway and Associates has prepared irrigation plans and specifications for the soccer fields that are ready to be put out for bids. Their cost estimate for the renovation of the irrigation system is $865,509.00. The actual funding will be requested after the bids are received.

CITY OF MIDLAND
PARKS & RECREATION DEPARTMENT

2300 Butternut
Midland, TX 79705

(432) 685-7356

CONTRACT DOCUMENTS AND SPECIFICATIONS

FOR

Windlands Parks
Irrigation and Turf Renovation

May 31, 2023

Prepared by:

Dunaway
4000 N. Big Spring Street, Suite 101
Midland, Texas 79705
(432) 699-4889

WINDLAND PARKS
IRRIGATION AND TURF RENOVATION
MIDLAND, TEXAS

CONTRACT DOCUMENTS AND SPECIFICATIONS
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BIDDING REQUIREMENTS, CONTRACT FORMS AND CONDITIONS OF THE CONTRACT

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------ Exhibit D – Heavy Highway Wage Rates
------ Conflict of Interest Reporting Requirements
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------ Consideration of Location of Bidder's Principal Place of Business
------ Notice to Bidders
------ General Conditions of Bidding
------ Standard Purchase Terms and Conditions
------ The City of Midland Contract

DIVISION 1 – GENERAL REQUIREMENTS
01 56 39 Preservation & Protection of Plant Materials

DIVISION 2 – EXISTING CONDITIONS
02 40 00 Demolition

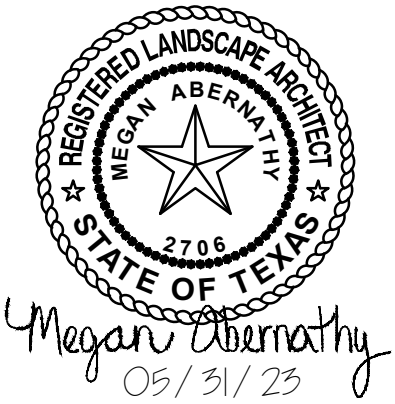
DIVISIONS 3 – 28 – NOT USED

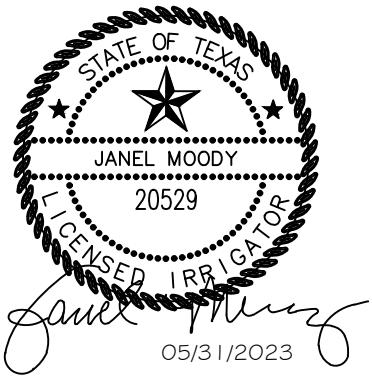
DIVISION 31 - EARTHWORK
31 22 19 Landscape Finish Grading

DIVISION 32 – EXTERIOR IMPROVEMENTS
32 84 00 Irrigation
32 92 00 Lawns and grass

DIVISIONS 33 – 48 – NOT USED

SEALS PAGE





END OF SECTION

PACKET 96 June 13, 2023

RFB 23004213

Windlands Parks Irrigation and Turf Renovation Project

INTRODUCTION

The City of Midland is seeking to engage a company to:
Install a new irrigation system at Windlands Park, located at 1000 West Dengar Avenue, Midland, Texas

GENERAL SCOPE OF SERVICES AND TASKS

The selected company must be qualified to install a complete irrigation system as described in the irrigation plans. A State of Texas licensed irrigator must oversee all installation of the system.

All text and exhibit products shall be computer-based and provided in both hard copy and electronic format compatible with Microsoft Office 2010.

RFB DUE DATE: 2:00 p.m. Wednesday, July 12, 2023.

Please mark the package "Request for Bids 230034213 for the City of Midland, Windlands Parks Irrigation Project". Submit Package to:

City of Midland
City Secretary's Office
Attn: Erika Martinez, Purchasing Manager
300 N. Loraine St. Suite 220
Midland, TX 79701

Final consultant approval will be by the City Council and is subject to budget approval. Consultants may contact Erika Martinez, Purchasing Manager, by email for additional information at purchasing@midlandtexas.gov. All bids are considered public records. The Community Services Department reserves the right to request additional information from consultants submitting qualifications. If selected, staff will make a recommendation to City Council for approval; additional copies of the qualifications may be required.

INTRODUCTION AND SUMMARY

The City of Midland, Texas is seeking a qualified irrigation installation company to install a new irrigation system at the Windlands Park Soccer Fields, located at 1000 West Dengar Avenue in Midland, Texas. The company must employ a full-time irrigator, licensed by the State of Texas, who will over see the installation of the system.

Project Timeline

The irrigation installation company shall work with the city to establish a project timeline. Anticipated start of construction would be October 1, 2023. Expected completion of the construction is no later May 1, 2024.

SCHEDULE OF EVENTS

RFP 23004213

For

Project Windlands Parks Irrigation and Turf Renovation

Event	Date*
RFP Released	June 16, 2023
Cutoff Date for inquiries and clarification	July 7, 2023
Proposal Due Date	July 12, 2023
Notification of Vendor Interviews / Product Demonstrations	To Be Determined
Intended Date for Contract Award	August 8, 2023

*These dates are our intended schedule; however, they may be changed as necessary without further notice.

NOTE:

From the issuance date of this RFP until a Contractor(s) is selected, all verbal communication is not binding. The City will only be bound by written comments submitted by the Purchasing Office.

EXHIBIT C

Bonding Requirements

The successful bidder shall be required to furnish a Performance & Payment Bond* for bids in excess of $50,000.00, in an amount equal to one hundred percent (100%) of the total contract price, such bond to be executed in five (5) original counterparts by a Corporate Surety authorized to do business in the State of Texas and acceptable to the City of Midland. All bonds must be executed on forms contained in these contract documents. The form of agreement which the successful bidder, as contractor, will be required to execute is also included herewith. The form of agreement and the form of the bonds should be carefully examined by the bidder.

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

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

BID BOND

THE STATE OF TEXAS §

SURETY NO. _____

COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS, THAT _____

_____

_____

(hereinafter called the Principal), as Principal, and _____

_____

_____

(hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Obligee), in the amount of _____

_____ DOLLARS

($_____), for the payment whereof the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a Bid or Proposal to enter into a certain written Contract with the obligee to_____

_____.

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

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

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

IN WITNESS THEREOF, THE SAID PRINCIPAL AND SURETY do sign and seal this instrument, this _____ day of _____, 20____.

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

APPROVED AS TO FORM:

_____

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PAYMENT BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND § SURETY NO _____

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

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

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

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

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

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

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

APPROVED AS TO FORM:

_____

City Attorney

NOTE: Attach Power of Attorney

Form Revised August 2012

PERFORMANCE BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND § SURETY NO _____

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

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

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

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

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

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

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

APPROVED AS TO FORM:

_____

City Attorney

NOTE: Attach Power of Attorney

EXHIBIT D – BUILDING WAGE RATES rev 01-01-21

General Decision Number: TX20210261 01/01/2021

Superseded General Decision Number: TX20200261

State: Texas

Construction Type: Building

County: Midland County in Texas.

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

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/01/2021

BOIL0074-003 01/01/2017

	Rates	Fringes
BOILERMAKER	$ 28.00	22.35

ENGI0178-005 06/01/2020

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

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* IRON0084-011 06/01/2020

	Rates	Fringes
IRONWORKER, ORNAMENTAL	$ 25.26	7.13

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* PLUM0404-001 09/01/2020

	Rates	Fringes
PLUMBER	$ 26.05	8.81

SUTX2014-037 07/21/2014

	Rates	Fringes
BRICKLAYER	$ 20.00	0.00
CARPENTER	$ 13.82	0.00
CEMENT MASON/CONCRETE FINISHER	$ 13.76	0.00
ELECTRICIAN	$ 23.18	6.31
INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation)	$ 19.77	7.13
IRONWORKER, REINFORCING	$ 12.27	0.00

IRONWORKER, STRUCTURAL.....$ 22.16 5.26

LABORER: Common or General.....$ 11.80 0.00

LABORER: Mason Tender - Brick……$ 11.38 0.00

LABORER: Mason Tender -

Cement/Concrete.....$ 10.58 0.00

LABORER: Pipelayer.....$ 12.49 2.13

LABORER: Roof Tearoff.....$ 11.28 0.00

OPERATOR:

Backhoe/Excavator/Trackhoe.....$ 14.25 0.00

OPERATOR: Bobcat/Skid

Steer/Skid Loader.....$ 13.93 0.00

OPERATOR: Bulldozer.....$ 18.29 1.31

OPERATOR: Drill.....$ 16.22 0.34

OPERATOR: Forklift.....$ 14.83 0.00

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

OPERATOR: Loader.....$ 13.55 0.94

OPERATOR: Mechanic.....$ 17.52 3.33

OPERATOR: Paver (Asphalt,

Aggregate, and Concrete).....$ 16.03 0.00

OPERATOR: Roller.....$ 12.70 0.00

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

PIPEFITTER.....$ 25.80 8.55

ROOFER.....$ 14.75 0.00

SHEET METAL WORKER (HVAC Duct

Installation Only).....$ 22.73 7.52

SHEET METAL WORKER, Excludes

HVAC Duct Installation.....$ 19.50 0.00

TILE FINISHER.....$ 11.22 0.00

TILE SETTER.....$ 14.74 0.00

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

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

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

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

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

==========

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts. Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses

(29CFR 5.5 (a) (1) (ii)).

EXHIBIT D – Heavy and Highway Wage Rates rev 01-01-21

"General Decision Number: TX20210002 01/01/2021

Superseded General Decision Number: TX20200002

State: Texas

Construction Types: Heavy and Highway

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

HEAVY & HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.95 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/gov contracts.

Modification Number	Publication Date
0	01/01/2021

* SUTX2011-002 08/02/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving & Structures)……..	$ 13.55	
ELECTRICIAN.....	$ 20.96	
FORM BUILDER/FORM SETTER		
Paving & Curb.....	$ 12.36	

Structures.....$ 13.52

LABORER
- Asphalt Raker.....$ 12.28
- Flagger.....$ 9.30
- Laborer, Common.....$ 10.30
- Laborer, Utility.....$ 11.80
- Work Zone Barricade Servicer.....$ 10.30

POWER EQUIPMENT OPERATOR:
- Asphalt Distributer.....$ 14.87
- Asphalt Paving Machine.....$ 13.40
- Broom and Sweeper.....$ 11.21
- Crane, Lattice Boom 80 Tons or Less.....$ 16.82
- Crawler Tractor Operator……...$ 13.96
- Excavator, 50,000 lbs or less.....$ 13.46
- Front End Loader Operator, Over 3 CY.....$ 12.77
- Front End Loader, 3CY or less.....$ 12.28
- Loader/Backhoe.....$ 14.18
- Mechanic.....$ 20.14
- Milling Machine.....$ 15.54
- Motor Grader, Rough.....$ 16.15
- Motor Grader, Fine.....$ 17.49
- Pavement Marking Machine…….....$ 16.42
- Reclaimer/Pulverizer…….....$ 12.85
- Roller, Asphalt.....$ 10.95
- Roller, Other.....$ 10.36
- Scraper.....$ 10.61
- Spreader Box.....$ 12.60

Servicer.....$ 13.98

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

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

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

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts. Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses

(29CFR 5.5 (a) (1) (ii)).

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

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

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

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate

includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

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

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

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

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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

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

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

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

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

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END OF GENERAL DECISION

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

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

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

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

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

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

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

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

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

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

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

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

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

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

OFFICE USE ONLY

Date Received

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

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

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

_____

Name of Officer

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

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

☐ Yes ☐ No

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

☐ Yes ☐ No

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

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

7

_____ _____

Signature of vendor doing business with the governmental entity Date June 13, 2023

PACKET 9:26

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

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

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

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

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

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

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

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

***

(2) the vendor:

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

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

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

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

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

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

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

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

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

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

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

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

(1) the date that the vendor:

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

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

(2) the date the vendor becomes aware:

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

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

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

Form provided by Texas Ethics Commission www.ethics.state.tx.us Revised 11/30/2015

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

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

(1) the lowest bidder; or

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

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

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

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: _____

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

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

   Reseller Permit Number: _____

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

   _____

   _____

   _____

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

   _____

   _____

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

   ☐ Yes ☐ No

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

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

Authorized Signature: _____ Date: _____

Printed Name and Title: _____

NOTICE TO BIDDERS

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

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

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

COMPLIANCE: Company agrees that it shall comply with Texas Government Code Section 2252.908, *et seq.*, as amended. Company agrees that it shall comply with Texas Local Government Code Section 176.006, *et seq.*, as amended. For further instructions on how to comply with Texas Government Code Section 2252.908 and Texas Local Government Code Section 176.006,

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

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

IMPORTANT: READ CAREFULLY BEFORE MAKING BID
GENERAL CONDITIONS OF BIDDING

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

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

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

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

5. If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. The City of Midland reserves the right to award by item or by total bid, or to reject any or all bids or parts of bids. Further, the City of Midland reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City of Midland reserves the right to award the bid to the lowest responsible bidder.

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

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

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

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

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

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

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

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

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

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

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

Seller and Buyer agree as follows:

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

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

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

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

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

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

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

8. WARRANTY - PRICE -

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

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

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

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

11. RIGHT OF INSPECTION - Buyer shall have the right to inspect the goods at delivery before accepting them.

12. CANCELLATION - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breached any of the terms hereof including warranties of Seller if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13. TERMINATION - The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 13, herein.

14. FORCE MAJEURE - Neither party shall be held responsible for losses, resulting if the fulfillment of any terms or provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

15. ASSIGNMENT - DELEGATION - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

16. MODIFICATIONS - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

17. INTERPRETATION - PAROL EVIDENCE - This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, is intended by the parties as a final expression of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

18. ADVERTISING - Seller shall not advertise or publish without Buyer's prior consent the fact that Buyer has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

19. RIGHT TO ASSURANCE - Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

20. PROTECTION AGAINST ROYALTIES OR PATENT INFRINGEMENT - The Seller shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with Patentee or Owner thereof. The Seller shall defend all suits or claims for infringement of any patent or copyrights and shall indemnify and save the Buyer harmless from any loss on account thereof, except that Buyer shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process is allowed to the Seller, the Seller shall indemnify and save Buyer harmless from any loss on account thereof. If the material or process specified or required by Buyer is an infringement, the Seller shall be responsible for such loss unless he promptly gives written notice to the buyer of such infringement.

21. TIME - It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and any failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

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

23. **INSURANCE –**

The following provisions apply unless the agreement is for the supply of goods only:

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

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

The Commercial General Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Workers' Compensation coverage provided by Seller shall inure to the benefit of employees injured during the course and scope of their employment by Seller pursuant to this agreement.

The Business Automobile Liability insurance provided by Seller shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $250,000.00 covering any vehicle used for the execution of the work that is the subject of this agreement.

All insurance required pursuant to this agreement, except for Worker's Compensation Insurance, shall name the Buyer as an additional insured on a claims occurred basis. All insurance required pursuant to this agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Buyer.

The parties agree that, prior to the execution of the agreement, Seller shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."
Buyer shall be provided the notice by Seller's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Buyer shall not be required to provide any insurance whatsoever pursuant to this agreement.

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

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

25. <u>RELEASE</u> - NOTWITHSTANDING ANY OTHER PROVISIONS, SELLER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES BUYER, BUYER'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH SELLER HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR BUYER'S NEGLIGENCE.

26. GOVERNING LAW AND VENUE - This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas.

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

28. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES - As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this agreement, Seller or his legal representative, shall give the City Manager, or any other reasonable official of the Buyer, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which the Seller will settle, the physical and mailing addresses of Seller at the time and date the claim was presented and the physical and mailing addresses of Seller for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Seller relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the Buyer from any liability whatsoever. The Buyer is under no obligation to provide notice to Seller that Seller's notice is insufficient. Buyer reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

29. INDEMNITY (NOT APPLICABLE TO PURCHASE AGREEMENTS) - SELLER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES,

BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF SELLER, its agents or employees, or any subcontractor, arising out of, or resulting from, Seller's use of, or activities on, the agreement premises, and Seller will be required to pay any judgment with costs which may be obtained against Buyer or any of its officers, agents or employees, including reasonable attorney's fees.

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

30. SOVEREIGN IMMUNITY - By executing this agreement the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY**.

31. THIRD PARTY BENEFICIARY - The Buyer's approval of this agreement does not create a third party beneficiary. There is no third party beneficiary to this agreement. No person or entity who is not a party to this agreement shall have any third party beneficiary or other rights hereunder.

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

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

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

33. CONSIDERATION - The terms of this agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

34. CERTIFICATION - In accordance with the Texas Local Government Code, the City of Midland Department of Facilities and Fleet Management does hereby certify that the City of Midland is in compliance with Sections 252, 271 and all applicable sections of the Texas Local Government Code and other state law as it applies to procurement and contracting issues.

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

36. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

THE CITY OF MIDLAND

CONTRACT

Contract No.

THIS CONTRACT, effective the ____ day of _____, 20__, by and between the City of Midland, hereinafter referred to as "CITY", and _____, hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: $ _____ DOLLARS

2. **Scope of Work:** COMPANY shall perform all work described for _____ in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

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

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

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

5. **Company:** Unless otherwise stipulated, COMPANY shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by

the contract documents. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. COMPANY shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

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

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

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

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

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

8. **INDEMNITY: COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF COMPANY, THEIR AGENTS OR**

EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

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

8.2. **COMPANY AGREES THAT IT WILL INDEMNIFY AND SAVE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS AND ALL SUPPLIES, INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. WHEN CITY SO DESIRES, COMPANY SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED. COMPANY, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF COMPANY OR ANY SUBCONTRACTOR, THEIR**

AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

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

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

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

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

12.1. Defective work not remedied; or

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

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

12.4. Damages to another contractor or subcontractor.

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

13. **Funding Out:** In the event no funds or insufficient funds are appropriated and budgeted or are otherwise available in any fiscal period for contract payments due under the contract, then this contract

shall terminate on the last day of the fiscal period for which full appropriations were made, without penalty or expense to CITY of any kind whatsoever.

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

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

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

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

16.1. The CITY may make periodic payments to COMPANY; provided, however, such periodic payments may only be made pursuant to this section, and only after all work and all Change Orders are completed by COMPANY and approved by the CITY. The approval shall be in the CITY's sole discretion. Requests for progress payments may be made to the extent of the materials and labor completed at the end of each month. Upon approval by the CITY or the CITY's representative, the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

17. **Late Completion; Liquidated Damages:** It is hereby understood and mutually agreed, by and between COMPANY and the CITY, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed." COMPANY agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof

within the time specified. It is expressly understood and agreed, by and between COMPANY and the CITY, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

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

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

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

a. To any preference, priority or allocation order duly issued by the Government;

b. To unforeseeable cause beyond the control and without the fault or negligence of COMPANY, including, but not restricted to, acts of God, or of the public enemy, acts of the CITY, acts of another contractor in the performance of a contract with the CITY, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and

c. To any delays of subcontractors or suppliers occasioned by any of the causes specified in

subsections (a) and (b) of this article.

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

17.5. **COMPANY AGREES THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES MAY BE RECOVERED BY THE CITY FROM RETAINAGE HELD BY THE CITY. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING FROM THE CITY WITHHOLDING PAYMENT FROM COMPANY AS LIQUIDATED DAMAGES FOR COMPANY'S FAILURE TO COMPLETE THE WORK WITHIN THE TIME SPECIFIED HEREIN, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.**

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

18. **No Third Party Beneficiary:** CITY's approval of this contract does not create a third party beneficiary. There is no third party beneficiary to this contract. No person or entity who is not a party to this contract shall have any third party beneficiary or other rights hereunder.

19. WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN

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

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

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

20. **Governmental Immunity:** By executing this contract CITY is not waiving its right of governmental immunity. CITY is retaining its immunity from suit. CITY is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

21. **Insurance:**

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

Commercial General Liability (including Contractual liability):

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

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

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

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

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

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

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

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

22. **Assignment**: COMPANY shall not, either directly or indirectly, assign all or any part of this Contract or any interest, right or privilege herein, without the prior written consent of CITY. The issue on whether or not to grant consent to an assignment is in the sole discretion of CITY.

23. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND CITY'S COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE. THE OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS CONTRACT**.

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

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

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

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

27. **Notice of Alleged Breach; Statutory Prerequisites:** As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Contract) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which COMPANY shall settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented and the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification within the time and manner provided herein shall exonerate, excuse and except CITY from any liability whatsoever. CITY is under no obligation to provide notice to COMPANY that COMPANY's notice is insufficient. CITY reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

28. The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision to the contrary, COMPANY's failure to comply with the requirements of this Section shall perpetually bar COMPANY's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if

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

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

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

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

32. To the extent that Section 2271.002 of the Texas Government Code applies to this Contract, COMPANY hereby verifies that COMPANY does not boycott Israel and will not boycott Israel during the term of this Contract. If Section 2271.002 of the Texas Government Code does not apply to this Contract, such verification is not required, and COMPANY shall be deemed to have not made such verification.

33. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements applicable to CITY for the duration of this Contract; (ii) promptly provide to CITY any contracting information related to the Contract that is in the custody or possession of COMPANY on request of CITY; and (iii) on completion of the Contract, either: (a) provide at no cost to CITY all contracting information related to the Contract that is in the custody or possession of COMPANY; or (b) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to CITY.

34. **Public Information.** To the extent that this Contract is a contract described by Section 552.371 of the Texas Government Code, COMPANY agrees as follows in accordance with Section 552.372(b) of the Texas Government Code: The requirements of Subchapter J, Chapter 552, Government Code, may

apply to this Contract, and COMPANY agrees that the contract can be terminated if COMPANY knowingly or intentionally fails to comply with a requirement of that subchapter.

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

EXECUTED IN DUPLICATE 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 ONLYAS TO FORM

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF _____ §
§
COUNTY OF_____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 20____ personally appeared, _____, an officer of _____, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____day of _____, 20____.

_____
Notary Public, State of Texas

SECTION 01 56 39

PRESERVATION AND PROTECTION OF PLANT MATERIALS

PART 1 - GENERAL

Drawings, Standard General Conditions of Contract, Special Conditions and Division-1 Specification sections, apply to work of this section.

1.1 DESCRIPTION

Preservation and protection of existing plant materials within the project site.

1.2 PROTECTION OF PLANT MATERIALS

It is the intention of this specification that all existing plant material at this project site not specifically indicated on the plans for removal be protected and preserved. Take all necessary precautions to avoid damage or removal of trees, shrubs and other plant materials that are to remain following construction. Specimen trees and other plants within and closely adjacent to construction sites shall be adequately protected by the Contractor, according to plans and specifications. Additional protective measures may be installed by the Contractor at his option to preclude damage by his workmen and equipment.

PART 2 - PRODUCTS

2.1 PLANT PROTECTION DEVICES

Install protective plastic construction fencing in locations indicated on the drawings prior to beginning construction operations. Maintain protective devices in good order for the duration of the construction period. Additional protective devices or barriers, required by the Owner during the course of construction, will be added to the work by change order. Protective devices so added are to be installed immediately and shall be maintained in good condition until construction is concluded. Protective devices are further defined to include references in the specifications, or notes on the drawings as to construction limits, clearing limits, work limits or other such notes which indicate the area or right-of-way in which the Contractor must work.

PART 3 - EXECUTION

3.1 EQUIPMENT AND MATERIAL STORAGE

Do not store, stack or place equipment, material, chemicals or supplies within 25-feet from edge of canopy of any plant materials that are to remain. Material storage areas are either indicated on the plans or will be designated and approved by the Owner as required. Care shall be exercised in the storage of chemicals to preclude spillage and translocation into protected area. No disposal of material or chemical wastes will be permitted on the site unless specifically allowed by Owner.

PACKET 9.52 June 13, 2023

3.2 REPARATION FOR DAMAGES

A. Unwarranted damages to plant material shall be evaluated by a member of the Owner's staff and instructions issued for the necessary repairs. The Contractor shall accomplish the corrective work as ordered, or may, at his option, provide monetary reimbursement by change order reduction to the contract. The value established by the Owner will be final and shall be based on repairs by a qualified technician approved by the Owner. Plant material destroyed or removed by the Contractor or damaged beyond corrective repair will be evaluated and assessed as outlined above fore reparable damage. In the event large irreplaceable plants are destroyed, the Owner will establish a fair value and may, at his discretion, require replacement by installation of several trees or other plants equaling the fair value of the tree(s) or plant(s) destroyed.

B. The value of plant materials will be determined utilizing $15.00 per square inch of trunk cross-sectional area taken 4-feet 6-inches above grade.

C. Plants considered to be of special value to the completed project are noted on the plans and their values cited. Noted plant values will supersede values obtained through the above-referenced formula calculation. Source for determination of value on plant materials: Shade Tree Evaluation - International Arborists Association.

3.3 PLANT PRUNING AND LIMB REMOVAL

Plant protection requirements cited above include authorized pruning and cutting of limbs and major roots. The Contractor is cautioned not to cut, prune or otherwise remove plant parts without prior approval and guidance by the Owner. Major limb removal, which may be required by construction shall be as noted on the plans, approved prior to such removal and shall be accomplished by technicians trained and skilled in the work.

3.4 BURNING

Fires and/or burning are prohibited, unless approved and permitted through the City of Midland.

END OF SECTION

PACKET 9.53 June 13, 2023

SECTION 02 40 00

DEMOLITION

PART 1 - GENERAL

Drawings, Standard General Conditions of Contract, Supplementary conditions and Division-1 Specification Sections, apply to work of this section.

1.1 DESCRIPTION

Refer to plans for items to be demolished.

1.2 REQUIREMENTS

A. Standards: Unless they are modified or exceeded by the requirements of this Specification, conform to applicable parts of ANSI A 10.6 "Safety Requirements for Demolition."

B. Schedule: Perform this work as required by the progress schedule for the project.

C. State law requires that the contractor provide an independent asbestos report to the owner prior to demolition. Any contractor violating this requirement is subject to a fine or other penalty as deemed appropriate.

1.3 PROTECTION

A. General: Construction of temporary barricades, walks, passage-ways, and other items that are necessary to protect persons and property from hazard or damage due to construction operations, and as required by applicable regulations.

Design and construct such protective barriers and devices around the entire construction zone to have sufficient strength and of such materials as will accomplish their protective function.

B. Site: Unless specified or directed otherwise, carefully protect existing walks, trees, lawns, other buildings, and other work on site, whether specifically indicated on the Drawings or not.

C. Trees and Shrubs: Protect trees and shrubs that are to remain in place from foliage, trunk and root damage that may result from construction operations. Contractor will provide tree protection of trees per the plans. Do not park vehicles or equipment, nor store materials beneath the dripline of any existing tree.

D. Streets and Sidewalks: Protect streets, sidewalks, curbs, and other improvements not designated for demolition, as necessary to prevent damage to them. Repair any damage caused by Contractor operations.

E. Persons: Provide warning signs, hazard and service lights, and other devices as necessary for the protection of persons from injury due to construction operations and as required by applicable regulations.

F. Remaining Structure: Take precautions not to damage existing structures which are to remain. Any damage caused by demolition operations is to be repaired by the Contractor without cost to the Owner.

PART 2 - PRODUCTS

(Not applicable).

PART 3 - EXECUTION

A. Utilities: Make arrangements and pay the costs for disconnecting, capping, and removing services to the satisfaction of the utility companies and the Owner. Make necessary modifications to existing irrigation lines.

B. Method

1. General - Keep noise, dust and debris to a minimum.

2. Workmanship - Demolition of portions of structures that will remain shall be done carefully so that exterior surfaces can be renovated or restored to original use as easily as possible.

C. Scrap Materials: Material and debris resulting from demolition operations is the property of the contractor and shall be disposed of properly at a licensed municipal land fill, or as otherwise approved by the Owner. No sale of surplus materials shall be conducted on the site.

D. Backfill: Subgrade areas may not be used for disposal of surplus material without specific written approval and then, only if placed by approved methods.

E. Above Grade Structures: Demolition to the level of existing grade.

F. On-Grade Structures: Remove slabs, walks, and paving completely.

G. Below Grade Structures: Remove all portions to level of existing grade. Break all subgrade slabs sufficiently to prevent trapping of water either above or below them.

END OF SECTION

SECTION 31 22 19

LANDSCAPE FINISH GRADING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Divisions 00 and 01 Specification Sections, apply to this Section.

1.2 SUMMARY

A. Section Includes:
1. Landscape topsoiling in all areas within limits of grading and all areas outside limits of grading which are disturbed in the course of the Work.
2. Do not cut or fill within the drip line of existing trees.

B. Related Sections:
1. Section 31 00 00, "Earthwork"
2. Section 32 92 00, "Lawns and Grass"

1.3 QUALITY ASSURANCE

A. Finish grading tolerance: 0.1 FT plus/minus from required elevations.

B. All Landscape Grading and soil amendments, including that required beneath existing tree canopies, as specified in this section is to be performed by Landscape Contractor.

1.4 SUBMITTALS

A. Submit samples of proposed topsoil for approval prior to grading work.

1.5 WARRANTY

A. Correct settled and eroded areas within 1 year after date of completion at no additional expense to Owner. Bring grades to proper elevation. Replant or replace grass, shrubs, groundcover, or other vegetation that appears dead, dying, or disturbed by construction activities.

PART 2 - PRODUCTS

2.1 MATERIALS

B. Furnish all topsoil required.

PART 3 - EXECUTION

3.1 ROUGH GRADE REVIEW

A. Review rough grading with Landscape Architect prior to topsoil placement and finish grading.

3.2 FINISH GRADING

A. Grade areas where finish grade or contours are indicated on Construction Drawings, other than paved areas and buildings, included excavated areas, filled and transition areas, and landscape areas. Graded areas shall be uniform and smooth, free from rock, debris, or irregular surface changes. Confirm that finished subgrade surfaces are not more than 0.10-feet above or below established finished subgrade elevation. Ground surfaces shall vary uniformly between indicated elevations. Grade finished swales to allow for proper drainage without ponding and in a manner that will minimize erosion potential.

B. Correct, adjust and/or repair rough graded areas.
1. Cut off mounds and ridges.
2. Fill gullies and depressions.
3. Perform other necessary repairs to establish grading tolerances.
4. Grade all sub-grades to 4 in. below finish grade, even and properly compacted.

C. Lightly till surfaces to receive topsoil to a min. depth of 2 in.

D. Remove all stones and debris over 1 in. any dimension.

E. Do not excavate or fill within the drip line of existing trees.

3.3 PLACING TOPSOIL

A. Do not place topsoil when sub grade is either wet or frozen enough to cause clodding.

B. Amend manufacturer's basic soil with Sulfur (1-1/2 pounds per cubic yard), and commercial fertilizer (1/2 pound per cubic yard).

C. Spread topsoil in all areas to receive grass (except under trees) to compacted depth of 2 in.

D. Rake finished surface free of stones, sticks, or other material 1 in. or more in any dimension.

E. Make finished surface smooth and true to required grades.

F. Restore areas occupied by stockpiles to match other finished surfaces.

3.3 FIELD QUALITY CONTROL

A. Upon completion of topsoiling, review graded areas with Landscape Architect prior to proceeding with the work.

B. Make test holes where directed, to verify proper placement and thickness of topsoil.

END OF SECTION
31 22 19

SECTION 32 84 00

LANDSCAPE IRRIGATION SYSTEM

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

A. Furnish all work and materials, appliances, tools, equipment, facilities, transportation, point of connection and all other services required for the installation of a complete underground permanent, as shown on drawings and/or specified herein. When the term "Contractor" is used in this section, it shall refer to the irrigation Contractor.

B. Related Work Specified Elsewhere:
1. Lawns and Grass: Section 32 92 00.

1.2 QUALITY ASSURANCE

A. The following Codes, Regulations, Reference Standards, and Specifications apply to work included in this section: ASTM: D2241, D2464, D2466, D2564, and D855.

1.3 WARRANTY AND MAINTENANCE

A. The Contractor shall warranty material and workmanship for one year after final acceptance including repair and replacement of defective materials, workmanship, and labor.

B. Maintenance during warranty shall include, but not necessarily be limited to, the following:
1. Adjustment of sprinkler height and plumb to compensate for settlement and/or plant growth.
2. Backfilling of all trenches.
3. Adjustment of head coverage (arc of spray) as necessary.
4. Unstopping heads plugged by foreign material.
5. Drip System:
   a. Remove disc stack and rinse with water and replace every 6 months.
   b. Compare the controller runtimes and frequency to the to the application rate for Techline CV at the spacing used. If the amount of water in inches/hour is insufficient or exceeds the requirement of the plant, adjust accordingly.
   c. Refer to "Techline Design Manual" by Netafimusa.com.
6. Adjustment of controller as necessary to insure proper sequence and watering time.
7. All maintenance necessary to keep the system in good operating order. Repair of damage caused by vandals, other contractors or weather conditions shall be considered extra to these specifications.

C. Warranty and maintenance after final acceptance does not include alterations as necessitated by re-landscaping, re-grading, addition of trees or the addition, and/or changes in sidewalks, walls, driveways, etc.

D. Contractor to supply documentation of level of compliance or non-compliance with the following requirements before consideration as an "acceptable manufacturer".

1.4 SUBMITTALS

A. The Contractor shall submit shop drawings or manufacturer's "cut sheet" for each type of sprinkler head, pipe, controller, valves, check valve assemblies, valve boxes, wire, conduit, fittings, drip irrigation lines and components, and all other types of fixtures and equipment proposed to install on the job. The submittal shall include the manufacturer's name, model number, equipment capacity, and manufacturer's installation recommendation, if applicable, for each proposed item.

B. No partial submittal will be accepted and submittals shall be provided as a pdf and logically organized. After the submittal has been approved, substitutions will not be allowed except by written consent of the Owner's Representative.

C. Shop drawings shall include dimensions, elevations, construction, details, arrangements, and capacity of equipment, as well as manufacturer's installation recommendations.

1.5 "EQUIVALENT AS DETERMINED BY THE OWNER'S REPRESENTATIVE" SUBSTITUTIONS

A. Several items in this section and on the plans are specified by a manufacturer's brand name and catalog number, followed by the phrase "or equivalent as determined by the Owner's Representative". This is not intended to unduly restrict competitive procurements or bidding but is done to assure a minimum standard of quality which is believed to be best for the item specified. If no note is made, then this item is a specified item by the City of Midland and there are no equivalent substitutions.

1.6 CODES/PERMITS

A. All work under this section shall comply with the provisions of these Specifications, as illustrated on the accompanying drawings, or as directed by the Owner's Representative and shall satisfy all applicable local codes, ordinances, or regulations of the governing bodies and all authorities having jurisdiction over this Project.

B. Installation of equipment and materials shall be done in accordance with requirements of the National Electrical Code, City of Midland, TX Plumbing Code, and standard plumbing procedures. The drawings and these Specifications are intended to comply with all the necessary rules and regulations; however, some discrepancies may occur, the Contractor shall immediately notify the Owner's Representative in writing of the discrepancies and apply for an interpretation. Should the discovery and notification occur after the execution of a contract, any additional work required for compliance with the regulations shall be paid for as covered by these Contract Documents.

C. The Contractor shall give all necessary notices, obtain all permits, and pay all costs in connection with his work; file with all governmental departments having jurisdiction; obtain all required certificates of inspection for his work and deliver to the Owner's Representative.

D. The Contractor shall include in the work any labor, materials, services, apparatus, or drawings in order to comply with all applicable laws, ordinances, rules and regulations whether or not shown on the drawings and/or specified.

E. The installation of the irrigation system shall be made by an individual or firm duly qualified with a minimum of five years experience installing systems of similar size and scope, and licensed under Article No. 8751 VTCS, Titled "Licensed Irrigators Act", S.B. No. 259 as passed by the 66th Texas Legislature.

1.7 EXISTING UTILITIES

A. Locations and elevations of various utilities included with the scope of this work have been obtained from the most reliable sources available and should serve as a general guide without guarantee to accuracy. The Contractor shall examine the Site and verify to his own satisfaction the locations and elevation of all utilities and availability of utilities and services required. The Contractor shall inform himself as to their relation to the work and the submission of bids shall be deemed as evidence thereof. The Contractor shall repair at his own expense, and to the satisfaction of the Landscape Architect, for damage to any utility shown or not shown on the plans.

B. Should utilities not shown on the plans be found during excavations, Contractor shall promptly notify the Landscape Architect for instructions as to further action.

C. Contractor shall make necessary adjustments in the layout as may be required to connect to existing stub-outs, should such stub- outs not be located exactly as shown and as may be required to work around existing work, at no increase in cost to the Owner. All such work will be recorded on record drawings and turned over to the Landscape Architect prior to final acceptance.

D. The Landscape Irrigation Contractor shall supply all insurance as required by the Owner.

1.8 RECORD DRAWINGS

A. Record dimensioned locations and depths for each of the following:
   1. Point of connection to proposed backflow devise as shown on plan.
   2. Sprinkler pressure line routing (provide dimensions for each 100 lineal feet (maximum) along each routing, and for each change in directions).
   3. Gate valves.
   4. Sprinkler control valves (buried only).
   5. Control wire routing.
   6. Drip irrigation assemblies.
   7. Other related items as may be directed by the Owner's Representative.

B. Locate all dimensions from two permanent points (buildings, monuments, sidewalks, curbs, or pavements).

C. Record all changes which are made from the Contract drawings, including changes in the pressure and non-pressure lines.

D. Record all required information on a set of blackline prints of the Contract drawings. Do not use these prints for any other purpose.

E. Maintain information daily. Keep contract drawings at the worksite at all times and available for review by the Owner's Representative.

F. When record drawings have been approved by the Owner's Representative, transfer all information to a set of reproducible mylars using permanent ink or provide a bond copy and electronic file on CD of the final record as-built drawings. Changes using ball-point pen are not acceptable. Make dimensions accurately at the same scale used on original Drawings, or larger. If photo reduction is required to facilitate controller chart housing, notes or dimension must be a minimum 1/4 inch in size.

G. Reproducible mylars and/or bonds and CD will be furnished by the Owner cost for printing and handling.

1.10 CONTROLLER CHART

A. Do not prepare chart until record drawings have been approved by the Owner's Representative.

B. Provide one controller chart for the stations used on the automatic controller(s).
   1. Chart may be a reproduction of the record drawing, if the scale permits fitting within the controller door. If photo reduction prints are required, keep reduction to maximum size possible to retain full legibility.
   2. Chart shall be blackline print of the actual system, showing the area covered by that controller.

C. Identify the area of coverage of each remote-control valve, using a distinctly different pastel color, drawn over the entire area of coverage.

D. Following approval of chart by the Owner's Representative, it shall placed in plastic sheet.

E. Chart must be completed and approved prior to final acceptance of the irrigation system.

1.11 OPERATING AND MAINTENANCE MANUALS

A. Provide individual bound manuals detailing operating and maintenance requirements for irrigation systems.

B. Manuals shall be delivered to the Owner's representative for review and approval no later than 10 days prior to completion of work. Revise manual as required.

C. Provide descriptions of all installed materials and systems in sufficient detail to permit maintenance personnel to understand, operate, and maintain the equipment.

D. Provide the following in each manual:

1. Index sheet, stating Irrigation Contractor's name, address, telephone number, and name of person to contact.
2. Duration of guarantee period.
3. Equipment list providing the following for each item:
   a. Manufacturer's name.
   b. Make and model number.
   c. Name and address of local manufacturer's representative.
   d. Spare parts list in detail.
   e. Detailed operating and maintenance instructions of major equipment.
4. Recommended programs for watering by season.

1.12 CHECKLIST

A. Provide a signed and dated checklist and deliver to the Owner's Representative prior to final acceptance of the work.

B. Use the following format:
   1. Plumbing permits: if none required, so note.
   2. Material approvals: approved by and date.
   3. Pressure line tests: by whom and date.
   4. Record Drawings: received by and date.
   5. Controller charts: received by and date.
   6. Materials furnished: received by and date.
   7. Operation and maintenance manuals: received by and date.
   8. System and equipment operation instructions: received by and date.
   9. Manufacturer's warranties if required: received by and date.
   10. Written guarantee: received by and date.
   11. Lowering of heads in lawn areas: if incomplete, so state.

1.13 ELECTRIC POWER

A. Electrical connection to be coordinated by the Contractor. Electric power to operate the controller shall be furnished by the Electrical Contractor unless otherwise noted on the plans. Service wiring to the controller cabinet shall be furnished by the Irrigation Contractor.

1.14 WATER FOR TESTING

A. Unless noted otherwise on the plans or elsewhere, water is available on the site necessary for testing, flushing, and jetting.

1.15 BORINGS, SLEEVES AND ELECTRICAL CONDUITS

A. Sleeves and electrical conduits are the responsibility of the Irrigation Contractor to install prior to paving or related construction and should be installed as noted on the approved irrigation plan. Contractors shall be responsible for locating all sleeves and conduits at no additional cost to the Authority. Borings under existing paving will be required where noted

on the drawings and shall be provided at no additional cost to the Owner. Borings shall be a minimum of 18-inch depth and new pipes shall be incased in Schedule 40 PCV sleeves.

1.16 ATTIC STOCK - SPARE PARTS

A. The Contractor shall supply the Owner with five parts each of irrigation system components excluding controller, mainline pipe and lateral pipe. These items will be kept for use by the Owner after final acceptance.

1.17 COMMISSIONING

A. This Section specifies a system which will be commissioned as part of the construction process. Documentation and testing of these systems, as well as training of the Owner's operation and maintenance personnel, is required in cooperation with the Owner's Commissioning Coordinator.

B. Refer to Division 1 Section 01810, Commissioning, for detailed commissioning requirements.

C. Commissioning requires the participation of this Contractor to ensure that all systems are operating in a manner consistent with the Contract Documents. The general commissioning requirements and coordination are detailed in the Division 1 Section 01810 referenced above. This Contractor shall be familiar with all parts of the Commissioning Section and the commissioning plan issued by the Commissioning Coordinator and shall execute all commissioning responsibilities assigned to them in the Contract Documents.

1.18 POINT OF CONNECTION

A. Verify main, meter location, and water pressure at the site, if minimum residual water pressure is less than required, notify owner's representative prior to construction. Contractor shall notify the owner's representative of such and shall receive owners' approval prior to any construction.

B. Follow all state and local codes.

PART 2 – PRODUCTS

2.1 GENERAL

A. Unless otherwise noted on the plans, all materials shall be new and unused. The irrigation equipment catalog numbers used for reference in these Specifications are to establish minimum quality standards and may be substituted with an "equivalent as approved by the Owner's Representative" as outlined in Paragraph 1.06 of this section, unless specifically requested by the campus maintenance staff and noted as having no "equivalent" to be accepted.

2.2 POLYVINYL CHLORIDE PIPE (PVC PIPE)

A. PVC pipe manufactured in accordance with ASTM Standards noted herein.

1. Marking and Identification: PVC pipe shall be continuously and permanently marked with following information: Manufacturer's name, size, type of pipe, and material, PVC number, Product Standard number, and the NSF (National Sanitation Foundation) Seal.
2. PVC pipe fittings: Shall be of the same material as the PVC pipe specified and compatible with PVC pipe furnished. Solvent weld type shall be for Schedule 40.
3. PVC Pipe: Lateral line pipe shall be Class 200 solvent weld, SDR-21, PS 22-70 for all sizes 3/4" - 2". All ½" pipe shall be solvent weld SDR- 13.5, Class 315. Mainline pipe shall schd.40 pvc.
4. Flexible PVC Risers (Nipples): All flexible PVC nipples shall be made from virgin PVC material, and shall comply with ASTM D2287, shall be tested at 200 P.S.I. static pressure for 2 hours and have a quick burst rating of a minimum 400 P.S.I. Flexible PVC pipe nipples shall be factory assembled only.

2.3 SWING JOINTS

A. Install KBI O ring type PVC swing joints on rotor heads and quick couplers as shown on the plan detail sheets with 1" galvanized angle iron and stainless clamps. Swing joint size to match irrigation and quick coupler head inlets.

2.4 WIRE AND SPLICES

A. All wire shall be single strand solid copper, minimum 14 gauge with type UF insulation which is Underwriters Laboratory approved for direct underground burial when used in a National Electrical Code Class II Circuit (30 volts AC or less) as per Articles 725 and 300. Voltage drop shall be taken into consideration.

B. All wire shall be color coded so that the common wire shall have white insulation and the signal wires shall have red insulation.

C. All splices shall be made with King one step Dry splices Tan or Larger.

D. All connectors shall be UL listed, rated 600 volt, for PVC insulated wire. No wire splices shall be buried.

2.5 MANUAL VALVES

A. Manual valves 2 ½" and smaller shall be all brass, globe type with composition disc rated at 150 pounds W.O.G.

B. All valves shall have wheel handles unless cross handles are called for on the plan.

2.6 VALVE BOXES

A. A box shall be provided for all valves.

B. Valve boxes shall be made of high-strength plastic suitable for turf irrigation purposes.

C. Boxes shall be suitable in size and configuration for the operability and adjustment of the valve.

D. Extension sections will be used as appropriate to the depth of piping.

E. All valve box covers shall bolt down or have locking mechanisms and shall be colored black.

2.7 ROTARY SPRAYS AND BUBBLER HEADS

A. Pop-up spray heads are specified on the drawings.

B. Pop-Up Bubbler Heads - Two bubbler heads shall be provided per each tree at 2" caliper and larger and one bubbler head for each 1" caliper tree per locations as shown on the plans.

C. Spray heads shall have a minimum 4" pop-up or 12" pop-up as designated on the drawings. The sprinkler body and all related parts shall be plastic cycolac or polycarbonate. They shall have a spring retraction for positive return action of the pop-up nozzle. The spring for retraction and the adjustable nozzle screw shall be made of corrosion resistant materials.

D. All heads are to be operated and site adjusted to match precipitation rate of all heads in the zone with proper nozzle selection and arc adjustments.

2.8 DRIP IRRIGATION

A. The Drip shall be the type and size as shown on plans. Dripper flow rate and spacing shall be as indicated on drawings.

B. Soil Staples (TLS6): All on-surface/under mulch Drip installations shall be held in place with Soil Staples spaced evenly every 3' to 5' on center, and with two staples on each change of location.

C. Line Flushing Valves: All Drip systems shall be installed with Automatic or Manual Line Flushing Valves per the manufacturer's recommendations.

D. Pressure Regulator: A pressure regulator shall be installed at each zone valve or on the main line to ensure operating pressures do not exceed system requirements.

E. Disc Filter: A disc filter shall be installed at each zone valve or on the main line to ensure proper filtration.

2.9 ELECTRIC CONTROLLER

A. Electric irrigation controller shall be capable of operating the number of stations as indicated on the drawings. The system is designed to operate only one section valve at a time, unless otherwise noted. The controller will be specified on the irrigation plan.

B. Power source shall be verified by the contractor.

C. Operation of the controller shall be full automatic, incorporating one 24 hour clock and 14 day calendar per controlled number of electric valves shown on the plan to start the sprinkling cycle any hour or hours of the day or night of any day or days over a repeating 14 day period.

D. The controller shall be capable of repeating watering cycles as required with a maximum delay between the ending of one cycle and the beginning of the next not to exceed 2 hours. Control shall provide optional semi-automatic operation whereby the automatic cycle may be started independent of the clock and manual operation whereby any station may be operated by hand independent of all timing mechanism. The choice of automatic day or hour programming shall be available to the operator on the face of the control panel without the use of tools.

E. The automatic controller shall be equipped with rainproof housing.

F. Provide automatic rain/freeze shutoff with controller.

2.10 ELECTRIC REMOTE-CONTROL GLOBE VALVES

A. Electric remote-control valves shall have plastic bodies and covers and shall be globe-type diaphragm valves of normally closed design.

B. Commissioning requires the participation of this Contractor to ensure that all systems are operating in a manner consistent with the Contract Documents. The general commissioning requirements and coordination are detailed in the Division 1 Section 01810 referenced above. This Contractor shall be familiar with all parts of the Commissioning Section and the commissioning plan issued by the Commissioning Coordinator and shall execute all commissioning responsibilities assigned to them in the Contract Documents.

C. A flow stem adjustment shall be included in each valve.

2.11 BACKFLOW PREVENTER

A. A double-check assembly shall be located and sized as shown on the plans.
B. This assembly shall be installed in a box and shall conform to the City Plumbing Codes.

C. Use Rectangle Jumbo box to house equipment.

PART 3 – EXECUTION

3.1 INSTALLATION, GENERAL

A. Design Pressure: This irrigation system has been designed to operate with a minimum static inlet water pressure as indicated on the drawing. The Contractor shall take a pressure reading prior to beginning construction. If the pressure reading is 5% less than above, the Contractor shall notify the Owner's Representative.

B. Contractor Responsibility: The Contractor shall not willfully install the irrigation system as shown on the drawings when it is obvious in the field that obstructions, grade differences or discrepancies in equipment usage, area dimensions or water pressure exist that might not have been considered in the engineering. Such obstructions or differences shall be brought to the attention of the Owner's Representative in writing. In the event this notification is not performed, the Contractor shall assume full responsibility for any revision necessary.

C. A licensed irrigator or licensed irrigation technician shall be on-site at all times while the landscape irrigation system is being installed per owner.

D. Staking: Before installation is started, place a stake or flag where each sprinkler is to be located, in accordance with drawing. Staking shall be approved by the Owner's Representative before proceeding.

E. Piping Layout: Piping layout is diagrammatic. Route piping around existing trees and root zones in such a manner as to avoid damage to plantings. Where access is restricted, bore under large existing trees to avoid damage and exposure of the root system. Do not dig within the ball of newly planted trees or shrubs.

F. In areas where trees are present, trenches will be adjusted on site to provide a minimum clearance of four times the trunk diameter of the tree (at its base) between any tree and any trench.

G. All material and equipment shall be delivered to the Worksite in unbroken reels, cartons or other packaging to demonstrate that such material is new and of a quality and grade in keeping with the intent of these Specifications.

H. Refer to plan details for drip installation.

3.2 EXCAVATION AND TRENCHING

A. The Contractor shall perform all excavation to the depth indicated in these Specifications and Contract drawings. The banks of trenches shall be kept as nearly vertical as practicable. Trenches shall be wide enough to allow a minimum of 4" between parallel pipelines or electrical wiring. Where rock excavation is required, or where stones are encountered in the bottom of the trench that would create a concentrated pressure on the pipe, the rock or stones shall be removed to a depth of six (6) inches minimum below the trench depth indicated. The over depth rock excavation and all excess trench excavation shall be backfilled with loose, moist earth or sand, thoroughly tamped. Whenever wet or otherwise unstable soil that is incapable of properly supporting the pipe is encountered in the trench bottom, such shall be removed to a depth and length required, and the trench backfilled to

trench bottom grade as hereinafter specified, with course sand, fine gravel or other suitable material.

B. Bottom of trench grade shall be continued past ground surface deviations to avoid air pockets and low collection points in the line. The minimum cover specifications shall govern regardless of variations in ground surface profile and the occasional deeper excavation required at banks and other field conditions. Excavation shall be such that a uniform trench grade variation will occur in all cases where variations are necessary.

C. Trench excavation shall comprise the satisfactory removal and disposition of all materials and shall include all shoring and sheeting required to protect the excavation and to safeguard employees.

D. During excavation, material suitable for backfilling shall be stockpiled in an orderly manner a sufficient distance back from edge of trenches to avoid overloading and prevent slides or cave-ins. Material unsuitable for backfilling shall be wasted as directed by the Owner's Representative. When excavated material is of a rocky nature and the topsoil or any other layer of excavated material is suitable for pipe bedding and backfill in the vicinity of the pipe, such material shall be separately stockpiled for use in such bedding and pipe backfill operations, unless satisfactory imported material is used.

E. All excavations and backfill shall be unclassified and covered in the basic bid. No additional compensation will be allowed for rock encountered.

F. Restore all surfaces, existing underground installations, etc., damaged or cut as a result of the excavations to their original conditions in a manner acceptable to the Owner's Representative.

3.3 PIPE INSTALLATION

A. Sprinkler Mains: Sprinkler mains are that portion of piping from water source to electric valves. This portion of piping is subject to surges since it is a closed portion of the sprinkler system. Sprinkler mains shall be installed in a trench with a minimum of 18 inches of cover.

B. Lateral Piping: Lateral piping is that portion of piping from electrical valve to sprinkler heads. This portion of piping is not subject to surges since it is an "open end" portion of the sprinkler system. Lateral piping shall be installed in a trench with a minimum of 12 inches of cover.

C. Remove lumber, rubbish, and rocks from trenches. Provide firm, uniform bearing for entire length of each pipeline to prevent uneven settlement. Wedging or blocking of pipe will not be permitted. Remove foreign matter or dirt from inside of pipe before welding and keep piping clean during and after laying pipe.

D. PVC pipe shall not be installed where there is water in the trench, nor shall PVC pipe be laid when temperature is 40 deg. F or below or when rain is imminent. PVC pipe will expand and contract as the temperature changes. Therefore, pipe shall be snaked from side to side of trench bottom to allow for expansion and contraction.

3.4 PVC PIPE AND FITTING ASSEMBLY

A. Solvent: Make solvent-welded joints following standards noted herein. Thoroughly clean pipe and fittings of dirt, dust, and moisture with an approved PVC primer before applying solvent.

B. PVC to Metal Connection: Work metal connections first. Use a non-hardening pipe dope such as Permatex No. 2 or "Teflon" tape on threaded PVC to metal joints. Use only light wrench pressure.

C. Threaded PVC Connections: Where required, use threaded PVC adapters into which pipe may be welded.

3.5 HYDROSTATIC TESTS

A. Pressure Test: After the pipe is laid, the joints completed, and the trench partially backfilled, leaving the joints exposed for examination, the newly laid piping or any valved section of main pressure line piping shall, unless otherwise specified, be subjected for four hours to a hydrostatic pressure test of normal city water pressure. Each valve shall be opened and closed during the test. Enclosed pipe, joints, fittings, and valves shall be carefully examined during the partially open trench test. Joints showing visible leakage shall be replaced or remade, as necessary. Cracked or defective pipe, joints, fittings, or valves discovered in consequence of this pressure test shall be repeated until the test results are satisfactory. All replacement and repair shall be at contractor's cost.

3.6 CONTROL WIRE INSTALLATION

A. All control wire less than 500 feet in length shall be continuous without splices or joints from the controller to the valves. Connections to the electric valves shall be made within 18 inches of the valve using connectors specified in Paragraph 2.4 of this section, unless otherwise approved by the Owner’s Representative in writing.

B. All control wires shall be installed at least 18 inches deep. Contractor shall obtain the Owner’s Representative's approval for wire routing when installed in a separate ditch. Control wires may be installed in a common ditch with piping; however, wires must be installed a minimum of 4 inches below or to one side of piping.

C. All wire passing under existing or future paving, sidewalk, construction, etc., shall be encased in PVC Schedule 40 conduit extending at least 2 feet beyond edges of paving, sidewalks, or construction.

3.7 ROTARY SPRAYS AND BUBBLER HEADS

A. Provide heads and nozzles as specified and install in locations as shown on the Contract Drawings.

B. Rotary sprays and Bubbler heads shall be installed on a "flex" pipe connector as detailed. Rotary heads shall be installed on a double swing joint connected to the lateral pipe. Bubbler heads to be installed in a 2" pop up body. Provide wire staple to secure the bubbler to the top of the root ball. Keep heads a minimum of 4 inches from paved surfaces.

C. Heads shall be installed with underside of flange flush with the finished grade.

D. Contractor will be required to adjust heads as necessary after establishment of grass or other plant material.

3.8 QUICK COUPLING VALVES

A. Quick coupling valves shall be installed at 100 foot on center along mainline with a ball valve preceding the QC for shut off.

B. Quick coupling valves shall be installed with the underside of flange flush with the finished grade.

C. Quick coupling valves shall be installed on a swing joint assembly as detailed on the submitted and approved shop drawings.

D. Under the warranty, the Contractor shall return after grass is established and adjust valves and valve boxes to proper grade.

3.9 MANUAL VALVES

A. Manual valves shall be sized and located where shown on the Contract drawings.

B. Valve boxes shall be adjusted to be flush with finished grade.

C. Valve boxes shall be properly supported and of sufficient construction that tractors, mowers or other equipment crossing over the boxes will not push boxes down and crush the pipe, valve, or box.

3.10 VALVE AND VALVE BOX PLACEMENT

A. A ball valve shall precede each valve to provide shut off for repair of valves.

B. All manual, electric, and quick coupling valves shall be in boxes as specified in Paragraph 2.6 of this section and shall be set with a minimum of six (6) inches of space between their top surface and the bottom of the valve box. The base of the box shall be filled with pea gravel per manufacturer's installation instructions.

C. Valves shall be fully opened and fully closed to ensure that all parts are in operating condition.

D. Valve boxes shall be set plumb, vertical, and concentric with the valve stem.

E. Any valve box which has moved from this required position so as to prevent the use of the operating wheel of the valve shall be reset by the Contractor at his own expense.

3.11 ELECTRIC CONTROLLER

A. Electric controller location shall be verified with owner. Controller shall be capable of operating the number of stations indicated.

B. The system is designed to operate only one section at a time, unless otherwise noted on the plans in strict accordance with the manufacturer's published installation instructions.

3.12 ELECTRIC REMOTE-CONTROL VALVES

A. Remote control valves shall be located and sized as shown on the plans. All electrical connections shall be made when the weather is dry with connection kits as specified in Paragraph 2.4 of this section in strict accordance with manufacturer's recommended procedures. All remote-control valves shall be installed in a horizontal position, in accordance to the manufacturer's published installation instructions.

B. It shall be the responsibility of the Contractor to furnish and install the proper size wire on each of the low voltage circuits from the master control center to the various electric remote-control valves.

C. Consideration shall be given to each circuit for allowance of voltage drop and economy consistent with accepted practices of electrical installation. Under no circumstances shall the voltage of any branch circuit be reduced more than proper due to length of run exceeding the maximum allowable for the wire size used.

3.13 BACKFILL AND COMPACTION

A. After system is operating and required tests and inspections have been made, the trenches shall be carefully backfilled with the excavated materials approved for backfilling, consisting of earth, loam, sandy clay, sand, gravel, soft shale, or other approved materials, free from large clods of earth or stone. Rock, broken concrete, or pavement, and large boulders shall not be used as backfill material. The backfill shall be thoroughly compacted and evened with the adjacent soil level.

B. Compact trenches in areas to be planted by thoroughly flooding the backfill. Compact all other areas by flooding or hand tamping. The jetting process may be used in areas when flooding.

C. Backfill for all trenches, regardless of the type of pipe covered, shall be compacted to a minimum of 90% density.

D. Any trenches improperly backfilled, or where settlement occurs, shall be reopened to the depth required for compaction, then refilled and compacted with the surface restored to the required grade and left in a completed surface condition as described above.

E. Specifically tamp backfill under heads and around the flange of heads for one foot (1') by a suitable means after trench backfill has dried from flooding to prevent heads loosening in the ground.

3.14 FINAL ADJUSTMENT

A. After installation has been completed, make final adjustment of sprinkler system prior to Owner's Representative's final inspection.

B. Completely flush system to remove debris from lines by removing nozzle from heads on ends of lines and turning on system.

C. Check sprinklers for proper operation and proper alignment for direction of throw.

D. Check each new section for operating pressure and balance to other sections by use of flow adjustment on top of each valve.

E. Check nozzling for proper coverage. Prevailing wind conditions may indicate that arc or angle of spray should be other than as shown on drawings. In this case, change nozzles to provide correct coverage and furnish record data to Owner's Representative with each change.

F. After system is thoroughly flushed and ready for operation, each section of sprinklers shall be adjusted to control pressure at heads. Use the following method, one section at a time:
   1. Remove last head on section and install a temporary riser above grade. Install tee with pressure gauge attached on top of riser and re-install head with nipple onto tee.
   2. Correct operating pressure at last head of each section as follows: Spray Heads - 20-25 psi; rotor heads - 30 to 40 psi (and as recommended by the manufacturer).
   3. After replacing head, at grade, tamp thoroughly around head.

3.15 CLEAN-UP

A. The Worksite shall be thoroughly cleaned of all waste materials and all unused or salvaged materials, equipment, tools, etc.

B. After completion of the work, areas disturbed shall be leveled and the Worksite shall be raked clean and left in an orderly condition.

3.16 TEMPORARY IRRIGATION FOR GRASS ESTABLISHMENT

A. The contractor shall provide temporary irrigation for all new turf areas. Temporary irrigation may include equipment securely staked above grade. It shall be the contractor's responsibility to provide complete, consistent temporary coverage in order to establish a viable, mowable stand of grass. Any above grade equipment shall be removed by the contractor upon acceptance of the turf by the owner.

END OF SECTION
32 84 00

SECTION 32 92 00

LAWNS AND GRASS

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Divisions 00 and 01 Specification Sections, apply to this Section.

1.2 SUMMARY

A. Section Includes:
   1. Fine grading, fertilizer, sodding of Sports Mix Bermudagrass.
   2. Maintenance until an approved stand of grass.

B. Related Sections:
   1. Section 31 22 19, "Landscape Finish Grading".
   2. Section 32 80 00, "Landscape Irrigation System".

1.3 QUALITY ASSURANCE

A. Deliver fertilizer to site in original, sealed containers bearing manufacturer's guaranteed statement of analysis.

B. Complete herbicide application by a licensed applicator, with current license in good standing, thoroughly trained in the scope of work involved.

1.4 SPECIAL GRASSING PROVISIONS

A. Water: Will be available on site. Provide necessary hoses and other watering equipment required to complete work. Refer to drawings for irrigation limits.

B. Maintenance: Until substantial completion, and until an approved stand of grass is achieved, maintain lawn areas by watering, mowing, weeding, spraying, cleaning and replacing as necessary to keep the turf in a vigorous, healthy condition.
   1. Watering: As necessary to keep top 1 1/2 inches of soil moist within two hours of planting.
   2. Mowing:
      a. Sports Mix Bermudagrass: Mow newly planted solid sod grass areas weekly after initial growth reaches 2-1/2 inches.
   3. Weeding: Remove weeds and foreign grass over lawn areas at least once a week. Herbicides may be used only when approved by Landscape Architect.

C. Acceptance: The work will be accepted when a completed undamaged stand of grass, free of weeds, is achieved and as approved by Owner and Landscape Architect.

1.5 REFERENCED STANDARDS

A. All seed shall meet the requirements of the Texas Seed Law including the labeling requirements for showing pure live seed (PLS) = purity x germination, name and type of seed. The contractor shall provide the Landscape Architect with documentation of the seed test. The seed test shall have been completed no more than 9 months prior to installation of the see. Seed test should state viability of the seed and PLS per pound.

1.6 CONDITION OF SURFACES

A. Lawn areas will be graded with topsoil as noted in Section 31 22 19.

1.7 QUALITY ASSURANCE

A. Installer Qualifications: A qualified landscape installer whose work has resulted in successful native seed establishment within the past 5 years.
   1. Installer's Field Supervision: Require Installer to maintain an experienced full-time supervisor on Project Site when work is in progress.
   2. Herbicide Applicator: State Licensed, commercial.
   3. Personnel Certifications: Installer's field supervisor shall have certification in one of the following categories:
      a. Landscape Industry Certified Technician – Exterior
      b. Landscape Industry Certified Lawncare Manager
      c. Landscape Industry Certified Lawncare Technician

1.8 SCHEDULES

A. Sodding:
   1. Sodding operations can be performed year-round weather permitting. Do not install sod on frozen ground or if forecast calls for freezing conditions.
   2. Do not place sod until fine grading is approved.

PART 2 - MATERIALS

2.1 GRASSES

A. Sod: Sports Mix Bermudagrass: Free of foreign weeds and grasses. Cut sod with a full 3/4 inch heavy clay soil covering roots. Do not stack for more than 48 hours between time of cutting and planting. Any sod not planted within 24 hours after receipt on site shall be removed and not planted.

2.2 FERTILIZER

A. Provide a complete fertilizer, part of elements of which are derived from organic sources and shall include trace elements. Fillers to be sulphur and iron sulphate.
   1. First Application: 10-10-10 or similar analysis with minimum 8% sulphur and 4% iron, plus micronutrients.

2. Second Application: 20-5-10 or similar analysis. Nitrogen source to be a minimum 50% slow release organic Nitrogen (SCU or UF) plus minimum 8% sulphur and 4% iron plus micronutrients.

PART 3 - EXECUTION

3.1 PREPARATION

A. Grading: Verify that lawn areas have been graded as provided in Section 31 22 19. Do not proceed with final grading until prior earthwork is in accordance with Contract Documents.

3.2 FINAL GRADING

A. Loosen areas to be grassed with rototiller or similar equipment and fine rake to break up lumps to produce a smooth, even grade, free from unsightly variations, ridges or depressions. Leave grade next to walks and curbs 1 in. low.

B. Remove and dispose of stones 1 inch or larger, sticks, roots, other debris and grass stubble exposed during this operation.

C. Do not vary final grades more than 0.1 foot from finish elevations.

D. Receive approval of fine grading from Landscape Architect prior to grass planting.

3.3 FERTILIZING

A. First Application:
1. Distribute 10-10-10 fertilizer uniformly at rate of 15 pounds per 1,000 square feet and rake into seed bed prior to sodding.

B. Second Application:
1. Repeat fertilization with 20-5-10 commercial fertilizer after first cutting at rate of 15 pounds per 1,000 square feet.

C. Water: Immediately water in fertilizer after each application.

3.4 GRASS PLANTING

A. Sod:
1. Lay sod within 24 hours of harvesting. Do not lay sod if dormant or if ground is frozen or muddy.
2. Lay sod to form a solid mass with tightly fitted joints. Butt ends and sides of sod; do not stretch or overlap. Stagger sod strips or pads to offset joints in adjacent courses. Avoid damage to soil or sod during installation. Tamp and roll lightly to ensure contact with soil, eliminate air pockets, and form a smooth surface. Work sifted soil or fine sand into minor cracks between pieces of sod; remove excess to avoid smothering sod and adjacent grass.
   a. Lay sod across slopes exceeding 1:3.

b. Anchor sod on slopes exceeding 1:6 with wood pegs or steel staples spaced as recommended by sod manufacturer but not less than two anchors per sod strip to prevent slippage.

3. Saturate sod with fine water spray within two hours of planting. During first week after planting, water daily or more frequently as necessary to maintain moist soil to a minimum depth of 1-1/2 inches below sod.

3.5 PERFORMANCE

A. General: Maintain and establish turf by watering, fertilizing, weeding, mowing, trimming, replanting, and performing other operations as required to establish healthy, viable turf. Roll, regrade, and replant bare or eroded areas and re-plant to produce a uniformly smooth turf. Provide materials and installation the same as those used in the original installation. Maintenance period for turf areas only is 60 days past substantial completion.

B. Sports Mix Bermudagrass: Mow turf as soon as top growth is tall enough to cut. Repeat mowing to maintain specified height without cutting more than one-third of grass height. Remove no more than one-third of grass-leaf growth in initial or subsequent mowings.

C. Keep lawn areas weeded removing broadleaf and grassy weeds as required.

3.6 SATISFACTORY TURF

A. Turf installations shall meet the following criteria as determined by Landscape Architect:
1. Satisfactory Sodded Turf: At end of maintenance period, a healthy, well-rooted, even-colored, viable turf has been established, free of weeds, open joints, bare areas, and surface irregularities.

B. Use specified materials to reestablish turf that does not comply with requirements and continue maintenance until turf is satisfactory.

3.7 GRADE MAINTENANCE AND EROSION DAMAGE

A. Maintain original grades of lawn areas after commencement of planting and during maintenance period.

B. Provide surface repair to ruts, ridges, tracks. Replant areas as required for final acceptance.

3.8 ACCEPTANCE

A. The work will be accepted when a dense, undamaged stand of grass, free of weeds, is achieved, as approved by Landscape Architect.

3.9 CLEAN UP

A. Keep premises neat and orderly including organization of storage areas. Remove trash and debris resulting from lawn preparation from site daily as work progresses. Leave paved areas in a broom clean condition by sweeping or hosing.

END OF SECTION
32 92 00

CITY OF MIDLAND

WINDLANDS PARK IRRIGATION RENOVATION

100% CONSTRUCTION DOCUMENTS

MAY 31, 2023

DALP NO. 006775.003

DUNAWAY
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(TX REG. F-1114)

SHEET INDEX

SHEET	DESCRIPTION
GN.00	GENERAL NOTES
L1.00	IRRIGATION PLAN - OVERALL
L1.01	IRRIGATION PLAN - AREA A
L1.02	IRRIGATION PLAN - AREA B
L1.03	IRRIGATION PLAN - AREA C
L1.04	IRRIGATION PLAN - AREA D
L1.05	IRRIGATION NOTES AND DETAILS
L1.06	IRRIGATION DETAILS
L1.07	

MAY OR

LORI BLONG

COUNCIL MEMBERS

SCOTT DUFFORD	DISTRICT 1
JOHN FLETCHER	DISTRICT 2
JACK EADY	DISTRICT 3
DAN CORRALES	
ROBIN POOLE	DISTRICT 4
	AT LARGE
	AT LARGE

INTERIM CITY MANAGER

WILLIAMS JR.

DEPUTY CITY MANANGER

TINA JAUZ

COMMUNITY SERVICES DIRECTOR

CRISTINA BURNS

ASSISTANT COMMUNITY SERVICES DIRECTOR

LAURIE WILLIAMS

CONTRACTOR _____

DATE CONSTRUCTOR BEGAN _____

DATE WORK WAS COMPLETED _____

DATE WORK WAS ACCEPTED _____

FINAL CONTRACT COST

REGISTERED LANDSCAPE ARCHITECT MEGAN ABERNATHY 2755 STATE OF TEXAS

Megan Abernathy 05/31/23

SUBMITTED _____

LANDSCAPE ARCHITECT

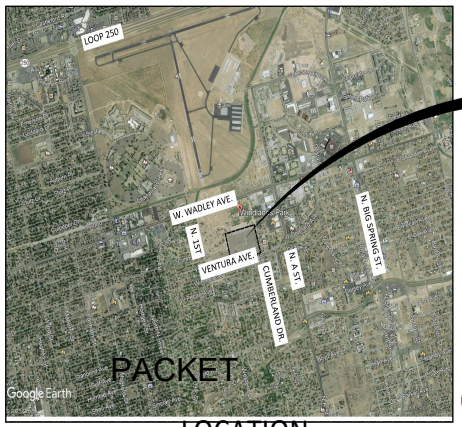
RECOMMENDED _____

CITY ENGINEER

RECOMMENDED _____

June 13, 2023

ENGINEERING SERVICES DIRECTOR



PROJECT LOCATION

NORTH

LOCATION MAP

MIDLAND
Feel the Energy!

811 Know what's below. Call before you dig.

PACKET 9.7

GENERAL NOTES:

1. THE CONTRACTOR SHALL COORDINATE ALL CONSTRUCTION ACTIVITIES WITH THE OWNER AND ADJUST CONSTRUCTION ACTIVITIES, DELIVERIES, STORAGE, ETC. TO ACCOMMODATE THE OWNERS NEEDS TO RAISE OF LOWER CUBES.
2. ACCESS TO THE OWNER AND THE CONTRACTOR PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL SECURE THE STAGING AREA WITH A MINIMUM OF A 6' CHAIN LINK FENCE WITH LOCKABLE GATES. THE STAGING AREA SHALL BE MAINTAINED AT A LEVEL SURFACE SUITABLE FOR STREET SWEEPING. THE AREA SHALL BE REGRADED TO PROVIDE A SMOOTH CONTOUR. ALL GRAVEL, CRUSHED LIMESTONE, ETC. SHALL BE COMPLETELY REMOVED PRIOR TO FINISH GRADING.
3. ALL CONSTRUCTION ACTIVITIES SHALL BE CONFINED TO THE PROPERTY LINES AS SHOWN ON THE PLANS. ANY DAMAGE TO ADJACENT PROPERTY SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.

SITE PLAN NOTES:

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL CONSTRUCTION SURVEYING FOR THIS PROJECT. PROVIDE SHOTS TO LANDSCAPE ARCHITECT FOR VERIFICATION OF SLOPES.
2. FIGURED DIMENSIONS AND COORDINATES SHALL GOVERN OVER SCALED DRAWINGS.
3. ALL IMPROVEMENTS SHALL BE STAKED IN THE FIELD BY THE CONTRACTOR AND APPROVED BY THE OWNER PRIOR TO CONSTRUCTION.
4. ALL CONSTRUCTION WILL CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
5. ALL DIMENSIONS SHOWN ARE TO FACE OF CURB, FACE OF WALL, OR FACE OF BUILDING UNLESS OTHERWISE NOTED.
6. LAYOUT AND GRADING FOR THE IMPROVEMENTS SHALL OCCUR AS DIRECTED BY THE LANDSCAPE ARCHITECT. ALL GRADES SHALL BE FINISHED TO A SMOOTH, FLOWING CONTOUR MAINTAINING EXISTING FLOW PATTERNS UNLESS DIRECTED OTHERWISE.
12. THE CONTRACTOR SHALL COMPLY WITH ALL SETBACK AND EASEMENT LINES AND MAINTAIN VISIBILITY LINES IN THE FIELD PRIOR TO CONSTRUCTION.
13. TREE TRUNK LOCATIONS SHOWN ARE APPROXIMATE. IF LOCATIONS CONFLICT WITH ANY PROPOSED IMPROVEMENT, CONTRACTOR SHALL CONTACT LANDSCAPE ARCHITECT FOR DIRECTION PRIOR TO ANY CONSTRUCTION.

UTILITY NOTES:

1. IN THE EVENT THAT EXISTING UTILITIES SUCH AS WATER, GAS, TELEPHONE, ETC. INTERFERE WITH CONSTRUCTION, THE CONTRACTOR SHALL PROVIDE TEMPORARY UTILITIES TO THE SATISFACTION OF THE OWNER AND AT NO ADDITIONAL COST TO THE OWNER.
2. THE CONTRACTOR SHALL USE EXTREME "CAUTION" WHEN WORKING IN AREAS ADJACENT TO GAS LINES, UNDERGROUND ELECTRIC CABLE, FIBER OPTIC CABLE AND UNDERGROUND TELEPHONE CABLE.
3. WHERE EXISTING UTILITIES OR SERVICE LINES ARE CUT, BROKEN OR DAMAGED, THE CONTRACTOR SHALL REPLACE OR REPAIR THE UTILITIES OR SERVICE LINES WITH THE SAME TYPE OF ORIGINAL MATERIAL AND CONSTRUCTION, OR BETTER, UNLESS OTHERWISE SHOWN OR NOTED ON THE PLANS. THE CONTRACTOR SHALL NOTIFY THE OWNER IMMEDIATELY OF ANY CONFLICTS IN GRADES AND ALIGNMENT.

DEMOLITION PLAN NOTES:

1. THE CONTRACTOR IS RESPONSIBLE FOR THE DEMOLITION, REMOVAL, AND DISPOSING OF EXISTING UTILITIES, PAVEMENT, TREES, ETC., WITHIN CONSTRUCTION AREA, IN A LOCATION APPROVED BY ALL GOVERNING AUTHORITIES. REPAIR ANY DAMAGED AREAS OUTSIDE THE LIMITS OF DEMOLITION TO A CONDITION EQUAL TO OR BETTER THAN EXISTING PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES.
2. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL PERMITS REQUIRED FOR DEMOLITION AND DISPOSAL.
3. PRIOR TO DEMOLITION OCCURRING, ALL EROSION CONTROL DEVICES ARE TO BE INSTALLED TO CITY OF MIDLAND STANDARDS. CONTRACTOR SHALL SUBMIT AN EROSION CONTROL OR SWPPP PLAN FOR APPROVAL PRIOR TO DEMOLITION OR CONSTRUCTION. EROSION CONTROL MEASURES SHALL BE MAINTAINED IN GOOD REPAIR AND FUNCTIONAL CONDITION THROUGHOUT THE DURATION OF THE PROJECT.
4. THE LOCATIONS OF ALL EXISTING UTILITIES SHOWN ON THESE PLANS HAVE BEEN DETERMINED FROM THE BEST INFORMATION AVAILABLE AND ARE GIVEN FOR THE CONVENIENCE OF THE CONTRACTOR. THE LANDSCAPE ARCHITECT ASSUMES NO RESPONSIBILITY FOR THEIR ACCURACY. PRIOR TO THE START OF DEMOLITION, THE CONTRACTOR SHALL NOTIFY THE UTILITY SERVICES IN THE VICINITY. BUILDINGS PRIOR TO DEMOLITION OF THE BUILDINGS.
5. ALL EXISTING IMPROVEMENTS NOT SCHEDULED FOR REMOVAL SHALL BE MAINTAINED FOR THE SURROUNDING PROPERTIES AT ALL TIMES DURING DEMOLITION OF THE EXISTING FACILITIES.
6. EXISTING PAVEMENT, STRUCTURES OR ELEMENTS TO REMAIN SHALL BE PROTECTED IN PLACE IN THE EXISTING CONDITION OR BETTER.
7. ALL FENCES REMOVED TO FACILITATE CONSTRUCTION SHALL BE REPLACED AT THE EXISTING OR PROPOSED LOCATION AS DIRECTED BY THE OWNER'S PROJECT REPRESENTATIVE.
8. WHERE DEMOLITION WILL OCCUR AT OR NEAR A PUBLIC STREET, THE CONTRACTOR SHALL SCHEDULE CONSTRUCTION ACTIVITIES AS SOON AS POSSIBLE SO THAT EDGES OF THE PAVEMENT WILL NOT BE LEFT UNPROTECTED OVER WEEKEND OR HOLIDAYS.
9. ALL UTILITIES ENCOUNTERED, CAPPED, PLUG IN ACCORDANCE WITH STATE REQUIREMENTS AND CONTACT THE CITY OF MIDLAND.
10. CONTRACTOR TO VERIFY PRESENCE OF HAZARDOUS MATERIAL IN DEMOLITION OF EXISTING STRUCTURES. ANY HAZARDOUS MATERIAL TO BE REMOVED IN ACCORDANCE WITH ALL NATIONAL AND GOVERNMENTAL REGULATIONS AND DISPOSED OF PROPERLY.
11. REMOVE TREES BELOW FINISH GRADE. BACKFILL AND COMPACT ALL HOLES WITH APPROVED FILL MATERIAL TO FLUSH WITH SURROUNDING GRADES. REPAIR ANY DAMAGED AREAS TO EXISTING (PRIOR TO DEMOLITION) CONDITIONS.
12. GRASS
    - SCALP GRASS AND REMOVE CLIPPINGS PRIOR TO NON-SELECTIVE SYSTEMIC HERBICIDE
    - USE NON-SELECTIVE SYSTEMIC HERBICIDE (EXAMPLE - ROUND-UP) ON AREAS WHERE THE TURFGRASS WILL BE STRIPPED. APPLY NON-SELECTIVE SYSTEMIC HERBICIDE AT LEAST TWO WEEKS IN ADVANCE OF ANY PLANTING OR GRADING ACTIVITIES. FOLLOW MANUFACTURER'S RECOMMENDATIONS FOR APPLICATION RATES AND PRECAUTIONS.
    - NON-SELECTIVE SYSTEMIC HERBICIDE SHALL NOT BE APPLIED WITHIN THE ROOT ZONE OF EXISTING TREES.
13. CONTRACTOR AND DUNAWAY TO INVESTIGATE NATIVE SOIL TO DETERMINE IF THE SOIL IS SUITABLE FOR TOPSOIL PRIOR TO PLANTING. IF DETERMINED THAT SOIL IS NOT SUITABLE CONTRACTOR WILL IMPORT SOIL THAT IS SIMILAR TO NATIVE SOIL SUITED FOR VIGOROUS PLANT GROWTH (PROVIDE DUNAWAY WITH SOILS REPORT BEFORE BRING SOIL ON SITE). SAMPLES ARE REQUIRED FOR APPROVAL BEFORE POST, INCLUDING SOIL AMENDMENTS, PLANTS AND BUNWAY. PRICE OF SOIL AMENDMENTS AND ITEMS ASSOCIATED WITH THE CONTRACTOR'S FAILURE TO PROVIDE ADDITIONAL COST OR SEPARATE PAYMENT FOR AMENDED SOIL.
17. REMOVE ALL EXISTING TREES, POST, INCLUDING FOOTINGS, SIGNS, SIGN ASSEMBLIES AND ITEMS ASSOCIATED WITH THE EXISTING IRRIGATION SYSTEM. ADDITIONAL COST OR SEPARATE PAYMENT FOR ABOVE ITEMS.
18. COORDINATE ALL DEMOLITION AND CONSTRUCTION ACTIVITIES WITH OTHER CONTRACTORS PRIOR TO COMMENCEMENT WITH CITY STAFF TO ENSURE CONFLICTS DO NOT OCCUR.
19. CONTRACTOR SHALL DETERMINE LOCATIONS AND EXTENT OF ALL EXISTING SITE UTILITIES PRIOR TO COMMENCEMENT OF WORK.
20. PROTECT IN PLACE ALL ITEMS NOT SCHEDULED FOR REMOVAL OR RELOCATION, INCLUDING VEGETATION, HOSE BIBS, AND OTHER UTILITIES.
21. ALL SPECIFIED MATERIAL TO BE REMOVED AND DISPOSED OF OFF SITE.
22. CONTRACTOR SHALL ERECT LIMITS OF WORK BARRICADES TO ALLOW PEDESTRIAN CIRCULATION TO CONTINUE UNINTERRUPTED IN AREAS NOT AFFECTED BY CONSTRUCTION.
23. REFERENCE DETAIL ON SHEET L0.12 FOR TREE PROTECTION FENCING. INSTALL TREE PROTECTION FENCING BEFORE DEMOLITION COMMENCEMENT.

