

**CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
July 25, 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 Andrew Strand, Mid-Cities Church
2. Pledge of Allegiance

CONSENT AGENDA

3. MOTION APPROVING THE FOLLOWING MINUTES:
 - 4a. WORK SESSION OF JULY 11, 2023
 - 4b. REGULAR SESSION OF JULY 11, 2023
 - 4c. SPECIAL SESSION OF JULY 18, 2023
4. 087-2023 – MOTION ACCEPTING A DONATION IN THE AMOUNT OF \$135,000.00 FROM THE “BUSTIN’ FOR BADGES” FUNDRAISING PROJECT; SAID DONATION SHALL BE USED FOR THE PURCHASE OF NECESSARY EQUIPMENT FOR THE MIDLAND POLICE DEPARTMENT; AND AUTHORIZING THE APPROPRIATION OF \$135,000.00 IN THE POLICE TECHNOLOGY AND EQUIPMENT FUND UPON THE CITY OF MIDLAND’S RECEIPT AND DEPOSIT OF SAID DONATION (DISTRICT: NONE) (FINANCE)
5. 2023-089 – RESOLUTION APPROVING THE PURCHASE OF A SPARTAN GLADIATOR 100-FOOT AERIAL TRUCK FROM METRO FIRE APPARATUS SPECIALISTS, INC., THROUGH THE HOUSTON-GALVESTON AREA COUNCIL AT A TOTAL COST OF \$1,852,961.00 (DISTRICT: NONE) (GENERAL SERVICES)
6. 2023-090 – RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE AND SALE AGREEMENT FOR THE PURCHASE OF AN APPROXIMATE 0.5661-ACRE TRACT CONSISTING OF THE SOUTH 175 FEET OF THE EASTERN HALF OF BLOCK
PACKET

29, HOMESTEAD ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, FOR A TOTAL AMOUNT OF \$220,000.00; AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID PROPERTY, PURCHASE A TITLE INSURANCE POLICY, AND HOLD THE CLOSING FOR SAID ACQUISITION; AUTHORIZING PAYMENT FOR SAID PROPERTY, THE TITLE INSURANCE POLICY, AND CLOSING COSTS; ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY RECORDS, THE INSTRUMENT OF CONVEYANCE; AND APPROPRIATING FUNDS FOR SAID ACQUISITION (DISTRICT 2) (GENERAL SERVICES)

7. 2023-091 – RESOLUTION AWARDING A CONTRACT FOR THE PAUL DAVIS WELL FIELD PROJECT TO HYDRO RESOURCES - MID CONTINENT, INC., FOR AN AMOUNT OF \$4,412,775.00; AND TRANSFERRING AND APPROPRIATING FUNDS (DISTRICT: NONE) (GENERAL SERVICES)
8. 2023-092 – RESOLUTION RATIFYING AND APPROVING THE PAYMENT FOR THE EMERGENCY PUMP AND MOTOR REPLACEMENT AT THE T-BAR WELL FIELD BY MARK'S WATER WELL SERVICE, INC., FOR A TOTAL COST OF \$132,500.00 (DISTRICT: NONE) (GENERAL SERVICES)
9. 2023-093 – RESOLUTION AWARDING A CONTRACT IN THE AMOUNT OF \$391,550.00 FOR THE WINDLANDS PARK SOCCER FIELDS IRRIGATION PROJECT TO M3 LANDSCAPE MAINTENANCE & IRRIGATION, LLC; APPROVING \$58,750.00 FOR PROJECT RELATED EXPENSES; AND APPROPRIATING FUNDS (DISTRICT 3) (GENERAL SERVICES)
10. 2023-094 – RESOLUTION OF THE CITY OF MIDLAND, TEXAS, FINDING THAT THE APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC ("ONCOR") TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR AND UPDATE GENERATION RIDERS TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AUTHORIZING HIRING OF LEGAL COUNSEL; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY ONCOR; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL (DISTRICT: ALL) (CITY MANAGER)
11. 2023-095 – RESOLUTION APPROVING THE FISCAL YEAR 2023-2024 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE (DISTRICT: ALL) (CITY MANAGER)
12. 2023-096 – RESOLUTION CREATING A BARBARA & GEORGE H.W. BUSH CONVENTION CENTER ADVISORY BOARD AND ESTABLISHING DUTIES, QUALIFICATIONS, TERMS OF OFFICE, METHODS FOR FILLING VACANCIES, AND RELATED ORGANIZATIONAL MATTERS (DISTRICT: ALL) (CITY SECRETARY'S

OFFICE)

13. 088-2023 – MOTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THAT CERTAIN FOOTBALL/SOCCER STADIUM NONEXCLUSIVE LEASE AGREEMENT DATED MARCH 20, 2001, WITH THE MIDLAND INDEPENDENT SCHOOL DISTRICT; SAID AMENDMENT PROVIDING FOR THE EXTENSION OF THE LEASE TERM, AS DEFINED IN SAID AGREEMENT, FROM JULY 31, 2023, TO JULY 31, 2024 (DISTRICT 4) (COMMUNITY SERVICES)
 14. 2023-097 – RESOLUTION AUTHORIZING THE ADOPTION OF THE CITY OF MIDLAND'S 2023-2024 ACTION PLAN TO THE CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS FOR THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S FISCAL YEARS 2020-2024; THE CONSOLIDATED PLAN HAVING BEEN APPROVED BY RESOLUTION NUMBER 2020-127; AND AUTHORIZING THE EXECUTION OF AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (DISTRICT: ALL) (DEVELOPMENT SERVICES)
 15. 2023-098 – RESOLUTION APPROVING THE ISSUANCE OF PERMITS TO ENDEAVOR ENERGY RESOURCES, L.P. ("OPERATOR") TO DRILL FIVE OIL AND GAS WELLS LOCATED IN SECTION 6, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (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 INTERSTATE 20) (DISTRICT 2) (DEVELOPMENT SERVICES)
 16. 2023-099 – RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH ENDEAVOR ENERGY RESOURCES, L.P. ("OPERATOR") REGARDING ITS APPLICATION TO DRILL OIL AND GAS WELLS LOCATED IN SECTION 6, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (DISTRICT 2) (DEVELOPMENT SERVICES)
 17. 089-2023 – MOTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MIDLAND AND THE MIDLAND COLLEGE COMMUNITY DISTRICT FOR USE OF THE MIDLAND FIRE DEPARTMENT TRAINING FACILITY (DISTRICT: NONE) (FIRE)
 18. 090-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-329-036) WITH ENTERPRISE NAVITAS MIDSTREAM MIDLAND BASIN, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
 19. 091-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-329-035) WITH ENTERPRISE NAVITAS MIDSTREAM MIDLAND BASIN, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
 20. 092-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE
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(23-329-034) WITH MIDLAND-PERMIAN PIPELINE LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 24, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)

SECOND READINGS

21. 10420 – AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, DESIGNATING LOTS 22, 23 AND 24, BLOCK 65, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH LORAIN STREET, APPROXIMATELY 130 FEET NORTH OF WEST MISSOURI AVENUE) AS TAX ABATEMENT REINVESTMENT ZONE NUMBER 2023-02 FOR COMMERCIAL AND INDUSTRIAL TAX ABATEMENT AS AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX CODE; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE (DISTRICT 2) (CITY MANAGER) (FIRST READING HELD JULY 11, 2023)
22. 10421 – AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES) (FIRST READING HELD JULY 11, 2023)
23. 10422 – AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158; 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) (FIRST READING HELD JULY 11, 2023)
24. 10423 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,400-SQUARE FOOT PORTION OF LOT 12, BLOCK 38, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MAIN STREET, APPROXIMATELY 25 FEET SOUTH OF EAST ILLINOIS AVENUE), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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 JULY 11, 2023)

25. 10424 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 1,595-SQUARE FOOT PORTION OF LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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 JULY 11, 2023)
26. 10425 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOTS 1 AND 2, BLOCK 182, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH BIG SPRING STREET AND WEST FLORIDA AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES) (FIRST READING HELD JULY 11, 2023)
27. 10426 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 6,529-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT 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 JULY 11, 2023)

MISCELLANEOUS

28. 10427 – AN ORDINANCE ADOPTING A FEE SCHEDULE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN APPEAL PROCESS; ESTABLISHING AN EFFECTIVE DATE OF OCTOBER 1, 2023; AND ORDERING PUBLICATION (DISTRICT: ALL) (FINANCE)
29. MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS (CITY SECRETARY'S OFFICE)

PUBLIC COMMENT

30. 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.)

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
July 11, 2023**



The City Council convened in a work session in the Basement Conference Room, City Hall, Midland, Texas, at 9:30 AM, July 11, 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., Assistant City Manager Tina Jauz

The meeting was called to order at 9:30 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 the Community Services Department and Dunaway regarding the proposed master plan for Beal Park.

Tim Hair, Dunaway, gave a brief overview of the proposed master plan for Beal Park. Work has been done for the past couple of months to go over the overall site master plan for the soccer complex. The field layouts are designed to be flexible and reconfigure as needed. There will be several fields, an amphitheater, parking and possibly a future senior center. There are four phases of the park. Several questions were asked by Council to include everything from lighting to seating just to name a couple.

The probable construction cost \$35,790,463.00 which is broken down into the four phases: Phase 1 - \$12,588,877.00, Phase 2 – \$11, 564,872.00, Phase 3 – \$2,272,330.00 and Phase 4 – \$9,364,384.00.

Matthew Voss, President of Midland Soccer Association, also answered questions from Council.

All the business at hand having been completed, the meeting adjourned at 9:56 a.m.

PASSED AND APPROVED July 25, 2023.

PACKET

4a.1

July 25, 2023

BRIEFING MINUTES

Page 1

July 11, 2023

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer /City Secretary

DRAFT

**MIDLAND CITY COUNCIL
MINUTES
July 11, 2023**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., July 11, 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., Assistant City Manager Tina Jauz, Attendee Gracie Martinez

The meeting was called to order at 10:01 a.m.

OPENING ITEMS

1. Invocation – Pastor Daniel Stephens, Mid-Cities Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - 3a. Recognition of City Employees who recently graduated from the Certified Public Manager Program.

Immediately following Presentations, Mayor Blong moved to item number 25 for public comment.

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:

- 4a. WORK SESSION OF JUNE 27, 2023

PACKET

4b.1

July 25, 2023

MINUTES

Page 1

July 11, 2023

4b. REGULAR SESSION OF JUNE 27, 2023

4c. SPECIAL SESSION OF JUNE 27, 2023

5. 2023-086 – RESOLUTION AWARDING A CONTRACT FOR THE T23-03 TRAFFIC SIGNAL PROJECT TO THE SOLE BIDDER, WILLIS ELECTRIC CO., LP OF ABILENE, TEXAS, AT A TOTAL COST OF \$1,961,083.80; APPROVING \$196,108.38 FOR CONTINGENCIES; TRANSFERRING AND APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT (DISTRICT: ALL) (GENERAL SERVICES)
7. 2023-087 – RESOLUTION APPROVING THE SELECTION OF BEYOND ENGINEERING AND TESTING, LLC, ENPROTEC/HIBBS & TODD, INC. DOING BUSINESS AS GEOTEC LABS, AND TERRACON CONSULTANTS, INC. TO ASSIST THE ENGINEERING SERVICES DEPARTMENT WITH CONSTRUCTION MATERIALS TESTING 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 THREE 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 \$150,000.00; PROVIDING THAT THE TOTAL COST TO THE CITY FOR ALL TASK ORDERS EXECUTED EACH YEAR IN ACCORDANCE WITH EACH AGREEMENT SHALL NOT EXCEED \$300,000.00 PER AGREEMENT PER YEAR; AND AUTHORIZING PAYMENT (DISTRICT: ALL) (GENERAL SERVICES)
8. 2023-088 – RESOLUTION AMENDING THE CITY OF MIDLAND PERSONNEL POLICIES; CONVERTING THE CITY'S VACATION AND SICK LEAVE PROGRAMS INTO A PAID TIME OFF PROGRAM; AMENDING OTHER LEAVE POLICIES; AND PROVIDING AN EFFECTIVE DATE OF JULY 12, 2023 (DISTRICT: ALL) (ADMINISTRATIVE SERVICES)
9. 080-2023 – MOTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MAF NORTHWEST BASIN WILDLIFE IMPROVEMENTS 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 4) (AIRPORTS)
10. 081-2023 – MOTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MAF TAXIWAY "E" RECONSTRUCTION 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

PACKET

4b.2

July 25, 2023

MINUTES

Page 2

July 11, 2023

ACCOMPLISHING THE WORK SET FORTH IN SAID PLANS AND SPECIFICATIONS
(DISTRICT 4) (AIRPORTS)

11. 082-2023 – MOTION APPROVING A REQUEST BY NEWTON ENGINEERING, TO DEFER PAVING IMPROVEMENTS FOR MIDKIFF INDUSTRIAL CENTER, SECTION 28, AND TO WAIVE THE CORRESPONDING FINANCIAL SECURITY GUARANTEE VALUED AT \$84,496.00, AN AMOUNT EQUAL TO THE ESTIMATED COST TO CONSTRUCT THE PUBLIC INFRASTRUCTURE. THE SUBJECT PROPERTY IS GENERALLY LOCATED EAST OF SOUTH MIDKIFF ROAD AND SOUTH OF WEST INDUSTRIAL AVENUE. THE PROPERTY IS WITHIN THE CORPORATE LIMITS OF THE CITY OF MIDLAND (DISTRICT 2) (ENGINEERING SERVICES)
12. 083-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-329-008) WITH ENTERPRISE NAVITAS MIDSTREAM MIDLAND BASIN, LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
13. 084-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-329-031) BETWEEN THE CITY OF MIDLAND AND TARGA PIPELINE MID-CONTINENT WEST-TEX LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 29, 31, 32 AND 41, BLOCK 38, TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT 2) (UTILITIES)

Jack Ladd moved to approve consent agenda item(s) 4-13, excluding item 6; 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

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

6. 079-2023 – MOTION APPROVING PLANS AND SPECIFICATIONS FOR THE NORTH CITIZEN COLLECTION STATION PROJECT AND THE WEST CITIZEN COLLECTION STATION 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 A REQUEST FOR COMPETITIVE SEALED PROPOSALS FOR SAID PROJECTS PURSUANT TO THE STATUTES OF THE STATE OF TEXAS FOR ACCOMPLISHING THE WORK SET FORTH IN SAID PLANS AND SPECIFICATIONS AND TO NEGOTIATE AN AGREEMENT FOR SAID WORK; PROVIDED, HOWEVER, THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL (DISTRICT: ALL) (GENERAL SERVICES)

Solid Waste Director Jeffery Arhlett, gave a brief overview of the item noting the City has outgrown the single sided collection station so they will be doubling the dump spaces to provide more room. Mr. Arhlett reported on customer service issues with brush, tracking and build time.

Scott Dufford moved to approve Motion No. 079-2023; 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

SECOND READINGS

14. 10417 – AN ORDINANCE VACATING AND ABANDONING A 0.069-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1 THROUGH 3 AND LOTS 6 THROUGH 8, BLOCK 75, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF ANDREWS HIGHWAY, APPROXIMATELY 200 FEET SOUTH OF WEST TEXAS AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$12,024.00; RETAINING A NONEXCLUSIVE UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT 3) (DEVELOPMENT SERVICES) (FIRST READING HELD JUNE 27, 2023)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10417.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10417; 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

15. 10418 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2E, BLOCK 33, NORTHGATE ADDITION, SECTION 21, CORRECTION PLAT, 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 AT THE NORTHEAST CORNER OF NORTHCREST DRIVE AND WEST LOOP 250 NORTH); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES) (FIRST READING HELD JUNE 27, 2023)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10418.

Dan Corrales moved to approve the second and final reading of Ordinance No. 10418;

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

16. 10419 – AN ORDINANCE VACATING AND ABANDONING A 0.03-ACRE PORTION OF MADISON STREET RIGHT-OF-WAY AND A 0.03-ACRE PORTION OF CARVER STREET RIGHT-OF-WAY, BOTH LOCATED ADJACENT TO BLOCK 9, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF GARDEN LANE AND MADISON STREET AND AT THE SOUTHWEST CORNER OF THE INTERSECTION OF GARDEN LANE AND CARVER STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$5,227.20; RETAINING A NONEXCLUSIVE UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY (DISTRICT 2) (DEVELOPMENT SERVICES) (FIRST READING HELD JUNE 27, 2023)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10419.

John Norman moved to approve the second and final reading of Ordinance No. 10419; 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

PUBLIC HEARINGS

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

17. 10420 – AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, DESIGNATING LOTS 22, 23 AND 24, BLOCK 65, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH LORAIN STREET, APPROXIMATELY 130 FEET NORTH OF WEST MISSOURI AVENUE) AS TAX ABATEMENT REINVESTMENT ZONE NUMBER 2023-02 FOR COMMERCIAL AND INDUSTRIAL TAX ABATEMENT AS AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX CODE; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE (DISTRICT 2) (CITY MANAGER)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10420.

Assistant City Manager Tina Jauz gave a brief overview of the item noting this is the first step in a project to develop a tapestry hotel. Tax abatement guidelines and criteria were approved last year by the City Council.

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

John Norman moved to approve the first of two readings of Ordinance No. 10420; 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

18. 10421 – AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10421.

Mayor Blong opened the public hearing at 11:38 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. 10421; 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. 10422 – AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF STATE HIGHWAY 158; 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)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10422.

Mayor Blong opened the public hearing at 11:33 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to approve the first of two readings of Ordinance No. 10422; 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

20. 10423 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,400-SQUARE FOOT PORTION OF LOT 12, BLOCK 38, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MAIN STREET, APPROXIMATELY 25 FEET SOUTH OF EAST ILLINOIS AVENUE), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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 Vanessa White read the caption of Ordinance No. 10423.

Mayor Blong opened the public hearing at 11:35 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to approve the first of two readings of Ordinance No. 10423; 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

21. 10424 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 1,595-SQUARE FOOT PORTION OF LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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
PACKET 4b.7 July 25, 2023

(DISTRICT 2) (DEVELOPMENT SERVICES)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10424.

Mayor Blong opened the public hearing at 11:36 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to approve the first of two readings of Ordinance No. 10424; 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. 10425 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOTS 1 AND 2, BLOCK 182, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH BIG SPRING STREET AND WEST FLORIDA AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES)

Deputy City Secretary Vanessa White read the caption of Ordinance No. 10425.

Mayor Blong opened the public hearing at 11:37 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to approve the first of two readings of Ordinance No. 10425; 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

23. 10426 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 6,529-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP

250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT 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 Vanessa White read the caption of Ordinance No. 10426.

Mayor Blong opened the public hearing at 11:38 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Dan Corrales moved to approve the first of two readings of Ordinance No. 10426; 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

MISCELLANEOUS

24. 085-2023 – MOTION APPROVING A REQUEST BY MAGRYM CONSULTING, INC., TO DEFER PAVING AND WATER IMPROVEMENTS FOR LINDSAY ACRES, SECTION 14, AND TO WAIVE THE CORRESPONDING FINANCIAL SECURITY GUARANTEE VALUED AT \$269,089, AN AMOUNT EQUAL TO THE ESTIMATED COST TO CONSTRUCT THE PUBLIC INFRASTRUCTURE. THE SUBJECT PROPERTY IS GENERALLY LOCATED EAST OF MORAN STREET AND NORTH OF MARLIN AVENUE. THE PROPERTY IS WITHIN THE CORPORATE LIMITS OF THE CITY OF MIDLAND (DISTRICT 2) (ENGINEERING SERVICES)

Robin Poole moved to defer Motion No. 085-2023 to the next meeting by; 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

Engineering Services Director Jose Ortiz gave a brief overview of the item noting the request is to defer all improvements such as water, sewer and paving.

Utilities Director Carl Craigo reported that City staff put in the sewer for the development with the understanding that the developer was putting in the water.

PACKET

4b.9

July 25, 2023

Ed Aleman, 1111 Magnolia Ave., spoke in favor of this item. Mr. Aleman would like to vacate the alley and move forward with the plats.

Development Services Director Chuck Harrington reported the money has to be in escrow or the water has to be put in before a plat is filed.

George Sosa, 1206 Storey, stated they have been working on this for three years. Mr. Sosa would like to see the Southside of Midland developed.

Council had several questions for staff and Mr. Sosa and it was finally suggested by Engineering Services Director Jose Ortiz to defer this item until the next meeting so that further conversations could be held with Mr. Sosa.

25. 086-2023 – MOTION APPOINTING MR. TOMAS GONZALEZ AS THE NEW CITY MANAGER OF THE CITY OF MIDLAND EFFECTIVE JULY 31, 2023; AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE CITY MANAGER

Item number 25 was moved up to the first item of the Council Meeting. Mayor Blong spoke on vetting the City Manager candidate Mr. Tommy Gonzalez.

Council Member Corrales reported that a lot of thought was given to the process and asked citizens to put their trust in the Council's decision.

Council Member Norman echoed putting trust in the City Council and would like Citizens to know the Council has taken this decision serious and want what is best for the City of Midland.

Council Member Ladd spoke on the number of City Managers across Texas who have been removed and the average length of time a City Manager serves.

Reagan Sharp, 805 Sinclair Ave., daughter of the late Midland City Manager Courtney Sharp, voiced her concerns why the Council should not hire Tommy Gonzalez.

Council Member Amy Stretcher Burkes thanked Reagan Sharp for her words.

Council Member Norman and Mayor Blong shared that they were able to work with Mr. Sharp for a short period of time.

Robert Crites spoke against hiring Tommy Gonzalez.

Eliel Rosa spoke against hiring Tommy Gonzalez.

Mayor Blong recessed the meeting to go into Executive Session at 10:21 a.m. to discuss item a. only. The regular City Council meeting reconvened at 11:15 a.m. and Council was

given the opportunity to make final comments.

Council Member Norman spoke on his support and choice in the process.

Council Member Ladd thanked everyone that applied.

Council Member Dufford spoke on how everything is not true on social media and that Mr. Gonzalez has been fully vetted.

Council Member Poole thanked all staff and internal candidates for enduring the process. The decision was not taken lightly and everything was taken into account.

Council Member Corrales spoke on the responsibility to make the right decision. Council Member Corrales also appreciates all input received and how the Council has come together on this issue.

Council Member Stretcher Burkes thanked everyone who applied.

Mayor Blong expressed the difficulty in making this decision and briefly discussed a few points of the negotiated contract.

John Norman moved to approve Motion No. 086-2023; 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

PUBLIC COMMENT

26. 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.)

Doreen Womack, Executive Director of Keep Midland Beautiful, gave an update on what Keep Midland Beautiful does and on quality of life. Ms. Womack spoke on what has happened in the first six months of 2023 with Keep Midland Beautiful. Ms. Womack will be retiring July 31 and thanked this Council and the Councils of the past for their support.

EXECUTIVE SESSION

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

Mayor Blong recessed the meeting to go into Executive Session at 12:07 p.m. to discuss item b.,

the final item on the agenda.

a. Section 551.074, Personnel Matters

a.1. Deliberate the appointment, employment, evaluation, or duties of the City Manager.

b. Section 551.072, Deliberation Regarding Real Property

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

All the business at hand having been completed, the meeting adjourned at 1:27 p.m.

PASSED AND APPROVED July 25, 2023.

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer/City Secretary



The City Council convened in **Special** Session in the City Hall Council Chamber, Midland, Texas, at 1:30 PM, Tuesday, July 18, 2023.

Council Members present: Amy Stretcher Burkes, Dan Corrales, Robin Poole, Lori Blong, Scott Dufford, Jack Ladd

Council Members absent: John Norman

Staff members present: Interim City Manager Morris Williams Jr., Assistant City Manager Tina Jauz

The meeting was called to order at 1:33 p.m.

SPECIAL SESSION

1. Attend a media meeting with new City Manager Tommy Gonzalez

Mayor Blong introduced and welcomed Tommy Gonzalez and his family to Midland. Mr. Gonzalez will be Midland's City Manager beginning July 31, 2023.

Mr. Gonzalez introduced himself and his family and reported he is excited to began working for the City of Midland. Mr. Gonzalez took questions from the news media regarding the direction of the City, his plans for the future and working together with City staff and Council.

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

PASSED AND APPROVED July 25, 2023.

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer/City Secretary



City Council Meeting

Item Number: 4
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Christy Weakland, Director
Subject: MOTION ACCEPTING A DONATION IN THE AMOUNT OF \$135,000.00 FROM THE "BUSTIN' FOR BADGES" FUNDRAISING PROJECT; SAID DONATION SHALL BE USED FOR THE PURCHASE OF NECESSARY EQUIPMENT FOR THE MIDLAND POLICE DEPARTMENT; AND AUTHORIZING THE APPROPRIATION OF \$135,000.00 IN THE POLICE TECHNOLOGY AND EQUIPMENT FUND UPON THE CITY OF MIDLAND'S RECEIPT AND DEPOSIT OF SAID DONATION (DISTRICT: NONE) (FINANCE)

Purpose:

Funds received from the event will be appropriated for use by the Police Department.

Recommended City Council Action:

Approve

Fiscal Impact:

\$135,000 will be appropriated in the Police Technology and Equipment Fund upon receipt and deposit.

Discussion:

The annual Bustin' for Badges clay shoot event was held and raised \$135,000 for the City of Midland Police Department. These funds will be used for needed Police equipment.

Morris Williams Jr.

City Manager's Office



City Council Meeting

Item Number: 5
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION APPROVING THE PURCHASE OF A SPARTAN GLADIATOR 100-FOOT AERIAL TRUCK FROM METRO FIRE APPARATUS SPECIALISTS, INC., THROUGH THE HOUSTON-GALVESTON AREA COUNCIL AT A TOTAL COST OF \$1,852,961.00 (DISTRICT: NONE) (GENERAL SERVICES)

Purpose:

Resolution authorizing the purchase of one (1) Spartan Gladiator 100 Aerial Truck from Metro Fire Apparatus Specialists, Inc. through Houston-Galveston Area Council (H-GAC) contract #FS12-19 for a total cost of \$1,852,961.00.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the FY 2023 Garage Fund operating budget.

Discussion:

Staff is recommending the purchase of one (1) Spartan Gladiator 100 Aerial Truck for the Fire Department. The aerial truck is available on the Houston-Galveston Area Council (H-GAC) contract #FS12-19. We are members of this cooperative and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases. The budget for this equipment for fiscal year 2023 is \$1,800,000.00. This pumper is a replacement for a unit that has gone beyond its serviceable life. Please see the attached memos from Manuel Salinas, Garage Superintendent and Charles Blumenauer, Fire Chief, for additional information.

Therefore, please consider a resolution approving the purchase of one (1) Spartan Gladiator 100 Aerial Truck from Metro Fire Apparatus Specialists, Inc. of Houston, Texas through Houston-Galveston Area Council (H-GAC) contract #FS12-19 for a total cost of \$1,852,961.00.

Jina Gang

City Manager's Office



Fleet Services Division

INTEROFFICE MEMORANDUM

TO: Regina Stephenson

FROM: Manuel Eloy Salinas

SUBJECT: HGACBUY contract # FS12-19 for the purchase of an Aerial Apparatus

DATE: 07/11/2023

Fleet services is requesting the purchase of (1) one Spartan Gladiator 100' Aerial Apparatus as a replacement for a unit that has gone beyond its serviceable life. Budgeted amount for the FY23 is \$1,800.000 for (1) one Spartan Gladiator Aerial Apparatus. Purchasing amount of \$1,852.961 is being offered for (1) one Spartan Gladiator Aerial Apparatus through HGACBUY contract # FS12-19 by Metro Fire Apparatus Specialists, Inc.

Sincerely,

Manuel Eloy Salinas

City of Midland Garage Superintendent



Interoffice Memorandum

Date: 7/10/2023
To: Regina Stephenson
From: Fire Chief Charles Blumenauer
Subject: 2023 Aerial (100') Apparatus Purchase

Midland Fire Department's purchase of a new Spartan Gladiator 100' rear mount platform apparatus is crucial to the Department's goals in providing the best quality and reliability of service for the Citizens of Midland. This apparatus's role has been changed to serve as our heavy rescue vehicle as well. This new vehicle is being designed specifically to handle this dual role as our first line ladder company on all fires and heavy rescue vehicle. This purchase of new apparatus will continue the department's plan of maintaining its ISO Class 1 rating, which is beneficial to all citizens and businesses of the City of Midland.

Charles Blumenauer

Fire Chief

RESOLUTION NO. _____

**RESOLUTION APPROVING THE PURCHASE OF A
SPARTAN GLADIATOR 100-FOOT AERIAL TRUCK
FROM METRO FIRE APPARATUS SPECIALISTS, INC.,
THROUGH THE HOUSTON-GALVESTON AREA
COUNCIL AT A TOTAL COST OF \$1,852,961.00**

WHEREAS, the Houston-Galveston Area Council (“*H-GAC*”) is a cooperative purchasing agency with which the City participates with on purchases through a cooperative purchasing program in accordance with TEX. LOC. GOV’T CODE § 271.102; and

WHEREAS, Metro Fire Apparatus Specialists, Inc., has submitted a total proposed cost to the City of \$1,852,961.00 for the purchase of a Spartan Gladiator 100-foot aerial truck through H-GAC, as shown on the quote attached hereto as Exhibit A and incorporated herein for all purposes; and

WHEREAS, the Council finds the price proposed by Metro Fire Apparatus Specialists, Inc., through H-GAC for a Spartan Gladiator 100-foot aerial truck to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to purchase a Spartan Gladiator 100-foot aerial truck from Metro Fire Apparatus Specialists, Inc., through H-GAC for a total cost of \$1,852,961.00;

**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 a Spartan Gladiator 100-foot aerial truck from Metro Fire Apparatus Specialists, Inc., at a total cost of \$1,852,961.00.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Metro Fire Apparatus Specialists, Inc., for said Spartan Gladiator 100-foot aerial truck from funds available in the FY2023 Garage Operating Fund operating budget 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 AS TO FORM ONLY:

John Ohnemiller, City Attorney



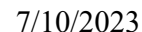
Contract Pricing Worksheets

Rev 02-05-07

NOTE: Purchase Orders are not valid unless a copy of the completed worksheet and the customer's order are faxed to HGACBuy at:
713-993-4548

This Workbook contains three versions of HGACBuy's Contract Pricing Worksheet. One is for Standard Equipment / Services, one is for Catalog or Price Sheet type purchases, and the third is for Motor Vehicles only. See tabs at bottom to select appropriate Worksheet.

Please contact H-GAC staff about use of the worksheets if you have any questions.



Description		Cost	Description		Cost
PACKET		5.8	July 25, 2023		\$0
Delivery Date:	March 2024	G. Total Purchase Price (D+E+F):			\$1,852,961

PUBLISHED OPTIONS

[illegible]

UNPUBLISHED OPTIONS

[illegible]



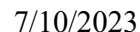
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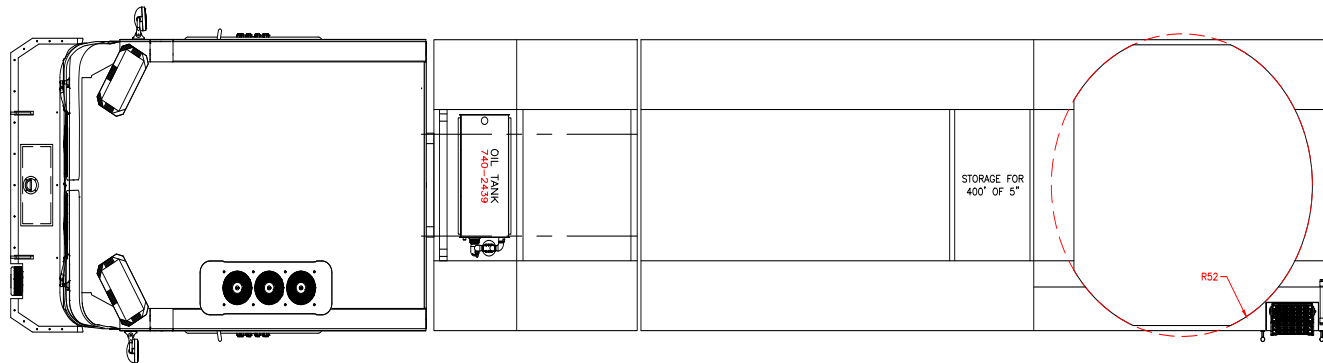
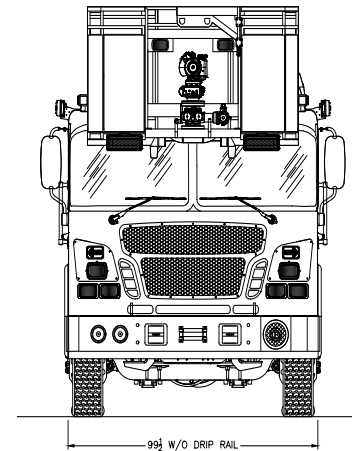
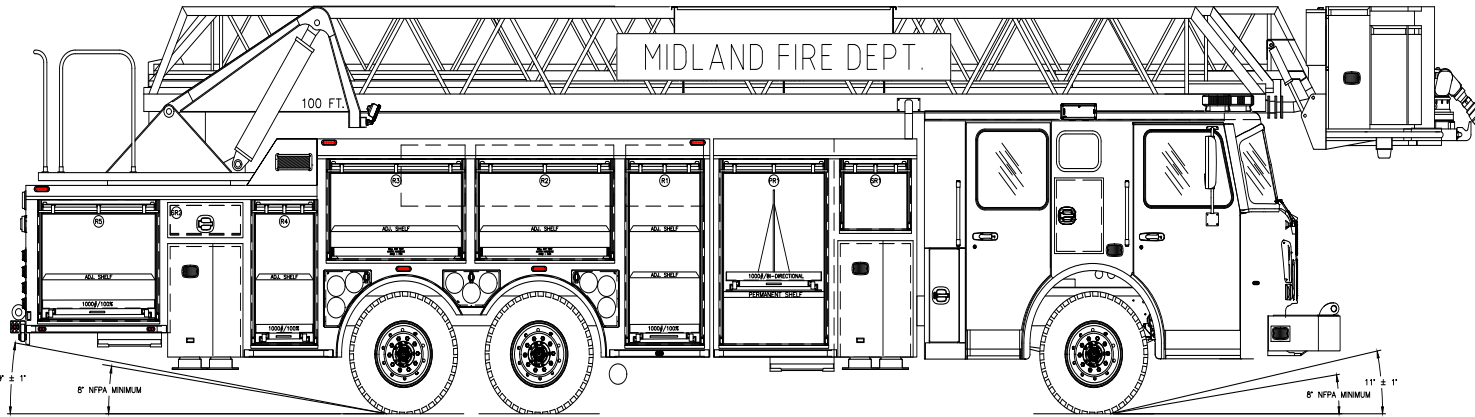
Description		Cost	Description		Cost
PACKET		5	12 July 25, 2023		\$0
Delivery Date:		March 2024	G. Total Purchase Price (D+E+F):		\$1,852,961

PUBLISHED OPTIONS

[illegible]

UNPUBLISHED OPTIONS

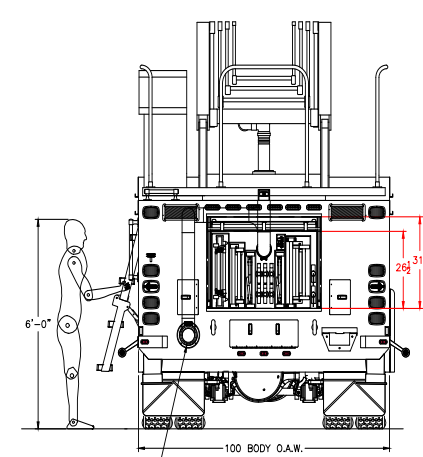
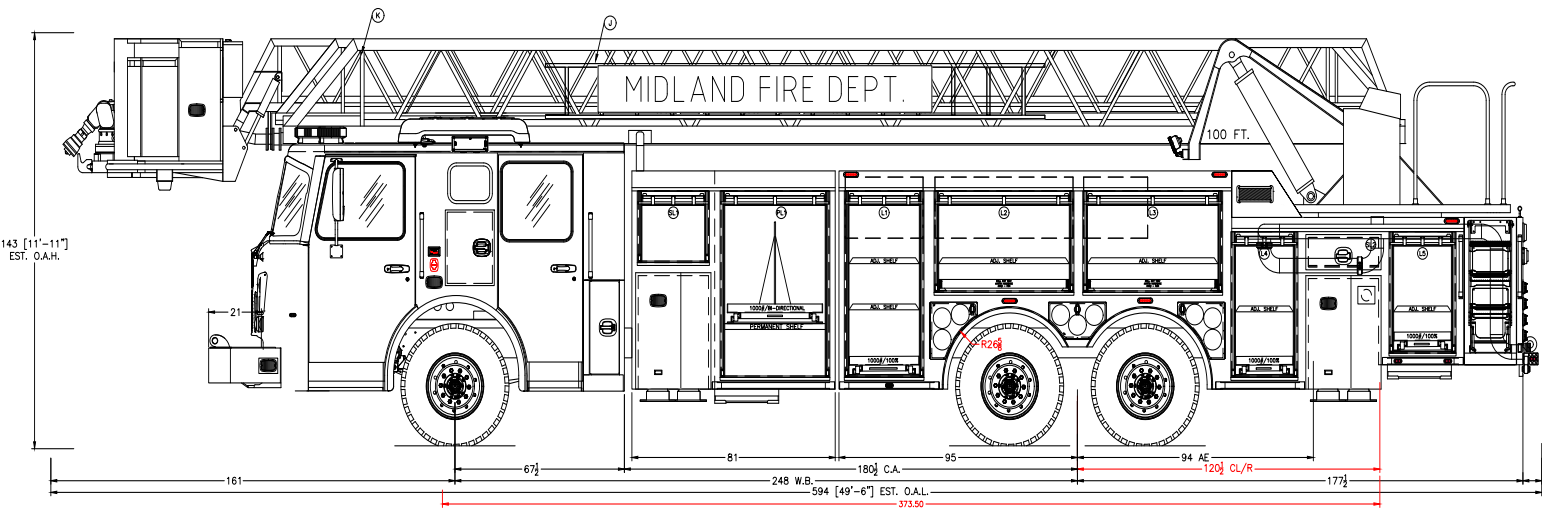
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COMPARTMENT DIMENSIONS				
COMP.	DOOR OPENING	INTERIOR	DIVIDE HEIGHT	DOOR DEPTH
L1	28" W x 48" H	33.5" W x 70.5" H	TRANS	23"
L2	52" W x 29" H	59" W x 41" H	TRANS	23"
L3	52" W x 29" H	63" W x 41" H	TRANS	23"
L4	23" W x 44" H	30.5" W x 54.5" H	TRANS	23"
L5	23" W x 36" H	34" W x 46" H	TRANS	23"
R1	28" W x 58" H	33.5" W x 70.5" H	TRANS	23"
R2	52" W x 29" H	59" W x 41" H	TRANS	23"
R3	52" W x 29" H	63" W x 41" H	TRANS	23"
R4	23" W x 44" H	30.5" W x 54.5" H	TRANS	23"
R5	45" W x 36" H	52.5" W x 46" H	TRANS	23"
PL1	45" W x 58" H	53" W x 70.5" H	TRANS	23"
PR1	45" W x 58" H	53" W x 70.5" H	TRANS	23"
SL1	25" W x 19" H	30.5" W x 31" H	TRANS	23"
SR1	25" W x 19" H	30.5" W x 31" H	TRANS	23"
SL2	28" W x 9" H	28" W x 16.5" H	TRANS	13"
SR2	28" W x 9" H	28" W x 16.5" H	TRANS	22"

- SHOP INSTRUCTIONS
- FOAM SYSTEM:
- FOAM CAPABLE DISCHARGES
- COMPARTMENT FINISH:
- SHELVES/TRANS FINISH:

GROUND LADDERS & PIKE POLES			
ITEM	DESCRIPTION	MODEL #	QTY
A	35' 3 SEC EXTENSION	1225-A	1
B	24' 2 SEC EXTENSION	900-A	1
C	16' ROOF	875-A	2
D	17' LITTLE GIANT	15187-882	1
E	10' FOLDING ATTIC	585-A	1
F	10" NY ROOF HOOK	RH-10 W/D	2
G	6" NY ROOF HOOK	RH-6	2
H	8" NY ROOF HOOK	RH-8	2
I	12" NY ROOF HOOK	RH-12	2
J	18" ROOF	DRL-16	1
BASE			
FLY	8" NY ROOF HOOK	RH-8	1



NOTE:
THIS DRAWING IS THE PROPERTY OF SPARTAN FIRE, LLC AND IS TO BE USED ONLY IN CONNECTION TO THE WORK PROPOSED OR CONTRACTED BY SPARTAN FIRE, LLC. ANY REPRODUCTION IN PART OR IN WHOLE WITHOUT THE WRITTEN PERMISSION OF SPARTAN FIRE, LLC IS STRICTLY PROHIBITED.
DIMENSIONS SHOWN ARE APPROXIMATE AND ARE SUBJECT TO CHANGE AS MAY BE FOUND NECESSARY DURING CONSTRUCTION. THIS DRAWING MUST BE PLOTTED TO THE PAPER SIZE LISTED IN THE TITLE BLOCK FOR THE LISTED SCALE TO BE VALID.
THIS DRAWING IS FOR REFERENCE PURPOSES ONLY. SOME ITEMS MAY OR MAY NOT APPEAR ON THE DRAWING THAT MAY OR MAY NOT BE INCLUDED IN THE SPECIFICATIONS. THE SPECIFICATIONS SHALL BE THE FINAL AUTHORITY TO DETERMINE WHAT IS SUPPLIED ON THE APPARATUS.

REVISION HISTORY		
REV	BY	DATE
01	KS	11/9/22
FIRE CONSTRUCTION MEETING		

5.15
SHOP PRINT
PRE-CONSTRUCTION

CHASSIS: SPARTAN GLADIATOR LMD 5" RAISED ROOF
ENGINE: CUMMINS X15 605HP WITH ALLISON 4000 EVS
PUMP: N/A
WATER TANK: N/A
BODY MATERIAL: 1/8" ALUMINUM
HOSE BEDS: N/A
GENERATOR: N/A
COMPARTMENTS: XXX CUBIC FEET

July 25, 2023

SPARTAN

EMERGENCY RESPONSE

MIDLAND FIRE DEPARTMENT
MIDLAND, TX

100' REAR MOUNT PLATFORM (S53RP-100)

SCALE: 1/2" = 1'

SIZE: 24" X 36"

SHEET: 1 OF 1

DRAWN BY: KS

DATE: 10/7/22

REV: 01



City Council Meeting

Item Number: 6
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE AND SALE AGREEMENT FOR THE PURCHASE OF AN APPROXIMATE 0.5661-ACRE TRACT CONSISTING OF THE SOUTH 175 FEET OF THE EASTERN HALF OF BLOCK 29, HOMESTEAD ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, FOR A TOTAL AMOUNT OF \$220,000.00; AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID PROPERTY, PURCHASE A TITLE INSURANCE POLICY, AND HOLD THE CLOSING FOR SAID ACQUISITION; AUTHORIZING PAYMENT FOR SAID PROPERTY, THE TITLE INSURANCE POLICY, AND CLOSING COSTS; ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY RECORDS, THE INSTRUMENT OF CONVEYANCE; AND APPROPRIATING FUNDS FOR SAID ACQUISITION (DISTRICT 2) (GENERAL SERVICES)

Purpose:

Resolution authorizing the City Manager to purchase the south 175 feet of the east half of block 29, Homestead Addition, an addition to the City of Midland, Midland County, Texas (also known as 601 North Colorado Street, Midland, Texas) for \$220,000.00; authorizing the City Manager to negotiate, execute and file all documents necessary to purchase said tract, purchase a title insurance policy and hold the closing; and ordering the City Secretary to record, or ensure that the title company records the instrument of conveyance.

Recommended City Council Action:

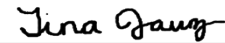
Approve

Fiscal Impact:

\$220,000 will be appropriated from the General Fund Unappropriated Fund Balance.

Discussion:

Staff is requesting approval to purchase the south 175 feet of the east half of block 29, Homestead Addition, an addition to the City of Midland, Midland County, Texas (also known as 601 North Colorado Street, Midland, Texas) for \$220,000.00; and to authorize the City Manager to negotiate, execute and file all documents necessary to purchase said tract, purchase a title insurance policy and hold the closing; and order the City Secretary to record, or ensure that the title company records the instrument of conveyance.



City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE AND SALE AGREEMENT FOR THE PURCHASE OF AN APPROXIMATE 0.5661-ACRE TRACT CONSISTING OF THE SOUTH 175 FEET OF THE EASTERN HALF OF BLOCK 29, HOMESTEAD ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, FOR A TOTAL AMOUNT OF \$220,000.00; AUTHORIZING THE INTERIM CITY MANAGER TO NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID PROPERTY, PURCHASE A TITLE INSURANCE POLICY, AND HOLD THE CLOSING FOR SAID ACQUISITION; AUTHORIZING PAYMENT FOR SAID PROPERTY, THE TITLE INSURANCE POLICY, AND CLOSING COSTS; ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY RECORDS, THE INSTRUMENT OF CONVEYANCE; AND APPROPRIATING FUNDS FOR SAID ACQUISITION

WHEREAS, the Midland Police Department is in need of approximately 0.5 acres of land for the purpose of accommodating overflow employee parking; and

WHEREAS, the Midland County has offered to convey fee simple title of certain real property described as an approximate 0.5661-acre tract consisting of the south 175 feet of the eastern half of Block 29, Homestead Addition, an addition to the City of Midland, Midland County, Texas (the “*Property*”), as shown on Exhibit A, which is attached hereto and incorporated herein for all purposes, to the City for a total amount of \$220,000.00; and

WHEREAS, the City Council finds it to be in the public interest to authorize the Interim City Manager to execute a purchase and sale agreement with MISD for the purchase of the Property for a total amount of \$220,000.00; and

WHEREAS, the City Council finds it to be in the public interest to authorize the Interim City Manager to negotiate, execute, and file all documents necessary to acquire the Property, purchase a title insurance policy, and hold the closing for said acquisition;

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 execute a purchase and sale agreement for the purchase of an approximate 0.5661-acre tract consisting of the south 175 feet of the eastern half of Block 29, Homestead Addition, an addition to the City of Midland, Midland County, Texas, from Midland County for a total amount of \$220,000.00. Said purchase and sale agreement being attached hereto as Exhibit A and incorporated herein for all purposes.

SECTION TWO. That the Interim City Manager is hereby authorized and directed to negotiate, execute, and file all documents necessary to acquire the Property, purchase a title insurance policy, and hold the closing for said acquisition.

SECTION THREE. That \$220,000.00 is available in the Unappropriated Fund Balance of the General Fund and will be appropriated to a project established by the City of Midland Finance Department.

SECTION FOUR. That the City Comptroller is hereby authorized and directed to pay for the Property out of funds available in the project established by the City of Midland Finance Department upon receipt of proper invoice or statement therefor approved by the Interim City Manager; the City Comptroller is further authorized and directed to pay for a title insurance policy and closing costs out of funds available in the General Fund Operating Budget upon receipt of proper invoices or statements approved by the City Manager.

SECTION FIVE. That the City Secretary is hereby authorized and directed to file, or ensure that the title company files, the instrument of conveyance acquired in accordance with this Resolution in the Deed Records of Midland County, Texas. Copies of said instrument of conveyance shall be maintained on file in the City Secretary's Office and referenced by the date and number of this Resolution.

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

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT FOR PURCHASE OF REAL PROPERTY (this "*Agreement*") is made by and between the **CITY OF MIDLAND, TEXAS** ("*Purchaser*"), and **MIDLAND COUNTY**, ("*Seller*") this ____ of _____, 2023 (the "*Effective Date*"). Seller and Purchaser are sometimes collectively referred to herein as the "*Parties*" and each of the Parties is sometimes singularly referred to herein as a "*Party*."

WITNESSETH:

WHEREAS, Seller is the record owner of certain real property described as the South 175 Feet of the Eastern Half of Block 29, Homestead Addition, an addition to the City of Midland, Midland County, Texas, and the improvements thereon (the "*Property*"), which is further depicted on **Exhibit A** attached hereto and incorporated herein for all purposes;

WHEREAS, Purchaser intends to purchase the Property for the purpose of using the same as a parking lot for the Midland Police Department; and

WHEREAS, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the Parties hereto do hereby agree as follows:

PURCHASE AND SALE OF THE PROPERTY

1. **Agreement of Sale: Purchase Price.** In consideration of the payment by Purchaser to Seller at Closing, in the manner set forth in Paragraph 2, the sum of Two Hundred Twenty Thousand and No/100 Dollars (\$220,000.00) (the "*Purchase Price*"), Seller hereby agrees to sell and convey to Purchaser the surface estate only of the Property, together with (i) all benefits, privileges, rights and appurtenances thereon or pertaining to such real property (if any), (ii) all permits, approvals, licenses, water and sewer capacity commitments (if any), and (iii) all other rights and interests in the Property owned or held by Seller, and Purchaser hereby agrees to purchase said Property from Seller at the Purchase Price and upon the terms set forth herein.
2. **Form of Payment.** The Purchase Price shall be payable in cash, cashier's check, wire transfer, or any other form acceptable to Seller at closing.
3. **Earnest Money.** The Parties agree that Purchaser has caused certain funds in the amount of Two Thousand Two Hundred and No/100 Dollars (\$2,200.00) (the "*Earnest Money*") to be delivered to Seller prior to the execution of this Agreement. Following the execution of this Agreement, Seller shall deliver the Earnest Money to Lone Star Abstract & Title Co. Inc., 600 North Loraine Street, Midland, Texas 79701 (the "*Title Company*"). The Earnest Money shall be held in escrow by Title Company and may be deposited into an interest bearing, federally insured account with a national bank. The Earnest Money shall be disbursed or released in accordance with the other terms of this Agreement. The Earnest Money shall be applied to the Purchase Price at the Closing.

CONDITIONS PRECEDENT

5. **Conditions Precedent.** The following shall each be a condition precedent to Parties' obligations to purchase or sell the Property. If any one or more of following conditions precedent is not satisfied at or prior to Closing, the appropriate Party shall be entitled to waive any one or more of such conditions precedent by written notice to the other Party, or to terminate this Agreement by written notice to the other Party:

- a. No lawsuit, appeal or other action shall have been filed by any Party, directly or indirectly, involving the Property, including without limitation, any such lawsuit, appeal or other action for the purpose of challenging, contesting or seeking to prohibit, restrain, enjoin or delay any change in zoning or restrictive covenants required for Purchaser's use.
 - b. [INTENTIONALLY OMITTED]
6. Title Insurance and Permitted Exceptions. Purchaser may, at its expense, secure a Commitment for an Owner's Policy of Title insurance within forty-five (45) days following the Effective Date, and shall promptly provide a copy of same to Seller.
- a. Prior to the tenth (10th) day following Purchaser's receipt of the Commitment or prior to the date of Closing, whichever of these dates occurs first, Purchaser shall provide notice in writing to Seller of any condition of the title to the Property as shown on the Commitment of which Purchaser disapproves. Seller, at Seller's sole option and without any obligation to incur any cost, shall provide written notice of those title defects or exceptions specified by Purchaser (the "Objections"), if any, that Seller is willing and able to cure. If Seller is unable or unwilling to cure some or all the Objections, Seller shall advise Purchaser in writing.
 - b. If Seller does not timely cure the Objections before Closing, Purchaser may: (i) terminate this Agreement upon written notice to Seller, and the Parties hereto shall be released from all obligations hereunder; (ii) waive, in writing, those Objections to title which Seller is unable or unwilling to cure and proceed to Closing hereunder; or (iii) Purchaser and Seller may jointly agree in writing for Seller to cure the Objections post-closing or cause Closing to be extended to accommodate curative work. All title exceptions which are approved or deemed approved by Purchaser shall constitute Permitted Exceptions for purposes hereof.
7. Boundary Survey. Purchaser may, at its expense, cause a Land Title Survey of the Property to be performed within twenty (20) days following the Effective Date and shall promptly provide a copy of same to Seller.
- a. Prior to the tenth (10th) day following Purchaser's receipt of the Survey or prior to the date of Closing, whichever of these dates occurs first, Purchaser shall provide notice in writing to Seller of any condition appearing in the Survey of which Purchaser disapproves. Seller, at Seller's sole option and without any obligation to incur any cost, shall provide written notice of those objections to the Survey specified by Purchaser, if any, that Seller is willing and able to cure. If Seller is unable or unwilling to cure some or all the defects in the Survey identified by Purchaser, Seller shall advise Purchaser in writing prior to Closing.
 - b. If Seller does not cure the defect(s) to the Survey, Purchaser may: (i) with the agreement of the Seller, amend the boundary lines of the Property to eliminate any defects in the Survey; (ii) terminate this Agreement upon written notice to Seller, and the parties hereto shall be released from all obligations hereunder; (iii) waive in writing those defects to the Survey which Seller is unable or unwilling to cure and proceed to close this Agreement pursuant to the provisions hereof; or (iv) Purchaser and Seller may jointly agree in writing for Seller to cure the defect(s) to the Survey post-closing or cause Closing to be extended to accommodate such curative work.

REPRESENTATIONS

9. Purchaser's Representations

- a. Purchaser represents and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether expressed or implied, or written, past, present or future, of, as to, concerning or with respect to: (i) the value, nature or quality or condition of the Property, including without limitation, the water, soil and geology; (ii) the income to be derived from the Property; (iii) the suitability of the Property for any and all activities and uses the Purchaser may conduct thereon; (iv) the compliance with ordinances or regulations of any applicable governmental authority or body; (v) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (vi) the manner or quality of the construction or materials, if any, incorporated into the Property; (vii) the manner, quality, state of repair or lack of repair of the Property; or (viii) any other matter with respect to the Property, and specifically that Seller has not made, does not make and specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, order or requirements, including solid waste, as defined by the U.S. Environmental Protection agency Regulations at 40 C.F.R., Part 261, or the disposal or existence, in or on the Property of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder.
- b. Purchaser further represents and agrees that, having been given the opportunity to inspect the Property, Purchaser is relying solely on its own investigation of the Property and not on any information provided by Seller. Purchaser further acknowledges and agrees that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller will not be liable or bound in any manner by any verbal or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, employee, officer, administrator or other personnel. Purchaser further represents and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS-IS" condition and basis WITH ALL FAULTS. The Property does not include any oil, gas or other minerals that may be in or under the Property. It is understood and agreed that the Purchase Price has been adjusted by prior negotiation to reflect that the Property is sold by Seller and purchased by Purchaser subject to the foregoing.

10. Liens: Repairs. Purchaser shall not cause or permit any mechanic's, materialman's or other lien to be filed against the Property as a result of the inspections performed prior to or on the Closing Date. Purchaser shall repair and restore any damage to the Property caused by entry upon the Property by Purchaser or Purchaser's Representatives, except to the extent Seller's negligence or willful acts contributed to such damage.

FURTHER REPRESENTATIONS AND WARRANTIES

11. Seller represents and warrants the following to Purchaser as of the date hereof and as of

the Closing:

- a. Seller represents that it has the full power to enter into this Agreement and execute all documents required hereunder, and this Agreement constitutes a valid and binding obligation, enforceable in accordance with its terms.
 - b. Seller has, and will convey to Purchaser at Closing, good title to the Property, free from all liens and encumbrances, subject only to those exceptions set forth on the form of Special Warranty Deed.
 - c. From the Effective Date and until Closing, Seller shall not take any action or omit to take any action that would have the effect of violating any of the representations, warranties or covenants of Seller contained in this Agreement.
 - d. There is no pending or, to the knowledge of Seller, threatened condemnation or similar proceeding or special assessment (inclusive of assessments for street widening, repair or improvement) affecting the Property.
 - e. There is no pending or, to Seller's knowledge, threatened litigation or administrative proceeding affecting the Property or Seller's interest in the Property.
 - f. Neither the execution and delivery of this Agreement by Seller nor Seller's performance of any obligation hereunder shall constitute: (i) a violation of any law, ruling, regulation or order to which Seller is subject; or (ii) a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which Seller is a party or is otherwise bound.
 - g. There are not any outstanding contracts or options to purchase the Property or any portion thereof in favor of a third party.
12. Purchaser represents and warrants the following as of the date hereof and as of the Closing (as defined below):
- a. The making, execution, delivery and performance of this Agreement by Purchaser has been duly authorized and approved by its governing body, and this Agreement constitutes a valid and binding obligation, enforceable in accordance with its terms.
 - b. From the Effective Date and until Closing, Purchaser shall not take any action or omit to take any action that would have the effect of violating any of the representations, warranties or covenants of Purchaser contained in this Agreement.
 - c. Neither the execution and delivery of this Agreement by Purchaser nor Purchaser's performance of any obligation hereunder shall constitute: (i) a violation of any law, ruling, regulation or order to which Purchaser is subject; or (ii) a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which Purchaser is a party or is otherwise bound.
 - d. Purchaser represents and warrants that Purchaser has inspected and conducted such tests and studies of the Property as Purchaser determines necessary, and that

Purchaser is familiar with the general condition of the Property, and agrees to purchase the Property "AS IS." Except as otherwise specifically and expressly provided for herein, Purchaser represents and warrants that Purchaser is acting, and will act only, upon information obtained by Purchaser directly from Purchaser's own inspection of the Property.

- e. Except as set forth in this Agreement, Purchaser acknowledges that Seller has made no representation or warranty, either express or implied, regarding the presence of any Hazardous Materials (as defined herein) in, on or under the Property. By entering into this Agreement, Purchaser shall be deemed to have made its own independent investigation of the Property regarding the presence or absence of Hazardous Materials, as Purchaser deems appropriate. Without limiting the foregoing, Seller has no actual knowledge of the presence of hazardous material in, on or under the Property.

CLOSING

- 13. Closing. The closing of the sale of the Property from Seller to Purchaser (the "*Closing*") shall be within thirty (30) days following the receipt by Purchaser of a Commitment of Title Insurance or August 1, 2023, whichever occurs sooner, and as coordinated through the officer of the Title Company, and the Parties.
 - a. Delivery by Seller. At Closing, Seller shall deliver to Purchaser the following documents and instruments, all of which shall be dated on or effective as of the Closing Date:
 - i. A Special Warranty Deed, to be completed by Counsel for the Title Company, duly executed and acknowledged by Seller, conveying good title to the Property, in a form reasonably approved by Seller and Purchaser;
 - ii. Such other and further documents as may be reasonably requested by the Title Company, if any; and
 - iii. Possession of the Property.
 - b. Delivery by Purchaser. At Closing, Purchaser shall deliver to Seller the following documents, instruments, and items, all of which shall be dated on or effective as of the Closing Date:
 - i. The Purchase Price in the form described in Paragraph 2; and
 - ii. Such other and further documents as may be reasonably required by Seller or the Title Company.
- 14. Recordation. Upon the completion of the deliveries specified herein, the Title Company, if any, or, if none, Purchaser shall cause the appropriate closing documents to be promptly recorded in Midland County, Texas.
- 15. Closing Costs.
 - a. Purchaser shall pay: (i) all title examination fees, premiums, and other fees for the Title Commitment and/or the Survey; (ii) its own attorneys' fees; (iii) other charges

required to be paid by Purchaser pursuant to this Agreement; (iv) one-half (1/2) of all escrow fees; and (v) one-half (1/2) of all other closing costs.

- b. Seller shall pay: (i) all taxes due on the Property up to the date of Closing (if applicable), (ii) its own attorney's fees, (iii) one-half (1/2) of all escrow fees, and (iv) one-half (1/2) of all other closing costs.

- 16. Insurance. Liability insurance, if any, carried by Seller on the Property shall be terminated effective as of Closing. Purchaser shall be solely responsible for acquiring liability insurance on the Property after Closing.

DEFAULT

- 17. Default.

- a. Purchaser's Default. If Purchaser defaults under this Agreement or fails to perform any obligation of Purchaser under this Agreement, and such default and failure shall remain uncured for a period of five (5) days following written notice thereof from Seller to Purchaser, provided that Seller has not defaulted in the performance of any of Seller's obligations hereunder, Seller may, as Seller's sole remedy, terminate this Agreement by written notice to Purchaser at any time before such default by Purchaser is cured and Purchaser shall thereby be released from further obligations under this Agreement.
- b. Seller's Default. If Seller defaults under this Agreement, or if Seller fails to perform any obligation of Seller under this Agreement, including without limitation, the obligation to convey good and marketable title to the Property to the Purchaser on the Closing Date subject only to the Permitted Exceptions, Seller shall have the option (but not the obligation) of correcting any default within five (5) business days after receiving notice of the default from Purchaser. In the event Seller advises Purchaser in writing that Seller will not cure the default, or Seller fails to timely cure any default as required herein, Purchaser may, as Purchaser's sole and exclusive remedies, either: (i) terminate this Agreement by written notice to Seller; or (ii) exercise the option of taking the Property "AS IS." Nothing in this Agreement shall be construed to afford Purchaser the right to enforce Seller's specific performance of the provisions contained herein.

NOTICES

- 18. Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and (i) hand delivered, including delivery by courier service; (ii) sent by facsimile; or (iii) sent by certified mail, return receipt requested, postage prepaid, addressed as shown below, or to such other address as the Party concerned may substitute by written notice to the other. If the notice is sent by facsimile, it must be properly addressed, reflecting the facsimile phone number of the addressee(s), and must be transmitted by a facsimile which produces a dated message upon confirmed completion. All notices delivered by hand or by facsimile shall be deemed received on the date of delivery against receipt. All notices forwarded by mail shall be deemed received on a date three (3) days (excluding Sundays and legal holidays when the U.S. mail is not delivered) immediately following date of deposit in the U.S. mail. Provided, however, the return receipt indicating the date upon which all notices were received shall be *prima facie* evidence that such notices were received on the date on the return receipt.

If to Purchaser: City of Midland
300 North Loraine Street
Midland, Texas 79701
Attention: City Manager

With a copy to: City Attorney
City of Midland, Texas
P.O. Box 1152
Midland, Texas 79701

If to Seller: Midland County
500 North Loraine Street, Suite 1100
Midland, Texas 79701
Attention: County Judge

With a copy to: County Attorney's Office
500 North Loraine Street
Midland, Texas 79701

The addresses may be changed by giving notice of such change in the manner provided herein for giving notice. Unless and until such written notice is received, the last address and addressee given shall be deemed to continue in effect for all purposes. No notice to either Purchaser or Seller shall be deemed given or received unless the entity noted "with a copy to" is simultaneously delivered notice in the same manner as any notice given to either Seller or Purchaser, as the case may be.

MISCELLANEOUS

19. Entire Agreement. This Agreement and the attached Exhibits, if any, constitute the entire agreement and understanding of Seller and Purchaser relating to the subject matter hereof and supersede all prior representations, agreements, and understanding, oral or written, relating to such subject matter.
20. Assignment. This Agreement and any documents executed in connection therewith may not be assigned by either Party without the written consent of the other Party, which consent will not be unreasonably withheld. This Agreement shall be binding upon the assigns of the Parties, if any.
21. Severability. Except as expressly provided to the contrary herein, each paragraph, section, part, term, or provision of this Agreement shall be considered severable, and if for any reason any paragraph, section, part, term, or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or governmental agency having valid jurisdiction, such determination shall not impair the operation of or have any other effect on other paragraphs, sections, parts, terms, or provisions of this Agreement as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto, and said invalid sections, parts, terms, or provisions shall not be deemed to be a part of this Agreement.
22. Law and Venue. THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. Any action brought

to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in Midland County, Texas.

23. Amendment and Waiver. This Agreement shall not be amended or modified in any way, except by an instrument in writing executed by all parties hereto.
24. No Partnership or Joint Venture. Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of (i) principal and agent, (ii) a partnership, or (iii) a joint venture between the parties hereto. The Parties' relationship is limited to that of seller and purchaser.
25. Counterparts. This Agreement may be executed in multiple counterparts. A facsimile copy of this Agreement bearing the signature of a Party hereto shall be sufficient to bind such Party to the terms of this Agreement.
26. Time. Time is an essential element of this Agreement and each and all its provisions. Any extension of time granted for the performance of any duty under this Agreement shall not be considered an extension of time for the performance of any other obligation under this Agreement, nor be considered a waiver of time as an essential element of this Agreement.
27. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Agreement or any of the provisions hereof.
28. Governing Document. This Agreement shall govern in the event of any inconsistency between this Agreement and any Exhibit attached hereto or any other document or instrument executed or delivered pursuant hereto or in connection herewith.
29. No Commissions. Each Party represents to the other that such representing Party has not incurred any liability to a broker or agent in connection with the transaction contemplated by this Agreement. Seller shall (to the extent allowable under the Constitution and Texas law) defend, indemnify and hold harmless Purchaser, and Purchaser, shall defend, indemnify and hold harmless Seller, from and against all claims by third parties for brokerage, commission, finders or other fees relative to this Agreement or the sale of the Property, and all court costs, attorneys' fees and other costs or expenses arising therefrom, and alleged to be due by authorization of the indemnifying Party.

[SIGNATURE PAGE FOLLOWS]

EXECUTION

IN WITNESS WHEREOF, the parties have executed this instrument on the dates appearing below:

PURCHASER

CITY OF MIDLAND, TEXAS

Morris Williams, Interim City Manager

Date Signed: _____

SELLER

MIDLAND COUNTY



Terry Johnson, County Judge

Date Signed: 7-5-23

ACKNOWLEDGMENT BY TITLE COMPANY

Lone Star Abstract & Title Co., Inc., hereby agrees to perform its obligations under this Agreement and acknowledges receipt of a fully executed copy of this Purchase and Sale Agreement on the ____ day of _____, 2023.

LONE STAR ABSTRACT & TITLE CO., INC.

By: _____

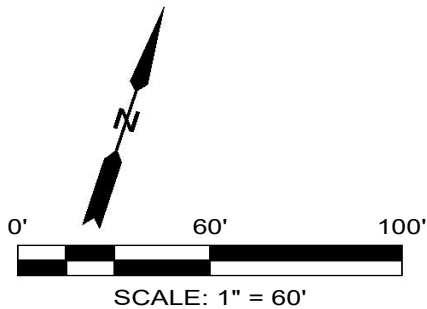
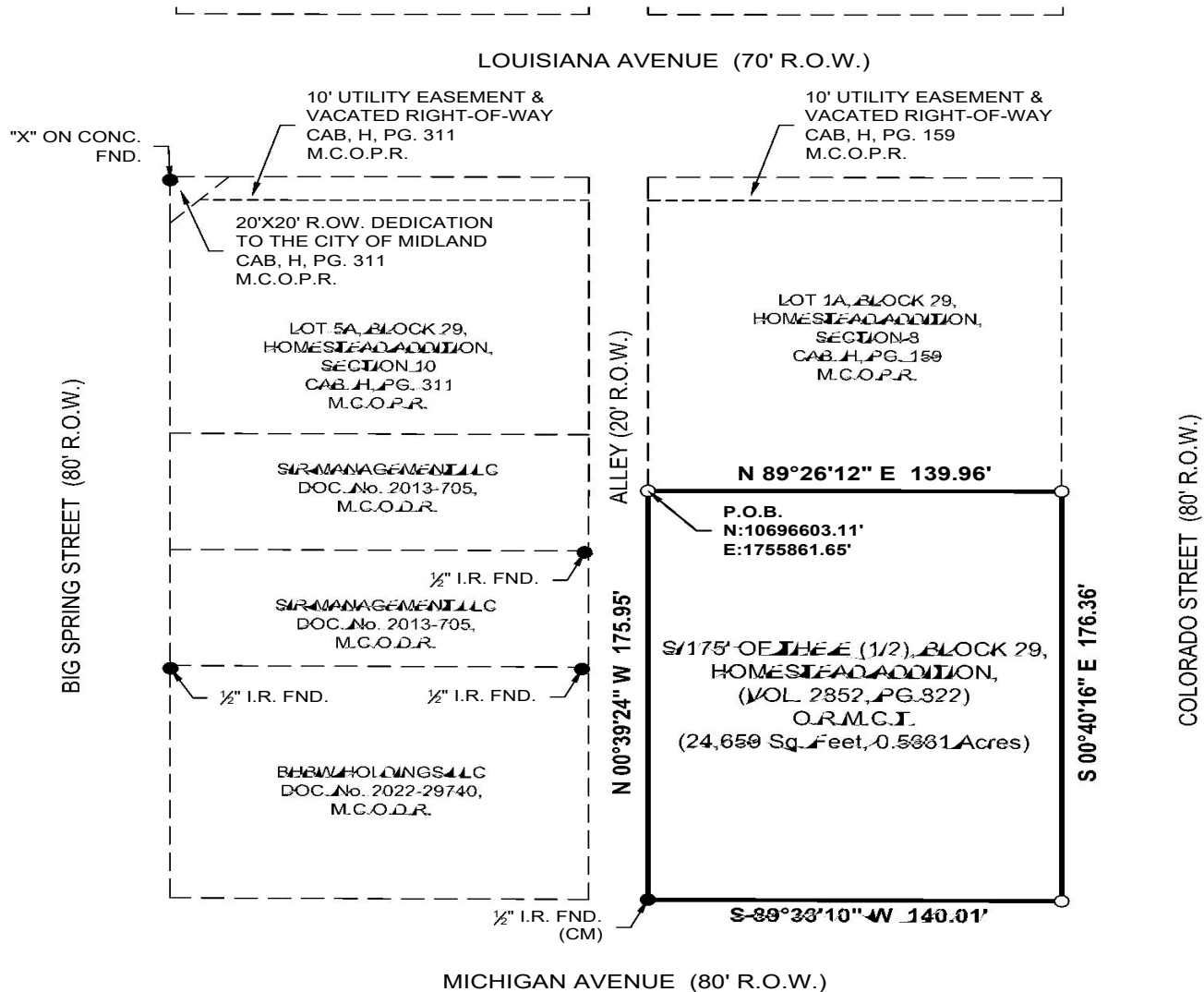
Name: _____

Title: _____

Exhibit A

Property Depiction

EXHIBIT "A"



Adam Johnson
05/24/2023



NOTES:

- THE BASIS OF BEARING OF THE SURVEY IS THE TEXAS COORDINATE SYSTEM, NORTH AMERICAN DATUM 1983 NAD 83, CENTRAL ZONE (4203).
- ALL TEXAS STATE PLANE COORDINATES AND GEOGRAPHIC COORDINATES SHOWN HEREON ARE NAD 83 GRID COORDINATES AS COMPUTED BY CORPSCON VERSION 6.0.1.
- UNLESS OTHERWISE NOTED, ALL DISTANCES SHOWN HEREON ARE GRID DISTANCES AND THEY CAN BE CONVERTED TO SURFACE WHEN MULTIPLIED WITH A "SURFACE ADJUSTMENT FACTOR" OF 1.000094738, AS CALCULATED BY CORPSCON.
- A DESCRIPTION OF EVEN DATE ACCOMPANIES THIS EXHIBIT.

PACKET



3300 NORTH A STREET, BUILDING 2, SUITE 120
MIDLAND, TX 79705-5471
TEL (432) 253-3255
TBPELS SURVEYING FIRM #10193998

DATE: 5/22/2023
BY: R. CABELLO
AVO: 045715.006

LEGEND

- SUBJECT TRACT
 - TRACT LINE
 - EASEMENT
 - POINT OF BEGINNING
 - CONTROLLING MONUMENTS
 - SEMI-PERMANENT NAIL
 - FOUND MONUMENT AS NOTED
- P.O.B.
(CM)
- 6.16



SOUTH 175' OF THE
EAST ONE HALF E (1/2), BLOCK 29,
HOMESTEAD ADDITION
EXHIBIT
0.5661 ACRES

LOCATED IN:
HOMESTEAD ADDITION, BLOCK 29,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS
July 25, 2023

LEGAL DESCRIPTION
SOUTH 175 FEET OF THE EAST ONE HALF (E 1/2), BLOCK 29, HOMESTEAD ADDITION

Being all of a 0.5661 acre tract of land described in deed to Midland County, recorded in Volume 2852, Page 820, Official Records of Midland County, Texas (O.R.M.C.T.), being part of Block 29 as shown on the plat of Homestead Addition, an addition to the City of Midland, Midland County Texas, recorded in Volume 1, Page 241 (O.R.M.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at a set Mag Nail with washer stamped Halff (N: 10696603.11', E: 1755861.65'), in the South line of Lot 1A, Block 29, Homestead Addition, Section 8, recorded in Cabinet H, Page 159, Midland County Official Public Records (M.C.O.P.R.), being in the east right-of-way line of a 20 foot alley as shown in said Homestead Addition plat, and the Point of Beginning of this tract;

THENCE, North 89°26'12" East, with the North line of said Midland County tract and the South line of said Lot 1A, Block 29, a distance of 139.96' to a Mag Nail with washer stamped HALFF set for the Southeast corner of said Lot 1A, the Southeast corner of said Lot 1A, and being in the West right-of-way line of Colorado Street (an 80 foot right-of-way) as shown on said Homestead Addition plat;

THENCE, South 00°40'16" East with the common East line of said Midland County tract, and said West right-of-way line, a distance of 176.36' to a Mag Nail with washer stamped HALFF set for the Southeast corner of said Midland County tract, being at the intersection of said West right-of-way line and the North right-of-way line of Michigan Avenue (an 80 foot right-of-way) as shown on said Homestead Addition plat;

THENCE, South 89°36'10" West with the common North right-of-way line of said Michigan Avenue, and the South line of said Midland County tract, a distance of 140.01' to a 1/2" Iron Rod found for the Southwest corner of said Midland County tract, being in the East right-of-way line of the aforementioned 20 foot alley;

THENCE, North 00°39'24" West with the common West line of said Midland County tract and said East right-of-way line, a distance of 175.95' to the Point Of Beginning.

Containing 0.5661 acres (24,659 Sq. Ft.) of land.

An exhibit of even date accompanies this legal description.


05/24/2023



NOTES:

- THE BASIS OF BEARING OF THE SURVEY IS THE TEXAS COORDINATE SYSTEM, NORTH AMERICAN DATUM 1983 NAD 83), CENTRAL ZONE (4203).
- ALL TEXAS STATE PLANE COORDINATES AND GEOGRAPHIC COORDINATES SHOWN HEREON ARE NAD 83 GRID COORDINATES AS COMPUTED BY CORPSCON VERSION 6.0.1.
- UNLESS OTHERWISE NOTED, ALL DISTANCES SHOWN HEREON ARE GRID DISTANCES AND THEY CAN BE CONVERTED TO SURFACE WHEN MULTIPLIED WITH A "SURFACE ADJUSTMENT FACTOR" OF 1.000070255, AS CALCULATED BY CORPSCON.
- AN EXHIBIT OF EVEN DATE ACCOMPANIES THIS DESCRIPTION.

PACKET


3300 NORTH A STREET, BUILDING 2, SUITE 120
MIDLAND, TX 79705-5471
TEL (432) 253-3255
TBPELS SURVEYING FIRM #10193998
DATE: 5/22/2023
BY: R. CABELLO
AVO: 045715.006

6.17



SOUTH 175' OF THE
EAST ONE HALF E (1/2), BLOCK 29,
HOMESTEAD ADDITION
LEGAL DESCRIPTION
0.5661 ACRES

LOCATED IN:
HOMESTEAD ADDITION, BLOCK 29,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS
July 25, 2023

City of Midland
Midland Police Department

Interoffice Memorandum

Date: July 6, 2023

To: Facilities Management Team

From: Seth Herman, Chief of Police

Subject: Acquisition Support Memo – 601 N. Colorado

Please accept this correspondence as my official support for the acquisition of property identified as 601 N. Colorado to be utilized by the City of Midland Police Department for its current purpose of maintaining fleet vehicles, as well as future endeavors deemed appropriate to accommodate Department expansion.

The property, resting adjacent to police headquarters, provides needed space to maintain the Department's fleet of standby units as well as those vehicles identified for special use, such as the Civil Disturbance Unit's response van and accompanying cargo trailer containing Team equipment. Because of the lot's location, required evaluation and maintenance of standby units relegated to the Department's Fleet Services Technician can be conducted daily, ensuring the swift transfer of critical police vehicles to allow for the return of officers to their assigned duties with minimal interruption.

With the proposed addition of a security perimeter fence around the property, additional specialty vehicles assigned to the Department's Special Weapons and Tactics Unit, Crisis / Hostage Negotiations Team, and Explosive Ordinance Disposal Unit could be housed onsite – again allowing for more efficient and expedited responses to rapidly evolving emergency situations. Furthermore, existing camera systems stationed on the western side of police headquarters allows for 24-hour monitoring by Telephone Response Unit personnel. This security measure, coupled with the coming and going of police officers at all hours, guards against the potential damaging of critical equipment required for the protection of our citizens.

As the Department continues to grow, development of the lot would allow for additional space to house various groups currently stationed within police headquarters. Such development would prevent, or at least delay the expenditure of costs associated with locating and constructing a new building – funds that can be utilized for other pressing needs throughout the city.

The relatively low cost of this property, its proximity to police headquarters, and the functional capabilities for current and future uses makes this purchase economically feasible and serves as a stellar example of stewardship.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT FOR PURCHASE OF REAL PROPERTY (this "Agreement") is made by and between the **CITY OF MIDLAND, TEXAS** ("Purchaser"), and **MIDLAND COUNTY**, ("Seller") this ____ of _____, 2023 (the "Effective Date"). Seller and Purchaser are sometimes collectively referred to herein as the "Parties" and each of the Parties is sometimes singularly referred to herein as a "Party."

WITNESSETH:

WHEREAS, Seller is the record owner of certain real property described as the South 175 Feet of the Eastern Half of Block 29, Homestead Addition, an addition to the City of Midland, Midland County, Texas, and the improvements thereon (the "Property"), which is further depicted on **Exhibit A** attached hereto and incorporated herein for all purposes;

WHEREAS, Purchaser intends to purchase the Property for the purpose of using the same as a parking lot for the Midland Police Department; and

WHEREAS, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed, the Parties hereto do hereby agree as follows:

PURCHASE AND SALE OF THE PROPERTY

1. **Agreement of Sale: Purchase Price.** In consideration of the payment by Purchaser to Seller at Closing, in the manner set forth in Paragraph 2, the sum of Two Hundred Twenty Thousand and No/100 Dollars (\$220,000.00) (the "Purchase Price"), Seller hereby agrees to sell and convey to Purchaser the surface estate only of the Property, together with (i) all benefits, privileges, rights and appurtenances thereon or pertaining to such real property (if any), (ii) all permits, approvals, licenses, water and sewer capacity commitments (if any), and (iii) all other rights and interests in the Property owned or held by Seller, and Purchaser hereby agrees to purchase said Property from Seller at the Purchase Price and upon the terms set forth herein.
2. **Form of Payment.** The Purchase Price shall be payable in cash, cashier's check, wire transfer, or any other form acceptable to Seller at closing.
3. **Earnest Money.** The Parties agree that Purchaser has caused certain funds in the amount of Two Thousand Two Hundred and No/100 Dollars (\$2,200.00) (the "Earnest Money") to be delivered to Seller prior to the execution of this Agreement. Following the execution of this Agreement, Seller shall deliver the Earnest Money to Lone Star Abstract & Title Co. Inc., 600 North Loraine Street, Midland, Texas 79701 (the "Title Company"). The Earnest Money shall be held in escrow by Title Company and may be deposited into an interest bearing, federally insured account with a national bank. The Earnest Money shall be disbursed or released in accordance with the other terms of this Agreement. The Earnest Money shall be applied to the Purchase Price at the Closing.

CONDITIONS PRECEDENT

5. **Conditions Precedent.** The following shall each be a condition precedent to Parties' obligations to purchase or sell the Property. If any one or more of following conditions precedent is not satisfied at or prior to Closing, the appropriate Party shall be entitled to waive any one or more of such conditions precedent by written notice to the other Party, or to terminate this Agreement by written notice to the other Party:

- a. No lawsuit, appeal or other action shall have been filed by any Party, directly or indirectly, involving the Property, including without limitation, any such lawsuit, appeal or other action for the purpose of challenging, contesting or seeking to prohibit, restrain, enjoin or delay any change in zoning or restrictive covenants required for Purchaser's use.
 - b. [INTENTIONALLY OMITTED]
- 6. Title Insurance and Permitted Exceptions. Purchaser may, at its expense, secure a Commitment for an Owner's Policy of Title insurance within forty-five (45) days following the Effective Date, and shall promptly provide a copy of same to Seller.
 - a. Prior to the tenth (10th) day following Purchaser's receipt of the Commitment or prior to the date of Closing, whichever of these dates occurs first, Purchaser shall provide notice in writing to Seller of any condition of the title to the Property as shown on the Commitment of which Purchaser disapproves. Seller, at Seller's sole option and without any obligation to incur any cost, shall provide written notice of those title defects or exceptions specified by Purchaser (the "Objections"), if any, that Seller is willing and able to cure. If Seller is unable or unwilling to cure some or all the Objections, Seller shall advise Purchaser in writing.
 - b. If Seller does not timely cure the Objections before Closing, Purchaser may: (i) terminate this Agreement upon written notice to Seller, and the Parties hereto shall be released from all obligations hereunder; (ii) waive, in writing, those Objections to title which Seller is unable or unwilling to cure and proceed to Closing hereunder; or (iii) Purchaser and Seller may jointly agree in writing for Seller to cure the Objections post-closing or cause Closing to be extended to accommodate curative work. All title exceptions which are approved or deemed approved by Purchaser shall constitute Permitted Exceptions for purposes hereof.
- 7. Boundary Survey. Purchaser may, at its expense, cause a Land Title Survey of the Property to be performed within twenty (20) days following the Effective Date and shall promptly provide a copy of same to Seller.
 - a. Prior to the tenth (10th) day following Purchaser's receipt of the Survey or prior to the date of Closing, whichever of these dates occurs first, Purchaser shall provide notice in writing to Seller of any condition appearing in the Survey of which Purchaser disapproves. Seller, at Seller's sole option and without any obligation to incur any cost, shall provide written notice of those objections to the Survey specified by Purchaser, if any, that Seller is willing and able to cure. If Seller is unable or unwilling to cure some or all the defects in the Survey identified by Purchaser, Seller shall advise Purchaser in writing prior to Closing.
 - b. If Seller does not cure the defect(s) to the Survey, Purchaser may: (i) with the agreement of the Seller, amend the boundary lines of the Property to eliminate any defects in the Survey; (ii) terminate this Agreement upon written notice to Seller, and the parties hereto shall be released from all obligations hereunder; (iii) waive in writing those defects to the Survey which Seller is unable or unwilling to cure and proceed to close this Agreement pursuant to the provisions hereof; or (iv) Purchaser and Seller may jointly agree in writing for Seller to cure the defect(s) to the Survey post-closing or cause Closing to be extended to accommodate such curative work.

REPRESENTATIONS

9. Purchaser's Representations

- a. Purchaser represents and agrees that Seller has not made, does not make and specifically negates and disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether expressed or implied, or written, past, present or future, of, as to, concerning or with respect to: (i) the value, nature or quality or condition of the Property, including without limitation, the water, soil and geology; (ii) the income to be derived from the Property; (iii) the suitability of the Property for any and all activities and uses the Purchaser may conduct thereon; (iv) the compliance with ordinances or regulations of any applicable governmental authority or body; (v) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property; (vi) the manner or quality of the construction or materials, if any, incorporated into the Property; (vii) the manner, quality, state of repair or lack of repair of the Property; or (viii) any other matter with respect to the Property, and specifically that Seller has not made, does not make and specifically disclaims any representations regarding compliance with any environmental protection, pollution or land use laws, rules, regulations, order or requirements, including solid waste, as defined by the U.S. Environmental Protection agency Regulations at 40 C.F.R., Part 261, or the disposal or existence, in or on the Property of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and regulations promulgated thereunder.
- b. Purchaser further represents and agrees that, having been given the opportunity to inspect the Property, Purchaser is relying solely on its own investigation of the Property and not on any information provided by Seller. Purchaser further acknowledges and agrees that any information provided or to be provided with respect to the Property was obtained from a variety of sources and that Seller has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Seller will not be liable or bound in any manner by any verbal or written statements, representations or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, employee, officer, administrator or other personnel. Purchaser further represents and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS-IS" condition and basis WITH ALL FAULTS. The Property does not include any oil, gas or other minerals that may be in or under the Property. It is understood and agreed that the Purchase Price has been adjusted by prior negotiation to reflect that the Property is sold by Seller and purchased by Purchaser subject to the foregoing.

10. Liens: Repairs. Purchaser shall not cause or permit any mechanic's, materialman's or other lien to be filed against the Property as a result of the inspections performed prior to or on the Closing Date. Purchaser shall repair and restore any damage to the Property caused by entry upon the Property by Purchaser or Purchaser's Representatives, except to the extent Seller's negligence or willful acts contributed to such damage.

FURTHER REPRESENTATIONS AND WARRANTIES

11. Seller represents and warrants the following to Purchaser as of the date hereof and as of

the Closing:

- a. Seller represents that it has the full power to enter into this Agreement and execute all documents required hereunder, and this Agreement constitutes a valid and binding obligation, enforceable in accordance with its terms.
 - b. Seller has, and will convey to Purchaser at Closing, good title to the Property, free from all liens and encumbrances, subject only to those exceptions set forth on the form of Special Warranty Deed.
 - c. From the Effective Date and until Closing, Seller shall not take any action or omit to take any action that would have the effect of violating any of the representations, warranties or covenants of Seller contained in this Agreement.
 - d. There is no pending or, to the knowledge of Seller, threatened condemnation or similar proceeding or special assessment (inclusive of assessments for street widening, repair or improvement) affecting the Property.
 - e. There is no pending or, to Seller's knowledge, threatened litigation or administrative proceeding affecting the Property or Seller's interest in the Property.
 - f. Neither the execution and delivery of this Agreement by Seller nor Seller's performance of any obligation hereunder shall constitute: (i) a violation of any law, ruling, regulation or order to which Seller is subject; or (ii) a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which Seller is a party or is otherwise bound.
 - g. There are not any outstanding contracts or options to purchase the Property or any portion thereof in favor of a third party.
12. Purchaser represents and warrants the following as of the date hereof and as of the Closing (as defined below):
- a. The making, execution, delivery and performance of this Agreement by Purchaser has been duly authorized and approved by its governing body, and this Agreement constitutes a valid and binding obligation, enforceable in accordance with its terms.
 - b. From the Effective Date and until Closing, Purchaser shall not take any action or omit to take any action that would have the effect of violating any of the representations, warranties or covenants of Purchaser contained in this Agreement.
 - c. Neither the execution and delivery of this Agreement by Purchaser nor Purchaser's performance of any obligation hereunder shall constitute: (i) a violation of any law, ruling, regulation or order to which Purchaser is subject; or (ii) a default of any term or provision or shall cause an acceleration of the performance required under any other agreement or document to which Purchaser is a party or is otherwise bound.
 - d. Purchaser represents and warrants that Purchaser has inspected and conducted such tests and studies of the Property as Purchaser determines necessary, and that

Purchaser is familiar with the general condition of the Property, and agrees to purchase the Property "AS IS." Except as otherwise specifically and expressly provided for herein, Purchaser represents and warrants that Purchaser is acting, and will act only, upon information obtained by Purchaser directly from Purchaser's own inspection of the Property.

- e. Except as set forth in this Agreement, Purchaser acknowledges that Seller has made no representation or warranty, either express or implied, regarding the presence of any Hazardous Materials (as defined herein) in, on or under the Property. By entering into this Agreement, Purchaser shall be deemed to have made its own independent investigation of the Property regarding the presence or absence of Hazardous Materials, as Purchaser deems appropriate. Without limiting the foregoing, Seller has no actual knowledge of the presence of hazardous material in, on or under the Property.

CLOSING

- 13. Closing. The closing of the sale of the Property from Seller to Purchaser (the "*Closing*") shall be within thirty (30) days following the receipt by Purchaser of a Commitment of Title Insurance or August 1, 2023, whichever occurs sooner, and as coordinated through the officer of the Title Company, and the Parties.
 - a. Delivery by Seller. At Closing, Seller shall deliver to Purchaser the following documents and instruments, all of which shall be dated on or effective as of the Closing Date:
 - i. A Special Warranty Deed, to be completed by Counsel for the Title Company, duly executed and acknowledged by Seller, conveying good title to the Property, in a form reasonably approved by Seller and Purchaser;
 - ii. Such other and further documents as may be reasonably requested by the Title Company, if any; and
 - iii. Possession of the Property.
 - b. Delivery by Purchaser. At Closing, Purchaser shall deliver to Seller the following documents, instruments, and items, all of which shall be dated on or effective as of the Closing Date:
 - i. The Purchase Price in the form described in Paragraph 2; and
 - ii. Such other and further documents as may be reasonably required by Seller or the Title Company.
- 14. Recordation. Upon the completion of the deliveries specified herein, the Title Company, if any, or, if none, Purchaser shall cause the appropriate closing documents to be promptly recorded in Midland County, Texas.
- 15. Closing Costs.
 - a. Purchaser shall pay: (i) all title examination fees, premiums, and other fees for the Title Commitment and/or the Survey; (ii) its own attorneys' fees; (iii) other charges

required to be paid by Purchaser pursuant to this Agreement; (iv) one-half (1/2) of all escrow fees; and (v) one-half (1/2) of all other closing costs.

- b. Seller shall pay: (i) all taxes due on the Property up to the date of Closing (if applicable), (ii) its own attorney's fees, (iii) one-half (1/2) of all escrow fees, and (iv) one-half (1/2) of all other closing costs.

- 16. Insurance. Liability insurance, if any, carried by Seller on the Property shall be terminated effective as of Closing. Purchaser shall be solely responsible for acquiring liability insurance on the Property after Closing.

DEFAULT

- 17. Default.

- a. Purchaser's Default. If Purchaser defaults under this Agreement or fails to perform any obligation of Purchaser under this Agreement, and such default and failure shall remain uncured for a period of five (5) days following written notice thereof from Seller to Purchaser, provided that Seller has not defaulted in the performance of any of Seller's obligations hereunder, Seller may, as Seller's sole remedy, terminate this Agreement by written notice to Purchaser at any time before such default by Purchaser is cured and Purchaser shall thereby be released from further obligations under this Agreement.
- b. Seller's Default. If Seller defaults under this Agreement, or if Seller fails to perform any obligation of Seller under this Agreement, including without limitation, the obligation to convey good and marketable title to the Property to the Purchaser on the Closing Date subject only to the Permitted Exceptions, Seller shall have the option (but not the obligation) of correcting any default within five (5) business days after receiving notice of the default from Purchaser. In the event Seller advises Purchaser in writing that Seller will not cure the default, or Seller fails to timely cure any default as required herein, Purchaser may, as Purchaser's sole and exclusive remedies, either: (i) terminate this Agreement by written notice to Seller; or (ii) exercise the option of taking the Property "AS IS." Nothing in this Agreement shall be construed to afford Purchaser the right to enforce Seller's specific performance of the provisions contained herein.

NOTICES

- 18. Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if in writing and (i) hand delivered, including delivery by courier service; (ii) sent by facsimile; or (iii) sent by certified mail, return receipt requested, postage prepaid, addressed as shown below, or to such other address as the Party concerned may substitute by written notice to the other. If the notice is sent by facsimile, it must be properly addressed, reflecting the facsimile phone number of the addressee(s), and must be transmitted by a facsimile which produces a dated message upon confirmed completion. All notices delivered by hand or by facsimile shall be deemed received on the date of delivery against receipt. All notices forwarded by mail shall be deemed received on a date three (3) days (excluding Sundays and legal holidays when the U.S. mail is not delivered) immediately following date of deposit in the U.S. mail. Provided, however, the return receipt indicating the date upon which all notices were received shall be *prima facie* evidence that such notices were received on the date on the return receipt.

If to Purchaser: City of Midland
300 North Loraine Street
Midland, Texas 79701
Attention: City Manager

With a copy to: City Attorney
City of Midland, Texas
P.O. Box 1152
Midland, Texas 79701

If to Seller: Midland County
500 North Loraine Street, Suite 1100
Midland, Texas 79701
Attention: County Judge

With a copy to: County Attorney's Office
500 North Loraine Street
Midland, Texas 79701

The addresses may be changed by giving notice of such change in the manner provided herein for giving notice. Unless and until such written notice is received, the last address and addressee given shall be deemed to continue in effect for all purposes. No notice to either Purchaser or Seller shall be deemed given or received unless the entity noted "with a copy to" is simultaneously delivered notice in the same manner as any notice given to either Seller or Purchaser, as the case may be.

MISCELLANEOUS

19. Entire Agreement. This Agreement and the attached Exhibits, if any, constitute the entire agreement and understanding of Seller and Purchaser relating to the subject matter hereof and supersede all prior representations, agreements, and understanding, oral or written, relating to such subject matter.
20. Assignment. This Agreement and any documents executed in connection therewith may not be assigned by either Party without the written consent of the other Party, which consent will not be unreasonably withheld. This Agreement shall be binding upon the assigns of the Parties, if any.
21. Severability. Except as expressly provided to the contrary herein, each paragraph, section, part, term, or provision of this Agreement shall be considered severable, and if for any reason any paragraph, section, part, term, or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or governmental agency having valid jurisdiction, such determination shall not impair the operation of or have any other effect on other paragraphs, sections, parts, terms, or provisions of this Agreement as may remain otherwise intelligible, and the latter shall continue to be given full force and effect and bind the parties hereto, and said invalid sections, parts, terms, or provisions shall not be deemed to be a part of this Agreement.
22. Law and Venue. THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. Any action brought

to enforce or interpret this Agreement shall be brought in the court of appropriate jurisdiction in Midland County, Texas.

23. Amendment and Waiver. This Agreement shall not be amended or modified in any way, except by an instrument in writing executed by all parties hereto.
24. No Partnership or Joint Venture. Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of (i) principal and agent, (ii) a partnership, or (iii) a joint venture between the parties hereto. The Parties' relationship is limited to that of seller and purchaser.
25. Counterparts. This Agreement may be executed in multiple counterparts. A facsimile copy of this Agreement bearing the signature of a Party hereto shall be sufficient to bind such Party to the terms of this Agreement.
26. Time. Time is an essential element of this Agreement and each and all its provisions. Any extension of time granted for the performance of any duty under this Agreement shall not be considered an extension of time for the performance of any other obligation under this Agreement, nor be considered a waiver of time as an essential element of this Agreement.
27. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe, or limit the scope or intent of this Agreement or any of the provisions hereof.
28. Governing Document. This Agreement shall govern in the event of any inconsistency between this Agreement and any Exhibit attached hereto or any other document or instrument executed or delivered pursuant hereto or in connection herewith.
29. No Commissions. Each Party represents to the other that such representing Party has not incurred any liability to a broker or agent in connection with the transaction contemplated by this Agreement. Seller shall (to the extent allowable under the Constitution and Texas law) defend, indemnify and hold harmless Purchaser, and Purchaser, shall defend, indemnify and hold harmless Seller, from and against all claims by third parties for brokerage, commission, finders or other fees relative to this Agreement or the sale of the Property, and all court costs, attorneys' fees and other costs or expenses arising therefrom, and alleged to be due by authorization of the indemnifying Party.

[SIGNATURE PAGE FOLLOWS]

EXECUTION

IN WITNESS WHEREOF, the parties have executed this instrument on the dates appearing below:

PURCHASER

CITY OF MIDLAND, TEXAS

Morris Williams, Interim City Manager

Date Signed: _____

SELLER

MIDLAND COUNTY



Terry Johnson, County Judge

Date Signed: 7-5-23

ACKNOWLEDGMENT BY TITLE COMPANY

Lone Star Abstract & Title Co., Inc., hereby agrees to perform its obligations under this Agreement and acknowledges receipt of a fully executed copy of this Purchase and Sale Agreement on the ____ day of _____, 2023.

LONE STAR ABSTRACT & TITLE CO., INC.

By: _____

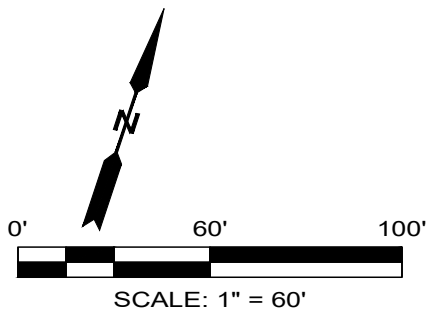
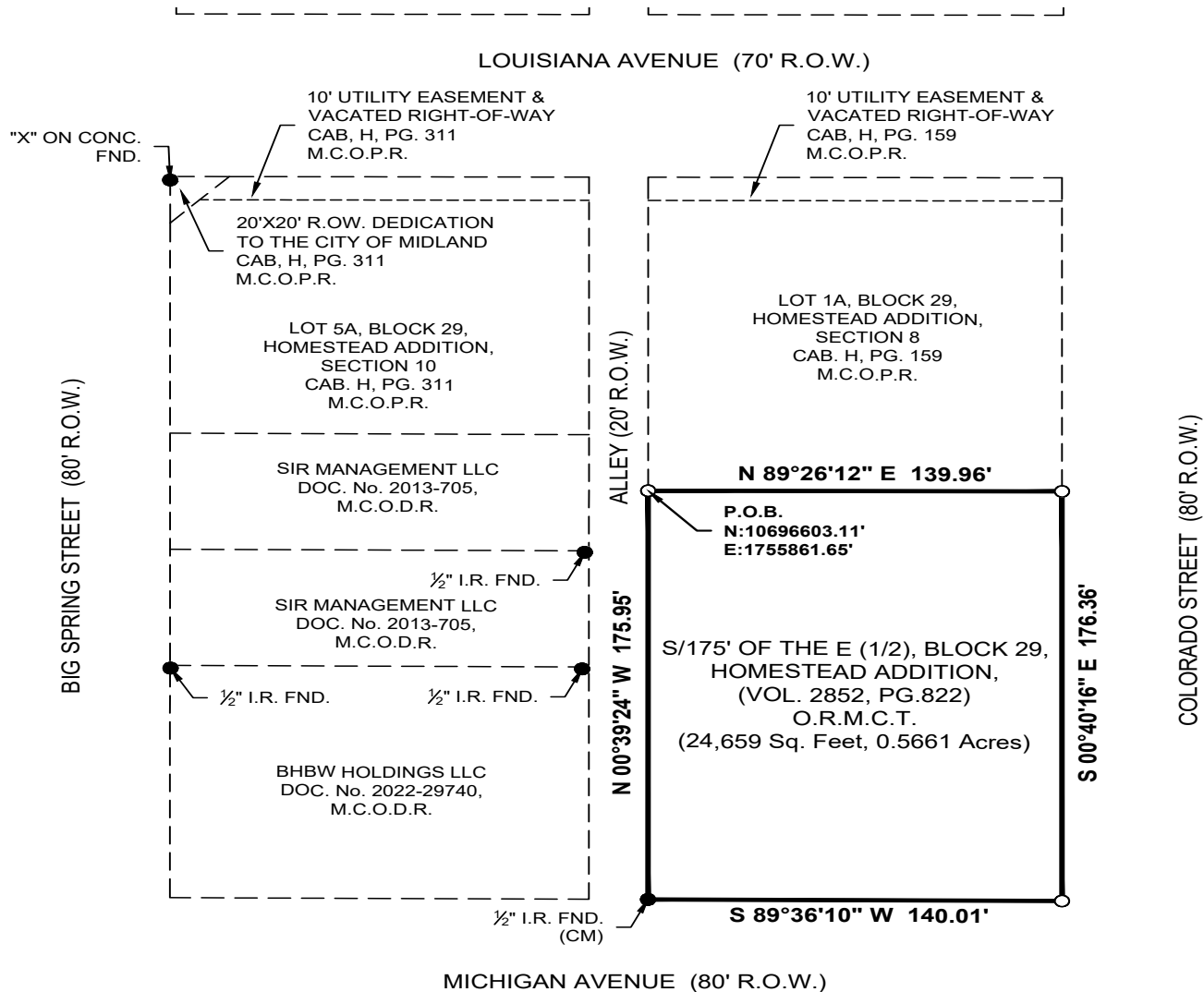
Name: _____

Title: _____

Exhibit A

Property Depiction

EXHIBIT "A"



Adam Johnson
05/24/2023



NOTES:

- THE BASIS OF BEARING OF THE SURVEY IS THE TEXAS COORDINATE SYSTEM, NORTH AMERICAN DATUM 1983 NAD 83, CENTRAL ZONE (4203).
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- A DESCRIPTION OF EVEN DATE ACCOMPANIES THIS EXHIBIT.

PACKET

halff
3300 NORTH A STREET, BUILDING 2, SUITE 120
MIDLAND, TX 79705-5471
TEL (432) 253-3255
TBPELS SURVEYING FIRM #10193998
DATE: 5/22/2023
BY: R. CABELLO
AVO: 045715.006

LEGEND

- SUBJECT TRACT
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- EASEMENT
- POINT OF BEGINNING
- CONTROLLING MONUMENTS
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- FOUND MONUMENT AS NOTED

P.O.B.
(CM)
○
●

MIDLAND
Feel the Energy!

SOUTH 175' OF THE
EAST ONE HALF E (1/2), BLOCK 29,
HOMESTEAD ADDITION
EXHIBIT
0.5661 ACRES

LOCATED IN:
HOMESTEAD ADDITION, BLOCK 29,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

LEGAL DESCRIPTION
SOUTH 175 FEET OF THE EAST ONE HALF (E 1/2), BLOCK 29, HOMESTEAD ADDITION

Being all of a 0.5661 acre tract of land described in deed to Midland County, recorded in Volume 2852, Page 820, Official Records of Midland County, Texas (O.R.M.C.T.), being part of Block 29 as shown on the plat of Homestead Addition, an addition to the City of Midland, Midland County Texas, recorded in Volume 1, Page 241 (O.R.M.C.T.), and being more particularly described by metes and bounds as follows:

BEGINNING at a set Mag Nail with washer stamped Halff (N: 10696603.11', E: 1755861.65'), in the South line of Lot 1A, Block 29, Homestead Addition, Section 8, recorded in Cabinet H, Page 159, Midland County Official Public Records (M.C.O.P.R.), being in the east right-of-way line of a 20 foot alley as shown in said Homestead Addition plat, and the Point of Beginning of this tract;

THENCE, North 89°26'12" East, with the North line of said Midland County tract and the South line of said Lot 1A, Block 29, a distance of 139.96' to a Mag Nail with washer stamped HALFF set for the Southeast corner of said Lot 1A, the Southeast corner of said Lot 1A, and being in the West right-of-way line of Colorado Street (an 80 foot right-of-way) as shown on said Homestead Addition plat;

THENCE, South 00°40'16" East with the common East line of said Midland County tract, and said West right-of-way line, a distance of 176.36' to a Mag Nail with washer stamped HALFF set for the Southeast corner of said Midland County tract, being at the intersection of said West right-of-way line and the North right-of-way line of Michigan Avenue (an 80 foot right-of way) as shown on said Homestead Addition plat;

THENCE, South 89°36'10" West with the common North right-of-way line of said Michigan Avenue, and the South line of said Midland County tract, a distance of 140.01' to a 1/2" Iron Rod found for the Southwest corner of said Midland County tract, being in the East right-of-way line of the aforementioned 20 foot alley;

THENCE, North 00°39'24" West with the common West line of said Midland County tract and said East right-of-way line, a distance of 175.95' to the Point Of Beginning.

Containing 0.5661 acres (24,659 Sq. Ft.) of land.

An exhibit of even date accompanies this legal description.


05/24/2023



NOTES:

- THE BASIS OF BEARING OF THE SURVEY IS THE TEXAS COORDINATE SYSTEM, NORTH AMERICAN DATUM 1983 NAD 83), CENTRAL ZONE (4203).
- ALL TEXAS STATE PLANE COORDINATES AND GEOGRAPHIC COORDINATES SHOWN HEREON ARE NAD 83 GRID COORDINATES AS COMPUTED BY CORPSCON VERSION 6.0.1.
- UNLESS OTHERWISE NOTED, ALL DISTANCES SHOWN HEREON ARE GRID DISTANCES AND THEY CAN BE CONVERTED TO SURFACE WHEN MULTIPLIED WITH A "SURFACE ADJUSTMENT FACTOR" OF 1.000070255, AS CALCULATED BY CORPSCON.
- AN EXHIBIT OF EVEN DATE ACCOMPANIES THIS DESCRIPTION.

PACKET


3300 NORTH A STREET, BUILDING 2, SUITE 120
MIDLAND, TX 79705-5471
TEL (432) 253-3255
TBPELS SURVEYING FIRM #10193998
DATE: 5/22/2023
BY: R. CABELLO
AVO: 045715.006

6.30



SOUTH 175' OF THE
EAST ONE HALF E (1/2), BLOCK 29,
HOMESTEAD ADDITION
LEGAL DESCRIPTION
0.5661 ACRES

LOCATED IN:
HOMESTEAD ADDITION, BLOCK 29,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS
July 25, 2023

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

SPECIAL WARRANTY DEED

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

MIDLAND COUNTY (“*Grantor*”), for and in consideration of the sum of ONE AND NO/100 DOLLARS (\$1.00) cash and other good and valuable consideration to it paid by the CITY OF MIDLAND, TEXAS, a home-rule municipal corporation (“*Grantee*”), the receipt and sufficiency of which are hereby acknowledged and confessed by both Grantor and Grantee, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto the Grantee that certain real property located in Midland County, Texas, said real property being more particularly described in Exhibit A, which is attached hereto and incorporated herein by reference for all purposes as if set forth in full (the “*Property*”).

This conveyance, however, is made and accepted subject to the matters described on Exhibit B, which is attached hereto and made a part hereof (hereinafter referred to as the “*Permitted Exceptions*”).

Grantee covenants and agrees that Grantee is taking the Property “AS IS” with any and all latent and patent defects. Grantee further covenants and agrees that there is no warranty by Grantor the Property has a particular financial value or is fit for a particular purpose. Grantee acknowledges and stipulates that Grantee is not relying on any representation, statement or other assertion with respect to the Property condition (including, without limitation, the water, soil and geology) but is relying solely on Grantee’s examination of the Property with the express understanding and stipulation that there are no express or implied warranties of title set forth in this deed. Further, Grantee covenants and agrees that Grantor has not made, does not make, and specifically disclaims any representations, warranties, covenants or guarantees of any kind whatsoever regarding solid waste, as defined by the U.S. Environmental Protection Agency regulations, or the disposal or existence, in or on the Property, of any hazardous substance, as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, or applicable state laws.

Grantor hereby reserves and excepts from the conveyance contemplated hereby all rights, title, and interests in all oil, gas, and other minerals of any kind whatsoever owned by Grantor in, on, and under the Property whether Grantor’s rights are presently vested, future, or contingent.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto Grantee, its successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT AND FOREVER DEFEND TITLE to all and singular the Property, subject to the Permitted Exceptions, unto said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through, or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has made, executed and delivered this Special Warranty Deed as of the ____ day of _____, 2023.

[SIGNATURE PAGE FOLLOWS]

GRANTOR:

MIDLAND COUNTY, TEXAS

Terry Johnson, County Judge

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared TERRY JOHNSON, County Judge of Midland County, Texas, known by me to the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same and for the purposes and consideration therein expressed and in the capacity therein expressed.

Given under my hand and seal of office, this ____ day of _____, 2023.

Notary Public in and for the State of Texas

EXHIBIT A

Legal Description of the Property

The South 175 Feet of the Eastern Half of Block 29, Homestead Addition, an addition to the City of Midland, Midland County, Texas.

EXHIBIT B

Permitted Exceptions



City Council Meeting

Item Number: 7
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION AWARDING A CONTRACT FOR THE PAUL DAVIS WELL FIELD PROJECT TO HYDRO RESOURCES - MID CONTINENT, INC., FOR AN AMOUNT OF \$4,412,775.00; AND TRANSFERRING AND APPROPRIATING FUNDS (DISTRICT: NONE) (GENERAL SERVICES)

Purpose:

Resolution awarding a contract for the Paul Davis well field Project- Utilities to Hydro Resources-Mid Continent, Inc. of Buda, Texas for a cost of \$4,412,775.00; and authorizing payment.

Recommended City Council Action:

Approve

Fiscal Impact:

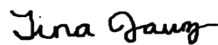
\$4,412,775 is available in the Unappropriated Fund Balance of the Water & Sewer fund and will be transferred and appropriated to a project for said purposes.

Discussion:

Motion 041-2023 approved the specifications and authorized advertisement for bids for the Paul Davis well field Development Project for the Utilities Department. The bid was sent to ninety-eight (98) vendors. We received a sole bid from Hydro Resources-Mid Continent, Inc. Staff recommends the acceptance of the sole bid received from Hydro Resources-Mid Continent, Inc. for the construction of new Public Water Source Groundwater wells. These wells are crucial for our city's emergency and drought contingency water source, specifically located in the Paul Davis well field. Please see the attached memo from Carl Craig, Utilities Director, for more information.

Therefore, please consider a resolution awarding a contract for the Paul Davis well field Project-

Utilities to Hydro Resources-Mid Continent, Inc. of Buda, Texas for a cost of \$4,412,775.00; and authorizing payment.



City Manager's Office



INTEROFFICE MEMORANDUM

Carl Craig, PE
Utilities Director

7/25/2023

Erika Martinez Purchasing Manager

Subject: Acceptance of Sole Bid for New Public Water Source Groundwater Wells

Dear Ms. Martinez,

I hope this memo finds you well. I am writing to formally recommend the acceptance of the sole bid we received from Hydro Resources-Mid Continent, INC. for the construction of new Public Water Source Groundwater wells. These wells are crucial for our city's emergency and drought contingency water source, specifically located in the Paul Davis well field.

After careful evaluation and consideration of the bid, I am pleased to inform you that I recommend accepting the bid from Hydro Resources-Mid Continent, INC. for the total cost of \$4,412,775. Despite the bid amount being higher than the anticipated costs, it is important to consider the current supply chain limitations and work constraints. Given the specialized nature of this project and the need for timely completion, the Hydro Resources-Mid Continent, INC. bid provides a reasonable and acceptable offer under the prevailing circumstances.

Here are the key reasons why I propose accepting the bid from Hydro Resources-Mid Continent, INC.:

- 1. Expertise and Experience: Hydro Resources-Mid Continent, INC. possesses extensive expertise in constructing groundwater wells, with a commendable track record in executing similar projects. Their experience and proficiency ensure the delivery of high-quality infrastructure that aligns with our city's requirements.**
- 2. Compliance with Specifications: The bid from Hydro Resources-Mid Continent, INC. fully meets the specifications outlined in our request for bids (RFB). The proposed groundwater wells comply with the necessary capacity, depth, and technical standards crucial for an emergency and drought contingency water source.**
- 3. Supply Chain and Work Constraints: The current market conditions present challenges in sourcing materials and executing construction projects within the anticipated costs. Despite the bid being above our initial projections, Hydro Resources-Mid Continent, INC.**

has worked diligently to optimize their supply chain and adapt to the prevailing work constraints, ensuring a viable solution within the given circumstances.