GRADING NOTES:

1. STRIP TOPSOIL TO A DEPTH NOT TO EXCEED 6" STOCKPILE AND REDISTRIBUTE TO GRADED AREAS ONCE ROUGH GRADING OPERATIONS ARE COMPLETE. STOCKPILE AREA TO BE APPROVED BY OWNER AND LANDSCAPE ARCHITECT.
2. SLOPES, BERMS AND SWALES SHALL BE GRADED TO BE A SMOOTH, FLOWING ROUNDED SURFACE PROVIDING POSITIVE DRAINAGE AND VISUAL CONTINUITY.
3. CONTRACTOR IS RESPONSIBLE FOR REMOVAL OF ALL CLEARED BRUSH, DEBRIS, ETC. FROM WITHIN THE LIMITS OF CONSTRUCTION. DISPOSE OF MATERIAL OFFSITE.
4. EXISTING TREES WHICH ARE TO BE PRESERVED SHALL BE PROTECTED FROM DAMAGE DURING CONSTRUCTION. CONSTRUCTION EQUIPMENT SHALL NOT OPERATE, PARK OR BE STORED UNDER THE CANOPIES OF EXISTING TREES.
5. WITHIN THE AREA OF GRADING, THE CONTRACTOR SHALL COORDINATE TREE PRESERVATION WITH THE LANDSCAPE ARCHITECT AND OWNERS REPRESENTATIVE.
6. GRADING FOR THE IMPROVEMENTS SHALL OCCUR AS DIRECTED BY THE LANDSCAPE ARCHITECT. ALL GRADES SHALL BE FINISHED TO A SMOOTH, FLOWING CONTOUR MAINTAINING EXISTING FLOW PATTERNS UNLESS DIRECTED OTHERWISE.
7. REFER TO EXISTING CONDITIONS AND REMOVAL ITEMS PLANS FOR SURVEY BENCHMARKS, DEMOLITION, EXISTING TREE REMOVAL, AND CLEARING INFORMATION.
8. REFER TO LAYOUT SHEETS FOR LAYOUT INFORMATION.
9. CONTRACTOR IS RESPONSIBLE FOR THE LOCATION AND MARKING OF ALL EXISTING UNDERGROUND OR ABOVE GROUND UTILITIES WITHIN THE PROJECT AREA.

TREE PROTECTION NOTES:

1. A TREE PROTECTION ZONE (RPZ) WILL BE ESTABLISHED FOR EACH TREE TO BE PRESERVED. THE ROOT PROTECTION ZONE SHALL BE AN AREA DEFINED BY THE RADIUS EXTENDING OUTWARD FROM THE TRUNK OF THE TREE A DISTANCE OF ONE (1) LINEAR FOOT FOR EACH INCH DIAMETER OF THE TREE. (I.E. A 10" TREE WILL HAVE A PROTECTION ZONE WITHIN A 10' RADIUS FROM FACE OF TRUNK).
2. NO TRENCHING OR EXCAVATION IS REQUIRED FOR ALL TREE PROTECTION ZONES.
3. ROOTS GREATER THAN ONE-INCH DIAMETER ARE TO BE CUT CLEANLY AND OAK WOUNDS PAINTED WITH APPROVED TREE PAINT WITHIN 30 MINUTES.
4. NO EQUIPMENT, VEHICLES OR MATERIALS SHALL BE OPERATED OR STORED WITHIN THE ROOT PROTECTION ZONE.
5. NO CLEAN-OUT AREAS WILL BE CONSTRUCTED SO THAT MATERIAL WILL BE IN OR MIGRATE TO THE ROOT PROTECTION ZONE.
6. NO GRADE CHANGES MORE THAN 3" IS ALLOWED WITHIN THE ROOT PROTECTION ZONE.
7. RPZ SHALL BE SUSTAINED IN A NATURAL STATE AND SHALL BE FREE FROM VEHICULAR OR MECHANICAL TRAFFIC.
8. ANY IRRIGATION INSTALLATION WORK IN THE RPZ SHALL BE HAND DUG.
9. THE RPZ SHALL BE COVERED WITH MULCH TO REDUCE EVAPORATIVE LOSSES.
10. ROOTS OR BRANCHES IN CONFLICT WITH CONSTRUCTION SHALL BE CUT CLEANLY ACCORDING TO PROPER PRUNING METHODS. ALL OAK WOUNDS SHALL BE PAINTED WITHIN 30 MINUTES TO PREVENT OAK WILT INFECTION.
11. THE RPZ SHALL REMAIN UNDISTURBED BY PAVING, CURBING OR UNDERCOVER OR TURF AT COMPLETION OF LANDSCAPE INSTALLATION.
12. NO WORK SHALL BEGIN IN AREAS WHERE TREE PRESERVATION AND TREATMENT MEASURES HAVE NOT BEEN COMPLETED AND APPROVED.
13. TREES WHICH ARE DAMAGED OR LOST DUE TO THE CONTRACTOR'S NEGLIGENCE DURING CONSTRUCTION SHALL BE MITIGATED.
14. TREES MUST BE MAINTAINED IN GOOD HEALTH THROUGHOUT THE CONSTRUCTION PROCESS. MAINTENANCE MAY INCLUDE BUT IS NOT LIMITED TO: WATERING THE ROOT PROTECTION ZONE, WASHING FOLIAGE, FERTILIZATION, PRUNING, ADDITIONAL MULCH APPLICATIONS AND OTHER MAINTENANCE AS NEEDED ON THE PROJECT.

EROSION CONTROL NOTES:

1. EROSION CONTROL MEASURES SHALL FOLLOW THE STORM WATER POLLUTION PREVENTION PLAN (SWPPP). ANY CHANGES TO THE SWPPP SHALL SUPERSEDE THE EROSION CONTROL PLAN. THE SWPPP IS TO BE KEPT ON-SITE AT ALL TIMES WITH THESE CONSTRUCTION DOCUMENTS.
2. CONTRACTOR IS RESPONSIBLE FOR ALL PERMITS, INSPECTIONS AND NOTIFICATIONS REQUIRED BY THE TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) GENERAL PERMIT.
3. EROSION AND SEDIMENT CONTROL SHALL BE PROVIDED IN ACCORDANCE WITH THE CITY REGULATIONS.
4. PRIOR TO COMMENCING ANY CONSTRUCTION, A CONSTRUCTION ENTRANCE AND PERIMETER SILT FENCE SHALL BE INSTALLED AT THE LOCATIONS SHOWN. THE EROSION CONTROL PLAN WILL INCORPORATE EROSION CONTROL MEASURES AND TECHNIQUES TO PREVENT SEDIMENTATION AND ERODED SOIL FROM LEAVING THE SITE EITHER IN EXISTING STORM DRAIN SYSTEM OR ONTO ADJACENT PRIVATE OR PUBLIC PROPERTY. CONSTRUCT TEMPORARY EROSION CONTROL SYSTEMS AS SHOWN ON THE PLANS TO PROTECT ADJACENT PROPERTIES AND WATER RESOURCES FROM EROSION AND SEDIMENTATION. CONTRACTOR SHALL NOTIFY OWNER IMMEDIATELY IF THE CONSTRUCTION ENTRANCE HAS BEEN BYPASSED OR IS NOT PREVENTING SEDIMENT FROM LEAVING THE SITE. CONTRACTOR SHALL INSTALL ADDITIONAL EROSION CONTROL MEASURES AS REQUIRED BY OWNER OR GOVERNING AUTHORITIES IN COMPLIANCE WITH THE SWPPP. CONTRACTOR IS RESPONSIBLE FOR TAKING IMMEDIATE ACTION TO REGULATIONS. CONTRACTOR IS RESPONSIBLE FOR CLEANING ANY SEDIMENT DEPOSITED ONTO PUBLIC STREETS BY VEHICLES LEAVING THE CONSTRUCTION SITE. HOWEVER ALL ENTRANCES AT ALL TIMES SHALL BE PREPARED IN ACCORDANCE WITH THE APPROVED EROSION CONTROL PLAN. ROUTINE INSPECTION AND MAINTENANCE OF WATER POLLUTION PREVENTION MEASURES IS THE RESPONSIBILITY OF THE CONTRACTOR UNTIL FINAL PAVING IS COMPLETED AND ACCEPTED.
5. EROSION CONTROL DEVICES SHALL BE INSTALLED PRIOR TO THE COMMENCEMENT OF ANY SOIL DISTURBANCE TAKING PLACE. DURING CONSTRUCTION, THE CONTRACTOR SHALL PERFORM ROUTINE INSPECTIONS, DAMAGED OR INOPERATIVE DEVICES SHALL BE REPAIRED OR REPLACED PROMPTLY.
6. THE CONTRACTOR SHALL COORDINATE WITH EXCAVATOR, LANDSCAPE, AND IRRIGATION CONTRACTOR TO DETERMINE EARLIEST POSSIBLE DATE TO INSTALL GRASSING AS NOTED ON THE PLANS. EROSION CONTROL MEASURES PROPOSED TO PROTECT LANDSCAPE PLANTED SLOPES SHALL BE AS INDICATED ON THE LANDSCAPE PLANS. PLANT MATERIALS MUST BE SUITABLE FOR USE UNDER LOCAL CLIMATE AND SOIL CONDITIONS. IN GENERAL, HYDROSEEDING OR SODDING BERMUDA GRASS IS ACCEPTABLE DURING THE SUMMER MONTHS (MAY 1 – AUGUST 30). WINTER RYE OR FESCUE GRASS MAY BE USED FOR ESTABLISHMENT TO BE REMOVED OR OVERSEEDED WITH PERMANENT SUMMER GRASSES PRIOR TO THE SUMMER GROWING SEASON. SEEDED AREAS SHALL BE WATERED AND FERTILIZED AS REQUIRED TO ESTABLISH A STAND OF GRASS SUFFICIENT TO PREVENT EROSION. SUCH AREAS SHALL BE REPAIRED AND REPLANTED AS NECESSARY UNTIL A SATISFACTORY STAND OF GRASS HAS BEEN ESTABLISHED.
7. ROUTINE INSPECTIONS, DAMAGED OR INOPERATIVE DEVICES SHALL BE REPAIRED OR REPLACED PROMPTLY. CONTRACTOR SHALL COORDINATE WITH EXCAVATOR, LANDSCAPE, AND IRRIGATION CONTRACTOR TO DETERMINE EARLIEST POSSIBLE DATE TO INSTALL GRASSING AS NOTED ON THE PLANS. EROSION CONTROL MEASURES PROPOSED TO PROTECT LANDSCAPE PLANTED SLOPES SHALL BE AS INDICATED ON THE LANDSCAPE PLANS. PLANT MATERIALS MUST BE SUITABLE FOR USE UNDER LOCAL CLIMATE AND SOIL CONDITIONS. IN GENERAL, HYDROSEEDING OR SODDING BERMUDA GRASS IS ACCEPTABLE DURING THE SUMMER MONTHS (MAY 1 – AUGUST 30). WINTER RYE OR FESCUE GRASS MAY BE USED FOR ESTABLISHMENT TO BE REMOVED OR OVERSEEDED WITH PERMANENT SUMMER GRASSES PRIOR TO THE SUMMER GROWING SEASON. SEEDED AREAS SHALL BE WATERED AND FERTILIZED AS REQUIRED TO ESTABLISH A STAND OF GRASS SUFFICIENT TO PREVENT EROSION. SUCH AREAS SHALL BE REPAIRED AND REPLANTED AS NECESSARY UNTIL A SATISFACTORY STAND OF GRASS HAS BEEN ESTABLISHED.
8. DISTURBED AREAS THAT ARE SEEDED OR SODDED SHALL BE CHECKED PERIODICALLY TO SEE THAT GRASS COVERAGE IS PROPERLY MAINTAINED. DISTURBED AREAS SHALL BE WATERED, FERTILIZED AND RE-SEEDED OR SODDED IF NECESSARY IN THE EVENT THAT EROSION OCCURS AS A RESULT OF CONSTRUCTION, THE CONTRACTOR SHALL RESTORE THE ERODED AREA TO ORIGINAL CONDITION PRIOR TO HYDROMULCHING OR SODDING.
9. CONTRACTOR SHALL STABILIZE THE EARTHEN SLOPE AREAS IN ACCORDANCE WITH THE LANDSCAPE PLAN WITHIN 72 HOURS AFTER FINAL GRADE AND TOPSOIL HAS BEEN ESTABLISHED. STABILIZED SLOPES (CURLEX BLANKET AND 70% COVER OF VEGETATION) ACHIEVING EROSION FREE CONDITIONS MUST BE IN PLACE BEFORE REMOVAL OF THE EROSION CONTROL MEASURES.
10. THE CONTRACTOR SHALL REMOVE AND DISPOSE OF ALL EROSION CONTROL DEVICES ONCE FINAL GROUND STABILIZATION IS ACHIEVED.

NO.	DATE	DESCRIPTION
		REVISIONS

GENERAL NOTES

WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

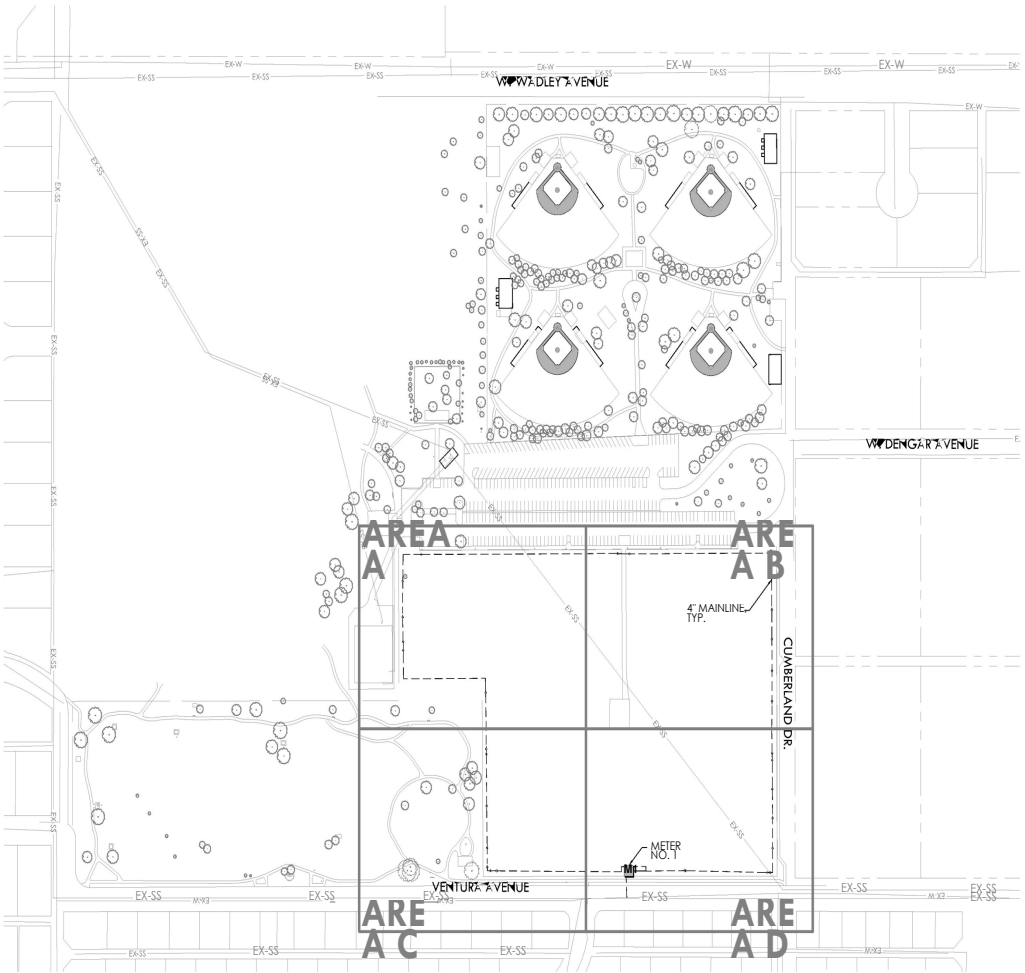
DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 687-0865
(TX REG. # F1114)

REGISTERED LANDSCAPE ARCHITECT
MEGAN A. BERRY
2705
STATE OF TEXAS

Megan Berry 05/31/23

JOB NO.	B006775.001
DESIGNED BY:	MEA
DRAWN BY:	JMM
CHECKED BY:	KLS
DATE:	MAY 31, 2023
SHEET	GN.00

PLOTTED ON: Wednesday, May 31, 2023
PLOTTED BY: Megan Berry
XREFS: ..\Xrefs\Base.dwg
XREFS: ..\Xrefs\Base.dwg
XREFS: ..\Xrefs\Base.dwg



IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
10HE-VAN 10HE-VAN 10HE-VAN 10HE-VAN	SPRAYS: RAIN BIRD 1804-SAM-PRS HE-VAN SERIES TURF SPRAY 4.0" POP-UP SPRINKLER WITH CO-MOLDED WIPER SEAL, 2" NPT FEMALE THREADED INLET. PRESSURE REGULATING.
10	10HE-VAN: RAIN BIRD 1804-SAM-PRS HE-VAN SERIES TURF SPRAY 4.0" POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE. THREADED INLET.
18	18HE-VAN: RAIN BIRD 1804-SAM-PRS HE-VAN SERIES TURF SPRAY 4.0" POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE. THREADED INLET.
SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
	CONTROL VALVE 2" OR LESS: RAIN BIRD PESB-1VM-HS 1" 1-1/2" 2" PLASTIC INDUSTRIAL VALVES LOW FLOW OPERATING CAPABILITY, GLOBE CONFIGURATION, WITH SCRUBBER DIAPHRAGM FOR RELIABLE PERFORMANCE IN DIRTY WATER APPLICATIONS WITH IVM SOL CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY VALVE WITH TIP AND CORROSION-RESISTANT STAINLESS STEEL SPRING, METAL SCREEN, AND TWO-PIECE BODY. PVC SCHEDULE 40 BALL VALVE
	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY VALVE WITH TIP AND CORROSION-RESISTANT STAINLESS STEEL SPRING, METAL SCREEN, AND TWO-PIECE BODY. PVC SCHEDULE 40 BALL VALVE
	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY VALVE WITH TIP AND CORROSION-RESISTANT STAINLESS STEEL SPRING, METAL SCREEN, AND TWO-PIECE BODY. PVC SCHEDULE 40 BALL VALVE
	BFP: WILKINS 975XL2 REDUCED PRESSURE BACKFLOW PREVENTER, 2" WITH STRAINER
	BFP: WILKINS 975XL2 REDUCED PRESSURE BACKFLOW PREVENTER, 2" WITH STRAINER
	CONTROLLER: RAIN BIRD ESP-LXIVMP-LXMMSS 240 STATION 2-WIRE, EXTERIOR STAINLESS STEEL WALL MOUNT
	RAIN/FLOW SENSING: RAIN BIRD WR2-RFC WIRELESS RAIN AND FREEZE SENSOR COMBO, INCLUDES 1 RECEIVER AND 1 RAIN/FREEZE SENSOR
	RECEIVER: RAIN BIRD WR-RFC RECEIVER FOR USE WITH RAIN BIRD MAXICOM SITECONTROL, AND ESP-LXIVMPCENTRAL CONTROL SYSTEMS.
	RAIN/FREEZE SENSOR: RAIN BIRD WR-RFC RAIN/FREEZE SENSOR PLASTIC (PVC) MODEL. SUGGESTED OPERATING RANGE OF 20 GPM TO 150.0 GPM. SENSORS SHOULD BE SIZED FOR FLOW RATHER THAN PIPE SIZE.
	WATER METER: WATER PRESSURE PROVIDED BY CITY ON 2-23-2021 STATIC PRESSURE PSI. PSI
	IRRIGATION LATERAL LINE: PVC CLASS 200 SDR 21 LATERAL LINE TRENCH TO BE A MINIMUM OF 12"
	MAINLINE: 4" MAINLINE TO BE LOOPED, CONNECTING ALL FOUR METERS TO EACH OTHER.
	METER FOR QUICK COUPLER: INCLUDED IN MAINLINE 2"
	QUICK COUPLER: RAIN BIRD 33DRC QUICK COUPLER VALVE 2" SCHEDULE 40

Valve Callout
Valve Number
Valve Flow
Valve Size

CONTRACTOR TO COORDINATE POWER TO CONTROLLER

THE IRRIGATION SYSTEM IS DESIGNED FOR A 2-WIRE DECODER SYSTEM.
THE IRRIGATION CONTRACTOR IS RESPONSIBLE FOR PROVIDING A COMPLETE, FULLY OPERATIONAL SYSTEM. THE CONTRACTOR SHALL INCLUDE ALL PARTS REQUIRED FOR THE 2-WIRE CONTROL SYSTEM INCLUDING WIRE CONNECTORS, TURF DECODERS, SENSOR DECODERS, PROPER GROUNDING, APPROVED 2-WIRE CABLE, AND LINE SURGE PROTECTION PER THE MANUFACTURER'S RECOMMENDATIONS. CONTACT THE RAINBIRD REPRESENTATIVE FOR ADDITIONAL INFORMATION.
JEFF FEUERBACHER 214-536-9886
JFEUERBACHER@RAINBIRD.COM

GRAPHIC SCALE 0 300
1 inch = 150'
NORTH

REVISIONS

NO.	DATE	DESCRIPTION
#	#	#
#	#	#
#	#	#
#	#	#
#	#	#

IRRIGATION PLAN OVERALL

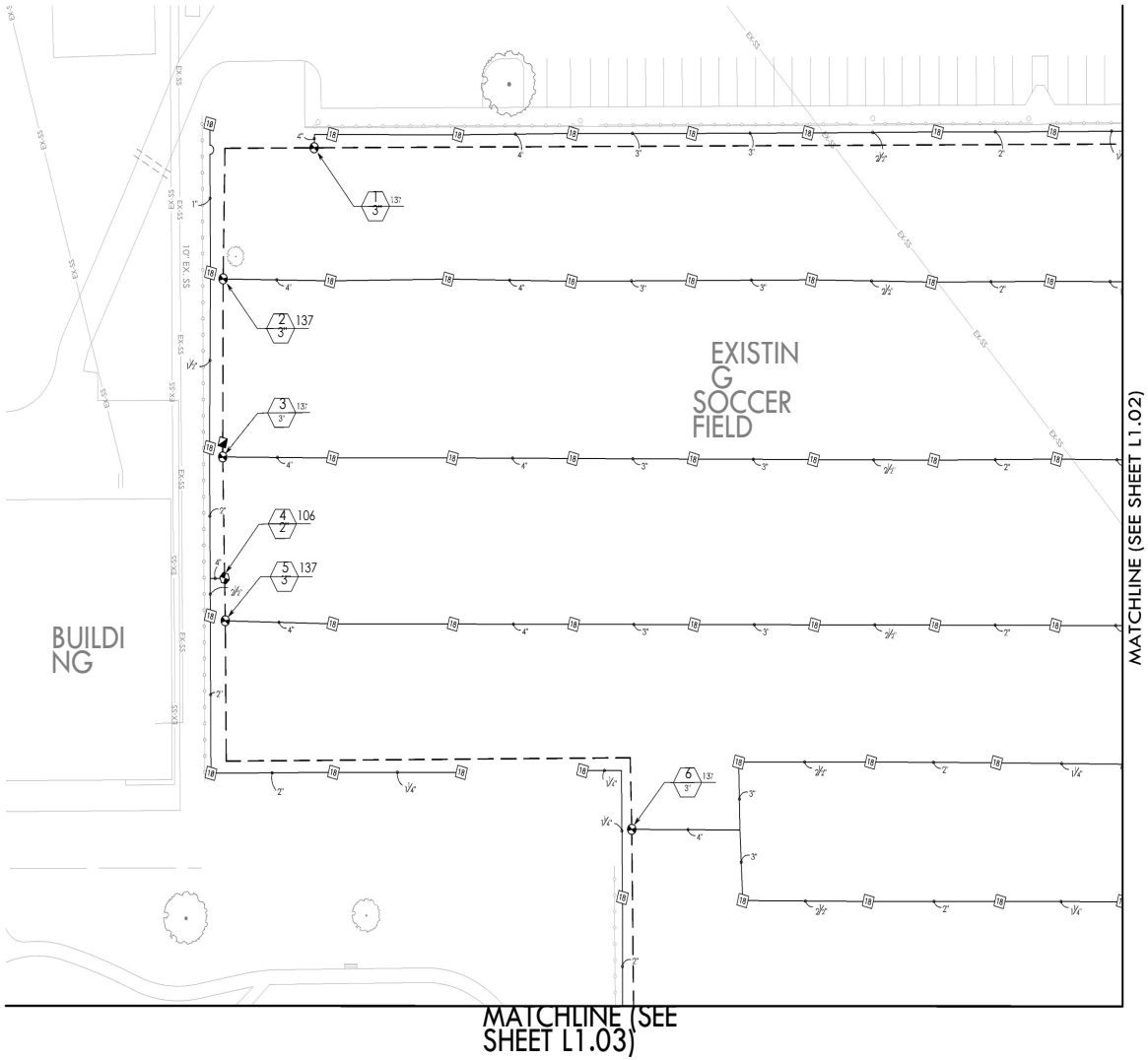
WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 684-4697
(TX REG. # 1114)

STATE OF TEXAS
JANEL MOODY
20529
LICENSED IRRIGATOR
05/31/2023

JOB NO.	8006775.001
DESIGNED BY:	JM
DRAWN BY:	JM MEA
CHECKED BY:	MAY 31, 2023
SHEET:	LI.00

P:\Landscape Architecture\Projects\8006775.001\Drawings\Plot Sheets\Windlands Park Irrigation Plan.dwg
PLOTTED: Fri - May 31, 2023 - 2:47pm
PLOTTED BY: Janel Moody
PLOTTED WITH: JANEL MOODY 20529



IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
38HE-VAN 12HE-VAN 10HE-VAN 15HE-VAN	SPRAY MAIN BIRD 1804-SAM-PRS HE-VAN SERIES TURF SPRAY 4.0" POP-UP SPRINKLER WITH CO-MOLDED WIPER SEAL, 1/2" NPT FEMALE THREADED INLET. PRESSURE REGULATING. LARGE ROTOR: RAIN BIRD 5004-PC OR 5000 POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE, 1" FEMALE THREADED INLET.
18	LARGE ROTOR: RAIN BIRD 5004-PC OR 5000 POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE, 1" FEMALE THREADED INLET.
SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
	CONTROL VALVE 2" OR LESS: RAIN BIRD PESB-IVM-HS 1" 1-1/2" 2" PLASTIC INDUSTRIAL VALVES. LOW FLOW OPERATING CAPABILITY, GLOBE CONFIGURATION, WITH CORROSION RESISTANT INTERNAL PARTS FOR RELIABLE PERFORMANCE. DIRECT WATER SOLENOID CONTROL VALVE, WITH UNDER-THE-CAP MANUAL OPERATION, ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER DISC SCRAPES A STAINLESS STEEL SCREEN TO PREVENT DEBRIS BUILD UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL STRAINER, 1" ONE PIECE BODY. PVC SCHEDULE 40 BALL VALVE.
VM3	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER DISC SCRAPES A STAINLESS STEEL SCREEN TO PREVENT DEBRIS BUILD UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL STRAINER, 3" ONE PIECE BODY. PVC SCHEDULE 40 BALL VALVE.
BF3	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER DISC SCRAPES A STAINLESS STEEL SCREEN TO PREVENT DEBRIS BUILD UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL STRAINER, 3" ONE PIECE BODY. PVC SCHEDULE 40 BALL VALVE.
BF3	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER DISC SCRAPES A STAINLESS STEEL SCREEN TO PREVENT DEBRIS BUILD UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL STRAINER, 3" ONE PIECE BODY. PVC SCHEDULE 40 BALL VALVE.
	DOUBLE CHECK BACKFLOW PREVENTION, 2-1/2" TO 10" FEBCO 880 MASTER SERIES.
	DOUBLE CHECK BACKFLOW PREVENTION, 2-1/2" TO 10" FEBCO 880 MASTER SERIES.
	CONTROLLER: RAINBIRD ESPLXIVMP-LXMMSS 240 STATION 2-WIRE. EXTERIOR STAINLESS STEEL WALL MOUNT.
RF	RAIN/FLOW SENSOR: RAIN BIRD WR2-RFC WIRELESS RAIN AND FREEZE SENSOR COMBO, INCLUDES 1 RECEIVER AND 1 RAIN/FREEZE SENSOR
FS	RECEIVER FOR USE WITH RAIN BIRD MIYCOM SITECONTROL, AND ESP-LXIVMPCENTRAL CONTROL SYSTEMS.
P	PLASTIC (PVC) MODEL SUGGESTED OPERATING RANGE OF 10 GPM TO 150 G.P.M. SENSORS SHOULD BE SIZED FOR FLOW RATHER THAN PIPE SIZE.
MB	WATER PRESSURE PROVIDED BY CITY ON 2-23-2021 STATIC PRESSURE OF 42 PSI
	IRRIGATION LATERAL LINE: PVC CLASS 200 SDR 21
	LATERAL LINE TRENCH TO BE A MINIMUM OF 4". MAINLINE TO BE LOOPED, CONNECTING ALL FOUR METERS TO EACH OTHER. METER FOR QUICK COUPLER INCLUDED IN MAINLINE TO BE 2".
	IRRIGATION MAINLINE: PVC SCHEDULE 40
	QUICK COUPLER VALVE: RAIN BIRD 44-LRC

Valve Callout
Valve Number
Valve Flow
Valve Size

CONTRACTOR TO COORDINATE POWER TO CONTROLLER

THE IRRIGATION SYSTEM IS DESIGNED FOR A 2-WIRE DECODER SYSTEM. THE IRRIGATION CONTRACTOR IS RESPONSIBLE FOR PROVIDING A COMPLETE, FULLY OPERATIONAL SYSTEM. THE CONTRACTOR SHALL INCLUDE ALL PARTS REQUIRED FOR THE 2-WIRE CONTROL SYSTEM INCLUDING WIRE CONNECTORS, TURF DECODERS, SENSOR DECODERS, PROPER GROUNDING, APPROVED 2-WIRE CABLE, AND LINE SURGE PROTECTION PER THE MANUFACTURER'S RECOMMENDATIONS. CONTACT THE RAINBIRD REPRESENTATIVE FOR ADDITIONAL INFORMATION.
JEFF FEUERBACHER 214-536-9385
JFEUERBACHER@RAINBIRD.COM

NORTH

1 inch = 30'

GRAPHIC SCALE

60

REVISIONS			
NO.	DATE	DESCRIPTION	
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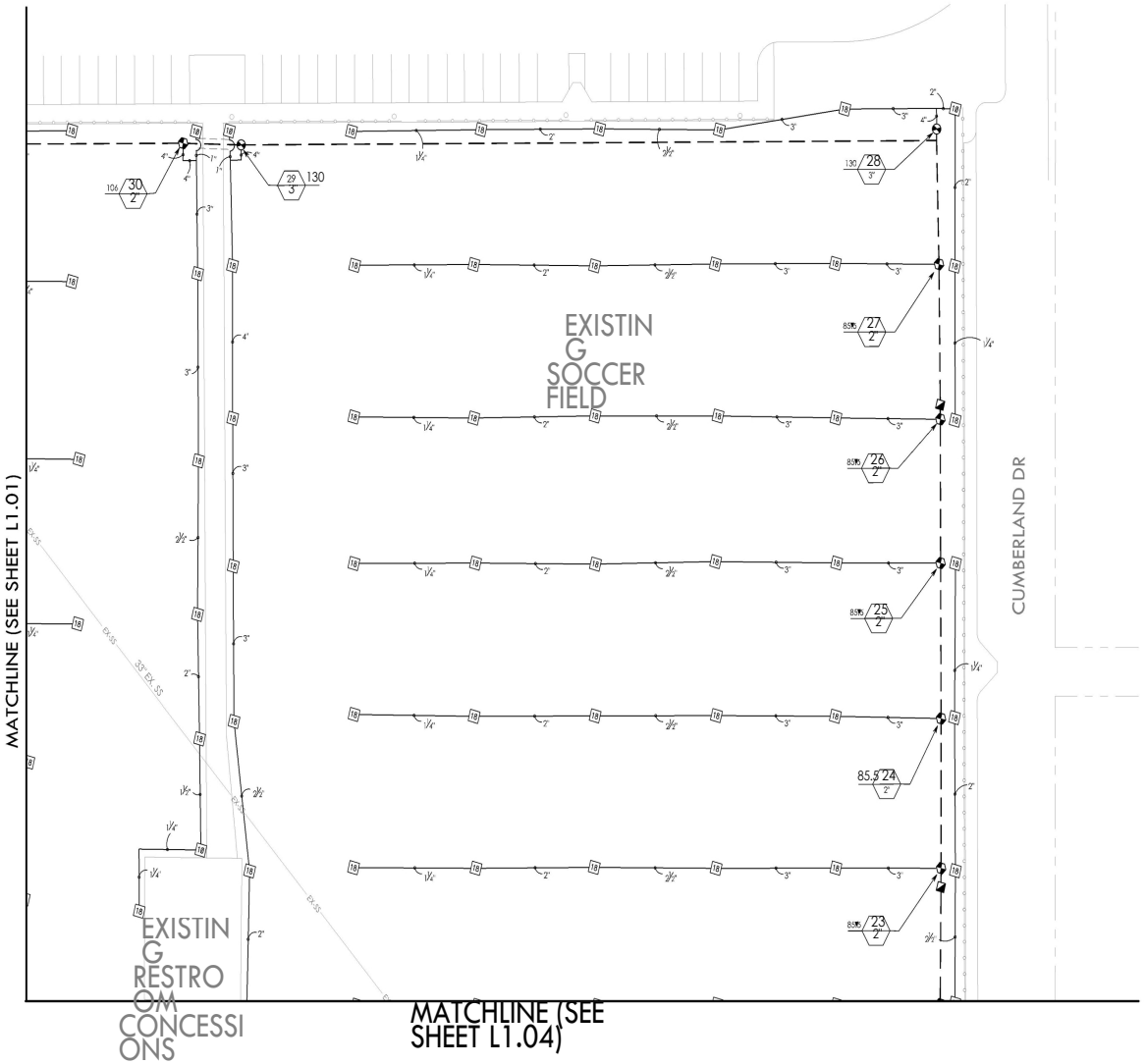
IRRIGATION PLAN - AREA A

WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 684-3687
(TX REG. # F-1174)

STATE OF TEXAS
JANEL MOODY
20529
REGISTERED IRRIGATION DESIGNER
05/31/2023

JOB NO.	8006775.001
DESIGNED BY:	JM M
DRAWN BY:	JM MEA
CHECKED BY:	MAY 31, 2023
DATE:	
SHEET:	L1.01



IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
◎ 06HE-VAN ◎ 12HE-VAN ◉ 10HE-VAN ◉ 15HE-VAN	SPRAY RAIN BIRD 1804-SAM-PRS HE-VAN SERIES TURF SPRAY 4.0" POP-UP SPRINKLER WITH CO-MOLDED WIPER SEAL, 1/2" NPT FEMALE THREADED INLET.
10	ROTOR: RAIN BIRD 5004-PC OR 5000 SERIES LARGE ROTOR, PRESSURE REGULATING. 5004-PC OR 5000 POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE, 1" FEMALE THREADED INLET.
18	ROTOR: RAIN BIRD 5004-PC OR 5000 SERIES LARGE ROTOR, PRESSURE REGULATING. 5004-PC OR 5000 POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE, 1" FEMALE THREADED INLET.
SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
	CONTROL VALVE 2" OR LESS: RAIN BIRD PESB-IVM-HS 1" 1-1/2" 2" PLASTIC INDUSTRIAL VALVES, LOW FLOW OPERATING CAPABILITY, GLOBE CONFIGURATION, WITH SCRUBBER CAP FOR RELIABLE PERFORMANCE.
	CONTROL VALVE 3": RAIN BIRD 200-DIRECT WATER APPLICATION CONTROL VALVE, WITH UNDER-THE-VALVE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY, QUICK COUPLING VALVES WITH BUILT-IN SCRUBBER SCREEN TO PREVENT DEBRIS BUILD UP AND CLOGGING. CORROSION-RESISTANT STAINLESS STEEL SPRING, METAL STEM, AND A ONE-PIECE BODY.
	PVC SCHEDULE 40 BALL VALVE
MV3	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY, QUICK COUPLING VALVES WITH BUILT-IN SCRUBBER SCREEN TO PREVENT DEBRIS BUILD UP AND CLOGGING. CORROSION-RESISTANT STAINLESS STEEL SPRING, METAL STEM, AND A ONE-PIECE BODY.
BF3	BALANCE FLOW REGULATOR: RAIN BIRD SBFR SERIES RUBBER FLAT SCRAPES A STAINLESS STEEL SCREEN
BF3	BACKFLOW PREVENTER: RAIN BIRD 3/4" THROUGH 2" FEATURES DOUBLE CHECK BACKFLOW PREVENTION, 2-1/2" TO 10" DCAT SERIES.
C	CONTROLLER: RAIN BIRD ESP-LXIVMP-LXMMS 240 STATION 2-WIRE, EXTERIOR STAINLESS STEEL WALL-MOUNT
RF	RAIN/FLOW SENSING: RAIN BIRD WR2-RFC WIRELESS RAIN AND FREEZE SENSOR COMBO, INCLUDES 1 RECEIVER AND 1 RAIN/FREEZE SENSOR TRANSMITTER
FS	FLOW SENSOR: RAIN BIRD FLOW SENSOR FOR USE WITH RAIN BIRD MAXICOM SITECONTROL, AND ESP-LXIVMPCENTRAL CONTROL SYSTEMS.
P	PIPE: POLYVINYL CHLORIDE (PVC) MODEL SUGGESTED OPERATING RANGE OF 0.0 GPM TO 60.0 GPM. SENSORS SHOULD BE SIZED FOR FLOW RATHER THAN PIPE SIZE. WATER PRESSURE PROVIDED BY CITY ON 2-23-202) . STATIC PRESSURE IS 70 PSI
MB	MAIN LINE: PVC SCHEDULE 40 4". MAINLINE TO BE LOOPED, CONNECTING ALL FOUR METERS TO EACH OTHER. METER FOR QUICK COUPLER CONTROL VALVE INCLUDED IN MAINLINE SIZE.
	IRRIGATION LATERAL LINE: PVC CLASS 200 SDR 21
	LATERAL LINE TRENCH TO BE A MINIMUM OF 4" DEEP.
	QUICK COUPLER VALVE: RAIN BIRD 44-RC-ASV-FC-B-2". SCHEDULE 40

Valve Callout
Valve Number
Valve Flow
Valve Size

CONTRACTOR TO COORDINATE POWER TO CONTROLLER

THE IRRIGATION SYSTEM IS DESIGNED FOR A 2-WIRE DECODER SYSTEM. THE IRRIGATION CONTRACTOR IS RESPONSIBLE FOR PROVIDING A COMPLETE, FULLY OPERATIONAL SYSTEM. THE CONTRACTOR SHALL INCLUDE ALL PARTS REQUIRED FOR THE 2-WIRE CONTROL SYSTEM INCLUDING WIRE CONNECTORS, TURF DECODERS, SENSOR DECODERS, PROPER GROUNDING, APPROVED 2-WIRE CABLE, AND LINE SURGE PROTECTION PER THE MANUFACTURER'S RECOMMENDATIONS. CONTACT THE RAINBIRD REPRESENTATIVE FOR ADDITIONAL INFORMATION.
JEFF FEUERBACHER 214-536-9358
JFEUERBACHER@RAINBIRD.COM

NORTH

GRAPHIC SCALE
0 30 60
1 inch = 30'

REVISIONS

NO.	DESCRIPTION	DATE
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DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 687-0087
(TX REG. # F1174)

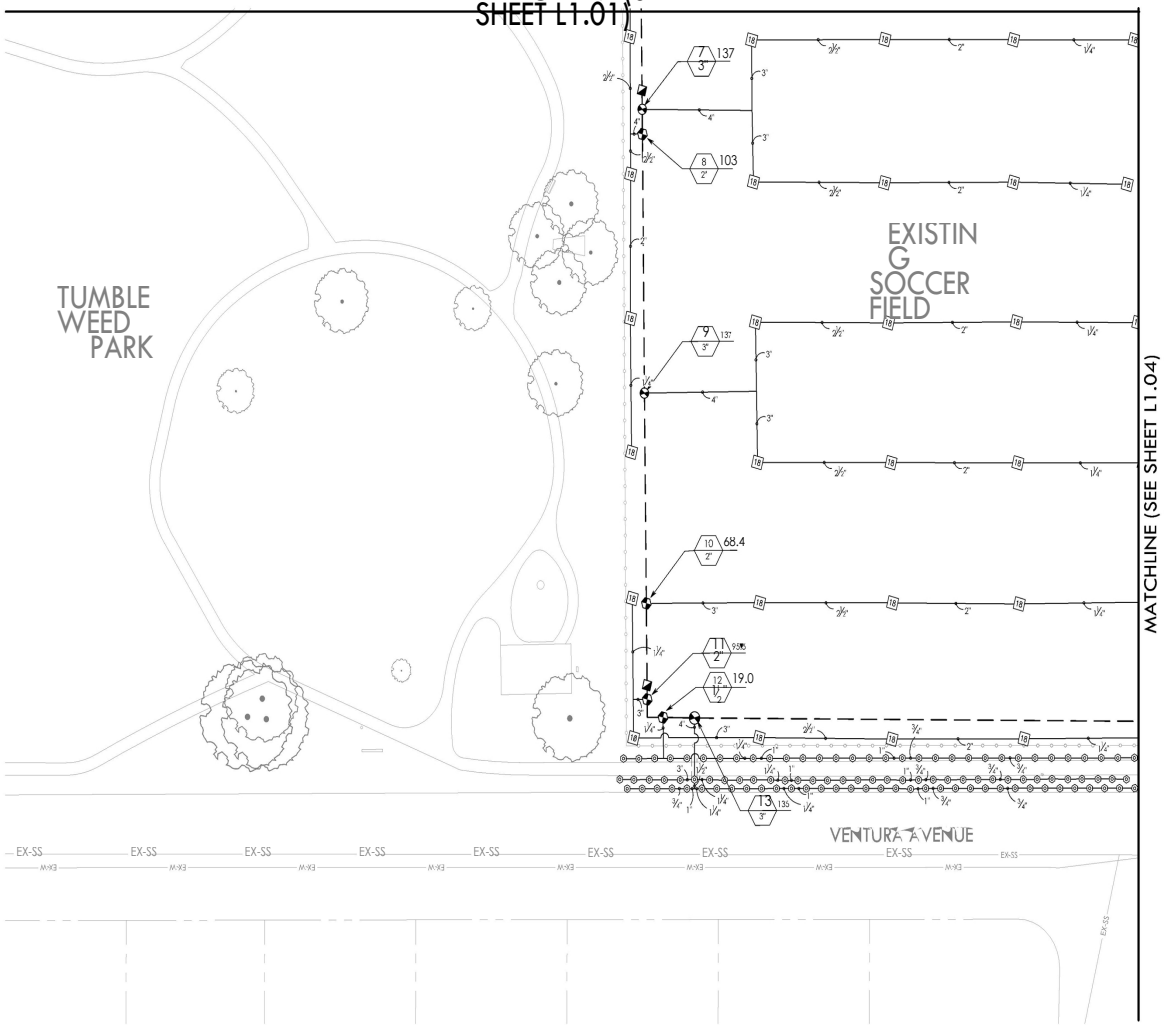
IRRIGATION PLAN - AREA B

WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

STATE OF TEXAS
JANEL MOODY
20529
LICENSED IRRIGATION CONSULTANT
05/31/2023

JOB NO.	8006775.001
DESIGNED BY:	JM M
DRAWN BY:	JM MEA
CHECKED BY:	MAY 31, 2023
SHEET:	L1.02

PACKET 9.83 June 13, 2023



IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
10HE-VAN 12HE-VAN 15HE-VAN	RAIN BIRD 1804-SAM-PRS HE-VAN SERIES TURF SPRAY 4.0" POP-UP SPRINKLER WITH CO-MOLDED WIPER SEAL, 1/2" NPT FEMALE THREADED INLET. PRESSURE REGULATING.
10	RAIN BIRD 1804 SERIES 4.0" POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE, 1/2" NPT FEMALE THREADED INLET.
18	RAIN BIRD 1804 SERIES 4.0" POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE, 1/2" NPT FEMALE THREADED INLET.
SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
	CONTROL VALVE 2" OR LESS: RAIN BIRD PESB-IVM-HS 1" 1-1/2" 2" PLASTIC INDUSTRIAL VALVES, LOW FLOW OPERATING CAPABILITY, GLOBE CONFIGURATION, WITH SCRUBBER VALVE SEAT FOR RELIABLE PERFORMANCE AT LOW FLOWS. DIRECT WATER IRRIGATION CONTROL VALVE, WITH UNDER-THE-COVER IVM SOL CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY FOR QUICK COUPLING VALVE BUILT-UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL STRAINER SCREEN TO PREVENT DEBRIS FROM ENTERING THE VALVE.
	3" ONE PIECE BODY. PVC SCHEDULE 40 BALL VALVE
VM3	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY FOR QUICK COUPLING VALVE BUILT-UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL STRAINER SCREEN TO PREVENT DEBRIS FROM ENTERING THE VALVE.
BF3	BALANCE FLOW RUBBER FLAP SCRAPES A STAINLESS STEEL SCREEN
BF3	DOUBLE CHECK BACKFLOW PREVENTER: RAINBIRD 975XF FOUR MASTER SERIES.
	DOUBLE CHECK BACKFLOW PREVENTER, 2-1/2" TO 10" LXIVMP-LXMMSS
	240 STATION 2-WIRE, EXTERIOR STAINLESS STEEL WALL MOUNT
RF	RAIN/FLOW SENSING: RAIN BIRD WR2-RFC WIRELESS RAIN AND FREEZE SENSOR COMBO, INCLUDES 1 RECEIVER AND 1 RAIN/FREEZE SENSOR
FS	RAIN BIRD MAXICOM SITECONTROL, AND ESP-LXIVMPCENTRAL CONTROL SYSTEMS.
P	PLASTIC (PVC) MODEL SUGGESTED OPERATING RANGE OF 10 GPM TO 150 GPM. SENSORS SHOULD BE SIZED FOR FLOW RATHER THAN PIPE SIZE.
MP	WATER PRESSURE PROVIDED BY CITY ON 2-23-2021. STATIC PRESSURE OF 42 PSI
	IRRIGATION LATERAL LINE: PVC CLASS 200 SDR 21
	LATERAL LINE TRENCH TO BE A MINIMUM OF 4". MAINLINE TO BE SCHEDULE 40
	MAINLINE SIZE 4". MAINLINE TO BE LOOPED, CONNECTING ALL FOUR METERS TO EACH OTHER. METER FOR QUICK COUPLER INCLUDED IN MAINLINE SCHEDULE 40
	QUICK COUPLER INCLUDED IN MAINLINE SCHEDULE 40

Valve Callout
Valve Number
Valve Flow
Valve Size

CONTRACTOR TO COORDINATE POWER TO CONTROLLER

THE IRRIGATION SYSTEM IS DESIGNED FOR A 2-WIRE DECODER SYSTEM. THE IRRIGATION CONTRACTOR IS RESPONSIBLE FOR PROVIDING A COMPLETE, FULLY OPERATIONAL SYSTEM. THE CONTRACTOR SHALL INCLUDE ALL PARTS REQUIRED FOR THE 2-WIRE CONTROL SYSTEM INCLUDING WIRE CONNECTORS, TURF DECODERS, SENSOR DECODERS, PROPER GROUNDING, APPROVED 2-WIRE CABLE, AND LINE SURGE PROTECTION PER THE MANUFACTURER'S RECOMMENDATIONS. CONTACT THE RAINBIRD REPRESENTATIVE FOR ADDITIONAL INFORMATION.
JEFF FEUERBACHER 214-536-9[illegible]
JFEUERBACHER@RAINBIRD.COM

NORTH

GRAPHIC SCALE
0 30 60
1 inch = 30'

REVISIONS

NO.	DATE	DESCRIPTION
#	#	#
#	#	#
#	#	#
#	#	#
#	#	#

IRRIGATION PLNA - AREA C

WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

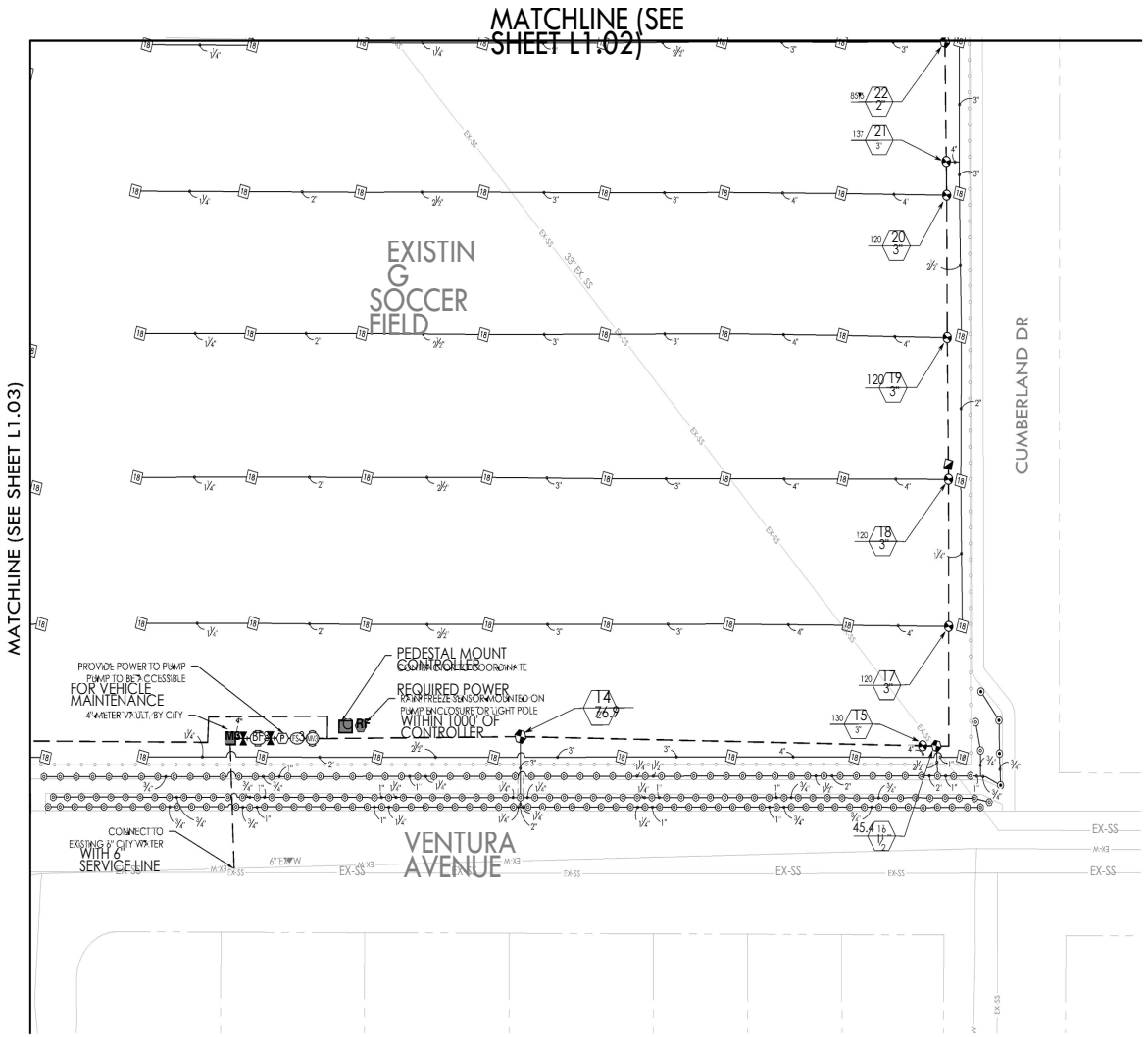
DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 687-0087
(TX REG. # F1174)

STATE OF TEXAS
JANEL MOODY
20529
LICENSED IRRIGATION DESIGNER
05/31/2023

JOB NO.	8006775.001
DESIGNED BY:	JM
DRAWN BY:	JM MEA
CHECKED BY:	MAY 31, 2023
SHEET:	L1.03

PACKET 9.84 June 13, 2023

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PLOTTED BY: Janel Moody
PLOTTED ON: Wednesday, May 31, 2023
PLOTTED WITH: JANEL MOODY
PLOTTED WITH: JANEL MOODY 2023



IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
◎ 08HE-VAN ◎ 10HE-VAN ◉ 10HE-VAN ◉ 15HE-VAN	SPRAY: RAIN BIRD 1804-SAM-PRS HE-VAN SERIES TURF SPRAY 4.0" POP-UP SPRINKLER WITH CO-MOLDED WIPER SEAL, 1/2" NPT FEMALE THREADED INLET. PRESSURE REGULATING. LARGE ROTOR: RAIN BIRD 5004-PC OR 5006-PC 6.0" POP-UP, STAINLESS STEEL RISER, ADJUSTABLE AND FULL CIRCLE, WITH REMOVABLE SEAL-A-MATIC CHECK VALVE, 1" FEMALE THREADED INLET.
10	
18	
SYMBOL	MANUFACTURER/MODEL/ DESCRIPTION
	CONTROL VALVE 2" OR LESS: RAIN BIRD PESB-IVM-HS 1" 1-1/2" 2" PLASTIC INDUSTRIAL VALVES LOW FLOW OPERATING CAPABILITY, GLOBE CONFIGURATION, WITH CONTROL FLOW FOR RELIABLE PERFORMANCE IN DIRTY WATER IRRIGATION APPLICATIONS WITH IVM SOL CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY FOR QUICK COUPLING VALVE WITH 200 MESH SCREEN TO PREVENT DEBRIS BUILD UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL SWING TYPE GATE VALVE. PVC SCHEDULE 40 BALL VALVE.
IVM3	MASTER VALVE: RAIN BIRD 300-BPES-PRS-D ANGLE-HS 3" 3" BRASS MASTER VALVE, WITH ANGLE CONFIGURATION, AND PRESSURE REGULATOR MODULE. WITH A PATENTED NYLON SCRUBBER QUICK COUPLER KEY FOR QUICK COUPLING VALVE WITH 200 MESH SCREEN TO PREVENT DEBRIS BUILD UP AND CORROSION-RESISTANT STAINLESS STEEL SPRING. METAL SWING TYPE GATE VALVE. PVC SCHEDULE 40 BALL VALVE.
BF3	
BF3	
C	CONTROLLER: RAIN BIRD ESPLXIVMP-LXMMSS 240 STATION 2-WIRE, EXTERIOR STAINLESS STEEL WALL-MOUNT
RF	RAIN/FLOW SENSING: RAIN BIRD WR2-RFC WIRELESS RAIN AND FREEZE SENSOR COMBO, INCLUDES 1 RECEIVER AND 1 RAIN/FREEZE SENSOR TRANSMITTER FOR USE WITH RAIN BIRD MAESTRO SITE CONTROL, AND ESP-LXIVMPCENTRAL CONTROL SYSTEMS.
FS	
P	PLASTIC (PVC) MODEL SUGGESTED OPERATING RANGE OF 40 GPM TO 160.0 GPM. SENSORS SHOULD BE SIZED FOR FLOW RATHER THAN PIPE SIZE.
MP	WATER PRESSURE PROVIDED BY CITY ON 2-23-2021 , STATIC PRESSURE OF 42 PSI
	IRRIGATION LATERAL LINE: PVC CLASS 200 SDR 21
	LATERAL LINE TRENCH TO BE A MINIMUM OF 12"
	MAINLINE: PVC SCHEDULE 40 4". MAINLINE TO BE LOOPED, CONNECTING ALL FOUR METERS TO EACH OTHER. METER FOR QUICK COUPLER SHOULD BE INCLUDED IN MAINLINE TO BE 2".
	QUICK COUPLER VALVE: PVC SCHEDULE 40

Valve Callout
Valve Number
Valve Flow
Valve Size

CONTRACTOR TO COORDINATE POWER TO CONTROLLER

THE IRRIGATION SYSTEM IS DESIGNED FOR A 2-WIRE DECODER SYSTEM.
THE IRRIGATION CONTRACTOR IS RESPONSIBLE FOR PROVIDING A COMPLETE, FULLY OPERATIONAL SYSTEM. THE CONTRACTOR SHALL INCLUDE ALL PARTS REQUIRED FOR THE 2-WIRE CONTROL SYSTEM INCLUDING WIRE CONNECTORS, TURF DECODERS, SENSOR DECODERS, PROPER GROUNDING, APPROVED 2-WIRE CABLE, AND LINE SURGE PROTECTION PER THE MANUFACTURER'S RECOMMENDATIONS. CONTACT THE RAINBIRD REPRESENTATIVE FOR ADDITIONAL INFORMATION.
JEFF FEUERBACHER 214-536-9300
JFEUERBACHER@RAINBIRD.COM

NORTH

GRAPHIC SCALE
0 30 60
1 inch = 30'

REVISIONS			
NO.	DATE	DESCRIPTION	
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#	#	#	
#	#	#	
#	#	#	

IRRIGATION PLAN - AREA D

WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 687-0087
TX REG # F-11714

STATE OF TEXAS
JANEL MOODY
20529
LICENSED IRRIGATION DESIGNER
05/31/2023

JOB NO.	8006775.001
DESIGNED BY:	JM
DRAWN BY:	JM MEA
CHECKED BY:	MAY 31, 2023
SHEET:	L1.04

IRRIGATION NOTES FOR A SITE REQUIRING A PUMP:

1. THE LOCATION OF ALL SCHEMATIC MATERIAL PIPING HEADS, VALVES, ETC. SHALL BE LOCATED AS SHOWN ON THE DETAILS. REPORT ANY DISCREPANCIES BETWEEN ACTUAL AND PROPOSED SITE CONDITIONS TO THE OWNER. DO NOT PROCEED WITH WORK UNTIL SAID DISCREPANCIES HAVE BEEN RESOLVED.
2. VERIFY THAT WORK DONE BY OTHER CONTRACTORS/TRADES IS SUFFICIENTLY COMPLETE TO ALLOW COMMENCEMENT OF IRRIGATION INSTALLATION PRIOR TO BEGINNING WORK. CONTRACTORS SHALL COORDINATE INSTALLATION OF ALL IRRIGATION SLEEVES UNDER
3. COORDINATE OTHER CONTRACTORS
4. ALWAYS REFER TO THE DRAWINGS
5. THE CONTRACTOR SHALL PROVIDE THE OWNER WITH TWO COPIES OF THE PARTS LIST AND MANUFACTURER'S CATALOG SHOWING PERFORMANCE, QUALITY AND FUNCTION OF EACH ITEM OF EQUIPMENT IN THE SYSTEM. IN ADDITION, THE IRRIGATION
6. ONCE YOU HAVE MADE THE DECISION TO
7. IRRIGATION SYSTEM INSTALLATION TO BE PERFORMED IN ACCORDANCE WITH ALL PERTINENT CODES AND ORDINANCES.

8. NO PVC PIPING SHALL BE LOCATED UNDER TREE ROOTBALLS.
9. THE CONTRACTOR SHALL VERIFY LOCATION OF ALL UNDERGROUND UTILITIES PRIOR TO INSTALLATION. IF ANY UNDERGROUND OR ABOVE GROUND CONSTRUCTION IS LOCATED AS TO SIGNIFICANTLY HINDER INSTALLATION OR FUNCTION OF THE IRRIGATION SYSTEM,
10. MAIN LINE AND LATERAL PIPING MAY BE PLACED IN SAME TRENCH WHEN POSSIBLE. MAIN LINE PIPING SHALL BE INSTALLED IN BOTTOM OF TRENCH WITH LATERALS ON TOP.
11. SLEEVES SHALL BE INSTALLED WHEREVER PIPES RUN UNDER PAVEMENT. SLEEVES SHALL BE SCH 40 AND A MINIMUM OF TWO PIPE SIZES LARGER THAN THE PIPE.
12. THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING ELECTRICAL POWER TO ALL CONTROLLERS.
13. PRIOR TO BEGINNING WORK, CONTRACTOR SHALL VERIFY THE MINIMUM WORKING PRESSURE AT THE POINT OF CONNECTION. BASED ON THIS INFORMATION, THE CONTRACTOR SHALL DESIGN A PUMP SYSTEM CAPABLE OF DELIVERING A MINIMUM OF <<175>> PSI AT THE DOWNSTREAM SIDE OF THE PUMP. THE CONTRACTOR IS RESPONSIBLE FOR DESIGNING AND INSTALLING A PUMPING SYSTEM THAT PROVIDES THE APPROPRIATE PRESSURE TO ALLOW THE IRRIGATION SYSTEM TO OPERATE AT THE OPTIMUM LEVEL
14. THE CONTRACTOR SHALL SUBMIT
15. THE CONTRACTOR SHALL ATTACH A PREPRINTED, HEAVY DUTY PLASTIC SERIALIZED TAG TO EACH CONTROL VALVE WITH ITS ASSOCIATED CONTROLLER STATION NUMBER. TAGS SHOULD BE AS SUPPLIED BY RAINBIRD OR APPROVED EQUAL.
16. PIPE SHOWN IN PAVED AREAS WITHOUT SLEEVES IS SHOWN IN THESE AREAS FOR PURPOSE OF DRAWING CLARITY. PIPE TO BE IN NEAREST UNPAVED LOCATION.
17. THE IRRIGATION CONTROLLER(S) SHALL BE EQUIPPED WITH RAIN/FREEZE SENSOR(S). MOUNT THE TRANSMITTER(S) IN AN OPEN AREA AS DIRECTED BY THE OWNER.
18. ALL BACKFLOW INSTALLATIONS AND CONNECTIONS TO CITY WATER LINES MUST BE PERMITTED SEPARATELY BY THE CITY INSPECTION STAFF.
19. THE IRRIGATION SYSTEM SHALL BE MAINTAINED IN ITS PROPER WORKING ORDER DURING THE 2 YEAR MAINTENANCE PERIOD.

20. ALL WIRING SHALL BE RATED FOR DIRECT BURIAL.
21. A LICENSED IRRIGATOR OR LICENSED IRRIGATION TECHNICIAN SHALL BE ON SITE AT ALL TIMES WHILE THE LANDSCAPE IRRIGATION SYSTEM IS BEING INSTALLED PER OWNER AND TCEQ REQUIREMENTS.

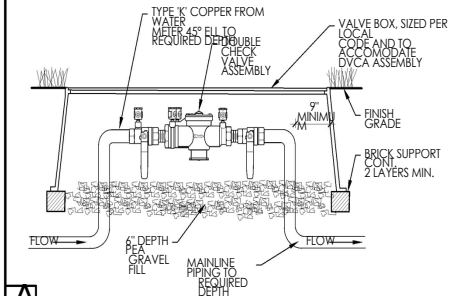
INSPECTION NOTES:

1. HEADS SHALL NOT SPRAY ON IMPERVIOUS SURFACES.
2. HEADS SHALL NOT SPRAY ON WALLS OR FENCES.
3. HEADS SHALL NOT BE CLOSER THAN 4 INCHES OF THE EDGE OF HARDSCAPE.

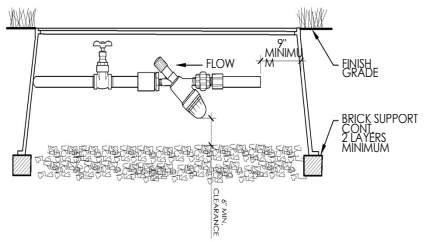
4. NO DRINKING DOMESTIC USES ALLOWED ON IRRIGATION LINES, NO SWIMMING POOL USE OR FOUNTAINS.

5. CONTRACTOR SHALL COMPLY WITH ALL INSPECTION REQUIREMENTS OF THE MUNICIPALITY.

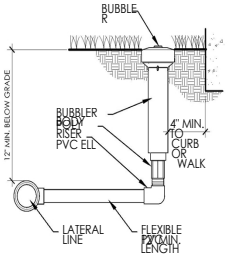
6. FOR FINAL INSPECTION, IRRIGATOR'S REPRESENTATIVE MUST BE PRESENT WHEN SYSTEM IS DESIGNED FOR A 2-WIRE DECODER SYSTEM, THE IRRIGATION CONTRACTOR IS RESPONSIBLE FOR PROVIDING A COMPLETE, FULLY OPERATIONAL SYSTEM. THE CONTRACTOR SHALL INCLUDE ALL PARTS REQUIRED FOR THE 2-WIRE 2-WAY SYSTEM, INCLUDING WIRE
7. THE CONTRACTOR IS RESPONSIBLE FOR SURGE PROTECTION PER THE MANUFACTURER'S RECOMMENDATIONS. CONTACT THE RAINBIRD REPRESENTATIVE FOR ADDITIONAL INFORMATION.



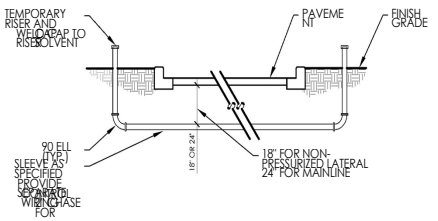
A **DOUBLE CHECK VALVE ASSEMBLY** SCALE: NTS



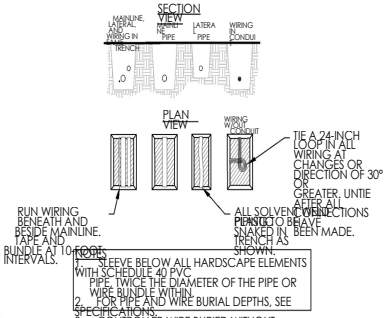
B **WYE STRAINER** SCALE: NTS



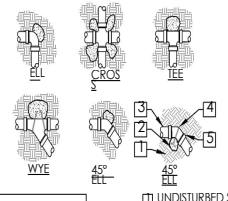
C **POP UP BUBBLER** SCALE: NTS



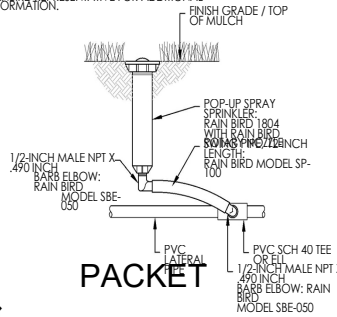
D **SLEEVE INSTALLATION** SCALE: NTS



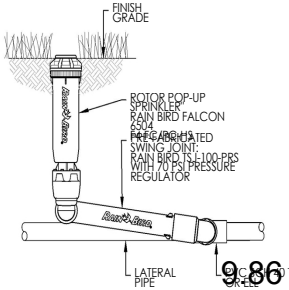
E **PIPE AND WIRE TRENCHING** SCALE: NTS



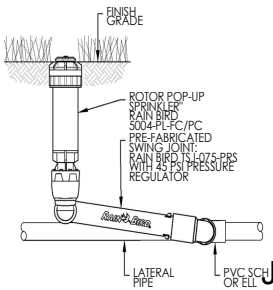
F **THRUST BLOCK** SCALE: NTS



G **POP UP SPRAYS** SCALE: N.T.S.



H **ROTOR POP-UP SPRINKLER-FALCON 6504** SCALE: N.T.S.



I **ROTOR POP-UP SPRINKLER 5004 PLUS** SCALE: N.T.S.

REVISIONS

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IRRIGATION NOTES & DETAILS

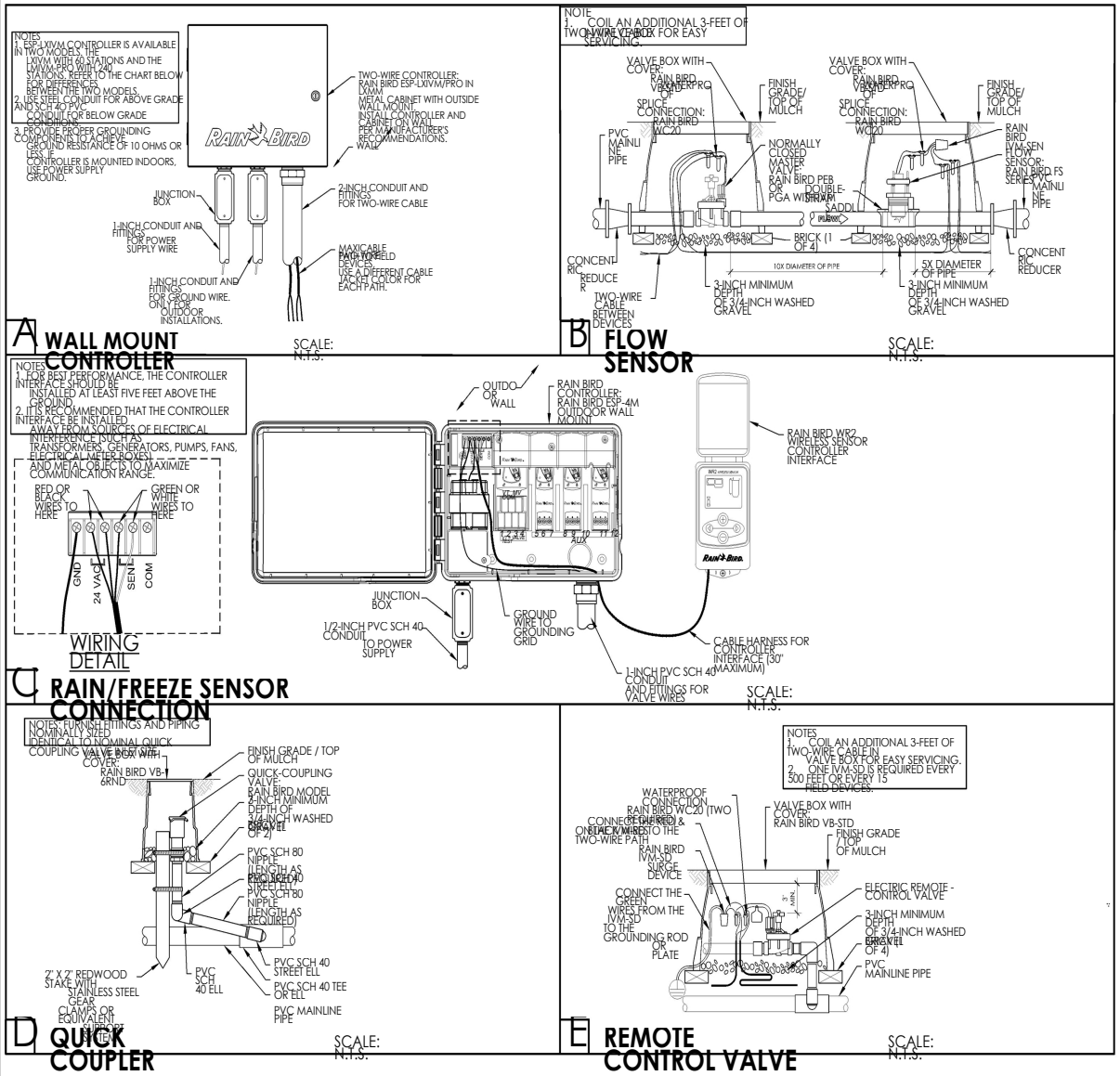
WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 687-0087
(TX REG. # F-1174)

STATE OF TEXAS
JANEL MOODY
20529
LICENSED LANDSCAPE ARCHITECT
05/31/2023

JOB NO.	8006775.001
DESIGNED BY:	JM
DRAWN BY:	JM MEA
CHECKED BY:	MAY 31, 2023
SHEET:	LI.05

PACKET 9.86 June 13, 2023



REVISIONS

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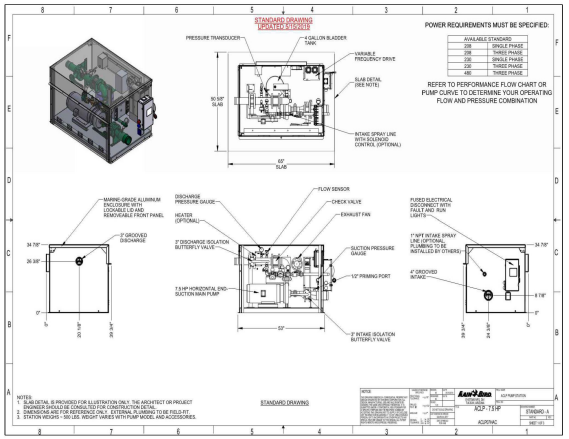
IRRIGATION DETAILS

WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

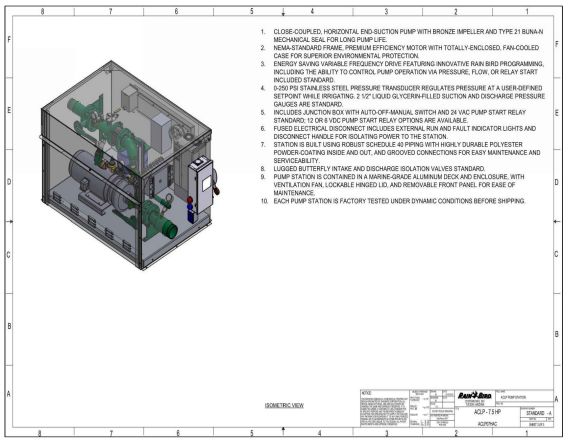
DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 687-0087
(TX REG. # F-1174)

STATE OF TEXAS
JANEL MOODY
20529
REGISTERED LANDSCAPE ARCHITECT
05/31/2023

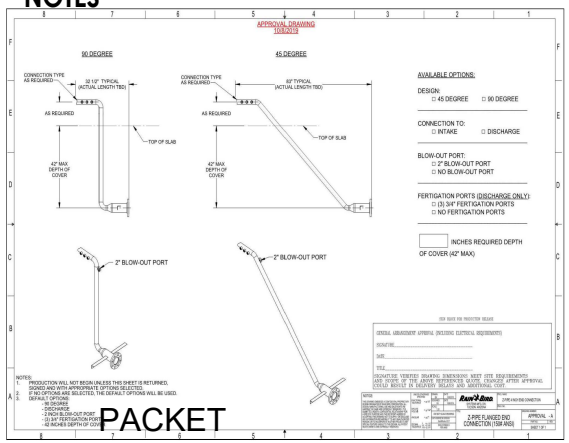
JOB NO.	8006775.001
DESIGNED BY:	JM
DRAWN BY:	JM MEA
CHECKED BY:	MAY 31, 2023
SHEET	LI.06



A PUMP STATION DETAIL



B PUMP STATION NOTES



C PUMP PIPE CONNECTION

ALL PUMP SPECIFICATIONS TO BE UPDATED BY RAINBIRD 35 PSI BOOST AT 140 FLOW

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#	#	#
#	#	#

REVISIONS

IRRIGATION PUMP DETAILS

DUNAWAY
4000 N. Big Spring Street • Suite 101 • Midland, Texas 79705
(432) 687-0901
(TX REG. # 1114)

WINDLANDS PARK
IRRIGATION AND TURF RENOVATION
1001 W DENGAR AVENUE
MIDLAND, TEXAS

STATE OF TEXAS
JANEL MOODY
20529
LICENSED IRRIGATOR
05/31/2023

JOB NO.	8006775.001
DESIGNED BY:	JM
DRAWN BY:	JM
CHECKED BY:	MEA
DATE:	MAY 31, 2023
SHEET:	LI.07

P:\...\Parks Co Production\8000\8006\8006775.001\PLA\Drawings\Plot Sheets\Windland Park Irrigation Plan
PLOTTED: May 31, 2023 - 9:47am
PLOTTED BY: Janel Moody
PLOTTED WITH: JIM-DSHP-PC3

City Council Meeting

Item Number: 10

Meeting Date: June 13, 2023

To: **City Council / City Manager**

From: **Justine Ruff, Director**

Subject: **Motion authorizing the execution of Amendment No. 7 to the Professional Services Agreement dated March 23, 2021, between the City of Midland, Texas, and Parkhill, Smith & Cooper, Inc., DBA Parkhill; said amendment providing for the Rehabilitate/Reconstruction Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark Project, the Spaceport Business Park Environmental Project, and the planning, programming, and opinion of probable cost study for a proposed new or reconfigured Terminal Building Security Checkpoint, a proposed new Customs Facility, and a proposed new Cargo Facility at Midland International Air & Space Port; and appropriating $1,510,000.00 for the Rehabilitate/Reconstruction Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark Project, appropriating $125,000.00 for the Spaceport Business Park Environmental Project, and appropriating $100,000.00 for the planning, programming, and opinion of probable cost study for a proposed new or reconfigured Terminal Building Security Checkpoint, a proposed new Customs Facility, and a proposed new Cargo Facility at Midland International Air & Space Port (DISTRICT 4) (AIRPORTS)**

Purpose:

Motion authorizing the execution of Amendment No. 7 to the Professional Services Agreement dated March 23, 2021, between the City of Midland, Texas, and Parkhill, Smith & Cooper, Inc., DBA Parkhill; said amendment providing Rehabilitate/Reconstruction Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark and appropriating $1,510,000 to said project; appropriation of $125,000 to the Spaceport Business Park Environmental; and Planning, Programming and Opinion of Probable Cost (OPC) Study for a proposed New or Reconfigured Terminal Building Security Checkpoint, a proposed New Customs Facility, and a proposed New Cargo Facility at MAF; and appropriating $100,000 to said project.

Recommended City Council Action:

Approve

REHABILITATE/RECONSTRUCT RUNWAY 7/25, RUNWAY 16/34 AND TAXIWAYS AT MIDLAND AIRPARK

Fiscal Impact:

Airport/City Share 100% - (90% TxDOT reimbursable in the future)	$1,510,000.00
Breakout of Costs:	
Design Phase Professional Services (Lump Sum Not to Exceed)	$ 1,250,000.00
Design Phase Geotechnical Testing	$ 100,000.00
Design Phase Surveying	$ 110,000.00
Design Phase Reimbursable Expenses	$ 50,000.00
Total Recommended Design Phase Appropriation	$ 1,510,000.00

Appropriation Language:

Funding is available in the Airport Fund Unappropriated Fund Balance and is hereby appropriated and will be transferred to Project #9XXXXX, Rehabilitate/Reconstruct Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark.

SPACEPORT BUSINESS PARK ENVIRONMENTAL

Fiscal Impact:

Airport/City Share 100% -	$ 125.000.00
Breakout of Costs:	
Sub-Consultant Services (Terracon)	$ 100,000.00
(Sub-Consultant charges at cost times a factor of 1.05)	
Parkhill services for review of Terracon reports, TCEQ response	
Letters, Surveying	$ 25,000.00
Total Recommended Design Phase Additional Appropriation	$ 125,000.00

Appropriation Language:

Funding is available in the Airport Fund Unappropriated Fund Balance and is hereby appropriated and will be transferred to Project #900111, Spaceport Business Park Environmental.

PLANNING, PROGRAMMING AND OPINION OF PROBABLE COST (OPC) STUDY FOR A PROPOSED NEW OR RECONFIGURED TERMINAL BUILDING SECURITY CHECKPOINT, A PROPOSED NEW CUSTOMS FACILITY, AND A PROPOSED NEW CARGO FACILITY AT MAF.

Fiscal Impact:

Airport/City Share 100% -	$ 100,000.00
Total Recommended Appropriation	$ 100,000.00

Appropriation Language:

Funding is available in the Airport Fund Unappropriated Fund Balance and is hereby appropriated and will be transferred to Project #9XXXXX, Planning, Programming and Opinion of Probable Cost (OPC) Study for a Proposed new or reconfigured Terminal Building Security Checkpoint, a proposed New Customs Facility, and a New Cargo Facility at MAF.

Discussion:

The City of Midland, Texas and Parkhill entered into an Agreement for Professional Services dated March 23, 2021, for improvements contained in the Airport's 5-year Airport Capital Improvement Program (ACIP). This is the seventh amendment to that agreement and adds the additional scope of designing the Rehabilitate/Reconstruct Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark; an additional appropriation to the Spaceport Business Park Environmental, and the Planning, Programming and Opinion of Probable Cost (OPC) Study for a proposed New or Reconfigured Terminal Building Security Checkpoint, a proposed New Customs Facility, and a proposed New Cargo Facility at MAF.

REHABILITATE/RECONSTRUCT RUNWAY 7/25, RUNWAY 16/34 AND TAXIWAYS AT MIDLAND AIRPARK

Increased heavy jet traffic and the West Texas sun have caused stress damage to the pavement on the airfield. This project will Reconstruct Runway 7/25 full depth with new asphalt pavement; reconstruct Taxiways A, B, D, E and F (D between concrete apron and terminal apron) full depth with new asphalt pavement including new intersection pavement geometry in compliance with FAA Advisory Circulars; Rehabilitate Runway 16/34 with crack seal and asphalt surface seal, Rehabilitate Taxiways C and D (D south of terminal apron) with crack seal and asphalt surface

seal; Rehabilitate the asphalt run-up areas located adjacent to the Taxiways with crack seal and asphalt surface seal; Replace medium intensity runway light fixtures (MIRL) on Runway 7/25 and Runway 16/34; Replace lighted runway and taxiway signs; Replace Precision Approach Path Indicators (PAPI's) on Runway 7 end, Runway 16 end and Runway 34 end; and seal joints in existing concrete apron. Initially the funding for this project will be 100% to the Airport Fund; however, 90% of the costs of this project are anticipated to be eligible for funding from TxDOT Aviation Grants.

SPACEPORT BUSINESS PARK ENVIRONMENTAL

This portion of the amendment involves the appropriation of additional funds for the cost associated with the continued environmental remediation in the Spaceport Business Park. The costs associated cover the TCEQ required groundwater monitoring, product recovery and reporting related to the Spaceport Business Park Environmental for the next year. All charges related to this environmental remediation are paid from the Airport Operating Fund.

PLANNING, PROGRAMMING AND OPINION OR PROBABLE COST (OPC) STUDY FOR A PROPOSED NEW OR RECONFIGURED TERMINAL BUILDING SECURITY CHECKPOINT, A PROPOSED NEW CUSTOMS FACILITY, AND A PROPOSED NEW CARGO FACILITY AT MAF

In recent months, passenger traffic at MAF has neared record levels. As a result, the Transportation Security Administration (TSA) has requested that the airport reconfigure the existing and/or build a new Security Checkpoint to accommodate passengers with shorter wait times. U.S. Customs has advised that their current facility at MAF, on the third floor of the terminal building, does not meet their current requirements. They have asked that a new US Customs Facility be built as soon as possible to assure that we will be able to retain our International Airport status. Additionally, our airline tenants have requested additional Air Cargo space, as they desire to expand the amount of Air Cargo they carry to and from the Airport. In order to plan our future capital expenditures and possibly compete for grant funding, the airport needs to know the best locations and probable costs of these facilities. The total compensation for these items will not exceed $100,000.