4. **Timely Completion:** Hydro Resources-Mid Continent, INC. has provided assurances regarding the timely completion of the groundwater wells. Their commitment to meeting deadlines aligns with our urgent need to establish a reliable water source at the Paul Davis well field.

Considering the factors mentioned above, I recommend that we proceed with accepting the bid from Hydro Resources-Mid Continent, INC. for the amount of \$4,412,775. I kindly request your approval and initiation of the necessary procurement processes to formalize this agreement. Please ensure that the relevant contracts and documents are prepared promptly to facilitate a smooth and efficient implementation of this project.

Should you require any additional information or have any concerns, please do not hesitate to reach out to me. I am confident that accepting this bid will significantly contribute to our city's emergency preparedness and enhance our ability to manage drought situations effectively.

Thank you for your attention to this matter. I look forward to your positive response and the subsequent actions to proceed with the procurement process.

Yours sincerely,

Carl Craig, PE

RESOLUTION NO. _____

**RESOLUTION AWARDDING A CONTRACT FOR THE
PAUL DAVIS WELL FIELD PROJECT TO HYDRO
RESOURCES - MID CONTINENT, INC., FOR AN
AMOUNT OF \$4,412,775.00; AND TRANSFERRING AND
APPROPRIATING FUNDS**

WHEREAS, Motion 041-2023 approved plans and specifications and authorized the advertisement for bids for the Paul Davis Well Field Project; and

WHEREAS, bids were opened on May 31, 2023, with the sole bid being submitted by Hydro Resources - Mid Continent, Inc., as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all purposes; and

WHEREAS, the City Council finds the amount proposed by Hydro Resources - Mid Continent, Inc., to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to award a contract to Hydro Resources - Mid Continent, Inc., for the Paul Davis Well Field Project;

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 contract with Hydro Resources - Mid Continent, Inc., for the Paul Davis Well Field Project for an amount of \$4,412,775.00. Said contract to be kept on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That funds are available in the Unappropriated Fund Balance of the Water & Sewer fund and shall be transferred and appropriated to a project for the said purposes.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Hydro Resources - Mid Continent, Inc., pursuant to the terms of said contract upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member

_____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 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 OF MIDLAND
PAUL DAVIS WELL FIELD DEVELOPMENT**

**300 N. Lorraine, 3rd Floor
Midland, Texas 79701
May 31, 2023 – 2:00 PM**

***Parkhill Project No. 01.6167.22
City of Midland Project No.***

Contractor	Bid Bond	Addendum #1	Base Bid Total	Additive Alternate Items Total	Base Bid Total + Additive Alternate Items Total	TCEQ Water License Submitted?
Hydro Resources Mid-Continent 11536 Old Lockhart Road Creedmoor, Texas 78610	✓	✓	\$4,127,775.00	\$285,000.00	\$4,412,775.00	Yes



CITY OF MIDLAND PAUL DAVIS WELLFIELD DEVELOPMENT
MIDLAND, TEXAS
May 31, 2023
2:00 PM

				HYDRO RESOURCES MID CONTINENT 11536 OLD LOCKHART ROAD CREEDMOOR, TEXAS 78610	
Item No.	Description	Quantity	Unit	Unit Price	Amount
BASE BID					
GENERAL/SITE WORK					
1	Mobilization/Demobilization (Max. 5 percent of total Base Bid)	1	LS	\$206,000.00	\$206,000.00
2	Demo Existing Well Equipment, Piping, and Fences	5	EA	\$8,000.00	\$40,000.00
3	8-Foot Chain Link Security Fence and Two 10-Foot Gates	4	EA	\$11,000.00	\$44,000.00
4	Barb Wire Fencing and Renovate and Relocate Existing Gates	4	EA	\$9,500.00	\$38,000.00
5	10-Foot Gate (Barb Wire Cattle Fencing)	1	EA	\$1,000.00	\$1,000.00
6	Well Pads and Roads	5700	SY	\$55.00	\$313,500.00
7	Temporary Pipeline Crossing	7	EA	\$5,800.00	\$40,600.00
8	Soil Preparation/Re-seeding	1	LS	\$10,700.00	\$10,700.00
9	Trench Safety (Including Plan)	75	LF	\$15.00	\$1,125.00
10	Stormwater Pollution Prevention Plan and Erosion Control	1	LS	\$46,100.00	\$46,100.00
PUBLIC WATER SUPPLY WELLS					
11	Drill Equipment Set Up and Slush Pit	5	EA	\$85,000.00	\$425,000.00
12	Drill and Install 24-Inch Conductor Casing	75	LF	\$1,700.00	\$127,500.00
13	Drill 20-Inch Diameter Well	1,045	VF	\$325.00	\$339,625.00
14	Well Casing, 12-3/4-Inch Low Carbon Steel	655	LF	\$385.00	\$252,175.00
15	Well Screen, 12-3/4-Inch Stainless Steel	400	LF	\$350.00	\$140,000.00
16	Dielectric Couplings	5	EA	\$7,500.00	\$37,500.00
17	Draw Down Tube	970	LF	\$12.00	\$11,640.00
18	Gravel Feed Tube	550	LF	\$25.00	\$13,750.00
19	Gravel Pack	485	VF	\$85.00	\$41,225.00
20	Cementing/Grouting	535	VF	\$275.00	\$147,125.00
21	Well Disinfection	5	EA	\$8,500.00	\$42,500.00
22	Well Head Improvements	5	EA	\$23,000.00	\$115,000.00
23	Well Development - Bailing/Pumping	150	HR	\$500.00	\$75,000.00
24	36-Hour Pump Test	180	HR	\$500.00	\$90,000.00
25	Well Quality Sampling and Testing	5	EA	\$9,500.00	\$47,500.00
26	Well Pump (250 GPM, 250 Feet), Column Piping, Wire, and Discharge Head	1	EA	\$37,500.00	\$37,500.00
27	Well Pump (350 GPM, 265 Feet), Column Piping, Wire, and Discharge Head	1	EA	\$38,500.00	\$38,500.00
28	Well Pump (500 GPM, 260 Feet), Column Piping, Wire, and Discharge Head	1	EA	\$43,500.00	\$43,500.00
29	Well Pump (500 GPM, 280 Feet), Column Piping, Wire, and Discharge Head	1	EA	\$47,500.00	\$47,500.00
30	Well Pump (500 GPM, 290 Feet), Column Piping, Wire, and Discharge Head	1	EA	\$61,500.00	\$61,500.00
31	4-Inch Above-Ground Well Piping and Tie-In	1	EA	\$90,000.00	\$90,000.00
32	6-Inch Above-Ground Well Piping and Tie-In	4	EA	\$98,500.00	\$394,000.00
33	Plug Existing Wells	5	EA	\$18,742.00	\$93,710.00
ELECTRICAL/SCADA					
34	Electrical, Including Lighting Protection, 60Amp, 3-Phase, 480VAC, Electrical Service for 25HP motors	5	EA	\$79,000.00	\$395,000.00
35	SCADA/RTU cabinet, Instrumentation, Ethernet radios, Radio alignment associated cabling, conduit, appurtenances, labor, and installation.	1	LS	\$280,000.00	\$280,000.00
BASE BID TOTAL					\$4,127,775.00
ADDITIVE ALTERNATE ITEMS					
A-1	Electrical Upgrade Adder for 30HP and 40HP Motors: 100Amp, 3-Phase, 480VAC	1	EA	\$68,000.00	\$68,000.00
A-2	Electrical Upgrade Adder for 50HP and 60HP Motors: 200Amp, 3-Phase, 480VAC	2	EA	\$71,000.00	\$142,000.00
A-3	Electrical Upgrade Adder for 75HP and 100HP Motors: 200Amp, 3-Phase, 480VAC	1	EA	\$75,000.00	\$75,000.00
ADDITIVE ALTERNATE ITEMS TOTAL					\$285,000.00
BASE BID TOTAL + ADDITIVE ALTERATE ITEMS TOTAL					\$4,412,775.00

PROJECT MANUAL

CITY OF MIDLAND

PAUL DAVIS WELLFIELD DEVELOPMENT



April | 2023

Parkhill Project # 01616722

City of Midland Project #22002648
PACKET

7.9

July 25, 2023

PROJECT MANUAL

CITY OF MIDLAND

PAUL DAVIS WELLFIELD DEVELOPMENT



04/06/2023

April | 2023

Parkhill Project # 01616722

City of Midland Project # 22002648

PAUSE

7.10

July 25, 2023

TABLE OF CONTENTS

DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS

	Advertisement.....	8
	Notice to Bidders	9
	General Conditions of Bidding	11
C-451	Qualifications Statement.....	12
	Request for Bids.....	23
	Price Bid Sheet.....	31
	Standard Purchase Terms and Conditions	35
	Special Provisions (Water Utilities).....	41
C-480	Non-Collusion Affidavit.....	49
	Debarment/Suspension Certification	50
	Bid Bond.....	51
	Contract.....	53
	Exhibit C: Bonding Requirements.....	66
	Exhibit D: Heavy & Highway Wage Rates	67
	Performance Bond	73
	Payment Bond.....	75
C-700	Standard General Conditions	77
	Conflict of Interest Questionnaire.....	157
	Consideration of Place of Business.....	159
00 73 14	Supplementary Conditions.....	160

DIVISION 01 – GENERAL REQUIREMENTS

01 10 00	Summary.....	171
01 20 00	Price and Payment Procedures.....	175
01 22 00	Measurement and Payment.....	180
01 25 00	Substitution Procedures	185
01 30 00	Administrative Requirements	187
01 32 16	Construction Progress Schedule	191
01 33 00	Submittal Procedures	195
01 40 00	Quality Requirements	201
01 50 00	Temporary Facilities and Controls.....	205
01 57 23	Temporary Stormwater Pollution Control	210
01 60 00	Product Requirements.....	212
01 70 00	Execution and Closeout Requirements	214

DIVISION 02 - EXISTING CONDITIONS

Not Used

DIVISION 03 - CONCRETE

03 10 00	Concrete Forming and Accessories	222
03 20 00	Concrete Reinforcing.....	229
03 30 00	Cast-In-Place Concrete	234

DIVISIONS 04 -21

Not Used

DIVISION 22 - PLUMBING

22 05 13	Common Motor Requirements for Plumbing Equipment.....	249
22 05 33	Heat Tracing for Plumbing Piping.....	252

DIVISIONS 23 - 25

Not Used

DIVISION 26 - ELECTRICAL

26 05 00	Basic Electrical Methods	257
26 05 19	Low-Voltage Electrical Power Conductors and Cables.....	261
26 05 26	Grounding and Bonding for Electrical Systems	266
26 05 29	Hangers and Supports for Electrical Systems.....	270
26 05 33	Raceway and Boxes for Electrical Systems.....	273
26 05 53	Identification for Electrical Systems.....	279
26 24 16	Panelboards.....	283
26 27 26	Wiring Devices	287
26 28 13	Fuses	290
26 28 16.16	Enclosed Switches	293
26 29 13.06	Soft-Start Motor Controllers.....	297
26 43 00	Surge Protective Devices.....	306

DIVISIONS 27 - 28

Not Used

DIVISION 31 - EARTHWORK

31 10 00	Site Clearing	311
31 23 16	Excavation	313
31 23 16.13	Trenching.....	315
31 41 10	Trench Safety Systems.....	319

DIVISION 32 - EXTERIOR IMPROVEMENTS

32 31 13	Chain Link Fences and Gates	322
32 91 13	Soil Preparation.....	327
32 92 19	Seeding.....	329

DIVISION 33 - UTILITIES

33 01 10.58	Disinfection of Water Utility Piping Systems	332
33 05 00	Common Work Results for Utilities	335
33 05 05.31	Hydrostatic Testing.....	343
33 05 09.33	Thrust Restraint for Utility Piping	346
33 05 53	Identification for Utilities Piping and Equipment.....	351
33 11 13	Potable Water Supply Wells.....	356
33 14 13	Public Water Utility Distribution Piping	365

DIVISIONS 34 - 35

Not Used

DIVISION 40 - PROCESS INTEGRATION

40 05 61	Gate Valves.....	374
40 05 65.23	Swing Check Valves.....	376
40 05 78.13	Air/Vacuum Valves for Water Service.....	380
40 42 13	Process Piping Insulation.....	384
40 61 10	Process Control Forms.....	389
40 61 20	Process Control Cabinets and Enclosures.....	392
40 61 32	SCADA Equipment	395
40 70 00	Instrumentation for Process Systems.....	403
40 71 13	Magnetic Flow Meters.....	409
40 73 29	Transmitters	414

DIVISIONS 41 - 48

Not Used

APPENDICES

Appendix A: Boring Log and Test Hole Data	418
Appendix B: TCEQ Forms	426
Appendix C: TDLR Form.....	432
Appendix D: UCMR 5 Test List.....	434

DESIGN PROFESSIONAL RESPONSIBILITY

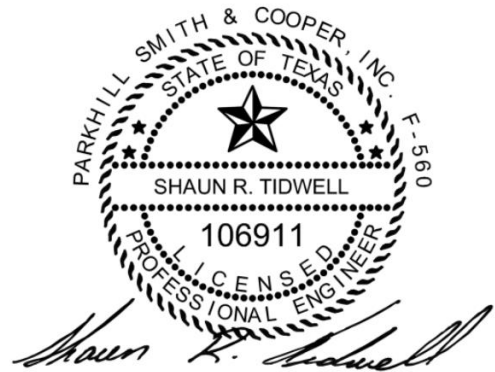
The Specification Sections authenticated by my seal and signature are limited to the following:

DIVISION 22 - PLUMBING

22 05 33 Heat Tracing for Plumbing Piping

DIVISION 26 – ELECTRICAL

26 05 00 Basic Electrical Methods
26 05 19 Low-Voltage Electrical Power Conductors and Cables
26 05 26 Grounding and Bonding for Electrical Systems
26 05 29 Hangers and Supports for Electrical Systems
26 05 33 Raceway and Boxes for Electrical Systems
26 05 53 Identification for Electrical Systems
26 24 16 Panelboards
26 27 26 Wiring Devices
26 28 13 Fuses
26 28 16.16 Enclosed Switches
26 29 13.06 Soft-Start Motor Controllers
26 43 00 Surge Protective Devices



04/06/2023

DESIGN PROFESSIONAL RESPONSIBILITY

The Specification Sections authenticated by my seal and signature are limited to the following:

DIVISION 40 - PROCESS INTEGRATION

40 61 10	Process Control Forms
40 61 20	Process Control Cabinets and Enclosures
40 61 32	SCADA Equipment
40 70 00	Instrumentation for Process Systems
40 73 29	Differential Pressure Transmitters



04/06/2023

ADVERTISEMENT

CITY OF MIDLAND PAUL DAVIS WELLFIELD DEVELOPMENT BID PACKAGE REQUEST FOR BIDS

The City of Midland (Owner) has issued a Request for Bids (RFB) in order to evaluate pricing and qualifications of a contractor to construct the following Project:

City of Midland, Texas Paul Davis Wellfield Development Bid Package

Bidders shall deliver sealed Bids to the Owner at the following address:

City of Midland Office of the City Secretary 300 N. Loraine, 3rd Floor Midland, Texas 79701

Bids must be received at the designated location no later than 2:00 PM, May 31, 2023, at which time Bids will be opened and read. Project consists of construction of five new municipal public water supply replacement wells, new electrical and instrumentation control equipment, and associated piping appurtenances within the City's Paul Davis Wellfield which is located about 24 miles north of Midland. Existing wells will be plugged.

Bid Documents may be obtained from Engineer by emailing bids@parkhill.com, or from Civcast at www.civcastusa.com. Bidders may examine the Bid Documents at the Engineer's Office, Parkhill, 1700 W. Wall Street, Suite 100, Midland, Texas, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. Neither Owner nor Engineer will be responsible for full or partial sets of Bidding Documents, including addenda, if any, obtained from sources other than the Issuing Office. It is the Bidder's sole responsibility to ensure all Addenda have been received prior to submitting a Bid.

A pre-bid conference for the Project will be held on May 17, 2023, at 3:00 PM at the Paul Davis Booster Pump Station located about 4.5 miles northeast of intersection SH 176 and 349 (32.376993, -102.139560). Attendance at the pre-bid conference is encouraged but not required. NOTE: Internet service is NOT available at the meeting site. There will be no virtual option for attendance.

For all further requirements regarding submittal, qualifications, procedures, and contract award, refer to the RFB.

The City of Midland reserves the right to reject any or all Bids or to waive any informalities in the Bids.

Date Issued: April 6, 2023
By: Carl Craigo, PE
Title: Director of Utilities

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 Bid 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 F.O.B. to the City of Midland, Texas with freight prepaid and included in the Bid.
9. Detailed specifications rule over General specifications (headings, etc.)
10. 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.
11. The City shall determine the most advantageous Bid for the City and accept the Bid of the responsible party submitting the lowest and/or most advantageous Bid or reject any and all Bids.
12. 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.

QUALIFICATIONS STATEMENT

ARTICLE 1—GENERAL INFORMATION

12.01 Provide contact information for the Business:

Legal Name of Business:			
Corporate Office			
Name:		Phone number:	
Title:		Email address:	
Business address of corporate office:			
Local Office			
Name:		Phone number:	
Title:		Email address:	
Business address of local office:			

12.02 Provide information on the Business's organizational structure:

Form of Business:	☐ Sole Proprietorship ☐ Partnership ☐ Corporation		
☐ Limited Liability Company ☐ Joint Venture comprised of the following companies:			
1.			
2.			
3.			
Provide a separate Qualification Statement for each Joint Venturer.			
Date Business was formed:		State in which Business was formed:	
Is this Business authorized to operate in the Project location?		☐ Yes ☐ No ☐ Pending	

12.03 Identify all businesses that own Business in whole or in part (25% or greater), or that are wholly or partly (25% or greater) owned by Business:

Name of business:		Affiliation:	
Address:			
Name of business:		Affiliation:	
Address:			
Name of business:		Affiliation:	
Address:			

12.04 Provide information regarding the Business's officers, partners, and limits of authority.

Name:		Title:	
Authorized to sign contracts: ☐ Yes ☐ No		Limit of Authority:	\$
Name:		Title:	
Authorized to sign contracts: ☐ Yes ☐ No		Limit of Authority:	\$
Name:		Title:	
Authorized to sign contracts: ☐ Yes ☐ No		Limit of Authority:	\$
Name:		Title:	

ARTICLE 2—LICENSING

2.01 Provide information regarding licensure for Business:

Name of License:			
Licensing Agency:			
License No:		Expiration Date:	
Name of License:			
Licensing Agency:			
License No:		Expiration Date:	

ARTICLE 3—DIVERSE BUSINESS CERTIFICATIONS

3.01 Provide information regarding Business's Diverse Business Certification, if any. Provide evidence of current certification.

Certification	Certifying Agency	Certification Date
☐ Disadvantaged Business Enterprise		
☐ Minority Business Enterprise		
☐ Woman-Owned Business Enterprise		
☐ Small Business Enterprise		
☐ Disabled Business Enterprise		
☐ Veteran-Owned Business Enterprise		
☐ Service-Disabled Veteran-Owned Business		
☐ HUBZone Business (Historically Underutilized) Business		
☐ Other		
☐ None		

ARTICLE 4—SAFETY

- 4.01 Provide information regarding Business's safety organization and safety performance.

Name of Business's Safety Officer:		
Safety Certifications		
Certification Name	Issuing Agency	Expiration

- 4.02 Provide Worker's Compensation Insurance Experience Modification Rate (EMR), Total Recordable Frequency Rate (TRFR) for incidents, and Total Number of Recorded Manhours (MH) for the last 3 years and the EMR, TRFR, and MH history for the last 3 years of any proposed Subcontractor(s) that will provide Work valued at 10% or more of the Contract Price. Provide documentation of the EMR history for Business and Subcontractor(s).

Year									
Company	EMR	TRFR	MH	EMR	TRFR	MH	EMR	TRFR	MH

ARTICLE 5—FINANCIAL

- 5.01 Provide information regarding the Business's financial stability. Provide the most recent audited financial statement, and if such audited financial statement is not current, also provide the most current financial statement.

Financial Institution:		
Business address:		
Date of Business's most recent financial statement:		☐ Attached
Date of Business's most recent audited financial statement:		☐ Attached
Financial indicators from the most recent financial statement		
Contractor's Current Ratio (Current Assets ÷ Current Liabilities)		
Contractor's Quick Ratio ((Cash and Cash Equivalents + Accounts Receivable + Short Term Investments) ÷ Current Liabilities)		

ARTICLE 6—SURETY INFORMATION

- 6.01 Provide information regarding the surety company that will issue required bonds on behalf of the Business, including but not limited to performance and payment bonds.

Surety Name:			
Surety is a corporation organized and existing under the laws of the state of:			
Is surety authorized to provide surety bonds in the Project location?	☐ Yes ☐ No		
Is surety listed in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" published in Department Circular 570 (as amended) by the Bureau of the Fiscal Service, U.S. Department of the Treasury? ☐ Yes ☐ No			
Mailing Address (principal place of business):			
Physical Address (principal place of business):			
Phone (main):		Phone (claims):	

ARTICLE 7—INSURANCE

- 7.01 Provide information regarding Business's insurance company(s), including but not limited to its Commercial General Liability carrier. Provide information for each provider.

Name of insurance provider, and type of policy (CLE, auto, etc.):			
Insurance Provider		Type of Policy (Coverage Provided)	
Are providers licensed or authorized to issue policies in the Project location?		☐ Yes ☐ No	
Does provider have an A.M. Best Rating of A-VII or better?		☐ Yes ☐ No	
Mailing Address (principal place of business):			
Physical Address (principal place of business):			
Phone (main):		Phone (claims):	

ARTICLE 8—CONSTRUCTION EXPERIENCE

- 8.01 Provide information that will identify the overall size and capacity of the Business.

Average number of current full-time employees:	
Estimate of revenue for the current year:	
Estimate of revenue for the previous year:	

8.02 Provide information regarding the Business's previous contracting experience.

Years of experience with projects like the proposed project:		
As a general contractor:		As a joint venturer:
Has Business, or a predecessor in interest, or an affiliate identified in Paragraph 1.03:		
Been disqualified as a Bidder by any local, state, or federal agency within the last 5 years? ☐ Yes ☐ No		
Been barred from contracting by any local, state, or federal agency within the last 5 years? ☐ Yes ☐ No		
Been released from a Bid in the past 5 years? ☐ Yes ☐ No		
Defaulted on a project or failed to complete any contract awarded to it? ☐ Yes ☐ No		
Refused to construct or refused to provide materials defined in the contract documents or in a change order? ☐ Yes ☐ No		
Been a party to any currently pending litigation or arbitration? ☐ Yes ☐ No		
Provide full details in a separate attachment if the response to any of these questions is Yes.		

8.03 List all projects currently under contract in Schedule A and provide indicated information.

8.04 List a minimum of three and a maximum of six projects completed in the last 5 years in Schedule B and provide indicated information to demonstrate the Business's experience with projects similar in type and cost of construction.

8.05 In Schedule C, provide information on key individuals whom Business intends to assign to the Project. Provide resumes for those individuals included in Schedule C. Key individuals include the Project Manager, Project Superintendent, Quality Manager, and Safety Manager. Resumes may be provided for Business's key leaders as well.

ARTICLE 9—REQUIRED ATTACHMENTS

9.01 Provide the following information with the Statement of Qualifications:

- A. If Business is a Joint Venture, separate Qualifications Statements for each Joint Venturer, as required in Paragraph 1.02.
- B. Diverse Business Certifications if required by Paragraph 3.01.
- C. Certification of Business's safety performance if required by Paragraph 4.02.
- D. Financial statements as required by Paragraph 5.01.
- E. Attachments providing additional information as required by Paragraph 8.02.
- F. Schedule A (Current Projects) as required by Paragraph 8.03.
- G. Schedule B (Previous Experience with Similar Projects) as required by Paragraph 8.04.
- H. Schedule C (Key Individuals) and resumes for the key individuals listed, as required by Paragraph 8.05.
- I. Additional items as pertinent.

This Statement of Qualifications is offered by:

Business:

(typed or printed name of organization)

By:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Date:

(date signed)

(If Business is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

(individual's signature)

Name:

(typed or printed)

Title:

(typed or printed)

Address for giving notices:

Designated Representative:

Name:

(typed or printed)

Title:

(typed or printed)

Address:

Phone:

Email:

ADDENDUM NO: 01

TO: ALL PLANHOLDERS

FROM: Kevin Krueger, PE

PROJECT NAME: City of Midland Paul Davis Wellfield Development

PROJECT NO.: 01.6167.22

DATE: May 24, 2023

Attention of all Prospective Proposers/Plan Holders is directed to the following modifications to the referenced Drawings and Project Manual. This Addendum becomes a part of the Contract Documents and modifies the original Contract Documents dated May 2023 as noted below:

This Addendum consists of 4 pages, the attached Price Bid Sheet, Special Provisions, and 01 22 00 sections, the attached drawing nos. C-105 and E-601, and the attached Pre-Bid Meeting Minutes.

I. CHANGES TO ADVERTISEMENT

1. NONE

II. CHANGES TO DIVISION 00 – PROCUREMENT AND CONTRACTING REQUIREMENTS:

1. PRICE BID SHEET
 - a. REMOVE and REPLACE Price Bid Sheet in its entirety as attached to this Addendum.
2. SPECIAL PROVISIONS (WATER UTILITIES)
 - a. REMOVE and REPLACE Special Provisions Section in its entirety as attached to this Addendum.

III. CHANGES TO DIVISION 01 – GENERAL REQUIREMENTS:

1. SECTION 01 22 00 – MEASUREMENT AND PAYMENT
 - a. REMOVE and REPLACE Section 01 22 00 in its entirety as attached to this Addendum.

IV. CHANGES TO DIVISIONS 02 THROUGH 40 (TECHNICAL SPECIFICATIONS):

1. SECTION 26 28 16.16 – ENCLOSED SWITCHES
 - A. REMOVE and REPLACE Item 2.2.A.2 with the following:
Three pole.
 - B. DELETE and OMIT Item 2.2.B.11 in its entirety.
2. SECTION 26 29 13.06 – SOFT START MOTOR CONTROLLERS
 - A. ADD and INCORPORATE the following to Item 2.1.:
D. Soft starts shall be capable of operation on a 3-phase, 3-wire, 480VAC Delta service without any de-rating of equipment.

3. SECTION 40 61 32 – SCADA EQUIPMENT

- a. REMOVE and REPLACE Item 5.2 with the following:
ETHERNET RADIO CLIENT/END-POINT

Model	C050045B032A
Dimensions	512.5 by 385.75 by 258.3 mm (20.18 by 15.19 by 10.17 inches)
Weight Without Mount	1.360 kg (2.998 lb)
Weight With Mount	1.735 kg (3.825 lb)
Power Supply	24V, 0.3A Gigabit PoE Adapter (Included)
Max. Power Consumption	7W
Power Method	Passive PoE (Pairs 4, 5+; 7, 8 Return)
Supported Voltage Range	24V ± 10 percent
Gain	26 dBi
Networking Interface	(1) 10/100/1,000 Ethernet Port
Processor Specs	MIPS 74Kc Memory 64 MB DDR2
LEDs	Power, Ethernet
Channel Sizes	PtP Mode PtMP Mode 10/20/30/40/50/60/80 MHz 10/20/30/40 MHz Enclosure
Characteristics	Reflector (Aluminum) / Plastic: PC
Mounting	Pole-Mounting Kit (Included)
Wind Loading	550 N @ 200 km/h (123.6 lbf @ 125 mph)
Wind Survivability	200 km/h (125 mph)
ESD/EMP Protection	± 24 kV Contact / Air
Operating Temperature	- 40 to 70 degrees C (-40 to 158 degrees F)
Operating Humidity	5 to 95 percent Noncondensing
Certifications	CE, FCC, IC Operating
Frequency (MHz)	US/CA U-NII-1: 5,150 - 5,250 U-NII-2A: 5,250 - 5,350 MHz U-NII-2C: 5,470 - 5,725 MHz U-NII-3: 5,725 - 5,850
Management Radio (MHz)	US/CA 2,412 - 2,462

V. CHANGES TO DRAWINGS:

1. SHEET C-103 – SITE PLANS WELL #16 AND WELL #15

- a. ADD and INCORPORATE the following verbiage to the GENERAL NOTES:
- F. **CONTRACTOR SHALL PROVIDE MINIMUM 10 WORKING DAYS NOTICE TO CITY OF MIDLAND PRIOR TO WORK THAT REQUIRES EXCAVATION OR EXPOSING CITY UTILITY LINES.**
 - G. **CONSTRUCTION TRAFFIC OVER CITY OF MIDLAND PIPELINES SHALL BE LIMITED TO LIGHT TRAFFIC UNLESS PIPELINE PROTECTION IS PROVIDED. CONTRACTOR SHALL PLACE MINIMUM 24 INCHES OF COMPACTED CALICHE BASE MATERIAL OVER PIPELINES CROSSED WITH HEAVY EQUIPMENT (DRILLING RIGS, DUMP TRUCKS, ETC.). FULL DEPTH OF BASE MATERIAL SHALL HAVE A MINIMUM WIDTH OF 6 FEET WIDER THAN EQUIPMENT AND A MINIMUM OF 7 FEET BEYOND PIPELINE IN BOTH DIRECTIONS. VIBRATORY EQUIPMENT SHALL NOT BE USED FOR COMPACTION OF BASE MATERIAL WITHIN 15 FEET OF EXISTING PIPELINES.**

2. SHEET C-104 – SITE PLANS WELL #12 AND WELL #8
 - a. ADD and INCORPORATE the following verbiage to the GENERAL NOTES:
 - F. **CONTRACTOR SHALL PROVIDE MINIMUM 10 WORKING DAYS NOTICE TO CITY OF MIDLAND PRIOR TO WORK THAT REQUIRES EXCAVATION OR EXPOSING CITY UTILITY LINES.**
 - G. **CONSTRUCTION TRAFFIC OVER CITY OF MIDLAND PIPELINES SHALL BE LIMITED TO LIGHT TRAFFIC UNLESS PIPELINE PROTECTION IS PROVIDED. CONTRACTOR SHALL PLACE MINIMUM 24 INCHES OF COMPACTED CALICHE BASE MATERIAL OVER PIPELINES CROSSED WITH HEAVY EQUIPMENT (DRILLING RIGS, DUMP TRUCKS, ETC.). FULL DEPTH OF BASE MATERIAL SHALL HAVE A MINIMUM WIDTH OF 6 FEET WIDER THAN EQUIPMENT AND MINIMUM OF 7 FEET BEYOND PIPELINE IN BOTH DIRECTIONS. VIBRATORY EQUIPMENT SHALL NOT BE USED FOR COMPACTION OF BASE MATERIAL WITHIN 15 FEET OF EXISTING PIPELINES.**
3. SHEET C-105 – SITE PLAN WELL #7
 - a. REMOVE and REPLACE Sheet C-105 in its entirety as attached to this Addendum.
4. SHEET E-601 – ELECTRICAL ONE-LINE AND TABLES
 - a. REMOVE and REPLACE Sheet E-601 in its entirety as attached to this Addendum.

VI. CLARIFICATIONS:

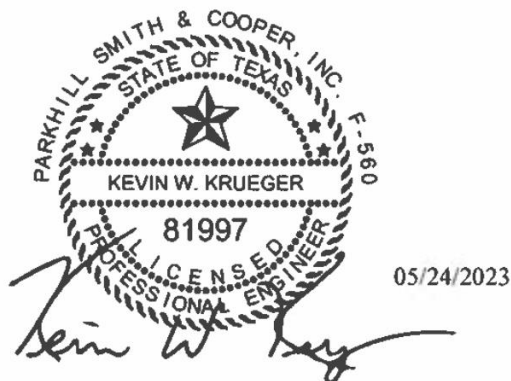
1. A single new RTU is required as shown on project drawings. New rtu to be installed on the wall in the pump station control room.
2. Well-site communication will utilize existing square pole rack extensions approximately 20 foot in height. New radios to be installed at the highest available point on existing square pole rack extension.
3. New flow meters are to be placed at each site. Flow meters to be Endress Hauser promag w500 with ethernet connectivity and 4-20ma signal output or equal.
4. Programming of the existing Scada system and plc(s) is not required by the contractor.
5. Existing Scada platform for the well site(s) is schneider electric/modicon m340 series of plc.
6. Two (2) cambium pmp 450i fixed wireless access point units will be placed atop existing pump station communication tower as shown on project drawings.
7. Each affected well will require one (1) new cambium 450b subscriber client radio as shown on project drawings.
8. PLC programming is not a part of this contract. Owner will perform this work. Contractor to install and align new radio as indicated on project drawings to establish reliable communication. Contractor to configure and commission new flow meters per each well site affected by project.
9. 480vac delta service will be available at each well site. All electrical equipment shall be able to operate on the available service.

10. The existing RTU(s) as indicated within the project documents will be relocated. The existing radio(s) within the existing RTU(s), existing associated antenna(s), and existing associated cabling will be removed. No other item within the existing RTU(s) will be upgraded nor will the existing RTU(s) be replaced. The new well site radio and antenna unit(s) are integrally manufactured and will be installed atop the existing rack's square tubing mast and aimed accordingly. The new well site radio(s) requires POE injection. The radio manufacturer provides POE injectors. The new POE injector will reside in the existing RTU(s). A single new RTU will be produced and installed at the existing pump station as per project documents along with the two sector panel radios mounted atop the existing pump station communication tower and aimed accordingly

VII. CIVCAST QUESTION AND ANSWER:

1. Q: In Section 26 05 33 Part 2.2 (PVC COATED METAL CONDUIT) I respectfully request that Calbond (Atkore International) be added to the specifications. Calbond PVC coated conduit meets and exceeds the current specifications and is now ETL Certified. Any additional back up information can be provided if requested?
A: This section of the specifications allows for items equal or superior to manufacturers listed. If the item satisfies the requirements listed in the specification, it will be reviewed during the submittal process. No prior approval determinations will be made during the bid phase.
2. Q: In Section 26 05 33 Part 2.4 (NONMETALLIC CONDUIT) I'd like to respectfully request adding Atkore International's Allied Tube & Conduit Schedule 40 PVC RNC to the specifications. It is listed to UL 651 as well as NEMA TC-2, and I noticed Allied is already an acceptable manufacturer for the RMC on this project. Additional information may be provided if needed?
A: This section of the specifications allows for items equal or superior to manufacturers listed. If the item satisfies the requirements listed in the specification, it will be reviewed during the submittal process. No prior approval determinations will be made during the bid phase.

END OF ADDENDUM NO. 01



Respectfully submitted,

PARKHILL

By: Kevin W. Krueger

Receipt of this addendum shall be acknowledged by the Bidder, below and on the bid Proposal. This entire addendum, or a copy thereof, shall be attached to the bid Proposal submitted.

ACKNOWLEDGED:

Joshua C. Buse
By: Joshua C. Buse

QUALIFICATIONS STATEMENT

ARTICLE 1—GENERAL INFORMATION

1.01 Provide contact information for the Business:

Legal Name of Business:	Hydro Resources - Mid Continent, Inc.		
Corporate Office			
Name:	Jason Barnum	Phone number:	303-857-7540
Title:	Vice President	Email address:	JBarnum@HydroResources.com
Business address of corporate office:	Hydro Resources Holdings, Inc.		
	One Sugar Creek Center Blvd, Suite 400		
	Sugar Land, TX 77478		
Local Office			
Name:	Wesley J. Box	Phone number:	512-858-4375
Title:	Drilling Services Sales Manager	Email address:	WBox@HydroResources.com
Business address of local office:	Hydro Resources - Mid Continent, Inc.		
	11536 Old Lockhart Road		
	Creedmoor, TX 78610		

1.02 Provide information on the Business's organizational structure:

Form of Business:	☐ Sole Proprietorship ☐ Partnership ☒ Corporation		
☐ Limited Liability Company ☐ Joint Venture comprised of the following companies:			
1.			
2.			
3.			
Provide a separate Qualification Statement for each Joint Venturer.			
Date Business was formed:	01.14.04	State in which Business was formed:	Delaware
Is this Business authorized to operate in the Project location?		☒ Yes ☐ No ☐ Pending	

1.03 Identify all businesses that own Business in whole or in part (25% or greater), or that are wholly or partly (25% or greater) owned by Business:

Name of business:		Affiliation:	
Address:			
Name of business:		Affiliation:	
Address:			

Name of business:		Affiliation:	
Address:			

1.04 Provide information regarding the Business's officers, partners, and limits of authority.

Name:	Alton Cherry	Title:	President, CEO
Authorized to sign contracts:	☒ Yes ☐ No	Limit of Authority:	\$ unlimited
Name:	Jason Barnum	Title:	Vice President
Authorized to sign contracts:	☒ Yes ☐ No	Limit of Authority:	\$ 2,500,000
Name:	Joshua C. Buse	Title:	Vice President, GM
Authorized to sign contracts:	☐ Yes ☐ No	Limit of Authority:	\$500,000*
Name:		Title:	*increased limit allowed with written authority

ARTICLE 2—LICENSING

2.01 Provide information regarding licensure for Business:

Name of License:	James Allen Parker - Water Well Driller		
Licensing Agency:	State of Texas Dept of Licensing and Regulation		
License No:	60461	Expiration Date:	04.29.24
Name of License:			
Licensing Agency:			
License No:		Expiration Date:	

ARTICLE 3—DIVERSE BUSINESS CERTIFICATIONS

3.01 Provide information regarding Business's Diverse Business Certification, if any. Provide evidence of current certification.

Certification	Certifying Agency	Certification Date
☐ State of Texas Comptroller Certified HUB		
☐ Other		
☒ None		

ARTICLE 4—SAFETY

4.01 Provide information regarding Business's safety organization and safety performance.

Name of Business's Safety Officer:	Rick Grinols
Safety Certifications	see attached resume for comprehensive list

EJCDC C-451, Qualifications Statement.

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Certification Name	Issuing Agency	Expiration

- 4.02 Provide Worker's Compensation Insurance Experience Modification Rate (EMR), Total Recordable Frequency Rate (TRFR) for incidents, and Total Number of Recorded Manhours (MH) for the last 3 years and the EMR, TRFR, and MH history for the last 3 years of any proposed Subcontractor(s) that will provide Work valued at 10% or more of the Contract Price. Provide documentation of the EMR history for Business and Subcontractor(s).

Year	2021			2020			2019		
Company	EMR	TRFR	MH	EMR	TRFR	MH	EMR	TRFR	MH
Hydro Resource	.96	5.87	544,713	.91	6.57	456,310	.92	4.55	439,345

ARTICLE 5—FINANCIAL

- 5.01 Provide information regarding the Business's financial stability. Provide the most recent audited financial statement, and if such audited financial statement is not current, also provide the most current financial statement.

Financial Institution:	PNC Financial Services		
Business address:	2200 Post Oak Blvd., 20th Floor Houston, TX 77056		
Date of Business's most recent financial statement:	03.27.23	☒	Attached
Date of Business's most recent audited financial statement:	03.27.23	☒	Attached
Financial indicators from the most recent financial statement			
Contractor's Current Ratio (Current Assets ÷ Current Liabilities)			3.435
Contractor's Quick Ratio ((Cash and Cash Equivalents + Accounts Receivable + Short Term Investments) ÷ Current Liabilities)			1.84

ARTICLE 6—SURETY INFORMATION

- 6.01 Provide information regarding the surety company that will issue required bonds on behalf of the Business, including but not limited to performance and payment bonds.

Surety Name:	Arch Insurance Company		
Surety is a corporation organized and existing under the laws of the state of:	Missouri		
Is surety authorized to provide surety bonds in the Project location?	☒ Yes ☐ No		

Is surety listed in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" published in Department Circular 570 (as amended) by the Bureau of the Fiscal Service, U.S. Department of the Treasury? ☒ Yes ☐ No			
Mailing Address (principal place of business):		Arch Insurance Company	
		210 Hudson Street, Ste 300	
		Jersey City, NJ 07311	
Physical Address (principal place of business):		Arch Insurance Company	
		210 Hudson Street, Ste 300	
		Jersey City, NJ 07311	
Phone (main):	201-201-7969	Phone (claims):	877-688-2724

ARTICLE 7—INSURANCE

- 7.01 Provide information regarding Business's insurance company(s), including but not limited to its Commercial General Liability carrier. Provide information for each provider.

Name of insurance provider, and type of policy (CLE, auto, etc.):			
Insurance Provider	Type of Policy (Coverage Provided)		
Liberty Mutual Fire Insurance Company	Commercial General Liability, Automobile Liability		
Homesite Insurance Company of Florida	Umbrella Liability, Excess Liability		
First Liberty Insurance Corporation	Workers Comp and Employee Liability		
Are providers licensed or authorized to issue policies in the Project location? ☒ Yes ☐ No			
Does provider have an A.M. Best Rating of A-VII or better? ☒ Yes ☐ No			
Mailing Address (principal place of business):	Marsh & McLennan Agency, LLC		
	2500 City West Blvd, Suite 400		
	Houston, TX 77042		
Physical Address (principal place of business):	Marsh & McLennan Agency, LLC		
	2500 City West Blvd, Suite 400		
	Houston, TX 77042		
Phone (main):	713-780-6601	Phone (claims):	

ARTICLE 8—CONSTRUCTION EXPERIENCE

- 8.01 Provide information that will identify the overall size and capacity of the Business.

Average number of current full-time employees:	320
Estimate of revenue for the current year:	\$130,000,000
Estimate of revenue for the previous year:	\$100,000,000

8.02 Provide information regarding the Business's previous contracting experience.

Years of experience with projects like the proposed project: 18 years			
As a general contractor:	18	As a joint venturer:	
Has Business, or a predecessor in interest, or an affiliate identified in Paragraph 1.03:			
Been disqualified as a bidder by any local, state, or federal agency within the last 5 years? ☐ Yes ☒ No			
Been barred from contracting by any local, state, or federal agency within the last 5 years? ☐ Yes ☒ No			
Been released from a bid in the past 5 years? ☐ Yes ☒ No			
Defaulted on a project or failed to complete any contract awarded to it? ☐ Yes ☒ No			
Refused to construct or refused to provide materials defined in the contract documents or in a change order? ☐ Yes ☒ No			
Been a party to any currently pending litigation or mediation? ☐ Yes ☒ No			
Provide full details in a separate attachment if the response to any of these questions is Yes.			

8.03 List all projects currently under contract in Schedule A and provide indicated information.

8.04 List a minimum of three and a maximum of six projects completed in the last 5 years in Schedule B and provide indicated information to demonstrate the Business's experience with projects similar in type and cost of construction.

8.05 In Schedule C, provide information on key individuals whom Business intends to assign to the Project. Provide resumes for those individuals included in Schedule C. Key individuals include the Project Manager, Project Superintendent, Quality Manager, and Safety Manager. Resumes may be provided for Business's key leaders as well.

ARTICLE 9—REQUIRED ATTACHMENTS

9.01 Provide the following information with the Statement of Qualifications:

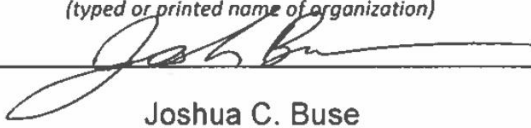
- A. If Business is a Joint Venture, separate Qualifications Statements for each Joint Venturer, as required in Paragraph 1.02.
- B. Diverse Business Certifications if required by Paragraph 3.01.
- C. Certification of Business's safety performance if required by Paragraph 4.02.
- D. Financial statements as required by Paragraph 5.01.
- E. Attachments providing additional information as required by Paragraph 8.02.
- F. Schedule A (Current Projects) as required by Paragraph 8.03.
- G. Schedule B (Previous Experience with Similar Projects) as required by Paragraph 8.04.
- H. Schedule C (Key Individuals) and resumes for the key individuals listed, as required by Paragraph 8.05.
- I. Additional items as pertinent.
- J. Disadvantaged Business Enterprise Fair Share Documentation

EJCDC C-451, Qualifications Statement.

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This Statement of Qualifications is offered by:

Business: Hydro Resources - Mid Continent, Inc.
(typed or printed name of organization)

By: 

Name: Joshua C. Buse
(typed or printed)

Title: Vice President
(typed or printed)

Date: _____
(date signed)

(If Business is a corporation, a partnership, a Limited Liability Company, or a joint venture, attach evidence of authority to sign.)

Attest: 
(individual's signature)

Name: Sterling Perry
(typed or printed)

Title: Operations
(typed or printed)

Address for giving notices: Hydro Resources - Mid Continent, Inc.
11536 Old Lockhart Road
Creedmoor, TX 78610

Designated Representative: Wesley J. Box
(typed or printed)

Title: Drilling Services Sales Manager
(typed or printed)

Address: Hydro Resources - Mid Continent, Inc.
11536 Old Lockhart Road
Creedmoor, TX 78610

Phone: 512-858-4375

Email: WBox@HydroResources.com



May 31, 2023

City of Midland, Texas

c/o Parkhill, Smith & Cooper, Inc.
1700 W. Wall Street
Midland, Texas 79701

**Subject: City of Midland, Texas
Paul Davis Wellfield Development
Martin County, Texas**

To whom it may concern:

Josh Buse, as Vice President and General Manager of Hydro Resources-Mid Continent, Inc., has signature authority for all bidding and contract documents associated with the above subject project.

If you have any questions, please contact me.

HYDRO RESOURCES HOLDINGS, INC.

A handwritten signature in black ink, appearing to read "Alton L. Cherry", written over a vertical line.

Alton L. Cherry

Chief Executive Officer & President



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/29/2022

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 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 Marsh & McLennan Agency LLC 2500 City West Blvd. Suite 2400 Houston TX 77042	CONTACT NAME: Korey Schroeder	
	PHONE (A/C No. Ext): 713-780-6601	FAX (A/C No.):
INSURED Hydro Resources Mid Continent, Inc. One Sugar Creek Center Blvd., Suite 400 Sugar Land TX 77478	E-MAIL ADDRESS: Korey.Schroeder@Marshmma.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Continental Casualty Company	
	INSURER B: Valley Forge Insurance Company	
	INSURER C: Transportation Insurance Company	
	INSURER D: Homesite Insurance Company of Florida	
	INSURER E: Navigators Specialty Insurance Company	
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:** 1142006152**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	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Limited Poll Lia ☒ Contractual Liab GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	Y	Y	7033778264	6/1/2022	6/1/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COM/OP AGG Poll Per Occ/ Agg \$2,000,000 \$100,000 \$15,000 \$1,000,000 \$4,000,000 \$4,000,000 \$1M / \$2M
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☒ MCS-90 ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY ☒ Poll Liab	Y	Y	7033778278	6/1/2022	6/1/2023	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) Broadened for Auto \$2,000,000 \$ \$ \$ \$Included
D E	☐ UMBRELLA LIAB ☒ EXCESS LIAB DED RETENTION \$	Y	Y	CXP00608000 HO22EXCZ08DK9IC	6/1/2022 6/1/2022	6/1/2023 6/1/2023	EACH OCCURRENCE AGGREGATE 2ND Layer Excess Liab \$5,000,000 \$5,000,000 \$5,000,000
C C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y	7033778281 7033778295	6/1/2022 6/1/2022	6/1/2023 6/1/2023	☒ PER STATUTE E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT \$1,000,000 \$1,000,000 \$1,000,000
A	Equipment Owned/ CAT Rented/ Leased Equip Installation Floater		Y	7033860821	6/1/2022	6/1/2023	Maximum/ CAT Limit Per Item/ Per Occ Jobsite/ Cat Limit \$49,160,404 \$500K / \$1M \$500,000

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

Commercial Inland Marine policy #7033860821 includes Leased/ Rented Equipment with a Per Item Limit of \$500,000/ Per Occurrence Limit of \$1,000,000 as shown above

The General Liability, Automobile Liability and Umbrella/ Excess Liability policies include a Blanket Additional Insured endorsement that provides additional insured status only where such status is required by a written and executed contract. The General Liability, Automobile Liability, Workers' Compensation and Umbrella Liability policies include a Blanket Waiver of Subrogation endorsement that provides this status only where such status is required by a written contract and executed contract. The General Liability and Automobile Liability policies include "Primary and Non-contributory" wording for Additional Insureds where there is a written and executed contract that requires such status.
See Attached...

CERTIFICATE HOLDER**CANCELLATION**

Hydro Resources Mid Continent, Inc.
One Sugar Creek Center Blvd., Suite 400
Sugar Land TX 77478

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

Brett Herrington

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ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Marsh & McLennan Agency LLC		NAMED INSURED Hydro Resources Mid Continent, Inc. One Sugar Creek Center Blvd., Suite 400 Sugar Land TX 77478
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Policies as applicable are endorsed with Blanket 30 Day Notice of Cancellation that provides this status only where such status is required by a written and executed contract.

The General Liability policy is endorsement with the Underground Resources and Equipment Coverage Extension with \$1,000,000 Per Occurrence and Annual Aggregate Limit per endorsement #CNA74789XX 0115. The policy is also endorsed to include Additional Coverage Limited Pollution Liability Coverage - Water Well Contractors Endorsement #CNA74848XX 0415 with a \$1,000,000 per Occurrence and \$2,000,000 Aggregate Limit.

The General Liability policy includes Stop Gap Employers Liability for monopolistic states such as ND, OH, WA & WY

The Excess Liability policy is follow form over the scheduled underlying policies coverages, endorsements, terms, conditions and exclusions:

GL #7033778264

AUTO #7033778278

WC #7033778295 and 7033778281

Schedule A—Current Projects

Name of Organization	Hydro Resources - Mid Continent, Inc.				
Project Owner	City of Crawford, TX		Project Name		Well No. 3
General Description of Project		Construction of Public Water Supply Well			
Project Cost	\$1,400,691		Date Project		January 2023
Key Project Personnel	Project Manager		Project Superintendent		Safety Manager
Name	Josh Buse		Mike Buse		Mike Hughes
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner	Brian Bolfing	City Manager	City of Crawford	254-709-3763	
Designer	Armand Hunt	Sr. Project Manager	MRB Group	254-771-2054	Armond.Hunt@MRBGroup.com
Construction Manager					

Project Owner	Town of Lakewood Village, TX		Project Name	Public Supply Well	
General Description of Project	Construction of Public Water Supply Well				
Project Cost	\$1,912,366		Date Project	January 2023	
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager		Quality Control Manager
Name	Josh Buse	Mike Buse	Mike Hughes		James Parker
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner	Mark Vargas	Mayor	Town of Lakewood Village		
Designer	Scott Campbell	Engineer/ Project Manager	Enprotec/Hibbs & Todd	325-698-5560	
Construction Manager					

Project Owner	City of Stephenville, TX		Project Name	536 Wellfield	
General Description of Project		Construction of 5 Public Water Supply Wells			
Project Cost	\$2,732,209		Date Project	October 2022	
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name	Josh Buse	Mike Buse	Mike Hughes	James Parker	
Reference Contact Information (listing names indicates approval to contacting the names individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner	Nick Williams	Dir. of Public Works	City of Stephenville	254-918-1223	
Designer	Kori Thompson	Engineer	Provenance Engineering	817-785-7171	
Construction Manager					

PACKET

7.39

July 25, 2023

Schedule B—Previous Experience with Similar Projects

Name of Organization	Hydro Resources - Mid Continent, Inc.				
Project Owner	Crystal Clear Special Utility District	Project Name	Nelson Well No. 2		
General Description of Project	Production Well				
Project Cost	\$273,777	Date Project	05.2020		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name	Sterling Cherry	Mike Buse	Nick DeCorte	Mike Buse	
Reference Contact Information (listing names indicates approval to contact the named individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner	Regina Franke	Asst General Manager	Crystal Clear SUD	830-372-1031	
Designer	Carissa Parker	Engineer	M&S Engineering	830-228-3224	
Construction Manager					

Project Owner	South West Fannin County Special Utility District		Project Name	Antlers Well No. 11	
General Description of Project	Public Water Supply Well				
Project Cost	\$778,000	Date Project	2020-2021		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contact the named individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner	John Keen		SWFCSUD	903-965-5316	SWFanninSUD@gmail.com
Designer	Eddy Daniel	PE	Daniel & Brown, Inc.	972-784-7777	Eddy@DBIEngineers.com
Construction Manager					

Project Owner	City of Tioga, Texas		Project Name	Well No. 5	
General Description of Project	Public Water Supply				
Project Cost	\$778,776	Date Project	2018		
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contact the named individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner			City of Tioga		
Designer	Kevin Van Hoozier	PE	Hayter Engineering	903-785-0303	KevinVanHoozier@HayterEng.com
Construction Manager					

Schedule B—Previous Experience with Similar Projects

Name of Organization	Hydro Resources - Mid Continent, Inc.				
Project Owner	El Paso Water Utilites		Project Name	6 Well Project	
General Description of Project	(6) Public Supply Wells				
Project Cost	\$2,291,011		Date Project	2021	
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contact the named individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner	Scott Reinert	GM	El Paso Water Utilities	915-594-5579	SReinert@EPWater.org
Designer	Joe Moreno	PE	Brown & Caldwell	915-545-4400	JMoreno@BrwnCald.com
Construction Manager					

Project Owner	Alliance Regional Water Authority		Project Name	Phase 1B Well Construction	
General Description of Project	(4) Public Water Supply Wells				
Project Cost	\$2,597,000		Date Project	2021	
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contact the named individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner			ARWA		
Designer	James Bene	PG	R. W. Harden & Assoc.	512-345-2379	James.Bene@RWHarden.com
Construction Manager					

Project Owner	City of Elmendorf, TX		Project Name		
General Description of Project	Wilcox Public Water Supply Wells				
Project Cost	\$1,380,292		Date Project	2019	
Key Project Personnel	Project Manager	Project Superintendent	Safety Manager	Quality Control Manager	
Name					
Reference Contact Information (listing names indicates approval to contact the named individuals as a reference)					
	Name	Title/Position	Organization	Telephone	Email
Owner			City of Elmendorf		
Designer	Garry Montgomery	PE	Utility Engineering	830-798-3952	GarryM@EugPros.com
Construction Manager	Garry Montgomery	PE	Utility Engineering	830-798-3952	GarryM@EugPros.com

Schedule C—Key Individuals

Project Manager			
Name of individual		Josh Buse	
Years of experience as project manager		12 years	
Years of experience with this organization		2 years	
Number of similar projects as project manager		20+	
Number of similar projects in other positions		100+	
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
City of Stephenville		20%	October 2023
Other Projects		20%	Ongoing
Administrative and Managerial Duties		40%	Ongoing
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	
Project Superintendent			
Name of individual		Mike Buse	
Years of experience as project superintendent		10 years	
Years of experience with this organization		20 years	
Number of similar projects as project superintendent		100+	
Number of similar projects in other positions		100+	
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
City of Stephenville		30%	October 2023
Other Projects		30%	Ongoing
Reporting and Administrative Duties		40%	Ongoing
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	

Safety Manager			
Name of individual		Mike Hughes	
Years of experience as project manager		22 years	
Years of experience with this organization		1 year	
Number of similar projects as project manager		20+	
Number of similar projects in other positions		100+	
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
Training		30%	Ongoing
Job Site Visits		40%	Ongoing
Reporting and Document Submission		30%	Ongoing
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	
Quality Control Manager			
Name of individual		James Parker	
Years of experience as project superintendent		30 years	
Years of experience with this organization		8 years	
Number of similar projects as project superintendent		100+	
Number of similar projects in other positions		100+	
Current Project Assignments			
Name of assignment		Percent of time used for this project	Estimated project completion date
City of Stephenville		30%	October 2023
Other Projects		40%	Ongoing
Reporting and Administrative Duties		30%	Ongoing
Reference Contact Information (listing names indicates approval to contact named individuals as a reference)			
Name		Name	
Title/Position		Title/Position	
Organization		Organization	
Telephone		Telephone	
Email		Email	
Project		Project	
Candidate's role on project		Candidate's role on project	

Richard Grinols

13027 County Road 18, Fort Lupton CO 80621 | (303) 857-7540 | rgrinols@hydroresources.com

Hydro Resources Corporate Safety & Compliance Manager

Training & Qualifications for Position:

- OSHA 501, Outreach Instructor
- OSHA 30, 1910-General industry
- OSHA 10, 1926-Construction
- OSHA underground
- Certified rigger/signalman
- Red Cross, First Aid-CPR AED, certified; current
- MSHA 24hr, surface; current
- SafeLand certified
- DOT, FMCSA training, load securement, HOS and commercial truck inspection
- CONOCO refinery contractor certified; current
- Homeland security clearance; active

Related Training:

- Accident investigation, root cause analysis
- Behavioral Based Safety Training / Instructor
- Forklift / Instructor
- Site Hazard Analysis
- Traffic control; not current
- 40hr HAZWOPER; not current
- H2S
- Ground water, pollution and control
- Fire extinguisher, firefighting; not current

Other Training:

- Aerospace engineering, Airframe & Power plant mechanic, Pilot, Flight Engineer
- FAA (DER) Designated Engineering Representative
- 12 years, military, USAF

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Be it known that

YVETTE PEREYRA

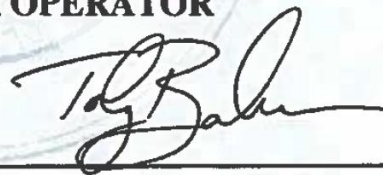
*has fulfilled the requirements in accordance with the
laws of the State of Texas for*

CLASS D WATER OPERATOR

License Number: WO0049379

Issue Date: 01/12/2022

Expiration Date: 01/12/2025



Executive Director

Texas Commission on Environmental Quality

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

YVETTE PEREYRA

**Is hereby licensed as a
WATER OPERATOR**

**Class
D**

**License Number
WO0049379**

**Expires
01/12/2025**


SIGNATURE


EXECUTIVE DIRECTOR



Subcontractor List

Butchs Rath Hole Service-Conductors, Pads, Roads, Demolition
Granite Geophysical Service- Geophysical Logging
Eurofins Midland-Water Sampling
Precision Utilities- Water Utility Tie In
Chief Services- Grouting
Acme Electric- Electrical Services
Esco Environmental- SWPPP, Class D Water Operator
Liberty Fence- Fence Construction

REQUEST FOR BIDS (RFB)

CITY OF MIDLAND PAUL DAVIS WELLFIELD DEVELOPMENT BID PACKAGE

The City of Midland (Owner) is now accepting Bids in order to evaluate pricing and qualifications of a contractor to construct the work identified as Paul Davis Wellfield Development Bid Package Project. Sealed Bids will be received until 2:00 PM, May 31, 2023, Bidders shall deliver sealed Bids to Owner at the following address:

**City of Midland
Office of the City Secretary
300 N. Loraine, 3rd Floor
Midland, Texas 79701**

Bid Documents may be obtained from Engineer by emailing bids@parkhill.com, or from Civcast at www.civcastusa.com. Bidders may examine the Bid Documents at the Engineer's Office, Parkhill, 1700 W. Wall Street, Suite 100, Midland, Texas, 432.697.1447, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. Neither Owner nor Engineer will be responsible for full or partial sets of Bidding Documents, including addenda, if any, obtained from sources other than the Issuing Office.

GENERAL INFORMATION AND OVERVIEW

The purpose of this RFB is to contract with a firm to construct the Paul Davis Wellfield Development, Parkhill Project #01616722. The General Scope of Work to be performed includes but is not limited to:

- Construction of five new municipal public water supply replacement wells per TCEQ Rules; TCEQ quality testing; new electrical and instrumentation controls; new above ground piping; and plug existing wells. Work is located in the City's Paul Davis Wellfield approximately 24 miles north of Midland.

The City of Midland reserves the right to reject any or all Bids or to waive any informalities in the Bids.

BID PROCESS:

1. Requests for Information/Clarification (RFI/C's) shall be submitted to Engineer, in writing and as indicated, no later than 72 hours prior to the RFB submittal deadline. Specific information regarding this RFB must be requested in writing to:

Kevin W. Krueger, PE
Parkhill
1700 West Wall Street, Suite 100
Midland, Texas 79701
Phone: 432.697.1447
Email: kekruieger@parkhill.com

2. Written responses to RFI/C's will be made available to all Respondents no later than 24 hours prior to the RFB Submittal Deadline.
3. Bid packages must be hand delivered, mailed, or shipped by means of a delivery tracking system to confirm delivery time, date, and person signing for delivery.
4. Bids will be opened at time and place indicated in the Advertisement, and unless obviously non-responsive, read aloud publicly. An abstract of amounts of Base Bids and major Alternates, if any, will be made available to Bidders after Bid opening.
5. Owner shall exercise sole discretion as to the schedule and process of evaluating Bids according to the requirements contained herein.

Owner reserves right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner will reject Bid of any Bidder Owner finds, after reasonable inquiry and evaluation, not responsible. If Bidder purports to add terms or conditions to Bid, takes exception to any provision of Bidding Documents, or attempts to alter contents of Contract Documents for purposes of Bid, Owner will reject Bid as nonresponsive; provided Owner also reserves right to waive all minor informalities not involving price, time, or changes in Work.

If Owner awards Contract for Work, award shall be to responsible Bidder submitting lowest, responsive Bid.

EVALUATION OF BIDS

1. In evaluating Bids, Owner will consider if Bids comply with prescribed requirements, and such Alternates, unit prices, and other data, as requested in Bid Form or prior to Notice of Award.
2. For determination of apparent low Bidder(s), when Base Bid with Alternates are submitted, award may be made to Successful Bidder on Base Bid and any combination of additive Alternate Bids for which Owner determines funds will be available at time of award.
3. In evaluating if Bidder is responsible, Owner will consider Bidder qualifications and may consider qualifications and experience of subcontractors and Suppliers proposed for portions of Work. Identity of subcontractors and Suppliers must be submitted as provided in Bidding Documents.
4. Owner may conduct investigations as Owner deems necessary to establish responsibility, qualifications, and financial ability of Bidder and any proposed subcontractor or Supplier.

BID FORMAT & REQUIREMENTS:

1. The RFB shall be the basis for each Bid.
2. Bids shall be addressed to Owner, as indicated, in a sealed package that shall be independent of the mailing/shipping packages. The Bid package shall be clearly marked as "City of Midland, Paul Davis Wellfield Development, Bid Package" on the package label. The package label shall include the name and address of the Respondent's company.
3. Bids shall be submitted in bound documents.
4. Bids sent by facsimile (fax) machine or by email shall be rejected as being non-responsive to the RFB.
5. Bid pricing shall be for the entirety of the Work shown or specified and shall be listed on the Price Bid Sheet of this RFB.
6. All exclusions shall be listed in specific terms, quantities, and values.
7. No Respondent may withdraw its Bid within 60 days after the actual date of the opening thereof.
8. A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time of the RFB submittal deadline. Upon receipt of such notice, the unopened Bid will be returned to the Respondent.
 - a. If a Respondent wishes to modify its Bid prior to the RFB submittal deadline, Respondent must withdraw its initial Bid in the manner specified and submit a new Bid prior to the date and time of the RFB submittal deadline.
 - b. If within 24 hours after Bids are opened any Respondent files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, that Respondent may withdraw its Bid, and the Bid Security will be returned. Thereafter, if the Work is rebid, that Bidder will be disqualified from further bidding on the Work.
9. Respondents shall satisfy themselves of the accuracy of the requirements in the RFB by examination of the sites in addition to the review of the Specifications and Addenda, if any. After Bids have been submitted, the Respondent shall not assert that there was a misunderstanding concerning the quantities of work or the nature of the work to be done. The RFB contains the provisions required for the construction of the Project. Information obtained from an officer, agent, or employee of Owner or any other person shall not affect the risks or obligations assumed by the Respondent or relieve them from fulfilling any of the conditions of the Contract.
10. A certificate of insurance for general and automotive liability, and workers compensation in the amounts of at least \$1,000,000, \$250,000, and Statutory Limits respectively, naming Owner and Engineer as co-insured, shall be provided with the Bid. Bidder shall provide an insurance policy as an installation floater in an amount of no less than the value of the equipment and materials stored or pending start-up. Respondent's insurance company shall be required to give a minimum of 30 days prior notice of policy or coverage cancellation.

11. A PERFORMANCE and PAYMENT BOND, each in the amount of 100 percent of the Contract Price, issued by a corporate surety authorized to conduct business in the State of Texas under Article 7.19-1, Texas Insurance Code, will be required for the faithful performance of the Contract. Attorneys-in-fact who sign PAYMENT BONDS and PERFORMANCE BONDS must file with each bond a certified and effective dated copy of the power of attorney. The party to whom the Contract is awarded will be required to execute the Agreement and obtain the PERFORMANCE AND PAYMENT BONDS within 10 calendar days from the date when the NOTICE OF AWARD is delivered to the Bidder. The NOTICE OF AWARD shall be accompanied by the necessary Agreement, Bond Forms, and Certificate of Insurance. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period.
12. Bids shall include, at a minimum, the following Sections and documentation in response to the RFB:
 - a. Request for Bid Document – A complete copy of the RFB, including Addenda, if any, shall be submitted as a Bid Section, in its entirety, to include the Price Bid Sheet to be completed by the Respondent.
 - b. Pricing, as follows:
 - i. Pricing shall be submitted by item on the attached Price Bid Sheet. Failure to price all listed sites and items shall be considered non-responsive to the RFB.
 - ii. Pricing shall include all Bid development costs, mobilization, labor, material, transportation, equipment, incidentals, appurtenances, demolition, removal, demobilization, overhead, and profit to cover the finished Work specified in this RFB document, achieving a fully functional system.
 - iii. Pricing shall reflect Owner's sales tax exempt status.
 - iv. Pricing shall include all freight and handling costs, F.O.B., Owner's destination.
 - v. Pricing shall include insurance and bonding costs.
 - c. Statement of Qualifications Section shall include the following minimum information:
 - i. Company Profile with listing of principals by percent ownership and their role in the company.
 - ii. Type of Company – corporation, sole proprietorship, etc.
 - iii. Primary field of business interest (water/wastewater, industry, oil & gas, etc.), listed by percent of revenue.
 - iv. Date of incorporation and/or start-up.
 - v. Number of years under the current ownership structure and business name.
 - vi. Number and location of offices and technical support centers.
 - vii. Percentage of this Project, based on cost, that shall be:
 - Self-performed – completed by company personnel = what percent.
 - Sub-contracted – completed by personnel of other companies = what percent.
 - viii. Listing of all sub-contractors proposed to be used, including a complete Statement of Qualifications as required under this Section to be completed by the sub-contractor.
 - ix. Number of employees (not subcontractor employees) dedicated to construction, integration, and technical support.

- x. Brief resume of each person to be assigned to this Project, to include:
 - The individual's technical background as it relates to this Project and related field of interest.
 - The individual's duration with the Bidder's company.
 - The individual's proximity to Owner's facilities as a reasonable response expectation for technical and service support.
 - The individual's company of employment if different from the Respondent.
- xi. Areas of specialization including required licenses and certifications. Include copy of current TCEQ water and wastewater license(s) and Water Well Driller's license(s).
- xii. Area of geographical coverage of related Project and service activities.
- d. Reference Section shall include:
 - i. A listing of previous project references and experience shall be provided by the Bidder, information to include:
 - Name of entity.
 - Project name.
 - Contact person.
 - Phone number.
 - City of office.
 - Year work completed.
 - ii. A list of a minimum of three similar projects that include the complexity and magnitude of Work to be completed in this Project, and that have been completed by the Bidder. The list must include contact names, titles, addresses, email addresses, and telephone numbers for references.
- e. Project Schedule:
 - i. Include with your Bid a detailed Project schedule from the Notice to Proceed for the timetable for completing the construction of the Work.
- f. Bid Bond with required Bid Security.

TERMS AND CONDITIONS:

- 1. Owner hereby notifies all Respondents that:
 - a. The purchase contemplated by this RFB shall be procured in strict compliance with the local, state, and federal laws.
 - b. There is no pre-disposition of award to any particular company at the time of advertisement of this RFB.
 - c. An invitation to any Respondent, verbal or otherwise, does not waive any requirement set forth in this RFB.

- d. In regard to any agreement entered into pursuant to this document, minority business enterprises will be afforded equal opportunities to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, religion, or national origin in consideration for an award.
2. Owner reserves the right to reject any and/or all Bids, to waive any and all technicalities and to accept any Bid, or part thereof, which in the opinion of Owner, is most advantageous to Owner. In case of ambiguity or lack of clarity in stating the prices in the Bid, Owner reserves the right to consider the most advantageous Bid thereof or to reject the Bid.
3. Respondents may modify their Bid by written addendum at any time prior to the scheduled receipt of Bids, provided such communication is received by Owner prior to the closing hour of the Bid due date. The addendum should not reveal the Bid pricing but should provide the addition or subtraction or other modification so that Owner will not know the final pricing or terms until the sealed Bid, and its addendum, are opened.
4. Owner will not provide interpretation of the meaning of Plans, Specifications, or other pre-bid documents to any Bidder orally. Such communication must be in writing in the form of an RFI/C and directed to Engineer as stated herein. Where this RFB is ambiguous or in conflict with on-site conditions, the Respondent shall bring forth questions for clarification, and shall assume all responsibility for a fully functional system prior to submitting Bid. Owner and Engineer shall determine the meaning and requirements of any questionable items.
5. Requests for Information/Clarification (RFI/C's) shall be submitted to Engineer, as previously indicated.
6. Respondents shall assume all responsibility for verifying Engineer's receipt of Requests for Information/Clarification (RFI/C). Where applicable, an addendum or written clarification shall be provided to all Respondents to clarify the meaning of questionable items.
7. Evaluation of Bids will be based on the criteria stated herein. The best Bid submitted by a responsible, responsive, qualified Respondent will be negotiated with Owner. If Bid amounts exceed the available funds to finance the Contract, Owner may reject all Bids or may award the contract on a negotiated Bid with deductible amounts applied as prioritized by Owner to produce a net amount which is within available funds. Owner reserves the right to waive any informalities or technical errors that in its judgment will best serve its interests.
8. At the time of the opening of Bids, each Respondent will be presumed to be thoroughly familiar with the technical requirements, including any addenda, as set forth herein. The failure or omission of any Respondent to examine any site condition, form, instrument, or document shall in no way relieve any Respondent from any obligation with respect to the Bid. It is the Bidder's responsibility to make inquiry as to any addenda issued. All such addenda shall become part of the contract documents and all Bidders shall be bound by such addenda, whether or not received by the Bidders.
9. Owner may make such investigations as deemed necessary to determine the ability of the Respondent to perform the Work, and the Respondent shall furnish to Owner all such information and data for this purpose as Owner may request. Owner reserves the right to reject any Bid if the evidence submitted by, or the investigation of, such Respondent fails to satisfy Owner that such Respondent is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein. Conditional Bids will not be accepted.

10. Respondents must inform themselves fully of the conditions relating to the construction of the Project and the employment of labor therein. Failure to do so will not relieve a successful Respondent of his obligation to furnish all labor and material necessary to carry out the provisions of the Contract. The conduct of required work shall not cause any interruptions of, or interfere with, the work of any other Contractors.
11. The Respondent's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout, and they will be deemed to be included in the Contract as though therein written out in full.
12. The Respondent is specifically advised that any person, firm, or other party to whom it is proposed to award a subcontract under this contract must be identified and shall be acceptable to Owner.
13. With respect to all work performed under this Contract, the Respondent shall meet the following requirements, where Scope of Work is applicable:
 - a. Comply with the safety standards and provisions of applicable laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, and the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596).
 - b. Exercise every precaution at all times for the prevention of accidents and the protection of persons, including employees, and property. Bidder shall conduct weekly safety meetings to insure a safe working environment. Owner shall reserve the right to request documentation of such meetings and safety training practices.
14. **Provision of Texas Ethics Commission Form 1295 ("TEC Form 1295") by Bidders: Effective January 1, 2016, pursuant to Texas Government Code § 2252.908 (the "Interested Party Disclosure Act" or the "Act"), Owner may not award the contract to a Bidder unless the Bidder has provided to Owner a completed, signed, and notarized TEC Form 1295 which has been assigned a certificate number by the Texas Ethics Commission (the "TEC"). Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed, and notarized, and provided to Owner. The TEC Form 1295 may accompany the Bid or may be submitted separately but must be provided to Owner prior to the award of the contract. For purposes of completing the TEC Form 1295, the entity's name is City of Midland; the contract ID number is TBD; and the description of goods and services is Paul Davis Wellfield Development. Neither Owner nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any Bidder with respect to the proper completion of the TEC Form 1295.**

SELECTION OF BIDDER:

Following the review and evaluation of the RFBs, Owner will notify the most qualified Bidder in writing. Contracts for the Project will be issued for execution by all parties. Neither the State of Texas nor any of its departments, agencies, or employees are or will be a party to this Request for Bids or any resulting contract.

A "Notice of Award" will be issued upon approval of the Bidder's Bid by contract. A "Notice-to- Proceed" may be issued by Owner to initiate each Work element of the Project. The selected Bidder shall be prepared to arrive on Site to initiate construction of the proposed improvements upon immediate readiness demanded by the proposed completion date. The selected Bidder shall coordinate its proposed construction schedule with Owner and Engineer prior to mobilization.

PAYMENT:

Upon notice to proceed, the selected Bidder shall submit a schedule of values to Owner for approval as a basis of partial payment requests throughout the Project. The selected Bidder may submit monthly invoices for Work completed and materials purchased during the previous 30-day period based on the schedule of values. Piping material not eligible for materials-on-hand. All invoices shall reflect a five percent retention from the amount of the draw request.

Owner shall remit the net amount of the invoice within 30 days of receipt of the invoice. All retained amounts shall be remitted upon final completion of the project as approved by Owner and release of a Certificate of Completion.

CONDITIONS OF AWARD:

The Bids will be considered and evaluated for award based upon the criteria set forth in this RFB.

The Price Bid Sheet shall be completed with pricing of all items as required under the Scope of Work and Specifications of the RFB and meet the terms thereof. All blank spaces for Bid items must be filled in, in ink or typewritten, and the pricing form must be fully completed and executed when submitted. Owner may waive any informalities, minor defects, or reject any or all Bids. Owner reserves the right to reject any and all Bids, in whole or in part; to waive any informality in any Bid, and to accept the Bid which, in its discretion, is in the best interest of Owner. In case of ambiguity or lack of completeness in stating the prices in any Bid, Owner reserves the right to consider the most advantageous thereof.

**CITY OF MIDLAND
PAUL DAVIS WELLFIELD DEVELOPMENT
BID PACKAGE
PRICE BID SHEET**

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Total Bid Price
General/Site Work					
1.	Mobilization/Demobilization (Max. 5 percent of total Base Bid)	LS	1	\$ 206,000.00	\$ 206,000.00
2.	Demo Existing Well Equipment, Piping, and Fences	EA	5	\$ 8,000.00	\$ 40,000.00
3.	8-Foot Chain Link Security Fence and Two 10-Foot Gates	EA	4	\$ 11,000.00	\$ 44,000.00
4.	Barb Wire Fencing and Renovate and Relocate Existing Gates	EA	4	\$ 9,500.00	\$ 38,000.00
5.	10-Foot Gate (Barb Wire Cattle Fencing)	EA	1	\$ 1,000.00	\$ 1,000.00
6.	Well Pads and Roads	SY	5,700	\$ 55.00	\$ 313,500.00
7.	Temporary Pipeline Crossing	EA	7	\$ 5,800.00	\$ 40,600.00
8.	Soil Preparation/Re-seeding	LS	1	\$ 10,700.00	\$ 10,700.00
9.	Trench Safety (Including Plan)	LF	75	\$ 15.00	\$ 1,125.00
10.	Stormwater Pollution Prevention Plan and Erosion Control	LS	1	\$ 46,100.00	\$ 46,100.00
Public Water Supply Wells					
11.	Drill Equipment Set Up and Slush Pit	EA	5	\$ 85,000.00	\$ 85,000.00
12.	Drill and Install 24-Inch Conductor Casing	LF	75	\$ 1,700.00	\$ 127,500.00
13.	Drill 20-Inch Diameter Well	VF	1,045	\$ 325.00	\$ 339,625.00
14.	Well Casing, 12-3/4-Inch Low Carbon Steel	LF	655	\$ 385.00	\$ 252,175.00
15.	Well Screen, 12-3/4-Inch Stainless Steel	LF	400	\$ 350.00	\$ 140,000.00
16.	Dielectric Couplings	EA	5	\$ 7,500.00	\$ 37,500.00
17.	Draw Down Tube	LF	970	\$ 12.00	\$ 11,640.00
18.	Gravel Feed Tube	LF	550	\$ 25.00	\$ 13,750.00
19.	Gravel Pack	VF	485	\$ 85.00	\$ 41,225.00
20.	Cementing/Grouting	VF	535	\$ 275.00	\$ 147,125.00
21.	Well Disinfection	EA	5	\$ 8,500.00	\$ 42,500.00
22.	Well Head Improvements	EA	5	\$ 23,000.00	\$ 115,000.00
23.	Well Development - Bailing/Pumping	HR	150	\$ 500.00	\$ 75,000.00
24.	36-Hour Pump Test	HR	180	\$ 500.00	\$ 90,000.00
25.	Well Quality Sampling and Testing	EA	5	\$ 9,500.00	\$ 47,500.00
26.	Well Pump (250 GPM, 250 Feet), Column Piping, Wire, and Discharge Head	EA	1	\$ 37,500.00	\$ 37,500.00
27.	Well Pump (350 GPM, 265 Feet), Column Piping, Wire, and Discharge Head	EA	1	\$ 38,500.00	\$ 38,500.00
28.	Well Pump (500 GPM, 260 Feet), Column Piping, Wire, and Discharge Head	EA	1	\$ 43,500.00	\$ 43,500.00
29.	Well Pump (500 GPM, 280 Feet), Column Piping, Wire, and Discharge Head	EA	1	\$ 47,500.00	\$ 47,500.00

30.	Well Pump (500 GPM, 290 Feet), Column Piping, Wire, and Discharge Head	EA	1	\$ 61,500.00	\$ 61,500.00
31.	4-Inch Above-Ground Well Piping and Tie-In	EA	1	\$ 90,000.00	\$ 90,000.00
32.	6-Inch Above-Ground Well Piping and Tie-In	EA	5 4	\$ 98,500.00	\$ 394,000.00
33.	Plug Existing Wells	EA	5	\$ 18,742.00	\$ 93,710.00
Electrical/SCADA					
34.	Electrical and Instrumentation, Including Lighting Protection, 60Amp, 3-Phase, 277/480VAC , Electrical Service for 25HP motors	EA	5	\$ 79,000.00	\$ 395,000.00
35.	SCADA/RTU cabinet, Instrumentation, Ethernet radios, Radio alignment associated cabling, conduit, appurtenances, labor, and installation.	LS	1	\$ 280,000.00	\$ 280,000.00
TOTAL BASE BID:					\$4,127,775.00
ADDITIVE ALTERNATE ITEMS					
A-1	Additive Alternate #1 - Electrical Service Upgrade Adder for 30HP and 40HP Motors: 100Amp, 3-Phase, 277/480VAC	EA	1	\$ 68,000.00	\$ 68,000.00
A-2	Additive Alternate #2 - Electrical Service Upgrade Adder for 50HP and 60HP Motors: 200Amp, 3-Phase, 277/480VAC	EA	2	\$ 71,000.00	\$ 142,000.00
A-3	Additive Alternate #3 - Electrical Service Upgrade Adder for 75HP and 100HP Motors: 200Amp, 3-Phase, 277/480VAC	EA	1	\$ 75,000.00	\$ 75,000.00
TOTAL ADDITIVE ALTERNATE ITEMS:					\$ 285,000.00
TOTAL BASE BID + TOTAL ADDITIVE ALTERNATE ITEMS:					\$ 4,412,775.00
Note: Items 11, 13, 14, 15, 16, 17, and 30 12, 14, 15, 16, 17, 18, 31, and 32 are eligible for payment of materials (see Special Provision Water Utilities).					

TIME OF THE ESSENCE

All time limits for Milestones, if any, Substantial Completion, completion, and readiness for final payment, as stated in Contract Documents, are of the essence of Contract.

CONTRACT TIMES: DAYS

Work substantially completed within **240** days after Contract Times commence to run as provided in General Conditions, completed and ready for final payment per General Conditions, within **60** days after Contract Times commence to run.

LIQUIDATED DAMAGES

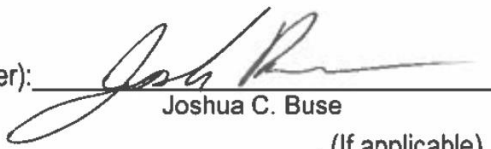
Contractor and Owner recognize time is of the essence as stated in Article 4.01 and Owner will suffer financial and other losses if Work not completed and Milestones not achieved within times specified in Article 4.02, plus any extensions thereof allowed per Contract. Parties also recognize delays, expense, and difficulties involved in proving in a legal or arbitration proceeding, actual loss suffered by Owner if Work not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree as liquidated damages for delay (but not as a penalty):

Substantial Completion: Contractor pays Owner \$500 for each day that expires after time (as duly adjusted pursuant to Contract) specified in Article 4.02.A for Substantial Completion until Work is substantially complete.

Completion of Remaining Work: After Substantial Completion, if Contractor neglects, refuses, or fails to complete remaining Work within Contract Time (as duly adjusted pursuant to Contract) for completion and readiness for final payment, Contractor pays Owner \$250 for each day that expires until Work completed and ready for final payment.

Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and not imposed concurrently.

Bidder agrees that the Work will be Substantially Complete, as provided in the General Conditions, within the lesser of the number of calendar days specified above and completed and ready for final payment in accordance with the General Conditions within 60 calendar days after the date that Substantial Completion is reached.

Respectfully Submitted (Bidder):  SUBMITTED on May 31, 2023.
Joshua C. Buse

State Contractor License No. _____ (If applicable)

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the RFB to perform and furnish all Work as specified or indicated in the RFB for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the RFB.
2. Bidder accepts all of the terms and conditions of the RFB, including without limitation those dealing with the disposition of Bid Security. The Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.
3. In submitting this Bid, Bidder represents, as set forth in the Agreement, that:
 - A. Bidder has examined and carefully studied the Bid Documents, the other related data identified in the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged.

Addendum No.

1

Addendum Date

05.24.23



- B. Bidder is qualified to do business in the state where the Project is located as required by laws, rules, and regulations or, if allowed by statute, covenants to obtain such qualification prior to contract award.
 - C. The Bidder shall provide values for specific performance parameters for the equipment being proposed. The Bidder understands and agrees that the values stated in this Section for the associated performance parameters will be compared to the performance standards required in the equipment specifications. Bidders understand and agree to guarantee the performance values stated herein for the equipment proposed in accordance with the guidelines specified herein.
 - D. Bidder understands and agrees that this Bid shall form the basis for an agreement with Owner. Therefore, the undersigned agrees to enter into an agreement to perform and furnish all Work as specified or indicated in these Specifications for the amount indicated in this Bid and in accordance with the other terms and conditions of these Contract Documents.
 - E. Bidder accepts all of the terms and conditions of these Contract Documents including, without limitation, those dealing with the disposition of Bid Security, required bonds, and the liquidated damages that may be imposed. This Bid shall remain subject to acceptance for a period of 60 days after the day of Bid opening. The Bidder shall sign and submit the Agreement with the bonds and other required documents within 10 days after the receipt of Notice of Award from Owner.
 - F. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bid Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
 - G. The Bid Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.
- 4. Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from proposing; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner.
 - 5. Bidder will complete the Work in accordance with the Contract Documents for the prices proposed in the Price Bid Sheet.
 - 6. Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the Contract Times specified.

7. The following documents are attached to and made a condition of this Bid:
 - A. Non-Collusion Affidavit of Prime Bidder.
 - B. Debarment / Suspension Certification.
8. The Bidder is required to include in this Bid their proposed construction schedule.

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 Contractor 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:

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

The Commercial General Liability shall be on a per project 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.

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 ownway.

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.

SPECIAL PROVISIONS

(WATER UTILITIES)

ATTENTION: All Bidders are directed to pay special attention to the NOTICE TO BIDDERS section of the bid packet. Bidders have sole responsibility for complying with the current Bid process requirements. Bidders also have sole responsibility for verifying that any Bid submitted is completed correctly and includes all of the required documentation, including Addendums.

1. SCOPE OF WORK:

Included in this Project will be the construction of new TCEQ approved municipal public water supply wells and integration of these wells into the existing Paul Davis Wellfield to be performed as outlined in the Plans and Specifications, which are necessary to satisfactorily complete the Work.

The Project will include construction of five new municipal public water supply wells, new electrical controls, new control instrumentation and integration into City's SCADA system, new above-ground piping and plugging of five existing public water supply wells.

Owner reserves the right to abandon, without obligation to Contractor, any part of the Project, or the entire Project, at any time before Contractor begins any construction work authorized by Owner.

Standard Specifications for Construction of the City of Midland will govern all construction, except as modified by these Special Provisions.

2. ORDER OF PRECEDENCE:

The Special Provisions take precedence over the General Conditions in this Bid packet anywhere these two Sections are not in agreement.

The Special Provisions take precedence over the City of Midland Specifications in this Bid packet anywhere these two Sections are not in agreement.

Contractor is to Bid the quantities in the Proposal Section of the Bid packet even if there is a discrepancy between the Proposal quantities and those noted or measured in the Construction Drawing set.

In the Proposal the long-hand dollar amount written in the Description column for each Bid item will take precedence over the numerical dollar amount listed in the Unit Price column if there is a discrepancy between the two.

In the Construction Drawing set any written or noted dimension takes precedence over dimensions measured based on the Drawing scale unless otherwise directed by Engineer.

Any changes or revisions made as part of an Addendum for this Project take precedence over the original Bid packet and Construction Drawing set where the documents are in conflict.

3. EXAMINATION OF SITE:

Prospective Bidders are to make a careful examination of the entire site of the Project and are to make such explorations as may be necessary to determine the subsoil and/or water conditions to be encountered; improvements and obstructions which may be encountered; methods of providing ingress-egress to private as well as public property; methods of handling traffic during construction and maintenance of the entire Project as well as any section thereof, protection of all existing structures both above and below ground; and how the plans fit the proposed Project and especially if any discrepancies exist.

4. PAYMENT:

Payment and retainage (5 percent) shall be per the General Conditions.

Payment will be made for material installed, not for material delivery, for all Proposal Bid Items except those specifically listed below, which will be the only Proposal Bid Items to be paid upon material delivery for this Project:

- Miscellaneous (General) Bid Items: none
- Public Water Supply Wells Items: 11, 13, 14, 15, 16, 17, and 30

Retainage will apply the same to all Bid items and invoices regardless of whether an invoice is for bid items paid upon material delivery or not.

Any and all payments for Bid items that are paid upon material delivery are paid with the expectation that the material will be installed per the Construction Drawings and Specifications, and that the material delivered will be protected and kept in good condition by Contractor until it is installed. Material that is not properly stored or protected and becomes weathered or damaged before installation must be replaced with new material meeting the standards and requirements of the Construction Drawings and Specifications before it can be installed, and this will be done by Contractor at no additional cost to the City of Midland.

5. SAFETY REQUIREMENTS:

It is the responsibility of Contractor to follow and comply at all times with Occupational Safety and Health Administration (OSHA) and all other applicable safety regulations and requirements throughout the course of the Project's work. The City of Midland reserves the right to require additional safety measures on the Project site if they are needed in the opinion of the Engineer for the safety of the work crews or public.

OSHA approved trench protective systems (i.e., safety measures) are required for any and all trench sections on City of Midland projects that exceed a depth of five feet (5.0') regardless of the soil condition or classification at the location of the trench section in question.

6. SAFETY RESTRICTIONS – WORK NEAR HIGH VOLTAGE LINES:

The following procedure will be followed regarding the subject item on this Contract:

1. A warning sign painted yellow with black letters that are legible at 12 feet shall be placed inside and outside vehicles such as cranes, derricks, power shovels, drilling rigs, pile drivers, hoisting equipment, or similar apparatus. The warning sign shall read as follows:

“WARNING – UNLAWFUL TO OPERATE THIS EQUIPMENT WITHIN SIX FEET OF HIGH VOLTAGE LINES”

2. Equipment that may be operated within 10 feet of high voltage lines shall have an insulation cage-type of guard about the boom or arm, except back hoes or dippers, and insulator links on the lift hook connections.
3. When necessary to work within 6 feet of high voltage electric lines, notification shall be given to the power company of who will erect temporary mechanical barriers, de-energize the line, or raise or lower the line. The notifying department shall maintain an accurate log of all such calls to the Power Company and shall record action taken in each case.
4. Contractor is required to make arrangements with the Power Company for the temporary relocation or raising of high voltage lines at Contractor's sole cost and expense.

5. No person shall work within 6 feet of a high voltage line without protection having been taken as outlined in

7. TRAFFIC CONTROL:

All proposed traffic control shall be approved by the City where applicable. All traffic control plans must be submitted to and approved by the Construction Manager no less than two business days prior to starting the construction work. Traffic control for each phase of work must be approved prior to starting that work.

Generic traffic control plans or typical details may be submitted for shoulder work on any class of roadway, or for work on local or collector streets that does not require the closure of any travel lanes (i.e., all lanes are open to traffic on striped roadways, or adequate width remains available for two-way traffic on unstriped roadways). Once a generic traffic control plan or typical detail for a certain type of setup has been approved one time, Contractor shall only be responsible for notifying the Construction Manager of the location, type of setup, and dates on which they intend to utilize the pre-approved traffic control for the duration of the Contract. No additional plan submittals will be required in these cases, except that the City reserves the right to suspend this exception at its discretion. For any work not fitting the above exception, or in the event that the exception is suspended by the City, a site-specific traffic control plan will be required for each work location and time period.

1. All temporary traffic control shall be in general conformance with the *Texas Manual on Uniform Traffic Control Devices* (TMUTCD) (latest edition as adopted by the Texas Department of Transportation), except as specifically directed by the City Engineer or City Traffic Engineer.
 2. All temporary traffic control shall be designed, installed, and maintained by competent and qualified personnel with adequate experience in traffic control.
 3. All temporary traffic control involving multiple lane closures or traffic shifts, full closures of collector or arterial streets, traffic control extending through a railroad crossing, or any setup reasonably determined by the City to be “complex”, shall be implemented only by a contractor with specific experience and expertise in the field of traffic control (i.e., a qualified “barricade company”).
 4. A Traffic Control Plan (TCP) shall be submitted to the Engineering Services Department, Construction Manager, in advance of any work in the right-of-way that impacts traffic. No work shall occur until an approved TCP has been returned to the Contractor.
 5. A copy of the approved TCP shall be kept in the possession of the person responsible for supervising the traffic control at all times while working in the right-of-way. The approved TCP shall be presented to City staff or law enforcement upon demand at any time.
 6. Depending on site conditions and the nature of the work, temporary traffic control may be approved by the City for either of the following:
 - a. All Times – All traffic control, including closures, may remain in place 24 hours per day until expiration of the approved TCP.
 - b. Off-Peak Only – Lane or road closures are NOT permitted from 6:00-9:00 AM and 4:00-7:00 PM on weekdays (Monday through Friday). Other traffic control not related to lane or road closures may remain in place 24 hours per day until expiration of the approved TCP.
 7. Contractor setting the temporary traffic control shall be responsible for the maintenance and upkeep of all signs, barricades, and other devices, at all times.
 - a. All temporary traffic control setups shall be maintained at least one time per day, including weekends and holidays.
 - b. More frequent maintenance shall be performed as needed, with particular emphasis to following up after severe weather events or during times of high winds.
 - c. Maintenance shall include:
 - i. Verifying and correcting the location and orientation of all signs, barricades, and other devices;
 - ii. Keeping signs and reflective areas of barricades and other devices clean and free of dirt buildup so as to maintain appropriate visibility and legibility; and
- PACKET 7-88 Ensuring the proper location, orientation, and operation of arrow boards, if present.

July 25, 2023

8. Arrow boards shall be required for lane closures under the following conditions:

- a. On roadways with a posted speed limit of 55 MPH or greater, for closures lasting more than one hour;
- b. On roadways with a posted speed limit of 45 MPH or greater, for closures lasting more than four hours;
- c. On any roadway if lanes will remain open to traffic travelling in the same direction on both sides of a closed lane during any overnight hours (from 7:00 PM to 6:00 AM); and

At other times as shown on the approved TCP, or as otherwise directed by the City.

8. DETOURS:

Contractor is to prosecute his work in such a manner as to create a minimum of interruption to traffic and pedestrian facilities and to the flow of vehicular and pedestrian traffic within the Project area.

9. PROPERTY AND RIGHT-OF-WAY ACCESS:

Access to adjacent properties must be maintained at all times unless otherwise directed by Engineer. If Contractor will not be working in an area for a period of one week or more, special care is to be taken to address any unsafe conditions such as excavated areas or obstructions outside the worked area that could be tripping hazards, etc.

10. PROPERTY AND RIGHT-OF-WAY SERVICE:

Service to adjacent properties must be maintained at all times unless otherwise directed by Engineer. Such services include water, wastewater, fiber, cable, electric, and gas. Contractor must notify affected properties no less than two business days prior to any planned service interruption.

Contractor must coordinate with the City of Midland regarding any planned service interruptions for public water or wastewater, or to restore any public infrastructure damaged during construction activities.

Contractor must coordinate with private service providers for any necessary service interruptions to their infrastructure or to restore service to their infrastructure in the event that a private service is disrupted, damaged, etc. during construction.

11. CONSTRUCTION SCHEDULE:

It is the responsibility of Contractor to furnish the Construction Engineer, prior to construction, with a schedule outlining the anticipated time each phase of construction will begin and be completed, including sufficient time being allowed for clean-up.

12. CONSTRUCTION STAKING:

It is the responsibility of Contractor to provide the Project construction staking at 50 foot intervals along the entire length of the Project as well as at such control points as Contractor deems necessary for proper execution of the Work. Construction staking is to include grading and cuts as well as horizontal alignments and construction control points. Cut sheets are to be provided to Engineer by Contractor for review and approval.

13. SURVEY:

Contractor is to provide GPS survey shots for all meters replaced to the City of Midland with each completed work order submittal. Survey data is to be shot in Texas Central Zone with 1983 NAD at 1 foot accuracy or better. Survey data is to be provided in Excel csv. file format with all rounding functions turned off.

14. CONSTRUCTION MATERIALS:

Contractor is to only provide new materials for permanent installation in any and all parts of this Project, and all such materials must comply with the General Conditions, the Bid Packet Specifications, and all applicable City of Midland Standards and Specifications.

For this Project, the Standard Specification is hereby amended to read:

Qualifications of Material Sources – Contractor is only to use pavement mixtures that have a proven record of acceptance by the City of Midland, or another Texas municipality, or have a proven record of meeting similar standards for state highway projects.

Concrete is only to be placed when the ambient temperature is between 40 degrees and 95 degrees F and the ambient temperature in the shade is higher than 40 degrees F or is 40 degrees F and rising.

All concrete pavement joints are to be sealed with Texas Department of Transportation (TxDOT) DMS-6310 SL-2 sealant, an American Society for Testing and Materials (ASTM) D 1190 Hot-Applied Single Component Joint Sealant, or a City of Midland approved equal. This will not apply to curb or sidewalk joints.

No construction materials are to be placed or installed during rain events unless they are necessary to resolve an emergency situation or to facilitate the project site erosion control measures.

15. EROSION CONTROL:

Erosion control is the responsibility of Contractor and erosion control measures are to be implemented so as to prevent sediment erosion from wind, rain, and other elements from the Project site. Should Owner feel that supplementary erosion control measures are required in addition to those implemented by Contractor then Contractor will include additional erosion control measures within reason to Owner's satisfaction and/or TCEQ requirements.

Reasonable erosion control measures include but are not limited to construction entrance(s), concrete washout(s), perimeter silt fence or fiber wattle, rock rip-rap dams for concentrated runoff control, gutter and inlet protection measures such as sand bags, and stabilization of the construction area surfaces when construction work is not actively occurring by means of vegetative cover or seeded erosion control blankets.

Supplemental erosion control measures are ancillary to the Project and not paid as a separate item, unless otherwise noted in the Proposal or Pay Notes.

Site cleanup work is to be done for this Project as soon as possible as per the General Conditions and will be ancillary to the Project and not paid as a separate item, unless otherwise noted in the Proposal or Pay Notes. Site cleanup is to take place throughout the Project's construction as needed to maintain a clean and professional looking work area. No more than three calendar days are to elapse after completion of construction before the final roadway and right-of-way cleanup has been completed to the satisfaction of Engineer.

16. WASTE MATERIAL:

Excess material from excavation and other construction or demolition activity will become the property of Contractor. Excess excavation will be disposed of at locations secured by Contractor and if necessary, approved by Engineer. No material is to be placed on private property or City property without the approval of Engineer and property owner. Removal of excess material, excavation, and waste material are ancillary to the Project and not paid as a separate item, unless otherwise noted in the Proposal or Pay Notes.

Excess concrete material must be washed out in a concrete washout within the Project's job site area, or else any and all other concrete material washout must occur away from the job site area in Contractor's or concrete Supplier's own operation yards or properties. Under no circumstances are concrete trucks allowed to washout in any job site excavations, channels, public right-of-way, or on private property.

Existing fire hydrants and existing water meters indicated for removal as part of the Project are to be returned to the City of Midland by the Contractor and remain City property. These are ancillary to the Project and will not be paid as separate items.

17. TESTING:

It is Contractor's responsibility to perform all required testing for any and all materials and workmanship performed or installed as part of the Project's Work. The cost of all such testing is to be borne solely by Contractor unless required by Engineer for work or materials that had previously been tested and approved and had not experienced any change in condition since that time as a result of Contractor's work or actions; or unless additional testing outside of the Project Scope is performed at the request of Engineer.

Required testing includes:

Concrete Pavement – A Slump Test is required for every cylinder set (three test cylinders) taken, and no less than one cylinder set per day is to be taken for testing when concrete is placed. Test results are to be given to the engineer upon completion of each test, with one cylinder set taken for:

- A. Every 50 cubic yards of concrete placed for concrete pavement between street intersections.
- B. Every 50 cubic yards of concrete placed for concrete pavement at a street intersection.
- C. Every 2 sets of fillets and valley gutters at street approaches. (1 set = 2 fillets and 1 valley gutter)
- D. Every 4 alley approaches or driveway approaches.
- E. There will be no testing for curb, ramps, and sidewalks.

Concrete Pavement for Trench Repair – A Slump Test is required only if directed by Engineer for pavement patches that are equal to or greater than 50 cubic yards (roughly equal to an 8-foot-wide by 340-foot-long by 6-inch-thick pavement section). The slump test is to be performed once for every cylinder set (three cylinders) taken, and no less than one cylinder set per day is to be taken for testing when concrete is placed. Test results are to be given to Engineer upon completion of each test. There will be no testing for curb, ramps, and sidewalks.

Asphalt Hot-Mix Pavement – A Nuclear Gauge Density Test is required for either each day that asphalt hot-mix is placed or for every 250 linear feet of asphalt hot-mix pass, whichever results in more frequent testing. The laboratory density limits will be a minimum limit of 96 percent, a maximum limit of 98 percent, and an optimum limit of 97 percent. The acceptable field density range for construction of this Project is 93 percent - 98 percent with a target density of 95 percent. Test results are to be given to Engineer upon completion of each test.

Asphalt Hot-Mix Pavement for Trench Repair – A Nuclear Gauge Density Test is required only if directed by Engineer for pavement patches that are equal to or greater than 620 square yards (roughly equal to an 8-foot-wide by 700-foot-long pavement section). The laboratory density limits will be a minimum limit of 96 percent, a maximum limit of 98 percent, and an optimum limit of 97 percent. The acceptable field density limit will be a minimum limit of 93 percent, a maximum limit of 98 percent, and an optimum limit of 95 percent. Test results are to be given to Engineer upon completion of each test.

Public Water Supply Wells – Pump tests and water quality testing as directed by Technical Specifications.

Water Pipes & Fittings – Perform Pressure Testing and Bacterial Testing (Bac T)/Chlorination testing for all water mains and fire hydrants.

- Pressure Test – Perform test as described in the City of Midland Water Line Specifications, PART 10, Hydrostatic Tests, with the sole difference being that a continuous pressure of 180 pounds per square inch (psi) must be maintained over a continuous period of not less than four hours rather than eight hours. The acceptable field pressure limit will be a minimum 180 psi and a maximum 185 psi. A 2 to 3 psi drop in the measured pipe pressure during the first two hour period will be acceptable to account for the compression of air within the pipe so long as the minimum and maximum allowed field pressure limits are not exceeded. There can be no variation in the measured pipe pressure during the last two hours of the pressure test.

- Bac T/Chlorination Testing – Perform disinfection and test as described in the City of Midland Water Line Specifications, Part 9, Disinfection Of Pipe Lines.

Wastewater Gravity Pipes/Manholes – Perform air testing, mandrel testing, hydrostatic testing, and closed circuit televising (CCTV) for all wastewater mains and manholes.

- Air Test – Perform test as described in the City of Midland Gravity Flow Pipe Sewers and Fittings for Wastewater and Storm Water, Part 3.14, Testing Gravity Mains and Manholes.
- Mandrel Test – A successful mandrel pull is required for all wastewater pipes installed.
- Hydrostatic Testing – Perform test as described in the City of Midland Gravity Flow Pipe Sewers and Fittings for Wastewater and Stormwater Specifications, Part 3.14, Hydrostatic Testing.
- Closed Circuit Televising (CCTV) – Provide CCTV video of the wastewater mains for the full length of the wastewater system installed, including through all wastewater structures. CCTV video is not required for wastewater laterals unless directed by the Engineer.

Force Mains & Fittings (Wastewater & Storm Drain) – Perform pressure testing for all wastewater and storm drain force mains.

- Pressure Test – Perform test as described in the City of Midland Water Line Specifications, PART 10, Hydrostatic Tests, with the sole difference being that a continuous pressure of 180 pounds per square inch (psi) must be maintained over a continuous period of not less than four hours rather than eight hours. The acceptable field pressure limit will be a minimum 180 psi and a maximum 185 psi. A 2 to 3 psi drop in the measured pipe pressure during the first two hour period will be acceptable to account for the compression of air within the pipe so long as the minimum and maximum allowed field pressure limits are not exceeded. There can be no variation in the measured pipe pressure during the last two hours of the pressure test.

Storm Drain Pipes & Structures – Perform as-built survey and closed circuit televising (CCTV) for all storm drain pipes and structures.

- As-Built Survey of Storm Drain Pipes & Culverts – Provide as-built survey shots at 50 foot intervals along the storm drain pipe or culvert at the top of the pipe or culvert installed.
- As-Built Survey of Storm Drain Structures – Provide as-built survey shots at the inverts of all storm drain structures that are installed to verify the storm drain grades, including all manholes, junction boxes, and inlets.
- Closed Circuit Televising (CCTV) – Provide CCTV video of the storm drain for the full length of the storm drain system installed, including through all storm drain structures. CCTV video is not required for storm drain laterals unless directed by Engineer.

18. COMPLIANCE:

The said Contractor further agrees to comply with all applicable provisions of the laws and building and construction codes of the City of Midland and the State of Texas, and with any regulations for the protection of workers which may be promulgated by the Government, and will protect such work with all necessary lights, barriers, safeguards, and warnings as provided for in said Specifications and the Ordinance regulations.

19. PERSONNEL:

It is Contractor's responsibility to have a supervising representative of Contractor on the construction site any time that construction work is taking place. Contractor's representative must be on Contractor's direct payroll. Sub-contractors or paid consultants will not satisfy this requirement.

It is also Contractor's responsibility to provide the City with a reliable contact for issue escalation coordination. Such contacts would include Contractor's site foreman, Contractor's construction Project Manager, etc.

20. INTENT OF THE PROPOSAL:

The intent of the proposal is to determine the lowest responsible bidder based on the total of the quantities and unit prices. Once the lowest responsible bidder is selected, the Project will be awarded based on the terms and requirements of the Contract outlined in the Bid packet and Construction Drawings.

21. CONTRACT DEADLINE:

The deadline for Substantial Completion of this Project is 240 calendar days total starting from the Notice to Proceed date.

Extensions of the Project deadline may be requested by Contractor for documented excepting conditions such as weather days, delays due to conflicts with existing franchise lines, etc. which are reasonably beyond the Contractor's control. Any and all deadline extensions must be submitted by Contractor in writing to Engineer for review, and the approval or denial of the request rests solely with Engineer.

Unless specifically granted in writing by Engineer, there will be no suspension of Project time between phases of construction.

22. WARRANTY PERIOD:

There is a one year calendar warranty period on this Project for all Work performed or materials installed effective immediately upon acceptance of the improvements by Owner. The warranty period will be based on the acceptance date of the Project as a whole, and not any individual phases of the Project.

23. BID PACKET COMPLETION ITEMS OF NOTE:

Bidders must be willing to sign the Contract as is if a Bid is submitted. Revisions, alterations, deletions, additions, or any other changes of any kind by the Bidder to the Bid packet or other Bid documents (such as the Construction Drawing set, Addendums, etc.) will result in the Bid submittal being deemed 'Non-Responsive' and the Bid will not be accepted.

Bidders are reminded to make sure that the Conflict of Interest forms are completed if applicable before submitting a Bid.

All Bid items in the Proposal section must be completed for a Bid submittal to be considered complete. Any Bid item left blank, only partially completed, or that the Bidder indicates they chose to not provide a Bid for will be considered incomplete, and the entire Bid submittal will also be deemed incomplete, the Bid submittal will be deemed 'Non-Responsive', and the Bid will not be accepted. Bidders bear sole responsibility for making sure that the Proposal is complete and in accordance with the instructions provided to Bidders in the Bid packet.

All acknowledgement forms for all Addendums that are issued during the Bid process for this Project must be filled out and be included with any Bid submittal for that Bid submittal to be considered complete. Any Bid submittal lacking these completed Addendum acknowledgement forms will be deemed 'Non-Responsive' and the Bid will not be accepted. Bidders bear sole responsibility for making sure that they have obtained all addendums issued prior to submitting their Bid.

Bidders must provide documentation as part of the Bid packet submittal proving that they possess active licenses that are equivalent to or a higher class than a Water Operator D license and also equivalent to or a higher class than either a Wastewater D license or a Class 1 Collections license, and Contractor must maintain both of these active licenses for the entirety of the Project. Any Bid submittal that does not include this required documentation for both licenses will be rejected as a non-responsive Bid. If a Contractor allows either or both of the required licenses to lapse at any time during the course of the Project, then all Work under this Project will be halted and the City of Midland will have sole discretion to either allow Contractor to renew both of their active licenses before resuming Work or to end the Project immediately.

NON-COLLUSION AFFIDAVIT OF PRIME BIDDER

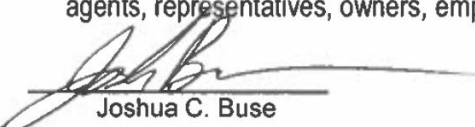
State of _____§

County of _____§

_____ Joshua C. Buse _____, being first duly sworn, deposes and says that:

- (1) He is ^{Vice} President of Hydro Resources - Mid Continent, Inc. the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham Bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix an overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any advantage against the _____ (Local Public Agency) or any person interested in the proposed contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(signed)


Joshua C. Buse

Vice President

Title

Subscribed and sworn to before me

this _____ day of _____, 20____.

My commission expires _____, 20____.

Debarment / Suspension Certification

I, Joshua C. Buse, hereby certify that I have checked on the federal
(Authorized Representative of Recipient)
System for Award Management (www.sam.gov) website and determined that
Hydro Resources - Mid Continent, Inc. is not shown as an "excluded party" that is debarred,
(Name of Entity)
suspended or otherwise excluded from or ineligible for participation in federal assistance
programs under Executive Order 12549. (See 2 CFR Part 180 and 2 CFR Part 1532 for
additional information on the federal governmentwide debarment and suspension system for
nonprocurement programs and activities.)

I understand that a false statement herein may subject me to penalties under federal and state
laws relating to filing false statements and other relevant statutes.


Signature
Joshua C. Buse Vice President
Title

05.31.23
Date

Name of Recipient

Verifying prime contractors and subcontractors for construction, equipment, supplies and services: Using the www.sam.gov website, the recipient must verify prior to awarding the contract that the prime contractor is not listed as an "excluded party" that is debarred, suspended or otherwise excluded from or ineligible. Once any subcontractors are known, they also must be verified as not listed as an "excluded party" prior to award of a subcontract. The recipient must print a dated record of the verification from the www.sam.gov website and retain a copy that is available for review by TWDB. The prime contractors and subcontractors must be verified prior to the contract award or the costs may be disallowed.

BID BOND

THE STATE OF TEXAS §

SURETY NO. N/A - Bid Bond

COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS, THAT Hydro Resources - Mid Continent, Inc.

(hereinafter called the Principal), as Principal, and Arch Insurance Company

(hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Obligee), in the amount of Five Percent of the Greatest Amount Bid-- DOLLARS

(\$ 5% G.A.B.), for the payment whereof the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a Bid or Bid to enter into a certain written Contract with the obligee to
City of Midland, Texas - Paul Davis Wellfield Development Bid Package / City of Midland Project #22002648

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 any time after such Bid is opened and before official rejection to such Bid or, if successful in securing the award thereof, said Principal should fail to enter into the Contract and furnish satisfactory Performance Bond and Payment Bond, the Oblige, in either such events, shall be entitled and is hereby given the right to collect the full amount of this Bid Bond as liquidated damages.

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

IN WITNESS WHEREOF, THE SAID PRINCIPAL AND SURETY do sign and seal this instrument, this

31st day of May, 20 23.

Hydro Resources - Mid Continent, Inc.

Principal

By [Signature]

Address 11536 Old Lockhart Road

Creedmoor, TX 78610

Arch Insurance Company

Surety

By [Signature]

Address Harborside 3, 210 Hudson St., Suite 300

Jersey City, NJ 07311-1107

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

FORMBIDBOND.FRM

PACKET

7.76

REVISÉ: March 30, 2011

July 25, 2023

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Ashley Britt, Barry K. McCord, David T. Miclette, Jennifer Mitchell, Lacey Hitchcock, Nikole Jeannette, Robert C. Davis, Robert M. Overbey, Jr., Stacey Bosley, Stacy Owens and Will Duke of Houston, TX (EACH) Rita G. Gulizo of New Orleans, LA

its true and lawful Attorney(s)-in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed: Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding One Hundred Fifty Million Dollars (\$150,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

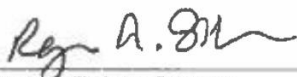
This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on August 31, 2022, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on August 31, 2022:

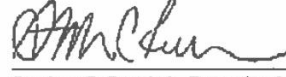
VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on August 31, 2022, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company. In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 24th day of April, 2023.