Tina Daugherty

City Manager's Office

AMENDMENT NO. 7
TO
AGREEMENT

BETWEEN THE CITY OF MIDLAND, TEXAS
AND
PARKHILL
FOR
PROFESSIONAL SERVICES

WHEREAS, the City of Midland, Texas and Parkhill have entered into an Agreement for professional services dated March 23, 2021, for improvements contained in the Airport Capital Improvement Program; as amended April 13, 2021 (Amendment 1), February 8, 2022 (Amendment 2), April 12, 2022 (Amendment 3), June 28, 2022 (Amendment 4), October 11, 2022 (Amendment 5) and April 11, 2023 (Amendment 6);

AND WHEREAS, the City of Midland, Texas desires to perform the improvements listed in the Recitals of the Agreement as Item 8 Rehabilitate/Reconstruct Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark, Item 12 MAF Spaceport Business Park Environmental and Item 20 Planning, Programming and Opinion of Probable Cost (OPC) Study for a proposed New or Reconfigured Terminal Building Security Checkpoint, a proposed New Customs Facility, and a proposed New Cargo Facility at MAF:

THIS AGREEMENT WITNESSETH:

A. The Recitals of the Agreement shall be amended to include the following item:

20. Planning, Programming and Opinion of Probable Cost (OPC) Study for a proposed New or Reconfigured Terminal Building Security Checkpoint, a proposed New Customs Facility, and a proposed New Cargo Facility at MAF

B. Exhibit B, Article 4 – PAYMENTS TO THE ENGINEER, the following shall be added to paragraph B 4.01:

"Item 8 Rehabilitate/Reconstruct Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark

A Lump Sum Fee amount Not to Exceed $1,250,000 based on the attached anticipated scope of improvements. This Not to Exceed Lump Sum Fee includes the Preliminary Engineering Report Phase, Preliminary Design Phase and Final Design Phase Professional Services for the anticipated scope of improvements.

* Anticipated Scope of Improvements Attached"

C. Exhibit B, Article 4 – PAYMENTS TO THE ENGINEER, the following shall be added to paragraph B 4.02:

"Item 8 Rehabilitate/Reconstruct Runway 7/25, Runway 16/34 and Taxiways at Midland Airpark

Additional Services under Item 8 of the Recitals on Page 1 shall be compensated at the Standard Hourly Rates Method of Payment plus Direct Expenses and Engineer's Consultant's charges on the basis of cost times a factor of 1.15.

a.	Design Phase Reimbursable Costs	$ 50,000
b.	Design Surveying & Testing	$210,000"

"Item 12 Spaceport Business Park Environmental

The total compensation for Engineering Services under Item 12 of the Recitals on Page 1 shall be compensated at the Standard Hourly Rates Method of Payment plus Direct Expenses and Engineer's Consultant's charges on the basis of cost times a factor of 1.05. The scope and compensation are as follows:

Perform continued TCEQ required groundwater monitoring, reporting and product removal associated with the existing environmental work in the Spaceport Business Park at MAF.

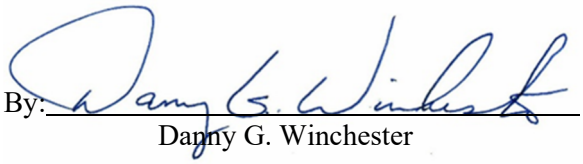
Total compensation for Item 12 under this Amendment shall not exceed $125,000 without written authorization from the Owner"

"Item 20 Planning, Programming and Opinion of Probable Cost (OPC) Study for a proposed New or Reconfigured Terminal Building Security Checkpoint, a proposed New Customs Facility, and a proposed New Cargo Facility at MAF

The total compensation for Architectural/Engineering Professional Services under Item 20 of the Recitals on Page 1 shall be compensated at the Standard Hourly Rates Method of Payment plus Direct Expenses and Architect/Engineer's Consultant's charges on the basis of cost times a factor of 1.15.

Total compensation for Item 20 under this Amendment shall not exceed $100,000 without written authorization from the Owner."

IN WITNESS WHEREOF, the City of Midland, Texas and Parkhill have hereto set their hands this 13th day of June, 2023.

OWNER:	ENGINEER:
CITY OF MIDLAND, TEXAS	PARKHILL
By:	By: 
Lori Blong	Danny G. Winchester
Title: Mayor	Title: Principal
Date Signed:	Date Signed: June 13, 2023
Address for giving notices:	Address for giving notices:
P.O. Box 1152 Midland, Texas 79702 Phone: (432) 685-7357	1700 W. Wall Midland, Texas 79701 Phone: (432) 697-1447

IN DUPLICATE

MIDLAND AIRPARK

ITEM 8 REHABILITATE/RECONSTRUCT RUNWAY 7/25, RUNWAY 16/34 AND TAXIWAYS

ANTICIPATED SCOPE OF IMPROVEMENTS AND PROFESSIONAL SERVICES

1. Anticipated scope of improvements – The anticipated improvements to be designed under this project at Midland Airpark includes the following:
    a. Reconstruct Runway 7/25 full depth with new asphalt pavement section
    b. Reconstruct Taxiways A, B, D, E and F (D between concrete apron and terminal apron) full depth with new asphalt pavement section including new intersection pavement geometry in compliance with FAA Advisory Circulars.
    c. Rehabilitate Runway 16/34 with crack seal and asphalt surface seal. Isolated pavement repairs.
    d. Rehabilitate Taxiways C and D (D south of terminal apron) with crack seal and asphalt surface seal. Isolated pavement repairs.
    e. Rehabilitate Asphalt Run-up areas located adjacent to the Taxiways with crack seal and asphalt surface seal.
    f. Replace medium intensity runway light fixtures (MIRL) with new on Runway 7/25 and Runway 16/34.
    g. Replace lighted runway and taxiway signs with new.
    h. Replace precision approach path indicators (PAPI's) with new on Runway 7 end, Runway 16 end and Runway 34 end.
    i. Seal joints in existing concrete apron.

2. The professional services for the above anticipated scope of improvements under this Amendment includes the Preliminary Engineering Report Phase, Preliminary Design Phase and Final Design Phase services.

City Council Meeting

Item Number: 11

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Cristina O. Burns, Director of Community Services

Subject: MOTION APPROVING A PARTNERSHIP BETWEEN THE CITY OF MIDLAND AND THE CITY OF ODESSA FOR THE PURPOSE OF RECRUITING A LICENSED VETERINARIAN TO PROVIDE VETERINARY SERVICES TO BOTH CITIES; AND AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE AN AGREEMENT TO RETAIN A SEARCH FIRM TO ASSIST WITH SAID RECRUITMENT; PROVIDED, HOWEVER, THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL (DISTRICT: ALL) (COMMUNITY SERVICES)

Purpose:

Motion approving a partnership between the City of Midland and the City of Odessa for the purpose of recruiting a licensed veterinarian to provide veterinary services to both cities; and authorizing the Interim City Manager to negotiate an agreement to retain a search firm to assist with said recruitment; provided, however, that said agreement shall not become effective until approved by the City Council.

Recommended City Council Action:

Approve

Fiscal Impact:

Quotes for recruitment services will be solicited.

Discussion:

The City of Midland and the City of Odessa have discussed entering into an interlocal agreement to hire a veterinarian to provide services for both communities since neither municipality have had success in hiring their own. However, before an agreement is outlined, it

has been determined that it would be in the best interest of both parties to find a veterinarian first. Therefore, staff recommends a partnership with the City of Odessa to coordinate recruitment services for the search of a licensed veterinarian.

Monroe William Jr.

City Manager's Office

City Council Meeting

Item Number: 12

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Ron Jenkins, Oil and Gas Coordinator

Subject: **RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PERMIAN DEEP ROCK OIL CO., LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED IN SECTION 14, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,878 FEET EAST OF NORTH A STREET EXTENSION AND 1,833 FEET SOUTH OF WEST LOOP 250 NORTH); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT (DISTRICT 3) (DEVELOPMENT SERVICES)**

Purpose:

Resolution approving the issuance of permit to Permian Deep Rock Oil Co., LLC ("Operator") for the drilling of the following oil and gas well Knight 120 MIPA Unit H120LS; said well being generally located 1,878 feet east of North A Street extension and 1,833 feet south of West Loop 250 N. The required 30-day public comment has passed, and the Council may consider this request. No notices of objection received.

Recommended City Council Action:

Approve

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The Oil and Gas Advisory Committee has reviewed the well site in detail and recommends approval. Per the City agreement requirements, Permian Deep Rock will be using 24 ft. tall

sound walls on all sides of location during drilling and fracing. In addition, a quiet frac system will be used and truck traffic will enter from turn out lane on Big Spring and follow a row to well locations and then exit leaving on Smith Road and then left on Veterans Parkway. A closed loop system will be used for drilling operations. A production tank battery will be located outside the city limits and transfer facility will be located on the South side of the actual well pad location. Permian Deep Rock has a surface agreement and lease agreement with the City of Midland. Receiving support of the Oil & Gas Advisory Committee, Permian Deep Rock Oil is requesting the following variances:

(1) requests to allow for twenty-four-hour fracing operations.
(2) requests variance for fence of the drill pad instead of individual well
(3) request a variance to the landscaping and irrigation to follow the Surface Agreement.
(4) requests variance to remove drill cuttings from the location per the Surface Agreement.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Flow Line Location.

Morris Williams Jr.

City Manager's Office

RESOLUTION NO. _____

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PERMIAN DEEP ROCK OIL CO., LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED IN SECTION 14, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,878 FEET EAST OF NORTH A STREET EXTENSION AND 1,833 FEET SOUTH OF WEST LOOP 250 NORTH); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

WHEREAS, on December 8, 2009, the City Council of the City of Midland duly approved Ordinance No. 8769 which amended Title VI, "Police Regulations," Chapter 1, "General Offenses," of the City Code of Midland, Texas, so as to establish Section 23, "Oil and Gas Well Permits issued on or after January 1, 2010," which governs the granting or rejecting of Oil and Gas Well Permits; and

WHEREAS, the purpose of said section is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil or gas or other substances produced in association with oil and gas within the City of Midland to protect the health, safety, and general welfare of the public and the orderly development of the City of Midland; abate or prevent potential public nuisances; minimize the potential adverse impact to surface and mineral owners, protect the quality of the environment and encourage the orderly production of available mineral resources; and

WHEREAS, Section 6-1-23(C) of the City Code of Midland, Texas, makes it an offense to knowingly drill or participate in the drilling of any well or to re-enter any well within the corporate limits of the City of Midland without a permit having first been issued by the authority of the City Council; and

WHEREAS, Operator has submitted an application to the City of Midland to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, notice of the public hearing on this matter was provided in accordance with Section 6-1-23(H)(1) and a public hearing was held on May 9, 2023; and

WHEREAS, subsequent to said public hearing, and in accordance with Section 6-1-23(H)(1), the City Council allowed the public and Operator thirty (30) days to submit written input to the City Manager regarding Operator's application to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, the City Council has considered those issues set forth in Section 6-1-23(I) in determining whether to grant or deny a permit to Operator to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, the City Council finds it to be in the public interest to approve the issuance of a permit to Operator to drill an oil and gas well on the property described in Section Two hereof;

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

SECTION ONE. That the above recitals are hereby adopted and approved by the City Council of the City of Midland.

SECTION TWO. That the Mayor is hereby authorized and directed to execute a permit, on behalf of the City of Midland, that will allow Operator to drill the oil and gas well Knight 120 MIPA Unit H120LS, located in Section 14, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

SECTION THREE. That said permit does not require a new road repair agreement but shall be consolidated under the existing road repair agreement between Operator and the City of Midland for Operator's wells located on the property described in Section Two hereof.

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., 2023, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____
Morris Williams, Jr., Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on June 13, 2023, considered the application of Permian Deep Rock Oil Co., LLC ("Operator") dated March 1, 2023, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with Midland City Code § 6-1-23, "Oil and Gas Well Permits Issued On or After January 1, 2010" (Ordinance 8769), to drill an oil and gas well as requested in Operator's application that has been filed with the Oil & Gas Compliance Coordinator and is incorporated herein for all legal purposes.

The location of Operator's Knight 120 MIPA Unit H120LS oil and gas well shall be 1,833 feet from the north line and 1,878 feet from the west line, Section 14, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in Operator's application. Further, all operations done under this permit shall be done and accomplished in strict accordance with Midland City Code § 6-1-23, "Oil and Gas Well Permits Issued On or After January 1, 2010" (Ordinance 8769), which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit, including, but not limited to, Subsections (K) through (Z).

This permit shall be effective from June 13, 2023 through June 13, 2024, and so long thereafter as oil or gas is produced, or until such time as Operator has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts Operator from its responsibilities or obligations as to third parties. The issuance of this permit only means that Operator has, at this time, complied with Midland City Code § 6-1-23, "Oil and Gas Well Permits Issued On or After January 1, 2010" (Ordinance No. 8769) and that the Midland City Council, as a regulatory body, will allow Operator to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided that this permit does not authorize a trespass by the permittee as to any third party. This

permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize Operator to act with impunity as to third parties, nor does it insulate Operator from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize Operator from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a "negative pronouncement" that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. Operator has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield Operator from third party tort liability stemming from the consequences of the permitted activity.

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

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, and utility and drainage rights-of-way.

If the well that is the subject of this permit is not located within the County of Midland, Texas, Operator shall notify the Midland Central Appraisal District of the following: (1) the well's location within the territorial limits of the City of Midland; and (2) that the City of

Midland is to be included as a taxing entity. Operator shall make said notification no later than 60 days after completion of the well.

The Midland City Council, in granting this permit, also grants the following variance(s):

1. Twenty-four hour hydraulic fracturing operations are permitted.
2. In lieu of constructing a perimeter fence around this permitted well, a perimeter fence around the well pad site may be constructed. Said perimeter fence around the well pad site shall, at a minimum, meet the requirements of Ordinance No. 8769.
3. Landscaping and irrigation shall conform to the surface use agreement.
4. Drill cuttings shall be removed from the surface location.

Sound walls shall be used during drilling and completion operations as noted in the application.

This permit shall constitute a written contract for purposes of insurance requirements.

In addition to the requirements of this permit and the Midland City Code § 6-1-23, "Oil and Gas Well Permits Issued On or After January 1, 2010" (Ordinance 8769), including, but not limited to Subsections (K) through (Z), Operator shall develop, maintain and operate the well described herein in accordance with the conditions, limitations and safeguards contained in Operator's application for said well.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS _____ day of June 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____day of June 2023.

Permian Deep Rock Oil Co., LLC

By: _____

Kyle M. Hammond

General Manager

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GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS _____ day of June 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____day of June 2023.

Permian Deep Rock Oil Co., LLC

By: _____

Kyle M. Hammond

General Manager

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
03/01/2023	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519
Fee: $4,000.00 Rec'd Yes✓ No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Office buildings, City Collection Center, undeveloped pasture

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,

Current Tax Roll from Midland Central Appraisal District), **which lists**

the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

***ATTACHED AS EXHIBIT E* is a *(map/p lat/satellite/aerial photo)* depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The *(map/p lat/satellite/aerial photo)* includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

***ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Knight 120 MIPA UNIT H120LS

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 1833' FNL & 1878' FWL, Section 14
Block 39, T1S, T&PRR Co. Survey, Midland County, Texas

***ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].**

***ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

***ATTACHED AS EXHIBIT I* is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments *(also file copy of W-1 with City Secretary before commencement of drilling operations)*. [See § J(16) and (20)].**

***ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

***ATTACHED AS EXHIBIT K (if applicable)* is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].**

***ATTACHED AS EXHIBIT L* is the Fencing and Irrigation Plan. [See § J(30)].**

***ATTACHED AS EXHIBIT M*: Road use and repair agreement attached**

***ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

***ATTACHED AS EXHIBIT P* is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].**

***ATTACHED AS EXHIBIT Q* : Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by applicant are current. (See § J(29)**

***ATTACHED AS EXHIBIT R* is the required Insurance Certificate. [See § J(19) and § K(3)].**

***ATTACHED AS EXHIBIT S (if applicable)* is the Drainage Plan relating to Applicant's proposed operations. [See § J(21)].**

***ATTACHED AS EXHIBIT T* is Applicant's Emergency Action Response Plan. [See § J(22)].**

***ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

ATTACHED AS EXHIBIT V: Applicants variances

Permian Deep Rock Oil Co.
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

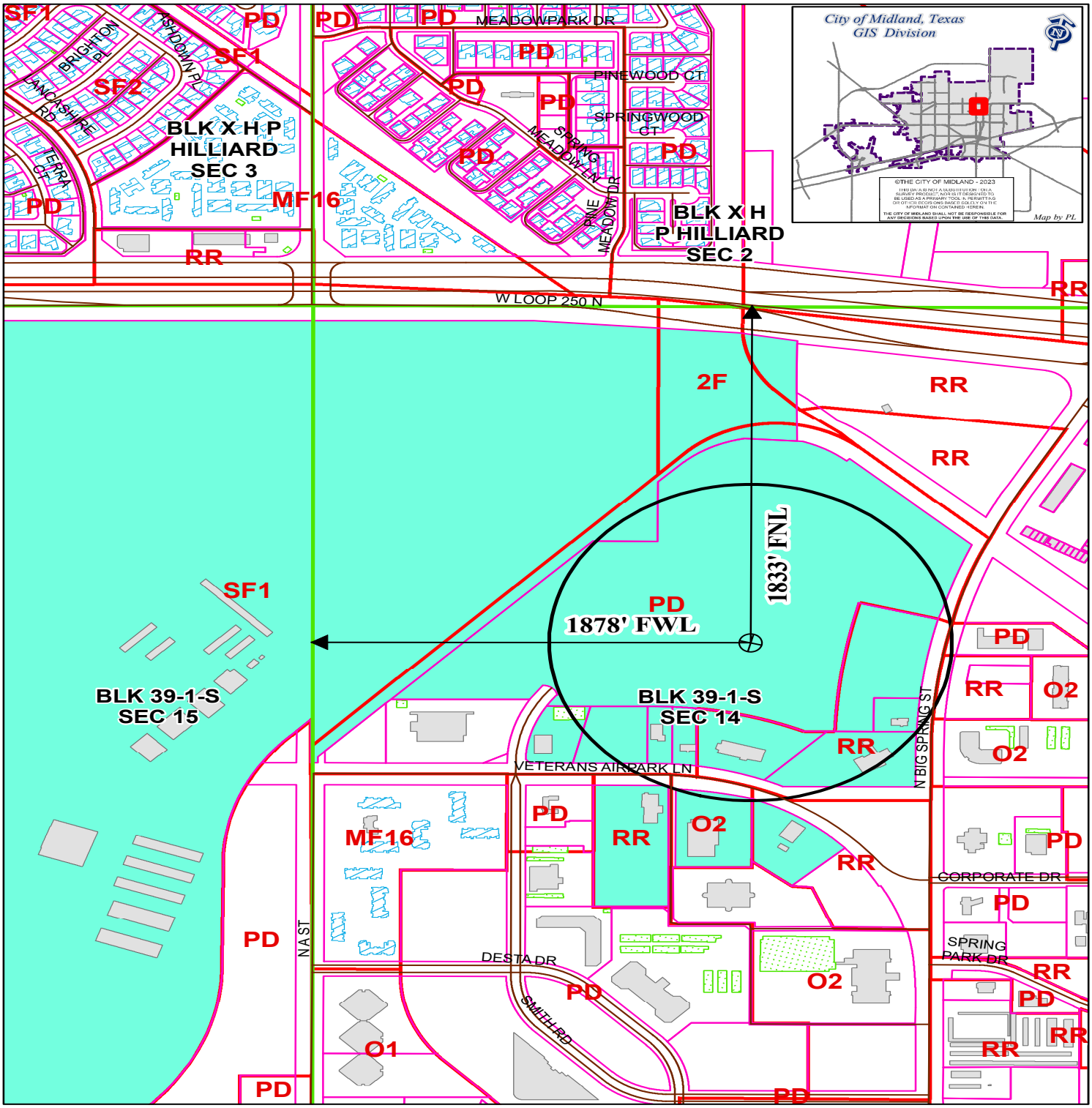
County of Midland)

, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8

[S E A L]

Estella Peña
Notary Public, State of Texas



LOCATION AND ZONING MAP

Oil - 050028 - 2023 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1,833' FNL and 1,878' FWL, Section 14, Block 39, T-1-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,878 feet east of North A Street extension and 1,833 feet south of W Loop 250 N.

Knight 120 MIPA Unit H120LS

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

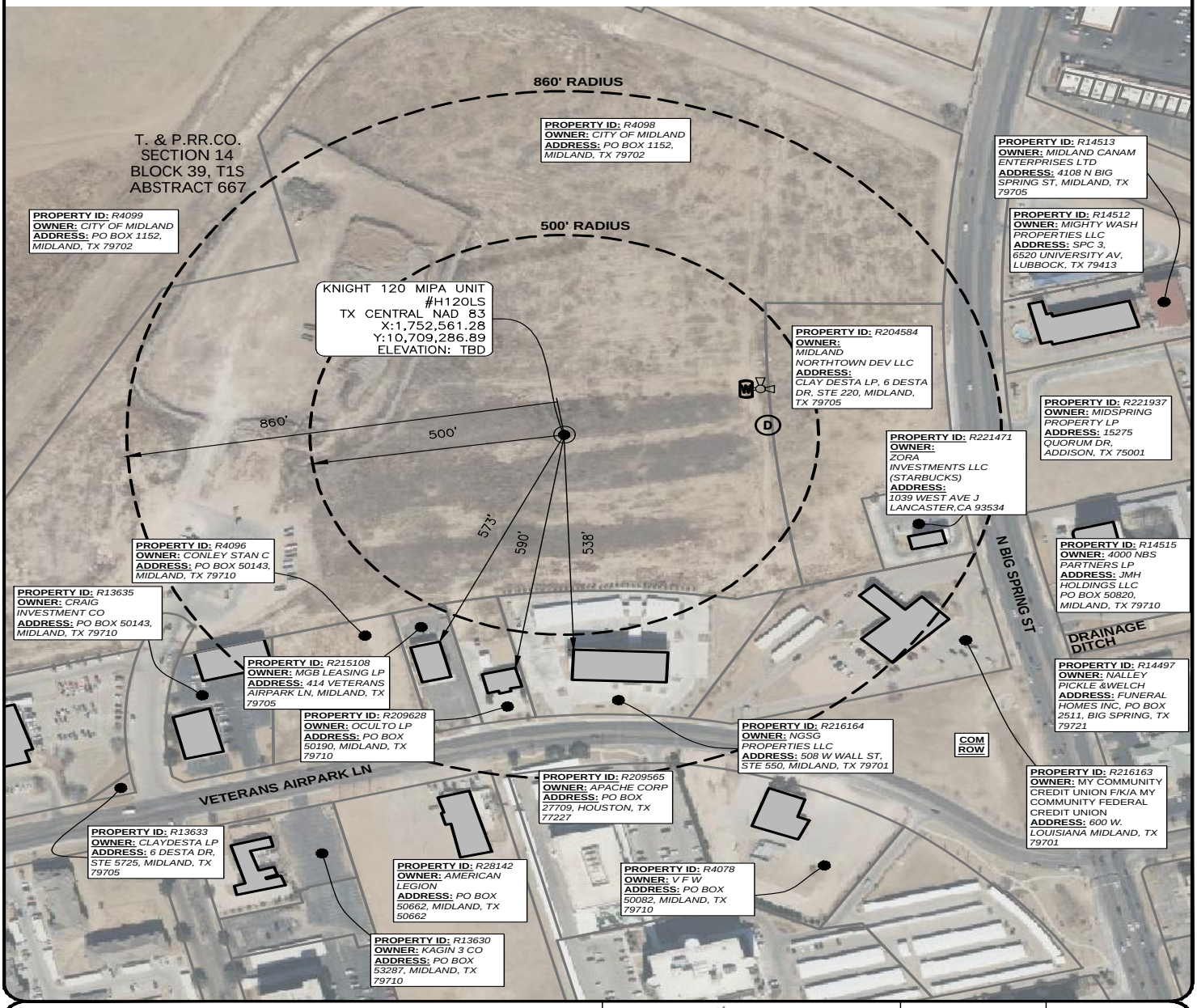
NOTES:

1. ORIGINAL DOCUMENT SIZE: 8.5" X 14"
2. THIS EXHIBIT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS. THIS IS NOT A "BOUNDARY SURVEY".
3. THE PROPOSED WELL LOCATION WAS SURVEYED ON 01-19-2023

SYMBOL LEGEND:

- FIRE HYDRANT
- STORM DRAIN MANHOLE
- WATER VALVE

N
W E
S
0' 150' 300'



WARNING: PLAT MAY NOT SHOW ALL CROSSINGS OF PIPELINES OR CABLES. USE TEXAS ONE CALL SYSTEM BEFORE EXCAVATION ON PROPERTY.

WELL RADIUS

PROPOSED KNIGHT 120 MIPA UNIT #H120LS
T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667, CITY OF MIDLAND,
MIDLAND COUNTY, TEXAS
WELL SECTION LINE TIES: 1,878' FSWL & 1,833' FNWL

NOTES:
1. SURVEY RECONSTRUCTION FILED IN THE OFFICE OF ATWELL, LLC.
2. ALL BEARING AND GRID COORDINATES SHOWN ARE BASED ON THE TEXAS COORDINATE SYSTEM OF NAD 83, CENTRAL ZONE.
3. THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY.

PERMIAN DEEP ROCK OIL COMPANY

ATWELL
866.850.4200 www.atwell-group.com
10100 Reunion Place, Suite 700
San Antonio, Texas 78216
TBPLS FIRM # 10194153

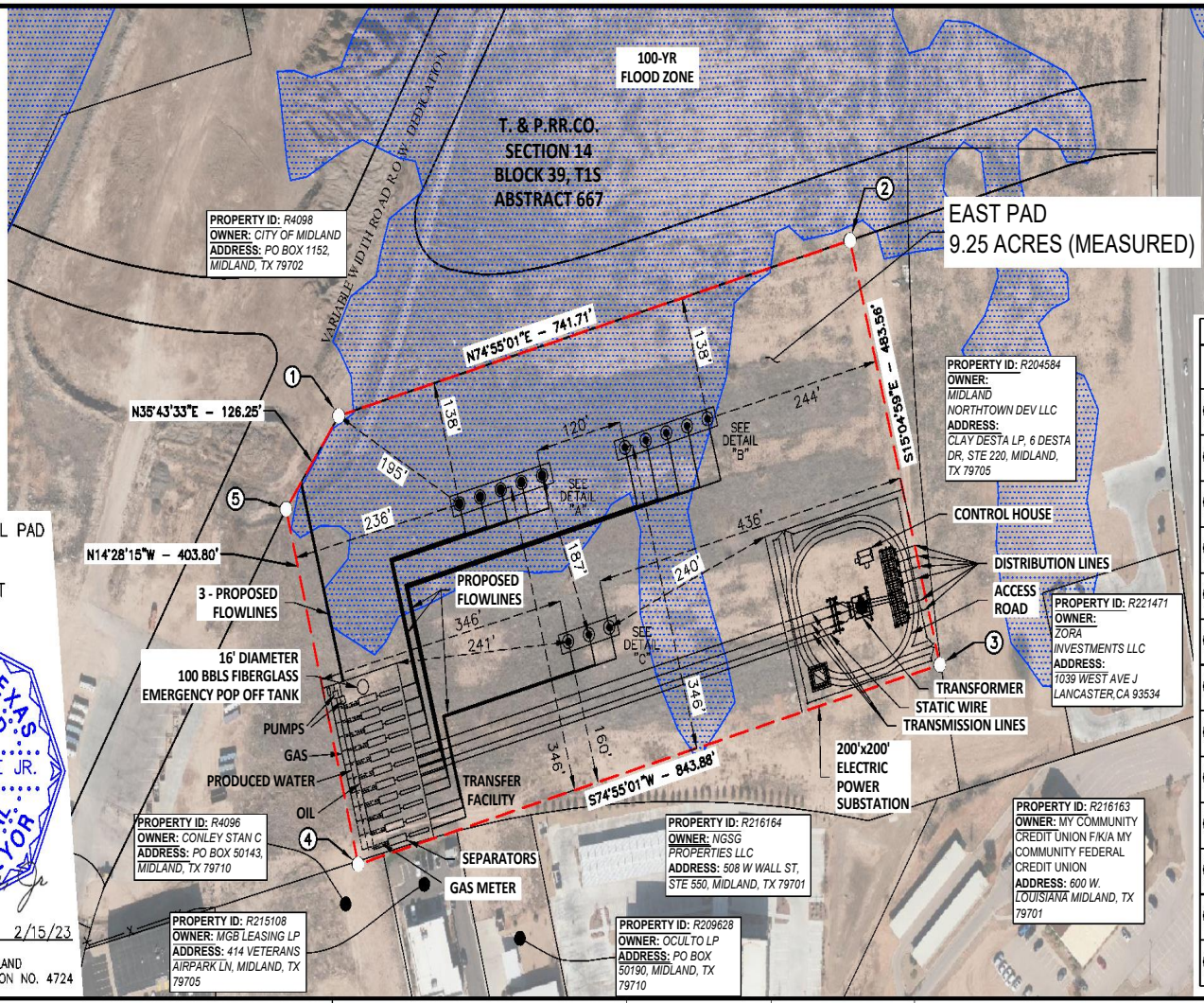
DRAWN	RS	DATE	1/20/23
CHECKED	DC	DATE	1/20/23
APP'D		DATE	
SCALE	1"=300'	PAGE	2 OF 4

REV#	DATE	DESC.

JOB NAME WELL RADIUS
JOB NO. 21003805

Date: Jan 20, 2023, 8:50am User ID: rsolis
File: K:\21003805 – Arrington – MIPA Wells East Pad\11 MAPPING\00 PLAN SETS\00 PLAT – TENTATIVE PRELIM\01 REV 0\Exhibit E – Well Radius\21003805 – WELL RADIUS – KNIGHT H 120LS – NAD 83.dwg

MIDLAND COUNTY, TEXAS



Coordinates			
Corner No.	State Plane TX–C NAD27	Geographic NAD27	Elev:
①	N: 866745.51 E: 1455693.62	Lat: 32°02'16.57" Long: –102°05'23.09"	2,783.4'
②	N: 866938.51 E: 1456409.77	Lat: 32°02'18.59" Long: –102°05'14.81"	2,787.3'
③	N: 866471.61 E: 1456535.60	Lat: 32°02'13.99" Long: –102°05'13.26"	2,784.0'
④	N: 866252.03 E: 1455720.80	Lat: 32°02'11.69" Long: –102°05'22.69"	2,785.3'
⑤	N: 866643.02 E: 1455619.90	Lat: 32°02'15.54" Long: –102°05'23.93"	2,784.2'

Well Information			
Well No.	State Plane TX–C NAD27	Geographic NAD27	Elev:
(A) KNIGHT 135 MIPA UNIT #H135WA	N: 866648.48 E: 1455862.69	Lat: 32°02'15.63" Long: 102°05'21.11"	2,781.6'
(B) KNIGHT 130 MIPA UNIT #H130LS	N: 866656.28 E: 1455891.65	Lat: 32°02'15.71" Long: 102°05'20.78"	2,782.2'
(C) KNIGHT 130 MIPA UNIT #H130WB	N: 866664.08 E: 1455920.62	Lat: 32°02'15.80" Long: 102°05'20.44"	2,782.0'
(D) KNIGHT 125 MIPA UNIT #H125WA	N: 866671.88 E: 1455949.59	Lat: 32°02'15.88" Long: 102°05'20.11"	2,782.7'
(E) KNIGHT 120 MIPA UNIT #H120WB	N: 866679.67 E: 1455978.56	Lat: 32°02'15.96" Long: 102°05'19.77"	2,783.3'
(F) KNIGHT 120 MIPA UNIT #H120LS	N: 866710.78 E: 1456094.49	Lat: 32°02'16.29" Long: 102°05'18.43"	TBD
(G) KNIGHT 115 MIPA UNIT #H115LS	N: 866718.67 E: 1456123.40	Lat: 32°02'16.37" Long: 102°05'18.10"	2,783.7'
(H) KNIGHT 115 MIPA UNIT #H115WA	N: 866726.47 E: 1456152.37	Lat: 32°02'16.45" Long: 102°05'17.76"	2,783.9'
(I) KNIGHT 110 MIPA UNIT #H110WB	N: 866734.27 E: 1456181.34	Lat: 32°02'16.53" Long: 102°05'17.43"	2,784.6'
(J) KNIGHT 110 MIPA UNIT #H110UH	N: 866742.06 E: 1456210.31	Lat: 32°02'16.61" Long: 102°05'17.09"	2,786.0'
(K) KNIGHT 130 MIPA UNIT #H130SS	N: 866496.84 E: 1456014.91	Lat: 32°02'14.16" Long: 102°05'19.32"	2,783.0'
(L) KNIGHT 120 MIPA UNIT #H120MS	N: 866504.64 E: 1456043.88	Lat: 32°02'14.24" Long: 102°05'18.98"	2,782.6'
(M) KNIGHT 110 MIPA UNIT #H110SS	N: 866512.44 E: 1456072.85	Lat: 32°02'14.32" Long: 102°05'18.65"	2,782.6'

DETAIL "A" NOT TO SCALE (A B C D E; 30' 30' 30' 30')

DETAIL "B" NOT TO SCALE (F G H I J; 30' 30' 30' 30')

DETAIL "C" NOT TO SCALE (K L M; 30' 30')

TOTAL AREA OF WELL PAD

= 9.25 ACRES
= 402,945 SQ. FEET

STATE OF TEXAS REGISTERED JERRY D. WILKIE JR. 4724 PROFESSIONAL LAND SURVEYOR

2/15/23

JERRY D. WILKIE, JR.
REGISTERED PROFESSIONAL LAND SURVEYOR TEXAS REGISTRATION NO. 4724

EXHIBIT "G"

KNIGHT 135 MIPA UNIT #H135WA, KNIGHT 130 MIPA UNIT #H130LS, KNIGHT 130 MIPA UNIT #H130WB, KNIGHT 125 MIPA UNIT #H125WA, KNIGHT 120 MIPA UNIT #H120WB, KNIGHT 115 MIPA UNIT #H115LS, KNIGHT 115 MIPA UNIT #H115WA, KNIGHT 110 MIPA UNIT #H110WB, KNIGHT 110 MIPA UNIT #H110UH, KNIGHT 130 MIPA UNIT #H130SS, KNIGHT 120 MIPA UNIT #H120MS, & KNIGHT 110 MIPA UNIT #H110SS
SITUATED IN
T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667 OF THE CITY MIDLAND, MIDLAND COUNTY, TEXAS.

REV.	DRAWING NAME
4	EXHIBIT "G" KNIGHT MIPA EAST PAD

PERMIAN DEEP ROCK OIL COMPANY

ATWELL

DRAWN	MA	DATE	01/03/22
CHECKED	LF	DATE	01/03/22
APP'D		DATE	
SCALE	1"=200'	PAGE	1 OF 2

REV#	DATE	DESC.
2 - MA	02/22/22	PAD REVISION
3 - MA	07/20/22	PAD REVISION
4 - RS	02/14/23	WELL REVISION
JOB NO.	21003805	

N W E S

0' 100' 200'

LEGEND

PAD LINE
SURFACE HOLE LOCATION

NOTES

1. ALL BEARINGS & DISTANCES SHOWN HEREON ARE GRID BASED UPON TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM OF 1927, US SURVEY FOOT, AS DERIVED FROM AN ON THE GROUND SURVEY PERFORMED BY ATWELL, LLC ON JUNE 16, 2022.

PACKET: 12.20 June 13, 2023

Date: Feb 15, 2023, 2:38pm User ID: rsolis
File: \\txsan\projects\21003805 – Arrington – MIPA Wells East Pad\11 MAPPING\00 PLAN SETS\00 PLAT – TENTATIVE PRELIM\01 REV 0\Exhibit G\Rev4\21003805 – Arrington – MIPA Wells East Pad – Exhibit G – Rev4.dwg

City Council Meeting

Item Number: 13

Meeting Date: June 13, 2023

To: City Council / City Manager

From: John Simmons, Manager, Right-of-Way

Subject: MOTION AUTHORIZING THE EXECUTION OF A WATER PIPELINE EASEMENT WITH THE UNIVERSITY OF TEXAS SYSTEM BOARD OF REGENTS REGARDING UNIVERSITY OF TEXAS SYSTEM-OWNED PROPERTY DESCRIBED AS SECTIONS 1, 2, AND 14, BLOCK 7, UNIVERSITY LANDS, MARTIN COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion accepts a new 10-year easement from the University of Texas System Board of Regents for 2 water pipelines associated with the Paul Davis Water Well Field.

Recommended City Council Action:

Approve

Fiscal Impact:

Total compensation for this 10-year Right of Way renewal is $143,708.25 and is based on University Lands non-mineral lessee rates.

Pipeline 12” to 24” (106.06 rods x $155.00) $16,439.30

Pipeline 24” or greater (541.57 rods x $235.00) $127,268.95

Discussion:

This Right of Way is a 10-year renewal of existing Easement 8253, with an effective date of 1/01/2013. The pipeline was first approved by Resolution 92-296

The Certificate of Continued Use of Easement 8253 is attached, as is an updated map

showing the existing pipeline. Staff supports accepting this continued use of Easement.

Morris Williams Jr.

City Manager's Office

UNIVERSITY LANDS
FUNDING THE UNIVERSITY OF TEXAS AND TEXAS A&M UNIVERSITY SYSTEMS SINCE 1839

Richard Brantley
Senior Vice President, Operations
P.O. Box 553
Midland, TX 79702-0553

Tel: (432) 684-4404
Fax: (432) 683-8780

November 2, 2022

EASEMENT RENEWAL INSTRUCTIONS

Record the easement contract number on all communication regarding this easement.

Upon expiration of an easement, the easement must be renewed or the pipeline/electric line must be removed in accordance with the terms of the contract and the Field Manual of Required Operating Procedures for Oil & Gas Leases. Damages are not charged for line removal.

Any incorrect Grantee information should be marked through with a single line, corrected, and initialed on each contract document.

1. All contract documents are submitted in duplicate.
2. Return one check payable to **The University of Texas System** in the amount shown on the attached invoice. We do not accept electronic payment.
3. Provide original **signatures** on page 8 on **both contract documents.** Signatories must be an authorized company representative..
4. Sign and return (1) copy of Continued Use Statement.
5. Signatures must be **Notarized** on page 9 on **both contract documents.**

Prior to contract expiration, return both original signed and notarized documents to: University Lands, P.O. Box 553, Midland, TX 79702-0553.

Kathy Woods
University Lands

/kw
Enclosure

UNIVERSITY LANDS
FUNDING THE UNIVERSITY OF TEXAS AND TEXAS A&M UNIVERSITY SYSTEMS SINCE 1839

Rate and Damage Invoice

Invoice Date: November 02, 2022 **Invoice Number:** 131756

Payment Due Date: **December 31, 2022**

Operator: CITY OF MIDLAND
P.O. Box 1152
Midland, TX 79702
Contact: KEVIN KRUEGER
Email: kekrueger@parkhill.com

Contract Number: EA8253

Description	Quantity	Unit	Rate	Total
Renewal of Pipeline Easement (Non-UL Mineral Lessee) - 12" to Less than 24"	106.06	rod	$155.00	$16,439.30
Renewal of Pipeline Easement (Non-UL Mineral Lessee) - 24" or Greater	541.57	rod	$235.00	$127,268.95

PLEASE PAY FROM THIS INVOICE	Amount Due **$143,708.25**

Remarks:

University Contact Information:
Kathy Woods 432-686-4725
kwoods@utsystem.edu

Payment Payable to:
The University Of Texas System

Physical Address:
University Lands
704 W. Dengar Ave.
Midland, TX 79705

Mailing Address:
University Lands
P.O. Box 553
Midland, TX 79702-0553

Please include a copy of invoice(s) or reference invoice number(s) on the check

CERTIFICATION OF CONTINUED USE

The undersigned hereby certifies that the pipeline being operated by authority of Easement **#8253** which the holder is applying to renew, continues to be used or maintained for the transportation of Product.

CITY OF MIDLAND

By:_____

Title:_____

EASEMENT 8253

Oil, Gas and Water Pipe Lines

STATE OF TEXAS §
§
COUNTY OF MARTIN §

EFFECTIVE DATE: **01/01/2023**

GRANTOR: THE UNIVERSITY OF TEXAS SYSTEM BOARD OF REGENTS

GRANTOR'S MAILING ADDRESS: The University of Texas System
P.O. Box 553
Midland, Texas 79702

GRANTEE: CITY OF MIDLAND

GRANTEE'S MAILING ADDRESS: P. O. Box 1152
Midland, TX 79702

CONSIDERATION: Amounts paid in accordance with The University of Texas System Rate and Damage Schedule **($143,708.25)** and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

TERM: Commencing on the Effective Date and continuing for a period of ten (10) years thereafter, terminating on **12/31/2032.**

EASEMENT PROPERTY: Certain tracts of land as more particularly described on **Exhibit "A"** attached hereto and incorporated herein for location only, and being limited to an area 30 feet in width, but with an additional working area that is reasonably necessary for safe, workmanlike operations during initial construction only.

PROJECT: Installation and maintenance of pipe line or lines, along with necessary block valves, appurtenances and meters, through, over, across, upon and under the Easement Property, laid and/or erected within the Easement Property (whether one or more, the "Pipe Lines"). Grantee shall bury and maintain the Pipe Lines and any Additional Pipe Line below plow depth or may lay the Pipe Lines on the surface at the discretion of the Grantor and with Grantor's written permission. The Pipe Lines shall have a diameter and length as follows:

Rods	Size
541.57	**30"**
106.06	**12"**

Grantor, for the Consideration and subject to the terms and conditions set out herein, hereby grants to Grantee a non-exclusive easement through, over, across, upon, and under the Easement Property for the Term solely for the purpose of the Project. In connection with the exercise of the rights herein granted Grantee is hereby given the right of ingress and egress at all times, including the right to do and perform such acts and things on adjacent property of Grantor as may be necessary to protect Grantee's property in case of emergency and Grantee may use whatever additional width is reasonably necessary during repair, replacement, inspection or maintenance of its pipeline or pipelines adjacent to the Easement Property.

This Easement No. **8253** (this "Easement") does not constitute a conveyance in fee of the Easement Property, nor of the minerals therein and thereunder, but grants only an easement subject to the following:

1. Improvements. Grantee may construct Project improvements (the "Improvements") on the Easement Property only after notice to and, receipt of written approval from, Grantor. At any time during the Term, upon Grantor's request, Grantee shall provide Grantor with a sketch or map showing the location of existing and/or proposed Improvements and any appurtenances thereto, along with a written statement of Grantee's use of the Easement Property and Improvements thereon.

2. Additional Pipe Line. Following thirty (30) days advance written notice to Grantor and advance payment of the amount described in Paragraph 4, Grantee may lay additional pipe lines (whether one or more, "Additional Pipe Line") adjacent to and approximately parallel to the Pipe Lines; provided, however, that any pipeline constructed under this paragraph whose purpose is, or becomes, the transportation of fresh water (as defined by Grantor) must first have Grantor's specific written approval for that use.

3. Cathodic Protection Stations. Grantee may construct and maintain within 50 feet of the Easement Property cathodic protection stations or units necessary or appropriate in connection with the Pipe Lines or Additional Pipe Line only with the prior written approval of the Manager of University Lands-Surface Interests, approval as to location by Grantor's field personnel, and advance payment of the amount described in Paragraph 4.

4. Additional Compensation, Surface Damages and Other Charges. Grantee shall give written notice of the Project and Grantee's anticipated use of the Easement Property to Grantor's surface lessee(s). Grantee shall pay to Grantor all payments due pursuant to then current UNIVERSITY OF TEXAS SYSTEM RATE AND DAMAGE SCHEDULE and shall pay the surface lessee(s) directly for damages for loss or injury to livestock, or damage to crops. With respect to installation of Additional Pipe Line, or cathodic protection stations or units described in Paragraphs 2 and 3, respectively (collectively, "Additional Uses"), Grantee agrees to pay to Grantor for each such Additional Pipe Line, or Cathodic Protection Station or unit, a sum of money in accordance with the then current UNIVERSITY OF TEXAS SYSTEM RATE AND DAMAGE SCHEDULE (including all additional compensation, surface damages and any other charges specified therein), prorated based on the number of full calendar months remaining in the term of this Easement at the time notice is provided to Grantor and assuming that the amount specified in the Rate and Damage Schedule is the full amount payable for a period of 120 months. Such sum shall be due and payable prior to commencement of construction of the Additional Pipe Lines or Cathodic Protection Station or unit.

5. Additional Term. In anticipation of the expiration of this Easement, Grantee may request that Grantor enter into a new easement covering the Easement Property on such terms and conditions mutually satisfactory to Grantor and Grantee. Any such request should be made by Grantee in writing and delivered to Grantor at least ninety (90) days prior to the expiration of the term of this Easement. Grantor may elect to enter into a new easement covering the Easement Property or any other property of Grantor in Grantor's sole discretion and Grantor is not obligated in any way to agree to enter into any such agreement.

6. Removal of Property of Grantee After Expiration or Termination. Within thirty (30) days after termination of this Easement, Grantee shall remove the Pipe Lines, any Additional Pipe Line, and Improvements from the Easement Property. At the option of Grantor, any Pipe Lines, Additional Pipe Line, Improvements, or other personal property remaining on the Easement Property after such twelve (12) month period shall be deemed abandoned and Grantor may sell, use, dispose of, or otherwise manage any such property as Grantor wishes. Grantee shall immediately, upon receipt of an invoice or statement from Grantor, reimburse Grantor for any disposal or clean up costs incurred by Grantor in connection with any such abandoned property. Any such amount owing to Grantor shall accrue interest at the rate of fifteen percent (15%) per year from the date the invoice or statement is received by Grantee.

7. Termination. If Grantee fails to use all or any part of the Easement Property for the stated purposes, or fails to use any of the pipelines within the Easement Property for the actual transportation of product, for a period of one hundred twenty (120) days or uses the Easement Property at anytime for any other purpose, or if Grantee at anytime permanently abandons this Easement or fails in any way to comply with the terms and conditions of this Easement and such default is not cured within thirty (30) days after receipt of notice of default from Grantor, then in any such event, at Grantor's option, this Easement will terminate and be of no further force and effect as to the Easement Property or any part thereof, and the Easement Property shall absolutely revert to and revest in Grantor, its successors or assigns, immediately upon written notice from Grantor. Grantee agrees in such event to execute and deliver to Grantor, its successors or assigns, a proper release or reconveyance, duly executed and acknowledged.

8. Assignment. Upon payment of a fee in accordance with The University of Texas System Rate and Damage Schedule and completion of appropriate documentation as may be required by Grantor, Grantee may assign this Easement (i) without Grantor's written consent, to a corporation with which Grantee is merged or consolidated or (ii) with Grantor's prior written consent, to any other party. If Grantee assigns this Easement pursuant to (i) above, Grantee shall deliver notice of such assignment to Grantor within thirty (30) days after such assignment. Any purported assignment not made in accordance with these provisions shall be voidable and of no force and effect at the option of Grantor. Nothing herein shall authorize Grantee to allow any third party to use any part of the Easement Property for any reason. Notwithstanding the foregoing, this provision shall not prevent the assignment of this Easement to the trustee under any mortgage placed upon the Easement Property by Grantee, or to prevent the trustee or any receiver from using this Easement to secure the benefits thereof to the holders of any bonds secured by a mortgage; provided, however, that in no event shall any mortgage, pledge, or encumbrance be construed to encumber in any manner Grantor's reserved or remainder interest in the Easement Property. In either such event, this Easement shall inure to the benefit of and be binding upon the successors and assigns of Grantee. Grantee represents and warrants to Grantor that this Easement is entered into by Grantee for Grantee's use and benefit, and the use and benefit of no other person, corporation, or other entity.

9. Minerals Reserved. All oil, gas, and other minerals, in, on, and under the Easement Property are expressly reserved. Notwithstanding anything to the contrary contained herein, if oil, gas, or any other minerals are discovered, developed, or produced on the Easement Property or on any property of Grantor adjacent thereto and should any of the Pipe Lines, Additional Pipe Line, or Improvements hinder, interfere, and retard the production or exploration for said minerals, Grantee will, at its own expense, remove the Pipe Lines, Additional Pipe Line and Improvements so as not to interfere with such exploration and production after receiving thirty (30) days' written notice from Grantor requesting the removal of same. If Grantee desires to relocate the Pipe Lines, Additional Pipe Line, or Improvements on lands belonging to Grantor, Grantor shall provide the necessary easement without additional expense to Grantee along a route and upon lands approved by Grantor.

10. Rights of Other Parties. This Easement is made subject to any and all existing easements, prescriptive rights, rights-of-way, leases (including oil, gas, and mineral leases issued by the Board for Lease of University Lands), subleases, licenses, and permits affecting the Easement Property, or any part thereof, whether of record or not, and all presently recorded matters that affect the Easement Property. Grantor further reserves the right to grant future easements, leases, and subleases covering the Easement Property or any part thereof to the extent the same do not unduly interfere with Grantee's rights hereunder, except that this Easement shall be subject to any future oil, gas, and mineral leases affecting the Easement Property. Grantor reserves the right to use and enjoy the Easement Property insofar as the exercise thereof does not endanger or interfere with the existence and maintenance of the Property.

11. Indemnity. Grantee hereby agrees to indemnify Grantor and its agents, successors and assigns from and against, and to reimburse Grantor and its

agents, successors and assigns with respect to, any and all liabilities (including without limitation strict liability) claims, demands, damages, expenses or causes of action of whatever nature, specifically including, but not limited to, reasonable attorneys' fees and costs of suit paid or incurred by Grantor, its agents, successors and assigns, asserted by others in any way related, directly or indirectly, to the Easement Property or Grantee's use thereof and that are caused by or arise in any manner out of acts or omissions of Grantee, its agents, employees, representatives, or any other persons acting under its control or at Grantee's direction or requests.

12. Damage to Property. If, in exercising Grantee's rights under this Easement, Grantee directly or indirectly causes any damage to the Easement Property not contemplated by this Easement or any damage to any other property of Grantor, or any improvements located on any property of Grantor, Grantee shall, at Grantee's sole cost and expense and within a reasonable time after the exercise of such rights, but in no event later than thirty (30) days from the date the damage occurred, restore the Easement Property, all other such property, and/or such improvements to the original condition existing prior to the damage. It is understood and agreed that the cost of any restoration required or contemplated by this paragraph 12 or the succeeding paragraph 13 may exceed the fair market value of the property damaged, and that restoration is nonetheless required, and Grantee, by accepting the rights granted by this easement and operating hereunder, agrees to promptly complete such restoration.

13. Restoration of Surface. Upon completion of the initial construction of the Project, Grantee shall restore and clean the surface of the Easement Property to similar or better condition in which the same was found before such work was begun. At any time, upon the request of Grantor, Grantee shall reseed and contour the Easement Property in accordance with the Soil Conservation Service Field Office Technical Guides (standards and specifications). Prior to performing maintenance on the Easement Property, which includes removal of brush and *mesquite*, Grantee agrees to consult with Grantor regarding proper methods of brush removal or eradication and will adhere to Grantor's requirements for such removal or eradication, it being agreed by Grantee that Grantor possesses unique range management knowledge by virtue of its operation of University Lands and employment of trained range managers. Upon termination of this Easement, Grantee shall restore the Easement Property to as nearly its original condition as possible.

14. General Requirements. All work to be performed by Grantee or its agents, employees, representatives, or any other persons acting under its control or at its direction or request shall be done:

a. at the sole risk, cost and expense of Grantee;

b. in accordance with the applicable requirements of all Federal, state and local governmental and regulatory authorities having jurisdiction, including, without limitation, all applicable environmental laws and worker health and safety laws;

c. in a manner that will not unreasonably interfere with access to the adjacent or remainder property of Grantor; and

d. in a manner that will create the least reasonably possible disturbance or interference with uses of the Easement Property or adjoining properties of Grantor by parties with existing rights in such properties or otherwise unduly interfere with the rights of any other lessees, licensees or permittees.

15. Encumbrances and Charges. Grantee will not create or permit to be created or remain, and will discharge, at Grantee's sole cost and expense, any and all encumbrances or charges levied on

account of any builder's, supplier's, mechanic's, laborer's, materialmen's or similar encumbrance or charge upon the Easement Property or other property of Grantor or any part thereof or the income derived therefrom, with respect to any work or services performed or material furnished by or at the direction of Grantee. If any such encumbrances or charges shall at any time be filed against the Easement Property or the other property of Grantor or any part thereof by reason of work or services performed or material furnished by or at the direction of Grantee, Grantee within thirty (30) days after the filing thereof will cause the same to be fully discharged and released of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise.

16. Compliance with Environmental Laws. By its exercise of its rights hereunder, Grantee will not (i) cause or permit the Easement Property, any other property of Grantor, or Grantor to be in violation of Applicable Environmental Laws (as hereinafter defined); or (ii) do anything or permit anything to be done by Grantee, its contractors, subcontractors, agents or employees that will result in any contamination of soils, ground water, surface water, or natural resources on or adjacent to the Easement Property resulting from any cause, including but not limited to spills or leaks or oil, gasoline, hazardous materials, hazardous wastes, or other chemical compounds, or will subject the Easement Property, any other property of Grantor, or Grantor to any remedial obligations under applicable laws pertaining to health or the environment (such laws as they now exist or are hereafter enacted and/or amended are hereinafter sometimes collectively called "Applicable Environmental Laws"), including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (as amended, hereinafter called "CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984 (as amended, hereinafter called "RCRA"), the Texas Water Code and the Texas Solid Waste Disposal Act, as each of said laws may be amended from time to time, assuming disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances, if any, pertaining to Grantee's exercise of its rights hereunder. Grantee agrees to obtain any permits, licenses or similar authorizations for the Project by reason of any Applicable Environmental Laws that concern or result from the use of the Easement Property. Grantee will promptly notify Grantor in writing of any existing, pending or, to the best knowledge of Grantee, threatened, investigation or inquiry by any governmental authority in connection with any Applicable Environmental Laws concerning the Project and/or Grantee's use of the Easement Property. In connection with the Project, Grantee will not cause or permit the disposal or other release of any hazardous substance or solid waste on or to the Easement Property or any other property of Grantor. In connection with the Project, Grantee covenants and agrees to keep or cause the Easement Property and any other property of Grantor to be kept free of such hazardous substance or solid waste and to remove the same (or if removal is prohibited by law, to take whatever action is required by law) promptly upon discovery, at Grantee's sole cost and expense. If Grantee fails to comply with or perform any of the foregoing covenants and obligations, Grantor may (without any obligation, express or implied) remove any hazardous substance or solid waste from the Easement Property or any other property of Grantor (or if removal is prohibited by law, take whatever action is required by law) and the cost of the removal or such other action shall be reimbursed by Grantee to Grantor. Grantee grants to Grantor and its agents, employees, contractors and consultants access to the Easement Property and the license (which is coupled with an interest and irrevocable) to remove such hazardous substance or solid waste (or if removal is prohibited by law, to take whatever action is required by law) and agrees to reimburse Grantor for and to hold Grantor harmless from all costs and expenses involved therewith. The terms "hazardous substance" and "release" as used in this Easement have the meanings specified in CERCLA, and the terms "solid waste" and "disposal" (or "disposed") shall have the meanings specified in RCRA; provided, that if either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply hereunder subsequent to the effective date of such amendment and provided further, to the extent that any other federal or state law establishes a meaning for "hazardous substance," "release," "solid waste," or "disposal" that is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply.

17. Environmental Indemnity. Grantee agrees to release Grantor from, and to reimburse Grantor with respect to, any and all claims, demands, losses, damages (including consequential damages claimed by a person or entity other than Grantor), liabilities, causes of action, judgment, penalties, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, imposed on, asserted against or incurred by Grantor at any time and from time to time by reason of, in connection with or arising out of (a) the failure of Grantee to perform any obligation herein required to be performed by Grantee regarding Applicable Environmental Laws, (b) any violation of Applicable Environmental Laws by Grantee, its contractors, subcontractors, agents or employees occurring after Grantee's acquisition of the Easement, (c) the removal of hazardous substances or solid wastes that result from the use by Grantee, its contractors, subcontractors, agents or employees, from the Easement Property or any other property of Grantor (or if removal is prohibited by law, the taking of whatever action is required by law), and (d) any act, omission or event occurring after Grantee's acquisition of this Easement (including, without limitation, the presence on the Easement Property or release from the Easement Property of hazardous substances or solid wastes disposed of or otherwise released after Grantee's acquisition of the Easement, resulting from or in connection with the Project), regardless of whether the act, omission, event or circumstance constituted a violation of any Applicable Environmental Law at the time of its existence or occurrence. Any amount to be paid under this paragraph by Grantee to Grantor shall be paid within thirty (30) days of Grantee's receipt of demand therefor from Grantor. Nothing in this paragraph or elsewhere in this Easement shall limit or impair any rights or remedies of Grantor against Grantee or any third party under Applicable Environmental Laws, including without limitation, any rights of contribution available thereunder.

18. Antiquities; Permits and Licenses. Grantee shall, at Grantee's cost and expense, obtain any necessary licenses, permits or other necessary authorizations of any nature required in connection with the Project, and shall comply with the Antiquities Code of Texas (Texas Natural Resources Code, Chapter 191) and applicable rules promulgated thereunder. Grantee shall undertake its activities on the Easement Property in a manner consistent with public policy relating to the location and preservation of archeological sites and other cultural resources in, on, or under public lands, including Permanent University Fund lands ("University Lands"). Grantee shall use the highest degree of care and all reasonable safeguards to prevent the taking, alteration, damage, destruction, salvage, or excavation of cultural resources and/or landmarks on University Lands. Upon discovery of an archeological site, Grantee shall immediately give written notice of such discovery to Grantor and to the Texas Historical Commission, as set out in its rules. Grantee, its agents, contractors, and employees, shall have no right, title, or interest in or to any archaeological articles, objects, or artifacts, or other cultural resources located or discovered on University Lands.

19. Notices. Any notice required or permitted to be delivered under this Easement shall be deemed received when actually delivered by hand delivery, or overnight courier, or when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to Grantor or Grantee, as the case may be, at the address stated on Page 1 of this Easement.

20. Miscellaneous.

a. Applicable Law. This Easement shall be construed and enforced in accordance with the laws of the State of Texas. Venue for any cause of action for enforcement of this Agreement shall be in Travis County, Texas.

b. Severability. In case any one or more of the provisions contained in this Easement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Easement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

c. Entire Agreement. This Easement constitutes the sole and entire agreement between the parties and cannot be amended except by written instrument signed by both parties.

d. Authority to Enter into this Easement. If Grantee is a corporation, partnership, or other entity, each individual executing this Easement on behalf of Grantee represents that he has full power and authority to enter into this Easement.

e. Captions. The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

f. Gender. Words of any gender used in this Easement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

g. Property of Grantor and Actions of Grantor. For purposes of this Easement, the term "property of Grantor" shall mean and refer to all lands and minerals held or managed by Grantor or the Board for Lease of University Lands, including improvements. Wherever an action is required to be taken hereunder by Grantor, an action taken by an authorized representative or employee of Grantor shall be sufficient.

h. "Grantee". When appropriate, the term "Grantee" includes the employees, contractors, representatives, and authorized agents of Grantee.

i. Binding Nature of Easement. This Easement, and the terms and conditions contained herein, shall inure to the benefit of and be binding upon Grantee and Grantor, and their respective personal representatives, successors, and assigns.

j. Exhibits. All exhibits referred to in this Easement are listed below and attached hereto and incorporated herein. If there are conflicts between any Exhibit and the body of this document, the document will control.

Exhibit A - Easement Property

TO HAVE AND HOLD the Easement Property for the Term for the purposes and subject to the conditions described above, **without warranties of any kind, express or implied**.

GRANTOR:

THE UNIVERSITY OF TEXAS SYSTEM
BOARD OF REGENTS

By:_____
Richard Brantley
Senior Vice President, Operations
University Lands

GRANTEE:

CITY OF MDILAND

By: _____

Name: _____

Title: _____

+ + +

ACKNOWLEDGEMENTS

STATE OF TEXAS §
§
COUNTY OF MIDLAND §

This instrument was acknowledged before me on the _____ day of _____, 2022, by Richard Brantley, Senior Vice President, Operations, University Lands, of The University of Texas System, for and on behalf of The University of Texas System Board of Regents.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 2022, by _____, _____ of _____, for and on behalf of _____.

_____
Notary Public, State of Texas

8253-1

HOWELL ENGINEERING

S.W. Howell Engineering, Inc.

409 East 57th Street P.O. Box 22 Odessa, Texas 79760
Phone 915/367-5711

CENTERLINE DESCRIPTION OF A 60 FOOT EASEMENT FOR GATHERING LINES IN THE PAUL DAVIS WELL FIELD IN SECTION 1, 2, AND 14, BLOCK 7, UNIVERSITY LANDS, MARTIN COUNTY, TEXAS.

BEGINNING at a bend in a 30" waterline from which point the northeast corner of Section 14, Block 7, University Lands, Martin County, Texas, and the southeast corner of Section 1, of said Block 7, bears N75°00'E, 62.67 feet and N15°00'W, 31.45 feet;

THENCE S78°34'31"W, 317.39 feet to a bend in the line;

THENCE S86°02'43"W, passing the north boundary line of said Section 14, 218.93 feet to a bend in the line;

THENCE N88°56'27"W, 269.54 feet to a bend in the line;

THENCE S88°19'07"W, 216.7 feet to a bend in the line;

THENCE S84°44'58"W, 2047.0 feet to a tee, from which Well Number 25 bears N05°17'33"W, 30.41 feet and N25°49'33"E, 48.79 feet;

THENCE S84°44'58"W, 1486.5 feet to a tee, from which Well Number 26 bears S05°17'10"E, 1170.99 feet and S17°47'58"W, 23.82 feet;

THENCE S84°44'58"W, passing into Section 2 of said Block 7, 1513.9 feet to a tee from which point Well Number 27 bears N27°59'24"W, 127.25 feet;

THENCE S84°44'58"W, 50.1 feet to a bend in the line;

THENCE N80°33'44"W, 2800.4 feet to a tee, from which Well Number 28 bears S09°46'53"W, 325.57 feet and S35°06'48"E, 23.19 feet;

THENCE N80°35'44"W, 15.4 feet to a plug at the end of the line, from which the southeast corner of said Section 2 bears N75°00'E, 3371.02 feet and S15°00'E, 2182.9 feet.

AUGUST 9, 1982

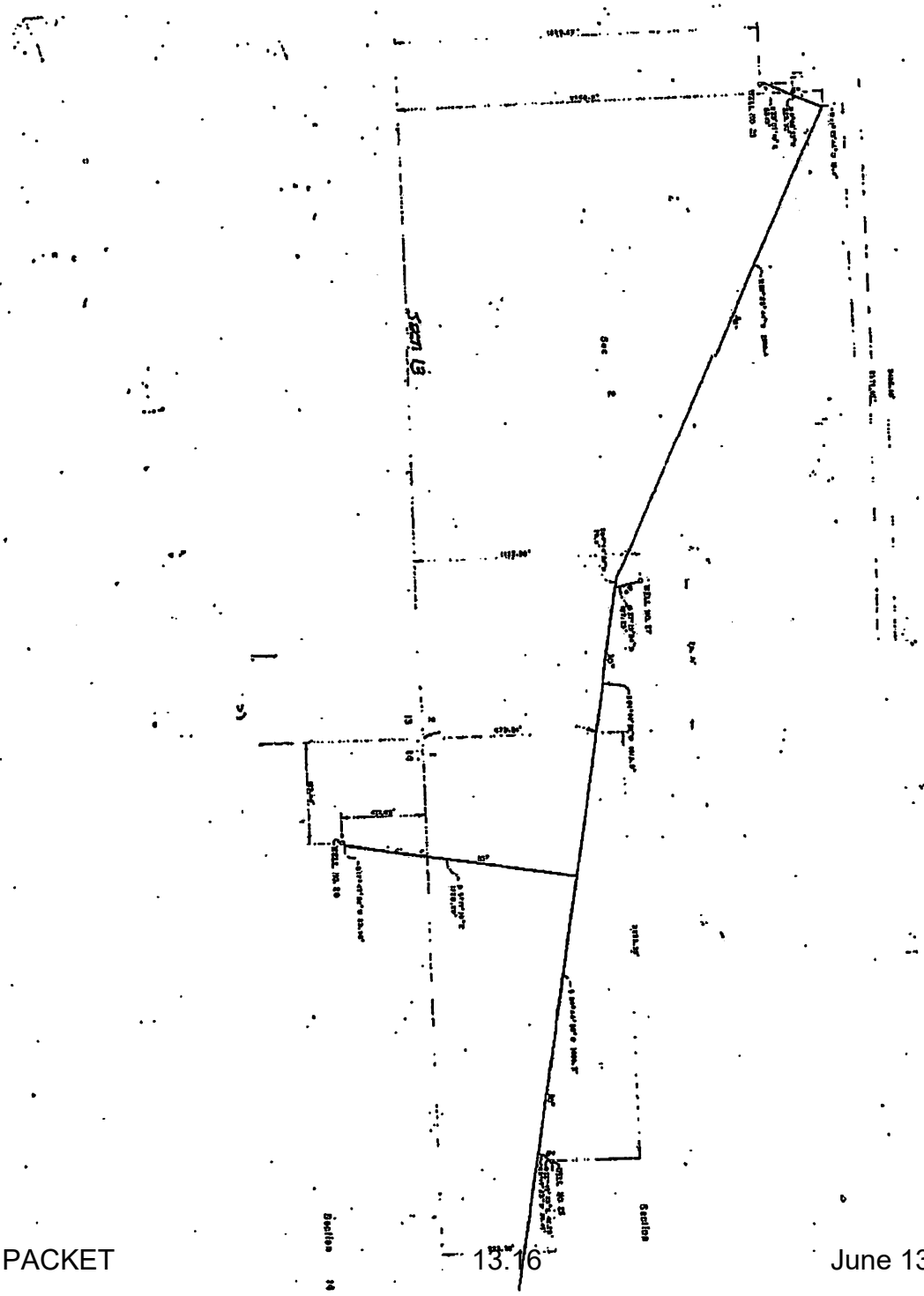
S. W. HOWELL ENGINEERING, INC.

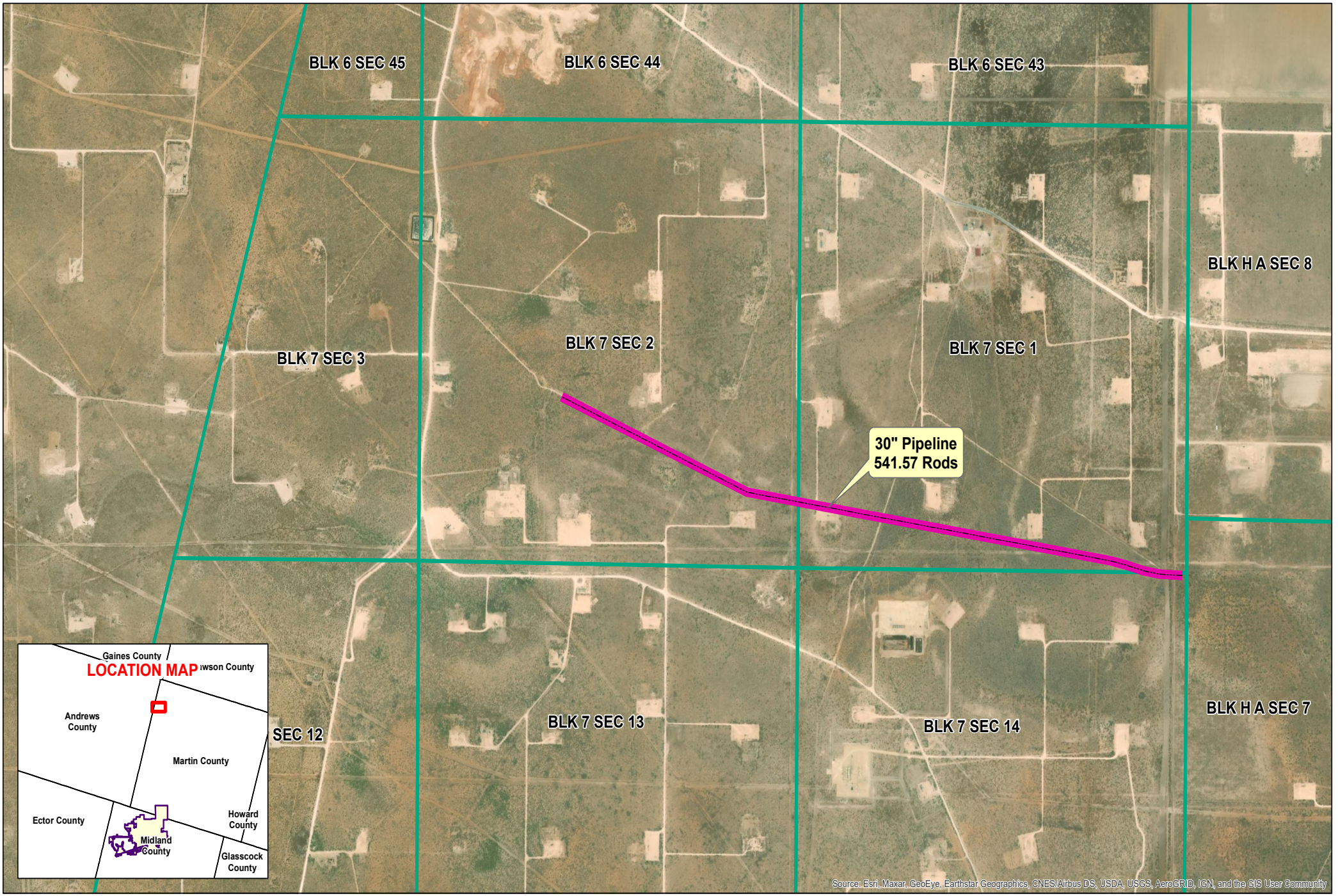
STATE OF TEXAS
S. W. HOWELL
NO. 280
REGISTERED PUBLIC SURVEYOR

S. W. HOWELL
REGISTERED PUBLIC SURVEYOR

EXHIBIT "A" - #8253

8253-2





Date: 3/1/2023

Renewal Easement (30" Pipeline)
Street
Survey Section

PACKET

13.17

Renewal Pipeline Easement (#8253)

June 13, 2023

0 500 1,000 Feet

©THE CITY OF MIDLAND - 2023
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

Renewal

Form 40
Revised 8/2012

EASEMENT 8253

Oil, Gas and Water Pipe Lines

STATE OF TEXAS §
§
COUNTY OF MARTIN §

EFFECTIVE DATE: 01/01/2013

GRANTOR: THE UNIVERSITY OF TEXAS SYSTEM BOARD OF REGENTS

GRANTOR'S MAILING ADDRESS: The University of Texas System
P.O. Box 553
Midland, Texas 79702

GRANTEE: CITY OF MIDLAND

GRANTEE'S MAILING ADDRESS: P. O. Box 1152
Midland, TX 79702

CONSIDERATION: Amounts paid in accordance with The University of Texas System Rate and Damage Schedule ($39,974.75) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

TERM: Commencing on the Effective Date and continuing for a period of ten (10) years thereafter, terminating on 12/31/2022.

EASEMENT PROPERTY: Certain tracts of land as more particularly described on Exhibit "A" attached hereto and incorporated herein for location only, and being limited to an area 30 feet in width, but with an additional 20 feet of working area during initial construction only.

PROJECT: Installation and maintenance of pipe line or lines, along with necessary block valves and meters, through, over, across, upon and under the Easement Property, laid and/or erected within the Easement Property (whether one or more, the "Pipe Lines"). Grantee shall bury and maintain the Pipe Lines and any Additional Pipe Line below plow depth or may lay the Pipe Lines on the surface at the discretion of the Grantor and with Grantor's written permission. The Pipe Lines shall have a diameter and length as follows:

Rods	Size
541.57	30"
106.06	12"

Grantor, for the Consideration and subject to the terms and conditions set out herein, hereby grants to Grantee a non-exclusive easement through, over, across, upon, and under the Easement Property for the Term solely for the purpose of the Project. In connection with the exercise of the rights herein granted Grantee is hereby given the right of ingress and egress at all times, including the right to do and perform such acts and things on adjacent property of Grantor as may be necessary to protect Grantee's property in case of emergency.

This Easement No. 8253 (this "Easement") does not constitute a conveyance in fee of the Easement Property, nor of the minerals therein and thereunder, but grants only an easement subject to the following:

1. Improvements. Grantee may construct Project improvements (the "Improvements") on the Easement Property only after notice to and, receipt of written approval from, Grantor. At any time during the Term, upon Grantor's request, Grantee shall provide Grantor with a sketch or map showing the location of existing and/or proposed Improvements and any appurtenances thereto, along with a written statement of Grantee's use of the Easement Property and Improvements thereon.

2. Additional Pipe Line. Following thirty (30) days advance written notice to Grantor and advance payment of the amount described in Paragraph 4, Grantee may lay additional pipe lines (whether one or more, "Additional Pipe Line") adjacent to and approximately parallel to the Pipe Lines.

3. Cathodic Protection Stations. Grantee may construct and maintain in the Easement Property cathodic protection stations or units necessary or appropriate in connection with the Pipe Lines or Additional Pipe Line only with the prior written approval of the Manager of University Lands-Surface Interests, which approval shall not be unreasonably withheld, and advance payment of the amount described in Paragraph 4.

4. Additional Compensation, Surface Damages and Other Charges. Grantee shall give written notice of the Project and Grantee's anticipated use of the Easement Property to Grantor's surface lessee(s). Grantee shall pay to Grantor all payments due pursuant to then current UNIVERSITY OF TEXAS SYSTEM RATE AND DAMAGE SCHEDULE and shall pay the surface lessee(s) directly for damages for loss or injury to livestock, or damage to crops. With respect to installation of Additional Pipe Line, or cathodic protection stations or units described in Paragraphs 2 and 3, respectively (collectively, "Additional Uses"), Grantee agrees to pay to Grantor for each such Additional Pipe Line, or Cathodic Protection Station or unit, a sum of money in accordance with the then current UNIVERSITY OF TEXAS SYSTEM RATE AND DAMAGE SCHEDULE (including all additional compensation, surface damages and any other charges specified therein), prorated based on the number of full calendar months remaining in the term of this Easement at the time notice is provided to Grantor and assuming that the amount specified in the Rate and Damage Schedule is the full amount payable for a period of 120 months. Such sum shall be due and payable prior to commencement of construction of the Additional Pipe Lines or Cathodic Protection Station or unit.

5. Additional Term. In anticipation of the expiration of this Easement, Grantee may request that Grantor enter into a new easement covering the Easement Property on such terms and conditions mutually satisfactory to Grantor and Grantee. Any such request should be made by Grantee in writing and delivered to Grantor at least ninety (90) days prior to the expiration of the term of this Easement. Grantor may elect to enter into a new easement covering the Easement Property or any other property of Grantor in Grantor's sole discretion and Grantor is not obligated in any way to agree to enter into any such agreement.

6. Removal of Property of Grantee After Expiration or Termination. Within twelve (12) months after termination of this Easement, Grantee shall remove the Pipe Lines, any Additional Pipe Line, and Improvements from the Easement Property. At the option of Grantor, any Pipe Lines, Additional Pipe Line, Improvements, or other personal property remaining on the Easement Property after such twelve (12) month period shall be deemed abandoned and Grantor may sell, use, dispose of, or otherwise manage any such property as Grantor wishes. Grantee shall immediately, upon receipt of an invoice or statement from Grantor, reimburse Grantor for any disposal or clean up costs incurred by Grantor in connection with any such abandoned property. Any such amount owing to Grantor shall accrue interest at the rate of fifteen percent (15%) per year from the date the invoice or statement is received by Grantee.

7. Termination. If Grantee fails to use all or any part of the Easement Property for the stated purposes, or fails to use any of the pipelines within the Easement Property for the actual transportation of product, for a period of one hundred twenty (120) days or uses the Easement Property at anytime for any other purpose, or if Grantee at anytime permanently abandons this Easement or fails in any way to comply with the terms and conditions of this Easement and such default is not cured within thirty (30) days after receipt of notice of default from Grantor, then in any such event, at Grantor's option, this Easement will terminate and be of no further force and effect as to the Easement Property or any part thereof, and the Easement Property shall absolutely revert to and revest in Grantor, its successors or assigns, immediately upon written notice from Grantor. Grantee agrees in such event to execute and deliver to Grantor, its successors or assigns, a proper release or reconveyance, duly executed and acknowledged.

8. Assignment. Upon payment of a fee in accordance with The University of Texas System Rate and Damage Schedule and completion of appropriate documentation as may be required by Grantor, Grantee may assign this Easement (i) without Grantor's written consent, to a corporation with which Grantee is merged or consolidated or (ii) with Grantor's prior written consent, to any other party. If Grantee assigns this Easement pursuant to (i) above, Grantee shall deliver notice of such assignment to Grantor within thirty (30) days after such assignment. Any purported assignment not made in accordance with these provisions shall be voidable and of no force and effect at the option of Grantor. Nothing herein shall authorize Grantee to allow any third party to use any part of the Easement Property for any reason. Notwithstanding the foregoing, this provision shall not prevent the assignment of this Easement to the trustee under any mortgage placed upon the Easement Property by Grantee, or to prevent the trustee or any receiver from using this Easement to secure the benefits thereof to the holders of any bonds secured by a mortgage; provided, however, that in no event shall any mortgage, pledge, or encumbrance be construed to encumber in any manner Grantor's reserved or remainder interest in the Easement Property. In either such event, this Easement shall inure to the benefit of and be binding upon the successors and assigns of Grantee. Grantee represents and warrants to Grantor that this Easement is entered into by Grantee for Grantee's use and benefit, and the use and benefit of no other person, corporation, or other entity.

9. Minerals Reserved. All oil, gas, and other minerals, in, on, and under the Easement Property are expressly reserved. Notwithstanding anything to the contrary contained herein, if oil, gas, or any other minerals are discovered, developed, or produced on the Easement Property or on any property of Grantor adjacent thereto and should any of the Pipe Lines, Additional Pipe Line, or Improvements hinder, interfere, and retard the production or exploration for said minerals, Grantee will, at its own expense, remove the Pipe Lines, Additional Pipe Line and Improvements so as not to interfere with such exploration and production after receiving thirty (30) days' written notice from Grantor requesting the removal of same. If Grantee desires to relocate the Pipe Lines, Additional Pipe Line, or Improvements on lands belonging to Grantor, Grantor shall provide the necessary easement without additional expense to Grantee along a route and upon lands approved by Grantor.

10. Rights of Other Parties. This Easement is made subject to any and all existing easements, prescriptive rights, rights-of-way, leases (including oil, gas, and mineral leases issued by the Board for Lease of University Lands), subleases, licenses, and permits affecting the Easement Property, or any part thereof, whether of record or not, and all presently recorded matters that affect the Easement Property. Grantor further reserves the right to grant future easements, leases, and subleases covering the Easement Property or any part thereof to the extent the same do not unduly interfere with Grantee's rights hereunder, except that this Easement shall be subject to any future oil, gas, and mineral leases affecting the Easement Property. Grantor reserves the right to use and enjoy the Easement Property insofar as the exercise thereof does not endanger or interfere with the existence and maintenance of the Property.

11. Indemnity. Grantee hereby agrees to indemnify Grantor and its agents, successors and assigns from and against, and to reimburse Grantor and its

agents, successors and assigns with respect to, any and all liabilities (including without limitation strict liability) claims, demands, damages, expenses or causes of action of whatever nature, specifically including, but not limited to, reasonable attorneys' fees and costs of suit paid or incurred by Grantor, its agents, successors and assigns, asserted by others in any way related, directly or indirectly, to the Easement Property or Grantee's use thereof and that are caused by or arise in any manner out of acts or omissions of Grantee, its agents, employees, representatives, or any other persons acting under its control or at Grantee's direction or requests.

12. Damage to Property. If, in exercising Grantee's rights under this Easement, Grantee directly or indirectly causes any damage to the Easement Property not contemplated by this Easement or any damage to any other property of Grantor, or any improvements located on any property of Grantor, Grantee shall, at Grantee's sole cost and expense and within a reasonable time after the exercise of such rights, but in no event later than thirty (30) days from the date the damage occurred, restore the Easement Property, all other such property, and/or such improvements to the original condition existing prior to the damage. It is understood and agreed that the cost of any restoration required or contemplated by this paragraph 12 or the succeeding paragraph 13 may exceed the fair market value of the property damaged, and that restoration is nonetheless required, and Grantee, by accepting the rights granted by this easement and operating hereunder, agrees to promptly complete such restoration.

13. Restoration of Surface. Upon completion of the initial construction of the Project, Grantee shall restore and clean the surface of the Easement Property to similar or better condition in which the same was found before such work was begun. At any time, upon the request of Grantor, Grantee shall reseed and contour the Easement Property in accordance with the Soil Conservation Service Field Office Technical Guides (standards and specifications). Prior to performing maintenance on the Easement Property, which includes removal of brush and *mesquite*, Grantee agrees to consult with Grantor regarding proper methods of brush removal or eradication and will adhere to Grantor's requirements for such removal or eradication, it being agreed by Grantee that Grantor possesses unique range management knowledge by virtue of its operation of University Lands and employment of trained range managers. Upon termination of this Easement, Grantee shall restore the Easement Property to as nearly its original condition as possible.

14. General Requirements. All work to be performed by Grantee or its agents, employees, representatives, or any other persons acting under its control or at its direction or request shall be done:

a. at the sole risk, cost and expense of Grantee;

b. in accordance with the applicable requirements of all Federal, state and local governmental and regulatory authorities having jurisdiction, including, without limitation, all applicable environmental laws and worker health and safety laws;

c. in a manner that will not unreasonably interfere with access to the adjacent or remainder property of Grantor; and

d. in a manner that will create the least reasonably possible disturbance or interference with uses of the Easement Property or adjoining properties of Grantor by parties with existing rights in such properties or otherwise unduly interfere with the rights of any other lessees, licensees or permittees.

15. Encumbrances and Charges. Grantee will not create or permit to be created or remain, and will discharge, at Grantee's sole cost and expense, any and all encumbrances or charges levied on account of any builder's, supplier's, mechanic's, laborer's, materialmen's or similar encumbrance or charge upon the Easement Property or other property of Grantor or any part thereof or the income derived therefrom, with respect to any work or services performed or material furnished by or at the direction of Grantee. If any such encumbrances or charges shall at any time be filed against the Easement Property or the other property of Grantor or any part thereof by reason of work or services performed or material furnished by or at the direction of Grantee, Grantee within thirty (30) days after the filing thereof will cause the same to be fully discharged and released of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise.

16. Compliance with Environmental Laws. By its exercise of its rights hereunder, Grantee will not (i) cause or permit the Easement Property, any other property of Grantor, or Grantor to be in violation of Applicable Environmental Laws (as hereinafter defined); or (ii) do anything or permit anything to be done by Grantee, its contractors, subcontractors, agents or employees that will result in any contamination of soils, ground water, surface water, or natural resources on or adjacent to the Easement Property resulting from any cause, including but not limited to spills or leaks or oil, gasoline, hazardous materials, hazardous wastes, or other chemical compounds, or will subject the Easement Property, any other property of Grantor, or Grantor to any remedial obligations under applicable laws pertaining to health or the environment (such laws as they now exist or are hereafter enacted and/or amended are hereinafter sometimes collectively called "Applicable Environmental Laws"), including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (as amended, hereinafter called "CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of 1980, and the Hazardous and Solid Waste Amendments of 1984 (as amended, hereinafter called "RCRA"), the Texas Water Code and the Texas Solid Waste Disposal Act, as each of said laws may be amended from time to time, assuming disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances, if any, pertaining to Grantee's exercise of its rights hereunder. Grantee agrees to obtain any permits, licenses or similar authorizations for the Project by reason of any Applicable Environmental Laws that concern or result from the use of the Easement Property. Grantee will promptly notify Grantor in writing of any existing, pending or, to the best knowledge of Grantee, threatened, investigation or inquiry by any governmental authority in connection with any Applicable Environmental Laws concerning the Project and/or Grantee's use of the Easement Property. In connection with the Project, Grantee will not cause or permit the disposal or other release of any hazardous substance or solid waste on or to the Easement Property or any other property of Grantor. In connection with the Project, Grantee covenants and agrees to keep or cause the Easement Property and any other property of Grantor to be kept free of such hazardous substance or solid waste and to remove the same (or if removal is prohibited by law, to take whatever action is required by law) promptly upon discovery, at Grantee's sole cost and expense. If Grantee fails to comply with or perform any of the foregoing covenants and obligations, Grantor may (without any obligation, express or implied) remove any hazardous substance or solid waste from the Easement Property or any other property of Grantor (or if removal is prohibited by law, take whatever action is required by law) and the cost of the removal or such other action shall be reimbursed by Grantee to Grantor. Grantee grants to Grantor and its agents, employees, contractors and consultants access to the Easement Property and the license (which is coupled with an interest and irrevocable) to remove such hazardous substance or solid waste (or if removal is prohibited by law, to take whatever action is required by law) and agrees to reimburse Grantor for and to hold Grantor harmless from all costs and expenses involved therewith. The terms "hazardous substance" and "release" as used in this Easement have the meanings specified in CERCLA, and the terms "solid waste" and "disposal" (or "disposed") shall have the meanings specified in RCRA; provided, that if either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply hereunder subsequent to the effective date of such amendment and provided further, to the extent that any other federal or state law establishes a meaning for "hazardous substance," "release,"

"solid waste," or "disposal" that is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply.

17. Environmental Indemnity. Grantee agrees to release Grantor from, and to reimburse Grantor with respect to, any and all claims, demands, losses, damages (including consequential damages claimed by a person or entity other than Grantor), liabilities, causes of action, judgment, penalties, costs and expenses (including attorneys' fees and court costs) of any and every kind or character, known or unknown, fixed or contingent, imposed on, asserted against or incurred by Grantor at any time and from time to time by reason of, in connection with or arising out of (a) the failure of Grantee to perform any obligation herein required to be performed by Grantee regarding Applicable Environmental Laws, (b) any violation of Applicable Environmental Laws by Grantee, its contractors, subcontractors, agents or employees occurring after Grantee's acquisition of the Easement, (c) the removal of hazardous substances or solid wastes that result from the use by Grantee, its contractors, subcontractors, agents or employees, from the Easement Property or any other property of Grantor (or if removal is prohibited by law, the taking of whatever action is required by law), and (d) any act, omission or event occurring after Grantee's acquisition of this Easement (including, without limitation, the presence on the Easement Property or release from the Easement Property of hazardous substances or solid wastes disposed of or otherwise released after Grantee's acquisition of the Easement, resulting from or in connection with the Project), regardless of whether the act, omission, event or circumstance constituted a violation of any Applicable Environmental Law at the time of its existence or occurrence. Any amount to be paid under this paragraph by Grantee to Grantor shall be paid within thirty (30) days of Grantee's receipt of demand therefor from Grantor. Nothing in this paragraph or elsewhere in this Easement shall limit or impair any rights or remedies of Grantor against Grantee or any third party under Applicable Environmental Laws, including without limitation, any rights of contribution available thereunder.

18. Antiquities; Permits and Licenses. Grantee shall, at Grantee's cost and expense, obtain any necessary licenses, permits or other necessary authorizations of any nature required in connection with the Project, and shall comply with the Antiquities Code of Texas (Texas Natural Resources Code, Chapter 191) and applicable rules promulgated thereunder. Grantee shall undertake its activities on the Easement Property in a manner consistent with public policy relating to the location and preservation of archeological sites and other cultural resources in, on, or under public lands, including Permanent University Fund lands ("University Lands"). Grantee shall use the highest degree of care and all reasonable safeguards to prevent the taking, alteration, damage, destruction, salvage, or excavation of cultural resources and/or landmarks on University Lands. Upon discovery of an archeological site, Grantee shall immediately give written notice of such discovery to Grantor and to the Texas Historical Commission, as set out in its rules. Grantee, its agents, contractors, and employees, shall have no right, title, or interest in or to any archaeological articles, objects, or artifacts, or other cultural resources located or discovered on University Lands.

19. Notices. Any notice required or permitted to be delivered under this Easement shall be deemed received when actually delivered by hand delivery, or overnight courier, or when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to Grantor or Grantee, as the case may be, at the address stated on Page 1 of this Easement.

20. Miscellaneous.

a. Applicable Law. This Easement shall be construed and enforced in accordance with the laws of the State of Texas. Venue for any cause of action for enforcement of this Agreement shall be in Travis County, Texas.

b. Severability. In case any one or more of the provisions contained in this Easement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Easement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

c. Entire Agreement. This Easement constitutes the sole and entire agreement between the parties and cannot be amended except by written instrument signed by both parties.

d. Authority to Enter into this Easement. If Grantee is a corporation, partnership, or other entity, each individual executing this Easement on behalf of Grantee represents that he has full power and authority to enter into this Easement.

e. Captions. The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

f. Gender. Words of any gender used in this Easement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

g. Property of Grantor and Actions of Grantor. For purposes of this Easement, the term "property of Grantor" shall mean and refer to all lands and minerals held or managed by Grantor or the Board for Lease of University Lands, including improvements. Wherever an action is required to be taken hereunder by Grantor, an action taken by an authorized representative or employee of Grantor shall be sufficient.

h. "Grantee". When appropriate, the term "Grantee" includes the employees, contractors, representatives, and authorized agents of Grantee.

i. Binding Nature of Easement. This Easement, and the terms and conditions contained herein, shall inure to the benefit of and be binding upon Grantee and Grantor, and their respective personal representatives, successors, and assigns.

j. Exhibits. All exhibits referred to in this Easement Information are listed below and attached hereto and incorporated herein. If there are conflicts between any Exhibit and the body of this document, the document will control.

Exhibit A - Easement Property

TO HAVE AND HOLD the Easement Property for the Term for the purposes and subject to the conditions described above, **without warranties of any kind, express or implied.**

GRANTOR:

THE UNIVERSITY OF TEXAS SYSTEM
BOARD OF REGENTS

By:_____
James L. Benson
Executive Director of University Lands

Approved as to Content:

_____
Kenneth A. Polson
University Lands

GRANTEE:

CITY OF MIDLAND

By: _____

Name: _____

Title: _____

+ + +

ACKNOWLEDGEMENTS

STATE OF TEXAS §
§
COUNTY OF MIDLAND §

This instrument was acknowledged before me on the ____ day of _____, 2013, by James L. Benson, Executive Director of University Lands, The University of Texas System, for and on behalf of The University of Texas System Board of Regents.

_____
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 2013, by _____, _____ of _____, for and on behalf of said company.

_____
Notary Public, State of Texas

8253-1

S.W. Howell Engineering, Inc.

409 East 57th Street P.O. Box 22 Odessa, Texas 79760
Phone 915/367-5711

CENTERLINE DESCRIPTION OF A 60 FOOT EASEMENT FOR GATHERING LINES IN THE PAUL DAVIS WELL FIELD IN SECTION 1, 2, AND 14, BLOCK 7, UNIVERSITY LANDS, MARTIN COUNTY, TEXAS.

BEGINNING at a bend in a 30" waterline from which point the northeast corner of Section 14, Block 7, University Lands, Martin County, Texas, and the southeast corner of Section 1, of said Block 7, bears N75°00'E, 62.67 feet and N15°00'W, 31.45 feet;

THENCE S78°34'31"W, 317.39 feet to a bend in the line;

THENCE S86°02'43"W, passing the north boundary line of said Section 14, 218.93 feet to a bend in the line;

THENCE N88°56'27"W, 269.54 feet to a bend in the line;

THENCE S88°19'07"W, 216.7 feet to a bend in the line;

THENCE S84°44'58"W, 2047.0 feet to a tee, from which Well Number 25 bears N05°17'33"W, 30.41 feet and N25°49'33"E, 48.79 feet;

THENCE S84°44'58"W, 1486.5 feet to a tee, from which Well Number 26 bears S05°17'10"E, 1170.99 feet and S17°47'58"W, 23.82 feet;

THENCE S84°44'58"W, passing into Section 2 of said Block 7, 1513.9 feet to a tee from which point Well Number 27 bears N27°59'24"W, 127.25 feet;

THENCE S84°44'58"W, 50.1 feet to a bend in the line;

THENCE N80°33'44"W, 2800.4 feet to a tee, from which Well Number 28 bears S09°46'53"W, 325.57 feet and S35°06'48"E, 23.19 feet;

THENCE N80°35'44"W, 15.4 feet to a plug at the end of the line, from which the southeast corner of said Section 2 bears N75°00'E, 3371.02 feet and S15°00'E, 2182.9 feet.

AUGUST 9, 1982

S. W. HOWELL ENGINEERING, INC.

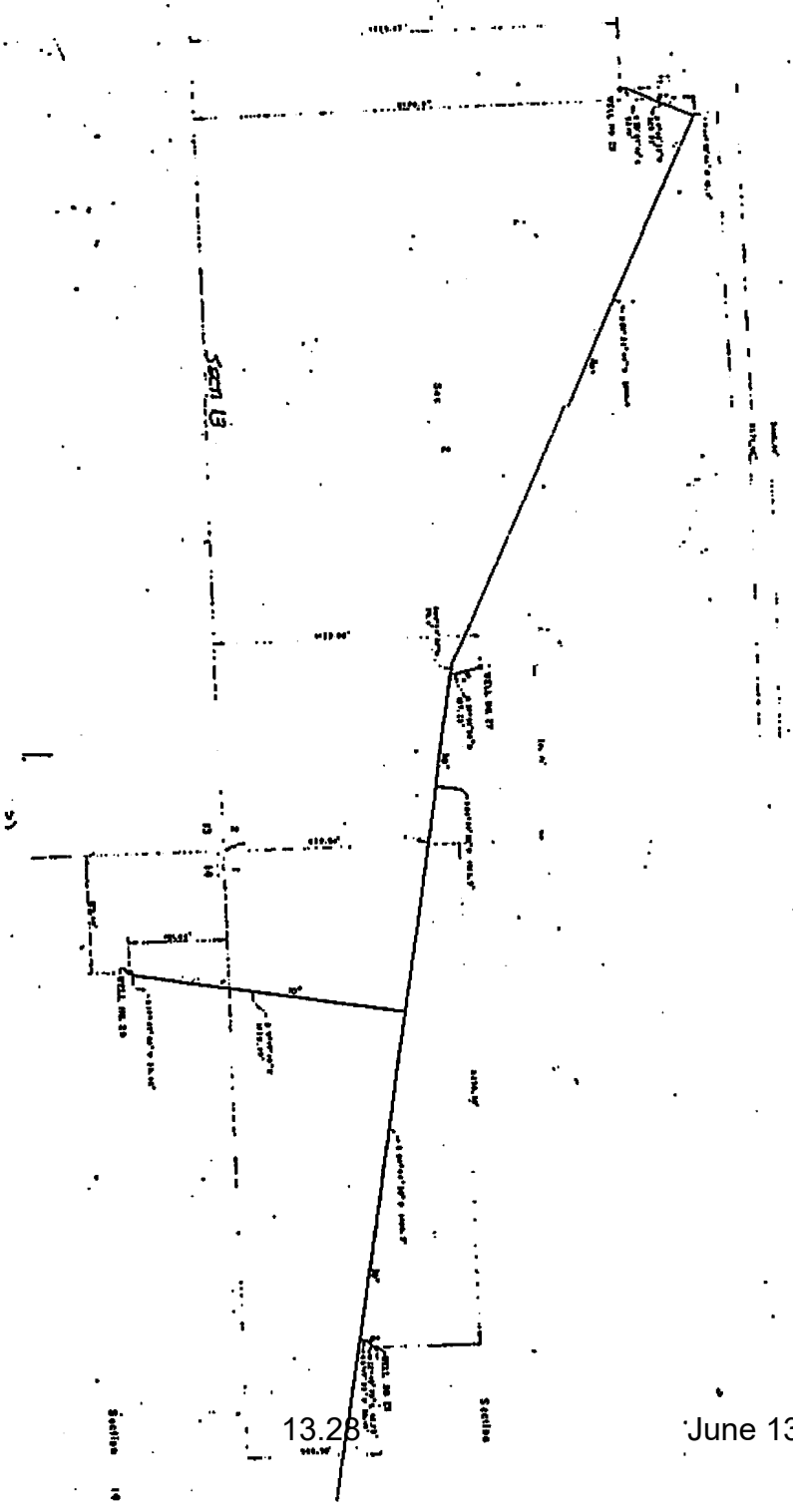
S. W. HOWELL

S. W. HOWELL
REGISTERED PUBLIC SURVEYOR

STATE OF TEXAS
S. W. HOWELL
NO. 280
REGISTERED PUBLIC SURVEYOR

EXHIBIT "A" - #8253

8253-2



City Council Meeting

Item Number: 14

Meeting Date: June 13, 2023

To: City Council / City Manager

From: John Simmons, Manager, Right-of-Way

Subject: Motion authorizing the execution of a Right-of-Way License (23-329-032) with CrownQuest Operating, LLC, regarding City-owned property described as Sections 4, 9,16, and 20, Block 37, Township 3 South, T&P RR Co. Survey, Midland County, Texas (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion will provide the applicant a 30’ wide right of way to place a sixteen-inch (16), and eighteen-inch (18), Poly construction, natural gas pipeline on the City of Midland-owned Sprayberry Farm property. The applicant will need an additional 20’ wide temporary workspace for construction.

This Right-of-Way License is proposed for a single ten-year term. Terms are consistent with the City’s standard license for facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee (one time): $1,000

Annual Lease Rate,

16” and 18” natural gas pipeline ($440.00 per rod x 496.15 rods) paid 10 years in advance ($218,306.00)

Surface Damages: included in the new annual rate

Total Collected: $219,306.00

Discussion:

This is a natural Gas pipeline carrying applicants off lease gas to existing Crownquest pipeline facilities on Sprayberry Farm property. The pipeline will be buried a minimum of forty-eight inches (48) deep.

Certificates of Insurance are on file.

City Secretary is to record all documents.

Morris Williams Jr.

City Manager's Office

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/21/2022

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 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	CONTACT NAME: Kelly Elliott	
InSource Insurance Group, LLC 5108 Wayland Dr. Odessa TX 79762-5513	PHONE (A/C, No, Ext): (432)362-8800	FAX (A/C, No): (432)362-8855
	E-MAIL ADDRESS: KellyE@InSourceIns.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Markel International Insurance	AA1121425
INSURED CrownQuest Operating, LLC PO Box 53310 Midland TX 79710	INSURER B: Liberty Mutual Fire Ins Co	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** CL22122128360 **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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR X S&A Pollution 30/90 GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY / PRO-JECT / LOC OTHER:			JCGL104343	12/31/2022	12/31/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO ALL OWNED AUTOS / SCHEDULED AUTOS HIRED AUTOS / NON-OWNED AUTOS			AS2-641-445886-012	12/31/2022	12/31/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	UMBRELLA LIAB / X OCCUR X EXCESS LIAB / CLAIMS-MADE DED / RETENTION $			JUMB103813	12/31/2022	12/31/2023	EACH OCCURRENCE AGGREGATE	$ 50,000,000 $ 50,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC2-641-445886-022	12/31/2022	12/31/2023	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000

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

SUBJECT TO POLICY TERMS & CONDITIONS AND A WRITTEN CONTRACT:
GL, AUTO & UMBRELLA POLICIES INCLUDE A BLANKET ADDITIONAL INSURED. WC, GL, AUTO & UMBRELLA INCLUDE A BLANKET WAIVER OF SUBROGATION. WHEN REQUIRED BY WRITTEN CONTRACT PRIMARY - NON-CONTRIBUTORY COVERAGE APPLIES. POLICIES INCLUDE 30 DAY NOTICE OF CANCELLATION EXCEPT 10 DAYS FOR NON-PAYMENT OF PREMIUM.

CERTIFICATE HOLDER

City of Midland
Attn: City Attorney's Office
PO Box 1152
Midland, TX 79702

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

David Wood/KJE

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COMMENTS/REMARKS

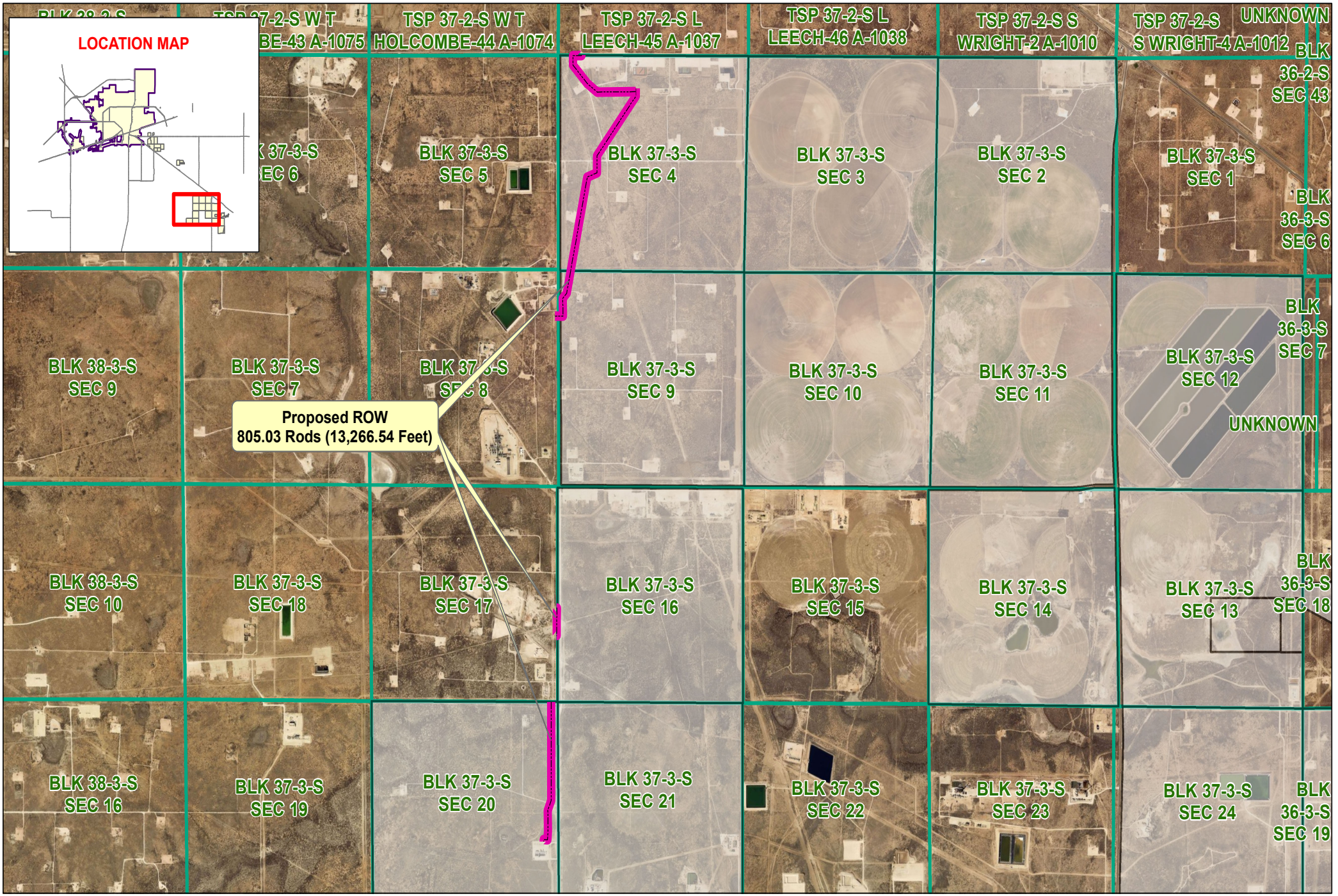
Bond # RLB0014710
Company - RLI Insurance
Effective 7/30/22 - 7/30/23
Principal: CrownQuest Operating, LLC
Blanket Bond $75,000 limit applicable for Permits to drill wells for oil or gas within the city limits.
Covered wells:
COM Nail #1
COM Nail #2
COM Nail #3
City Nail #1

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Additional Named Insureds

Other Named Insureds	
Enerquest Oil & Gas, Ltd.	Limited partnership, Additional Named Insured
EnerQuest Property Management, LLC	Limited Liability Company, Additional Named Insured
Hexagon Interim Partnership	Partnership, Additional Named Insured
Hexagon Partners, Ltd	Limited corporation, Additional Named Insured
Mallard Land Development, LLC	Limited Liability Company, Additional Named Insured
Mallard Land, LLC	Limited Liability Company, Additional Named Insured
Mallard Royalty Holdings, LP	Limited partnership, Additional Named Insured
Mallard Royalty Partners	Partnership, Additional Named Insured
MRH 2018, LP	Limited partnership, Additional Named Insured
Muscovy Land Partners, LLC	Limited Liability Company, Additional Named Insured
Pintail Land Development, LP	Limited partnership, Additional Named Insured
Teal Trading & Development, LP	Limited partnership, Additional Named Insured
Texas Land & Royalty, Ltd.	Limited corporation, Additional Named Insured

OFAPPINF (02/2007) COPYRIGHT 2007, AMS SERVICES INC



Date: 5/8/2023

Proposed ROW
City Owned Property
Survey Section

PACKET

14.6

Crownquest Proposed ROW in Spraberry

June 13, 2023

0 1,000 2,000 Feet

N W E S

©THE CITY OF MIDLAND - 2023
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

RIGHT OF WAY LICENSE

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

Date:	June 14, 2023
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:	**CrownQuest Operating, LLC**
Licensee's Representative:	**Robert W. Floyd**
Licensee's Mailing Address:	P.O. Box 53310 Midland, Texas 19710
Property:	As described in Article III below
License Number:	**23-329-032**

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

W I T N E S S E T H:

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

I. Term

A. Term. This License shall be for a term of ten (10) years commencing on the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

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

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

II. Financial Consideration

A. License Fee. A license fee in the amount of TWO HUNDRED EIGHTEEN THOUSAND THREE HUNDRED SIX and 00/100 Dollars ($218,306.00) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars ($1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

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

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

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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 locations as shown on **Exhibit A** attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline locations, two poly-construction pipelines, not to exceed sixteen (16) inches and eighteen (18) inches in diameter respectively, for the transportation of natural gas and 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 completed (the "Property"). **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, at its own expense, any of Licensor's roads that Licensee, its employees, contractors, representatives, agents or assigns damage on Licensor's property, so that such roads will comply with Licensor's standard specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines, water meters and other utility lines owned by Licensor that Licensee, its employees, contractors, representatives, agents or assigns, damage so that such water lines, sewer lines, water meters and other utility lines shall comply with Licensor's standard specifications.

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

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, Licensee shall first obtain written approval of the specifications therefor from Licensor's Representative, which approval shall be at Licensor's Representative's sole discretion.

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

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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 ARISING OUT OF THE NEGLIGENCE BY LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS**. If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

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

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

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

J. Gates and Fences. Without altering or expanding the limitations on ingress, egress and access to the Property set forth in Paragraph A. of Article III above, Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed". Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's

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lock.

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

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

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

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

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

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portion of the Property and the surface, subsurface or airspace on, below or above the Property for any purpose.

IV. Standard General Conditions

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

Commercial General Liability (including Contractual liability):	
■ Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
■ Property Damage:	$100,000.00 per occurrence
Business Automobile Liability:	$1,000,000.00 combined single limit-- Personal Injury and Property Damage
Workers' Compensation:	Statutory limits
Employers' Liability:	$1,000,000.00 per accident or occurrence
Umbrella Liability:	$10,000,000.00 each occurrence $10,000,000.00 aggregate

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

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

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

All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name Licensor as an additional insured. All insurance required pursuant to this License, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to Licensor. The parties agree that, prior to the execution of this License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. Licensor shall determine, in its sole discretion, whether such requirements have been satisfied.

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

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provide any insurance whatsoever pursuant to this License.

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

B. Indemnity. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE, ITS SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S REPRESENTATIVES, AGENTS, ATTORNEYS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) THIS LICENSE, LICENSEE'S USE OF OR ACTIVITIES ON THE PROPERTY OR ANY OTHER PROPERTY OWNED BY LICENSOR, OR ANY ACT OR OMISSION OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "LIABILITIES"), EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF ANY INDEMNITEE. LICENSEE SHALL PROMPTLY ADVISE LICENSOR OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION TO WHICH THIS INDEMNIFICATION MAY APPLY, AND OF WHICH LICENSEE HAS RECEIVED NOTICE, AND LICENSEE, AT LICENSEE'S EXPENSE, SHALL ASSUME ON BEHALF OF LICENSOR (AND THE OTHER INDEMNITEES) AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE THEREOF WITH COUNSEL REASONABLY SATISFACTORY TO LICENSOR; PROVIDED, HOWEVER, THAT ANY INDEMNITEE SHALL HAVE THE RIGHT, AT ITS OPTION, TO BE REPRESENTED THEREIN BY COUNSEL OF ITS OWN SELECTION AND AT ITS OWN EXPENSE. IN THE EVENT OF FAILURE BY LICENSEE TO ASSUME THE DEFENSE OF LICENSOR IN ACCORDANCE WITH THIS INDEMNIFICATION, LICENSOR, AT ITS OPTION, AND WITHOUT RELIEVING LICENSEE OF ITS OBLIGATION HEREUNDER, MAY ASSUME SUCH DEFENSE, AFTER WRITTEN NOTICE THEREOF TO LICENSEE AND LICENSEE'S FAILURE TO RESPOND THERETO WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF SUCH NOTICE (SAID TEN (10) DAY PERIOD SHALL NOT APPLY IN

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ANY CASE WHERE IMMEDIATE ANSWERS, RESPONSES, OR OTHER AFFIRMATIVE ACTION IS REQUIRED TO PRESERVE THE RIGHTS OF LICENSOR) BUT ALL REASONABLE COSTS AND EXPENSES SO INCURRED BY LICENSOR IN THAT EVENT SHALL BE REIMBURSED BY LICENSEE TO LICENSOR, TOGETHER WITH INTEREST ON THE SAME FROM THE DATE ANY SUCH EXPENSE WAS PAID BY LICENSOR UNTIL REIMBURSED BY LICENSEE, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS, BY THE LAWS OF THE STATE OF TEXAS.

WITHOUT LIMITING THE FOREGOING, LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY, PROTECT, DEFEND AND SAVE LICENSOR HARMLESS FROM ANY AND ALL CLAIMS, LIENS, JUDGMENTS, SUITS, CAUSES OF ACTION, AND DEMANDS OF ANY SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, OR FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, OR SUPPLIES, IN CONNECTION WITH THE CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE OR OTHER PERMITTED FACILITIES DESCRIBED HEREIN.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE SHALL INDEMNIFY, PROTECT AND HOLD HARMLESS AND DEFEND EACH INDEMNITEE FROM ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DAMAGES, CAUSES OF ACTION, CHARGES, JUDGMENTS, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF ANY INDEMNITEE, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', REPRESENTATIVES', AGENTS', CONTRACTORS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE, INCLUDING, WITHOUT LIMITATION, SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE OR PERMITTED FACILITIES ON LICENSOR'S PROPERTY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY INDEMNITEE, INCLUDING RELATED ATTORNEY'S FEES.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE, ITS SUCCESSORS AND ASSIGNS, SHALL INDEMNIFY, PROTECT, DEFEND AND HOLD INDEMNITEES HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL

INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, THE "INDEMNIFYING PARTIES"), TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY INDEMNIFYING PARTY'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR (ii) ANY INDEMNIFYING PARTY'S HANDLING, STORING, RELEASING OR TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE PROVISIONS OF THIS INDEMNIFICATION SHALL APPLY TO AND PROTECT EACH INDEMNITEE FROM THE CONSEQUENCES OF STRICT LIABILITY IMPOSED OR THREATENED TO BE IMPOSED ON SUCH INDEMNITEE, AS WELL AS FROM THE CONSEQUENCES OF THE NEGLIGENCE OF ANY INDEMNITEE, WHETHER OR NOT THAT NEGLIGENCE IS A CONTRIBUTING OR CONCURRING CAUSE OF ANY LIABILITY INDEMNIFIED AGAINST IN THIS ARTICLE IV.B.

THE TERMS, PROVISIONS, REQUIREMENTS AND OBLIGATIONS OF THIS ARTICLE IV.B. SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS LICENSE, AND SHALL NOT BE LIMITED BY OR TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

C. Assignment. The provisions of this License shall inure to the benefit of and be binding upon Licensor and Licensee and their respective successors and permitted assigns. The rights and privileges granted by Licensor under this License inure to the benefit of Licensee. No rights, privileges or obligations hereunder shall be assignable by Licensee without the express prior written consent of Licensor. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to

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

E. Attorney Fees. SHOULD LICENSOR BE REQUIRED TO RESORT TO EMPLOYMENT OF ATTORNEYS TO ENFORCE THIS LICENSE, OR ANY OF ITS RIGHTS UNDER THIS LICENSE, LICENSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM LICENSEE FOR LICENSOR'S ATTORNEYS' FEES. LICENSEE SHALL REIMBURSE LICENSOR FOR LICENSOR'S ATTORNEYS' FEES INCURRED IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS LICENSE. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LICENSE, OR THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE. WITHOUT LIMITING THE FOREGOING, LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, OR TO THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

PACKET

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

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS LICENSE, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, AND LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LICENSOR'S NEGLIGENCE.

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

14.17

I. Third Party Beneficiary. Except as provided in Article IV.B. above with respect to Indemnitees, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

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

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time

June 13, 2023

and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licensor within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

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

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

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

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191

PACKET 14.18 June 13, 2023

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

P. Waiver. No waiver of any of the provisions of this License shall be deemed or constitute a waiver of any other provisions of this License, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. Likewise, the failure of Licensor to enforce any provision of this License shall not be deemed nor shall constitute a waiver of the right of Licensor to enforce such provision.

Q. Counterpart Execution. This License may be executed in several counterparts, and any such agreement shall be deemed an original for all intents and purposes.

R. No Release of Liability. Notwithstanding anything to the contrary contained in this License, the termination or expiration of this License shall not relieve Licensee of any liability, duty or obligation under this License, nor shall it preclude Licensor from asserting any right to specific performance, damages or any other rights or remedies to which Licensor may be entitled. Upon termination or expiration of this License for any reason, Licensee shall execute and deliver a recordable release of this License to Licensor in form and substance satisfactory to Licensor.

S. Entire Agreement. This License constitutes the entire agreement between Licensor and Licensee concerning the subject matter hereof, superseding all negotiations, prior discussions, prior licenses and prior agreements and understandings related to the subject matter hereof. This License may only be amended by written instrument executed by Licensor and Licensee.

[Signature Pages Follow]

PACKET 14.19 June 13, 2023

LICENSOR:
CITY OF MIDLAND, TEXAS

By:_____
Morris Williams, Jr., Interim City Manager

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Carl Craigo, Director of Utilities

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

PACKET
14.20
June 13, 2023

LICENSEE:
CROWNQUEST OPERATING, LLC

By: _____ MR JB
Printed Name: Robert W. Floyd
Title: President

THE STATE OF TX §
§
COUNTY OF Midland §

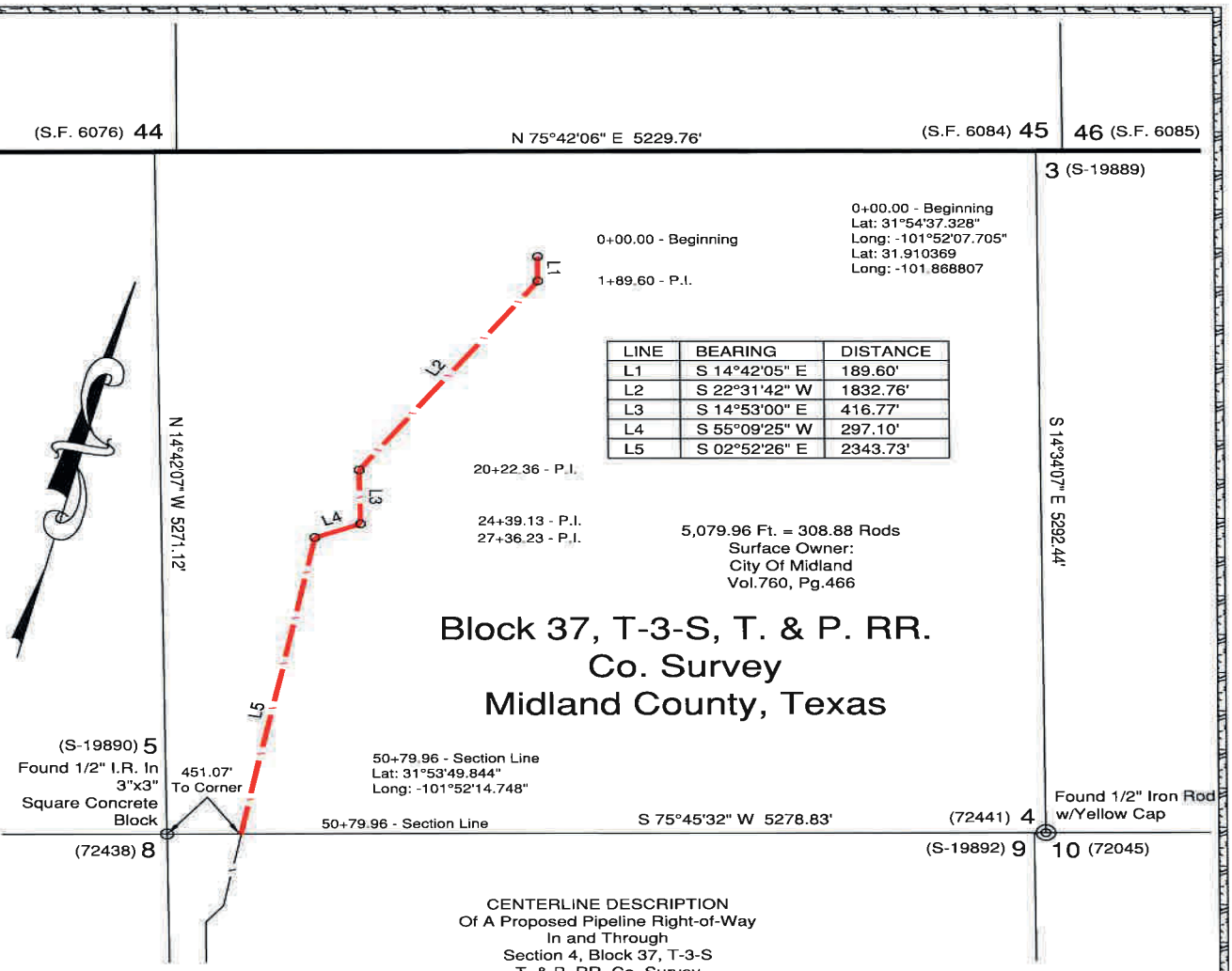
BEFORE ME, the undersigned authority, on this 25th day of May, 2023 personally appeared Robert W. Floyd an officer of CrownQuest Operating, LLC known to me to be the person and official whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and 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 25th day of May, 2023.

Molly M O'Donnel
Notary Public, State of TX

MOLLY MCGUIRE O'DONNEL
Notary ID #130546453
My Commission Expires
February 19, 2024

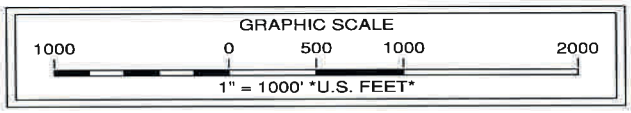
PACKET 14.22 June 13, 2023



LINE	BEARING	DISTANCE
L1	S 14°42'05" E	189.60'
L2	S 22°31'42" W	1832.76'
L3	S 14°53'00" E	416.77'
L4	S 55°09'25" W	297.10'
L5	S 02°52'26" E	2343.73'

CENTERLINE DESCRIPTION
Of A Proposed Pipeline Right-of-Way
In and Through
Section 4, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Beginning at pipeline station 0+00.00 for the beginning of this proposed pipeline right-of-way from which a found 1/2" iron rod in 3"x 3" square concrete block for the Southwest corner of Section 4, Block 37, T-3-S bears S 12°46'07" W 5024.83 feet.
Thence S 14°42'05"E , a distance of 189.60 feet to pipeline station P.I. 1+89.60 with a deflection of 37°13'48";
Thence S 22°31'42"W , a distance of 1832.76 feet to pipeline station P.I. 20+22.36 with a deflection of 37°24'42";
Thence S 14°53'00"E , a distance of 416.77 feet to pipeline station P.I. 24+39.13 with a deflection of 70°02'25";
Thence S 55°09'25"W , a distance of 297.10 feet to pipeline station P.I. 27+36.23 with a deflection of 58°01'52";
Thence S 02°52'26"E , a distance of 2343.73 feet to pipeline station 50+79.96 crossing a point in the South line of Section 4 and the North line of Section 9 for the end of this proposed pipeline right-of-way from which a found 1/2" iron rod in 3"x 3" square concrete block for the Southwest corner of Section 4, Block 37, T-3-S bears S 75°45'32" W, 451.07 feet.



Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.
Note: Latitudes and Longitudes shown are on NAD'83 Datum.
Note: Bearings and distances are based on The Texas Coordinate System of 1983, Central Zone.
Note: A combined grid factor of 0.9998685 must be divided into all distances to obtain surface distances.
Note: Example: (S-99999) indicates General Land Office file number.
Note: Surface ownership provided by Crownquest Operating, LLC.

PENNELL & MARLOWE
RESIDENTIAL, OILFIELD & LAND SURVEYORS, INC.
ALL TYPES OF SURVEYS

STATE OF TEXAS
REGISTERED
STEPHEN P. MARLOWE
5715
PROFESSIONAL LAND SURVEYOR

Stephen P. Marlowe
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

April 20, 2023
230420M1-BCL

P.O. Box 51887, Midland, Texas 79710 (432) 262-0901 Fax (432) 262-0679 Firm #100201-00

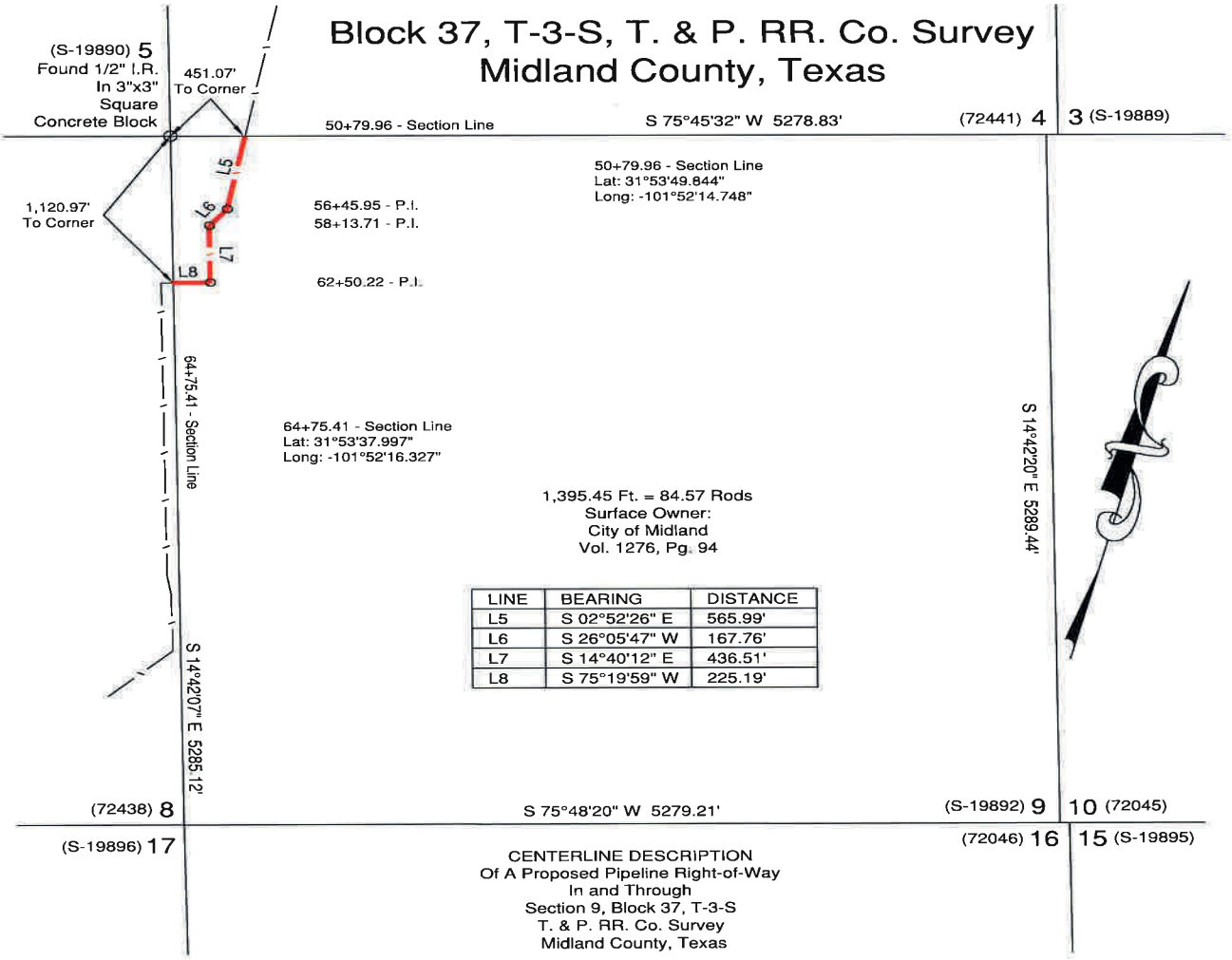
Proposed Pipeline Survey Plat

CROWNQUEST OPERATING, LLC.
Triple Hop Gas Pipeline
Proposed 18" Pipeline
Survey In and Through
Section 4, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Scale: 1" = 1000'

PACKET 14.23 June 13, 2023

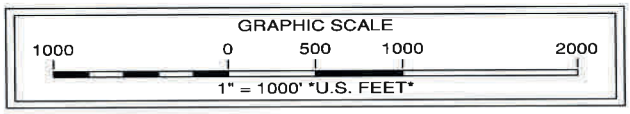
Block 37, T-3-S, T. & P. RR. Co. Survey
Midland County, Texas



LINE	BEARING	DISTANCE
L5	S 02°52'26" E	565.99'
L6	S 26°05'47" W	167.76'
L7	S 14°40'12" E	436.51'
L8	S 75°19'59" W	225.19'

CENTERLINE DESCRIPTION
Of A Proposed Pipeline Right-of-Way
In and Through
Section 9, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Beginning at pipeline station 50+79.96 for the beginning of this portion of this proposed pipeline right-of-way from which a found 1/2" iron rod in 3"x 3" square concrete block for the Southwest corner of Section 4, Block 37, T-3-S bears S 75°45'32" W 451.07 feet.
Thence S 02°52'26"E , a distance of 565.99 feet to pipeline station P.I. 56+45.95 with a deflection of 28°58'13";
Thence S 26°05'47"W , a distance of 167.76 feet to pipeline station P.I. 58+13.71 with a deflection of 40°45'59";
Thence S 14°40'12"E , a distance of 436.51 feet to pipeline station P.I. 62+50.22 with a deflection of 90°00'11"
Thence S 75°19'59"W , a distance of 225.19 feet to pipeline station 64+75.41 crossing a point in the West line of Section 9 and the East line of Section 8 for the end of this portion of this proposed pipeline right-of-way from which a found 1/2" iron rod in 3"x 3" square concrete block for the Southwest corner of Section 4, Block 37, T-3-S bears N 14°42'07" W, 1120.97 feet.



Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.
Note: Latitudes and Longitudes shown are on NAD'83 Datum.
Note: Bearings and distances are based on The Texas Coordinate System of 1983, Central Zone.
Note: A combined grid factor of 0.9998685 must be divided into all distances to obtain surface distances.
Note: Example: (S-99999) indicates General Land Office file number.
Note: Surface ownership provided by Crownquest Operating, LLC.

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P.O. Box 51887, Midland, Texas 79710 (432) 262-0901 Fax (432) 262-0679 Firm #100201-00

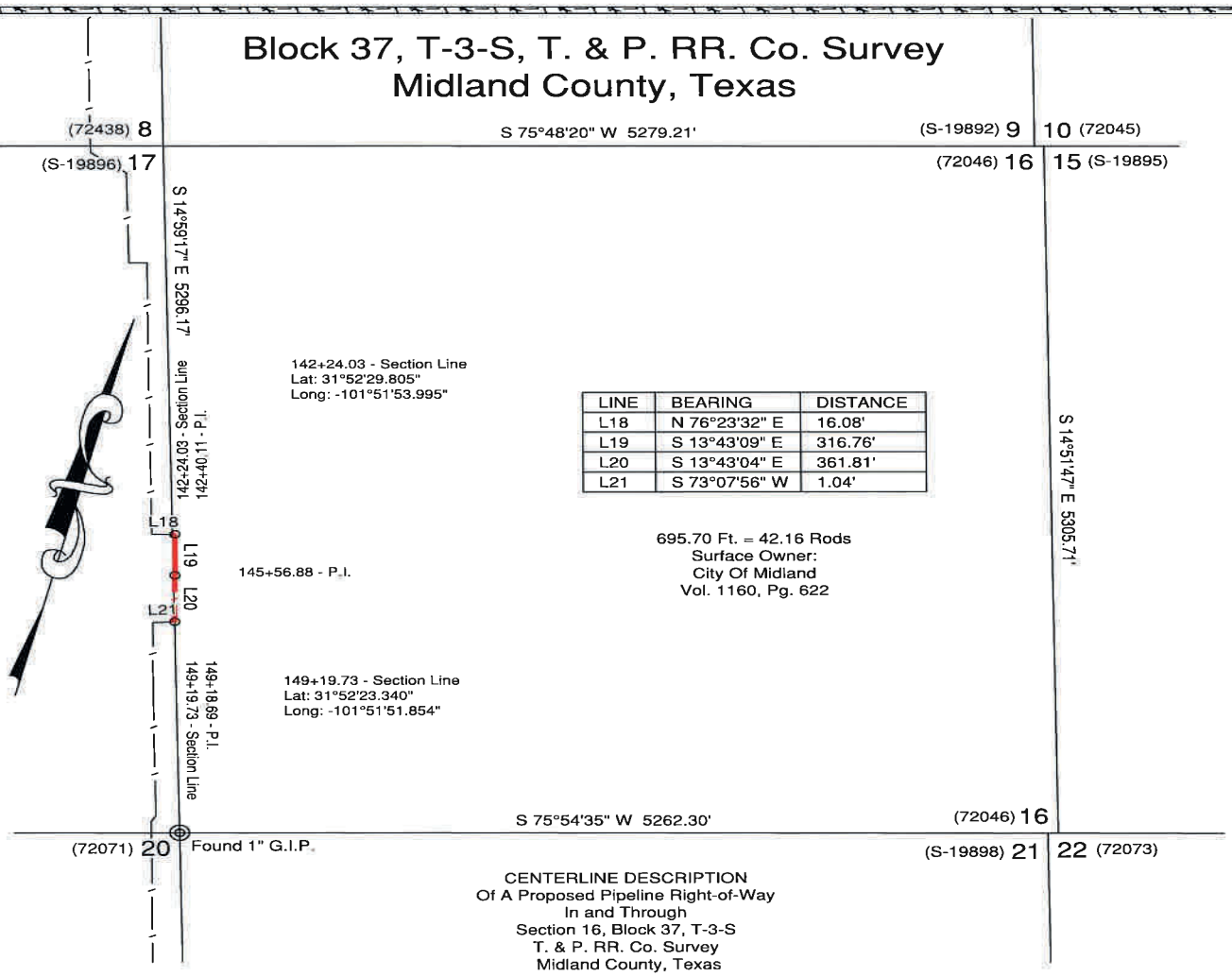
April 20, 2023
230420M2-BCL

Proposed Pipeline Survey Plat

CROWNQUEST OPERATING, LLC.
Triple Hop Gas Pipeline
Proposed 18" Pipeline
Survey In and Through
Section 9, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Scale: 1" = 1000'

Block 37, T-3-S, T. & P. RR. Co. Survey
Midland County, Texas



LINE	BEARING	DISTANCE
L18	N 76°23'32" E	16.08'
L19	S 13°43'09" E	316.76'
L20	S 13°43'04" E	361.81'
L21	S 73°07'56" W	1.04'

CENTERLINE DESCRIPTION
Of A Proposed Pipeline Right-of-Way
In and Through
Section 16, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Beginning at pipeline station 142+24.03 for the beginning of this proposed pipeline right-of-way from which found 1" galvanized iron pipe for the Southeast corner of Section 17, Block 37, T-3-S bears S 14°59'17" E, 2305.20 feet.

Thence N 76°23'32"E , a distance of 16.08 feet to pipeline station P.I. 142+40.11 with a deflection of 89°53'19";

Thence S 13°43'09"E , a distance of 316.76 feet to pipeline station P.I. 145+56.87 with a deflection of 00°00'05";

Thence S 13°43'04"E , a distance of 361.81 feet to pipeline station P.I. 149+18.68 with a deflection of 86°50'59";

Thence S 73°07'56"W , a distance of 1.04 feet to pipeline station 149+19.72 crossing a point in the West line of Section 9 and the East line of Section 8 for the end of this portion of this proposed pipeline right-of-way from which found 1" galvanized iron pipe for the Southeast corner of Section 17, Block 37, T-3-S bears S 14°59'17" E, 1626.37 feet.

GRAPHIC SCALE
1000 0 500 1000 2000
1" = 1000' *U.S. FEET*

Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.
Note: Latitudes and Longitudes shown are on NAD'83 Datum.
Note: Bearings and distances are based on The Texas Coordinate System of 1983, Central Zone.
Note: A combined grid factor of 0.9998685 must be divided into all distances to obtain surface distances.
Note: Example: (S-99999) indicates General Land Office file number.
Note: Surface ownership provided by Crownquest Operating, LLC.

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PROFESSIONAL LAND SURVEYOR

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REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

April 20, 2023
230420M5-BCL

P.O. Box 51887, Midland, Texas 79710 (432) 262-0901 Fax (432) 262-0679 Firm #100201-00

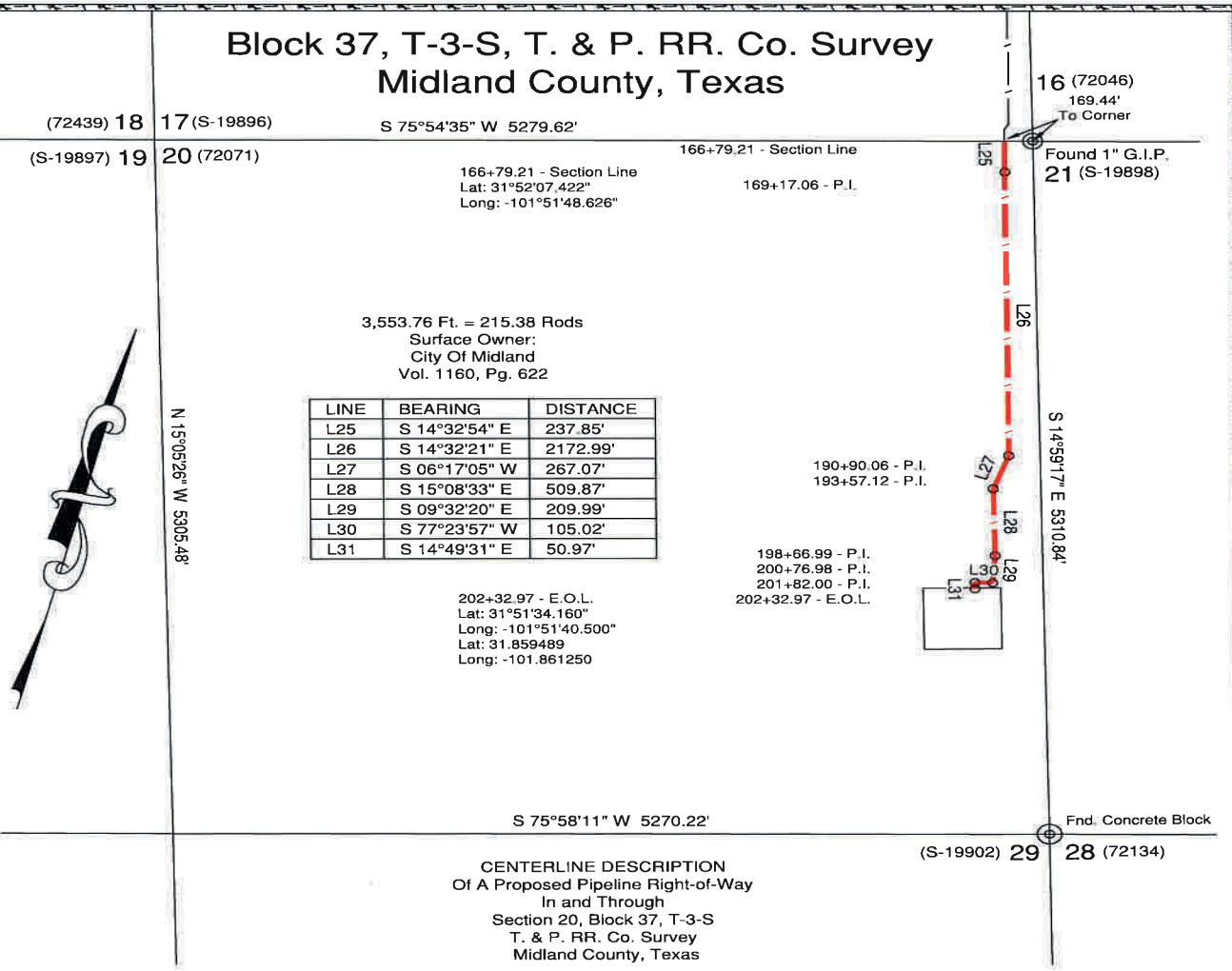
Proposed Pipeline Survey Plat

CROWNQUEST OPERATING, LLC.
Triple Hop Gas Pipeline
Proposed 18" Pipeline
Survey In and Through
Section 16, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Scale: 1" = 1000'

PACKET 14.25 June 13, 2023

Block 37, T-3-S, T. & P. RR. Co. Survey
Midland County, Texas



LINE	BEARING	DISTANCE
L25	S 14°32'54" E	237.85'
L26	S 14°32'21" E	2172.99'
L27	S 06°17'05" W	267.07'
L28	S 15°08'33" E	509.87'
L29	S 09°32'20" E	209.99'
L30	S 77°23'57" W	105.02'
L31	S 14°49'31" E	50.97'

CENTERLINE DESCRIPTION
Of A Proposed Pipeline Right-of-Way
In and Through
Section 20, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Beginning at pipeline station 166+79.21 for the beginning of this proposed pipeline right-of-way from which found 1" galvanized iron pipe for the Southeast corner of Section 17, Block 37, T-3-S bears N 75°54'35" E, 169.49 feet.
Thence S 14°32'54"E , a distance of 237.85 feet to pipeline station P.I. 169+17.06 with a deflection of 00°00'32";
Thence S 14°32'21"E , a distance of 2172.99 feet to pipeline station P.I. 190+90.06 with a deflection of 20°49'27";
Thence S 06°17'05"W , a distance of 267.07 feet to pipeline station P.I. 193+57.12 with a deflection of 21°25'38";
Thence S 15°08'33"E , a distance of 509.87 feet to pipeline station P.I. 198+66.99 with a deflection of 05°36'13";
Thence S 09°32'20"E , a distance of 209.99 feet to pipeline station P.I. 200+76.98 with a deflection of 86°56'17";
Thence S 77°23'57"W , a distance of 105.02 feet to pipeline station P.I. 201+82.00 with a deflection of 92°13'28";
Thence Thence S 14°49'31"E , a distance of 50.97 feet to pipeline station 202+32.97 being the E.O.L. (End of Line) for the end of this proposed pipeline right-of-way from which a found concrete block for the Southeast corner of Section 20, Block 37, T-3-S bears S 27°12'18" E, 1932.11 feet.

GRAPHIC SCALE
1000 0 500 1000 2000
1" = 1000' *U.S. FEET*

Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.
Note: Latitudes and Longitudes shown are on NAD'83 Datum.
Note: Bearings and distances are based on The Texas Coordinate System of 1983, Central Zone.
Note: A combined grid factor of 0.9998685 must be divided into all distances to obtain surface distances.
Note: Example: (S-99999) indicates General Land Office file number.
Note: Surface ownership provided by Crownquest Operating, LLC.

PENNELL & MARLOWE
RESIDENTIAL, OILFIELD & ALL TYPES OF SURVEYS
LAND SURVEYORS, INC.

STATE OF TEXAS
REGISTERED
STEPHEN P. MARLOWE
5715
PROFESSIONAL
LAND SURVEYOR

Stephen P. Marlowe
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

April 20, 2023
230420M6-BCL

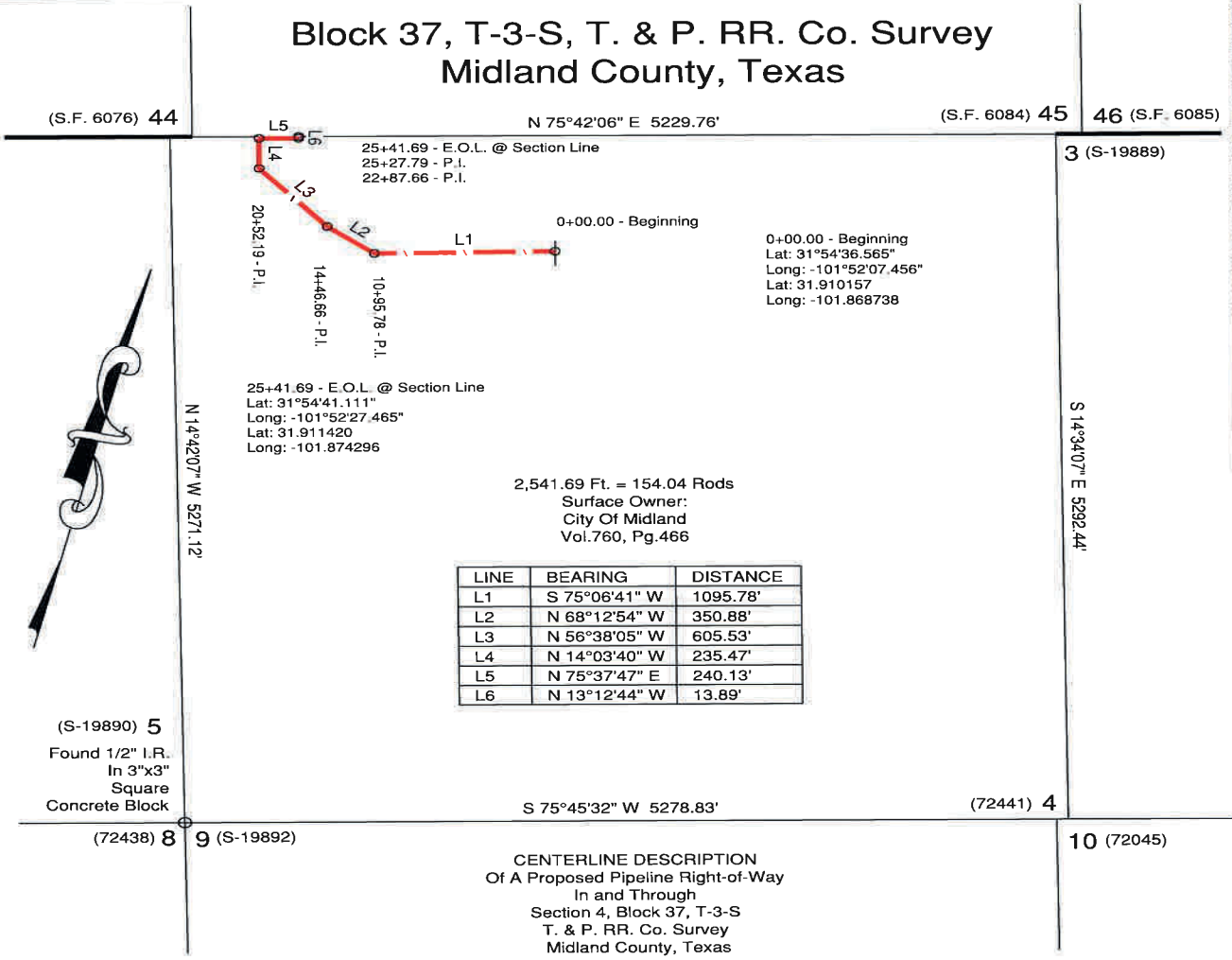
P.O. Box 51887, Midland, Texas 79710 (432) 262-0901 Fax (432) 262-0679 Firm #100201-00

Proposed Pipeline Survey Plat

CROWNQUEST OPERATING, LLC.
Triple Hop Gas Pipeline
Proposed 18" Pipeline
Survey In and Through
Section 20, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Scale: 1" = 1000'

Block 37, T-3-S, T. & P. RR. Co. Survey
Midland County, Texas



LINE	BEARING	DISTANCE
L1	S 75°06'41" W	1095.78'
L2	N 68°12'54" W	350.88'
L3	N 56°38'05" W	605.53'
L4	N 14°03'40" W	235.47'
L5	N 75°37'47" E	240.13'
L6	N 13°12'44" W	13.89'

CENTERLINE DESCRIPTION
Of A Proposed Pipeline Right-of-Way
In and Through
Section 4, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Beginning at pipeline station 0+00.00 for the beginning of this proposed pipeline right-of-way from which a found 1/2" iron rod in 3"x 3" square concrete block for the Southwest corner of Section 4, Block 37, T-3-S bears S 13°11'49" W, 4953.96 feet.
Thence S 75°06'41"W , a distance of 1095.78 feet to pipeline station P.I. 10+95.78 with a deflection of 36°40'25";
Thence N 68°12'54"W , a distance of 350.88 feet to pipeline station P.I. 14+46.66 with a deflection of 11°34'49";
Thence N 56°38'05"W , a distance of 605.53 feet to pipeline station P.I. 20+52.19 with a deflection of 42°34'25";
Thence N 14°03'40"W , a distance of 235.47 feet to pipeline station P.I. 22+87.66 with a deflection of 89°41'27";
Thence N 75°37'47"E , a distance of 240.13 feet to pipeline station P.I. 25+27.79 with a deflection of 88°50'30";
Thence N 13°12'44"W , a distance of 13.89 feet to pipeline station 25+41.69 being the E.O.L. (End of Line) for this proposed pipeline right-of-way from which a found 1/2" iron rod in 3"x 3" square concrete block for the Southwest corner of Section 4, Block 37, T-3-S bears S 06°18'57" E, 5338.77 feet.

GRAPHIC SCALE
1000 0 500 1000 2000
1" = 1000' *U.S. FEET*

Note: Survey Reconstruction filed in the Office of Pennell & Marlowe Land Surveyors, Inc.
Note: Latitudes and Longitudes shown are on NAD'83 Datum.
Note: Bearings and distances are based on The Texas Coordinate System of 1983, Central Zone.
Note: A combined grid factor of 0.9998685 must be divided into all distances to obtain surface distances.
Note: Example: (S-99999) indicates General Land Office file number.
Note: Surface ownership provided by Crownquest Operating, LLC.

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PROFESSIONAL
LAND SURVEYOR

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REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

April 20, 2023
230420M7-BCL

P.O. Box 51887, Midland, Texas 79710 (432) 262-0901 Fax (432) 262-0679 Firm #100201-00

Proposed Pipeline Survey Plat

CROWNQUEST OPERATING, LLC.
Triple Hop Gas Pipeline
Proposed 16" Pipeline
Survey In and Through
Section 4, Block 37, T-3-S
T. & P. RR. Co. Survey
Midland County, Texas

Scale: 1" = 1000'

PACKET 14.26 June 13, 2023

City Council Meeting

Item Number: 15

Meeting Date: June 13, 2023

To: City Council / City Manager

From: John Simmons, Manager, Right-of-Way

Subject: Motion authorizing the execution of a Right-of-Way license (23-317-005) with WTG Gas Gathering Company, LLC, regarding City-owned property described as Section 36, Block 39, Township 1 North, T&P RR Co. Survey, Martin County (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion will provide the applicant a 30' wide right of way to build a 16", steel construction, natural gas pipeline, and 10,000 square foot surface area for above-ground valves that will allow the pipeline to tie into the existing compressor facility.

This Right-of-Way License is for a 10-year period. Terms are consistent with the City's standard license for facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee: $1,000.00

10-Year Lease Rate,

16" pipeline: 286.42 rods x $440 per rod ($126,024.80)

Surface area: 10,000 square feet x $0.24 per sq. ft ($2,400.00)

Total 10-year ROW License fees: $128,424.80

Total Collected this date: $129,424.80

Discussion:

This will be a private, steel-construction, natural gas pipeline with a 100’ by 100’ surface use area for above-ground valves that will allow for a connection to the existing gas compressor facility. The pipeline will be buried a minimum of 36” deep. The applicant will also have a 50’ temporary construction right of way until project completion.

Certificates of Insurance are on file

City Secretary is to record all documents

Morris Williams Jr.

City Manager’s Office

RIGHT OF WAY LICENSE

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

Date:	June 14, 2023
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:	**WTG Gas Gathering Company, LLC**
Licensee's Representative:	**Billy Melton**
Licensee's Mailing Address:	303 Veterans Airpark Lane, Suite 5000 Midland, Texas 79705
Property:	As described in Article III below
License Number:	**23-317-005**

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

W I T N E S S E T H:

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

I. Term

A. Term. This License shall be for a term of ten (10) years commencing on the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

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

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

II. Financial Consideration

A. License Fee. A license fee in the amount of ONE HUNDRED TWENTY-EIGHT THOUSAND FOUR HUNDRED TWENTY-FOUR and 80/100 Dollars ($128,424.80) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars ($1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

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

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being eighty (80) feet in width of the locations as shown on **Exhibit A** attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a steel construction pipeline, not to exceed sixteen (16) inches in diameter, for the transportation of natural gas and a ten thousand (10,000) square foot surface site for an above ground valve connection and 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 completed (the "Property"). **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, at its own expense, any of Licensor's roads that Licensee, its employees, contractors, representatives, agents or assigns damage on Licensor's property, so that such roads will comply with Licensor's standard specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines, water meters and other utility lines owned by Licensor that Licensee, its employees, contractors, representatives, agents or assigns, damage so that such water lines, sewer lines, water meters and other utility lines shall comply with Licensor's standard specifications.

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

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, Licensee shall first obtain written approval of the specifications therefor from Licensor's Representative, which approval shall be at Licensor's Representative's sole discretion.

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

of way used and occupied by Licensee.

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

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

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

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, alter, replace or remove any pipeline or other permitted facilities built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her prior written approval, which approval shall be at Licensor's Representative's sole discretion. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor workday. If not on a workday, Licensee shall notify Licensor's Representative on the first workday after repairs have begun.

J. Gates and Fences. Without altering or expanding the limitations on ingress, egress and access to the Property set forth in Paragraph A. of Article III above, Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed". Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this

License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

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

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

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

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

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

Licensor expressly reserves the right to use and grant to third parties the right to use all or any portion of the Property and the surface, subsurface or airspace on, below or above the Property for any purpose.

IV. Standard General Conditions

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

Commercial General Liability (including Contractual liability):	
■ Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
■ Property Damage:	$100,000.00 per occurrence
Business Automobile Liability:	$1,000,000.00 combined single limit-- Personal Injury and Property Damage
Workers' Compensation:	Statutory limits
Employers' Liability:	$1,000,000.00 per accident or occurrence
Umbrella Liability:	$10,000,000.00 each occurrence $10,000,000.00 aggregate

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

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

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

All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name Licensor as an additional insured. All insurance required pursuant to this License, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to Licensor. The parties agree that, prior to the execution of this License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. Licensor shall determine, in its sole discretion, whether such requirements have been satisfied.

Licensor shall be provided written notice by Licensee's insurance provider not later than thirty

(30) days prior to any reduction or termination of such coverage. Licensor shall not be required to provide any insurance whatsoever pursuant to this License.

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

B. Indemnity. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE, ITS SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S REPRESENTATIVES, AGENTS, ATTORNEYS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) THIS LICENSE, LICENSEE'S USE OF OR ACTIVITIES ON THE PROPERTY OR ANY OTHER PROPERTY OWNED BY LICENSOR, OR ANY ACT OR OMISSION OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "LIABILITIES"), EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF ANY INDEMNITEE. LICENSEE SHALL PROMPTLY ADVISE LICENSOR OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION TO WHICH THIS INDEMNIFICATION MAY APPLY, AND OF WHICH LICENSEE HAS RECEIVED NOTICE, AND LICENSEE, AT LICENSEE'S EXPENSE, SHALL ASSUME ON BEHALF OF LICENSOR (AND THE OTHER INDEMNITEES) AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE THEREOF WITH COUNSEL REASONABLY SATISFACTORY TO LICENSOR; PROVIDED, HOWEVER, THAT ANY INDEMNITEE SHALL HAVE THE RIGHT, AT ITS OPTION, TO BE REPRESENTED THEREIN BY COUNSEL OF ITS OWN SELECTION AND AT ITS OWN EXPENSE. IN THE EVENT OF FAILURE BY LICENSEE TO ASSUME THE DEFENSE OF LICENSOR IN ACCORDANCE WITH THIS INDEMNIFICATION, LICENSOR, AT ITS OPTION, AND WITHOUT RELIEVING LICENSEE OF ITS OBLIGATION HEREUNDER, MAY ASSUME SUCH DEFENSE, AFTER WRITTEN NOTICE THEREOF TO LICENSEE AND LICENSEE'S FAILURE TO RESPOND THERETO WITHIN TEN (10) BUSINESS DAYS AFTER

RECEIPT OF SUCH NOTICE (SAID TEN (10) DAY PERIOD SHALL NOT APPLY IN ANY CASE WHERE IMMEDIATE ANSWERS, RESPONSES, OR OTHER AFFIRMATIVE ACTION IS REQUIRED TO PRESERVE THE RIGHTS OF LICENSOR) BUT ALL REASONABLE COSTS AND EXPENSES SO INCURRED BY LICENSOR IN THAT EVENT SHALL BE REIMBURSED BY LICENSEE TO LICENSOR, TOGETHER WITH INTEREST ON THE SAME FROM THE DATE ANY SUCH EXPENSE WAS PAID BY LICENSOR UNTIL REIMBURSED BY LICENSEE, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS, BY THE LAWS OF THE STATE OF TEXAS.

WITHOUT LIMITING THE FOREGOING, LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY, PROTECT, DEFEND AND SAVE LICENSOR HARMLESS FROM ANY AND ALL CLAIMS, LIENS, JUDGMENTS, SUITS, CAUSES OF ACTION, AND DEMANDS OF ANY SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, OR FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, OR SUPPLIES, IN CONNECTION WITH THE CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE OR OTHER PERMITTED FACILITIES DESCRIBED HEREIN.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE SHALL INDEMNIFY, PROTECT AND HOLD HARMLESS AND DEFEND EACH INDEMNITEE FROM ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DAMAGES, CAUSES OF ACTION, CHARGES, JUDGMENTS, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF ANY INDEMNITEE, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', REPRESENTATIVES', AGENTS', CONTRACTORS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE, INCLUDING, WITHOUT LIMITATION, SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE OR PERMITTED FACILITIES ON LICENSOR'S PROPERTY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY INDEMNITEE, INCLUDING RELATED ATTORNEY'S FEES.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE, ITS SUCCESSORS AND ASSIGNS, SHALL INDEMNIFY, PROTECT, DEFEND AND HOLD INDEMNITEES HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION

REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, THE "INDEMNIFYING PARTIES"), TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY INDEMNIFYING PARTY'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR (ii) ANY INDEMNIFYING PARTY'S HANDLING, STORING, RELEASING OR TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE PROVISIONS OF THIS INDEMNIFICATION SHALL APPLY TO AND PROTECT EACH INDEMNITEE FROM THE CONSEQUENCES OF STRICT LIABILITY IMPOSED OR THREATENED TO BE IMPOSED ON SUCH INDEMNITEE, AS WELL AS FROM THE CONSEQUENCES OF THE NEGLIGENCE OF ANY INDEMNITEE, WHETHER OR NOT THAT NEGLIGENCE IS A CONTRIBUTING OR CONCURRING CAUSE OF ANY LIABILITY INDEMNIFIED AGAINST IN THIS ARTICLE IV.B.

THE TERMS, PROVISIONS, REQUIREMENTS AND OBLIGATIONS OF THIS ARTICLE IV.B. SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS LICENSE, AND SHALL NOT BE LIMITED BY OR TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

C. Assignment. The provisions of this License shall inure to the benefit of and be binding upon Licensor and Licensee and their respective successors and permitted assigns. The rights and privileges granted by Licensor under this License inure to the benefit of Licensee. No rights, privileges or obligations hereunder shall be assignable by Licensee without the express prior written consent of Licensor. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work described herein as an independent contractor and not as an officer, agent, servant or

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

E. Attorney Fees. SHOULD LICENSOR BE REQUIRED TO RESORT TO EMPLOYMENT OF ATTORNEYS TO ENFORCE THIS LICENSE, OR ANY OF ITS RIGHTS UNDER THIS LICENSE, LICENSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM LICENSEE FOR LICENSOR'S ATTORNEYS' FEES. LICENSEE SHALL REIMBURSE LICENSOR FOR LICENSOR'S ATTORNEYS' FEES INCURRED IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS LICENSE. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LICENSE, OR THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE. WITHOUT LIMITING THE FOREGOING, LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, OR TO THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

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

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS LICENSE, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, AND LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LICENSOR'S NEGLIGENCE.

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

I. Third Party Beneficiary. Except as provided in Article IV.B. above with respect to Indemnitees, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

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

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the

amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licensor within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

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

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

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

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

P. Waiver. No waiver of any of the provisions of this License shall be deemed or constitute a waiver of any other provisions of this License, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. Likewise, the failure of Licensor to enforce any provision of this License shall not be deemed nor shall constitute a waiver of the right of Licensor to enforce such provision.

Q. Counterpart Execution. This License may be executed in several counterparts, and any such agreement shall be deemed an original for all intents and purposes.

R. No Release of Liability. Notwithstanding anything to the contrary contained in this License, the termination or expiration of this License shall not relieve Licensee of any liability, duty or obligation under this License, nor shall it preclude Licensor from asserting any right to specific performance, damages or any other rights or remedies to which Licensor may be entitled. Upon termination or expiration of this License for any reason, Licensee shall execute and deliver a recordable release of this License to Licensor in form and substance satisfactory to Licensor.

S. Entire Agreement. This License constitutes the entire agreement between Licensor and Licensee concerning the subject matter hereof, superseding all negotiations, prior discussions, prior licenses and prior agreements and understandings related to the subject matter hereof. This License may only be amended by written instrument executed by Licensor and Licensee.

[Signature Pages Follow]

LICENSOR:
CITY OF MIDLAND, TEXAS

By:_____
Morris Williams, Jr., Interim City Manager

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Carl Craigo, Director of Utilities

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

LICENSEE:
WTG GAS GATHERING COMPANY, LLC

By: Billy Melton
Printed Name: Billy Melton
Title: VP of Land

THE STATE OF Texas §
§
COUNTY OF Midland §

BEFORE ME, the undersigned authority, on this 31st day of May, 2023 personally appeared Billy Melton an officer of WTG Gas Gathering Company, 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.

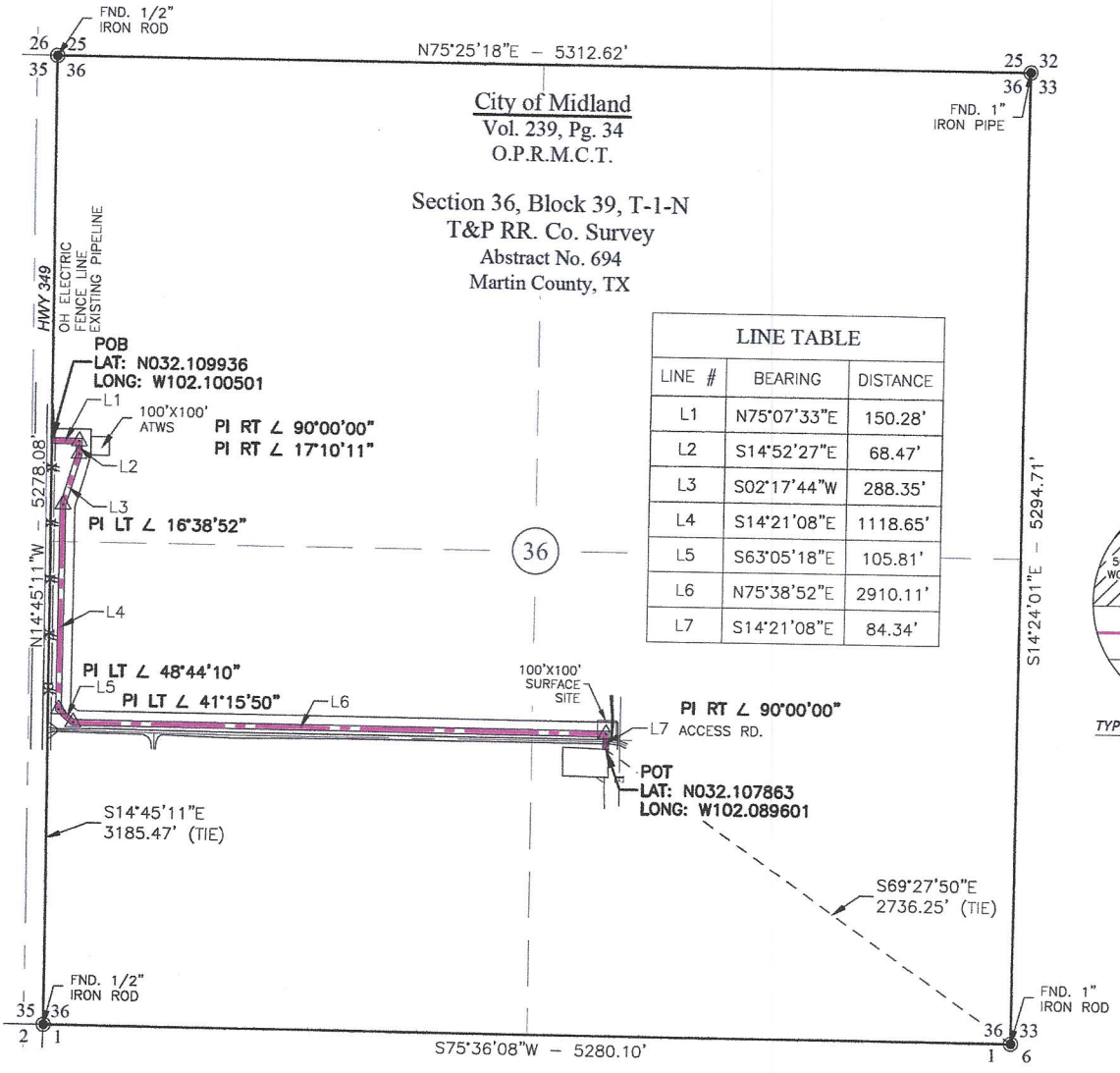
GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 31st day of May, 2023.