Attested and Certified


Regan A. Shulman, Secretary

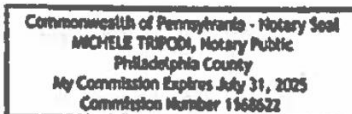


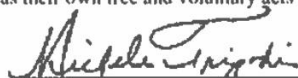
Arch Insurance Company


Stephen C. Ruschak, Executive Vice President

STATE OF PENNSYLVANIA SS
COUNTY OF PHILADELPHIA SS

I, Michele Tripodi, a Notary Public, do hereby certify that Regan A. Shulman and Stephen C. Ruschak personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.

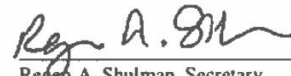



Michele Tripodi, Notary Public
My commission expires 07/31/2025

CERTIFICATION

I, Regan A. Shulman, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated April 24, 2023 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said Stephen C. Ruschak, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 31st day of May, 2023.


Regan A. Shulman, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance - Surety Division
3 Parkway, Suite 1500
Philadelphia, PA 19102



To verify the authenticity of this Power of Attorney, please contact Arch Insurance Company at SuretyAuthentic@archinsurance.com
Please refer to the above named Attorney-in-Fact and the details of the bond to which the power is attached.

PACKET

7.77

July 25, 2023

AICPOA040120

Printed in U.S.A.

IMPORTANT NOTICE TO ALL TEXAS POLICYHOLDERS

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Arch Insurance Group's toll-free telephone number for information or to make a complaint at:

1-866-413-5550

You may also write to Arch Insurance Group at:

**Arch Insurance Group
Harborside 3
210 Hudson Street, Suite 300
Jersey City, NJ 07311-1107**

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

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149091
Austin, TX 78714-9091
Fax: (512) 490-1007
Web: <http://www.tdi.texas.gov>
E-mail: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIM DISPUTES:

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

ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de Arch Insurance Group para informacion o para someter una queja al:

1-866-413-5550

Usted también puede escribir a Arch Insurance Group:

**Arch Insurance Group
Harborside 3
210 Hudson Street, Suite 300
Jersey City, NJ 07311-1107**

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149091
Austin, TX 78714-9091
Fax: (512) 490-1007
Web: <http://www.tdi.texas.gov>
E-mail: ConsumerProtection@tdi.texas.gov

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el Arch Insurance Group primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

CONTRACT DOCUMENTS



THE CITY OF MIDLAND

CONTRACT

Contract No. 23003518

THIS CONTRACT, effective the 26 day of July, 2023, by and between the City of Midland, hereinafter referred to as "CITY", and Hydro Resources-Mid Continent, Inc., hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 4,412,775.00 DOLLARS
2. **Scope of Work:** COMPANY shall perform all work described for Paul Davis Wellfield Development Project. Said work being more particularly described in the following documents, which are attached hereto and incorporated herein for all purposes.

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

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

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

5. **Company:** Unless otherwise stipulated, COMPANY shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel,

transportation and all other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. COMPANY shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

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

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

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

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

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

8. **INDEMNITY: COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR**

PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF COMPANY, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

8.1. COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH COMPANY OR COMPANY'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8.1 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

9. **Start of Work:** COMPANY shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall complete such work no later than 240 calendar days after release to proceed.

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

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

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

12.1. Defective work not remedied; or

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

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

12.4. Damages to another contractor or subcontractor.

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

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

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

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

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

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

16.1. The CITY may make periodic payments to COMPANY; provided, however, such periodic payments may only be made pursuant to this section, and only after all work and all Change Orders are completed by COMPANY and approved by the CITY. The approval shall be in the CITY's sole discretion. Requests for progress payments may be made to the extent of the materials and labor completed at the end of each month. Upon approval by the CITY or the CITY's representative, the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

17. **Late Completion; Liquidated Damages:** It is hereby understood and mutually agreed, by and between COMPANY and the CITY, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed." COMPANY agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between COMPANY and the CITY, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

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

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

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

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

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

17.5. COMPANY AGREES THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES MAY BE RECOVERED BY THE CITY FROM RETAINAGE HELD BY THE CITY. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING FROM THE CITY WITHHOLDING PAYMENT FROM COMPANY AS LIQUIDATED DAMAGES FOR COMPANY'S FAILURE TO COMPLETE THE WORK WITHIN THE TIME SPECIFIED HEREIN, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

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

18. **No Third-Party Beneficiary:** CITY's approval of this contract does not create a third-party beneficiary.
 PACKET 7.86 July 25, 2023

beneficiary. There is no third-party beneficiary to this contract. No person or entity who is not a party to this contract shall have any third-party beneficiary or other rights hereunder.

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

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

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

20. Governmental Immunity: By executing this contract CITY is not waiving its right of governmental immunity. CITY is retaining its immunity from suit. CITY is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

21. Insurance:

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

Commercial General Liability (including Contractual liability):

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

-Property Damage: \$500,000.00 per occurrence

Business Automobile Liability: \$250,000.00 combined single limit -
Personal Injury and Property Damage

Workers' Compensation: Statutory limits

Employers' Liability: \$500,000.00 per accident or occurrence

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

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

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

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

COMPANY shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of

subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured on a claims occurred basis (except workers' compensation).

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

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

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

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

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

25. **Independent Contractor:** COMPANY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of CITY. COMPANY shall have exclusive control of, and the exclusive right to control the details of the services and work to be

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

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

26. Notice of Alleged Breach; Statutory Prerequisites: As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Contract) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which COMPANY shall settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented and the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification within the time and manner provided herein shall exonerate, excuse and except CITY from any liability whatsoever. CITY is under no obligation to provide notice to COMPANY that COMPANY's notice is insufficient. CITY reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. ~~Notwithstanding any other provision to the contrary, COMPANY's failure to comply with the~~ **PACKET 7.90** ~~July 25, 2023~~

requirements of this Section shall perpetually bar COMPANY's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if CITY has actual or constructive notice or knowledge of said claim or alleged damages. COMPANY agrees that the requirements of this entire Contract are reasonable. The provisions and obligations of this Section shall survive the termination of this Contract.

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

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

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

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

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

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

31. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements

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

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

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

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Morris Williams, Jr., Interim 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 _____, 20____ personally appeared, _____, an officer of Hydro Resources-Mid Continent, Inc., known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 20____.

EXHIBIT C

Bonding Requirements

The successful Bidder shall be required to furnish a Performance and Payment Bond* for Bids in excess of \$50,000.00, in an amount equal to 100 percent of the total Contract price, such bond to be executed in five 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 5 percent of the largest possible lump sum Bid submitted, payable without recourse to the City, must accompany the Bidder's Bid, 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 Bids 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 percent 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.

"General Decision Number: TX20230002 01/06/2023

Superseded General Decision Number: TX20220002

State: Texas

Construction Types: Heavy and Highway

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

HEAVY & HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

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

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

Modification Number	Publication Date
0	01/06/2023

SUTX2011-002 08/02/2011

	Rates	Fringes
CEMENT MASON/CONCRETE		
FINISHER (Paving & Structures)...	\$ 13.55	**
ELECTRICIAN.....	\$ 20.96	
FORM BUILDER/FORM SETTER		
Paving & Curb.....	\$ 12.36	**
Structures.....	\$ 13.52	**
LABORER		
Asphalt Raker.....	\$ 12.28	**
Flagger.....	\$ 9.30	**
Laborer, Common.....	\$ 10.30	**
Laborer, Utility.....	\$ 11.80	**
Work Zone Barricade		
Servicer.....	\$ 10.30	**
POWER EQUIPMENT OPERATOR:		
Asphalt Distributer.....	\$ 14.87	**
Asphalt Paving Machine.....	\$ 13.40	**
Broom and Sweeper.....	\$ 11.21	**
Crane, Lattice Boom 80		
Tons or Less.....	\$ 16.82	
Crawler Tractor Operator....	\$ 13.96	**
Excavator, 50,000 lbs or		
less.....	\$ 13.46	**
Front End Loader Operator,		
Over 3 CY.....	\$ 12.77	**
Front End Loader, 3CY or		
less.....	\$ 12.28	**
Loader/Backhoe.....	\$ 14.18	**

Mechanic.....	\$ 20.14	
Milling Machine.....	\$ 15.54	**
Motor Grader, Rough.....	\$ 16.15	**
Motor Grader, Fine.....	\$ 17.49	
Pavement Marking Machine....	\$ 16.42	
Reclaimer/Pulverizer.....	\$ 12.85	**
Roller, Asphalt.....	\$ 10.95	**
Roller, Other.....	\$ 10.36	**
Scraper.....	\$ 10.61	**
Spreader Box.....	\$ 12.60	**

Servicer.....\$ 13.98 **

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

TRUCK DRIVER

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

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

=====

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at

<https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (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 National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal

process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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

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

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

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

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

=====

END OF GENERAL DECISIO"

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

PAYMENT BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND §

SURETY NO _____

KNOW ALL MEN BY THESE PRESENTS, THAT

_____ of the City of

_____ of the County of _____ and State of Texas

as Principal, and _____, as Surety, are held and

firmly bound unto the City of Midland, Texas, as Oblige, in the amount of

_____ DOLLARS

(\$ _____) for the payment whereof the said Principal and Surety bind themselves, their heirs,

administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Oblige, dated the _____

day of _____, 20____, for the furnishing of materials, equipment to perform all labor and work

necessary for _____, hereof as fully and to the

same extent as if copied at length herein.

NOW, THEREFORE, the condition of the obligation is that if the said Principal shall pay all claimants

supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said

contract, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

Surety, for value received, stipulates and agrees that no change, extension of time alteration or addition

to the terms of the contract, or to the work performed there under, or the plans, specifications of drawings

accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders,

shall in anywise affect its obligation on this Bond, and it does waive notice of any such change, extension of

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

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

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: Attach Power of Attorney

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

TABLE OF CONTENTS

	Page
Article 1—Definitions and Terminology.....	1
1.01 Defined Terms.....	1
1.02 Terminology	6
Article 2—Preliminary Matters.....	7
2.01 Delivery of Performance and Payment Bonds; Evidence of Insurance.....	7
2.02 Copies of Documents	7
2.03 Before Starting Construction	7
2.04 Preconstruction Conference; Designation of Authorized Representatives	8
2.05 Acceptance of Schedules	8
2.06 Electronic Transmittals.....	8
Article 3—Contract Documents: Intent, Requirements, Reuse.....	9
3.01 Intent.....	9
3.02 Reference Standards.....	9
3.03 Reporting and Resolving Discrepancies	10
3.04 Requirements of the Contract Documents.....	10
3.05 Reuse of Documents	11
Article 4—Commencement and Progress of the Work	11
4.01 Commencement of Contract Times; Notice to Proceed.....	11
4.02 Starting the Work.....	11
4.03 Reference Points.....	11
4.04 Progress Schedule.....	12
4.05 Delays in Contractor’s Progress	12
Article 5—Site; Subsurface and Physical Conditions; Hazardous Environmental Conditions.....	14
5.01 Availability of Lands	14
5.02 Use of Site and Other Areas.....	14
5.03 Subsurface and Physical Conditions.....	15
5.04 Differing Subsurface or Physical Conditions	17
5.05 Underground Facilities.....	18

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PACKET

July 25, 2023

5.06	Hazardous Environmental Conditions at Site	20
Article 6—Bonds and Insurance.....		23
6.01	Performance, Payment, and Other Bonds.....	23
6.02	Insurance—General Provisions.....	23
6.03	Contractor’s Insurance.....	25
6.04	Builder’s Risk and Other Property Insurance.....	26
6.05	Property Losses; Subrogation	27
6.06	Receipt and Application of Property Insurance Proceeds	28
Article 7—Contractor’s Responsibilities		28
7.01	Contractor’s Means and Methods of Construction	28
7.02	Supervision and Superintendence	29
7.03	Labor; Working Hours	29
7.04	Services, Materials, and Equipment.....	29
7.05	“Or Equals”	30
7.06	Substitutes	31
7.07	Concerning Subcontractors and Suppliers.....	32
7.08	Patent Fees and Royalties.....	33
7.09	Permits.....	34
7.10	Taxes	34
7.11	Laws and Regulations.....	35
7.12	Record Documents.....	35
7.13	Safety and Protection.....	35
7.14	Hazard Communication Programs	36
7.15	Emergencies.....	37
7.16	Submittals	37
7.17	Contractor’s General Warranty and Guarantee	39
7.18	Indemnification.....	40
7.19	Delegation of Professional Design Services	41
Article 8—Other Work at the Site.....		42
8.01	Other Work	42
8.02	Coordination	43
8.03	Legal Relationships.....	43
Article 9—Owner’s Responsibilities.....		44

9.01	Communications to Contractor.....	44
9.02	Replacement of Engineer.....	44
9.03	Furnish Data	44
9.04	Pay When Due.....	44
9.05	Lands and Easements; Reports, Tests, and Drawings.....	44
9.06	Insurance.....	44
9.07	Change Orders	45
9.08	Inspections, Tests, and Approvals.....	45
9.09	Limitations on Owner’s Responsibilities.....	45
9.10	Undisclosed Hazardous Environmental Condition.....	45
9.11	Evidence of Financial Arrangements.....	45
9.12	Safety Programs	45
Article 10—Engineer’s Status During Construction		45
10.01	Owner’s Representative.....	45
10.02	Visits to Site.....	45
10.03	Resident Project Representative.....	46
10.04	Engineer’s Authority	47
10.05	Determinations for Unit Price Work	48
10.06	Decisions on Requirements of Contract Documents and Acceptability of Work	48
10.07	Limitations on Engineer’s Authority and Responsibilities	48
10.08	Compliance with Safety Program.....	48
Article 11—Changes to the Contract		49
11.01	Amending and Supplementing the Contract	49
11.02	Change Orders	49
11.03	Work Change Directives.....	49
11.04	Field Orders.....	50
11.05	Owner-Authorized Changes in the Work.....	50
11.06	Unauthorized Changes in the Work.....	50
11.07	Change of Contract Price	50
11.08	Change of Contract Times.....	52
11.09	Change Bids.....	52
11.10	Notification to Surety.....	53
Article 12—Claims.....		53

12.01	Claims.....	53
Article 13—Cost of the Work; Allowances; Unit Price Work		54
13.01	Cost of the Work	54
13.02	Allowances	58
13.03	Unit Price Work.....	58
Article 14—Tests and Inspections; Correction, Removal, or Acceptance of Defective Work.....		60
14.01	Access to Work.....	60
14.02	Tests, Inspections, and Approvals.....	60
14.03	Defective Work	61
14.04	Acceptance of Defective Work.....	61
14.05	Uncovering Work	61
14.06	Owner May Stop the Work	62
14.07	Owner May Correct Defective Work.....	62
Article 15—Payments to Contractor; Set-Offs; Completion; Correction Period.....		63
15.01	Progress Payments.....	63
15.02	Contractor’s Warranty of Title.....	66
15.03	Substantial Completion.....	66
15.04	Partial Use or Occupancy	67
15.05	Final Inspection	68
15.06	Final Payment.....	68
15.07	Waiver of Claims	69
15.08	Correction Period.....	69
Article 16—Suspension of Work and Termination		70
16.01	Owner May Suspend Work	70
16.02	Owner May Terminate for Cause.....	70
16.03	Owner May Terminate for Convenience.....	72
16.04	Contractor May Stop Work or Terminate.....	72
Article 17—Final Resolution of Disputes		72
17.01	Methods and Procedures.....	72
Article 18—Miscellaneous		73
18.01	Giving Notice.....	73
18.02	Computation of Times.....	73
18.03	Cumulative Remedies	73

18.04	Limitation of Damages	73
18.05	No Waiver	74
18.06	Survival of Obligations	74
18.07	Controlling Law	74
18.08	Assignment of Contract.....	74
18.09	Successors and Assigns	74
18.10	Headings.....	74

Exhibit A – Foreseeable Bad Weather Days

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The Advertisement or invitation to Bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Bid*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*
 - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the

- requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Bid; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.
- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Bid, or seeking resolution of a contractual issue that Engineer has declined to address.
 - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
 - d. A demand for money or services by a third party is not a Claim.
- 11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
 - 12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
 - 13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
 - 14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
 - 15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
 - 16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
 - 17. *Cost of the Work*—See Paragraph 13.01 for definition.
 - 18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
 - 19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
 - 20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
 - 21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the

recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.

22. *Engineer*—The individual or entity named as such in the Agreement.
23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
- a. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - b. The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - c. The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.

33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer’s review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work, and used as the basis for reviewing Contractor’s Applications for Payment.
37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers’ instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Bids, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion of such Work.

43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions. **Supplementary Conditions are established by redline edits to these Standard General Conditions of the Construction Contract and by Section 00 73 14 "Supplementary Conditions."**
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
- Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
 - If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.
 - Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.
47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
48. *Unit Price Work*—Work to be paid for on the basis of unit prices.
49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:* The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:* The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:* The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
1. does not conform to the Contract Documents;
 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.
- C. *Evidence of Owner’s Insurance*: After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work

into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
 - 4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- G. Nothing in the Contract Documents creates:
 - 1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
 - 2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

- A. *Standards Specifications, Codes, Laws and Regulations*
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility

inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs) or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.

- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Bid, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the

established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 - 1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 - 2. Abnormal weather conditions;
 - 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 - 4. Acts of war or terrorism.

5. Weather-Related Delays

- a. If “abnormal weather conditions” as set forth in Paragraph 4.05.C.2 of the General Conditions are the basis for a request for an equitable adjustment in the Contract Times, such request must be documented by data substantiating each of the following: 1) that weather conditions were abnormal for the period of time in which the delay occurred, 2) that such weather conditions could not have been reasonably anticipated, and 3) that such weather conditions had an adverse effect on the Work as scheduled.
 - b. The existence of abnormal weather conditions will be determined on a month-by-month basis in accordance with the following:
 - 1) Every workday on which one or more of the following conditions exist will be considered a “bad weather day”:
 - i) Total precipitation (as rain equivalent) occurring between 7:00 p.m. on the preceding day (regardless of whether such preceding day is a workday) through 7:00 p.m. on the workday in question equals or exceeds 2 inches of precipitation (as rain equivalent, based on the snow/rain conversion indicated in the table entitled Foreseeable Bad Weather Days; such table is hereby incorporated in this SC-4.05.C by reference.
 - ii) Ambient outdoor air temperature at 11:00 a.m. is equal to or less than the following low temperature threshold: 20 degrees Fahrenheit; or, at 3:00 p.m. the ambient outdoor temperature is equal to or greater than the following high temperature threshold: 110 degrees Fahrenheit.
 - 2) Determination of actual bad weather days during performance of the Work will be based on the weather records measured and recorded by National Weather Service weather monitoring station at Midland International Air and SpacePort.
 - 3) Contractor shall anticipate the number of foreseeable bad weather days per month indicated in the table in Exhibit A—Foreseeable Bad Weather Days.
 - 4) In each month, every bad weather day exceeding the number of foreseeable bad weather days established in the table in Exhibit A—Foreseeable Bad Weather Days will be considered as “abnormal weather conditions.” The existence of abnormal weather conditions will not relieve Contractor of the obligation to demonstrate and document that delays caused by abnormal weather are specific to the planned work activities or that such activities thus delayed were on Contractor’s then-current Progress Schedule’s critical path for the Project.
- D. Contractor’s entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor’s entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by

Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.

3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Bid seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
 1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.

Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.

- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.
- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 Availability of Lands

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 Use of Site and Other Areas

- A. *Limitation on Use of Site and Other Areas*

1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
 2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
 3. Technical Data contained in such reports and drawings.
- B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.
- D. *Limitations of Other Data and Documents*: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
 4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
 2. is of such a nature as to require a change in the Drawings or Specifications;
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

- then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.
- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;

- b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
- 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
- 4. Contractor may submit a Change Bid regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Underground Facilities; Hazardous Environmental Conditions*: Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities*: Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
 - 1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - 2. complying with applicable state and local utility damage prevention Laws and Regulations;
 - 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 - 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor*: If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review*: Engineer will:
 - 1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with

reasonable accuracy;

2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary, issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.

During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.

E. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
3. Contractor may submit a Change Bid regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.

D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.

E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose

removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition and impose a set-off against payments to account for the associated costs.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Bid, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold

harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

6.01 Performance, Payment, and Other Bonds

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.
- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.

- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 Insurance—General Provisions

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and “Occupational Accident and Excess Employer’s Indemnity Policies,” are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.
- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party’s full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party’s obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner’s option, may purchase and maintain Owner’s own liability insurance. Owner’s liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner’s liability policies for any of Contractor’s obligations to the

Owner, Engineer, or third parties.

H. Contractor shall require:

1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

6.03 Contractor's Insurance

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
1. include at least the specific coverages required;
 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;

3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
 5. include all necessary endorsements to support the stated requirements.
- C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
 4. not seek contribution from insurance maintained by the additional insured; and
 5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.
- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such

property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.

- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.
 - 2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners,

employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.

1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction

means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site.
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 "Or Equals"

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.
1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an "or equal" item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
 - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) has a proven record of performance and availability of responsive service; and
 - 4) is not objectionable to Owner.
 - b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal," which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request will result in any change in Contract Price. The Engineer's denial of an "or-equal" request will be final and binding and may not be reversed through an appeal under any provision of the Contract.

- E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an “or-equal” item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 Substitutes

- A. *Contractor’s Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use. The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in

Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.

- B. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee*: Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost*: Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Bid.

7.07 Concerning Subcontractors and Suppliers

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.
- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or

otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.

- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Bid for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.
- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 Patent Fees and Royalties

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its

use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.

- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

7.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.
- B. Owner is exempt from payment of sales and compensating use taxes of the State of Texas and of cities and counties thereof on all materials to be incorporated into the Work.
 - 1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 - 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

7.11 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.
- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Bid, or Owner may initiate a Claim.

7.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- E. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection.
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection will resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

A. *Shop Drawing and Sample Requirements*

- 1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
- 2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
- 3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.

1. *Shop Drawings*

- a. Contractor shall submit the number of copies required in the Specifications.

- b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.

2. *Samples*

- a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.
3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Engineer's Review of Shop Drawings and Samples*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.

D. Resubmittal Procedures for Shop Drawings and Samples

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.
2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

E. Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs

1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance and resubmit an acceptable document.
 2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.

7.17 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.

- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:
 - 1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
 - 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 - 1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 - 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
 - 1. Observations by Engineer;
 - 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 - 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 - 4. Use or occupancy of the Work or any part thereof by Owner;
 - 5. Any review and approval of a Shop Drawing or Sample submittal;
 - 6. The issuance of a notice of acceptability by Engineer;
 - 7. The end of the correction period established in Paragraph 15.08;
 - 8. Any inspection, test, or approval by others; or
 - 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers,

architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.

- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 Delegation of Professional Design Services

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:
 - 1. Checking for conformance with the requirements of this Paragraph 7.19;
 - 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and

- 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 Other Work

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.
- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 Coordination

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 Legal Relationships

- A. If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Bid seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
 - 1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 - 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's

other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.

- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On

the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 Resident Project Representative

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.
- C. The Resident Project Representative (RPR) will be Engineer's representative at the Site. RPR's dealings in matters pertaining to the Work in general will be with Engineer and Contractor. RPR's dealings with Subcontractors will only be through or with the full knowledge or approval of Contractor. The RPR will:
 - 1. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.
 - 2. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
 - 3. *Liaison*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for Contractor's proper execution of the Work.
 - 4. *Review of Work; Defective Work*
 - a. Conduct on-Site observations of the Work to assist Engineer in determining, to the extent set forth in Paragraph 10.02, if the Work is in general proceeding in accordance with the Contract Documents.

- b. Observe whether any Work in place appears to be defective.
- c. Observe whether any Work in place should be uncovered for observation, or requires special testing, inspection, or approval.

5. *Inspections and Tests*

- a. Observe Contractor-arranged inspections required by Laws and Regulations, including but not limited to those performed by public or other agencies having jurisdiction over the Work.
- b. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work.

6. *Payment Requests: Review Applications for Payment with Contractor.*

7. *Completion*

- a. Participate in Engineer's visits regarding Substantial Completion.
- b. Assist in the preparation of a punch list of items to be completed or corrected.
- c. Participate in Engineer's visit to the Site in the company of Owner and Contractor regarding completion of the Work and prepare a final punch list of items to be completed or corrected by Contractor.
- d. Observe whether items on the final punch list have been completed or corrected.

D. The RPR will not:

- 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
- 2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.
- 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
- 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences, or procedures of construction.
- 5 Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
- 6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
- 7. Authorize Owner to occupy the Project in whole or in part.

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications, and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.

E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 Determinations for Unit Price Work

A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.06 Decisions on Requirements of Contract Documents and Acceptability of Work

A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Bids, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.07 Limitations on Engineer's Authority and Responsibilities

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.

10.08 Compliance with Safety Program

A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (1) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and
 - 4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Bids; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.

- B. If Owner has issued a Work Change Directive and:
 - 1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Bid seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
 - 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 Field Orders

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Bid as provided herein.

11.05 Owner-Authorized Changes in the Work

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.
- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 Unauthorized Changes in the Work

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 Change of Contract Price

- A. The Contract Price may only be changed by a Change Order. Any Change Bid for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.

- B. An adjustment in the Contract Price will be determined as follows:
1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit will be determined as follows:
1. A mutually acceptable fixed fee; or
 2. If a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;
 - b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent;
 - c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
 - d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
 - f. When both additions and credits are involved in any one change or Change Bid, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to

each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 Change of Contract Times

- A. The Contract Times may only be changed by a Change Order. Any Change Bid for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

11.09 Change Bids

- A. *Purpose and Content:* Contractor shall submit a Change Bid to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Bid will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Bid will address only one issue, or a set of closely related issues.

B. Change Bid Procedures

- 1. *Submittal:* Contractor shall submit each Change Bid to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
- 2. *Supporting Data:* The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Bid.
 - a. Change Bids based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change Bids related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

- 3. *Engineer's Initial Review:* Engineer will advise Owner regarding the Change Bid and consider any comments or response from Owner regarding the Change Bid. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Bid, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Bid.
- 4. *Engineer's Full Review and Action on the Change Bid:* Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Bid and, within 30 days after such receipt of the Contractor's supporting data, either approve the Change Bid in whole, deny it in

whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Bid within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Bid is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

5. *Binding Decision*: Engineer's decision is final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- C. *Resolution of Certain Change Bids*: If the Change Bid does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Bid. For purposes of further resolution of such a Change Bid, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion*: Contractor shall not submit any Change Bids after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 Notification to Surety

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12—CLAIMS

12.01 Claims

- A. *Claims Process*: The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Bids;
 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim*: The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Bids within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the

supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

- C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.

D. *Mediation*

1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.

- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.

- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 Cost of the Work

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:

1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order, Change Bid, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive Bids from subcontractors acceptable to Owner and Contractor and shall deliver such Bids to Owner, which will then determine, with the advice of Engineer, which Bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
 5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

- b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.
- c. *Construction Equipment Rental*
 - 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - 2) The equipment rental rate book that governs the included costs for the rental of machinery and equipment owned by Contractor (or a related entity) under the Cost of the Work provisions of this Contract is the most current edition of the Rental Rate Blue Book for Construction Equipment.
 - 3) With respect to Work that is the result of a Change Order, Change Bid, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with

Paragraph 6.04), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
- 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 6. Expenses incurred in preparing and advancing Claims.
- 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee*

- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.

- b. for any Work covered by a Change Order, Change Bid, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
 - 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Bid, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.
- E. *Documentation and Audit*: Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance*: Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.

- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. Adjustments in Unit Price

- 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the extended price of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and
 - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
- 2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
- 3. Adjusted unit prices will apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

14.01 Access to Work

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 Tests, Inspections, and Approvals

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by

Engineer, uncover such Work for observation. Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Bid within 30 days of the determination that the Work is not defective.

14.06 Owner May Stop the Work

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 Owner May Correct Defective Work

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses, and damages will include

but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 Progress Payments

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments for Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

B. *Applications for Payments*

1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
2. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
4. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

C. *Review of Applications*

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information, and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;

- b. the Contract Price has been reduced by Change Orders;
- c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
- d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. Payment Becomes Due

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. Reductions in Payment by Owner

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or

- I. Other items entitle Owner to a set-off against the amount recommended.
 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Bid contesting the reduction.
 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.
- F. For contracts in which the Contract Price is based on the Cost of Work, if Owner determines that progress payments made to date substantially exceed the actual progress of the Work (as measured by reference to the Schedule of Values), or present a potential conflict with the Guaranteed Maximum Price, then Owner may require that Contractor prepare and submit a plan for the remaining anticipated Applications for Payment that will bring payments and progress into closer alignment and take into account the Guaranteed Maximum Price (if any), through reductions in billings, increases in retainage, or other equitable measures. Owner will review the plan, discuss any necessary modifications, and implement the plan as modified for all remaining Applications for Payment.

15.02 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner.

15.03 Substantial Completion

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify

Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.

- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion, the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 Partial Use or Occupancy

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
 - 2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*

1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Bids and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10

days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Notice of Acceptability:* In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
- D. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
- E. *Final Payment Becomes Due:* Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 Waiver of Claims

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

15.08 Correction Period

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;
 - 3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and

4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times directly attributable to any such suspension. Any Change Bid seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:

1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) 10 days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost Bid.
- B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Bid for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
 - 2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.

- B. *Final Resolution of Disputes*: For any dispute subject to resolution under this article, Owner or Contractor may:
1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions;
 2. agree with the other party to submit the dispute to another dispute resolution process; or
 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18—MISCELLANEOUS

18.01 Giving Notice

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
1. in person, by a commercial courier service or otherwise, to the recipient's place of business;
 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 Computation of Times

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 Cumulative Remedies

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 Limitation of Damages

- A. With respect to any and all Change Bids, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 No Waiver

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 Survival of Obligations

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 Controlling Law

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 Successors and Assigns

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 Headings

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

EXHIBIT A— FORESEEABLE BAD WEATHER DAYS

Month	Number of Foreseeable Bad Weather Days in Month Based on Precipitation as Rain Equivalent (inches) (1)	Ambient Outdoor Air Temperature (degrees F)	
		Number of Foreseeable Bad Weather Days in Month Based on Low Temperature (at 11:00 a.m.)	Number of Foreseeable Bad Weather Days in Month Based on High Temperature (at 3:00 p.m.)
January	0	4	0
February	0	2	0
March	1	1	0
April	1	0	0
May	1	0	0
June	1	0	0
July	0	0	0
August	0	0	0
September	1	0	0
October	1	0	0
November	0	1	0
December	0	3	0
Notes:			
1. Two inches of sleet equal one inch of rain. Five inches of wet, heavy snow equal one inch of rain. Fifteen inches of “dry” powder snow equals one inch of rain.			

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).

☐

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Date July 25, 2023

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 Bids 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:

Regina Stephenson
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: _____

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July 25, 2023

**SECTION 00 73 14 - SUPPLEMENTARY CONDITIONS OF
THE CONSTRUCTION CONTRACT**

TABLE OF CONTENTS

	Page
ARTICLE 1— DEFINITIONS AND TERMINOLOGY.....	1
ARTICLE 2— PRELIMINARY MATTERS.....	1
ARTICLE 5— SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS	1
ARTICLE 6— BONDS AND INSURANCE	2
ARTICLE 7— CONTRACTOR’S RESPONSIBILITIES	7
ARTICLE 8— OTHER WORK AT THE SITE.....	8
ARTICLE 9— OWNER’S RESPONSIBILITIES.....	8
ARTICLE 10— ENGINEER’S STATUS DURING CONSTRUCTION	8
ARTICLE 13— COST OF WORK; ALLOWANCES, UNIT PRICE WORK	8
ARTICLE 15— PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD	9
EXHIBIT A— GEOTECHNICAL BASELINE REPORT SUPPLEMENT TO THE SUPPLEMENTARY CONDITIONS.....	9
1.01 DEFINITIONS.....	9
5.03 SUBSURFACE AND PHYSICAL CONDITIONS.....	9
5.03 SUBSURFACE AND PHYSICAL CONDITIONS.....	9
5.04 DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS.....	9
5.04 DIFFERING SUBSURFACE OR PHYSICAL CONDITIONS.....	9

SECTION 00 73 14 - SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

These Supplementary Conditions amend or supplement Section 00 72 00 “Standard General Conditions of the Construction Contract (EJCDC® C-700)(2018).” The General Conditions remain in full force and effect except as amended.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix “SC” added—for example, “Paragraph SC-4.05.”

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

No suggested Supplementary Conditions in this Article.

ARTICLE 5—SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS

5.03 *Subsurface and Physical Conditions*

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.D:

- E. The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely:

Report Title	Date of Report	Technical Data
Borehole near W-12	June 7, 2022	Drill Log and Sieve Analysis

- F. The following table lists the Drawings of existing physical conditions at or adjacent to the Site, including those Drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data, and specifically identifies the Technical Data upon which Contractor may rely:

Drawings Title	Date of Drawings	Technical Data
None		

- G. Contractor may examine copies of Reports and Drawings identified in SC-5.03.E and SC-5.03.F that were not included with the Bidding Documents. Coordinate with Owner to examine documents, or request copies from Engineer.

5.06 *Hazardous Environmental Conditions*

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.A.3:

4. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may rely:

Report Title	Date of Report	Technical Data
None		

5. The following table lists the Drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may rely:

Drawings Title	Date of Drawings	Technical Data
None		

ARTICLE 6—BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.A:

1. *Required Performance Bond Form:* The Performance Bond that Contractor furnishes will be in the form of the provided “Performance Bond” found on page 73 of this manual.
2. *Required Payment Bond Form:* The Payment Bond that Contractor furnishes will be in the form of the provided “Payment Bond” found on page 75 of this manual.

6.03 *Contractor’s Insurance*

SC-6.03 Supplement Paragraph 6.03 with the following provisions after Paragraph 6.03.C:

- D. *Other Additional Insureds:* As a supplement to the provisions of Paragraph 6.03.C of the General Conditions, the commercial general liability, automobile liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies must include as additional insureds (in addition to Owner and Engineer) the following: City of Midland and Parkhill.
- E. *Workers’ Compensation and Employer’s Liability:* Contractor shall purchase and maintain workers’ compensation and employer’s liability insurance.

Workers’ Compensation Insurance Coverage

A. Definitions:

1. Certificate of Coverage (“certificate”) - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the division, or a coverage agreement (For work in Texas DWC Form-81, DWC Form-82, DWC Form-83, or DWC Form - 84), showing statutory workers’

compensation insurance coverage for the person's or entity's employees providing services on a Project, for the duration of the Project.

2. Duration of Project - includes the time from the beginning of the Work on the Project until Contractor's/person's work on the Project has been completed and accepted by the governmental entity.
 3. Persons Providing Services on Project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services Contractor has undertaken to perform on the Project, regardless of whether that person contracted directly with Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, Owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the Project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- B. Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, meeting statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of Contractor providing services on project, for duration of Project.
- C. Contractor must provide a certificate of coverage to governmental entity before Awarded Contract.
- D. If coverage period shown on Contractor's current certificate of coverage ends during duration of Project, Contractor must, prior to end of coverage period, file a new certificate of coverage with governmental entity showing coverage is extended.
- E. Contractor shall obtain from each person providing services on Project and provide to governmental entity.
- (1) a certificate of coverage, prior to persons beginning Work on Project, so governmental entity will have certificates of coverage covering all persons providing services on Project; and
- (2) no later than 7 days after receipt by Contractor, new certificate of coverage showing extension of coverage, if coverage period shown on current certificate of coverage ends during duration of Project.
- F. Contractor retains all required certificates of coverage for duration of Project and for one year thereafter.

- G. Contractor shall notify governmental entity in writing, by certified mail or personal delivery, within 10 days after Contractor knew or should have known, of any change that materially affects provision of coverage of any person providing services on Project.
- H. Contractor shall post on each project site a notice, in the text, form and manner prescribed by Texas Department of Insurance, Division of Workers' Compensation, informing all persons providing services on Project they are required to be covered and stating how persons may verify coverage and report lack of coverage.
- I. Contractor shall contractually require each person with whom it contracts to provide services on Project, to:
- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, meeting statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees' providing services on Project, for duration of Project;
 - (2) provide Contractor, prior to persons beginning Work on Project, a certificate of coverage showing coverage provided for all employees of persons providing services on Project, for duration of Project;
 - (3) provide Contractor, prior to end of coverage period, a new certificate of coverage showing extension of coverage, if coverage period shown on current certificate of coverage ends during duration of Project;
 - (4) obtain from each person with whom contracted, and provide to Contractor:
 - (a) a certificate of coverage, prior to persons beginning Work on Project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to end of coverage period, if coverage period shown on current certificate of coverage ends during duration of Project;
 - (5) retain all required certificates of coverage for duration of Project and for one year thereafter;
 - (6) notify governmental entity in writing, by certified mail or personal delivery, within 10 days after person knew or should have known, of any change that materially affects provision of coverage of any person providing services on Project; and
 - (7) contractually require each person contracted, to perform as required by paragraphs (1) - (7), with certificates of coverage to be provided to person for whom they are providing services.

- J. By signing this Contract or providing or causing to be provided a certificate of coverage, Contractor is representing to governmental entity all employees of Contractor who will provide services on Project will be covered by workers' compensation coverage for duration of Project, that coverage will be based on proper reporting of classification codes and payroll amounts, and all coverage agreements will be filed with appropriate insurance carrier or, in the case of a self-insured, with the division. Providing false or misleading information may subject Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- K. Contractor's failure to comply with any of these provisions is a breach of Contract by Contractor which entitles governmental entity to declare contract void if Contractor does not remedy breach within 10 days after receipt of notice of breach from governmental entity.

Workers' Compensation and Employer's Liability	Policy limits of not less than:
Workers' Compensation	
Texas	Statutory
Employer's Liability	
Each accident	\$ 500,000
Each employee	\$
Policy limit	\$

- F. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against claims for:
- damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees,
 - damages insured by reasonably available personal injury liability coverage, and
 - damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- G. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy must be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include the following coverages and endorsements:
- Products and completed operations coverage.
 - Such insurance must be maintained for 3 years after Final Payment.
 - Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and 3 years thereafter.
 - Blanket contractual liability coverage, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 - Severability of interests and no insured-versus-insured or cross-liability exclusions.
 - Underground, explosion, and collapse coverage.
 - Personal injury coverage.

6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
 7. For design professional additional insureds, ISO Endorsement CG 20 32 07 04 “Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured” or its equivalent.
- H. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:
1. Any modification of the standard definition of “insured contract” (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
 2. Any exclusion for water intrusion or water damage.
 3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
 4. Any exclusion of coverage relating to earth subsidence or movement.
 5. Any exclusion for the insured’s vicarious liability, strict liability, or statutory liability (other than worker’s compensation).
 6. Any limitation or exclusion based on the nature of Contractor’s work.
 7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.
- I. *Commercial General Liability—Minimum Policy Limits*

Commercial General Liability	Policy limits of not less than:
Each Occurrence (bodily injury and property damage)	\$1,000,000
Personal and Advertising Injury	\$
General Aggregate	\$
Products—Completed Operations Aggregate	\$

- J. *Automobile Liability*: Contractor shall purchase and maintain automobile liability insurance for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy must be written on an occurrence basis.

Automobile Liability	Policy limits of not less than:
Bodily Injury	
Each Person	\$ 250,000
Each Accident	\$
Property Damage	
Each Accident	\$
or	
Combined Single Limit	\$ 250,000

- K. *Umbrella or Excess Liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the Paragraphs above. The coverage afforded must be at least as broad as that of each and every one of the underlying policies.

Excess or Umbrella Liability	Policy limits of not less than:
Each Occurrence	\$
General Aggregate	\$

6.04 *Builder's Risk and Other Property Insurance*

SC-6.04 Delete Paragraph 6.04.A and insert the following in its place:

- A. Owner shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance is set forth in the Supplementary Conditions.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.03 *Labor; Working Hours*

SC-7.03 Amend the first and second sentences of Paragraph 7.03.C to state "...all Work at the Site must be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday or any legal holiday."

SC-7.03 Add the following new paragraph immediately after Paragraph 7.03.C:

- D. Contractor shall be responsible for the cost of any overtime pay or other expense incurred by Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

SC-7.03 Add the following new subparagraph immediately after Paragraph SC-7.03.D:

1. For purposes of administering the foregoing requirement, additional overtime costs are defined as any hours worked outside of Monday through Friday, 8:00 a.m. through 5:00 p.m. each day, requiring inspection services. Construction activities requiring inspection services shall be at the sole discretion of Owner.

7.10 *Taxes*

SC-7.10 Add a new paragraph immediately after Paragraph 7.10.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of Texas and of cities and counties thereof on all materials to be incorporated into the Work.
 1. Owner will furnish the required certificates of tax exemption to Contractor for use in the purchase of supplies and materials to be incorporated into the Work.
 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.13 *Owner's Site Representative*

SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

9.13 *Owner's Site Representative*

- A. Owner will furnish an "Owner's Site Representative" to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. Owner's Site Representative is not Engineer's consultant, agent, or employee. Owner's Site Representative will be determined and named by Owner. Responsibilities of Owner's Site Representative are provided in Specifications.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.03 *Resident Project Representative*

SC-10.03 Delete Paragraph 10.03.A in its entirety, and insert the following:

1. On this Project, by agreement with Owner, Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work.

ARTICLE 13—COST OF WORK; ALLOWANCES, UNIT PRICE WORK

13.03 *Unit Price Work*

SC-13.03 Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. *Adjustments in Unit Price*
 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:

- a. the extended price of a particular item of Unit Price Work amounts to **5** percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than **25** percent from the estimated quantity of such item indicated in the Agreement; and
 - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD

15.01 Progress Payments

SC-15.01.D Delete Paragraph 15.01.D.1 in its entirety and insert the following in its place:

1. **Thirty** days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

15.03 Substantial Completion

SC-15.03 Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under this Article 15.

SC 15.06.E Delete Paragraph 15.06.E in its entirety and insert the following in its place:

- E. Final Payment Becomes Due: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within **30** days of Owner's receipt of the final Application for Payment from Engineer.

DIVISION 01
GENERAL REQUIREMENTS

SECTION 01 10 00 - SUMMARY

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Project information.
 - 2. Contract description.
 - 3. Work by Owner or others.
 - 4. Owner-furnished products.
 - 5. Contractor's use of Site and premises.
 - 6. Future work.
 - 7. Work sequence.
 - 8. Owner's product purchase contracts.
 - 9. Work restrictions.
 - 10. Owner occupancy.
 - 11. Permits.
 - 12. Specification conventions.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 01 20 00 "Price and Payment Procedures."
 - 3. Section 01 32 16 "Construction Progress Schedule" for digital Project management procedures and web-based Project management software package.
 - 4. Section 01 50 00 "Temporary Facilities and Controls" for limitations and procedures governing temporary use of Owner's facilities.
 - 5. Section 01 70 00 "Execution and Closeout Requirements" for coordination of Owner-installed products.

1.2 PROJECT INFORMATION

- A. Name: Paul Davis Wellfield Development - Replacement PWS Wells 7, 8, 12, 15, and 16.
 - 1. Project Location: Midland, Texas.
- B. Owner: City of Midland.
 - 1. Owner's Representative: Carl Craigo, PE.
- C. Project Engineer: Parkhill.
 - 1. Engineer's Representative: Kevin W. Krueger, PE.
- D. Construction Manager: City of Midland.
 - 1. Construction Manager Representative: TBD.
 - 2. Construction Manager as advisor (CMa): Construction Manager has been engaged for this Project to serve as an advisor to Owner and to provide assistance in administering the Contract for construction between Owner and Contractor, according to a separate contract between Owner and Construction Manager.
- E. Project Mechanical/Electrical Coordinator for Multiple Contracts:
 - 1. Parkhill has been engaged by Owner to serve as Project coordinator.
- F. Web-Based Project Software: Project software will be used for purposes of managing communication and documents during the construction stage.
 - 1. See Section 01 32 16 "Construction Progress Schedule" for requirements for using web-based Project software.

1.3 CONTRACT DESCRIPTION

- A. Work of the Project includes construction of five new municipal water supply wells and associated appurtenances within the City of Midland's Paul Davis Wellfield. New wells will replace existing wells: PD-7, PD-8, PD-12, PD-15, and PD-16. Existing wells will be plugged in accordance with TDLR and local requirements.
- B. Perform Work of Contract under separate Contract with Owner according to Conditions of Contract.

1.4 CONTRACTOR'S USE OF SITE AND PREMISES

- A. Limits on Use of Site: Limit use of Project Site to areas within the Contract limits indicated. Do not disturb portions of Project Site beyond areas in which the Work is indicated.
- B. Limits on Use of Site: Confine construction operations to areas designated in Drawings.
 - 1. Limit use of Site and premises to allow:
 - a. Work by Owner.
 - b. Work by Others.
 - 2. Entrances: Keep driveways and entrances serving premises clear and available to Owner, Owner's employees, and emergency vehicles at all times. Do not use these areas for parking or for storage of materials.
 - a. Schedule deliveries to minimize use of driveways and entrances by construction operations.
 - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on Site.
- C. Construction Operations: Limited to areas indicated on Drawings.

1.5 WORK SEQUENCE

- A. Construct Work in phases during construction period. Coordinate construction schedule and operations with Engineer:
 - 1. Phase 1: Demolition of Existing Equipment and Existing Well Plugging.
 - 2. Phase 2: Construct New Wells.
- B. Sequencing of Construction Plan: Before start of construction, submit electronic copies of construction plan schedule regarding phasing of demolition, and new Work for acceptance by Owner. After acceptance of plan, comply with accepted plan when coordinating construction sequencing unless deviations are accepted by Owner in writing.

1.6 WORK RESTRICTIONS

- A. Comply with restrictions on construction operations.
 - 1. Comply with limitations on use of public streets, work on public streets, rights of way, and other requirements of authorities having jurisdiction (AHJ). Wells 7, 8, 12, and 16 will be drilled on private property. Well 15 will be drilled on University of Texas Lands. Contractor shall follow each landowner's requirements.
- B. On-Site Work Hours: Limit Work to between 6:00 a.m. to 8:00 p.m., Monday through Friday, unless otherwise indicated. Work hours may be modified to meet Project requirements if approved by Owner and AHJ.

- C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions, and only after arranging for temporary utility services according to requirements indicated:
 - 1. Notify Owner not less than 14 days in advance of proposed utility interruptions.
 - 2. Obtain Owner's written permission before proceeding with utility interruptions.
- D. Smoking and Controlled Substance Restrictions: Use of tobacco products, alcoholic beverages, marijuana, and other controlled substances on Project Site is not permitted.

1.7 OWNER OCCUPANCY

- A. Owner will occupy Site during entire period of construction.
- B. Cooperate with Owner to minimize conflict and to facilitate Owner's operations.

1.8 PERMITS

- A. Furnish all necessary permits for construction of Work, including the following:
 - 1. Stormwater permit.
 - 2. Owner will obtain well permits from the Permian Basin Underground Water Control District and from University Lands.

1.9 SPECIFICATION CONVENTIONS

- A. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
 - 1. Imperative mood and streamlined language are generally used in the Specifications. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.
 - 2. Text Color: Text used in the Specifications, including units of measure, manufacturer and product names, and other text may appear in multiple colors or underlined as part of a hyperlink; no emphasis is implied by text with these characteristics.
 - 3. Hypertext: Text used in the Specifications may contain hyperlinks. Hyperlinks may allow for access to linked information that is not residing in the Specifications. Unless otherwise indicated, linked information is not part of the Contract Documents.
- B. Drawing Coordination: Requirements for materials and products identified on Drawings are described in detail in the Specifications. One or more of the following are used on Drawings to identify materials and products:
 - 1. Terminology: Materials and products are identified by the typical generic terms used in the individual Specifications Sections.
 - 2. Abbreviations: Materials and products are identified by abbreviations scheduled on Drawings.
 - 3. Keynoting: Materials and products are identified by reference keynotes referencing Specification Section numbers found in this Project Manual.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 20 00 - PRICE AND PAYMENT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Cash allowances.
 - 2. Contingency allowances.
 - 3. Testing and inspection allowances.
 - 4. Schedule of Values.
 - 5. Application for Payment.
 - 6. Change procedures.
 - 7. Defect assessment.
 - 8. Unit prices.
 - 9. Alternates.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 CASH ALLOWANCES

- A. Costs Included in Cash Allowances: Cost of product to Contractor or Subcontractor, less applicable trade discounts; delivery to Site and applicable taxes unless stated otherwise in Allowance Schedule.
- B. Costs Not Included in Cash Allowances but Included in Contract Sum/Price: Product handling at Site including unloading, uncrating, and storage; protection of products from elements and from damage; and labor for installation and finishing unless stated otherwise in Allowance Schedule.
- C. Engineer Responsibilities:
 - 1. Consult with Contractor for consideration and selection of products suppliers.
 - 2. Select products in consultation with Owner and transmit decision to Contractor.
 - 3. Prepare Change Order.
- D. Contractor Responsibilities:
 - 1. Assist Engineer in selection of products, suppliers.
 - 2. Obtain proposals from suppliers and offer recommendations.
 - 3. Upon notification of selection by Engineer, execute purchase agreement with designated supplier.
 - 4. Arrange for and process Shop Drawings, Product Data, and Samples. Arrange for delivery.
 - 5. Promptly inspect products upon delivery for completeness, damage, and defects. Submit claims for transportation damage.
- E. Differences in costs will be adjusted by Change Order.

1.3 SCHEDULE OF VALUES

- A. Submit electronic file to Project website of schedule on Progress Estimate schedule on EJCDC C-620.
- B. Submit Schedule of Values as electronic file to Project website within 15 days after date of Owner-Contractor Agreement.

- C. Format: Use Table of Contents of this Project Manual. Identify each line item with number and title of major Specification Section. Also identify Site mobilization.
- D. Include in each line item amount of allowances as specified in this Section. For unit cost allowances, identify quantities taken from Contract Documents multiplied by unit cost to achieve total for each item.
- E. Include within each line item, direct proportional amount of Contractor's overhead and profit.
- F. Revise Schedule to list approved Change Orders with each Application for Payment.

1.4 APPLICATION FOR PAYMENT

- A. Submit electronic file to Project website of each Application for Payment on EJCDC C-620 - Contractor's Application for Payment.
- B. Content and Format: Use Schedule of Values for listing items in Application for Payment.
- C. Submit updated Construction Schedule with each Application for Payment.
- D. Payment Period: Submit at intervals stipulated in the Agreement.
- E. Submit submittals with transmittal letter as specified in Section 01 33 00 "Submittal Procedures."
- F. Substantiating Data: When Engineer requires substantiating information, submit data justifying dollar amounts in question. Include the following with Application for Payment:
 - 1. Current construction photographs specified in Section 01 33 00 "Submittal Procedures."
 - 2. Affidavits attesting to off-Site stored products.
 - 3. Construction Progress Schedule, revised and current as specified in Section 01 33 00 "Submittal Procedures."

1.5 CHANGE PROCEDURES

- A. Submittals: Submit name of individual who is authorized to receive change documents and is responsible for informing others in Contractor's employ or Subcontractors of changes to the Work.
- B. Carefully study and compare Contract Documents before proceeding with fabrication and installation of Work. Promptly advise Engineer of any error, inconsistency, omission, or apparent discrepancy.
- C. Requests for Interpretation (RFI) and Clarifications: Allot time in construction scheduling for liaison with Engineer; establish procedures for handling queries and clarifications.
 - 1. Use CSI Form 13.2A - Request for Interpretation for requesting interpretations.
 - 2. Engineer may respond with a direct answer on the Request for Interpretation form, Clarification Notice, CSI Form 13.3A Clarification Notice, Proposal Request, or CSI Form 13/6A - Change Order Request (Proposal).
- D. Engineer will advise of minor changes in the Work not involving adjustment to Contract Sum/Price or Contract Time by issuing supplemental instructions on EJCDC C-942.
- E. Engineer may issue CSI Form 13/6A including a detailed description of proposed change with supplementary or revised Drawings and Specifications, a change in Contract Time for executing the change. Contractor will prepare and submit estimate within 14 days.
- F. Contractor may propose changes by submitting a request for change to Engineer, describing proposed change and its full effect on the Work. Include a statement describing reason for the change and the effect on Contract Sum/Price and Contract Time with full documentation and a statement describing effect on the Work by separate or other Contractors.
- G. Document requested substitutions according to Section 01 25 00 "Substitution Procedures."

- H. Stipulated Sum/Price Change Order: Based on Proposal Request and Contractor's fixed price quotation or Contractor's request for Change Order as approved by Engineer.
- I. Unit Price Change Order: For Contract unit prices and quantities, the Change Order will be executed on a fixed unit price basis. For unit costs or quantities of units of that which are not predetermined, execute Work under Construction Change Directive. Changes in Contract Sum/Price or Contract Time will be computed as specified for Force Account Change Order.
- J. Construction Change Directive: Architect/Engineer may issue directive, on EJCDC C-940 - Work Change Directive signed by Owner, instructing Contractor to proceed with change in the Work, for subsequent inclusion in a Change Order. Document will describe changes in the Work and designate method of determining any change in Contract Sum/Price or Contract Time. Promptly execute change.
- K. Force Account Change Order: Submit itemized account and supporting data after completion of change, within time limits indicated in Conditions of the Contract. Engineer will determine change allowable in Contract Sum/Price and Contract Time as provided in Contract Documents.
- L. Maintain detailed records of Work done on force account basis. Provide full information required for evaluation of proposed changes and to substantiate costs for changes in the Work.
- M. Document each quotation for change in Project Cost or Time with sufficient data to allow evaluation of quotation.
- N. Change Order Forms: EJCDC C-941 - Change Order.
- O. Execution of Change Orders: Engineer will issue Change Orders for signatures of parties as provided in Conditions of the Contract.
- P. Correlation of Contractor Submittals:
 - 1. Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as separate line item and adjust Contract Sum/Price.
 - 2. Promptly revise Progress Schedules to reflect change in Contract Time, revise subschedules to adjust times for other items of Work affected by the change, and resubmit.
 - 3. Promptly enter changes in Record Documents.

1.6 DEFECT ASSESSMENT

- A. Replace the Work, or portions of the Work, not conforming to specified requirements.
- B. If, in the opinion of Engineer, it is not practical to remove and replace the Work, Engineer will direct appropriate remedy or adjust payment.
- C. Individual Specification Sections may modify these options or may identify specific formula or percentage sum/price reduction.
- D. Authority of Engineer to assess defects and identify payment adjustments is final.
- E. Nonpayment for Rejected Products: Payment will not be made for rejected products for any of the following reasons:
 - 1. Products wasted or disposed of in a manner that is not acceptable.
 - 2. Products determined as unacceptable before or after placement.
 - 3. Products not completely unloaded from transporting vehicle.
 - 4. Products placed beyond lines and levels of the required Work.
 - 5. Products remaining on hand after completion of the Work.
 - 6. Loading, hauling, and disposing of rejected products.

1.7 UNIT PRICES

- A. Authority: Measurement methods are delineated in individual Specification Sections.
- B. Measurement methods delineated in individual Specification Sections complement criteria of this Section. In event of conflict, requirements of individual Specification Section govern.
- C. Take measurements and compute quantities. Engineer will verify measurements and quantities.
- D. Unit Quantities: Quantities and measurements indicated on Bid Form are for Contract purposes only. Quantities and measurements supplied or placed in the Work shall determine payment.
 - 1. When actual Work requires more or fewer quantities than those quantities indicated, provide required quantities at contracted unit sum/prices.
 - 2. When actual Work requires 25 percent or greater change in quantity than those quantities indicated, Owner or Contractor may claim a Contract Price adjustment.
- E. Payment Includes: Full compensation for required labor, products, tools, equipment, plant and facilities, transportation, services and incidentals, erection, application, or installation of item of the Work; overhead and profit.
- F. Final payment for Work governed by unit prices will be made on basis of actual measurements and quantities accepted by Engineer multiplied by unit sum/price for Work incorporated in or made necessary by the Work.
- G. Measurement of Quantities:
 - 1. Weigh Scales: Inspected, tested, and certified by applicable State of Texas weights and measures department within past year.
 - 2. Platform Scales: Of sufficient size and capacity to accommodate conveying vehicle.
 - 3. Metering Devices: Inspected, tested, and certified by applicable State of Texas department within past year.
 - 4. Measurement by Weight: Concrete reinforcing steel, rolled or formed steel, or other metal shapes will be measured by handbook weights. Welded assemblies will be measured by handbook or scale weight.
 - 5. Measurement by Volume: Measured by cubic dimension using mean length, width, and height, or thickness.
 - 6. Measurement by Area: Measured by square dimension using mean length and width, or radius.
 - 7. Linear Measurement: Measured by linear dimension, at item centerline or mean chord.
 - 8. Stipulated Sum/Price Measurement: Items measured by weight, volume, area, or linear means or combination, as appropriate, as completed item or unit of the Work.

1.8 ALTERNATES

- A. Alternates quoted on Bid Forms will be reviewed and accepted or rejected at Owner's option. Accepted Alternates will be identified in Owner-Contractor Agreement. The Owner-Contractor Agreement may identify certain Alternates to remain an Owner option for a stipulated period of time.

- B. Coordinate related Work and modify surrounding Work. Description for each Alternate is recognized to be abbreviated but requires that each change shall be complete for Scope of Work affected.
 - 1. Coordinate related requirements among Specification Sections as required.
 - 2. Include as part of each Alternate: Miscellaneous devices, appurtenances, and similar items incidental to or necessary for complete installation.
 - 3. Coordinate Alternate with adjacent Work and modify or adjust as necessary to ensure integration.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 22 00 - MEASUREMENT AND PAYMENT

1.1 SUMMARY

- A. Section Includes:
 - 1. Procedures for measurement and payment.
 - 2. Mobilization demobilization.
 - 3. Unit price items.
 - 4. Lump sum items.
 - 5. Bid Form-specific payment items.
- B. Related Requirements:
 - 1. City of Midland Request for Bids (RFB).
 - 2. Other Division 01 Specification Sections apply to Work of the Section.

1.2 PROCEDURES FOR MEASUREMENT AND PAYMENT

- A. Unit price bid on each item as stated in City of Midland Request for Bids (RFB) includes furnishing all labor, superintendence, machinery, equipment, and materials, except as otherwise specified, necessary, or incidental to complete various item of Work per Drawings and Specifications.
- B. Cost of Work or materials shown on Drawings or called for in Specifications and on which no separate payment is made, included in bid prices on various pay items.
- C. Payment not made for any items not complete, including all associated incidental Work.

1.3 MOBILIZATION/DEMobilIZATION

- A. Payment made for mobilization and demobilization on lump sum basis.
- B. Bid amount for mobilization and demobilization shall not exceed 5 percent of total Bid Price.
- C. Work under this item consists of preparatory work and operations, including but not limited to those necessary for movement of personnel, equipment, supplies, and incidentals to Work; establish all offices, buildings, and other facilities necessary for Work; and all other work and operations performed or costs incurred prior to beginning work on various items of Work.
- D. Payment for mobilization and demobilization will be on a lump sum basis with partial payments as noted. The adjusted Contract Amount as used herein is defined as the total Contract amount less lump sum for mobilization and demobilization.
 - 1. First Application for Payment: 50 percent of lump sum.
 - 2. Second Application for Payment: 75 percent of the lump sum.
 - 3. When 10 percent of adjusted Contract amount is earned, 90 percent of mobilization and demobilization lump sum.
 - 4. Final Application for Payment: 100 percent of mobilization and demobilization lump sum.

1.4 UNIT PRICE ITEMS

- A. Unit price items, not otherwise included herein, paid at a unit price per unit.
- B. Payment will include all work and material for installing unit price item as specified.
- C. Measurement made in units shown on City of Midland Request for Bids (RFB).

1.5 LUMP SUM ITEMS

- A. Lump sum items include all work and materials for installing lump sum item as specified.
- B. Payment based on percentage complete basis as agreed by Engineer and Contractor.
- C. Payment includes all work and material for installing lump sum Bid item as specified.

1.6 BID FORM-SPECIFIC PAYMENT ITEMS

- A. Bid Item 1: Mobilization/Demobilization (Max. 5 percent of total Base Bid):
 - 1. Measurement: None.
 - 2. Payment: Lump sum basis for bonds, insurance, mobilizing, and demobilizing. Mobilization will be limited to 3 percent of total Base Bid. Demobilization will be limited to 2 percent of total Base Bid. Owner shall be solely responsible to determine timing for demobilization payment.
- B. Bid Item 2: Demo Existing Well Equipment, Piping, and Fences:
 - 1. Measurement: Per each well site location.
 - 2. Payment: For each type and size as specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment for removing and disposing of existing fences or fence sections and designated equipment including well pumps and piping, and electrical for each well site.
- C. Bid Item 3: 8-Foot Chain Link Security Fence and Two 10-Foot Gates:
 - 1. Measurement: Per each well site location.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment for providing and installing fence type, new 10-foot gates, including appurtenances for each well site excluding Well 7.
- D. Bid Item 4: Barb Wire Fencing and Renovate and Relocate Existing Gates:
 - 1. Measurement: Per each well site location.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment for providing and installing fence type, including removing, blasting, and painting existing gates appurtenances for each well site.
- E. Bid Item 5: 10-Foot Gate (Barb Wire Cattle Fencing):
 - 1. Measurement: Per each.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment for providing 10-foot gate to match existing gate on barb wire cattle fencing at Well 12.
- F. Bid Item 6: Well Pads and Roads:
 - 1. Measurement: Per square yard.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment for providing and installing well pads and roads including clearing, grubbing, and sub-grade preparation for each well site.
- G. Bid Item 7: Soil Preparation/Re-seeding:
 - 1. Measurement: None.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment on lump sum basis for preparing topsoil, providing, and placing seed mixture in all areas disturbed by construction activities.
- H. Bid Item 8: Trench Safety (Including Plan):
 - 1. Measurement: Linear foot basis as measured along excavation center line for all trenches requiring trench safety.
 - 2. Payment: For each type and size as specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per linear foot.

- I. Bid Item 9: Stormwater Pollution Prevention Plan and Erosion Control:
 - 1. Measurement: None.
 - 2. Payment: Lump sum basis for preparing SWPPP, filing Notice(s) of Intent (NOI), installing, and maintaining erosion control measures, preparing reports, and filing a Notice of Termination (NOT) as specified.
- J. Bid Item 10: Drill Equipment Set Up & Slush Pit:
 - 1. Measurement: Per each well site location.
 - 2. Payment: For moving and setting up drilling equipment at each well site including constructing, cleaning up, and filling in of slush settling re-circulation pit.
- K. Bid Item 11: Drill and Install 24-Inch Conductor Casing:
 - 1. Measurement: Vertical foot basis measured from ground surface to bottom of hole limited to depth authorized by Engineer in Contract Documents.
 - 2. Payment: For diameter specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per vertical foot despite method used.
- L. Bid Item 12: Drill 20-Inch Diameter Well:
 - 1. Measurement: Vertical foot basis measured from ground surface to bottom of hole limited to depth authorized by Engineer in Contract Documents.
 - 2. Payment: For diameter specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per vertical foot despite method used.
- M. Bid Item 13: Well Casing, 12-3/4-Inch Low Carbon Steel:
 - 1. Measurement: Per linear foot basis measured along casing centerline, end-to-end with no deductions for end fittings.
 - 2. Payment: For each type and size specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per linear foot.
- N. Bid Item 14: Well Screen, 12-3/4-Inch Stainless Steel:
 - 1. Measurement: Per linear foot basis measured along casing centerline, end-to-end with no deductions for end fittings.
 - 2. Payment: For each type and size specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per linear foot.
- O. Bid Item 15: Dielectric Couplings:
 - 1. Measurement: Per each basis.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per each.
- P. Bid Item 16: Draw Down Tube:
 - 1. Measurement: Per linear foot.
 - 2. Payment: For each type and size specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per linear foot.
- Q. Bid Item 17: Gravel Feed Tube:
 - 1. Measurement: Linear foot basis as measured along centerline end-to-end with no deductions for fittings.
 - 2. Payment: For each type and size specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per linear foot.
- R. Bid Item 18: Gravel Pack:
 - 1. Measurement: Vertical foot basis as calculated from bottom of bore hole to top of gravel pack as shown on Drawings or directed by Engineer.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per vertical foot.

- S. Bid Item 19: Cementing/Grouting:
 - 1. Measurement: Per vertical foot basis as measured from ground surface to top of gravel pack with no deductions for seals.
 - 2. Payment: As included in City of Midland Request for Bids (RFB), payment per vertical foot.
- T. Bid Item 20: Well Disinfection:
 - 1. Measurement: Per each well. Disinfection is limited to one per well.
 - 2. Payment: As specified and included in City of Midland Request for Bids (RFB), payment per each well.
- U. Bid Item 21: Well Head Improvements:
 - 1. Measurement: Per each basis.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per each.
- V. Bid Item 22: Well Development - Bailing/Pumping:
 - 1. Measurement: Per hourly basis of active well development.
 - 2. Payment: As shown on City of Midland Request for Bids (RFB), payment per hour.
- W. Bid Item 23: 36-Hour Pump Test:
 - 1. Measurement: Per hourly basis of active well pumping. Include cost of providing, setting, removing temporary pump, piping, conductors, and electricity.
 - 2. Payment: As shown on City of Midland Request for Bids (RFB), payment per hour not to exceed 36 hours for each well.
- X. Bid Item 24: Well Quality Sampling and Testing:
 - 1. Measurement: Per each basis limited to one per well. No additional payment for failed bacteriological testing.
 - 2. Payment: As specified and included in City of Midland Request for Bids (RFB), payment per each well for sampling and laboratory analyses following 36-hour pump test.
- Y. Bid Items 25 to 29: Well Pump, Column Piping, Wire, and Discharge Heads:
 - 1. Measurement: Per each well basis.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per each.
- Z. Bid Item 30: 6-Inch Above-Ground Well Piping and Tie-In:
 - 1. Measurement: Per each well basis. Includes all piping, supports, fittings, meters, valves, and appurtenances shown on Drawings and required to connect from well discharge head to existing underground well field piping.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per each.
- AA. Bid Item 31: 4-Inch Above-Ground Well Piping and Tie-In:
 - 1. Measurement: Per each well basis. Includes all piping, supports, fittings, meters, valves, and appurtenances shown on Drawings and required to connect from well discharge head to existing underground well field piping.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per each.
- BB. Bid Item 32: Plug Existing Wells:
 - 1. Measurement: Per each well basis. Provide signed plugging certification/report per 16 TAC, Part 4, Rule 76.104 and per PBUWCD rules.
 - 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFB), payment per each.

- CC. Bid Item 33: Electrical and Instrumentation, Including Lighting Protection, Electrical Service for 25HP motors: 60Amp, 3-phase, 277/480VAC:
1. Measurement: Per each.
 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFQ), payment per each. Includes electrical service, conduit, conductors, labor, and miscellaneous appurtenances required for 25HP motors: 60 Amp, 3-phase 277/480VAC.
- DD. Additive Alternate A-1 - Electrical Service Upgrade Adder for 30HP and 40HP Motors: 100Amp, 3-phase, 277/480VAC:
1. Measurement: Per each.
 2. Payment: As specified, shown in Drawings, and included in City of Midland Request for Bids (RFQ), payment per each. Includes additive cost to provide electrical service, conduit, conductors, labor, and miscellaneous appurtenances required for 30HP and 40HP motors: 100 Amp, 3-phase, 277/480VAC.
- EE. Additive Alternate A-2 - Electrical Service Upgrade Adder for 50HP and 60HP Motors: 200Amp, 3-phase, 277/480VAC:
1. Measurement: Per each.
 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFQ), payment per each. Includes additive cost to provide electrical service, conduit, conductors, labor, and miscellaneous appurtenances required for 50HP and 60HP motors: 200Amp, 3-phase, 277/480VAC.
- FF. Additive Alternate A-3 - Electrical Service Upgrade Adder for 75HP and 100HP Motors: 200Amp, 3-phase, 277/480VAC:
1. Measurement: Per each.
 2. Payment: As specified, shown on Drawings, and included in City of Midland Request for Bids (RFQ), payment per each. Includes additive cost to provide electrical service, conduit, conductors, labor, and miscellaneous appurtenances required for 75HP and 100HP motors: 200Amp, 3-phase, 277/480VAC.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 25 00 - SUBSTITUTION PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Quality assurance.
 - 2. Product options.
 - 3. Product substitution procedures.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 QUALITY ASSURANCE

- A. Contract is based on products and standards established in Contract Documents without consideration of proposed substitutions.
- B. Products specified define standard of quality, type, function, dimension, appearance, and performance required.
- C. Substitution Proposals: Permitted for specified products except where specified otherwise. Do not substitute products unless substitution has been accepted and approved in writing by Owner.

1.3 PRODUCT OPTIONS

- A. See Section 01 60 00 "Product Requirements."

1.4 PRODUCT SUBSTITUTION PROCEDURES

- A. Document General Conditions of Bidding specifies time restrictions for submitting requests for substitutions during Bidding period.
- B. Substitutions may be considered when a product becomes unavailable through no fault of Contractor.
- C. Document each request with complete data, substantiating compliance of proposed substitution with Contract Documents, including:
 - 1. Manufacturer's name and address, product, trade name, model, or catalog number, performance and test data, and reference standards.
 - 2. Itemized point-by-point comparison of proposed substitution with specified product, listing variations in quality, performance, and other pertinent characteristics.
 - 3. Reference to Article and Paragraph numbers in Specification Section.
 - 4. Cost data comparing proposed substitution with specified product and amount of net change to Contract Sum.
 - 5. Changes required in other Work.
 - 6. Availability of maintenance service and source of replacement parts as applicable.
 - 7. Certified test data to show compliance with performance characteristics specified.
 - 8. Samples when applicable or requested.
 - 9. Other information as necessary to assist Engineer's evaluation.
- D. A request constitutes a representation that Bidder:
 - 1. Has investigated proposed product and determined that it meets or exceeds quality level of specified product.

2. Will provide same warranty for substitution as for specified product.
 3. Will coordinate installation and make changes to other Work that may be required for the Work to be complete with no additional cost to Owner.
 4. Waives claims for additional costs or time extension that may subsequently become apparent.
 5. Will coordinate installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
 6. Will reimburse Owner and Engineer for review or redesign services associated with reapproval by authorities having jurisdiction.
- E. Substitutions will not be considered when they are indicated or implied on Shop Drawing or Product Data submittals without separate written request or when acceptance will require revision to Contract Documents.

1.5 INSTALLER SUBSTITUTION PROCEDURES

- A. Document General Conditions of Bidding specifies time restrictions for submitting requests for substitutions during Bidding period.
- B. Document each request with:
 1. Installer's qualifications.
 2. Installer's experience in work similar to that specified.
 3. Other information as necessary to assist Engineer's evaluation.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 30 00 - ADMINISTRATIVE REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Coordination and Project conditions.
 - 2. Preconstruction meeting.
 - 3. Site mobilization meeting.
 - 4. Progress meetings.
 - 5. Preinstallation meetings.
 - 6. Closeout meeting.
 - 7. Alteration procedures.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 COORDINATION AND PROJECT CONDITIONS

- A. Coordinate scheduling, submittals, and Work of various Sections of Project Manual to ensure efficient and orderly sequence of installation of interdependent construction elements.
- B. Verify that utility requirements and characteristics of operating equipment are compatible with building utilities. Coordinate Work of various Sections having interdependent responsibilities for installing, connecting to, and placing operating equipment in service.
- C. Coordinate space requirements, supports, and installation of mechanical and electrical Work indicated diagrammatically on Drawings. Follow routing shown for pipes, ducts, and conduit as closely as practical; place runs parallel with lines of building. Use spaces efficiently to maximize accessibility for other installations, for maintenance, and for repairs.
 - 1. Coordination Drawings: Prepare as required to coordinate all portions of Work. Show relationship and integration of different construction elements that require coordination during fabrication or installation to fit in space provided or to function as intended. Indicate locations where space is limited for installation and access and where sequencing and coordination of installations are important.
- D. Coordination Meetings: In addition to other meetings specified in this Section, hold coordination meetings with personnel and Subcontractors to ensure coordination of Work.
- E. In finished areas except as otherwise indicated, conceal pipes, ducts, and wiring within construction. Coordinate locations of fixtures and outlets with finish elements.
- F. Coordinate completion and clean-up of Work of separate Sections in preparation for Substantial Completion.
- G. After Owner's occupancy of premises, coordinate access to Site for correction of defective Work and Work not complying with Contract Documents, to minimize disruption of Owner's activities.

1.3 PRECONSTRUCTION MEETING

- A. Engineer will schedule and preside over meeting after Notice of Award.
- B. Attendance Required: Engineer, Owner, Resident Project Representative, Construction Manager, major Subcontractors, and Contractor.
- C. Minimum Agenda:
 - 1. Distribution of Contract Documents.
 - 2. Submission of list of Subcontractors, list of products, schedule of values, Submittal Schedule, and Progress Schedule.
 - 3. Designation of personnel representing parties in Contract, onstruction Manager and Engineer.
 - 4. Communication procedures.
 - 5. Procedures and processing of requests for interpretations, field decisions, field orders, submittals, substitutions, Applications for Payments, proposal request, Change Orders, and Contract closeout procedures.
 - 6. Scheduling.
 - 7. Critical Work sequencing.
- D. Construction Manager: Record minutes and distribute copies to participants within 7 days after meeting, with electronic copies each to Engineer, Owner, and those affected by decisions made.

1.4 SITE MOBILIZATION MEETING

- A. Engineer will schedule meeting at Project Site prior to Contractor occupancy. Construction Manager presides over meeting.
- B. Attendance Required: Engineer, Owner, Contractor, Contractor's superintendent, Construction Manager, and major Subcontractors.
- C. Minimum Agenda:
 - 1. Use of premises by Owner and Contractor.
 - 2. Owner's requirements.
 - 3. Construction facilities and controls provided by Owner.
 - 4. Temporary utilities provided by Contractor.
 - 5. Survey well site layout.
 - 6. Security and housekeeping procedures.
 - 7. Schedules.
 - 8. Procedures for testing.
 - 9. Procedures for maintaining Record Documents.
 - 10. Requirements for startup of equipment.
 - 11. Inspection and acceptance of equipment put into service during construction period.
- D. Construction Manager: Record minutes and distribute copies to participants within 7 days after meeting, with electronic copies each to Engineer, Owner, and those affected by decisions made.

1.5 PROGRESS MEETINGS

- A. Schedule and administer meetings throughout progress of the Work at maximum monthly intervals.
- B. Make arrangements for meetings, prepare agenda with copies for participants, and preside over meetings.
- C. Attendance Required: Job superintendent, major Subcontractors and suppliers, Engineer, and Owner, as appropriate to agenda topics for each meeting.

- D. Minimum Agenda:
 - 1. Review minutes of previous meetings.
 - 2. Review of Work progress.
 - 3. Field observations, problems, and decisions.
 - 4. Identification of problems impeding planned progress.
 - 5. Review of submittal schedule and status of submittals.
 - 6. Review of off-Site fabrication and delivery schedules.
 - 7. Maintenance of Progress Schedule.
 - 8. Corrective measures to regain projected schedules.
 - 9. Planned progress during succeeding work period.
 - 10. Coordination of projected progress.
 - 11. Maintenance of quality and work standards.
 - 12. Effect of proposed changes on Progress Schedule and coordination.
 - 13. Other business relating to Work.
- E. Construction Manager: Record minutes and distribute copies to participants within 7 days after meeting, with electronic copies each to Engineer, Owner, and those affected by decisions made.

1.6 PREINSTALLATION MEETINGS

- A. When required in individual Specification Sections, convene preinstallation meetings at Project Site before starting Work of specific Section.
- B. Require attendance of parties directly affecting, or affected by, Work of specific Section.
- C. Notify Engineer 7 days in advance of meeting date.
- D. Prepare agenda and preside over meeting:
 - 1. Review conditions of installation, preparation, and installation procedures.
 - 2. Review coordination with related Work.
- E. Record minutes and distribute copies to participants within 7 days after meeting, with electronic copies each to Engineer, Owner, and those affected by decisions made.

1.7 CLOSEOUT MEETING

- A. Schedule Project closeout meeting with sufficient time to prepare for requesting Substantial Completion. Preside over meeting and be responsible for minutes.
- B. Attendance Required: Contractor, Construction Manager, major Subcontractors, Engineer, Owner, and others appropriate to agenda.
- C. Notify Engineer 7 days in advance of meeting date.
- D. Minimum Agenda:
 - 1. Start-up of facilities and systems.
 - 2. Operations and maintenance manuals.
 - 3. Testing, adjusting, and balancing.
 - 4. System demonstration and observation.
 - 5. Operation and maintenance instructions for Owner's personnel.
 - 6. Contractor's inspection of Work.
 - 7. Contractor's preparation of an initial "punch list."
 - 8. Procedure to request Engineer inspection to determine date of Substantial Completion.
 - 9. Completion time for correcting deficiencies.
 - 10. Inspections by authorities having jurisdiction.
 - 11. Certificate of Occupancy and transfer of insurance responsibilities.
 - 12. Partial release of retainage.
 - 13. Final cleaning.

14. Preparation for final inspection.
 15. Closeout Submittals:
 - a. Project record documents.
 - b. Operating and maintenance documents.
 - c. Operating and maintenance materials.
 - d. Affidavits.
 16. Final Application for Payment.
 17. Contractor's demobilization of Site.
 18. Maintenance.
- E. Record minutes and distribute copies to participants within 7 days after meeting, with electronic copies each to Engineer, Owner, and those affected by decisions made.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 32 16 - CONSTRUCTION PROGRESS SCHEDULE

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Web-based project management software package.
 - 2. Digital Project data licensing.
 - 3. Submittals.
 - 4. Quality assurance.
 - 5. Format for network analysis schedules.
 - 6. Network analysis schedules.
 - 7. Bar chart schedules.
 - 8. Review and evaluation.
 - 9. Updating schedules.
 - 10. Distribution.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 WEB-BASED PROJECT MANAGEMENT SOFTWARE PACKAGE

- A. Web-Based Project Management Software Package: Use Engineer's web-based Project management software package for purposes of hosting and managing Project communication and documentation until final completion.
 - 1. Web-based Project management software includes, at a minimum, the following features:
 - a. Compilation of Project data, including Contractor, Subcontractors, Engineer, Engineer's consultants, Owner, and other entities involved in Project. Include names of individuals and contact information.
 - b. Access control for each entity for each workflow process, to determine entity's digital rights to create, modify, view, and print documents.
 - c. Document workflow planning, allowing customization of workflow among Project entities.
 - d. Create, log, track, and notify Project members of Project communications required in other Specification Sections, including, but not limited to, RFIs, submittals, minor changes in the Work, Construction Change Directives, and Change Orders.
 - e. Track status of each Project communication in real time, and log time and date when responses are provided.
 - f. Procedures for handling PDFs or similar file formats, allowing markups by each entity. Provide security features to lock markups against changes once submitted.
 - g. Process and track payment applications.
 - h. Process and track contract modifications.
 - i. Create and distribute meeting minutes.
 - j. Document management for Drawings, Specifications, and Coordination Drawings, including revision control.
 - k. Management of construction progress photographs.
 - l. Mobile device compatibility, including smartphones and tablets.

- B. Provide up to 7 Project management software user licenses for use by Owner, Construction Manager, Engineer, and Engineer's consultants. Provide 8 hours of software training at Engineer's office for web-based Project software users.
 - 1. At completion of Project, provide digital archive in format that is readable by common desktop software applications and acceptable to Engineer. Provide data in locked format to prevent further changes.
 - 2. Manufacturers:
 - a. Newforma, Inc.
 - 3. Products: Provide one of the above Project management software packages under the current published licensing agreements.

1.3 DIGITAL PROJECT DATA LICENSING

- A. Use of Engineer's Digital Data Files: Digital data files of Engineer's CAD Drawings will be provided by Engineer for Contractor's use during construction.
- B. Conditions for Use:
 - 1. Digital data files may be used by Contractor in preparing Coordination Drawings, Shop Drawings, and Project Record Drawings.
 - 2. Engineer makes no representations as to the accuracy or completeness of digital data files as they relate to Contract Drawings.
 - 3. Conditions listed in Section 01 33 00 "Submittal Procedures" Article 1.7.
 - 4. Digital Drawing Software Program: Contract Drawings are available in Autodesk Civil 3D format.
 - 5. Contractor shall execute a data licensing agreement in the form of Agreement form acceptable to Owner and Engineer.
 - a. Subcontractors and other parties granted access by Contractor to Engineer's digital data files shall execute a data licensing agreement in the form of Agreement acceptable to Owner and Engineer.
 - 6. The following digital data files will be furnished for each appropriate discipline:
 - a. Wellfield site layout.

1.4 SUBMITTALS

- A. Within 10 days after date established in Notice to Proceed, submit proposed preliminary network diagram defining planned operations for first 60 days of Work, with general outline for remainder of Work.
- B. Participate in review of preliminary and complete network diagrams jointly with Engineer.
- C. Within 20 days after joint review of proposed preliminary network diagram, submit draft of proposed complete network diagram for review. Include written certification that major Subcontractors have reviewed and accepted proposed schedule.
- D. Within 10 days after joint review, submit complete network analysis consisting of network diagrams and mathematical analyses.
- E. Submit updated network schedules with each Application for Payment and at least every 30 days.
- F. Post as electronic file to Project website.
- G. Submit network schedules under transmittal letter form specified in Section 01 33 00 "ubmittal Procedures."

- H. Schedule Updates:
 - 1. Overall percent complete, projected and actual.
 - 2. Completion progress by listed activity and sub-activity, to within 5 working days prior to submittal.
 - 3. Changes in Work scope and activities modified since submittal.
 - 4. Delays in submittals or resubmittals, deliveries, or Work.
 - 5. Adjusted or modified sequences of Work.
 - 6. Other identifiable changes.
 - 7. Revised projections of progress and completion.
- I. Narrative Progress Report:
 - 1. Submit with each monthly submission of Progress Schedule.
 - 2. Summary of Work completed during the past period between reports.
 - 3. Work planned during the next period.
 - 4. Explanation of differences between summary of Work completed and Work planned in previously submitted report.
 - 5. Current and anticipated delaying factors and estimated impact on other activities and completion milestones.
 - 6. Corrective action taken or proposed.

1.5 QUALITY ASSURANCE

- A. Scheduler: Contractor's personnel specializing in scheduling with 2 years' minimum experience in scheduling construction work of complexity comparable to the Project, and having use of computer facilities capable of delivering detailed graphic printout within 48 hours of request.
- B. Contractor's Administrative Personnel: Two years' minimum experience in using and monitoring schedules on comparable Projects.

1.6 NETWORK ANALYSIS SCHEDULES

- A. Bar Chart Schedules:
 - 1. Format: Bar Chart Schedule, to include at least:
 - a. Identification and listing in chronological order of those activities reasonably required to complete the Work, including:
 - 1) Subcontract Work.
 - 2) Major equipment design, fabrication, factory testing, and delivery dates including required lead times.
 - 3) Move-in and other preliminary activities.
 - 4) Equipment and equipment system test and startup activities.
 - 5) Project closeout and cleanup.
 - 6) Work sequences, constraints, and milestones.
 - b. Listings identified by Specification Section number.
 - c. Identification of the following:
 - 1) Horizontal time frame by year, month, and week.
 - 2) Duration, early start, and completion for each activity and subactivity.
 - 3) Critical activities and Project float.
 - 4) Subschedules to further define critical portions of Work.

1.7 REVIEW AND EVALUATION

- A. Participate in joint review and evaluation of schedules with Engineer at each submittal.
- B. Evaluate Project status to determine Work behind schedule and Work ahead of schedule.
- C. After review, revise schedules incorporating results of review, and resubmit within 10 days.

1.8 UPDATING SCHEDULES

- A. Maintain schedules to record actual start and finish dates of completed activities.
- B. Indicate progress of each activity to date of revision, with projected completion date of each activity. Update schedules to depict current status of Work.
- C. Identify activities modified since previous submittal, major changes in Work, and other identifiable changes.
- D. Upon approval of a Change Order, include the change in the next schedule submittal.
- E. Indicate changes required to maintain Date of Substantial Completion.
- F. Submit sorts as required to support recommended changes.
- G. Prepare narrative report to define problem areas, anticipated delays, and impact on schedule. Report corrective action taken or proposed and its effect.

1.9 DISTRIBUTION

- A. Following joint review, distribute copies of updated schedules to Contractor's Project site file, subcontractors, suppliers, Engineer, Owner, and other concerned parties.
- B. Instruct recipients to promptly report, in writing, problems anticipated by projections shown in schedules.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 33 00 - SUBMITTAL PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Definitions.
 - 2. Submittal procedures.
 - 3. Construction progress schedules.
 - 4. Proposed product list.
 - 5. Product data.
 - 6. Use of electronic CAD files of Project Drawings.
 - 7. Shop Drawings.
 - 8. Samples.
 - 9. Other submittals.
 - 10. Design data.
 - 11. Test reports.
 - 12. Certificates.
 - 13. Manufacturer's instructions.
 - 14. Manufacturer's field reports.
 - 15. Erection Drawings.
 - 16. Construction photographs.
 - 17. Contractor review.
 - 18. Engineer review.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 DEFINITIONS

- A. Action Submittals: Written and graphic information and physical samples that require Engineer's and Construction Manager's responsive action.
- B. Informational Submittals: Written and graphic information and physical Samples that do not require Engineer's and Construction Manager's responsive action. Submittals may be rejected for not complying with requirements.

1.3 SUBMITTAL PROCEDURES

- A. Transmit each submittal with CSI Form 12.1A - Submittal Transmittal or Engineer-accepted form.
- B. Mark revised submittals with original number and sequential alphabetic suffix.
- C. Identify: Project, Contractor, subcontractor and supplier, pertinent Drawing and detail number, and Specification Section number appropriate to submittal.
- D. Apply Contractor's stamp, signed or initialed, certifying that review, approval, verification of products required, field dimensions, adjacent construction Work, and coordination of information is according to requirements of the Work and Contract Documents.
- E. Schedule submittals to expedite Project, and post electronic submittals as PDF electronic files to Project website. Coordinate submission of related items.
- F. For each submittal for review, allow 15 days excluding delivery time to and from Contractor.

- G. Identify variations in Contract Documents and product or system limitations that may be detrimental to successful performance of completed Work.
- H. Allow space on submittals for Contractor and Engineer review stamps.
- I. When revised for resubmission, identify changes made since previous submission.
- J. Distribute copies of reviewed submittals as appropriate. Instruct parties to promptly report inability to comply with requirements.
- K. Submittals not requested will not be recognized nor processed.
- L. Incomplete Submittals: Engineer will not review. Complete submittals for each item are required. Delays resulting from incomplete submittals are not the responsibility of Engineer.

1.4 CONSTRUCTION PROGRESS SCHEDULES

- A. Comply with Section 01 32 16 "Construction Progress Schedule."

1.5 PROPOSED PRODUCT LIST

- A. Within 15 days after date of Notice to Proceed, submit list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.
- B. For products specified only by reference standards, indicate manufacturer, trade name, model or catalog designation, and reference standards.

1.6 PRODUCT DATA

- A. Product Data: Action Submittal: Submit to Engineer for review for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Post electronic submittals as PDF electronic files to Project website.
- C. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information specific to this Project.
- D. Indicate product utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- E. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01 70 00 "Execution and Closeout Requirements."

1.7 ELECTRONIC CAD FILES OF PROJECT DRAWINGS

- A. Electronic CAD Files of Project Drawings: May only be used to expedite production of Shop Drawings for the Project. Use for other Projects or purposes is not allowed.
- B. Electronic CAD Files of Project Drawings: Distributed only under the following conditions:
 - 1. Use of files is solely at receiver's risk. Engineer does not warrant accuracy of files. Receiving files in electronic form does not relieve receiver of responsibilities for measurements, dimensions, and quantities set forth in Contract Documents. In the event of ambiguity, discrepancy, or conflict between information on electronic media and that in Contract Documents, notify Engineer of discrepancy and use information in hard-copy Drawings and Specifications.
 - 2. CAD files do not necessarily represent the latest Contract Documents, existing conditions, and as-built conditions. Receiver is responsible for determining and complying with these conditions and for incorporating addenda and modifications.

3. User is responsible for removing information not normally provided on Shop Drawings and removing references to Contract Documents. Shop Drawings submitted with information associated with other trades or with references to Contract Documents will not be reviewed and will be immediately returned.
 4. Receiver shall not hold Engineer responsible for data or file clean-up required to make files usable, nor for error or malfunction in translation, interpretation, or use of this electronic information.
 5. Receiver shall understand that even though Engineer has computer virus scanning software to detect presence of computer viruses, there is no guarantee that computer viruses are not present in files or in electronic media.
 6. Receiver shall not hold Engineer responsible for such viruses or their consequences, and shall hold Engineer harmless against costs, losses, or damage caused by presence of computer virus in files or media.
 7. Conditions listed in Section 01 32 16 "Submittal Procedures" Article 1.3.
- C. Costs: \$100 per file, plus \$0.825 sales tax per request paid in advance by certified check or money order payable to Engineer.

1.8 SHOP DRAWINGS

- A. Shop Drawings: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Indicate special utility and electrical characteristics, utility connection requirements, and location of utility outlets for service for functional equipment and appliances.
- C. When required by individual Specification Sections, provide Shop Drawings signed and sealed by a Professional Engineer responsible for designing components shown on Shop Drawings.
 1. Include signed and sealed calculations to support design.
 2. Submit Shop Drawings and calculations in form suitable for submission to and approval by authorities having jurisdiction.
 3. Make revisions and provide additional information when required by authorities having jurisdiction.
- D. Post electronic submittals as PDF electronic files to Project website.
- E. After review, produce copies and distribute according to "Submittal Procedures" Article and for Record Documents described in Section 01 70 00 "Execution and Closeout Requirements."

1.9 SAMPLES

- A. Samples: Action Submittal: Submit to Engineer for assessing conformance with information given and design concept expressed in Contract Documents.
- B. Samples for Selection as Specified in Product Sections:
 1. Submit to Engineer for aesthetic, color, and finish selection.
 2. Submit Samples of finishes, textures, and patterns for Engineer selection.
- C. Submit Samples to illustrate functional and aesthetic characteristics of products, with integral parts and attachment devices. Coordinate Sample submittals for interfacing work.
- D. Include identification on each Sample, with full Project information.
- E. Submit number of Samples specified in individual Specification Sections; Engineer will retain one Sample.
- F. Reviewed Samples that may be used in the Work are indicated in individual Specification Sections.

- G. Samples will not be used for testing purposes unless specifically stated in Specification Section.
- H. After review, produce copies and distribute according to "Submittal Procedures" Article and for record documents described in Section 01 70 00 "Execution and Closeout Requirements."

1.10 OTHER SUBMITTALS

- A. Closeout Submittals: Comply with Section 01 70 00 "Execution and Closeout Requirements."
- B. Informational Submittal: Submit data for Engineer's knowledge as Contract Administrator or for Owner.
- C. Submit information for assessing conformance with information given and design concept expressed in Contract Documents.

1.11 TEST REPORTS

- A. Informational Submittal: Submit reports for Engineer's knowledge as Contract Administrator or for Owner.
- B. Submit test reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

1.12 CERTIFICATES

- A. Informational Submittal: Submit certification by manufacturer, installation/application Subcontractor, or Contractor to Engineer, in quantities specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or product but must be acceptable to Engineer.

1.13 MANUFACTURER'S INSTRUCTIONS

- A. Informational Submittal: Submit manufacturer's installation instructions for Engineer's knowledge as Contract administrator or for Owner.
- B. Submit printed instructions for delivery, storage, assembly, installation, startup, adjusting, and finishing, to Engineer in quantities specified for Product Data.
- C. Indicate special procedures, perimeter conditions requiring special attention, and special environmental criteria required for application or installation.

1.14 MANUFACTURER'S FIELD REPORTS

- A. Informational Submittal: Submit reports for Engineer's knowledge as Contract administrator or for Owner.
- B. Submit report within 5 days of observation to Engineer for information.
- C. Submit reports for information for assessing conformance with information given and design concept expressed in Contract Documents.

1.15 ERECTION DRAWINGS

- A. Informational Submittal: Submit Drawings for Engineer's knowledge as Contract administrator or for Owner.
- B. Submit Drawings for information assessing conformance with information given and design concept expressed in Contract Documents.
- C. Data indicating inappropriate or unacceptable Work may be subject to action by Engineer or Owner.

1.16 CONSTRUCTION PHOTOGRAPHS

- A. Provide photographs of Site and construction throughout progress of Work produced by an experienced photographer acceptable to Engineer.
- B. Submit photographs showing pre-construction conditions with first Application for Payment. Payment application will not be considered complete without pre-construction photos.
- C. Digital Images: Deliver complete set of digital image electronic files on CD-ROM to Owner with Project Record Documents or post to Project website. Identify electronic media with date photographs were taken. Submit images that have same aspect ratio as sensor, uncropped.
 - 1. Digital Images: Uncompressed TIFF format, produced by digital camera with minimum sensor size of 4.0 megapixels, and image resolution of not less than pixels.
 - 2. Date and Time: Include date and time in filename for each image.

1.17 CONTRACTOR REVIEW

- A. Review for compliance with Contract Documents and approve submittals before transmitting to Engineer and Construction Manager.
- B. Contractor: Responsible for:
 - 1. Determination and verification of materials including manufacturer's catalog numbers.
 - 2. Determination and verification of field measurements and field construction criteria.
 - 3. Checking and coordinating information in submittal with requirements of Work and of Contract Documents.
 - 4. Determination of accuracy and completeness of dimensions and quantities.
 - 5. Confirmation and coordination of dimensions and field conditions at Site.
 - 6. Construction means, techniques, sequences, and procedures.
 - 7. Safety precautions.
 - 8. Coordination and performance of Work of all trades.
- C. Stamp, sign or initial, and date each submittal to certify compliance with requirements of Contract Documents.
- D. Do not fabricate products or begin Work for which submittals are required until approved submittals have been received from Engineer.

1.18 ARCHITECT/ENGINEER REVIEW

- A. Do not make "mass submittals" to Engineer. "Mass submittals" are defined as six or more submittals or items in one day or 15 or more submittals or items in one week. If "mass submittals" are received, Engineer's review time stated above will be extended as necessary to perform proper review. Engineer will review "mass submittals" based on priority determined by Engineer after consultation with Owner and Construction Manager.

- B. Informational submittals and other similar data are for Engineer's information, do not require Engineer's responsive action, and will not be reviewed or returned with comment.
- C. Submittals made by Contractor that are not required by Contract Documents may be returned without action.
- D. Submittal approval does not authorize changes to Contract requirements unless accompanied by Change Order or Field Order.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 40 00 - QUALITY REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Quality control.
 - 2. Tolerances.
 - 3. References.
 - 4. Labeling.
 - 5. Mockup requirements.
 - 6. Testing and inspection services.
 - 7. Manufacturers' field services.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 QUALITY CONTROL

- A. Monitor quality control over suppliers, manufacturers, products, services, Site conditions, and workmanship, to produce Work of specified quality.
- B. Comply with specified standards as the minimum quality for the Work except where more stringent tolerances, codes, or specified requirements indicate higher standards or more precise workmanship.
- C. Perform Work using persons qualified to produce required and specified quality.
- D. Products, materials, and equipment may be subject to inspection by Engineer and Owner at place of manufacture or fabrication. Such inspections shall not relieve Contractor of complying with requirements of Contract Documents.
- E. Supervise performance of Work in such manner and by such means to ensure that Work, whether completed or in progress, will not be subjected to harmful, dangerous, damaging, or otherwise deleterious exposure during construction period.

1.3 TOLERANCES

- A. Monitor fabrication and installation tolerance control of products to produce acceptable Work. Do not permit tolerances to accumulate.
- B. Comply with manufacturers' recommended tolerances and tolerance requirements in reference standards. When such tolerances conflict with Contract Documents, request clarification from Engineer before proceeding.
- C. Adjust products to appropriate dimensions; position before securing products in place.

1.4 REFERENCES

- A. For products or workmanship specified by association, trade, or other consensus standards, comply with requirements of standard except when more rigid requirements are specified or are required by applicable codes.
- B. Conform to reference standard by date of issue current as of date for receiving Bids except where specific date is established by code.
- C. Obtain copies of standards and maintain on Site when required by product Specification Sections.

- D. When requirements of indicated reference standards conflict with Contract Documents, request clarification from Engineer before proceeding.
- E. Neither contractual relationships, duties, or responsibilities of parties in Contract nor those of Engineer shall be altered from Contract Documents by mention or inference in reference documents.

1.5 LABELING

- A. Attach label from agency approved by authorities having jurisdiction for products, assemblies, and systems required to be labeled by applicable code.
- B. Label Information: Include manufacturer's or fabricator's identification, approved agency identification, and the following information, as applicable, on each label:
 - 1. Model number.
 - 2. Serial number.
 - 3. Performance characteristics.
- C. Manufacturer's Nameplates, Trademarks, Logos, and Other Identifying Marks on Products: Not allowed on surfaces exposed to view in public areas, interior or exterior.

1.6 MOCK-UP REQUIREMENTS

- A. Tests will be performed under provisions identified in this Section and identified in individual product Specification Sections.
- B. Assemble and erect specified or indicated items with specified or indicated attachment and anchorage devices, flashings, seals, and finishes.
- C. Accepted mockups shall be comparison standard for remaining Work.
- D. Where mockup has been accepted by Engineer and is specified in product Specification Sections to be removed, remove mockup and clear area when directed to do so by Engineer.

1.7 TESTING AND INSPECTION SERVICES

- A. Employ and pay for services of an independent testing agency or laboratory acceptable to Owner to perform specified testing.
 - 1. Before starting Work, submit testing laboratory name, address, and telephone number, and names of full-time specialist and responsible officer.
 - 2. Submit copy of report of laboratory certificate of compliance with Texas Commission on Environmental Quality's requirements.
- B. Testing, inspections, and source quality control may occur on or off Project Site. Perform off-Site testing as required by Engineer or Owner.
- C. Reports shall be submitted by independent firm to Engineer, Contractor, and authorities having jurisdiction, in duplicate, indicating observations and results of tests and compliance or noncompliance with Contract Documents.
 - 1. Submit final report indicating correction of Work previously reported as noncompliant.
- D. Cooperate with independent firm; furnish samples of materials, design mix, equipment, tools, storage, safe access, and assistance by incidental labor as requested.
 - 1. Notify Engineer and independent firm 24 hours before expected time for operations requiring services.
 - 2. Make arrangements with independent firm and pay for additional Samples and tests required for Contractor's use.
- E. Employment of testing agency or laboratory shall not relieve Contractor of obligation to perform Work according to requirements of Contract Documents.

- F. Retesting or re-inspection required because of nonconformance with specified or indicated requirements shall be performed by same independent firm on instructions from Engineer. Payment for retesting or re-inspection will be charged to Contractor by deducting testing charges from Contract Sum/Price.
- G. Agency Responsibilities:
 - 1. Test Samples of mixes submitted by Contractor.
 - 2. Provide qualified personnel at Site. Cooperate with Engineer and Contractor in performance of services.
 - 3. Perform indicated sampling and testing of products according to specified standards.
 - 4. Ascertain compliance of materials and mixes with requirements of Contract Documents.
 - 5. Promptly notify Engineer and Contractor of observed irregularities or nonconformance of Work or products.
 - 6. Perform additional tests required by Engineer.
 - 7. Attend preconstruction meetings and progress meetings.
- H. Agency Reports: After each test, promptly submit two copies of report to Engineer, Contractor, and authorities having jurisdiction. When requested by Engineer, provide interpretation of test results. Include the following:
 - 1. Date issued.
 - 2. Project title and number.
 - 3. Name of inspector.
 - 4. Date and time of sampling or inspection.
 - 5. Identification of product and Specification Section.
 - 6. Location in Project.
 - 7. Type of inspection or test.
 - 8. Date of test.
 - 9. Results of tests.
 - 10. Conformance with Contract Documents.
- I. Limits on Testing Authority:
 - 1. Agency or laboratory may not release, revoke, alter, or enlarge on requirements of Contract Documents.
 - 2. Agency or laboratory may not approve or accept any portion of the Work.
 - 3. Agency or laboratory may not assume duties of Contractor.
 - 4. Agency or laboratory has no authority to stop the Work.

1.8 MANUFACTURER'S FIELD SERVICES

- A. When specified in individual Specification Sections, require material or product suppliers or manufacturers to provide qualified staff personnel to observe Site conditions, conditions of surfaces and installation, quality of workmanship, startup of equipment, testing, adjusting, and balancing of equipment, and commissioning as applicable, and to initiate instructions when necessary.
- B. Submit qualifications of observer to Engineer 30 days in advance of required observations. Observer is subject to approval of Owner.
- C. Report observations and Site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturer's written instructions.
- D. Refer to Section 01 33 00 "Submittal Procedures," "Manufacturer's Field Reports" Article.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 50 00 - TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Temporary facilities under Construction Management Agreement.
 - 2. Temporary Utilities:
 - a. Temporary electricity.
 - b. Temporary lighting for construction purposes.
 - c. Temporary water service.
 - d. Temporary sanitary facilities.
 - 3. Construction Facilities:
 - a. Field offices and sheds.
 - b. Vehicular access.
 - c. Parking.
 - d. Progress cleaning and waste removal.
 - e. Project identification.
 - f. Traffic regulation.
 - g. Fire-prevention facilities.
 - 4. Temporary Controls:
 - a. Barriers.
 - b. Enclosures and fencing.
 - c. Security.
 - d. Water control.
 - e. Dust control.
 - f. Erosion and sediment control.
 - g. Noise control.
 - h. Pest and rodent control.
 - i. Pollution control.
 - 5. Removal of utilities, facilities, and controls.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 TEMPORARY ELECTRICITY

- A. Provide and pay for power service required from utility or other sources as needed for construction operation.

1.3 TEMPORARY WATER SERVICE

- A. Provide and pay for suitable quality water service as needed to maintain specified conditions for construction operations.

1.4 TEMPORARY SANITARY FACILITIES

- A. Provide and maintain required facilities and enclosures. Existing facility use is not permitted. Provide facilities at time of Project mobilization.

1.5 FIELD OFFICES AND SHEDS

- A. Designated existing spaces may be used for field offices and for storage:
 - 1. Areas approved by Owner.
- B. Storage Areas and Sheds: Size to storage requirements for products of individual Sections, allowing for access and orderly provision for maintenance and inspection of products to suit requirements in Section 01 60 00 "Product Requirements."
- C. Preparation: Fill and grade Sites for temporary structures sloped for drainage away from buildings.

1.6 VEHICULAR ACCESS

- A. Construct temporary access roads from public thoroughfares to serve construction area, of width and load-bearing capacity to accommodate unimpeded traffic for construction purposes.
- B. Construct temporary bridges and culverts to span low areas and allow unimpeded drainage.
- C. Extend and relocate vehicular access as Work progress requires and provide detours as necessary for unimpeded traffic flow.
- D. Locate as approved by Owner.
- E. Provide unimpeded access for emergency vehicles. Maintain 20-foot-wide driveways with turning space between and around combustible materials.
- F. Provide and maintain access to fire hydrants and control valves free of obstructions.
- G. Provide means of removing mud from vehicle wheels before entering streets.
- H. Use designated existing on-Site roads for construction traffic.

1.7 PARKING

- A. Provide temporary gravel surface parking areas to accommodate construction personnel.
- B. Locate as approved by Owner.
- C. If Site space is not adequate, provide additional off-Site parking.
- D. Use of existing on-Site streets and driveways used for construction traffic is permitted. Tracked vehicles are not allowed on paved areas.
- E. Use of existing parking facilities used by construction personnel is permitted.
- F. Do not allow heavy vehicles or construction equipment in parking areas.
- G. Do not allow vehicle parking on existing pavement.
- H. Maintenance:
 - 1. Maintain traffic and parking areas in sound condition free of excavated material, construction equipment, products, mud, snow, ice, and the like.
 - 2. Maintain existing paved areas used for construction; promptly repair breaks, potholes, low areas, standing water, and other deficiencies, to maintain paving and drainage in original condition.
- I. Removal, Repair:
 - 1. Remove temporary materials and construction at Substantial Completion.
 - 2. Remove underground Work and compacted materials to depth of 2 eet; fill and grade Site as indicated.
 - 3. Repair existing facilities damaged by use, to original condition.
- J. Mud from Site vehicles: Provide means of removing mud from vehicle wheels before entering streets.

1.8 PROGRESS CLEANING AND WASTE REMOVAL

- A. Maintain areas free of waste materials, debris, and rubbish. Maintain Site in clean and orderly condition.
- B. Remove debris and rubbish from pipe chases, plenums, attics, crawl spaces, and other closed or remote spaces, before enclosing spaces.
- C. Broom and vacuum clean interior areas before starting surface finishing, and continue cleaning to eliminate dust.
- D. Collect and remove waste materials, debris, and rubbish from Site as needed and dispose of off-Site.
- E. Open free-fall chutes are not permitted. Terminate closed chutes into appropriate containers with lids.

1.9 TRAFFIC REGULATION

- A. Signs, Signals, and Devices:
 - 1. Post-Mounted and Wall-Mounted Traffic Control and Informational Signs: As approved by authorities having jurisdiction.
 - 2. Automatic Traffic Control Signals: As approved by local jurisdictions.
 - 3. Traffic Cones, Drums, Flares, and Lights: As approved by authorities having jurisdiction.
 - 4. Flag Person Equipment: As required by authorities having jurisdiction.
- B. Flag Persons: Provide trained and equipped flag persons to regulate traffic when construction operations or traffic encroach on public traffic lanes.
- C. Flares and Lights: Use flares and lights during hours of low visibility to delineate traffic lanes and to guide traffic.
- D. Haul Routes:
 - 1. Consult with authorities having jurisdiction and establish public thoroughfares to be used for haul routes and Site access.

1.10 FIRE-PREVENTION FACILITIES

- A. Establish fire watch for cutting, welding, and other hazardous operations capable of starting fires. Maintain fire watch before, during, and after hazardous operations until threat of fire does not exist.

1.11 BARRIERS

- A. Provide barriers to prevent unauthorized entry to construction areas, while also allowing for Owner's use of Site, and to protect existing facilities and adjacent properties from damage from construction operations.

1.12 SECURITY

- A. Security Program:
 - 1. Protect Work on existing premises from theft, vandalism, and unauthorized entry.
 - 2. Initiate program at Project mobilization.
 - 3. Maintain program throughout construction period until Final Completion.

- B. Entry Control:
 - 1. Restrict entrance of persons and vehicles to Project Site and existing facilities.
 - 2. Allow entrance only to authorized persons with proper identification.
 - 3. Owner will control entrance of persons and vehicles related to Owner's operations.

1.13 WATER CONTROL

- A. Grade Site to drain. Maintain excavations free of water. Provide, operate, and maintain necessary pumping equipment.
- B. Protect Site from puddles or running water. Provide water barriers as required to protect Site from soil erosion.

1.14 DUST CONTROL

- A. Execute Work by methods that minimize raising dust from construction operations.
- B. Provide positive means to prevent airborne dust from dispersing into atmosphere.

1.15 EROSION AND SEDIMENT CONTROL

- A. Follow requirements of Section 01 57 23 "Temporary Stormwater Pollution Control."
- B. Plan and execute construction by methods to control surface drainage from cuts and fills from borrow and waste disposal areas. Prevent erosion and sedimentation.
- C. Minimize surface area of bare soil exposed at one time.
- D. Provide temporary measures including berms, dikes, drains, and other devices to prevent water flow.
- E. Construct fill and waste areas by selective placement to avoid erosive surface silts and clays.
- F. Periodically inspect earthwork to detect evidence of erosion and sedimentation. Promptly apply corrective measures.

1.16 POLLUTION CONTROL

- A. Provide methods, means, and facilities to prevent contamination of soil, water, and atmosphere from discharge of noxious, toxic substances and pollutants produced by construction operations.
- B. Comply with pollution and environmental control requirements of authorities having jurisdiction.

1.17 REMOVAL OF UTILITIES, FACILITIES, AND CONTROLS

- A. Remove temporary utilities, equipment, facilities, and materials before Substantial Completion inspection.
- B. Remove underground installations to minimum depth of 2 feet, unless otherwise indicated on Drawings.
- C. Clean and repair damage caused by installation or use of temporary Work.
- D. Restore existing and permanent facilities used during construction to original condition. Restore permanent facilities used during construction to specified condition.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 57 23 - TEMPORARY STORMWATER POLLUTION CONTROL

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Contractor responsibilities.
 - 2. Submittals.
 - 3. Erosion and sediment controls.
- B. Related Requirements:
 - 1. Local jurisdiction requirements.
 - 2. Division 01 Specification Sections apply to Work of this Section.

1.2 CONTRACTOR RESPONSIBILITIES

- A. Contractor is solely responsible for meeting all TCEQ and EPA requirements for stormwater pollution prevention:
 - 1. Develop a Stormwater Pollution Prevention Plan (SWPPP);
 - 2. File Notice of Intent (NOI) and include Owner as an "Operator;"
 - 3. Install and maintain all erosion control measures and best management practices (BMPs);
 - 4. Perform inspections and prepare reports; and
 - 5. File Notice of Termination (NOT).

1.3 SUBMITTALS

- A. Submit to Engineer, SWPPP, Submittal Procedures, and all other related documentation conforming to Section 01 33 00 "Submittal Procedures."

1.4 EROSION AND SEDIMENT CONTROLS

- A. Implement structural measures to divert flows from exposed soils, temporarily store flows, or otherwise limit run-off and discharge of pollutants from exposed areas of site. Timely implement structural practices as specified in SWPPP during construction to minimize erosion and sediment run-off.
- B. Stabilized Ingress/Egress:
 - 1. Provide stabilized access to/from construction site as soon as practical per SWPPP.
 - 2. Ensure any soil tracked off-site is cleaned from existing roads, alleys, and any adjacent properties as soon as possible. Check for any pollutants (mud, silt, sand, cement, construction materials, etc.) tracked or washed off-site and perform necessary clean-up measures at the end of each workday.
- C. Silt Fences/Diversion Berms: Provide as a temporary structural practice to minimize erosion and sediment runoff, as necessary. Properly install silt fences and/or diversion berms to effectively retain sediment immediately after completing each phase of Work where erosion would occur as sheet and rill erosion (clearing and grubbing, excavation, embankment, grading, etc.).

- D. Sand/Gravel Bags: Provide as a temporary structural practice to minimize erosion and sediment runoff. Properly place bags to effectively retain sediment immediately after completing each phase of Work (clearing and grubbing, excavation, embankment, grading, etc.) in each independent runoff area (after clearing and grubbing between ridge and drain, place bags as Work progresses, remove/replace/relocate bags as needed for Work to progress in drainage area). Replace sand/gravel bags no longer in good condition, as needed.
- E. Site Stabilization:
 - 1. Minimize surface area of base soil material at one time.
 - 2. Implement necessary stabilization measures including:
 - a. Temporary/permanent seeding/sodding.
 - b. Mulching.
 - c. Geotextiles.
 - d. Vegetative buffer strips.
 - e. Paving.
 - f. Rock riprap.
 - g. Rock-filled gabions.
 - h. Inlet protection.
 - 3. Implement stabilization measures per SWPPP.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 60 00 - PRODUCT REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Products.
 - 2. Product delivery requirements.
 - 3. Product storage and handling requirements.
 - 4. Product options.
 - 5. Equipment electrical characteristics and components.
- B. Related Requirements:
 - 1. Other Division 01 Specification Sections apply to Work of this Section.