Notary Public, State of Texas

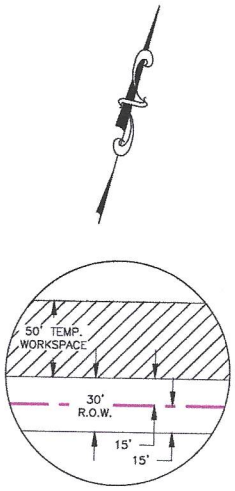
RAQUEL C. GAITOS
My Notary ID # 126036797
Expires October 19, 2024

"EXHIBIT - A"

W.O. NUMBER:



LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N75°07'33"E	150.28'
L2	S14°52'27"E	68.47'
L3	S02°17'44"W	288.35'
L4	S14°21'08"E	1118.65'
L5	S63°05'18"E	105.81'
L6	N75°38'52"E	2910.11'
L7	S14°21'08"E	84.34'



TYPICAL RIGHT-OF-WAY DETAIL
NOT TO SCALE

PIPELINE RIGHT-OF-WAY TOTALS		
CENTERLINE	4726.01 FT.	286.42 RODS
	RIGHT-OF-WAY	3.25 ACRES
	TEMP. WORKSPACE	5.42 ACRES
	TOTAL	8.67 ACRES

LEGEND

- DENOTES CALCULATED CORNER BASED ON GLO
- DENOTES FOUND MONUMENT AS NOTED
- DENOTES POINT OF INTERSECTION
- DENOTES PROPOSED CENTERLINE
- DENOTES EXISTING PIPELINE
- DENOTES EXISTING ELECTRIC LINE
- DENOTES EXISTING FENCE LINE
- DENOTES TRACT LINE
- O.P.R.M.C.T. – OFFICIAL PUBLIC RECORDS MARTIN COUNTY TEXAS
- T&P RR CO. SURVEY – TEXAS & PACIFIC RAILROAD COMPANY SURVEY

1000 0 1000 2000 FEET

THIS PLAT ACCOMPANIES A DESCRIPTION OF EVEN DATE.

NOTES:

1) COORDINATES, BEARINGS AND DISTANCES SHOWN HERON ARE LAMBERT GRID AND CONFORM TO THE STATE PLANE COORDINATE SYSTEM "TEXAS CENTRAL ZONE", NORTH AMERICAN DATUM OF 1983. DISTANCES, COORDINATES, AND BEARINGS SHOWN ARE GRID VALUES.

2) OWNERSHIP PROVIDED BY CLIENT'S AGENT.

3) THIS EXHIBIT IS NOT A LAND SURVEY PLAT, OR A BOUNDARY SURVEY PLAT. ALL OF THE POSITIONS SHOWN HEREON HAVE NOT BEEN VERIFIED AS BEING ACTUAL SECTION, QUARTER, OR PROPERTY CORNERS.

Avery Land Services LLC
3323 N. Midland Drive Suite 133 PMB 1050 ◍ Midland, TX 92078
TX FIRM NO. 10194805

HAYDC-MAR-012.00

WTG

Spanish Trail - Knuckle Discharge

PROPOSED PIPELINE RIGHT-OF-WAY
CITY OF MIDLAND
SECTION 36, BLOCK 39, T-1-N
MARTIN COUNTY, TEXAS

Survey Date: February, 2023	Drawn By: JRC	Ck'd By: SWD
Date: May 25, 2023	SCALE: 1":1000'	SHEET 1 OF 2

HAYDC-MAR-012.00.dwg - 5/25/23 - REV 7

"EXHIBIT - A"

W.O. NUMBER:

PIPELINE RIGHT-OF-WAY DESCRIPTION

A 30–foot wide strip of land for right–of–way, together with a 50–foot wide temporary work space, situated in part of Section 36, Block 39, Township 1 North, T&P RR. Co. Survey, Martin County, Texas, and crossing that certain tract or parcel described in deed to City of Midland in Volume 239, Page 34, Official Public Records, Martin County, Texas the 30–foot wide right–of–way being 15.0 feet to the right and 15.0 feet to the left, of the following described centerline, and the 50–foot wide temporary work space being 15.0 feet to the left and conterminous with the left edge of the right–of–way, with all side lines extending and shortening to intersect boundary lines and points of intersection:

Beginning at a point, from which a found 1/2–inch iron rod marking the SW corner of said Section 36, same being the SE corner of Section 35, Block 39, Township 1 North, T&P RR. Co. Survey, Martin County Texas, bears South 14°45'11" East, 3185.47 feet;

Thence crossing said Section 36 in an easterly direction the following courses:

North 75°07'33" East, a distance of 150.28 feet;
South 14°52'27" East, a distance of 68.47 feet;
South 02°17'44" West, a distance of 288.35 feet;
South 14°21'08" East, a distance of 1118.65 feet;
South 63°05'18" East, a distance of 105.81 feet;
North 75°38'52" East, a distance of 2910.11 feet;

South 14°21'08" East for a distance of 84.34 feet to the end of this centerline, from which a found 1–inch iron rod marking the SE of said Section 36, bears South 69°27'50" East, 2736.25 feet, for reference, and containing 3.25 acres in the right–of–way, 5.42 acres in the temporary work space, and being a total length of 4726.01 feet (286.42 rods or 0.90 miles) more or less.

Note:

Coordinates, Bearings and Distances shown hereon are Lambert Grid and conform to the State Plane Coordinate System "Texas Central Zone", North American datum of 1983. Distances, Coordinates, and Bearings are grid values. Ownership provided by client's agent.

I hereby certify that this plat and description are a true and correct representation of a survey made on the ground under my direct supervision and all facts are as shown herein.

STATE OF TEXAS
REGISTERED
5/25/2023
STANLEY DRANNON
6507
PROFESSIONAL
LAND SURVEYOR

5/25/2023

Stanley Drannon
Registered Professional Land Surveyor
Texas Registration No. 6507

PIPELINE RIGHT-OF-WAY TOTALS		
CENTERLINE	4726.01 FT.	286.42 RODS
	RIGHT-OF-WAY	3.25 ACRES
	TEMP. WORKSPACE	5.42 ACRES
	TOTAL	8.67 ACRES

THIS DESCRIPTION ACCOMPANIES A PLAT OF EVEN DATE.

HAYDC-MAR-012.00

WTG

Spanish Trail - Knuckle Discharge

PROPOSED PIPELINE RIGHT-OF-WAY
CITY OF MIDLAND
SECTION 36, BLOCK 39, T-1-N
MARTIN COUNTY, TEXAS

Survey Date: February, 2023	Drawn By: ARC	Ck'd By: SWD
Date: May 25, 2023	SCALE: 1":1000'	SHEET 2 OF 2

HAYDC-MAR-012.00.dwg - 5/25/23 - REV 7

Avery Land Services

Avery Land Services LLC
3323 N. Midland Drive Suite 133 PMB 1050 ⊕ Midland, TX 92078
TX FIRM NO. 10194805

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/31/2024 | 5/31/2023

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

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

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): E-MAIL ADDRESS:
INSURED 1509715 WTG Midstream LLC; WTG Downstream LLC WTG Fuels, LLC; WTG Hugoton; WTG Gas Processing 303 Veterans Airpark Lane, Suite 5000 Midland TX 79705	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Liberty Mutual Fire Insurance Company — 23035 INSURER B : Liberty Insurance Corporation — 42404 INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 18576092 **REVISION NUMBER:** XXXXXXX

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	Y	Y	EB2-641-444989-033	5/31/2023	5/31/2024	EACH OCCURRENCE	$ 2,000,000
A	CLAIMS-MADE [X] OCCUR			EB2-641-444989-053	5/31/2023	5/31/2024	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
	X S&A Pollution						MED EXP (Any one person)	$ Excluded
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	$ 1,000,000
	POLICY [ ] PRO-JECT [ ] LOC						GENERAL AGGREGATE	$ 5,000,000
	OTHER:						PRODUCTS - COMP/OP AGG	$ 5,000,000
								$
A	AUTOMOBILE LIABILITY	Y	Y	AS2-641-444989-013	5/31/2023	5/31/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$ XXXXXXX
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$ XXXXXXX
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$ XXXXXXX
								$ XXXXXXX
B	X UMBRELLA LIAB X OCCUR	Y	Y	TH7-641-444989-063	5/31/2023	5/31/2024	EACH OCCURRENCE	$ 3,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 3,000,000
	DED RETENTION $							$ XXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N		Y	WA6-64D-444989-023	5/31/2023	5/31/2024	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [N]	N/A					E.L. EACH ACCIDENT	$ 1,000,000
	(Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below						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)

CERTIFICATE HOLDER

18576092
City of Midland
P.O. Box 60305
Midland TX 79711

CANCELLATION See Attachment

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

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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 (except Workers' Compensation/EL) contain a special endorsement with "primary and noncontributory" wording.

All policies include a blanket notice of cancellation to certificate holders endorsement, providing for 30 days' advance notice if the policy is canceled by the company other than for nonpayment of premium, 10 days' notice if the policy is canceled 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.

The Workers Compensation policy includes Alternate Employer coverage.

The Automobile Liability policy includes an MCS-90 endorsement. The Automobile Liability policy includes a Pollution Liability - Broadened Coverage for Covered Autos endorsement per form CA9948 1013.



Date: 5/18/2023

Proposed Surface Site
Proposed ROW
Survey Section

PACKET 524

WTG
Proposed ROW and Surface Site

June 13, 2023

0 150 300 Feet

©THE CITY OF MIDLAND - 2023
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

City Council Meeting

Item Number: 16

Meeting Date: May 23, 2023, June 13, 2023

To: City Council / City Manager

From: Jeffrey Fisher, Planning Manager

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 7, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 220 FEET WEST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Strategic Restaurant Enterprises, Inc., is requesting to amend their existing Special Use District (SUD) to extend their hours of operation for the sale of Alcoholic Beverages for On-Premises Consumption in a restaurant. The alcohol serviceable area remains the same as the previous approval of 8,688 sq. ft. which is the same square footage as the restaurant.

Recommended City Council Action:

Approve

Fiscal Impact:

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

Discussion:

Current Zoning:

PD, Planned Development District for a Shopping Center (Ordinance 9878).

Surrounding Zoning and Land Use:

The properties to the north, east, and east are zoned PD, Planned Development District, and the locations of restaurants. The property to the south is zoned PD, Planned Development District for a Shopping Center, and the location of Midland Park Mall.

Analysis:

The subject property is zoned as PD, Planned Development District for a Shopping Center (Ordinance 9878), with an underlying base zoning of RR, Regional Retail District. The RR, Regional Retail District allows Alcoholic Beverages Sales for On-Premises Consumption with the approval of a Specific Use Designation.

The property has an active Specific Use Designation that was approved by City Council on January 22, 2019. The current Specific Use Designation limits Alcoholic Beverages Sales for On-Premises Consumption as follows:

> Monday through Thursday from 3:00 p.m. to 12:00 a.m. (midnight)
> Friday through Sunday from 11:00 a.m. to 12:00 a.m. (midnight)

The applicant is now requesting the following days and hours for Alcoholic Beverages Sales for On-Premises Consumption as specified below:

> **Monday through Sunday from 11:00 a.m. to 12:00 a.m. (midnight)**

Per Midland City Code Section 5.4.4. – Prohibited place of business

> *The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public school, public school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.*

There are no churches, private schools, public schools, public school grounds, athletic stadiums, or public hospitals within 300 feet measurement along the property lines of the street fronts, and from the front door in a direct line across the intersection where they occur within this site.

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

Fire: (Approved)

No objections.

Engineering: (Approved)

No objections to zoning/zone change. [For Applicant's Information Only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Building Code: (Approved)

The SUD request is acceptable based on the current occupant load pending that no changes to the occupancy, seating count, physical structure, and/or the floor layout has taken place when compared to previously approved SUDs. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Code Compliance: (Approved)

No objections.

Planning: (Approved)

The request complies with the *Tall City Tomorrow 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). The updated hours will allow Bubba's 33 to continue to create a vibrant atmosphere where residents can socialize and build connections.

Staff recommends approval of the request for a Specific Use Designation with Term for Alcoholic Beverages Sales for On-Premises Consumption in a restaurant, subject to Conditions A through E.

Conditions:

A. **That the alcohol serviceable area of the restaurant shall be limited to approximately 8,688-square feet as shown on the Floor Plan "Exhibit "A", which is attached hereto and incorporated herein for all purposes.**

B. **That the days and hours of alcoholic beverages sales and consumption shall be limited to:**

Monday through Sunday 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 establishment shall meet all requirements of the Fire Department and Code Administration.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

Letters of Objection:

As of May 10, 2023, staff have received no letters of objection for this request.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan (Exhibit B)
Maps

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 7, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 220 FEET WEST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for Lot 7, Block 17, Skyline Terrace, Unit 7, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present PD, Planned Development District for a Shopping Center.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 8,688 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 Monday through Sunday from 11:00 a.m. to 12:00 a.m. (midnight).

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

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., 2023; 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., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____
Lori Merritt Blong, Mayor

ATTEST:

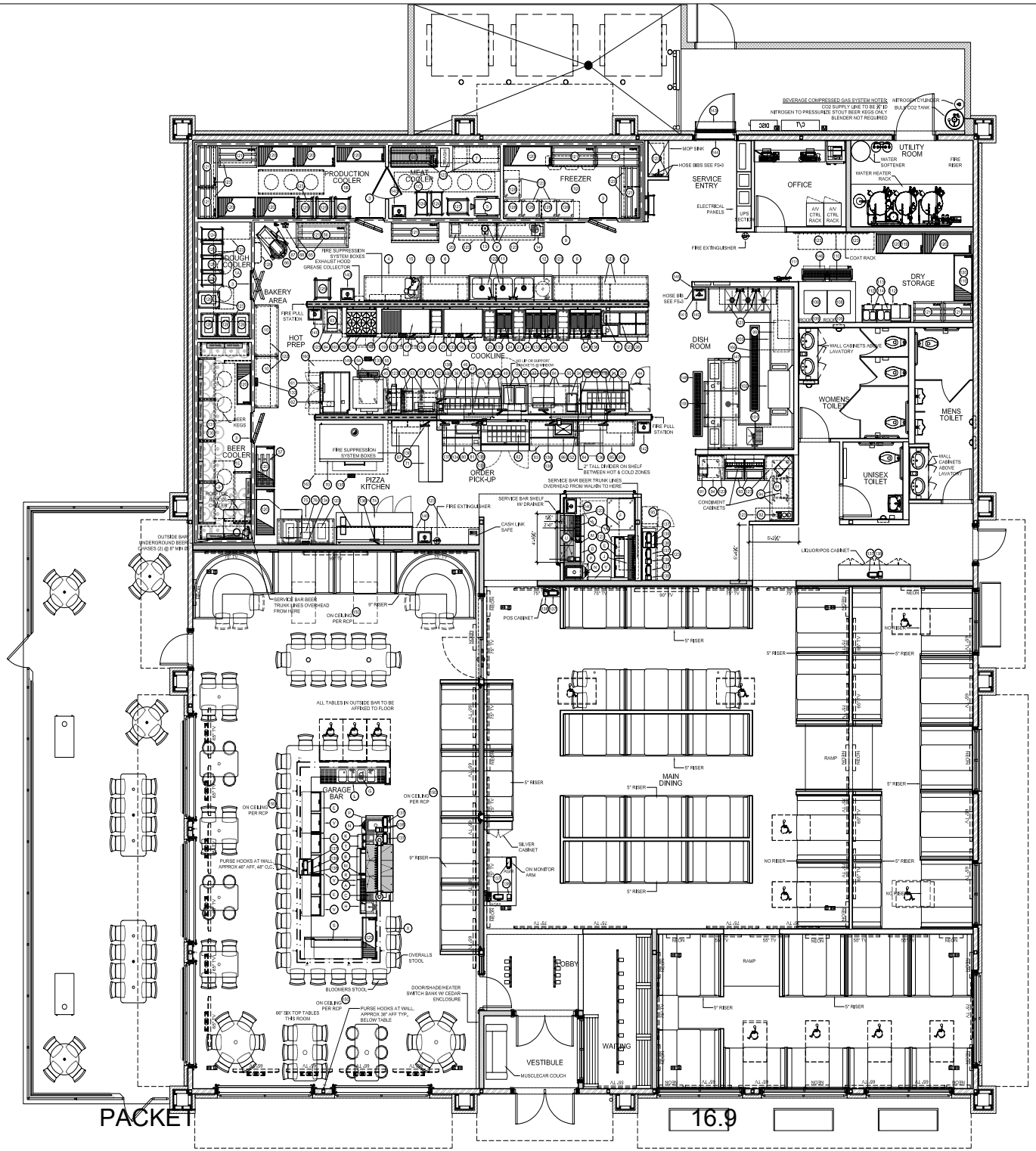
_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney



EQUIPMENT LIST

ITEM #	DESCRIPTION
1A	WALK-IN DOUGH COOLER
1B	WALK-IN PRODUCTION COOLER
1C	WALK-IN MEAT COOLER
1D	WALK-IN FREEZER
1E	WALK-IN BEER COOLER
2	GLYCOL BEER CHILLING SYSTEM
3	PLASTIC STRIP CURTAINS
4	S/S WORK TABLE 72" BACKSPLASH & U.S.
5	MEAT MIXER/GRINDER
6	S/S WORK TABLE 60" BACKSPLASH & U.S.
7	S/S WORK TABLE 60" BACKSPLASH U.S. & O.S.
8	S/S WORK TABLE 60"x18" BACKSPLASH & U.S.
9	SNAP RACK(S)
10	S/S WORK TABLE 60" FLAT TOP & U.S.
11	S/S PREP SINK W/ DRAINBOARD
12	SALAD SPINNER
13	FOOD PROCESSOR
14	FOOD PROCESSOR
15	DELI SLICER
16	STEAM GRIDDLE 48"
17	STEAM GRIDDLE 36"
18	REFRIGERATED EQUIPMENT STAND
19	CHAR BROILER
20	BAG SEALER
22	UNDERCOUNTER REACH IN FREEZER
23	ICED COLD PAN (FREE STANDING)
24	18" DEEP FRYER
26	ICED BREADING STATION W/ SIFTER
27	REFRIGERATED EQUIPMENT STAND
28	FRYER FILTER
29	REFRIGERATED COUNTERTOP COLD WELL
30	S/S WALL SHELF
31	REACH IN REFRIGERATOR W/ COLD TOP
32	CHEF'S TABLE/STEAM TABLE
33	CRISPYHOLD
34	DROP IN HOT WELL
36	REACH IN REFRIGERATOR W/ RAISED COLD RAIL
37	BUN TOASTER
38	BUN TOASTER
39	WARMING DRAWER (DUAL)
40	BUN SLICER
41	S/S ANGLED SHEET PAN WALL BRACKET
42	HEATED SHELF
44	2 DOOR UPRIGHT FREEZER
45	PASS THROUGH WINDOW
46	PASS THROUGH WINDOW OVERSHELF
47	HEAT LAMPS
48	MICROWAVE OVEN
49	CHEESE MELTER 36"
50	CHEESE MELTER 48"
51	S/S WORKTABLE 72" BACKSPLASH OPEN BASE
52	BASKET PAPER DISPENSERS
53	UNDERCOUNTER SHEET PAN RACKS
54	CONVECTION OVEN
55	SMOKER OVEN
56	S/S WORK TABLE 66" BACKSPLASH OPEN BASE
57	UNDERCOUNTER CAN RACK
58	6 BURNER RANGE
59	REFRIGERATED EQUIPMENT STAND
63	ROTARY CONVECTION OVEN
62	PROOFER
63	RETHERMALIZER
64	S/S WORKTABLE 24" BACKSPLASH
65	S/S WALL SHELF
66	MIXER - 60QT
67	WATER FILTER ASSEMBLY
68	POT FILLER FAUCET
70	DOUBLE STACK PIZZA OVEN
71	PIZZA SERVERY TABLE
72	HANGING HEAT LAMPS
74	PIZZA MAKEUP STN W/ OVERHEAD COLD RAIL
75	PIZZA STRETCH TABLE W/ DOUGH BOX SHELVES
76	PIZZA PEEL RACK
80	48" S/S ORDER PICKUP COUNTER #1
81	DROP IN HOT WELL (HOLDS (4) 1/3rd PANS)
82	REACH IN REFRIGERATOR W/ COLD TOP
83	60" S/S ORDER PICKUP COUNTER #2
84	WARMING DRAWER (SINGLE)
85	72" S/S WORKTABLE

ITEM #	DESCRIPTION
86	DROP IN REFRIGERATED COLD WELL
87	S/S WALL SHELF
89	S/S POS STATION
90	S/S DRINK & TAKEOUT COUNTER W/ OPEN BASE
91	ICED TEA BREWER
92	COFFEE BREWER
93	SODA DISPENSER
94	S/S DRINK COUNTER 36" OPEN BASE
95	WARMING CABINET
99	BOOSTER HEATER
100	DIRTY DISH TABLE - CUSTOM STAINLESS
101	PRE-RINSE SPRAY ASSEMBLY
102	DISH MACHINE
103	CLEAN DISH RAMP/3 COMPT SINK COMBO
106	FUTURE EQUIPMENT
107	ICE MACHINE PRE-CHILLER (NOT USED HERE)
108	ICE MACHINE HEAD UNIT
109	ICE MACHINE REMOTE CONDENSER
110	ICE BIN
111	WATER FILTRATION SYSTEM
112	BAG IN BOX RACKS
113	CARBONATOR/PUMP DECK
114	CARBONATOR SHELF
119	SECURITY CAGE KIT
120	WIRE RACK SHELVING
121	GUNNAGE RACKS
122	ALUMINUM WALL SHELF W/ UNTENSIL RACK
123	ALUMINUM WALL SHELF - INVERTED LEGS
124	ROLLING STEAM TABLE PAN RACKS
125	ROLLING SHEET PAN RACKS
126	DOUGH BOX DOLLY
127	MEAT LUG DOLLY
128	GLASS RACK DOLLY
129	UTENSIL RACK
130	KEG STACKERS
131	KEG DOLLIES
133	8 BUTTON TIMER
134	4 BUTTON TIMER
135	12 BUTTON TIMER
136	KDS MONITOR & CONTROLLER
137	POS/AGM TERMINAL
138	POS THERMAL PRINTER
139	POS CASH DRAWER
140	HAND SINK
141	EYE WASH ATTACHMENT
142	KNEE PEDAL HAND SINK
143	FLY FAN
144	STRIP CURTAIN
145	S/S CORNER GUARDS & TRIM
146	S/S FLOOR TROUGH - 8x60 W/ GRATE (ICE MACH)
147	S/S FLOOR TROUGH - 8x96 W/ GRATE (DISH)
148	S/S FLOOR TROUGH - 8x72 W/ GRATE (MUSIC)
149	S/S FLOOR TROUGH - 4x24 W/ GRATE (SMOKER)
150	RADIANT HEATERS & DIMMING MODULES
160	HOT PREP EXHAUST HOOD
161	COOKLINE EXHAUST HOOD
163	PIZZA EXHAUST HOOD
164	DISHWASHING EXHAUST HOOD
A	24" DRAIN BOARD
B	ICE BIN W/ 7 CVT COLD PLATE
C	S/S SERVICE BAR TOP W/ DRAIN PAN
D	ICE BIN W/ COLD PLATE
E	MUG FROSTER 48"
F	BACK BAR REFRIGERATOR
G	GLASS WASHER (MANUAL)
H	BAR HAND SINK W/ SIDE SPLASHES
J	BEER TOWER - 18 FAUCET
K	EQUIPMENT STAND - 16x24
L	4 COMPARTMENT BAR SINK
M	SODA GUN
N	FROZEN COCKTAIL MACHINE
P	EQUIPMENT STAND - 19x30
R	BEER TOWER - 18 FAUCET
S	BACK BAR REFRIGERATOR
T	DRINK BUBBLER
U	SERVICE BAR PASS SHELF W/ DRAINER
V	SPEED RAILS
X	BAR TOP - PATIO BAR

FIRE PROTECTION NOTE

FIRE EXTINGUISHERS TO BE PROVIDED HAVING A MINIMUM RATING OF 2A-10BC FOR EVERY 3000 SQ. FEET OF FLOOR AREA. TRAVEL DISTANCE TO EXTINGUISHER NOT TO EXCEED 75 FEET. ALL EXTINGUISHERS SHALL BE CONSPICUOUSLY LOCATED AND READILY ACCESSIBLE. THE TOP OF EXTINGUISHER SHALL BE NO MORE THAN 5' ABOVE FLOOR AND THE BOTTOM NO LESS THAN 4 INCHES ABOVE FLOOR. SFPC 609.3.1.1, NFPA 10

PROVIDE 2 "K" CLASS FIRE EXTINGUISHERS FOR COOKING OPERATION

FIRE EXTINGUISHERS SHALL BE INSPECTED AND TAGGED BY A STATE CERTIFIED FIRE EXTINGUISHER COMPANY. UFSRS 4A-21

SEE FLOOR PLAN FOR SUGGESTED LOCATIONS OF FIRE EXTINGUISHERS

7738 INTERIOR SQUARE FEET
950 PATIO SQUARE FEET
8,688 TOTAL SQUARE FEET

1/4" = 1'

6 ea.	2 TOPS	12 SEATS
4 ea.	4 TOPS	16 SEATS
7 ea.	6 TOPS	42 SEATS
21 ea.	BAR STOOLS	21 SEATS
57 ea.	TOTAL TABLES	
TOTAL CAPACITY = 287 SEATS		

1/4" = 1'-0"

PACKET 16.9 June 13, 2023

EXHIBIT "A"

XXXXXXXX.X

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TEXAS ROADHOUSE INC.

TEXAS ROADHOUSE
6040 DUTCHMANS LANE
LOUISVILLE, KY 40205

Bubba's 33 PIZZA BURGERS & BEER
MIDLAND, TX 79707
3315 W. LOOP 250 NORTH

CONSTRUCTION SET
05.26.2016

DRAWN BY: GAM
CHECKED BY: GAM
REVISIONS: 1 08.03.2016
2 08.18.2016
AREA AND SPACE 04.24.2023

THE CONSTRUCTION DOCUMENTS SHALL CONSIST OF ALL DRAWINGS, SPECIFICATIONS, SURVEYS, SOILS REPORTS, ADDENDA AND OTHER INFORMATION AS PROVIDED TO THE GENERAL CONTRACTOR ALL ACTING AS A WHOLE. ANY WORK SHOWN ON ONE DRAWING BUT NOT ANOTHER SHALL BE TAKEN REPEATEDLY OR STAND ALONE FROM THE REMAINDER OF THE DRAWINGS. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE TO REVIEW THE ENTIRE SET OF CONSTRUCTION DOCUMENTS AND ALL ADDENDA AND SHALL REPORT ANY ERRORS OR DISCREPANCIES OR CONFLICTING INFORMATION NOT BROUGHT TO THE ATTENTION OF THE ARCHITECT PRIOR TO SUBMITTING BID SHALL BE INTERPRETED AS ATTESTING THAT THE SAME SHOULD NOT BE ANTICIPATED.

SHEET TITLE
EQUIPMENT PLAN

SHEET #
EQ-1.0

MIDLAND
Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUD-23-0056
Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Strategic Restaurant Enterprises, Inc.		Phone (502) 426-9984 Email katie.mccullum@texasroadhouse.com	
Address 6040 Dutchmans Lane	City Louisville	State KY	Zip 40205

Property Owner Printed Name: Mall at Midland Park, LLC c/o SIMON		Phone (432)694-1664 Email chris.tilleyjr@simon	
Address P.O. Box 643378	City Pittsburgh	State PA	Zip 15264

Representative *(if different from Applicant or Property Owner)* Firm: N/A Printed Name: Strategic Restaurant Enterprises, Inc.		Phone (502)426-9984 Email katie.mccullum@texasroadhouse.com	
Address 6040 Dutchmans Lane	City Louisville	State KY	Zip 40205

Street Address: 3315 W. Loop 250 North, Midland, TX 79705

Business Name: Bubba's 33

Legal Description
Lot: Seven Block: Seventeen Subdivision: Final Plat Skyline Terrace Unit 7, an addition to the City of Midland, Midland County, Texas, according to the map or plat thereof, recorded in Cabinet J, Page 80, Plat Records, Midland County, Texas.

Current Zoning: Planned District for a Shopping Center (PDSC)

Reason for Request: Revised business hours of alcohol service.

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: Full-service restaurant with sit-down bar.

Proposed/Current Days and Hours of Operation: This restaurant is currently approved for the following hours of operation (to include alcohol service): Mon-Thurs: 3pm-12am (midnight) and Fri-Sun: 11am-12am (midnight)

Proposed Days and Hours of Alcohol Service: This restaurant is requesting the following hours of operation (to include alcohol service): 11am-12am (midnight) seven days a week.

Total Square Footage of Business: 7738sf + 950 sq ft of patio area

Square Footage of Alcohol Serviceable Area: 7738sf + 950 sq ft of patio area

Restroom Fixtures:			
Men	**Toilets/Urinals:** 1 / 2	**Bathroom Sinks:** 2
Women	**Toilets:** 3	**Bathroom Sinks:** 2

* Additional Unisex Restroom: 1 toilet and 1 bathroom sink*

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing: *Parking *Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature): _____ Date: 4/1/2023

Applicant (printed): Strategic Restaurant Enterprises, Inc. By: Christopher Colson/Secretary

Property Owner (signature): _____ Date: 4/3/2023

Property Owner (printed) : Mall At Midland Park, LLC, By:

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute application on behalf of property owner, agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Natalie Jett who, being by me duly sworn, upon oath says: That (s)he is authorized by Simon Property Group, 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. Bailey Stoneman

Subscribed and sworn to before me, this 3rd day of April, 2023, to certify which witness my hand and seal of office.

BAILEY STONEMAN
Notary Public, State of Texas
Comm. Expires 02-23-2027
Notary ID 134216374

Bailey Stoneman

Notary Public

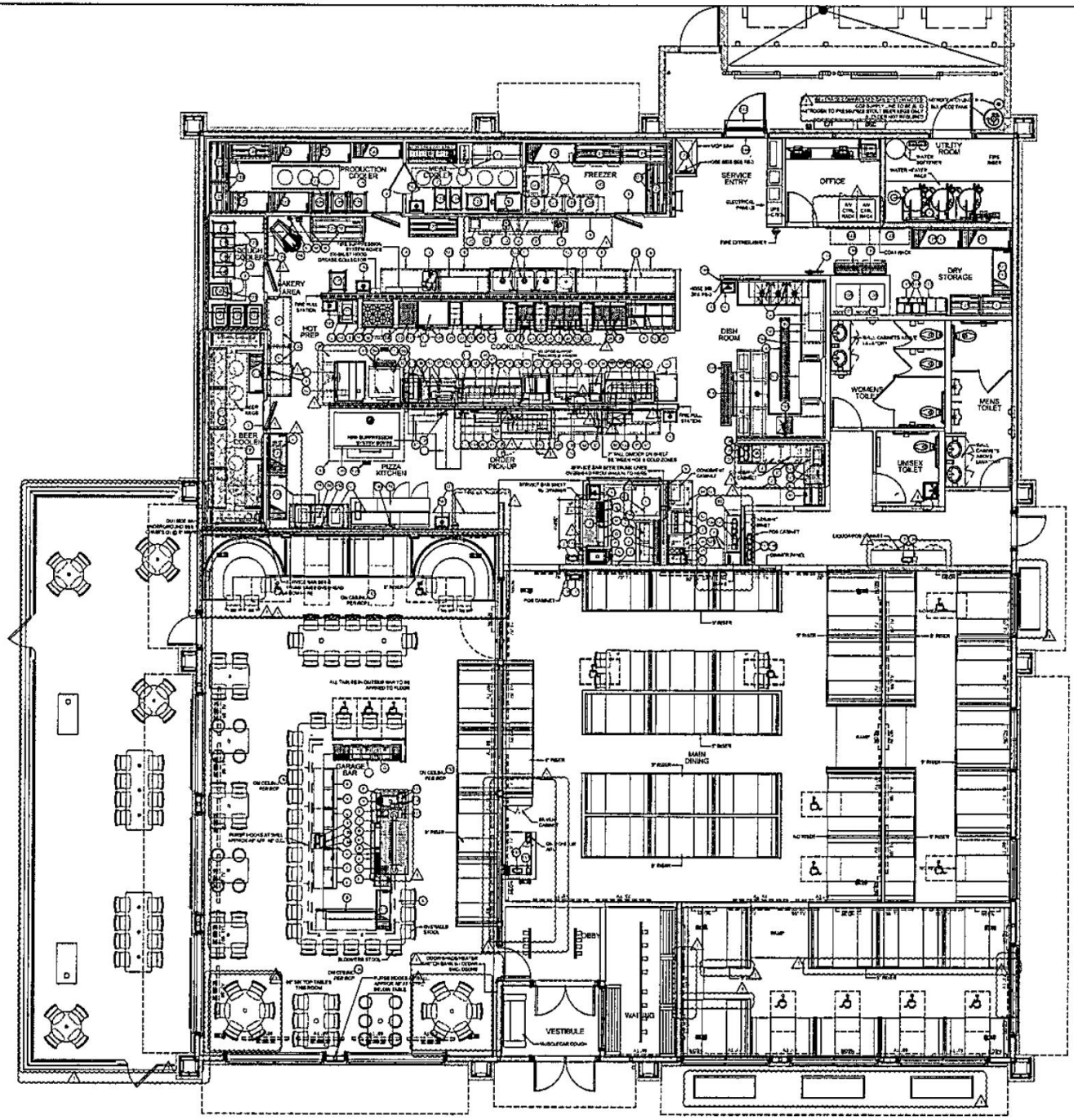
FOR OFFICE USE ONLY

- ☒ Property Owner Authorization
- ☒ Application Fee
- Check # 1129949
- ☒ Dimensioned Floor Plan
- ☒ Site Plan
- ☐ Plans in Digital Format (PDF/JPEG)

Received By: _____ Date: _____

RECEIVED
APR 05 2023
BY: .....

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



EQUIPMENT LIST

ITEM #	DESCRIPTION
1A	WALK-IN COOLER
1B	WALK-IN PRODUCTION COOLER
1C	WALK-IN BAR COOLER
1D	WALK-IN FREEZER
1E	WALK-IN BEER COOLER
2	CONTROL BOX CHILLER SYSTEM
3	10x10 S.S. SHELVING
4	5FT-6x30" HIGH S.S. BACKSPLASH & S.S.
5	48"H S.S. WORKBENCH
6	5 S.S. DOOR 72"W x 30"D x 84"H S.S.
7	5 S.S. DOOR 72"W x 30"D x 84"H S.S.
8	5 S.S. DOOR "ALL 84" H" BACKSPLASH & S.S.
9	10x10 RACKS
10	5 S.S. DOOR "ALL 84" H" TOP S.S.
11	3 S.S. TABLE 84"W x 30"D WORKBENCH
12	10x10 SHELVING
13	WOOD PROCESSOR
14	WOOD PROCESSOR
15	36" WELL CPU
16	STEAM CAPTAIN 4 BIN
17	STEAM CAPTAIN 36"
18	48" MARKER TABLE W/ DRAWER & S.S.
19	10x10 SHELVING
20	10x10 RACKS
21	AMERICRAFT FRYER W/ FILTER
22	72" S.S. DOUBLE PREP SINK W/ FAUCET
23	72" S.S. DOUBLE PREP SINK W/ FAUCET
24	24" DUMP SINK
25	QUICK BRASS HOT DOG WATER
26	48" MARKER TABLE W/ DRAWER & S.S.
27	10x10 SHELVING
28	10x10 SHELVING
29	84" S.S. TABLE W/ 20" BACKSPLASH & S.S.
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A	30" SHELVING UNIT
B	12" SHELVING UNIT
C	18" SHELVING UNIT
D	48" SHELVING UNIT
E	24" SHELVING UNIT
F	36" SHELVING UNIT
G	60" SHELVING UNIT
H	72" SHELVING UNIT
I	84" SHELVING UNIT
J	96" SHELVING UNIT
K	108" SHELVING UNIT
L	120" SHELVING UNIT
M	132" SHELVING UNIT
N	144" SHELVING UNIT
O	156" SHELVING UNIT
P	168" SHELVING UNIT
Q	180" SHELVING UNIT
R	192" SHELVING UNIT
S	204" SHELVING UNIT
T	216" SHELVING UNIT
U	228" SHELVING UNIT
V	240" SHELVING UNIT
W	252" SHELVING UNIT
X	264" SHELVING UNIT
Y	276" SHELVING UNIT
Z	288" SHELVING UNIT

FIRE PROTECTION NOTE

FIRE EXTINGUISHERS TO BE PROVIDED HAVING A MINIMUM RATING OF 2A-10BC (TYP. FROM 3000 SQ. FEET OF FLOOR AREA. TRAVEL DISTANCE TO EXTINGUISHER NOT TO EXCEED 75 FEET. ALL EXTINGUISHERS SHALL BE CONSPICUOUSLY LOCATED AND READILY ACCESSIBLE. NO ITEM OF EXTINGUISHER SHALL BE MORE THAN 5' ABOVE FLOOR AND THE BOTTOM OF NOT LESS THAN 4 INCHES ABOVE FLOOR. NFPA 10, 6.1.5, 6.2.1.1

PROVIDE 6 "K" CLASS FIRE EXTINGUISHER PER COOKING OPERATION

FIRE EXTINGUISHERS SHALL BE INSPECTED AND TAGGED BY A STATE CERTIFIED FIRE EXTINGUISHER COMPANY. NFPA 10-6.3

SEE FLOOR PLAN FOR SUGGESTED LOCATIONS OF FIRE EXTINGUISHERS

7738 TOTAL SQUARE FEET

1/4" = 1'

xxxxxxxx.x

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Bubba's 33

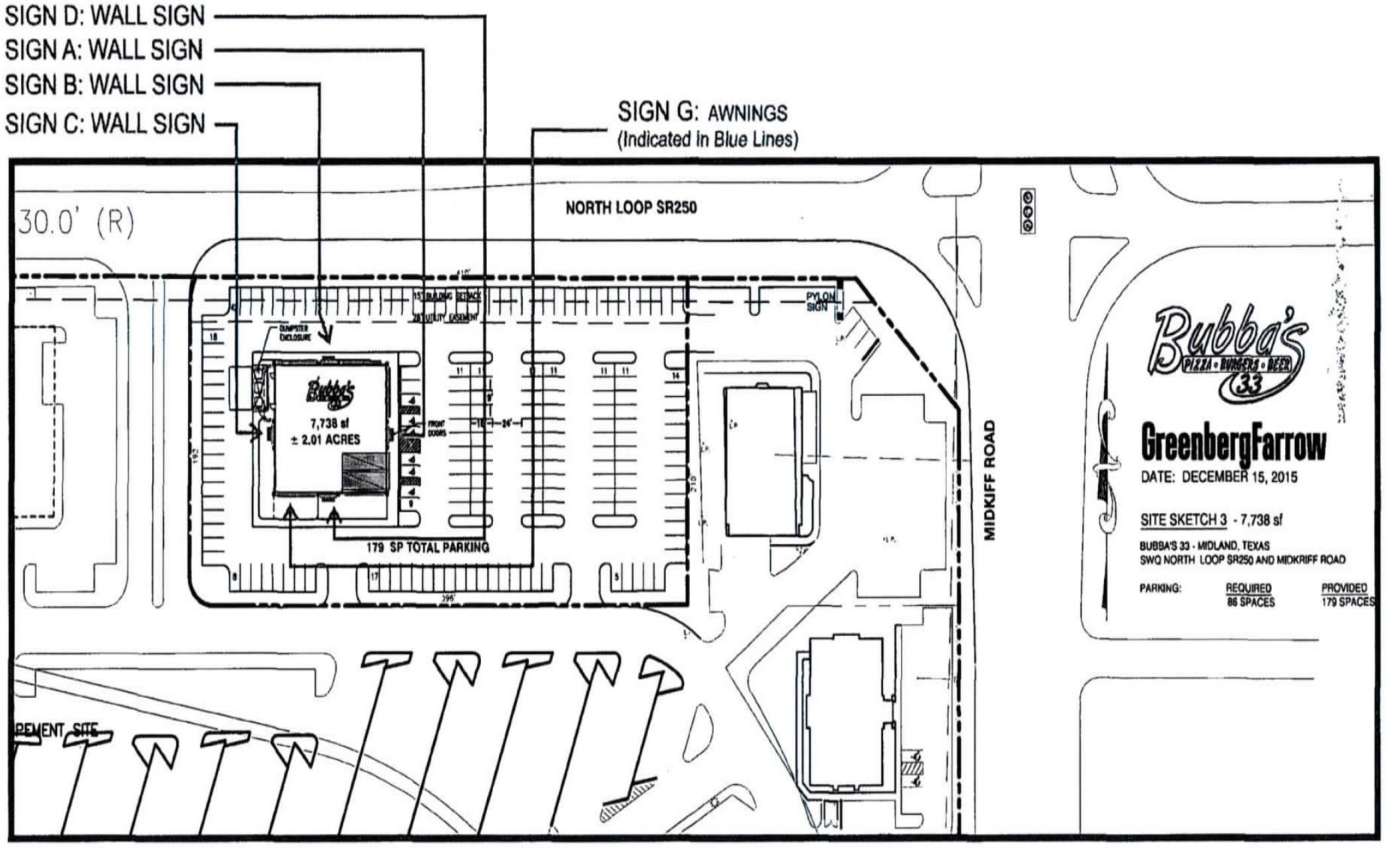
3315 W. LOOP 250 NORTH
MIDLAND, TX 79707

CONSTRUCTION SET
05.26.2016

DRAWN BY: GAM
CHECKED BY: GAM
REVISIONS 1 06.03.2016

SHEET TITLE
EQUIPMENT PLAN

SHEET #
EQ-1.0



SIGN PLACEMENT

FEDERAL HEATH SIGN COMPANY
www.FederalHeath.com
160 W. Carmel Drive, Suite 236 Carmel, IN 46032
(317) 581-7790 Fax (317) 581-7783

Building Quality Signage Since 1901

Revisions:
R1:2/29/16-SM-Removed sign Cabinets and replaced with Channel lettersets. Deleted Freestanding sign.

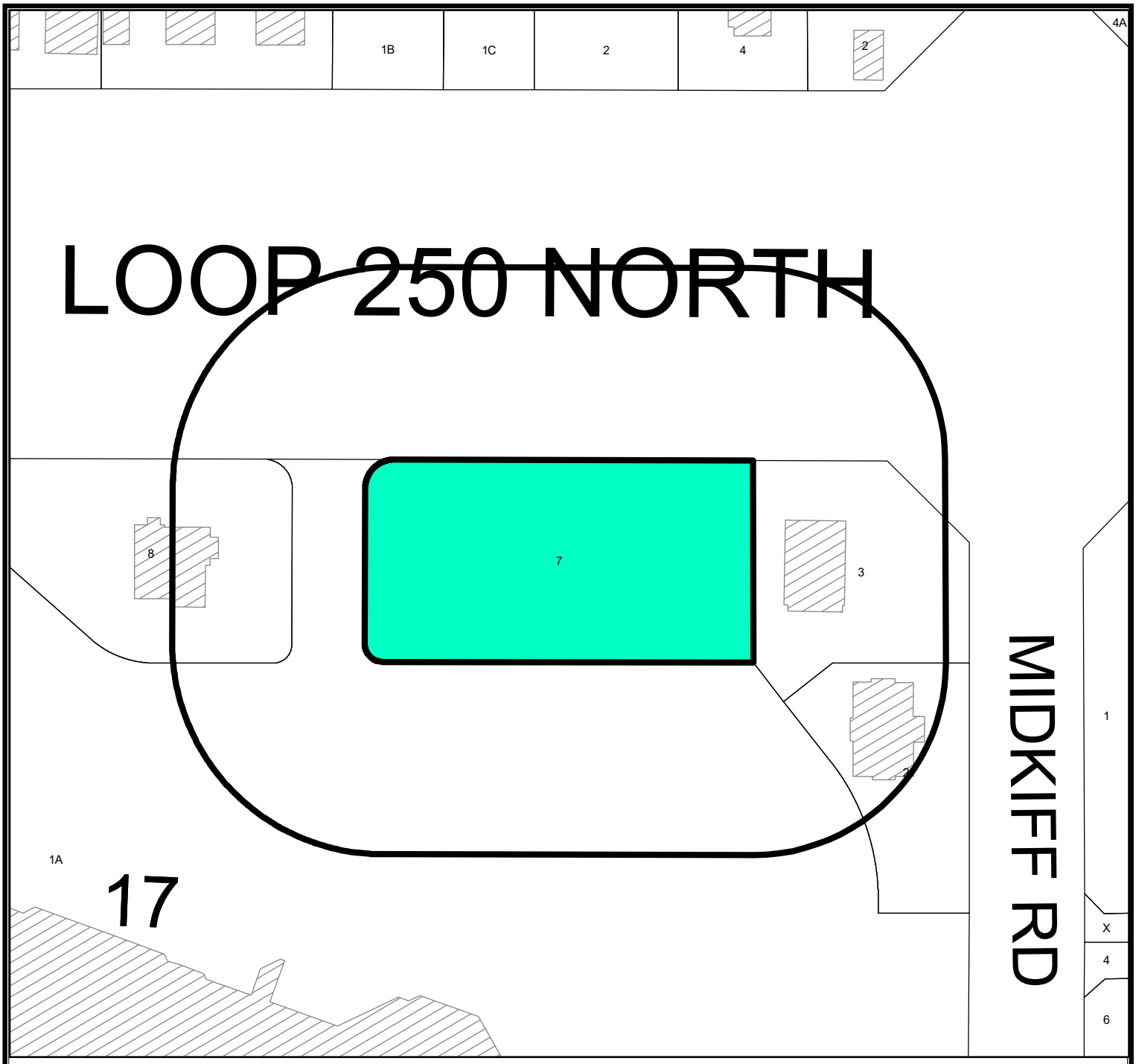
Client Approval/Date:
Landlord Approval/Date:

Account Rep: Randy Cearlock
Project Manager: S. Maeser
Drawn By: S. Maeser

Project / Location:
Bubba's
MIDLAND, TX

Job Number: 23-34945-10
Date: February 8, 2016
Sheet Number: 1 OF 6
Design Number: 23-34945-10R1

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LOCATION MAP

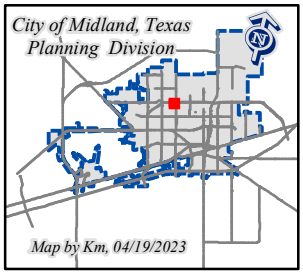
SUD-23-0156 **Scale: 1" = 200'**

Consider a request by Strategic Restaurant Enterprises, Inc. for a Specific Use Designation with Term for the sale of all alcoholic beverages for on-premises consumption, in a restaurant, on Lot 7, Block 17, Skyline Terrance, Unit 7, City and County of Midland, Texas.

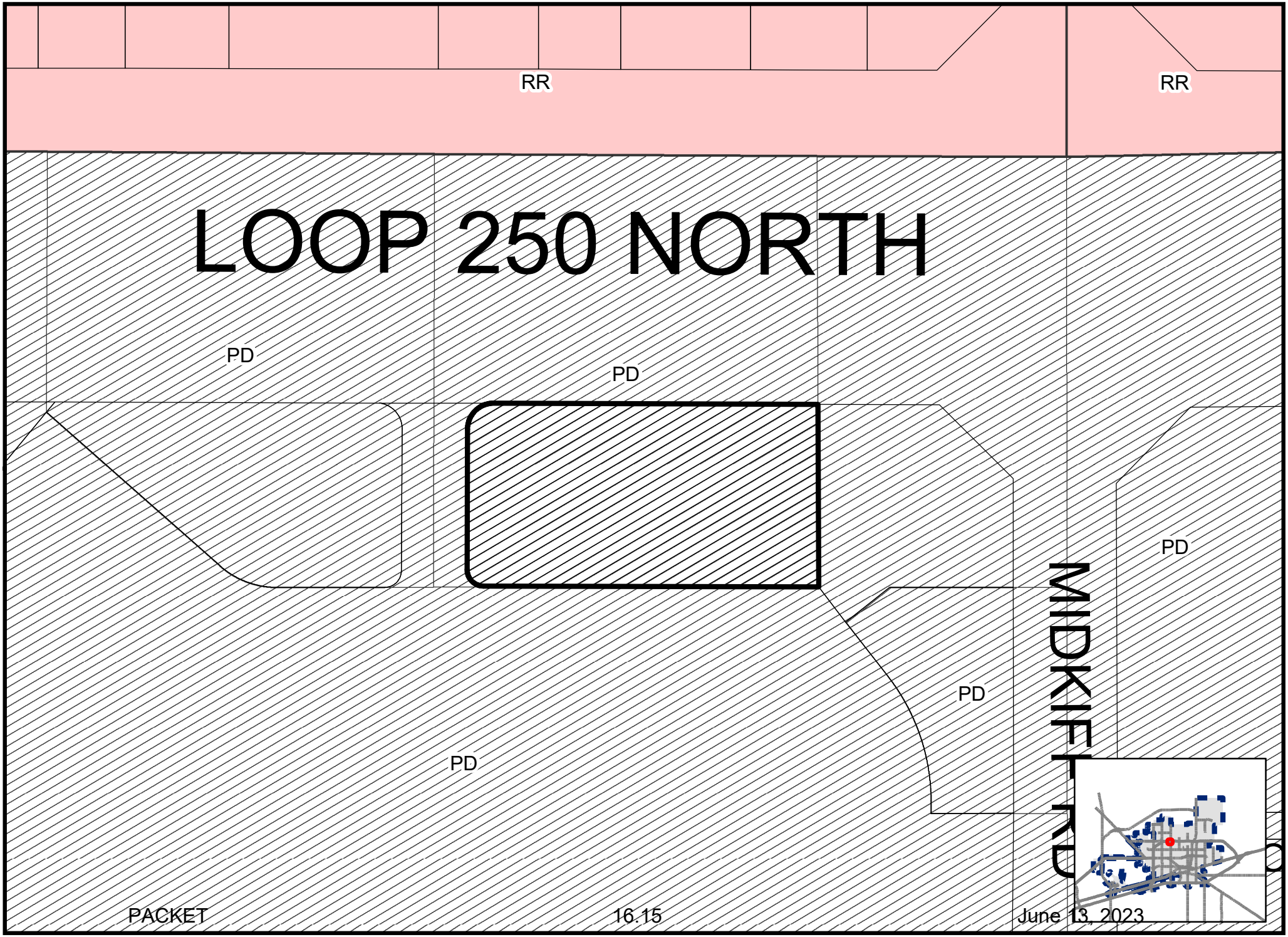
Generally located on the south side of West Loop 250 North, approximately 220-feet west of North Midkiff Road. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND NOR IS IT DESIGNED TO BE USED AS THE ONLY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By KM, 04/20/23

SUD-23-0156

Scale: 1" = 200'

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.


Bubba's
PIZZA • BURGERS • BEER
33
FDC






LONGHORN
STEAKHOUSE

City Council Meeting

Item Number: 17

Meeting Date: May 23, 2023, June 13, 2023

To: City Council / City Manager

From: Jeffrey Fisher, Planning Manager

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,472-SQUARE FOOT PORTION OF LOT 2B, BLOCK 52, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LONGVIEW AVENUE, APPROXIMATELY 267 FEET EAST OF SOUTH BELMONT STREET), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Karen Rodriguez, is requesting a Specific Use Designation (SUD) with Term for Alcoholic Beverages Sales for On-Premises Consumption, in a restaurant.

Recommended City Council Action:

Approve

Fiscal Impact:

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

Discussion:

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The properties to the north are zoned O-1, Office District, SF-1, Single-Family Dwelling District, SF-3, Single-Family Dwelling District, and the location of undeveloped property and residences. The property to the east is zoned PD, Planned Development District for a Shopping Center, and the location of a hotel. The property to the south (across Longview Avenue) is zoned PD, Planned Development District for a Shopping Center, and the location of retail. The properties to the west are zoned RR, Regional Retail District and the location of office and retail uses.

Analysis:

The subject property is zoned RR, Regional Retail District. The RR, Regional Retail District allows Alcoholic Beverages Sales for On-Premises Consumption with the approval of a Specific Use Designation. The restaurant is 2,472-square feet and the proposed alcohol serviceable area is 1,029-square feet. The site has adequate parking for a restaurant which requires 16 parking spots which are accounted for in a shared parking agreement for the shopping center.

The proposed hours of operation are:

Monday through Friday from 7 a.m. to 2 a.m.
Saturday and Sunday from 8 a.m. to 2 a.m.

The proposed hours of alcohol service are:

Monday through Sunday from 10 a.m. to 2 a.m.

Per Midland City Code Section 5.4.4. –Prohibited place of business

> *The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public school, public school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.*

There are no churches, private schools, public schools, public school grounds, athletic stadiums, or public hospitals within 300 feet measurement along the property lines of the street fronts, and from the front door in a direct line across the intersection where they occur within this site.

This project has been circulated to all City departments for review. Below are the departments'

comments.

Fire: (Approved)

No objection to zone change request.

Engineering: (Approved)

No objections to zoning/zone change. [For Applicant's Information Only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant's Information Only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Building Code: (Approved)

The SUD for Gorditas Don Elver is acceptable. The property must adhere to the maximum occupant load of 68 for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

The request complies 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) Gorditas Don Elver is an establishment that promotes a positive environment where Midland residents can gather and socialize to build connections.

Staff recommends approval of the request of the Specific Use Designation with Term for Alcoholic Beverages Sale for On-Premises Consumption in a restaurant, subject to Conditions A through E.

Conditions:

A. That the alcohol serviceable area shall be limited to 1,029± square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the days and hours of alcoholic beverages sales and consumption shall be limited to:

Monday through Sunday from 10:00 a.m. to 2:00 a.m.

C. **That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.**

D. **That the establishment shall meet all requirements of the Fire Department and Code Administration.**

E. **That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.**

Letters of Objection:

As of May 10, 2023, staff have not received any letters of objection.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan
Maps

Morris Williams Jr.

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 2,472-SQUARE FOOT PORTION OF LOT 2B, BLOCK 52, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LONGVIEW AVENUE, APPROXIMATELY 267 FEET EAST OF SOUTH BELMONT STREET), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 2,472-square foot portion of Lot 2B, Block 52, Belmont Addition, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and

restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 1,029 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 Monday through Sunday from 10:00 a.m. to 2:00 a.m. of the following day.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

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., 2023; 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., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

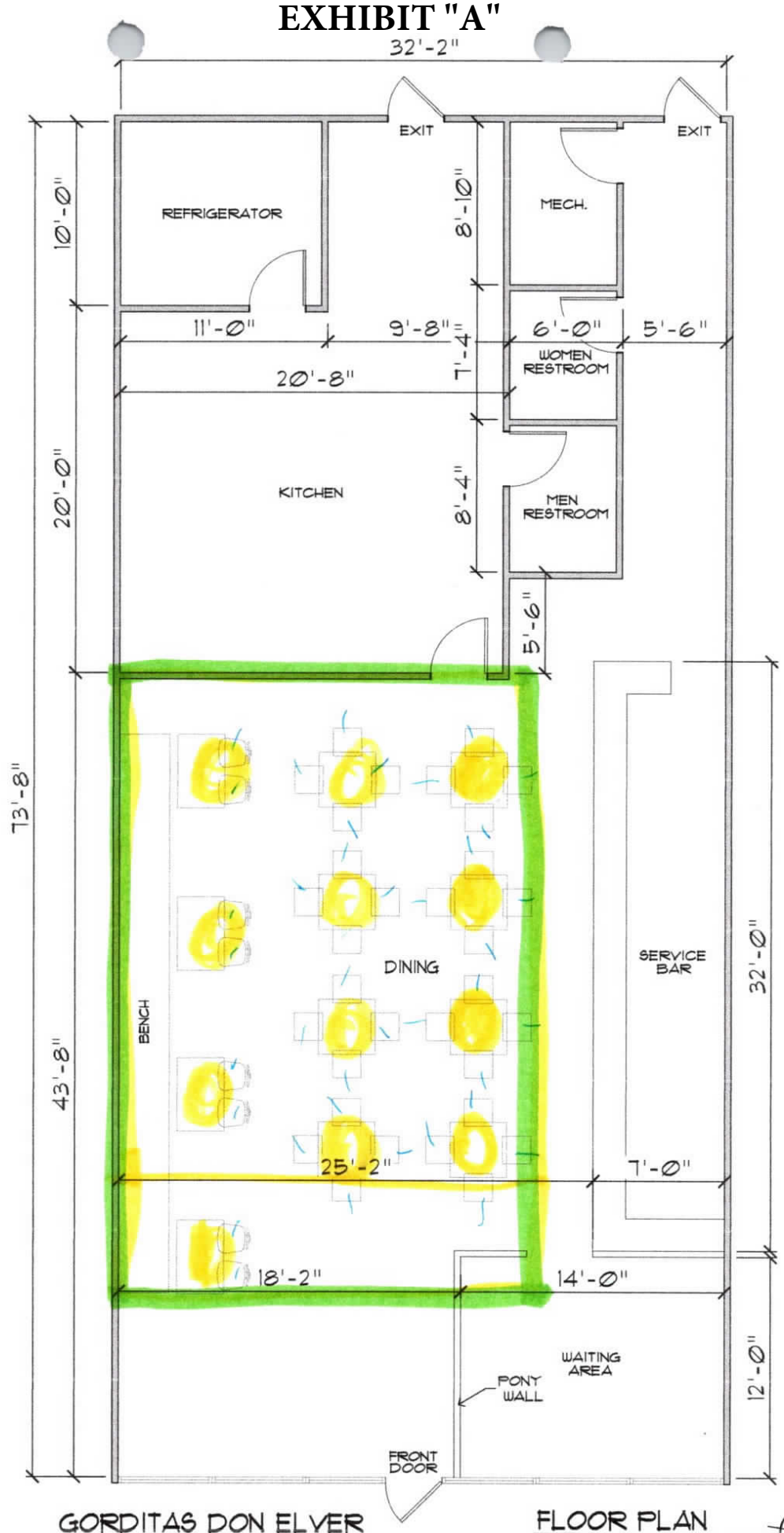
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"



GORDITAS DON ELVER
ALEX MARTINEZ. CELL:(254) 535-1931
210 W. LONGVIEW AVE. SUITE "G". MIDLAND, TEXAS 79701

FLOOR PLAN
TOTAL: 2,370 SQUARE FT.
NOT TO SCALE

DATE: 3-21-23

MIDLAND Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUD-23-0155

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Karen Rodriguez.		Phone (915) 841-9453 Email Goditaslonelver@gmail.c	
Address: 210 W. Longview ste 6	City: Midland	State: TX	Zip: 79701
Property Owner Printed Name: Longview Avenue LLC		Phone (918) 978-3366 Email midlandcrossing@gmail.com	
Address: 10213 S 88th East Ave.	City: Tulsa	State: OK.	Zip: 74133
Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 210 W. Longview ste 6.

Business Name: Goditas Don Elver.

Legal Description
Lot: 2 B Block: 52 Subdivision: Belmont Addition ~~Midland Crossing Shopping Center~~

Current Zoning: ~~COMMERCIAL~~ RR

Reason for Request: New building

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: Restaurant.

Proposed/Current Days and Hours of Operation:
MON-FRI 7am-2am SAT-SUN 8am-2am

Proposed Days and Hours of Alcohol Service:
MON-SUN 10am-2am

Total Square Footage of Business: 2472

Square Footage of Alcohol Serviceable Area: 1029.3 SQF.

Restroom Fixtures:	*Men*	**Toilets/Urinals:**	1 /	**Bathroom Sinks:**	1
	Women	**Toilets:**	1	**Bathroom Sinks:**	1

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

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seati
  - Exits
  - Restr
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing:
  - Parking
  - Business Footprint

Signatures	
Applicant (signature): Karen	Date: 3-22-23.
Applicant (printed): Karen Rodriguez.	
Property Owner (signature):	Date:
Property Owner (printed) :	

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 Karen Rodriguez 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.

Karen
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 30 day of MARCH, 2023, to certify which witness my hand and seal of office.

NOTARY PUBLIC STATE OF TEXAS
Joyce F Crosby
Notary Public, State of Texas
Notary ID 870596-6
My Commission Exp. 05-18-2023

Joyce F. Crosby
NOTARY PUBLIC, MIDLAND COUNTY, TEXA

FOR OFFICE USE ONLY

☐ Property Owner Authorization	☐ Dimensioned Floor Plan
☐ Application Fee	☐ Site Plan
Check #_____	☐ Plans in Digital Format (PDF/JPEG)

RECEIVED
MAR 30 2023
BY: .....

Received By:_____ Date:_____

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

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): Karen R	Date: 3-27-23
Applicant (printed): Karen Rodriguez	
Property Owner (signature): [signature]	Date: 3/28/23
Property Owner (printed): KIRAN PONNAM	

If an agent is authorized by the property owner to file and execute application on behalf of property owner, agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared _____ 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.

_____

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

_____

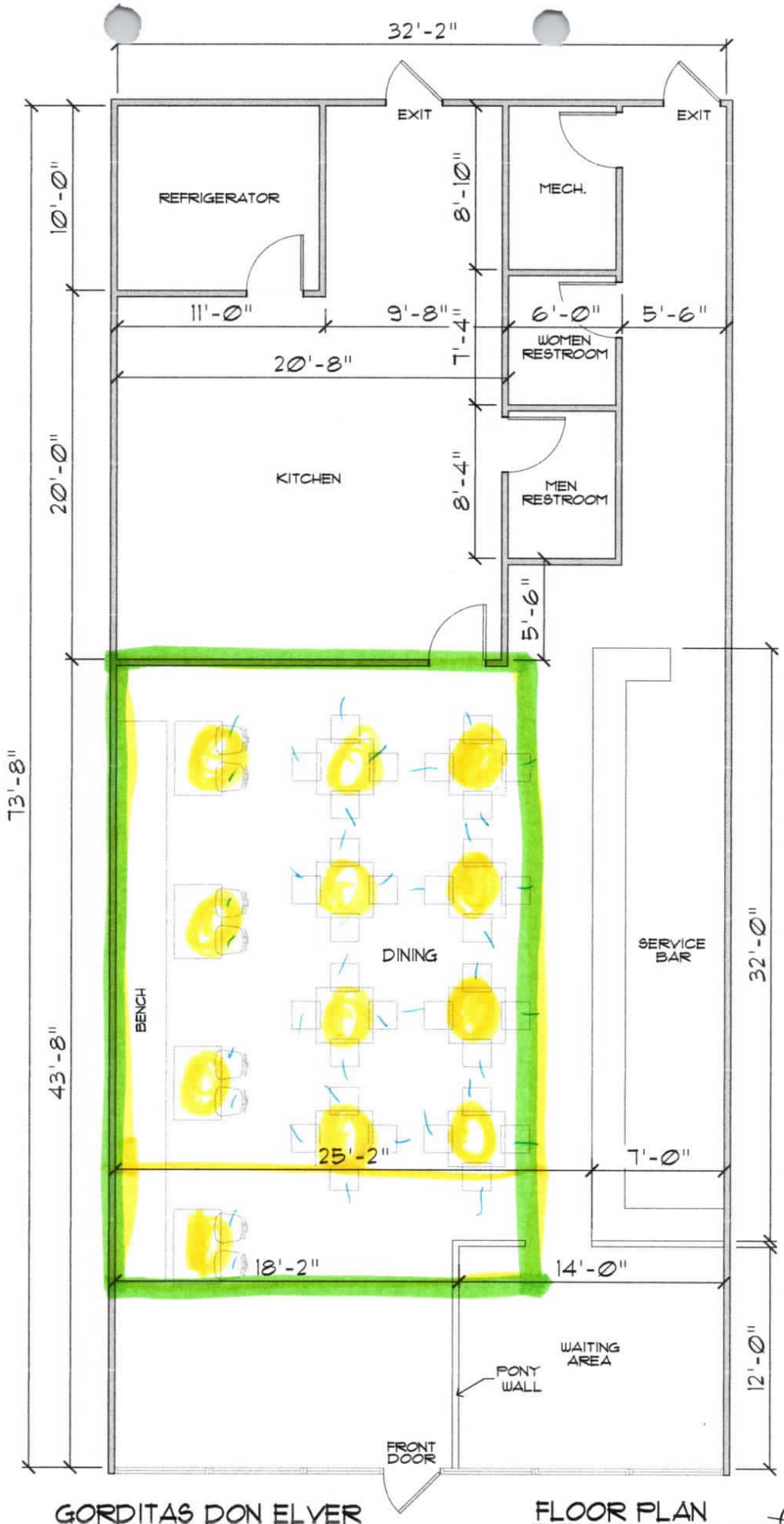
Notary Public

FOR OFFICE USE ONLY

- ☒ Property Owner Authorization
- ☒ Application Fee
- Check # 1280
- Received By: DBT
- ☒ Dimensioned Floor Plan
- ☒ Site Plan
- ☐ Plans in Digital Format (PDF/JPEG)
- Date _____

RECEIVED
MAR 30 2023
BY: .....

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

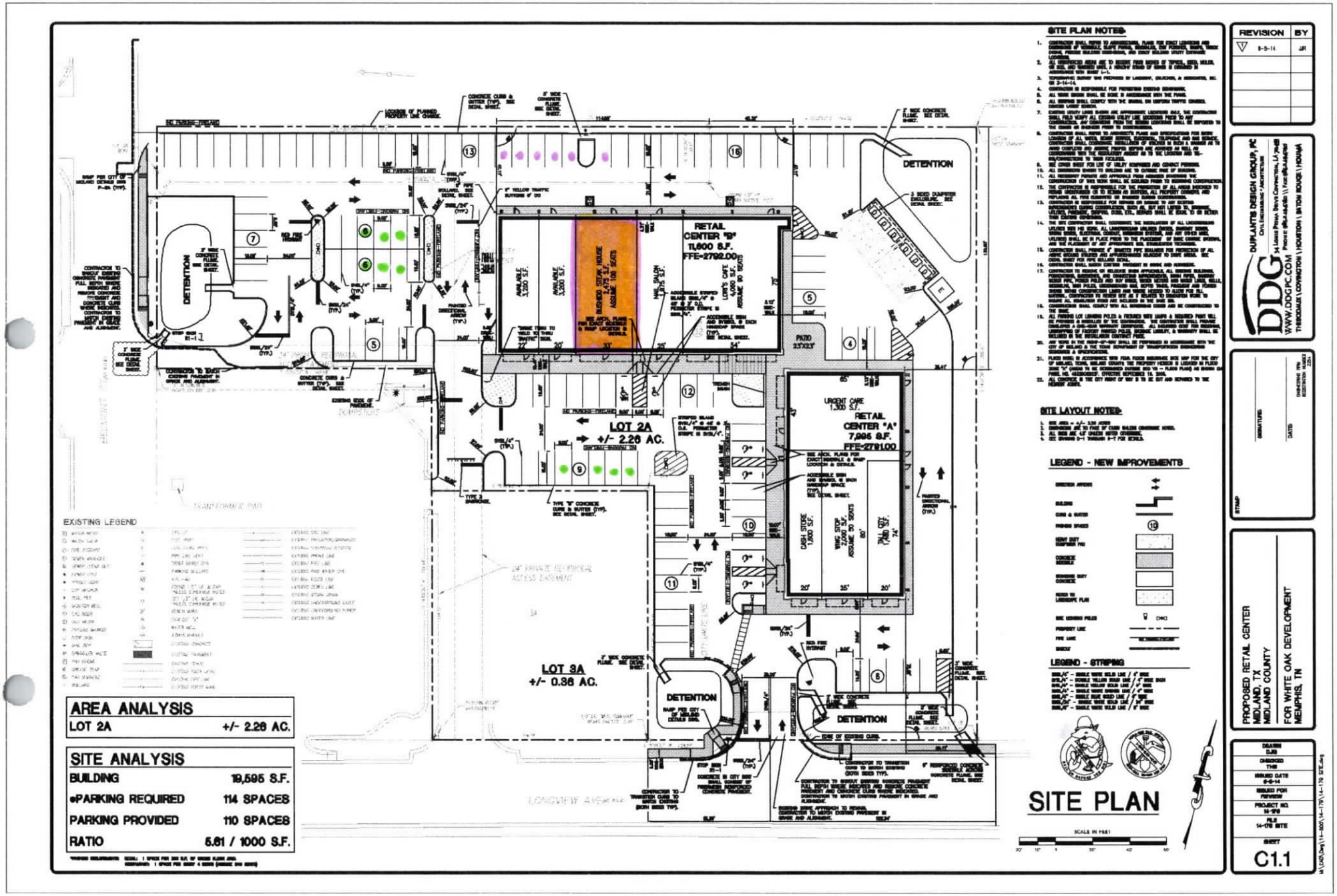


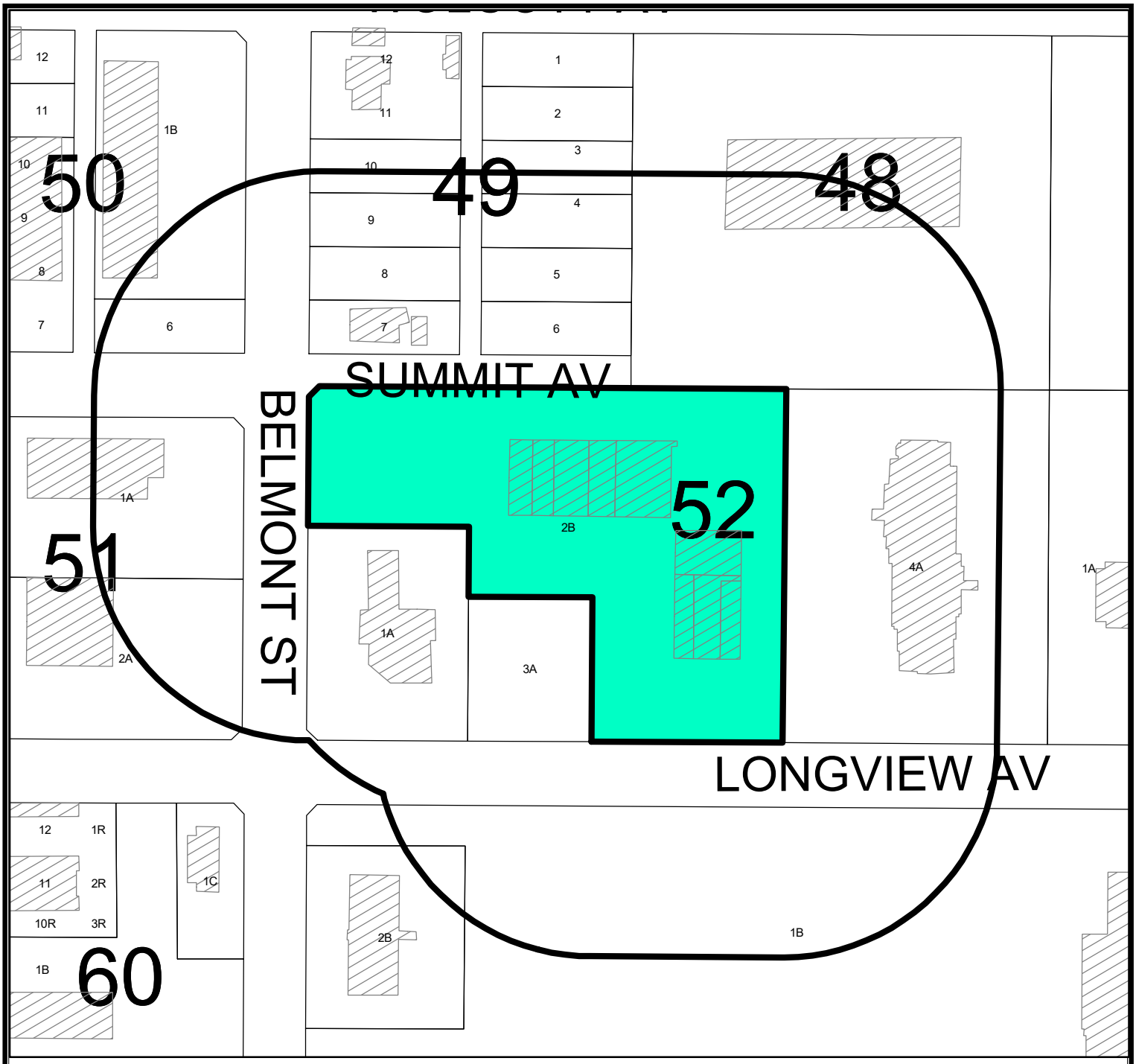
40 seats

GORDITAS DON ELVER
ALEX MARTINEZ. CELL:(254) 535-1931
210 W. LONGVIEW AVE. SUITE "G". MIDLAND, TEXAS 79701

FLOOR PLAN
TOTAL: 2,370 SQ. FT.
NOT TO SCALE

DATE: 3-21-23


SITE PLAN NOTES
SITE LAYOUT NOTES
LEGEND - NEW IMPROVEMENTS
LEGEND - STRIPING
EXISTING LEGEND
RETAIL CENTER "B" 11,600 S.F. FFE=279.2.00
RETAIL CENTER "A" 7,995 S.F. FFE=278.00
URGENT CARE 1,300 S.F.
LOT 2A +/- 2.26 AC.
LOT 3A +/- 0.36 AC.
DETENTION
PATIO 2,370 S.F.
AREA ANALYSIS
LOT 2A +/- 2.26 AC.
SITE ANALYSIS
BUILDING 19,595 S.F.
•PARKING REQUIRED 114 SPACES
PARKING PROVIDED 110 SPACES
RATIO 5.61 / 1000 S.F.
SITE PLAN
REVISION
BY
DUPLANTIS DESIGN GROUP, PC
DDG
WWW.DDGPC.COM
PROPOSED RETAIL CENTER
MIDLAND, TX
MIDLAND COUNTY
FOR WHITE OAK DEVELOPMENT
MEMPHIS, TN
DRAWN
DJB
CHECKED
THB
ISSUED DATE
6-5-14
ISSUED FOR
REVIEW
PROJECT NO.
14-179
FILE
14-179 SITE
SHEET
C1.1



LOCATION MAP

SUB-23-0155 **Scale: 1" = 200'**

Consider a request by Karen Rodriguez for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages, for On-Premises Consumption in a restaurant on a 2,472-square foot portion of Lot 2B, Block 52, Belmont Addition, Section 21, City and County of Midland, Texas.

Generally located on the north side of West Longview Avenue, approximately 267-feet east of South Belmont Street. - (Council District 2)

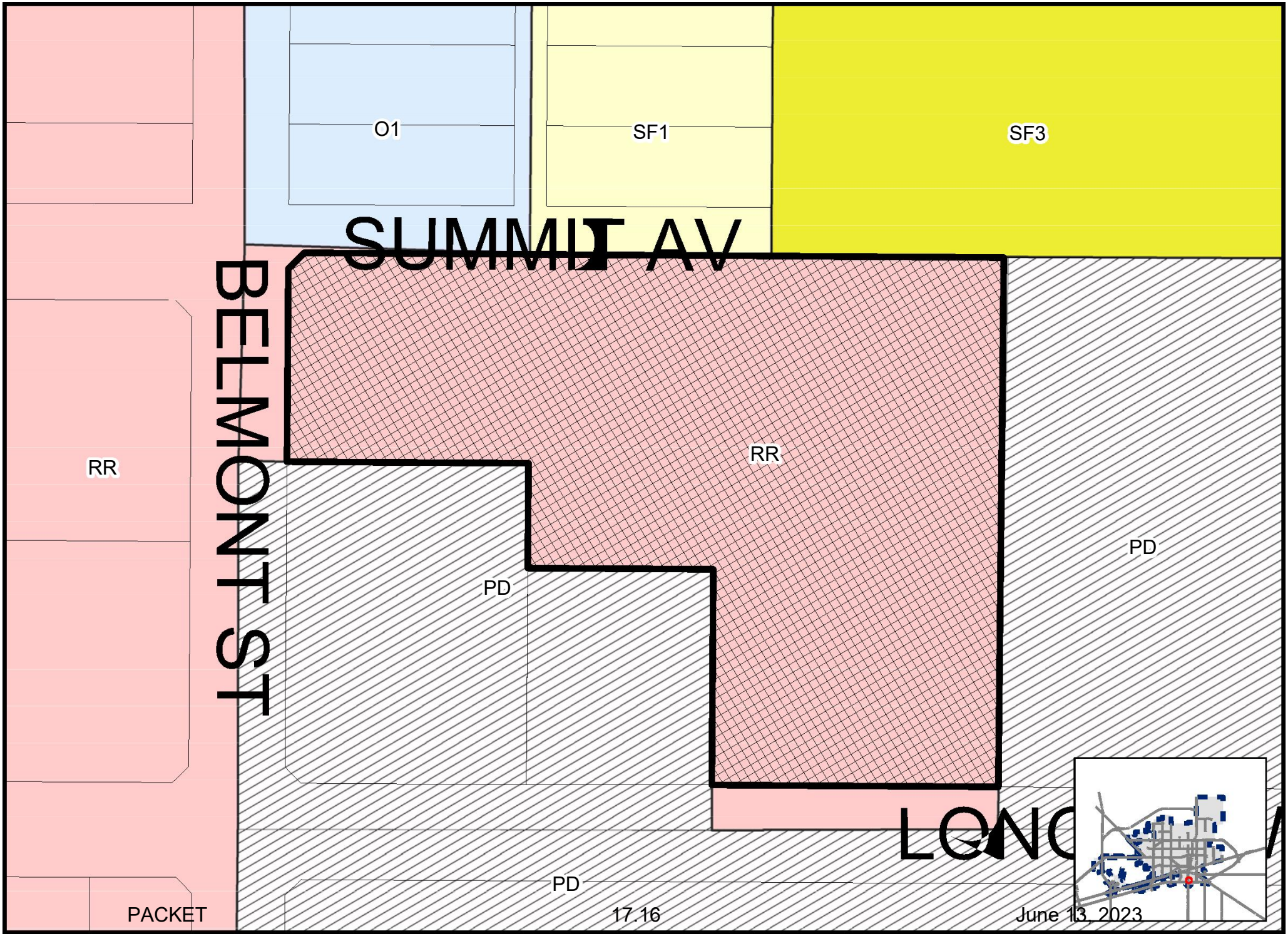
LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND NOR IS IT DESIGNED TO BE USED AS THE ONLY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

June 13, 2023



Map By AW, 4/17/2023

SUD-23-0155

Scale: 1" = 200'

ZONING MAP

UCT, NOR IS IT DESIGNED
INFORMATION CONTAINED
THE USE OF THIS DATA.


Health
Massage
Jian Kang
GORDITAS
DON ELVER
LAVENDER
NAILS & SPA
SUITE F
OPEN
MASSAGE
Walk-In
Appt Welcome
Free Hot Stone
Free Shower


REGIONAL FINANCE
WESTEX URGENT CARE
AMAX
AUTO INSURANCE





City Council Meeting

Item Number: 18

Meeting Date: May 23, 2023, June 13, 2023

To: City Council / City Manager

From: Landon Ochoa, Planner

Subject: AN ORDINANCE VACATING AND ABANDONING A 0.068-ACRE PORTION OF DOUGLAS AVENUE RIGHT-OF-WAY LOCATED ADJACENT TO LOT 1 BLOCK 1, ORTLOFF ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 220 FEET WEST OF THE INTERSECTION OF WESTCLIFF DRIVE AND DOUGLAS AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $5,924.00; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT 3) (DEVELOPMENT SERVICES)

Purpose:

Mike Black is requesting to vacate a 0.068-acre portion of the Douglas Avenue cul-de-sac, located adjacent to Lot 1, Block 1, Ortloff Addition, Section 2, City and County of Midland, Texas, to extend Douglas Avenue.

Recommended City Council Action:

Approve

Fiscal Impact:

The 2023 appraised value of the right-of-way is $2.00 per square foot, for a total value of $5,924.

Discussion:

The approximated area that will be vacated is 2,974 square feet (0.068-acres).

This request is related to the replat of Ortloff Addition, Section 8 which is currently in the preliminary phase and was approved on March 20, 2023 by the Planning & Zoning Commission.

This request has been circulated and reviewed by all pertinent City departments and franchise utility companies. Their comments, conditions, and requests are as follows:

Code Compliance: (Approved)

No oil and gas issues.

Building Code: (Approved)

No objections.

Engineering: (Approved)

No objections to vacation. Applicant shall be responsible for relocating any utilities, if existing, or providing easements as needed.

Fire: (Approved)

No objections.

Transportation: (Approved)

No objections to vacation. Applicant shall be responsible for relocating any utilities, if existing, or providing easements as needed.

GIS: (Approved)

No comments.

AT&T: (Approved)

AT&T is clear of conflict and has no facilities at this location. AT&T will relinquish the utility easement to Cornerstone Housing Group.

Atmos: (Approved)

Atmos Energy has no objection to the proposed vacate of Douglas Ave. west of Westcliff Drive as referenced above. We currently have no gas lines or facilities located within this section of right of way.

Astound: (Approved)

After looking at our maps, it seems that we do not have any communications going through that section.

Oncor:

No comments received.

Suddenlink: (Approved)

We do not have any plant in this area, as the cul-de-sac was never built. We are okay with vacating this portion of the cul-de-sac.

Planning:

Pertinent City departments and franchise utility companies have reviewed this vacation request and have approved the request.

Therefore, staff recommends approval of the vacation of a 0.068-acre portion of the Douglas Avenue right-of-way, located adjacent to Lot 1, Block 1, Ortloff Addition, Section 2, City and County of Midland, Texas, to extend Douglas Avenue subject to conditions A through C.

Conditions:

A. **That the value of the property shall be $5,924.**

B. **That a replat of the subject property is approved by the City of Midland and filed and recorded with the County Clerk of Midland County.**

Letters of Objection:

As of May 22, 2023, staff has not received any letters of objection to this request.

Attachments:

Vacation Survey (Exhibit A)
Application
Maps
Responses from Franchise Utility Companies

Morris William Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE VACATING AND ABANDONING A 0.068-ACRE PORTION OF DOUGLAS AVENUE RIGHT-OF-WAY LOCATED ADJACENT TO LOT 1 BLOCK 1, ORTLOFF ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 220 FEET WEST OF THE INTERSECTION OF WESTCLIFF DRIVE AND DOUGLAS AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $5,924.00; AND ORDERING

WHEREAS, it has been determined by the Midland City Council that a 0.068-acre portion of Douglas Avenue right-of-way located adjacent to Lot 1 Block 1, Ortloff Addition, Section 2, City and County of Midland, Texas, as described in Exhibit "A" attached hereto and made a part hereof for all legal purposes (the "Property"), is no longer needed for public use; and

WHEREAS, an application for vacating the Property has been received by the City from the abutting property owner; and

WHEREAS, the City Manager has appraised the value of the City's property interest in the Property at $5,924.00, as shown in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the Property;

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

SECTION ONE. That the Property is hereby vacated and abandoned for all public purposes. Provided, however, that the City is hereby abandoning only the public interest in

the Property, and this ordinance in no way affects any private easement or access easement which abutting property owners may have in the Property.

SECTION TWO. That this ordinance shall not be effective until a replat of the Property, which shall include a dedication to the City of land having a value equal to or greater than $5,924.00, is approved by the City of Midland and filed and recorded with the County Clerk of Midland County, Texas.

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 purposes of recording in the Official 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., 2023; 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 on motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____

Lori Merritt Blong, Mayor

ATTEST:

_____

Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT

AND COMPLETENESS:

_____

Charles Harrington, Director of Development Services

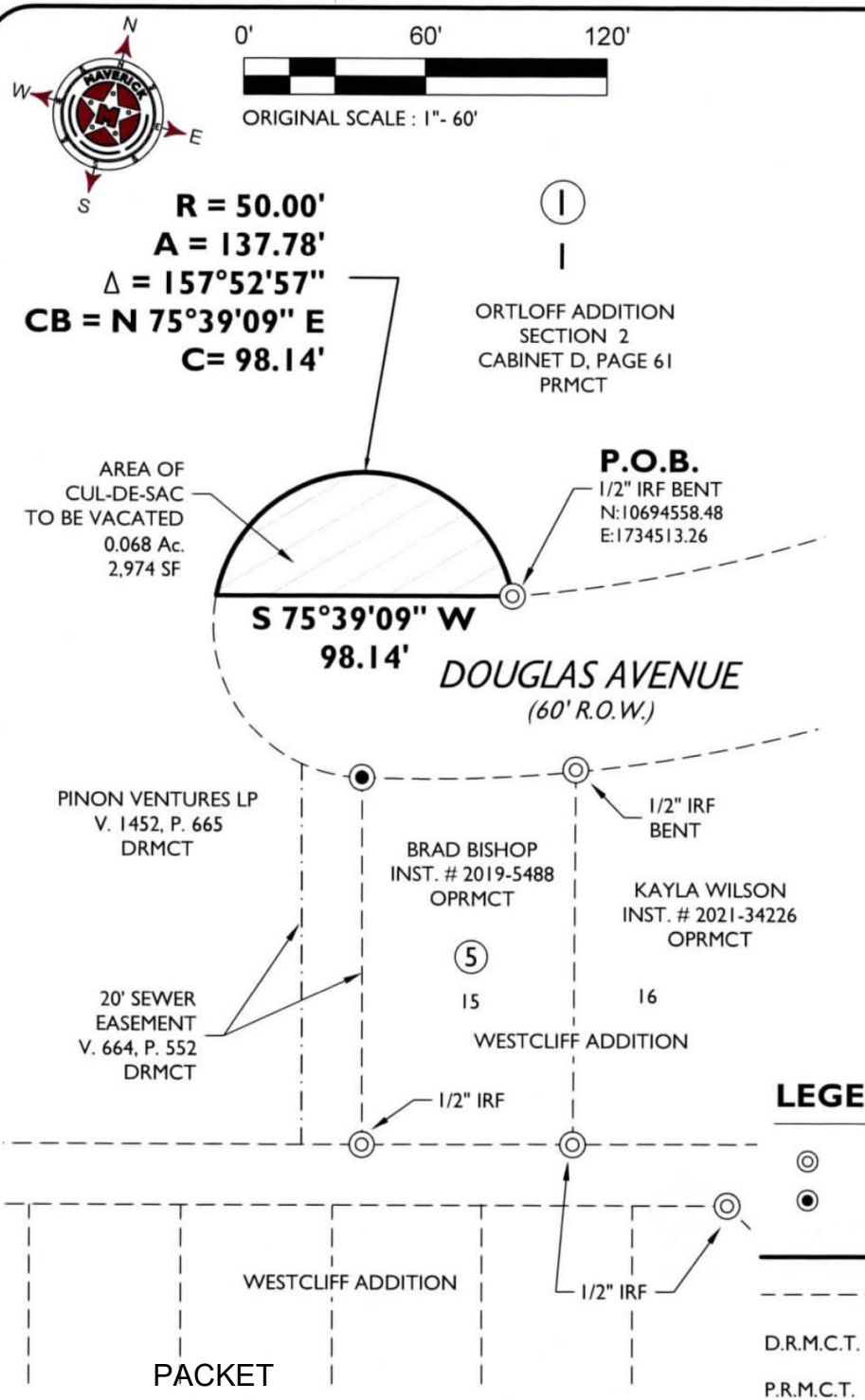
APPROVED ONLY AS TO FORM:

_____

John Ohnemiller, City Attorney

"EXHIBIT A"

OF A 0.068 ACRE TRACT OF LAND, SITUATED IN SECTION 30, BLOCK 39, T-1-S, T.&P. RY Co. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FOR THE VACATION OF A PORTION OF 50 FOOT CUL-DE-SAC AS DEPICTED ON THE PLAT OF ORTLOFF ADDITION, SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY , TEXAS



LEGAL DESCRIPTION

FIELD NOTES DESCRIPTION OF A 0.068 ACRE TRACT OF LAND SITUATED IN SECTION 30, BLOCK 39, T-1-S, TEXAS AND PACIFIC RAILWAY CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FOR THE ABANDONMENT OF A PORTION OF 50 FOOT CUL-DE-SAC AS DEPICTED ON THE PLAT OF ORTLOFF ADDITION, SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY , TEXAS RECORDED IN CABINET D, PAGE 61, PRMCT, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

***BEGINNING** AT N (y):10694558.48 E(x):1734513.26 A ONE HALF INCH IRON ROD FOUND BENT AT THE NORTHEAST TERMINUS OF SAID CUL-DE-SAC;*

***THENCE** SOUTH 75°39'09" WEST, A DISTANCE OF 98.14 FEET TO A CORNER ;*

***THENCE** WITH THE ARC OF THE CUL-DE-SAC TO THE RIGHT WITH A RADIUS OF 50.00 FEET, A DELTA ANGLE OF 157°52'57", AN ARC LENGTH OF 137.78 FEET, A CHORD BEARING OF NORTH 75°39'09" EAST, AND A CHORD DISTANCE OF 98.14 FEET TO THE **POINT OF BEGINNING**, CONTAINING 0.068 ACRES.*

BASIS OF BEARING, COORDINATES, DISTANCES AND ACREAGE IS A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NORTH AMERICAN DATUM 1983, U.S. SURVEY FOOT.

I GREGORY W. SHOULTS DO HEREBY CERTIFY THAT THIS PLAT IS BASED UPON FIELD NOTES OR ELECTRONIC DATA OF AN ACTUAL ON THE GROUND SURVEY AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

GREGORY W. SHOULTS R.P.L.S.#5356

MARCH 21, 2023



LEGEND

◎	FOUND 1/2" IRON ROD UNLESS MARKED
◉	SET 1/2" IRON ROD w/ RED PLASTIC CAP MARKED "MAVERICK FIRM # 10194514"
———	TRACT BOUNDARY
- - - - -	EXISTING LOTS
D.R.M.C.T.	DEED RECORDS MIDLAND CO. TX
P.R.M.C.T.	PLAT RECORDS MIDLAND CO. TX

MAVERICK
CIVIL ENGINEERING / LAND SURVEYING
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0989
www.Maverick-Eng.com

Drawing : F:\2022\220187-CORNERSTONE HOUSING GROUP, LLC-SENIOR FAMILY MIDLAND TEXAS\DRAWINGS\PLAT\VACATION\220187 VACATION BOUNDARY.DWG Last Saved By: AKalenak on 3/21/23

MIDLAND
Feel the Energy!

Office of the City Manager

May 15, 2023

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.068-acre portion of Douglas Avenue right-of-way located adjacent to Lot 1 Block 1, Ortloff Addition, Section 2, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is $5,924.00. Upon the City's receipt of this sum from the adjoining property owner(s), the ordinance vacating and abandoning the City's interest in the property may be recorded in the Midland County Clerk's office.

Very truly yours,

Morris Williams, Jr.
Interim City Manager

EXHIBIT "B"

300 N. Loraine Midland, TX 79701 • 432-685-7200 • Fax 432-686-6600

MIDLAND
Planning Division

Vacate Right-of-Way/Public Utility Easement/Land/Street Application

Project Number: V-23-0050

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Mike Black - Cornerstone Housing Group		Phone ( ) Email	
Address 209 S 19th St Ste 100	City Omaha	State NE	Zip 68102

Application is hereby made to the City Council to vacate the following:

- ☒ Right-of-Way
- ☐ Public Utility Easement
- ☐ Land
- ☐ Street

Description of Address: Request 0.068 acre Douglas Ave R-O-W vacation adjoining 4805 Andrews Hwy, Midland, TX TX 79703. The requested R-O-W is unimproved and is not needed when Douglas Ave extends to Idlewilde Dr as planned.

Reason for Request: The applicant requests 0.068 acres of surplus cul-de-sac area shown on Exhibit A in exchange of 0.436 acres needed to extend Douglas Ave west. The applicant will use the vacated property to develop affordable senior housing. This request complies with Sec. 272.001.(a) and Sec. 272.001.(g) of the Texas Local Government Code.

Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way: The vacated area will not serve a public purpose when R-O-W needed to extend Douglas Ave is dedicated. The vacation area does not provide nor is it needed to provide vehicular access to any adjacent property. The applicant will maintain the vacated area.

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Sealed metes and bounds description of the property to be vacated (included on the map) and total square feet of vacation. Include ownership, legal and deed information for adjacent property owners
- Digital Copies of Site Plan (PDF/JPEG)

Utility Company Approval

Clearance is needed from the following utility companies:

- City of Midland
- Atmos Energy
- Sharyland Utilities
- Oncor Electric
- AT&T
- Suddenlink Cable TV Co.
- Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained to resolve any issues that may arise.

Policies

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.

2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:

   a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.

   b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 400 feet of the affected right-of-way.

   c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

Signatures

Applicant (signature): - Mike Black		Date: 4/3/2023
Affected Property Owners:		
Signature:	Print:	Date:
Signature:	Print:	Date
Signature:	Print:	Date
Signature:	Print:	Date

The Vacation of right-of-way/public utility easement/land/street 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.

FOR OFFICE USE ONLY

☑ 1 FOLDED Copy of Survey Plat ☐ Plans in Digital Format (PDF/JPEG)

☑ Application Fee

Check # 4108 $400

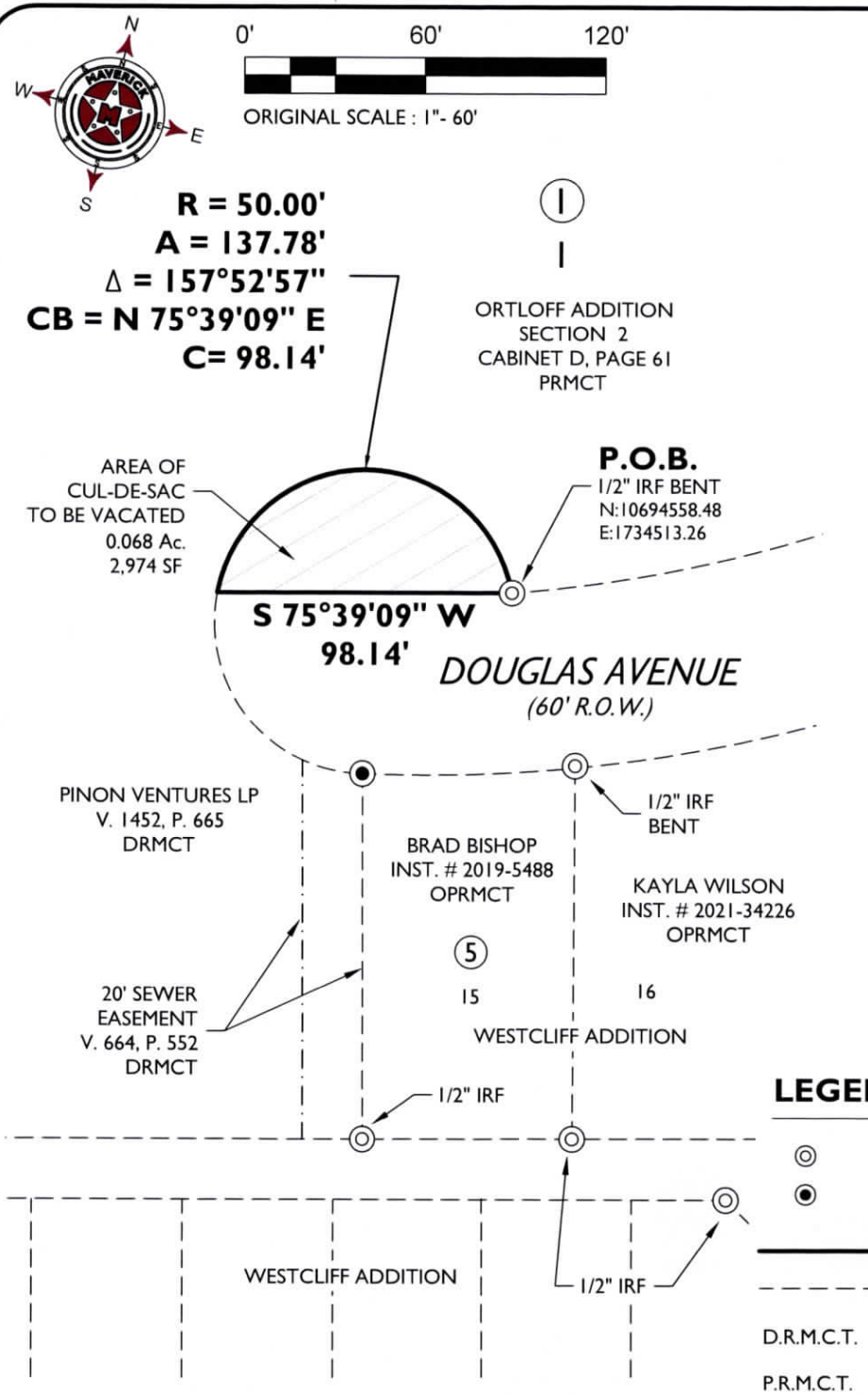
Received By: Alexandra Walling Date: RECEIVED APR 05 2023

BY: AW

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

"EXHIBIT A"

OF A 0.068 ACRE TRACT OF LAND, SITUATED IN SECTION 30, BLOCK 39, T-1-S, T.&P. RY Co. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FOR THE VACATION OF A PORTION OF 50 FOOT CUL-DE-SAC AS DEPICTED ON THE PLAT OF ORTLOFF ADDITION, SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY , TEXAS



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GREGORY W. SHOULTS R.P.L.S.#5356

MARCH 21, 2023

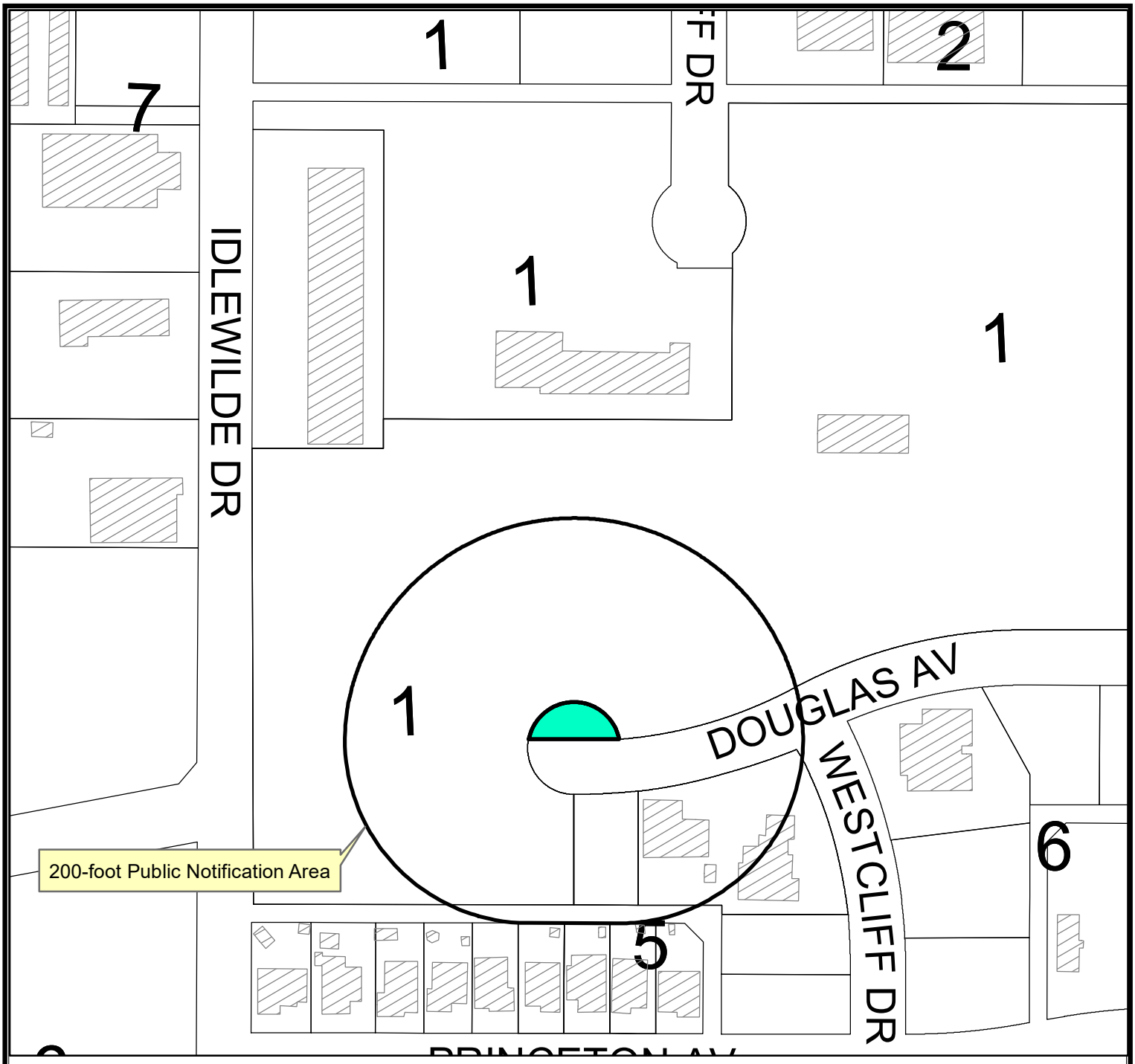
STATE OF TEXAS
REGISTERED
GREGORY W. SHOULTS
5356
PROFESSIONAL
LAND SURVEYOR

LEGEND

◎	FOUND 1/2" IRON ROD UNLESS MARKED
◉	SET 1/2" IRON ROD w/ RED PLASTIC CAP MARKED "MAVERICK FIRM # 10194514"
———	TRACT BOUNDARY
- - - - -	EXISTING LOTS
D.R.M.C.T.	DEED RECORDS MIDLAND CO. TX
P.R.M.C.T.	PLAT RECORDS MIDLAND CO. TX

MAVERICK
CIVIL ENGINEERING / LAND SURVEYING
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

June 13, 2023
18.11
PACKET



LOCATION MAP

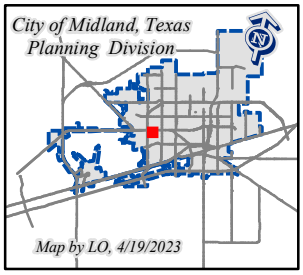
V-23-0050 **Scale: 1" = 1,862'**

Consider a request by Mike Black for a vacation of a 0.068-acre portion of the Douglas Avenue cul-de-sac, located adjacent to Lot 1, Block 1, Ortloff Addition, Section 2, City and County of Midland, Texas.

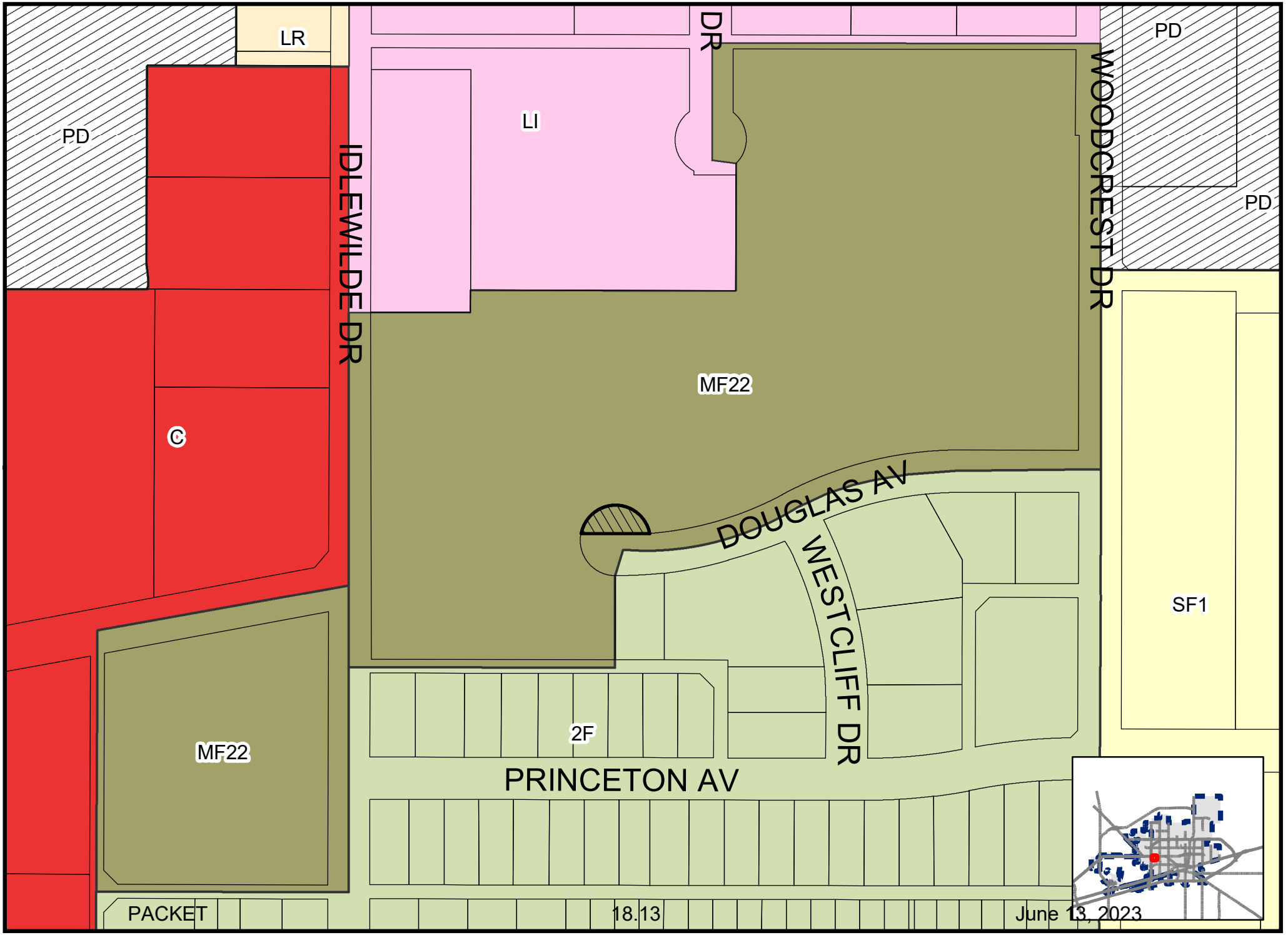
Generally located 220 feet west of the intersection of Westcliff Drive and Douglas Avenue (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By LO, 4/19/2023

V-23-0050

Scale: 1" = 2,058'

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

MIDLAND
Planning Division

April 19, 2023

Mr. Mark Lieb
Atmos Energy
P.O. Box 1111
Midland, Texas 79702

CUL-DE-SAC PORTION: Please see attached Exhibit A and map.

CASE NO.: V-23-0050
CASE NAME: Ortloff Addition, Section 8

Dear Mr. Lieb,

Mike Black has submitted a request to vacate the above described portion of a cul-de-sac (see attached exhibit). Please advise if your company has utilities within this portion of the cul-de-sac. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7405 if you have any questions. You can send your response via email to ljochoa@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Landon Ochoa

_____

Landon Ochoa
Planner
Planning Division

Attachment:
Exhibit A
Map

MIDLAND
Planning Division

April 19, 2023

Mr. Jerry Underwood
AT&T Manager Outside Plant Planning & Engineering Design
410 W. Missouri Avenue, Second Floor
Midland, Texas 79701

CUL-DE-SAC PORTION: Please see attached Exhibit A and map.

CASE NO.: V-23-0050
CASE NAME: Ortloff Addition, Section 8

Dear Mr. Underwood,

Mike Black has submitted a request to vacate the above described portion of a cul-de-sac (see attached exhibit). Please advise if your company has utilities within this portion of the cul-de-sac. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7405 if you have any questions. You can send your response via email to ljochoa@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Landon Ochoa

_____
Landon Ochoa
Planner
Planning Division

Attachment:
Exhibit A
Map

April 19, 2023

Mr. Gustavo Ortega, Mr. Chad Blankenship, & Mr. Martin Arguello
Oncor Electric Delivery Company
2401 W. Industrial Ave.
Midland, Texas 79701

CUL-DE-SAC PORTION: Please see attached Exhibit A and map.

CASE NO.: V-23-0050
CASE NAME: Ortloff Addition, Section 8

Dear all,

Mike Black has submitted a request to vacate the above described portion of a cul-de-sac (see attached exhibit). Please advise if your company has utilities within this portion of the cul-de-sac. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7405 if you have any questions. You can send your response via email to ljochoa@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Landon Ochoa

_____

Landon Ochoa
Planner
Planning Division

Attachment:
Exhibit A
Map

April 19, 2023

Mr. Montez, Mr. Zapata, & Mr. Revilla
Altice USA
2530 S. Midkiff
Midland, Texas 79701

CUL-DE-SAC PORTION: Please see attached Exhibit A and map.

CASE NO.: V-23-0050
CASE NAME: Ortloff Addition, Section 8

Dear all,

Mike Black has submitted a request to vacate the above described portion of a cul-de-sac (see attached exhibit). Please advise if your company has utilities within this portion of the cul-de-sac. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7405 if you have any questions. You can send your response via email to ljochoa@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Landon Ochoa

_____

Landon Ochoa
Planner
Planning Division

Attachment:
Exhibit A
Map

April 19, 2023

Mr. Ruben Guerra
Grande Communication
2401 E. I-20
Odessa, Texas 79766

CUL-DE-SAC PORTION: Please see attached Exhibit A and map.

CASE NO.: V-23-0050
CASE NAME: Ortloff Addition, Section 8

Dear Mr. Guerra,

Mike Black has submitted a request to vacate the above described portion of a cul-de-sac (see attached exhibit). Please advise if your company has utilities within this portion of the cul-de-sac. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7405 if you have any questions. You can send your response via email to ljochoa@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Landon Ochoa

_____

Landon Ochoa
Planner
Planning Division

Attachment:
Exhibit A
Map




SunSport





City Council Meeting

Item Number: 19

Meeting Date: May 23, 2023, June 13, 2023

To: City Council / City Manager

From: Marcia Bentley-German, City Governance Officer/City Secretary

Subject: AN ORDINANCE AMENDING TITLE I, "ADMINISTRATIVE", CHAPTER 12, "RECORDS RETENTION" OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CHANGE THE HEADING OF SAID CHAPTER 12 TO "RECORDS MANAGEMENT POLICY" AND TO ESTABLISH AN ACTIVE AND CONTINUING RECORDS MANAGEMENT PROGRAM; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (DISTRICT: ALL) (CITY SECRETARY'S OFFICE)

Purpose:

To adopt the State Records Retention Schedules

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

None

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE I, "ADMINISTRATIVE", CHAPTER 12, "RECORDS RETENTION" OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CHANGE THE HEADING OF SAID CHAPTER 12 TO "RECORDS MANAGEMENT POLICY" AND TO ESTABLISH AN ACTIVE AND CONTINUING RECORDS MANAGEMENT PROGRAM; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, Title 6, Subtitle C, Local Government Code (the "Texas Local Government Records Act"), provides that each local government must establish an active and continuing records management program; and

WHEREAS, the City Council finds it to be in the public interest to amend Title I, "Administrative", Chapter 12, "Records Retention" of the City Code of Midland, Texas, so as to change the heading of said Chapter 12 to "Records Management Policy" and to adopt a plan to prescribe policies and procedures consistent with the Local Government Records Act;

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

SECTION ONE. That Title I, "Administrative", Chapter 12, "Records Retention" of the City Code of Midland, Texas, is hereby amended by changing the heading of said Chapter 12 to "Records Management Policy" and by amending said Chapter 12 to read in its entirety as follows:

> **1-12-1. Definition of Records of the City of Midland.** All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information-recording media, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the City of Midland or any of its officers or employees pursuant to law or in the transaction of public business, are declared to be the records of the City of Midland and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.
>
> **1-12-2. Records Declared Public Property.** All records, as defined in Section 1-12-1 of this Chapter, are declared to be the property of the City of Midland. No official

or employee of the City of Midland has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

1-12-3. Policy. It is declared to be the policy of the City of Midland to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all records of the City of Midland through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act and accepted records management practice. This policy shall apply to all employees, agents, independent contractors, and volunteers of the City of Midland.

1-12-4. Records Management Officer. The City Secretary or the City Secretary's designee will serve as Records Management Officer for the City of Midland as provided by law and will develop policies and procedures to ensure that the maintenance, preservation, security, destruction, electronic storage, and other disposition of the records of the City of Midland are carried out in accordance with the requirements of the Local Government Records Act.

1-12-5. Records Control Schedules. Appropriate records control schedules issued by the Texas State Library and Archives Commission shall be adopted by the Records Management Officer for use in City of Midland, as provided by law. The Records Management Officer shall prepare amendments to the schedules as needed to reflect new records created or received by the City of Midland, or revisions to retention periods established in a records retention schedule issued by the Texas State Library and Archives Commission. Any destruction of records of the City of Midland will be in accordance with these schedules and the Local Government Records Act.

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

SECTION FOUR. That this ordinance shall become effective immediately upon final adoption.

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2023; 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., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

City Council Meeting

Item Number: 20

Meeting Date: June 13, 2023

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 2023-2024 CDBG grant application submissions, and the Fourth Year Action Plan in accordance with the Five-Year Consolidated Plan goals; Public Hearing Only (DISTRICT: ALL) (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 2023-2024 CDBG grant application submissions, and the Fourth Year Action Plan in accordance with the Five-Year Consolidated Plan goals. Public Hearing Only

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 2023/2024 Community Development Program and the Fourth-Year Action Plan. Past usage of Community Development Block Grant (CDBG) funds, community development and housing needs, and proposed uses of 2023/2024 CDBG funds will be discussed. The City will receive a grant of approximately $1,067,091 for 2023/2024 and $189,823 in CDBG CV-19 unappropriated fund balance from the U.S. Department of Housing and Urban Development. The city also expects to receive $65,000 in Program Income (PI) which is included in the

CDBG (PY 2023-2024) allocation. A minimum 70% of CDBG funds must be allocated to projects that benefit low and moderate-income people. 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.

Morris Williams Jr.

City Manager's Office

STAFF REPORT

CDBG/CDBG-CV-19 FUNDING

(HUD CV19) $198,823
(HUD Grant) $1,067,901 + (PI) $65,000

Request for CDBG CV19 funding
$380,650

Request for CDBG funding
$2,276,230

1
CDBG

NAME: Homebuyer Assistance Program **Request: $150,000**

APPLICANT: City of Midland Community Development

Description. The City's Community Development Office proposes to continue the City's Homebuyer Assistance Program (HAP). Through the HAP, low-income first-time homebuyers receive financial assistance to help purchase decent homes anywhere in the City. Depending on income, up to $15,000 assistance would be provided to a homebuyer as a zero interest, deferred forgivable loan.

Budget. The requested funds could assist 10 households during the year. The CD office staff will accept and verify applications, inspect the homes, coordinate the closings, and process payments. Community Development Office staff conducts the HAP and are paid by the City's general fund.

Eligibility. Per 24 CFR 570.201(n), homeownership assistance is a basic CDBG eligible activity and meets the CDBG objective of benefit to low-and-moderate income persons, the CDBG office shall document that each assisted household meets the low and moderate-income criteria.

Consolidated Plan. Home ownership is considered a high priority in the Five-Year Consolidated Plan.

2
CDBG

NAME: Minor Home Repair Assistance Program **Request: $50,000**

APPLICANT: City of Midland Community Development

Description. The City's Community Development Office proposes to continue the City's MHR Assistance Program (HAP). Through the MHR, low-income homeowners receive financial assistance to help make minor repairs to owner-occupied homes within CDBG targeted areas. Up to $5,000 in assistance can be provided to a homeowner.

Budget. The requested funds could assist 10 households during the year. The CD office staff will accept and verify applicants in accordance with HUD guidelines.

Eligibility. Per 24 CFR 570.201(n), the CDBG objectives of benefiting low-and-moderate income persons shall be met in accordance with HUD National Objectives.

Consolidated Plan. The Minor Repair Program is a high priority need in the Five-Year Consolidated Plan.

3
CDBG

NAME: SE Senior Center Nutrition Program **Request: $68,000**

APPLICANT: Casa de Amigos

Description: The Casa de Amigos requests funding for the nutrition programs at the Southeast Senior Citizen Center (1803 E Indiana) and at the Casa de Amigos (1101 E Garden Lane). Approximately 240 seniors are expected to benefit from the lunchtime meal program and take-home food boxes to supplement their nutritional needs. Meals are contracted daily with a local catering company and reviewed by a certified nutritionist.

Budget: SE Center and Casas de Amigos meals program has been CDBG supported. Sub recipient is including the Casa meals program in its application for the upcoming CDBG fiscal year. CDBG funds would be used to pay for an average of 53 meals per day for the October 2021 to September 2022 period. The estimated $7.54 cost per meal includes all costs in providing the meals: personnel, supplies, transportation, food, equipment and administrative overhead.

Eligibility: Per 24 CFR 570.201(e), a public service for senior citizens is considered by HUD as a presumed benefit to low and moderate-income person's activity under its limited clientele provisions. This request will be subject to the 15% limitation on funds allocated for public services.

Consolidated Plan: Public services of benefit to the elderly and handicapped individuals are a priority community need.

Other Comments: As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding. CDBG assistance has been provided continuously for senior citizen programming in Midland since 1986. Casa de Amigos has administered CDBG funds for the SE Nutrition Program since 2020.

4
CDBG

NAME: Home Cleaning Program **Request: $50,000**

APPLICANT: Casa de Amigos

Description: Casa de Amigos requests funds to support its Citywide Community Services' Home Cleaning Program. The program's objective is to maintain safe and sanitary living conditions for indigent senior citizens (60+ years of age) and disabled individuals. Services include an initial deep cleaning and subsequent routine weekly cleaning. It is expected that 100 clients will be assisted during the year.

Budget: The requested funds would be used to help pay the wages of the program's homemakers. CDBG funds are proposed to be 30% of the total Citywide Community Services budget. The Citywide Community Services budget for the next year will be $98,000. Grants from United Way also help fund the program.

Eligibility: Per 24 CFR 570.201(e), public services are eligible for CDBG funding. A public service for senior citizens and disabled persons is considered by HUD as a presumed benefit to low- and moderate-income activity under its limited clientele provisions. This request will be subject to the 15% limitation on funds allocated for public services.

Consolidated Plan: Public services of benefit to the elderly and handicapped individuals are a priority community need.

Other Comments: As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding. The home cleaning service has been continuously CDBG supported since 1991.

5
CDBG

NAME: Take Home Terrific Program **Request: $38,500**

APPLICANT: Mission Center Adult Day Service

Description: Mission Center Adult Day Service requests funds to support the continuation of program – Take Home Terrific Program. Take Home is an evening meal delivery service for individuals who have some type of mobility dysfunction or health issue that would keep them from meeting their nutritional needs. After an initial assessment, participants will receive meals during the week with extra meals provided for weekend needs on request. Participants will also receive a monthly wellness check. It is expected that 53 clients will be assisted during the year.

Budget: The requested funds would be used to pay for food supplies and staff preparation time and wages. These CDBG funds are proposed to be 30% of the total Take Home Terrific program budget. The entire program budget for the 12-month period is projected to be $108,200.

Eligibility: Per 24 CFR 570.201(e), public services are eligible for CDBG funding. A public service for senior citizens and disabled persons is considered by HUD as a presumed benefit to low- and moderate-income activity under its limited clientele provisions. This request will be subject to the 15% limitation on funds allocated for public services.

Consolidated Plan: Public services of benefit to the elderly and handicapped individuals are a priority community need.

Other Comments: As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding.

6
CDBG

NAME: City of Midland Parks and Recreation Division Request: $55,000

APPLICANT: Parks & Recreation

Description: Gym (MLK), replace workout equipment at MLK Community Center and improvements to Washington Family Aquatic Center (slides refurbishment).

Budget: MLK/ Washington Family Aquatic Center multiple projects $55,000

Eligibility: Multi-Purpose Public Facility. Develop public facilities where youth programming, and other community services.

Consolidated Plan: Per 24 CFR 570.201(e), Multi-Purpose Public Facility are eligible for CDBG funding.

Other Comments: The City of Midland Parks and Recreation Divisions are working to provide improvements to the Martin Luther King Community Center and Parks Systems. Improvements to recreational facilities in low-income areas are a high priority objective.

7
CDBG

NAME: City of Midland Parks and Recreation Division Request: $125,000

APPLICANT: Parks & Recreation

Description: Install shade structures at Ulmer Park and add safety fence and playground surface improvements at Sparks Parks. Installation would be completed by City of Midland Parks Construction crew and vendor contractors.

Budget: Ulmer and Sparks: $125,000

Eligibility: Multi-Purpose Public Facility; develop park facilities where youth programming and other community services are provided.

Consolidated Plan: Per 24 CFR 570.201(e), Multi-Purpose Public Facility are eligible for CDBG funding.

Other Comments: The City of Midland Parks and Recreation Divisions are working to provide improvements to the neighborhood parks. Improvements to recreational facilities in low- moderate income areas are a high priority objective.

8
CDBG

NAME: Thriving United Inc. **Request: $165,623**

APPLICANT: Peer Recovery Support Specialist

Description: Thriving United provides recovery resources to individuals who struggle with addiction, mental health, and trauma. We connect people to recovery and join them on their journey. We serve low to moderate income adults, youth, and families and work closely with homeless individuals and those involved with the justice system.

Budget: $1,518,047

Eligibility: Per 24 CFR 570.201 – 570.207 Urgent Needs public service is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community, they are of recent origin or recently became urgent, and the grantee is unable to find other available funds to support the activity.

Consolidated Plan: Homeless and substance abuse services are a high priority in the Five-Year Consolidated Plan.

Other Comments: New applicant to CDBG programs; this request is subject to the potential need for the operator to secure replacement funding.

9
CDBG

NAME: Midland Habitat for Humanity **Request: $255,607**

APPLICANT: Affordable Housing Infrastructure (Benton Street Subdivision)

Description: The newest development is a 22-lot subdivision on Benton Street just off Fairgrounds and Front Streets. A civil engineer working to help build and develop this tract in a prudent and efficient manner.

Budget: $774,568

Eligibility: Per 24 CFR 570.201 – 570.207 public improvements or facilities (except for buildings for the general conduct of government).

Consolidated Plan: Infrastructure Improvements by construction

Other Comments: The construction and related work of alleys, streets, ADA ramps, and sidewalks are a high priority within the Five-Year Consolidated Plan. This development will increase the tax base by approximately $4,400,000 and improve a neighborhood that needs revitalization.

10
CDBG

NAME: City of Midland Development Services **Request: $50,000**

APPLICANT: Code Department

Description: Demolition of blighted and burned structures in low-moderate income neighborhoods.

Budget: $100,000

Eligibility: Per 24 CFR 570.201 – 570.207 Slum or Blighted Area The public service is provided within a designated slum or blighted area and is designed to address one or more conditions which contributed to the deterioration of the area. CDBG funds may be used for code enforcement only in deteriorating or deteriorated areas where such enforcement, together with public or private improvements, rehabilitation, or services to be provided, may be expected to arrest the decline of the area.

Consolidated Plan: The elimination of specific conditions detrimental to public health and safety.

Other Comments: The code department will use the funding specifically for the demolition of burned, and uninhabitable dwellings.

11
CDBG

NAME: Hellinghausen Hope Inc. **Request: $75,000**

APPLICANT: Village Square Parking Lot Upgrade

Description: Build in 1959, the Village Square apartments provide reduced rent to 133 qualifying low-income residents. The adjoining parking lots have been patched over the years but are in dire need of total. The complex's parking lots have been periodically repaired, and the current status requires their replacement rather than repair. Replacing the parking lot will provide a safer quality of place and space for our residents. This impact will be measured in reduced maintenance costs that translate into continued affordable housing for low-income Midlanders.
The project is located at 1710 North "A" Street and serves qualifying low-income residents. We have 133 residents in the 57-unit property.
replacement.
Budget: $103,250

Eligibility: Per 24 CFR 570.201(m), Parking facility repairs needed for a L/M income Housing development. (HUD) affordable rent development.

Consolidated Plan: Facility repairs needed for L/M income Housing.

Other Comments: The infrastructure project is located within a low-moderate income census tract and the CDBG targeted area.

12
CDBG

NAME: City of Midland Engineering Services **Request: $1,194,000**

APPLICANT: Engineering

Description: Terrell Street & Pennsylvania Avenue Sidewalks; New York Avenue & Benton Street Sidewalks.

Budget: Terrell Street & Pennsylvania Avenue Sidewalks $614,000; New York Sidewalks $350,000; Benton Street Sidewalks $230,000.

Eligibility: Per 24 CFR 570.201 – 570.207 public improvements or facilities (except for buildings for the general conduct of government).

Consolidated Plan: Infrastructure Improvements by construction

Other Comments: The construction and related work of alleys, streets, ADA ramps, and sidewalks are a high priority within the Five-Year Consolidated Plan.

13
CDBG CV-19

NAME: The Salvation Army of Midland **Request: $200,000**

APPLICANT: The Salvation Army

Description: The Salvation Army of Midland requests funding for the nutrition programs at the 600 E. Wall St. Center (Homeless Shelter). Approximately 5,300 meals are expected to be served during the program year. Three meals time will be available to people wanting a hot meal.

Budget: CDBG funds would be used to pay for an average 150 meals per day with an estimated $7.54 cost per meal; personnel, transportation, equipment, and administrative overhead are not included in the grant. The requested funds would be used to help pay for food and nonperishable items related to meal preparation. The Homeless and Indigent Program overall budget for the next year will be $729,835.00 primarily generated from contribution and federal grants for the homeless.

Eligibility: Per 24 CFR 570.201(e), Homeless service for citizens experiencing hardships and/or disabled persons is considered by HUD a high priority. Homeless service for indigent individuals is considered by HUD as a presumed benefit to low and moderate-income person's activity under its limited clientele provisions.

Consolidated Plan: Homeless services are an area of high priority and concentration of community need.

Other Comments: COVID-19 funding has a remaining term of 12 months until sunset provision requires return to Department of Treasury.

14
CDBG CV-19

NAME: Senior Resiliency Program **Request: $50,650**

APPLICANT: Casa de Amigos

Description: Casa de Amigos requests funds to support its Senior Resiliency Program. The program's objective is to provide coping skills and resiliency training for senior citizens to improve their overall mental health as our community continues to recover from the effects of COVID-19. Seniors are adapting to a host of life altering realities (lost friendships, changing living environment, physical capacity, etc.) which has a diminishing effect on mental and physical health. It is expected that 45 clients will be assisted during the year.

Budget: The requested funds would be used to help pay the wages of licensed counseling PLLC. The Senior Resiliency Program Services budget for the next year will be $81,360.00. Casa De Amigos will also help fund the program staff.

Eligibility: Per 24 CFR 570.201(e), public services are eligible for CDBG-CV19 funding. A public service for senior citizens and disabled persons is considered by HUD as a presumed benefit to low- and moderate-income activity under its limited clientele provisions.

Consolidated Plan: Public services of benefit to the elderly and handicapped individuals are a priority community need.

Other Comments: COVID-19 funding has a remaining term of 12 months until sunset provision requires return to Department of Treasury.

15
CDBG CV-19

NAME: Midland County Hospital District (Mental Health & Wellness Department)
Request: $75,000

APPLICANT: Midland Memorial Hospital

Description: Mental Health & Wellness Department requests funds to support its Community Referral and Indigent Program (CRISP) to help individuals of all ages to recover from the devastation of the pandemic and overcome barriers to restore and stabilize health and livelihood. The Community Referral and Indigent Program (CRISP) program objective is to provide personal services that follow participants at every point-of-service to assure connection with needed resources and supportive providers. It is expected that 1,700 participants will be referred to other identified resources during the year.

Budget: The requested funds would be used to help pay the wages of the licensed counselors, social-workers, and supportive staff. The Community Referral and Indigent Program (CRISP) program services budget for this year will be $380,622. The Community Referral and Indigent Program (CRISP) will also help fund the program through the hospital grants contributions and fundraising.

Eligibility: Per 24 CFR 570.201(e), mental health services are eligible for CDBG-CV19 funding. Mental Health service for hardship citizens and disabled persons is considered by HUD.

Consolidated Plan: Mental Health services of benefit to the elderly and handicapped individuals are a priority community need.

Other Comments: COVID-19 funding has a remaining term of 12 months until sunset provision requires return to Department of Treasury.

16
CDBG CV-19

NAME: Senior Life Midland Meals on Wheels **Request: $40,000**

APPLICANT: Senior Life Midland

Description: The objective of Meals on Wheels is to promote better mental and physical health for homebound persons through nutritious meals and social activities. The program provides 710 seniors meals per month. The requested funding will be used for vendor meals when regular kitchen operations are offline.

Budget: $40,000.

Eligibility: Per 24 CFR 570.201(e), public services are eligible for CDBG-CV19 funding. A public service for senior citizens and disabled persons is considered by HUD as a presumed benefit to low- and moderate-income activity under its limited clientele provisions.

Consolidated Plan: Presumed Benefit or L/M Income Limited Clientele are services limited to a specific group of people, at least 51% of whom are L/M income persons.

Other Comments: COVID-19 funding has a remaining term of 12 months until sunset provision requires return to Department of Treasury.

17
CDBG-CV19

NAME: Breaking Bread Ministries **Request: $15,000**

APPLICANT: Breaking Bread Ministries

Description: Replace refrigeration unit for meals preparation and cold storage related to homeless outreach services.

Budget: $15,000

Eligibility: Per 24 CFR 570.201 – 570.207 Urgent Needs services are designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community.

Consolidated Plan: Homeless Services are a high priority in the Five-Year Consolidated Plan.

Other Comments: New applicant to CDBG programs; this request is subject to the potential need for the operator to secure replacement funding. COVID-19 funding has a remaining term of 12 months until sunset provision requires return to Department of Treasury.

City Council Meeting

Item Number: 21

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Ron Jenkins, Oil and Gas Coordinator

Subject: **The proposed granting of oil and gas well permits to Endeavor Energy Resources, L.P. ("Operator") for the drilling of the following oil and gas wells: Lela 7-18 B #121; Lela 7-18 B #222; Lela C #131; Lela C #132; and Lela C #233; said wells being generally located between 1,397 feet and 1,497 feet west of South Midland Drive and between 814 feet and 815 feet North of West I-20; PUBLIC HEARING ONLY (District 2) (Development Services)**

Purpose:

The proposed granting of oil and gas well permits to Endeavor Energy Resources, L.P. ("Operator") for the drilling of the following oil and gas wells: Lela 7-18 B #121; Lela 7-18 B #222; Lela C #131; Lela C #132; and Lela C #233; said wells being generally located between 1,397 feet and 1,497 feet west of South Midland Drive and between 814 and 815 feet north of West I-20. Council may consider these permits following a 30-day public comment period and at a regularly scheduled meeting. No notices of objection received.

Recommended City Council Action:

Direction/Informational.

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The Oil and Gas Advisory Committee has reviewed the well site in detail and recommends approval with updated exhibits. A 24 ft. sound wall will be used during drilling and fracturing operations and walls will be located on part of the north and east sides of the pad location. Included is a noise modeling study for drilling and fracturing operations at the pad site. The tank

battery will be located south of I-20 in the county. Will be using a closed loop circulating system-no reserve pits. The operator owns the surface of the well site. Receiving support of the Oil & Gas Advisory Committee, Endeavor Energy Resources is requesting the following variances:

(1) Endeavor Energy Resources requests to have a perimeter fence around the well pad site instead of individual wellheads.
(2) Endeavor Energy Resources requests to allow for twenty-four-hour fracing operations.
(3) Endeavor Energy Resources requests variance to the requirement of landscaping and irrigation. The land is currently undeveloped without access to City water.
(4) Endeavor Energy Resources requests variance to remove drill cuttings from the location.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Overall Location.

Meeting Date Display
City Manager's Office

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
March 27, 2023	Endeavor Energy Resources, L.P.	110 N. Marienfeld, Suite 200 Midland, TX 79701

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432)-556-0588
Alex Bedford, Reservoir Engineer	110 N. Marienfeld, Suite 200 Midland, TX 79701	**Rep. Fax** (432)-682-3088
Fee: $4,000.00 Rec'd Yes X No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1): Option B

Option B: Chris Van Veghel
1700 FM 115
Midland, Texas 79706
Office: (432) 262-4239
Cell: (432) 557-3870

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):***

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):
Chris Van Veghel, Production Foreman for Endeavor Energy Resources, L.P.: Cell: 432-557-3870
Endeavor Energy Resources, L.P. -**24-Hour Emergency Hotline- 432-570-0186**
Midland Police Department: 911 or 432-685-7110
Midland Fire Department: 911
Ambulance: 911
Paramedics: 911

Other Permitted Wells in City ***(ATTACHED AS EXHIBIT B*** **[see § J(26)]).**

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): ***ATTACHED AS EXHIBIT C***

ATTACHED AS EXHIBIT C **–**is a letter from a licensed Texas Attorney indicating that the Operator has the legal right to develop the mineral estate that is the subject to this application**. [See § J(5)].**

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location): Undeveloped Endeavor owned surface

ATTACHED AS EXHIBIT D **are the most** ***Current Tax Cards from Midland Central Appraisal District,*** **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

ATTACHED AS EXHIBIT E **is a** ***(map/plat/satellite/aerial photo)*** **depicting all residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The** ***(map/p lat/satellite/aerial photo)*** **includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

ATTACHED AS EXHIBIT F **is a copy of the notification letter(s) sent to one hundred (100%) percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Lela 7-18 B #121

ATTACHED AS EXHIBIT G is **Proposed Hole Size, Casing Program and Cementing Program [See § J(11) and § L(4)]:**

Legal Description of Proposed Well Site:

Surface Hole Location: 374' FSL 1397' FEL, Section 6, Block 39, T-2-S, T&P RR Co Survey, Midland County, Texas

ATTACHED AS EXHIBIT G **is the Plat and Location Site Plan [See § J(9)].**

ATTACHED AS EXHIBIT H **is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

ATTACHED AS EXHIBIT I **is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments** ***(also file copy of W-1 with City Secretary before commencement of drilling operations).*** **[See § J(16) and (20)].**

ATTACHED AS EXHIBIT J **is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

ATTACHED AS EXHIBIT K **is the location agreement letter with current Surface Owner. [See § J(27)].**

ATTACHED AS EXHIBIT L **is the Fencing and Irrigation Plan. [See § J(30)].**

ATTACHED AS EXHIBIT M **is the Road Repair Agreement and** ***Letter of Credit/Certificate of Deposit/Surety Bond*** **in the amount of at least $75,000.** ***Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable):*** **Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary $75,000** ***letter of credit/certificate of deposit/surety bond*** **in conjunction with this request. [See § J(31)].**

ATTACHED AS EXHIBIT N **is the written Concept Plan [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: Electricity TXU: 1-800-233-2133

(2) Operations: Electricity TXU: 1-800-233-2133

Description of water source to be used during Drilling: Operator will source water for drilling and completion operations from Endeavor owned water wells outside of City limits.

Description of all electric lines to production facilities (reference exhibits as necessary)
ATTACHED AS EXHIBIT G. **[See § L(10)]**

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary)
ATTACHED AS EXHIBIT O. **[See § J(35)]**

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P **is the *Blanket Bond and Rider* in accordance with Subsection (K)(2). [See § J(18)].**

ATTACHED AS EXHIBIT Q **is an Affidavit indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].**

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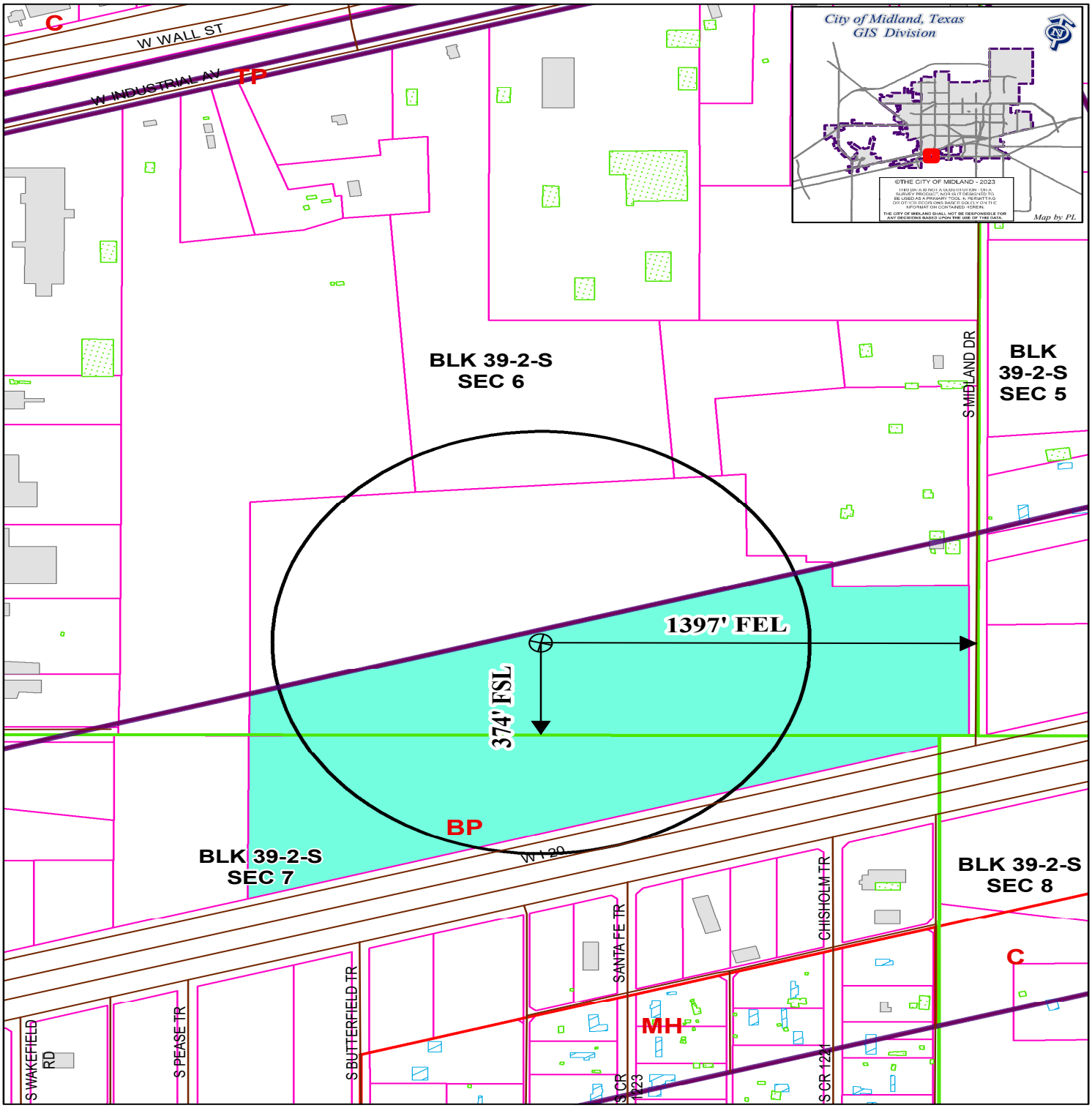
ATTACHED AS EXHIBIT S (if applicable) **is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].**

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ATTACHED AS EXHIBIT U **is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

ATTACHED AS EXHIBIT V **is Summary List of Variances**

ATTACHED AS EXHIBIT W **is Acoustic Impact Study/Mitigation Plan**



LOCATION AND ZONING MAP

Oil - 050816 - 2023 **Scale: 1" = 450'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 374' FSL and 1,397' FEL, Section 6, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,397 feet west of South Midland Drive and 815 feet north of West I-20.

Lela 7-18 B #121

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LRS, LRS-LRC	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
March 27, 2023	Endeavor Energy Resources, L.P.	110 N. Marienfeld, Suite 200 Midland, TX 79701

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432)-556-0588
Alex Bedford, Reservoir Engineer	110 N. Marienfeld, Suite 200 Midland, TX 79701	**Rep. Fax** (432)-682-3088
Fee: $4,000.00 Rec'd Yes X No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1): Option B

Option B: Chris Van Veghel
1700 FM 115
Midland, Texas 79706
Office: (432) 262-4239
Cell: (432) 557-3870

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):***

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Midland Police Department: 911 or 432-685-7110
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Other Permitted Wells in City ***(ATTACHED AS EXHIBIT B*** **[see § J(26)]).**

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): ***ATTACHED AS EXHIBIT C***

ATTACHED AS EXHIBIT C **–** is a letter from a licensed Texas Attorney indicating that the Operator has the legal right to develop the mineral estate that is the subject to this application**. [See § J(5)].**

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location): Undeveloped Endeavor owned surface

ATTACHED AS EXHIBIT D **are the most** ***Current Tax Cards from Midland Central Appraisal District,*** **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

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IV. Well & Operations Information

Proposed Well Name: Lela 7-18 C #131

ATTACHED AS EXHIBIT G is **Proposed Hole Size, Casing Program and Cementing Program [See § J(11) and § L(4)]:**

Legal Description of Proposed Well Site:

Surface Hole Location: 373' FSL 1497' FEL, Section 6, Block 39, T-2-S, T&P RR Co Survey, Midland County, Texas

ATTACHED AS EXHIBIT G **is the Plat and Location Site Plan [See § J(9)].**

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ATTACHED AS EXHIBIT M **is the Road Repair Agreement and** ***Letter of Credit/Certificate of Deposit/Surety Bond*** **in the amount of at least $75,000.** ***Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable):*** **Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary $75,000** ***letter of credit/certificate of deposit/surety bond*** **in conjunction with this request. [See § J(31)].**

ATTACHED AS EXHIBIT N **is the written Concept Plan [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: Electricity TXU: 1-800-233-2133

(2) Operations: Electricity TXU: 1-800-233-2133

Description of water source to be used during Drilling: Operator will source water for drilling and completion operations from Endeavor owned water wells outside of City limits.

Description of all electric lines to production facilities (reference exhibits as necessary)
ATTACHED AS EXHIBIT G. **[See § L(10)]**

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary)
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V. Additional Required Exhibits

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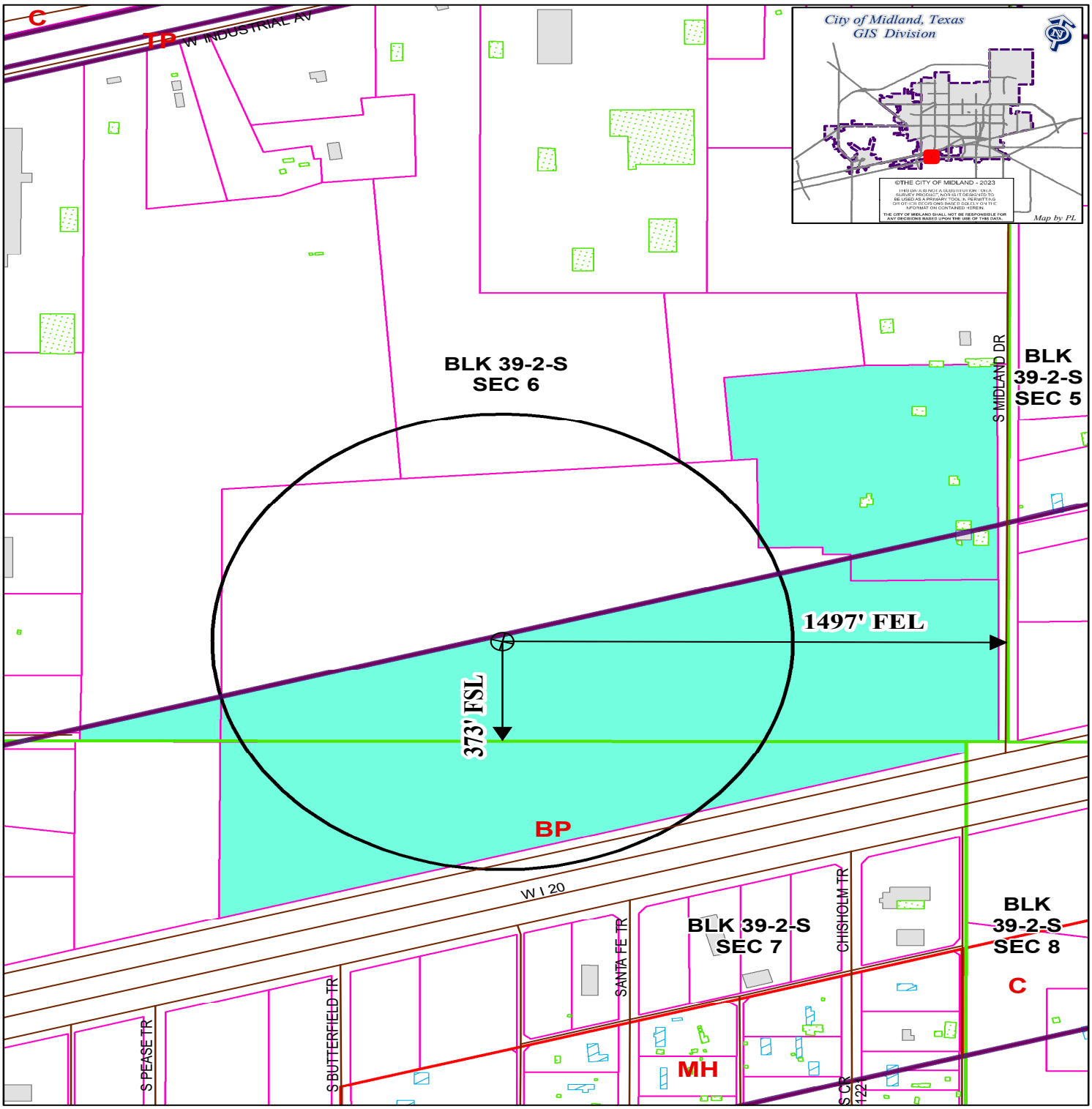
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LOCATION AND ZONING MAP

Oil - 050817 - 2023 **Scale: 1" = 450'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 373' FSL and 1,497' FEL, Section 6, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,497 feet west of South Midland Drive and 814 feet north of West I-20.

Lela 7-18 C #131

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

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PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
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MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
March 27, 2023	Endeavor Energy Resources, L.P.	110 N. Marienfeld, Suite 200 Midland, TX 79701

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432)-556-0588
Alex Bedford, Reservoir Engineer	110 N. Marienfeld, Suite 200 Midland, TX 79701	**Rep. Fax** (432)-682-3088
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Office: (432) 262-4239
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IV. Well & Operations Information

Proposed Well Name: Lela 7-18 C #132

ATTACHED AS EXHIBIT G is **Proposed Hole Size, Casing Program and Cementing Program [See § J(11) and § L(4)]:**

Legal Description of Proposed Well Site:

Surface Hole Location: 374' FSL 1447' FEL, Section 6, Block 39, T-2-S, T&P RR Co Survey, Midland County, Texas

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ATTACHED AS EXHIBIT H **is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

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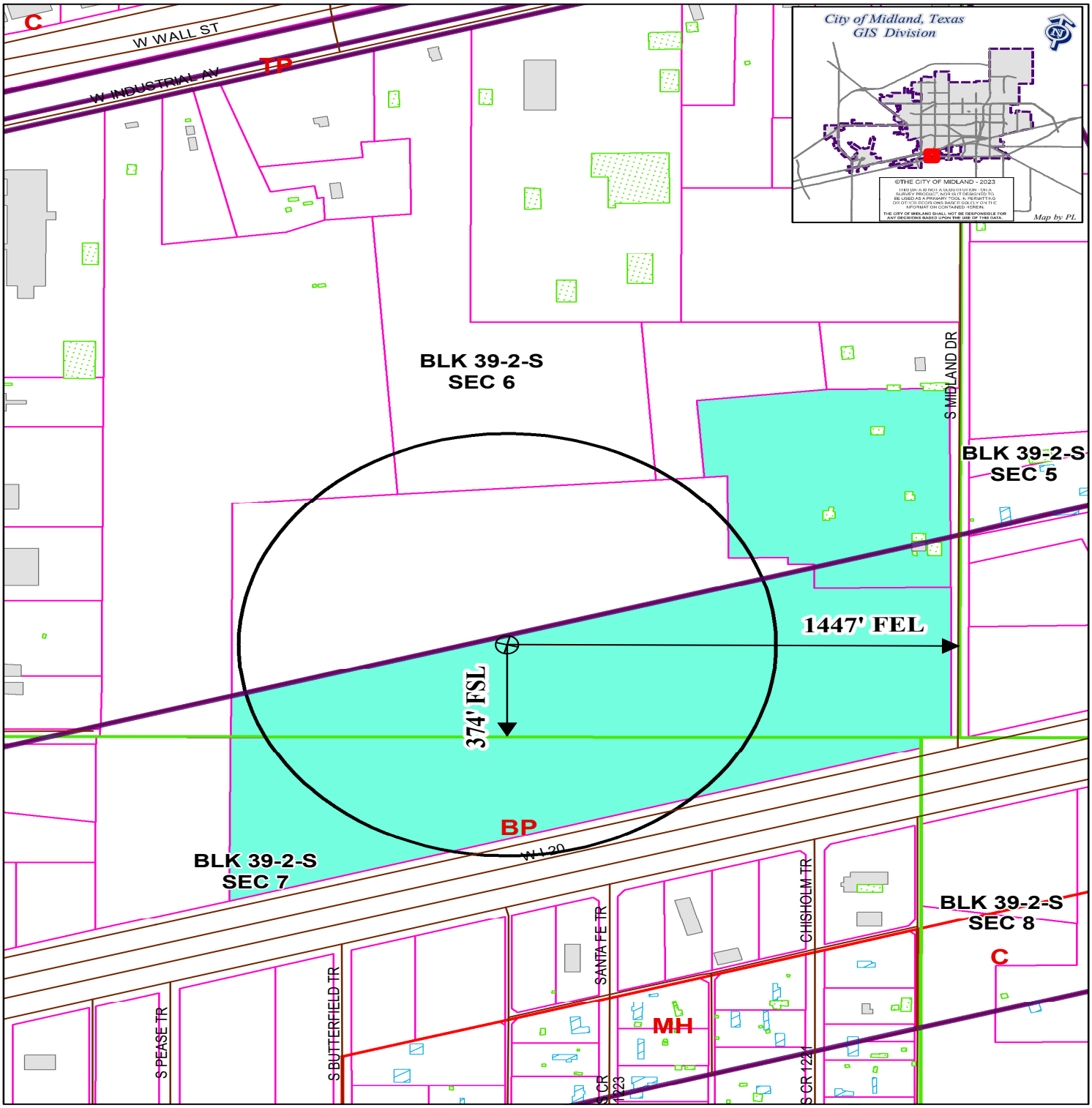
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Lela 7-18 C #132

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
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MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

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Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432)-556-0588
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Fee: $4,000.00 Rec'd Yes X No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

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1700 FM 115
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Office: (432) 262-4239
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ATTACHED AS EXHIBIT F **is a copy of the notification letter(s) sent to one hundred (100%) percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Lela 7-18 B #222

ATTACHED AS EXHIBIT G is **Proposed Hole Size, Casing Program and Cementing Program [See § J(11) and § L(4)]:**

Legal Description of Proposed Well Site:

Surface Hole Location: 374' FSL 1422' FEL, Section 6, Block 39, T-2-S, T&P RR Co Survey, Midland County, Texas

ATTACHED AS EXHIBIT G **is the Plat and Location Site Plan [See § J(9)].**

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ATTACHED AS EXHIBIT N **is the written Concept Plan [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: Electricity TXU: 1-800-233-2133

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Description of water source to be used during Drilling: Operator will source water for drilling and completion operations from Endeavor owned water wells outside of City limits.

Description of all electric lines to production facilities (reference exhibits as necessary)
ATTACHED AS EXHIBIT G. **[See § L(10)]**

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary)
ATTACHED AS EXHIBIT O. **[See § J(35)]**

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P **is the *Blanket Bond and Rider* in accordance with Subsection (K)(2). [See § J(18)].**

ATTACHED AS EXHIBIT Q **is an Affidavit indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].**

ATTACHED AS EXHIBIT R **is the required Insurance Certificate. [See § J(19) and § K(3)].**

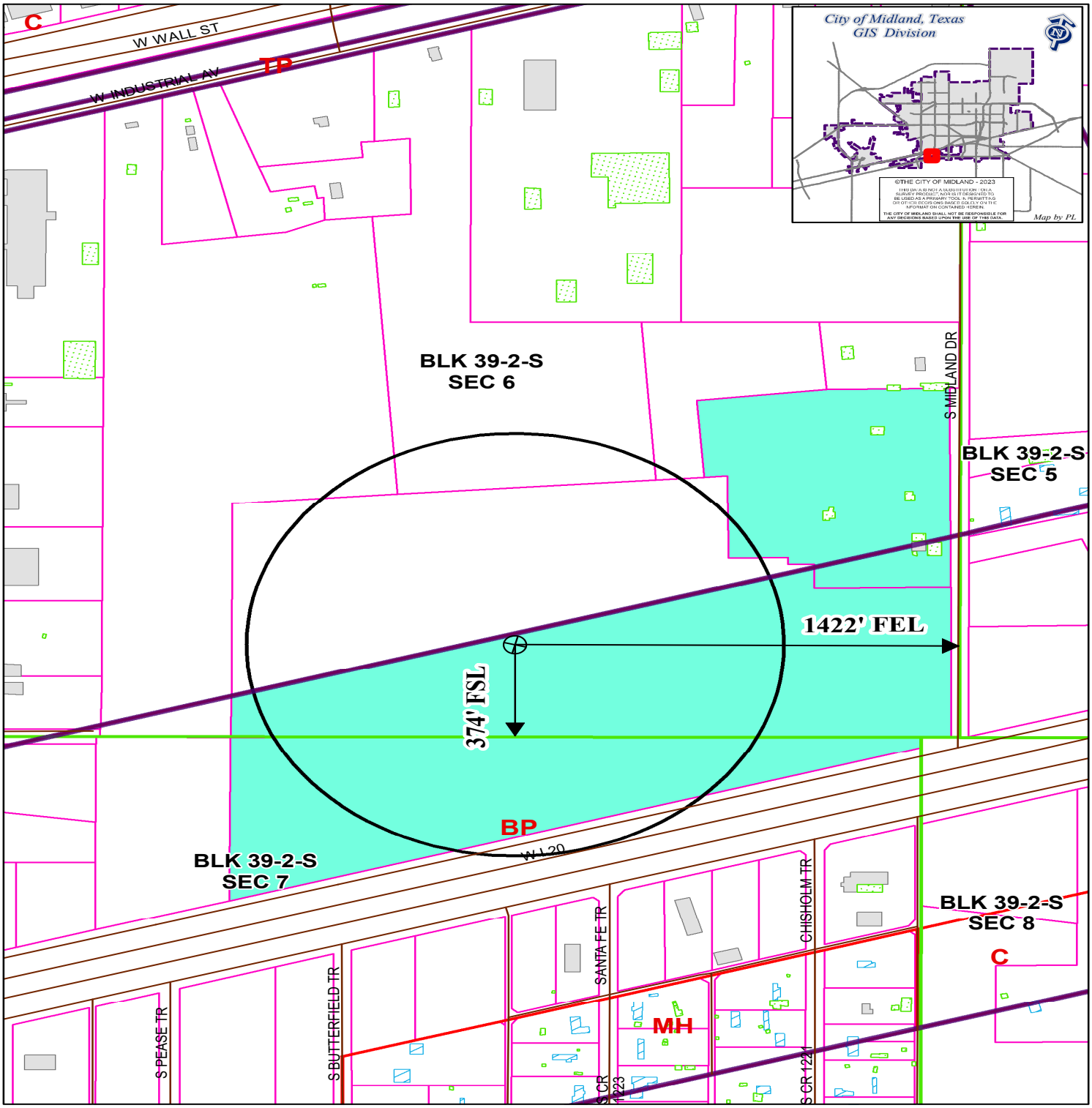
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ATTACHED AS EXHIBIT T **is Applicant's Emergency Action Response Plan. [See § J(22)].**

ATTACHED AS EXHIBIT U **is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

ATTACHED AS EXHIBIT V **is Summary List of Variances**

ATTACHED AS EXHIBIT W **is Acoustic Impact Study/Mitigation Plan**



LOCATION AND ZONING MAP

Oil - 050819 - 2023 **Scale: 1" = 450'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 374' FSL and 1,422' FEL, Section 6, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,422 feet west of South Midland Drive and 815 feet north of West I-20.

Lela 7-18 B #222

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
March 27, 2023	Endeavor Energy Resources, L.P.	110 N. Marienfeld, Suite 200 Midland, TX 79701

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432)-556-0588
Alex Bedford, Reservoir Engineer	110 N. Marienfeld, Suite 200 Midland, TX 79701	**Rep. Fax** (432)-682-3088
Fee: $4,000.00 Rec'd Yes X No___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1): Option B

Option B: Chris Van Veghel
1700 FM 115
Midland, Texas 79706
Office: (432) 262-4239
Cell: (432) 557-3870

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):***

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):
Chris Van Veghel, Production Foreman for Endeavor Energy Resources, L.P.: Cell: 432-557-3870
Endeavor Energy Resources, L.P. -**24-Hour Emergency Hotline- 432-570-0186**
Midland Police Department: 911 or 432-685-7110
Midland Fire Department: 911
Ambulance: 911
Paramedics: 911

Other Permitted Wells in City ***(ATTACHED AS EXHIBIT B*** **[see § J(26)]).**

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): ***ATTACHED AS EXHIBIT C***

ATTACHED AS EXHIBIT C **–**is a letter from a licensed Texas Attorney indicating that the Operator has the legal right to develop the mineral estate that is the subject to this application**. [See § J(5)].**

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location): Undeveloped Endeavor owned surface

ATTACHED AS EXHIBIT D **are the most** ***Current Tax Cards from Midland Central Appraisal District,*** **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

ATTACHED AS EXHIBIT E **is a** ***(map/plat/satellite/aerial photo)*** **depicting all residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The** ***(map/p lat/satellite/aerial photo)*** **includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

ATTACHED AS EXHIBIT F **is a copy of the notification letter(s) sent to one hundred (100%) percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Lela 7-18 C #233

ATTACHED AS EXHIBIT G is **Proposed Hole Size, Casing Program and Cementing Program [See § J(11) and § L(4)]:**

Legal Description of Proposed Well Site:

Surface Hole Location: 374' FSL 1472' FEL, Section 6, Block 39, T-2-S, T&P RR Co Survey, Midland County, Texas

ATTACHED AS EXHIBIT G **is the Plat and Location Site Plan [See § J(9)].**

ATTACHED AS EXHIBIT H **is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

ATTACHED AS EXHIBIT I **is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments** ***(also file copy of W-1 with City Secretary before commencement of drilling operations).*** **[See § J(16) and (20)].**

ATTACHED AS EXHIBIT J **is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

ATTACHED AS EXHIBIT K **is the location agreement letter with current Surface Owner. [See § J(27)].**

ATTACHED AS EXHIBIT L **is the Fencing and Irrigation Plan. [See § J(30)].**

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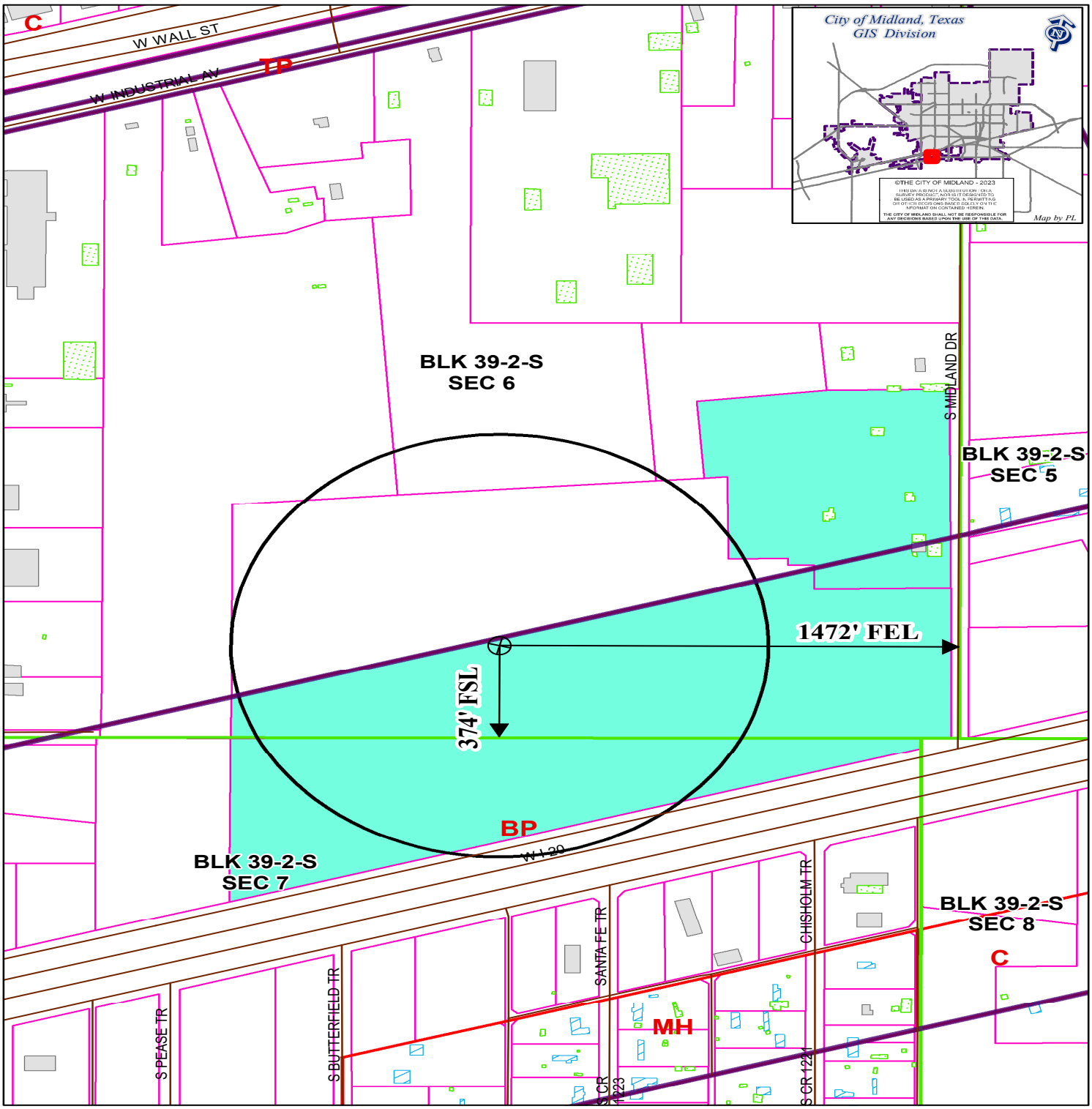
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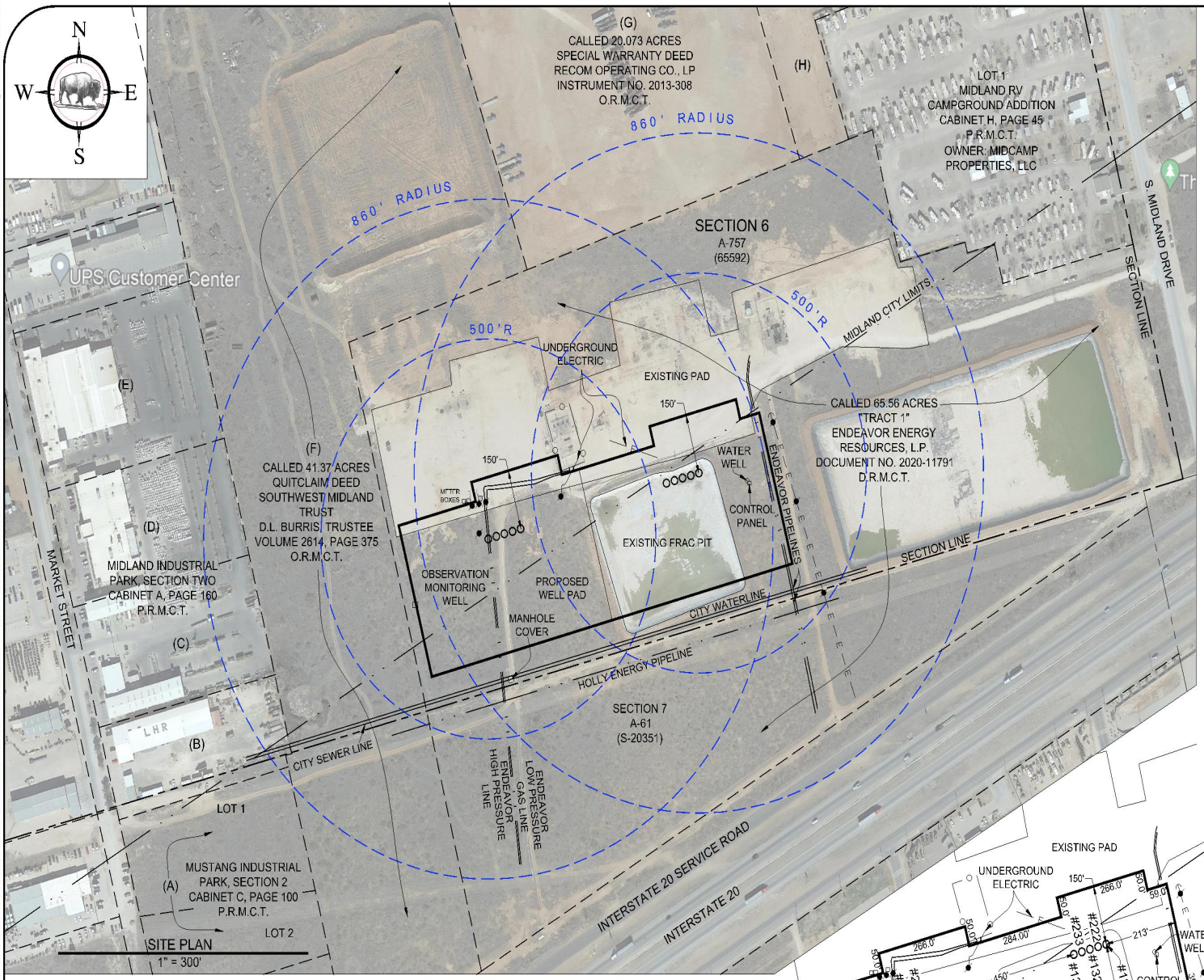
Lela 7-18 C #233

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

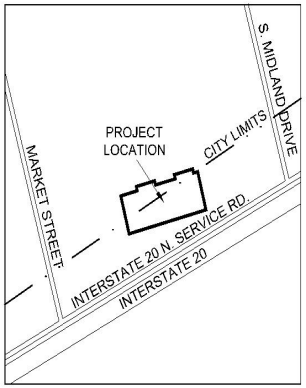
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SITE PLAN
1" = 300'

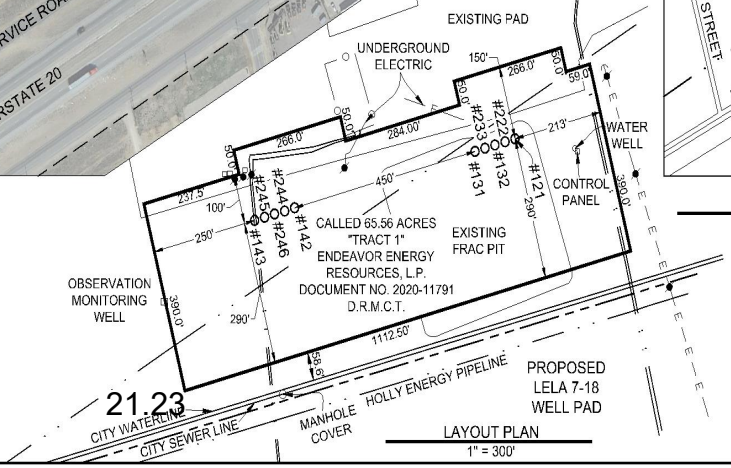
(A)
SPECIAL WARRANTY DEED TJ&S, L.P. INSTRUMENT NO. 2012-20128 O.R.M.C.T.
(B) CALLED SOUTH 203.6 FEET OF TRACT "C" WARRANTY DEED LYDICK ROOFING COMPANY OF MIDLAND, INC. VOLUME 673, PAGE 77 D.R.M.C.T.
(C) CALLED SOUTH 310 FEET OF THE NORTH 610 FEET OF TRACT "C" QUITCLAIM DEED EASTMAN CHRISTENSON COMPANY, A JOINT VENTURE, GOVERNED BY DELAWARE LAW VOLUME 904, PAGE 44 D.R.M.C.T.
(D) CALLED 3.69 ACRES (NORTH 300 FEET OF TRACT "C") SPECIAL WARRANTY DEED BAKER HUGHES OILFIELD OPERATIONS, INC. INSTRUMENT NO. 2011-4612 O.R.M.C.T.
(E) CALLED SOUTH 5 ACRES OF TRACT "B" WARRANTY DEED HUGHES TOOL COMPANY VOLUME 860, PAGE 402 D.R.M.C.T.
(F) CALLED 41.37 ACRES QUITCLAIM DEED SOUTHWEST MIDLAND TRUST D.L. BURRIS, TRUSTEE VOLUME 2614, PAGE 375 O.R.M.C.T.
(G) CALLED 20.073 ACRES SPECIAL WARRANTY DEED RECOM OPERATING CO., LP INSTRUMENT NO. 2013-308 O.R.M.C.T.
(H) CALLED 7.69 ACRES WARRANTY DEED MIDCAMP PROPERTIES, LLC INSTRUMENT NO. 2020-913 O.R.M.C.T.