1.2 PRODUCTS

- A. At minimum, comply with specified requirements and reference standards.
- B. Specified products define standard of quality, type, function, dimension, appearance, and performance required.
- C. Furnish products of qualified manufacturers that are suitable for intended use. Furnish products of each type by single manufacturer unless specified otherwise. Confirm that manufacturer's production capacity can provide sufficient product, on time, to meet Project requirements.
- D. Domestic Products: All iron and steel products produced through a manufacturing process and used in the Project shall be produced in the United States in accordance with Government Code Section 2252.202, et seq., as amended.
- E. Do not use materials and equipment removed from existing premises except as specifically permitted by Contract Documents.
- F. Furnish interchangeable components from same manufacturer for components being replaced.

1.3 PRODUCT DELIVERY REQUIREMENTS

- A. Transport and handle products according to manufacturer's instructions.
- B. Promptly inspect shipments to ensure products comply with requirements, quantities are correct, and products are undamaged.
- C. Provide equipment and personnel to handle products; use methods to prevent soiling, disfigurement, or damage.

1.4 PRODUCT STORAGE AND HANDLING REQUIREMENTS

- A. Store and protect products according to manufacturer's instructions.
- B. Store products with seals and labels intact and legible.
- C. Store sensitive products in weathertight, climate-controlled enclosures in an environment suitable to product.
- D. For exterior storage of fabricated products, place products on sloped supports aboveground.
- E. Provide bonded off-Site storage and protection when Site does not permit on-Site storage or protection.

- F. Cover products subject to deterioration with impervious sheet covering. Provide ventilation to prevent condensation and degradation of products.
- G. Store loose granular materials on solid flat surfaces in well-drained area. Prevent mixing with foreign matter.
- H. Provide equipment and personnel to store products; use methods to prevent soiling, disfigurement, or damage.
- I. Arrange storage of products to permit access for inspection. Periodically inspect to verify products are undamaged and are maintained in acceptable condition.

1.5 PRODUCT OPTIONS

- A. Products Specified by Reference Standards or by Description Only: Products complying with specified reference standards or description.
- B. Products Specified by Naming One or More Manufacturers: Products of one of manufacturers named and complying with Specifications; no options or substitutions allowed.
- C. Products Specified by Naming One or More Manufacturers with Provision for Substitutions: Submit Request for Substitution for any manufacturer not named, according to Section 01 25 00 "Substitution Procedures."

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01 70 00 - EXECUTION AND CLOSEOUT REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Examination.
 - 2. Preparation.
 - 3. Coordination of Owner's portion of the Work.
 - 4. Field engineering.
 - 5. Execution.
 - 6. Cutting and patching.
 - 7. Protecting installed construction.
 - 8. Starting of systems.
 - 9. Demonstration and instruction.
 - 10. Testing, adjusting, and balancing.
 - 11. Closeout procedures.
 - 12. Project record documents.
 - 13. Operation and maintenance data.
 - 14. Manual for materials and finishes.
 - 15. Manual for equipment and systems.
 - 16. Spare parts and maintenance products.
 - 17. Product warranties and product bonds.
 - 18. Maintenance service.
 - 19. Final cleaning.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 EXAMINATION

- A. Verify that existing Site conditions and substrate surfaces are acceptable for subsequent Work. Beginning new Work means acceptance of existing conditions.
- B. Verify that existing substrate is capable of structural support or attachment of new Work being applied or attached.
- C. Examine and verify specific conditions described in individual Specification Sections.
- D. Verify that utility services are available with correct characteristics and in correct locations.

1.3 PREPARATION

- A. Clean substrate surfaces prior to applying next material or substance according to manufacturer's instructions.
- B. Seal cracks or openings of substrate prior to applying next material or substance.
- C. Apply manufacturer-required or -recommended substrate primer, sealer, or conditioner prior to applying new material or substance in contact or bond.

1.4 FIELD ENGINEERING

- A. Employ land surveyor registered in State of Texas and acceptable to Owner.
- B. Locate and protect survey controls and reference points. Promptly notify Engineer of discrepancies discovered.
- C. Control datum for survey is established by Owner-provided survey and indicated on Drawings.
- D. Verify setbacks and easements; confirm Drawing dimensions and elevations.
- E. Provide field engineering services. Establish elevations, lines, and levels using recognized engineering survey practices.
- F. Submit copy of certificate signed by land surveyor certifying elevations and locations of the Work are in conformance with Contract Documents.
- G. Maintain complete and accurate log of control and survey Work as Work progresses.
- H. Protect survey control points prior to starting Site Work; preserve permanent reference points during construction.
- I. Promptly report to Engineer loss or destruction of reference point or relocation required because of changes in grades or other reasons.
- J. Replace dislocated survey control points based on original survey control. Make no changes without prior written notice to Engineer.

1.5 EXECUTION

- A. Comply with manufacturer's installation instructions, performing each step in sequence. Maintain one set of manufacturer's installation instructions at Project Site during installation and until completion of construction.
- B. When manufacturer's installation instructions conflict with Contract Documents, request clarification from Engineer before proceeding.
- C. Verify that field measurements are as indicated on approved Shop Drawings or as instructed by manufacturer.
- D. Secure products in place with positive anchorage devices designed and sized to withstand stresses, vibration, physical distortion, or disfigurement.
 - 1. Secure Work true to line and level and within specified tolerances, or if not specified, industry-recognized tolerances.
 - 2. Physically separate products in place and provide electrical insulation or protective coatings to prevent galvanic action or corrosion between dissimilar metals.
 - 3. Exposed Joints: Provide uniform joint width and arrange to obtain best visual effect. Refer questionable visual effect choices to Engineer for final decision.
- E. Allow for expansion of materials and building movement.
- F. Climatic Conditions and Project Status: Install each unit of Work under conditions to ensure best possible results in coordination with entire Project.
 - 1. Isolate each unit of Work from incompatible Work as necessary to prevent deterioration.
 - 2. Coordinate enclosure of Work with required inspections and tests to minimize necessity of uncovering Work for those purposes.
- G. Mounting Heights: Where not indicated, mount individual units of Work at industry-recognized standard mounting heights for particular application indicated.
 - 1. Refer questionable mounting height choices to Engineer for final decision.
 - 2. Elements Identified as Handicap Accessible: Comply with applicable codes and regulations.

- H. Adjust operating products and equipment to ensure smooth and unhindered operation.
- I. Clean and perform maintenance on installed Work as frequently as necessary through remainder of construction period. Lubricate operable components as recommended by manufacturer.

1.6 CUTTING AND PATCHING

- A. Employ skilled and experienced Installers to perform cutting and patching.
- B. Submit written request in advance of cutting or altering elements affecting the following:
 - 1. Structural integrity of element.
 - 2. Integrity of weather-exposed or moisture-resistant elements.
 - 3. Efficiency, maintenance, or safety of element.
 - 4. Visual qualities of sight-exposed elements.
 - 5. Work of Owner or separate Contractor.
- C. Execute cutting, fitting, and patching, including excavation and fill. to complete Work and to accomplish the following:
 - 1. Fit the several parts together, to integrate with other Work.
 - 2. Uncover Work to install or correct ill-timed Work.
 - 3. Remove and replace defective and nonconforming Work.
 - 4. Remove samples of installed Work for testing.
 - 5. Provide openings in elements of Work for penetrations of mechanical and electrical Work.
- D. Execute Work by methods to avoid damage to other Work and to provide proper surfaces to receive patching and finishing.
- E. Cut masonry and concrete materials using masonry saw or core drill.
- F. Restore Work with new products according to requirements of Contract Documents.
- G. Fit Work tight to pipes, sleeves, ducts, conduits, and other penetrations through surfaces.
- H. Maintain integrity of wall, ceiling, or floor construction; completely seal voids.
- I. Refinish surfaces to match adjacent finishes. For continuous surfaces, refinish to nearest intersection; for assembly, refinish entire unit.
- J. Identify the hazardous substances or conditions exposed during the Work to Engineer for decision or remedy.

1.7 PROTECTING INSTALLED CONSTRUCTION

- A. Protect installed Work and provide special protection where specified in individual Specification Sections.
- B. Provide temporary and removable protection for installed products. Control activity in immediate Work area to prevent damage.
- C. Prohibit traffic from landscaped areas.

1.8 STARTING OF SYSTEMS

- A. Coordinate schedule for startup of various equipment and systems.
- B. Notify Engineer 14 days prior to startup of each item. Start up date shall not be scheduled until proposed date has been accepted by Owner and Engineer.
- C. Verify that each piece of equipment or system has been checked for proper lubrication, drive rotation, belt tension, control sequence, and for conditions that may cause damage.
- D. Verify that tests, meter readings, and electrical characteristics agree with those required by equipment or system manufacturer.
- E. Verify that wiring and support components for equipment are complete and tested.

- F. Execute startup under supervision of manufacturer's representative or Contractors' personnel according to manufacturer's instructions.
- G. When specified in individual Specification Sections, require manufacturer to provide authorized representative who will be present at Site to inspect, check, and approve equipment or system installation prior to startup and will supervise placing equipment or system in operation.
- H. Submit a written report in accordance with Section 01 33 00 "Submittal Procedures" stating that equipment or system has been properly installed and is functioning correctly.

1.9 CLOSEOUT PROCEDURES

- A. Prerequisites to Substantial Completion: Complete following items before requesting Certification of Substantial Completion, either for entire Work or for portions of Work:
 - 1. Submit maintenance manuals, Project record documents, digital images of construction photographs, and other similar final record data in compliance with this Section.
 - 2. Complete facility startup, testing, adjusting, balancing of systems and equipment, demonstrations, and instructions to Owner's operating and maintenance personnel as specified in compliance with this Section.
 - 3. Conduct inspection to establish basis for request that Work is substantially complete. Create comprehensive list (initial punch list) indicating items to be completed or corrected, value of incomplete or nonconforming Work, reason for being incomplete, and date of anticipated completion for each item. Include copy of list with request for Certificate of Substantial Completion.
 - 4. Obtain and submit releases enabling Owner's full, unrestricted use of Project and access to services and utilities. Include certificate of occupancy, operating certificates, and similar releases from authorities having jurisdiction and utility companies.
 - 5. Deliver tools, spare parts, extra stocks of material, and similar physical items to Owner.
 - 6. Make final change-over of locks and transmit keys directly to Owner. Advise Owner's personnel of change-over in security provisions.
 - 7. Discontinue or change over and remove temporary facilities and services from Project Site, along with construction tools, mockups, and similar elements.
 - 8. Perform final cleaning according to this Section.
- B. Substantial Completion Inspection:
 - 1. When Contractor considers Work to be substantially complete, submit to Engineer:
 - a. Written certificate that Work, or designated portion, is substantially complete.
 - b. List of items to be completed or corrected (initial punch list).
 - 2. Within 7 days after receipt of request for Substantial Completion, Engineer will make inspection to determine whether Work or designated portion is substantially complete.
 - 3. Should Engineer determine that Work is not substantially complete:
 - a. Engineer will promptly notify Contractor in writing, stating reasons for its opinion.
 - b. Contractor shall remedy deficiencies in Work and send second written request for Substantial Completion to Engineer.
 - c. Engineer will reinspect Work.
 - d. Redo and Inspection of Deficient Work: Repeated until Work passes Engineer's inspection.

4. When Engineer finds that Work is substantially complete, Engineer will:
 - a. Prepare Certificate of Substantial Completion on EJCDC C-625 - Certificate of Substantial Completion , accompanied by Contractor's list of items to be completed or corrected as verified and amended by Engineer and Owner (final punch list).
 - b. Submit Certificate to Owner and Contractor for their written acceptance of responsibilities assigned to them in Certificate.
5. After Work is substantially complete, Contractor shall:
 - a. Allow Owner occupancy of Project under provisions stated in Certificate of Substantial Completion.
 - b. Complete Work listed for completion or correction within time period stipulated.
- C. Prerequisites for Final Completion: Complete following items before requesting final acceptance and final payment.
 1. When Contractor considers Work to be complete, submit written certification that:
 - a. Contract Documents have been reviewed.
 - b. Work has been examined for compliance with Contract Documents.
 - c. Work has been completed according to Contract Documents.
 - d. Work is completed and ready for final inspection.
 2. Submittals: Submit following:
 - a. Final punch list indicating all items have been completed or corrected.
 - b. Final payment request with final releases and supporting documentation not previously submitted and accepted. Include certificates of insurance for products and completed operations where required.
 - c. Specified warranties, workmanship/maintenance bonds, maintenance agreements, and other similar documents.
 - d. Accounting statement for final changes to Contract Sum.
 - e. Contractor's affidavit of payment of debts and claims on AIA G706 - Contractor's Affidavit of Payment of Debts and Claims.
 - f. Contractor affidavit of release of liens on AIA G706A - Contractor's Affidavit of Release of Liens.
 - g. Consent of surety to final payment on AIA G707 - Consent of Surety to Final Payment Form.
 3. Perform final cleaning for Contractor-soiled areas according to this Section.
- D. Final Completion Inspection:
 1. Within 7 days after receipt of request for final inspection, Engineer will make inspection to determine whether Work or designated portion is complete.
 2. Should Engineer consider Work to be incomplete or defective:
 - a. Engineer will promptly notify Contractor in writing, listing incomplete or defective Work.
 - b. Contractor shall remedy stated deficiencies and send second written request to Engineer that Work is complete.
 - c. Engineer will reinspect Work.
 - d. Redo and Inspection of Deficient Work: Repeated until Work passes Engineer's inspection.

1.10 PROJECT RECORD DOCUMENTS

- A. Maintain on Site one set of the following record documents; record actual revisions to the Work:
 - 1. Drawings.
 - 2. Specifications.
 - 3. Addenda.
 - 4. Change Orders and other modifications to the Contract.
 - 5. Reviewed Shop Drawings, product data, and Samples.
 - 6. Manufacturer's instruction for assembly, installation, and adjusting.
- B. Ensure entries are complete and accurate, enabling future reference by Owner.
- C. Store Record Documents separate from documents used for construction.
- D. Record information concurrent with construction progress, not less than weekly.
- E. Specifications: Legibly mark and record, at each product Section, description of actual products installed, including the following:
 - 1. Manufacturer's name and product model and number.
 - 2. Product substitutions or alternates used.
 - 3. Changes made by Addenda, bulletin, Change Order, and modifications.
- F. Record Drawings: Legibly mark each item to record actual construction as follows:
 - 1. Include Contract modifications such as Addenda, supplementary instructions, change directives, field orders, minor changes in the Work, and change orders.
 - 2. Include locations of concealed elements of the Work.
 - 3. Identify depth of buried utility lines and provide dimensions showing distances from permanent facility components that are parallel to utilities.
 - 4. Dimension ends, corners, and junctions of buried utilities to permanent facility components using triangulation.
 - 5. Identify and locate existing buried or concealed items encountered during Project.
 - 6. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
 - 7. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of the Work.
 - 8. Field changes of dimension and detail.
 - 9. Details not on original Drawings.
- G. Submit marked-up paper copy documents to Engineer with claim for final Application for Payment.
- H. Submit PDF electronic files of marked-up documents to Engineer with claim for final Application for Payment.

1.11 OPERATION AND MAINTENANCE DATA

- A. Submit in PDF composite electronic indexed file.
- B. Drawings: Provide with reinforced punched binder tab. Bind in with text; fold larger drawings to size of text pages.

- C. Contents: Prepare table of contents for each volume, with each product or system description identified, typed on white paper, in three parts as follows:
 - 1. Part 1: Directory, listing names, addresses, and telephone numbers of Architect/Engineer, Contractor, Subcontractors, and major equipment suppliers.
 - 2. Part 2: Operation and maintenance instructions, arranged by process flow and subdivided by Specification Section. For each category, identify names, addresses, and telephone numbers of Subcontractors and suppliers. Include the following:
 - a. Significant design criteria.
 - b. List of equipment.
 - c. Parts list for each component.
 - d. Operating instructions.
 - e. Maintenance instructions for equipment and systems.
 - f. Maintenance instructions for finishes, including recommended cleaning methods and materials, and special precautions identifying detrimental agents.
 - g. Safety precautions to be taken when operating and maintaining or working near equipment.
 - 3. Part 3: Project documents and certificates, including the following:
 - a. Shop Drawings and product data.
 - b. Air and water balance reports.
 - c. Certificates.
 - d. Originals of warranties and bonds.

1.12 MANUAL FOR MATERIALS AND FINISHES

- A. Submit two copies of preliminary draft or proposed formats and outlines of contents before start of Work. Engineer will review draft and return one copy with comments.
- B. For equipment or component parts of equipment put into service during construction and operated by Owner, submit documents within ten days after acceptance.
- C. Submit one copy of completed volumes 15 days prior to Final Inspection.

1.13 SPARE PARTS AND MAINTENANCE PRODUCTS

- A. Furnish spare parts, maintenance, and extra products in quantities specified in individual Specification Sections.
- B. Deliver to place in location as directed by Owner; obtain receipt prior to final payment.

1.14 FINAL CLEANING

- A. Execute final cleaning prior to final walk through inspection.
- B. Return Site to original or better condition.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

DIVISION 03
CONCRETE

SECTION 03 10 00 - CONCRETE FORMING AND ACCESSORIES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Formwork for cast-in-place concrete.
 - 2. Shoring, bracing, and anchorage.
 - 3. Architectural form liners.
 - 4. Form accessories.
 - 5. Form stripping.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 03 20 00 "Concrete Reinforcing" for reinforcing steel and required supports for cast-in-place concrete.

1.2 REFERENCE STANDARDS

- A. American Concrete Institute:
 - 1. ACI 117 - Specification for Tolerances for Concrete Construction and Materials.
 - 2. ACI 301 - Specifications for Structural Concrete.
 - 3. ACI 318 - Building Code Requirements for Structural Concrete.
 - 4. ACI 347 - Guide to Formwork for Concrete.
- B. American Forest & Paper Association:
 - 1. AF&PA - National Design Specification (NDS) for Wood Construction.
- C. APA - The Engineered Wood Association:
 - 1. APA/EWA PS 1 - Voluntary Product Standard - Structural Plywood.
- D. ASTM International:
 - 1. ASTM D1751 - Standard Specification for Preformed Expansion Joint Filler for Concrete Paving and Structural Construction (Nonextruding and Resilient Bituminous Types).
 - 2. ASTM E96 - Standard Test Methods for Water Vapor Transmission of Materials.
- E. West Coast Lumber Inspection Bureau:
 - 1. WCLIB - Standard No. 17 Grading Rules for West Coast Lumber.

1.3 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Coordinate Work of this Section with other Sections of Work in forming and placing openings, slots, reglets, recesses, sleeves, bolts, anchors, other inserts, and components of other Work.

1.4 QUALITY ASSURANCE

- A. Perform Work according to ACI 347, 301, and 318.
- B. For wood products furnished for Work of this Section, comply with AF&PA.
- C. Perform Work according to City of Midland standards.

PART 2 - PRODUCTS

2.1 PERFORMANCE AND DESIGN CRITERIA

- A. Design, engineer, and construct formwork, shoring, and bracing according to ACI 318 to conform to design and applicable code requirements to achieve concrete shape, line, and dimension as indicated on Drawings.

2.2 WOOD FORM MATERIALS

- A. Form Materials: At discretion of Contractor.

2.3 PREFABRICATED FORMS

- A. Manufacturers:
 - 1. EFCO - Economy Forms Corp.
 - 2. Molded Fiber Glass Construction Products.
 - 3. Sonoco Products Co.
 - 4. Symons by Dayton Superior.
 - 5. Wall-Ties & Forms, Inc.
 - 6. Western Forms.
 - 7. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- B. Preformed Steel Forms:
 - 1. Description: Matched, tightly fitted, and stiffened to support weight of concrete without deflection detrimental to tolerances and appearance of finished surfaces.
 - 2. Minimum Thickness: 16 gage.
- C. FRP Forms: Matched, tightly fitted, and stiffened to support weight of concrete without deflection detrimental to tolerances and appearance of finished concrete surfaces.
- D. Pan:
 - 1. Material: Steel.
 - 2. Configuration: Size and profile as required.
- E. Steel Forms:
 - 1. Description: Sheet steel, suitably reinforced.
 - 2. Design: For particular use as indicated on Drawings.
- F. Form Liners: Smooth, durable, grainless, and non-staining hardboard unless otherwise indicated on Drawings.
- G. Framing, Studding, and Bracing: Stud.

2.4 FORMWORK ACCESSORIES

- A. Form Ties:
 - 1. Type: Removable, snap off, or cone.
 - 2. Material: Galvanized.
 - 3. Length: Adjustable.
 - 4. Furnish waterproofing washer.
 - 5. Free of defects capable of leaving holes larger than 1-inch in concrete surface.

6. Manufacturers:
 - a. Heckmann Building Products, Inc.
 - b. Symons by Dayton Superior.
 - c. Wall-Ties & Forms, Inc.
 - d. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- B. Spreaders:
 1. Description: Standard, non-corrosive metal-form clamp assembly, of type acting as spreaders and leaving no metal within 1-inch of concrete face.
 2. Wire ties, wood spreaders, or through bolts are not permitted.
- C. Form Release Agent:
 1. Description: Colorless mineral oil that will not stain concrete or absorb moisture or impair natural bonding or color characteristics of coating intended for use on concrete.
 2. Manufacturers:
 - a. Architectural Concrete Chemicals, LLC.
 - b. Nox-Crete Products Group.
 - c. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- D. Vapor Retarder:
 1. Description: Polyethylene sheet.
 2. Thickness: 8 mils.
- E. Bituminous Joint Filler: Comply with ASTM D1751.
- F. Nails, Spikes, Lag Bolts, Through Bolts, Anchorages: Size, strength, and character to maintain formwork in place while placing concrete.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify lines, levels, and centers before proceeding with formwork.
- C. Verify that dimensions agree with Shop Drawings.
- D. If formwork is placed after reinforcement resulting in insufficient concrete cover over reinforcement, request instructions from Engineer before proceeding.

3.2 INSTALLATION

- A. Earth Forms:
 1. Trench earth forms neatly, accurately, and at least 2 inches wider than footing widths indicated on Drawings.
 2. Trim sides and bottom of earth forms.
 3. Construct wood edge strips at top of each side of trench to secure reinforcing and to prevent trench from sloughing.
 4. Form sides of footings where earth sloughs.
 5. Tamp earth forms firm and clear them of debris and loose material before depositing concrete.

- B. Formwork:
1. Provide top form for sloped surfaces steeper than 1.5 horizontal to 1 vertical to hold shape of concrete during placement, unless it can be demonstrated that top forms can be omitted.
 2. Construct forms to correct shape and dimensions, mortar-tight, braced, and of sufficient strength to maintain shape and position under imposed loads from construction operations.
 3. Camber forms where necessary to produce level finished soffits unless indicated otherwise on Drawings.
 4. Positioning:
 - a. Carefully verify horizontal and vertical positions of forms.
 - b. Correct misaligned or misplaced forms before placing concrete.
 5. Complete wedging and bracing before placing concrete.
 6. Erect formwork, shoring, and bracing to achieve design requirements according to ACI 301.
 7. Stripping:
 - a. Arrange and assemble formwork to permit dismantling and stripping.
 - b. Do not damage concrete during stripping.
 - c. Permit removal of remaining principal shores.
 8. Obtain approval of Engineer before framing openings in structural members not indicated on Drawings.
 9. Install fillet and chamfer strips on external corners of beams, joists, and columns.
 10. Install void forms according to manufacturer instructions.
 11. Do not reuse wood formwork more than 3 times for concrete surfaces to be exposed to view.
 12. Do not patch formwork.
 13. Leave forms in place for minimum number of days according to ACI 347.
- C. Form Removal:
1. Do not remove forms or bracing until concrete has gained sufficient strength to carry its own weight and imposed loads, and removal has been approved by Engineer.
 2. Loosen forms carefully; do not wedge pry bars, hammers, or tools against finish concrete surfaces scheduled for exposure to view.
 3. Store removed forms in manner that surfaces to be in contact with fresh concrete will not be damaged.
 4. Discard damaged forms.
 5. Form Release Agent:
 - a. Apply according to manufacturer instructions.
 - b. Apply prior to placement of reinforcing steel, anchoring devices, and embedded items.
 - c. Do not apply form release agent if concrete surfaces are indicated to receive special finishes or applied coverings that may be affected by agent.
 - d. Soak inside surfaces of untreated forms with clean water, and keep surfaces coated prior to placement of concrete.
 6. Form Cleaning:
 - a. Clean forms as erection proceeds to remove foreign matter within forms.
 - b. Clean formed cavities of debris prior to placing concrete.
 - c. Flush with water or use compressed air to remove remaining foreign matter.
 - d. Ensure that water and debris drain to exterior through cleanout ports.
 - e. Cold Weather:
 - 1) During cold weather, remove ice and snow from within forms.
 - 2) Do not use de-icing salts.

- 3) Do not use water to clean out forms, unless formwork and concrete construction proceed within heated enclosure; use compressed air or other dry method to remove foreign matter.
7. Reuse and Coating of Forms:
 - a. Thoroughly clean forms and reapply form coating before each reuse.
 - b. For exposed Work, do not reuse forms with damaged faces or edges.
 - c. Apply form coating to forms according to manufacturer instructions.
 - d. Do not coat forms for concrete indicated to receive "scored finish."
 - e. Apply form coatings before placing reinforcing steel.
- D. Forms for Smooth Finish Concrete:
 1. Use steel, plywood, or lined-board forms.
 2. Use clean and smooth plywood and form liners, uniform in size, and free from surface and edge damage capable of affecting resulting concrete finish.
 3. Install form lining with close-fitting square joints between separate sheets without springing into place.
 4. Use full-sized sheets of form liners and plywood wherever possible.
 5. Tape joints to prevent protrusions in concrete.
 6. Apply forming and strip wood forms in a manner to protect corners and edges.
 7. Level and continue horizontal joints.
 8. Keep wood forms wet until stripped.
- E. Architectural Form Liners:
 1. Erect architectural side of formwork first.
 2. Attach form liner to forms before installing form ties.
 3. Install form liners square, with joints and pattern aligned.
 4. Seal form liner joints to prevent grout leaks.
 5. Dress joints and edges to match form liner pattern and texture.
- F. Forms for Surfaces to Receive Membrane Waterproofing:
 1. Use plywood or steel forms.
 2. After erection of forms, tape form joints to prevent protrusions in concrete.
- G. Framing, Studding, and Bracing:
 1. Maximum Spacing of Studs:
 - a. Boards: Maximum 16 inches o.c.
 - b. Plywood: 12 inches o.c.
 2. Size framing, bracing, centering, and supporting members for sufficient strength to maintain shape and position under imposed loads from construction operations.
 3. Construct beam soffits of material minimum 2 inches thick.
 4. Distribute bracing loads over base area on which bracing is erected.
 5. When placed on ground, protect against undermining, settlement, and accidental impact.
- H. Form Anchors and Hangers:
 1. Do not use anchors and hangers leaving exposed metal at concrete surface.
 2. Symmetrically arrange hangers supporting forms from structural-steel members to minimize twisting or rotation of member.
 3. Penetration of structural-steel members is not permitted.

- I. Inserts, Embedded Parts, and Openings:
 - 1. Install formed openings for items to be embedded in or passing through concrete Work.
 - 2. Locate and set in place items required to be cast directly into concrete.
 - 3. Install accessories straight, level, and plumb, and ensure that items are not disturbed during concrete placement.
 - 4. Joints:
 - a. Install waterstops continuous without displacing reinforcement.
 - 5. Openings:
 - a. Provide temporary ports or openings in formwork as required to facilitate cleaning and inspection.
 - b. Locate openings at bottom of forms to allow flushing water to drain.
 - 6. Close temporary openings with tight-fitting panels, flush with inside face of forms, and neatly fitted such that joints will not be apparent in exposed concrete surfaces.
- J. Form Ties:
 - 1. Provide sufficient strength and quantity to prevent spreading of forms.
 - 2. Place ties at least 1-inch away from finished surface of concrete.
 - 3. Leave inner rods in concrete when forms are stripped.
 - 4. Space form ties equidistant, symmetrical, and aligned vertically and horizontally unless indicated otherwise on Drawings.
- K. Arrange formwork to allow proper erection sequence and to permit form removal without damage to concrete.
- L. Construction Joints:
 - 1. Install surfaced pouring strip where construction joints intersect on exposed surfaces to provide straight line at joints.
 - 2. Just prior to subsequent concrete placement, remove strip and tighten forms to conceal shrinkage.
 - 3. Appearance:
 - a. Show no overlapping of construction joints.
 - b. Construct joints to present same appearance as butted plywood joints.
 - 4. Arrange joints in continuous line straight, true, and sharp.
- M. Embedded Items:
 - 1. Make provisions for pipes, sleeves, anchors, inserts, reglets, anchor slots, nailers, waterstops, and other features.
 - 2. Do not embed wood or uncoated aluminum in concrete.
 - 3. Obtain installation and setting information for embedded items furnished under other Sections.
 - 4. Securely anchor embedded items in correct location and alignment prior to placing concrete.
 - 5. Ensure that conduits and pipes, including those made of coated aluminum, meet requirements of ACI 318 regarding size and location limitations.
- N. Openings for Items Passing through Concrete:
 - 1. Frame openings in concrete where indicated on Drawings.
 - 2. Establish exact locations, sizes, and other conditions required for openings and attachment of Work specified under other Sections.
 - 3. Coordinate Work to avoid cutting and patching of concrete after placement.
 - 4. Perform cutting and repairing of concrete required as result of failure to provide required openings.
- O. Screeds:
 - 1. Set screeds and establish levels for tops of and finish on concrete slabs.
 - 2. Slope slabs to drain where required or as indicated on Drawings.

3. Before depositing concrete, remove debris from space to be occupied by concrete and thoroughly wet forms; remove freestanding water.
- P. Screed Supports:
 1. For concrete over waterproof membranes and vapor retarder membranes, use cradle pad, or base-type screed supports that will not puncture membrane.
 2. Staking through membrane is not permitted.
- Q. Cleanouts and Access Panels:
 1. Provide removable cleanout sections or access panels at bottoms of forms to permit inspection and effective cleaning of loose dirt, debris, and waste material.
 2. Clean forms and surfaces against which concrete is to be placed.
 3. Remove chips, sawdust, and other debris.
 4. Thoroughly blow out forms with compressed air just before concrete is placed.

3.3 TOLERANCES

- A. Construct formwork to maintain tolerances according to ACI 301 and 318.

3.4 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Inspection:
 1. Inspect erected formwork, shoring, and bracing to ensure that Work complies with formwork design and that supports, fastenings, wedges, ties, and items are secure.
 2. Notify Engineer after placement of reinforcing steel in forms but prior to placing concrete.
 3. Schedule concrete placement to permit formwork inspection before placing concrete.

END OF SECTION

SECTION 03 20 00 - CONCRETE REINFORCING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Reinforcing bars.
 - 2. Welded wire fabric.
 - 3. Reinforcement accessories.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 03 10 00 "Concrete Forming and Accessories" for form materials, waterstops, and accessories required to form cast-in-place concrete.
 - 3. Section 03 30 00 "Cast-in-Place Concrete" for cast-in-place or in-situ concrete for structural building frame, slabs on grade, and other concrete components associated with building.

1.2 REFERENCE STANDARDS

- A. American Concrete Institute:
 - 1. ACI 301 - Specifications for Structural Concrete.
 - 2. ACI 318 - Building Code Requirements for Structural Concrete.
- B. American Welding Society:
 - 1. AWS D1.4 - Structural Welding Code - Reinforcing Steel.
 - 2. AWS D1.4M - Structural Welding Code - Reinforcing Steel.
- C. ASTM International:
 - 1. ASTM A184 - Standard Specification for Welded Deformed Steel Bar Mats for Concrete Reinforcement.
 - 2. ASTM A615 - Standard Specification for Deformed and Plain Carbon-Steel Bars for Concrete Reinforcement.
 - 3. ASTM A704 - Standard Specification for Welded Steel Plain Bar or Rod Mats for Concrete Reinforcement.
 - 4. ASTM A706 - Standard Specification for Deformed and Plain Low-Alloy Steel Bars for Concrete Reinforcement.
 - 5. ASTM A767 - Standard Specification for Zinc-Coated (Galvanized) Steel Bars for Concrete Reinforcement.
 - 6. ASTM A775 - Standard Specification for Epoxy-Coated Steel Reinforcing Bars.
 - 7. ASTM A884 - Standard Specification for Epoxy-Coated Steel Wire and Welded Wire Reinforcement.
 - 8. ASTM A934 - Standard Specification for Epoxy-Coated Prefabricated Steel Reinforcing Bars.
 - 9. ASTM A996 - Standard Specification for Rail-Steel and Axle-Steel Deformed Bars for Concrete Reinforcement.
 - 10. ASTM A1064 - Standard Specification for Carbon-Steel Wire and Welded Wire Reinforcement, Plain and Deformed, for Concrete.
- D. Concrete Reinforcing Steel Institute:
 - 1. CRSI 10-MSP - Manual of Standard Practice.
 - 2. CRSI 10PLACE - Placing Reinforcing Bars.

1.3 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Coordinate Work of this Section with placement of formwork, formed openings, and other Work.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Shop Drawings:
 - 1. Indicate bar sizes, spacings, locations, splice locations, and quantities of reinforcing steel.
 - 2. Indicate bending and cutting schedules.
 - 3. Indicate supporting and spacing devices.
- C. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- D. Submit certified copies of mill test report of reinforcement materials analysis.
- E. Welder Certificates: Certify welders and welding procedures employed on Work, verifying AWS qualification within previous 12 months.
- F. Source Quality-Control Submittals: Indicate results of factory tests and inspections.
- G. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- H. Qualifications Statement:
 - 1. Welders: Qualify procedures and personnel according to AWS D1.1.

1.5 QUALITY ASSURANCE

- A. Perform Work according to ACI 301 and ACI 318.
- B. Prepare Shop Drawings according to ACI SP-66.
- C. Perform Work according to City of Midland standards.

1.6 QUALIFICATIONS

- A. Welders: AWS qualified within previous 12 months for employed weld types.

1.7 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture by storing in clean, dry location remote from construction operations areas.
 - 2. Provide additional protection according to manufacturer instructions.

1.8 EXISTING CONDITIONS

- A. Field Measurements:
 - 1. Verify field measurements prior to fabrication.
 - 2. Indicate field measurements on Shop Drawings.

PART 2 - PRODUCTS

2.1 REINFORCEMENT

- A. Reinforcing Steel:
 - 1. Comply with ASTM A615.
 - 2. Yield Strength: 60 ksi.
 - 3. Billet Bars: Deformed.
 - 4. Finish: Uncoated.

2.2 FABRICATION

- A. Fabricate concrete reinforcement according to ACI 318.
- B. Form standard hooks for 90-degree bends, stirrups and tie hooks as indicated on Drawings.
- C. Form reinforcement bends with minimum diameters according to ACI 318.
- D. Fabricate column reinforcement with offset bends at reinforcement splices.
- E. Form spiral column reinforcement from minimum 3/8-inch-diameter continuous plain bar or wire.
- F. Form ties and stirrups from following:
 - 1. Bars No. 10 and Smaller: No. 3 deformed bars.
 - 2. Bars No. 11 and Larger: No. 4 deformed bars.
- G. Weld reinforcement according to AWS D1.4.
- H. Splicing:
 - 1. If not indicated on Drawings, locate reinforcement splices at point of minimum stress.

2.3 ACCESSORY MATERIALS

- A. Tie Wire:
 - 1. Minimum 16 gage, annealed type.
- B. Chairs, Bolsters, Bar Supports, and Spacers:
 - 1. Size and Shape: To strengthen and support reinforcement during concrete placement conditions.
- C. Special Chairs, Bolsters, Bar Supports, and Spacers Adjacent to Weather-Exposed Concrete Surfaces:
 - 1. Material: Plastic-coated steel.
 - 2. Size and Shape: To meet Project conditions.
- D. Reinforcing Splicing Devices:
 - 1. Type: Exothermic welding type; full tension and compression.
- E. Epoxy Coating Patching Material: Type as recommended by coating manufacturer.

2.4 SOURCE QUALITY CONTROL

- A. Provide shop inspection and testing of completed assembly.
- B. Refer to Section 01 40 00 "Quality Requirements" for requirements for testing, inspection, and analysis.
- C. Certificate of Compliance:
 - 1. If fabricator is approved by authorities having jurisdiction, submit certificate of compliance indicating Work performed at fabricator's facility conforms to Contract Documents.
 - 2. Specified shop tests are not required for Work performed by approved fabricator.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Place, support, and secure reinforcement against displacement.
- B. Do not deviate from required position beyond specified tolerance.
- C. Do not weld crossing reinforcement bars for assembly.
- D. Do not displace or damage vapor retarder.
- E. Accommodate placement of formed openings.
- F. Spacing:
 - 1. Space reinforcement bars with minimum clear spacing according to ACI 318.
 - 2. If bars are indicated in multiple layers, place upper bars directly above lower bars.
- G. Maintain minimum concrete cover around reinforcement according to ACI 318 as follows:
 - 1. Footings and Concrete Formed Against Earth: 3 inches.
 - 2. Concrete Exposed to Earth or Weather:
 - a. No. 6 Bars and Larger: 2 inches.
 - b. No. 5 Bars and Smaller: 1-1/2 inches.
 - 3. Supported Slabs, Walls, and Joists:
 - a. No. 14 Bars and Larger: 1-1/2 inches.
 - b. No. 11 Bars and Smaller: 3/4-inch.
 - 4. Beams and Columns: 1-1/2 inches.
 - 5. Shell and Folded Plate Members:
 - a. No. 6 Bars and Larger: 3/4-inch.
 - b. No. 5 Bars and Smaller: 1/2-inch.

3.2 TOLERANCES

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for tolerances.
- B. Install reinforcement within following tolerances for flexural members, walls, and compression members:
 - 1. Reinforcement Depth Greater Than 8 Inches:
 - a. Depth Tolerance: Plus or Minus 3/8-inch.
 - b. Concrete Cover Tolerance: Minus 3/8-inch.
 - 2. Reinforcement Depth Less Than or Equal to 8 Inches:
 - a. Depth Tolerance: Plus or Minus 1/2-inch.
 - b. Concrete Cover Tolerance: Minus 1/2-inch.
- C. Foundation Walls: Install reinforcement within tolerances according to ACI 530.

3.3 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Field inspection and testing will be performed by Owner's testing laboratory according to ACI 318.

END OF SECTION

SECTION 03 30 00 - CAST-IN-PLACE CONCRETE

PART 1 - GENERAL

1.1 SUMMARY

- A. Provide all materials and labor necessary to complete all concrete, plain and reinforced, as indicated on Drawings or as specified in these Specifications and as required to complete the Project. Work, without limiting the generality thereof, includes:
 - 1. Installation of concrete to provide pile caps, transfer beams, grade beams, footings, foundations, suspended slabs, building walls, elevator shaft walls, retaining walls, slabs on grade, electrical ductbanks, and other incidental concrete Work.
 - 2. Setting of utility structures to grade, setting of granite curb, setting of precast concrete curb, grouting around pipe at manholes, manhole bases, and general repairs caused by utility Work.
 - 3. Installation of concrete to provide bridge abutments, water retention vaults, sewage vaults, sewage clarifiers, and tunnel structures.
 - 4. Concrete slurry wall construction.
 - 5. Mass concrete foundations and related structures.
 - 6. Lightweight concrete at new composite slab locations.
 - 7. Concrete pads for mechanical equipment.
 - 8. Concrete fill in steel stairs.
 - 9. Furnishing and installation of admixtures.
 - 10. Work of other trades required to be built into concrete, such as inserts for connections to steel members, waterstops, flashing reglets, anchors, embedded plates, and reinforcing dowels.
 - 11. Providing vapor retarder or waterproofing membrane below slabs on grade.
 - 12. Finishing of concrete as specified herein or as indicated on Drawings.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 03 10 00 "Concrete Forming and Accessories" for formwork and accessories.
 - 3. Section 03 20 00 "Concrete Reinforcing" for requirements for reinforcing steel and supports.
 - 4. Section 31 23 16 "Excavation."
 - 5. Section 31 23 16.13 "Trenching."

1.2 DEFINITIONS

- A. Cementitious Materials: The materials that are subject to compliance with requirements, such as Portland cement alone or in combination with one or more of the following: Blended hydraulic cement, fly ash, slag cement, other pozzolans, and silica fume.
- B. Conventional Concrete: A type of concrete that has a specified compressive strength of less than 8,000 psi.
- C. High-Strength Concrete (HSC): A type of concrete that has a specified compressive strength of 8,000 psi or greater.
- D. Self-Consolidating Concrete (SCC): A type of highly flowable, nonsegregating concrete that can spread into place, fill formwork, and encapsulate reinforcement without any mechanical consolidation.

- E. Strain Hardening: The ability to carry increasing tensile load beyond the point of first crack.
- F. Strain Softening: The ability to carry a reduced (but nonzero) tensile load beyond the point of first crack.
- G. Ultra-High-Performance Concrete: A type of concrete that has a minimum specified compressive strength of 22,000 psi with specified durability, tensile ductility, and toughness requirements; fibers are generally included to achieve specified requirements.
- H. Water-Cementitious Materials Ratio (w/cm): The ratio by weight of water to cementitious materials.

1.3 REFERENCE STANDARDS

- A. American Association of State Highway and Transportation Officials (AASHTO):
 - 1. AASHTO M182 - Standard Specification for Burlap Cloth Made from Jute or Kenaf and Cotton Mats.
- B. American Concrete Institute:
 - 1. ACI 117 - Specification for Tolerances for Concrete Construction and Materials.
 - 2. ACI 232.3R - Report on High-Volume Fly Ash Concrete for Structural Applications.
 - 3. ACI 228.1R - Report on Methods for Estimating In-Place Concrete Strength.
 - 4. ACI 239R - Ultra-High-Performance Concrete: An Emerging Technology Report.
 - 5. ACI 301 - Specifications for Structural Concrete.
 - 6. ACI 302.1R - Guide for Concrete Floor and Slab Construction.
 - 7. ACI 305R - Guide to Hot Weather Concreting.
 - 8. ACI 305.1 - Specification for Hot Weather Concreting.
 - 9. ACI 306.1 - Standard Specification for Cold Weather Concreting.
 - 10. ACI 306R - Guide to Cold Weather Concreting.
 - 11. ACI 308.1 - Specification for Curing Concrete.
 - 12. ACI 318 - Building Code Requirements for Structural Concrete.
 - 13. ACI 350.5 - Specifications for Environmental Concrete Structures.
 - 14. ACI 357.3R - Guide for Design and Construction of Waterfront and Coastal Concrete Marine Structures.
 - 15. ACI 362.1R - Guide for the Design and Construction of Durable Concrete Parking Structures.
 - 16. ACI 363.2R - Guide to Quality Control and Assurance of High-Strength Concrete.
 - 17. ACI 440R - Report on Fiber-Reinforced Polymer (FRP) Reinforcement for Concrete Structures.
- C. ASTM International:
 - 1. ASTM A820 - Standard Specification for Steel Fibers for Fiber-Reinforced Concrete
 - 2. ASTM C 31 - Standard Practice for Making and Curing Concrete Test Specimens in the Field.
 - 3. ASTM C 33 - Standard Specification for Concrete Aggregates.
 - 4. ASTM C 39 - Standard Test Method for Compressive Strength of Cylindrical Concrete Specimens.
 - 5. ASTM C 42 - Standard Test Method for Obtaining and Testing Drilled Cores and Sawed Beams of Concrete.
 - 6. ASTM C 94 - Standard Specification for Ready-Mixed Concrete.
 - 7. ASTM C 143 - Standard Test Method for Slump of Hydraulic-Cement Concrete.
 - 8. ASTM C 150 - Standard Specification for Portland Cement.
 - 9. ASTM C 171 - Standard Specification for Sheet Materials for Curing Concrete.
 - 10. ASTM C 172 - Standard Practice for Sampling Freshly Mixed Concrete.
 - 11. ASTM C 173 - Standard Test Method for Air Content of Freshly Mixed Concrete by the Volumetric Method.

12. ASTM C 231 - Standard Test Method for Air Content of Freshly Mixed Concrete by the Pressure Method.
13. ASTM C 260 - Standard Specification for Air-Entraining Admixtures for Concrete.
14. ASTM C 309 - Standard Specification for Liquid Membrane-Forming Compounds for Curing Concrete.
15. ASTM C 330 - Standard Specification for Lightweight Aggregates for Structural Concrete.
16. ASTM C 494 - Standard Specification for Chemical Admixtures for Concrete.
17. ASTM C 567 - Standard Test Method for Determining Density of Structural Lightweight Concrete.
18. ASTM C 595 - Standard Specification for Blended Hydraulic Cements.
19. ASTM C 618 - Standard Specification for Coal Fly Ash and Raw or Calcined Natural Pozzolan for Use in Concrete.
20. ASTM C 685 - Standard Specification for Concrete Made by Volumetric Batching and Continuous Mixing.
21. ASTM C 845 - Standard Specification for Expansive Hydraulic Cement.
22. ASTM C 881 - Standard Specification for Epoxy-Resin-Base Bonding Systems for Concrete.
23. ASTM C 979 - Standard Specification for Pigments for Integrally Colored Concrete.
24. ASTM C 989 - Standard Specification for Slag Cement for Use in Concrete and Mortars.
25. ASTM C 1017 - Standard Specification for Chemical Admixtures for Use in Producing Flowing Concrete.
26. ASTM C 1059 - Standard Specification for Latex Agents for Bonding Fresh to Hardened Concrete.
27. ASTM C 1064 - Standard Test Method for Temperature of Freshly Mixed Hydraulic-Cement Concrete.
28. ASTM C 1074 - Standard Practice for Estimating Concrete Strength by the Maturity Method.
29. ASTM C 1077 - Standard Practice for Agencies Testing Concrete and Concrete Aggregates for Use in Construction and Criteria for Testing Agency Evaluation.
30. ASTM C 1107 - Standard Specification for Packaged Dry, Hydraulic-Cement Grout (Nonshrink).
31. ASTM C 1116 - Standard Specification for Fiber-Reinforced Concrete.
32. ASTM C 1157 - Standard Performance Specification for Hydraulic Cement.
33. ASTM C 1218 - Standard Test Method for Water-Soluble Chloride in Mortar and Concrete.
34. ASTM C 1240 - Standard Specification for Silica Fume Used in Cementitious Mixtures.
35. ASTM C 1260 - Standard Test Method for Potential Alkali Reactivity of Aggregates (Mortar-Bar Method).
36. ASTM C 1293 - Standard Test Method for Determination of Length Change of Concrete Due to Alkali-Silica Reaction.
37. ASTM C 1315 - Standard Specification for Liquid Membrane-Forming Compounds Having Special Properties for Curing and Sealing Concrete.
38. ASTM C 1567 - Standard Test Method for Determining the Potential Alkali-Silica Reactivity of Combinations of Cementitious Materials and Aggregate (Accelerated Mortar-Bar Method).
39. ASTM C 1602 - Standard Specification for Mixing Water Used in the Production of Hydraulic Cement Concrete.

40. ASTM C 1611 - Standard Test Method for Slump Flow of Self-Consolidating Concrete.
41. ASTM C 1778 - Standard Guide for Reducing the Risk of Deleterious Alkali-Aggregate Reaction in Concrete.
42. ASTM D994 - Standard Specification for Preformed Expansion Joint Filler for Concrete (Bituminous Type).
43. ASTM D1751 - Standard Specification for Preformed Expansion Joint Filler for Concrete Paving and Structural Construction (Nonextruding and Resilient Bituminous Types).
44. ASTM D1752 - Standard Specification for Preformed Sponge Rubber, Cork and Recycled PVC Expansion Joint Fillers for Concrete Paving and Structural Construction.
45. ASTM D6690 - Standard Specification for Joint and Crack Sealants, Hot Applied, for Concrete and Asphalt Pavements.
46. ASTM E154 - Standard Test Methods for Water Vapor Retarders Used in Contact with Earth Under Concrete Slabs, on Walls, or as Ground Cover.
47. ASTM E329 - Standard Specification for Agencies Engaged in Construction Inspection, Testing, or Special Inspection.
48. ASTM E1155 - Standard Test Method for Determining FF Floor Flatness and FL Floor Levelness Numbers.
49. ASTM E1643 - Standard Practice for Selection, Design, Installation, and Inspection of Water Vapor Retarders Used in Contact with Earth or Granular Fill Under Concrete Slabs.
50. ASTM E1745 - Standard Specification for Plastic Water Vapor Retarders Used in Contact with Soil or Granular Fill under Concrete Slabs.
51. ASTM E1993 - Standard Specification for Bituminous Water Vapor Retarders Used in Contact with Soil or Granular Fill Under Concrete Slabs.
- D. Canadian Standards Association (CSA):
 1. CSA A23.1/A23.2 - Concrete Materials and Methods of Concrete Construction/Test Methods and Standard Practices for Concrete.
- E. National Ready Mixed Concrete Association (NRMCA):
 1. NRMCA - Certification of Ready Mixed Concrete Production Facilities.
- F. National Sanitation Foundation (NSF):
 1. NSF/ANSI Standard 61 - Drinking Water System Components - Health Effects.
- G. South Coast Air Quality Management District:
 1. SCAQMD Rule 1168 - Adhesive and Sealant Applications.
- H. U.S. Army Corps of Engineers:
 1. CRD-C 48 - Standard Test Method for Water Permeability of Concrete.

1.4 COORDINATION

- A. Coordinate placement of control and expansion joint devices with erection of concrete formwork and placement of form accessories.

1.5 SUBMITTALS

- A. Product Data: Submit data on the following:
 1. Portland cement.
 2. Fly ash.
 3. Slag cement.
 4. Blended hydraulic cement.
 5. Silica fume.

6. Performance-based hydraulic cement.
7. Aggregates.
8. Admixtures:
 - a. Include limitations of use, such as restrictions on cementitious materials, supplementary cementitious materials, air entrainment, aggregates, temperature at time of concrete placement, relative humidity at time of concrete placement, curing conditions, and use of other admixtures.
9. Color pigments.
10. Vapor retarders or waterproof membranes.
11. Curing materials:
12. Joint fillers.
13. Repair materials.
- B. Design Mixtures: For each concrete mixture, include the following:
 1. Mixture identification.
 2. Minimum 28-day compressive strength.
 3. Durability exposure class.
 4. Maximum water-cementitious materials ratio.
 5. Calculated equilibrium unit weight for lightweight concrete.
 6. Slump limit.
 7. Air content.
 8. Nominal maximum aggregate size.
 9. Steel-fiber reinforcement content.
 10. Synthetic micro-fiber content.
 11. Indicate amounts of mixing water to be withheld for later addition at Project Site, if permitted.
 12. Submit intended placement method.
 13. Submit alternate design mixtures when characteristics of materials, Project conditions, weather, test results, or other circumstances warrant adjustments.
 14. Submit separate mix designs if admixtures are required for the following:
 - a. Hot and cold weather concrete Work.
 - b. Air-entrained concrete Work.
- C. Qualification Data: Submit data for the following:
 1. Installer: Include copies of applicable ACI certificates.
 2. Ready-mixed concrete manufacturer.
- D. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- E. Manufacturer Instructions: Submit installation procedures and interfacing required for adjacent Work.
- F. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.

1.6 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of embedded utilities and components concealed from view in finished construction.

1.7 QUALITY ASSURANCE

- A. Installer Qualifications: A qualified Installer employing Project personnel qualified as ACI-certified Flatwork Technician and Finisher and a supervisor certified as ACI Flatwork Concrete Finisher/Technician, or an ACI Concrete Flatwork Technician with experience installing and finishing concrete.
- B. Ready-Mixed Concrete Manufacturer Qualifications: A firm experienced manufacturing ready-mixed concrete products that complies with ASTM C 94 requirements for production facilities and equipment.
 - 1. Manufacturer certified in accordance with NRMCA's "Certification of Ready Mixed Concrete Production Facilities."
- C. Concrete Testing Service: Employ and pay an independent testing laboratory, acceptable to Owner and Engineer, to perform material evaluation tests and to review concrete mix designs proposed by Contractor to conform to this Specification.
- D. Laboratory Testing Agency Qualifications: A testing agency qualified in accordance with ASTM C 1077 and ASTM E329 for testing indicated and employing an ACI-certified Concrete Quality Control Technical Manager.
 - 1. Personnel performing laboratory tests are required to be ACI-certified Concrete Strength Testing Technician and Concrete Laboratory Testing Technician, Grade I. Testing agency laboratory supervisors are required to be ACI-certified Concrete Laboratory Testing Technician, Grade II.
- E. Alkali-Silica Reactivity Testing: Aggregates used in the concrete shall be tested by an independent testing agency for alkali-silica reactivity in accordance with ASTM C 1260. Agencies approved for this testing are as follows:
 - 1. American Engineering Testing, Inc., 350 Cleveland Avenue N, Saint Paul, MN 55224-1804.
 - 2. ATC Associates, Inc., 40 Strafello Drive, Avon, MA 02322-1169.
 - 3. CTL Group, 5400 Old Orchard Road, Skokie, IL 60077-1030.
 - 4. Simpson Gumpertz & Heger, 42 Seyon Street, Building 1, Suite 500, Waltham, MA 02453-8355.
- F. Additional Testing and Inspection Services:
 - 1. If required, Owner's testing agency will perform additional testing and inspection services to verify conformance to Contract Documents as listed below:
 - a. Inspect concrete batching, mixing, and delivery operations.
 - b. Inspect forms, foundation preparation, reinforcement, embedded items, reinforcement placement, and concrete placing, finishing, and curing operations.
 - c. Sample concrete at point of placement and other locations as directed by Engineer and perform required tests.
 - d. Review manufacturer's report for shipment of cement, reinforcement, and prestressing tendons, and conduct laboratory tests or spot checks of materials received for compliance with specifications.
 - e. Other testing or inspection services as required by Engineer.
 - 2. Provide Owner's testing agency with requested documentation and access to perform testing and inspection activities.

1.8 AMBIENT CONDITIONS

- A. Refer to Section 01 50 00 "Temporary Facilities and Controls" for requirements for ambient condition control facilities for product storage and installation.
- B. Cold-Weather Placement: Comply with ACI 301, ACI 306.1, and as follows:
 - 1. Protect concrete Work from physical damage or reduced strength caused by frost, freezing actions, or low temperatures.
 - 2. When average high and low temperature is expected to fall below 40 degrees F for 3 successive days, maintain delivered concrete mixture temperature within the temperature range required by ACI 301.
 - 3. Do not use frozen materials or materials containing ice or snow.
 - 4. Do not place concrete in contact with surfaces less than 35 degrees F, other than reinforcing steel.
 - 5. Do not use calcium chloride, salt, or other materials containing antifreeze agents or chemical accelerators unless otherwise specified and approved in mixture designs.
- C. Hot-Weather Placement: Comply with ACI 301 and ACI 305.1, and as follows:
 - 1. Maintain concrete temperature at time of discharge not to exceed 95 degrees F.
 - 2. Fog-spray forms, steel reinforcement, and subgrade just before placing concrete. Keep subgrade uniformly moist without standing water, soft spots, or dry areas.

PART 2 - PRODUCTS

2.1 CONCRETE, GENERAL

- A. ACI Publications: Comply with ACI 301 unless modified by requirements in the Contract Documents.

2.2 CONCRETE MATERIALS

- A. Concrete Source Limitations:
 - 1. Obtain all concrete mixtures from a single ready-mixed concrete manufacturer for entire Project.
 - 2. Obtain each type or class of cementitious material of the same brand from the same manufacturer's plant.
 - 3. Obtain aggregate from single source.
 - 4. Obtain each type of admixture from single source from single manufacturer.
- B. Concrete Components:
 - 1. Cement:
 - a. Comply with ASTM C 150, Type I - Normal and Type IA - Air Entraining.
 - b. Type: Portland.
 - 2. Normal Weight Aggregates:
 - a. Comply with ASTM C 33 uniform coarse aggregate or better, graded. Provide aggregates from a single source.
 - b. Coarse Aggregate Maximum Size: 1-1/2 inches nominal.
 - 3. Chemical Admixtures: Certified by manufacturer to be compatible with other admixtures that do not contribute water-soluble chloride ions exceeding those permitted in hardened concrete. Do not use calcium chloride or admixtures containing calcium chloride in steel-reinforced concrete.
 - a. Air-Entraining Admixture: ASTM C 260.
 - b. Water-Reducing Admixture: ASTM C 494, Type A.

- c. Retarding Admixture: ASTM C 494, Type B.
- d. Water-Reducing and -Retarding Admixture: ASTM C 494, Type D.
- e. High-Range, Water-Reducing Admixture: ASTM C 494, Type F.
- f. High-Range, Water-Reducing and -Retarding Admixture: ASTM C 494, Type G.
- g. Plasticizing and Retarding Admixture:
 - 1) Comply with ASTM C 1017.
 - 2) Type I, plasticizing.
- h. Color Pigment: ASTM C 979, synthetic mineral-oxide pigments, color stable, nonfading, and resistant to lime and other alkalis.
 - 1) Manufacturers:
 - a) Alabama Pigments Company, LLC.
 - b) BASF Corporation.
 - c) Brickform; a division of Solomon Colors.
 - d) Butterfield Color, Inc.
 - e) Dynamic Color Solutions, Inc.
 - f) Euclid Chemical Company (The); an RPM company.
 - g) Hoover Color Corporation.
 - h) NewLook International, Inc.
 - i) Scofield, a Business Unit of Sika Corporation.
 - j) Solomon Colors, Inc.
 - 2) Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 3) Furnish materials according to National Electric Code standards.
- 4. Water and Water Used to Make Ice: ASTM C 94, potable or complying with ASTM C 1602, including all limits listed in Table 2 and the requirements of Paragraph 5.4.

2.3 CURING MATERIALS

- A. Evaporation Retarder: Waterborne, monomolecular film forming, manufactured for application to fresh concrete.
 - 1. Manufacturers:
 - a. BASF Corporation.
 - b. Bon Tool Co.
 - c. Brickform; a division of Solomon Colors.
 - d. Dayton Superior.
 - e. Euclid Chemical Company (The); an RPM company.
 - f. Kaufman Products, Inc.
 - g. Lambert Corporation.
 - h. Laticrete International, Inc.
 - i. Nox Crete products group.
 - j. Sika Corporation.
 - k. SpecChem, LLC.
 - l. TK Products.
 - m. Vexcon Chemicals Inc.
 - n. W.R. Meadows, Inc.
 - 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- B. Concrete Curing Absorptive Cover: AASHTO M 182, Class 2, burlap cloth made from jute or kenaf, weighing approximately 9 oz./sq. yd. when dry.

- C. Concrete Curing Reusable Moisture-Retaining Covers, ASTM C 171:
 - 1. Burlap-polyethylene sheet.
 - a. Ten oz. burlap laminated onto 5 mil white coated polyethylene.
 - b. Reusable, natural burlap provides moisture absorption.
 - c. Coated white poly reflects sunlight and intense heat rays.
 - d. Quality lamination between the two fabrics.
 - e. Size: 10- by 100-foot roll.
 - 2. Provide wet cure blankets comprised of a non-woven polypropylene fabric coated with a white-pigmented polyethylene, complying with ASTM C 171; total thickness varies per manufacturer. Acceptable products are as follows
 - a. HydraCure reusable, reflective wet cure blankets as manufactured by PNA Construction Technologies, thickness 40 mils.
 - b. Transguard 4,000 as manufactured by Reef Industries, Inc., thickness 42 mils.
 - c. Konkure 80 as manufactured by Raven Industries, thickness 17 mils.

2.4 RELATED MATERIALS

- A. Nonshrink Grout:
 - 1. Manufacturers:
 - a. CGM, Incorporated.
 - b. Euclid Chemical Company (The); an RPM company.
 - c. Laticrete International, Inc.
 - d. QUIKRETE.
 - e. Sika Corporation.
 - 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 3. Description: Premixed compound consisting of non-metallic aggregate, cement, and water-reducing and plasticizing agents.
 - 4. Comply with ASTM C 1107.
 - 5. Minimum Compressive Strength: 2,400 psi in 48 hours and 7,000 psi in 28 days.
- B. Bonding Agent:
 - 1. Manufacturers:
 - a. Euclid Chemical Company (The); an RPM company.
 - b. Metacrete Industries.
 - c. QUIKRETE.
 - d. Sika Corporation.
 - e. W.R. Meadows, Inc.
 - 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 3. Description: rovide epoxy resin base bonding systems complying with ASTM C 881.

2.5 CONCRETE MIXTURES, GENERAL

- A. Prepare design mixtures for each type and strength of concrete, proportioned on the basis of laboratory trial mixture or field test data, or both, in accordance with ACI 301.
 - 1. Use a qualified testing agency for preparing and reporting proposed mixture designs, based on laboratory trial mixtures.
- B. Cementitious Materials: Limit percentage, by weight, of cementitious materials other than Portland cement in concrete as follows:
 - 1. Fly Ash or Other Pozzolans: 25 percent by mass.
 - 2. Slag Cement: 50 percent by mass.
 - 3. Silica Fume: 10 percent by mass.

4. Total of Fly Ash or Other Pozzolans, Slag Cement, and Silica Fume: 50 percent by mass, with fly ash or pozzolans not exceeding 25 percent by mass, and silica fume not exceeding 10 percent by mass.
 5. Total of Fly Ash or Other Pozzolans and Silica Fume: 35 percent by mass, with fly ash or pozzolans not exceeding 25 percent by mass, and silica fume not exceeding 10 percent by mass.
- C. Admixtures: Use in accordance with manufacturer's written instructions.
1. Use water-reducing, high-range water-reducing, or plasticizing admixture in concrete, as required, for placement and workability.
 2. Use water-reducing and -retarding admixture when required by high temperatures, low humidity, or other adverse placement conditions.
 3. Use water-reducing admixture in pumped concrete, concrete for heavy-use industrial slabs, concrete for parking structure slabs, and concrete with a w/cm below 0.50.
 4. Use corrosion-inhibiting admixture in concrete mixtures where indicated.
 5. Use permeability-reducing admixture in concrete mixtures where indicated.
- D. Color Pigment: Add color pigment to concrete mixture in accordance with manufacturer's written instructions and to result in hardened concrete color consistent with approved mockup.

2.6 CONCRETE MIXTURES

- A. Select proportions for normal weight concrete according to ACI 301, Method 1.
- B. Select proportions for concrete ACI 318 trial mixtures, field test data, or both.
- C. Performance and Design Criteria:
1. Compressive Strength: 3,000 psi at 28 days.
 2. Cement Type: ASTM C 150.
 3. Minimum Cement Content: 470 lb./cu. yd.
 4. Aggregate Type: Normal weight.
 5. Coarse Aggregate: 25 to 30 percent by volume.
 6. Fine Aggregate: 35 to 45 percent by volume.
 7. Maximum Water-Cementitious Materials Ratio: 0.45:1 by weight.
 8. Aggregate Size:
 - a. Maximum: 1-1/2-inch.
 - b. Minimum: 3/8-inch.
 9. Air Content: 3 to 7 percent, plus or minus 1.5 percent.
 10. Admixture Type(s): As required based on environmental conditions at time of placement.
 11. Maximum Fly Ash or Pozzolan Content: 25 percent of cementitious materials by weight.
 12. Maximum Silica Fume Content: 10 percent of cementitious materials by weight.
 13. Maximum Slag Content: 50 percent of cementitious materials by weight.
 14. Slump: 3 to 5 inches, plus or minus 1-inch.
- D. Average Compressive Strength Reduction: Permitted according to ACI 318.
- E. Ready-Mixed Concrete: Mix and deliver concrete according to ASTM C 94.
- F. Site-Mixed Concrete: Mix concrete according to ACI 318.
- G. Mass Concrete: Comply with requirements of ACI 301 Section 8 - Mass Concrete.
- H. High Early Concrete Mix Proportions: Provide high early concrete as a preblended, prepackaged material requiring only the addition of water and stone aggregate.

2.7 CONCRETE MIXING

- A. Ready-Mix Concrete: Comply with requirements of ASTM C 94, and as herein specified. Delete references for allowing additional water to be added to batch for material with insufficient slump. Addition of water to the batch will not be permitted.
 - 1. During hot weather, or under conditions contributing to rapid setting of concrete, a shorter mixing time than specified in ASTM C 94 may be required. When air temperature is between 85 degrees F and 90 degrees F, reduce mixing and delivery time from 90 minutes to 75 minutes, and when air temperature is above 90 degrees F, reduce mixing and delivery time to 60 minutes.
 - 2. During cold weather, concrete shall not be mixed while the temperature is below 40 degrees F without the permission of the Construction Manager. If permission is granted for mixing under such conditions, aggregates or water, or both, shall be heated and the concrete shall be placed at a temperature between 50 degrees F and 80 degrees F.
 - 3. Retempering of concrete by adding water or any other material is not permitted.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verification of Conditions:
 - 1. Before placing concrete, verify that installation of concrete forms, accessories, and reinforcement, and embedded items is complete and that required inspections have been performed.
 - 2. Do not proceed until unsatisfactory conditions have been corrected.
- B. Verify requirements for concrete cover over reinforcement.
- C. Verify that anchors, seats, plates, reinforcement, and other items to be cast into concrete are accurately placed, positioned securely, and will not interfere with placing concrete.

3.2 PREPARATION

- A. Previously Placed Concrete:
 - 1. Prepare previously placed concrete by cleaning with steel brush and applying bonding agent.
 - 2. Remove laitance, coatings, and unsound materials.
- B. In locations where new concrete is doweled to existing work, drill holes in existing concrete, insert steel dowels, and pack solid with nonshrink grout.
- C. Remove debris and ice from formwork, reinforcement, and concrete substrates.
- D. Remove water from areas receiving concrete before concrete is placed.
- E. Provide reasonable auxiliary services to accommodate field testing and inspections, acceptable to testing agency, including the following:
 - 1. Daily access to the Work.
 - 2. Incidental labor and facilities necessary to facilitate tests and inspections.
 - 3. Secure space for storage, initial curing, and field curing of test samples, including source of water and continuous electrical power at Project Site during Site curing period for test samples.
 - 4. Security and protection for test samples and for testing and inspection equipment at Project Site.

3.3 INSTALLATION OF VAPOR RETARDER

- A. Sheet Vapor Retarders: Place, protect, and repair sheet vapor retarder in accordance with ASTM E1643 and manufacturer's written instructions.
 - 1. Install vapor retarder with longest dimension parallel with direction of concrete pour.
 - 2. Face laps away from exposed direction of concrete pour.
 - 3. Lap vapor retarder over footings and grade beams not less than 6 inches, sealing vapor retarder to concrete.
 - 4. Lap joints 6 inches and seal with manufacturer's recommended tape.
 - 5. Terminate vapor retarder at the top of floor slabs, grade beams, and pile caps, sealing entire perimeter to floor slabs, grade beams, foundation walls, or pile caps.
 - 6. Seal penetrations in accordance with vapor retarder manufacturer's instructions.
 - 7. Protect vapor retarder during placement of reinforcement and concrete.
 - a. Repair damaged areas by patching with vapor retarder material, overlapping damages area by 6 inches on all sides, and sealing to vapor retarder.
- B. Bituminous Vapor Retarders: Place, protect, and repair bituminous vapor retarder in accordance with manufacturer's written instructions.

3.4 INSTALLATION

- A. Placing Concrete:
 - 1. Place concrete according to ACI 301 and 318.
 - 2. Notify testing laboratory, Engineer, and Construction Manager, minimum 24 hours prior to commencement of operations.
 - 3. Ensure that reinforcement, inserts, embedded parts, formed expansion and contraction joints, and forms are not disturbed during concrete placement.
 - 4. Deposit concrete at final position, preventing segregation of mix.
 - 5. Place concrete in continuous operation for each panel or section as determined by predetermined joints.
 - 6. Consolidate concrete.
 - 7. Maintain records of concrete placement, including date, location, quantity, air temperature, and test samples taken.
 - 8. Place concrete continuously between predetermined expansion, control, and construction joints.
 - 9. Do not interrupt successive placement and do not permit cold joints to occur.
 - 10. Place floor slabs in indicated saw-cut pattern.
 - 11. Saw-Cut Joints:
 - a. Saw-cut joints within 12 hours after placing.
 - b. Use 3/16-inch thick blade.
 - c. Cut into 1/4 depth of slab thickness.
 - 12. Screeding:
 - a. Screed slabs on grade level.
 - b. Surface Flatness:
 - 1) Maximum 1/4-inch in 10 feet.

- B. Concrete Finishing:
 - 1. Provide formed concrete surfaces to be left exposed with smooth-rubbed finish.
 - 2. Steel trowel surfaces indicated to be exposed.
 - 3. Broom Finish: Apply a broom finish to exterior concrete platforms, steps, ramps, and locations indicated on Drawings.
 - a. Immediately after float finishing, slightly roughen trafficked surface by brooming with fiber-bristle broom perpendicular to main traffic route.
 - b. Coordinate required final finish with Engineer before application.
- C. Curing and Protection:
 - 1. Immediately after placement, protect concrete from premature drying, excessively hot or cold temperatures, and mechanical injury.
 - 2. Protect concrete footings from freezing for minimum of 5 days.
 - 3. Maintain concrete with minimal moisture loss at relatively constant temperature for period as necessary for hydration of cement and hardening of concrete.
 - 4. Cure concrete according to ACI 308.1 using adsorptive mat method.

3.5 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Inspection and Testing: Performed by Owner's testing laboratory according to ACI 318.
- C. Provide unrestricted access to Work and cooperate with appointed testing and inspection firm.
- D. Submit proposed mix design of each class of concrete to inspection and testing firm for review prior to commencement of Work.
- E. Concrete Inspections:
 - 1. Continuous Placement Inspection: Inspect for proper installation procedures.
 - 2. Periodic Curing Inspection: Inspect for specified curing temperature and procedures.
- F. Strength Test Samples:
 - 1. Sampling Procedures: Comply with ASTM C 172.
 - 2. Cylinder Molding and Curing Procedures:
 - a. Comply with ASTM C 31.
 - b. Cylinder Specimens: Standard cured.
 - 3. Sample concrete and make one set of 3 cylinders for every 75 cu. yd. or less of each class of concrete placed each day, and for every 5,000 sq. ft. of surface area for slabs and walls.
 - 4. If volume of concrete for a class of concrete would provide less than 5 sets of cylinders, take samples from five randomly selected batches, or from every batch if less than 5 batches are used.
 - 5. Make one additional cylinder during cold weather concreting and field cure.
- G. Concrete Maturity Testing Using Sensors:
 - 1. Non-destructive Test: Gather information from wireless embedded sensors recording temperature and strength.
 - 2. Data is logged and/or retrieved by external device in real-time.
 - 3. Comply with sensor manufacturer's written instructions and ASTM C 1074, CSA A23.1/A23.2, ACI 318, ACI 228.1R, and ACI 306R.

- H. Field Testing:
 - 1. Slump Test Method: Comply with ASTM C 143.
 - 2. Air Content Test Method: Comply with ASTM C 231.
 - 3. Temperature Test Method: Comply with ASTM C 1064.
 - 4. Compressive Strength Concrete:
 - a. Measure slump and temperature for each sample.
 - b. Measure air content in air-entrained concrete for each sample.
- I. Cylinder Compressive Strength Testing:
 - 1. Test Method: Comply with ASTM C 39.
 - 2. Test Acceptance: According to ACI 318.
 - 3. Test one cylinder at 7 days.
 - 4. Test one cylinder at 28 days.
 - 5. Retain one cylinder for testing when requested by Engineer.
 - 6. Dispose of remaining cylinders if testing is not required.
- J. Core Compressive Strength Testing:
 - 1. Sampling and Testing Procedures: Comply with ASTM C 42.
 - 2. Test Acceptance: According to ACI 318.
- K. Patching:
 - 1. Allow Engineer to inspect concrete surfaces immediately upon removal of forms.
 - 2. Honeycombing or Embedded Debris in Concrete:
 - a. Not acceptable.
 - b. Notify Engineer upon discovery.
 - 3. Patch imperfections as directed by Engineer according to ACI 301.
- L. Defective Concrete:
 - 1. Description: Concrete not conforming to required lines, details, dimensions, tolerances, or specified requirements.
 - 2. Repair or replacement of defective concrete will be determined by Engineer.
 - 3. Do not patch, fill, touch up, repair, or replace exposed concrete except upon express direction of Engineer for each individual area.

END OF SECTION

DIVISION 22
PLUMBING

SECTION 22 05 13 - COMMON MOTOR REQUIREMENTS FOR PLUMBING EQUIPMENT

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes three-phase motors for application on equipment provided under other Sections.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 26 "Grounding and Bonding for Electrical Systems."
 - 3. Section 26 05 53 "Identification for Electrical Systems."

1.2 REFERENCES

- A. American Bearing Manufacturers Association:
 - 1. ABMA 9 - Load Ratings and Fatigue Life for Ball Bearings.
- B. National Electrical Manufacturers Association:
 - 1. NEMA MG 1 - Motors and Generators.
- C. International Electrical Testing Association:
 - 1. NETA ATS - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for submittal procedures.
- B. Product Data: Submit catalog data for each motor furnished loose. Indicate nameplate data, standard compliance, electrical ratings and characteristics, and physical dimensions, weights, mechanical performance data, and support points.
- C. Test Reports: Indicate procedures and results for specified factory and field testing and inspection.

1.4 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum three years experience.
- B. Testing Agency: Company member of International Electrical Testing Association and specializing in testing products specified in this Section with minimum three years experience.

1.5 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for product storage and handling requirements.
- B. Lift only with lugs provided. Handle carefully to avoid damage to components, enclosure, and finish.
- C. Protect products from weather and moisture by covering with plastic or canvas and by maintaining heating within enclosure.
- D. For extended outdoor storage, remove motors from equipment and store separately.

PART 2 - PRODUCTS

2.1 PRODUCT REQUIREMENTS FOR MOTORS FURNISHED WITH EQUIPMENT

- A. Motors 3/4 hp and Larger: Three-phase motor as specified below.
- B. Motors Smaller Than 3/4 hp: Single-phase motor as specified below, except motors less than 250 watts or 1/4 hp may be equipment manufacturer's standard.
- C. Three-Phase Motors: NEMA MG 1, Design B, energy-efficient squirrel-cage induction motor, with windings to accomplish starting methods and number of speeds as specified in Section 33 11 13 "Potable Water Supply Wells."
 - 1. Voltage: As specified in Section 33 11 13 "Potable Water Supply Wells."
 - 2. Service Factor: 1.15.
 - 3. Enclosure: Meet conditions of installation unless specific enclosure is indicated on Drawings.
 - 4. Design for continuous operation in 30 degrees C environment, with temperature rise in accordance with NEMA MG 1 limits for insulation class, service factor, and motor enclosure type.
 - 5. Insulation System: NEMA Class F.
 - 6. Bearings: Grease lubricated anti-friction ball bearings with housings equipped with plugged provision for relubrication, rated for minimum ABMA 9, L-10 life of 200,000 hours. Calculate bearing load with NEMA minimum V-belt pulley with belt center line at end of NEMA standard shaft extension. Stamp bearing sizes on nameplate.
- D. Wiring Terminations: Furnish terminal lugs to match branch circuit conductor quantities, sizes, and materials indicated.

2.2 SOURCE QUALITY CONTROL

- A. Test motors in accordance with NEMA MG 1, including winding resistance, no-load speed and current, locked rotor current, insulation high-potential test, and mechanical alignment tests.

PART 3 - EXECUTION

3.1 EXISTING WORK

- A. Disconnect and remove abandoned motors
- B. Maintain access to existing motors and other installations remaining active and requiring access. Modify installation or provide access panel.
- C. Clean and repair existing motors to remain or are to be reinstalled.

3.2 INSTALLATION

- A. Install securely on firm foundation. Mount ball bearing motors with shaft in any position.
- B. Install engraved plastic nameplates in accordance with Section 26 05 53 "Identification for Electrical Systems."
- C. Ground and bond motors in accordance with Section 26 05 26 "Grounding and Bonding for Electrical Systems."

3.3 FIELD QUALITY CONTROL

- A. Refer to Sections 01 40 00 "Quality Requirements" and 01 70 00 "Execution and Closeout Requirements" for field inspecting, testing, adjusting, and balancing.
- B. Inspect and test in accordance with NETA ATS, except Section 4.
- C. Perform inspections and tests listed in NETA ATS, Section 7.15.

END OF SECTION

SECTION 22 05 33 - HEAT TRACING FOR PLUMBING PIPING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes and describes the requirements for designing, supplying, installing, and testing of an industrial electric heat tracing system for above grade station piping, eyewash station, and for domestic water piping in areas subject to freezing temperatures.
- B. Contractor shall provide the services of heat trace and pipe insulation system designers to implement requirements of this Section. Designers shall be authorized supplier and manufacturer's representative for the heat trace products installed. Acceptable heat tracing systems are:
 - 1. Thermon.
 - 2. Chromalox.
 - 3. Raychem.
 - 4. Or approved equal.
- C. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 40 42 13 "Process Piping Insulation."

1.2 APPLICABLE PUBLICATIONS

- A. The publications listed below form a part of this Specification to the extent referenced. The publications are referenced in the text by the basic designation only. Where conflicts occur on these Specifications, the NEC will govern.
- B. The Institute of Electrical and Electronic Engineers (IEEE): 515.1-2012 Testing, Design, Installation, and Maintenance of Electrical Resistance Trace Heating for Commercial Applications.
- C. International Code Council, (ICC): IPC-2018 International Plumbing Code.
- D. National Fire Protection Association (NFPA): 70-2020 National Electrical Code (NEC).
- E. Underwriters' Laboratories, Inc. (UL): 508-2018 Industrial Control Equipment.

1.3 SUBMITTALS

- A. Submittals, including number of required copies, shall be submitted in accordance with Section 01 33 00 "Submittal Procedures."
- B. Information and material submitted under this Section shall be marked "Submitted" under Section 22 05 33 "Heat Tracing for Plumbing Piping," with applicable paragraph identification.
- C. Manufacturer's Literature and Data including Full item description and optional features and accessories. Include dimensions, weights, materials, applications, standard compliance, model numbers, size, and capacity.
 - 1. Rated capacity.
 - 2. Length of cable.
 - 3. Cable spacing.
 - 4. Electrical power requirements.
 - 5. Controls.
 - 6. Enclosures.
 - 7. Accessories.

- D. Shop Drawings shall include Plans, Sections, details, wiring diagrams, and attachments to other work. The wiring diagrams shall include power, signal, and control wiring.
- E. Field quality control test reports shall be submitted.
- F. Complete operating and maintenance manuals including wiring diagram, technical data sheets, information for ordering replaceable parts, and troubleshoot guide:
 - 1. Include complete list indicating all components of the systems.
 - 2. Include complete diagrams of the internal wiring for each item of equipment.
 - 3. Diagrams shall have their terminals identified to facilitate installation, operation, and maintenance.

1.4 QUALITY ASSURANCE

- A. Manufacturer Qualifications: Ten years' experience in design, engineering, manufacture and support of specified system and components.
 - 1. Factory Mutual approved heating cable that has the same wattage per lineal foot (power output), throughout its entire length.
 - 2. UL Listed, thermostat and contactor panel.
 - 3. UL Listed Control/Monitor Panel.
- B. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, by a qualified testing agency.

PART 2 - PRODUCTS

2.1 SELF-REGULATING PARALLEL RESISTANCE HEATING CABLES

- A. Self-regulating parallel resistance heating cables shall comply with IEEE 515.1.
- B. The heating element shall be a pair of parallel No. 16 AWG tinned stranded copper bus wires embedded in cross linked conductive polymer core, which varies heat output in response to temperature along its length. Cables shall be terminated with waterproof, factory assembled non heating leads with connects at one end and seal the opposite end watertight. The cable shall be capable of crossing over itself without overheating.
- C. The electrical insulating jacket shall be flame-retardant polyolefin.
- D. The cable cover shall be tinned copper and polyolefin outer jacket with UV inhibitor.
- E. The maximum power on operating temperature shall be 65 degrees C (150 degrees F).
- F. The maximum power off exposure temperature shall be 85 degrees C (185 degrees F).
- G. The capacities and characteristics shall be:
 - 1. Maximum heat output (12.0 W/foot).
 - 2. Pipe Diameter: 24-inch max.
 - 3. Number of parallel cables: 3 max.
 - 4. See Electrical Drawings for electrical supply circuits.
- H. Pipe mounting thermostats for Freeze protection shall have a remote bulb unit with adjustable temperature range from minus 1 to 10 degrees C (34 to 50 degrees F). The thermostat shall be snap action, open-on-rise, single pole switch with minimum current rating adequate for the connected cable. The thermostat shall be remote bulb on capillary, resistance temperature device, or thermistor for direct sensing of pipe wall temperature.

2.2 ACCESSORIES

- A. Cable Installation Accessories: Fiberglass tape, heat-conductive putty, cable ties, silicone end seals and splice kits, and installation clips all furnished by manufacturer, or as recommended in writing by manufacturer.
- B. Warning Labels: Shall comply with NFPA 70.
- C. Warning Tape: Continuously printed "Electrical Tracing"; vinyl, at least 3 mils thick, and with pressure-sensitive, permanent, waterproof, self-adhesive back.
 - 1. Width for Warning Tape on Pipes with Outside Dimension, Including Insulation, Less Than 6 Inches: 3/4-inch minimum.
 - 2. Width for Warning Tape on Pipes with Outside Dimension, Including Insulation, 6 Inches or Greater: 1-1/2 inches minimum.

PART 3 - EXECUTION

3.1 GENERAL

- A. Inspect surfaces and substrates of electric heating cables for compliance with requirements of this specification. Ensure surfaces and pipes in contact with electric heating cables are free of burrs and sharp protrusions.
- B. Notify COR if the existing substrate conditions are unsuitable for application of heating cables in accordance with manufacturer's recommendations.
- C. If the installation of the heat tracing is unsatisfactory, then the Contractor shall correct the installation at no additional cost or time to the Government.

3.2 INSTALLATION

- A. Electric heating cable shall be installed for the following applications:
 - 1. Freeze protection of water piping: Self-regulating parallel-resistance heating cable.
- B. Electric heating cable for pipe freeze protection shall be installed according to the following:
 - 1. Electric heating cables shall be installed after piping has been tested and before insulation is installed.
 - 2. Electric heat cables shall be installed according to IEEE 515.1
 - 3. Insulation shall be installed or applied over piping with electric cables. Refer to Section 40 42 13 Process Piping Insulation."
 - 4. "WARNING" tape shall be installed on pipe insulation where piping is equipped with electric heating cables.
- C. Field adjustable switches and circuit breaker trip ranges shall be set.
- D. Heating cables including leads shall be protected from damage.
- E. Equipment shall be grounded according to Section 26 05 26 "Grounding and Bonding for Electrical Systems."
- F. Wiring shall be connected according to Section 26 05 19 "Low Voltage Electrical Power Conductors and Cables."

3.3 TESTS

- A. Manufacturer's Field Service: Engage a factory-authorized service representative to test and inspect components, assemblies, and equipment installations, including connections.
- B. Perform the following tests and inspections with the assistance of a factory-authorized service representative:
 - 1. Perform tests after cable installation but before application of coverings such as insulation, wall or ceiling construction, or concrete.
 - 2. Test cables for electrical continuity and insulation integrity before energizing.
 - 3. Test cables to verify rating and power input. Energize and measure voltage and current simultaneously.
- C. Repeat tests for continuity, insulation resistance, and input power after applying thermal insulation on pipe-mounted cables.
- D. If deficiency is found, Contractor shall correct all deficiencies at no additional cost or time to Owner.
- E. Prepare test and inspection reports.

3.4 DEMONSTRATION AND TRAINING

- A. Provide services of manufacturer's technical representative for 4 hours to instruct personnel responsible in operation and maintenance of the system.

END OF SECTION

DIVISION 26
ELECTRICAL

SECTION 26 05 00 - BASIC ELECTRICAL METHODS

PART 1 - GENERAL

1.1 SUMMARY

- A. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Requirements of General Conditions, Special Conditions, and these Specifications are applicable and part of every Section in Division 26 "Electrical." Contractor shall furnish all labor, material, service, equipment, appliances, and perform all operations in connection with installation and testing of Electrical Work per Contract Drawings and Specifications. Engineer will reject any material found defective and Contractor shall remove defective material from Work site.
 - 3. Contractor is responsible for all material he furnishes and shall replace, at his own expense, all materials found defective in manufacture or damaged after delivery.
 - 4. Interconnections between various items of electrical equipment and control system will likely require coordination and in some cases, interface devices such as but not limited to couplings, flanges, reducers, converters, conduit, relays, terminal blocks, contacts, wiring etc., will be required whether or not these items are shown on Drawings. It is the General Contractor's responsibility to provide necessary coordination and interface devices at no additional cost to Owner.

1.2 REQUIREMENTS OF REGULATORY AGENCIES AND STANDARDS

- A. Regulatory Agencies: Installation, materials, equipment, and workmanship shall conform to the applicable provisions of:
 - 1. National Electrical Code (NEC).
 - 2. National Electrical Safety Code (NESC).
 - 3. Terms and conditions of electrical utility and other authorities having lawful jurisdiction pertaining to Work required.
- B. Underwriters Laboratories, Inc. (UL): All materials, appliances, equipment, or devices shall conform to applicable standards of UL. Label of, or listing by, UL is required.
- C. Standards: Where referenced in these Specifications or Drawings, publications and standards of the following organizations apply:
 - 1. ASTM, International.
 - 2. Institute of Electrical and Electronic Engineers (IEEE).
 - 3. Insulated Power Cable Engineers Association (IPCEA).
 - 4. National Electrical Manufacturers Association (NEMA).
 - 5. National Fire Protection Association (NFPA).
 - 6. American National Standards Institute (ANSI).
 - 7. Illuminating Engineering Society of North America (IESNA).
- D. Should Contractor observe any conflict or variation in Plans and Specifications, notify Engineer in writing no later than 10 days before date of Bid opening. Failure to clarify such variations will result in Electrical Contractor bearing all costs arising from Electrical Work done contrary to Specifications or Drawings.
- E. Electrical Contractor shall coordinate all conduit runs, control wiring, and electrical connections to equipment items furnished by Mechanical Contractor, General Contractor, Instrumentation Contractor, Owner, and other contractors under other Specification Sections.

1.3 SUBMITTALS

- A. Submit under provisions of Section 01 33 00 "Submittal Procedures."
- B. Shop Drawings: Submit Shop Drawings for approval. Show complete outlines, dimensions, control diagrams, electrical characteristics of a special nature or critical to installation and pertinent data required for installation. All descriptive and technical data and Shop Drawings shall bear signed certification that they were carefully examined and found correct with respect to dimension, space available, non-interference with other trades and that equipment complies with all Specification requirements. Where catalog data submitted, clearly "flag" or otherwise identify proposed items so no confusion exists.
- C. Substitutions: Submit proposed substitutions of electrical equipment, control devices, and other equipment with other submittal data. Accompany this request by complete descriptions of substitutes offered, including catalog cuts. Entire burden of proof of equality is placed on Contractor and Engineer decision is final.
- D. Test Data: Provide one copy of all data obtained during tests required in Specifications. Organize data in an orderly fashion, type, and indicate each test result. Submit for Engineer review within 3 days of performing required tests.

PART 2 - PRODUCTS

2.1 REQUIREMENTS

- A. Electrical requirements for equipment specified or indicated on Drawings are based on information available at time of design. If equipment furnished for installation has electrical requirements other than indicated on Electrical Drawings, Contractor shall make any required changes to wire and conduit size, controls, overcurrent protection, and installation as required to accommodate equipment supplied, without additional charge to Owner. Complete responsibility and costs for such adjustments shall be assigned to respective Specification Section where equipment is furnished.

2.2 MATERIALS

- A. All similar materials and equipment shall be the product of the same manufacturer unless specified otherwise. Where no specific material, apparatus, or appliance is mentioned, a accepted industry standard product, with Engineer approval, may be used. Materials and equipment shall be standard products of manufacturers regularly engaged in production of such material and manufacturer's current and standard design. Equipment affected by altitude shall perform satisfactorily for function intended at altitude of Project site. Site elevation can be found on drainage plan of Civil Drawing sheets.

PART 3 - EXECUTION

3.1 FABRICATION, ERECTION, AND INSTALLATION

- A. Fabrication, erection, and installation of complete electrical system shall be per best practice by qualified personnel experienced in such Work and proceed in an orderly manner, not impeding Project progress. Electrical Contractor shall check all areas and surfaces where electrical equipment material is installed, removed, or relocated then report any unsatisfactory conditions before starting Work. Commencing Work signifies Contractor acceptance of existing conditions. In acceptance or rejection of finished installation, no allowance made for lack of skill on the part of workmen.

3.2 TEMPORARY POWER AND LIGHTING

- A. Furnish and install temporary electrical facilities, if required, for construction and safety operations. No part of permanent electrical systems or existing electrical system may be used for temporary service unless approved by Engineer. Provide separate electrical service metering for temporary power.

3.3 PERFORMANCE TESTS

- A. Thoroughly test all control circuits, fixtures, services and all circuits for proper operating condition and freedom from grounds and short circuits before requesting acceptance. Operate all equipment, appliances, and devices under load conditions. After interior wiring system installation is complete and when Engineer directs, conduct operating tests for approval. When requested, test all wire, cable, devices, and equipment after installation to assure all material possesses all original characteristics required by governing codes and standards listed herein.
- B. Perform such tests as required by other Specifications Sections or requested to prove acceptability. Furnish all instruments and labor for testing.

3.4 RECORD DRAWINGS

- A. During Work progress, maintain a clean, full set of Project Plans to record accurate red-lined changes to system installation. Upon installation completion, submit full set of red-lined Drawings with all record data to Engineer.

3.5 OPERATING INSTRUCTIONS AND MANUALS

- A. Without additional charge to Owner, furnish complete instruction to Owner in care, adjustment, and operation of all electrical equipment and system parts. Upon Work completion, prepare and deliver to Owner two sets of complete operating and maintenance manuals for systems and major equipment installed. Include catalog data, Shop Drawings, wiring diagrams, performance curves and rating data, spare parts lists, and manufacturer operating maintenance data. Include a copy of test data collected during field tests in manuals.
- B. Requirements are in addition to specific instructions and manuals specified for individual systems or equipment.

3.6 DRAWINGS

- A. Electrical Drawings show general arrangement of all conduit, equipment, etc. and shall be followed as closely as actual building construction and Work of other trades will permit. Structural Drawings shall be considered as a part of Work insofar as these Drawings furnish Contractor with information relating to design and construction of building. Because of the small scale of Electrical Drawings, it is impossible to indicate all offsets, fittings, and accessories required. Contractor shall investigate structural and finish conditions affecting Work and arrange Work accordingly, providing such fittings, elbows, pull boxes, and accessories be required to meet such conditions.
- B. Field Measurements: Contractor shall verify dimensions governing Electrical Work at facility. No extra compensation claimed or allowed on account of differences between actual dimensions and those indicated on Drawings.

3.7 LOCATION OF EQUIPMENT AND OUTLETS

- A. Approximate locations of cabinets, conduits, controllers, power outlets, etc., are indicated on Drawings; however, not intended to give complete and detailed information. Determine exact location after thoroughly examining general building plans and actual measurements during construction, subject to the approval of Engineer.

3.8 EXISTING ELECTRICAL

- A. Existing Electrical system information has been obtained from most up-to-date source and documents, but accuracy is not guaranteed. Contractor shall familiarize himself with existing conditions before preparing Bid.
- B. Only existing electrical affected by this Contract is shown on Drawings. Existing electrical not shown in Drawings is to remain in place and in operation. Repair or replace all existing electrical damaged during construction.
- C. Contractor responsible for damage due to electrical construction. Repairing damage shall be by proper trades involved.

3.9 ELECTRIC UTILITY SERVICE

- A. Oncor Electric is the local electric utility company providing service to this facility. Design and installation of Oncor Electric overhead and underground facilities will be done by Oncor Electric.
- B. Contractor shall be familiar with and comply with requirements of latest version of Oncor Electric. Contractor provides and installs any equipment in Electric Service Requirements stated to be provided or installed by Customer.
- C. Contractor shall coordinate with Oncor Electric exact location and spacing requirements of service transformer and pullboxes.

3.10 PAYMENT

- A. Payment made for all Work covered herein at Contract unit price per unit or included in lump sum price per job for items, as shown on proposal. Either such payment shall be complete compensation for complete performance of Work per Drawings and Specification provisions.

END OF SECTION

**SECTION 26 05 19 - LOW-VOLTAGE ELECTRICAL POWER
CONDUCTORS AND CABLES**

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes power wire and cable, service entrance cable, control cable, and wiring connectors and connections.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 33 "Raceway and Boxes for Electrical Systems."
 - 3. Section 26 05 53 "Identification for Electrical Systems" for product requirements for wire identification.

1.2 REFERENCES

- A. International Electrical Testing Association:
 - 1. NETA ATS - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.
- B. National Fire Protection Association:
 - 1. NFPA 70 - National Electrical Code.
- C. Underwriters Laboratories, Inc.:
 - 1. UL 1277 - Standard for Safety for Electrical Power and Control Tray Cables with Optional Optical-Fiber Members.

1.3 SYSTEM DESCRIPTION

- A. Product Requirements: Provide products as follows:
 - 1. Solid conductor for feeders and branch circuits 10 AWG and smaller.
 - 2. Stranded conductors for control circuits.
 - 3. Conductor not smaller than 12 AWG for power and lighting circuits.
 - 4. Conductor not smaller than 16 AWG for control circuits.
- B. Wiring Methods: Provide the following wiring methods:
 - 1. Concealed Dry Interior Locations: Use only building wire, Type THHN/THWN insulation, in raceway.
 - 2. Exposed Dry Interior Locations: Use only building wire, Type THHN/THWN insulation, in raceway.
 - 3. Wet or Damp Interior Locations: Use only building wire, Type THHN/THWN insulation.
 - 4. Exterior Locations: Use only building wire, Type THHN/THWN insulation, in raceway, service-entrance cable.
 - 5. Underground Locations: Use only building wire, Type THHN/THWN XHHW insulation, in raceway, direct burial cable service-entrance cable.

1.4 DESIGN REQUIREMENTS

- A. Conductor sizes are based on copper.

1.5 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit for building wire and each cable assembly type.

1.6 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of components and circuits.

1.7 QUALITY ASSURANCE

- A. Provide wiring materials located in plenums with peak optical density not greater than 0.5, average optical density not greater than 0.15, and flame spread not greater than 5 feet when tested in accordance with NFPA 262.
- B. Perform Work in accordance with NEC Standards.

1.8 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' documented experience.

1.9 FIELD MEASUREMENTS

- A. Verify field measurements are as indicated on Drawings.

1.10 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Where wire and cable destinations are indicated and routing is not shown, determine routing and lengths required.
- C. Wire and cable routing indicated is approximate unless dimensioned.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Power Wire and Cable: Cable to be manufactured by:
 - 1. Southwire.
 - 2. Okonite.
 - 3. PWC, Inc.
 - 4. Capital Wire & Cable Corp.
 - 5. Or approved equal.
- B. Cable shall meet or exceed the applicable ICEA test requirements for the type of insulation used and the application.

2.2 POWER WIRE AND CABLE

- A. 600V and Below:
 - 1. Description: Dry and Wet Locations, multi-conductor, insulated wire.
 - 2. Conductor: Copper.
 - 3. Insulation Voltage Rating: 600 volts.
 - 4. Insulation: ANSI/NFPA 70; Type THHN/THWN-2, 90 degrees C insulation for service entrance, feeders, and branch circuits.
 - 5. For conductor sizes 250 KCM and larger, Type RHH/RHW with XLPE insulation.

2.3 CONTROL CABLE

- A. Analog I/O wiring shall be 16AWG twisted pair shielded, Belden 8719 or equal.
- B. Discrete I/O wiring shall be 16AWG, 600V, stranded copper, THWN. Use multi-conductor cable when possible.

2.4 WIRING CONNECTORS

- A. Split Bolt Connectors:
 - 1. Manufacturers:
 - a. IlSCO.
 - b. Buchanan.
 - c. Burndy.
 - d. Or approved equal.
 - 2. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Solderless Pressure Connectors:
 - 1. Manufacturers:
 - a. IlSCO.
 - b. Buchanan.
 - c. Burndy.
 - d. Or approved equal.
 - 2. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- C. Spring Wire Connectors:
 - 1. Manufacturers:
 - a. IlSCO.
 - b. Buchanan.
 - c. Burndy.
 - d. Or approved equal.
 - 2. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- D. Compression Connectors:
 - 1. Manufacturers:
 - a. IlSCO.
 - b. Buchanan.
 - c. Burndy.
 - d. Or approved equal.
 - 2. Substitutions: Refer to Section 01 60 00 "Product Requirements."

2.5 TERMINATIONS

- A. Terminal Lugs for Wires 6AWG and Smaller: Solderless, compression type copper.
- B. Lugs for Wires 4AWG and Larger: Color keyed, compression type copper, with insulating sealing collars.
- C. Use anti-seize compound when bolts and screws are used for threaded connections.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for coordination and Project conditions.
- B. Verify interior of building has been protected from weather.
- C. Verify Mechanical Work likely to damage wire and cable has been completed.
- D. Verify raceway installation is complete and supported.

3.2 PREPARATION

- A. Completely and thoroughly swab raceway before installing wire.

3.3 EXISTING WORK

- A. Remove abandoned wire and cable.
- B. Extend existing circuits using materials and methods compatible with existing electrical installations, or as specified.
- C. Clean and repair existing wire and cable remaining or wire and cable to be reinstalled.

3.4 INSTALLATION

- A. Route wire and cable to meet Project conditions.
- B. Neatly train and lace wiring inside boxes, equipment, and panelboards.
- C. Identify and color code wire and cable under provisions of Section 26 05 53 "Identification for Electrical Systems." Identify each conductor with its circuit number or other designation indicated.
- D. Wire in Raceway:
 - 1. Pull conductors into raceway at same time.
 - 2. Install building wire 4AWG and larger with pulling equipment.
- E. Special Techniques - Cable:
 - 1. Protect exposed cable from damage.
 - 2. Use suitable cable fittings and connectors.
- F. Wiring Connections:
 - 1. Clean conductor surfaces before installing lugs and connectors.
 - 2. Make splices, taps, and terminations to carry full ampacity of conductors with no perceptible temperature rise.
 - 3. Tape uninsulated conductors and connectors with electrical tape to 150 percent of insulation rating of conductor.
 - 4. Install split bolt connectors for copper conductor splices and taps, 6AWG and larger.

5. Install solderless pressure connectors with insulating covers for copper conductor splices and taps, 8AWG and smaller.
6. Install insulated spring wire connectors with plastic caps for copper conductor splices and taps, 10AWG and smaller.
- G. Install stranded conductors for branch circuits 10AWG and smaller. Install crimp on fork terminals for device terminations. Do not place bare stranded conductors directly under screws.
- H. Install terminal lugs on ends of 600V wires unless lugs are furnished on connected device, such as circuit breakers.
- I. Size lugs in accordance with manufacturer's recommendations terminating wire sizes. Install 2-hole type lugs to connect wires 4AWG and larger to copper bus bars.
- J. For terminal lugs fastened together such as on motors, transformers, and other apparatus, or when space between studs is small enough that lugs can turn and touch each other, insulate for dielectric strength of 2-1/2 times normal potential of circuit.

3.5 WIRE COLOR

- A. General:
 1. For wire sizes 10AWG and smaller. Install wire colors in accordance with the following:
 - a. Black and red for single phase circuits at 120/240V.
 - b. Black, red, and blue for circuits at 120/208V single or 3-phase.
 - c. Brown, Orange, and yellow for circuits at 277/480V single or 3-phase.
 2. For wire sizes 8AWG and larger, identify wire with colored tape continuously applied for a minimum of 4 inches at terminals, splices, and boxes. Colors are as follows:
 - a. Black and red for single phase circuits at 120/240V.
 - b. Black, red, and blue for circuits at 120/208V single or 3-phase.
 - c. Brown, orange, and yellow for circuits at 277/480V single or 3-phase.
- B. Neutral Conductors: White. When two or more neutrals are located in one conduit, individually identify each with proper circuit number.
- C. Branch Circuit Conductors: Install 3 or 4 wire home runs with each phase uniquely color coded.
- D. Feeder Circuit Conductors: Uniquely color code each phase.
- E. Ground Conductors:
 1. For 6AWG and smaller: Green.
 2. For 4AWG and larger: Identify with green tape at both ends and visible points including junction boxes.

3.6 FIELD QUALITY CONTROL AND TESTING

- A. Refer to Section 01 40 00 "Quality Requirements" for field inspecting, testing, adjusting, and balancing.
- B. Inspect and test in accordance with NETA ATS, except Section 4.
- C. Perform inspections and tests listed in NETA ATS, Section 7.3.2., cables, low voltage, 600V maximum.
- D. Verify uniform resistance of parallel conductors.

END OF SECTION

SECTION 26 05 26 - GROUNDING AND BONDING FOR ELECTRICAL SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Rod electrodes.
 - 2. Wire.
 - 3. Mechanical connectors.
 - 4. Exothermic connections.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 REFERENCES

- A. Institute of Electrical and Electronics Engineers:
 - 1. IEEE 80 - Guide for safety in AC Substation grounding.
 - 2. IEEE 1100 - Recommended Practice for Powering and Grounding Electronic Equipment.
- B. International Electrical Testing Association:
 - 1. NETA ATS - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.
- C. National Fire Protection Association:
 - 1. NFPA 70 - National Electrical Code.

1.3 SYSTEM DESCRIPTION

- A. Grounding systems use the following elements as grounding electrodes:
 - 1. Metal underground water pipe.
 - 2. Metal building frame.
 - 3. Concrete-encased electrode.
 - 4. Rod electrode.

1.4 PERFORMANCE REQUIREMENTS

- A. Grounding System Resistance: 5-ohms maximum.

1.5 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for Submittals.
- B. Product Data: Submit data on grounding electrodes and connections.
- C. Test Reports: Indicate overall resistance to ground and resistance of each electrode.

1.6 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for Submittals.
- B. Project Record Documents: Record actual locations of components and grounding electrodes.

1.7 QUALITY ASSURANCE

- A. Provide grounding materials conforming to requirements of NEC, IEEE 80, and UL labeled.
- B. Perform Work in accordance with NEC standards.
- C. Maintain one copy each document on site.

1.8 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' documented experience.
- B. Installer: Company specializing in performing Work of this Section with minimum 3 years' documented experience.

1.9 PRE-INSTALLATION MEETINGS

- A. Refer to Section 01 30 00 "Administrative Requirements" for pre-installation meeting.
- B. Convene minimum one week prior to commencing Work of this Section.

1.10 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Accept materials on site in original factory packaging, labeled with manufacturer's identification.
- C. Protect from weather and construction traffic, dirt, water, chemical, and mechanical damage, by storing in original packaging.
- D. Do not deliver items to Project before time of installation. Limit shipment of bulk and multiple-use materials to quantities needed for immediate installation.

1.11 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Complete grounding and bonding of building reinforcing steel prior to concrete placement.

PART 2 - PRODUCTS

2.1 ROD ELECTRODES

- A. Manufacturers:
 - 1. Burndy.
 - 2. nVent (Erico).
 - 3. Harger Lighting & Grounding.
 - 4. Or approved equal.
 - 5. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description:
 - 1. Material: Copper Clad.
 - 2. Diameter: 3/4-inch.
 - 3. Length: 10 feet.

- C. Connector: Connector for exothermic welded connection, or non-reversable Type, Burndy Hy Ground Products listed for the application.

2.2 WIRE

- A. Material: Stranded copper.
- B. Foundation Electrodes: Bare copper conductor.
- C. Grounding Electrode Conductor: Copper conductor insulated.
- D. Bonding Conductor: Copper conductor insulated.
- E. Ground ring: Bare copper conductor.

2.3 EXOTHERMIC CONNECTIONS

- A. Manufacturers:
 - 1. Burndy.
 - 2. nVent (Erico).
 - 3. Harger Lighting & Grounding.
 - 4. Or approved equal.
 - 5. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: Exothermic materials, accessories, and tools for preparing and making permanent field connections between grounding system components.
- C. Exothermic connectors, rod electrodes, and other grounding related equipment shall be supplied by a manufacturer with 10 years' experience in manufacturing.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for verification of existing conditions before starting Work.
- B. Verify final backfill and compaction has been completed before driving rod electrodes.

3.2 PREPARATION

- A. Remove paint, rust, mill oils, surface contaminants at connection points.

3.3 INSTALLATION

- A. Install products in accordance with manufacturer's instructions. Exothermically weld all connections.
- B. Install rod electrodes at locations as indicated on Drawings.
- C. Install grounding and bonding conductors concealed from view.
- D. Install grounding electrode conductor and connect to reinforcing steel in foundation footing as indicated on Drawings.
- E. Bond together metal siding not attached to grounded structure, bond to ground.
- F. Equipment Grounding Conductor: Install separate, insulated conductor within each feeder and branch circuit raceway. Terminate each end on suitable lug, bus, or bushing.
- G. Permanently attach equipment and grounding conductors prior to energizing equipment.

3.4 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for field inspecting, testing, adjusting, and balancing.
- B. Inspect and test in accordance with NETA ATS, except Section 4.
- C. Grounding and Bonding: Perform inspections and tests listed in NETA ATS, Section 7.13., Grounding Systems.

END OF SECTION

SECTION 26 05 29 - HANGERS AND SUPPORTS FOR ELECTRICAL SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Conduit and equipment supports.
 - 2. Anchors and fasteners.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 REFERENCES

- A. NECA - National Electrical Contractors Association.
- B. ANSI/NFPA 70 - National Electrical Code.
- C. NFPA 70 - National Electrical Code.

1.3 REGULATORY REQUIREMENTS

- A. Conform to requirements of ANSI/NFPA 70.
- B. Furnish products listed and classified by Underwriters Laboratories, Inc. as suitable for purpose specified and shown.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data:
 - 1. Hangers and Supports: Submit manufacturers catalog data including load capacity.
 - 2. Firestopping: Submit data on product characteristics, performance, and limitation criteria.
- C. Design Data: Indicate load carrying capacity of hangers and supports.
- D. Manufacturer's Installation Instructions:
 - 1. Hangers and Supports: Submit special procedures and assembly of components.
- E. Manufacturer's Certificate: Certify products meet or exceed specified requirements.

PART 2 - PRODUCTS

2.1 CONDUIT SUPPORTS

- A. Manufacturers:
 - 1. Carlon; a brand of Thomas & Betts Corporation.
 - 2. nVent (CADDY).
 - 3. Or approved equal.
 - 4. Substitutions: Refer to Section 01 60 00 "Product Requirements."

2.2 FORMED STEEL CHANNEL

- A. Furnish materials in accordance with industry accepted standards.
- B. Product Description: Galvanized 12-gauge thick steel. With holes 1-1/2 inches on center.

2.3 SPRING STEEL CLIPS

- A. Furnish materials in accordance with industry accepted standards.
- B. Product Description: Mounting hole and screw closure.

2.4 SLEEVES

- A. Sleeves Through Non-Fire Rated Beams, Walls, Footings, and Potentially Wet Floors: Steel pipe or 18-gauge thick galvanized steel.
- B. Stuffing Insulation: Glass fiber type, non-combustible.

2.5 MECHANICAL SLEEVE SEALS

- A. Product Description: Modular mechanical type, consisting of interlocking synthetic rubber links shaped to continuously fill annual space between object and sleeve, connected with bolts and pressure plates causing rubber sealing elements to expand when tightened, providing watertight seal and electrical insulation

2.6 ANTI-SEIZE COMPOUND

- A. Use anti-seize compound when using bolts and screws to install pre-manufactured equipment.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for verification of existing conditions before starting Work.
- B. Verify openings are ready to receive sleeves.

3.2 INSTALLATION - HANGERS AND SUPPORTS

- A. Anchors and Fasteners:
 - 1. Concrete Structural Elements: Provide expansion anchors, powder actuated anchors and preset inserts.
 - 2. Steel Structural Elements: Provide beam clamps, spring steel clips, and steel ramset fasteners.
 - 3. Concrete Surfaces: Provide self-drilling anchors and expansion anchors.
 - 4. Sheet Metal: Provide sheet metal screws.
 - 5. Wood Elements: Provide wood screws.
- B. Install conduit and raceway support and spacing in accordance with NEC.
- C. Do not fasten supports to pipes, ducts, mechanical equipment, or conduit.
- D. Install multiple conduit runs on common hangers.

- E. Supports:
 - 1. Fabricate supports from structural steel. Rigidly well members or install hexagon head bolts to present neat appearance with adequate strength and rigidity. Install spring lock washers under nuts.
 - 2. Install surface mounted cabinets and panelboards with minimum of 4 anchors.
 - 3. In wet and damp locations install steel channel supports to stand cabinets and panelboards 1-inch off wall.

3.3 INSTALLATION - EQUIPMENT BASES AND SUPPORTS

- A. Provide housekeeping pads of concrete, minimum 4 inches thick and extending 6 inches beyond supported equipment.
- B. Using templates furnished with equipment, install anchor bolts, and accessories for mounting and anchoring equipment.
- C. Construct supports of formed steel channel. Brace and fasten with flanges bolted to structure.

3.4 INSTALLATION - SLEEVES

- A. Exterior watertight entries: Seal with adjustable interlocking rubber links.
- B. Conduit penetrations not required to be watertight: Sleeve and fill with silicon foam.
- C. Set sleeves in position in forms. Provide reinforcing around sleeves.
- D. Size sleeves large enough to allow for movement due to expansion and contraction. Provide for continuous insulation wrapping.
- E. Extend sleeves through floors 1-inch above finished floor level. Caulk sleeves.
- F. Where conduit or raceway penetrates floor, ceiling, or wall, close off space between conduit or raceway and adjacent work with fire stopping insulation and caulk airtight. Provide close fitting metal collar or escutcheon covers at both sides of penetration.
- G. Install stainless steel escutcheons at finished surfaces.

3.5 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for field inspecting, testing, adjusting, and balancing.

3.6 CLEANING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for cleaning.

3.7 PROTECTION OF FINISHED WORK

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for protecting finished Work.
- B. Protect adjacent surfaces from damage by material installation.

END OF SECTION

SECTION 26 05 33 - RACEWAY AND BOXES FOR ELECTRICAL SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes conduit and tubing, surface raceways, wireways, outlet boxes, pull and junction boxes, and handholes.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 26 "Grounding and Bonding for Electrical Systems."
 - 3. Section 26 05 29 "Hangers and Supports for Electrical Systems."
 - 4. Section 26 05 53 "Identification for Electrical Systems."

1.2 REFERENCES

- A. American National Standards Institute:
 - 1. ANSI C80.1 - Rigid Steel Conduit, Zinc Coated.
- B. National Electrical Manufacturers Association:
 - 1. NEMA 250 - Enclosures for Electrical Equipment (1,000 Volts Maximum).
 - 2. NEMA FB 1 - Fittings, Cast Metal Boxes, and Conduit Bodies for Conduit and Cable Assemblies.
 - 3. NEMA OS 1 - Sheet Steel Outlet Boxes, Device Boxes, Covers, and Box Supports.
 - 4. NEMA OS 2 - Nonmetallic Outlet Boxes, Device Boxes, Covers, and Box Supports.
 - 5. NEMA RN 1 - Polyvinyl Chloride (PVC) Externally Coated Galvanized Rigid Steel Conduit and Intermediate Metal Conduit.
 - 6. NEMA TC 2 - Electrical Polyvinyl Chloride (PVC) Tubing and Conduit.
 - 7. NEMA TC 3 - PVC Fittings for Use with Rigid PVC Conduit and Tubing.
- C. National Fire Protection Association:
 - 1. NFPA 70 - National Electrical Code.

1.3 SYSTEM DESCRIPTION

- A. Raceway and boxes located as indicated on Drawings, and at other locations required for splices, taps, wire pulling, equipment connections, and compliance with regulatory requirements. Raceway and boxes are shown in approximate locations unless dimensioned. Provide raceway to complete wiring system.
- B. Underground: Schedule 40 PVC conduit. Provide cast metal boxes or nonmetallic handhole.
- C. When transitioning from below grade to above grade, provide PVC coated rigid steel conduit elbows.
- D. Outdoor Locations, Above Grade: Provide rigid steel conduit. Provide cast metal outlet, pull, and junction boxes.
- E. In Slab Above Grade: Provide thick wall nonmetallic conduit. Provide sheet metal boxes.
- F. Wet and Damp Locations: Provide rigid steel conduit. Provide cast metal or nonmetallic outlet, junction, and pull boxes. Provide flush mounting outlet box in finished areas.
- G. Concealed Dry Locations: Provide rigid steel conduit. Provide sheet-metal boxes. Provide flush mounting outlet box in finished areas. Provide hinged enclosure for large pull boxes.
- H. Exposed Dry Locations: Provide rigid steel conduit. Provide sheet-metal boxes. Provide flush mounting outlet box in finished areas. Provide hinged enclosure for large pull boxes.

1.4 DESIGN REQUIREMENTS

- A. Minimum Raceway Size: 3/4-inch unless otherwise specified.

1.5 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for submittal procedures.
- B. Product Data: Submit for the following:
 - 1. Rigid metallic conduit.
 - 2. Liquidtight flexible metal conduit.
 - 3. Nonmetallic conduit.
 - 4. Raceway fittings.
 - 5. Conduit bodies.
 - 6. Pull and junction boxes.
- C. Manufacturer's Installation Instructions: Submit application conditions and limitations of use stipulated by product testing agency specified under Regulatory Requirements. Include instructions for storage, handling, protection, examination, preparation, and installation of product.

1.6 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for closeout procedures.
- B. Project Record Documents:
 - 1. Record actual routing of conduits larger than 2-inch.
 - 2. Record actual locations of outlet, pull, and junction boxes.

1.7 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for product storage and handling requirements.
- B. Protect conduit from corrosion and entrance of debris by storing above grade. Provide appropriate covering.
- C. Protect PVC conduit from sunlight.

1.8 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for coordination and Project conditions.

PART 2 - PRODUCTS

2.1 METAL CONDUIT

- A. Manufacturers:
 - 1. Allied.
 - 2. Wheatland.
 - 3. Or approved equal.
 - 4. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Rigid Steel Conduit: ANSI C80.1.
- C. Rigid Aluminium Conduit: ANSI C80.5.

- D. Intermediate Metal Conduit (IMC): Rigid steel.
- E. Fittings and Conduit Bodies: NEMA FB 1; all steel fittings.

2.2 PVC COATED METAL CONDUIT

- A. Manufacturers:
 - 1. Levy.
 - 2. Robroy Industries.
 - 3. Or approved equal.
 - 4. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: NEMA RN 1; rigid steel conduit with external PVC coating, 20 thick.
- C. Fittings and Conduit Bodies: NEMA FB 1; steel fittings with external PVC coating to match conduit.

2.3 LIQUIDTIGHT FLEXIBLE METAL CONDUIT

- A. Manufacturers:
 - 1. Ultatite.
 - 2. Electri-flex.
 - 3. Or approved equal.
 - 4. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: Interlocked steel construction with PVC jacket.
- C. Fittings: NEMA FB 1.

2.4 NONMETALLIC CONDUIT

- A. Manufacturers:
 - 1. Carlon.
 - 2. Or approved equal.
 - 3. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: NEMA TC 2; Schedule 40 PVC.
- C. Fittings and Conduit Bodies: NEMA TC 3.

2.5 WIREWAY

- A. Manufacturers:
 - 1. Allied Moulded Products, Inc.
 - 2. Carlon.
 - 3. Or approved equal.
 - 4. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: Oiltight and dust-tight type wireway.
- C. Knockouts: Bottom only.
- D. Size: As indicated on Drawings.
- E. Cover: Hinged cover with full gaskets.
- F. Connector: Slip-on.
- G. Fittings: Lay-in type with drip shield.
- H. Finish: Rust inhibiting primer coating with gray enamel finish.

2.6 OUTLET BOXES

- A. Manufacturers:
 - 1. Allied Moulded Products, Inc.
 - 2. Carlon; a brand of Thomas & Betts Corporation.
 - 3. Or approved equal.
 - 4. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Sheet Metal Outlet Boxes: NEMA OS 1, galvanized steel.
 - 1. Luminaire and Equipment Supporting Boxes: Rated for weight of equipment supported; furnish 1/2-inch male fixture studs where required.
 - 2. Concrete Ceiling Boxes: Concrete type.
- C. Nonmetallic Outlet Boxes: NEMA OS 2.
- D. Cast Boxes: NEMA FB 1, Type FD, cast ferrous alloy. Furnish gasketed cover by box manufacturer.
- E. Wall Plates for Finished Areas: As specified in Section 26 27 26 "Wiring Devices."
- F. Wall Plates for Unfinished Areas: Furnish gasketed cover.

2.7 PULL AND JUNCTION BOXES

- A. Manufacturers:
 - 1. nVent (Hoffman).
 - 2. Raco Taymac Bell; Hubbell Incorporated, Commercial, and Industrial.
 - 3. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Sheet Metal Boxes: NEMA OS 1, galvanized steel.
- C. Surface Mounted Cast Metal Box: NEMA 250, Type 4; flat-flanged, surface mounted junction box:
 - 1. Material: Galvanized cast iron.
 - 2. Cover: Furnish with ground flange, neoprene gasket, and stainless-steel cover screws.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for coordination and Project conditions.
- B. Verify outlet locations and routing and termination locations of raceway prior to rough-in.

3.2 INSTALLATION

- A. Ground and bond raceway and boxes in accordance with Section 26 05 26 "Grounding and Bonding for Electrical Systems."
- B. Fasten raceway and box supports to structure and finished in accordance with Section 26 05 29 "Hangers and Supports for Electrical Systems."
- C. Identify raceway and boxes in accordance with Section 26 05 53 "Identification for Electrical Systems."
- D. Arrange raceway and boxes to maintain headroom and present neat appearance.
- E. Use anti-seize compound when using bolts and screws to install pre-manufactured equipment.

3.3 INSTALLATION - RACEWAY

- A. Raceway routing is shown in approximate locations unless dimensioned. Route to complete wiring system.
- B. Arrange raceway supports to prevent misalignment during wiring installation.
- C. Support raceway using coating steel or malleable iron straps, lay-in adjustable hangers, clevis hangers, and split hangers.
- D. Group related raceway; support using conduit rack. Construct rack using steel channel specified in Section 26 05 29 "Hangers and Supports for Electrical Systems" to provide space on each for 25 percent additional raceways.
- E. Do not support raceway with wire or perforated pipe straps. Remove wire used for temporary supports.
- F. Do not attach raceway to ceiling support wires or other piping systems.
- G. Construct wireway supports from steel channel specified in Section 26 05 29 "Hangers and Supports for Electrical Systems."
- H. Route exposed raceway parallel and perpendicular to walls.
- I. Maximum Size Conduit in Slab Above Grade: 3/4-inch. Do not cross conduits in slab.
- J. Maintain clearance between raceway and piping for maintenance purposes.
- K. Maintain 12-inch clearance between raceway and surfaces with temperatures exceeding 104 degrees F.
- L. Cut conduit square using saw or pipe cutter; de-burr cut ends.
- M. Bring conduit to shoulder of fittings; fasten securely.
- N. Join nonmetallic conduit using cement as recommended by manufacturer. Wipe nonmetallic conduit dry and clean before joining. Apply full even coat of cement to entire area inserted in fitting. Allow joint to cure for minimum 20 minutes.
- O. Install conduit hubs or sealing locknuts to fasten conduit to sheet metal boxes in damp and wet locations and to cast boxes.
- P. Install no more than equivalent of three 90-degree bends between boxes. Install conduit bodies to make sharp changes in direction, as around beams. Install hydraulic on-shot bender to fabricate factory elbows for bends in metal conduit larger than 2-inch size.
- Q. Avoid moisture traps; install junction box with drain fitting at low points in conduit system.
- R. Install fittings to accommodate expansion and deflection where raceway crosses seismic, control and expansion joints.
- S. Install suitable pull string or cord in each empty raceway except sleeves and nipples.
- T. Install suitable caps to protect installed conduit against entrance of dirt and moisture.
- U. Surface Raceway: Install flat-head screws, clips, and straps to fasten raceway channel to surfaces; mount plumb and level. Install insulating bushings and inserts at connections to outlets and corner fittings.
- V. Close ends and unused openings in wireway.

3.4 INSTALLATION - BOXES

- A. Install wall mounted boxes at elevations to accommodate mounting heights as indicated on Drawings.
- B. Adjust box location up to 10 feet prior to rough-in to accommodate intended purpose.
- C. Orient boxes to accommodate wiring devices orientated as specified in Section 26 27 26 "Wiring Devices."
- D. Install pull boxes and junction boxes above accessible ceilings and in unfinished areas only.

- E. In Accessible Ceiling Areas: Install outlet and junction boxes no more than 6 inches from ceiling access panel or from removable recessed luminaire.
- F. Locate flush mounting box in masonry wall to require cutting of masonry unit corner only. Coordinate masonry cutting to achieve neat opening.
- G. Do not install flush mounting box back-to-back in walls; install with minimum 6 inches separation. Install with minimum 24 inches separation in acoustic rated walls.
- H. Secure flush mounting box to interior wall and partition studs. Accurately position to allow for surface finish thickness.
- I. Install stamped steel bridges to fasten flush mounting outlet box between studs.
- J. Install flush mounting box without damaging wall insulation or reducing its effectiveness.
- K. Install adjustable steel channel fasteners for hung ceiling outlet box.
- L. Do not fasten boxes to ceiling support wires or other piping systems.
- M. Support boxes independently of conduit.
- N. Install gang box where more than one device is mounted together. Do not use sectional box.
- O. Install gang box with plaster ring for single device outlets.

3.5 INTERFACE WITH OTHER PRODUCTS

- A. Locate outlet boxes to allow luminaires positioned as indicated on Drawings.
- B. Align adjacent wall mounted outlet boxes for switches, thermostats, and similar devices.

3.6 ADJUSTING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for testing, adjusting, and balancing.
- B. Adjust flush-mounting outlets to make front flush with finished wall material.
- C. Install knockout closures in unused openings in boxes.

3.7 CLEANING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for final cleaning.
- B. Clean interior of boxes to remove dust, debris, and other material.
- C. Clean exposed surfaces and restore finish.

END OF SECTION

SECTION 26 05 53 - IDENTIFICATION FOR ELECTRICAL SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Nameplates.
 - 2. Labels.
 - 3. Wire markers.
 - 4. Conduit markers.
 - 5. Stencils.
 - 6. Underground Warning Tape.
 - 7. Lockout Devices.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section

1.2 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures."
- B. Product Data:
 - 1. Submit manufacturer's catalog literature for each product required.
 - 2. Submit electrical identification schedule including list of wording, symbols, letter size, color coding, tag number, location, and function.
- C. Manufacturer's Installation Instructions: Indicate installation instructions, special procedures, and installation.

1.3 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of tagged devices; include tag numbers.

1.4 QUALITY ASSURANCE

- A. Perform Work in accordance with NEC standards and other Sections of the Specifications.

1.5 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' documented experience.
- B. Installer: Company specializing in performing Work of this Section with minimum 3 years' documented experience.

1.6 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Accept identification products on site in original containers. Inspect for damage.
- C. Accept materials on site in original factory packaging, labeled with manufacturer's identification, including product density and thickness.
- D. Protect insulation from weather and construction traffic, dirt, water, chemical, and mechanical damage, by storing in original wrapping.

1.7 ENVIRONMENTAL REQUIREMENTS

- A. Refer to Section 01 60 00 "Product Requirements" for environmental conditions affecting products on site.
- B. Install labels and nameplates only when ambient temperature and humidity conditions for adhesive are within range recommended by manufacturer.

PART 2 - PRODUCTS

2.1 NAMEPLATES

- A. Manufacturers:
 - 1. Brady ID.
 - 2. Or approved equal.
 - 3. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: Laminated 3-layer plastic with engraved white letters on black contrasting background color.
- C. Letter Size:
 - 1. 1/4-inch-high letters for identifying individual equipment and loads.
 - 2. 1/4-inch-high letters for identifying grouped equipment and loads.
 - 3. 3/8-inch-high letters for identifying main disconnect equipment.
- D. Minimum nameplate thickness: 1/8-inch.

2.2 LABELS

- A. Manufacturers:
 - 1. Brady ID.
 - 2. Or approved equal.
 - 3. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Labels: Embossed adhesive tape, with 3/16-inch white letters on black background.

2.3 WIRE MARKERS

- A. Manufacturers:
 - 1. Brady ID.
 - 2. Or approved equal.
 - 3. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Description: Cloth tape, split sleeve, or tubing type wire markers.

- C. Legend:
 - 1. Power and Lighting Circuits: Branch circuit or feeder number as indicated on Drawings.
 - 2. Control Circuits: Control wire number as indicated on Drawings.

2.4 CONDUIT AND RACEWAY MARKERS

- A. Manufacturers:
 - 1. Brady ID.
 - 2. Or approved equal.
 - 3. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Description: Nameplate and labels fastened with adhesive.

2.5 UNDERGROUND WARNING TAPE

- A. Manufacturers:
 - 1. Brady ID.
 - 2. Or approved equal.
 - 3. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Description: 4-inch-wide plastic tape, detectable type, colored red with suitable warning legend describing buried electrical lines.

PART 3 - EXECUTION

3.1 PREPARATION

- A. Degrease and clean surfaces to receive adhesive for identification materials.

3.2 INSTALLATION

- A. Install identifying devices after completion of painting.
- B. Nameplate Installation:
 - 1. Install nameplate parallel to equipment lines.
 - 2. Install nameplate for each electrical distribution and control equipment enclosure with corrosive-resistant mechanical fasteners, or adhesive.
 - 3. Install nameplates for each control panel and major control components located outside panel with corrosive-resistant mechanical fasteners, or adhesive.
 - 4. Secure nameplate to equipment front using screws or rivets.
 - 5. Secure nameplate to inside surface of door on recessed panelboard in finished locations.
 - 6. Install nameplates for the following:
 - a. Switchboards.
 - b. Panelboards.
 - c. Transformers.
 - d. Service Disconnects.
- C. Label Installation:
 - 1. Install label parallel to equipment lines.
 - 2. Install label for identification of individual control device stations.
 - 3. Install labels for permanent adhesion and seal with clear lacquer.

D. Wire Marker Installation:

1. Install wire marker for each conductor at panelboard gutters, pull boxes, outlet and junction boxes, and each load connection.
2. Mark data cabling at each end. Install additional marking at accessible locations along the cable run.
3. Install labels at data outlets identifying patch panel and port designation as indicated on Drawings.

E. Underground Warning Tape Installation:

1. Install underground warning tape along length of each underground conduit, raceway, or cable 6 to 8 inches below finished grade.

END OF SECTION

SECTION 26 24 16 - PANELBOARDS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Distribution and branch circuit panelboards.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 29 "Hangers and Supports for Electrical Systems."
 - 3. Section 26 05 53 "Identification for Electrical Systems."

1.2 REFERENCE STANDARDS

- A. Institute of Electrical and Electronics Engineers:
 - 1. IEEE C62.41 - Recommended Practice on Surge Voltages in Low-Voltage AC Power Circuits.
- B. National Electrical Manufacturers Association:
 - 1. NEMA ICS 2 - Industrial Control and Systems: Controllers, Contactors, and Overload Relays, Rated Not More Than 2,000 Volts AC or 750 Volts DC.
 - 2. NEMA ICS 5 - Industrial Control and Systems: Control Circuit and Pilot Devices.
 - 3. NEMA KS 1 - Enclosed and Miscellaneous Distribution Equipment Switches (600 Volts Maximum).
 - 4. NEMA PB 1 - Panelboards.
 - 5. NEMA PB 1.1 - General Instructions for Proper Installation, Operation, and Maintenance of Panelboards Rated 600 Volts or Less.
- C. International Electrical Testing Association:
 - 1. NETA ATS - Acceptance Testing Specifications for Electrical Power Distribution Equipment and Systems.
- D. National Fire Protection Association:
 - 1. NFPA 70 - National Electrical Code.
- E. Underwriters Laboratories, Inc. (UL):
 - 1. UL 50 - Cabinets and Boxes
 - 2. UL 67 - Safety for Panelboards.
 - 3. UL 489 - Molded-Case Circuit Breakers, Molded-Case Switches, and Circuit-Breaker Enclosures.
 - 4. UL 1283 - Electromagnetic Interference Filters.
 - 5. UL 1449 - Transient Voltage Surge Suppressors.
 - 6. UL 1699 - Arc-Fault Circuit Interrupters.

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit catalog data showing specified features of standard products.
- C. Shop Drawings: Indicate outline and support point dimensions, voltage, main bus ampacity, integrated short circuit ampere rating, circuit breaker, and fusible switch arrangement and sizes.

- D. Source Quality control submittals: Indicate results of shop and factory tests and inspections.
- E. Field Quality Control Submittals: Indicate results of Contractor furnished tests and inspections.

1.4 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of panelboards and record actual circuiting arrangements.
- C. Operation and Maintenance Data: Submit spare parts listing, source and current prices of replacement parts and supplies, and recommended maintenance procedures and intervals.

1.5 MAINTENANCE MATERIAL SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for maintenance products.

1.6 QUALITY ASSURANCE

- A. Qualifications:
 - 1. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Independently mounted panelboards shall be manufactured by:
 - 1. Square-D;
 - 2. Cutler Hammer; or
 - 3. Equivalent.

2.2 120/240 VAC DISTRIBUTION PANELBOARDS

- A. Panelboards:
 - 1. 240/120 VAC.
 - 2. 1-phase.
 - 3. 4-wire, 60 Hertz.
- B. Service Conditions:
 - 1. Temperature: 105 degrees F.
 - 2. Altitude: 3,107 feet.
 - 3. Bus: Copper.
- C. Provide copper ground bus in each panelboard.
 - 1. Minimum integrated short-circuit rating: 18k amperes RMS symmetrical at 240 VAC.
 - 2. Molded-Case Circuit Breakers: NEMA AB trip in each pole.
 - 3. Provide circuit breaker accessory trip units and auxiliary switches as indicated.
 - 4. Doors: Secured with vault-type latch with tumbler lock; keyed alike. For doors over 36 inches provide two latches; keyed alike.

2.3 120/240 PANELBOARD WITH TRANSFORMER

- A. Mini Power Zone: Square D Mini Power Zone Dry-Type Package Power Supply or approved equal. Minimum integrated short circuit rating of 18,000 amperes RMS symmetrical at 240 VAC. Transformer shall be rated as indicated on Drawings with 480 volt primary and 240/120 volt secondary. Transformers are to be encapsulated to provide protection against moisture, dust, and corrosive environments. Panelboard shall be supplied with bolt-on-type breakers.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Install panelboards according to NEMA PB 1.1.
- B. Install panelboards plumb.
- C. Install recessed panelboards flush with wall finishes.
- D. Height: 6 feet to top of panelboard; install panelboards taller than 6 feet with bottom no more than 4 inches above floor.
- E. Install filler plates for unused spaces in panelboards.
- F. Provide typed circuit directory for each branch circuit panelboard. Revise directory to reflect circuiting changes to balance phase loads. Identify each circuit as to its clear, evident and specific purpose of use.
- G. Install engraved plastic nameplates according to Section 26 05 53 "Identification for Electrical Systems."
- H. Ground and bond panelboard enclosure according to Section 26 05 26 "Grounding and Bonding for Electrical Systems." Connect equipment ground bars of panels according to NFPA 70.
- I. Use anti-sieze compound on bolts and screws to install equipment.

3.2 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Inspect and test according to NETA ATS, except Section 4.
- C. Perform circuit breaker inspections and tests listed in NETA ATS, Section 7.6.

3.3 ADJUSTING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for starting and adjusting.
- B. Measure steady state load currents at each panelboard feeder; rearrange circuits in panelboard to balance phase loads to within 20 percent of each other. Maintain proper phasing for multi-wire branch circuits.

3.4 CLEANING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for cleaning.
- B. Clean existing panelboards to remain or to be reinstalled.

END OF SECTION

SECTION 26 27 26 - WIRING DEVICES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes wall switches; wall dimmers; receptacles; multioutlet assembly; and device plates and decorative box covers.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 33 "Raceway and Boxes for Electrical Systems" for outlet boxes for wiring devices.

1.2 REFERENCES

- A. National Electrical Manufacturers Association:
 - 1. NEMA WD 1 - General Requirements for Wiring Devices.
 - 2. NEMA WD 6 - Wiring Devices-Dimensional Requirements.
- B. National Fire Protection Association:
 - 1. NFPA 70 - National Electrical Code.

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for submittal procedures.
- B. Product Data: Submit manufacturer's catalog information showing dimensions, colors, and configurations.

1.4 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' documented experience.

PART 2 - PRODUCTS

2.1 WALL SWITCHES

- A. Manufacturers; Wall Switch:
 - 1. General Electric Model 5951-2G.
 - 2. Hubbell Model 1221-1.
 - 3. P&S Model 20-AC-1-1.
 - 4. Or approved equal.
 - 5. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: NEMA WD 1, Specification grade, AC only general-use snap switch.
- C. Body and Handle: Ivory plastic with toggle handle.
- D. Ratings:
 - 1. Voltage: 120-277 volts, AC.
 - 2. Current: 20 amperes.

2.2 RECEPTACLES

- A. Manufacturers:
 - 1. General Electric Model 5362.2.
 - 2. Hubbell Model 5362.1.
 - 3. P&S Model 5362.1.
 - 4. Or approved equal.
 - 5. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Product Description: NEMA WD 1, Specification grade general use receptacle.
- C. Device Body: Ivory plastic.
- D. Configuration: NEMA WD 6, type as indicated on Drawings.
- E. Convenience Receptacle: Type 5-20.
- F. GFCI Receptacle, 20 amp rated: Convenience receptacle with integral ground fault circuit interrupter to meet regulatory requirements.
- G. Outdoor receptacles shall have an enclosure that is weatherproof whether or not the attachment plug cap is inserted.

2.3 WALL PLATES

- A. Manufacturers:
 - 1. General Electric.
 - 2. Hubbell.
 - 3. P&S.
 - 4. Or approved equal.
 - 5. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. General: Provide plates for each switch and receptacle device. Provide plates to match material of box to which it is attached.
- C. Exposed: Plates for exposed screw jointed fittings shall match the fittings with edges of plates flush with edges of fittings. Plates for cast type boxes shall be of the cast, vapor type.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for coordination and Project conditions.
- B. Verify outlet boxes are installed at proper height.
- C. Verify wall openings are neatly cut and completely covered by wall plates.
- D. Verify branch circuit wiring installation is completed, tested, and ready for connection to wiring devices.

3.2 PREPARATION

- A. Clean debris from outlet boxes.

3.3 INSTALLATION

- A. Use anti-seize compound when using bolts and screws to install equipment.
- B. Install devices plumb and level.
- C. Install switches with OFF position down.
- D. Install wall dimmers to achieve full rating specified and indicated after derating for ganging as instructed by manufacturer.
- E. Do not share neutral conductor on load side of dimmers.
- F. Install receptacles with grounding pole on bottom.
- G. Connect wiring device grounding terminal to branch circuit equipment grounding conductor.
- H. Install wall plates on flush mounted switches, receptacles, and blank outlets.
- I. Install decorative plates on switch, receptacle, and blank outlets in finished areas.
- J. Connect wiring devices by wrapping solid conductor around screw terminal. Install stranded conductor for branch circuits 10AWG and smaller. When stranded conductors are used in lieu of solid, use crimp on fork terminals for device terminations. Do not place bare stranded conductors directly under device screws.
- K. Install galvanized steel plates on outlet boxes and junction boxes in unfinished areas, above accessible ceilings, and on surface mounted outlets.

3.4 INTERFACE WITH OTHER PRODUCTS

- A. Coordinate locations of outlet boxes provided under Section 26 05 33 "Raceway and Boxes for Electrical Systems" to obtain mounting heights as specified and as indicated on Drawings.
- B. Install wall switch 48 inches above finished floor.
- C. Install convenience receptacle 18 inches above finished floor.

3.5 FIELD QUALITY CONTROL

- A. Inspect each wiring device for defects.
- B. Operate each wall switch with circuit energized and verify proper operation.
- C. Verify each receptacle device is energized.
- D. Test each receptacle device for proper polarity.
- E. Test each GFCI receptacle device for proper operation.

3.6 ADJUSTING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for testing, adjusting, and balancing.
- B. Adjust devices and wall plates to be flush and level.

3.7 CLEANING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for final cleaning.
- B. Clean exposed surfaces to remove splatters and restore finish.

END OF SECTION

SECTION 26 28 13 - FUSES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Cartridge fuses rated 600 VAC and less for use in the following:
 - a. Control circuits.
 - b. Enclosed controllers.
 - c. Enclosed switches.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 ACTION SUBMITTALS

- A. Product Data: For each type of product. Include construction details, material descriptions, dimensions of individual components and profiles, and finishes for spare-fuse cabinets. Include the following for each fuse type indicated:
 - 1. Ambient Temperature Adjustment Information: If ratings of fuses have been adjusted to accommodate ambient temperatures, provide list of fuses with adjusted ratings.
 - a. For each fuse having adjusted ratings, include location of fuse, original fuse rating, local ambient temperature, and adjusted fuse rating.
 - b. Provide manufacturer's technical data on which ambient temperature adjustment calculations are based.
 - 2. Dimensions and manufacturer's technical data on features, performance, electrical characteristics, and ratings.
 - 3. Current-limitation curves for fuses with current-limiting characteristics.
 - 4. Time-current coordination curves (average melt) and current-limitation curves (instantaneous peak let-through current) for each type and rating of fuse. Submit in PDF format.
 - 5. Coordination charts and tables and related data.

1.3 CLOSEOUT SUBMITTALS

- A. Operation and Maintenance Data: For fuses to include in emergency, operation, and maintenance manuals. In addition to items specified in Section 01 70 00 "Execution and Closeout Requirements," include the following:
 - 1. Ambient temperature adjustment information.
 - 2. Current-limitation curves for fuses with current-limiting characteristics.
 - 3. Time-current coordination curves (average melt) and current-limitation curves (instantaneous peak let-through current) for each type and rating of fuse used on the Project. Submit in PDF format.
 - 4. Coordination charts and tables and related data.

1.4 MAINTENANCE MATERIAL SUBMITTALS

- A. Furnish extra materials that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.
 - 1. Fuses: Equal to one of each size and type.

1.5 FIELD CONDITIONS

- A. Where ambient temperature to which fuses are directly exposed is less than 40 degrees F or more than 100 degrees F, apply manufacturer's ambient temperature adjustment factors to fuse ratings.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Manufacturers: Subject to compliance with requirements, available manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
 - 1. Bussmann, an Eaton business.
 - 2. Edison; a brand of Bussmann by Eaton.
 - 3. Littelfuse, Inc.
 - 4. Mersen USA.
 - 5. Or approved equal.
- B. Source Limitations: Obtain fuses, for use within a specific product or circuit, from single source from single manufacturer.

2.2 CARTRIDGE FUSES

- A. Characteristics: NEMA FU 1, current-limiting, nonrenewable cartridge fuses with voltage ratings consistent with circuit voltages.
 - 1. Type RK-1: 600V, zero- to 600-A rating, 200 kAIC, time delay.
 - 2. Type RK-5: 600V, zero- to 600-A rating, 200 kAIC, time delay.
 - 3. Type CC: 600V, zero- to 30-A rating, 200 kAIC, fast acting , time delay.
 - 4. Type CD: 600V, 31- to 60-A rating, 200 kAIC, fast acting , time delay.
 - 5. Type J: 600V, zero- to 600-A rating, 200 kAIC, time delay.
 - 6. Type L: 600V, 601- to 6000-A rating, 200 kAIC, time delay.
 - 7. Type T: 600V, zero- to 800-A rating, 200 kAIC, very fast acting , time delay.
- B. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, by a qualified testing agency, and marked for intended location and application.
- C. Comply with NEMA FU 1 for cartridge fuses.
- D. Comply with NFPA 70.
- E. Coordinate fuse ratings with utilization equipment nameplate limitations of maximum fuse size and with system short-circuit current levels.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine fuses before installation. Reject fuses that are moisture damaged or physically damaged.
- B. Examine holders to receive fuses for compliance with installation tolerances and other conditions affecting performance, such as rejection features.
- C. Examine utilization equipment nameplates and installation instructions. Install fuses of sizes and with characteristics appropriate for each piece of equipment.
- D. Evaluate ambient temperatures to determine if fuse rating adjustment factors must be applied to fuse ratings.
- E. Proceed with installation only after unsatisfactory conditions have been corrected.

3.2 FUSE APPLICATIONS

- A. Cartridge Fuses:
 - 1. Service Entrance: Class L, fast acting; Class L, time delay; Class RK1, fast acting; Class RK1, time delay; Class J, fast acting; Class J, time delay; Class T, fast acting; or as indicated on Drawings.
 - 2. Other Branch Circuits: Class RK1, time delay; Class RK5, time delay; Class J, fast acting; Class J, time delay; Class CC, fast acting; or as indicated on Drawings.
 - 3. Control Transformer Circuits: Class CC, time delay, control transformer duty.
 - 4. Provide open-fuse indicator fuses or fuse covers with open fuse indication.

3.3 INSTALLATION

- A. Install fuses in fusible devices. Arrange fuses so rating information is readable without removing fuse.

3.4 IDENTIFICATION

- A. Install labels complying with requirements for identification specified in Section 26 05 53 "Identification for Electrical Systems" and indicating fuse replacement information inside of door of each fused switch and adjacent to each fuse block, socket, and holder.

END OF SECTION

SECTION 26 28 16.16 - ENCLOSED SWITCHES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Fusible.
 - 2. Non-fusible switches.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 29 "Hangers and Supports for Electrical Systems."
 - 3. Section 26 05 53 "Identification for Electrical Systems."

1.2 REFERENCE STANDARDS

- A. National Electrical Manufacturers Association:
 - 1. NEMA KS 1 - Enclosed and Miscellaneous Distribution Equipment Switches (600 Volts Maximum).
- B. National Fire Protection Association:
 - 1. NFPA 70 - National Electrical Code.

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for submittal procedures.
- B. Product Data: Submit switch ratings and enclosure dimensions.

1.4 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for closeout procedures.
- B. Project Record Documents: Record actual locations of enclosed switches and ratings of installed fuses.

1.5 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' documented experience.

PART 2 - PRODUCTS

2.1 FUSIBLE SWITCH ASSEMBLIES

- A. Manufacturers:
 - 1. Schneider Electric USA (Square D).
 - 2. Eaton.
 - 3. Or approved equal.
 - 4. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- B. Description: NEMA KS 1, Type HD, enclosed load interrupter knife switch. Handle lockable in OFF position.

- C. Operation:
 - 1. Switch Ratings:
 - a. Switch Rating: Horsepower rated for AC or DC as indicated on Drawings.
 - b. Short Circuit Current Rating: UL listed for 200,000 rms symmetrical amperes when used with or protected by Class R or Class J fuses (30 to 600 ampere switches employing appropriate fuse rejection schemes).
- D. Materials:
 - 1. Coordinate selection in the following paragraph with fuses specified for application in enclosed switches.
 - 2. Fuse clips: Designed to accommodate NEMA FU 1, Class R fuses.
 - 3. Enclosure: NEMA KS 1, to meet conditions.
 - a. Interior Dry Locations: Type 1.
 - b. Exterior Locations: Type 3R or 4.
 - 4. Service Entrance: Switches identified for use as service equipment are to be labeled for this application. Furnish solid neutral assembly and equipment ground bar.
 - 5. Furnish switches with entirely copper current carrying parts.

2.2 HEAVY-DUTY DOUBLE THROW GENERATOR QUICK CONNECT SAFETY SWITCHES

- A. Provide switches as shown on Drawings, with the following ratings:
 - 1. Ampere Rating: As indicated on Drawings. 600 volts ac.
 - 2. Three poles with solid neutral.
 - 3. Upper utility switch shall be fusible.
 - 4. Mechanical lugs suitable for aluminum or copper conductors.
- B. Construction:
 - 1. Switch blades, jaws, and bus bars shall be visible and plated copper.
 - 2. Switches shall have a red handle that is easily pad-lockable with three 3/8-inch shank locks in the OFF position.
 - 3. Switches shall be of double throw design such that both switches may not be closed simultaneously. Handle operation shall have an "off" position between the two on positions.
 - 4. Switch shall be equipped with a separate interlocked receptacle compartment containing receptacles for quick-connection and disconnection of portable cord-connected equipment.
 - a. Interlock shall prevent the lower generator switch from being closed while cable compartment door is open and shall prevent the door from being opened while the switch is closed.
 - b. Compartment shall be equipped with a spring-assisted door to allow portable cords to exit the compartment while in use but shall close when not in use to effectively seal the compartment to prevent insects and small animals from entry.
 - c. Compartment shall be equipped with receptacles for sufficient cable connection for the ampacity of the switch.
 - d. Receptacles for switches 200 amps and greater shall be of the single cable per phase design - utilizing quarter turn cam type connections.
 - e. Receptacles shall be Cam-Lok type. 600 amp and 800 amp switches shall employ parallel receptacles.
 - 5. Switches shall have deionizing arc chutes.
 - 6. Switches shall have factory-installed ground lug kit.
 - 7. Switch assembly and operating handle shall be an integral part of the enclosure base.
 - 8. Switch blades shall be readily visible in the "ON" and "OFF" position.

9. Switch operating mechanism shall be non-teasable, positive quick-make/quick-break type. Bail type mechanisms are not acceptable.
 10. Fusible switches shall be suitable for service entrance equipment.
 11. Switches shall have a solid or switched neutral as shown on the Drawings.
 12. Switches shall have line terminal shields (except for non-fusible double throw switches).
 13. Switches shall be suitable for systems cable of 100 kA at 600 V with embossed or engraved ON-OFF indication shall be provided.
 14. Double-make, double-break switch blade feature shall be provided.
 15. Renewal parts data shall be shown on the inside of the door.
- C. Enclosures:
1. All enclosures shall be NEMA 3R rainproof.
 2. Paint color shall be ANSI 61 gray.
 3. 600 and 800 amp enclosures shall include a "Z" mounting channel on the back for assistance in mounting.
 4. 600 and 800 amp switches shall be equipped with lifting eyes.
- D. The following factory modifications are to be included:
1. Phenolic.
 2. Lock ON provision.
 3. Lock OFF provision.
 4. Factory installed auxiliary contact.
 5. Factory installed UL listed switching neutral bonding kit.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Install enclosed switches where indicated.
- B. Install enclosed switches plumb. Provide supports in accordance with Section 26 05 29 "Hangers and Supports for Electrical Systems."
- C. Height: 5 feet to operating handle.
- D. Install fuses for fusible disconnect switches. Refer to Section 26 28 13 "Fuses" for product requirements.
- E. Install engraved plastic nameplates in accordance with Section 26 05 53 "Identification for Electrical Systems." Engrave nameplates with the equipment served and the panel and circuit number supplying the switch.
- F. Apply adhesive tag on inside door of each fused switch indicating NEMA fuse class and size installed.

3.2 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting, testing, adjusting, and balancing.
- B. Inspect and test in accordance with NETA ATS, except Section 4.
- C. Perform inspections and tests listed in NETA ATS, Section 7.5.

3.3 CLEANING

- A. Refer to Section 01 70 00 Execution and Closeout Requirements” for requirements for cleaning.
- B. Clean existing enclosed switches to remain or to be reinstalled.

END OF SECTION

SECTION 26 29 13.06 - SOFT-START MOTOR CONTROLLERS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes soft-start motor controllers that are designed for reduced-voltage start and full-voltage run duty.
 - 1. Enclosed soft-start controllers.
 - 2. Combination soft-start controllers.
 - 3. Enclosures.
 - 4. Accessories.
 - 5. Identification.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 DEFINITIONS

- A. CPT: Control power transformer.
- B. FLA: Full-load current.
- C. MCCB: Molded-case circuit breaker.
- D. MCP: Motor circuit protector.
- E. NC: Normally closed.
- F. NO: Normally open.
- G. OCPD: Overcurrent protective device.
- H. SCCR: Short-circuit current rating.
- I. SCPD: Short-circuit protective device.
- J. SCR: Silicon-controlled rectifier.

1.3 ACTION SUBMITTALS

- A. Product Data: For each type of product.
 - 1. Include rated capacities, operating characteristics, electrical characteristics, and furnished specialties and accessories.
- B. Shop Drawings: For each type of controller.
 - 1. Include Plans, elevations, Sections, and mounting details.
 - 2. Indicate dimensions, weights, required clearances, and location and size of each field connection.
 - 3. Wire Termination Diagrams and Schedules: Include diagrams for signal and control wiring. Identify terminals and wiring designations and color-codes to facilitate installation, operation, and maintenance. Indicate recommended types, wire sizes, and circuiting arrangements for field-installed wiring, and show circuit protection features. Differentiate between manufacturer-installed and field-installed wiring.
 - 4. Include features, characteristics, ratings, and factory settings of individual OCPD and auxiliary components.
- C. Product Schedule: For each enclosed controller.
 - 1. Each installed soft-start controller type.
 - 2. NRTL listing.
 - 3. Factory-installed accessories.
 - 4. Nameplate legends.

5. SCCR of integrated unit.
 - a. For each combination soft-start controller, include features, characteristics, ratings, and factory setting of the SCPD and OCPD.
 - b. For each series-rated combination, state the listed integrated SCCR (withstand) of SCPDs and OCPDs by an NRTL acceptable to authorities having jurisdiction.

1.4 INFORMATIONAL SUBMITTALS

- A. Seismic Qualification Data: Certificates, for soft-start controllers, from manufacturer.
 1. Basis for Certification: Indicate whether withstand certification is based on actual test of assembled components or on calculation.
 2. Dimensioned Outline Drawings of Equipment Unit: Identify center of gravity and locate and describe mounting and anchorage provisions.
 3. Detailed description of equipment anchorage devices on which the certification is based and their installation requirements.
- B. Source quality-control reports.
- C. Field quality-control reports.

1.5 CLOSEOUT SUBMITTALS

- A. Operation and Maintenance Data: For soft-start controllers to include in operation and maintenance manuals.
 1. Include the following:
 - a. Routine maintenance requirements for soft-start controllers and installed components.
 - b. Manufacturer's written instructions for testing and adjusting circuit-breaker and MCP trip settings.
 - c. Manufacturer's written instructions for testing, adjusting, and reprogramming reduced-voltage soft-start controllers.
 - d. Load-Current and Overload-Relay Heater List: Compile after motors have been installed, and arrange to demonstrate that selection of heaters suits actual motor nameplate FLAs.
 - e. Load-Current and List of Settings of Adjustable Overload Relays: Compile after motors have been installed, and arrange to demonstrate that switch settings for motor running overload protection suit actual motors to be protected.

1.6 MAINTENANCE MATERIAL SUBMITTALS

- A. Furnish extra materials that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.
 1. Fuses for Fused Switches: Equal to one set of each size and type.
 2. Control Power Fuses: Equal to one set of each size and type.
 3. Indicating Lights: One set of each type and color installed.
 4. Auxiliary Contacts: Furnish one set spare(s) for each size and type of magnetic controller installed.
 5. Power Contacts: Furnish one set spares for each size and type of magnetic contactor installed.

1.7 QUALITY ASSURANCE

- A. Testing Agency Qualifications: Accredited by NETA.
 - 1. Testing Agency's Field Supervisor: Certified by NETA to supervise on-site testing.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Store soft-start controllers indoors in clean, dry space with uniform temperature to prevent condensation. Protect soft-start controllers from exposure to dirt, fumes, water, corrosive substances, and physical damage.
- B. If stored in areas subject to weather, cover soft-start controllers to protect them from weather, dirt, dust, corrosive substances, and physical damage. Remove loose packing and flammable materials from inside controllers; connect factory-installed space heaters to temporary electrical service.
- C. Handle per manufacturer-written instructions. Lift only with lugs provided. Handle carefully to avoid damage to components, enclosure, and finish.

1.9 FIELD CONDITIONS

- A. Environmental Limitations: Rate equipment for continuous operation under the following conditions unless otherwise indicated:
 - 1. Ambient Temperature: Not less than 32 degrees F and not exceeding 104 degrees F, humidity noncondensing.
 - 2. Altitude: Not exceeding 3,300 feet.
 - 3. The effect of solar radiation is insignificant.

PART 2 - PRODUCTS

2.1 MOTOR CONTROLLER PERFORMANCE REQUIREMENTS

- A. Electrical Components, Devices, and Accessories: Listed and labeled as defined in NFPA 70, by a qualified testing agency, and marked for intended location and use.
- B. UL Compliance: Fabricate and label enclosed controllers to comply with UL 508.
- C. NEMA Compliance: Fabricate motor controllers to comply with NEMA ICS 2.

2.2 COMBINATION SOFT-START MOTOR CONTROLLERS

- A. Description: Factory-assembled, combination, reduced-voltage soft-start controller with a disconnecting means, SCPD and OCPD, in a single enclosure. The reduced-voltage soft-start controller shall consist of an integrated unit with power SCRs, heat sink, microprocessor logic board, door-mounted digital display and user interface module, run-bypass contactor, and overload relay(s); suitable for use with NEMA MG 1, Design B, polyphase, medium induction motors.
 - 1. Run-Bypass Contactor: Magnetic contactor in parallel with the SCR of the soft-start controller, bypassing the SCR when full voltage is achieved.

- B. Manufacturers: Subject to compliance with requirements, available manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
 - 1. Eaton.
 - 2. Allen Bradley - SMC Flex.
 - 3. Square D; by Schneider Electric.
 - 4. ABB.
 - 5. Or approved equal.
- C. Standard: Comply with NEMA ICS 2, general purpose, Class A.
- D. Configuration: Heavy duty.
 - 1. At least two SCRs per phase to control the starting and stopping of the motor.
 - 2. Microprocessor control shall continuously monitor current and proper operation of the SCRs.
 - 3. Bypass Contactor: Operates automatically when full voltage is applied to motor, and bypasses the SCRs. Soft-start controller protective features and deceleration controls shall remain active when this contactor is in the bypass mode.
 - 4. Power Electronics Disconnect Contactor. Where indicated, installed ahead of the power electronics equipment, and shall open automatically when the motor is stopped, or a controller fault is detected, or when an SCR shorts.
 - 5. Logic Board: Identical for all ampere ratings and voltage classes, with environmental protective coating.
 - 6. Surge Protection: Comply with NEMA ICS 2 requirements for surge suppression.
- E. Control Power:
 - 1. For on-board control power, obtain from line circuit or from integral CPT. The CPT shall have capacity to operate integral devices and remotely located pilot, indicating, and control devices.
 - 2. Spare CPT Capacity: As indicated on Drawings, available in increments of 100 VA, from 100 to 500 VA.
- F. Controller Diagnostics and Protection:
 - 1. Microprocessor-based thermal-protection system for monitoring SCR and motor thermal characteristics, and providing controller overtemperature and motor-overload alarm and trip; settings selectable via the keypad.
 - 2. Protection from line-side reverse phasing; line-side and motor-side phase loss; motor jam, stall, and under-load conditions; and line frequency over or under normal.
 - 3. Input isolation contactor that opens when the controller diagnostics detect a faulted soft-start component or when the motor is stopped.
- G. Cover mounted-controller status panel with LED lights or alphanumeric display to show the following:
 - 1. Starter Status: "Ready," "starting," "stopping," or "run."
 - 2. Motor current in amperes.
 - 3. Faults:
 - a. Motor overcurrent trip.
 - b. Motor thermal overload.
 - c. Starter thermal fault.
 - d. Low line voltage.
 - e. Loss of a phase.
 - f. Phases reversed.
 - g. Maximum starting time exceeded.
 - h. Serial communications error.

- H. Interface Panel: Mounted on controller door.
 - 1. Guarded adjustable set points, not readily accessible.
 - a. Motor FLA, adjustable from 40 to 110 percent of the controller's rating.
 - b. Current limitation on starting, adjustable from 200 to 500 percent of FLA, typically set at 300 percent.
 - c. NEMA ICS 2 overload class. Selections shall include the following tripping classes: Class 5, Class 10, Class 20, and Class 30.
 - 2. Adjustable set points, readily accessible, password protected.
 - a. Linear acceleration, adjustable from 1 to 60 s.
 - b. Maximum start time, adjustable from 1 to 250 s.
 - c. Selector switch; select coast to stop or soft stop.
 - d. Linear deceleration, adjustable from 1 to 60 s.
- I. Remote Output Features: All outputs shall be prewired to terminal blocks.
 - 1. Analog output for field-selectable assignment of motor operating characteristics; 4- to 20-mA dc.
 - 2. Form C status contacts that change state when controller is running.
 - 3. Form C alarm contacts that change state when a fault condition occurs.
- J. Fusible Disconnecting Means:
 - 1. NEMA KS 1, heavy-duty, horsepower-rated, fusible switch with clips or bolt pads to accommodate indicated fuses.
 - 2. Lockable Handle: Accepts three padlocks and interlocks with cover in closed position.
 - 3. Auxiliary Contacts: NO or NC, arranged to activate before switch blades open.
- K. MCP Disconnecting Means:
 - 1. UL 489 and NEMA AB 3 (with interrupting capacity to comply with available fault currents) instantaneous-only circuit breaker with front-mounted, field-adjustable, short-circuit trip coordinated with motor locked-rotor amperes.
 - 2. Lockable Handle: Accepts three padlocks and interlocks with cover in closed position.
 - 3. Auxiliary contacts "a" and "b" arranged to activate with MCP handle.
 - 4. NC/NO alarm contact that operates only when MCP has tripped.
 - a. Current-limiting module to increase controller SCCR (withstand) to 100 kA.

2.3 ENCLOSURES

- A. Comply with NEMA 250, Type designations as indicated on Drawings, to comply with environmental conditions at installed location.
- B. Construction of the enclosures shall comply with NEMA ICS 6.
- C. Controllers in hazardous (classified) locations shall comply with UL 1203.

2.4 ACCESSORIES

- A. General Requirements for Control Circuit and Pilot Devices: NEMA ICS 5; factory installed in controller enclosure cover unless otherwise indicated.
 - 1. Push Buttons, Pilot Lights, and Selector Switches: Heavy duty, except as needed to match enclosure type. Heavy-duty or oiltight where indicated on Drawings.
 - a. Push Buttons: As indicated on Drawings.
 - b. Pilot Lights: As indicated Drawings.
 - 2. Elapsed Time Meters: Heavy duty with digital readout in hours; resettable.
 - 3. Meters: Panel type, 2-1/2-inch minimum size with 90- or 120-degree scale and plus or minus 2 percent accuracy. Where indicated, provide selector switches with Hand - Off Auto positions.

2.5 IDENTIFICATION

- A. Controller Nameplates: As described in Section 26 05 53 "Identification for Electrical Systems," for each compartment, mounted with corrosion-resistant screws.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine areas and space conditions for compliance with requirements for motor controllers, their relationship with the motors, and other conditions affecting performance of the Work.

3.2 INSTALLATION

- A. Comply with NECA 1.
- B. Wall-Mounted Controllers: Install controllers on walls with tops at uniform height indicated, and by bolting units to wall or mounting on slotted support systems complying with Section 26 05 29 "Hangers and Supports for Electrical Systems," and bolted to wall.
- C. Install per NEMA ICS 3.1.
- D. Tighten accessible connections and mechanical fasteners after placing controller.
- E. Select and install overload heater elements in motor controllers to match installed motor characteristics.
- F. Maintain minimum clearances and workspace at equipment according to manufacturer's written instructions and NFPA 70.
- G. Control Wiring: Separate control wiring from power wiring. Where unavoidable, use twisted pair cabling or shielded cables for control wiring.
- H. Wiring within Enclosures: Bundle, lace, and train conductors to terminal points with no excess and without exceeding manufacturer's limitations on bending radii. Install lacing bars and distribution spools.
- I. Setting of Overload Relays: Select and set overloads on the basis of FLA rating as shown on motor nameplate. Adjust setting value for special motors as required by NFPA 70 for high-torque, high-efficiency, and so on motors.
- J. Ground and bond controller per Section 26 05 26 "Grounding and Bonding for Electrical Systems."
- K. Install plumb. Provide supports per Section 26 05 29 "Hangers and Supports for Electrical Systems."
- L. Height: 5 feet, 6 inches maximum to all operating or monitoring devices.

3.3 IDENTIFICATION

- A. Identify system components, wiring, cabling, and terminals. Comply with requirements for identification specified in Section 26 05 53 "Identification for Electrical Systems."

3.4 FIELD QUALITY CONTROL

- A. Inspect and test per other Specifications and NETA ATS, except Section 4.
- B. Perform inspections and tests listed in NETA ATS, Section 7.16 and NEMA ICS 3.1
- C. Testing Agency: Owner will engage a qualified testing agency to perform tests and inspections.
- D. Manufacturer's Field Service: Engage a factory-authorized service representative to test and inspect components, assemblies, and equipment installations, including connections.
- E. Perform tests and inspections with the assistance of a factory-authorized service representative.
- F. Tests and Inspections:
 - 1. Comply with provisions of NFPA 70B, Chapter "Testing and Test Methods."
 - 2. Visual and Mechanical Inspection:
 - a. Compare equipment nameplate data with Drawings and the Specifications.
 - b. Inspect physical and mechanical condition.
 - c. Inspect anchorage, alignment, and grounding.
 - d. Verify that the unit is clean.
 - e. Ensure that vent path openings are free from debris and that heat-transfer surfaces are clean.
 - f. Verify correct connections of circuit boards, wiring, disconnects, and ribbon cables.
 - g. Inspect Contactors:
 - 1) Verify mechanical operation.
 - 2) Verify that contact gap, wipe, alignment, and pressure are according to manufacturer's published data.
 - h. Motor-Running Protection:
 - 1) Verify that motor FLA is at, or under, the controller current rating.
 - 2) Verify that overload element setting is correct for its application.
 - 3) Apply minimum- and maximum-speed set points. Verify that set points are within limitations of the load coupled to the motor.
 - 4) If motor-running protection is provided by fuses, verify correct fuse rating.
 - i. Inspect bolted electrical connections for high resistance using one of the following two methods:
 - 1) Use a low-resistance ohmmeter. Compare bolted-connection-resistance values to values of similar connections. Investigate values that deviate from those of similar bolted connections by more than 50 percent of the lowest value.
 - 2) Verify tightness of accessible bolted electrical connections by calibrated torque-wrench method according to manufacturer's published data or NETA ATS, Table 100.12. Bolt-torque levels shall be according to manufacturer's published data. In the absence of manufacturer's published data, use NETA ATS, Table 100.12.
 - j. Verify appropriate lubrication on moving current-carrying parts and on moving and sliding surfaces.

3. Electrical Tests:
 - a. For the contactor and circuit breaker, perform insulation-resistance tests for one minute on each pole, phase-to-phase and phase-to-ground with switch closed, and across each open pole. Insulation-resistance values shall be according to manufacturer's published data or NETA ATS, Table 100.1. In the absence of manufacturer's published data, use Table 100.5. Values of insulation resistance less than this table or manufacturer's written instructions shall be investigated and corrected.
 - b. Measure fuse resistance. Investigate fuse-resistance values that deviate from each other by more than 15 percent.
 - c. Test motor protection devices according to manufacturer's published data.
 - d. Test circuit breakers as follows:
 - 1) Operate the circuit breaker to ensure smooth operation.
 - 2) For adjustable circuit breakers, adjust protective device settings according to the coordination study. Comply with coordination study recommendations.
 - e. Test the electronic motor overload relay elements by injecting primary current through the overload circuit and monitoring trip time of the overload element.
 - f. Test the following parameters according to NETA relay calibration procedures, or as recommended by manufacturer:
 - 1) ANSI No. 49R, Overtemperature Protection:
 - a) Determine time delay at 300 percent of setting.
 - b) Determine a second point on the operating curve.
 - c) Determine pickup.
 - 2) ANSI No. 47, Input Phase Loss and Reversed Phases Protection:
 - a) Determine positive sequence voltage to close the NO contact.
 - b) Determine positive sequence voltage to open the NC contact (undervoltage trip).
 - c) Verify negative sequence trip.
 - d) Determine time delay to close the NO contact with sudden application of 120 percent of pickup.
 - e) Determine time delay to close the NC contact on removal of voltage when previously set to rated system voltage.
 - 3) ANSI No. 81, Overfrequency Protection:
 - a) Verify frequency set points.
 - b) Determine time delay.
 - c) Determine undervoltage cutoff.
 - 4) Fault Alarm Outputs: Verify that each relay contact performs its intended function in the control scheme including breaker trip tests, close inhibit tests, lockout tests, and alarm functions.
 - g. Perform operational tests by initiating control devices.
4. Infrared Inspection: Perform the survey during periods of maximum possible loading. Remove all necessary covers prior to the inspection.
 - a. Comply with recommendations of NFPA 70B, Chapter "Testing and Test Methods," Article "Infrared Inspection."
 - b. After Substantial Completion, but not more than 60 days after Final Acceptance, perform infrared inspection of the electrical power connections of each motor controller.
 - c. Follow-up Infrared Scanning: Perform an additional follow-up infrared scan of each motor controller 11 months after date of Substantial Completion.

- d. Report of Infrared Inspection: Prepare a certified report that identifies the testing technician and equipment used, and lists the following results:
 - 1) Description of equipment to be tested.
 - 2) Discrepancies.
 - 3) Temperature difference between the area of concern and the reference area.
 - 4) Probable cause of temperature difference.
 - 5) Areas inspected. Identify inaccessible and unobservable areas and equipment.
 - 6) Identify load conditions at time of inspection.
 - 7) Provide photographs and thermograms of the deficient area.
 - 8) Recommended action.
- e. Equipment: Inspect distribution systems with imaging equipment capable of detecting a minimum temperature difference of 1 degree C at 30 degrees C. The equipment shall detect emitted radiation and convert detected radiation to a visual signal.
- f. Act on inspection results, recommended action, and considering recommendations of NETA ATS, Table 100.18. Correct possible and probable deficiencies as soon as Owner's operations permit. Retest until deficiencies are corrected.
- G. Motor controllers will be considered defective if they do not pass tests and inspections.
- H. Prepare test and inspection reports.

3.5 SYSTEM FUNCTION TESTS

- A. System function tests shall prove the correct interaction of sensing, processing, and action devices. Perform system function tests after field quality-control tests have been completed and all components have passed specified tests.
 - 1. Develop test parameters and perform tests for the purpose of evaluating performance of integral components and their functioning as a complete unit within design requirements and manufacturer's published data.
 - 2. Verify the correct operation of interlock safety devices for fail-safe functions in addition to design function.
 - 3. Verify the correct operation of sensing devices, alarms, and indicating devices.
- B. Motor controllers will be considered defective if they do not pass the system function tests and inspections.
- C. Prepare test and inspection reports.

3.6 DEMONSTRATION

- A. Engage a factory-authorized service representative to train Owner's maintenance personnel to adjust, operate, and maintain motor controllers.

END OF SECTION

SECTION 26 43 00 - SURGE PROTECTIVE DEVICES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes Surge Protective Device (SPD), (former Transient Voltage Surge Suppression devices, TVSS). SPD used herein and all Drawings.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 26 "Grounding and Bonding."
 - 3. Section 26 27 26 "Wiring Devices."

1.2 REFERENCES

- A. Specified system shall be designed, manufactured, tested, and installed in compliance with:
 - 1. Canadian Standards Association (CSA).
 - 2. American National Standards Institute.
 - 3. National Electrical Manufacturer Association (NEMA).
- B. Institute of Electrical and Electronic Engineers:
 - 1. ANSI/IEEE C62.11.
 - 2. C62.41.
 - 3. C62.45.
- C. Federal Information Processing Standards Publication 94 FIP PUB 94.
- D. National Fire Protection Association:
 - 1. NFPA 20.
 - 2. NFPA 70.
 - 3. NFPA 75.
 - 4. NFPA 780.
- E. Underwriters Laboratories, Inc. 1449 3rd Ed., UL 1283: MIL-STD-220A.

1.3 SYSTEM DESCRIPTION

- A. Includes electrical and mechanical requirements for a high-energy transient voltage surge suppression system. Specified system shall provide effective high energy surge current diversion, sine wave tracking for electrical line noise filtering and be suitable for application in ANSI/IEEE C62.41 Category A, B, and C environments, as tested by ANSI/IEEE C62.11, C62.45 and MIL-STD-220A.
- B. Connect system in parallel with protected system; no series connected elements used which limit load current or kVA capability.

1.4 SUBMITTALS FOR REVIEW

- A. Submit under provisions of Section 01 33 00 "Submittal Procedures."
- B. Provide dimensions and materials of each component. Include isolation switch data.
- C. Documentation of specified system's UL 1449 Listing and clamping voltage ratings of all protection modes shall be included as required product data submittal information.
- D. Include documentation of specified system's UL 1283 Complimentary Listing as required product data submittal information.
- E. Independent fuse coordination tests from a nationally recognized independent testing laboratory.

1.5 PROJECT CLOSEOUT SUBMITTALS

- A. Manufacturer shall furnish an installation manual with installation, start up, trouble-shooting guide and operating instructions for the specified system.
- B. Electrical and Mechanical Drawings provided by manufacturer showing unit dimensions, weights, component, and connection locations, mounting provisions, connection details, and wiring diagram.
- C. Record actual location of SPD.

1.6 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacture of SPD equipment with minimum 5 years' experience.

1.7 REGULATORY REQUIREMENTS

- A. Product Listing: UL listed under UL 1449 (Rev 09/2009) Standard for SPD and surge ratings permanently affixed to SPD.
- B. Complimentary listed to UL 1283 Standard for EMI/RFI Facility Filters.

1.8 FIELD QUALITY CONTROL

- A. Inspect each wiring device for defects.
- B. Verify all connections are properly bonded.

1.9 WARRANTY

- A. Manufacturer shall provide a full 5-year warranty from date of shipment against any failure when installed in compliance with manufacturer-written instructions, UL listing requirements, and any applicable national or local electrical codes.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Eaton;
- B. Erico Critec;
- C. MVC;
- D. Square D; or
- E. Approved equal.

- F. All manufacturers shall submit independent test data from a nationally recognized testing laboratory for over current protection, protection modes, and compliance with UL 1449 ratings.
- G. SPD to be mounted integral to motor control center.

2.2 ENVIRONMENTAL REQUIREMENTS

- A. Storage temperature range shall be -67 to +187 degrees F.
- B. Operating temperature range shall be -40 to +122 degrees F.
- C. Operation shall be reliable in an environment with 0- to 95-percent non-condensing relative humidity.
- D. SPD shall not generate any appreciable audible noise.
- E. Unit shall not generate any appreciable magnetic fields and shall be suitable for use directly inside computer rooms.

2.3 ELECTRICAL REQUIREMENTS

- A. Nominal system operating voltage shall be 277/480, 3-phase WYE, 4-wire plus ground.
- B. Maximum Continuous Operating Voltage (MCOV) shall be greater than 115 percent nominal system operating voltage to ensure ability of system to withstand temporary RMS overvoltage (swell) conditions.
- C. Operating frequency range of the system shall be at least 47 to 63 Hertz.
- D. All protection modes (including Neutral to Ground) of SPD shall be internally fused at component level with fuses IxIXT capability to allow suppressor's maximum rated transient current to pass through suppressor without fuse operation. If rated IxIXT characteristic of fusing is exceeded, fusing is capable of opening in less than 1 millisecond and clear both high and low impedance fault conditions. Fusing shall be able to interrupt up to 100 kA symmetrical fault current with 600 VAC applied. This overcurrent protection circuit shall be monitored and provide indication of suppression failure/operability. Conductor level fuses or circuit breakers internal or external to SPD not acceptable. Contractor to furnish submittal documentation of proper fuse coordination of actual fault tests from a nationally recognized testing laboratory for product approval.
- E. SPD unit shall be supplied with factory-installed disconnect and overcurrent protection device that eliminates requirement for external fusing.

2.4 PROTECTION MODES

- A. Protection Modes:
 - 1. Line-to-Neutral Protection.
 - 2. Neutral-to-Ground Protection.
 - 3. Line-to-Ground Protection.
 - 4. Line-to-Line Protection.
- B. SPD surge current capacity shall be 200 kA per phase max at service equipment, 120 kA max per phase at required distribution of branch panels.
- C. SPD system shall provide a joule rating that meets or exceeds requirements of ANSI/IEEE C62.41 Category C delivery capability.
- D. Typical response time of all suppression components shall be less than 1 nanosecond.

2.5 SURGE SUPPRESSION COMPONENTS

- A. SPD unit shall display combined total number of transient voltage surges detected from L-N, L-G, N-G, and L-L since counter was last reset.
- B. Provide dry contacts to monitor ON/OFF and alarm status.
- C. Alarm silence, reset, and test functions.
- D. Indication of full or partial loss of protection.
- E. Individually fused suppression modules.
- F. AC Tracking Filter: EMI/RFI filtering up to -50dB from 100 kHz to 100 MHz.
- G. Unit to include isolation switch, module status indicator lights, form C summary alarm contact.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. SPD shall be installed as a Type 2 device.
- B. Contractor shall follow SPD manufacturer-recommended installation practices and comply with all applicable codes.
- C. Manufacturer shall furnish an installation manual with installation, start up, trouble-shooting guide and operating instructions for the specified system.
- D. Electrical and Mechanical Drawings shall be provided by the manufacturer, which show unit dimensions, weights, component, and connection locations, mounting provisions, connection details and wiring diagram.
- E. No sharp bend allowed in wiring from SPD unit to ground.
- F. Install SPD so wiring between SPD and Point of Connection is minimal.

END OF SECTION

**DIVISION 31
EARTHWORK**

SECTION 31 10 00 - SITE CLEARING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Removing surface debris.
 - 2. Removing designated paving, and curbs.
 - 3. Removing designated trees, shrubs, and other plant life.
 - 4. Excavating topsoil.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 11 13 "Potable Water Supply Wells."

1.2 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.

1.3 QUALITY ASSURANCE

- A. Conform to Federal, State, and Local codes for disposal of debris.
- B. Perform Work in accordance with City of Midland's standard.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for verification of existing conditions before starting work.
- B. Verify existing plant life designated to remain is tagged or identified.
- C. Identify waste area for placing removed materials.

3.2 PREPARATION

- A. Call Local Utility Line Information service as provided in Construction Plans not less than 3 working days before performing Work.
 - 1. Request underground utilities to be located and marked within and surrounding construction areas.

3.3 PROTECTION

- A. Locate, identify, and protect from damage utilities indicated to remain.
- B. Protect trees, plant growth, and features designated to remain.
- C. Protect bench marks, survey control points, and existing structures from damage or displacement.

3.4 CLEARING

- A. Clear areas required for access to site and execution of Work to minimum depth of 18 inches.
- B. Remove trees and shrubs as indicated in Drawings. Remove stumps and root system to dept of 18 inches.

3.5 REMOVAL

- A. Remove debris, rock, and extracted plant life from site.
- B. Partially remove paving, curbs, and, other improvements as indicated on Drawings. Neatly saw cut edges at right angle to surface.
- C. Continuously clean-up and remove waste materials from site. Do not allow materials to accumulate on site.
- D. Do not burn or bury materials on site. Leave site in clean condition.

3.6 TOPSOIL EXCAVATION

- A. Do not remove topsoil from site.

END OF SECTION

SECTION 31 23 16 - EXCAVATION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Soil densification.
 - 2. Excavating for building foundations.
 - 3. Excavating for paving, roads, and parking areas.
 - 4. Excavating for slabs on grade.
 - 5. Excavating for Site structures.
 - 6. Excavating for landscaping.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 31 23 16.13 "Trenching" for excavating as required for building foundations and utilities within building perimeter.

1.2 REFERENCE STANDARDS

- A. Local utility standards when working within 24 inches of utility lines.

1.3 QUALITY ASSURANCE

- A. Perform Work according to City of Midland standards.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 PREPARATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation preparation.
- B. Utility Service Locator:
 - 1. Call local utility service-line information as listed on Drawings, not less than 3 working days before performing Work.
 - 2. Request that underground utilities be located and marked within and immediately surrounding construction areas.
 - 3. Identify required lines, levels, contours, and data.
- C. Existing Utilities:
 - 1. Notify utility company of any new utility crossings required.
 - 2. Protect from damage utilities indicated to remain.
- D. Protect benchmarks, survey control points, existing structures, fences, sidewalks, paving, and curbs from excavating equipment and vehicular traffic.

- E. Do not close or obstruct roadways, sidewalks, or hydrants without permits.
- F. Erect and maintain temporary barriers and security devices at indicated locations, including warning signs, warning lights, and similar measures, for protection of public, Owner, livestock, and existing improvements indicated to remain.

3.2 EXCAVATION

- A. Underpin adjacent structures which may be damaged by excavation Work.
- B. Excavate subsoil to accommodate building foundations, slabs on grade, and construction operations.
- C. Excavate to working elevation for piling Work.
- D. Slope banks with machine to angle of repose or less until shored.
- E. Do not interfere with 45 degree bearing splay of foundations.
- F. Grade top perimeter of excavation to prevent surface water from draining into excavation.
- G. Trim excavation and remove loose matter.
- H. Removal of Deleterious Materials:
 - 1. Remove lumped subsoil, boulders, and rock up to 3 inches in diameter.
 - 2. Remove larger material.
 - 3. Remove excess and unsuitable material from Site.
- I. Notify Engineer of unexpected subsurface conditions.
- J. Correct over-excavated areas with concrete.
- K. Remove excavated material from Site.
- L. Repair or replace items indicated to remain that have been damaged by excavation.

3.3 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Inspecting: Request visual inspection of bearing surfaces by Construction Manager before installing subsequent Work.

3.4 PROTECTION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for protecting finished Work.
- B. Prevent displacement or loose soil from falling into excavation, and maintain soil stability.
- C. Protect bottom of excavations and soil adjacent to and beneath foundation from freezing.
- D. Protect structures, utilities, and other facilities from damage caused by settlement, lateral movement, undermining, washout, and other hazards that may be created by earth operations.

END OF SECTION

SECTION 31 23 16.13 - TRENCHING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Excavating trenches for utilities.
 - 2. Compacted fill from top of utility bedding match finished grade elevations as shown on Plans.
 - 3. Backfilling and compaction.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 03 30 00 "Cast-In-Place Concrete" for concrete materials.

1.2 REFERENCES

- A. American Association of State Highway and Transportation Officials:
 - 1. AASHTO T180 - Standard Specification for Moisture-Density Relations of Soils Using a 4.54-kg Rammer and a 457 mm Drop.
- B. ASTM International:
 - 1. ASTM D698 - Standard Test Method for Laboratory Compaction Characteristics of Soil Using Standard Effort 12,400 ft-lbf/ft³.
 - 2. ASTM D1556 - Standard Test Method for Density and Unit Weight of Soil in Place by the Sand-Cone Method.
 - 3. ASTM D1557 - Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort 56,000 ft-lbf/ft³.
 - 4. ASTM D2167 - Standard Test Method for Density and Unit Weight of Soil in Place by the Rubber Balloon Method.
 - 5. ASTM D2922 - Standard Test Method for Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth).
 - 6. ASTM D3017 - Standard Test Method for Water Content of Soil and Rock in Place by Nuclear Methods (Shallow Depth).

1.3 DEFINITIONS

- A. Utility: Any buried pipe, duct, conduit, or cable.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Excavation Protection Plan: Describe sheeting, shoring, and bracing materials and installation required to protect excavations and adjacent structures and property; include structural calculations to support plan.

1.5 QUALITY ASSURANCE

- A. Perform Work in accordance with the Texas Commission on Environmental Quality and City of Midland Standards and Specifications.

1.6 FIELD MEASUREMENTS

- A. Verify field measurements prior to fabrication.

1.7 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for coordination and Project Conditions.
- B. Verify Work associated with lower elevation utilities is complete before placing higher elevation utilities.
- C. Coordinate existing utility crossings with utility Owners. Ensure crossings meet Owner's crossing requirements.

PART 2 - PRODUCTS

2.1 FILL MATERIALS

- A. Fill materials shall meet requirements as indicated on Drawings.

PART 3 - EXECUTION

3.1 LINES AND GRADES

- A. Lay pipes to lines and grades indicated on Drawings.
 - 1. Engineer reserves right to make changes in lines, grades, and depths of utilities when changes are required for Project conditions.
- B. Use laser-beam instrument with qualified operator to establish lines and grades.

3.2 PREPARATION

- A. Call Local Utility Line Information service at numbers provided on Drawings, not less than minimum notification days required by law.
 - 1. Request underground utilities to be located and marked within and surrounding construction areas.
- B. Identify required lines, levels, contours, and datum locations.
- C. Protect bench marks, existing structures, fences, sidewalks, paving, and curbs from excavating equipment and vehicular traffic.
- D. Maintain and protect above and below grade utilities indicated to remain.
- E. Establish temporary traffic control and detours when trenching is performed in public right-of-way. Relocate controls and reroute traffic as required during progress of Work.

3.3 TRENCHING

- A. Top soil shall be removed prior to trenching activities. Top soil shall be kept separate from subsoil for replacement during backfilling operations.
- B. Excavate subsoil required for utilities to grades provided in Construction Plans.
- C. Remove lumped subsoil, boulders, and rock up.
- D. Perform excavation within 36 inches of existing utility lines in accordance with utility company's crossing requirements.

- E. Do not advance open trench ahead of installed pipe by more than can be backfilled at the end of each day.
- F. Cut trenches to width indicated on Drawings. Remove water or materials that interfere with Work.
- G. Excavate bottom of trenches 6 inches deeper than outside of pipe.
- H. Excavate trenches to depth indicated on Drawings. Provide uniform and continuous bearing and support for bedding material and pipe.
- I. Provide trench protection in accordance with Section 31 41 10 "Trench Safety Systems."
- J. When subsurface materials at bottom of trench are loose or soft, excavate to greater depth as directed by Engineer until suitable material is encountered.
- K. Cut out soft areas of subgrade not capable of compaction in place. Backfill with crushed stone and compact to density equal to or greater than requirements for subsequent backfill material.
- L. Trim excavation. Hand trim for bell and spigot pipe joints. Remove loose matter.
- M. Correct areas over excavated areas with compacted backfill as specified for authorized excavation or replace with fill concrete as directed by Engineer.
- N. Remove excess subsoil not intended for reuse, from site.

3.4 SHEETING AND SHORING

- A. Provide sheeting and shoring as directed in the trench protection plan. See Section 31 41 10 "Trench Safety Systems."
- B. Sheet, shore, and brace excavations to prevent danger to persons, structures and adjacent properties and to prevent caving, erosion, and loss of surrounding subsoil.
- C. Support trenches excavated through unstable, loose, or soft material. Provide sheeting, shoring, bracing, or other protection to maintain stability of excavation.
- D. Repair damage caused by failure of the sheeting, shoring, or bracing and for settlement of filled excavations or adjacent soil.
- E. Repair damage to new and existing Work from settlement, water or earth pressure or other causes resulting from inadequate sheeting, shoring, or bracing.

3.5 BACKFILLING

- A. Backfill trenches to contours and elevations with unfrozen fill materials.
- B. Place material in continuous layers per the requirements indicated in Drawings.
- C. Employ placement method that does not disturb or damage existing utilities in trench and surrounding improvements.
- D. Maintain optimum moisture content of fill materials to attain required compaction density.
- E. Do not leave more than 25 feet of trench open at end of working day.
- F. Protect open trench to prevent danger to Owner, the public, and livestock.

3.6 TOLERANCES

- A. Refer to Section 01 40 00 "Quality Requirements" for tolerances.
- B. Top Surface of General Backfilling: Plus or minus 1-inch from required elevations.
- C. Shape backfill to prevent ponding of water.

3.7 FIELD QUALITY CONTROL

- A. Refer to Sections 01 40 00 "Quality Requirements" and 01 70 00 "Execution and Closeout Requirements" for field inspecting, testing, adjusting, and balancing.
- B. Perform laboratory material tests in accordance with ASTM D1557 and ASTM D698, based on specified compaction method.
- C. Perform in place compaction tests in accordance with the following:
 - 1. Density Tests: ASTM D1556, ASTM D2167, or ASTM D2922.
 - 2. Moisture Tests: ASTM D3017.
- D. When tests indicate Work does not meet specified requirements, remove Work, replace, compact, and retest.
- E. Frequency of Tests: One test for every lift every 300 linear feet of fill, or as specified by Engineer.

3.8 PROTECTION OF FINISHED WORK

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for protecting finished work.
- B. Reshape and re-compact fills subjected to vehicular traffic during construction.

3.9 SCHEDULE

- A. Pressure and Gravity Piping:
 - 1. Bedding: As indicated in Drawings.
 - 2. Trench Backfill: As indicated in Drawings. Uniformly compact all areas under pavement or within City of Midland ROW to minimum 95 percent Modified Density per ASTM D11557. Uniformly compact all other areas to minimum 95 percent Standard Density per ASTM D698.

END OF SECTION

SECTION 31 41 10 - TRENCH SAFETY SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Trench safety systems for trench excavations greater than five feet deep. All Work performed under this Section shall also comply with OSHA Part 1926, Subpart P, and all state and local codes.
 - 2. Contractor shall be responsible for complying with requirements of Specifications, Drawings, and all applicable codes. Contractor shall immediately notify Engineer of any unforeseen field conditions which might affect integrity of trench safety system.
 - 3. Alternative methods of trench safety may be submitted for Engineer approval; however, alternative methods will not be reviewed or approved prior to Bid opening.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 SUBMITTALS

- A. Provide trench safety plan signed and sealed by an Engineer licensed in the State of Texas.
- B. Provide detailed Drawings for proposed trench safety systems. Clearly identify where each system is proposed for use and type of system to be used.
- C. Trench Boxes: Submit manufacturer standard data sheet and Certificate of Compliance signed by a registered Engineer stating maximum allowable depth for given design pressure for each type of trench box proposed for use.
- D. Alternative Systems: If alternative systems composed of steel, aluminum, wood, or combination of materials are proposed, submit design calculations signed by registered engineer showing all member properties, design strengths, and any stress increases used with justification for use.
- E. Trench excavations cannot be started until trench safety systems have been submitted and approved by Engineer as specified.

1.3 QUALITY ASSURANCE

- A. Trench safety systems shall be designed based on actual field conditions. Contractor shall review and determine field conditions for Project.
- B. Work shall be performed by forces having at least 2 years' experience with similar types of trench safety systems. All prefabricated items used in trench safety systems shall be manufactured by a company with at least 2 years' experience in fabricating items.
- C. Contractor shall be responsible for complying with all trench safety requirements and for safety of trenches and excavations.

PART 2 - PRODUCTS

2.1 GENERAL

- A. Provide suitable materials capable of withstanding imposed loads without excessive deflections. Materials shall be clean, free of rust, holes, knots, and other defects.
- B. Steel shall be of type and thickness as required by design and with minimum yield stress of $F_y = 36,000$ psi.
- C. Aluminum Type 6061-T6, thickness as required by design.
- D. Wood in contact with earth to be pressure-treated soft woods or untreated hardwoods.
- E. Wood not in contact with earth to be soft or hardwood as required by design.

PART 3 - EXECUTION

3.1 JOB CONDITIONS

- A. Prior to starting trench excavations, Contractor shall examine all site conditions and note any conditions in existing pavements, structures, and other items which may be adversely affected by trenching operations. Prepare a written list of all such conditions and submit list to Engineer. During trenching operations, note any changes which occur to existing pavements or structures and submit written report to Engineer of all such changes.

3.2 EXISTING UTILITIES

- A. Prior to starting trench excavations, chart and field locate all existing utilities. Notify Owners of all utilities of Work to be performed. Protect all existing utilities from damage. Provide additional support for utility lines which cannot span trench width. Do not interrupt existing services without written approval by Engineer and utility Owner.

3.3 TRENCHING PROCEDURES

- A. Provide shoring systems in accordance with the submitted design to adequately resist earth pressures indicated on the Drawings.
- B. Proceed with Work in an orderly fashion. Install trench bracing systems as soon as possible after opening trenches. Do not allow workers in trench prior to installing trench bracing systems.
- C. Backfill trenches as soon as possible after completion of Work.
- D. Stockpile excavated materials at three feet away from edge of trench.
- E. Maintain barricades and signage as required by state and local codes to protect open excavations.
- F. Do not allow surface water to enter excavations. Properly grade areas adjacent to trench excavations to control surface drainage away from excavations. Excavations which must remain open during periods of rainfall shall be covered with suitable material to prevent accumulations of water in excavation.
- G. If cut back method is employed, maintain a clear distance of three feet from edge of cut to avoid allowing loose material to enter trench.
- H. Do not operate heavy equipment except for trench digging equipment within 20 feet of edge of excavation.

END OF SECTION

DIVISION 32
EXTERIOR IMPROVEMENTS

SECTION 32 31 13 - CHAIN LINK FENCES AND GATES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Chain-link fences.
 - 2. Swing gates.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 03 30 00 "Cast-in-Place Concrete" for cast-in-place concrete post footings.

1.2 ACTION SUBMITTALS

- A. Product Data: For each type of product.
 - 1. Include construction details, material descriptions, dimensions of individual components and profiles, and finishes for the following:
 - a. Fence and gate posts, rails, and fittings.
 - b. Chain-link fabric, reinforcements, and attachments.
 - c. Accessories: Barbed wire.
 - d. Gates and hardware.
- B. Shop Drawings: For each type of fence and gate assembly.
 - 1. Include plans, elevations, sections, details, and attachments to other work.
 - 2. Include accessories, hardware, gate operation, and operational clearances.

1.3 INFORMATIONAL SUBMITTALS

- A. Product Certificates: For each type of chain-link fence and gate.
- B. Field quality-control reports.

1.4 FIELD CONDITIONS

- A. Field Measurements: Verify layout information for chain-link fences and gates shown on Drawings in relation to property survey and existing structures. Verify dimensions by field measurements.

PART 2 - PRODUCTS

2.1 CHAIN-LINK FENCE FABRIC

- A. General: Provide fabric in one-piece heights measured between top and bottom of outer edge of selvage knuckle or twist according to "CLFMI Product Manual" and requirements indicated below:
 - 1. Fabric Height: As indicated on Drawings.
 - 2. Steel Wire for Fabric: Wire diameter of 0.148-inch.
 - a. Mesh Size: 2 inches.
 - b. Zinc-Coated Fabric: ASTM A392, Type II, Class 1, 1.2 oz./sq. ft. with zinc coating applied after weaving.
 - c. Coat selvage ends of metallic-coated fabric before the weaving process with manufacturer's standard clear protective coating.

2.2 FENCE FRAMEWORK

- A. Posts and Rails: ASTM F1043 for framework, including rails, braces, and line; terminal; and corner posts. Provide members with minimum dimensions and wall thickness according to ASTM F1043 based on the following:
 - 1. Fence Height: 72 inches.
 - 2. Heavy-Industrial-Strength Material: Group IA, round steel pipe, Schedule 40.
 - a. Line Post: 2.375 inches in diameter.
 - b. End, Corner, and Pull Posts: 2.875 inches in diameter.
 - 3. Brace Rails: ASTM F1043.
 - 4. Metallic Coating for Steel Framework:
 - a. Type A: Not less than minimum 2.0-oz./sq. ft. average zinc coating according to ASTM A123 or 4.0-oz./sq. ft. zinc coating according to ASTM A653.

2.3 TENSION WIRE

- A. Metallic-Coated Steel Wire: 0.177-inch diameter, marcelled tension wire according to ASTM A817 or ASTM A824, with the following metallic coating:
 - 1. Type II: Zinc coated (galvanized) by hot-dip process, with the following minimum coating weight:
 - a. Class 4: Not less than 1.2 oz./sq. ft. of uncoated wire surface.

2.4 SWING GATES

- A. General: ASTM F900 for gate posts and double swing gate types.
 - 1. Gate Leaf Width: As indicated.
 - 2. Framework Member Sizes and Strength: Based on gate fabric height of 72 inches or less as indicated.
- B. Pipe and Tubing:
 - 1. Zinc-Coated Steel: ASTM F1043 and ASTM F1083; manufacturer's standard protective coating and finish.
 - 2. Gate Posts: Round tubular steel.
 - 3. Gate Frames and Bracing: Rectangular tubular steel.
- C. Frame Corner Construction: Assembled with corner fittings.

- D. Extended Gate Posts and Frame Members: Fabricate gate posts and frame end members to extend 12 inches above top of chain-link fabric at both ends of gate frame to attach barbed wire assemblies.
- E. Hardware:
 - 1. Hinges: 180-degree outward swing.
 - 2. Latch: Permitting operation from both sides of gate with provision for padlocking accessible from both sides of gate.

2.5 FITTINGS

- A. Provide fittings according to ASTM F626.
- B. Post Caps: Provide for each post.
 - 1. Provide line post caps with loop to receive tension wire or top rail.
- C. Rail and Brace Ends: For each gate, corner, pull, and end post.
- D. Rail Fittings: Provide the following:
 - 1. Top Rail Sleeves: Pressed-steel not less than 6 inches long.
 - 2. Rail Clamps: Line and corner boulevard clamps for connecting intermediate rails to posts.
- E. Tension and Brace Bands: Pressed steel.
- F. Tension Bars: Steel, length not less than 2 inches shorter than full height of chain-link fabric. Provide one bar for each gate and end post, and two for each corner and pull post, unless fabric is integrally woven into post.
- G. Truss Rod Assemblies: Steel, hot-dip galvanized after threading rod and turnbuckle or other means of adjustment.
- H. Barbed Wire Arms: Pressed steel or cast iron, with clips, slots, or other means for attaching strands of barbed wire, and means for attaching to posts, for each post unless otherwise indicated, and as follows:
 - 1. Provide line posts with arms that accommodate top rail or tension wire.
 - 2. Provide corner arms at fence corner posts unless extended posts are indicated.
 - 3. Single-Arm Type: Type II, vertical arm.
- I. Tie Wires, Clips, and Fasteners: According to ASTM F626.
 - 1. Standard Round Wire Ties: For attaching chain-link fabric to posts, rails, and frames, according to the following:
 - a. Hot-Dip Galvanized Steel: 0.148-inch diameter wire; galvanized coating thickness matching coating thickness of chain-link fence fabric.
- J. Finish:
 - 1. Metallic Coating for Pressed Steel or Cast Iron: Not less than 1.2 oz./sq. ft. of zinc.

2.6 BARBED WIRE

- A. Steel Barbed Wire: ASTM A121, two-strand barbed wire, 0.099-inch diameter line wire with 0.080-inch diameter, four-point round barbs spaced not more than 5 inches o.c.
 - 1. Zinc Coating: Type Z, Class 3.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine areas and conditions, with Installer present, for compliance with requirements for site clearing, earthwork, pavement work, and other conditions affecting performance of the Work.
 - 1. Do not begin installation before final grading is completed unless otherwise permitted by Architect.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.

3.2 PREPARATION

- A. Stake locations of fence lines, gates, and terminal posts. Do not exceed intervals of 500 feet or line of sight between stakes. Indicate locations of utilities, lawn sprinkler system, underground structures, benchmarks, and property monuments.

3.3 CHAIN-LINK FENCE INSTALLATION

- A. Install chain-link fencing according to ASTM F567 and more stringent requirements specified.
 - 1. Install fencing on established boundary lines inside property line.
- B. Post Excavation: Drill or hand-excavate holes for posts to diameters and spacings indicated, in firm, undisturbed soil.
- C. Post Setting: Set posts with mechanical anchors by mechanically driving into soil at indicated spacing into firm, undisturbed soil.
 - 1. Verify that posts are set plumb, aligned, and at correct height and spacing, and hold in position during setting with concrete or mechanical devices.
 - 2. Concrete Fill: Place concrete around posts to dimensions indicated and vibrate or tamp for consolidation. Protect aboveground portion of posts from concrete splatter.
 - a. Exposed Concrete: Extend 2 inches above grade; shape and smooth to shed water.
- D. Terminal Posts: Install terminal end, corner, and gate posts according to ASTM F567 and terminal pull posts at changes in horizontal or vertical alignment of as indicated on Drawings. For runs exceeding 500 feet, space pull posts an equal distance between corner or end posts.
- E. Line Posts: Space line posts uniformly at 10 feet o.c.
- F. Post Bracing and Intermediate Rails: Install according to ASTM F567, maintaining plumb position and alignment of fence posts. Diagonally brace terminal posts to adjacent line posts with truss rods and turnbuckles. Install braces at end and gate posts and at both sides of corner and pull posts.
 - 1. Locate horizontal braces at midheight of fabric 72 inches or higher, on fences with top rail, and at two-third fabric height on fences without top rail. Install so posts are plumb when diagonal rod is under proper tension.

- G. Tension Wire: Install according to ASTM F567, maintaining plumb position and alignment of fence posts. Pull wire taut, without sags. Fasten fabric to tension wire with 0.120-inch diameter hog rings of same material and finish as fabric wire, spaced a maximum of 24 inches o.c. Install tension wire in locations indicated before stretching fabric. Provide horizontal tension wire at the following locations:
 - 1. Extended along bottom of fence fabric. Install top tension wire through post cap loops. Install bottom tension wire within 6 inches of bottom of fabric and tie to each post with not less than same diameter and type of wire.
- H. Top Rail: Install according to ASTM F567, maintaining plumb position and alignment of fence posts. Run rail continuously through line post caps, bending to radius for curved runs and terminating into rail end attached to posts or post caps fabricated to receive rail at terminal posts. Provide expansion couplings as recommended in writing by fencing manufacturer.
- I. Chain-Link Fabric: Apply fabric to outside of enclosing framework. Leave 2-inch maximum bottom clearance between finish grade or surface and bottom selvage unless otherwise indicated. Pull fabric taut and tie to posts, rails, and tension wires. Anchor to framework so fabric remains under tension after pulling force is released.
- J. Tension or Stretcher Bars: Thread through fabric and secure to end, corner, pull, and gate posts, with tension bands spaced not more than 15 inches o.c.
- K. Tie Wires: Use wire of proper length to firmly secure fabric to line posts and rails. Attach wire at one end to chain-link fabric, wrap wire around post a minimum of 180 degrees, and attach other end to chain-link fabric according to ASTM F626. Bend ends of wire to minimize hazard to individuals and clothing.
 - 1. Maximum Spacing: Tie fabric to line posts at 12 inches o.c. and to braces at 24 inches o.c.
- L. Fasteners: Install nuts for tension bands and carriage bolts on the side of fence opposite the fabric side.
- M. Retain "Privacy Slats" Paragraph below if applicable.
- N. Barbed Wire: Install barbed wire uniformly spaced as indicated on Drawings. Pull wire taut, install securely to extension arms, and secure to end post or terminal arms.

3.4 GATE INSTALLATION

- A. Install gates according to manufacturer's written instructions, level, plumb, and secure for full opening without interference. Attach fabric as for fencing. Attach hardware using tamper-resistant or concealed means. Install ground-set items in concrete for anchorage. Adjust hardware for smooth operation.

3.5 ADJUSTING

- A. Gates: Adjust gates to operate smoothly, easily, and quietly, free of binding, warp, excessive deflection, distortion, nonalignment, misplacement, disruption, or malfunction, throughout entire operational range. Confirm that latches and locks engage accurately and securely without forcing or binding.

END OF SECTION

SECTION 32 91 13 - SOIL PREPARATION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Preparation of subsoil.
 - 2. Placing topsoil.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 32 92 19 "Seeding."

1.2 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.

1.3 QUALITY ASSURANCE

- A. Perform Work in accordance with Midland County Soil and Water Conservation District standards.

1.4 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.

PART 2 - PRODUCTS

2.1 SOIL MATERIALS

- A. Topsoil: Excavated from site. Keep separate from subsoil, debris, and refuse.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for verification of existing conditions before starting work.
- B. Verify prepared soil base is ready to receive the Work of this Section.

3.2 PREPARATION OF SUBSOIL

- A. Prepare sub-soil to eliminate uneven areas and low spots. Maintain lines, levels, profiles and contours. Make changes in grade gradual. Blend slopes into level areas.
- B. Remove foreign materials, weeds and undesirable plants and their roots. Remove contaminated sub-soil.
- C. Scarify subsoil to depth of 3 inches where topsoil is to be placed. Repeat cultivation in areas where equipment, used for hauling and spreading topsoil, has compacted sub-soil.

3.3 PLACING TOPSOIL

- A. Spread topsoil to original depth over area to be seeded. Rake until smooth.
- B. Place topsoil during dry weather and on dry unfrozen subgrade.
- C. Remove vegetable matter and foreign non-organic material from topsoil while spreading.
- D. Grade topsoil to eliminate rough, low or soft areas, and to ensure positive drainage.
- E. Install edging at periphery of seeded areas in straight lines to consistent depth.

END OF SECTION

SECTION 32 92 19 - SEEDING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes seeding.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 32 91 13 "Soil Preparation."

1.2 REFERENCES

- A. ASTM International:
 - 1. ASTM C 602 - Standard Specification for Agricultural Liming Materials.
- B. University of Texas Lands Rangeland Seed Mixtures by County.

1.3 DEFINITIONS

- A. Weeds: Vegetative species other than specified species to be established in given area.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit data for seed mix accessories.

1.5 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.

1.6 QUALITY ASSURANCE

- A. Provide seed mixture in containers showing percentage of seed mix, germination percentage, inert matter percentage, weed percentage, year of production, net weight, date of packaging, and location of packaging.

1.7 QUALIFICATIONS

- A. Seed Supplier: Company specializing in manufacturing Products specified in this Section.
- B. Installer: Company specializing in performing Work of this Section.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for product storage and handling requirements.
- B. Deliver grass seed mixture in sealed containers. Seed in damaged packaging is not acceptable.

PART 2 - PRODUCTS

2.1 SEED MIXTURE

- A. Suppliers:
 - 1. Midland, Martin, or Andrews County Soil and Water Conservation Districts.
- B. Substitutions: Section 01 60 00 "Product Requirements."
- C. Description: (Pounds Pure Live Seed/Acre (PLS)).
 - 1. Sideoats Grama: 1.1 PLS.
 - 2. Blue Grama: 0.4 PLS.
 - 3. Plains Bristlegrass: 0.8 PLS.
 - 4. Sand Dropseed: 0.3 PLS.
 - 5. Green Sprangletop: 1.7 PLS.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for verification of existing conditions before starting work.
- B. Verify prepared soil base is ready to receive the Work of this Section.

3.2 SEEDING

- A. Apply seed at rates listed under Part 2 - Products.
- B. Do not sow immediately following rain, when ground is too dry, or when winds are over 12 mph.
- C. Roll seeded area with roller not exceeding 112 lbs/linear foot.
- D. Apply water with fine spray immediately after each area has been planted. Saturate to 4 inches of soil. Provide minimum of 3 waterings, each separated by one week.
- E. Watering method shall not damage plants or displace soil.

END OF SECTION

DIVISION 33
UTILITIES

SECTION 33 01 10.58 - DISINFECTION OF WATER UTILITY PIPING SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Disinfection of potable water distribution and transmission system.
 - 2. Testing and reporting of results.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 14 13 "Public Water Utility Distribution Piping."

1.2 REFERENCE STANDARDS

- A. American Water Works Association:
 - 1. AWWA B300 - Hypochlorites.
 - 2. AWWA B302 - Ammonium Sulfate.
 - 3. AWWA B303 - Sodium Chlorite.
 - 4. AWWA C651 - Disinfecting Water Mains.

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Disinfection Procedure:
 - 1. Submit description of procedure, including type of disinfectant and calculations indicating quantities of disinfectants required to produce specified chlorine concentration.
- C. Product Data: Submit manufacturer information for proposed chemicals and treatment doses.
- D. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- E. Certify that final water complies with disinfectant quality standards of Texas Commission on Environmental Quality and the City of Midland.
- F. Test and Evaluation Reports: Indicate testing results comparative to specified requirements.
- G. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- H. Qualifications Statements:
 - 1. Submit qualifications for manufacturer and applicator.

1.4 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Disinfection Report:
 - 1. Type and form of disinfectant used.
 - 2. Date and time of disinfectant injection start and completion.
 - 3. Test locations.
 - 4. Name of person collecting samples.
 - 5. Initial and 24-hour disinfectant residuals in treated water in ppm for each outlet tested.
 - 6. Date and time of flushing start and completion.
 - 7. Disinfectant residual after flushing in ppm for each outlet tested.

1.5 QUALITY ASSURANCE

- A. Perform Work according to AWWA C651.
- B. Perform Work according to Texas Commission on Environmental Quality and the City of Midland.

1.6 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.
- B. Applicator: Company specializing in performing Work of this Section with minimum 3 years' experience.
- C. Applicator: Person holding Water Operators License issued by Texas Commission on Environmental Quality shall perform or supervise Work. Provide copy of valid license.

PART 2 - PRODUCTS

2.1 DISINFECTION CHEMICALS

- A. Chemicals:
 - 1. Hypochlorite: Comply with AWWA B300.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that piping system has been cleaned, inspected, and pressure tested.
- C. Verify that access fittings have been installed under Section 33 14 13 "Public Water Utility Distribution Piping."
- D. Perform scheduling and disinfecting activity with startup, water pressure testing, adjusting and balancing, and demonstration procedures, including coordination with related systems.

3.2 INSTALLATION

- A. Provide required equipment to perform Work of this Section.
- B. Introduce treatment into piping system.
- C. Maintain disinfectant in system for 24 hours.
- D. Flush, circulate, and clean until required disinfectant quality standard has been achieved using produced well.
- E. Replace permanent system devices that were removed for disinfection.

3.3 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Disinfection, Flushing, and Sampling:
 - 1. Disinfect pipeline installation according to AWWA C651.
 - 2. Use of liquid chlorine is not permitted.
 - 3. Upon completion of retention period required for disinfection, flush pipeline until chlorine concentration in water leaving pipeline is no higher than that generally prevailing in existing system or is acceptable for domestic use.
 - 4. Disposal:
 - a. Legally dispose of chlorinated water.
 - b. If chlorinated discharge may cause damage to environment, apply neutralizing chemical to chlorinated water to neutralize chlorine residual remaining in water.
 - 5. After final flushing and before pipeline is connected to existing system or placed in service, certify that disinfectant level meets quality standards of Texas Commission on Environmental Quality and the City of Midland.

END OF SECTION

SECTION 33 05 00 - COMMON WORK RESULTS FOR UTILITIES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Pipin materials.
 - 2. Transition fittings.
 - 3. Identification devices.
 - 4. Grout.
 - 5. Flowable fill.
 - 6. Piped utility demolition.
 - 7. Piping system common requirements.
 - 8. Equipment installation common requirements.
 - 9. Painting.
 - 10. Concrete bases.
 - 11. Metal supports and anchorages.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 DEFINITIONS

- A. Exposed Installations: Exposed to view outdoors or subject to outdoor ambient temperatures and weather conditions.
- B. Concealed Installations: Concealed from view and protected from weather conditions and physical contact by building occupants but subject to outdoor ambient temperatures. Examples include installations within unheated shelters.
- C. ABS: Acrylonitrile-butadiene-styrene plastic.
- D. CPVC: Chlorinated polyvinyl chloride plastic.
- E. PE: Polyethylene plastic.
- F. PVC: Polyvinyl chloride plastic.

1.3 ACTION SUBMITTALS

- A. Product Data: For the following:
 - 1. Dielectric fittings.
 - 2. Identification devices.

1.4 INFORMATIONAL SUBMITTALS

- A. Welding certificates.

1.5 QUALITY ASSURANCE

- A. Steel Support Welding: Qualify procedures and personnel according to AWS D1.1, "Structural Welding Code - Steel."
- B. Steel Piping Welding: Qualify processes and operators according to ASME Boiler and Pressure Vessel Code: Section IX, "Welding and Brazing Qualifications."
 - 1. Comply with provisions in ASME B31 Series, "Code for Pressure Piping."
 - 2. Certify that each welder has passed AWS qualification tests for welding processes involved and that certification is current.
- C. Comply with ASME A13.1 for lettering size, length of color field, colors, and viewing angles of identification devices.

1.6 DELIVERY, STORAGE, AND HANDLING

- A. Deliver pipes and tubes with factory-applied end caps. Maintain end caps through shipping, storage, and handling to prevent pipe end damage and to prevent entrance of dirt, debris, and moisture.
- B. Store plastic pipes protected from direct sunlight. Support to prevent sagging and bending.

1.7 COORDINATION

- A. Coordinate installation of required supporting devices and set sleeves in poured-in-place concrete and other structural components as they are constructed.
- B. Coordinate installation of identifying devices after completing covering and painting if devices are applied to surfaces.
- C. Coordinate size and location of concrete bases. Formwork, reinforcement, and concrete requirements are specified in Section 03 30 00 "Cast-in-Place Concrete."

PART 2 - PRODUCTS

2.1 PIPING JOINING MATERIALS

- A. Pipe-Flange Gasket Materials: Suitable for chemical and thermal conditions of piping system contents.
 - 1. ASME B16.21, nonmetallic, flat, asbestos free, 1/8-inch maximum thickness, unless otherwise indicated.
 - a. Full-Face Type: For flat-face, Class 125, cast-iron and cast-bronze flanges.
 - b. Narrow-Face Type: For raised-face, Class 250, cast-iron and steel flanges.
 - 2. AWWA C110, rubber, flat face, 1/8-inch thick, unless otherwise indicated; and full-face or ring type, unless otherwise indicated.
- B. Flange Bolts and Nuts: ASME B18.2.1, 304 Stainless Steel, unless otherwise indicated.
- C. Welding Filler Metals: Comply with AWS D10.12 for welding materials appropriate for wall thickness and chemical analysis of steel pipe being welded.

2.2 TRANSITION FITTINGS

- A. Transition Fittings, General: Same size as, and with pressure rating at least equal to and with ends compatible with, piping to be joined.
- B. AWWA Transition Couplings NPS 2 and Larger:
 - 1. Manufacturers: Subject to compliance with requirements, available manufacturers offering products that may be incorporated into the Work include, but are not limited to, the following:
 - a. Cascade Waterworks Mfg. Co.
 - b. Ford Meter Box Company, Inc. (The).
 - c. JCM Industries, Inc.
 - d. Smith-Blair, Inc.
 - e. Viking Johnson.
 - 2. Description: AWWA C219, metal sleeve-type coupling for underground pressure piping.

2.3 IDENTIFICATION DEVICES

- A. General: Products specified are for applications referenced in other utilities Sections. If more than single type is specified for listed applications, selection is Installer's option.
- B. Equipment Nameplates: Metal permanently fastened to equipment with data engraved or stamped.
 - 1. Data: Manufacturer, product name, model number, serial number, capacity, operating and power characteristics, labels of tested compliances, and essential data.
 - 2. Location: Accessible and visible.
- C. Stencils: Standard stencils prepared with letter sizes complying with recommendations in ASME A13.1. Minimum letter height is 1-1/4 inches for ducts, and 3/4-inch for access door signs and similar operational instructions.
 - 1. Material: Fiberboard.
 - 2. Stencil Paint: Exterior, oil-based, alkyd-gloss black enamel, unless otherwise indicated. Paint may be in pressurized spray-can form.
 - 3. Identification Paint: Exterior, oil-based, alkyd enamel in colors according to ASME A13.1, unless otherwise indicated.
- D. Snap-on Plastic Pipe Markers: Manufacturer's standard preprinted, semirigid, snap-on type. Include color-coding according to ASME A13.1, unless otherwise indicated.
- E. Pressure-Sensitive Pipe Markers: Manufacturer's standard preprinted, color-coded, pressure-sensitive-vinyl type with permanent adhesive.
- F. Pipes with OD, Including Insulation, Less Than 6 Inches: Full-band pipe markers, extending 360 degrees around pipe at each location.
- G. Pipes with OD, Including Insulation, 6 Inches and Larger: Either full-band or strip-type pipe markers, at least three times letter height and of length required for label.
- H. Lettering: Manufacturer's standard preprinted captions as selected by Engineer.
- I. Lettering: Use piping system terms indicated and abbreviate only as necessary for each application length.
 - 1. Arrows: Either integrally with piping system service lettering to accommodate both directions of flow, or as separate unit on each pipe marker to indicate direction of flow.

- J. Plastic Tape: Manufacturer's standard color-coded, pressure-sensitive, self-adhesive vinyl tape, at least 3 mils thick.
 - 1. Width: 1-1/2 inches on pipes with OD, including insulation, less than 6 inches; 2-1/2 inches for larger pipes.
 - 2. Color: Comply with ASME A13.1, unless otherwise indicated.
- K. Valve Tags: Stamped or engraved with 1/4-inch letters for piping system abbreviation and 1/2-inch sequenced numbers. Include 5/32-inch hole for fastener.
 - 1. Material: 0.032-inch thick, aluminum.
 - 2. Material: 0.0375-inch thick stainless steel.
 - 3. Material: 3/32-inch thick plastic laminate with two black surfaces and a white inner layer.
 - 4. Material: Valve manufacturer's standard solid plastic.
 - 5. Size: 1-1/2 inches in diameter, unless otherwise indicated.
 - 6. Shape: As indicated for each piping system.
- L. Valve Tag Fasteners: Brass, wire-link or beaded chain; or brass S-hooks.
- M. Engraved Plastic-Laminate Signs: ASTM D709, Type I, cellulose, paper-base, phenolic-resin-laminate engraving stock; Grade ES-2, black surface, black phenolic core, with white melamine subcore, unless otherwise indicated. Fabricate in sizes required for message. Provide holes for mechanical fastening.
 - 1. Engraving: Engraver's standard letter style, of sizes and with terms to match equipment identification.
 - 2. Thickness: 1/16-inch, for units up to 20 sq. in. or 8 inches in length, and 1/8-inch for larger units.
 - 3. Fasteners: Self-tapping, stainless-steel screws or contact-type permanent adhesive.
- N. Plastic Equipment Markers: Manufacturer's standard laminated plastic, in the following color codes:
 - 1. Green: Cooling equipment and components.
 - 2. Yellow: Heating equipment and components.
 - 3. Brown: Energy reclamation equipment and components.
 - 4. Blue: Equipment and components that do not meet criteria above.
 - 5. Hazardous Equipment: Use colors and designs recommended by ASME A13.1.
 - 6. Terminology: Match schedules as closely as possible. Include the following:
 - a. Name and plan number.
 - b. Equipment service.
 - c. Design capacity.
 - d. Other design parameters such as pressure drop, entering and leaving conditions, and speed.
 - 7. Size: 2-1/2 by 4 inches for control devices, dampers, and valves; 4-1/2 by 6 inches for equipment.
- O. Plasticized Tags: Preprinted or partially preprinted, accident-prevention tags, of plasticized card stock with mat finish suitable for writing.
 - 1. Size: 3-1/4 by 5-5/8 inches.
 - 2. Fasteners: Brass grommets and wire.
 - 3. Nomenclature: Large-size primary caption such as DANGER, CAUTION, or DO NOT OPERATE.
- P. Lettering and Graphics: Coordinate names, abbreviations, and other designations used in piped utility identification with corresponding designations indicated. Use numbers, letters, and terms indicated for proper identification, operation, and maintenance of piped utility systems and equipment.
 - 1. Multiple Systems: Identify individual system number and service if multiple systems of same name are indicated.

2.4 GROUT

- A. Description: ASTM C 1107, Grade B, nonshrink and nonmetallic, dry hydraulic-cement grout.
 - 1. Characteristics: Post hardening, volume adjusting, nonstaining, noncorrosive, nongaseous, and recommended for interior and exterior applications.
 - 2. Design Mix: 5,000 psi, 28-day compressive strength.
 - 3. Packaging: Premixed and factory packaged.

2.5 FLOWABLE FILL

- A. Description: Low-strength-concrete, flowable-slurry mix.
 - 1. Cement: ASTM C 150, Type I, portland.
 - 2. Density: 130-lb/cu. ft.
 - 3. Aggregates: ASTM C 33, natural sand, fine
 - 4. Admixture: ASTM C 618, fly-ash mineral.
 - 5. Water: Comply with ASTM C 94.
 - 6. Strength: 1,000 psi at 28 days.

PART 3 - EXECUTION

3.1 PIPED UTILITY DEMOLITION

- A. Disconnect, demolish, and remove piped utility systems, equipment, and components indicated to be removed.
 - 1. Piping to Be Removed: Remove portion of piping indicated to be removed and cap or plug remaining piping with same or compatible piping material.
 - 2. Piping to Be Abandoned in Place: Drain piping. Fill abandoned piping with flowable fill, and cap or plug piping with same or compatible piping material.
 - 3. Equipment to Be Removed: Disconnect and cap services and remove equipment.
 - 4. Equipment to Be Removed and Reinstalled: Disconnect and cap services and remove, clean, and store equipment; when appropriate, reinstall, reconnect, and make operational.
 - 5. Equipment to Be Removed and Salvaged: Disconnect and cap services and remove equipment and deliver to Owner.
- B. If pipe, insulation, or equipment to remain is damaged in appearance or is unserviceable, remove damaged or unserviceable portions and replace with new products of equal capacity and quality.

3.2 PIPING INSTALLATION

- A. Install piping according to the following requirements and utilities Sections specifying piping systems.
- B. Drawing plans, schematics, and diagrams indicate general location and arrangement of piping systems. Indicated locations and arrangements were used to size pipe and calculate friction loss, expansion, pump sizing, and other design considerations. Install piping as indicated unless deviations to layout are approved on the Coordination Drawings.
- C. Install piping indicated to be exposed and piping in equipment rooms and service areas at right angles or parallel to building walls. Diagonal runs are prohibited unless specifically indicated otherwise.

- D. Install piping to permit valve servicing.
- E. Install piping at indicated slopes.
- F. Install piping free of sags and bends.
- G. Install fittings for changes in direction and branch connections.
- H. Select system components with pressure rating equal to or greater than system operating pressure.
- I. Permanent sleeves are not required for holes formed by removable PE sleeves.
- J. Install sleeves for pipes passing through concrete and masonry walls and concrete floor and roof slabs.
 - 1. Cut sleeves to length for mounting flush with both surfaces.
 - a. Exception: Extend sleeves installed in floors of equipment areas or other wet areas 2 inches above finished floor level.
 - 2. Install sleeves in new walls and slabs as new walls and slabs are constructed.
 - a. PVC Pipe Sleeves: For pipes smaller than NPS 6.
 - b. Steel Sheet Sleeves: For pipes NPS 6 and larger.
- K. Verify final equipment locations for roughing-in.
- L. Refer to equipment specifications in other Sections for roughing-in requirements.

3.3 PIPING JOINT CONSTRUCTION

- A. Join pipe and fittings according to the following requirements and utilities Sections specifying piping systems.
- B. Ream ends of pipes and tubes and remove burrs. Bevel plain ends of steel pipe.
- C. Remove scale, slag, dirt, and debris from inside and outside of pipe and fittings before assembly.
- D. Threaded Joints: Thread pipe with tapered pipe threads according to ASME B1.20.1. Cut threads full and clean using sharp dies. Ream threaded pipe ends to remove burrs and restore full ID. Join pipe fittings and valves as follows:
 - 1. Apply appropriate tape or thread compound to external pipe threads unless dry seal threading is specified.
 - 2. Damaged Threads: Do not use pipe or pipe fittings with threads that are corroded or damaged. Do not use pipe sections that have cracked or open welds.
- E. Welded Joints: Construct joints according to AWS D10.12, using qualified processes and welding operators according to Part 1 "Quality Assurance" Article.
- F. Flanged Joints: Select appropriate gasket material, size, type, and thickness for service application. Install gasket concentrically positioned. Use suitable lubricants on bolt threads.
- G. Grooved Joints: Assemble joints with grooved-end pipe coupling with coupling housing, gasket, lubricant, and bolts according to coupling and fitting manufacturer's written instructions.
- H. Pressure-Sealed Joints: Assemble joints for plain-end copper tube and mechanical pressure seal fitting with proprietary crimping tool to according to fitting manufacturer's written instructions.
- I. Plastic Pressure Piping Gasketed Joints: Join according to ASTM D3139.
- J. Plastic Nonpressure Piping Gasketed Joints: Join according to ASTM D3212.
- K. Plastic Piping Heat-Fusion Joints: Clean and dry joining surfaces by wiping with clean cloth or paper towels. Join according to ASTM D2657.
 - 1. Plain-End PE Pipe and Fittings: Use butt fusion.
 - 2. Plain-End PE Pipe and Socket Fittings: Use socket fusion.

3.4 EQUIPMENT INSTALLATION

- A. Install equipment level and plumb, unless otherwise indicated.
- B. Install equipment to facilitate service, maintenance, and repair or replacement of components. Connect equipment for ease of disconnecting, with minimum interference with other installations. Extend grease fittings to an accessible location.
- C. Install equipment to allow right of way to piping systems installed at required slope.

3.5 PAINTING

- A. Painting of piped utility systems, equipment, and components is specified in Section 09 96 00 "High-Performance Coatings."
- B. Damage and Touchup: Repair marred and damaged factory-painted finishes with materials and procedures to match original factory finish.