VICINITY MAP
NOT TO SCALE

DRIVING DIRECTIONS:

FROM THE INTERSECTION OF INTERSTATE 20 AND WEST LOOP 250 IN MIDLAND TRAVEL (EAST) ON THE NORTH I-20 ACCESS ROAD FOR 1.87 MILES TO THE LEFT (NORTH) APPROXIMATELY 730 FEET.



LAYOUT PLAN
1" = 300'

COORDINATES		
COORDINATES SHOWN ARE THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE NAD 83		
LELA 7-18 D #143 (SHL) NORTHING: 10680816.40 EASTING: 1739384.41	CENTER OF LELA 7-18 WELL PAD NORTHING: 10680768.38 EASTING: 1739713.63	LELA 7-18 B #121 (SHL) NORTHING: 10680981.35 EASTING: 1740013.13

SCALE: 1" = 300'

300 150 0 300 600

GRAPHIC SCALE

STATE OF TEXAS
REGISTERED
JAMES P. KEENE
5100
PROFESSIONAL
LAND SURVEYOR

PACKET

21.23

JUNE 13, 2023

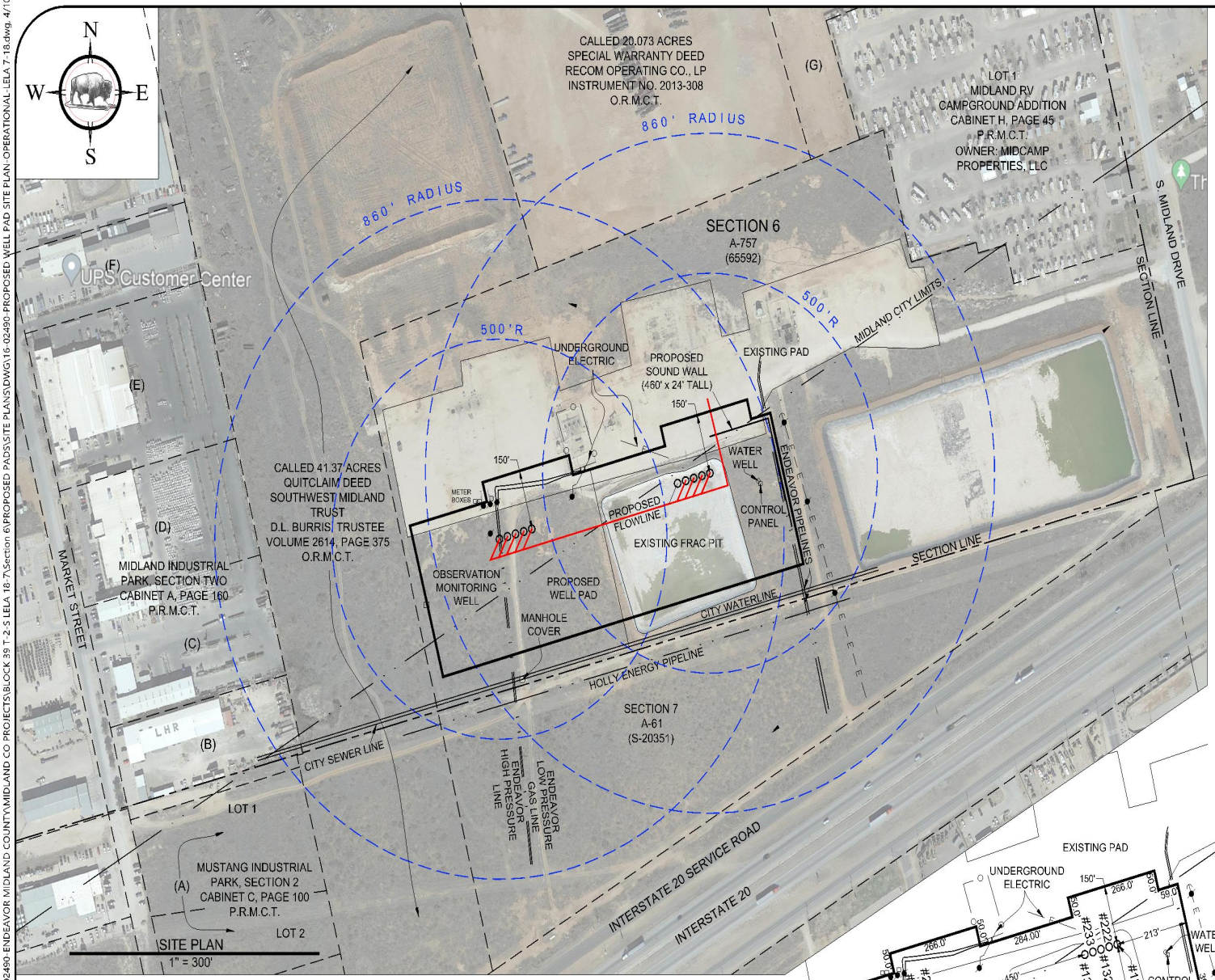
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LAND SERVICES, LLC
WWW.BISON-CREEK.COM
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FIRM LICENSE NO. 10193880
BISON CREEK LAND SERVICES, LLC 29740 STATE HIGHWAY 64, CANTON, TX 75103 PHONE: (903) 873 - 3600

SITE PLAN
ENDEAVOR ENERGY RESOURCES, L.P.
(LELA 7-18)
PROPOSED WELL PAD
SITUATED IN THE
CITY OF MIDLAND, SECTION 6, BLOCK 39, T-2-S, T & P RR CO.
SURVEY, ABSTRACT NO. 757, MIDLAND COUNTY, TEXAS.

SCALE: 1" = 300'	DATE: 02/16/23
DRAWN BY: MTL	
APPROVED: JPK	
FIELD CREW: JR	
PROJECT NO. 16-02490-LELA 17-8 WELL PAD	

SHEET
1
OF 1

Z:\BISON CREEK, LLC\2016\16-02490-ENDEAVOR MIDLAND COUNTY\MIDLAND CO PROJECTS\BLOCK 39 T-2-S LELA 16-7\Section 6\PROPOSED PADS\SITE PLANS\DWG\16-02490-PROPOSED WELL PAD SITE PLAN-LELA 7-18.dwg, 4/10/2023 8:50:49 AM

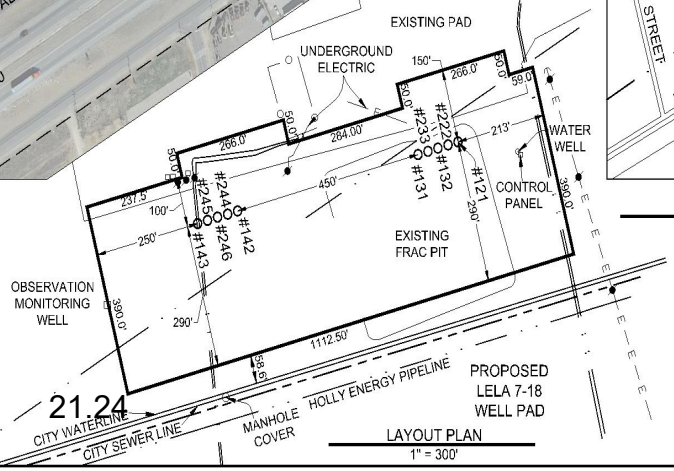


SITE PLAN
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LELA 7-18 B #121 (SHL) NORTHING: 10680981.35 EASTING: 1740013.13
LELA 7-18 B #222 (SHL) NORTHING: 10680975.01 EASTING: 1739988.95
LELA 7-18 C #132 (SHL) NORTHING: 10680968.66 EASTING: 1739964.77
LELA 7-18 C #233 (SHL) NORTHING: 10680962.32 EASTING: 1739940.59
LELA 7-18 C #131 (SHL) NORTHING: 10680955.97 EASTING: 1739916.41

VICINITY MAP
NOT TO SCALE



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STATE OF TEXAS
REGISTERED
JAMES P. KEENE
5100
PROFESSIONAL
LAND SURVEYOR

SCALE: 1" = 300'
300 150 0 300 600
GRAPHIC SCALE

PACKET
21.24
JUNE 13, 2023

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City Council Meeting

Item Number: 22

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Alexandra Walling, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7 AND THE WEST 41.5 FEET OF LOT 8, BLOCK 35, COWDEN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH PECOS STREET AND WATSON STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Ronnie Brewster, is requesting a Zone Change from MF-16, Multiple-Family Dwelling District to SF-3, Single-Family Dwelling District for an existing single-family home.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds would be required for this project.

Current Zoning:

MF-16, Multiple-Family Dwelling District.

Surrounding Zoning and Land Use:

The properties to the north and east are zoned MF-16, Multiple-Family Dwelling District, and the location of single-family houses. The properties to the south are zoned SF-2, Single-Family Dwelling District, and the location of single-family houses. The properties to the west are zoned MF-16, Multiple-Family Dwelling District, and the location of single-family houses.

Analysis:

The property located at 510 Watson Street is occupied by an existing detached single-family house. The current zoning is MF-16, Multiple-Family Dwelling District. Per the previous Zoning Ordinance, single-family houses were allowed within this zoning district. As of July 1, 2019, the new Zoning Ordinance does not allow the use of single-family houses within MF-16, Multiple-Family Dwelling District. Changing the zoning to SF-3, Single-Family Dwelling District would legalize the existing home and allow it to comply with minimum lot dimensions. The applicant has been made aware that any new buildings or additions will require a replat. On October 8, 2019, another property within the same subdivision, 1117 N. Carrizo Street, was also rezoned from MF-16 to SF-3.

This request has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

This proposed Zone Change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objection.

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, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objections to zoning/zone change. [For Applicant’s Information Only.]

Code: (Approved)

No Oil and Gas Issues. Informational: 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. Please note if oil & gas wells are not identified or left off plat, this could prevent receiving city permits for structures.

Any plugged and abandoned (P&A) well would need to be identified. No construction is allowed on top of P&A wells.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

Planning:

The request fits with the Tall City Tomorrow Comprehensive Plan, Chapter 3-Land Use Vision. The land use map indicates that this area shall be used for U-M NC, Urban-Medium Neighborhood Center. This area is designated to be utilized by small scale businesses surrounded by single-family homes and townhouses. The proposed SF-3 zoning is compatible with the U-M NC designation in the Tall City Plan.

This zone change was approved at the Planning and Zoning Commission on May 15, 2023.

Staff recommends approval of this Zone Change from MF-16, Multiple-Family Dwelling District to SF-3, Single-Family Dwelling District, subject to condition A.

Conditions:

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

Letters of Objection:

As of June 7, 2023, staff has received no letters of objection for this request.

Attachments:

Survey
Application
Maps

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7 AND THE WEST 41.5 FEET OF LOT 8, BLOCK 35, COWDEN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH PECOS STREET AND WATSON STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lot 7 and the west 41.5 feet of Lot 8, Block 35, Cowden Addition, City and County of Midland, Texas (the "Property") to SF-3, Single-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from MF-16, Multiple-Family Dwelling District to SF-3, Single-Family Dwelling District.

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

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as

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

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

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

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2023; 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., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____
Lori Merritt Blong, Mayor

ATTEST:

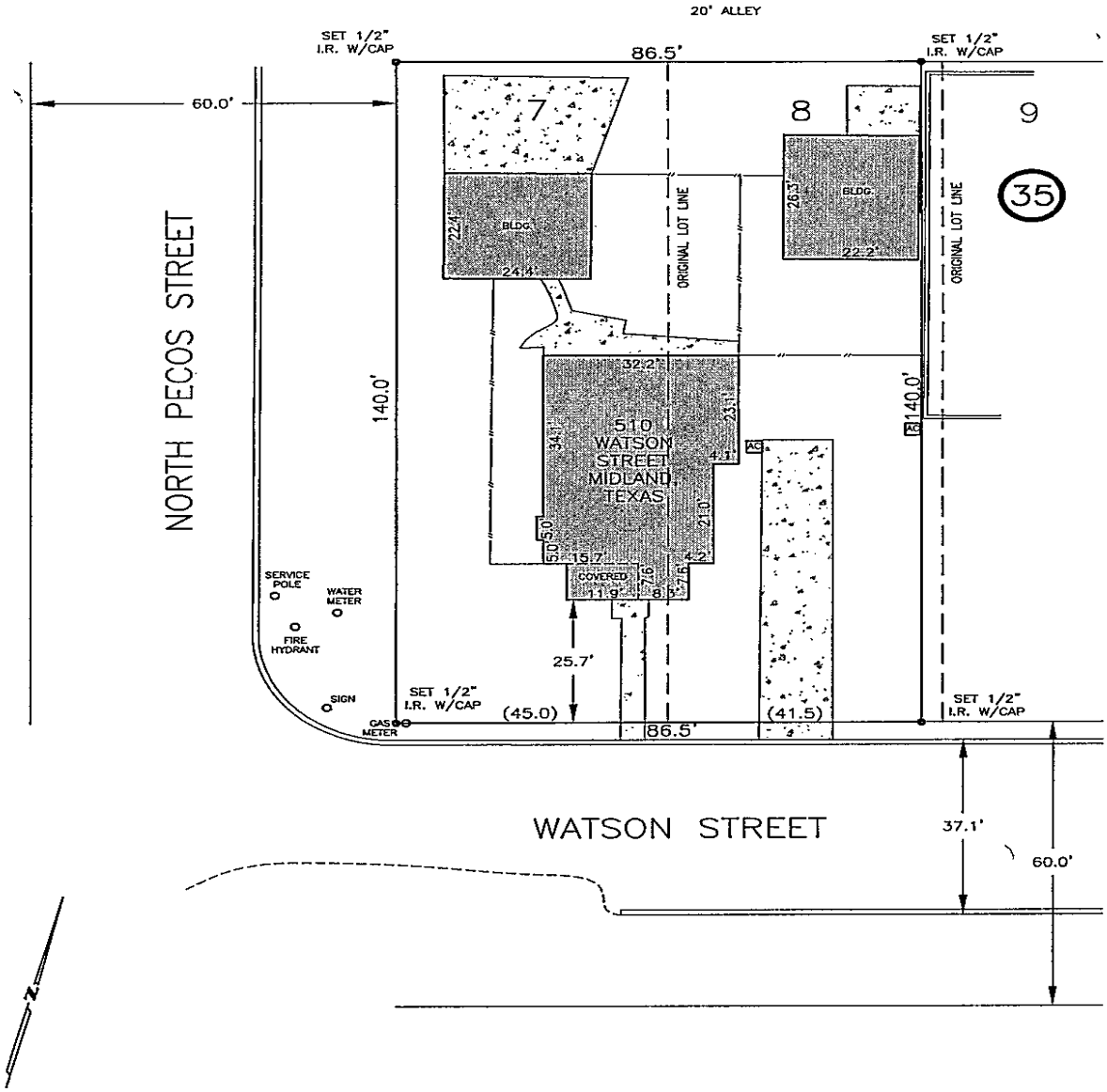
_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney



PLAT

OF

ALL OF LOT SEVEN (7), AND THE WEST 41.5 FEET OF LOT EIGHT (8), BLOCK THIRTY–FIVE (35), COWDEN ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

30 0 30 60 90 Feet

SURVEY PLAT FOR: TIMOTHY C. JOHNSON AND TIANA THOMASSON

TO LIEN HOLDER ISSUING THE INSURANCE UNDERWRITER AND PERMIAN ABSTRACT AND TITLE COMPANY, MIDLAND, TEXAS

THIS SURVEY PLAT IS PROVIDED SOLELY FOR THIS TRANSACTION AND G.F. NO. 2303010–MG AS NOTED.

PLAT IS COPYRIGHTED AND SHALL NOT BE USED FOR ANY OTHER TRANSACTION.

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS SURVEY WAS MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND IS CORRECT, AND THAT THERE ARE NO VISIBLE DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE EASEMENTS OR RIGHTS OF WAY, EXCEPT AS SHOWN HEREON, AND THIS SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY AS SHOWN.

PACKET

Robert D. Bradshaw

REGISTERED PROFESSIONAL LAND SURVEYOR

STATE OF TEXAS REGISTERED ROBERT D. BRADSHAW 5507 PROFESSIONAL LAND SURVEYOR

FILED IN CABINET C, PAGE 144, PLAT RECORDS OF MIDLAND COUNTY, TEXAS.

THIS PROPERTY LIES WITHIN ZONE "X" AS SHOWN BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION MAP COMMUNITY PANELS 48329C0089 F DATED SEPTEMBER 16, 2005.

Stored: 23041429

BRADSHAW AND ASSOCIATES, INC.
CONSULTING ENGINEERS
REGISTERED PROFESSIONAL LAND SURVEYORS
FIRM # 10122900/10122901
4400 N. BIG SPRING SUITE A–8
MIDLAND, TEXAS 79705
PHONE (432)682–4403, FAX (432)682–7997

	Drawn	Chkd	Surveyed
By	SH	RDB	CH/KR
Date	4–10–2023	4–10–2023	4–6–2023

$500

MIDLAND Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 2-23-0330

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Ronnie Brewster		Phone (702) 281 2284 Email Ronniebrew@yahoo.com	
Address 6211 Sequoia Dr.	City Midland	State TX	Zip 79707
Property Owner Printed Name: Ronnie Brewster		Phone (702) 281 2284 Email Ronniebrew@yahoo.com	
Address 6211 Sequoia Dr.	City Midland	State TX	Zip 79707
Representative *(if different from Applicant or Property Owner)* Firm: Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 510 Watson St. Midland Tx

Legal Description
Lot: 7,8 Block: 35 Subdivision: Cowden Addition

Current Zoning: MF16

Proposed Zone: SF3
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Accommodate for current single family home.

Present Use of Property: Single Family Home

Proposed Use of Property: Single Family Home

How would this zone change affect the public health, safety and welfare? None

Describe how conditions affecting the property have changed since present zoning designation: NA

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): Ronnie Brewster	Date: 4/19/23
Applicant (printed): Ronnie Brewster	
Property Owner (signature): Ronnie Brewster	Date: 4/19/23
Property Owner (printed) : Ronnie Brewster	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear_____who, being by me duly sworn, upon oath says: That (s)he is the owner of _____or authorized by_____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

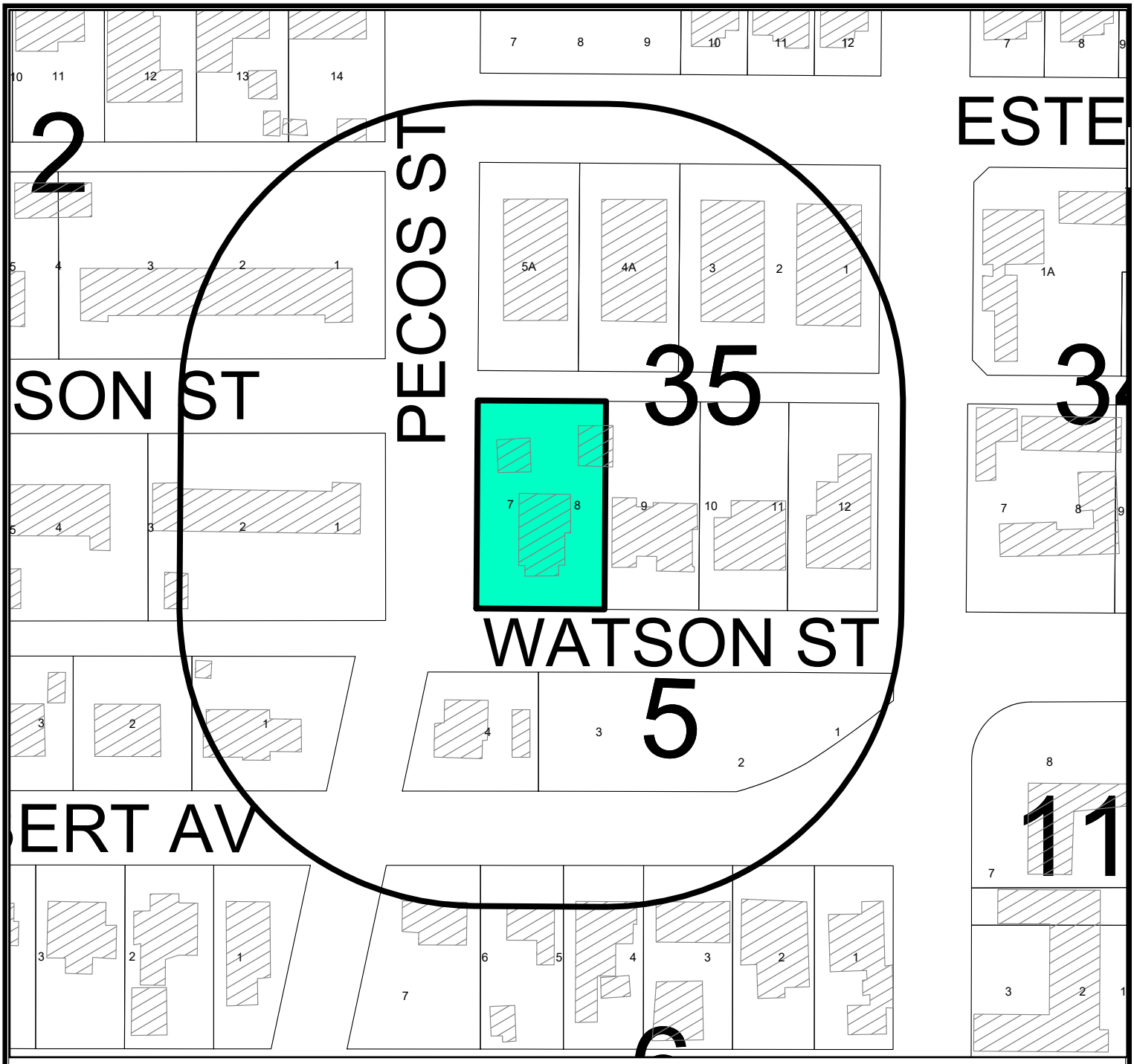
_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☒ Property Owner Authorization	☒ Dimensioned Site Plan
☒ Application Fee	☒ Plans in Digital Format (PDF/JPEG)
Check # 1044	
Received By: KM	Date: APR 2 1 2023
	BY:

RECEIVED

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



LOCATION MAP

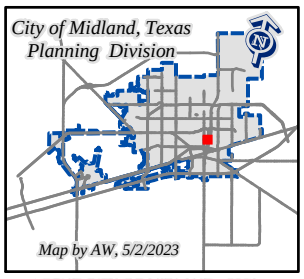
Z-23-0330 **Scale: 1" = 200'**

Consider a request by Ronnie Brewster for a zone change from MF-16, Multiple Family Dwelling District to SF-3, Single-Family Dwelling District on Lot 7 and the west 41.5-feet of Lot 8, Block 35, Cowden Addition, City and County of Midland, Texas.

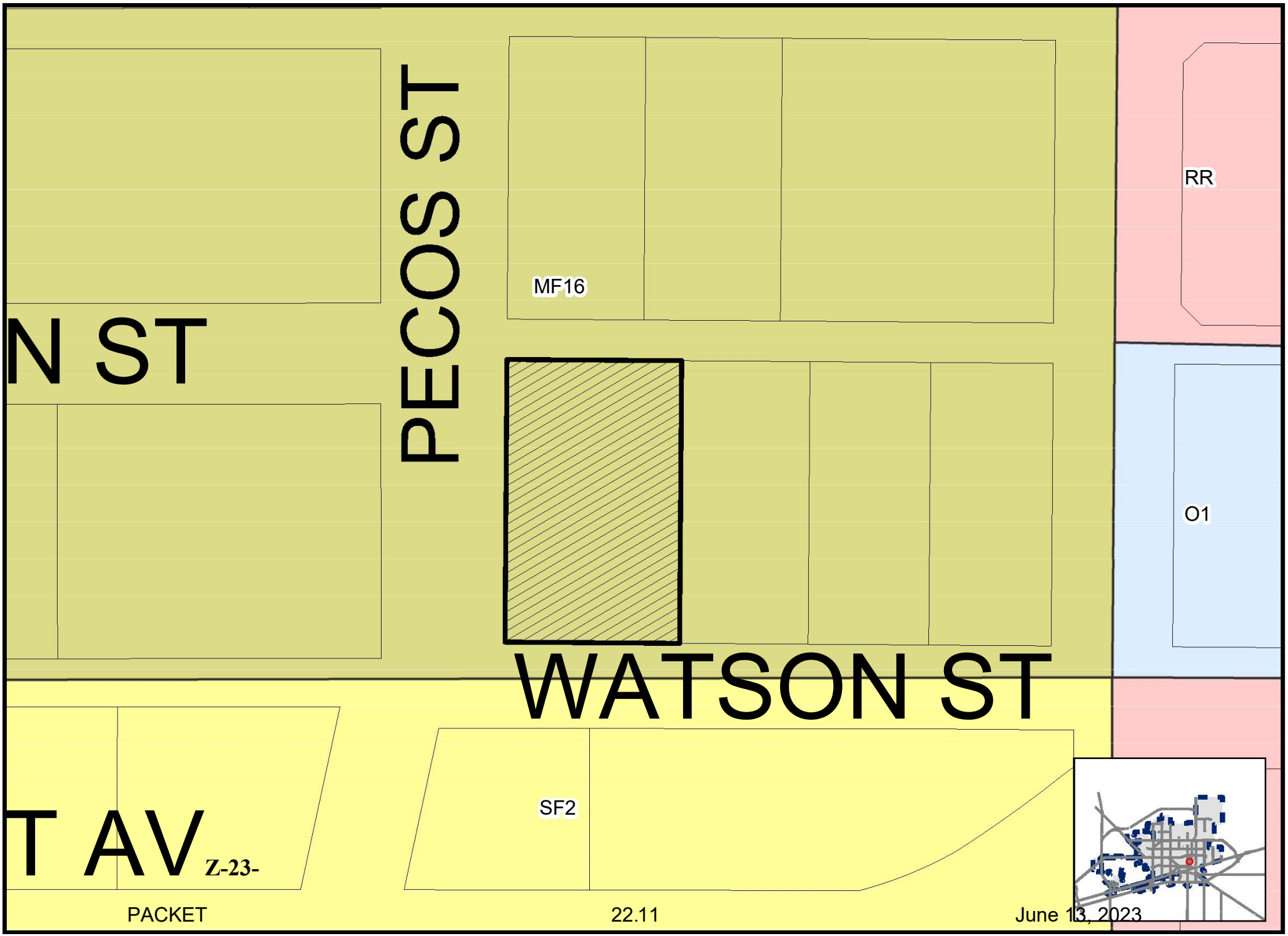
Generally located on the northeast corner of the intersection of North Pecos Street and Watson Street. - (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 13, 2023



0330

Map By AW, 5/2/2023

Scale: 1" = 200'

ZONING MAP


513
FOR SALE
BY OWNER






N Pecos
STOP

City Council Meeting

Item Number: 23

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Alexandra Walling, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 1, RENEW LIFE CHURCH ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO MF-16, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF OCCIDENTAL PARKWAY, APPROXIMATELY 280 FEET EAST OF NORTH STATE HIGHWAY 349); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Outkick Investment Partners LLC, is requesting a Zone Change from AE, Agricultural Estate District to MF-16, Multiple-Family Dwelling District for the construction of a Multi-Family Dwelling development.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds would be required for this project.

Current Zoning:

AE, Agricultural Estate District.

Surrounding Zoning and Land Use:

The properties to the north are zoned SF-3, Single-Family Dwelling District, and the location of detached single-family houses. The property to the east is zoned SF-3, Single-Family Dwelling District, and is vacant. The property to the south is zoned PD, Planned Development District for Housing Development (Ordinance No. 9223), and the location of single-family houses. The property to the west is zoned SF-3, Single-Family Dwelling District, and is vacant.

Analysis:

The property located at 1201 Occidental Parkway is platted but currently vacant. The applicant's request to change the zoning to MF-16, Multiple-Family Dwelling District would allow the proposed multi-family dwelling development. While not required for a zone change to one of the specific zoning districts in the Zoning Ordinance, the applicant has provided a site plan of the proposed development (see attached). If this zone change is approved, the applicant will be required to comply with the MF-16 standards at time of permitting.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objection.

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, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objection to zone change. [For the Applicant's information only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

Our staff has examined the FEMA flood map and it appears that this property lies entirely within Zone AE, which is a Special Flood Hazard Area subject to inundation by the 1% annual chance flood. [For the Applicant's information only.]

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

structures. An elevation certificate based off of finish construction will be required for the Certificate of Occupancy. [For the Applicant's information only.]

Code: (Approved)

No Oil and Gas Issues. Informational: 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. Please note if oil & gas wells are not identified or left off plat, this could prevent receiving city permits for structures. Any plugged and abandoned (P&A) well would need to be identified. No construction is allowed on top of P&A wells.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

Planning:

The request fits with the Tall City Tomorrow Comprehensive Plan, Chapter 3-Land Use Vision. The future land use for this area is Urban-Medium (U-M), which incorporates a variety of uses such as multi-family and single-family housing, commercial, parks, and mixed use.

This zone change was approved at the Planning and Zoning Commission on May 15, 2023.

Staff recommends approval of this Zone Change from AE, Agricultural Estates District to MF-16, Multiple-Family Dwelling District subject to condition A.

Conditions:

A. **That the use and development of the property shall conform to the regulations of the MF-16, Multiple-Family Dwelling District.**

Letters of Objection:

Staff has not received any letters of objection as of June 7, 2023.

Attachments:

Application
Site Plan (Exhibit A)
Maps

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 1, RENEW LIFE CHURCH ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO MF-16, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF OCCIDENTAL PARKWAY, APPROXIMATELY 280 FEET EAST OF NORTH STATE HIGHWAY 349); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lot 1, Block 1, Renew Life Church Addition, City and County of Midland, Texas (the "Property") to MF-16, Multiple-Family Dwelling District and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from AE, Agricultural Estate District to MF-16, Multiple-Family Dwelling District.

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

That the use and development of the Property shall conform to the regulations of the MF-16, Multiple-Family Dwelling District and the site plan attached hereto as Exhibit

"A".

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

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

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

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

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2023; 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., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

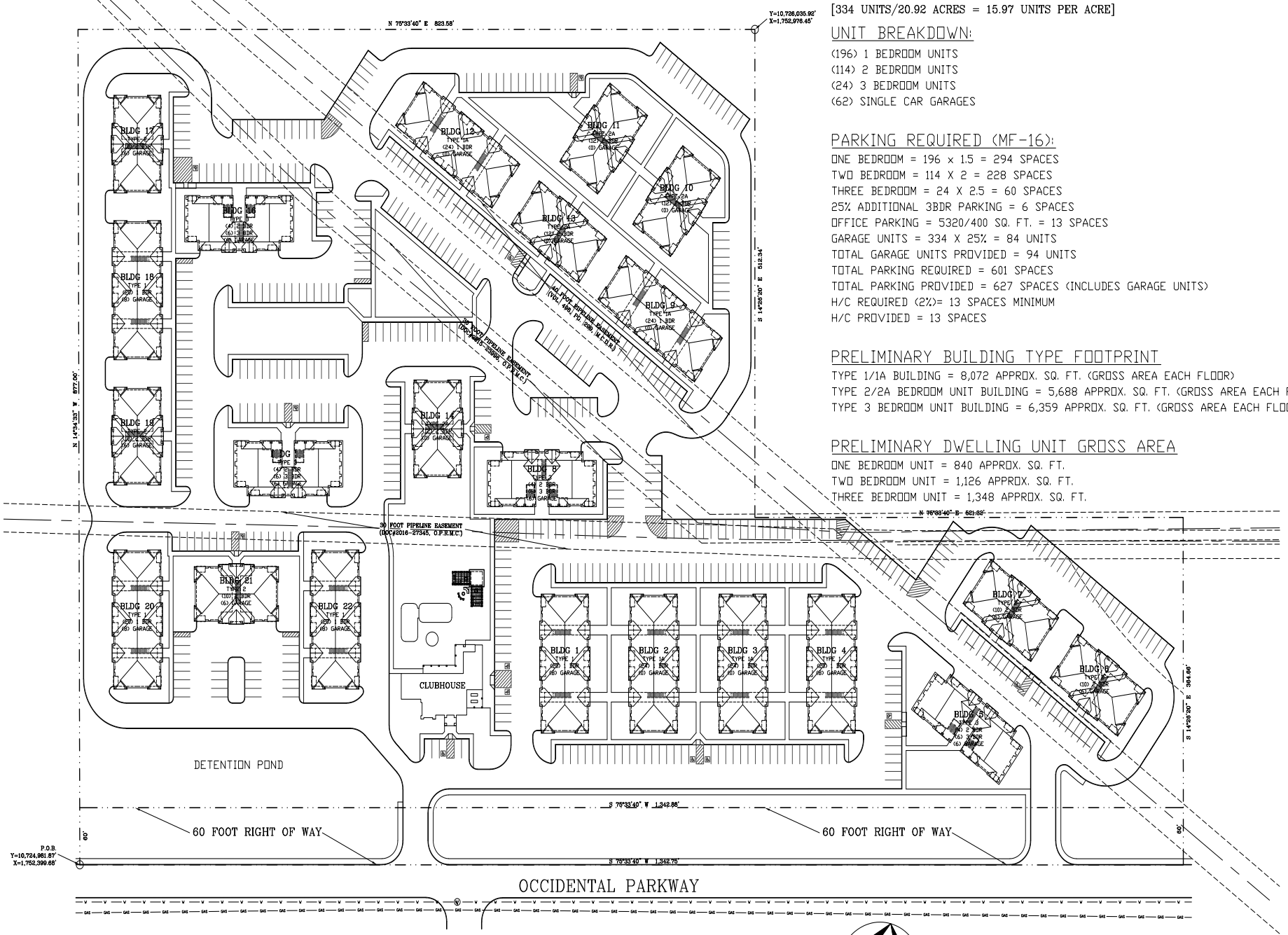
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"



CONCEPT SITE: 334 UNITS

[334 UNITS/20.92 ACRES = 15.97 UNITS PER ACRE]

UNIT BREAKDOWN:

(196) 1 BEDROOM UNITS
(114) 2 BEDROOM UNITS
(24) 3 BEDROOM UNITS
(62) SINGLE CAR GARAGES

PARKING REQUIRED (MF-16):

ONE BEDROOM = 196 x 1.5 = 294 SPACES
TWO BEDROOM = 114 X 2 = 228 SPACES
THREE BEDROOM = 24 X 2.5 = 60 SPACES
25% ADDITIONAL 3BDR PARKING = 6 SPACES
OFFICE PARKING = 5320/400 SQ. FT. = 13 SPACES
GARAGE UNITS = 334 X 25% = 84 UNITS
TOTAL GARAGE UNITS PROVIDED = 94 UNITS
TOTAL PARKING REQUIRED = 601 SPACES
TOTAL PARKING PROVIDED = 627 SPACES (INCLUDES GARAGE UNITS)
H/C REQUIRED (2%)= 13 SPACES MINIMUM
H/C PROVIDED = 13 SPACES

PRELIMINARY BUILDING TYPE FOOTPRINT

TYPE 1/1A BUILDING = 8,072 APPROX. SQ. FT. (GROSS AREA EACH FLOOR)
TYPE 2/2A BEDROOM UNIT BUILDING = 5,688 APPROX. SQ. FT. (GROSS AREA EACH FLOOI
TYPE 3 BEDROOM UNIT BUILDING = 6,359 APPROX. SQ. FT. (GROSS AREA EACH FLOOR)

PRELIMINARY DWELLING UNIT GROSS AREA

ONE BEDROOM UNIT = 840 APPROX. SQ. FT.
TWO BEDROOM UNIT = 1,126 APPROX. SQ. FT.
THREE BEDROOM UNIT = 1,348 APPROX. SQ. FT.

MASTER SITE CONCEPT

SCALE

COX DIRKS ARCHITECTS PC
AMERICAN INSTITUTE OF ARCHITECTS
5101 80TH STREET, SUITE 1
LUBBOCK, TEXAS 79424
TEL 806.792-1226 FAX 806.792-1237
WWW.COXDIRKSARCHITECTS.COM

PACKET

23.7

0 25 50
GRAPHIC SCALE IN FEET

W N E S

June 13, 2023

04-10-2023

MIDLAND Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 23-0328

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Ben Lewis		Phone (806) 791-2300 Email Ben.Lewis@OJDanstherapy.com	
Address 328 E Hwy 62 # 1	City Wolfforth	State Texas	Zip 79382

Property Owner Printed Name: Taylor Tucker		Phone (806) 319-2602 Email taylor.tucker@cbclubbock.com	
Address 4705 120th Boulevard	City Lubbock	State Texas	Zip 79424

Representative *(if different from Applicant or Property Owner)* Firm: Outkick Investment Partners, LLC Printed Name: Taylor Tucker, Managing Member		Phone (806) 319-2602 Email taylor.tucker@cbclubbock.com	
Address 4705 120th Boulevard	City Lubbock	State Texas	Zip 79424

Street Address: N/A

Legal Description
Lot: 1 Block: 1 Subdivision: The Renew Life Church Addition

Current Zoning: AE	**Proposed Zone:** MF16 *(List by tracts if more than one district is requested)*

Reason for Zone Change Request: To build a Multiple-Family Dwelling.

Present Use of Property: Vacant.

Proposed Use of Property: Multiple-Family Dwelling.

How would this zone change affect the public health, safety and welfare? Open land up to development.

Describe how conditions affecting the property have changed since present zoning designation: Stayed vacant.

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: 4-10-23
Applicant (printed): Ben Lewis	
Property Owner (signature):	Date: 4/11/23
Property Owner (printed) : Taylor Tucker	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF ~~MIDLAND~~ Lubbock

Before me, the undersigned authority, on this day personally appear Ben Lewis who, being by me duly sworn, upon oath says: That (s)he is the owner of see attached or authorized by Taylor Tucker, 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 17th day of April, 2023, to certify which witness my hand and seal of office.

Peggy Jo Bailey

PEGGY JO BAILEY
My Notary ID # 130766116
Expires August 4, 2024

NOTARY PUBLIC, ~~MIDLAND~~ Lubbock COUNTY, TEXAS

FOR OFFICE USE ONLY

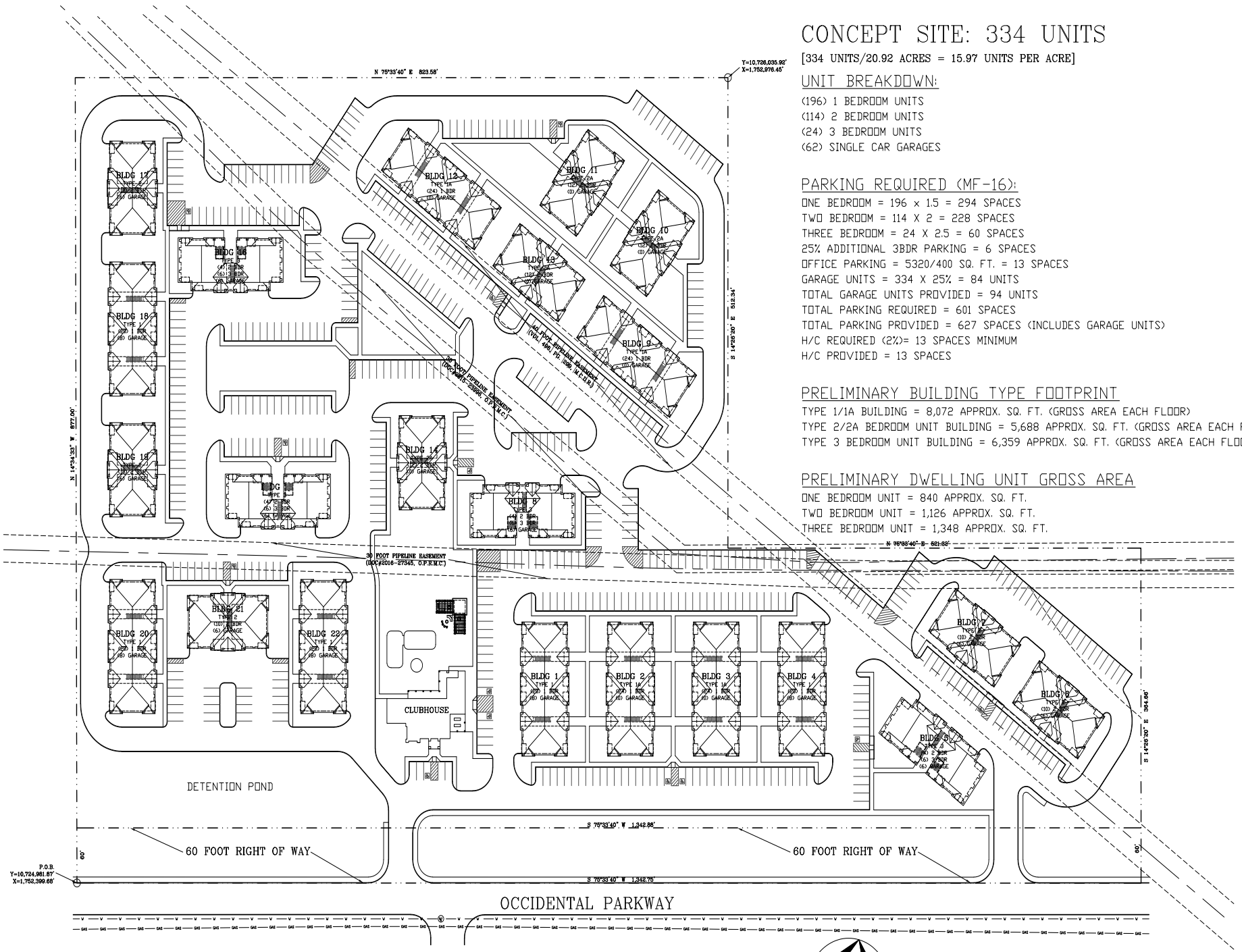
- ☑ Property Owner Authorization
- ☑ Application Fee
  Check # 1025 $500
- ☑ Dimensioned Site Plan
- ☑ Plans in Digital Format (PDF/JPEG)

Received By: Alexandra Walling

Date RECEIVED APR 19 2023

BY: AW

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



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[334 UNITS/20.92 ACRES = 15.97 UNITS PER ACRE]

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PRELIMINARY DWELLING UNIT GROSS AREA

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MASTER SITE CONCEPT

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PACKET

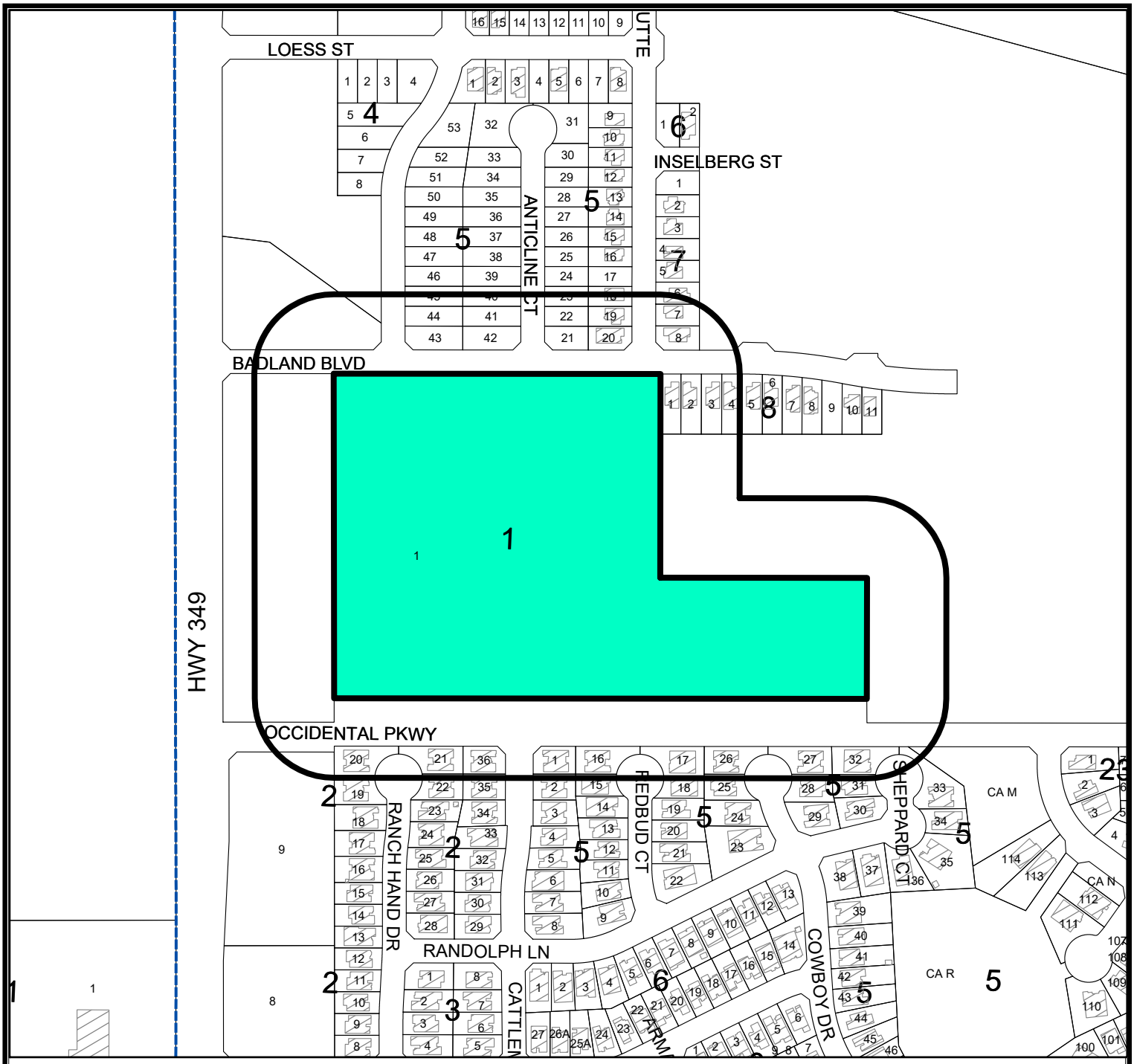
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GRAPHIC SCALE IN FEET

W N E S

June 13, 2023

04-10-2023



LOCATION MAP

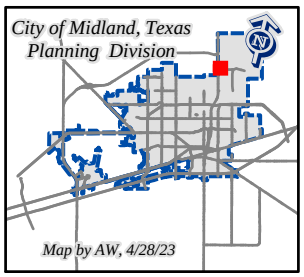
Z-23-0328 **Scale: 1" = 200'**

Consider a request by Outkick Investment Partners, LLC for a Zone Change from AE, Agricultural Estates District to MF-16, Multiple-Family Dwelling District on Lot 1, Block 1, Renew Life Church Addition, City and County of Midland, Texas.

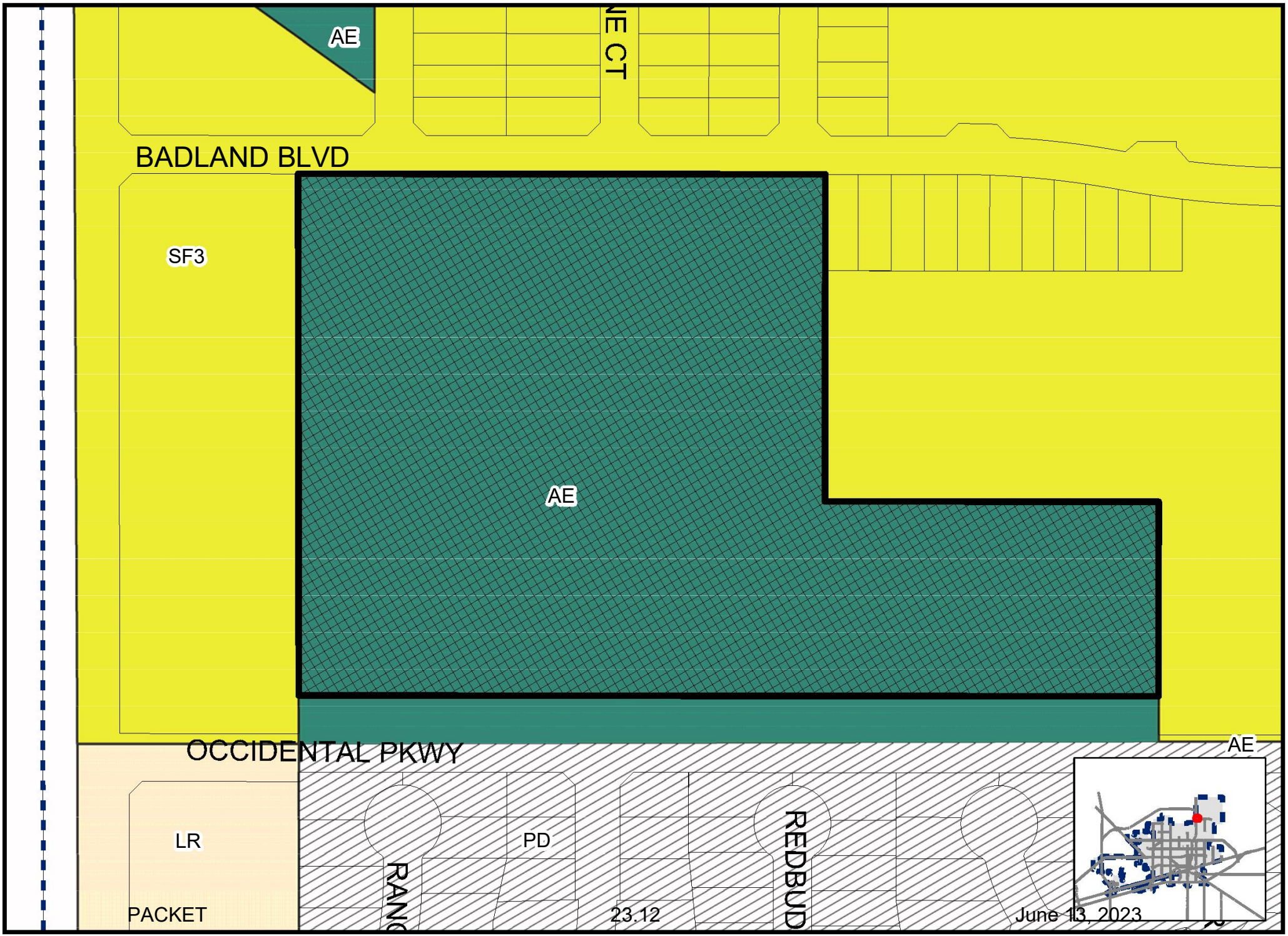
Generally located north of Occidental Parkway, approximately 280-feet east of North State Highway 349. - (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



June 13, 2023



Map By AW, 4/28/23

Z-23-0328

Scale: 1" = 200'

ZONING MAP

UCT, NOR IS IT DESIGNED
INFORMATION CONTAINED
THE USE OF THIS DATA.









City Council Meeting

Item Number: 24

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Landon Ochoa, 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 24.897-ACRE TRACT OF LAND OUT OF SECTIONS 38 AND 47, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF POTOMAC PARKWAY AND VICTORY PARKWAY); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT: NONE) (DEVELOPMENT SERVICES)

Purpose:

The applicant, D.R. Horton Texas - LTD, is requesting an annexation of a 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas, located southeast corner of Potomac Parkway and Victory Parkway which is currently being annexed to be SF-3, Single-Family Dwelling District. An associated initial zoning is also in review.

Recommended City Council Action:

Approve

Fiscal Impact:

Additional land to be developed under City regulations in an expanded growth area.

Discussion:

The applicant, Horton Texas - LTD, is requesting to annex a 24.897-acre tract of land located in

Sections 38 and 47, 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 11, 2023, 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 objections. [For the Applicant's information only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Fire: (Approved)

No objections.

Building Code: (Approved)

No objections

Oil and Gas: (Approved)

No Oil and Gas Issues. Informational: Future plats will need Oil or Gas wells identified with 500 ft. permitted well radius or the 135 ft. non-permitted well radius of location. Please note if oil & gas wells are not identified or left off a plat, this could prevent receiving city permits for structures. Any plugged and abandoned (P&A) well would need to be identified. No construction is allowed on top of P&A wells.

GIS: (Approved)

No comments.

Planning:

As this proposed development will conform to the Tall City Tomorrow Comprehensive Plan, staff recommends approval of this annexation.

Letters of Objection:

As of June 12, 2023, staff has received no letters of objection to this request.

Attachments:

Application
Petition (Exhibit A)
Maps

Morris Williams Jr.

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 24.897-ACRE TRACT OF LAND OUT OF SECTIONS 38 AND 47, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF POTOMAC PARKWAY AND VICTORY PARKWAY); 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 13, 2023, 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 30, 2023, 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 26, 2023; 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 limits 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 24.897-acre tract of land out of Sections 38 and 47, 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., 2023; and passed to second reading

on motion by Council member _____, seconded by Council member

following vote upon motion of Council member _____, seconded by Council _____, 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

Council members voting "AYE":

Council members voting "NAY":

member _____, on the _____ day of _____, A.D., 2023, at a regular meeting of the City Council:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____

Lori Merritt Blong, Mayor

ATTEST:

_____

Marcia Bentley-German, 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, Cumberland & Western, LLC ("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

Josh Wallender
Printed Name

Owner Representative
Title

THE STATE OF Texas §
§
COUNTY OF Midland §

This instrument was acknowledged before me on the 24th day of April, 2023, by Josh Wallender in the capacity herein stated.

MY COMMISSION EXPIRES

3.9.27

Notary Public, State of Texas

DALIA SALINAS
NOTARY PUBLIC
STATE OF TEXAS
ID# 128541568
EXPIRES 3-9-2027

EXHIBIT "A"

A 24.897-ACRE TRACT OF LAND IN SECTION 38, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 829 AND SECTION 47, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 183 MIDLAND COUNTY, TEXAS

A 24.897-acre tract of land, approximately 24.853-acres in Section 38, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 829 and approximately 0.044-acres in Section 47, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 183, Midland County, Texas and being a portion of that certain 634.887-acre tract described in Volume 3131, Page 210 of the Official Public Records of Midland County, Texas and a portion of that certain tract in Section 47 described in said Volume 3131, Page 210; said 24.897-acre tract being more particularly described as follows and as surveyed on-the-ground under the supervision of Parkhill on April 10, 2023:

BEGINNING at a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set in the south line of Potomac Parkway dedicated in the Legacy Addition, Section 4, as shown on the plat recorded in Cabinet J, Page 127 of the Plat Records of Midland County, Texas, for the northeast corner hereof, said beginning point having coordinates of NORTHING: 10,689,663.84, EASTING: 1,727,905.63, Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983;

(1) THENCE crossing said 634.887-acre tract, the following 10 courses:

a. *South 14 degrees 25 minutes 32 seconds East* a distance of 682.81 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
b. Along a non-tangent curve to the right having an arc length of 136.00 feet, a radius of 332.54 feet, and a chord that bears *South 63 degrees 27 minutes 18 seconds East* a distance of 135.05 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
c. *South 53 degrees 05 minutes 20 seconds East* a distance of 14.07 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
d. Along a non-tangent curve to the left having an arc length of 196.43 feet, a radius of 268.02 feet, and a chord that bears *South 75 degrees 36 minutes 26 seconds East* a distance of 192.06 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
e. North 84 degrees 28 minutes 16 seconds East a distance of 23.55 feet to a mag nail with a washer marked “PARKHILL RPLS 6889” set in the west line of Avalon Drive as shown on the plat recorded in Plat Cabinet I, Page 189 of the Plat Records of Midland County, Texas;
f. Along a non-tangent curve to the right having an arc length of 65.01 feet, a radius of 1500.16 feet, and a chord that bears *South 05 degrees 03 minutes 00 seconds East* a distance of 65.01 feet along the west line of said Avalon Drive to a mag nail with a washer marked “PARKHILL RPLS 6889” set;
g. *South 84 degrees 28 minutes 16 seconds West* a distance of 22.43 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;
h. Along a non-tangent curve to the right having an arc length of 244.34 feet, a radius of 333.02 feet, and a chord that bears *North 75 degrees 28 minutes 25 seconds West* a distance of 238.90 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;
i. *North 53 degrees 05 minutes 20 seconds West* a distance of 15.69 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;
j. Along a non-tangent curve to the left having an arc length of 72.08 feet, a radius of 267.53 feet, and a chord that bears *North 59 degrees 18 minutes 09 seconds West* a distance of 71.86 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;

(2) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 431.06 feet crossing said 634.887-acre tract and said tract in Section 47 described in Volume 3131, Page 210 to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof, and from which a 1/2-inch iron pipe found in a rock mound at the northeast corner of Section 47 bears *South 73 degrees 04 minutes 41 seconds West* a distance of 134.55 feet;

(3) THENCE *South 75 degrees 34 minutes 28 seconds West* a distance of 1447.73 feet crossing said tract in Section 47 described in Volume 3131, Page 210 and said 634.887-acre tract to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for the southwest corner hereof, and from which a 1/2 inch iron rod found at the southwest corner of said Section 38 and the northwest corner of said Section 47 bears *South 75 degrees 07 minutes 49 seconds West a distance* of 3694.57 feet;

(4) THENCE *North 14 degrees 29 minutes 17 seconds West* a distance of 771.10 feet crossing said 634.887-acre tract to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set in the south line of a public drainage easement dedicated in the Legacy Addition, Section 5, as shown on the plat recorded in Cabinet L, Page 29 of said Plat Records for a corner

hereof, and from which a 1/2-inch iron rod with a cap marked "PSC RPLS 6453" found in the south line of said Legacy Addition, Section 5, at the southwest corner of said public drainage easement bears *South 75 degrees 34 minutes 28 seconds West* a distance of 312.60 feet;

(5) *North 75 degrees 34 minutes 28 seconds East* a distance of 70.61 feet along the south line of said public drainage easement to a 1/2-inch iron rod with a plastic cap marked “PSC RPLS 6453” found for a corner hereof;

(6) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 220.02 feet along the west line of said drainage easement and the west line of Lot 12, Block 17, of said Legacy Addition, Section 5, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at the southwest corner of said Lot 12, for a corner hereof;

(7) THENCE *North 75 degrees 34 minutes 28 seconds East* a distance of 1012.64 feet along the south line of said Block 17 to a point at the southeast corner of Lot 1 of said Block 17, for a corner hereof, and from which a 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 02 degrees 09 minutes 54 seconds East* a distance of 0.42 feet and another 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 89 degrees 58 minutes 49 seconds West* a distance of 4.64 feet;

(8) THENCE *North 14 degrees 25 minutes 32 seconds West* a distance of 204.33 feet along the east line of said Lot 1 and the east line of Crown Point Court dedicated in said Legacy Addition, Section 5 to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at a corner of said Crown Point Court, for a corner hereof;

(9) THENCE *North 89 degrees 23 minutes 32 seconds West* a distance of 25.89 feet along the north line of said Crown Point Court to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the east line of Victory Parkway dedicated by said Legacy Addition, Section 5, for a corner hereof;

(10) THENCE along the east line of said Victory Parkway, the following 4 courses:

a. *North 14 degrees 25 minutes 32 seconds West* a distance of 180.56 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the left having a radius of 630.07 feet, an arc length of 208.90 feet, and a chord that bears *North 23 degrees 55 minutes 26 seconds West* a distance of 207.94 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
c. *North 33 degrees 25 minutes 20 seconds West* a distance of 2.04 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
d. *North 10 degrees 20 minutes 35 seconds East* a distance of 21.68 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the south line of said Potomac Parkway, for a corner hereof;

(11) THENCE along the south line of said Potomac Parkway, the following 3 courses:

a. *North 54 degrees 06 minutes 16 seconds East* a distance of 33.79 feet, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the right having a radius of 140.01 feet, an arc length of 52.47 feet, and a chord that bears *North 64 degrees 50 minutes 22 seconds East* a distance of 52.17 feet to a 1/2-inch iron rod with a plastic cap marked “RPLS 1974” found for a corner hereof;
c. *North 75 degrees 34 minutes 28 seconds East* a distance 333.53 feet to the POINT OF BEGINNING containing 24.897-acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983. Distances reported hereon are at surface. Areas reported hereon are based on calculations made from surface distances. This survey is subject to any facts which may be disclosed by a full and accurate title search. Record documents other than those described hereon may affect this tract.

Surveyed by

Franklin Leamons
Registered Professional Land Surveyor #6889
Date: April 18, 2023



MIDLAND
Planning Division

Annexation/Initial Zoning Application

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)*		Phone ( ) Email	
Printed Name: D.R. Horton - Texas LTD			
Address 6175 N Freeway	City Fort Worth	State Texas	Zip 76131

Property Owner		Phone ( ) Email	
Printed Name: Cumberland & Western Resources, LLC			
Address 2200 Lapsey Lane	City Bowling Green	State Kentucky	Zip 42103

Representative *(if different from Applicant or Property Owner)*		Phone ( ) Email	
Firm: Parkhill			
Printed Name: Josh Wallender Parkhill # 40032.22		jwallender@parkhill.com	
Address 1700 West Wall Street, Suite 100	City Midland	State Texas	Zip 79701

Street Address: Please see attached metes and bounds

Legal Description
Lot: Block: Subdivision:

Current Zoning: N/A	**Proposed Zone:** SF3 *(List by tracts if more than one district is requested)*

Reason for Annexation/Zone Change Request: Development of future housing

Present Use of Property: Vacant Land

Proposed Use of Property: Housing Development

How would this annexation/zone change affect the public health, safety and welfare?
It would be an improvement to the neigboring community by extending roads and utilities

Describe how this annexation/zone change will affect adjacent properties:
There will be no adverse effects for 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)

Provisions
A plat application will not be considered filed pursuant to Section 212.009 of the Texas Local Government Code until all required documents and fees have been submitted and ***all of the terms and conditions of the Subdivision Ordinance, including all necessary studies, plans and supporting information are accepted and approved,*** or the applicant has filed a waiver request for sections from which the plat deviates. Once a plat meets the requirements to be considered filed with the City, the application will be placed on the Planning and Zoning Commission agenda for consideration under the time requirements set out in Section 212.009.

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

Property Owner (signature): Greg Betterton | Date: April 24, 2023

Property Owner (printed) : Greg Betterton

The Preliminary Plat shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Subdivision Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Josh Wallender who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or is authorized by Cumberland and Western Resources 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.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 24th day of April, 2023, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

OMAR SALINAS NOTARY PUBLIC STATE OF TEXAS ID# 12864 1968 EXPIRES 3-9-2027

FOR OFFICE USE ONLY

☐ Property Owner Authorization ☐ 1 Copy of Dimensioned Plat ☐ Plat in Digital Format (PDF/JPEG)

☐ Application Fee ☐ 1 Copy of Plat (11x17)

Check # _____

Received By: | Date:

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

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, Cumberland & Western, LLC ("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

Josh Wallender
Printed Name

Owner Representative
Title

THE STATE OF Texas §
§
COUNTY OF Midland §

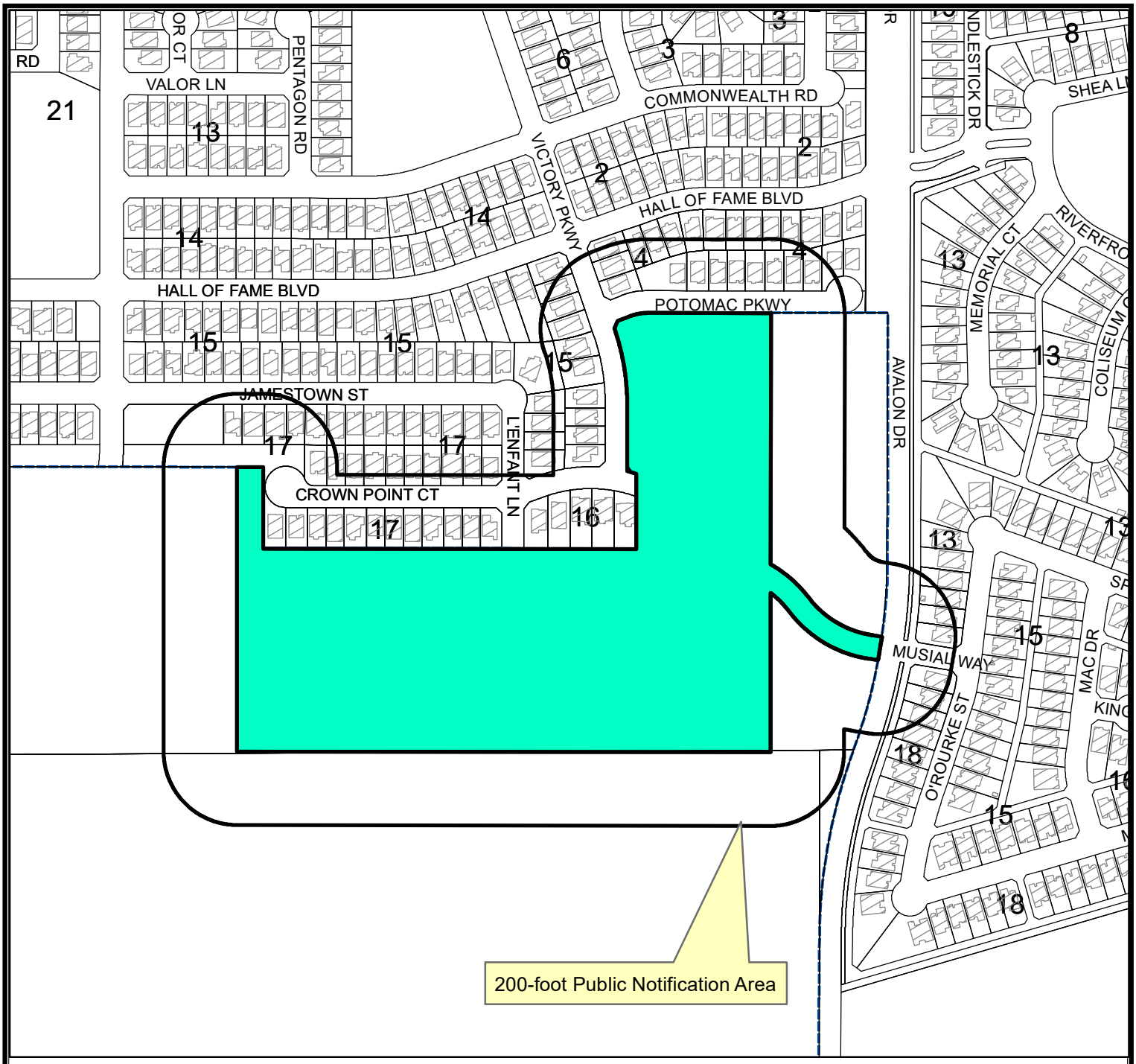
This instrument was acknowledged before me on the 24th day of April, 2023, by Josh Wallender in the capacity herein stated.

MY COMMISSION EXPIRES

5.9.27

Notary Public, State of Texas

DALIA SALINAS
NOTARY PUBLIC
STATE OF TEXAS
ID# 128541568
EXPIRES 3-9-2027



LOCATION MAP

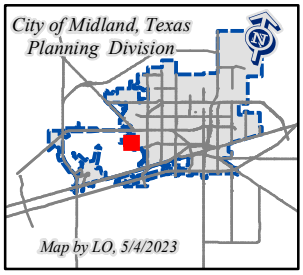
A-23-0034 **Scale: 1" = 4,656'**

A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

Generally located on the southeast corner of Potomac Parkway and Victory Parkway. (Extraterritorial Jurisdiction)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

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, Cumberland & Western, LLC ("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

Josh Wallender
Printed Name

Owner Representative
Title

THE STATE OF Texas §
§
COUNTY OF Midland §

This instrument was acknowledged before me on the 24th day of April, 2023, by Josh Wallender in the capacity herein stated.

MY COMMISSION EXPIRES

3.9.27

Notary Public, State of Texas

DALIA SALINAS
NOTARY PUBLIC
STATE OF TEXAS
ID# 128541568
EXPIRES 3-9-2027

EXHIBIT "A"

A 24.897-ACRE TRACT OF LAND IN SECTION 38, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 829 AND SECTION 47, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 183 MIDLAND COUNTY, TEXAS

A 24.897-acre tract of land, approximately 24.853-acres in Section 38, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 829 and approximately 0.044-acres in Section 47, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 183, Midland County, Texas and being a portion of that certain 634.887-acre tract described in Volume 3131, Page 210 of the Official Public Records of Midland County, Texas and a portion of that certain tract in Section 47 described in said Volume 3131, Page 210; said 24.897-acre tract being more particularly described as follows and as surveyed on-the-ground under the supervision of Parkhill on April 10, 2023:

BEGINNING at a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set in the south line of Potomac Parkway dedicated in the Legacy Addition, Section 4, as shown on the plat recorded in Cabinet J, Page 127 of the Plat Records of Midland County, Texas, for the northeast corner hereof, said beginning point having coordinates of NORTHING: 10,689,663.84, EASTING: 1,727,905.63, Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983;

(1) THENCE crossing said 634.887-acre tract, the following 10 courses:

a. *South 14 degrees 25 minutes 32 seconds East* a distance of 682.81 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
b. Along a non-tangent curve to the right having an arc length of 136.00 feet, a radius of 332.54 feet, and a chord that bears *South 63 degrees 27 minutes 18 seconds East* a distance of 135.05 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
c. *South 53 degrees 05 minutes 20 seconds East* a distance of 14.07 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
d. Along a non-tangent curve to the left having an arc length of 196.43 feet, a radius of 268.02 feet, and a chord that bears *South 75 degrees 36 minutes 26 seconds East* a distance of 192.06 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
e. North 84 degrees 28 minutes 16 seconds East a distance of 23.55 feet to a mag nail with a washer marked "PARKHILL RPLS 6889" set in the west line of Avalon Drive as shown on the plat recorded in Plat Cabinet I, Page 189 of the Plat Records of Midland County, Texas;
f. Along a non-tangent curve to the right having an arc length of 65.01 feet, a radius of 1500.16 feet, and a chord that bears *South 05 degrees 03 minutes 00 seconds East* a distance of 65.01 feet along the west line of said Avalon Drive to a mag nail with a washer marked "PARKHILL RPLS 6889" set;
g. *South 84 degrees 28 minutes 16 seconds West* a distance of 22.43 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;
h. Along a non-tangent curve to the right having an arc length of 244.34 feet, a radius of 333.02 feet, and a chord that bears *North 75 degrees 28 minutes 25 seconds West* a distance of 238.90 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;
i. *North 53 degrees 05 minutes 20 seconds West* a distance of 15.69 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;
j. Along a non-tangent curve to the left having an arc length of 72.08 feet, a radius of 267.53 feet, and a chord that bears *North 59 degrees 18 minutes 09 seconds West* a distance of 71.86 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;

(2) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 431.06 feet crossing said 634.887-acre tract and said tract in Section 47 described in Volume 3131, Page 210 to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof, and from which a 1/2-inch iron pipe found in a rock mound at the northeast corner of Section 47 bears *South 73 degrees 04 minutes 41 seconds West* a distance of 134.55 feet;

(3) THENCE *South 75 degrees 34 minutes 28 seconds West* a distance of 1447.73 feet crossing said tract in Section 47 described in Volume 3131, Page 210 and said 634.887-acre tract to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for the southwest corner hereof, and from which a 1/2 inch iron rod found at the southwest corner of said Section 38 and the northwest corner of said Section 47 bears *South 75 degrees 07 minutes 49 seconds West a distance* of 3694.57 feet;

(4) THENCE *North 14 degrees 29 minutes 17 seconds West* a distance of 771.10 feet crossing said 634.887-acre tract to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set in the south line of a public drainage easement dedicated in the Legacy Addition, Section 5, as shown on the plat recorded in Cabinet L, Page 29 of said Plat Records for a corner

hereof, and from which a 1/2-inch iron rod with a cap marked "PSC RPLS 6453" found in the south line of said Legacy Addition, Section 5, at the southwest corner of said public drainage easement bears *South 75 degrees 34 minutes 28 seconds West* a distance of 312.60 feet;

(5) *North 75 degrees 34 minutes 28 seconds East* a distance of 70.61 feet along the south line of said public drainage easement to a 1/2-inch iron rod with a plastic cap marked “PSC RPLS 6453” found for a corner hereof;

(6) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 220.02 feet along the west line of said drainage easement and the west line of Lot 12, Block 17, of said Legacy Addition, Section 5, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at the southwest corner of said Lot 12, for a corner hereof;

(7) THENCE *North 75 degrees 34 minutes 28 seconds East* a distance of 1012.64 feet along the south line of said Block 17 to a point at the southeast corner of Lot 1 of said Block 17, for a corner hereof, and from which a 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 02 degrees 09 minutes 54 seconds East* a distance of 0.42 feet and another 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 89 degrees 58 minutes 49 seconds West* a distance of 4.64 feet;

(8) THENCE *North 14 degrees 25 minutes 32 seconds West* a distance of 204.33 feet along the east line of said Lot 1 and the east line of Crown Point Court dedicated in said Legacy Addition, Section 5 to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at a corner of said Crown Point Court, for a corner hereof;

(9) THENCE *North 89 degrees 23 minutes 32 seconds West* a distance of 25.89 feet along the north line of said Crown Point Court to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the east line of Victory Parkway dedicated by said Legacy Addition, Section 5, for a corner hereof;

(10) THENCE along the east line of said Victory Parkway, the following 4 courses:

a. *North 14 degrees 25 minutes 32 seconds West* a distance of 180.56 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the left having a radius of 630.07 feet, an arc length of 208.90 feet, and a chord that bears *North 23 degrees 55 minutes 26 seconds West* a distance of 207.94 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
c. *North 33 degrees 25 minutes 20 seconds West* a distance of 2.04 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
d. *North 10 degrees 20 minutes 35 seconds East* a distance of 21.68 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the south line of said Potomac Parkway, for a corner hereof;

(11) THENCE along the south line of said Potomac Parkway, the following 3 courses:

a. *North 54 degrees 06 minutes 16 seconds East* a distance of 33.79 feet, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the right having a radius of 140.01 feet, an arc length of 52.47 feet, and a chord that bears *North 64 degrees 50 minutes 22 seconds East* a distance of 52.17 feet to a 1/2-inch iron rod with a plastic cap marked “RPLS 1974” found for a corner hereof;
c. *North 75 degrees 34 minutes 28 seconds East* a distance 333.53 feet to the POINT OF BEGINNING containing 24.897-acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983. Distances reported hereon are at surface. Areas reported hereon are based on calculations made from surface distances. This survey is subject to any facts which may be disclosed by a full and accurate title search. Record documents other than those described hereon may affect this tract.

Surveyed by

Franklin Leamons
Registered Professional Land Surveyor #6889
Date: April 18, 2023











City Council Meeting

Item Number: **25**

Meeting Date: **June 13, 2023**

To: **City Council / City Manager**

From: **Landon Ochoa, Planner**

Subject: **AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 24.897-ACRE TRACT OF LAND OUT OF SECTIONS 38 AND 47, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN SF-3, SINGLE-FAMILY DWELLING DISTRICT; SAID TRACT BEING GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF POTOMAC PARKWAY AND VICTORY 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: NONE) (DEVELOPMENT SERVICES)**

Purpose:

The applicant, D.R. Horton Texas - LTD, is requesting the initial zoning of a 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas, located on the southeast corner of Potomac Parkway and Victory Parkway which is currently being annexed to be SF-3, Single-Family Dwelling District. An associated annexation is also in review.

The original request did not include an extension to Avalon Drive and was denied by the Planning and Zoning Commission on February 6, 2023.

The Planning and Zoning Commission reviewed this request on May 15, 2023 and recommended approval.

Recommended City Council Action:

Approve

Fiscal Impact:

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

Discussion:

The applicant, D.R. Horton Texas - LTD, is requesting for the initial zoning of annexed land to SF-3, Single Family Dwelling District for future housing development.

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)

No objections to zoning/zone change. [For Applicant's Information Only.]

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.] No objection to zone change. [For the Applicant's information only.]

Fire: (Approved)

No objection.

Code Administration: (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, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Oil and Gas: (Approved)

No Oil & Gas well concerns. Informational: 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. Please note if oil & gas wells are not identified or left off plat, this could prevent receiving city permits for structures. Any plugged and abandoned (P&A) well would need to be identified. No construction is allowed on top of P&A wells.

Planning:

The Future Land Use Map in the Tall City Tomorrow Comprehensive Plan calls for Urban Residential-Large Lot utilization in this area, which emphasizes single-family housing and open spaces on large parcels of land.

As this proposed initial zoning conforms to the Tall City Tomorrow Comprehensive Plan, staff recommends approval of this initial zoning of SF-3, Single-Family Dwelling District subject to condition A.

Conditions:

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

Letters of Objection:

As of June 12, 2023, staff has received eleven letters of objection to this request.

Attachments:

Application
Petition (Exhibit A)
Maps

.

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 24.897-ACRE TRACT OF LAND OUT OF SECTIONS 38 AND 47, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN SF-3, SINGLE-FAMILY DWELLING DISTRICT; SAID TRACT BEING GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF POTOMAC PARKWAY AND VICTORY 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, notice was 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 13, 2023 (the "Hearing Date"), to consider an amendment to the Zoning District Map of the City of Midland, Texas, so as to establish the initial zoning classification of the property described in Section One hereof as an SF-3, Single-Family Dwelling District, as set out in Title XI, Chapter 1 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers on the Hearing Date, 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 Map as established;

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

SECTION ONE. That the initial zoning classification of the area indicated on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

District Map accordingly;

an SF-3, Single-Family Dwelling District, and the Zoning District Map of the City of

Midland, Texas, is hereby amended to reflect the establishment of this initial zoning

SECTION THREE. If any section, subsection, sentence, clause or phrase of this

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

classification.

ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not

ordinances or parts of ordinances governing or regulating the same subject matter as that

affect the validity of the remaining portions of this ordinance. The Council of the City of

covered herein; provided, however, that all prior ordinances or parts of ordinances

Midland hereby declares that it would have passed this ordinance and each section, hereby

inconsistent with or in conflict with any of the provisions of this ordinance are

subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more

expressly repealed to the extent of any such inconsistency or conflict.

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,

The above and foregoing ordinance was duly proposed, read in full and adopted on

Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

first reading, the ___day of _____, A.D., 2023; and passed to second reading on

SECTION FIVE. The City Secretary is hereby authorized and directed to publish

Council members voting "AYE":

motion of Council member _____, seconded by Council member _____,

the descriptive caption of this ordinance in the manner and for the length of time prescribed

by the following vote:

by the law as an alternative method of publication.

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

Council members voting "AYE":

member _____, on the ___ day of _____, A.D., 2023, at a regular meeting

Council members voting "NAY":

of the City Council:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____

Lori Merritt Blong, Mayor

ATTEST:

_____

Marcia Bentley-German, 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, Cumberland & Western, LLC ("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

Josh Wallender
Printed Name

Owner Representative
Title

THE STATE OF Texas §
§
COUNTY OF Midland §

This instrument was acknowledged before me on the 24th day of April, 2023, by Josh Wallender in the capacity herein stated.

MY COMMISSION EXPIRES

3.9.27

Notary Public, State of Texas

DALIA SALINAS
NOTARY PUBLIC
STATE OF TEXAS
ID# 128541568
EXPIRES 3-9-2027

EXHIBIT "A"

A 24.897-ACRE TRACT OF LAND IN SECTION 38, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 829 AND SECTION 47, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 183 MIDLAND COUNTY, TEXAS

A 24.897-acre tract of land, approximately 24.853-acres in Section 38, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 829 and approximately 0.044-acres in Section 47, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 183, Midland County, Texas and being a portion of that certain 634.887-acre tract described in Volume 3131, Page 210 of the Official Public Records of Midland County, Texas and a portion of that certain tract in Section 47 described in said Volume 3131, Page 210; said 24.897-acre tract being more particularly described as follows and as surveyed on-the-ground under the supervision of Parkhill on April 10, 2023:

BEGINNING at a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set in the south line of Potomac Parkway dedicated in the Legacy Addition, Section 4, as shown on the plat recorded in Cabinet J, Page 127 of the Plat Records of Midland County, Texas, for the northeast corner hereof, said beginning point having coordinates of NORTHING: 10,689,663.84, EASTING: 1,727,905.63, Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983;

(1) THENCE crossing said 634.887-acre tract, the following 10 courses:

a. *South 14 degrees 25 minutes 32 seconds East* a distance of 682.81 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
b. Along a non-tangent curve to the right having an arc length of 136.00 feet, a radius of 332.54 feet, and a chord that bears *South 63 degrees 27 minutes 18 seconds East* a distance of 135.05 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
c. *South 53 degrees 05 minutes 20 seconds East* a distance of 14.07 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
d. Along a non-tangent curve to the left having an arc length of 196.43 feet, a radius of 268.02 feet, and a chord that bears *South 75 degrees 36 minutes 26 seconds East* a distance of 192.06 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set;
e. North 84 degrees 28 minutes 16 seconds East a distance of 23.55 feet to a mag nail with a washer marked “PARKHILL RPLS 6889” set in the west line of Avalon Drive as shown on the plat recorded in Plat Cabinet I, Page 189 of the Plat Records of Midland County, Texas;
f. Along a non-tangent curve to the right having an arc length of 65.01 feet, a radius of 1500.16 feet, and a chord that bears *South 05 degrees 03 minutes 00 seconds East* a distance of 65.01 feet along the west line of said Avalon Drive to a mag nail with a washer marked “PARKHILL RPLS 6889” set;
g. *South 84 degrees 28 minutes 16 seconds West* a distance of 22.43 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;
h. Along a non-tangent curve to the right having an arc length of 244.34 feet, a radius of 333.02 feet, and a chord that bears *North 75 degrees 28 minutes 25 seconds West* a distance of 238.90 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;
i. *North 53 degrees 05 minutes 20 seconds West* a distance of 15.69 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;
j. Along a non-tangent curve to the left having an arc length of 72.08 feet, a radius of 267.53 feet, and a chord that bears *North 59 degrees 18 minutes 09 seconds West* a distance of 71.86 feet to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof;

(2) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 431.06 feet crossing said 634.887-acre tract and said tract in Section 47 described in Volume 3131, Page 210 to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for a corner hereof, and from which a 1/2-inch iron pipe found in a rock mound at the northeast corner of Section 47 bears *South 73 degrees 04 minutes 41 seconds West* a distance of 134.55 feet;

(3) THENCE *South 75 degrees 34 minutes 28 seconds West* a distance of 1447.73 feet crossing said tract in Section 47 described in Volume 3131, Page 210 and said 634.887-acre tract to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set for the southwest corner hereof, and from which a 1/2 inch iron rod found at the southwest corner of said Section 38 and the northwest corner of said Section 47 bears *South 75 degrees 07 minutes 49 seconds West a distance* of 3694.57 feet;

(4) THENCE *North 14 degrees 29 minutes 17 seconds West* a distance of 771.10 feet crossing said 634.887-acre tract to a 1/2-inch iron rod with a cap marked “PARKHILL RPLS 6889” set in the south line of a public drainage easement dedicated in the Legacy Addition, Section 5, as shown on the plat recorded in Cabinet L, Page 29 of said Plat Records for a corner

hereof, and from which a 1/2-inch iron rod with a cap marked "PSC RPLS 6453" found in the south line of said Legacy Addition, Section 5, at the southwest corner of said public drainage easement bears *South 75 degrees 34 minutes 28 seconds West* a distance of 312.60 feet;

(5) *North 75 degrees 34 minutes 28 seconds East* a distance of 70.61 feet along the south line of said public drainage easement to a 1/2-inch iron rod with a plastic cap marked “PSC RPLS 6453” found for a corner hereof;

(6) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 220.02 feet along the west line of said drainage easement and the west line of Lot 12, Block 17, of said Legacy Addition, Section 5, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at the southwest corner of said Lot 12, for a corner hereof;

(7) THENCE *North 75 degrees 34 minutes 28 seconds East* a distance of 1012.64 feet along the south line of said Block 17 to a point at the southeast corner of Lot 1 of said Block 17, for a corner hereof, and from which a 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 02 degrees 09 minutes 54 seconds East* a distance of 0.42 feet and another 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 89 degrees 58 minutes 49 seconds West* a distance of 4.64 feet;

(8) THENCE *North 14 degrees 25 minutes 32 seconds West* a distance of 204.33 feet along the east line of said Lot 1 and the east line of Crown Point Court dedicated in said Legacy Addition, Section 5 to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at a corner of said Crown Point Court, for a corner hereof;

(9) THENCE *North 89 degrees 23 minutes 32 seconds West* a distance of 25.89 feet along the north line of said Crown Point Court to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the east line of Victory Parkway dedicated by said Legacy Addition, Section 5, for a corner hereof;

(10) THENCE along the east line of said Victory Parkway, the following 4 courses:

a. *North 14 degrees 25 minutes 32 seconds West* a distance of 180.56 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the left having a radius of 630.07 feet, an arc length of 208.90 feet, and a chord that bears *North 23 degrees 55 minutes 26 seconds West* a distance of 207.94 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
c. *North 33 degrees 25 minutes 20 seconds West* a distance of 2.04 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
d. *North 10 degrees 20 minutes 35 seconds East* a distance of 21.68 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the south line of said Potomac Parkway, for a corner hereof;

(11) THENCE along the south line of said Potomac Parkway, the following 3 courses:

a. *North 54 degrees 06 minutes 16 seconds East* a distance of 33.79 feet, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the right having a radius of 140.01 feet, an arc length of 52.47 feet, and a chord that bears *North 64 degrees 50 minutes 22 seconds East* a distance of 52.17 feet to a 1/2-inch iron rod with a plastic cap marked “RPLS 1974” found for a corner hereof;
c. *North 75 degrees 34 minutes 28 seconds East* a distance 333.53 feet to the POINT OF BEGINNING containing 24.897-acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983. Distances reported hereon are at surface. Areas reported hereon are based on calculations made from surface distances. This survey is subject to any facts which may be disclosed by a full and accurate title search. Record documents other than those described hereon may affect this tract.

Surveyed by

Franklin Leamons
Registered Professional Land Surveyor #6889
Date: April 18, 2023



MIDLAND
Planning Division

Annexation/Initial Zoning Application

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)*		Phone ( ) Email	
Printed Name: D.R. Horton - Texas LTD			
Address 6175 N Freeway	City Fort Worth	State Texas	Zip 76131

Property Owner		Phone ( ) Email	
Printed Name: Cumberland & Western Resources, LLC			
Address 2200 Lapsey Lane	City Bowling Green	State Kentucky	Zip 42103

Representative *(if different from Applicant or Property Owner)*		Phone ( ) Email	
Firm: Parkhill			
Printed Name: Josh Wallender Parkhill # 40032.22		jwallender@parkhill.com	
Address 1700 West Wall Street, Suite 100	City Midland	State Texas	Zip 79701

Street Address: Please see attached metes and bounds

Legal Description
Lot: Block: Subdivision:

Current Zoning: N/A	**Proposed Zone:** SF3 *(List by tracts if more than one district is requested)*

Reason for Annexation/Zone Change Request: Development of future housing

Present Use of Property: Vacant Land

Proposed Use of Property: Housing Development

How would this annexation/zone change affect the public health, safety and welfare?
It would be an improvement to the neigboring community by extending roads and utilities

Describe how this annexation/zone change will affect adjacent properties:
There will be no adverse effects for 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)

Provisions
A plat application will not be considered filed pursuant to Section 212.009 of the Texas Local Government Code until all required documents and fees have been submitted and ***all of the terms and conditions of the Subdivision Ordinance, including all necessary studies, plans and supporting information are accepted and approved,*** or the applicant has filed a waiver request for sections from which the plat deviates. Once a plat meets the requirements to be considered filed with the City, the application will be placed on the Planning and Zoning Commission agenda for consideration under the time requirements set out in Section 212.009.

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

Property Owner (signature): Greg Betterton | Date: April 24, 2023

Property Owner (printed) : Greg Betterton

The Preliminary Plat shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Subdivision Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Josh Wallender who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or is authorized by Cumberland and Western Resources 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.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 24th day of April, 2023, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

OMAR SALINAS NOTARY PUBLIC STATE OF TEXAS ID# 12864 1968 EXPIRES 3-9-2027

FOR OFFICE USE ONLY

☐ Property Owner Authorization ☐ 1 Copy of Dimensioned Plat ☐ Plat in Digital Format (PDF/JPEG)

☐ Application Fee ☐ 1 Copy of Plat (11x17)

Check # _____

Received By: | Date:

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

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, Cumberland & Western, LLC ("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

Josh Wallender
Printed Name

Owner Representative
Title

THE STATE OF Texas §
§
COUNTY OF Midland §

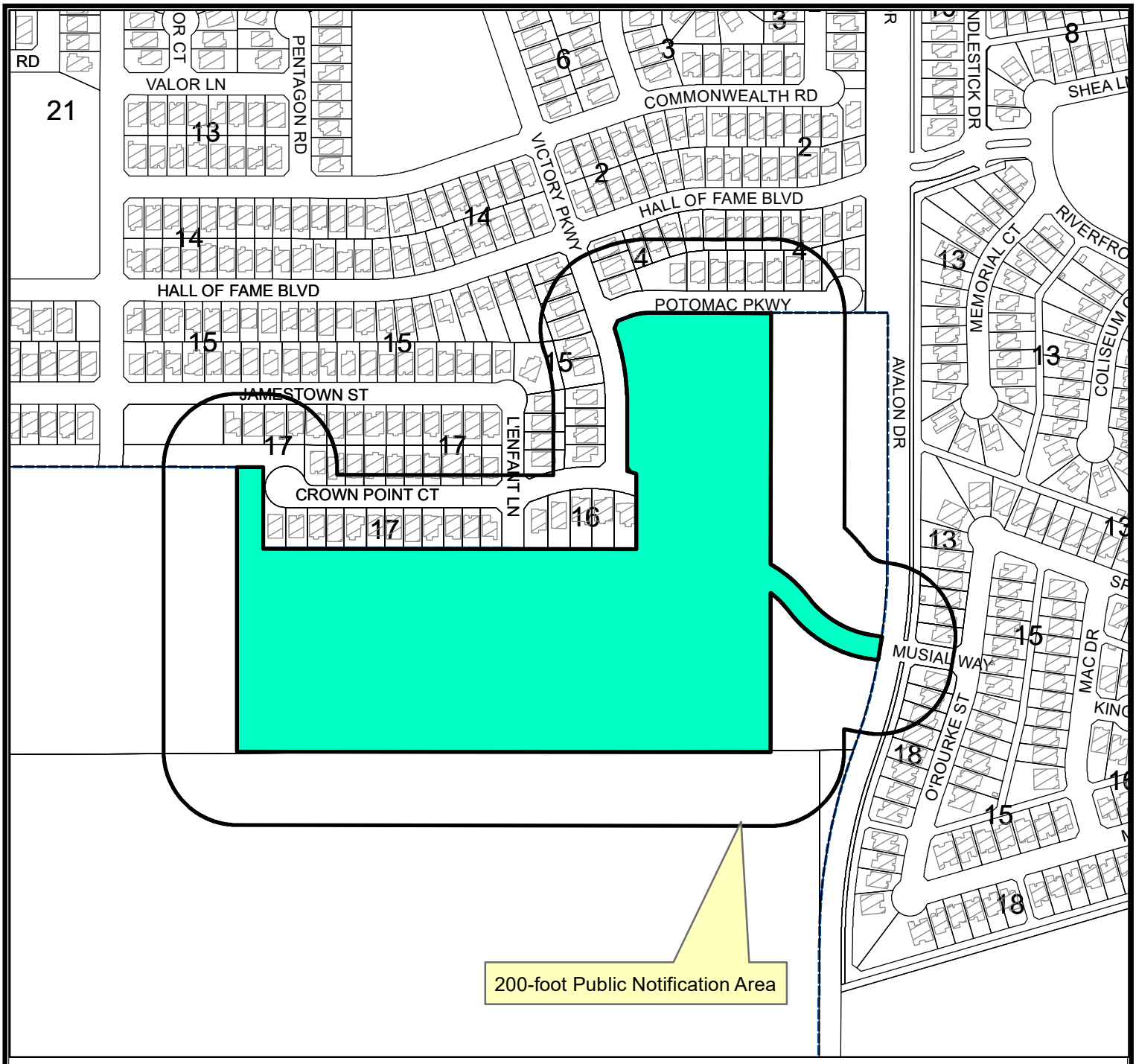
This instrument was acknowledged before me on the 24th day of April, 2023, by Josh Wallender in the capacity herein stated.

MY COMMISSION EXPIRES

5.9.27

Notary Public, State of Texas

DALIA SALINAS
NOTARY PUBLIC
STATE OF TEXAS
ID# 128541568
EXPIRES 3-9-2027



LOCATION MAP

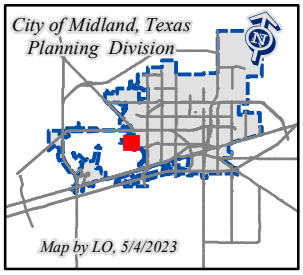
Z-23-0332 **Scale: 1" = 4,656'**

A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

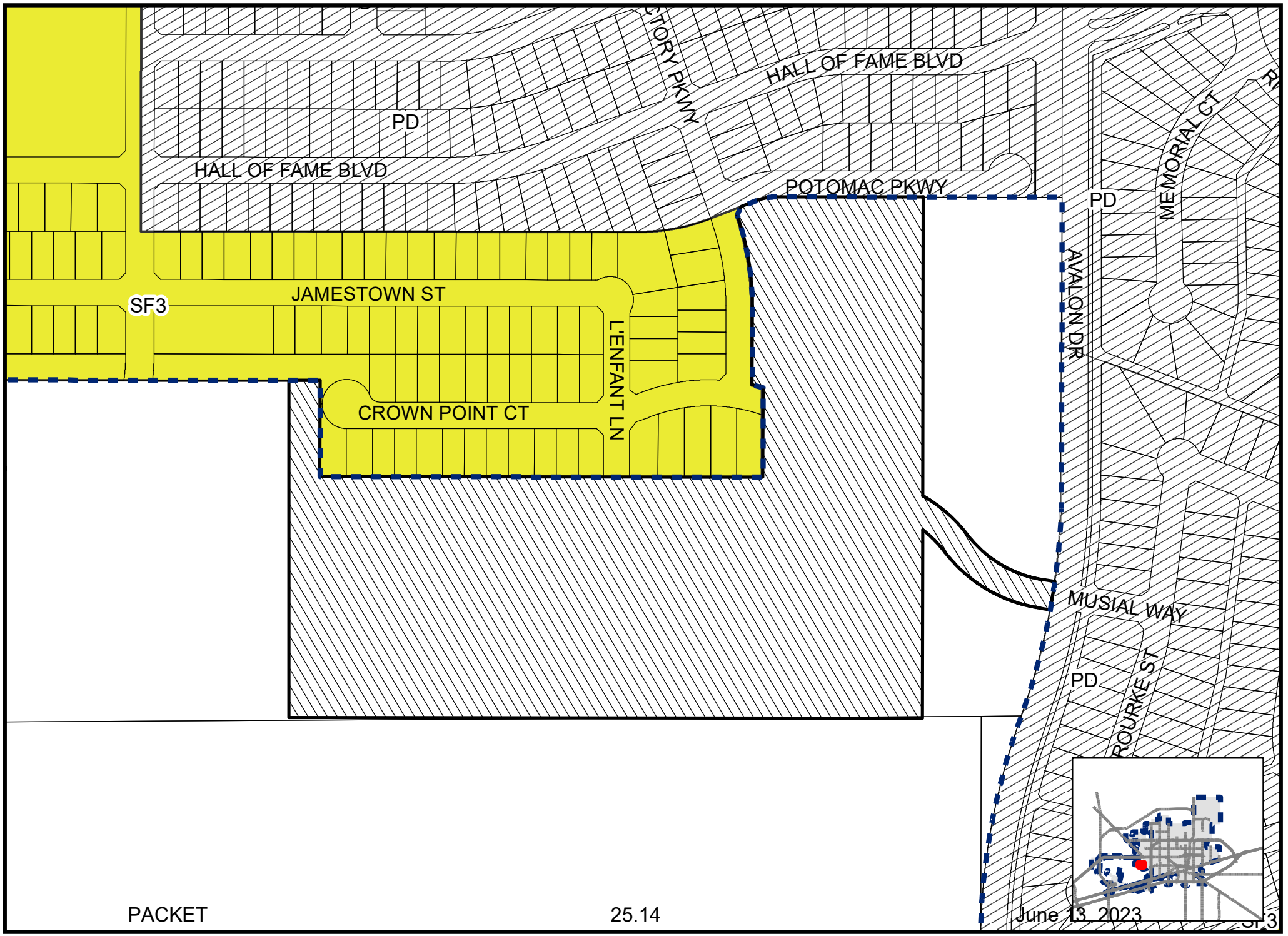
Generally located on the southeast corner of Potomac Parkway and Victory Parkway. (Extraterritorial Jurisdiction)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By LO, 6/2/2023

Z-23-0332

Scale: 1" = 3,293'

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

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, Cumberland & Western, LLC ("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

Josh Wallender
Printed Name

Owner Representative
Title

THE STATE OF Texas §
§
COUNTY OF Midland §

This instrument was acknowledged before me on the 24th day of April, 2023, by Josh Wallender in the capacity herein stated.

MY COMMISSION EXPIRES

3.9.27

Notary Public, State of Texas

DALIA SALINAS
NOTARY PUBLIC
STATE OF TEXAS
ID# 128541568
EXPIRES 3-9-2027

EXHIBIT "A"

A 24.897-ACRE TRACT OF LAND IN SECTION 38, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 829 AND SECTION 47, BLOCK 40, T-1-S T&P RR. CO. SURVEY, ABSTRACT NO. 183 MIDLAND COUNTY, TEXAS

A 24.897-acre tract of land, approximately 24.853-acres in Section 38, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 829 and approximately 0.044-acres in Section 47, Block 40, T-1-S T&P RR. Co. Survey, Abstract No. 183, Midland County, Texas and being a portion of that certain 634.887-acre tract described in Volume 3131, Page 210 of the Official Public Records of Midland County, Texas and a portion of that certain tract in Section 47 described in said Volume 3131, Page 210; said 24.897-acre tract being more particularly described as follows and as surveyed on-the-ground under the supervision of Parkhill on April 10, 2023:

BEGINNING at a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set in the south line of Potomac Parkway dedicated in the Legacy Addition, Section 4, as shown on the plat recorded in Cabinet J, Page 127 of the Plat Records of Midland County, Texas, for the northeast corner hereof, said beginning point having coordinates of NORTHING: 10,689,663.84, EASTING: 1,727,905.63, Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983;

(1) THENCE crossing said 634.887-acre tract, the following 10 courses:

a. *South 14 degrees 25 minutes 32 seconds East* a distance of 682.81 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
b. Along a non-tangent curve to the right having an arc length of 136.00 feet, a radius of 332.54 feet, and a chord that bears *South 63 degrees 27 minutes 18 seconds East* a distance of 135.05 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
c. *South 53 degrees 05 minutes 20 seconds East* a distance of 14.07 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
d. Along a non-tangent curve to the left having an arc length of 196.43 feet, a radius of 268.02 feet, and a chord that bears *South 75 degrees 36 minutes 26 seconds East* a distance of 192.06 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set;
e. North 84 degrees 28 minutes 16 seconds East a distance of 23.55 feet to a mag nail with a washer marked "PARKHILL RPLS 6889" set in the west line of Avalon Drive as shown on the plat recorded in Plat Cabinet I, Page 189 of the Plat Records of Midland County, Texas;
f. Along a non-tangent curve to the right having an arc length of 65.01 feet, a radius of 1500.16 feet, and a chord that bears *South 05 degrees 03 minutes 00 seconds East* a distance of 65.01 feet along the west line of said Avalon Drive to a mag nail with a washer marked "PARKHILL RPLS 6889" set;
g. *South 84 degrees 28 minutes 16 seconds West* a distance of 22.43 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;
h. Along a non-tangent curve to the right having an arc length of 244.34 feet, a radius of 333.02 feet, and a chord that bears *North 75 degrees 28 minutes 25 seconds West* a distance of 238.90 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;
i. *North 53 degrees 05 minutes 20 seconds West* a distance of 15.69 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;
j. Along a non-tangent curve to the left having an arc length of 72.08 feet, a radius of 267.53 feet, and a chord that bears *North 59 degrees 18 minutes 09 seconds West* a distance of 71.86 feet to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof;

(2) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 431.06 feet crossing said 634.887-acre tract and said tract in Section 47 described in Volume 3131, Page 210 to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for a corner hereof, and from which a 1/2-inch iron pipe found in a rock mound at the northeast corner of Section 47 bears *South 73 degrees 04 minutes 41 seconds West* a distance of 134.55 feet;

(3) THENCE *South 75 degrees 34 minutes 28 seconds West* a distance of 1447.73 feet crossing said tract in Section 47 described in Volume 3131, Page 210 and said 634.887-acre tract to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set for the southwest corner hereof, and from which a 1/2 inch iron rod found at the southwest corner of said Section 38 and the northwest corner of said Section 47 bears *South 75 degrees 07 minutes 49 seconds West a distance* of 3694.57 feet;

(4) THENCE *North 14 degrees 29 minutes 17 seconds West* a distance of 771.10 feet crossing said 634.887-acre tract to a 1/2-inch iron rod with a cap marked "PARKHILL RPLS 6889" set in the south line of a public drainage easement dedicated in the Legacy Addition, Section 5, as shown on the plat recorded in Cabinet L, Page 29 of said Plat Records for a corner

hereof, and from which a 1/2-inch iron rod with a cap marked "PSC RPLS 6453" found in the south line of said Legacy Addition, Section 5, at the southwest corner of said public drainage easement bears *South 75 degrees 34 minutes 28 seconds West* a distance of 312.60 feet;

(5) *North 75 degrees 34 minutes 28 seconds East* a distance of 70.61 feet along the south line of said public drainage easement to a 1/2-inch iron rod with a plastic cap marked “PSC RPLS 6453” found for a corner hereof;

(6) THENCE *South 14 degrees 25 minutes 32 seconds East* a distance of 220.02 feet along the west line of said drainage easement and the west line of Lot 12, Block 17, of said Legacy Addition, Section 5, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at the southwest corner of said Lot 12, for a corner hereof;

(7) THENCE *North 75 degrees 34 minutes 28 seconds East* a distance of 1012.64 feet along the south line of said Block 17 to a point at the southeast corner of Lot 1 of said Block 17, for a corner hereof, and from which a 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 02 degrees 09 minutes 54 seconds East* a distance of 0.42 feet and another 1/2 inch iron rod with a cap marked "PSC RPLS 6453" found bears *South 89 degrees 58 minutes 49 seconds West* a distance of 4.64 feet;

(8) THENCE *North 14 degrees 25 minutes 32 seconds West* a distance of 204.33 feet along the east line of said Lot 1 and the east line of Crown Point Court dedicated in said Legacy Addition, Section 5 to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set at a corner of said Crown Point Court, for a corner hereof;

(9) THENCE *North 89 degrees 23 minutes 32 seconds West* a distance of 25.89 feet along the north line of said Crown Point Court to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the east line of Victory Parkway dedicated by said Legacy Addition, Section 5, for a corner hereof;

(10) THENCE along the east line of said Victory Parkway, the following 4 courses:

a. *North 14 degrees 25 minutes 32 seconds West* a distance of 180.56 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the left having a radius of 630.07 feet, an arc length of 208.90 feet, and a chord that bears *North 23 degrees 55 minutes 26 seconds West* a distance of 207.94 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
c. *North 33 degrees 25 minutes 20 seconds West* a distance of 2.04 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
d. *North 10 degrees 20 minutes 35 seconds East* a distance of 21.68 feet to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set in the south line of said Potomac Parkway, for a corner hereof;

(11) THENCE along the south line of said Potomac Parkway, the following 3 courses:

a. *North 54 degrees 06 minutes 16 seconds East* a distance of 33.79 feet, to a 1/2-inch iron rod with a cap marked “PSC RPLS 6453” set for a corner hereof;
b. Along a non-tangent curve to the right having a radius of 140.01 feet, an arc length of 52.47 feet, and a chord that bears *North 64 degrees 50 minutes 22 seconds East* a distance of 52.17 feet to a 1/2-inch iron rod with a plastic cap marked “RPLS 1974” found for a corner hereof;
c. *North 75 degrees 34 minutes 28 seconds East* a distance 333.53 feet to the POINT OF BEGINNING containing 24.897-acres of land, more or less, and as shown on certified plat herewith.

Note: Bearings and coordinates shown hereon are based on the Texas State Plane Coordinate System, Central Zone 4203, North American Datum of 1983. Distances reported hereon are at surface. Areas reported hereon are based on calculations made from surface distances. This survey is subject to any facts which may be disclosed by a full and accurate title search. Record documents other than those described hereon may affect this tract.

Surveyed by

Franklin Leamons
Registered Professional Land Surveyor #6889
Date: April 18, 2023











1

MIDLAND
Planning Division

RECEIVED
MAY 10 2023
BY:

PUBLIC NOTICE

VILLA JOHN A
6617 CROWN POINT CT
MIDLAND TX 79706

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request X **Comments:** _____

Required Information:

Property Owner's Signature

John Villa
Printed Name

6617 Crown Point Ct.
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

2

MIDLAND
Planning Division

RECEIVED
MAY 10 2023
BY:.....

STALEY KENNETH
609 VICTORY PKWY
MIDLAND TX 79706

PUBLIC NOTICE

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

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LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.
I object to this request X **Comments:** _____
Required Information:

_____ Kenny Staley 609 Victory Parkway Midland, TX 79706
Property Owner's Signature — Printed Name — Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

_____
Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

3

RECEIVED
MAY 10 2023
BY:

MIDLAND
Planning Division

PUBLIC NOTICE

GARCIA ALEX G
6702 CROWN PT CT
MIDLAND TX 79706

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.
I object to this request AG **Comments:** No Solution for water pressure or school already at max capacity
Required Information:

Property Owner's Signature

Alex Garcia
Printed Name

6702 Crown Point Ct Midland TX, 79706
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

4

MIDLAND
Planning Division

RECEIVED
MAY 10 2023
BY:.....

PUBLIC NOTICE

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request X **Comments:** Crowded Schools, water pressure, was told that no other homes were to be built behind us,

Required Information:

Lori White
Property Owner's Signature

Lori White
Printed Name

6611 Crown Point Ct.
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

5

MIDLAND
Planning Division

RECEIVED
MAY 10 2023
BY:.....

PUBLIC NOTICE

WILLIAMS KEVEN A
605 VICTORY PKWY
MIDLAND TX 79706

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request ___X___ **Comments:** _____

Required Information:

K Williams
Property Owner's Signature

Pauletta Williams
Printed Name

605 Victory Parkway Midland TX 79706
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
__LO____Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

6

MIDLAND
Planning Division

RECEIVED
MAY 10 2023
BY: .....

PUBLIC NOTICE

SANCHEZ RAMON U
6601 CROWN POINT CT
MIDLAND TX 79706

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.
I object to this request ✓ **Comments:** should wait
Required Information:

R. [illegible]
Property Owner's Signature

Ramon Sanchez
Printed Name

6601 Crown Point ct
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

7

MIDLAND
Planning Division

RECEIVED
MAY 11 2023
BY: .....

PUBLIC NOTICE

BARGAS JOHN
6610 CROWN POINT CT
MIDLAND TX 79706

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.
I object to this request JB **Comments:** Traffic issues need to be alleviated first
Required Information:

John Bargas
Property Owner's Signature

John Bargas
Printed Name

6610 CROWN POINT CT
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

8

RECEIVED 5-12-23

MIDLAND
Planning Division

MANDISODZA ARTHUR
6605 CROWN POINT CT
MIDLAND TX 79706

PUBLIC NOTICE

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.
I object to this request Am **Comments:** build schools first. schools are over crowded.
Required Information:

A Mandisodza
Property Owner's Signature

Arthur Mandisodza
Printed Name

6605 Crown Point Ct Midland TX
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

9

RECEIVED 5-12-23

MIDLAND
Planning Division

PUBLIC NOTICE

KRULL NATHAN
6613 CROWN POINT CT
MIDLAND TX 79706

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

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LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request X **Comments:** Traffic & school is already packed
Required Information:

Property Owner's Signature

Nathan Krull
Printed Name

6613 Crown Point CT
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

10

RECEIVED 5-12-23

MIDLAND
Planning Division

PUBLIC NOTICE

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

LEGAL DESCRIPTION: A 24.897-acre tract of land located in Sections 38 and 47, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.
I object to this request DM **Comments:** Schools already to full as it is
Required Information:

Donnie Moore
Property Owner's Signature

Donnie Moore
Printed Name

6609 Crown Point Ct
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

11

RECEIVED 5-12-23

MIDLAND
Planning Division

PUBLIC NOTICE

FRANTZ DWAYNE E & TANYA PRICE
6707 JMESTOWN ST
MIDLAND TX 79706

The **Planning and Zoning Commission** of the City of Midland, Texas, will hold a public hearing at **3:30 p.m.** on **Monday, May 15, 2023,** in the Council Chamber, City Hall, 300 N. Loraine, Midland, TX 79701, on a request by **D.R. Horton Texas - LTD** for the **Initial Zoning** of the following described property:

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LOCATION: Generally located on the southeast corner of Potomac Parkway and Victory Parkway (Extraterritorial Jurisdiction)

PROPOSED ZONING: **From:** No Current Zoning
To: SF-3, Single-Family Dwelling District

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I object to this request (X) **Comments:** Too much Traffic AFFECTING Neighborhood, enter w/ new Entrance. OVER Loading H_2O & School Systems.
Required Information:

Property Owner's Signature

Dwayne Frantz
Printed Name

6707 Jamestown
Property Address (**No P. O. Boxes**)

If any further information is desired, please contact the Planning Division at 685-7400.
Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 84
Date Mailed: May 5, 2023
Case Number: Z-23-0332
Case Name: D.R. Horton Texas, LTD
LO Planner's Initials

Jeff Fisher
Planning Division Manager
Department of Development Services

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City Council Meeting

Item Number: 26

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Alexandra Walling, Senior Planner

Subject: AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 10, BLOCK 18, FAIRMONT PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF CLAREMONT DRIVE, APPROXIMATELY 154 FEET NORTH OF TREMONT AVENUE), BY PERMITTING A REDUCED MINIMUM REAR YARD SETBACK AND A REDUCED MINIMUM SEPARATION OF THE ACCESSORY BUILDING FROM THE PRINCIPAL BUILDING; 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 1) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Charles Phillips, is requesting a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum rear yard setback and Section 4.09(B)(3) – Accessory Buildings and Uses, concerning minimum building separation for the property located at 3404 Claremont Drive. The applicant is proposing to build an accessory building. He is requesting a 3-foot rear yard setback in lieu of the required 5 feet and a 3-foot separation between the accessory building and home in lieu of the required 10 feet.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located at 3404 Claremont Drive and is the location of a single-family house. The applicant is requesting a special exception to the minimum rear yard setback for an interior lot and minimum building separation. The property is zoned SF-2, Single-Family Dwelling District.

As mentioned previously the property is zoned SF-2, Single-Family Dwelling District and does not meet the minimum side yard setback for a corner (exterior) lot. Per our City of Midland Zoning Ordinance, *Section 5.04 –Residential Zoning District Dimensional Regulations Chart:*

SF-2, Single-Family Dwelling District
Yard Setback Dimensions
Minimum Rear Yard Setback
Interior Lot – Rear Yard: 5 (five) ft.

The applicant is seeking to build an accessory building and is unable to construct it in other parts of his backyard due to a large tree. Therefore, to build the 399 square-foot accessory building, he must place it in between the rear lot line and the house. Per the City of Midland Zoning Ordinance, Section 4.09(B)(3) – Accessory Buildings and Uses states the separation between the principal building and accessory building shall be a minimum of 10-feet. The applicant is proposing a 3-foot separation between the principal building and the accessory building.

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

Engineering: (Approved)

No objection. [For Applicant's Information Only.]

Transportation: (Approved)

No objection. [For the Applicant's information only.]

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 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application. Shop must either be a minimum of 5 Feet from the residence according to the 2018 International Building Code or both the shop and any portion of the home that is less than 5 feet separated must be built of fire proof material with a 1-hour rating or compatible with ASTM E119 or UL263.

Planning Analysis:

This request deviates from the City of Midland Zoning Code, however the applicant is unable to construct the accessory building elsewhere due to the topography of the property and surrounding conditions. The property has an existing covered patio and a large tree taking up a large percentage of the yard. A smaller accessory building currently exists in the same space the intended accessory building will be constructed. The new accessory building will be used as a woodworking shop. The main concerns of the building are the setbacks from the rear lot line and the distance from the principal building. The floor area will be 399 square-feet, covering 5.6% of the lot area.

Due to these factors, staff is recommending approval of this special exception subject to condition A and B.

Condition:

A. **That the minimum rear yard setback shall be three feet (3'); provided, however, that said reduced minimum rear yard setback shall apply only to the Accessory Building.**

B. **That the minimum building separation between the Accessory Building and the principal building shall be three feet (3') as shown in Exhibit "A".**

Letters of Objection:

As of June 7, 2023, staff has not received any letters of objection.

Attachments:

Application
Survey (Exhibit A)
Maps

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 10, BLOCK 18, FAIRMONT PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF CLAREMONT DRIVE, APPROXIMATELY 154 FEET NORTH OF TREMONT AVENUE), BY PERMITTING A REDUCED MINIMUM REAR YARD SETBACK AND A REDUCED MINIMUM SEPARATION OF THE ACCESSORY BUILDING FROM THE PRINCIPAL BUILDING; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

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

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

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

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

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

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE

CITY OF MIDLAND, TEXAS:

SECTION ONE. That a special exception is hereby granted for the property described as Lot 10, Block 18, Fairmont Park Addition, City and County of Midland, Texas. Said special exception shall allow a reduced minimum rear yard setback and a reduced minimum separation of the 21' x 19' building (the "Accessory Building") shown in Exhibit "A", which is attached hereto and incorporated herein, from the principal building.

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

A. That the minimum rear yard setback shall be three feet (3'); provided, however, that said reduced minimum rear yard setback shall apply only to the Accessory Building.

B. That the minimum building separation between the Accessory Building and the principal building shall be three feet (3') as shown in Exhibit "A".

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., 2023; 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., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

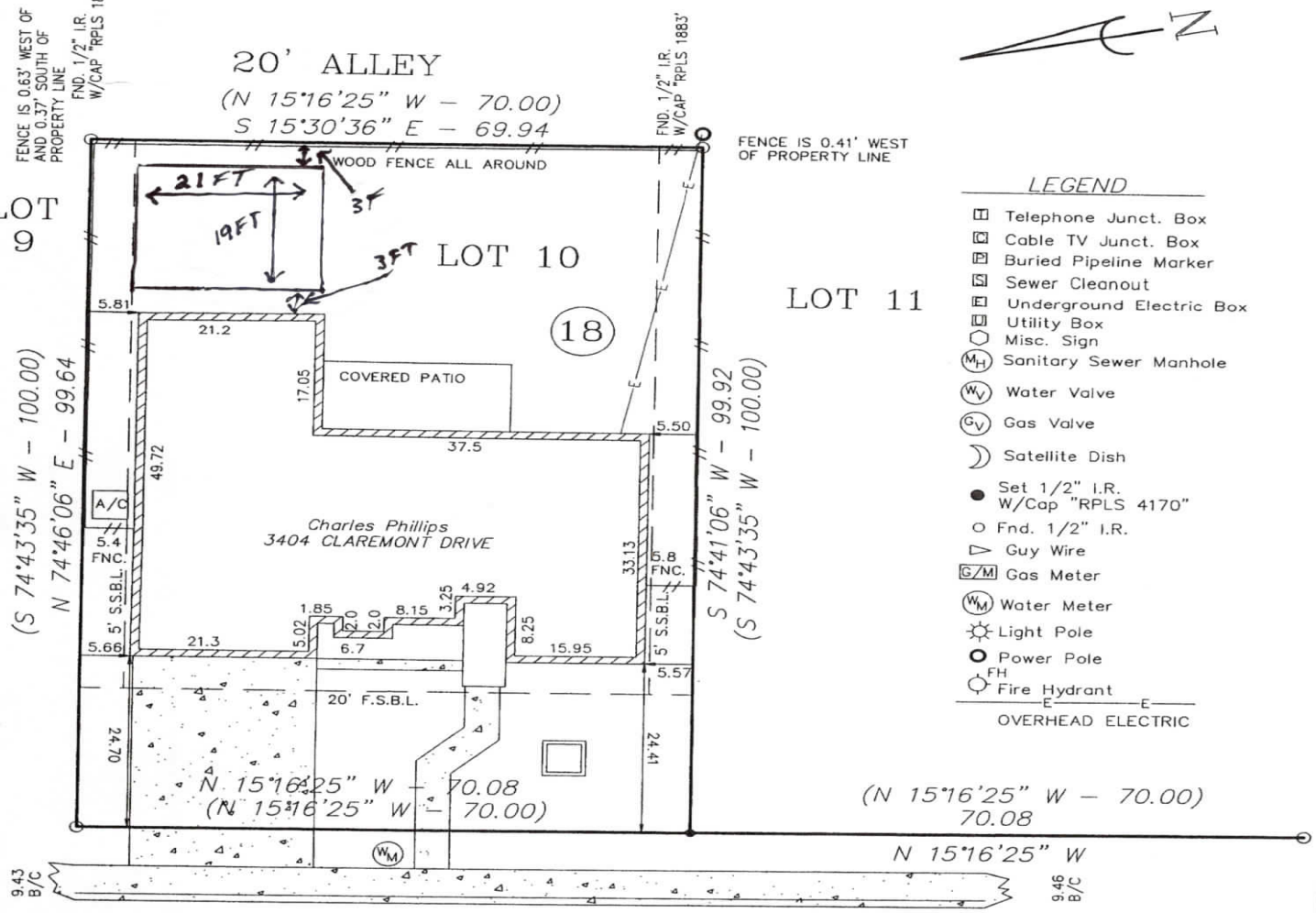
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

COPYRIGHT 2004
This survey plat is being provided solely for the use of: Lone Star Abstract; Charles Phillips; Wells Fargo Home Mortgage; and that no license has been created, express or implied, to copy the survey plat except as is necessary in conjunction with the original transaction dated February 25, 2004, which shall take place within 90 days after the survey was provided.



LEGEND

- Telephone Junct. Box
- Cable TV Junct. Box
- Buried Pipeline Marker
- Sewer Cleanout
- Underground Electric Box
- Utility Box
- Misc. Sign
- Sanitary Sewer Manhole
- Water Valve
- Gas Valve
- Satellite Dish
- Set 1/2" I.R. W/Cap "RPLS 4170"
- Fnd. 1/2" I.R.
- Guy Wire
- Gas Meter
- Water Meter
- Light Pole
- Power Pole
- Fire Hydrant
- OVERHEAD ELECTRIC

The following Easements, Rights-of-way, and Restrictive covenants as listed on the title commitment furnished by:
Lone Star Abstract and Title Co., Inc.,
G.F. No.: 00085464

Restrictive Covenants:
Vol. 666, Pg. 551,
Deed Records,
Midland Co., Texas

(g). Blanket boundary agreement covering the NW/4, NE/4, and S/2 of Section 18, Block 39, T-1-S, Midland County, Texas. recorded in Volume 340, Page 519, Deed Records, Midland County, Texas.

PLAT OF
LOT TEN (10), BLOCK EIGHTEEN (18),
SECTION 2 REPLAT OF FAIRMONT PARK ADDITION,
AN ADDITION TO THE CITY OF MIDLAND
MIDLAND COUNTY, TEXAS
ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET C, PAGE 51, PLAT RECORDS, MIDLAND COUNTY, TEXAS

Census Tract: 101.05

This tract is in Flood Zone "X" as shown on the Flood Insurance Rate Map, Dated December 7, 1999 provided by the Federal Emergency Management Agency Flood Map Number: 48329C0069 E

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way, except as shown hereon, and this said property has access to and from a dedicated roadway.

Dated this the 25th day of February 2004.

Bruce R Pennell
Registered Professional Land Surveyor No. 4170
Date: 2/25/04

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

Basis of Bearings:
WEST Line of this Lot

Bearings and Distances Shown
Inside ( ) Indicate Record Information

20 10 0 20

SCALE: 1" = 20'

STATE OF TEXAS
REGISTERED
BRUCE R. PENNELL
4170
PROFESSIONAL
LAND SURVEYOR

BRP ENTERPRISES, INC. – (BRUCE R. PENNELL)
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE:(432)570-6256 FAX: (432)682-3262 MOBILE: (432)528-1027

ABSTRACT OFFICE:LONE STAR	G.F. #: 00085464	COMMITMENT EFFECTIVE DATE: 2/11/04
CAD FILE: BRP1356	DATA FILE 3404CLAR	DRAWN BY: MARCUS H. CREW:BRP/TA

EXHIBIT "A"

MIDLAND Planning Division

Special Exception Application

Project Number: E-23-0098

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Charles Phillips		Phone (432) 202-4611 Email phillipscharlie602@gmail.com	
Address 3404 Claremont Dr	City Midland	State TX	Zip 79707

Property Owner Printed Name: Charles Phillips		Phone ( ) Email	
Address 3404 Claremont Dr.	City Midland	State TX	Zip 79707

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 3404 Claremont Dr.

Legal Description
Lot: 10 Block: 18 Subdivision: Fairmont Park addition

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: To be able to build shop with needed size

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): Charles Phillips	Date: 4-26-2023
Applicant (printed): Charles Phillips	
Property Owner (signature): Charles Phillips	Date: 4-26-2023
Property Owner (printed): Charles Phillips	

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 _____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

_____
Authorized Agent (*signature*)

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

_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

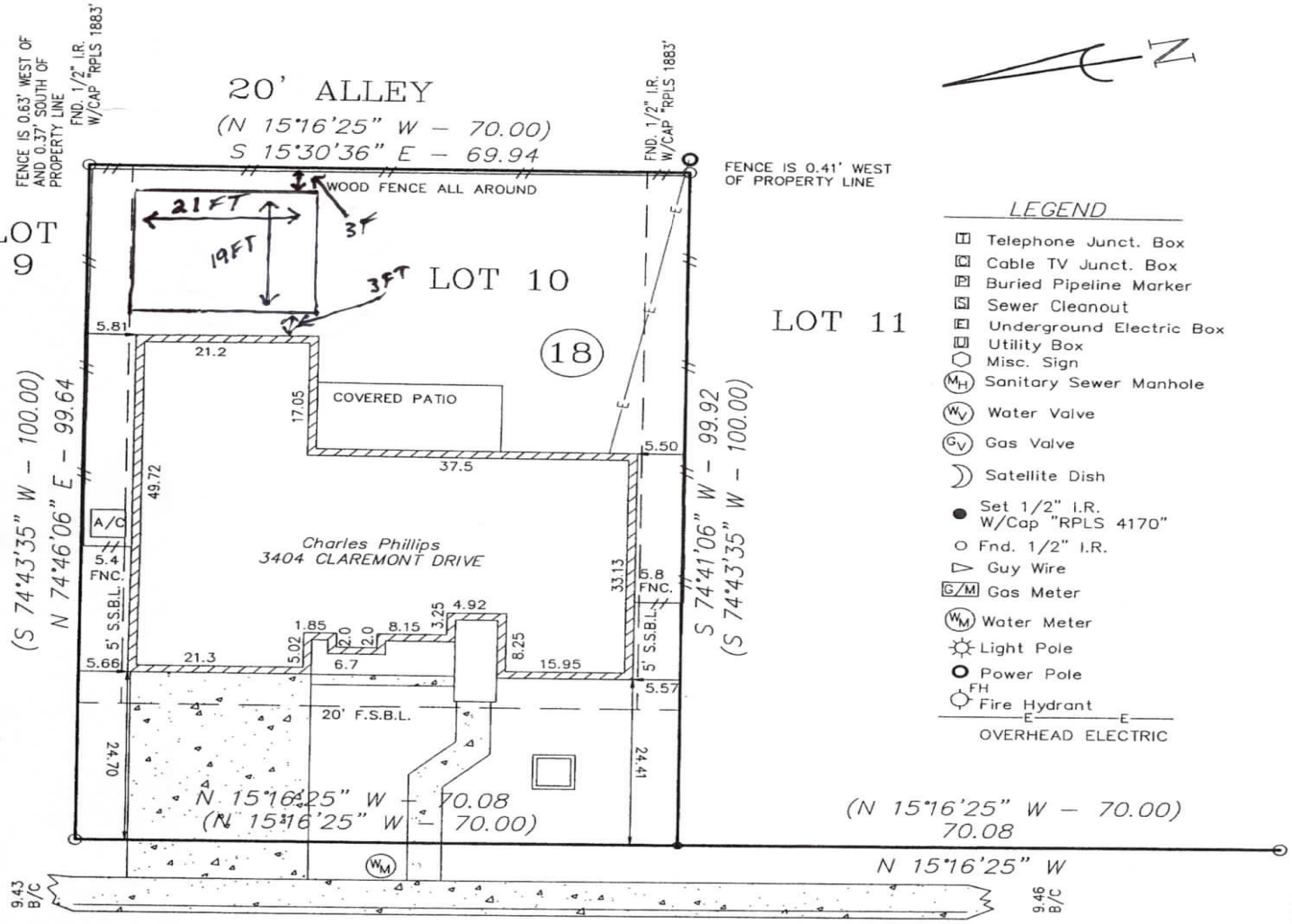
FOR OFFICE USE ONLY

☒ Property Owner Authorization	☒ Dimensioned Site Plan
☐ Application Fee	☐ Plans in Digital Format (PDF/JPEG)
Check # CC	
Received By: DH	Date: RECEIVED APR 26 2023

BY: .....

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

COPYRIGHT 2004
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LEGEND

- Telephone Junct. Box
- Cable TV Junct. Box
- Buried Pipeline Marker
- Sewer Cleanout
- Underground Electric Box
- Utility Box
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Dated this the 25th day of February 2004.

Bruce R Pennell
Registered Professional Land Surveyor No. 4170
Date: 2/25/04

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

PLAT OF
LOT TEN (10), BLOCK EIGHTEEN (18),
SECTION 2 REPLAT OF FAIRMONT PARK ADDITION,
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ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET C, PAGE 51, PLAT RECORDS, MIDLAND COUNTY, TEXAS

Basis of Bearings:
WEST Line of this Lot

Bearings and Distances Shown
Inside ( ) Indicate Record Information

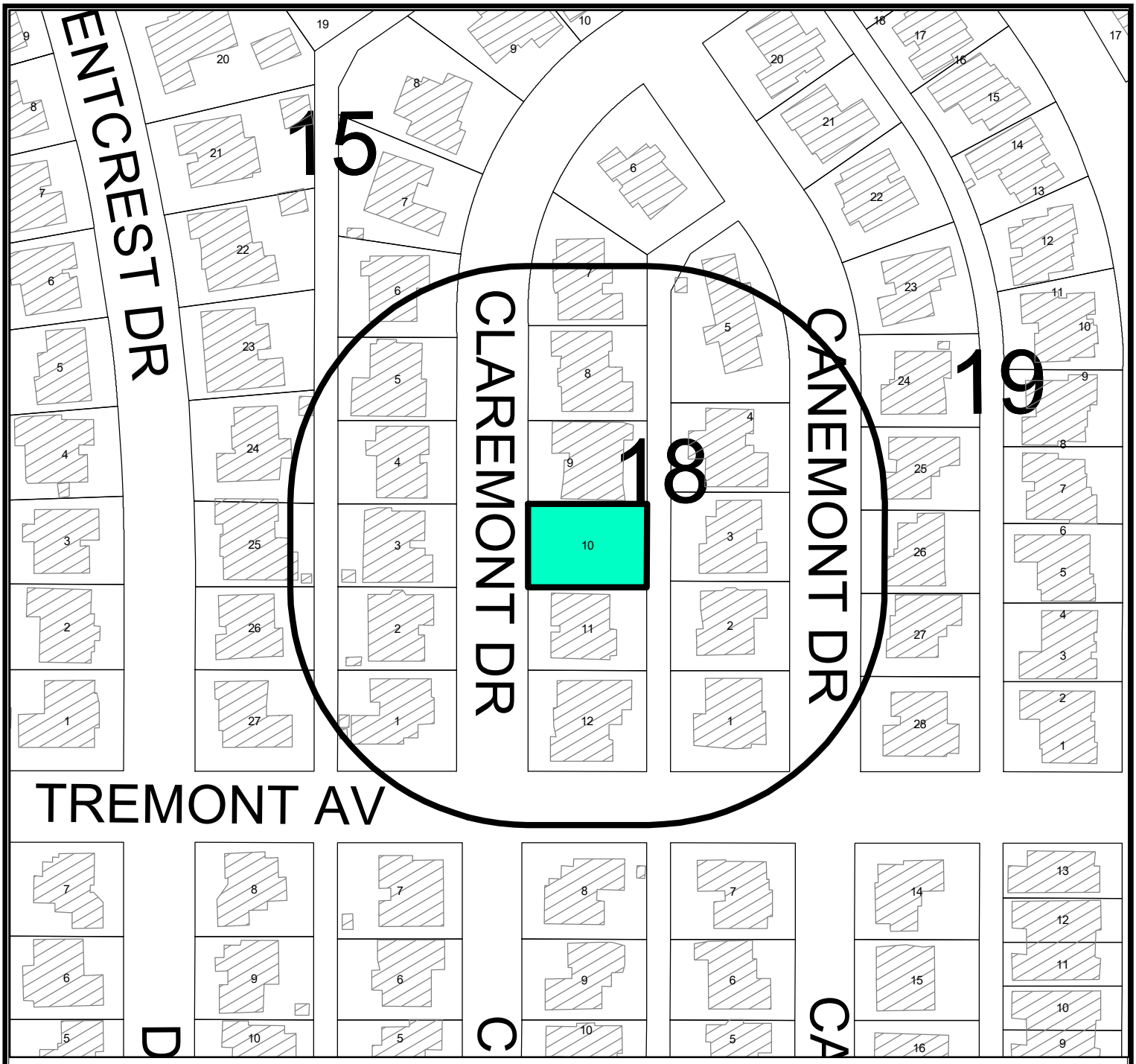
20 10 0 20

SCALE: 1" = 20'

STATE OF TEXAS
REGISTERED
BRUCE R. PENNELL
4170
PROFESSIONAL
LAND SURVEYOR

BRP ENTERPRISES, INC. – (BRUCE R. PENNELL)
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE:(432)570-6256 FAX: (432)682-3262 MOBILE: (432)528-1027

ABSTRACT OFFICE:LONE STAR	G.F. #: 00085464	COMMITMENT EFFECTIVE DATE:2/11/04
CAD FILE: BRP1356	DATA FILE 3404CLAR	DRAWN BY: MARCUS H. CREW:BRP/TA



LOCATION MAP

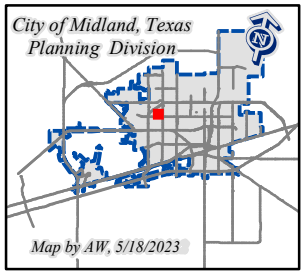
E-23-0098 **Scale: 1" = 200'**

Consider a request by Charles Phillips for a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum rear yard setback and Section 4.09(B)(3) – Accessory Buildings and Uses, concerning minimum building separation on Lot 10, Block 18, Fairmont Park Addition, City and County of Midland, Texas.

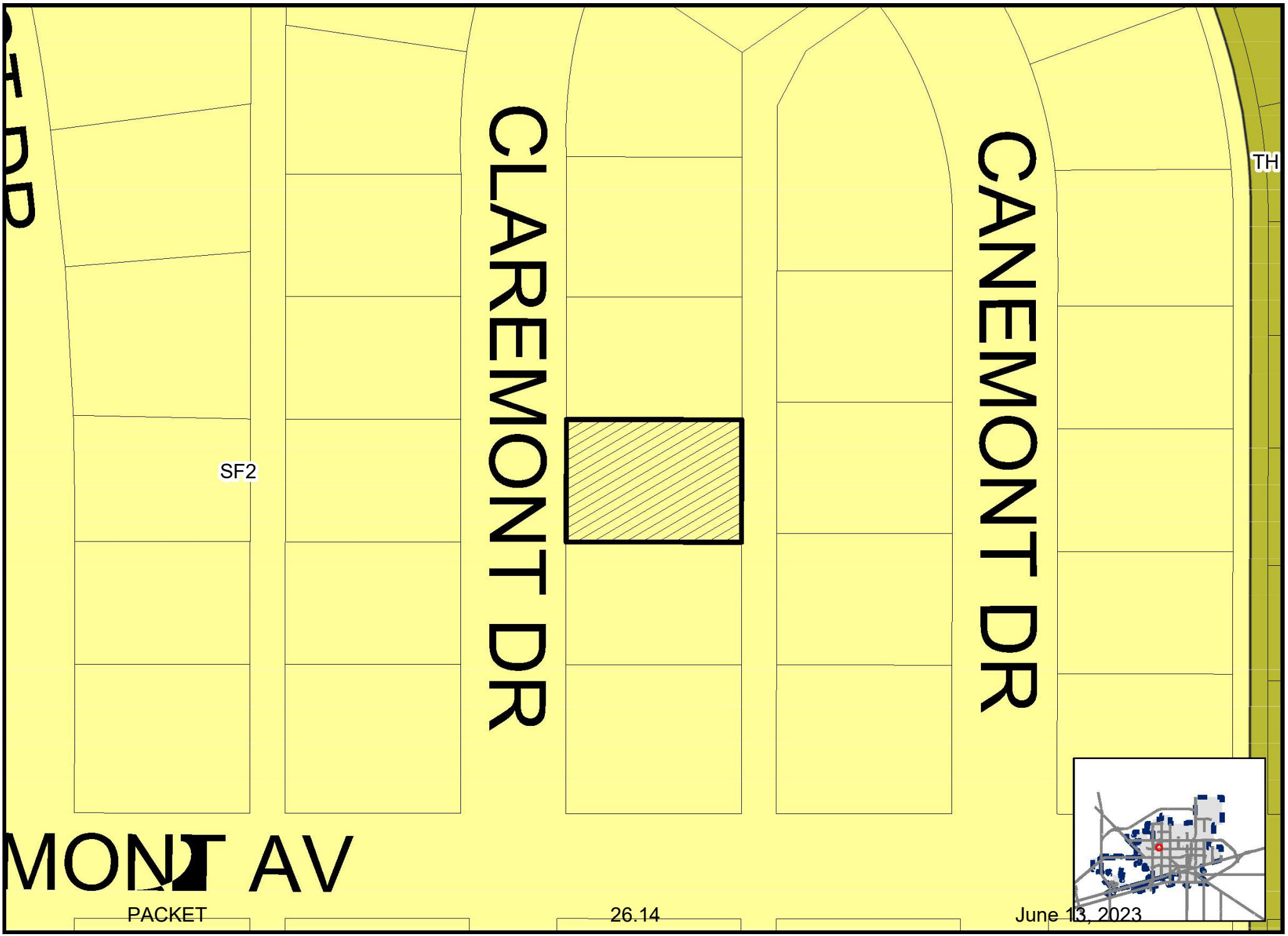
Generally located on the east side of Claremont Drive, approximately 154 feet north of Tremont Avenue. – (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS NOT IT DESIGNED TO BE USED AS THE ONLY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By AW, 5/18/23

E-23-0098

Scale: 1" = 200'

ZONING MAP






STOP



City Council Meeting

Item Number: 27

Meeting Date: June 13, 2023

To: City Council / City Manager

From: Landon Ochoa, Planner

Subject: **AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 86 FEET OF LOT 21, BLOCK 6, WESTERN MESA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST PINE AVENUE AND NORTH I STREET), BY PERMITTING BY PERMITTING A REDUCED MINIMUM REAR YARD SETBACK AND A REDUCED MINIMUM SIDE YARD SETBACK ON THE EAST SIDE OF THE PROPERTY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DISTRICT 3) (DEVELOPMENT SERVICES)**

Purpose:

The applicant, Kevin Herrman, is requesting a Special Exception from the City of Midland Zoning Ordinance, *Section 5.04 – Residential Zoning District Dimensional Regulations Chart*, concerning the side and rear yard setbacks to make an addition to the existing primary structure located at 1601 W Pine.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The property is located at 1601 W Pine and is the location of a vacant lot. The applicant is requesting a special exception to the side yard setback requirement for the properties current zoning of SF-1, Single-Family Dwelling District for the purpose of adding to the primary structure.

Per our City of Midland Zoning Ordinance, *Section 5.04 – Residential Zoning District Dimensional Regulations Chart,* concerning the side yard setback for a corner lot in SF-1

SF-1, Single Family Dwelling District
Yard Setback Dimensions
Minimum Side Yard Setback
Corner Lot – Exterior (Street) Yard:
Corner Lot: 10 feet

And concerning the rear yard setback for a corner lot in SF-1

SF-1, Single Family Dwelling District
Yard Setback Dimensions
Minimum Rear Yard Setback
Where an alley adjoins the rear lot line:
5 feet

As shown on the site plan, the addition would need to be built so that it would clear the existing trees on the property and would be able to adhere to the side yard setback requirement.

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

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 versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objections. [For the Applicant's information only.]

Code: (Approved)

No Oil and Gas issues.

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Planning (Denied):

This request represents a deviation from the Current Zoning Ordinance. The applicant wants to build a 1,456 square foot addition to the existing house. It consists of a bedroom and a three-car garage. The applicant is requesting to have a required setback of zero feet from the east property line and one foot from the south property line.

The proposed east side yard setback of zero feet would mean that vehicles would be exiting and entering the garage directly from North I Street with little room between the street and garage. This would be unsafe especially if vehicles are attempting to back out of the garage. Additionally, the property already has a two-car garage and a drive-way that can fit at least two more cars for a total of four. This should be sufficient for the property. Lastly, the property owner is proposing a rear yard setback of one foot. However, there is no hardship or need for them to have such a setback.

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 single-family detached, single-family attached, and townhouses." But given that the property already has sufficient parking and that the proposed addition is unsafe by design, staff cannot support this request.

Due to these factors, staff is recommending denial of this special exception. However, should it be approved, staff recommends that it be subject to condition A.

Conditions:

A. That the property shall significantly conform to the site plan shown in Exhibit "A", which is attached hereto and incorporated herein.

Letters of Objection:

Staff has not received any letters of objection as of June 12, 2023.

Attachments:

Application
Site plan (Exhibit A)

Map

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 86 FEET OF LOT 21, BLOCK 6, WESTERN MESA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST PINE AVENUE AND NORTH I STREET), BY PERMITTING A REDUCED MINIMUM REAR YARD SETBACK AND A REDUCED MINIMUM SIDE YARD SETBACK ON THE EAST SIDE OF THE PROPERTY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

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

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

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

WHEREAS, the Council finds that it is clearly and specifically authorized by the terms of Section 11-1-7 to grant such a special exception, and said exception will be in harmony with the general purposes and intent of the zoning provisions of the Midland City Code; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to grant a special exception to the Zoning Ordinance, pursuant to Section 11-1-7, for the purposes herein stated, subject to special conditions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE

CITY OF MIDLAND, TEXAS:

SECTION ONE. That a special exception is hereby granted for the property described as the east 86 feet of Lot 21, Block 6, Western Mesa Addition, City and County of Midland, Texas (the "Property"). Said special exception shall allow a reduced minimum rear yard setback and a reduced minimum side yard setback on the east side of the Property.

SECTION TWO. Said special exception is subject to the following special conditions:

A. That the minimum rear yard setback shall be one foot (1').

B. That the minimum side yard setback on the east side of the Property shall be zero feet (0').

C. That the Property shall significantly conform to the conditions shown in 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., 2023; 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., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

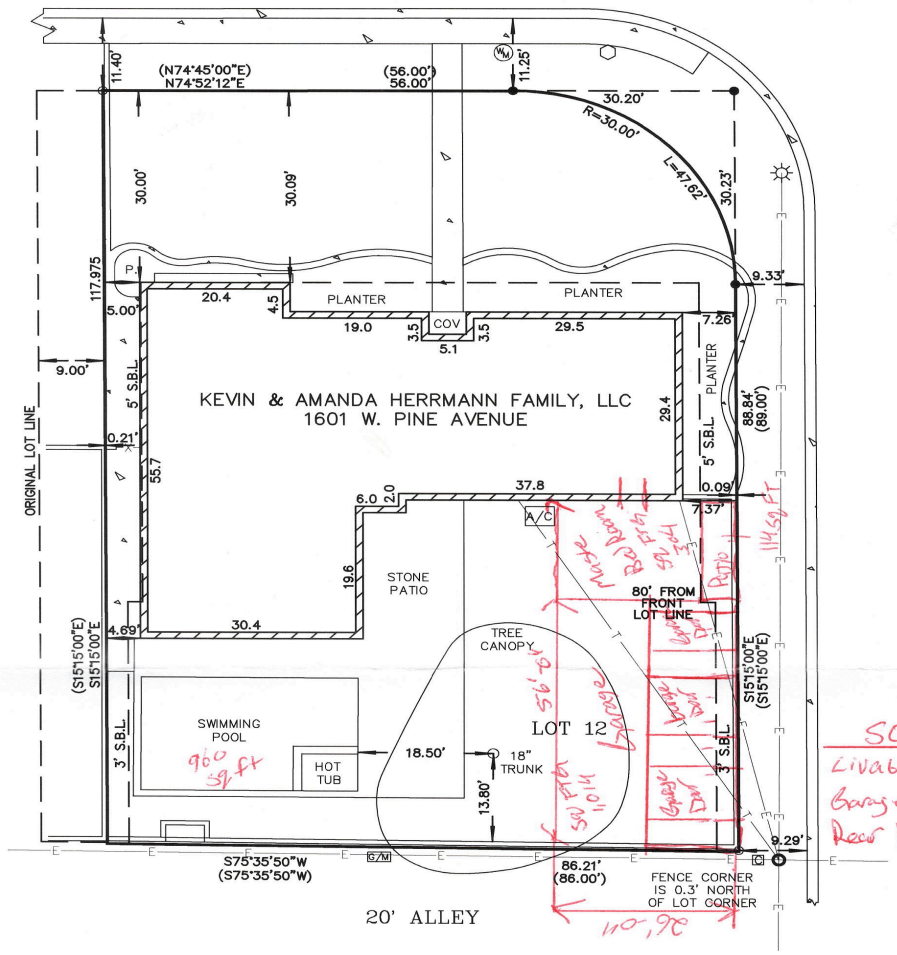
_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

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EXHIBIT "A"



PLAT OF
THE EAST 86' OF LOT
TWENTY ONE (21), BLOCK SIX (6),
WESTERN MESA,
AN ADDITION TO THE CITY OF MIDLAND
MIDLAND COUNTY, TEXAS
ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET B, PAGE 160, PLAT RECORDS, MIDLAND COUNTY, TEXAS

Restrictive Covenants:
Vol. 235, Pg. 306,
Deed Records,
Midland Co., Texas

This survey was prepared without benefit of a title commitment.
Not all easements or matters of title may be shown.

Census Tract: 2

This tract is in Flood Zone "X" as shown on the Flood Insurance Rate Map, Dated September 16, 2005 provided by the Federal Emergency Management Agency Flood Map Number: 48329C088 F

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way, except as shown hereon, and that said property has access to and from a dedicated roadway.

Dated this the 10th day of April 2023.

Bruce R Pennell
Registered Professional Land Surveyor No. 4170
Date: 04/10/2023

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

Basis of Bearings:
EAST Line of this Lot

Bearings and Distances Shown
Inside ( ) Indicate Record Information

20 10 0 20

SCALE: 1" = 20'

STATE OF TEXAS
REGISTERED
BRUCE R. PENNELL
4170
PROFESSIONAL
LAND SURVEYOR

LEGEND
- ● Set 1/2" I.R. W/Cap "RPLS 4170"
- ○ Fnd. 1/2" I.R.
- G/M Gas Meter
- Ⓦ Water Meter
- Light Pole
- O Power Pole
- E E Overhead Electric Line
- Ⓒ Cable TV Junct. Box
- T T Overhead Telephone Line
- X X Iron Gate

PENNELL LAND SURVEYING
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE:(432)570-6256 FAX: (432)682-3262 MOBILE: (432)528-1027

ABSTRACT OFFICE: N/A	G.F. #: N/A	COMMITMENT EFFECTIVE DATE: N/A	
CAD FILE: BRP15405P	DATA FILE: 1601PINE	DRAWN BY: MARCY N.	FIRM NO.: 10193978

MIDLAND Planning Division

Special Exception Application

Project Number: E-23-0097

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Kevin Herrmann		Phone (432 288 4620) Email amanda13herrmann@gmail.com	
Address 1601 W Pine Ave	City Midland	State TX	Zip 79705

Property Owner Printed Name: Kevin Herrmann		Phone ( ) Email same	
Address 1601 W Pine Ave	City Midland	State TX	Zip 79705

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 1601 W Pine Ave Midland TX 79705

Legal Description
Lot: 12 Block: 6 Subdivision: Western Mesa

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: There are Existing trees and pool concerning the min Sideyard Setback

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):	Date: 12/28/2022
Applicant (printed): KEITH HERRMANN	
Property Owner (signature):	Date: 12/28/2022
Property Owner (printed) : KEITH HERRMANN	

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.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear_____who, being by me duly sworn, upon oath says: That (s)he is the owner of _____or authorized by_____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

_____
Authorized Agent (*signature*)

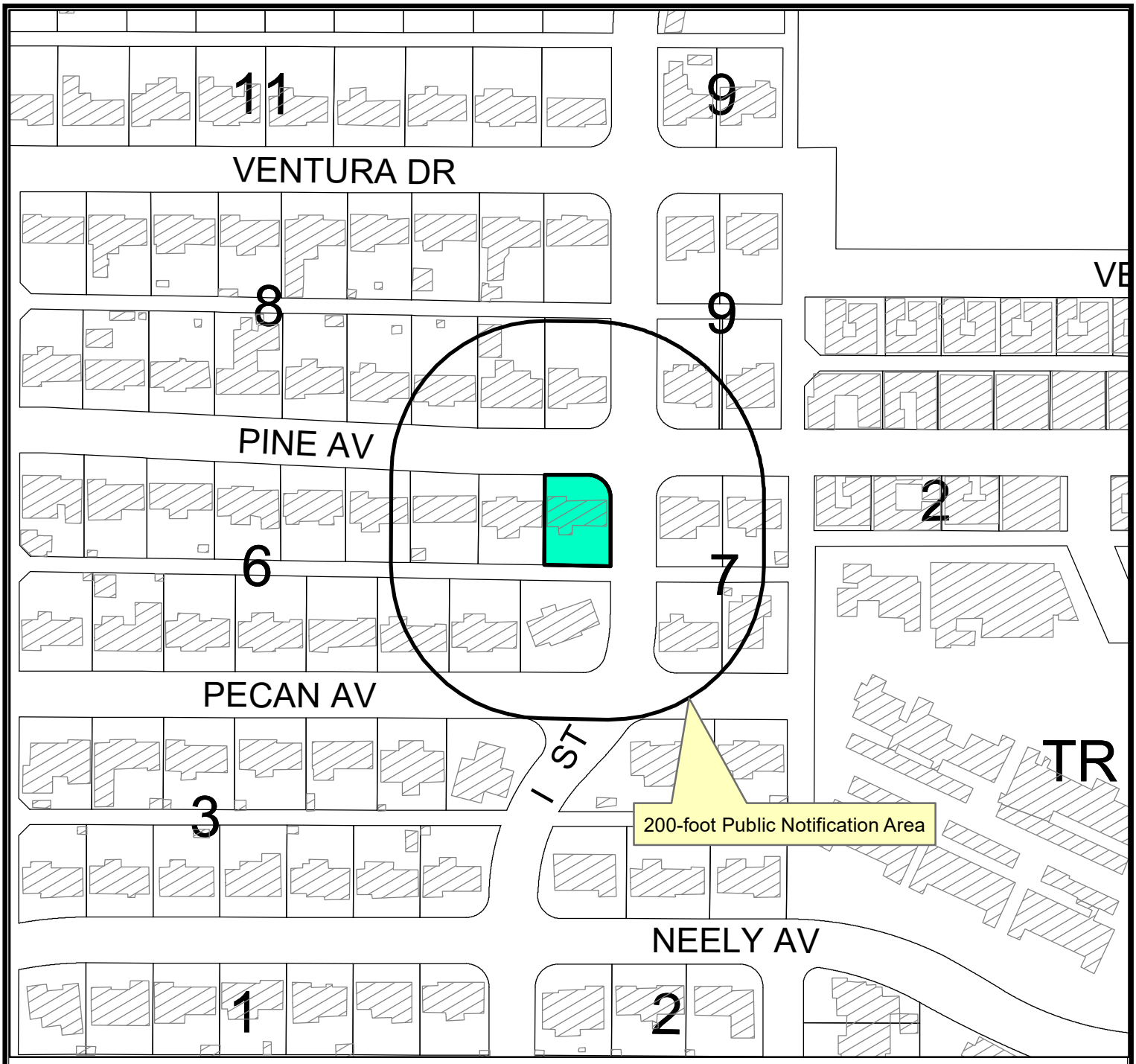
Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check # card	
Received By: Alexandra Walling	Date: RECEIVED MAR 13 2023 BY: AW

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

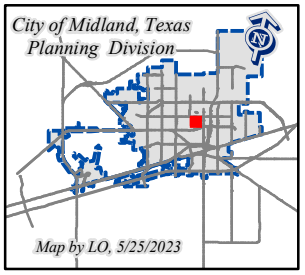
E-23-0097 **Scale: 1" = 2,235'**

Consider a request by Kevin Herrman for a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 - Residential Zoning District Dimensional Regulations Chart, for a reduced minimum side yard setback on Lot 21 east 86', Block 6, Western Mesa Addition, City and County of Midland, Texas.

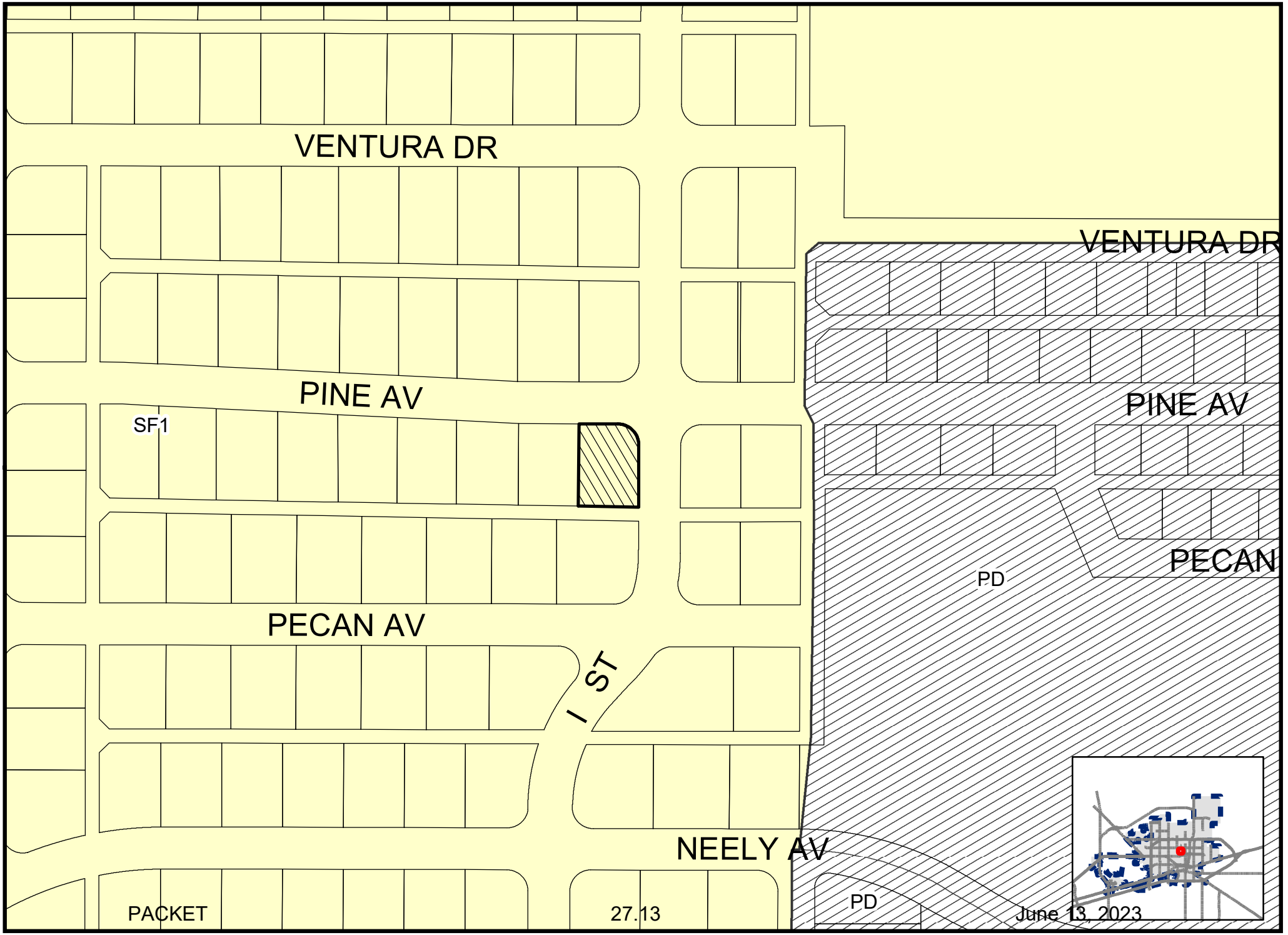
Generally located on the southwest corner of the intersection of West Pine Avenue and North I Street. (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND NOR IS IT DESIGNED TO BE USED AS THE ONLY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By LO, 3/21/2023

E-23-0097

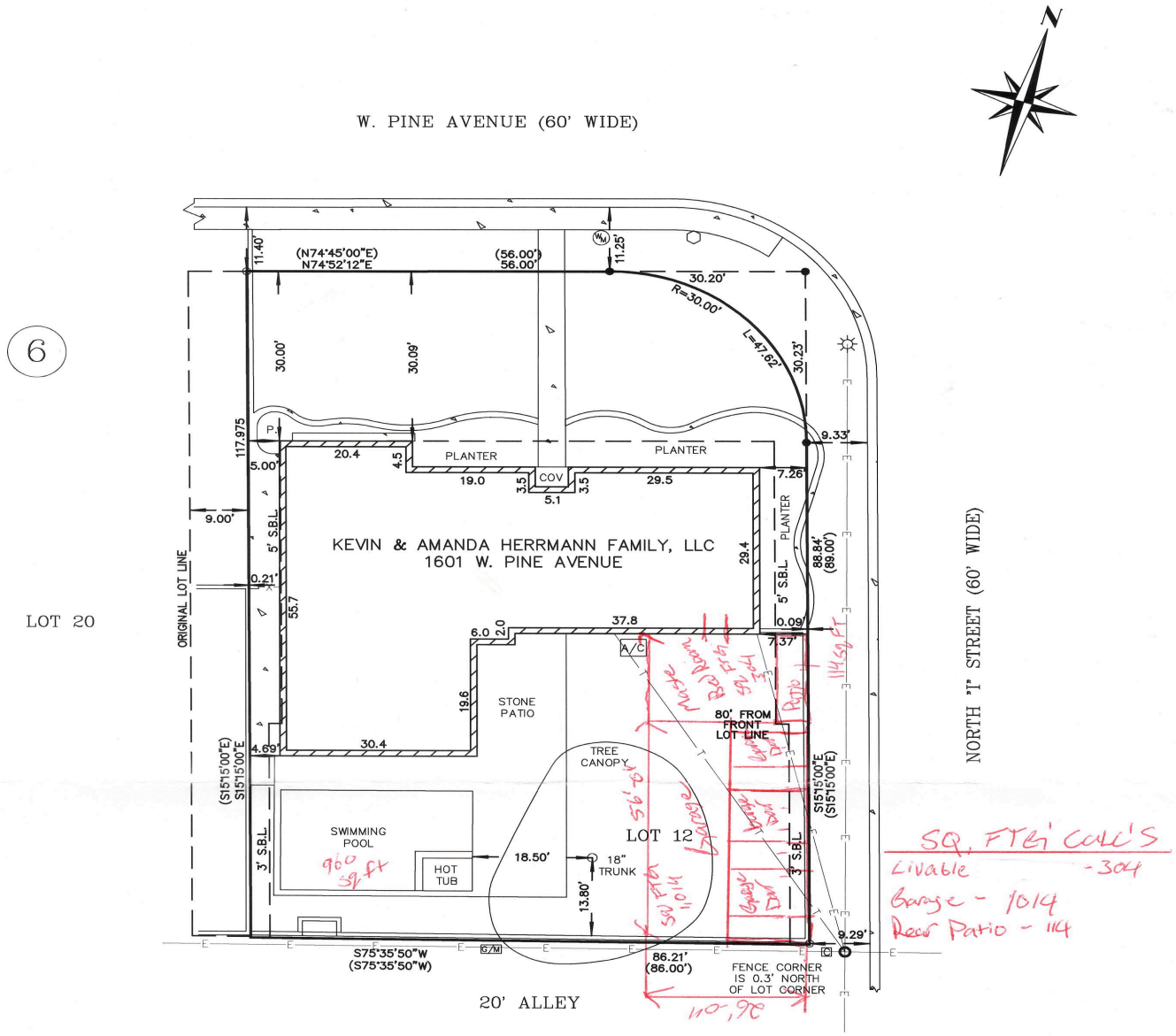
Scale: 1" = 2,058'

ZONING MAP

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PLAT OF
THE EAST 86' OF LOT
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Restrictive Covenants:
Vol. 235, Pg. 306,
Deed Records,
Midland Co., Texas

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Census Tract: 2

This tract is in Flood Zone "X" as shown on the Flood Insurance Rate Map, Dated September 16, 2005 provided by the Federal Emergency Management Agency Flood Map Number: 48329C088 F

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way, except as shown hereon, and that said property has access to and from a dedicated roadway.

Dated this the 10th day of April 2023.

Bruce R Pennell
Registered Professional Land Surveyor No. 4170
Date: 04/10/2023

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

Basis of Bearings:
EAST Line of this Lot

Bearings and Distances Shown
Inside ( ) Indicate Record Information

20 10 0 20

SCALE: 1" = 20'

STATE OF TEXAS
REGISTERED
BRUCE R. PENNELL
4170
PROFESSIONAL
LAND SURVEYOR

LEGEND
- ● Set 1/2" I.R. W/Cap "RPLS 4170"
- ○ Fnd. 1/2" I.R.
- G/M Gas Meter
- Ⓦ Water Meter
- Light Pole
- Power Pole
- E—E Overhead Electric Line
- Ⓒ Cable TV Junct. Box
- T—T Overhead Telephone Line
- X—X Iron Gate

PENNELL LAND SURVEYING
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE:(432)570-6256 FAX: (432)682-3262 MOBILE: (432)528-1027

ABSTRACT OFFICE: N/A	G.F. #: N/A	COMMITMENT EFFECTIVE DATE: N/A	
CAD FILE: BRP15405P	DATA FILE: 1601PINE	DRAWN BY: MARCY N.	FIRM NO.: 10193978