3.6 IDENTIFICATION

- A. Piping Systems: Install pipe markers on each system. Include arrows showing normal direction of flow.
 - 1. Stenciled Markers: According to ASME A13.1.
 - 2. Plastic markers, with application systems. Install on insulation segment if required for hot noninsulated piping.
 - 3. Locate pipe markers on exposed piping according to the following:
 - a. Near each valve and control device.
 - b. Near each branch, excluding short takeoffs for equipment and terminal units. Mark each pipe at branch if flow pattern is not obvious.
 - c. Near locations where pipes pass through walls or floors or enter inaccessible enclosures.
 - d. At manholes and similar access points that permit view of concealed piping.
 - e. Near major equipment items and other points of origination and termination.
- B. Equipment: Install engraved plastic-laminate sign or equipment marker on or near each major item of equipment.
 - 1. Lettering Size: Minimum 1/4-inch high for name of unit if viewing distance is less than 24 inches, 1/2-inch high for distances up to 72 inches, and proportionately larger lettering for greater distances. Provide secondary lettering 2/3 to 3/4 of size of principal lettering.
 - 2. Text of Signs: Provide name of identified unit. Include text to distinguish among multiple units, inform user of operational requirements, indicate safety and emergency precautions, and warn of hazards and improper operations.
- C. Adjusting: Relocate identifying devices that become visually blocked by work of this or other Divisions.

3.7 CONCRETE BASES

- A. Concrete Bases: Anchor equipment to concrete base according to equipment manufacturer's written instructions and according to seismic codes at Project.
 - 1. Construct concrete bases of dimensions indicated, but not less than 4 inches larger in both directions than supported unit.
 - 2. Install dowel rods to connect concrete base to concrete floor. Unless otherwise indicated, install dowel rods on 18-inch centers around the full perimeter of base.

3. Install epoxy-coated anchor bolts for supported equipment that extend through concrete base, and anchor into structural concrete floor.
4. Place and secure anchorage devices. Use supported equipment manufacturer's setting drawings, templates, diagrams, instructions, and directions furnished with items to be embedded.
5. Install anchor bolts to elevations required for proper attachment to supported equipment.
6. Install anchor bolts according to anchor-bolt manufacturer's written instructions.
7. Use 3,000 psi, 28-day compressive-strength concrete and reinforcement as specified in Section 03 30 00 "Cast-in-Place Concrete."

3.8 GROUTING

- A. Mix and install grout for equipment base bearing surfaces, pump and other equipment base plates, and anchors.
- B. Clean surfaces that will come into contact with grout.
- C. Provide forms as required for placement of grout.
- D. Avoid air entrapment during placement of grout.
- E. Place grout, completely filling equipment bases.
- F. Place grout on concrete bases and provide smooth bearing surface for equipment.
- G. Place grout around anchors.
- H. Cure placed grout.

END OF SECTION

SECTION 33 05 05.31 - HYDROSTATIC TESTING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes hydrostatic testing of pressure piping.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 14 13 "Public Water Utility Distribution Piping" for pipe materials and accessories normally encountered with pressurized water distribution systems.

1.2 REFERENCE STANDARDS

- A. American Water Works Association:
 - 1. AWWA C600 - Installation of Ductile-Iron Water Mains and Their Appurtenances.

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Submit following items prior to start of testing:
 - 1. Testing procedures.
 - 2. List of test equipment.
 - 3. Testing sequence schedule.
 - 4. Provisions for disposal of flushing and test water.
 - 5. Certification of test gage calibration.
- C. Test and Evaluation Reports: Indicate results of piping tests.
- D. Qualifications Statement:
 - 1. Submit qualifications for applicator.

1.4 QUALITY ASSURANCE

- A. Perform Work according to Texas Commission on Environmental Quality and City of Midland.

1.5 QUALIFICATIONS

- A. Applicator: Company specializing in performing Work of this Section with minimum 3 years' [documented] experience.
- B. Applicator: Person holding Water Operators License issued by Texas Commission on Environmental Quality shall perform or supervise Work. Provide copy of valid license.

PART 2 - PRODUCTS

2.1 HYDROSTATIC TESTING

- A. Equipment:
 - 1. Pressure pump.
 - 2. Pressure hose.
 - 3. Water meter.
 - 4. Test connections.
 - 5. Pressure relief valve.
 - 6. Pressure Gage: Calibrated to 0.1 psi.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that piping is ready for testing.
- C. Verify that trenches are backfilled.
- D. Verify that pressure piping thrust restraints have been installed.

3.2 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Testing of Pressure Piping:
 - 1. Test system according to AWWA C600 or C605 and following:
 - a. Hydrostatically test each portion of pressure piping, including valved section, at 1-1/2 times working pressure of piping, based on elevation of lowest point in piping corrected to elevation of test gage.
 - b. Conduct hydrostatic testing for at least two hours.
 - c. Slowly fill with water portion of piping to be tested, expelling air from piping at high points.
 - d. Install corporation cocks at high points.
 - e. Close air vents and corporation cocks after air is expelled.
 - f. Raise pressure to specified test pressure.
 - g. Observe joints, fittings, and valves undergoing testing.
 - h. Remove and renew cracked pipes, joints, fittings, and valves that show visible leakage.
 - i. Retest.
 - j. Correct visible deficiencies and continue testing at same test pressure for additional two hours to determine leakage rate.
 - k. Maintain pressure within plus or minus 5.0 psi of test pressure.
 - l. Leakage is defined as quantity of water supplied to piping necessary to maintain test pressure during period of testing.

- m. Compute maximum allowable leakage for Ductile Iron pipe using the following formula (AWWA C600):
 - 1) $L = SD * \sqrt{P}/C$.
 - 2) L = testing allowance, gph.
 - 3) S = length of pipe tested, feet.
 - 4) D = nominal diameter of pipe, inches.
 - 5) P = average test pressure during hydrostatic testing, psig.
 - 6) C = 148,000.
 - 7) If pipe undergoing testing contains sections of various diameters, calculate allowable leakage from sum of computed leakage for each pipe size.
- n. Compute maximum allowable leakage for PVC pipe using the following formula (AWWA C605):
 - 1) $Q = (L * D * \sqrt{P})/C$.
 - 2) Q = the quantity of makeup water in gallons per hour.
 - 3) L = the length of the pipe section being tested, in feet.
 - 4) D = the nominal diameter of the pipe in inches.
 - 5) P = the average test pressure during the hydrostatic test in pounds per square inch (psi).
 - 6) C = 148,000.
 - 7) If pipe undergoing testing contains sections of various diameters, calculate allowable leakage from the sum of computed leakage for each pipe size.
- 2. If testing of piping indicates leakage greater than that allowed, locate source of leakage, make corrections, and retest until leakage is within acceptable limits.
- 3. Correct visible leaks regardless of quantity of leakage.

END OF SECTION

SECTION 33 05 09.33 - THRUST RESTRAINT FOR UTILITY PIPING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes tied joint restraint system.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 31 23 16.13 "Trenching" for trenching and backfilling requirements for Site utilities.
 - 3. Section 33 14 13 "Public Water Utility Distribution Piping" for requirements for piping Work as required by this Section.

1.2 REFERENCE STANDARDS

- A. American Water Works Association:
 - 1. AWWA C600 - Installation of Ductile-Iron Water Mains and Their Appurtenances.
- B. ASME International:
 - 1. ASME B1.1 - Unified Inch Screw Threads, UN and UNR Thread Form.
- C. ASTM International:
 - 1. ASTM A36 - Standard Specification for Carbon Structural Steel.
 - 2. ASTM A123 - Standard Specification for Zinc (Hot-Dip Galvanized) Coatings on Iron and Steel Products.
 - 3. ASTM A153 - Standard Specification for Zinc Coating (Hot-Dip) on Iron and Steel Hardware.
 - 4. ASTM A307 - Standard Specification for Carbon Steel Bolts, Studs, and Threaded Rod 60 ksi Tensile Strength.
 - 5. ASTM A325 - Standard Specification for Structural Bolts, Steel, Heat Treated, 120/105 ksi Minimum Tensile Strength.
 - 6. ASTM A563 - Standard Specification for Carbon and Alloy Steel Nuts.
 - 7. ASTM A588 - Standard Specification for High-Strength Low-Alloy Structural Steel, up to 50 ksi Minimum Yield Point, with Atmospheric Corrosion Resistance.
 - 8. ASTM B633 - Standard Specification for Electrodeposited Coatings of Zinc on Iron and Steel.
 - 9. ASTM F436 - Standard Specification for Hardened Steel Washers.

1.3 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Coordinate Work of this Section with installation of fittings and joints that require restraint.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit manufacturer catalog information for restrained joint details and installation instructions.
- C. Shop Drawings:
 - 1. Indicate restrained joint details and materials being used.
 - 2. Submit Layout Drawings showing piece numbers and locations.
 - 3. Indicate restrained joint locations.
- D. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- E. Delegated Design Submittals:
 - 1. Submit signed and sealed Shop Drawings with design calculations and assumptions for restrained lengths.
 - 2. Submit joint restraint details.
 - 3. Use joint restraint devices specifically designed for applications described in manufacturer information.
- F. Manufacturer Instructions: Submit detailed instructions on installation requirements, including storage and handling procedures.
- G. Qualifications Statement:
 - 1. Submit qualifications for manufacturer, fabricator, and licensed professional.

1.5 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of joint restraints.

1.6 QUALITY ASSURANCE

- A. Perform Work according to City of Midland standards.

1.7 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.
- B. Fabricator: Company specializing in fabricating products specified in this Section with minimum 3 years' experience.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture and dust by storing in clean, dry location remote from construction operations areas.
 - 2. Provide additional protection according to manufacturer instructions.

1.9 EXISTING CONDITIONS

- A. Field Measurements:
 - 1. Verify field measurements prior to fabrication.
 - 2. Indicate field measurements on Shop Drawings.

PART 2 - PRODUCTS

2.1 PERFORMANCE AND DESIGN CRITERIA

- A. Provide pressure pipeline with restrained joints at each bend, tee, and change in direction.

2.2 TIED JOINT RESTRAINT SYSTEMS

- A. Manufacturers:
 - 1. Bulldog Restraint System; S&B Technical Products.
 - 2. GE Oil & Gas.
 - 3. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 4. Furnish materials according to City of Midland standards.
- B. Tie Bolts:
 - 1. Mechanical and Flanged Joints on 4- to 12-Inch Pipe:
 - a. Size: 3/4-inch.
 - b. Comply with ASTM A588, Grade B.
 - c. Comply with ASTM A325, Type 3, except increase tensile strength of full-body threaded section to 60,000 lb. minimum for 3/4-inch by heat-treating (quenching and tempering) to manufacturer's reheat and hardness specifications.
- C. Tie Nut:
 - 1. Description: Hex nut for each tie bolt and tie rods.
 - 2. Comply with ASTM A563, Grade C3.
 - 3. Finish: Zinc plated.
- D. Tiepin:
 - 1. Bends and Hydrants: 3/4-inch round bar stock.
 - 2. Size and Shape: 6-inch hairpin.
 - 3. Comply with ASME B1.1 and ASTM A588.
 - 4. Finish: Zinc plated.
- E. Tie Coupling:
 - 1. Description: Extension of continuous-threaded rods.
 - 2. Provide with center stop to aid installation.
 - 3. Comply with ASTM A588.
 - 4. Finish: Zinc plated.
- F. Tie Clamp:
 - 1. Description: Retainer clamp for ductile iron, asbestos-cement, and PVC push-on pipe.
 - 2. Location: In front of bell.
 - 3. Comply with ASTM A36, ASTM A307, Grade A, and ASTM A563, Grade A.
 - 4. Finish: Zinc plated.

- G. Tie Rod:
 - 1. Description: Continuous-threaded rod for cutting to desired lengths.
 - 2. Comply with ASTM A588, Grade B, ASTM A325, Type 3, and ASME B1.1.
 - 3. Finish: Zinc plated.
- H. Tie Bar:
 - 1. Description: Steel bar used to restrain push-in plugs.
 - 2. Comply with ASTM A36.
 - 3. Finish: Zinc plated.
- I. Tie Washer:
 - 1. Description: Round flat washers.
 - 2. ASTM A588, ASTM F436, Type 1.
 - 3. Finish: Zinc plated.

2.3 MATERIALS

- A. Steel:
 - 1. High-Strength Low-Alloy Steel: Comply with ASTM A588, heat treated.
 - 2. High-Strength Low-Alloy Steel: Comply with ASTM A588.
 - 3. Carbon Steel: Comply with ASTM A36.

2.4 FINISHES

- A. Zinc Plating:
 - 1. Factory applied.
 - 2. Comply with ASTM B633.
- B. Galvanizing:
 - 1. Factory applied.
 - 2. Comply with ASTM A153.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that pipe and fittings are ready to receive Work.
- C. Field measure and verify conditions for installation of Work.

3.2 PREPARATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation preparation.
- B. Clean surfaces of pipe and fittings that are to receive tied joint restraint systems.

3.3 INSTALLATION

- A. According to AWWA C600.
- B. Install joint restraint system such that joints are mechanically locked together to prevent joint separation.
- C. Installation Standards: Install Work according to City of Midland standards.

3.4 TOLERANCES

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for tolerances.
- B. Torque 5/8-inch nuts on mating threaded fasteners from 45 to 60 ft.-lbf.
- C. Torque 3/4-inch nuts on mating threaded fasteners from 75 to 90 ft.-lbf.
- D. Torque 1-inch nuts from 100 to 120 ft.-lbf.

END OF SECTION

SECTION 33 05 53 - IDENTIFICATION FOR UTILITIES PIPING AND EQUIPMENT

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Nameplates.
 - 2. Tags.
 - 3. Stencils.
 - 4. Pipe markers.
 - 5. Labels.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 14 13 "Public Water Utility Distribution Piping" for materials and methods for piping, valves, and appurtenances.

1.2 REFERENCE STANDARDS

- A. Texas Commission on Environmental Quality:
 - 1. Comply with 30 TAC 290.42(d)(13)(A).

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit manufacturer's catalog literature for each product required.
- C. Shop Drawings: Submit list of wording, symbols, letter size, and color-coding for mechanical identification and valve chart and schedule, including valve tag number, location, function, and valve manufacturer's name and model number.
- D. Manufacturer's Installation Instructions: Indicate installation instructions, special procedures, and installation.
- E. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.

1.4 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for closeout procedures.
- B. Project Record Documents: Record actual locations of tagged valves; include valve tag numbers.

1.5 MAINTENANCE MATERIAL SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for maintenance materials.

1.6 QUALITY ASSURANCE

- A. Comply with 30 TAC 290.42(d)(13)(A) for color scheme for identification of piping systems and accessories.
- B. Perform Work according to City of Midland standards.

1.7 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.

PART 2 - PRODUCTS

2.1 NAMEPLATES

- A. Manufacturer:
 - 1. Craftmark Pipe Markers.
 - 2. Kolbi Pipe Marker Co.
 - 3. Pipemarket.com; Brimar Industries, Inc.
 - 4. Seton Identification Products; a Brady Corporation company.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- C. Furnish materials according to City of Midland standards.
- D. Description: Laminated 3-layer plastic with engraved black letters on light, contrasting background color.

2.2 TAGS

- A. Plastic Tags:
 - 1. Manufacturers:
 - a. Brady ID.
 - b. Craftmark Pipe Markers.
 - c. Kolbi Pipe Marker Co.
 - d. Marking Services, Inc.
 - e. R & R Identification Co.
 - f. Seton Identification Products, a Brady Corporation company.
 - 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 3. Description:
 - a. Laminated 3-layer plastic with engraved black letters on light, contrasting background color.
 - b. Minimum Tag Size and Configuration: 1-1/2-inch; square.
- B. Metal Tags:
 - 1. Manufacturers:
 - a. Brady ID.
 - b. Craftmark Pipe Markers.
 - c. Kolbi Pipe Marker Co.
 - d. Marking Services, Inc.
 - e. Pipemarket.com; Brimar Industries, Inc.
 - f. R & R Identification Co.
 - g. Seton Identification Products, a Brady Corporation company.
 - 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."

3. Description:
 - a. Aluminum construction; stamped letters.
 - b. Minimum Tag Size and Configuration: 1-1/2-inch; square with finished edges.
- C. Information Tags:
 1. Manufacturers:
 - a. Brady ID.
 - b. Seton Identification Products, a Brady Corporation company.
 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 3. Description:
 - a. Clear plastic with printed DANGER, CAUTION, WARNING, and message as appropriate and indicated in individual product Specifications.
 - b. Minimum Tag Size: 3-1/4- by 5-5/8-inch.
 - c. Furnish grommet and self-locking nylon ties.
 4. Tag Chart: Typewritten, letter-size list of applied tags and location, plastic laminated.

2.3 STENCILS

- A. Manufacturers:
 1. Kolbi Pipe Marker Co.
 2. Marking Services, Inc.
 3. Pipemarket.com; Brimar Industries, Inc.
 4. R & R Identification Co.
 5. Seton Identification Products, a Brady Corporation company.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- C. Furnish materials according to City of Midland standards.
- D. Description:
 1. Clean-cut symbols.
 2. Letters:
 - a. Up to 2-inch Outside Diameter of Insulation or Pipe: 1/2-inch high letters.
 - b. 2-1/2- to 6-Inch Outside Diameter of Insulation or Pipe: 1-inch high letters.
 - c. Over 6-Inch Outside Diameter of Insulation or Pipe: 1-3/4-inch high letters.
- E. Stencil Paint: As indicated on Drawings.
- F. Color-Coding: Comply with 30 TAC 290.42(d)(13)(A).
- G. Lettering Size: Conform to ASME A13.1.

2.4 PIPE MARKERS

- A. Color-Coding: Comply with 30 TAC 290.42(d)(13)(A).
- B. Lettering Size: Conform to ASME A13.1.
- C. Plastic Tape Pipe Markers:
 1. Manufacturers:
 - a. Brady ID.
 - b. Craftmark Pipe Markers.
 - c. Kolbi Pipe Marker Co.
 - d. Marking Services, Inc.
 - e. Pipemarket.com; Brimar Industries, Inc.
 - f. Seton Identification Products, a Brady Corporation company.
 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 3. Description: Flexible, vinyl film tape with pressure-sensitive adhesive backing and printed markings.

- D. Plastic, Underground Pipe Markers:
 - 1. Manufacturers:
 - a. Kolbi Pipe Marker Co.
 - b. Marking Services, Inc.
 - c. Pipemarket.com; Brimar Industries, Inc.
 - d. Rhino Marking and Protection Systems.
 - e. Seton Identification Products, a Brady Corporation.
 - 2. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 3. Description:
 - a. Brightly colored, continuously printed, plastic ribbon tape.
 - b. Minimum 6 inches wide by 4 mils thick.
 - c. Manufactured for direct burial service.

2.5 LABELS

- A. Manufacturers:
 - 1. Brady ID.
 - 2. Seton Identification Products, a Brady Corporation company.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- C. Furnish materials according to City of Midland standards.
- D. Description:
 - 1. Aluminum construction.
 - 2. Minimum Size: 1.9- by 0.75-inch.
 - 3. Adhesive backed, with printed identification.

PART 3 - EXECUTION

3.1 PREPARATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation preparation.
- B. Degrease and clean surfaces to receive adhesive for identification materials.
- C. Prepare surfaces as indicated on Drawings.

3.2 INSTALLATION

- A. Apply stencil painting as indicated on Drawings.
- B. Install identifying devices after completion of coverings and painting.
- C. Install plastic nameplates with corrosion-resistant mechanical fasteners or adhesive.
- D. Labels:
 - 1. Install labels with sufficient adhesive for permanent adhesion and seal with clear lacquer.
 - 2. For unfinished covering, apply paint primer before applying labels.
- E. Tags:
 - 1. Install tags using corrosion-resistant chain.
 - 2. Number tags as indicated in tag schedule.
- F. Install underground plastic pipe markers 6 to 8 inches below finished grade, directly above buried pipe.
- G. Identify valves in main and branch piping with tags.

- H. Piping:
1. Identify piping, concealed or exposed, with plastic tape pipe markers.
 2. Identify service, flow direction, and pressure.
 3. Install in clear view and align with axis of piping.
 4. Locate identification not to exceed 20 feet on straight runs, including risers and drops, adjacent to each valve and tee, at each side of penetration of structure or enclosure, and at each obstruction.

END OF SECTION

SECTION 33 11 13 - POTABLE WATER SUPPLY WELLS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Drilling and casing of water well.
 - 2. Pump.
 - 3. Water and system testing and certification.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 05 33 "Raceway and Boxes for Electrical Systems."
 - 3. Section 26 29 13.06 "Soft-Start Motor Controllers."
 - 4. Section 31 23 16 "Excavation" for excavating for conduit and pipe from well head to building.
 - 5. Section 31 23 16.13 "Trenching."
 - 6. Section 33 01 10.58 "Disinfection of Water Utility Piping Systems" for flushing and disinfecting of well piping.
 - 7. Section 33 14 13 "Public Water Utility Distribution Piping" for wellpiping.
 - 8. Appendix A: Boring log and test hole data.
 - 9. Appendix B: TCEQ Forms.

1.2 DEFINITIONS

- A. Suspended Solids: Small solid particles that do not dissolve in water.
- B. TCEQ: Texas Commission on Environmental Quality.
- C. TDLR: Texas Department of Licensing and Regulation.
- D. PBUWCD: Permian Basin Underground Water Conservation District.

1.3 UNIT PRICE - MEASUREMENT AND PAYMENT

- A. Refer to Section 01 20 00 "Price and Payment Procedures" for Contract Sum/Price modification procedures.
- B. Water Well:
 - 1. Basis of Measurement: By vertical foot of well depth.
 - a. Basis of Payment: Includes drilling, casing, backfilling, pump test, and water quantity tests.
 - 2. Grouting:
 - a. Basis of Measurement: By cubic foot.
 - b. Basis of Payment: Includes materials and placement of grout.
 - 3. Pump:
 - a. Basis of Measurement: By each.
 - b. Basis of Payment: Includes motor drive, fittings, sensor, and accessories; conduit, wire, pipe, and pipe fittings from; and pump to wellhead.

1.4 REFERENCE STANDARDS

- A. ASTM International:
 - 1. ASTM A53 - Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless).
 - 2. ASTM C 150 - Standard Specification for Portland Cement.
 - 3. ASTM D2241 - Standard Specification for Poly (Vinyl Chloride) (PVC) Pressure-Rated Pipe (SDR Series).
- B. American Water Works Association:
 - 1. AWWA A100 - Water Wells.
 - 2. AWWA C900 - Polyvinyl Chloride (PVC) Pressure Pipe and Fabricated Fittings, 4-inch through 12-inch, for Water Transmission and Distribution.
- C. National Electrical Manufacturers Association:
 - 1. NEMA MG 1 - Motors and Generators.
 - 2. NEMA 250 - Enclosures for Electrical Equipment (1,000 Volts Maximum).

1.5 PREINSTALLATION MEETINGS

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for preinstallation meeting.
- B. Convene minimum one week prior to commencing Work of this Section.

1.6 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for Submittals.
- B. Product Data:
 - 1. Submit manufacturer information regarding well pump, including rated capacities, weights, accessories, electrical nameplate data, and wiring diagrams.
 - 2. Submit manufacturer information regarding well casing.
- C. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- D. Manufacturer Instructions:
 - 1. Submit detailed instructions on installation requirements, including storage and handling procedures.
 - 2. Indicate rigging and assembly.
- E. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- F. Qualifications Statements:
 - 1. Submit qualifications for manufacturer, drilling, and pump installing firm.
 - 2. Submit current TDLR drillers and pump installer certifications.
 - 3. Submit proof of registration with PBUWCD.

1.7 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of well, depth, subsoil strata, and drilling difficulties encountered.
- C. Submit signed copy of driller's logbook statements.
- D. Submit executed certification of well pump after performance testing.
- E. Submit documents required by TCEQ.

- F. Provide certificate of compliance from testing lab, indicating TCEQ required certifications are current.
- G. Boring Log: Include depths and descriptions of all formations, soil sample locations and number and depth where groundwater is encountered.
- H. Cementing Certificate: TCEQ Form 20842.
- I. Disinfection Certificate: TCEQ Form 10525.
- J. Results of microbiological and chemical analysis.
- K. Results of 36-hour pump test.

1.8 QUALITY ASSURANCE

- A. Perform Work according to AWWA A100 and D654.
- B. Perform Work according to TCEQ, TDLR, PBUWCD, University Lands, and City of Midland standards.

1.9 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.
- B. Drilling Firm: Company specializing in performing Work of this Section with 5 years' experience and licensed in State of Texas.
- C. Welders: AWS certification within previous 12 months for employed weld types.

1.10 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture and dust by storing in clean, dry location remote from construction operations areas.
 - 2. Provide additional protection according to manufacturer instructions.

PART 2 - PRODUCTS

2.1 SYSTEM DESCRIPTION

- A. All materials and products shall not contain more than 0.25 percent lead.
- B. Water well characteristics as indicated on Drawings.

Well Number	Design Flow (GPM)	Design Head (Feet)	Total Well Depth
7	250	250	220
8	350	265	220
12	500	260	205
15	500	280	200
16	500	290	200

Notes:

- 1. Minimum Efficiency at Design Flow Rate is 75 percent.
- 2. Final Pump Sizing to be determined following results of well test pumping.
- 3. Pump bottom shall be set 10 feet from the bottom of the well.

2.2 WELL PUMPS

- A. Manufacturers:
 - 1. Goulds Water Technology; a Xylem brand.
 - 2. Grundfos Pumps Corporation U.S.A.
 - 3. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- B. Description:
 - 1. Type: Close-coupled, multi-stage submersible.
 - 2. Lubrication: Water lubricated.
 - 3. Shaft: Vertical.
 - 4. Suitable for insertion in 12-inch diameter pipe.
- C. Casing:
 - 1. Casting: Cast iron.
 - 2. Housing and Intake Screen: Stainless steel.
 - 3. Check Valve: Stainless-steel stem and valve seat with rubber seal built into discharge casting.
- D. Impellers and Diffusers: 316 stainless steel.
- E. Shaft and Sleeve: 316 stainless steel.
- F. Operation:
 - 1. Electrical Characteristics:
 - a. As specified in Section 26 27 26 "Wiring Devices."
 - b. HP: As determined by pump requirements.
 - c. Voltage: 480 V phase, 60 Hz.
 - 2. Motors:
 - a. As specified in Section 22 05 13 "Common Motor Requirements for Plumbing Equipment."
 - b. NEMA MG 1 submersible type.
 - 3. Pump Controller:
 - a. NEMA 250 Type 3R enclosure with main disconnect interlocked with door.
 - b. Single-point power connection and grounding lug.
 - c. Soft start electric motor starter with starting relay and ambient compensate quick trip overloads in each phase with manual trip button and reset button

- d. Circuit breaker.
- e. Control transformer.
- f. HAND-OFF-AUTO selector switches.
- g. Pilot lights.
- G. Screen Material: Stainless steel.

2.3 WELL CASINGS

- A. Description:
 - 1. Material:
 - a. Schedule 80 steel pipe.
 - b. Comply with ASTM A53, Grade B, and AWA standards.
 - 2. Nominal Outside Diameter: 12-3/4-inch.
 - 3. Accessories: Dielectric couplers.

2.4 WELL SCREENS

- A. Description:
 - 1. Configuration: Continuous slot; wire wound.
 - 2. Circumferentially wrap triangularly shaped wire around circular array of rods.
 - 3. Wire configuration to produce inlet slots with sharp outer edges, widening inwardly to minimize clogging.
 - 4. Material: Screen shall be sized to be able to pass not less than the continuous yield of well at an entrance velocity not exceeding 0.1 fps. Type 316 stainless steel.
- B. Acceptable Manufacturers:
 - 1. Johnson Screens.
 - 2. Roscoe Moss Company.
 - 3. Alloy Screen Works.
 - 4. Substitutions: As specified in Section 01 60 00 "Product Requirements."

2.5 MATERIALS

- A. Filter Packs:
 - 1. Description: Clean, well rounded, smooth, and uniform; mostly grains.
 - 2. Material:
 - a. Siliceous.
 - b. Calcareous Material: Not more than 5 percent by weight.
 - c. Minimum Specific Gravity: 2.5.
 - d. Disinfect with a 50 mg/L chlorine solution as it is added to well cavity.
 - 3. Grading:
 - a. Determination: From sieve analyses of aquifer materials.
 - b. Passing Size: Four to six times 30 percent passing size of aquifer sample having finest grain-size distribution.
 - 4. Minimum Uniformity Coefficient: 2.5.
 - 5. Acceptable Sources:
 - a. Hickory (Brady) Sands.
 - b. Substitutions: As specified in Section 01 60 00 "Product Requirements."

2.6 MIXES

- A. Grout:
 - 1. Type:
 - a. Portland cement.
 - b. Comply with ASTM C 150, Type 1.
 - 2. Mixture: Not more than 5 gallons of water per 94-lb bag of cement.
 - 3. Obtain approval of Engineer to use bentonite or other additives, up to 6 percent by weight of cement, to reduce shrinkage permeability, increase fluidity, or control setting time.
 - 4. Pressure cementing method shall conform to one of the methods described in the latest revision of AWWA Standard A100-20, Appendix C, Section C.2 (Positive Displacement-Exterior Method); Section C.3 (Interior Method-Without Plug); Section C.4 (Positive Placement, Interior Method-Drillable Plug); and Section C.5 (Placement Through Float Shoe Attached to Bottom of Casing). Contractor shall complete TCEQ Form 20842 Cementing Certificate.

2.7 ACCESSORIES

- A. Conductor Casing:
 - 1. ASTM A53 Grade B or A-139 Grade B pipe.
 - 2. Nominal Diameter: 24 inches.
 - 3. Thickness: 3/8-inch (minimum).
 - 4. Length: As specified on Drawings or Bid Form.
- B. Well Seals:
 - 1. Manufacturers:
 - a. Campbell Manufacturing, Inc.
 - b. Merrill Manufacturing.
 - c. Simmons Manufacturing Co.
 - d. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 2. Materials:
 - a. Plate: Painted cast iron.
 - b. Seal: Molded rubber.
 - c. Bolts and Nuts: Zinc-plated steel.
- C. Well Caps:
 - 1. Manufacturers:
 - a. Campbell Manufacturing, Inc.
 - b. Merrill Manufacturing.
 - c. Simmons Manufacturing Co.
 - d. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- D. Riser Pipes:
 - 1. C900RJ, DR14 PVC pipe.
 - 2. Nominal Diameter: As indicated on Drawings.
- E. Dielectric Coupling:
 - 1. Location: Between low carbon steel blank casing and stainless steel screen.
 - 2. Nominal Diameter: As shown on Drawings.
 - 3. Manufacturers:
 - a. Alloy Screen Works.
 - b. Roscoe Moss Company.
 - 4. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- F. Cable Ties: Threaded plastic strap.

- G. Torque Arrestors:
 - 1. Location: Top, middle, and bottom of column pipe.
 - 2. Nominal Diameter: Sized for casing shown on Drawings.
 - 3. Manufacturers:
 - a. Boshart.
 - 4. Substitutions: As specified in Section 01 60 00 "Product Requirements."

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that Site conditions are capable of supporting equipment for performing drilling operations.

3.2 PREPARATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation preparation.
- B. Protect structures near well from damage.

3.3 INSTALLATION

- A. Drilling:
 - 1. Drilling Equipment: Mud rotary.
 - 2. Drill concentric well shaft to diameters and depths as indicated on Drawings.
 - 3. Water used in drilling shall be of safe sanitary condition. Water used in mixing of drilling fluids or mud shall contain a chlorine residual of at least 0.5 mg/L. Maximum allowable total dissolved solids concentration of water used for any part of the drilling operation is 3,000 mg/L.
 - 4. Slush pit shall be constructed and maintained so as to minimize contamination of drilling mud.
 - 5. No temporary toilet facilities shall be placed within 150 feet of the well unless they are of sealed, leakproof type.
 - 6. Premises, materials, tools, and drilling equipment shall be maintained to comply with Safe Drinking Water Act per AWWA Section 4.3.
 - 7. Remove loose material from shaft bottom.
 - 8. Allow inspection of casing prior to placement of grout.
 - 9. Place grout tight to surrounding Work according to regulatory requirements.
 - 10. Shaft Top:
 - a. Cut off shaft top 24 inches above finished grade.
 - b. Prevent metal cuttings from entering casing.
 - 11. Record accurate log of materials penetrated to determine depths and thicknesses of underlying formations.
 - 12. Prepare electric log recording resistivity, spontaneous potential, and gamma for total depth of borehole.

13. Casing and Screen:
 - a. Place well casing and screen assembly immediately after drilling.
 - b. Keep casing and screen under tension during filter packing.
14. Install filter packing.
15. Test borehole for plumbness according to AWWA A100.
16. Remove loose material from shaft bottom.
17. Maintain well opening and casing free of contaminating materials.
18. Well opening shall be locked, or temporary cap welded in place following completion and testing and prior to installation of permanent pumping equipment.
- B. Disinfection: Disinfect well according to C654 - Disinfection of Wells; except that the disinfectant shall remain in the well for at least six hours.
- C. Installation Standards: Install Work according to City of Midland, AWWA, and TCEQ standards.
- D. Well Pumps:
 1. Electrical Connections: As specified in Section 26 27 26 "Wiring Devices."
 2. Install pump onto riser pipe.
 3. Set pump intake, 10 feet above the bottom elevation of well.
 4. Secure wiring harness to pump column at ten-foot intervals.
 5. Install pump column 2-1/2 feet above finished grade with well seal between pump column and well casing.

3.4 WELL PLUGGING

- A. Existing water supply wells indicated on Drawings to be abandoned, shall be plugged per 16 TAC, Part 4, Rule 76.104 and per PBUWCD rules.
- B. Submit signed certification describing procedures used to plug wells to Owner and as required by all regulatory agencies. TDLR Form WWD004N shall be completed and returned to TDLR with one copy provided to Owner and one copy to Engineer. See Appendix for copy of form.

3.5 TOLERANCES

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for tolerances.
- B. Maximum Variation from Plumb: Comply with AWWA A100.
- C. Maximum Offset from Indicated Alignment: 1 degree.

3.6 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Performance Testing:
 1. Notify Engineer at least 3 days prior to flow-rate testing.
 2. Test flow rate and certify.
 3. Well Development Testing. Provide temporary test pump system including flow meter and equipment to measure water level. Perform 36-hour pump test.

4. Water Quality: Following completion of Well Development, collect water samples for bacterial, physical, and chemical analyses to be performed by TCEQ approved testing laboratory. Analyses shall be performed in accordance with TCEQ/AWWA approved methods, procedures and holding times. Test for constituents listed in Appendix B TCEQ Public Well Completion Data Checklist for Approval to Use (Step 2). **Radionuclides listed in Table 4 shall be analyzed. Test for UCMR 5 constituents listed in Appendix D using EPA/TCEQ approved methods, collection, preservation, procedures, and holding times.** Analyses shall only be performed by EPA/TCEQ approved laboratories.
 5. Sand Content: Maximum sand content shall be accordance with AWWA A100.
- C. Acceptance: Adjust, repair, modify, or replace components failing to perform as specified and rerun tests.

END OF SECTION

SECTION 33 14 13 - PUBLIC WATER UTILITY DISTRIBUTION PIPING

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Pipe and fittings for public line, including potable water line.
 - 2. Tapping sleeves and valves.
 - 3. Positive-displacement meters.
 - 4. Pipe support systems.
 - 5. Bedding and cover materials.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 03 20 00 "Concrete Reinforcing" for reinforcing steel and required supports for cradles and encasements.
 - 3. Section 03 30 00 "Cast-in-Place Concrete" for concrete for cradles and encasements.
 - 4. Section 31 23 16.13 "Trenching" for excavation and backfill as required by this Section.
 - 5. Section 33 05 05.31 "Hydrostatic Testing" for pressure testing required by this Section.
 - 6. Section 33 05 09.33 "Thrust Restraint for Utility Piping" for tied joint restraint system to anchor and resist forces developed in underground closed pipeline systems.
 - 7. Section 40 05 61 "Gate Valves."

1.2 REFERENCE STANDARDS

- A. American Association of State Highway and Transportation Officials:
 - 1. AASHTO T 180 - Standard Method of Test for Moisture-Density Relations of Soils Using a 4.54-kg (10-lb) Rammer and a 457-mm (18-in.) Drop.
- B. American Society of Mechanical Engineers:
 - 1. ASME B16.1 - Gray Iron Pipe Flanges and Flanged Fittings: Classes 25, 125, and 250.
- C. ASTM International:
 - 1. ASTM A307 - Standard Specification for Carbon Steel Bolts, Studs, and Threaded Rod 60 ksi Tensile Strength.
 - 2. ASTM D698 - Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort (12 400 ft-lbf/ft³).
 - 3. ASTM D1557 - Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft³).
 - 4. ASTM D1785 - Standard Specification for Poly(Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, and 120.
 - 5. ASTM D2241 - Standard Specification for Poly(Vinyl Chloride) (PVC) Pressure-Rated Pipe (SDR Series).
 - 6. ASTM D3035 - Standard Specification for Polyethylene (PE) Plastic Pipe (DR-PR) Based on Controlled Outside Diameter.
 - 7. ASTM D3139 - Standard Specification for Joints for Plastic Pressure Pipes Using Flexible Elastomeric Seals.

8. ASTM D6938 - Standard Test Method for In-Place Density and Water Content of Soil and Soil-Aggregate by Nuclear Methods (Shallow Depth).
9. ASTM F477 - Standard Specification for Elastomeric Seals (Gaskets) for Joining Plastic Pipe.
- D. American Water Works Association:
 1. AWWA C104 - Cement-Mortar Lining for Ductile-Iron Pipe and Fittings.
 2. AWWA C105 - Polyethylene Encasement for Ductile-Iron Pipe Systems.
 3. AWWA C110 - Ductile-Iron and Gray-Iron Fittings.
 4. AWWA C111 - Rubber-Gasket Joints for Ductile-Iron Pressure Pipe and Fittings.
 5. AWWA C115 - Flanged Ductile-Iron Pipe with Ductile-Iron or Gray-Iron Threaded Flanges.
 6. AWWA C151 - Ductile-Iron Pipe, Centrifugally Cast.
 7. AWWA C153 - Ductile-Iron Compact Fittings.
 8. AWWA C200 - Steel Water Pipe, 6 Inches and Larger.
 9. AWWA C203 - Coal-Tar Protective Coatings and Linings for Steel Water Pipe.
 10. AWWA C205 - Cement-Mortar Protective Lining and Coating for Steel Water Pipe - 4 Inches and Larger - Shop Applied.
 11. AWWA C206 - Field Welding of Steel Water Pipe.
 12. AWWA C207 - Steel Pipe Flanges for Waterworks Service, Sizes 4 Inches Through 144 Inches.
 13. AWWA C208 - Dimensions for Fabricated Steel Water Pipe Fittings.
 14. AWWA C213 - Fusion-Bonded Epoxy Coatings and Linings for Steel Water Pipe and Fittings.
 15. AWWA C300 - Reinforced Concrete Pressure Pipe, Steel-Cylinder Type.
 16. AWWA C301 - Prestressed Concrete Pressure Pipe, Steel-Cylinder Type.
 17. AWWA C500 - Metal-Seated Gate Valves for Water Supply Service.
 18. AWWA C600 - Installation of Ductile-Iron Mains and Their Appurtenances.
 19. AWWA C605 - Underground Installation of Polyvinyl Chloride (PVC) and Molecularly Oriented Polyvinyl Chloride (PVCO) Pressure Pipe and Fittings.
 20. AWWA C606 - Grooved and Shouldered Joints.
 21. AWWA C700 - Cold-Water Meters - Displacement Type, Metal Alloy Main Case.
 22. AWWA C701 - Cold-Water Meters - Turbine Type, for Customer Service.
 23. AWWA C702 - Cold-Water Meters - Compound Type.
 24. AWWA C707 - Encoder-Type Remote-Registration Systems for Cold-Water Meters.
 25. AWWA C900 - Polyvinyl Chloride (PVC) Pressure Pipe and Fabricated Fittings, 4 Inches Through 12 Inches, for Water Transmission and Distribution.
 26. AWWA C901 - Polyethylene (PE) Pressure Pipe and Tubing, 1/2-Inch Through 3 Inches, for Water Service.
 27. AWWA C905 - Polyvinyl Chloride (PVC) Pressure Pipe and Fabricated Fittings, 14 Inches Through 48 Inches, for Water Transmission and Distribution.
 28. AWWA M6 - Water Meters - Selection, Installation, Testing, and Maintenance.
- E. Manufacturers Standardization Society of the Valve and Fittings Industry:
 1. MSS SP-60 - Connecting Flange Joints between Tapping Sleeves and Tapping Valves.
- F. National Fire Protection Association:
 1. NFPA 24 - Standard for the Installation of Private Fire Service Mains and Their Appurtenances.
- G. NSF International:
 1. NSF 61 - Drinking Water System Components - Health Effects.
 2. NSF 372 - Drinking Water System Components - Lead Content.

1.3 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Coordinate Work of this Section with water main connection to existing municipal wellfield piping, and trenching.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit manufacturer information regarding pipe materials, pipe fittings, valves, hydrants , and all appurtenances.
- C. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- D. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- E. Preconstruction Photographs: Submit digital files of color photographs of Work areas and material storage areas, as specified in Section 01 70 00 "Execution and Closeout Requirements."
- F. Qualifications Statements:
 - 1. Submit qualifications for manufacturer and installer.

1.5 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of piping mains, valves, connections, thrust restraints, and centerline elevations.
- C. Identify and describe unexpected variations to subsoil conditions or discovery of uncharted utilities.

1.6 QUALITY ASSURANCE

- A. Valves: Mark valve body with manufacturer's name and pressure rating.
- B. Materials in Contact with Potable Water: Certified according to NSF 61 and NSF 372.
- C. Perform Work according to City of Midland standards.

1.7 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.
- B. Installer: Company specializing in performing Work of this Section with minimum 3 years' experience in installation of liner materials.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.

- C. Storage:
 - 1. Store materials according to manufacturer instructions.
 - 2. Block individual and stockpiled pipe lengths to prevent moving.
 - 3. Do not place pipe or pipe materials on private property or in areas obstructing pedestrian or vehicle traffic.
 - 4. Store PE and PVC materials out of sunlight.
- D. Protection:
 - 1. Protect materials from moisture and dust by storing in clean, dry location remote from construction operations areas.
 - 2. Provide additional protection according to manufacturer instructions.

1.9 EXISTING CONDITIONS

- A. Field Measurements:
 - 1. Verify field measurements prior to fabrication.
 - 2. Indicate field measurements on Shop Drawings.

1.10 WARRANTY

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for warranties.

PART 2 - PRODUCTS

2.1 WATER PIPING

- A. Ductile-Iron Pipe:
 - 1. Comply with AWWA C151.
 - 2. Bituminous Outside Coating: Comply with AWWA C151.
 - 3. Pipe Mortar Lining:
 - a. Comply with AWWA C104.
 - b. Thickness: Double.
 - 4. PE Encasement: Comply with AWWA C105.
 - 5. Pipe Class:
 - a. Comply with AWWA C151.
 - b. Class 54.
 - 6. Fittings:
 - a. Material: Ductile iron; comply with AWWA C110.
 - b. Compact Fittings: Comply with AWWA C153.
 - c. Coating and Lining:
 - 1) Bituminous Coating: Comply with AWWA C110.
 - 2) Cement-Mortar Lining: Comply with AWWA C104; double thickness.
 - 7. Joints:
 - a. Mechanical and Push-on Joints: Comply with AWWA C111.
 - b. Flanged Joints: Comply with AWWA C115.
 - c. Restrained Joints: Boltless, push-on type, joint restraint independent of joint seal.
 - 8. Jackets: PE; comply with AWWA C105.

- B. PVC with Internal Restrained Joints (Well Column Pipe):
 - 1. Comply with AWWA C900/RJ.
 - 2. Cast Iron Outside Diameter.
 - 3. Pipe Color: Blue.
 - 4. Fittings: Comply with AWWA C900/RJ.
 - 5. Joints:
 - a. Comply with ASTM D3139.
 - b. Seals: PVC flexible elastomeric.
 - c. Solvent-cement couplings are not permitted.

2.2 VALVES

- A. As specified in Sections 40 05 61 "Gate Valves" and 40 05 65.23 "Swing Check Valves."

2.3 PIPE SUPPORTS AND ANCHORING

- A. Metal for Pipe Support Brackets:
 - 1. Material: Structural steel.
 - 2. Finish: Galvanized.
 - 3. Coating: Bituminous paint.
- B. Metal Tie Rods and Clamps or Lugs:
 - 1. Material: Galvanized steel.
 - 2. Size: Comply with NFPA 24.
 - 3. Coating: Bituminous paint.

2.4 CONCRETE ENCASEMENT AND CRADLES

- A. Concrete:
 - 1. As specified in Section 03 30 00 "Cast-in-Place Concrete."
 - 2. Type: Reinforced, air entrained.
 - 3. Compressive Strength: 3,000 psi at 28 days.
 - 4. Finish: Rough troweled.
- B. Concrete Reinforcement: As specified in Section 03 20 00 "Concrete Reinforcing."

2.5 MATERIALS

- A. Bedding and Cover:
 - 1. Bedding: Fill Type as indicated on Drawings.
 - 2. Cover: Fill Type as indicated on Drawings.
 - 3. Soil Backfill from above Pipe to Finish Grade:
 - a. Soil Type as indicated on Drawings.
 - b. Subsoil with no rocks greater than 2 inches in diameter, frozen earth, or foreign matter.

2.6 FINISHES

- A. Steel: Hot-dip galvanized after fabrication, according to ASTM A123.
- B. Protective Coating: Coal-tar epoxy.

2.7 ACCESSORIES

- A. Thrust Restraints: As specified in Section 33 05 09.33 "Thrust Restraint for Utility Piping."
- B. Air-Release Valves:
 - 1. As located on Drawings.
 - 2. As specified on Drawings.
- C. Steel Rods, Bolt, Lugs, and Brackets:
 - 1. Comply with ASTM A36.
 - 2. Grade A carbon steel.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that existing utility water main size, location, and invert are as indicated on Drawings.

3.2 PREPARATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation preparation.
- B. Preconstruction Site Photos:
 - 1. As specified in Section 01 70 00 "Execution and Closeout Requirements."
 - 2. Take photographs along centerline of proposed pipe trench; minimum one photograph for each 50 feet of pipe trench.
 - 3. Show mailboxes, curbing, lawns, driveways, signs, culverts, and other existing Site features.
 - 4. Include Project description, date taken, and sequential number on back of each photograph.
- C. Pipe Cutting:
 - 1. Cut pipe ends square, ream pipe and tube ends to full pipe diameter, and remove burrs.
 - 2. Use only equipment specifically designed for pipe cutting; use of chisels or hand saws is not permitted.
 - 3. Grind edges smooth with beveled end for push-on connections.
- D. Remove scale and dirt on inside and outside before assembly.
- E. Prepare pipe connections to equipment with flanges or unions.

3.3 INSTALLATION

- A. Bedding:
 - 1. Excavation:
 - a. As specified in Section 31 23 16.13 "Trenching."
 - b. Hand trim for accurate placement of pipe to elevations as indicated on Drawings.
 - 2. Dewater excavations to maintain dry conditions and to preserve final grades at bottom of excavation.

3. Place bedding material at trench bottom, level fill materials in one continuous layer not exceeding 8 inches of compacted depth, and compact to 95 percent of maximum density.
- B. Piping:
 1. Comply with AWWA C600.
 2. Handle and assemble pipe according to manufacturer instructions and as indicated on Drawings.
 3. Maintain 10 feet of horizontal separation between water main and sewer piping according to Texas Commission on Environmental Quality and City of Midland requirements.
 4. Ductile-Iron Piping and Fittings: Comply with AWWA C600.
 5. Grooved and Shouldered Pipe Joints: Comply with AWWA C606.
 6. Flanged Joints: Do not use in underground installations except within structures.
 7. Route pipe in straight line, and re-lay pipe that is out of alignment or grade.
 8. High Points:
 - a. Install pipe with no high points.
 - b. If unforeseen field conditions arise that necessitate high points, install air-release valves as indicated on Drawings, as directed by Engineer.
 9. Bearing:
 - a. Maintain bearing along entire length buried of pipe.
 - b. Excavate bell holes to permit proper joint installation.
 - c. Do not lay pipe in wet or frozen trench.
 10. Prevent foreign material from entering pipe during placement.
 11. Allow for expansion and contraction without stressing pipe or joints.
 12. Close pipe openings with watertight plugs during Work stoppages.
 13. Install access fittings to permit disinfection of water system performed under Section 33 01 10.58 "Disinfection of Water Utility Piping Systems."
 14. Cover:
 - a. Establish elevations of buried piping with not less than 5 feet of cover.
 - b. Measure depth of cover from final surface grade to top of pipe barrel.
- C. Valves: As specified in Section 33 14 19 "Valves for Water Utility Service.
- D. PE Encasement:
 1. Encase piping in PE as indicated on Drawings to prevent contact with surrounding backfill material.
 2. Comply with AWWA C105.
 3. Terminate encasement 3 to 6 inches above ground where pipe is exposed.
- E. Thrust Restraints: As specified in Section 33 05 09.33 "Thrust Restraint for Utility Piping."
- F. Backfilling:
 1. Backfilling: Backfill around sides and to top of pipe as specified in Section 31 23 16.13 "Trenching."
- G. Disinfection of Potable Water Piping Systems: As specified in Section 33 01 10.58 "Disinfection of Water Utility Piping Systems."
- H. Installation Standards: Install Work according to City of Midland standards.

3.4 TOLERANCES

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for tolerances.
- B. Install pipe to match installed well piping match installed well piping.

3.5 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Testing:
 - 1. Pressure test piping system according to AWWA C600 or C605 and following:
 - a. Test Pressure: Not less than 200 psig or 50 psi in excess of maximum static pressure, whichever is greater.
 - b. Conduct hydrostatic test for a minimum of 2 hours.
 - c. Slowly fill section to be tested with water; expel air from piping at high points.
 - d. Install corporation cocks at high points.
 - e. Close air vents and corporation cocks after air is expelled.
 - f. Raise pressure to specified test pressure.
 - g. Observe joints, fittings, and valves under test.
 - h. Remove and renew cracked pipes, joints, fittings, and valves showing visible leakage, and retest.
 - i. Correct visible deficiencies and continue testing at same test pressure for additional 2 hours to determine leakage rate.
 - j. Maintain pressure within plus or minus 5 psi of test pressure.
 - k. Leakage is defined as quantity of water supplied to piping necessary to maintain test pressure during period of test.
 - l. Compute maximum allowable leakage using formula provided in Section 33 05 05.31 "Hydrostatic Testing."
 - m. If pipe under test contains sections of various diameters, calculate allowable leakage from sum of computed leakage for each size.
 - n. Leakage:
 - 1) If test of pipe indicates leakage greater than allowed, locate source of leakage, make corrections, and retest until leakage is within allowable limits.
 - 2) Correct visible leaks regardless of quantity of leakage.
 - 2. Perform pressure test on piping according to City of Midland standards.
 - 3. Compaction Testing:
 - a. Comply with ASTM D1557 and ASTM D698.
 - b. Frequency of Compaction Tests: One test for every lift every 300 linear feet of fill, or as specified by Engineer.
 - c. If tests indicate Work does not meet specified requirements, remove Work, replace, and retest.

END OF SECTION

DIVISION 40
PROCESS INTEGRATION

SECTION 40 05 61 - GATE VALVES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Resilient-seated gate valves.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 14 13 "Public Water Utility Distribution Piping."

1.2 DEFINITIONS

- A. OUTSIDE SCREW AND YOKE (OS&Y) VALVE: A valve in which the operating screw is driven by a threaded nut that is built into the handle.

1.3 REFERENCE STANDARDS

- A. American Water Works Association:
 - 1. AWWA C500 - Metal-Seated Gate Valves for Water Supply Service.
 - 2. AWWA C509 - Resilient-Seated Gate Valves for Water Supply Service.
- B. ASME International:
 - 1. ASME B16.1 - Gray Iron Pipe Flanges and Flanged Fittings: Classes 25, 125, and 250.
 - 2. ASME B16.5 - Pipe Flanges and Flanged Fittings: NPS 1/2 through NPS 24 Metric/Inch Standard.
 - 3. ASME B16.42 - Ductile Iron Pipe Flanges and Flanged Fittings: Classes 150 and 300.
 - 4. ASME B1.20.1 - Pipe Threads, General Purpose, Inch.
 - 5. ASME B1.20.2 - Pipe Threads, 60 deg. General Purpose (Metric).
- C. ASTM International:
 - 1. ASTM A126 - Standard Specification for Gray Iron Castings for Valves, Flanges, and Pipe Fittings.
 - 2. ASTM B62 - Standard Specification for Composition Bronze or Ounce Metal Castings.
 - 3. ASTM B584 - Standard Specification for Copper Alloy Sand Castings for General Applications.
 - 4. ASTM D1784 - Standard Specification for Rigid Poly(Vinyl Chloride) (PVC) Compounds and Chlorinated Poly(Vinyl Chloride) (CPVC) Compounds.
- D. Manufacturers Standardization Society of the Valve and Fittings Industry:
 - 1. MSS SP-70 - Gray Iron Gate Valves, Flanged and Threaded Ends.
 - 2. MSS SP-80 - Bronze Gate, Globe, Angle and Check Valves.

PART 2 - PRODUCTS

2.1 RESILIENT-SEATED GATE VALVES

- A. Manufacturers:

1. Clow Valve Company; a subsidiary of McWane, Inc. Model: 2838.
 2. Dresser - M & H Valve Company; a division of McWane, Inc. Model: 4067.
 3. Mueller Co. Model: A-2360.
 4. Substitutions: Any alternate (approved equal) shall have completely interchangeable parts with either of the specified valves.
 5. Furnish materials according to City of Midland standards.
- B. Description:
1. Comply with AWWA C509.
 2. Working Pressure: 200 psig at 180 degrees F.
 3. Maximum Process Fluid Temperature: 180 degrees F.
 4. End Connections: As indicated on Drawings.
 5. Gear Actuators for Manual Valves: Comply with AWWA C509.
- C. Operation:
1. Stem: Nonrising.
 2. Handwheel.
 3. Furnish gear operators for valves 16 inches and larger, and chainwheel operators for valves mounted over 8 feet above operating floor.
- D. Materials:
1. Wedge: Resilient ASTM A126, cast iron, fully encapsulated with molded rubber.
 2. Body and Disc: ASTM A536, ductile iron, rubber coated.
 3. Stem, Stem Nuts, Glands, and Bushings: ASTM B584, bronze.
 4. Connecting Hardware: Type 316 stainless steel.

2.2 SOURCE QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for testing, inspection, and analysis.
- B. Testing: Test gate valves according to AWWA C509.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. According to AWWA C509.

END OF SECTION

SECTION 40 05 65.23 - SWING CHECK VALVES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes swing check valves 3 inches and larger.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 14 13 "Public Water Utility Distribution Piping."

1.2 REFERENCE STANDARDS

- A. American Water Works Association:
 - 1. AWWA C508 - Swing-Check Valves for Waterworks Service, 2 Inches Through 24 Inches NPS.
- B. ASME International:
 - 1. ASME B16.1 - Gray Iron Pipe Flanges and Flanged Fittings: Classes 25, 125, and 250.
 - 2. ASME B16.11 - Forged Fittings, Socket-Welding and Threaded.
 - 3. ASME B16.42 - Ductile Iron Pipe Flanges and Flanged Fittings: Classes 150 and 300.
- C. ASTM International:
 - 1. ASTM A126 - Standard Specification for Gray Iron Castings for Valves, Flanges, and Pipe Fittings.
 - 2. ASTM A536 - Standard Specification for Ductile Iron Castings.
 - 3. ASTM B62 - Standard Specification for Composition Bronze or Ounce Metal Castings.
 - 4. ASTM B148 - Standard Specification for Aluminum-Bronze Sand Castings.
- D. NSF International:
 - 1. NSF 61 - Drinking Water System Components - Health Effects.
 - 2. NSF 372 - Drinking Water System Components - Lead Content.
- E. SSPC - The Society for Protective Coatings:
 - 1. SSPC SP 6 - Commercial Blast Cleaning.

1.3 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Coordinate Work of this Section with piping and equipment connections as specified in other Sections and as indicated on Drawings.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit manufacturer's catalog information, indicating materials of construction and compliance with indicated standards.
- C. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- D. Source Quality-Control Submittals: Indicate results of factory tests and inspections.

- E. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- F. Qualifications Statement:
 - 1. Submit qualifications for manufacturer.

1.5 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of piping, valves and other appurtenances, connections, and centerline elevations.

1.6 QUALITY ASSURANCE

- A. Materials in Contact with Potable Water: Certified according to NSF 61 and NSF 372.
- B. Perform Work according to City of Midland standards.

1.7 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture and dust by storing in clean, dry location remote from construction operations areas.
 - 2. Protect valves and appurtenances by storing off ground.
 - 3. Provide additional protection according to manufacturer instructions.

1.9 EXISTING CONDITIONS

- A. Field Measurements:
 - 1. Verify field measurements prior to fabrication.
 - 2. Indicate field measurements on Shop Drawings.

1.10 WARRANTY

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for warranties.

PART 2 - PRODUCTS

2.1 SWING CHECK VALVES

- A. Manufacturers:
 - 1. DeZURIK.
 - 2. GA Industries, Inc.
 - 3. Henry Pratt Company.
 - 4. Kennedy Valve Company; a division of McWane, Inc.
 - 5. Mueller Co.
 - 6. Val-Matic Valve & Manufacturing Corp.
 - 7. Substitutions: As specified in Section 01 60 00 "Product Requirements."
 - 8. Furnish materials according to City of Midland standards.
- B. Description:
 - 1. Type: Swing, resilient seated, with outside lever and adjustable weight.
 - 2. Size: 3 inches and larger.
 - 3. Comply with AWWA C508.
 - 4. Working Pressure: 175 psig at 180 degrees F.
 - 5. Maximum Fluid Temperature: 180 degrees F.
 - 6. Flow Area: Full open, equal to connecting nominal pipe diameter.
 - 7. Mounting: Horizontal or vertical.
 - 8. End Connections: Flanged, ASME B16.1 or Flanged, ASME B16.42.
- C. Materials:
 - 1. Body and Cover: Cast iron, ASTM A126.
 - 2. Disc: Bronze, ASTM B62.
 - 3. Seat: Field replaceable, bronze, ASTM B62.
 - 4. Chamber and Plunger: Bronze, ASTM B62.
 - 5. Hinge Pin and Key: Stainless steel.
 - 6. Packing and O-Ring: Buna-N.
 - 7. Rubber Components: Buna-N.
 - 8. Connecting Hardware: Type 304 stainless steel.

2.2 SOURCE QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for testing, inspection, and analysis.
- B. Testing:
 - 1. Hydrostatically test check valves at twice rated pressure according to AWWA C508.
 - 2. Permitted Leakage at Indicated Working Pressure: None.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that field dimensions are as indicated on Shop Drawings.
- C. Inspect existing flanges for nonstandard bolt-hole configurations or design, and verify that new valve and flange mate properly.

3.2 PREPARATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation preparation.
- B. Thoroughly clean valves before installation.

3.3 INSTALLATION

- A. According to AWWA C508 and manufacturer instructions.
- B. Installation Standards: Install Work according to City of Midland standards.

3.4 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Inspection:
 - 1. Inspect for damage to valve lining or coating and for other defects that may be detrimental as determined by Architect/Engineer.
 - 2. Repair damaged valve or provide new, undamaged valve.
 - 3. After installation, inspect for proper supports and interferences.
- C. Pressure Testing: As indicated in piping schedule.
- D. Pressure test valves with piping.

3.5 CLEANING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for cleaning.
- B. Keep valve interior clean as installation progresses.
- C. After installation, clean valve interior of soil, grit, loose mortar, and other debris.

END OF SECTION

SECTION 40 05 78.13 - AIR/VACUUM VALVES FOR WATER SERVICE

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes air release/vacuum breaker valves for water treatment facilities.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 14 13 "Public Water Utility Distribution Piping."
 - 3. Section 40 42 13 "Process Piping Insulation" for insulation applied to process piping systems.

1.2 REFERENCE STANDARDS

- A. American Water Works Association:
 - 1. AWWA C512 - Air Release, Air/Vacuum, and Combination Air Valves for Waterworks Service.
- B. ASME International:
 - 1. ASME B16.1 - Gray Iron Pipe Flanges and Flanged Fittings: Classes 25, 125, and 250.
 - 2. ASME B16.5 - Pipe Flanges and Flanged Fittings: NPS 1/2 through NPS 24 Metric/Inch Standard.
- C. ASTM International:
 - 1. ASTM A126 - Standard Specification for Gray Iron Castings for Valves, Flanges, and Pipe Fittings.
 - 2. ASTM A216 - Standard Specification for Steel Castings, Carbon, Suitable for Fusion Welding, for High-Temperature Service.
 - 3. ASTM A536 - Standard Specification for Ductile Iron Castings.
 - 4. ASTM B148 - Standard Specification for Aluminum-Bronze Sand Castings.
- D. International Organization for Standardization:
 - 1. ISO 9001 - Quality Management Systems.
- E. NSF International:
 - 1. NSF 61 - Drinking Water System Components - Health Effects.
 - 2. NSF 372 - Drinking Water System Components - Lead Content.

1.3 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Coordinate Work of this Section with installation of process piping.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit manufacturer catalog information.
- C. Shop Drawings: Indicate materials, dimensions, weights, and end connections on assembly drawings.
- D. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- E. Manufacturer Instructions: Submit special procedures and setting dimensions.

- F. Source Quality-Control Submittals: Indicate results of factory tests and inspections.
- G. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- H. Manufacturer Reports: Certify that equipment has been installed according to manufacturer instructions.
- I. Qualifications Statements:
 - 1. Submit qualifications for manufacturer and installer.
 - 2. Submit manufacturer's approval of installer.

1.5 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations of air release/vacuum breaker valves.

1.6 QUALITY ASSURANCE

- A. Materials in Contact with Potable Water: Certified to NSF 61 and NSF 372.
- B. Manufacturer Quality Management System: Certified to ISO 9001.
- C. Perform Work according to City of Midland standards.

1.7 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.
- B. Installer: Company specializing in performing Work of this Section with minimum 3 years' experience.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store materials according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture and dust by storing in clean, dry location remote from construction operations areas.
 - 2. Furnish temporary end caps and closures on piping and fittings and maintain in place until installation.
 - 3. Provide additional protection according to manufacturer instructions.

1.9 EXISTING CONDITIONS

- A. Field Measurements:
 - 1. Verify field measurements prior to fabrication.
 - 2. Indicate field measurements on Shop Drawings.

1.10 WARRANTY

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for warranties.

PART 2 - PRODUCTS

2.1 AIR/VACUUM VALVES FOR WATER SERVICE

- A. Manufacturers:
 - 1. A.R.I. Flow Control Accessories, Ltd.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements" and as approved by the City of Midland.
- C. Furnish materials according to City of Midland standards.
- D. Description:
 - 1. Type: Fully automatic, float operated.
 - 2. Comply with AWWA C512.
 - 3. Size: As indicated on Drawings.
 - 4. Suitable for potable or raw water service.
 - 5. Pressure Rating: 200 psig.
 - 6. Maximum Operating Temperature: Water to 140 degrees F.
- E. Materials:
 - 1. Body and Cover: Reinforced Nylon/Type 316 Stainless Steel.
 - 2. Float: Foamed Polypropylene.
 - 3. Seat, and Trim: Type 316 stainless steel.
 - 4. Seats: Buna-N.
 - 5. Seals: Buna-N.
- F. End Connections:
 - 1. Size 3 Inches: Threaded, NPT.
 - 2. Size 4 Inches and Larger: Flanged, ASME B16.1.
- G. Accessories:
 - 1. Backwash accessories, including inlet shutoff valve, blowoff valve, rubber supply hose, and quick-disconnect couplings.

2.2 SOURCE QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for testing, inspection, and analysis.
- B. Provide shop inspection and testing of completed assembly.
- C. Certificate of Compliance:
 - 1. If fabricator is approved by authorities having jurisdiction, submit certificate of compliance indicating Work performed at fabricator's facility conforms to Contract Documents.
 - 2. Specified shop tests are not required for Work performed by approved fabricator.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that field dimensions are as indicated on Drawings.
- C. Inspect existing flanges for nonstandard bolt hole configurations or design and verify that new pipe and flanges mate properly.

3.2 PREPARATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation preparation.
- B. Thoroughly clean end connections before installation.
- C. Close pipe and equipment openings with caps or plugs during installation.
- D. Surface Preparation: Clean surfaces to remove foreign substances.

3.3 INSTALLATION

- A. According to manufacturer instructions.
- B. Provide access for operation, removal, and maintenance, and to avoid discharge to occupied areas or other equipment.
- C. Installation Standards: Install Work according to City of Midland standards.

3.4 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Inspect for interferences and proper supports.
- C. Equipment Acceptance:
 - 1. Adjust, repair, modify, or replace components failing to perform as specified and rerun tests.
 - 2. Make final adjustments to equipment under direction of manufacturer's representative.
 - 3. Repair damaged coatings with material equal to original coating.
 - 4. Furnish installation certificate from equipment manufacturer's representative attesting that equipment has been properly installed and is ready for startup and testing.

3.5 CLEANING

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for cleaning.
- B. Keep interior of air release valves clean as installation progresses.

3.6 DEMONSTRATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for demonstration and training.
- B. Demonstrate equipment startup, shutdown, routine maintenance, and emergency repair procedures to Owner's personnel.

END OF SECTION

SECTION 40 42 13 - PROCESS PIPING INSULATION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Process piping insulation.
 - 2. Jacketing.
 - 3. Accessories.
- B. Related Requirements:
 - 1. Divisio 01 Specification Sections apply to Work of this Section.
 - 2. Section 33 05 00 "Common Work Results for Utilities."

1.2 REFERENCE STANDARDS

- A. ASTM International:
 - 1. ASTM B209 - Standard Specification for Aluminum and Aluminum-Alloy Sheet and Plate.
 - 2. ASTM C 195 - Standard Specification for Mineral Fiber Thermal Insulating Cement.
 - 3. ASTM C 449 - Standard Specification for Mineral Fiber Hydraulic-Setting Thermal Insulating and Finishing Cement.
 - 4. ASTM C 450 - Standard Practice for Fabrication of Thermal Insulating Fitting Covers for NPS Piping, and Vessel Lagging.
 - 5. ASTM C 533 - Standard Specification for Calcium Silicate Block and Pipe Thermal Insulation.
 - 6. ASTM C 534 - Standard Specification for Preformed Flexible Elastomeric Cellular Thermal Insulation in Sheet and Tubular Form.
 - 7. ASTM C 547 - Standard Specification for Mineral Fiber Pipe Insulation.
 - 8. ASTM C 553 - Standard Specification for Mineral Fiber Blanket Thermal Insulation for Commercial and Industrial Applications.
 - 9. ASTM C 578 - Standard Specification for Rigid, Cellular Polystyrene Thermal Insulation.
 - 10. ASTM C 585 - Standard Practice for Inner and Outer Diameters of Thermal Insulation for Nominal Sizes of Pipe and Tubing.
 - 11. ASTM C 591 - Standard Specification for Unfaced Preformed Rigid Cellular Polyisocyanurate Thermal Insulation.
 - 12. ASTM C 612 - Standard Specification for Mineral Fiber Block and Board Thermal Insulation.
 - 13. ASTM C 795 - Standard Specification for Thermal Insulation for Use in Contact with Austenitic Stainless Steel.
 - 14. ASTM C 921 - Standard Practice for Determining the Properties of Jacketing Materials for Thermal Insulation.
 - 15. ASTM C 1136 - Standard Specification for Flexible, Low Permeance Vapor Retarders for Thermal Insulation.

16. ASTM D1785 - Standard Specification for Poly(Vinyl Chloride) (PVC) Plastic Pipe, Schedule 40, 80, and 120.
17. ASTM E84 - Standard Test Method for Surface Burning Characteristics of Building Materials.
18. ASTM E96 - Standard Test Methods for Water Vapor Transmission of Materials.
- B. Manufacturers Standardization Society of the Valve and Fittings Industry:
 1. MSS SP-69 - Pipe Hangers and Supports - Selection and Application.

1.3 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit product description, thermal characteristics, list of materials, and thickness for each service and location.
- C. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- D. Manufacturer's Instructions: Submit manufacturer's published literature indicating recommended installation procedures.
- E. Qualifications Statements:
 1. Submit qualifications for manufacturer and applicator.
 2. Submit manufacturer's approval of applicator.

1.4 QUALITY ASSURANCE

- A. Test pipe insulation for maximum flame-spread index of 25 and maximum smoke-developed index not exceeding 450, according to ASTM E84.
- B. Comply with ASTM C 585 for inner and outer diameters of pipe insulation.
- C. Factory-fabricated fitting covers according to ASTM C 450.

1.5 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.
- B. Applicator: Company specializing in performing Work of this Section with minimum 3 years' experience.

1.6 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Accept materials on-Site in original factory packaging, labeled with manufacturer's identification, including product density and thickness.
- C. Inspection: Accept insulation on-Site in manufacturer's packaging. Inspect for damage.
- D. Store insulation according to manufacturer's instructions.
- E. Protect insulation from weather and construction traffic, dirt, water, chemicals, and damage by storing in original wrapping.

1.7 AMBIENT CONDITIONS

- A. Refer to Section 01 50 00 "Temporary Facilities and Controls" for requirements for ambient condition control facilities for product storage and installation.
- B. Install insulation only when ambient temperature and humidity conditions are within ranges as recommended by manufacturer.

1.8 EXISTING CONDITIONS

- A. Field Measurements:
 - 1. Verify field measurements prior to fabrication.
 - 2. Indicate field measurements on Shop Drawings.

1.9 WARRANTY

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for warranties.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Glass Fiber and Mineral Fiber Insulation:
 - 1. Manufacturers:
 - a. CertainTeed Corporation.
 - b. Johns Manville; a Berkshire Hathaway company.
 - c. Knauf Insulation.
- B. Closed-Cell Elastomeric Insulation:
 - 1. Manufacturers:
 - a. Aeroflex USA, Inc.
 - b. Armacell LLC.
 - c. K-Flex USA.
 - 2. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- C. Polyisocyanurate Foam Insulation:
 - 1. Manufacturers:
 - a. Duna USA Inc.
 - b. Dyplast Products.
 - c. Elliott Company of Indianapolis.
 - d. ITW Insulation Systems; Illinois Tool Works, Inc.
 - 2. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- D. Extruded Polystyrene Insulation:
 - 1. Substitutions: Refer to Section 01 60 00 "Product Requirements."
- E. Valve and Fitting Insulation Blankets:
 - 1. Manufacturers:
 - a. Unitherm.
 - b. Thermaxx.
 - c. Firwin.
 - 2. Substitutions: Refer to Section 01 60 00 "Product Requirements."

2.2 PIPE INSULATION

- A. Type P-2:
 - 1. Description: Molded glass fiber.
 - 2. Comply with ASTM C 547.
 - 3. Thermal Conductivity: 0.23 Btu-in./h-ft.-deg. F at 75 degrees F.
 - 4. Operating Temperature Range: Zero to 850 degrees F.

2.3 PIPE INSULATION JACKETS

- A. Aluminum Pipe Jacket:
 - 1. Comply with ASTM B209.
 - 2. Sheet Thickness: 0.016-inch.
 - 3. Finish: Embossed.
 - 4. Joining: Longitudinal slip joints with 2-inch laps.
 - 5. Fitting Covers:
 - a. Description: Die-shaped, with factory-attached protective liner.
 - b. Thickness: 0.016-inch.
 - 6. Metal Jacket Bands:
 - a. Width: 3/8-inch.
 - b. Thickness and Material: 0.010-inch, stainless steel.
 - 7. Lining: 3 mil thick polyfilm.
- B. Valve and Fitting Insulation Blankets:
 - 1. Description:
 - a. One-piece, flexible fitted covers, fasteners, and insulation for freeze protection of valves and fittings.
 - b. Color: Off-white, gray, or silver.
 - 2. Insulation Material: Non-asbestos and hydrophobic.
 - 3. Jacket Material: Silicone Fiberglass Composite, 17 oz./sq./yd. minimum.
 - 4. Thread Material: Rated to withstand pipe skin temperatures without degradation.
 - 5. Applications: To cover above ground, exposed gate, and check valves.
 - 6. UV Protection: Outer layer shall be rated for outside use and shall be UV protected.
 - 7. Water Vapor Barrier: Integral vapor barrier.
 - 8. Connections: Straps shall be made from the same material as outer layer, fastened with double-D rings.
 - 9. Temperature Range: -10 degrees F to 150 degrees F.
 - 10. Thickness: As required for anti-freeze protection of heat traced water to 0 degrees F.
 - 11. Installation: Jackets shall be fitted for valve types and sizes shown on the Plans. Jacket material shall not require on-site cutting or modification prior to installation.

2.4 PIPE INSULATION ACCESSORIES

- A. Vapor-Retarder Lap Adhesive: Compatible with insulation.
- B. Mineral Fiber Hydraulic-Setting Thermal Insulating and Finishing Cement: Comply with ASTM C 449.
- C. Adhesives: Compatible with insulation.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that piping and equipment has been tested before applying insulation materials.
- C. Verify that surfaces are clean and dry, with foreign material removed.

3.2 INSTALLATION - PIPING SYSTEMS

- A. Piping Exposed to View in Finished Spaces: Locate insulation and cover seams in least visible locations.
- B. Fire-Rated Penetrations:
 - 1. Continue insulation through penetrations of building assemblies or portions of assemblies having fire-resistance rating of one hour or less.
 - 2. Provide intumescent firestopping when continuing insulation through assembly.
 - 3. Finish at supports, protrusions, and interruptions.
- C. Piping Systems Conveying Fluids below Ambient Temperature:
 - 1. Insulate entire system, including fittings, valves, unions, flanges, strainers, flexible connections, pump bodies, and expansion joints.
 - 2. Jacketing:
 - a. Furnish factory-applied or field-applied vapor-retarder jackets.
 - b. Secure factory-applied jackets with pressure-sensitive adhesive with self-sealing longitudinal laps and butt strips.
 - c. Secure field-applied jackets with outward-clinch expanding staples, and seal stapled penetrations with vapor-retarder mastic.
 - 3. Fittings, Joints, and Valves:
 - a. Insulate with molded insulation of like material and thickness as adjacent pipe.
- D. Glass-Fiber Board Insulation:
 - 1. Apply insulation close to equipment by grooving, scoring, and beveling insulation.
 - 2. Fasten insulation to equipment with studs, pins, clips, adhesive, wires, or bands.
 - 3. Fill joints, cracks, seams, and depressions with bedding compound to form smooth surface; on cold equipment, use vapor-retarder cement.
 - 4. Cover wire mesh or bands with cement to a thickness to remove surface irregularities.
- E. Closed-Cell Elastomeric Insulation:
 - 1. Push insulation onto piping.
 - 2. Miter joints at elbows.
 - 3. Seal seams and butt joints with manufacturer's recommended adhesive.
 - 4. If application requires multiple layers, apply with staggered joints.
 - 5. Insulate fittings and valves with insulation of like material and thickness as adjacent pipe.
- F. Heat-Traced Piping:
 - 1. Insulate fittings, joints, and valves with insulation of like material, thickness, and finish as adjoining pipe.
 - 2. Size large enough to enclose pipe and heat tracing.
- G. Heat-Traced Exterior Piping:
 - 1. Insulate fittings, joints, and valves with insulation of like material, thickness, and finish as specified.
 - 2. Size insulation large enough to enclose pipe and heat tracing.
 - 3. Cover with aluminum jacket with seams located at 3- or 9-o'clock position on side of horizontal piping, with overlap facing down to shed water.

END OF SECTION

SECTION 40 61 10 - PROCESS CONTROL FORMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. The forms listed below and following this Section are referenced from other Sections of the Project Manual:
 - a. 17000A-4: Loop wiring and insulation resistance test data form; 4-wire.
 - b. 17000B-1: Field, Transmitter, Miscellaneous switch/instrument calibration test and Loop commissioning test data form.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

PART 2 - PRODUCT (NOT USED)

PART 3 - EXECUTION (NOT USED)

END OF SECTION

Reference Sheet 17000A-4										
IDENTIFICATION		LOCATION			CONTINUITY RESISTANCE *A		INSULATION RESISTANCE *B		COMMENTS	CMPLT DATE
TAG#	DESCRIPTION	WIRE TAG	COLOR	FIELD TB LOCATION	COND/ COND	COND/ SHLD.	COND/ GND.	SHLD/ GND.		

OWNERS' REP

SECTION 40 61 20 - PROCESS CONTROL CABINETS AND ENCLOSURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Control Panel(s)/RTU(s).
 - 2. Miscellaneous Cabinets.
 - 3. Accessories.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 REFERENCES

- A. NECA Standard of Installation (National Electrical Contractors Association).
- B. NEMA 250 - Enclosures for Electrical Equipment (1,000 Volts Maximum).
- C. NEMA ICS 4 - Terminal Blocks for Industrial Control Equipment and Systems.
- D. NFPA 70 - National Electrical Code.

1.3 SUBMITTALS

- A. Submit under provisions of General Conditions.
- B. Provide manufacturer's standard data for enclosures and cabinets

1.4 REGULATORY REQUIREMENTS

- A. Conform to requirements of NFPA 70.
- B. Materials and products to be listed and classified by Underwriters Laboratories, Inc. as suitable for the purpose specified and indicated

PART 2 - PRODUCTS

Equipment model numbers for major equipment and accessories are detailed in these Specifications and in the Drawings. Any changes from manufacturers and model numbers listed must have prior approval from Engineer.

The panel manufacturer shall provide all equipment and materials necessary to construct the panels, whether or not such items are listed in the Drawings.

2.1 CONTROL PANELS

- A. Enclosure:
 - 1. Panel enclosure shall be a NEMA Type 4/12 (as indicated on Project Drawings). Enclosure with backpan mounting surface or approved equal.
 - 2. Enclosure body shall be constructed of 12-gauge steel; all welded construction and seams shall be continuously welded.
 - 3. All welds and seams shall be ground smooth.
 - 4. Door Handles shall be flush type.
 - 5. All panel enclosures shall be equipped with a drawing pocket, 11-1/2-inch wide by 15-inch high by 3/4-inch deep, mounted on the door or side panel.

6. Control Panel/RTV(s) Enclosure shall have a fold down shelf mounted on the inside of the door at a height no more than 40 inches above finished floor. Refer to Project Drawings for shelf placement and/or omission.
 7. Panels shall have no screws or bolts protruding to the outside of the cabinet.
- B. Wiring:
1. Discrete I/O wiring from swing arm to terminal strip shall be 18 AWG, UL1007 rated, Belden #9918 or equal.
 2. Analog I/O wiring from swing arm to terminal strip shall be 18 AWG, twisted pair shielded, Belen #8762 or equal.
 3. Analog wiring shall be shielded with the shield extended up to the point of termination exposing just enough cable to adequately terminate the conductors. Heat shrink shall be used where the wire exits the cable jacket.
 4. Power distribution wiring shall be 16 AWG unless noted otherwise on the Drawings.
 5. AC power wiring to devices inside panel shall be twisted pair shielded #16 AWG, unless noted otherwise on the Drawings.
 6. Wiring from the PLC I/O Card Swing Arms to the panduit shall be enclosed in a braided expandable wire sleeving, Thomas & Betts #S750PC-0.
 7. Discrete I/O wiring from PLC swingarm to terminal strips shall be Slate Grey in color. All the panel wiring shall adhere to the following color code:
 - a. 12VDC and 24VDC Slate Grey.
 - b. 120VAC Black.
 - c. 120VAC Neut. White.
 - d. Analog I/O (+) Black.
 - e. Analog I/O (-) White or Clear.
- C. Wire Markers:
1. Wire markers shall be seamless type Heat Shrink wire markers, Raychem Part No. RPS-1K-18-12/2.0-9.
 2. Wire markers shall be legible and properly aligned after heat shrinking.
 3. Finished markings shall be aligned and positioned so that they can be easily read without manipulation of the wire.
 4. Wire markers shall designate the termination point of the opposite end of the wire.
- D. Grounding:
1. Two ground busses shall be provided in the enclosure, one for isolated grounds and one for equipment grounds.
 2. The isolated ground bus shall be isolated from the backpan and enclosure.
 3. Shield wires shall be jumpered together on their respective terminal strips and routed to the isolated ground bus.
 4. Equipment such as power supplies, PLCs, and enclosures shall be grounded to the equipment ground bus.
- E. Terminal Blocks:
1. In order to provide easier access to terminations, all terminal blocks shall be mounted on elevated DIN type mounting rails, DIN rail elevators shall be electrically isolated from back pan mounting surface. Refer to Project Drawings.
 2. Signal and Control Terminals: Modular construction type, suitable for channel mounting, with tubular pressure screw connectors, rated 300 Volts.
 3. Provide isolated ground bus terminal blocks for shield wires.
 4. Feed thru terminal blocks shall be Phoenix Contact UT4-MTD or equal.
 5. 24VDC fusible terminal blocks shall be Phoenix Contact UT4-PE/HESILED 24 or equal.

- 6. 120VAC fusible terminal blocks shall be Phoenix Contact UT4-PE/HESILA 250 or equal.
- 7. Grounding terminal blocks shall be Phoenix Contact UT4-MTD-PE/S or approved equal.
- F. All devices and terminal strips shall be labeled with white on black engraved name plates.
- G. Wireways shall be made of a flame retardant, non-metallic material, which is gray in color. The wireway covers shall be single complete lengths between intersections.
- H. Heat shrink shall be placed on all exposed shielding wires to protect from accidental shorting.

2.2 MISCELLANEOUS CABINETS

- A. Boxes shall be NEMA 250, Type 4 steel enclosure.
- B. Backpanel: Provide steel backpanel. Paint matte white.
- C. Fronts: Steel, door with concealed hinge, and flush lock keyed to match branch circuit panel board. Finish with gray baked enamel.
- D. Knockouts: Provide as necessary. Provide barriers to form separate compartments wiring of different systems and voltages. Provide accessory feet for free-standing equipment.

2.3 TESTING

- A. Owner and Engineer shall perform an acceptance test of the Control Pane(s)/RTU(s) at the panel shop prior to shipment. This test shall consist of a visual inspection for conformance with the Drawings and these Specifications, powering up the panel, loading a test program into the PLC and testing all wiring and devices installed in the panel. Any corrections necessary for a fully functional Control Pane(s)/RTU(s) as detailed in the Drawings and these Specifications shall be made at the panel shop prior to shipment. Travel and expenses for one Owner's representative and one Engineer's representative to conduct the acceptance test shall be provided by Contractor at no additional cost to Owner.
- B. Contractor shall notify Engineer 2 weeks prior to completion of the panel in order to schedule a date for the acceptance test.
- C. Control Pane(s)/RTU(s) shipped to the site without having an acceptance test shall be rejected.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Install in accordance with NECA "Standard of Installation." Install enclosures and boxes plumb. Anchor securely to wall and structural supports at each corner. Install cabinet fronts plumb.

3.2 CLEANING: GENERAL CONDITIONS - CONTRACT CLOSEOUT

- A. Cleaning installed Work. Clean electrical parts to remove conductive and harmful materials. Remove dirt and debris from enclosure. Clean finishes and touch up damage.

END OF SECTION

SECTION 40 61 32 - SCADA EQUIPMENT

PART 1 - GENERAL

1.1 SUMMARY

- A. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. This Section specifies requirements for Supervisory Control and Data Acquisition (SCADA) equipment which consists of the PLC, HMI / computer hardware, radios, radio antennas, power supplies, uninterruptible power supplies, networking equipment, and process software.

PART 2 - PLC SPECIFICATION SHEETS

2.1 PLC CONTROLLER

- A. Product Requirements:
 - 1. The PLC controller shall be Schneider Electric/Modicon M340BMXP342020.
 - 2. The PLC controller shall have the ability to have its firmware updated with new releases of compatible firmware from the manufacturer.
 - 3. The memory possessed by the PLC controller, with the exception of memory set aside for by the manufacturer for internal controller use, shall be user configurable in like file types, with no exception as to what the undefined memory shall become.
 - 4. The PLC controller shall be able to perform complex math calculations without the need of changing stored information from type to type, i.e., integer values shall be able to be used in math calculations involving floating point values without the need of changing either the floating point to integer or integer to floating point and so forth.
- B. Installation:
 - 1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.
 - 2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.2 ETHERNET COMMUNICATIONS MODULE

- A. Product Requirements:
 - 1. The PLC Ethernet communication module shall be Schneider Electric/Modicon BMXNOE0100.
 - 2. The Ethernet communication module shall be capable of servicing transmissions rates of up to 100 Mbps.
 - 3. The Ethernet communication module shall allow programming and data exchange connections via TCP/IP.
- B. Installation:
 - 1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.

2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.3 8 CHANNEL ANALOG INPUT MODULE

- A. Product Requirements:
 1. The 8 channel analog input module shall be Schneider Electric/Modicon BMXAMIO8100.
 2. The analog input module shall be a high resolution, isolated 8 channel analog input module capable of being placed within a modular chassis and communicate with the PLC controller via a backplane located in the chassis.
 3. The analog input module shall possess the ability of being placed anywhere within the modular chassis, with the exception of the space occupied by the PLC controller, and function as intended by the manufacturer.
 4. The analog input module shall have terminals located on its swing arm used to land field wiring.
 5. The analog input module shall be capable of receiving 4 to 20mA input signals from process devices and converting them for use by the PLC controller.
 6. The analog input module shall possess the capability of supplying power to 2-wire field devices via either its backplane power source or from an independent power source.
- B. Installation:
 1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.
 2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.4 4 CHANNEL ANALOG OUTPUT MODULE

- A. Product Requirements:
 1. The 4-Channel analog output module shall be Schneider Electric/Modicon BMXAO0410.
 2. The analog output module shall be 4 channel analog output module capable of being placed within a modular chassis and communicate with the PLC controller via a backplane located in the chassis.
 3. The analog output module shall possess the ability of being placed anywhere within the modular chassis, with the exception of the space occupied by the PLC controller, and function as intended by the manufacturer.
 4. The analog output module shall have terminals located on its swing arm used to land field wiring.
 5. The analog output module shall be capable of sending 4 to 20mA output signals to process device.
 6. The analog input module shall possess the capability of supplying power to 2-wire field devices via either its backplane power source or from an independent power source.
- B. Installation:
 1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.

2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.5 16 CHANNEL DISCRETE INPUT MODULE (24VDC)

- A. Product Requirements:
 1. The 16 channel 24VDC input module shall be Schneider Electric/Modicon BMXDDI1602.
 2. The input module shall possess the ability of being placed anywhere within the modular chassis, with the exception of the space occupied by the PLC controller, and function as intended by the manufacturer.
 3. The input module shall have terminals located on its swing arm used to land field wiring.
 4. The input module shall be capable of receiving discrete input signals from process devices and converting them for use by the PLC controller.
- B. Installation:
 1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.
 2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.6 16 CHANNEL OUTPUT MODULE

- A. Product Requirements:
 1. The 16-Channel output module shall be Schneider Electric/Modicon BMXDRA1605.
 2. The output module shall possess the ability of being placed anywhere within the modular chassis, with the exception of the space occupied by the PLC controller, and function as intended by the manufacturer.
 3. The output module shall have terminals located on its swing arm used to land field wiring.
- B. Installation:
 1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.
 2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.7 PLC CARD RACK

- A. Product requirements:
 1. The PLC card rack shall be Schneider Electric/Modicon BMXXBP1200.
 2. All input, output, communication, and controller modules shall properly fit inside the PLC chassis as recommended by the manufacturer.
 3. The card rack shall have the capability of being expanded by use of a remote I/O communication card.
 4. The card rack shall have the option of placing differing power supplies on the power supply connection located on the chassis.

B. Installation:

1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.
2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.8 PLC CHASSIS POWER SUPPLY

A. Product Requirements:

1. The PLC chassis power supply shall be Schneider Electric/Modicon BMXCPS3020.
2. The power supply shall be capable of being placed on the chassis as per manufacturer installation instruction.
3. The PLC chassis power supply shall not be separate from the chassis.

B. Installation:

1. Install in accordance with manufacturer's instructions and recommendations to the specified requirements.
2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

PART 3 - NETWORKING HARDWARE

3.1 NETWORK SWITCH

Total Ports:	10 VDC
RJ45 Ports:	8 Gigabit Ethernet
SFP Ports:	2 Gigabit Ethernet Slots
Inrush Current, Max:	0.55A
Power Input:	24 VDC
Power Consumption:	10W
Current, no:	DC 550mA
Current, max:	DC 1100mA
Wire size, gnd con.:	14AWG stranded
Wire size, DC power:	12 to 24 AWG stranded
Enclosure Type Rating:	None (open-style)
North American temp code:	T4
MAC addresses, max sup.:	8K
SFP modules:	Ordered separately, contractor to field verify, utilize SFP module matching that of existing fiber optic type utilized.
Temp, operating:	-4 degrees°C < Ta < + 75 degrees C (-40 degrees F < Ta < + 167 degrees F)
Temp, ambient, max:	75 degrees C (167 degrees F)
Temp, surrounding air, max:	75 degrees C (167 degrees F)
Temp, nonoperating:	-40 degrees C to +85 degrees C (-40 to +185 degrees F)
Relative humidity:	5 to 95 percent noncondensing
Mounting:	DIN rail

- A. Product Requirements:
 - 1. The network switch shall be a Modicon Model number MCSESM103F2CU0 or approved equal.
 - 2. The network switch shall be lean manageable.
 - 3. The network switch shall automatically detect the data transmission speed of up to 1,000.
 - 4. The network switch shall auto negotiate each port to establish a half or full duplex connection with 10 or 100 Mbps.
 - 5. The network switch shall be auto crossing to allow either 1:1 or crossover Ethernet copper cables.
- B. Installation:
 - 1. Install in accordance with manufacturer's instructions and the recommendations of API RP550 to the specified requirements.
 - 2. Miscellaneous installation hardware shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

PART 4 - POWER SUPPLIES/UPS/BATTERY

4.1 24 VDC POWER SUPPLY

- A. The 24 VDC Power Supply shall be a PULS Dimension series model number CP10.241 or approved equal.
- B. Minimum requirements of the power supplies are as follows:
 - 1. Nominal Input Voltage: 120VAC.
 - 2. Nominal Output Voltage: 24VDC.
 - 3. Nominal Output Current: 10A.
 - 4. AC Frequency Range: 45Hz to 65 Hz.
 - 5. Screw type connections.
 - 6. Input fusing.
 - 7. Parallel connection capability.
 - 8. Ambient Operating Temperature: -25 degrees C to 70 degrees C.
 - 9. Humidity: 95 percent (at 25 degrees C no condensation).

4.2 24 VDC UNINTERRUPTIBLE POWER SUPPLY

- A. The 24 VDC Uninterruptible Power Supply shall be a PULS Dimension series model number UBC10.241 or approved qual.
- B. Minimum requirements of the power supplies are as follows:
 - 1. Nominal Input Voltage: 24VDC.
 - 2. Nominal Output Voltage: 24VDC and 12VDC.
 - 3. Nominal Output Current: 10A.
 - 4. Screw type connections.
 - 5. Input fusing.
 - 6. Parallel connection capability.
 - 7. Ambient Operating Temperature: -25 degrees C to 70 degrees C.
 - 8. Humidity: 95 percent (at 25 degrees C no condensation).

4.3 REDUNDANCY MODULE

- A. The redundancy module shall be a PULS Diode redundancy module model number YRM2.DIODE or approved equal.
- B. Minimum requirements of the redundancy module is as follows:
1. Input Current: 2x10A.
 2. Nominal Current per Input: 10A.
 3. DC Input Voltage: DC 24V to 48V.
 4. Voltage Drop: 800mV.
 5. Output Current Range: 20A.
 6. Output Current: 20A.
 7. Output Current Short Circuit Max: 25A.
 8. Derating: 0.5W/degree C for >+60 degrees C.
 9. Mounting: DIN rail.
 10. Operating Temp. Range: -40 degrees C to 70 degrees C.
 11. Connection Method: Screw terminals.
 12. Power Losses, Typical: 9.0W.
 13. No-Load Losses, Typical: 1W.

PART 5 - WIRELESS COMMUNICATION

5.1 ETHERNET RADIO ACCESS POINT

Radio Cambium:	PMP 450i Fixed Wireless Access Point Product, 5 GHz Model Number Integrated 90 degree sector C050045A006C	
Spectrum:	Channel Spacing Configurable on 2.5 MHz increments Frequency Range 5 GHz 4,900 to 5,925 MHz Channel Width 5 MHz, 15 MHz, 20 MHz, 30 MHz, or 40 MHz	
Interface:	MAC (Media Access Control) Layer Cambium Networks proprietary Physical Layer 2 by 2 MIMO OFDM Ethernet Interface 100/1,000 BaseT, full duplex, rate auto negotiated (802.3 compliant) Protocols Used IPv6, UDP, TCP/IP, ICMP, Telnet, SNMP, HTTP, FTP Network Management IPv4/IPv6 (dual stack), HTTP, HTTPS, Telnet, FTP, SNMPv2c, and v3, Cambium Networks cnMaestro™ MTU 1,700 bytes VLAN 802.1ad (DVLAN Q-in Q), 802.1Q with 802.1p priority dynamic port VID	
Performance:	Subscriber Per Sector Up to 238 ARQ Yes	
	Modulation Levels (Adaptive)	Signal to Noise Required (SNR, in dB)
	2x	QPSK 10
	4x	16QAM 17
	6x	64QAM 24
	8x	256QAM 32
	Maximum Deployment Range Up to 40 miles (64 km)	
	Latency 3 to 5 ms, typical	
	GPS Synchronization Yes, via Autosync (CMM5 or UGPS)	

Link Budget:	Quality of Service Diffserve QoS Integrated Sector Antenna 90 degrees Azimuth (3dB rolloff) Antenna Gain 17 dBi $\pm$ 1dBi integrated 90/120 degree sector Maximum Transmit Power +28 dBm (MIMO, Combined H+V) (may be limited by regulations) Maximum EIRP +43 dBm combined output (may be limited by regulations) VSWR 1.5, Reflection Coefficient 0.2, Reflected Power 4 percent, Return Loss 14 dB
Physical:	Power Control ATPC (Automatic Transmit Power Control) at system level, all Subscribers implement ATPC Surge Sup pression (LPU fitted) EN61000-4-5:1.2us/50/us, 500V voltage waveform. Recommended Surge Suppressor: Cambium Networks Model # C000000L033A Mean Time Between Failure >40 Years Dust and Water Ingress Protection Rating IP67, IP66 Temperature/Humidity -40 degrees C to +75 degrees C (-40 degrees F to +167 degrees F), 0 to 100 percent condensing Weight Integrated Approx. 6.3 kg (14 lbs) Wind Survival 322 km/h (200 mi/h) Vibration NEMA TS2 Section 2.1.9 and Section 2.2.3 Shock NEMA TS2 Section 2.1.10 and Section 2.2.4 External Icing NEMA 250 to 2003 Section 5.6 Dimensions (H by W by D) 90 degree Integrated 59.1 by 23.3 by 15.8 cm (23.3 by 6.2 by 5.8 inches) Power Consumption 15W typical, 18W max, Using Aux port PoE for another device will increase power draw Input Voltage 48 to 59V DC, 802.3 at compatible
Security:	Encryption FIPS-197 128-bit AES, 256-bit AES (Requires Optional License)
Certifications 5 GHz:	FCC ID QWP-50450I CE EN 301 893 v2.1.1 EN 302 502 v2.1.1

5.2 ETHERNET RADIO CLIENT/END-POINT

Model	LBE-5AC-LR
Dimensions	512.5 by 385.75 by 258.3 mm (20.18 by 15.19 by 10.17 inches)
Weight Without Mount	1.360 kg (2.998 lb)
Weight With Mount	1.735 kg (3.825 lb)
Power Supply	24V, 0.3A Gigabit PoE Adapter (Included)
Max. Power Consumption	7W
Power Method	Passive PoE (Pairs 4, 5+; 7, 8 Return)
Supported Voltage Range	24V $\pm$ 10 percent
Gain	26 dBi
Networking Interface	(1) 10/100/1,000 Ethernet Port
Processor Specs	MIPS 74Kc Memory 64 MB DDR2
LEDs	Power, Ethernet
Channel Sizes	PtP Mode PtMP Mode 10/20/30/40/50/60/80 MHz 10/20/30/40 MHz Enclosure

Characteristics	Reflector (Aluminum) / Plastic: PC
Mounting	Pole-Mounting Kit (Included)
Wind Loading	550 N @ 200 km/h (123.6 lbf @ 125 mph)
Wind Survivability	200 km/h (125 mph)
ESD/EMP Protection	± 24 kV Contact / Air
Operating Temperature	-40 to 70 degrees C (-40 to 158 degrees F)
Operating Humidity	5 to 95 percent Noncondensing
Certifications	CE, FCC, IC Operating
Frequency (MHz)	US/CA U-NII-1: 5,150 - 5,250 U-NII-2A: 5,250 - 5,350 MHz U-NII-2C: 5,470 - 5,725 MHz U-NII-3: 5,725 - 5,850
Management Radio (MHz)	US/CA 2,412 - 2,462
System Documentation	1 - Electronic System Documentation and Open Manage DVD Kit, Powerededge T440 631-ABLM/5106454
Enabled Virtualization	Hyper-V role enabled with pre-installed STD or DC Ed OS on incl Virtual HDD 618-BBEC / HPRVHDD
Microsoft SQL Server	1 - Microsoft SQL Server 2019 Standard,OEM, Includes 5 Device CALs, NFI, ENGLISH 634-BUWS/G7LSC35
OCONUS	None
SERVICES & SUPPORT	
Warranty	Basic Next Business Day 12 Months, 12 Month(s) 709-BBFC/GCMBF11
Extended Services	Basic Next Business Day, 36 Month(s) 865-BBLH/G0SA8U7

PART 6 - PROCESS SOFTWARE

6.1 PLC CONTROLLER PROGRAMMING AND HMI SOFTWARE

A. Product Requirements

1. The PLC controller programming software shall be EcoStruxure Control Expert large single user. Model #CEXSPUCZLSPMZZ or approved equal.

END OF SECTION

SECTION 40 70 00 - INSTRUMENTATION FOR PROCESS SYSTEMS

PART 1 - GENERAL

1.1 SUMMARY

- A. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. It is anticipated that the interconnections between the various items of electrical and mechanical equipment and the control system will require coordination and in some cases interface devices such as, but not limited to, couplings, flanges, reducers, converters, conduit, relays, contacts, wiring, etc., will be required whether or not these items are shown on the Drawings. It is General Contractor's responsibility to provide the necessary coordination and interface devices at no additional cost to Owner.

1.2 REQUIREMENTS OF REGULATORY AGENCIES AND STANDARDS

- A. Regulatory Agencies: Installation, materials, equipment, and workmanship shall conform to the applicable provisions of the following:
 - 1. National Fluid Power Association (NFPA).
 - 2. National Electrical Code (NEC).
 - 3. National Electrical Safety Code (NESC).
- B. Reference Title:
 - 1. API RP550-86 - Manual of Installation of Refinery Instruments and Control Systems, Part I - Process Instrumentation and Control Sections 1 Through 13.
 - 2. ISA S51.1-79 - Process Instrumentation Terminology.
 - 3. NEMA 250-85(1988) - Enclosures for Industrial Controls.
 - 4. NFPA 70 - National Electric Code (NEC).
 - 5. ANSI T2.24.1 - Hydraulic Fluid Power - Systems standard for stationary industrial machinery.
 - 6. NFPA T3.5.49 - Recommended Practice - Hydraulic Fluid Power - Application guidelines for hydraulic valves.
- C. Should Contractor observe any conflict or variation in the Plans and Specifications, he shall notify Engineer in writing not later than 10 days prior to date of bid opening. Failure to clarify such variations will result in Contractor bearing all costs arising from electrical work done contrary to either the Specifications or Drawings.
- D. Electrical Contractor shall coordinate all conduit runs, control wiring and electrical connections to equipment items furnished by Mechanical Contractor, General Contractor, Instrumentation Contractor, Owner, and other Contractors under other Sections of these Specifications.

1.3 RECORD DRAWINGS

- A. During progress of the Work, maintain a clean full set of Project Plans to be used to record accurate re-lined changes to the installation of the system. Upon completion of the installation, submit the full set of re-lined Drawings with all record data to Engineer.

1.4 SUBMITTALS

- A. Materials List: Within 15 days after Award of Contract, Contractor shall submit to Engineer, electronically a list of all equipment to be furnished. Where substitutions are proposed, complete data must be furnished showing performance, quality, and dimensions. Written approval of Engineer must be obtained before purchasing any substitute equipment.
- B. Submit under provisions of Section 01 33 00 "Submittal Procedures."
- C. Shop Drawings: Submit for approval electronic copies of all Shop Drawings after the material list has been approved and prior to ordering. Show complete outlines, dimensions, electrical services, control diagrams, electrical characteristics of a special nature or critical to the installation and pertinent data required for installation. All descriptive and technical data and Shop Drawings shall bear signed certification to the effect that they have been carefully examined and found to be correct with respect to dimension, space available, non-interference with other trades and that the equipment complies with all the requirements of these Specifications. Where catalog data are submitted, the proposed items shall be clearly "flagged" or otherwise identified, so that no confusion exists. In addition to specific references or requests, submit Shop Drawings for the following applicable items: motor starters, switches, control devices, control systems, and sensing equipment.
- D. Substitutions: Proposed substitutions of electrical equipment, control devices, and other equipment shall be submitted with other submittal data. This request shall be accompanied by complete descriptions of the substitutes offered, including catalog cuts. The entire burden of proof of equality shall be placed on Contractor and the decision of Engineer shall be final.
- E. Submit under provisions of Section 01 60 00 "Product Requirements."
- F. Test Data: Provide electronic copies of all data obtained during tests required in Specifications. Data shall be organized in an orderly fashion, typed and indicate the result of each test.

1.5 OPERATING INSTRUCTIONS AND MANUALS

- A. Without additional charge to Owner, furnish complete instruction to Owner in the care, adjustment, and operation of all parts of the electrical equipment and systems. Upon completion of the Work, prepare and deliver to Owner 4 sets of complete operating and maintenance manuals for the systems and major equipment installed. Include catalog data, Shop Drawings, wiring diagrams, performance curves, rating data, spare parts lists, and manufacturer's operating maintenance data.
- B. The above requirements are in addition to specific instructions and manuals specified for individual systems or equipment.

1.6 SCOPE

- A. This Section specifies general requirements, which are applicable to all process control and instrumentation. The process instrumentation system consists of process sensors, monitoring, actuators, and accessories required to provide a complete and functional monitoring and control system.
- B. Contractor shall provide the services of instrument technicians to implement the requirements of this Section. Instrument technicians shall have a minimum of 5 years' experience in controls, automation, and/or system integration.
- C. Contractor shall examine the Site, Drawings, and Specifications to determine actual locations, sizes, materials, and ratings of process connections. Process taps shall be indicated on piping Shop Drawings as specified.

- D. Contractor shall furnish and install a control panel/RTU(s) as part of this Project. These panels shall be custom built as per the Drawings in a panel shop that has a minimum of 10 years' experience in the manufacturing of similar control panel/RTU(s).
- E. Owner and Engineer shall perform an acceptance test of each control panel/RTU(s) at the panel shop prior to shipment. This test shall consist of a visual inspection for conformance with these Specifications, powering up the panel, loading a test program into the PLC, and testing all wiring and devices installed in the panel. Any corrections necessary for a fully functional control panel/RTU per process area as detailed in the Drawings and these Specifications shall be made at the panel shop prior to shipment. Travel and expenses for one Owner's representative and one Engineer's representative to conduct the acceptance test shall be provided by Contractor at no additional cost to Owner.

PART 2 - PRODUCT

2.1 MATERIALS AND QUALITY

- A. Material shall be new, free from defects, and of the quality specified. Each type of instrument, instrument accessory, and device shall be by the same manufacturer throughout the Work.
- B. Electronic equipment shall be of solid state construction unless otherwise specified. Components of standard electronic assemblies shall not be replaced with components of different characteristics in order to meet the performance requirements of this Specification. Parts shall be as shown in the instruction manuals and shall be replaceable with standard commercial components of the same description without degrading the performance of the completed assembly.

2.2 CATALOG CUTS

- A. Contractor shall provide catalog cuts for equipment to be provided. Catalog information shall include Technical Specifications and application information for each piece of equipment. Catalog cuts shall be edited to indicate only those items, model or series of equipment which are being provided. All extraneous materials shall be crossed out or otherwise obliterated.

2.3 INSTALLATION

- A. Installation and testing procedures shall be as specified in this and subsequent Sections of this Division. Equipment shall be located so that it is readily accessible for operation and maintenance.
- B. Where instrumentation installation procedures are not specified herein, API RP550 shall be used as a guide. Final connections between rigid raceway systems and instruments shall be made with liquidtight flexible metal conduit with a maximum length of 2 feet.
- C. Where stainless steel tubing installation procedures are not specified herein, Swagelok Tube Fitter's Manual shall be used as a guide.

2.4 FIELD EQUIPMENT

- A. Equipment shall be provided as specified on the Drawings such that ports and adjustments are accessible for in-place testing and calibration. Where possible, equipment shall be located between 48 inches and 60 inches above the floor or a permanent work platform. Instrumentation equipment shall be mounted for unobstructed access, but mounting shall not obstruct walkways.
- B. Equipment shall not be mounted where shock or vibration will impair its operation. Support systems shall not be attached to handrails, process piping or mechanical equipment except for measuring elements and valve positioners. Instruments and cabinets supported directly by concrete or concrete block walls shall be spaced out not less than 5/8-inch by framing channel between instrument and wall.
- C. Steel used for support of equipment shall be hot-dip galvanized after fabrication. Support systems including panels shall be designed in accordance with SBC for seismic zone 1 and to prevent deformation greater than 1/8-inch under the attached equipment load and an external load 200 pounds in any direction.

2.5 ELECTRICAL POWER CONNECTIONS

- A. Electric power wiring and equipment shall comply with Division 26.

2.6 SIGNAL CONNECTIONS

- A. Electric signal connections to equipment shall be made on terminal blocks or by locking plug and receptacle assemblies.
- B. Liquidtight flexible metal conduit shall be used between equipment and rigid raceway systems except that flexible cable assemblies may be used where plug and receptacle assemblies are provided and the installation is not subject to mechanical damage in normal use.
- C. The length of flexible conduit or cord assemblies shall not exceed 2 feet. Flexible cable, receptacle and plug assemblies shall be used only where specified. Wire splicing shall not be accepted.
- D. All wires shall be labeled.
 - 1. Wire markers shall be Raychem Part No. RPS-1K-18-12/2.0-9 Heat Shrink wire markers.
 - 2. Wire markers shall be legible and properly aligned after heat shrinking.
 - 3. Finished markings shall be aligned and positioned so that they can be easily read without manipulation of the wire.
 - 4. Wire markers shall designate the termination point of the opposite end of the wire (i.e. "destination type wire tagging").

2.7 STAINLESS STEEL TUBING

- A. Tubing shall be Stainless Steel, high quality, fully annealed, seamless Type 316 austenitic stainless steel hydraulic tubing ASTM A213, A269, A632 or equivalent. Hardness Rb80 or less.
- B. Installed tubing is to be free of scratches, wrinkles, flattened bends, kinked bends, or defects.
- C. Tubing shall run clear of bolts and equipment that must have access for maintenance.
- D. Tubing shall remain clear of controls and not prohibit the operator's access to controls.
- E. Long runs of tubing shall be supported to prevent sagging.
- F. All fittings and valves shall be Swagelok Stainless Steel Tube Fittings.

PART 3 - EXECUTION

3.1 OWNER'S RESPONSIBILITY

- A. Contractor shall utilize the control narrative/strategy as developed by Engineer for proper coding and integration of new automated control devices and instruments under this Project.
- B. Owner shall conduct loop commissioning through the PLC after Contractor has completed responsibilities in 3.2 below.

3.2 CONTRACTOR'S RESPONSIBILITY

- A. Contractor shall be responsible for writing and implementing the station control program and Human Machine Interface (HMI) within the treatment plant's current control and HMI systems respectively.
- B. Contractor shall be responsible for coordinating with Owner and Engineer for testing of the control panel/RTU(s) ability to properly convey control and monitoring of connected equipment as well as the proper function of the control panel/RTU(s) internally mounted equipment.
- C. Contractor shall allot at least 2 weeks to Owner for testing of the written control sequences and HMI screen modification (s). Contractor shall be available during this time to address any items that may arise during the testing of the written control sequences and HMI screen modification(s).
- D. Contractor shall be responsible for furnishing and installing the control panel(s)/RTU(s) as shown on the Drawings.
- E. Contractor shall be responsible for furnishing and installing all instrument devices as shown on the Drawings and conduits and cabling to each instrument.
- F. All field terminations shall be done on the left side of control panel(s)/RTU(s) terminal blocks and fuses.
- G. Contractor shall be responsible for calibrating all field devices, performing individual loop tests and setting ranges, or other parameters, required for field devices. All calibration, loop tuning, and other data sheets required in these Specifications shall be the responsibility of Contractor. Contractor shall conduct loop checks, calibration and tuning of devices from the field side of the control panel(s)/RTU(s) terminal blocks.
- H. Contractor shall provide the assistance of an Instrument Technician during loop commissioning and system start-up.

3.3 TESTS AND INSPECTIONS

- A. Materials, equipment, and construction included under this Specification shall be inspected in accordance with this Project Manual. Testing shall be performed by Contractor in accordance with this and subsequent sections or, if applicable, witnessing the test.
- B. Contractor shall notify Engineer upon arrival of any material or equipment to be incorporated into the Work and shall remove protective covers or otherwise provide access in order that Construction Manager may inspect such items.
- C. Stainless steel tubing and piping systems shall be tested for leaks.

3.4 TEST REPORTS

- A. Test reports shall be provided by Contractor for all field devices connected to the automation controller. Test reports shall include but are not limited to self-excited/passive instrument type, field termination location, automation controller enclosure terminal location, gauge and type of conductor(s), tag information of device, wire identification/tag/marker as indicated on Project Drawings, color of connected conductor, range of analog signal both electrically and process specific, comments related to installation and testing of device, functional description of device, etc.
- B. The forms as indicated in Section 40 61 10 "Process Control Forms" are examples of test/field reports. Contractor can utilize the forms as included or provide others as long as the information included follows that of this Section.

3.5 INDIVIDUAL COMPONENT CALIBRATION AND TEST

- A. Each instrument and final element shall be field calibrated in accordance with the manufacturer's recommended procedure. Instruments shall then be tested in compliance with ISA S51.1 and the data entered on the applicable test form.
- B. Any component, which fails to meet the required tolerances, shall be repaired by the manufacturer or replaced, and the above tests repeated until the component is within tolerance.

3.6 LOOP TEST

- A. Each instrument loop shall be tested as an integrated system starting at the primary measuring element and ending at the PLC panel terminal blocks. Contractor shall provide power supplies, meters, signal generators, and any other equipment necessary to accomplish loop tests.
- B. If any output device fails to indicate properly, corrections to the loop circuitry shall be made as necessary and the test repeated until all instruments operate properly.

END OF SECTION

SECTION 40 71 13 - MAGNETIC FLOW METERS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Magnetic flow meters.
 - 2. Transmitters.
 - 3. Indicators.
 - 4. Recorders.
 - 5. Integrators.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.
 - 2. Section 26 27 26 "Wiring Devices" for control power wiring requirements.

1.2 REFERENCE STANDARDS

- A. American Water Works Association:
 - 1. AWWA M6 - Water Meters - Selection, Installation, Testing, and Maintenance.
 - 2. AWWA M33 - Flowmeters in Water Supply.
- B. ASME International:
 - 1. ASME B16.1 - Gray Iron Pipe Flanges and Flanged Fittings: Classes 25, 125, and 250.
- C. NSF International:
 - 1. NSF 61 - Drinking Water System Components - Health Effects.
 - 2. NSF 372 - Drinking Water System Components - Lead Content.

1.3 COORDINATION

- A. Refer to Section 01 30 00 "Administrative Requirements" for requirements for coordination.
- B. Coordinate Work of this Section with piping Work.

1.4 SUBMITTALS

- A. Refer to Section 01 33 00 "Submittal Procedures" for requirements for submittals.
- B. Product Data: Submit manufacturer information for system materials and component equipment, including connection requirements.
- C. Shop Drawings:
 - 1. Indicate system materials and component equipment.
 - 2. Submit installation requirements and other details.
- D. Manufacturer's Certificate: Certify that products meet or exceed specified requirements.
- E. Source Quality-Control Submittals: Indicate results of factory tests and inspections.
- F. Field Quality-Control Submittals: Indicate results of Contractor-furnished tests and inspections.
- G. Manufacturer Reports: Certify that equipment has been installed according to manufacturer instructions.
- H. Qualifications Statement:
 - 1. Submit qualifications for manufacturer.

1.5 CLOSEOUT SUBMITTALS

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for submittals.
- B. Project Record Documents: Record actual locations and final orientation of equipment and accessories.

1.6 QUALITY ASSURANCE

- A. Ensure that materials of construction of wetted parts are compatible with process liquid.
- B. Materials in Contact with Potable Water: Certified to NSF 61 and NSF 372.
- C. Perform Work according to manufacturer's standards.

1.7 QUALIFICATIONS

- A. Manufacturer: Company specializing in manufacturing products specified in this Section with minimum 3 years' experience.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Refer to Section 01 60 00 "Product Requirements" for requirements for transporting, handling, storing, and protecting products.
- B. Inspection: Accept materials on Site in manufacturer's original packaging and inspect for damage.
- C. Store equipment according to manufacturer instructions.
- D. Protection:
 - 1. Protect materials from moisture and dust by storing in clean, dry location remote from construction operations areas.
 - 2. Provide additional protection according to manufacturer instructions.

1.9 WARRANTY

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for warranties.

PART 2 - PRODUCTS

2.1 SYSTEM DESCRIPTION

- A. Furnish sensors, field preamplifiers, signal conditioners, offset and span adjustments, amplifiers, transducers, transmitters, control devices, interconnecting cables, and unit conversions and algorithms as required for application.

2.2 MAGNETIC FLOW METERS

- A. Manufacturers:
 - 1. Endress-Hauser.
 - 2. Krohne.
 - 3. Rosemount; Emerson Electric Co., Automation Solutions.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements."

- C. Description: Low-frequency, electromagnetic induction-type flow meter, producing a linear signal directly proportional to flow rate, consisting of flow tube, signal cable, and transmitter.
- D. Performance and Design Criteria:
 - 1. Design: According to AWWA M33.
- E. Flow Rate Range: 100 to 800 gpm.
- F. Size: As indicated on Drawings.
- G. Flow Tubes:
 - 1. Material: Type 304 stainless steel with polyurethane liner.
 - 2. Length: As indicated on Drawings.
 - 3. End Connections: Flanged, ASME B16.1, carbon steel.
- H. Electrodes:
 - 1. Type 316L stainless steel.
 - 2. Self-cleaning.
- I. Accuracy: Plus or minus 1 percent of actual flow rate over a 10:1 range.
- J. Provide adjustment for zero and span.
- K. Accessories:
 - 1. Furnish cable between transmitter and receiver.

2.3 TRANSMITTERS

- A. Transmitter Output:
 - 1. 4- to 20-mA dc analog signal.
 - 2. Accuracy: Plus or minus 0.1 percent of full scale.
- B. Housing Material: Cast aluminum.
- C. HMI:
 - 1. Touch-screen programming, functioning through enclosure window without opening enclosure.
 - 2. Display:
 - a. Size: Four lines by 16 characters.
 - b. Type: Backlit digital display.
 - c. User-selectable engineering units.
 - d. Readout of diagnostic error messages.
- D. Mounting:
 - 1. Integral or remote mounting up to 100 feet from flow meter.
 - 2. Mounting Locations Less Than 4 Feet above Grade: Provide stainless-steel mounting posts.
- E. Transmitter Communication Interface: Ethernet.
- F. Accessories:
 - 1. Current signal output simulation.
 - 2. Empty pipe detection.
 - 3. Self-diagnostics.
 - 4. Automatic zero adjustment.
 - 5. Stainless-steel sunshield.
 - 6. Signal Cable: Provided by flow meter manufacturer.

2.4 INDICATORS

- A. Manufacturers:
 - 1. Precision Digital Corporation.
 - 2. SeaMetrics, Inc.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- C. Description:
 - 1. Integrally mounted in transmitter housing.
 - 2. Scale: Graduated.
 - 3. Length: To be field verified.
 - 4. Units: Totalizer mgd.
 - 5. Mounting: Remote wall mount.

2.5 RECORDERS

- A. Manufacturers:
 - 1. Foxboro; an Invensys Inc. brand.
 - 2. Honeywell International Inc.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- C. Description:
 - 1. Minimum Diameter: 10 inches.
 - 2. Drive Mechanism:
 - a. Synchronous motor.
 - b. 120-V ac, 60 Hz.

2.6 INTEGRATORS

- A. Manufacturers:
 - 1. Precision Digital Corporation.
 - 2. SeaMetrics, Inc.
- B. Substitutions: As specified in Section 01 60 00 "Product Requirements."
- C. Description:
 - 1. Totalize flow in specified units.
 - 2. Interface with specified flow meter assembly.
 - 3. Accuracy: Plus or minus 0.25 percent of full scale.

2.7 OPERATION

- A. Control Power:
 - 1. Wiring: As specified in Section 26 27 26 "Wiring Devices."
 - 2. 120-V ac, single phase, 60 Hz.
 - 3. Furnish local transformers as required.
- B. Enclosures: NEMA IP68 outdoor rated enclosure.

2.8 SOURCE QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for testing, inspection, and analysis.
- B. Provide shop inspection and testing of meters according to AWWA M6.
- C. Certificate of Compliance:

1. If manufacturer is approved by authorities having jurisdiction, submit certificate of compliance indicating Work performed at manufacturer's facility conforms to Contract Documents.
2. Specified shop tests are not required for Work performed by approved manufacturer.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for installation examination.
- B. Verify that items provided by other Sections of Work are ready to receive Work of this Section.

3.2 INSTALLATION

- A. Coordinate location and orientation of flow meter with final equipment installations.
- B. Ensure that instruments are located to be easily accessible for maintenance.

3.3 FIELD QUALITY CONTROL

- A. Refer to Section 01 40 00 "Quality Requirements" for requirements for inspecting and testing.
- B. Testing:
 1. Test and calibrate flow meter to demonstrate that it meets specified accuracy requirements.
 2. Comply with AWWA M6.
- C. Equipment Acceptance:
 1. Adjust, repair, modify, or replace components failing to perform as specified and rerun tests.
 2. Make final adjustments to equipment under direction of manufacturer's representative.
- D. Furnish installation certificate from equipment manufacturer's representative attesting that equipment has been properly installed and is ready for startup and testing.

3.4 DEMONSTRATION

- A. Refer to Section 01 70 00 "Execution and Closeout Requirements" for requirements for demonstration and training.
- B. Demonstrate equipment startup, shutdown, routine maintenance, and emergency repair procedures to Owner's personnel.

END OF SECTION

SECTION 40 73 29 - TRANSMITTERS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes specific requirements for transmitters, event switches, etc.
- B. Related Requirements:
 - 1. Division 01 Specification Sections apply to Work of this Section.

1.2 REFERENCES

- A. This Section contains a reference to the document listed. Additional references are listed in Section 40 70 00 "Instrumentation for Process Systems." They are a part of this Section as specified and modified. In case of conflict between the requirements of this Section and those of the listed document, the requirements of this Section shall prevail.
 - 1. NEMA 250-85 - Enclosures for Electrical Equipment.

1.3 GENERAL REQUIREMENTS

- A. Unless otherwise specified, measuring elements, transmitters, and process switches shall comply with the following requirements.
 - 1. Transmitters shall be two-wire type with operating power derived from the signal transmission circuit, unless otherwise specified.
 - 2. Transmitter output shall be 4 to 20 milliamperes, current regulated and shall drive any load between 0 and 550 ohms with the power supply at 23 volts DC.
 - 3. Transmitters shall meet specified performance requirements with load variations within the range of 0 to 600 ohms with the power supply at 24 volts DC.
 - 4. Transmitter output shall be galvanically isolated.
 - 5. Transmitters output shall increase with increasing measurement.
 - 6. Transmitters enclosures shall be rated NEMA 250, Type 4, unless otherwise specified
 - 7. Transmitters located outdoors shall be provided with surge protectors: MTL Inc. SD series with replaceable fuse and disconnect features, or equal.
 - 8. Where two-wire transmitter is located in an area classified as hazardous, it shall be made safe by means of an intrinsic safety barrier.
 - 9. Where four-wire transmitters are permitted, they shall be provided with a loop powered signal current isolator connected in the output signal circuit.

PART 2 - PRODUCT

- 2.1 The following instrument specification sheets are included in this Section:

INSTRUMENT SYMBOL	INSTRUMENT DESCRIPTION	INSTRUMENT FUNCTION
PIT/PE	Pressure Indicating Transmitter	Gauge Pressure
FIT/FE	Flow Indicating Transmitter	Magnetic Flow Measurement

2.2 PRESSURE INDICATING TRANSMITTER (PIT)

IDENTIFICATION:	PIT
Function:	Pressure Indicating Transmitter
Description:	Gauge Pressure Measurement
Power Supply:	24VDC
	10.5 to 55 VDC, with no load
Signal Input:	Process
Pressure Range:	0 to 300 PSIG
Reference Accuracy:	±0.065 percent of span
Long Term Stability:	±0.125 percent of URL for 5 years
Signal Output:	4 to 20mA
Dynamic Performance:	Response time – 100ms for 4-20mA
	Dead time – 45ms (nominal)
	Update Rate – 22 times per second
Vibration Effect:	@ resonant frequency < ±0.1 percent of URL per g between 15 and 2,000 Hz in any axis relative to pipe-mounted process conditions
Power Effect:	< ±0.005 percent of span per volt
RFI Effect:	±0.1 percent of span from 20 to 1,000 MHz and field strength ≤ 30 V/m
Process Connection:	1/2-inch NPT Female
Isolating Diaphragm:	316L SST
Process Wetted Parts:	316L SST
Wetted O-Rings:	Glass-filled PTFE
Fill Fluid:	Silicone
Housing Material:	Polyurethane-covered Aluminum
Conduit Entry Size:	1/2-Inch – 14 NPT
Indication:	5-digit LCD display
IDENTIFICATION:	PIT
Overpressure Limit:	1,500 PSI
Burst Pressure:	11,000 PSI
Temperature Limit:	Process – -40 to +250 degrees F

A. Product Requirements:

1. The transmitter shall be a Rosemount 3051TG series pressure transmitter or approved equal.
2. The transmitter shall be a two-wire, capacitance high-performance gage pressure transmitter.
3. The transmitter shall be configured assembled to an integral manifold of the same manufacturer. The manifold shall be made of 316L stainless steel and provide a 1/2-inch NPT male process connection and the proper manufacturer instrument connection. The manifold shall possess two valves; one for isolation of the transmitting instrument and one to allow for process isolation from the transmitter for calibration purposes.
4. The transmitter data shall be stored in nonvolatile EEPROM memory.

5. The transmitter's outputs shall be a 4 to 20mA analog signal, user-selectable linear or square root, with a superimposed digital signal. Analog output shall be adjustable remotely with a field communicator or control system. Zero and span adjustments shall also be available on the transmitter.
 6. The transmitter shall be provided with mounting optional manufacturer mounting hardware.
- B. Installation:
1. Install in accordance with manufacturer's instructions and the recommendations of API RP550 to the specified requirements.
 2. Root valves shall be provided at all process pressure taps. Gage valves shall be provided at the instrument where the instrument is not within sight of the root valve or where two or more instruments are connected to a single tap. Safety instruments shall not be connected to the same process tap as instruments used for control, indication, or recording. Unless otherwise specified, pressure instruments shall be located as close as practical to the process tap but shall be positioned to permit observation and maintenance.
 3. Pressure instruments shall not be supported from process piping.
 4. Miscellaneous installation hardware such as isolation valves and mounting brackets shall be furnished and installed by Contractor as indicated on Drawings and as recommended by the manufacturer's installation instructions.

2.3 FLOW INDICATING TRANSMITTER (FIT)

IDENTIFICATION:	FIT
Max. Measurement Error:	
Volume Flow (standard):	± 0.5 percent or ± 1 mm/s (0.04 in/s), Flat Spec
Measuring Range:	2.5 gal/min to 100,000 gal/min
Medium Temperature Range:	Liner material hard rubber: 0 to ± 80 degrees C (±32 to ±176 degrees F)
Max. Process Pressure:	PM 40, Class 300, 20K
Wetted Materials:	Liner material hard rubber: 0 to ± 80 degrees C (±32 to ±176 degrees F)
Electrodes:	316L
Measuring Principle:	Electromagnetic
Nominal Diameter Range:	DN 25 to 2,400 (1 to 90 inches): See Project Drawings for diameter requirements.
Ambient Temperature Range:	Liner material hard rubber: 0 to ± 80 degrees C (±32 to ±176 degrees F)
Sensor Housing Material:	
DN 25 to 300 (1 to 12 inches):	AlSi10Mg, coated
DN 25 to 2,000 (1 to 78 inches):	Carbon steel with protective varnish.
Sensor Connection Housing (standard):	AlSi10Mg, coated
Transmitter Housing Material:	Polycarbonate; AlSi10Mg, coated
Degree of Protection:	
Compact Version:	IP66/67, type 4X enclosure
Sensor Remote Version (standard):	IP66/67, type 4X enclosure

Sensor Remote Version (option):	IP68, type 6P enclosure, with protective varnish according to EN ISO 12944 C5-M/lm1/lm2/lm3
Transmitter Remote Version:	IP66/67, Type 4X enclosure
Display/Operation:	4-line backlit display with touch control (operation from outside) Configuration via local display, web browser and operating tools.
Outputs:	
3 Outputs:	0 to 20 mA/4 to 20mA HART (active) Pulse/frequency/switch output (passive) Pulse/frequency output (passive) Switch output (passive)
IDENTIFICATION:	FIT
Inputs:	Status input
Digital Communication:	HART, PROFUBUS DP, EtherNet/IP, Modbus RS485
Power Supply:	AC 100 240 V/ AC/DC 24 V
Hazardous Area Approvals:	cCSAus
Metrological Appr. and Cert.:	Calibration performed on accredited calibration facilities (acc. to ISO/IEC 17025), NAMUR
Custody transfer according to MI-001 or OIML R49 (optional Class I in combination with 0DN inlet run)	
Pressure Appr. and Cert.:	CRN
Material Certificates:	3.1 material
Hygienic Appr. and Cert.:	Drinking water approval: ACS, KTW/W270, NSF 61, WRAS BS 6920

- A. Product Requirements
 - 1. The flow indicating transmitter (FIT) shall be an Endress-Huaser Electromagnetic Flowmeter Proline Promag 400 series or approved equal.
 - 2. The transmitter shall be connected to an external converter to be remotely mounted.
 - 3. Contractor shall supply a test simulator in order to calibrate and test the transmitter and converter without the convenience of process.
- B. Installation:
 - 1. Install in accordance with manufacturer's instructions and the recommendations of API RP550 to the specified requirements.
 - 2. Contractor shall provide all necessary hardware for proper installation of the FIT.

PART 3 - EXECUTION (Not Used)

END OF SECTION

APPENDIX A
BORING LOG AND TEST HOLE DATA

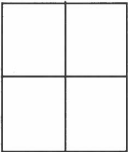
Sec. _____ Blk _____
Survey _____ Co. Martin
N. 32.39300° W. 102.14978°



No. 29652

P.O. Box 784
Sunray, Texas 79086
(806) 948-4421

Paul Davis Well Field



Test ☒ Waterwell ☐

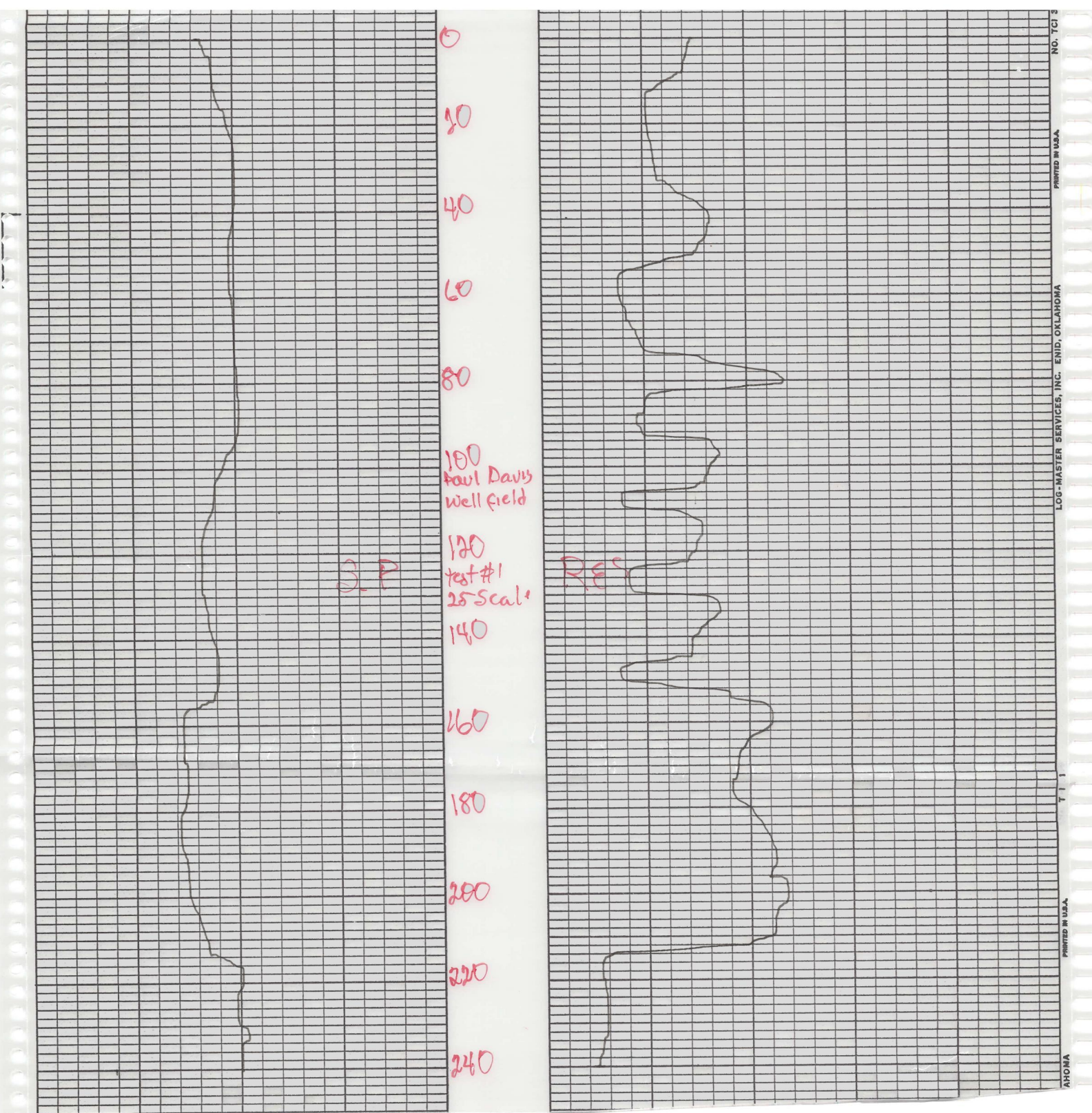
DATE 6-7-22

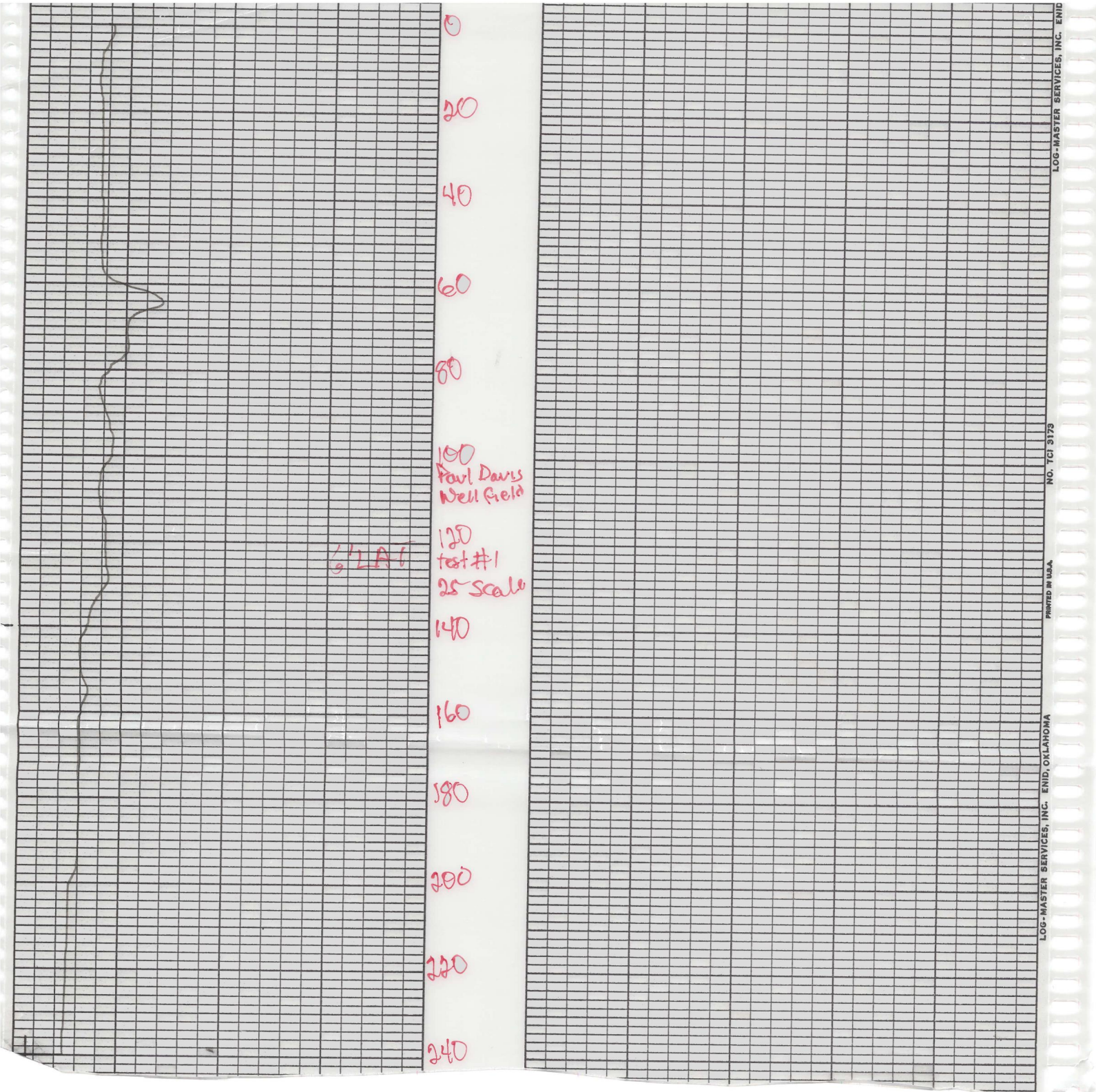
NO. 1-22

FROM	TO	DESCRIPTION	SAND
0	20	Surface fine sand to brown sandy clay	
20	40	Brown sandy clay w/ white clay strips	
40	60	Brown sandy clay to tight caliche	
60	80	Hard caliche rock w/ brown sandy clay + gravel strips	
80	100	Coarse sand w/ gravel w/ brown clay strips	14
100	120	Fine fairly loose sand w/ brown clay + coarse sand strips	16
120	140	Fine fairly loose sand w/ brown clay + gravel strips	15
140	160	Fine fairly loose sand w/ brown clay strip to big gravel	17
160	180	Big gravel	20
180	200	Big gravel to tight coarse sand w/ gravel	20
200	220	Coarse tight sand w/ gravel to red clay	13
220	240	Red clay	0
		1 Drag bit.	
		1/2 SK 66-HV 1/2 BKT Hydro pac reg	
		Pressure plugged from 240' to 20' w/ 8 sks of Retro granular gravel	
		Plugged from 20' to 5' w/ 2 sks of QUIK RETE.	
		PACKET	

7.447

July 25, 2023





LOG-MASTER SERVICES, INC. ENID

NO. TCI 3173

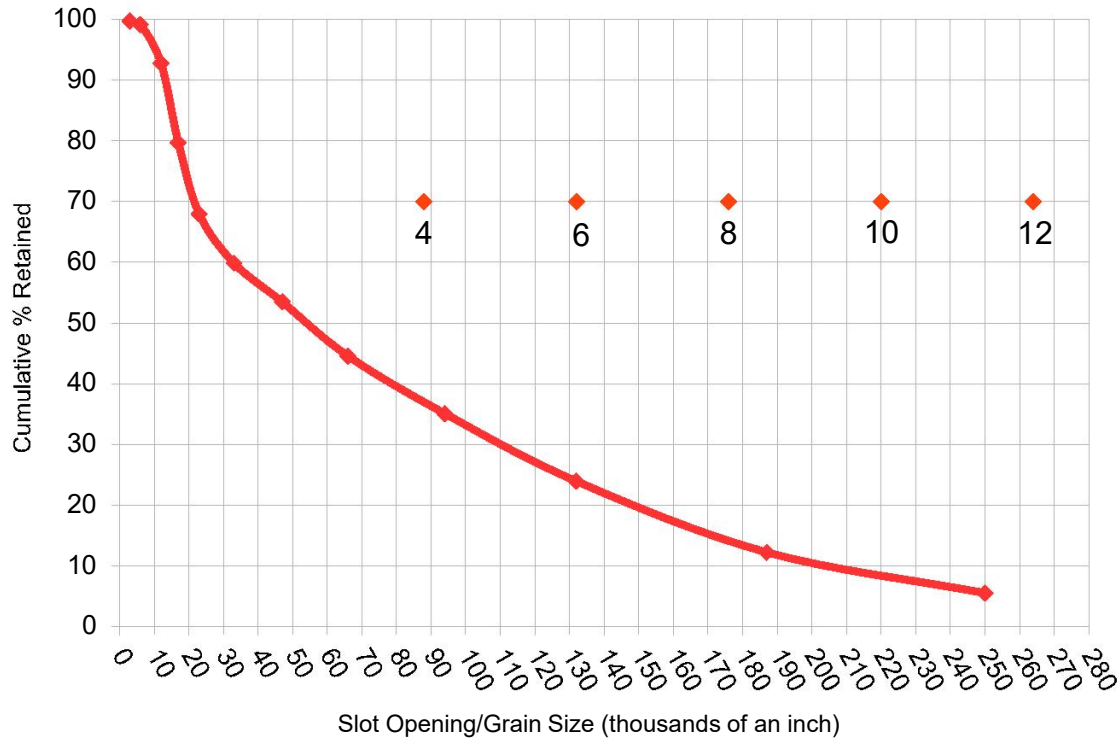
PRINTED IN U.S.A.

LOG-MASTER SERVICES, INC. ENID, OKLAHOMA



SIEVE ANALYSIS

Customer: Paul Davis Well Field **Sample #** 1 of 3
Work Order: _____ **Date:** 11/4/22
Legal: 32.39300, -102.14978 **TH #:** 1-22
Depth Range: 80-100*, 200-220



Sieve No	Sieve Opening		Cumulative % Retained		Distribution@	70
	in	mm	Weight	%	4	88
1/4	.250	6.350	10	6	6	132
4	.187	4.760	22	12	8	176
6	.132	3.360	43	24	10	220
8	.094	2.380	63	35	12	264
12	.066	1.680	80	45		
16	.047	1.190	96	53		
20	.033	.840	107.5	60		
30	.023	.600	122	68		
40	.017	.420	143	80		
50	.012	.300	166.5	93		
100	.006	.149	178	99		
200	.003	.074	179	100		

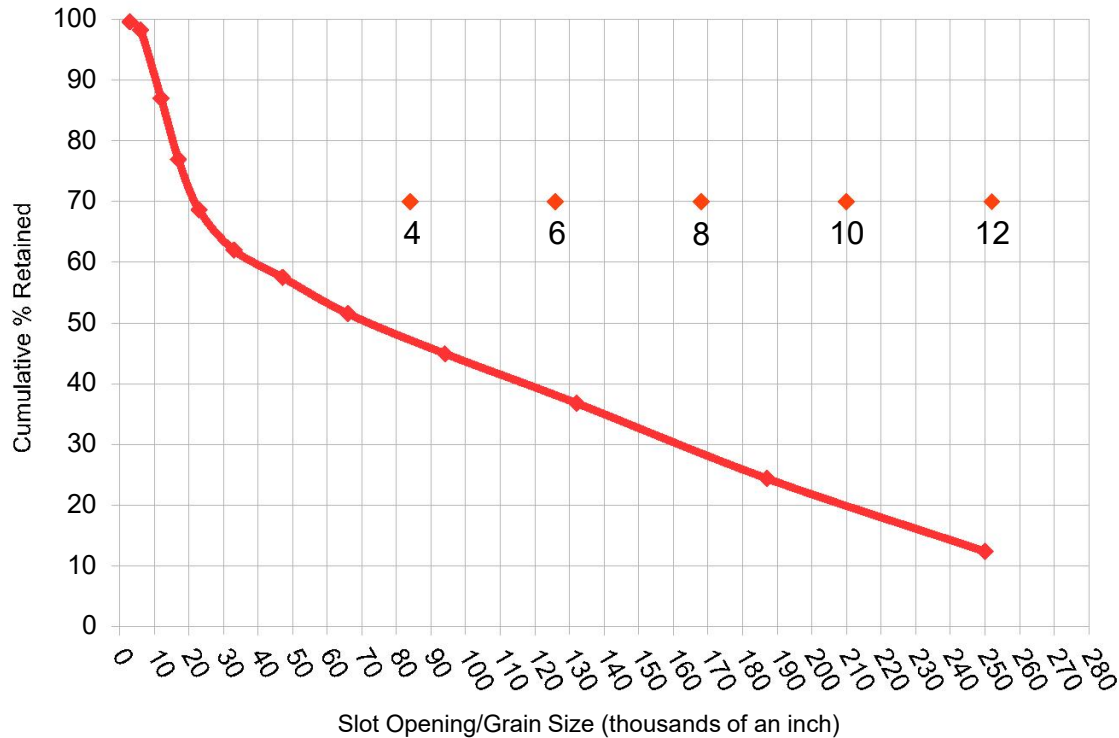
TOTAL= 179.5

Effective Size (Grain Size Passing 90%) = 0.013
 Grain Size Passing 40% = 0.080
 Uniformity Coefficient = 6.15
 Grain Size Passing 70% = 0.022



SIEVE ANALYSIS

Customer: Paul Davis Well Field **Sample #** 2 of 3
Work Order: _____ **Date:** 11/4/22
Legal: 32.39300, -102.14978 **TH #:** 1-22
Depth Range: 100-160



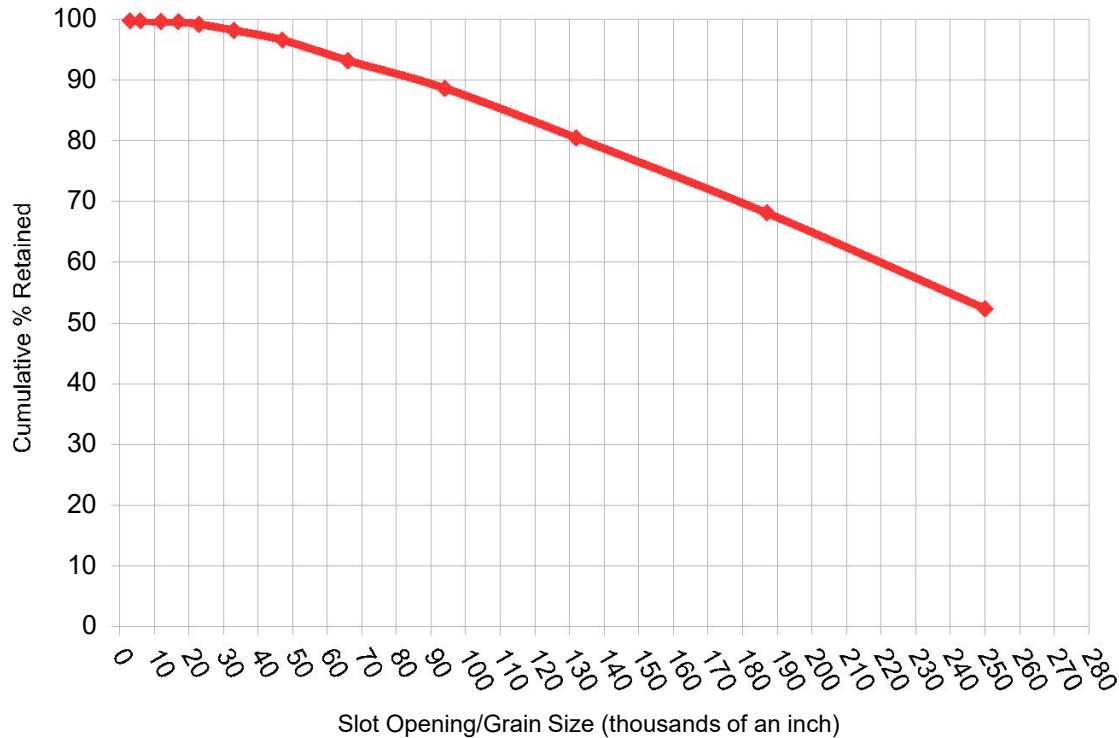
Sieve No	Sieve Opening		Cumulative % Retained		Distribution@	70
	in	mm	Weight	%	4	84
1/4	.250	6.350	32	12	6	126
4	.187	4.760	63	24	8	168
6	.132	3.360	95	37	10	210
8	.094	2.380	116	45	12	252
12	.066	1.680	133	52		
16	.047	1.190	148.5	58		
20	.033	.840	160	62		
30	.023	.600	177	69		
40	.017	.420	198.5	77		
50	.012	.300	224.5	87		
100	.006	.149	253.5	98		
200	.003	.074	257	100		
TOTAL=			258			

Effective Size (Grain Size Passing 90%) = 0.010
 Grain Size Passing 40% = 0.120
 Uniformity Coefficient = 12.00
 Grain Size Passing 70% = 0.021

SIEVE ANALYSIS



Customer: Paul Davis Well Field **Sample #** 3 of 3
Work Order: _____ **Date:** 11/4/22
Legal: 32.39300, -102.14978 **TH #:** 1-22
Depth Range: 160-200



Sieve No	Sieve Opening		Cumulative % Retained		Distribution@	70
	in	mm	Weight	%	4	720
1/4	.250	6.350	131.5	52	6	1080
4	.187	4.760	171	68	8	1440
6	.132	3.360	202	80	10	1800
8	.094	2.380	222.5	89	12	2160
12	.066	1.680	234	93		
16	.047	1.190	242.5	97		
20	.033	.840	246.5	98		
30	.023	.600	249	99		
40	.017	.420	250	100		
50	.012	.300	250	100		
100	.006	.149	250.5	100		
200	.003	.074	250.5	100		
TOTAL=			251			

Effective Size (Grain Size Passing 90%) = 0.090
 Grain Size Passing 40% = 0.300
 Uniformity Coefficient = 3.33
 Grain Size Passing 70% = 0.180

**APPENDIX B
TCEQ FORMS**

TCEQ Cementing Certificate for PWS Groundwater Well Construction

PWS No.: _____	TCEQ Approval Letter Log No.: P-_____
----------------	---------------------------------------

Cementing Company Name

--

Name and Title of Company Representative

Telephone Number

--	--

Company Address

--

Cementing Information

AWWA A100-15 Appendix C Method Used for Cementing Well ¹ (circle method used)	C2 C3 C4 C5
Casing Material and Specification (AWWA A100-15 Table 2 "Water well casing materials")	Check the appropriate pipe on following sheet

Note: Please use columns 2-3 only if increasing or decreasing borehole and/or casing sizes are utilized

Information	Size 1	Size 2	Size 3
Borehole size (inch)			
Actual Casing size (inch of outside diameter)			
Ground Surface Elevation (GSE) as (msl or 0)			
Top of casing elevation (msl or +GSE)			
Bottom of casing elevation (msl or -GSE)			
Number of centralizers used			
Vol. - sacks of cement (with water & additives)			
Vol. of hole (annular space) to be cemented ²			
Number of sacks calculated to fill annular space			
Number of sacks of 94 lb. cement used			
Volume balance between sacks used & required			
Gallons of water used per 94 lb. sack of cement and additives			
Depth of pressure cementing			
Date of pressure cementing			
API Class of cement used			
Additives used (bentonite, calcium chloride, etc)			
% of additive added to cement -			
% of additive added to cement -			
% of additive added to cement -			

Signature of Representative

Date

--	--

¹ Please note that AWWA A100-15 Method C1 is not allowed to be used, see 30 TAC §290.41(c)(3)(C).

²Borehole minus outside diameter of casing pipe.

**American Water Works Association Standard
A100-15 Water Wells**

APPENDIX C

Grouting and Sealing—Methods of Placement

SECTION C.2: Positive Displacement – Exterior Method

SECTION C.3: Interior Method – Without Plug

SECTION C.4: Positive Placement, Interior Method – Drillable Plug

SECTION C.5: Placement through Float Shoe Attached to Bottom of Casing

** For details of these approved methods refer to AWWA A100-15 Appendix C for details.*

Water-well Casing Materials Table 2 from AWWA A100-15

A. Manufacturing standards for single-ply carbon-steel well casing:

- ☐ ANSI/AWWA C200
- ☐ API Spec. 5L
- ☐ ASTM A53 Grade B
- ☐ ASTM A139 Grade B

B. Manufacturing standards for alternative-ply well-casing materials:

- | | |
|--|--|
| ☐ Casing Material | Manufacturing Standard |
| ☐ Carbon Steel | ASTM A139 Grade B |
| ☐ Copper-Bearing Steel | ASTM A139 Grade B with additional requirement that the steel contain a minimum of 0.20% copper |
| ☐ High-Strength Low-Alloy Steel | ASTM A606 Type 4 |
| ☐ Stainless Steel | ASTM A778 |
| ☐ Plastic | ASTM F480 |

Public Well Completion Data Checklist for Approval to Use (Step 2)

Texas Commission on Environmental Quality
Water Supply Division
Plan Review Team MC-159
P.O. Box 13087, Austin, Texas 78711-3087

Public Water System I.D. No. _____
TCEQ Log No. P- _____

The following list is a brief outline of the "Rules for Public Water Systems", 30 TAC Chapter 290 regarding proposed Water Supply Well Completion. Failure to submit the following items may delay project approval. Copies of the rules may be obtained from Texas Register, 1019 Brazos St, Austin, TX, 78701-2413, Phone: (512) 463-5561 or downloaded from the website: <http://www.tceq.texas.gov/rules/indxpdx.html>

Any well proposed as a source of water for a public water supply must have plans approved for construction by TCEQ. Please include the well construction approval letter with your submittal of well completion data listed below for TCEQ evaluation. Based on review of this submitted data, approval may be given for use of the well.

1. ☐ Site map(s) at appropriate scales showing the following: [§290.41(c)(3)(A)]
 - ☐ (i) Final location of the well with coordinates;
 - ☐ (ii) Named roadways;
 - ☐ (iii) All property boundaries within 150 feet of the final well location and the property owners' names;
 - ☐ (iv) Concentric circles with the final well location as the center point with radii of 10 feet, 50 feet, 150 feet, and ¼ mile;
 - ☐ (v) Any site improvements and existing buildings;
 - ☐ (vi) Any existing or potential pollution hazards; and
 - ☐ (vii) Map must be scalable with a north arrow.
2. ☐ A copy of the recorded deed of the property on which the well is located showing the Public Water System (PWS) as the landowner, and/or any of the following:
[§290.41(c)(1)(F)(iv)]
 - ☐ (i) Sanitary control easements (filed at the county courthouse and bearing the county clerk's stamp) covering all land within 150 feet of the well not owned by the PWS (for a sample easement see TCEQ Form 20698);
 - ☐ (ii) For a political subdivision, a copy of an ordinance or land use restriction adopted and enforced by the political subdivision which provides an equivalent or higher level of sanitary protection to the well as a sanitary control easement; and/or
 - ☐ (iii) A copy of a letter granting an exception to the sanitary control easement rule issued by TCEQ's Technical Review and Oversight Team.
3. ☐ Construction data on the completed well: [§290.41(c)(3)(A)]
 - ☐ (i) Final installed pump data including capacity in gallons per minute (gpm), total dynamic head (tdh) in feet, motor horsepower, and setting depth;
 - ☐ (ii) Bore hole diameter(s) (must be 3" larger than casing OD) and total well depth;
 - ☐ (iii) Casing size, length, and material (e.g. 200 lf of 12" PVC ASTM F480 SDR-17);
 - ☐ (iv) Length and material of any screens, blanks, and/or gravel packs utilized;
 - ☐ (v) Cementing depth and pressure method (one of the methods in latest revision of AWWA Standard A-100, Appendix C, excluding the dump bailer and tremie methods);
 - ☐ (vi) Driller's geologic log of strata penetrated during the drilling of the well;
 - ☐ (vii) Cementing certificate; and

Public Well Completion Data Checklist for Approval to Use (Step 2)

- ☐ (viii) Copy of the official State of Texas Well Report (some of the preceding data is included on the Well Report).
4. ☐ A U.S. Geological Survey 7.5-minute topographic quadrangle map (include quadrangle name and number) or a legible copy showing the location of the completed well; [§290.41(c)(3)(A)]
5. ☐ Record of a 36-hour continuous pump test on the well showing stable production at the well's rated capacity. Include the following: [§290.41(c)(3)(G)]
- ☐ (i) Test pump capacity in gpm, tdh in feet, and horsepower of the pump motor;
 - ☐ (ii) Test pump setting depth;
 - ☐ (iii) Static water level (in feet); and
 - ☐ (iv) Draw down (in feet).
6. ☐ Three bacteriological analysis reports for samples collected on three successive days showing raw well water to be free of coliform organisms. Reports must be for samples of raw (untreated) water from the disinfected well and submitted to a laboratory accredited by TCEQ, accredited to perform these test; and [§290.41(c)(3)(F)(i)]
7. ☐ Chemical analysis reports for well water samples showing the water to be of acceptable quality for the most problematic contaminants listed below. Reports must come from a laboratory accredited by TCEQ; accredited to perform these tests. Maximum contaminant level (MCL) and secondary constituent level (SCL) units are in milligrams per liter (except arsenic which is in micrograms per liter). [§290.41(c)(3)(G) and §290.104 and §290.105]

Table 1: Primary Constituents with Maximum Contaminant Level (MCL)

PRIMARY	MCL
Nitrate	10 (as N)
Nitrite	1 (as N)
Arsenic	10
Fluoride	4.0

Table 2: Secondary Constituents with Secondary Contaminant Level (SCL)

SECONDARY	SCL
Aluminum	0.2
Copper	1.0
Iron	0.3
Manganese	0.05
Zinc	5.0
Total Dissolved Solids	1,000
Fluoride	2.0
Sulfate	300
Chloride	300
pH	> 7.0

Public Well Completion Data Checklist for Approval to Use (Step 2)

Table 3: Water Quality Parameters

PARAMETER	UNITS
Alkalinity as CaCO ₃	mg/L
Calcium as CaCO ₃	mg/L
Sodium	mg/L
Lead*	mg/L

Lead is regulated by the lead and copper rule. This analyte is to document the amount of lead in the source water. The level shall be less than 0.010 mg/L for approval to use.

All systems located in a high-risk county (see page 3) shall submit radiological analysis reports for water samples showing the water to be of acceptable quality for the contaminants listed below. Reports must come from a TCEQ accredited laboratory for approval to use of the well.

Table 4: Radionuclides with Maximum Contaminant Level (MCL)

CONTAMINANT	MCL
Gross alpha	15 pCi/L
Radium-226/228	5 pCi/L
Beta particle	50 pCi/L
Uranium	30 µg/L

WHERE: pCi/L = pico curies per liter, µg/L = micrograms per liter

Please be aware when you review your radiological data that if the report has gross alpha over 15 pCi/L and individual uranium isotopes are not reported, you will have to resample or reanalyze and resubmit radionuclide results. If you see gross alpha plus radium-228 over 5 pCi/L, and don't have radium-226, you will have to resample or reanalyze and resubmit complete results.

List of Counties Where Radionuclide Testing Is required

Please be aware that we have added the requirement for analysis for radionuclides for high risk counties. For elevated levels of any contaminants found in a test well, treatment or blending may be required.

Table 5: List of Counties where Radionuclide Testing is required

COUNTY				
Atascosa	Bandera	Bexar	Bosque	Brazoria
Brewster	Burnet	Concho	Culberson	Dallam
Dawson	Erath	Fort Bend	Frio	Garza
Gillespie	Gray	Grayson	Harris	Hudspeth
Irion	Jeff Davis	Jim Wells	Kendall	Kent
Kerr	Kleberg	Liberty	Llano	Lubbock
McCulloch	Mason	Matagorda	Medina	Midland
Montgomery	Moore	Parker	Pecos	Polk
Presidio	Refugio	San Jacinto	San Saba	Tarrant
Travis	Tyler	Upton	Val Verde	Victoria
Walker	Washington	Wichita	Williamson	Zavala

APPENDIX C
TDLR FORM



TEXAS DEPARTMENT OF LICENSING & REGULATION

P.O. Box 12157 • Austin, Texas 78711 • (512) 334-5540

water.well@tdlr.texas.gov • www.tdlr.texas.gov

PLUGGING REPORT

A. WELL IDENTIFICATION AND LOCATION DATA

1. *Owner Name:

Mailing Address:

2. *Well Location:

County:	Physical Address:	City:	State:	Zip Code:
---------	-------------------	-------	--------	-----------

3. Owner Well #:	4. *Lat:	5. Long:	Tracking #:
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6. *Type of Well: ☐ Water ☐ Monitor ☐ Injection ☐ De-watering ☐ Other:

Driller, Pump Installer, or Landowner performing the plugging operations must locate and identify the location of the well using a Global Positioning System (GPS) or Internet Mapping Website and provide the accurate Latitude and Longitude Coordinates in sections 4 and 5 above.

B. HISTORICAL DATA ON WELL TO BE PLUGGED (if available)

7. Driller:	License No.:
-------------	--------------

8. Date Drilled:	9. Diameter of Hole:	10. Total depth of well: _____ ft.
------------------	----------------------	------------------------------------

C. CURRENT PLUGGING DATA

11. *Date well plugged:	12. *REMOVE ALL REMOVABLE CASING Please click a button beside the method of plugging used.
-------------------------	---

13. *Name of Licensee or Well Owner performing the plugging:	☐ Tremie pipe cement from bottom to top.
--	---

License No.:	Variance No.:	☐ Tremie pipe bentonite from bottom to 2 feet from surface, cement top 2 feet.
--------------	---------------	---

14. *CASING AND CEMENTING DATA RELATIVE TO THE PLUGGING OPERATIONS. CASING LEFT IN WELL	☐ Pour in 3/8 bentonite chips when standing water in well is less than 100 feet depth, cement top 2 feet.
--	--

DIAMETER (inches)	*FROM: (feet)	*TO: (feet)	☐ Large diameter (36 inches or greater) well filled with clay material from top to bottom.
-------------------	---------------	-------------	---

			☐ Other: Describe in comments.
--	--	--	---

--	--	--	--

--	--	--	--

CEMENT/BENTONITE PLUG(S) PLACED IN WELL

COMMENTS:

*FROM: (feet)	*TO: (feet)	*SACKS	
---------------	-------------	--------	--

--	--	--	--

--	--	--	--

--	--	--	--

D. VALIDATION INFORMATION INCLUDED IN FORM

I certify that I plugged this well (or the well was plugged under my supervision) and that all of the statements herein are true and correct. I understand that failure to complete items 1 through 14 will result in the report(s) being returned for completion and resubmitted.

*Company or Individual's Name (type or print):

*Street Address, City, State, Zip Code:

--	--	--	--

Licensee or Landowner

Date

Apprentice or Unlicensed Assistant

Date

Original to TDLR
PACKET

Copy to Landowner and Driller
7.461

July 25, 2023
*Required

APPENDIX D
UCMR 5 TEST LIST

Fifth Unregulated Contaminant Monitoring Rule Constituents (UCMR 5)

Twenty-nine Per- and Polyfluoroalkyl Substances

Contaminant	Chemical Abstract Service Registry Number (CASRN)	Minimum Reporting Level	Sample Point Location ¹	Analytical Methods
11-chloroeicosafluoro-3-oxaundecane-1-sulfonic acid (11Cl-PF3OUdS)	763051-92-9	0.005 µg/L	EPTDS	EPA Method 533
9-chlorohexadecafluoro-3-oxanonane-1-sulfonic acid (9Cl-PF3ONS)	756426-58-1	0.002 µg/L	EPTDS	EPA Method 533
4,8-dioxa-3H-perfluorononanoic acid (ADONA)	919005-14-4	0.003 µg/L	EPTDS	EPA Method 533
hexafluoropropylene oxide dimer acid (HFPO DA)	13252-13-6	0.005 µg/L	EPTDS	EPA Method 533
nonafluoro-3,6-dioxaheptanoic acid (NFDHA)	151772-58-6	0.02 µg/L	EPTDS	EPA Method 533
perfluorobutanoic acid (PFBA)	375-22-4	0.005 µg/L	EPTDS	EPA Method 533
perfluorobutanesulfonic acid (PFBS)	375-73-5	0.003 µg/L	EPTDS	EPA Method 533
1H,1H, 2H, 2H-perfluorodecane sulfonic acid (8:2FTS)	39108-34-4	0.005 µg/L	EPTDS	EPA Method 533
perfluorodecanoic acid (PFDA)	335-76-2	0.003 µg/L	EPTDS	EPA Method 533
perfluorododecanoic acid (PFDoA)	307-55-1	0.003 µg/L	EPTDS	EPA Method 533

Contaminant	Chemical Abstract Service Registry Number (CASRN)	Minimum Reporting Level	Sample Point Location ¹	Analytical Methods
perfluoro(2-ethoxyethane)sulfonic acid (PFEEESA)	113507-82-7	0.003 µg/L	EPTDS	EPA Method 533
perfluoroheptanesulfonic acid (PFHpS)	375-92-8	0.003 µg/L	EPTDS	EPA Method 533
perfluoroheptanoic acid (PFHpA)	375-85-9	0.003 µg/L	EPTDS	EPA Method 533
1H,1H, 2H, 2H-perfluorohexane sulfonic acid (4:2FTS)	757124-72-4	0.003 µg/L	EPTDS	EPA Method 533
perfluorohexanesulfonic acid (PFHxS)	355-46-4	0.003 µg/L	EPTDS	EPA Method 533
perfluorohexanoic acid (PFHxA)	307-24-4	0.003 µg/L	EPTDS	EPA Method 533
perfluoro-3-methoxypropanoic acid (PFMPA)	377-73-1	0.004 µg/L	EPTDS	EPA Method 533
perfluoro-4-methoxybutanoic acid (PFMBA)	863090-89-5	0.003 µg/L	EPTDS	EPA Method 533
perfluorononanoic acid (PFNA)	375-95-1	0.004 µg/L	EPTDS	EPA Method 533
1H,1H, 2H, 2H-perfluorooctane sulfonic acid (6:2FTS)	27619-97-2	0.005 µg/L	EPTDS	EPA Method 533
perfluorooctanesulfonic acid (PFOS)	1763-23-1	0.004 µg/L	EPTDS	EPA Method 533
perfluorooctanoic acid (PFOA)	335-67-1	0.004 µg/L	EPTDS	EPA Method 533

Contaminant	Chemical Abstract Service Registry Number (CASRN)	Minimum Reporting Level	Sample Point Location ¹	Analytical Methods
perfluoropentanoic acid (PFPeA)	2706-90-3	0.003 µg/L	EPTDS	EPA Method 533
perfluoropentanesulfonic acid (PFPeS)	2706-91-4	0.004 µg/L	EPTDS	EPA Method 533
perfluoroundecanoic acid (PFUnA)	2058-94-8	0.002 µg/L	EPTDS	EPA Method 533
N-ethyl perfluorooctanesulfonamidoacetic acid (NEtFOSAA)	2991-50-6	0.005 µg/L	EPTDS	EPA Method 537.1
N-methyl perfluorooctanesulfonamidoacetic acid (NMeFOSAA)	2355-31-9	0.006 µg/L	EPTDS	EPA Method 537.1
perfluorotetradecanoic acid (PFTA)	376-06-7	0.008 µg/L	EPTDS	EPA Method 537.1
perfluorotridecanoic acid (PFTrDA)	72629-94-8	0.007 µg/L	EPTDS	EPA Method 537.1

One Metal

Contaminant	Chemical Abstract Service Registry Number (CASRN)	Minimum Reporting Level	Sample Point Location ¹	Analytical Methods
lithium	7439-93-2	9 µg/L	EPTDS	EPA Method 200.7; SM 3120 B (2017); SM 3120 B-99 (1999); ASTM D1976-20



City Council Meeting

Item Number: 8
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION RATIFYING AND APPROVING THE PAYMENT FOR THE EMERGENCY PUMP AND MOTOR REPLACEMENT AT THE T-BAR WELL FIELD BY MARK'S WATER WELL SERVICE, INC., FOR A TOTAL COST OF \$132,500.00 (DISTRICT: NONE) (GENERAL SERVICES)

Purpose:

Resolution ratifying the purchase and approving payment for emergency pump and motor replacement at the Midland T-Bar Well field performed by Mark's Water Well Service, Inc., for a total cost of \$132,500.00.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds are available in the FY23 Water & Sewer Fund Operating Budget.

Discussion:

Mark's Water Well Service, Inc. was called for the emergency pump and motor replacement at the Midland T-Bar Well field performed by Mark's Water Well Service, Inc. Please see the attached memo from Carl Craigo, Utilities Director, for additional information.

Therefore, please consider a resolution ratifying the emergency pump and motor replacement at the Midland T-Bar Well field performed by Mark's Water Well Service, Inc., for a total cost of \$132,500.00.

Jina Gang

City Manager's Office



INTEROFFICE MEMORANDUM

TO: Erika Martinez, Purchasing Manager

FROM: Carl Craig, PE, Utilities Director

SUBJECT: Consider a Resolution Ratifying the Emergency groundwater pump and motor repairs performed by Marks Water Well Service and Drilling.

DATE: July 25, 2023

The Tbar water source provides about 30% of the City of Midland's water supply. The water source has been in operation since 2013. In the last 10 years of operation the installed pumps, motors, and casings started deteriorating at a faster rate than expected. After research by consultants and experts, it was determined that the water source has iron-eating constituents that were damaging the components. A fix was determined to replace pumps and motors with stainless steel pumps and motors and the casing with a new product called borderline.

Tbar's budget was modified to allow for 5 to 8 pumps, casing, and motors to change out a year. In the last few months, there were failures in several of the existing pumps and motors from the deterioration, keeping the source from providing the water needed in the City. Thus causing the need to replace several pumps and motors at once.

Utilities request to ratify the first step of this replacement project. This ratification is for the purchase of the pumps and motors, the next step will be the purchase of the borderline casing and the installation of the three components. The ratification requested is for the cost of \$132,500.

RESOLUTION NO. _____

**RESOLUTION RATIFYING AND APPROVING THE
PAYMENT FOR THE EMERGENCY PUMP AND
MOTOR REPLACEMENT AT THE T-BAR WELL FIELD
BY MARK'S WATER WELL SERVICE, INC., FOR A
TOTAL COST OF \$132,500.00**

WHEREAS, There were several failures in the existing pumps and motors at the T-Bar Well Field; and

WHEREAS, Mark's Water Well Service, Inc., was an emergency utility contractor called on to replace the pumps and motors; and

WHEREAS, Mark's Water Well Service, Inc., agreed to provide the emergency services for a total cost of \$132,500.00 as shown on the invoice attached hereto as Exhibit "A" and incorporated herein for all purposes; and

WHEREAS, the City Council finds and determines that said unforeseen damage to said reservoir constitutes unforeseen damage to public machinery, equipment, or other property as contemplated by TEX. LOC. GOV'T CODE § 252.022(a)(3); and

WHEREAS, the City Council finds it to be in the public interest to ratify and approve the payment for emergency services provided by Mark's Water Well Service, Inc., for a total cost of \$132,500.00;

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

SECTION ONE. That the payment for emergency services by Mark's Water Well Service, Inc., at a total cost of \$132,500.00, is hereby ratified and approved.

SECTION TWO. That funding is available in the FY23 Water & Sewer Fund Operating Budget.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Mark's Water Well Service, Inc., an amount not to exceed \$132,500.00 from available funds upon proper receipt of 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”:

ATTEST:

Lori Merritt Blong, Mayor

Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

Morris Williams, Jr., Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Carl Craig, Utilities Director

APPROVED ONLY AS TO FORM:

John Ohnemiller City Attorney

Marks Water Well Services Inc

PO Box 271
Odessa, TX 79760 US
+1 4323817128
markswaterwell5@aol.com
www.facebook.com/markswaterwell

**INVOICE**

BILL TO
City of Midland
PO Box 1152
Midland, TX 79702

INVOICE 2658
DATE 06/07/2023
TERMS Due on receipt
DUE DATE 06/07/2023

	QTY	RATE	AMOUNT
T-BAR			
Well #11			
Pump & Motor	1	18,350.0	18,350.00
Pump & Motor		0	
Well #12			
Pump & Motor	1	18,000.0	18,000.00
Pump & Motor		0	
Well #25			
Pump & Motor	1	22,000.0	22,000.00
Pump & Motor		0	
Well #44			
Pump & Motor	1	22,000.0	22,000.00
Pump & Motor		0	
Well #53			
Pump & Motor	1	18,000.0	18,000.00
Pump & Motor		0	
Well #55			
Pump & Motor	1	18,350.0	18,350.00
Pump & Motor		0	
CLEAR WATER			
Well #15			
Pump & Motor	1	5,400.00	5,400.00
Pump & Motor			
Well #19			
Pump & Motor	1	5,200.00	5,200.00
Pump & Motor			
Well #20			

PACKET**8.6****July 25, 2023**

Pump & Motor	1	5,200.00	5,200.00
Pump & Motor			

5% late charge will be added if not paid within terms.

Thank you for choosing Mark's Water Well for all your water well needs!

SUBTOTAL	132,500.00
TAX	0.00
TOTAL	132,500.00

BALANCE DUE	\$132,500.00
-------------	---------------------

Marks Water Well Services Inc

PO Box 271
Odessa, TX 79760 US
+1 4323817128
markswaterwell5@aol.com
www.facebook.com/markswaterwell



INVOICE

BILL TO
City of Midland
PO Box 1152
Midland, TX 79702

INVOICE 2658
DATE 06/07/2023
TERMS Due on receipt
DUE DATE 06/07/2023

	QTY	RATE	AMOUNT
T-BAR			
Well #11			
Pump & Motor	1	18,350.0	18,350.00
Pump & Motor		0	
Well #12			
Pump & Motor	1	18,000.0	18,000.00
Pump & Motor		0	
Well #25			
Pump & Motor	1	22,000.0	22,000.00
Pump & Motor		0	
Well #44			
Pump & Motor	1	22,000.0	22,000.00
Pump & Motor		0	
Well #53			
Pump & Motor	1	18,000.0	18,000.00
Pump & Motor		0	
Well #55			
Pump & Motor	1	18,350.0	18,350.00
Pump & Motor		0	
CLEAR WATER			
Well #15			
Pump & Motor	1	5,400.00	5,400.00
Pump & Motor			
Well #19			
Pump & Motor	1	5,200.00	5,200.00
Pump & Motor			
Well #20			

Pump & Motor	1	5,200.00	5,200.00
Pump & Motor			

5% late charge will be added if not paid within terms.

Thank you for choosing Mark's Water Well for all your water well needs!

SUBTOTAL	132,500.00
TAX	0.00
TOTAL	132,500.00
BALANCE DUE	\$132,500.00



City Council Meeting

Item Number: 9
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION AWARDING A CONTRACT IN THE AMOUNT OF \$391,550.00 FOR THE WINDLANDS PARK SOCCER FIELDS IRRIGATION PROJECT TO M3 LANDSCAPE MAINTENANCE & IRRIGATION, LLC; APPROVING \$58,750.00 FOR PROJECT RELATED EXPENSES; AND APPROPRIATING FUNDS (DISTRICT 3) (GENERAL SERVICES)

Purpose:

Resolution awarding a contract for the Windlands Soccer Fields Irrigation Project to M3 Landscape Maintenance & Irrigation, LLC. of Midland, Texas for a cost of \$391,550.00; approving \$58,750.00 for contingencies; for a total cost of \$450,300.00 and appropriating funds therefore, and authorizing payment.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding in the amount of \$450,300 is available in the Parks Bond Projects Fund (126) and will be appropriated to a project for said purpose.

Discussion:

Motion 063-2023 approved specifications and authorized advertisement for bids for the Windlands Soccer Fields Irrigation Project. Fifty-seven (57) bid requests were issued. We received a sole bid. Staff recommends awarding the contract to the sole bidder, M3 Landscape Maintenance & Irrigation, LLC. Please see the attached memo from Cristina Burns, Community Services Director, for more information.

Therefore, please consider a resolution authorizing the execution of a contract for the Windlands Soccer Fields Irrigation Project to M3 Landscape Maintenance & Irrigation, LLC. of Midland, Texas for a cost of \$391,550.00; approving \$58,750.00 for contingencies; for a total cost of \$450,300.00 and appropriating funds therefore, and authorizing payment.

Jina Gang

City Manager's Office



**Parks Division
Interoffice Memorandum**

Date: July 30, 2023
To: Morris Williams Jr., Interim City Manager
From: Cristina Burns, Community Services Director
Subject: Award Bid for a new irrigation system 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.

Bids for the irrigation system replacement project were opened on July 12, 2023. Staff recommends entering into a contract with the lowest bidder, M3 Landscape Maintenance & Irrigation. Their bid for the work is \$391,550. A 15% contingency (\$58,750) is included in the requested funding to cover any work that may be required outside of the contract with M3, but related to the project, such as upgrades to existing water supply. Total project cost with the contingency allowance is \$450,300.

Funding in the amount of \$450,300 is available in the Parks Bond Projects Fund (126) and will be appropriated to a project for said purpose.

RESOLUTION NO. _____

**RESOLUTION AWARDED A CONTRACT IN THE
AMOUNT OF \$391,550.00 FOR THE WINDLANDS PARK
SOCCER FIELDS IRRIGATION PROJECT TO M3
LANDSCAPE MAINTENANCE & IRRIGATION, LLC;
APPROVING \$58,750.00 FOR PROJECT RELATED
EXPENSES; AND APPROPRIATING FUNDS**

WHEREAS, Motion 063-2023 approved plans and specifications and authorized the advertisement for bids for the Windlands Park Soccer Fields Irrigation Project; and

WHEREAS, on July 12, 2023, the City opened the sole bid received in response to the advertisement that was submitted by M3 Landscape Maintenance & Irrigation, LLC, for the amount of \$391,550.00 as shown on the bid tabulation attached hereto as Exhibit A, which is incorporated herein for all purposes; and

WHEREAS, the City Council finds the amount of \$391,550.00 proposed by M3 Landscape Maintenance & Irrigation, LLC, for the Windlands Park Soccer Fields Irrigation Project to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to award a contract to M3 Landscape Maintenance & Irrigation, LLC, for the Windlands Park Soccer Fields Irrigation Project; and

WHEREAS, the City Council finds it to be in the public interest to approve \$58,750.00 for project related expenses;

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 contract with M3 Landscape Maintenance & Irrigation, LLC, in the amount of \$391,550.00 for the Windlands Park Soccer Fields Irrigation Project. Said contract to be kept on file in the office of the City Secretary and referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$58,750.00 for project related expenses is hereby approved.

SECTION THREE. That funds are available in the Park Bond Projects Fund (126) and will be appropriated to a project established by the City of Midland Finance Department.

SECTION FOUR. That the City Comptroller is hereby authorized and directed to pay M3 Landscape Maintenance & Irrigation, LLC, from funds available in the project established by the City of Midland Finance Department pursuant to the terms of said contract 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

City of Midland - Bid Tabulation

BID # 23004213 RFP for Irrigation at Windlands Park Opened: Wednesday, July 12, 2023			M3 Landscape Maintenance & Irrigation, LLC. 5001 E. County Road 136 Midland, Texas 79706 Isfrain Morin, Jr. (432) 967-3125	
ITEM	QTY	DESCRIPTION	Cost Ea.	TOTAL COST
1	1	Windslands Parks Irrigation and Turf Renovation	\$391,550.00	\$391,550.00
TOTAL PROPOSAL				\$391,550.00

Bidding Summary:

57 Bid requests were issued.

1 Bids listed above

0 NO BIDS were received.

56 Bidders did not respond.



THE CITY OF MIDLAND CONTRACT

Contract No. 23004213

THIS CONTRACT, effective the 26 day of July, 2023, by and between the City of Midland, hereinafter referred to as "CITY", and M3 Landscape Maintenance & Irrigation, LLC., hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: \$ 391,550.00 DOLLARS
2. **Scope of Work:** COMPANY shall perform all work described for installation of irrigation and turf renovation at Windlands Park. Said work being more particularly described in the following documents, which are attached hereto and incorporated herein for all purposes.

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

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

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

5. **Company:** Unless otherwise stipulated, COMPANY shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel,

transportation and all other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. COMPANY shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

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

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

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

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

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

8. **INDEMNITY: COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR**

PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF COMPANY, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

8.1. COMPANY SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH COMPANY OR COMPANY'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8.1 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

9. **Start of Work:** COMPANY shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall complete such work no later than 215 calendar days after release to proceed.

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

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

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

12.1. Defective work not remedied; or

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

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

12.4. Damages to another contractor or subcontractor.

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

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

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

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

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

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

16.1. The CITY may make periodic payments to COMPANY; provided, however, such periodic payments may only be made pursuant to this section, and only after all work and all Change Orders are completed by COMPANY and approved by the CITY. The approval shall be in the CITY's sole discretion. Requests for progress payments may be made to the extent of the materials and labor completed at the end of each month. Upon approval by the CITY or the CITY's representative, the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

17. **Late Completion; Liquidated Damages:** It is hereby understood and mutually agreed, by and between COMPANY and the CITY, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "Notice to Proceed." COMPANY agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between COMPANY and the CITY, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

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

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

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

July 25, 2023

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

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

17.5. COMPANY AGREES THAT THE PAYMENT OF SUCH LIQUIDATED DAMAGES MAY BE RECOVERED BY THE CITY FROM RETAINAGE HELD BY THE CITY. NOTWITHSTANDING ANY OTHER PROVISION HEREOF, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER ARISING FROM THE CITY WITHHOLDING PAYMENT FROM COMPANY AS LIQUIDATED DAMAGES FOR COMPANY'S FAILURE TO COMPLETE THE WORK WITHIN THE TIME SPECIFIED HEREIN, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

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

18. **No Third-Party Beneficiary:** CITY's approval of this contract does not create a third-party

beneficiary. There is no third-party beneficiary to this contract. No person or entity who is not a party to this contract shall have any third-party beneficiary or other rights hereunder.

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

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

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

20. Governmental Immunity: By executing this contract CITY is not waiving its right of governmental immunity. CITY is retaining its immunity from suit. CITY is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.

21. Insurance:

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

Commercial General Liability (including Contractual liability):

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

-Property Damage: \$500,000.00 per occurrence

Business Automobile Liability: \$250,000.00 combined single limit -
Personal Injury and Property Damage

Workers' Compensation: Statutory limits

Employers' Liability: \$500,000.00 per accident or occurrence

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

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

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

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

COMPANY shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of

subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured on a claims occurred basis (except workers' compensation).

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

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

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

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

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

25. **Independent Contractor:** COMPANY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of CITY. COMPANY shall have exclusive control of, and the exclusive right to control the details of the services and work to be

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

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

26. Notice of Alleged Breach; Statutory Prerequisites: As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Contract, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Contract) of such damages, duly verified, within one hundred twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which COMPANY shall settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented and the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification within the time and manner provided herein shall exonerate, excuse and except CITY from any liability whatsoever. CITY is under no obligation to provide notice to COMPANY that COMPANY's notice is insufficient. CITY reserves the right to request additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision to the contrary, COMPANY's failure to comply with the

requirements of this Section shall perpetually bar COMPANY's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if CITY has actual or constructive notice or knowledge of said claim or alleged damages. COMPANY agrees that the requirements of this entire Contract are reasonable. The provisions and obligations of this Section shall survive the termination of this Contract.

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

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

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

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

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

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

31. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements

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

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

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

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

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Morris Williams Jr., Interim 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 _____, 20____ personally appeared, _____, an officer of M3 Landscape Maintenance & Irrigation, LLC., 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____.

Exhibit A

**Windlands Park Irrigation and Turf Project
Request for Proposal, #23004213**

M3 Landscape and Irrigation, LLC

Contents:

Tab 1 Contract Documents and Specifications

Tab 2 Insurance Requirements

Tab 3 M3 Landscape Maintenance & Irrigation, LLC Qualifications and experience of company

Tab 4 Letter of References

Tab 5 Pricing

ALL-PURPOSE ACKNOWLEDGMENT

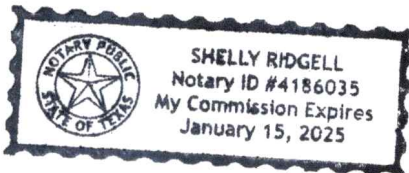
State of Texas

County of Midland

On 7-12-23 before me, Shelly Biddell
DATE NAME OF NOTARY PUBLIC

personally appeared Israim Marin
NAME(S) OF SIGNER(S)

☐ personally known to me OR ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal or Stamp Here

Shelly Ridgell
SIGNATURE OF NOTARY

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it may prove valuable to persons relying on this Acknowledgment and could prevent fraudulent reattachment of this certificate to another document.

DESCRIPTION OF ATTACHED DOCUMENT

THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT

Bid Bond
TITLE OR TYPE OF DOCUMENT

1
NUMBER OF PAGES

7-12-23
DATE OF DOCUMENT

N/A
SIGNER(S) OTHER THAN NAMED ABOVE

**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
TABLE OF CONTENTS**

SECTION TITLE

BIDDING REQUIREMENTS, CONTRACT FORMS AND CONDITIONS OF THE CONTRACT

-----	Seals Page
-----	Introduction
-----	Schedule of Events
-----	Exhibit C – Bonding Requirements
-----	Bid Bond
-----	Payment Bond
-----	Performance Bond
-----	Exhibit D – Building Wage Rates
-----	Exhibit D – Heavy Highway Wage Rates
-----	Conflict of Interest Reporting Requirements
-----	Conflict of Interest Questionnaire
-----	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
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DIVISION 2 – EXISTING CONDITIONS

02 40 00	Demolition
----------	------------

DIVISIONS 3 – 28 – NOT USED

DIVISION 31 - EARTHWORK

31 22 19	Landscape Finish Grading
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DIVISION 32 – EXTERIOR IMPROVEMENTS

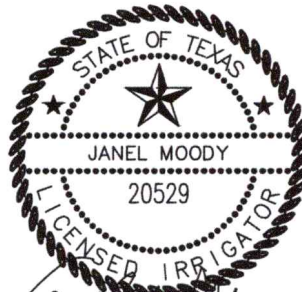
32 84 00	Irrigation
32 92 00	Lawns and grass

DIVISIONS 33 – 48 – NOT USED

SEALS PAGE



Megan Abernathy
05/31/23



Janel Moody
05/31/2023

END OF SECTION

RFP 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.

RFP 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.

ALL-PURPOSE ACKNOWLEDGMENT

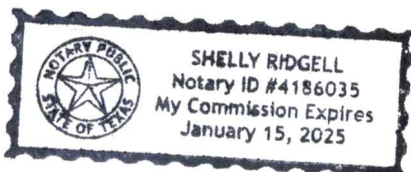
State of Texas

County of Midland

On 7-12-23 before me, Shelly Ridgell
DATE NAME OF NOTARY PUBLIC

personally appeared Israan Morin
NAME(S) OF SIGNER(S)

☐ personally known to me OR ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal or Stamp Here

Shelly Ridgell
SIGNATURE OF NOTARY

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it may prove valuable to persons relying on this Acknowledgment and could prevent fraudulent reattachment of this certificate to another document.

DESCRIPTION OF ATTACHED DOCUMENT

**THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT**

Bid Bond
TITLE OR TYPE OF DOCUMENT

1
NUMBER OF PAGES

7-12-23
DATE OF DOCUMENT

N/A
SIGNER(S) OTHER THAN NAMED ABOVE

BID BOND

THE STATE OF TEXAS §

SURETY NO. _____

COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS, THAT Frank Morin

(hereinafter called the Principal), as Principal, and _____

M3 Landscape Maintenance & Irrigation, LLC

(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 _____

Three hundred ninety one thousand and five hundred DOLLARS
(\$ 391,550.00 and fifty 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 RFP 23004213

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 2th day of July, 2023

By Frank Morin Principal

By _____ Surety

Address _____

Address _____

APPROVED AS TO FORM:

City 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 Oblige, in the amount of

_____ DOLLARS

(\$ _____) for the payment whereof the said Principal and Surety bind themselves, their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

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

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

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

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

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

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: Attach Power of Attorney

PERFORMANCE BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND §

SURETY NO _____

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

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

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

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

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

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

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: Attach Power of Attorney

EXHIBIT D – 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

* IRON0084-011 06/01/2020

	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 25.26	7.13

* 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.

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.

END OF GENERAL DECISION

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

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

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

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

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

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

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

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

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

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

FORM CIQ

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

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

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

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

OFFICE USE ONLY

Date Received

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

M3 Landscape Maintenance Irrigation, LLC

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.

N/A

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

7

[Signature]
Signature of vendor doing business with the governmental entity

7/10/23
Date

PACKET

9.47

July 25, 2023

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: M3 Landscape Maintenance & Irrigation, LLC

Local Address (must be within the City limits): 1511 W. Montgomery, 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? 34
3. Year your business was established in the City of Midland: 2005
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

Reseller Permit Number: 3-20595-9489-8

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

M3 Landscape Maintenance & Irrigation, LLC
5001 E County Road 136
Midland, TX 79706-7173

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: David Ramirez Date: 7/10/23

Printed Name and Title: David Ramirez - Chief Executive Officer

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

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

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

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

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

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

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35. **FEDERAL WAGE REQUIREMENTS** - If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this agreement, and all terms and requirements of 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.

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.

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 for 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

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 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 device 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 be 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 1/2" 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 1/2" 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 cycloc 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.

31 May 2023

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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 seed. 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 Lawn care Manager
 - c. Landscape Industry Certified Lawn care 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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/07/2023

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  Abraham Gutierrez 3304 N Midkiff Road Midland TX 797054826		CONTACT NAME: Abraham Gutierrez PHONE (A/C, No, Ext): 432-699-7546 E-MAIL ADDRESS: abraham.gutierrez.vaay3m@statefarm.com FAX (A/C, No): INSURER(S) AFFORDING COVERAGE INSURER A : State Farm Mutual Automobile Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	
INSURED Morin, Isfrain PO BOX 80298 MIDLAND TX 797080298		NAIC # 25178	

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

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

INSR LTR	TYPE OF INSURANCE	ADD INSD	SUB WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☐ OCCUR ☐ GEN'L AGGREGATE LIMIT APPLIES PER: POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ ☒ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	N	N	455 9028-F01-43 465 4148-B27-43B 478 9433-F20-43C 421 3381-F08-43	06/01/2023 02/27/2023 12/20/2022 12/08/2022	12/01/2023 08/27/2023 06/20/2023 06/08/2023	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 1,000,000 BODILY INJURY (Per accident) \$ 1,000,000 PROPERTY DAMAGE (Per accident) \$ 1,000,000 \$
	UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	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				PER STATUTE ☐ OTH-ER ☐ \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER

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  This form was system-generated on 06/07/2023

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/07/2023

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PRODUCER  Abraham Gutierrez 3304 N Midkiff Road Midland TX 797054826		CONTACT NAME: Abraham Gutierrez PHONE: 432-699-7546 (A/C, No, Ext): E-MAIL: abraham.gutierrez.vaay3m@statefarm.com ADDRESS: FAX (A/C, No):	
INSURED Morin, Isfrain PO BOX 80298 MIDLAND TX 797080298		INSURER(S) AFFORDING COVERAGE INSURER A : State Farm Mutual Automobile Insurance Company INSURER B : State Farm County Mutual Insurance Company of Texas INSURER C : INSURER D : INSURER E : INSURER F :	
		NAIC # 25178 26816	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADD INSD	SUB WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☐ OCCUR ☐ GEN'L AGGREGATE LIMIT APPLIES PER: POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
A	AUTOMOBILE LIABILITY ANY AUTO ☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY ☐	N	N	222 6912-B10-43N 353 6653-D30-43E 359 9703-D18-43H 435 9859-B19-43E	02/10/2023 04/30/2023 04/18/2023 02/19/2023	08/10/2023 10/30/2023 10/18/2023 08/19/2023	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 1,000,000 BODILY INJURY (Per accident) \$ 1,000,000 PROPERTY DAMAGE (Per accident) \$ 1,000,000
	UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	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					PER STATUTE ☐ OTH-ER ☐ \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER

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



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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/07/2023

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PRODUCER  Abraham Gutierrez 3304 N Midkiff Road Midland TX 797054826		CONTACT NAME: Abraham Gutierrez PHONE (A/C, No, Ext): 432-699-7546 FAX (A/C, No): E-MAIL ADDRESS: abraham.gutierrez.vaay3m@statefarm.com	
INSURED Morin, Isfrain PO BOX 80298 MIDLAND TX 797080298		INSURER(S) AFFORDING COVERAGE INSURER A : State Farm Mutual Automobile Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	
		NAIC # 25178	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☒ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	N	N	526 2091-C18-43B 534 4625-C21-43 538 3615-B04-43 465 0821-B25-43A	03/18/2023 03/21/2023 02/04/2023 02/25/2023	09/18/2023 09/21/2023 08/04/2023 08/25/2023	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 1,000,000 BODILY INJURY (Per accident) \$ 1,000,000 PROPERTY DAMAGE (Per accident) \$ 1,000,000 \$
	UMBRELLA LIAB ☐ EXCESS LIAB ☐ OCCUR ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	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				PER STATUTE ☐ OTH-ER ☐ \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER

CANCELLATION

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	AUTHORIZED REPRESENTATIVE  This form was system-generated on 06/07/2023

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CERTIFICATE OF LIABILITY INSURANCE

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06/07/2023

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PRODUCER  Abraham Gutierrez 3304 N Midkiff Road Midland TX 797054826		CONTACT NAME: Abraham Gutierrez PHONE (A/C, No, Ext): 432-699-7546 FAX (A/C, No): E-MAIL ADDRESS: abraham.gutierrez.vaay3m@statefarm.com	
INSURED Morin, Isfrain PO BOX 80298 MIDLAND TX 797080298		INSURER(S) AFFORDING COVERAGE INSURER A: State Farm Mutual Automobile Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 25178	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

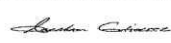
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INSR LTR	TYPE OF INSURANCE	ADD INSD	SUB WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☒ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	N	N	564 6867-D25-43 384 6812-D28-43 421 3380-F08-43	04/25/2023 04/28/2023 12/08/2022	10/25/2023 10/28/2023 06/08/2023	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 1,000,000 BODILY INJURY (Per accident) \$ 1,000,000 PROPERTY DAMAGE (Per accident) \$ 1,000,000 \$
	UMBRELLA LIAB ☐ EXCESS LIAB ☐ DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	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				PER STATUTE ☐ OTH-ER ☐ \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

CERTIFICATE HOLDER

CANCELLATION

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	AUTHORIZED REPRESENTATIVE  This form was system-generated on 06/07/2023

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/1/2023

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PRODUCER	CONTACT NAME: Jessica Ervin-Battles	PHONE (A/C, No, Ext): (432) 682-3717	FAX (A/C, No): (432) 682-3002
ERVIN INSURANCE AGENCY	E-MAIL ADDRESS: jessica@ervinins.com		
3100 North A Street Bldg D	INSURER(S) AFFORDING COVERAGE		NAIC #
Midland, TX 79705	INSURER A: Liberty Mutual Insurance Company		
License #:	INSURER B: Texas Mutual Insurance Company		
INSURED	INSURER C:		
M3 Landscape Maintenance	INSURER D:		
PO Box 80298	INSURER E:		
Midland, TX 79708	INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY			BLS59099204	8/24/2022	8/24/2023	EACH OCCURRENCE \$ 2,000,000
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG \$ 2,000,000
	☐ POLICY ☒ PRO-JECT ☐ LOC						\$
	OTHER:						\$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	☐ ANY AUTO						BODILY INJURY (Per person) \$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident) \$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
	☐ AUTOS ONLY						\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED						\$
	RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			0001321535	3/10/2023	3/10/2024	☒ PER STATUTE ☐ OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	Y	N/A				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)

Lawn Care Service & Irrigation

CERTIFICATE HOLDER

CANCELLATION

Evidence of Coverage- M3 Landscape Maintenance

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

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M3 Landscape and Irrigation, LLC
Frank Morin 432-967-3125

Identity and Location of Vendor:

M3 Landscape and Irrigation, LLC

State of organization: Texas

Office/business location: 1511 West Montgomery, Midland TX, 79701

Availability and response time to City of Midland: Immediately



Commercial Maintenance:

Lawn Maintenance for commercial sites requires different approaches than residential sites in most cases due to the different needs of the company and the required billing methods for some management companies. We have the staff available to adapt to the needs of your commercial property. Whether it is large or small we can formulate a maintenance program that will maintain the professional appearance of your site as well as meet your budget.

Irrigation:

With water management becoming an increasingly important aspect of property management, you've got to be sure your irrigation system is fully functional and efficient, not only to protect your landscape investment, but to conserve water and your budget. Our fully trained staff will assist you in all aspects of your irrigation system - installation, maintenance, troubleshooting, and onsite repair. Beyond simple maintenance, we conduct seasonal inspections and continuously evaluate your system in relation to your changing landscape.

Who We Are

M3 Landscape Maintenance & Irrigation has been making a difference in the Permian Basin for over 15 years. Our company has been built with a few basic principles in mind: **trust, honesty, and respect**. We strive to not only meet the needs of each individual customer but surpass them. We offer an unbeatable combination of quality and value to our customers.

Whether you are a property manager or homeowner, we are ready to partner with you, ensuring your property reflects only the highest standards of landscape maintenance.

Don't trust your landscaping to anyone with a lawnmower. M3 Landscape Maintenance & Irrigation is licensed and insured for the services that we offer.

Contact Us

Office Manager: 432-853-8818
Office: 432-218-6652

Website: m3landscapes.com



**M3 LANDSCAPE
MAINTENANCE &
IRRIGATION**

P.O. BOX 80298
Midland, TX 79708

9.92



M3 LANDSCAPE MAINTENANCE & IRRIGATION

*Texas Department of Agriculture
Commercial Pesticide License # 0298068
License Irrigator # L10006287*

July 25, 2023



We serve both residential and commercial properties. We offer a variety of landscape service contracts including weekly, bi-weekly or monthly landscape maintenance.

Services:

We have dedicated crews that will maintain the beauty of the trees, shrubs, grass and flowers that accentuate your home or commercial property. No job is too big or too small for M3 Landscape Maintenance & Irrigation. We understand the importance of a well-groomed landscape.

Our services include landscape maintenance, seasonal color, tree care and removal, irrigation installation and repair, sod installation and artificial turf installation.

Landscape Maintenance:

Our landscape and lawn maintenance includes Mowing, edging, general lawn care and cleaning. We keep your flower beds clean and trim all shrubs as necessary. We will also program your sprinkler system to coincide with seasonal requirements.

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Seasonal Color:

We believe our seasonal color is one of the things that set us apart from the competition. Our breath-taking color combinations are dynamic and unique, designed specifically to enhance the beauty of your property.

Tree Care:

We will manage your tree care and pruning needs with services such as:

- Tree Installation and removal
- Trimming and Pruning
- Stump Grinding

A tree can be more than a significant element in the landscape; it adds to the property value, adds beauty to the home or business, and its shade can cool the environment.

Arborist Services:

We have a Certified Arborist that will work with you to determine your tree care needs. The arborist will also inspect your tree for any visible signs of disease or inspect damage. Your arborist will develop a tree care plan that best addresses your needs and the health of your trees.

Emergency Tree Care Services:

Storms can cause tree limbs to fail and entire trees to fall, damaging property and blocking access to homes, driveways and streets. That is why we have an emergency call system for existing clients to assess your needs.

A Good looking, well cared for landscape is a valuable asset to your property and something you can feel proud of. M3 Landscape Maintenance & Irrigation knows how to keep your property looking great!

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Artificial Turf

Sod Installation:

A beautiful sod lawn provides instant satisfaction and beauty to your property. Our landscape designers can assist you in identifying the best sod for your site's soil and condition. We provide high-level installation services. Our crews will lay your sod in a timely and professional manner, leaving your job site or home in pristine condition,

Artificial Turf Installation:

Artificial turf is a surface manufactured from synthetic fibers made to look like natural grass. It is most often used in arenas for sports that were originally or normally played on grass. However, it is now being used on Residential and Commercial lawns. The main reason is maintenance artificial turf stands up to heavy sports and requires no irrigation or trimming. Our customers save thousands of dollars normally spent on care and utilities while conserving precious water resources. Our professional artificial grass installation crews can make sure your artificial turf is installed properly to stand up to years of use. We can install artificial turf in any size or shape. Please contact us today to receive more information about our synthetic grass products.

July 25, 2023

M3 Landscape and Irrigation, LLC
Frank Morin 432-967-3125

Previous Related Experience:

Midland Independent School District: M3 Landscape and Irrigation, LLC for the past eight years continues to provide professional quality lawn care, tree pruning, shrub trimming, pest, control, fertilizer applications and irrigation system installation and repairs.

City of Midland Parks and Recreation: M3 Landscape and Irrigation, LLC has provided lawn care for the past 2 years

Recently we provided new irrigation system design and repairs to:

- Abell, Alamo & Goddard Junior High: Revamped and relocated existing sprinkler system for the purpose of installation of new synthetic grass and running tracks. Included, but not limited to; replaced valves, irrigation wiring, relocated control clocks, relocated main-line, etc.
- Fasken Park / City of Midland Parks and recreation: Installation of new sprinkler system, new control clock, tie in to an existing pressure pump and backflow preventer.

Additional Information:

- We boast zero work days lost due to safety mishaps on all mentioned projects.
- In the years M3 Landscape and Irrigation, LLC has been in business, the company has never had projects terminated or have had Surety Bonds used to pay for failure to successfully complete projects.
- Refer to the proposal for letters of recommendation.

Midland County Fairview Cemetery: 2023, M3 Landscape and Irrigation, LLC was awarded RFP, 22MCO600 Cemetery Irrigation project. The project was completed on time and per the contract.

M3 Landscape and Irrigation, LLC
Frank Morin 432-967-3125

Project Management:

M3 Landscape and Irrigation, LLC administration staff will be responsible for all administrative services. The irrigation installation crew's sole responsibility is to provide the necessary construction service as outlined in the RFP #23004213 Windlands Parks Irrigation Turf Renovation.

Once the contract is awarded and given notification to proceed, the crew will be on-site Monday through Friday and weekends if necessary to complete the project on a timely schedule or sooner. Weather conditions permitting.

If at any time the system fails to operate, M3 Landscape will immediately respond to repair warranty as per RFP 23004213.

The irrigation team consist of the following individuals:

- Frank Morin, License Irrigation #6287, 24 years of commercial systems experience
- Johnny Gatlin, License Technician, 3 years of experience
- Juan Vasquez, 10 years of experience
- Luis Zamudio, Crew Leader - 20 years of experience
- Yudel Guerra Aguirrez, Crew - 5 years of experience
- Alex Avilla, 15 years of experience
- Mario Zamudio, 25 years of experience
- Yoan Avila, 8 years of experience
- Miguel Avila, 8 years of experience



Purchasing Department

Midland County, Texas

July 10, 2023

Erika Martinez
Purchasing Manager
City of Midland
300 N. Loraine St, Suite 220
Midland, TX 79701

Ms. Martinez,

M3 Landscape Maintenance & Irrigation, LLC is a continued vendor to Midland County. M3 Landscape Maintenance & Irrigation LLC has successfully completed a very large project at Fairview Cemetery. M3 has had no performance issues and there has been great communication between us. If you have any questions, please do not hesitate to contact me via email at kengeldahl@mcounty.com.

Best regards,

Kristy Engeldahl
Midland County
Purchasing Agent

July 10, 2023

City of Midland
Erika Martinez
Purchasing Manager
300 N. Lorraine St. Suite 220
Midland, TX 79701

Midland Independent School District has been doing business with M3 Landscape and Irrigation, LLC since 2016. Our property landscape maintenance is extensive encompassing large amounts of playgrounds and undeveloped areas. There are numerous shrubs and trees on our property also maintained by M3 Landscape and Irrigation, LLC.

M3 Landscape and Irrigation, LLC has assigned a dedicated 8 man crew to service our District campuses. For the most part, the crew foreman directs his crew on a daily basis. We communicate daily and monthly, the account manager, Tristan Esposito, along with MISD foreman, join for a walk-around at which time specific areas of concern are addressed and remedied.

The beauty of our campuses is enhanced by our relationships with M3 Landscape and Irrigation, LLC. Additionally, they perform emergency service and maintenance on our athletic fields and campus irrigation systems throughout the District.. When the new running tracks were constructed and athletic football fields received grass sod, M3 Landscape and Irrigation, LLC was called in to redesign the sprinkler systems.

We know that we can count on M3 Landscape and irrigation, LLC to provide us professional service, counseling on landscape needs, and competitive rates.

Sincerely,

A handwritten signature in black ink, appearing to read "James Eaden", with a long, sweeping horizontal line extending to the right.

James Eaden
MISD Grounds Foreman



David Ramirez <dar@m3landscapes.com>

Fwd: Letter of recommendation/Mesquite Terraces

1 message

Maggie Serrano <mss@m3landscapes.com>
To: David Ramirez <dar@m3landscapes.com>

Thu, Mar 16, 2023 at 2:23 PM

David please see attached email from Mesquite Terraces.

Thank you,

Maggie Serrano

----- Forwarded message -----

From: **Manager Mesquite Terraces** <mesquiteterraces.mgr@ram-mgt.com>

Date: Thu, Mar 16, 2023 at 10:00 AM

Subject: Letter of recommendation/Mesquite Terraces

To: mss@m3landscapes.com <mss@m3landscapes.com>

To whom it may concern,

M3 Landscapes just recently started providing services for Mesquite Terraces starting 3/1/23. However in this short time they have shown exceptional customer services as well as attending to the all properties needs. Mesquite Terraces recommends M3 Landscapes for all of your landscaping needs.

Heather Jones

Mesquite Terraces Apartments

Community Property Manager | RAM Partners, LLC

501 S. Loop 250 W. Midland, Texas 79703

o. 432.262.3611 | mesquiteterraces.com





David Ramirez <dar@m3landscapes.com>

Fwd: M3 Landscape

1 message

Maggie Serrano <mss@m3landscapes.com>
To: David Ramirez <dar@m3landscapes.com>

Mon, Mar 20, 2023 at 12:56 PM

David please see email below from Kristin Henley, she is the property manager for Sagewood.

Thank you,

Maggie Serrano

----- Forwarded message -----

From: **Kristin Henley** <kristin@davisandcotx.com>

Date: Mon, Mar 20, 2023 at 11:22 AM

Subject: Re: M3 Landscape

To: Maggie Serrano <mss@m3landscapes.com>, kristin@slwandassociates.com <kristin@slwandassociates.com>

M3 has been the best landscaping company we have worked with since starting our property management business over 16 years ago. They take care of everything we ask of them, show up as scheduled, and go above and beyond. The customer service is second to none. Thank you M3 for making our properties look amazing.

Thank you,

Have a great day!

Kristin Henley, TRLP

Office Manager/Realtor

(432)689-7770 Ext 104

Texas law requires all real estate licensees to give the following Texas Real Estate Commission Information About Brokerage Services and Texas Real Estate Commission Consumer Protection Notice to prospective buyers, tenants, sellers, and landlords. Please click link below for these forms.

<http://www.trec.state.tx.us/pdf/contracts/OP-K.pdf>

From: Maggie Serrano <mss@m3landscapes.com>
Date: Tuesday, March 14, 2023 at 2:46 PM
To: "kristin@slwandassociates.com" <kristin@slwandassociates.com>
Subject: M3 Landscape

Hello,

I am writing you today to ask if you'd be willing to give M3 Landscape a letter of recommendation for the services that you have received thus far. We would greatly appreciate you.

Best Regards,

Maggie Serrano

PACKET

9.99

July 25, 2023



M3 LANDSCAPE MAINTENANCE & IRRIGATION, LLC
STATE OF TEXAS LIC. NO. 6287 &
COMMERCIAL PESTICIDE LIC. NO. 298068
1511 W MONTGOMERY
MIDLAND, TX 79701

M3 Landscape Maintenance & Irrigation, LLC Cost for City of Midland, Windlands Parks Irrigation and Turf Renovation:

Proposal: \$391,550.00 Dollars

Written: \$Three hundred ninety one thousand and five hundred and fifty dollars



City Council Meeting

Item Number: 10
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Morris Williams Jr., Deputy City Manager
Subject: RESOLUTION OF THE CITY OF MIDLAND, TEXAS, FINDING THAT THE APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC ("ONCOR") TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR AND UPDATE GENERATION RIDERS TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AUTHORIZING HIRING OF LEGAL COUNSEL; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY ONCOR; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL (DISTRICT: ALL) (CITY MANAGER)

Purpose:

The purpose of the Resolution is to deny the DCRF application proposed by Oncor.

Recommended City Council Action:

Approve

Fiscal Impact:

\$0.00

Discussion:

On June 30, 2023, Oncor Electric Delivery Company, LLC ("Oncor" or "Company") filed an Application to Amend its Distribution Cost Recovery Factor ("DCRF") and Update its Mobile Generation Riders to increase distribution rates within each of the cities in its service area. In

the filing, the Company asserts it is seeking an increase in distribution revenues of approximately \$152.78 million. The Company is also seeking to update its Rider Mobile Generation and Rider Wholesale Mobile Generation to recover revenue related to mobile generation unit leasing and operation. The Rider would recover approximately \$1.07 million. The resolution authorizes the City to join with the Steering Committee of Cities Served by Oncor ("OCSC") to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue.

Purpose of the Resolution:

The purpose of the Resolution is to deny the DCRF application proposed by Oncor.

Explanation of "Be It Resolved" Paragraphs:

1. This section authorizes the City to participate with OCSC as a party in the Company's DCRF filing, PUC Docket No. 55190.
2. This section authorizes the hiring of Lloyd Gosselink and consultants to review the filing, negotiate with the Company, and make recommendations to the City regarding reasonable rates. Additionally, it authorizes Cities to direct any necessary administrative proceedings or court litigation associated with an appeal of this application filed with the PUC.
3. This paragraph finds that the Company's application is unreasonable and should be denied.
4. This section states that the Company's current rates shall not be changed.
5. The Company will reimburse Cities for their reasonable rate case expenses. Legal counsel and consultants approved by Cities will submit monthly invoices that will be forwarded to Oncor for reimbursement.
6. This section recites that the Resolution was passed at a meeting that was open to the public and that the consideration of the Resolution was properly noticed.
7. This section provides that Oncor and counsel for OCSC will be notified of the City's action by sending a copy of the approved and signed Resolution to counsel.



City Manager's Office

RESOLUTION NO. _____

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, FINDING THAT THE APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC (“ONCOR”) TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR AND UPDATE GENERATION RIDERS TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AUTHORIZING HIRING OF LEGAL COUNSEL; FINDING THAT THE CITY’S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY ONCOR; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL

WHEREAS, the City of Midland, Texas (the “City”) is an electric utility customer of Oncor Electric Delivery Company LLC (“Oncor”) and a regulatory authority with an interest in the rates and charges of Oncor; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor (“OCSC”), a membership of similarly situated cities served by Oncor that have joined together to efficiently and cost effectively review and respond to electric issues affecting rates charged in Oncor's service area; and

WHEREAS, on or about June 29, 2023, Oncor filed with the City an application to amend its distribution cost recovery factor (“DCRF”) and update mobile generation riders, Public Utility Commission (“PUC”) Docket No. 55190, seeking to increase electric distribution rates by approximately \$152.78 million and update Oncor’s rider mobile generation and rider wholesale mobile generation to recover \$1.07 million related to mobile generation facilities; and

WHEREAS, all electric utility customers residing in the City will be impacted by this ratemaking proceeding if it is granted; and

WHEREAS, OCSC is coordinating its review of Oncor’s DCRF filing with designated attorneys and consultants to resolve issues in Oncor’s application; and

WHEREAS, OCSC's members and attorneys recommend that members deny the DCRF;

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

SECTION ONE. That the City is authorized to participate with OCSC in PUC Docket No. 55190.

SECTION TWO. That subject to the right to terminate employment at any time, the City hereby authorizes the hiring of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. and consultants to negotiate with Oncor, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of Oncor's DCRF application filed with the PUC.

SECTION THREE. That the rates proposed by Oncor to be recovered through its DCRF charged to customers located within the City limits are hereby found to be unreasonable and shall be denied.

SECTION FOUR. That Oncor shall continue to charge its existing rates to customers within the City.

SECTION FIVE. That the City's reasonable rate case expenses shall be reimbursed in full by Oncor within 30 days of presentation of an invoice to Oncor.

SECTION SIX. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION SEVEN. That the City Secretary is hereby authorized and directed to send copies of this Resolution to J. Michael Sherburne, Vice President - Regulatory, Oncor Electric Delivery Company LLC, 1616 Woodall Rodgers Freeway, Dallas, Texas 75202; to Tab R. Urbantke, Hunton Andrews Kurth LLP, 1445 Ross Avenue, Suite 3700, Dallas, Texas 75202; and to Thomas L. Brocato, General Counsel to OCSC, at Lloyd Gosselink Rochelle

& Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

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 ONLY AS TO FORM:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 11
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Tina Jauz, Assistant City Manager
Subject: RESOLUTION APPROVING THE FISCAL YEAR 2023-2024 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE (DISTRICT: ALL) (CITY MANAGER)

Purpose:

The Board of Directors of the Midland Development Corporation approved at a regular meeting on July 10, 2023 a Resolution Approving the Budget for the Midland Development Corporation's 2023-2024 Fiscal Year.

Recommended City Council Action:

Approve

Fiscal Impact:

\$26,583,806

Discussion:

Midland Development Corporation's fiscal year 2024 budget enumerates its projected revenues and expenses. Budgeted revenue is \$12,976,644. \$13,464,662 is budgeted for prior year economic development incentives commitments, and \$9,098,141 is budgeted for new economic development incentives. \$1,200,000 is budgeted for promotional projects (promotional funds are used to advertise or publicize the City of Midland for the purpose of developing new and expanded business enterprises). Other budgeted expenses are personnel services, commodities, contractual services, building maintenance, maintenance of instruments and apparatus, and general fund services.

Morris Williams Jr.

City Manager's Office

RESOLUTION NO. _____

RESOLUTION APPROVING THE FISCAL YEAR 2023-2024 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

WHEREAS, the Midland Development Corporation approved its budget for the Fiscal Year 2023-2024 on June 10, 2023; and

WHEREAS, Chapter 501 of the Texas Local Government Code requires that said budget be approved by the City Council;

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

SECTION ONE. That the fiscal year 2023-2024 budget of the Midland Development Corporation, which is attached hereto as Exhibit A, is hereby approved subject to the conditions set out in Section Two hereof.

SECTION TWO. That the following expenditures from the fiscal year 2023-2024 budget of the Midland Development Corporation must first be approved by the City Council:

- Any expenditure from the Economic Development Incentives (53905) budget line item.
- Any contract for services (including, but not limited to, professional, consulting, engineering, promotional, and construction services) with a total contract price of \$300,000.00 or above, unless such contract is being entered into pursuant to or in accordance with an agreement that was previously approved by the City Council.

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

John Ohnemiller, City Attorney

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2023 through September 30, 2024

	ACTUAL 2021-2022	BUDGET 2022-2023	BUDGET 2023-2024
REVENUE AND RECEIPTS			
Sales Tax	\$ 15,263,204	\$ 11,000,000	\$ 12,000,000
Public Right-Of-Way Use Fees	4,823	0	0
Interest	95,172	0	0
Interest / Non-Pooled Investment	81,331	0	0
Investment Earnings (loss)	(295,065)		
Misc. Rentals	976,644	976,644	976,644
Reimbursement of Budget Expenses	50,281	0	0
Government Contributions	2,500	0	0
TOTAL REVENUE AND RECEIPTS	\$ 16,178,890	\$ 11,976,644	\$ 12,976,644
SUMMARY OF EXPENSES BY ORGANIZATION			
50150. Nondepartmental	\$ 14,921,535	\$ 22,392,777	\$ 26,583,806
TOTAL	\$ 14,921,535	\$ 22,392,777	\$ 26,583,806
SUMMARY OF EXPENSES BY CLASSIFICATION			
<u>OPERATING EXPENSES</u>			
51000. Personnel Services	\$ 309,139	\$ 430,916	\$ 442,729
52000. Commodities	58,634	43,800	57,000
53000. Contractual Services	7,216,690	16,221,088	23,721,757
54000. Building Maintenance	52,745	80,000	80,000
55000. Maintenance of Instruments & Apparatus	1,094	1,000	1,200
56000. Miscellaneous	1,218,811	2,115,973	2,281,120
57000 / 58000. Capital Purchases	6,064,422	3,500,000	0
TOTAL OPERATING EXPENSES	\$ 14,921,535	\$ 22,392,777	\$ 26,583,806
GRAND TOTAL	\$ 14,921,535	\$ 22,392,777	\$ 26,583,806

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2023 through September 30, 2024

	ACTUAL 2021-2022	BUDGET 2022-2023	BUDGET 2023-2024
<u>OPERATING EXPENSES</u>			
51000 Personnel Services			
51010. Base Salary	\$ 277,527	\$ 350,096	\$ 360,047
51090. FICA MDC Portion	19,804	19,534	28,678
51110. Hospital Insurance MDC Portion	10,044	28,080	28,440
51135. ACOC Profit Sharing	1,764	24,507	25,203
51140. Unemployment Insurance	0	8,700	360
TOTAL 51000	309,139	430,916	442,729
52000. Commodities			
52010. Office Supplies	5,142	6,000	6,500
52110. Motor Vehicle Supplies	1,024	1,500	1,500
52115. Minor Furniture and Fixtures	0	1,000	1,000
52155. Minor Computer Hardware & Peripherals	50	5,000	12,000
52160. Computer Minor Software & Supplies	52,098	30,000	35,000
52620. Postage	320	300	1,000
TOTAL 52000	58,634	43,800	57,000
53000. Contractual Services			
53010. Communications	24,865	17,000	17,000
53030. Light & Power	97	150	150
53110. Insurance - External	342,630	150,000	150,000
53212. Equipment Rental - External	3,482	5,000	5,000
53220. Marketing and Advertising	191,890	200,000	225,000
53370. Grounds Maintenance	15,804	22,000	25,000
53405. Software Maintenance	15,054	12,000	15,000
53440. External Audit Fees	31,000	35,000	40,000
53450. Consulting Fees	313,065	500,000	500,000
53510. Travel & Entertainment	8,362	8,000	10,000
53520. Dues and Subscriptions	21,909	15,000	17,000
53530. Training, Registration Fees	7,169	10,000	15,000
53905. Economic Development Incentives	6,177,811	5,129,123	9,098,141
53907. Business Recruitment & Retention	35,852	50,000	70,000
53909. Prior Year Committed Incentives	0	9,999,673	13,464,662
53920. Rent	27,700	68,142	69,804
TOTAL 53000	\$ 7,216,690	\$ 16,221,088	\$ 23,721,757

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2023 through September 30, 2024

	ACTUAL 2021-2022	BUDGET 2022-2023	BUDGET 2023-2024
<u>OPERATING EXPENSES</u>			
54000 Building Maintenance			
54010. Building Maintenance	\$ 52,745	\$ 80,000	\$ 80,000
TOTAL 54000	<u>52,745</u>	<u>80,000</u>	<u>80,000</u>
55000 Maintenance of Equipment			
55120. Maintenance of Instruments & App	<u>1,094</u>	<u>1,000</u>	<u>1,200</u>
TOTAL 55000	<u>1,094</u>	<u>1,000</u>	<u>1,200</u>
56000. Miscellaneous			
56188. MOTRAN	142,500	142,500	142,500
56202. General Fund Services	390,685	379,813	444,960
56410. Payment of Principal	74,217	70,605	70,605
56420. Interest Expense	2,983	6,595	6,595
56910. Depreciation Expense	0	416,460	416,460
56995. Project Non Capital (Promotions)	<u>608,426</u>	<u>1,100,000</u>	<u>1,200,000</u>
TOTAL 56000	<u>1,218,811</u>	<u>2,115,973</u>	<u>2,281,120</u>
57000 / 58000. Capital Purchases			
57000. Capital Land Purchases	4,820,129	0	0
57001. Capital Buildings & Structures	246,415	3,500,000	0
57002. Capital Improvemnts Other Than Bldgs	0	0	0
57003. Capital Equipment	0	0	0
57004. Capital Vehicles	0	0	0
57070. Construction in Process	<u>997,878</u>	<u>0</u>	<u>0</u>
Total 7000 / 8000	<u>6,064,422</u>	<u>3,500,000</u>	<u>0</u>
GRAND TOTAL	\$ <u><u>14,921,535</u></u>	\$ <u><u>22,392,777</u></u>	\$ <u><u>26,583,806</u></u>

MIDLAND DEVELOPMENT CORPORATION
Summary of Revenues, Expenditures and Changes in Fund Balance

	ACTUAL 2021-2022	BUDGET 2022-2023	BUDGET 2023-2024
Balance October 1, 2021	\$ <u>47,117,268</u>		
Estimated Balance October 1		\$ <u>48,374,623</u>	\$ <u>37,958,490</u>
Revenues:			
Sales Taxes	15,263,204	11,000,000	12,000,000
Public Right-Of-Way Use Fees	4,823	0	0
Interest / Non-Pooled Investment Income	(118,562)	0	0
Misc. Rentals	976,644	976,644	976,644
Reimbursement of Budget Expenses	50,281	0	0
Government Contributions	<u>2,500</u>	<u>0</u>	<u>0</u>
Total Revenues	<u>16,178,890</u>	<u>11,976,644</u>	<u>12,976,644</u>
Expenditures:			
Personnel Services	309,139	430,916	442,729
Commodities	58,634	43,800	57,000
Contractual Services	7,216,690	16,221,088	23,721,757
Building Maintenance	52,745	80,000	80,000
Maintenance of Inst and App	1,094	1,000	1,200
Miscellaneous	1,218,811	2,115,973	2,281,120
Capital Purchases	<u>6,064,422</u>	<u>3,500,000</u>	<u>0</u>
Total Expenditures	<u>14,921,535</u>	<u>22,392,777</u>	<u>26,583,806</u>
Net Revenues (Expenditures)	<u>1,257,355</u>	<u>(10,416,133)</u>	<u>(13,607,162)</u>
Estimated Balance October 1:			
Restricted for ED Incentives	27,442,011	15,015,125	22,298,329
Restricted for Encumbrances	0	0	0
Restricted for Promotional Activities	1,238,518	2,438,078	2,438,078
Unappropriated Fund Balance	<u>8,183,825</u>	<u>4,111,430</u>	<u>4,111,430</u>
Total Estimated Balance October 1	\$ <u><u>48,374,623</u></u>	\$ <u><u>37,958,490</u></u>	\$ <u><u>24,351,328</u></u>

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2023 through September 30, 2024

	ACTUAL 2021-2022	BUDGET 2022-2023	BUDGET 2023-2024
REVENUE AND RECEIPTS			
Sales Tax	\$ 15,263,204	\$ 11,000,000	\$ 12,000,000
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Interest	95,172	0	0
Interest / Non-Pooled Investment	81,331	0	0
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GRAND TOTAL	\$ 14,921,535	\$ 22,392,777	\$ 26,583,806

MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2023 through September 30, 2024

	ACTUAL 2021-2022	BUDGET 2022-2023	BUDGET 2023-2024
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52620. Postage	320	300	1,000
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MIDLAND DEVELOPMENT CORPORATION
Proposed Budget for October 1, 2023 through September 30, 2024

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55000 Maintenance of Equipment			
55120. Maintenance of Instruments & App	<u>1,094</u>	<u>1,000</u>	<u>1,200</u>
TOTAL 55000	<u>1,094</u>	<u>1,000</u>	<u>1,200</u>
56000. Miscellaneous			
56188. MOTRAN	142,500	142,500	142,500
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TOTAL 56000	<u>1,218,811</u>	<u>2,115,973</u>	<u>2,281,120</u>
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57004. Capital Vehicles	0	0	0
57070. Construction in Process	<u>997,878</u>	<u>0</u>	<u>0</u>
Total 7000 / 8000	<u>6,064,422</u>	<u>3,500,000</u>	<u>0</u>
GRAND TOTAL	\$ <u>14,921,535</u>	\$ <u>22,392,777</u>	\$ <u>26,583,806</u>

MIDLAND DEVELOPMENT CORPORATION
Summary of Revenues, Expenditures and Changes in Fund Balance

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Public Right-Of-Way Use Fees	4,823	0	0
Interest / Non-Pooled Investment Income	(118,562)	0	0
Misc. Rentals	976,644	976,644	976,644
Reimbursement of Budget Expenses	50,281	0	0
Government Contributions	<u>2,500</u>	<u>0</u>	<u>0</u>
Total Revenues	<u>16,178,890</u>	<u>11,976,644</u>	<u>12,976,644</u>
Expenditures:			
Personnel Services	309,139	430,916	442,729
Commodities	58,634	43,800	57,000
Contractual Services	7,216,690	16,221,088	23,721,757
Building Maintenance	52,745	80,000	80,000
Maintenance of Inst and App	1,094	1,000	1,200
Miscellaneous	1,218,811	2,115,973	2,281,120
Capital Purchases	<u>6,064,422</u>	<u>3,500,000</u>	<u>0</u>
Total Expenditures	<u>14,921,535</u>	<u>22,392,777</u>	<u>26,583,806</u>
Net Revenues (Expenditures)	<u>1,257,355</u>	<u>(10,416,133)</u>	<u>(13,607,162)</u>
Estimated Balance October 1:			
Restricted for ED Incentives	27,442,011	15,015,125	22,298,329
Restricted for Encumbrances	0	0	0
Restricted for Promotional Activities	1,238,518	2,438,078	2,438,078
Unappropriated Fund Balance	<u>8,183,825</u>	<u>4,111,430</u>	<u>4,111,430</u>
Total Estimated Balance October 1	\$ <u><u>48,374,623</u></u>	\$ <u><u>37,958,490</u></u>	\$ <u><u>24,351,328</u></u>

		FY 2023 Budget	FY 2024 Budget
Personnel Services	2% increase	\$430,916	\$442,728
<u>Why?</u>	Merit raises and bonus structures budgeted for based on MDC's personnel policies		
Commodities: Office supplies, minor furniture, computer hardware & software	30% increase	\$43,800	\$57,000
<u>Why?</u>	Need for new screen and equipment in conference room, plus inflationary cost increases		
Rent, Light & Power	2.4% increase	\$68,292	\$69,954
<u>Why?</u>	MDC office rent price per sf: \$21/sf/year		
Software Maintenance, Equipment Lease, Maintenance of Equipment	18% increase	\$18,000	\$21,200.00
<u>Why?</u>	Cost for MDC server backup		
Property & Liability Insurance	Unchanged	\$150,000	\$150,000.00
<u>Why?</u>	Initial estimate from insurer. This item covers professional liability, general liability, property insurance for MDC's buildings and land, vehicle insurance, directors and officers coverage for MDC's board members		
External Audit Fees	14% increase	\$35,000	\$40,000.00
<u>Why?</u>	Estimate based on FY 2023 costs		
Consulting Fees	Unchanged	\$500,000	\$500,000
<u>Why?</u>	Based on FY 2023 actuals		
Travel & Entertainment, Dues & Subscriptions, Training & Registration	27% increase	\$33,000	\$42,000
<u>Why?</u>	Increased cost of travel, accomodation, and registration; includes professional development and continuing education for staff		
Cash Generated for Economic Development Incentives & Prior Year Committed Incentives	49% increase	\$15,128,796	\$22,562,803
<u>Why?</u>	Cash generated for incentives in FY 2024 plus commitments made in previous years		

Cash Generated for Economic Development Promotion	9% increase	\$1,100,000	\$1,200,000
<u>Why?</u>	10% of budgeted revenue for FY 2024		
Marketing & Advertising, Communications, Business Recruitment & Retention	17% increase	\$267,000.00	\$312,000.00
<u>Why?</u>	Increase in marketing budget; additional familiarization trips and trade shows		
Building & Grounds Maintenance	3% increase	\$102,000	\$105,000
<u>Why?</u>	Costs associated with Spaceport Business Park landscaping, MDC's business parks, and MDC property downtown		
MOTRAN	4% increase	\$142,500	\$142,500
<u>Why?</u>	Increased to reflect MOTRAN's FY 2024 budget request; final approval of an agreement with MOTRAN requires action by MDC board and Council		
General Fund Services	17% increase	\$379,813.00	\$444,960.00
<u>Why?</u>	Pays for City of Midland staff services used by MDC (Legal, City Secretary, City Manager, Finance)		
Payment of Interest & Principal	Unchanged	\$77,200.00	\$77,200.00
<u>Why?</u>	MDC's hangar lease from the City; this hangar is subleased from the MDC by AST & Science		
Depreciation	Unchanged	\$416,460.00	\$416,460.00
<u>Why?</u>	Based on FY 2023 depreciation schedules		
Capital Buildings & Structures	100% decrease	\$3,500,000.00	\$0.00
<u>Why?</u>	Downtown demolition budgeted for in FY 2023		
Total Budgeted Expenses		\$22,392,777	\$26,583,805



City Council Meeting

Item Number: 12
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Marcia Bentley-German, City Governance Officer/City Secretary
Subject: RESOLUTION CREATING A BARBARA & GEORGE H.W. BUSH CONVENTION CENTER ADVISORY BOARD AND ESTABLISHING DUTIES, QUALIFICATIONS, TERMS OF OFFICE, METHODS FOR FILLING VACANCIES, AND RELATED ORGANIZATIONAL MATTERS (DISTRICT: ALL) (CITY SECRETARY'S OFFICE)

Purpose:

RESOLUTION CREATING A BARBARA & GEORGE H.W. BUSH CONVENTION CENTER ADVISORY BOARD AND ESTABLISHING DUTIES, QUALIFICATIONS, TERMS OF OFFICE, METHODS FOR FILLING VACANCIES, AND RELATED ORGANIZATIONAL MATTERS

Recommended City Council Action:

Approve

Fiscal Impact:

NONE

Discussion:

NONE

City Manager's Office

RESOLUTION NO. _____

**RESOLUTION CREATING A BARBARA & GEORGE
H.W. BUSH CONVENTION CENTER ADVISORY
BOARD AND ESTABLISHING DUTIES,
QUALIFICATIONS, TERMS OF OFFICE, METHODS
FOR FILLING VACANCIES, AND RELATED
ORGANIZATIONAL MATTERS**

WHEREAS, the City Council finds it to be in the public interest to create a Barbara & George H.W. Bush Convention Center Advisory Board and establish duties, qualifications, terms of office, methods for filling vacancies, and related organizational matters;

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

SECTION ONE. Creation and Duties. There is hereby created a Barbara & George H.W. Bush Convention Center Advisory Board (the “*Board*”). The Board shall be composed of seven (7) City of Midland residents appointed as follows: four (4) members appointed by the City Council and three (3) members appointed by the Midland Chamber of Commerce. The City Secretary shall serve as a non-voting, ex officio member of the Board.

The duties of the Board shall be solely advisory and shall consist of making recommendations to the City Council regarding the management of the Barbara & George H.W. Bush Convention Center and matters related thereto. Specifically, the Board shall make recommendations to the City Council, as needed, regarding policy matters on fees, charges, maintenance, promotion, operating expenses, and the annual budget. Said recommendations shall be submitted to the City Manager and, if approved by the City Manager, thereafter submitted to the City Council for consideration.

SECTION TWO. Terms and Vacancies. The members of the Board shall be appointed to serve for initial terms varying from one (1) to three (3) years, respectively, to wit: (i) one (1) year for one (1) City Council appointee and one (1) Midland Chamber of Commerce appointee; (ii) two (2) years for one (1) City Council appointee and one (1) Midland Chamber of Commerce appointee; and (iii) three (3) years for two (2) City Council appointees and one (1) Midland Chamber of Commerce appointee. Thereafter, each member

of the Board shall be appointed to serve terms of three (3) years. The initial term of office shall begin on October 1, 2023.

Upon the resignation or removal of a member of the Board, a successor to such member shall be appointed by the City Council or Midland Chamber of Commerce, as applicable, and such successor shall hold his or her membership on the Board for the remainder of the unexpired term or until the Board is dissolved and terminated.

Any member appointed by the City Council may be removed from the Board by a majority vote of the City Council at any time for any reason. A member of the Board who fails to attend at least seventy-five percent (75%) of the duly called meetings of the Board in any single fiscal year (October 1 to September 30) shall automatically be considered to have voluntarily resigned his or her position; said member will be notified of the automatic, voluntary resignation and the respective appointing body shall promptly fill the vacancy in accordance with the procedures contained in this Resolution.

SECTION THREE. Organization. The Board shall meet on a quarterly basis and shall designate the time and place of all meetings. The Board shall adopt its own rules of procedure and elect its officers to serve for terms established by the Board. Four (4) members of the Board shall constitute a quorum for the transaction of business.

SECTION FOUR. Compensation and Expenses. The members of the Board shall serve without compensation. No debt shall be made or incurred by the Board, or anyone acting on behalf of the Board.

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 FORM ONLY:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 13
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Cristina O. Burns, Director of Community Services
Subject: MOTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THAT CERTAIN FOOTBALL/SOCCER STADIUM NONEXCLUSIVE LEASE AGREEMENT DATED MARCH 20, 2001, WITH THE MIDLAND INDEPENDENT SCHOOL DISTRICT; SAID AMENDMENT PROVIDING FOR THE EXTENSION OF THE LEASE TERM, AS DEFINED IN SAID AGREEMENT, FROM JULY 31, 2023, TO JULY 31, 2024 (DISTRICT 4) (COMMUNITY SERVICES)

Purpose:

Consider a motion authorizing the execution of a second amendment to the Football/Soccer Stadium Nonexclusive Lease Agreement with Midland Independent School District.

Recommended City Council Action:

Approve

Fiscal Impact:

There will be no change in the fiscal impact of this agreement at this time.

Discussion:

The City executed a Football/Soccer Stadium Nonexclusive Agreement with MISD in March 2001, which gives MISD the right to use Grande Stadium for their UIL football and soccer games as well as other approved MISD events. This agreement had a term of 20 years and expired on July 31, 2022. Last year, an amendment to extend the agreement for a year was executed. After further discussions with MISD, staff recommends extending this agreement an additional year to allow for further consideration before recommendations on a new agreement are made. If this amendment is approved, the agreement will now expire on July 31, 2024.

Attachments:

Football/Soccer Stadium Nonexclusive Use Agreement
Amendment to the Football/Soccer Stadium Nonexclusive Use Agreement



City Manager's Office

**SECOND AMENDMENT TO THE FOOTBALL/SOCCER STADIUM
NONEXCLUSIVE LEASE AGREEMENT
BETWEEN
THE CITY OF MIDLAND, TEXAS
AND
THE MIDLAND INDEPENDENT SCHOOL DISTRICT**

THIS SECOND AMENDMENT is made and effective _____, 2023, by and between the **CITY OF MIDLAND, TEXAS**, a home-rule municipal corporation (“City”), and the **MIDLAND INDEPENDENT SCHOOL DISTRICT** (“MISD”).

WHEREAS, City and MISD entered into that certain Football/Soccer Stadium Nonexclusive Lease Agreement dated March 20, 2001 (the “*Agreement*”), which provides for the lease of certain City-owned facilities to MISD for the purpose of holding University Interscholastic League football and soccer games and other approved MISD events; and

WHEREAS, City and MISD executed an amendment to the Agreement on July 25, 2022 (the “*First Amendment*”), which extended the Lease Term (as defined in the Agreement) until July 31, 2023; and

WHEREAS, the Agreement, inclusive of the First Amendment, has been in full force and effect since its effective date and has not been allowed to lapse; and

WHEREAS, City and MISD desire to make certain amendments to the Agreement as set forth below;

W I T N E S S E T H:

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

- 1) Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 2. Lease Term. The term of this Agreement shall be from August 1, 2002, until July 31, 2024 (the “*Lease Term*”); provided, however, that the Lease Term shall be subject to earlier termination as provided herein.

- 2) The Agreement, inclusive of the First Amendment and this Second Amendment, is hereby ratified and affirmed by City and MISD, and the Agreement shall in all respects remain in full force and effect in accordance with its provisions and as amended above.

[Signature Page Follows]

EXECUTED by the duly authorized officials as of the day and year first above written.

CITY OF MIDLAND, TEXAS

Morris Williams Jr., Interim City Manager

ATTEST:

Marcia Bentley-German, Secretary

MIDLAND INDEPENDENT SCHOOL DISTRICT

Dr. Stephanie D. Howard, Superintendent

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, _____, a notary public, on this day personally appeared **DR. STEPHANIE D. HOWARD**, Superintendent of the Midland Independent School District, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as the act and deed of the Midland Independent School District for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 2023.

Notary Public, in and for
the State of Texas

Page 2 of 2

FOOTBALL/SOCCER STADIUM NONEXCLUSIVE LEASE AGREEMENT

THIS AGREEMENT is made and entered into this 20th day of March, 2001, by and between the City of Midland, Texas, a home rule municipal corporation hereinafter referred to as the "City", and Midland Independent School District, hereinafter referred to as "MISD".

WHEREAS, the City is to construct and own a certain football/soccer stadium as part of the Scharbauer Sports Complex in Section 37, Block 40, TWP 1-S T&P RR Co. Survey, Midland County, Texas; and

WHEREAS, MISD desires to lease these facilities for its events;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, the parties have agreed and do hereby agree as follows:

ARTICLE I - MUNICIPAL FOOTBALL/SOCCER STADIUM

Section 1. Conveyance of Leasehold The City does hereby let and demise to MISD its football/soccer stadium which shall hereinafter be referred to as the "Stadium."

Section 2. Lease Term The term of this Agreement shall be from August 1, 2002 until July 31, 2022, (the "lease term") subject, however, to earlier termination as provided herein.

Section 3. Right of Occupancy MISD shall have the right to use the Stadium during each year of the lease term, beginning with August 1, 2002. MISD specifically reserves the right to use the Stadium for football and soccer games.

Section 4. Stadium Use

A. Football and Soccer Games MISD shall use the Stadium for the playing of University Interscholastic League, hereinafter referred to as "UIL", football and soccer games in which an MISD team is a participant. The Stadium shall be the home stadium of MISD's football and soccer teams. MISD shall provide a schedule to the City of all football

games to be played in a season by August 1 preceding the season during each year of the term. MISD shall provide to the City a schedule of all soccer games to be played in a season by December 1 preceding the season during each year of the term. However, playoff games in which an MISD team is a participant need not be scheduled by the August 1 and December 1 deadlines specified herein, and shall have priority scheduling. The City specifically reserves the right to lease the Stadium to third parties.

B. Other MISD Events With the City's consent, which shall not be unreasonably withheld, MISD may host other events in the Stadium during the lease term. Any such Other MISD Events must be scheduled at least 90 days in advance and any such other MISD event will be subject to prior scheduling of non-MISD events by the City.

C. Available Facilities MISD will have available for its use during all scheduled UIL football and soccer events the field house, press boxes, ticket booths, and parking lot. No person shall be admitted to the press box during MISD events without MISD approval.

D. Restrictions on Use **No flammable liquids, pyrotechnics or other ignitable materials may be used on the turf playing surface of the Stadium.**

E. Unscheduled Events Any MISD football or soccer games not scheduled by the dates specified in A. above may be played at the Stadium only with City approval.

F. Football and Soccer Practices Football and soccer practice sessions may be conducted at the Stadium subject to scheduled events.

Section 5. Reservation of Rights The City specifically reserves the right to hold special recreational, amusement, entertainment and civic sporting events in the Stadium at times which the Stadium is not in use by MISD, subject to coordination with MISD, and the City shall leave the Stadium and facilities in as good condition as when accepted. MISD understands that the City has the right of occupancy at any time that there is not an MISD

event scheduled according to the terms in Section 4 of this Article during the term of this Agreement and may use the Stadium for any purpose during unscheduled times.

Section 6. Rent

A. Rent MISD shall pay in advance to the City for the use and occupancy of the Stadium the sum of \$50,000.00 per year and as adjusted in Article II, Section 11, with payment to be made on or before the 1st day of January of each year during the term of the lease beginning on January 1, 2003. MISD shall also pay as an operating contribution the lump sum of \$30,000.00 per year during the term of the lease. This \$30,000.00 payment shall also be due on or before January 1 of each year during the term of the lease beginning on January 1, 2003. MISD shall have no additional responsibility for capital costs in excess of \$80,000.00 annually and as adjusted in Article II, Section 11, as described in this section.

B. Club Seating Club Seating may be added if mutually agreeable between the parties. If club seating is added, the City shall receive 50% of the annual seat license fees. Annual license fees are to be determined by MISD, and each seat being sold in three year increments. Any revenue received by the City for such Club Seating license fees shall be dedicated to a maintenance fund. MISD may sell Club Seating for individual games during the week preceding the individual game. The cost of an individual game club seating ticket shall be determined by MISD, and the City shall receive 50% of that revenue.

C. Late Charge It is agreed by the parties hereto that if MISD does not make payment according to this article, the City shall collect a late charge of one and one-half percent (1½%) per month on the unpaid sum beginning with the date the rent was due. The interest charged on any late payment shall not exceed the amount allowed by Texas law.

D. Ticket Sales MISD will retain all revenues generated from ticket sales from its events. This includes UIL sponsored football and soccer games in which any MISD team

is a participant, but does not include any UIL sponsored event, football, soccer or otherwise in which an MISD team is not a participant. The City will retain all revenues generated from ticket sales at events that do not involve MISD participants or is not sponsored by MISD.

E. Delay of Stadium Opening If for any reason the Stadium is not ready for use as described in this Lease Agreement at the beginning of the lease term, the rent payments described herein shall be prorated.

Section 7. Concession Rights

A. MISD shall receive 50% of the net concession revenue derived from sales at the Stadium during MISD sponsored events. This is payable annually on September 1 of each year, beginning on September 1, 2003. The term "concession" shall mean foods and beverages.

B. The City shall receive 100% of the net concession revenue derived from sales at the Stadium at events that are not sponsored by MISD.

C. All food, drinks, beverages, confections and other items sold or kept for sale at the Stadium shall conform in all respects to the federal, state and city regulations, and shall be subject to inspection and approval or rejection by the City/County Health Officer or his duly authorized representative.

D. The City retains the right to grant an exclusive concession franchise. No concessions, as defined in A. above, may be sold except by the City's franchisee. Except, however, MISD may allow its employees, agents, and booster clubs to sell concessions in the parking and pavilion areas no more than two times during any calendar year.

E. The City and MISD will not allow the sale of alcoholic beverages at MISD or UIL sponsored events.

Section 8. Advertising

A. Any and all advertising, including but not limited to that which may appear on the scoreboard shall be the exclusive right of and under the exclusive control of the City. The City may consult with MISD regarding advertising on an as needed basis. Further, there shall be no signage or advertising placed within ten (10) feet of the scoreboard without the written permission of the City.

B. The content and appearance of any advertising shall be subject to the approval of the City. Specifically, the City will not allow the sale of or advertisement of tobacco or alcoholic beverages at MISD or UIL sponsored events.

Section 9. Parking Facilities

A. The City shall make available the existing parking facilities adjacent to the Stadium for use in connection with the football and soccer games as well as other MISD events. When events are staged simultaneously each of the parties shall have the joint use of the parking areas for its patrons. MISD shall not charge for parking at football and soccer games in which an MISD team is a participant. MISD shall not charge for parking at other MISD events unless agreed to by the City. If any charge is made for parking, the City shall receive 60% and MISD shall receive 40% of the net parking revenue. In any event, MISD shall be responsible for providing necessary parking personnel for MISD sponsored events.

B. If any charge is made for parking at events not sponsored by MISD, including but not limited to playoff games in which an MISD team is not a participant, the City shall receive 100% of that net parking revenue. The City shall provide parking personnel at any non MISD event if it determines, at the City's discretion, to charge for parking at such events.

Section 10. Personnel at Games & Events MISD shall furnish at its own expense its tickets of admission, game officials, referees, score keepers, scoreboard operators, down officials, linesmen, game announcers, ticket sellers, ticket takers, parking personnel, ushers, security personnel and other employees necessary for the proper use and occupancy of the Stadium by MISD.

Section 11. Maintenance, Clean-up and Utilities

A. The City shall be responsible for maintenance of the playing field. The City shall be responsible for all usual and customary after-game cleanup and janitorial costs.

B. The City will mark the fields as requested by and per the specifications provided by the MISD Athletic Director within five (5) working days of such a request and provision of specifications. In no event shall the fields be marked more than three (3) times during a calendar year, unless UIL regulations require additional markings.

C. The City will also provide, at all times (before, during and after MISD events), all necessary maintenance and repair to the Stadium, both structural and otherwise including but not limited to: maintenance and replacement of the lights in the Stadium; maintenance of all trees; and providing and maintaining of all utilities including electricity, hot and cold water, and sewer. The City shall also ensure that the restrooms are fully stocked prior to each event. The City shall consult MISD regarding the necessity, priority, and scheduling of maintenance but shall not be bound by MISD's recommendations. The City will comply with all applicable local, federal and state regulations.

Section 12. Purchasing Policy For all purchases made relating to the Stadium by MISD where MISD anticipates reimbursement by City, MISD shall comply with Chapter 252 and Chapter 271 of the Local Government Code which are incorporated herein by reference for all legal purposes.

Section 13. Miscellaneous Equipment MISD shall provide all equipment ancillary and necessary to the play of football and soccer games including but not limited to soccer nets, corner flags, down markers, and pylons. The City will maintain and provide football goal posts and soccer goals. If the football goal posts or the soccer goals are damaged or destroyed during or after a game in which the MISD is a participant, the MISD shall replace or repair the goal posts or soccer goals at the MISD's sole expense.

ARTICLE II - GENERAL TERMS

Section 1. Application Unless otherwise indicated, all the terms and conditions listed under this Article shall be applicable to the lease of the Stadium as described in Article I. As used in this Article, the term "the premises" shall refer to the Stadium, the field house, press boxes, ticket booths, restrooms, parking facilities, and any other areas appurtenant to the Stadium.

Section 2. Laws and Regulations MISD will operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. MISD shall, at its own expense, comply with all ordinances of the City of Midland applicable to the premises. MISD shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. The City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

Section 3. Nondiscrimination MISD for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, sex, religion, or national origin shall be

excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises, (2) that in the construction of any improvement on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be denied the participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) MISD shall use the premises in compliance with all of the requirements imposed by or pursuant to Nondiscrimination of Federally-Assisted Programs in the Effectuation of Title VI of the Civil Rights Act of 1964, and as those regulations have been and may be amended.

Section 4. Inspection MISD agrees that the City shall have the right to enter upon the premises at all reasonable times for the purpose of inspection and to insure enforcement of ordinances and laws governing MISD's occupancy of the premises.

Section 5. Independent Contractor MISD shall operate hereunder as an independent contractor and not as an officer, agent, servant, or employee of City. MISD shall have exclusive control of, and the exclusive right to control the details of the MISD sponsored football and soccer games and other MISD events, and shall be responsible for the acts and omissions of its officers, members, agents, servants, employees, and subcontractors. In no event shall any person participating in or performing any of MISD's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the City.

This section shall not be construed to require the MISD to indemnify the City nor shall it be construed to require the City to indemnify the MISD.

Section 6. Taxes and Other Payments MISD does hereby accept full and exclusive liability for the payment of any and all taxes due the state and federal governments including but not limited to all contributions or taxes due for social security, unemployment insurance or old age retirement benefits, pensions or annuities now or hereafter imposed under any state

or federal law, which are measured by wages, salaries or other remuneration paid to persons employed by MISD for work performed under the terms of this Agreement and shall indemnify and save harmless the City from any such contributions or taxes or liability therefor.

Section 7. Force Majeure If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited. Should MISD be temporarily prohibited from honoring this Agreement by force majeure, the City reserves the right to extend the term of this Agreement for a time period equal to the time period that MISD was prevented from honoring this Agreement.

Section 8. Assignment and Sublease MISD shall not sell or assign its leasehold estate in its entirety or any portion of it without the written consent of the City, such consent not to be unreasonably withheld. MISD shall not sublet the premises or any portion of them or any portion of any building or other improvement erected on the premises without the written consent of the City. In the event that the City does consent to any sale, assignment or subletting of MISD's leasehold, such consent shall not release MISD from any obligations due prior to the assignment under this agreement or waive any rights of the City. Further, MISD shall not authorize any liens on any of the structures at the Stadium.

Section 9. Termination.

A. Default Should MISD default in the performance of any covenant, condition, or agreement in this Agreement, and not correct the default within thirty (30) days after receipt of written notice from the City, the City may declare this Agreement, and all rights

and interests created by it, to be terminated. Upon the City's electing to terminate, this Agreement shall cease and come to an end as if the day of the City's election were the day originally fixed in this Agreement for its expiration. The City or the City's agent or attorney may resume possession of the premises and relet them for the remainder of the term at the best rent obtainable for the account of MISD, who shall make good any deficiency. Provided that should MISD cure all defaults within the 30 day notice, this Agreement shall not be canceled. The City may, in its discretion, allow MISD more than 30 days to cure defaults if such time is, in the opinion of the City, reasonably necessary. MISD shall similarly, give the City at least 30 days notice of any alleged default and give opportunity to cure prior to instituting any action to cancel this Agreement.

B. Outstanding Obligations Any termination of this Agreement as provided in this Article shall not relieve MISD from the payment of any sum or sums that are due and payable to the City under this Agreement at the time of termination, or any claim for damages then or previously accruing against MISD under this Agreement, and any such termination shall not prevent the City from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from MISD for any default under this Agreement.

C. Audit MISD agrees to maintain financial records pertaining to all obligations relative to this Agreement in accordance with standard accounting principles and procedures and to retain such records and supporting documents for a period of four years. MISD shall permit the City to audit these records at any time, subject to forty-five (45) days advance written notice. This right of audit shall be limited to those records which relate to this Agreement only.

D. Acceleration of Payments In addition to and cumulative with any other remedies which the City has reserved in this Agreement, in the event of any default by MISD of the terms of this Agreement, the City reserves the right to accelerate all rents and payments to be made by MISD to the City during the term of this Agreement and to declare the same immediately due and payable. This paragraph applies to, but is not limited to, the agreement on the part of MISD to pay the \$50,000.00 rent annually, as adjusted, and the \$30,000.00 operating contribution annually during the term of this Agreement.

E. Cumulative Rights and Remedies All rights, options, and remedies of the City contained in this Agreement shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and the City shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Agreement.

F. Waiver No waiver by the 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.

Section 10. Improvements. It is expressly agreed and understood that the City is under no obligation to make any structural alterations or other improvements to the premises during the term hereof except where otherwise provided herein, and MISD expressly waives any right to make demand for same upon the City. The City expressly reserves the right to enter upon the premises without notice, at reasonable times during reasonable hours for the purpose of making or furnishing repairs, services or improvements.

Section 11: Adjustments After the first five (5) years of the lease term, and at five (5) year intervals for the rest of the term, the yearly rent will be adjusted as set forth in this

section to reflect increases in the following Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor: Consumer Price Index-All Urban, All Items, Dallas-Fort Worth Area, using *e.g.*, 1982-84=100 as the base year. The index numbers will be taken from this consumer price index as follows:

A. Automatic Rental Adjustments The yearly rent, adjusted every five years, is determined by multiplying \$ 50,000.00 by a fraction, the numerator of which is the index number for the last month of the calendar year that ended immediately before the date on which the adjustment is to be made and the denominator of which is the index number for the first month of the first year of the lease term. If the product is greater than the minimum yearly rent of \$50,000.00, MISD will pay this greater amount as the yearly rent until the time of the next rental adjustment as called for in this section. If the product is less than \$50,000.00, the annual rent will not be adjusted at that time, and MISD will pay yearly rent of \$ 50,000.00 until the time of the next rental adjustment as called for in this section. In no event may any rental adjustment called for in this section result in an annual rent less than \$ 50,000.00.

The example below illustrates the computation of index point and percent change.

Index Point Change

CPI	115.7
Less previous index	111.2
Equals index point change	4.5

Percent Change

Index point difference	4.5
Divided by the previous index	111.2
Equals	0.040
Results multiplied by one hundred	0.040x100
Equals percent change	4.0

B. If the Bureau of Labor Statistics of the United States Department of Labor ceases to exist or to publish statistics concerning the purchasing power of the consumer

dollar during the lease term, the remaining rental adjustments called for in this section will be made by using the most nearly comparable statistics published by a recognized financial authority selected by the parties.

Section 12. Venue The obligations of the parties to this Agreement shall be performable in Midland County, Texas, and if legal action is necessary in connection therewith, exclusive venue shall lie in Midland County, Texas. All payments shall take place in Midland County, Texas

Section 13. Governing Law This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

Section 14. Notice Any notice or demand required to be made hereunder, or that shall be made regarding this Agreement, shall be made in writing and shall be deemed given when personally delivered or after its deposit with the United States Mail, postage prepaid, certified or registered mail, and addressed as follows:

If to the City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Community Services at the same address
If to MISD:	Midland Independent School District 615 W. Missouri Midland, Texas 79701 Attention: Superintendent
with a copy to:	Athletic Director, at same address

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

Section 15. Captions Section headings are inserted herein only as a matter of

convenience and for reference, and in no way define, limit or describe the scope or intent of any provision herein.

Section 16. Severability In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

Section 17. Use of Language Words in the singular shall be held to include the plural, unless the context otherwise requires.

Section 18. Amendments, Modifications, Alterations No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

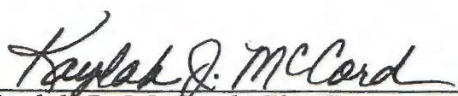
Section 19. Counterparts This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

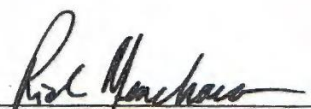
Section 20. Parking Authority. MISD shall have the authority to remove cars according to applicable law from the stadium parking areas from 2 hours before each game until 2 hours after each game.

IN WITNESS HEREOF, the parties hereto have executed this Agreement the day and year first set forth above.

ATTEST:

CITY OF MIDLAND, TEXAS

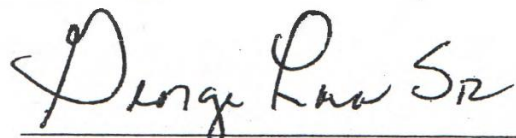

Kaylah J. McCord, City Secretary

By 
Rick Menchaca, City Manager

APPROVED AS TO FORM:


Keith Stretcher, City Attorney

MIDLAND INDEPENDENT SCHOOL
DISTRICT


President, Board of Trustees

**AMENDMENT TO THE FOOTBALL/SOCCER STADIUM
NONEXCLUSIVE LEASE AGREEMENT
BETWEEN
THE CITY OF MIDLAND, TEXAS
AND
THE MIDLAND INDEPENDENT SCHOOL DISTRICT**

THIS AMENDMENT is made and effective July 25, 2022, by and between the **CITY OF MIDLAND, TEXAS**, a home-rule municipal corporation ("*City*"), and the **MIDLAND INDEPENDENT SCHOOL DISTRICT** ("*MISD*").

WHEREAS, City and MISD entered into that certain Football/Soccer Stadium Nonexclusive Lease Agreement dated March 20, 2001 (the "*Agreement*"), which provides for the lease of certain City-owned facilities to MISD for the purpose of holding University Interscholastic League football and soccer games and other approved MISD events; and

WHEREAS, the Agreement has been in full force and effect since its effective date and has not been allowed to lapse; and

WHEREAS, City and MISD desire to make certain amendments to the Agreement as set forth below;

W I T N E S S E T H:

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

- 1) Section 2 of the Agreement is hereby deleted in its entirety and replaced with the following:

Section 2. Lease Term. The term of this Agreement shall be from August 1, 2002, until July 31, 2023 (the "*Lease Term*"); provided, however, that the Lease Term shall be subject to earlier termination as provided herein.

- 2) The Agreement, inclusive of this Amendment, is hereby ratified and affirmed by City and MISD, and the Agreement shall in all respects remain in full force and effect in accordance with its provisions and as amended above.

[Signature Page Follows]

EXECUTED by the duly authorized officials as of the day and year first above written.

CITY OF MIDLAND, TEXAS

Robert Patrick, City Manager

ATTEST:

Amy M. Turner, Secretary

MIDLAND INDEPENDENT SCHOOL DISTRICT

Dr. Angelica Ramsey, Superintendent

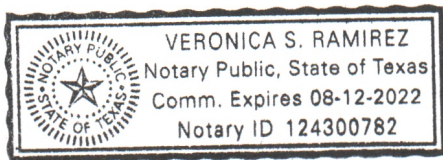
THE STATE OF TEXAS §

§

COUNTY OF MIDLAND §

BEFORE ME, Veronica Ramirez, a notary public, on this day personally appeared **DR. ANGELICA RAMSEY**, Superintendent of the Midland Independent School District, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as the act and deed of the Midland Independent School District for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 3rd day of August, A.D., 2022.



Notary Public, in and for
the State of Texas



City Council Meeting

Item Number: 14
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Isaac Garnett, Manager, Community Development
Subject: RESOLUTION AUTHORIZING THE ADOPTION OF THE CITY OF MIDLAND'S 2023-2024 ACTION PLAN TO THE CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS FOR THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S FISCAL YEARS 2020-2024; THE CONSOLIDATED PLAN HAVING BEEN APPROVED BY RESOLUTION NUMBER 2020-127; AND AUTHORIZING THE EXECUTION OF AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (DISTRICT: ALL) (DEVELOPMENT SERVICES)

Purpose:

RESOLUTION AUTHORIZING THE ADOPTION OF THE CITY OF MIDLAND'S 2023-2024 FOURTH YEAR ACTION PLAN TO THE CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS FOR THE H.U.D. FISCAL YEARS 2020-2024; THE CONSOLIDATED PLAN HAVING BEEN APPROVED BY RESOLUTION NUMBER 2020-127; AND AUTHORIZING THE EXECUTION OF AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (DISTRICT: ALL) (DEVELOPMENT SERVICES)

Recommended City Council Action:

Approve

Fiscal Impact:

No fiscal Impact on the city budget.

Discussion:

The sole funding source is the H.U.D. 2023/2024 Community Development Block Grant (CDBG) program entitlement allocation of \$1,067,901 and \$198,823 in prior years CDBG CV-

19 entitlement allocations. Additionally, the City expects to receive \$65,000 in Program Income totaling \$1,331,724. Priority housing needs to be addressed are those of owner households in the 0% to 80% of median income range, and renter households in the 31% to 80% of median income range who will be making home purchases. The City will also address public services (senior citizens) and other park improvements.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE ADOPTION OF
THE CITY OF MIDLAND'S 2023-2024 ACTION PLAN
TO THE CONSOLIDATED PLAN FOR COMMUNITY
DEVELOPMENT AND HOUSING FUNDS FOR THE
UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT'S FISCAL YEARS 2020-2024;
THE CONSOLIDATED PLAN HAVING BEEN
APPROVED BY RESOLUTION NUMBER 2020-127; AND
AUTHORIZING THE EXECUTION OF AN
APPLICATION FOR COMMUNITY DEVELOPMENT
BLOCK GRANT FUNDS**

WHEREAS, the Department of Housing and Urban Development requires the recipients of Community Development Block Grant Funds to prepare a yearly action plan to the Consolidated Plan for Community Development and Housing Funds for the United States Department of Housing and Urban Development's ("HUD") fiscal years 2020-2024; and

WHEREAS, the City Council of the City of Midland, Texas, finds it to be in the public interest to adopt the 2023-2024 Action Plan; and

WHEREAS, the City Council finds it to be in the public interest for the City to apply to the United States Department of Housing and Urban Development for Community Development Block Grant Funds for HUD's fiscal year 2023-2024;

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

SECTION ONE. That the document which is on file with the City Secretary's office referenced by the number and date of this resolution is hereby approved and adopted as the City of Midland 2023-2024 Action Plan to the City of Midland Consolidated Plan for Community Development and Housing Funds for HUD's fiscal years 2020-2024.

SECTION TWO. That the Mayor is hereby authorized and directed to execute on behalf of the City of Midland an application, No. B-23-MC-48-0023, to the United States Department of Housing and Urban Development for Community Development Block Grant Funds in the amount of \$1,067,901.00 for fiscal year 2023-2024, by GSA Standard Form 424 with budgetary attachments, copies of which are attached hereto and are incorporated within

the City of Midland 2023-2024 Action Plan and made a part hereof for all legal purposes.

SECTION THREE. That an estimated amount of \$65,000.00 in program income will be received for program year 2023-2024 which will be used by the program that generates the income.

SECTION FOUR. That \$198,823.00 from prior years' COVID-19 funding will be applied to HUD's 2023-2024 fiscal year.

SECTION FIVE. That the City will receive \$1,067,901.00 in Community Development Block Grant Entitlement Grant Funds for the 2023-2024 program, an estimated amount of \$65,000.00 in program income will be received for program year 2023-2024 which will be used by the program that generates the income, and \$198,823.00 from prior years' COVID-19 funding, thus resulting in a total of \$1,331,724.00 in Community Development Block Grant funds that will be available in 2023-2024.

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:

Isaac Garnett, Community Development
Administrator

Christy Weakland, Director of Finance

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

The City of Midland is pleased to submit its 2023 Fourth Year Annual Action Plan of the 2020-2024 Consolidated Plan. The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified in the Consolidated Plan. The CDBG Fourth Year Annual Action Plan establishes Midland's strategy for investment of its U.S. Department of Housing and Urban Development (HUD) resources and other resources linked to activities directed at the community development, housing, and homeless service's needs. The goal of the Fourth Year Annual Action Plan is to develop viable urban communities by providing decent housing, a suitable living environment, and expanding economic opportunities principally for low-and moderate-income persons. The City of Midland has only applied for and received the Community Development Block Grant (CDBG) program.

The Fourth Annual Action Plan covers the period, beginning October 1, 2023, and ending September 30, 2024. The sole funding source is the City's 2023/2024 Community Development Block Grant (CDBG) program entitlement allocation of \$1,067,901. Additionally, the city expects to receive \$65,000 in program income and \$198,823 in COVID -19 totaling \$1,331,724. Priority housing needs to be addressed are those of owner households in the 0% to 80% of median income range, and renter households in the 31% to 80% of median income range who will be making home purchases. The city will also address public services (senior citizens) and other infrastructure improvement.

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

This could be a restatement of items, or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis, or the strategic plan.

The overall outcome is to improve the quality of life to principally low-and-moderate-income persons by creating suitable living environments, improving the availability of affordable housing, and enhancing

economic opportunities. The Annual Action Plan process identified the same overarching needs within the community, as identified in the Consolidated Plan. The following priority needs adopted are:

- OHAP Major Assist 10 low-income first-time homebuyers with home purchases.
- Casas de Amigos of Midland-SE Senior Center meals program (250 persons).
- Casa de Amigos-home cleaning program for seniors (62 persons).
- Casa de Amigos- for Seniors Resiliency Program (50 persons).
- Midland Mission Adult Day Center-Take Home Terrific meals program (50 persons).
- Senior Life Midland Meals on Wheels Food Program (800 persons).
- Salvation Army Homeless Meal Program (240 meals per day).
- (MMH) Mental Health & Wellness Program Transportation Assistance (100 Persons).

The outcomes of addressing these needs will be measured by the increase in availability/accessibility, affordability and sustainability created by the programs and services provided throughout the course of the Consolidated Plan. By concentrating funds on a small number of specific needs, it is hoped that the main objective will be achieved and a greater number of principally low-and moderate-income persons will benefit from the available funding.

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

Over the course of the fourth year of the 2020-2025 Consolidated Plan, the city will continue to improve its processes and delivery of services in addressing the housing, community development and economic development objectives identified. A complete and detailed year-end report has been written summarizing the result of activities that took place during the program accomplishment year 2020 (PY20). A copy of this report can be found at <http://develop.midlandtexas.gov/35/Community-Development>.

Utilizing Community Development Block Grant (CDBG) the city expended the following in accomplishment for program year (PY22):

- CDBG-First-time homebuyers down-payment assistance were expended to qualified families \$150,000.
- CDBG Minor Home Repair- assistance were expended to qualified families \$50,000.
- Casa de Amigos Senior Meal Assistance Program - \$66,000
- Midland Memorial Hospital Indigent Health/Wellness-\$20,000
- Senior Life Midland Meals on Wheels \$45,000
- Benton Street Infrastructure \$500,000
- Mission Adult Day Center \$35,000
- Casa de Amigos Home Cleaning \$45,000
- Salvation Army Homeless Meal Program \$120,000
- Casa de Amigos Senior Resiliency Program \$46,000

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

The CDBG office adhered to its CDBG Citizen Participation Plan. Specifically, publicity for scheduled meetings on March 28, 2023 at 6:00pm Martin Luther King Center, March 29, 2023, 10:00am Casa de Amigos and March 30, 2023, 10:00am Southeast Center. An In-person survey and email distribution survey of 47 citizen was conducted (18 respondents) to arrive at recommended priorities and goals for the upcoming program year. Respondents most common answers were similar to prior years recommendations; improvement to public spaces (parks), transportation (buses), infrastructure (neighborhood streets) Community Centers (youth/senior activates) and Housing (Homelessness/Affordable Housing/Dilapidated Removal). The Midland City Council held two public hearings on May 27, 2023, at 10:00am and June 13, 2023, at 10:00am and a 30-day public comment period from June 24, 2023, to July 24, 2023. Efforts were made to include as many sub-populations/groups and/or advocate groups for them in the process

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

During the needs assessment public hearing period comments were from a broad range of issues concerning:

Annual Action Plan

3

- Early childhood education and childcare programs, including programs targeting dual (ESL) language learners and the growing Hispanic population in Midland;
- Public facilities Improvements;
- Transitional living programs for homeless adults/youths;
- Educational and training classes for adults;
- Access to affordable housing;
- Assistance to victims of abuse;
- Transportation;
- Access to food; The value of HUD block grant funding and the overall benefit to the community; Increase need for services to low- and moderate-income seniors.

6. Summary of comments or views not accepted and the reasons for not accepting them

CDBG Office considered all comments and views; and did not reject any responses specifically. Additionally, this office incorporated many responses into the Fourth Year Annual Action Plan.

7. Summary

During the program year of 2023/2024, the CDBG office will build upon experience from past achievements and current conditions in order to meet new strategic goals and outcomes set within this Action Plan. We will focus on using empirical data gathered on an annual basis to meet the underserved needs of the community and improve resident's quality of life; principally for low and moderate income Midlander's.

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Administrator	MIDLAND	Community Development Division

Table 1 – Responsible Agencies

Narrative (optional)

The lead agency for overseeing the development of the Action Plan is the City of Midland’s Department of Development Services through its Community Development Division or CDBG Office. Major public and private agencies responsible for administering programs covered by the Annual Action Plan are the City of Midland, local housing authorities and numerous housing and social service non-profits.

Consolidated Plan Public Contact Information

Community Development Manager

City of Midland

300 N Loraine, Suite 410

P.O. Box 1152

Midland, Texas 79702

432-685-7408

Annual Action Plan

2023
14.10

5

July 25, 2023

AP-10 Consultation – 91.100, 91.200(b), 91.215(I)

1. Introduction

The city has identified the significant aspects of the process by which the Action Plan is being developed and the public/private agencies, groups, organizations, and others that participated in the plan. The Action Plan is a comprehensive document that addresses statutory purposes. The lead agency for overseeing the development of the Plan is the City of Midland's Department of Development Services through its Community Development Division or CD Office.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(I))

The Community Development Office has a long-standing working relationship with both housing authorities in the city due to the mayor appointment of the CDBG Manager as the designated liaison to the PHA's. The liaison is responsible for coordinating information dissemination/communications from the city government to the PHA's that is essential to its city operations as well as being the secondary resource line for complaints or concerns originating from the PHA's by residents. The City also participates in other umbrella coalitions such as the Permian Basin Planning Commission in an effort to address other issues that relate to housing, transportation, and public service needs. The City of Midland and the PHA' are members of the Midland Affordable Housing Alliance which is an affordable housing advocacy group of nonprofits. MAHA plans, strategizes, and incorporate initiatives to increase affordable housing in Midland County through policy initiative and construction. Midlander's benefits from a strong and cohesive coalition of local government officials, service providers, lenders, and volunteers. MAHA partners are responsible for the development of several multifamily housing units being constructed throughout Midland, utilizing Housing Tax Credits and other financial measures.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

Midland Homeless Network (CoC) is now established as a formal partner of MAHA in which the CoC will seek state and federal funding to solidify its role as the leading provider of homeless service in Midland County. The Homeless Coalition (CoC) maintains relationships with mental health providers and local homeless shelters, substance abuse and recovery facilities, homeless meal providers, coordinate and deliver the Point-In-Time count to the State of Texas and local philanthropic services providers whose

principal responsibilities are helping people with basic necessities. The Coalition is working with the Texas Homeless Network to apply for grants in the coming years to increase resource development and delivery.

The City of Midland and the MAHA/Homeless Continuum of Care (CoC) are working to develop an inclusive coordination and consultation process to address the everchanging needs of homeless persons in Midland County. Although it is still a work in progress; the focus remains to collaborate on all aspects of a Housing First Modality; including planning, funding, implementing, and evaluating homeless assistance, and prevention programs at the local level. The Midland CoC will be registered in the Homeless Management Information System (HMIS) lead agency, and the CDBG office is considering to be designated as the HMIS administrator for governance and bringing forward HMIS data standards, policies and performance reports for review and approval. The administrator will provide access to licenses, hands-on training and technical support to all of the grant subrecipients and submits performance reports accordingly.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The city is not a recipient of ESG funds at this time, but this office will continue a targeted public outreach effort to educate and engage the public in its annual Action Planning and funding opportunities process. Community Development Office will provide input during the grants award and allocation process. To ensure compliance with the Final CoC Rule, the CDBG office will work closely with the local Continuum of Care Activities to include:

- Posting and advertising all public meetings with adequate advance notice to citizens for maximizing participation.
- Ensuring all public meetings and other forms of communication are accessible to people with disabilities and non-English speaking persons.
- Utilizing web-based communication tools to solicit input from citizens.
- Working with local service providers, local lenders, and others to leverage public and private resources.
- Coordinating resources and services for affordable and supportive housing, in conjunction with local service providers, housing officials, lending institutions, developers, and non-profit organizations,
- Conducting meetings with grantees.
- Meeting with funded agencies to discuss their programs, successes and challenges; and
- Providing on-going citizen participation opportunities in nontraditional listening setting.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

Table 2 – Agencies, groups, organizations who participated

1	Agency/Group/Organization	Midland County Housing Authority
	Agency/Group/Organization Type	Housing PHA Services-Elderly Persons Services-Persons with Disabilities Services-homeless Services-Health Child Welfare Agency Planning organization Business and Civic Leaders Foundation Private Sector Banking / Financing
	What section of the Plan was addressed by Consultation?	Homelessness Needs - Veterans
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The City communicates and coordinates with other Midland governmental entities, local housing authorities, the City of Odessa and various State of Texas departments on an as needed basis. The City provided copies of the draft Action Plan to the following governmental entities: the Permian Basin Regional Planning Commission, local housing authorities and Midland County. Midland is not adjacent to another municipal government.
2	Agency/Group/Organization	Permian Basin Regional Planning Commission
	Agency/Group/Organization Type	Planning organization
	What section of the Plan was addressed by Consultation?	Non-Homeless Special Needs Market Analysis Economic Development

	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The CDBG office attend monthly meeting of the regional planning commission to address and impact transpiration issues for disable persons.
3	Agency/Group/Organization	Texas Balance of State Continuum of Care
	Agency/Group/Organization Type	Housing Services-homeless Services-Health Grantee Department
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy HOPWA Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The CDBG office is part of the Texas Homeless Network Balance of State and conduct regular monthly meeting to address efforts to impact positively and reduction of homeliness in Midland.
4	Agency/Group/Organization	Midland Vision 2000
	Agency/Group/Organization Type	Housing Neighborhood Organization
	What section of the Plan was addressed by Consultation?	Homeless Needs - Families with children Anti-poverty Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The CDBG office contacted Vison 2000 on a quarterly basis to get an assessment of housing and rental trends in as close to "real-time" as possible to adjust the Action Plan accordingly.

5	Agency/Group/Organization	MIDLAND
	Agency/Group/Organization Type	Housing Services-Health Service-Fair Housing Other government - Local Major Employer
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homelessness Strategy Non-Homeless Special Needs Market Analysis Economic Development Anti-poverty Strategy Lead-based Paint Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	These are critical organizations meet on a quarterly basis to plan and evaluate housing and infrastructure development to increase affordable, transportation, health care, and economic outlook throughout Midland and the region.

Identify any Agency Types not consulted and provide rationale for not consulting

The CD department invite any organization to attend the meetings, send emails and call to give input to the city's overall CDBG development.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	Continuum of Care State of Texas	The City of Midland Strategic Plan overlap the goals of the Midland Homeless Coalition/Midland Affordable Housing Alliance by providing funds for housing improvements and developments.

Table 3 – Other local / regional / federal planning efforts

Narrative (optional)

Anticipated outcomes from the consultations include a more concise data-driven set of goals based on community needs, resulting in more low- and moderate-income persons being served throughout the course of the plan. The City will continue to communicate and coordinates with other Midland governmental entities, the two local Housing Authorities, and the City provided copies of the draft Action Plan to the following governmental entities: The Midland County Library, City of Midland CDBG Web page, Midland County Libraries, Martin Luther king Community Center, Casa de Amigos and Midland Senior Centers.

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting

The CDBG office solicits public input regarding the long-term and short-term needs of the community to develop funding priorities. The priority needs for the City of Midland 2023-2024 Annual Action Plan were determined through analysis of information gathered from a variety of sources and the CDBG schedule was approved by the City Council on January 11, 2023. The CDBG Prioritization Committee was established consisting of the following members who all make recommendation to the full council: two and four district City Councilors, At-Large Council member and CDBG Manager who shall serve ex-officio. An Annual Plan Timeline was published to ensure citizens were aware of the process including opportunities for participation.

Schedule for 2023 CDBG Application Cycle, 2023- 2024 Action Plan

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Public Hearing	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Residents of Public and Assisted Housing	Two public hearings were held to gather input and direct uses of CDBG funding for the 2023/2024 program year. Eleven (11) people attended the Public Hearing on May 23, 2023 and Three (3) people attended the public hearing on June 13, 2023 to express needs of the community. Respondents were positive towards the preliminary Action Plans development.	Speakers expressed the need for more transportation services, senior services, educational programs, affordable housing, mental health counseling, jobs, services for the homeless, and supportive services. Comments were in line with project recommendation and developments	All comments were considered in the prioritization of needs process.	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
2	Public Meeting	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Residents of Public and Assisted Housing	Three public meetings were held March 28,2023, zero (0) people attended March 29, 2023 twenty (20) people attended and March 30, 2023 sixteen (16) people attended to express/ gather input and direct uses of CDBG funding for the 2023/2024 program year.	Attendees expressed the need for additional recreational activities, affordable transportation needs for seniors, and homeless needs. comments were in line with project recommendation and developments.	All comments were considered in the prioritization of needs process.	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
3	CDBG Needs Assessment	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Residents of Public and Assisted Housing	Community Leaders and Civic organizations, Hispanic Chamber of Commerce, MAHA, National Black Professional & Businesswomen Inc., PermianCare Services, Midland Health/Behavioral Safety, Tall City Lions Club, Midland Salvation Army, The Fields Edge Org.	Comments were in line with project recommendation and developments. Suggested funds for land acquisition, indigent mental health services, food, transportation, transitional housing, neighborhood improvements.	All comments were considered in the prioritization of needs process.	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
4	Internet Outreach	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	City of Midland Web page had the CDBG Community Survey available for download.	No surveys were returned/submitted by email to the CDBG offices.	All comments would be considered in the prioritization of needs process; none submitted.	

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

The City of Midland is a HUD entitlement grant that provides federal funds to improve neighborhoods in low-moderate income communities and census tracts.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	1,067,901	65,000	198,823	1,331,724	954,041	PI includes estimated (\$65,000) for ED activity and EN (\$1,067,901). Remainder includes estimated future Annual Allocations plus approximate RL (3.0m) in ED activity. COVID-19 CARES ACT (\$198,823)

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how

matching requirements will be satisfied

The federal, state, and local resources available to address the needs identified in the plan include federal CDBG formula grant funds. The Midland Continuum of Care (CoC) will pursue grant opportunities under the HUD CoC competitive grant opportunities in PY2023 program year. The CDBG funds will be leveraged with the City's general funds, local nonprofit resources, and private foundation grants. The City of Midland has \$100,000 in the general fund account available for use towards CoC applications and grant for ESG, HOME, or HOPWA activities in 2023 program year. Physical improvements projects will use a combination of CDBG funds, City general funds to enhance selected projects. Public service projects will concentrate efforts to address the needs of seniors and disabled that are high risk population identified as a priority need. Use of CDBG funds will leverage other nonprofit resources and private foundation funds to assist low-income households. Physical improvements will use a combination of public funds, CDBG funds, City general funds, and private foundations to enhance selected projects. Housing development funds will afford developers and subrecipients' extend nonfederal contributions with housing construction.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

NA

Discussion

The Expected Amount Available for the Remainder of 2020-2024 ConPlan is (\$954,041) received over the remaining two years of the Consolidated Plan. Estimates were calculated using the confirmed funding of the current CDBG program year (\$1,067,901) and program income of \$65,000 to be received during the third, fourth and fifth year of the Consolidated Plan. The CDBG program income total includes an estimated \$65K in housing reconstruction loans funds received through economic development activities and this is included in the Expected Amount Available Remainder of ConPlan total. Additionally, the COVID-19 (\$198,823) funding is available to programing.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Affordable Homebuyers Housing Assistance	2020	2024	Affordable Housing	BRADFORD PARK/2004 TARGET AREA SAN JUAN CHURCH/2006 TARGET AREA City of Midland Low and Moderate Income Census Tracts Southern Addtion	Affordable Home Owner Housing	CDBG: \$150,000	Direct Financial Assistance to Homebuyers: 10 Households Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
3	Public Services	2020	2024	Non-Housing Community Development	SAN JUAN CHURCH/2006 TARGET AREA Low and Moderate Income Census Tracts Greenwood Addition	Public Services	CDBG: \$149,000	Public service activities other than Low/Moderate Income Housing Benefit: 412 Persons Assisted Public service activities for Low/Moderate Income Housing Benefit: 412 Households Assisted
4	Infrastructure Improvements	2020	2024	Non-Housing Community Development	Low and Moderate Income Census Tracts Greenwood Addition	Expand & Improve Public Infrastructure & Facilities	CDBG: \$450,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 420 Persons Assisted Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit: 140 Households Assisted
6	Homeless Meals Program	2020	2024	Homeless	Low and Moderate Income Census Tracts	Homeless Services Public Services	CDBG: \$100,000	Homeless Person Overnight Shelter: 2000 Persons Assisted
9	Essential Services	2020	2024	Non-Housing Community Development	Low and Moderate Income Census Tracts	Homeless Services	CDBG: \$83,000	Homelessness Prevention: 112 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
10	Clearance and Demolition	2020	2024	Removal of delapidated housing from neighborhoods	Low and Moderate Income Census Tracts	Demolition of Substandard Buildings	CDBG: \$50,000	Housing Code Enforcement/Foreclosed Property Care: 10 Household Housing Unit

Table 6 – Goals Summary

Goal Descriptions

1	Goal Name	Affordable Homebuyers Housing Assistance
	Goal Description	Direct Financial Assistance to Homebuyers: 10 Households Assisted
3	Goal Name	Public Services
	Goal Description	Public service activities other than Low/Moderate Income Housing Benefit: 360 Persons Assisted-Casa de Amigos of Midland Senior Center and S.E. Senior Center meals program and Take-Home Terrific meals from Adult Day Center. COVID-19 Meals on Wheels emergency meals 800 person assisted.

4	Goal Name	Infrastructure Improvements
	Goal Description	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 420 Persons assisted, Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit. 140 households assisted
6	Goal Name	Homeless Meals Program
	Goal Description	Provided Emergency in-person food to shelter services to the Salvation Army and Meals on Wheels for home-bound persons.
9	Goal Name	Essential Services
	Goal Description	Peer support services/refferals for homeless and substance abusers.
10	Goal Name	Clearance and Demolition
	Goal Description	Clearing of slum and blight in low-modrate income neighborhoods.

Projects

AP-35 Projects – 91.220(d)

Introduction

Of the proposals received for funding consideration, the following projects were recommended by the Midland City Council CDBG Committee with input from city staff for funding from the CDBG funds expected to be available for program year 2023-2024.

Projects

#	Project Name
1	Hellinghausen Hope Parking Lot Infrastructure
2	Thriving United Peer Support Outreach
3	City Development Services Housing Demolition
4	Breaking Bread Homeless Outreach

Table 7 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The projects listed above were selected by the Council CDBG Committee from the total of all project proposals received during the open application process for the 2023/2024 CDBG program. Additional activities are identified by the public health crisis. Citizens and organizations were asked to identify which priority their program most closely related. During the evaluation phase, points were awarded to the applications that demonstrated the proposed projects best tied to the Midland Con Plan and HUD national objective. Most agencies do not have necessary funds and resources to provide all services needed by the clients/recipient and have stated in their applications that without CDBG grant funds

their project, or program may not be able to fully serve the community's needs.

AP-38 Project Summary
Project Summary Information

1	Project Name	Hellinghausen Hope Parking Lot Infrastructure
	Target Area	Low and Moderate Income Census Tracts
	Goals Supported	Infrastructure Improvements
	Needs Addressed	Affordable Rental Housing
	Funding	CDBG: \$50,000
	Description	Resurface and paving of parking lot at the affordable housing development.
	Target Date	9/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	120 residents are low-moderate income families.
	Location Description	low-moderate census tracts.
	Planned Activities	Replace paving in the parking lot.
2	Project Name	Thriving United Peer Support Outreach
	Target Area	Low and Moderate Income Census Tracts
	Goals Supported	Essential Services
	Needs Addressed	Homeless Services
	Funding	CDBG: \$83,000
	Description	Professional peer support professional will assist homeless and substances abusers receive recovery information and referrals to treatment centers.
	Target Date	9/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	140 individuals will be contacted and referred to services and treatment.
	Location Description	Low-moderate income census tracts
	Planned Activities	Street outreach activities.
3	Project Name	City Development Services Housing Demolition
	Target Area	Low and Moderate Income Census Tracts
	Goals Supported	Essential Services
	Needs Addressed	Demolition of Substandard Buildings
	Funding	CDBG: \$50,000

	Description	Contract vendor will demolish 5 dilapidated structures in low-moderate income census tracts.
	Target Date	9/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	Low moderate income neighborhoods will have delapidated housing removed for potential new housing developments.
	Location Description	low-moderate income census tracts
	Planned Activities	Demolition of delapidated structures.
4	Project Name	Breaking Bread Homeless Outreach
	Target Area	Low and Moderate Income Census Tracts
	Goals Supported	Essential Services
	Needs Addressed	Homeless Services
	Funding	CDBG: \$15,000
	Description	Purchase of large industrial Refrigerator for meal preparation to the homeless communities.
	Target Date	9/30/2024
	Estimate the number and type of families that will benefit from the proposed activities	275 homeless person will benefit from the food program
	Location Description	low moderate income census tracts.
	Planned Activities	Out reach meals to homeless communities.

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

In the development of the Consolidated Plan, two specific target areas were defined and approved beyond the City-Wide target area. These areas all suffer with high levels of poverty and unemployment; all are occupied by LMI census tracts. In the development of the Consolidated Plan, five target areas were defined and approved. These areas all suffer from high levels of poverty and unemployment, and neighborhood housing dilapidation.

Geographic Distribution

Target Area	Percentage of Funds
BRADFORD PARK/2004 TARGET AREA	
WASHINGTON PARK/2005 TARGET AREA	
SAN JUAN CHURCH/2006 TARGET AREA	
SPARKS PARK	
MULBERRY DRAW	
City of Midland	
Low and Moderate Income Census Tracts	80
Ratliff Park 2017	
MLK	
Greenwood Addition	7
Southern Addition	13

Table 8 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

Concentrating resources in specific geographies in the Greenwood Addition, Southern Addition, San Juan Addition, and low-moderate income census tracts is necessary to adequately address the scale of needs. The CDBG office has identified substandard conditions such as deteriorated housing and infrastructure. The city elects to focus activity in the areas of highest concentration of poverty, unemployment, and basic needs. As well as areas where other city funds and private investments are anticipated as a basis for allocating investments geographically. The result of geographical allocation of HUD funding is an effective use of the funds to elevate and create more opportunities for areas where

the needs are the greatest.

Discussion

The City's rationale for its geographic distribution of CDBG funds is based on compliance with the CDBG Primary Objective - the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Generally, CDBG supported public services are available on a citywide basis to income eligible households or persons. However, public capital improvements and other development projects are specifically directed at sites within low- and moderate-income neighborhoods. The percentages listed above only represent funded projects that will be located exclusively within the target areas. The geographic distribution of funds for funded projects involving activities such as homeowner rehabilitation and public services, where the location of services will vary during the year, will be included in the Consolidated Annual Performance and Evaluation Report (CAPER) due in December 2023.

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

The City's CDBG program for 2023-2024 will result in affordable housing through its homebuyer assistance program and affordable housing repair programs (AHRP). Additional units will be supported by the AHRP or funds will be needed to continue the AHRP location selected for the 2023-2024 CDBG program year.

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	30
Special-Needs	0
Total	30

Table 9 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	0
Rehab of Existing Units	20
Acquisition of Existing Units	10
Total	30

Table 10 - One Year Goals for Affordable Housing by Support Type

Discussion

Funds will be used for acquisition of single-family units to assist nineteen (10) first-time homebuyers with down payment and closing costs to assist in the purchase of a home.

AP-60 Public Housing – 91.220(h)

Introduction

The city will continue to support public housing projects during the Consolidated Plan. One project has been recommended for funding during the third year and will address safety issues at housing complex, more detail is provided below.

Actions planned during the next year to address the needs to public housing

The CDBG office coordinate crime prevention strategies for the PHA's and provide crime data that can target security efforts and identify to local PD of "hotspots" within the development. Many of the PHA's residents have a social service provider through the State of Texas or federal system (SSI); that provides case management services to residents with a focus on employment, education, and self-sufficiency. The caseworker assists the residents to set goals pertaining to developing and maintaining of household budget, bill pay, housekeeping and obtaining additional health care. The CDBG office coordinates with MPD for added security and report issues and crime trends to the PHA's on a bi-annual basis to prevent criminal activity. These reports assist in reduced criminal service calls to the developments by identifying housing units with a history of criminal activity and beginning eviction proceedings.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

The Midland PHA's programs are divided into two separate and distinct organization with two boards of directors, two executive directors and staffing (City of Midland Housing Authority and the Midland County Housing Authority). The City of Midland Mayors office has appointed the CDBG manger to serve as the liaison between the City of Midland Housing Authority board and city council to offer consultation and professional guidance. The Liaison serves as the eyes and ears to the council with oversight of expenditure, revenues, and capital projects related to the PHA. The CDBG office relays information from the board to individuals attending the resident commissioners' meeting held once a month at the development. The CDBG manager attends the monthly meeting of the board and offer insight and guidance regarding affordable housing construction, trends, and availability. The CDBG office is actively working with PHA managers to determine potential homeownership candidates in coordination with the City of Midland Housing Authority resident's commissioners, identifying potential homeowners. The residents in the PHA are either elderly or disabled; therefore, the housing managers and the CDBG office will identify barriers, such as transportation, health care, employability, education, and devise strategies to increase economic attainment. The CDBG office will provide educational tools to assist housing residents to pursue homeownership through HUD grants programs and local charities. The CDBG office

will facilitate four homeownership session on a quarterly basis in the 2023/2024 program year with the primary curricula instruction on financial lending tools, strategic goals setting, maintaining a financial budget, developing a banking history, credit strategies, and long-term employment history.

The Midland County Housing Authority caseworkers and the CDBG office staff will provides homeownership instructions and prequalifying housing services to residents of the section 8 voucher programs: with a focus on the establishment of long-term employment history, banking education (checking/savings), credit repair, and banking/federal down-payment assistance. The CDBG office will instruct on lending guidelines for home loans, housing appraisal processes, and general insurance requirements. The CDBG office will facilitate four sessions on a quarterly basis held throughout the 2023/2024 program year at the section 8 developments. The CDBG office will refer individuals from the sessions to long term housing counseling services providers at Midland Community Development Corporation, and Midland Collage Business and Economic Development Center.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

The Housing Authority of the City of Midland and the Midland County Housing Authority is not designated as troubled.

Discussion

None

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

The city relies on other organizations to pursue funds to serve homeless needs. For the 2023/2024 program, the City does anticipate using CDBG-CV19 funds that will directly support programs that serve the homeless. Being an active partner in the Midland Homeless Coalition (CoC), and the Midland Affordable Housing Alliance, the cities aim to work toward addressing gaps within the Midland Continuum of Care for the homeless and eliminating chronic homelessness. Collaborations with the United Way and local foundations are vital in efforts to ensure current funding levels are sustained and that federal/state funding opportunities are not missed. The United Way of Midland has collaborated with Family Promise of Midland to achieve – ten transitional housing units to date.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

Street outreach programs organized by faith-based and non-profit organizations are available to unsheltered individuals. Some of these groups target specific populations such as unaccompanied youth to make referrals and information dissemination, assistance obtaining identification, and options for employment and shelter. The CDBG office and faith-based organizations coordinate critical service through Charity Tracker which is a system to communicate and coordinate homeless services without overlapping assistance.

Addressing the emergency shelter and transitional housing needs of homeless persons

The City shall continue to participate in the Midland Homeless Coalition and support individual efforts of agencies comprising the Homeless Network Coalition. The primary assisting agency is the Salvation Army of Midland that's providing a safe place to stay. The shelters provide services in the form of case management, childcare, counseling, safety planning for victims of domestic violence, medical services, life skills classes, parenting and relationship skills classes, therapeutic exercise classes and service to meet basic personal needs.

Helping homeless persons (especially chronically homeless individuals and families, families

with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The CDBG office make referrals to the PHA's regarding persons who are homeless or at risk for homelessness to obtain housing vouchers designed to help individuals and families moving them as quickly as possible into permanent housing. PermianCare Mental Health agency uses HOME funds to relocate and house persons with mental disorders in Midland County.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

It is anticipated that the public service programs supported by CDBG will aid low-income individuals and families avoid becoming homeless by a variety of efforts undertaken by the CDBG office and nonprofit organizations to prevent homelessness. There are five primary preventative services offered by various provider organizations:

- Food assistance
- Rental assistance
- Utilities assistance
- Counseling/advocacy
- Legal assistance

Each service is designed to assist families remain housed by offering services and support during times of financial or legal difficulty because individuals and families who are being discharged from publicly funded institutions or systems of care are at a high risk of becoming homeless or returning to homelessness, the CDBG office, Salvation Army of Midland and the Midland CoC plans to place an emphasis on discharge planning with coordination of housing services.

Discussion

The City of Midland and homeless services providers, including the newly established Continuum of Care, are committed to providing solutions and serving the needs of individuals experiencing homelessness. All parties are working with federal, state and local partner to end veteran homelessness

and chronic homelessness in Midland.

AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

Public policies are meant to address the overall needs of citizens in the City. Yet, there are times where they may have a negative effect on certain aspects of the community, specifically affordable housing, and residential investment. Affordable housing and public and private residential investments are key components in furthering fair housing in any community. The primary tool communities have for identifying contributing factors for these barriers to housing is an assessment of fair housing and fair housing choice. In 2020, the city updated the previous housing impediment assessment, (Analysis of Impediments) and illustrated continued barrier to home ownership. A limited supply of affordable housing and extensive cost burden, especially for extremely low-and very low-income renters causing significant affordability “gaps”; and Fair housing education is lacking and impede better understanding of housing discrimination rights by community residents and property owners.

The city plans corresponding actions designed to strengthen the supply of affordable housing and narrow the affordability “gaps.” Elements of those actions appear within this Consolidated Plan and beyond. Additionally, the City anticipates a review of public policies that may impede the development of affordable housing and to improve the understanding of their consequences.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

Midland Development Service Department updated its housing codes in support of a more comprehensive plan for increased housing density in select areas. These efforts will support transit and walkability area of town to do business. Favorable living spaces can be achieved when re-zoning, modular home occupancy permits are updated to allow for different housing types. The City shall reduce or waive certain development and building fees for affordable housing projects and use local funds to pay for public improvements and the disposal of site clearance debris on affordable housing sites. Services such as reduced pay replatting, and resurveying from Industrial Zone to Family Zone aspects can be considered for non-profit developers like Midland Habitat and Midland Development Corp. These new zoning tools are popular choices in areas throughout the city that are seeking redevelopment and revitalization options. Market forces driving new demand for housing continue to emerge and the city believes that with these new tools in place can keep pace with demand and avoid

displacement of persons and families who require affordable housing.

Discussion:

It is also our hope that the City of Midland, Midland County, financial institutions take actions implementing recommendations in the 2020 Analysis of Impediments to Fair Housing Choice. The continuation of CDBG funding with regards to the housing improvement initiatives has contributed toward this objective.

AP-85 Other Actions – 91.220(k)

Introduction:

The following actions will be pursued by the City towards meeting Consolidated Plan regulations on other actions.

Actions planned to address obstacles to meeting underserved needs

The CDBG housing assistance and elderly programs specifically target underserved populations. The targeting techniques include providing higher levels of assistance for lower income applicants and limiting assistance to low-income areas. Recommended funding levels will allow the City of Midland to assist approximately three hundred and eighty (380) households with CDBG public services, housing, and essential services programming. The City shall encourage and assist, as appropriate, other private and/or public entities to seek funds for programs designed for the underserved. Two public facility improvements activities will benefit approximate four hundred (400) households and will meet the low to moderate income clientele national objective.

Actions planned to foster and maintain affordable housing

CDBG funds will assist homeowners in making emergency repairs or other necessary repairs to bring homes into code compliance, ensure safe and sanitary living conditions and improve energy efficiency. The City shall also strive to reduce or waive certain development and building fees for affordable housing projects and use local funds to pay for public improvements and the disposal of site clearance debris on affordable housing sites. Services such as platting, and surveying aspects can also be considered for non-profit developers. The City uses its Street Fund that is generated from each building permit for street improvements primarily within the city's low-income areas. Continuation of CDBG funding for the housing programs contribute toward this objective. These actions also have the effect of fostering and maintaining affordable housing.

Actions planned to reduce lead-based paint hazards

The city will implement its CDBG-aided activities consistent with the lead-based paint hazard reduction objective. Specifically, prospective households shall be made aware of the potential hazard and

appropriate evaluation and reduction steps will be pursued in rehabilitation programs. Referrals to services for testing of children by local health and child welfare agencies will be made as needed. Information for providers and contractors will be passed-through. The city of Midland ensures that inspections for lead-based paint (LBP) hazards will occur, as required, for all funded housing activities. Proper notifications will be provided regarding lead-based paint hazards. All housing units constructed prior to 1978 will be tested for LBP by a certified LBP inspector or Risk Assessor. If LBP is detected, all covered renovations will follow HUD's Lead Safe Housing Rules and be performed by certified firms using certified renovators and other trained workers.

Actions planned to reduce the number of poverty-level families

The city identified priorities that will encompass services that assist in breaking the cycle of poverty. Fifteen (15) proposals were received for public service, infrastructure, and COVID-CV-19 activities. Direct assistance programs towards the neediest households, adherence to HUD's Section 3 requirements will help eliminate poverty. CDBG supported public services also aid participating clients to benefit economical. All the proposals have been recommended for funding and will serve the following needs in an attempt to reduce the number of poverty level-families:

- Meal programs (seniors)
- Life skills education and resiliency training
- Recreational
- Facility improvements
- Down Payment and Closing Cost Assistance
- Housing counselling
- Provisions of food security (Food Boxes)
- Referrals to assistance for basic needs
- Emergency homeless shelter feeding and lodging.

Actions planned to develop institutional structure

Major changes to the institutional structure described in the Consolidated Plan are not anticipated in the coming year. The city will continue to support activity by the various providers and encourage them to seek other funding sources to enhance the service delivery system in Midland. City staff and/or elected officials will continue to be involved in housing and homeless concerns that seek to improve service delivery. For example, the city will continue to participate in the Midland Affordable Housing Alliance and the Midland Homeless Coalition among others. The city will provide necessary CDBG related training to its subrecipients.

Actions planned to enhance coordination between public and private housing and social

service agencies

The CDBG office will continue to bring together residents from low -moderate income areas of the city, and representatives from financial institutions, leasing agents, realtors, to assess and recommend methods to support institutions addressing affordable housing needs. The CDBG office will work with public works, utilities, engineering, codes, and planning to decrease barriers to affordable housing. These various groups and departments have coordinated effectively to avoid duplication of services and facilitate a delivery system which meets the needs of various populations. Additionally, brochures of CDBG programs and Lead Based Paint eradication will be available at the City of Midland Health Department, CDBG Office, MLK Center and Seniors Centers to enhance public outreach.

Discussion:

None

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

The Fourth Year of the Five-Year Consolidated Plan will see five (7) external agencies and two(2) City departments conducting eleven (14) activities in grant funding.

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	65,000
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	65,000

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%

Only the 2023-2024 Program Year CDBG Entitlement Grant B-23-MC-48-0023, COVID-19 CARES Act funds and Program Income are to be received to cover the Fourth Year Action Plan.



City Council Meeting

Item Number: 15
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Ron Jenkins, Oil and Gas Coordinator
Subject: RESOLUTION APPROVING THE ISSUANCE OF PERMITS TO ENDEAVOR ENERGY RESOURCES, L.P. ("OPERATOR") TO DRILL FIVE OIL AND GAS WELLS LOCATED IN SECTION 6, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (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 INTERSTATE 20) (DISTRICT 2) (DEVELOPMENT SERVICES)

Purpose:

Resolution approving the issuance of permit 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. The required 30-day public comment has passed, and the Council may consider this request. No notices of objection received

Recommended City Council Action:

Directional / 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 corner 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. After the June 13, 2023 public meeting Endeavor has noted the intent to be using crown lights with a single light tower pointed inward for lighting and will water roads to address dust control. In addition, Endeavor has identified portable panels that can be set within the pad, in close proximity to the noise emitting sources (frac pumps). 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.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION APPROVING THE ISSUANCE OF
PERMITS TO ENDEAVOR ENERGY RESOURCES, L.P.
("OPERATOR") TO DRILL FIVE OIL AND GAS WELLS
LOCATED IN SECTION 6, BLOCK 39, T-2-S, T&P RR
CO. SURVEY, CITY OF MIDLAND, MIDLAND
COUNTY, TEXAS (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 INTERSTATE 20)**

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 applications to the City of Midland to drill oil and gas wells 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 June 13, 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 applications to drill oil and gas wells 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 permits to Operator to drill oil and gas wells 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 permits to Operator to drill oil and gas wells 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 permits, on behalf of the City of Midland, that will allow Operator to drill 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; located in Section 6, Block 39, T-2-S, T&P RR Co. Survey, City of Midland, Midland County, Texas. Said permits shall be in forms substantially similar to those attached hereto as Exhibits “A” through “E” and incorporated herein for all legal purposes.

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 July 25, 2023, considered the application of Endeavor Energy Resources, L.P. ("Operator") dated March 27, 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 Lela 7-18 B #121 oil and gas well shall be 374 feet from the south line and 1,397 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on July 25, 2023, considered the application of Endeavor Energy Resources, L.P. ("Operator") dated March 27, 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 Lela 7-18 B #222 oil and gas well shall be 374 feet from the south line and 1,422 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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.

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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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

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The location of Operator's Lela 7-18 C #131 oil and gas well shall be 373 feet from the south line and 1,497 feet from the east line, Section 6, Block 39, T-2-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).

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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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on July 25, 2023, considered the application of Endeavor Energy Resources, L.P. ("Operator") dated March 27, 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.

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The location of Operator's Lela 7-18 C #132 oil and gas well shall be 374 feet from the south line and 1,447 feet from the east line, Section 6, Block 39, T-2-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).

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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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on July 25, 2023, considered the application of Endeavor Energy Resources, L.P. ("Operator") dated March 27, 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 Lela 7-18 C #233 oil and gas well shall be 374 feet from the south line and 1,472 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

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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 Lela 7-18 B #121 oil and gas well shall be 374 feet from the south line and 1,397 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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

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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.

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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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on July 25, 2023, considered the application of Endeavor Energy Resources, L.P. (“Operator”) dated March 27, 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 Lela 7-18 C #131 oil and gas well shall be 373 feet from the south line and 1,497 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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

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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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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.

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GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS _____ day of July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on July 25, 2023, considered the application of Endeavor Energy Resources, L.P. (“Operator”) dated March 27, 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 Lela 7-18 C #132 oil and gas well shall be 374 feet from the south line and 1,447 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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

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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. 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.
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GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS _____ day of July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

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The location of Operator’s Lela 7-18 B #222 oil and gas well shall be 374 feet from the south line and 1,422 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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.

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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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on July 25, 2023, considered the application of Endeavor Energy Resources, L.P. (“Operator”) dated March 27, 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 Lela 7-18 C #233 oil and gas well shall be 374 feet from the south line and 1,472 feet from the east line, Section 6, Block 39, T-2-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 July 25, 2023 through July 25, 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.

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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. 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.
2. Twenty-four hour hydraulic fracturing and completion operations are permitted.
3. No landscaping or irrigation is required because City water is not available.
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 July 2023.

CITY OF MIDLAND, TEXAS

BY: _____

Lori Merritt Blong, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July 2023.

Endeavor Energy Resources, L.P.

By: _____

Christopher Van Veghel, Production Superintendent



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date March 27, 2023	Operator Name (must match W-1) Endeavor Energy Resources, L.P.	Operator Address 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 ☒ 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)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

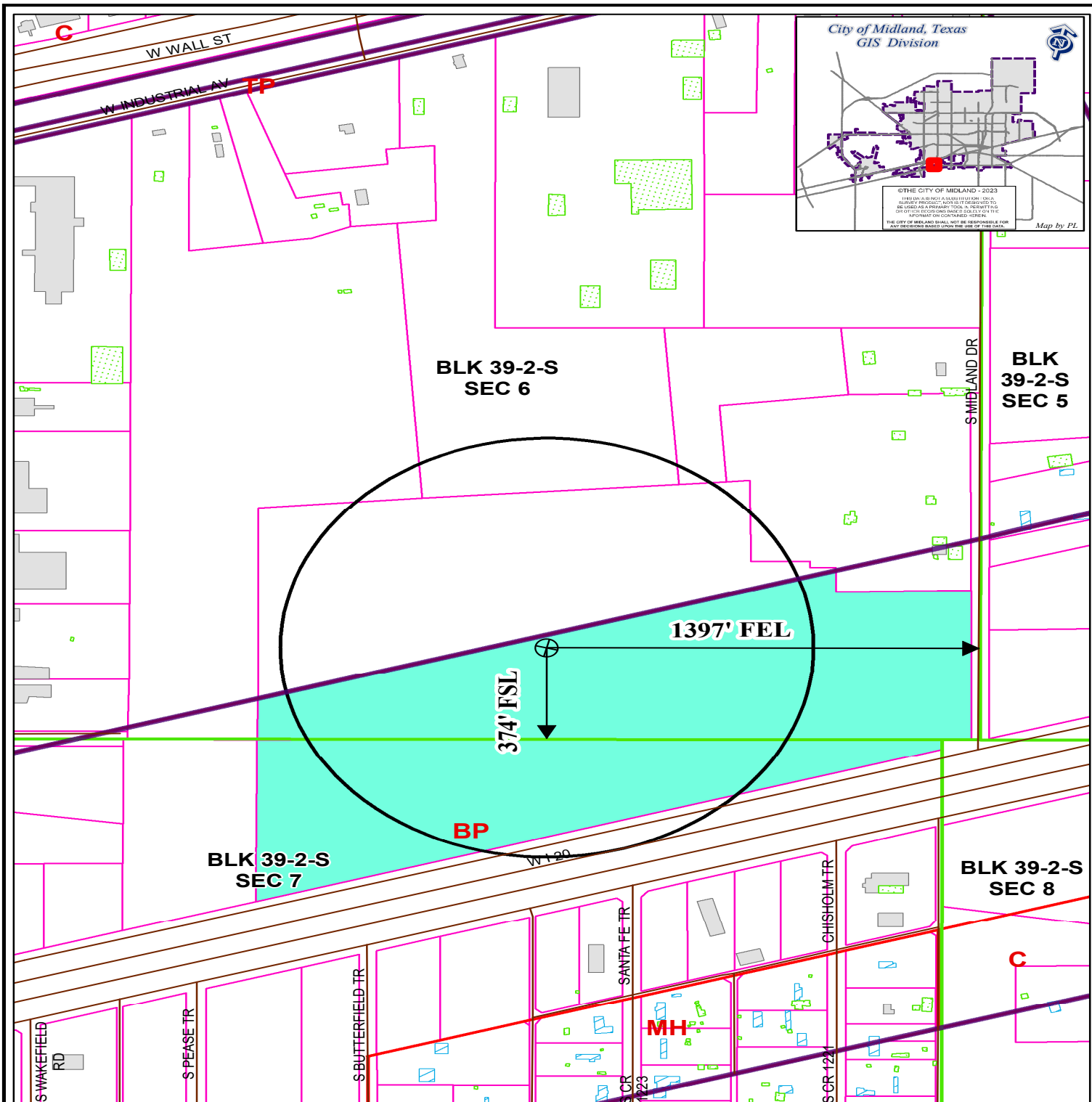
ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

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 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 15.39 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, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
IF1, IF2	ONE-FAMILY DWELLING	LR, LR2	RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

July 25, 2023

PACKET 1



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date March 27, 2023	Operator Name (must match W-1) Endeavor Energy Resources, L.P.	Operator Address 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 ☒ 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 #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)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

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ATTACHED AS EXHIBIT 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)]

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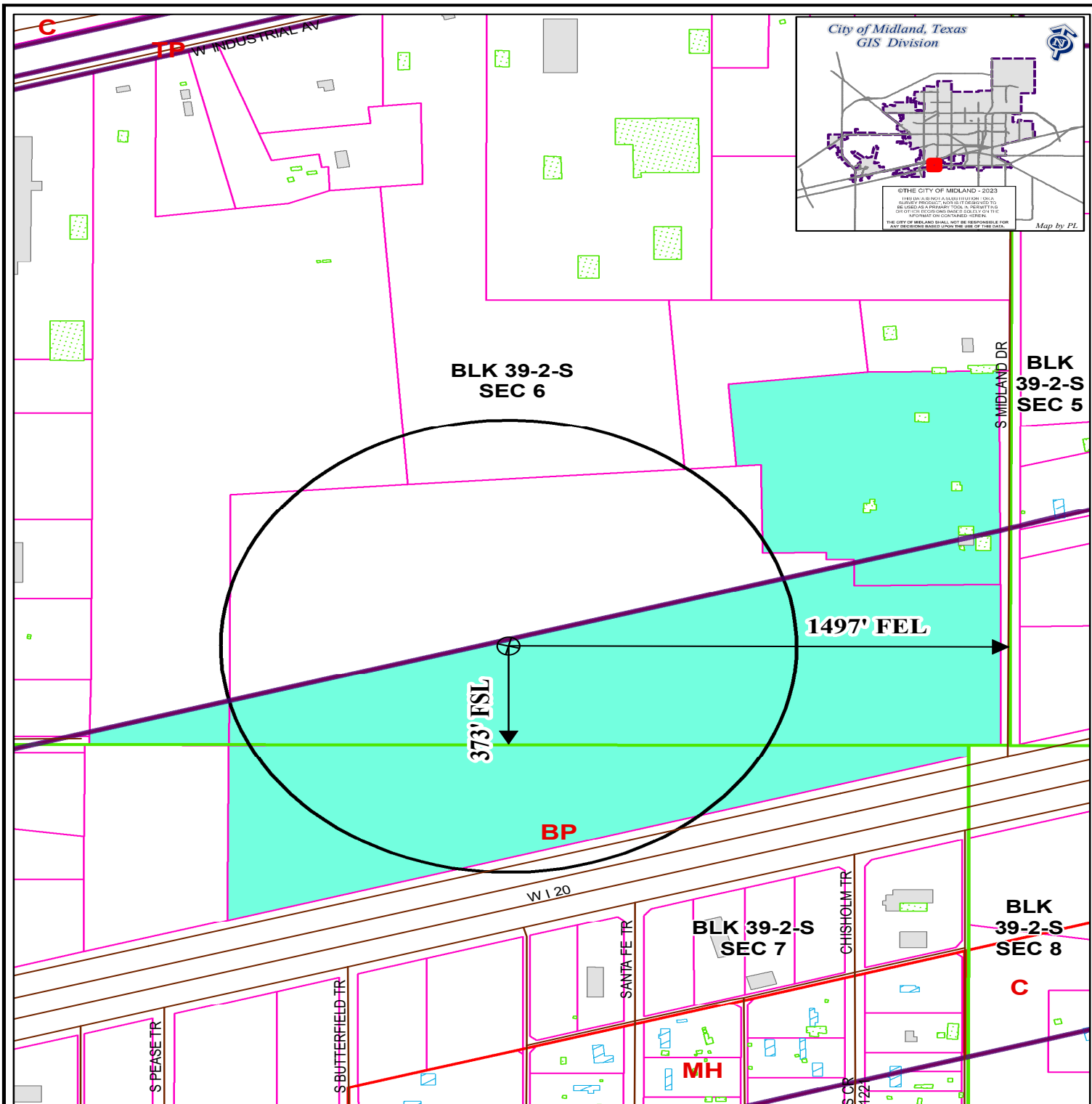
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LOCATION AND ZONING MAP

Oil - 050817 - 2023

Scale: 1" = 450'

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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, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
IF1, IF2	ONE-FAMILY DWELLING	LR, LR1, LR2	RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

July 25, 2023

PACKET 1

15.43



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date March 27, 2023	Operator Name (must match W-1) Endeavor Energy Resources, L.P.	Operator Address 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 ☒ 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		
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III. Surface Ownership & Use		
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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 #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

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)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

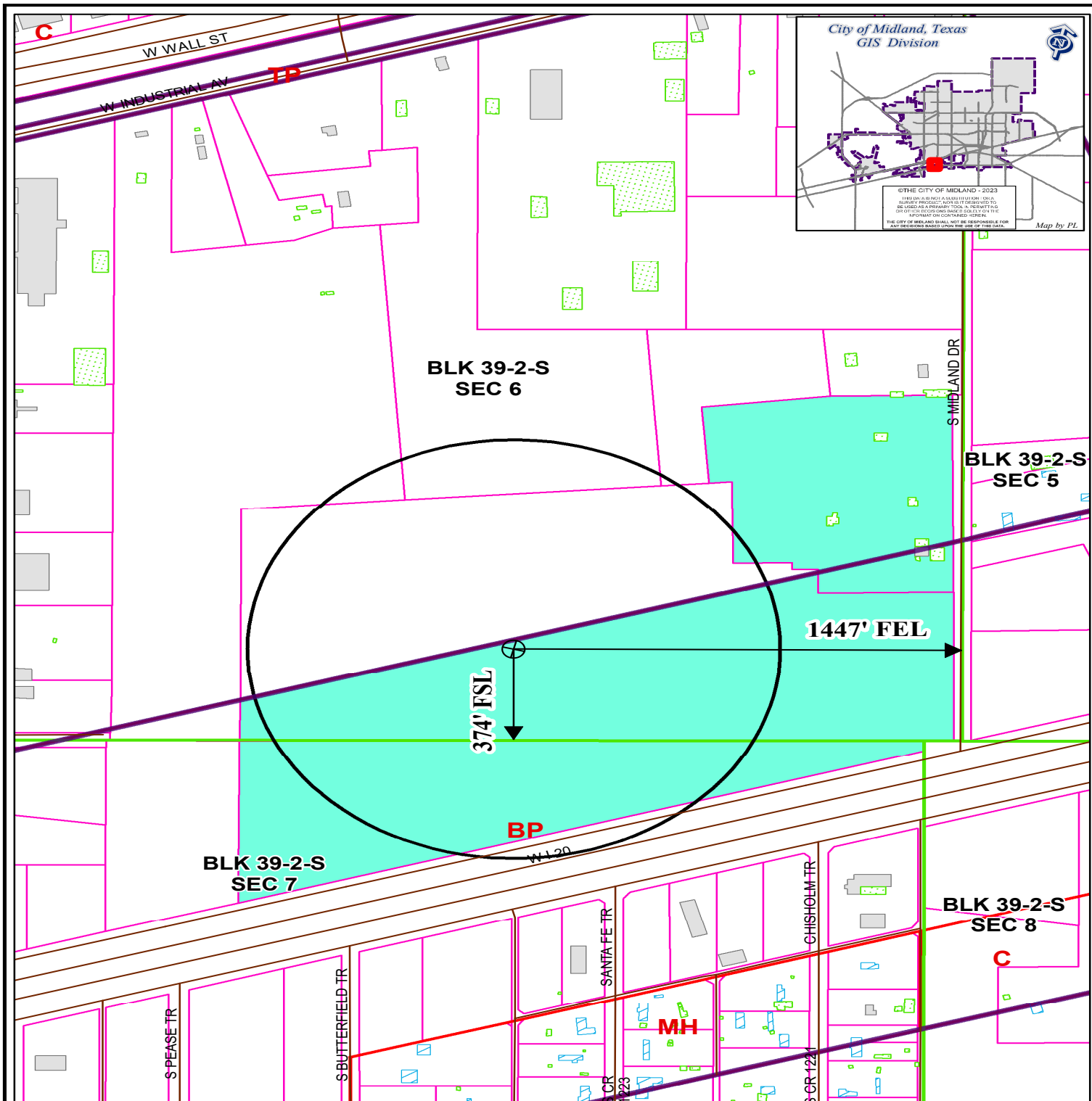
ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

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 is Summary List of Variances

ATTACHED AS EXHIBIT W is Acoustic Impact Study/Mitigation Plan



LOCATION AND ZONING MAP

Oil - 050818 - 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 1,447' FEL, Section 6, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,447 feet west of South Midland Drive and 815 feet north of West I-20.

Lela 7-18 C #132

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CR	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
IF1, IF2, IF3	ONE-FAMILY DWELLING	LR, LR2, LR3	RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

July 25, 2023

PACKET 1

15.47



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date March 27, 2023	Operator Name (must match W-1) Endeavor Energy Resources, L.P.	Operator Address 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 ☒ 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 #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)].

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)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

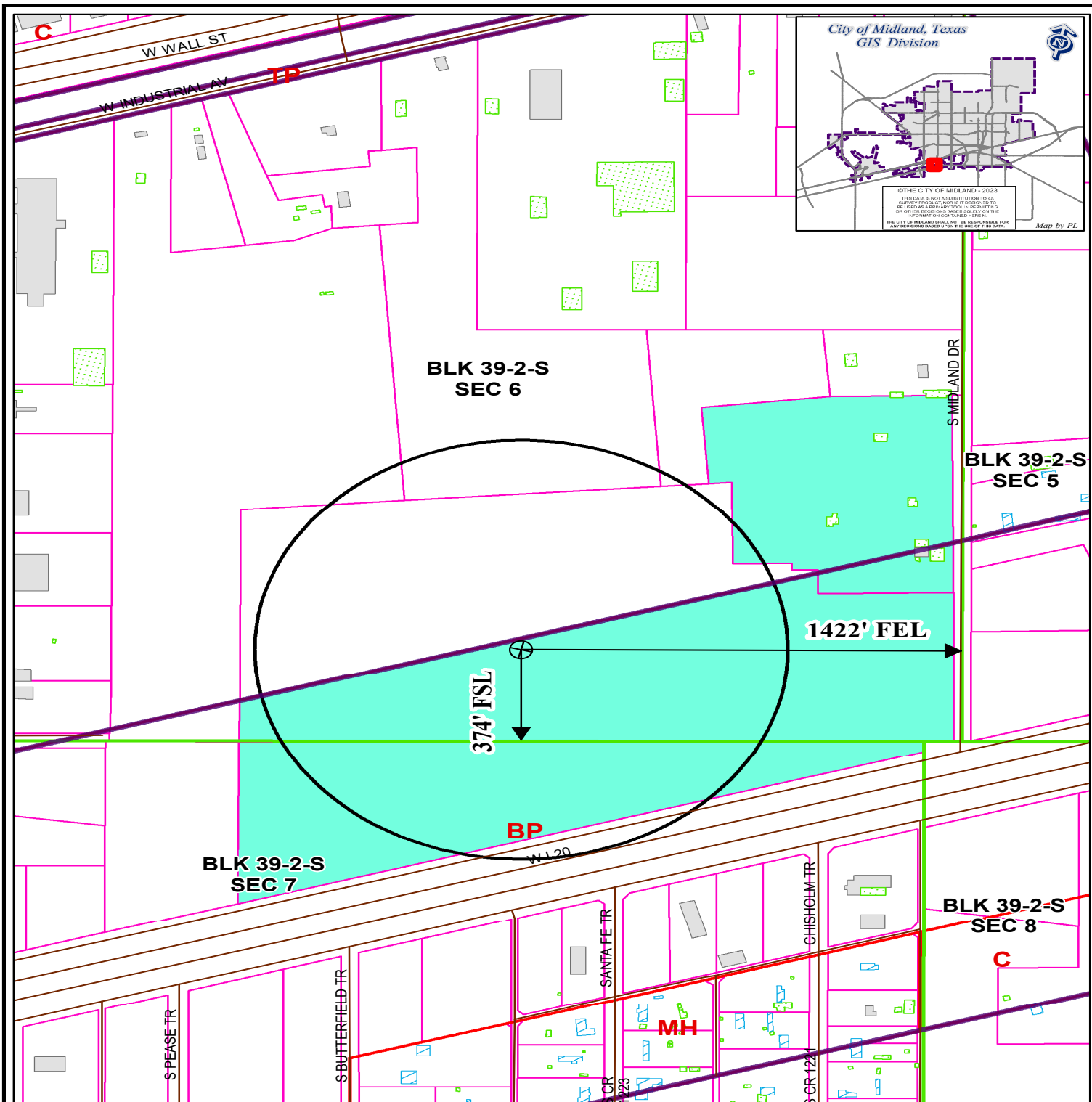
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ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

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.

PACKET

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, 02	OFFICE
CR	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
IF1, IF2, IF3	ONE-FAMILY DWELLING	LR, LR2, LR3	RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

July 25, 2023



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date March 27, 2023	Operator Name (must match W-1) Endeavor Energy Resources, L.P.	Operator Address 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 ☒ 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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Other Permitted Wells in City (ATTACHED AS EXHIBIT B [see § J(26)]).		
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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 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)].

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- (1) **Drilling:** Electricity TXU: 1-800-233-2133
- (2) **Operations:** Electricity TXU: 1-800-233-2133

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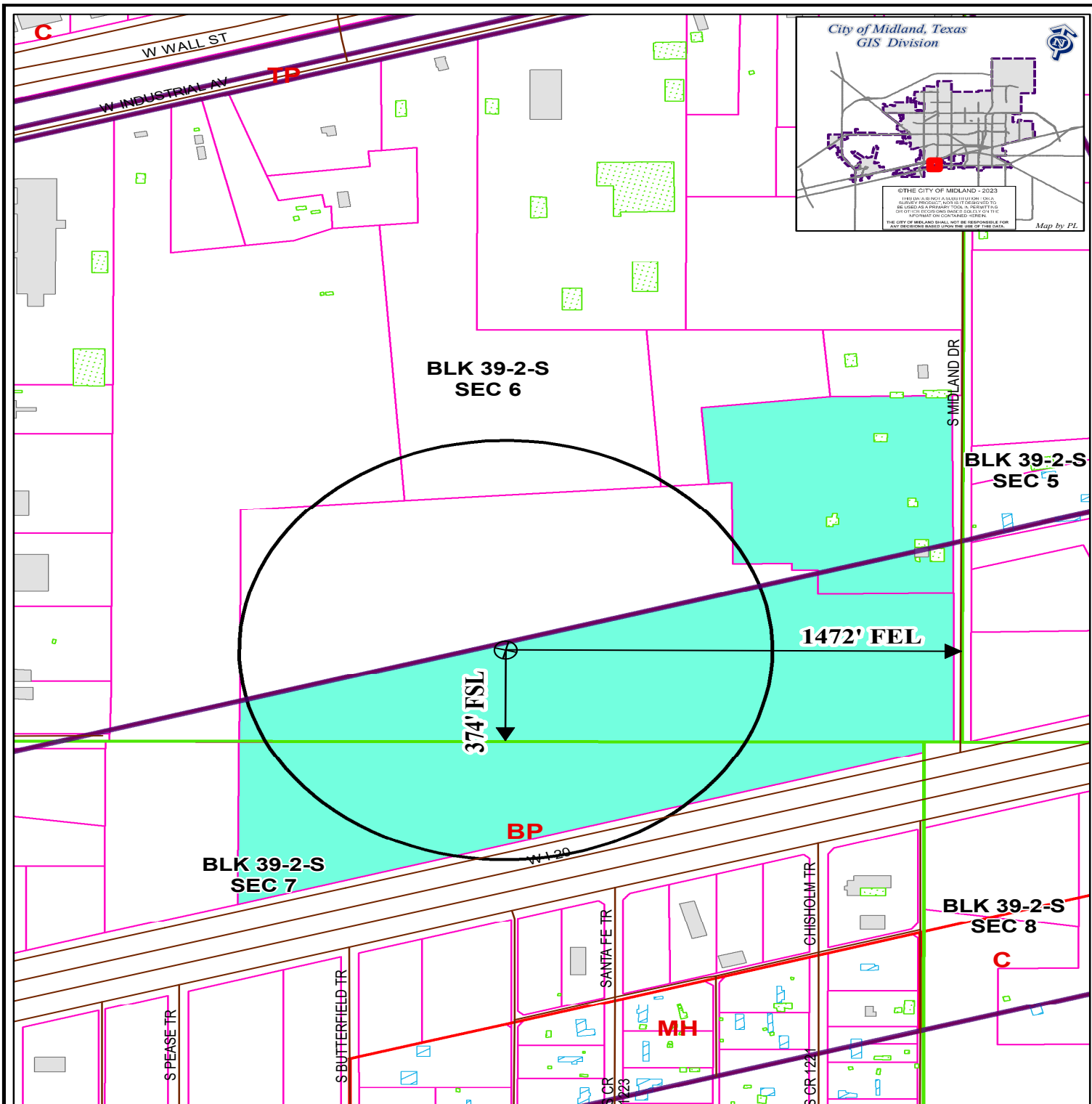
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ATTACHED AS EXHIBIT V is Summary List of Variances

ATTACHED AS EXHIBIT W is Acoustic Impact Study/Mitigation Plan



LOCATION AND ZONING MAP

Oil - 050821 - 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 1,472' FEL, Section 6, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,472 feet west of South Midland Drive and 815 feet north of West I-20.

Lela 7-18 C #233

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
IF1, IF2	ONE-FAMILY DWELLING	LR, LR1, LR2	RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

July 25, 2023

PACKET

15.55

GRAPHIC SCALE



JP

15.56

LAYOUT PLAN
1" = 300'

(A)
SPECIAL WARRANTY DEED
TJ&S, L.P.
INSTRUMENT NO. 2012-2128
O.R.M.C.T.

(B)
CALLED SOUTH 203.6 FEET OF TRACT "C"
WARRANTY DEED
ROVINE COMPANY OF MIDLAND, INC.
VOLUME 373, PAGE 77
O.R.M.C.T.

(C)
CALLED SOUTH 310 FEET OF THE
NORTH-610 FEET OF TRACT "C"
QUITCLAIM DEED
ASTON CHRISTENSEN COMPANY, A
JOINT VENTURE, GOVERNED
BY DELAWARE LAW
VOLUME 304, PAGE 44
O.R.M.C.T.

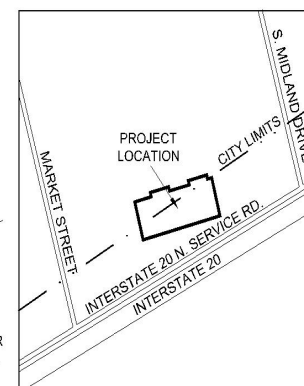
(D)
CALLED 3.89 ACRES
(NORTH-300 FEET OF TRACT "C")
SPECIAL WARRANTY DEED
RICHMOND OILFIELD OPERATIONS, INC.
INSTRUMENT NO. 2011-4612
O.R.M.C.T.

(E)
CALLED SOUTH 45 FEET OF TRACT "B"
WARRANTY DEED
HUGHES TOOL COMPANY
VOLUME 880, PAGE 402
O.R.M.C.T.

(F)
CALLED 41.37 ACRES
QUITCLAIM DEED
SOUTHWEST MID AND TRUST
D.L. BURRIS, TRUSTEE
VOLUME 374, PAGE 375
O.R.M.C.T.

(G)
CALLED 207.3 ACRES
SPECIAL WARRANTY DEED
RECOM OPERATING CO., LP
INSTRUMENT NO. 2013-308
O.R.M.C.T.

(H)
CALLED 1.85 ACRES
WARRANTY DEED
MIDCAMP PROPERTIES, LLC
INSTRUMENT NO. 2200-943
O.R.M.C.T.



FROM THE INTERSECTION OF
INTERSTATE 20 AND WEST
LOOP 250 IN MIDLAND TRAVEL
(EAST) ON THE NORTH I-20
ACCESS ROAD FOR 1.67 MILES
TO SUE O' LEFT (NORTH) AT
APPROXIMATELY 730 FEET.

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 R R CO.
SURVEY, ABSTRACT NO. 757, MIDLAND COUNTY, TEXAS.

**BISON CREEK
LAND SERVICES, LLC**

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FIRM LICENSE NO. 10193880

SOURCE: BUREAU OF ECONOMIC ANALYSIS

COMMODITY	UNIT	Q1-97	Q2-97	Q3-97	Q4-97	Q1-98	Q2-98	Q3-98	Q4-98	Q1-99	Q2-99	Q3-99	Q4-99	Q1-00	Q2-00	Q3-00	Q4-00	Q1-01	Q2-01	Q3-01	Q4-01	Q1-02	Q2-02	Q3-02	Q4-02	Q1-03	Q2-03	Q3-03	Q4-03	Q1-04	Q2-04	Q3-04	Q4-04	Q1-05	Q2-05	Q3-05	Q4-05	Q1-06	Q2-06	Q3-06	Q4-06	Q1-07	Q2-07	Q3-07	Q4-07	Q1-08	Q2-08	Q3-08	Q4-08	Q1-09	Q2-09	Q3-09	Q4-09	Q1-10	Q2-10	Q3-10	Q4-10	Q1-11	Q2-11	Q3-11	Q4-11	Q1-12	Q2-12	Q3-12	Q4-12	Q1-13	Q2-13	Q3-13	Q4-13	Q1-14	Q2-14	Q3-14	Q4-14	Q1-15	Q2-15	Q3-15	Q4-15	Q1-16	Q2-16	Q3-16	Q4-16	Q1-17	Q2-17	Q3-17	Q4-17	Q1-18	Q2-18	Q3-18	Q4-18	Q1-19	Q2-19	Q3-19	Q4-19	Q1-20	Q2-20	Q3-20	Q4-20	Q1-21	Q2-21	Q3-21	Q4-21	Q1-22	Q2-22	Q3-22	Q4-22	Q1-23	Q2-23	Q3-23	Q4-23	Q1-24	Q2-24	Q3-24	Q4-24	Q1-25	Q2-25	Q3-25	Q4-25	Q1-26	Q2-26	Q3-26	Q4-26	Q1-27	Q2-27	Q3-27	Q4-27	Q1-28	Q2-28	Q3-28	Q4-28	Q1-29	Q2-29	Q3-29	Q4-29	Q1-30	Q2-30	Q3-30	Q4-30	Q1-31	Q2-31	Q3-31	Q4-31	Q1-32	Q2-32	Q3-32	Q4-32	Q1-33	Q2-33	Q3-33	Q4-33	Q1-34	Q2-34	Q3-34	Q4-34	Q1-35	Q2-35	Q3-35	Q4-35	Q1-36	Q2-36	Q3-36	Q4-36	Q1-37	Q2-37	Q3-37	Q4-37	Q1-38	Q2-38	Q3-38	Q4-38	Q1-39	Q2-39	Q3-39	Q4-39	Q1-40	Q2-40	Q3-40	Q4-40	Q1-41	Q2-41	Q3-41	Q4-41	Q1-42	Q2-42	Q3-42	Q4-42	Q1-43	Q2-43	Q3-43	Q4-43	Q1-44	Q2-44	Q3-44	Q4-44	Q1-45	Q2-45	Q3-45	Q4-45	Q1-46	Q2-46	Q3-46	Q4-46	Q1-47	Q2-47	Q3-47	Q4-47	Q1-48	Q2-48	Q3-48	Q4-48	Q1-49	Q2-49	Q3-49	Q4-49	Q1-50	Q2-50	Q3-50	Q4-50	Q1-51	Q2-51	Q3-51	Q4-51	Q1-52	Q2-52	Q3-52	Q4-52	Q1-53	Q2-53	Q3-53	Q4-53	Q1-54	Q2-54	Q3-54	Q4-54	Q1-55	Q2-55	Q3-55	Q4-55	Q1-56	Q2-56	Q3-56	Q4-56	Q1-57	Q2-57	Q3-57	Q4-57	Q1-58	Q2-58	Q3-58	Q4-58	Q1-59	Q2-59	Q3-59	Q4-59	Q1-60	Q2-60	Q3-60	Q4-60	Q1-61	Q2-61	Q3-61	Q4-61	Q1-62	Q2-62	Q3-62	Q4-62	Q1-63	Q2-63	Q3-63	Q4-63	Q1-64	Q2-64	Q3-64	Q4-64	Q1-65	Q2-65	Q3-65	Q4-65	Q1-66	Q2-66	Q3-66	Q4-66	Q1-67	Q2-67	Q3-67	Q4-67	Q1-68	Q2-68	Q3-68	Q4-68	Q1-69	Q2-69	Q3-69	Q4-69	Q1-70	Q2-70	Q3-70	Q4-70	Q1-71	Q2-71	Q3-71	Q4-71	Q1-72	Q2-72	Q3-72	Q4-72	Q1-73	Q2-73	Q3-73	Q4-73	Q1-74	Q2-74	Q3-74	Q4-74	Q1-75	Q2-75	Q3-75	Q4-75	Q1-76	Q2-76	Q3-76	Q4-76	Q1-77	Q2-77	Q3-77	Q4-77	Q1-78	Q2-78	Q3-78	Q4-78	Q1-79	Q2-79	Q3-79	Q4-79	Q1-80	Q2-80	Q3-80	Q4-80	Q1-81	Q2-81	Q3-81	Q4-81	Q1-82	Q2-82	Q3-82	Q4-82	Q1-83	Q2-83	Q3-83	Q4-83	Q1-84	Q2-84	Q3-84	Q4-84	Q1-85	Q2-85	Q3-85	Q4-85	Q1-86	Q2-86	Q3-86	Q4-86	Q1-87	Q2-87	Q3-87	Q4-87	Q1-88	Q2-88	Q3-88	Q4-88	Q1-89	Q2-89	Q3-89	Q4-89	Q1-90	Q2-90	Q3-90	Q4-90	Q1-91	Q2-91	Q3-91	Q4-91	Q1-92	Q2-92	Q3-92	Q4-92	Q1-93	Q2-93	Q3-93	Q4-93	Q1-94	Q2-94	Q3-94	Q4-94	Q1-95	Q2-95	Q3-95	Q4-95	Q1-96	Q2-96	Q3-96	Q4-96	Q1-97	Q2-97	Q3-97	Q4-97	Q1-98	Q2
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SHEET
1
OF 1



City Council Meeting

Item Number: 16
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Ron Jenkins, Oil and Gas Coordinator
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH ENDEAVOR ENERGY RESOURCES, L.P. ("OPERATOR") REGARDING ITS APPLICATION TO DRILL OIL AND GAS WELLS LOCATED IN SECTION 6, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (DISTRICT 2) (DEVELOPMENT SERVICES)

Purpose:

Resolution approving a road repair agreement between the City of Midland and Endeavor Energy Resources, L.P.

Recommended City Council Action:

Approve

Fiscal Impact:

This agreement will cover the cost of road damages to West Industrial Avenue and South Midland Drive that are attributable to Endeavor Energy Resources, L.P., in association with the above drilling permits. The total amount of the bond covering proposed and existing well sites within the City is \$75,000.00; this is the amount specified in the City's oil and gas drilling regulations.

Discussion:

Endeavor Energy Resources, L.P., have met the requirements contained in the City code related to this matter.

Attachments: Exhibit -Road Repair Agreement.

Monnie Williams Jr.

City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
ROAD REPAIR AGREEMENT WITH ENDEAVOR
ENERGY RESOURCES, L.P. (“OPERATOR”)
REGARDING ITS APPLICATION TO DRILL OIL AND
GAS WELLS LOCATED IN SECTION 6, BLOCK 39,
T-2-S, T&P RR CO. SURVEY, CITY OF MIDLAND,
MIDLAND COUNTY, TEXAS**

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of a road repair agreement with Operator;

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

THAT the Mayor is hereby authorized and directed to execute, on behalf of the City of Midland, Texas, a road repair agreement with Operator. Said agreement shall be substantially similar in form to that of Exhibit “A”, which is attached hereto and incorporated herein for all purposes.

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

EXHIBIT "A"

ROAD REPAIR AGREEMENT

Endeavor Energy Resources, LP ("Operator"), intends to use portions of South Midland Drive and West Industrial Avenue to access its oil and gas lease as shown on the transportation route depicted on the attached Exhibit H (the "Transportation Route"). Operator agrees to pay actual road repair costs up to a maximum amount of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) per calendar year for damage done to the roads on the Transportation Route and the lease entrance gate to the extent that any such damage is verifiably attributable to traffic serving Operator. Operator will not be obligated to pay for any damage to roads on the Transportation Route which is attributable to other parties or for damage associated with normal wear and tear. Operator will not be required to pay road repair expenses in excess of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) per calendar year per well, not to exceed a total of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) per calendar year for all wells it operates within the city limits of the City of Midland, Texas (the "City"). Operator has attached to this agreement a letter of credit, certificate of deposit, or surety bond in the amount of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) which will serve to secure payment of any such road repair expenses for the wells it operates within the city limits of the City. In the event the attached letter of credit, certificate of deposit or surety bond is not restored to Seventy-Five Thousand and No/100 Dollars (\$75,000.00) within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the applicable Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under such Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, certificate of deposit or surety bond.

Operator and the City agree that documentation of any road damage determined by the City to be caused by the Operator's use of any roads depicted on the Transportation Route shall be presented to Operator. If the Operator does not agree that the damage was caused by traffic serving Operator, the Operator may file a written objection with the City Manager within ten (10) days of being notified of the road damage. The City Manager shall review the objections and give the Operator the opportunity to be heard and present facts that Operator deems relevant. The City reserves the right, after giving ten (10) business days' written notice to the Operator regarding such damage, to draw upon the letter of credit, certificate of deposit or surety bond, as outlined in Subsection (K), General Conditions of all Oil and Gas Well Permits, in order to remedy the damage to the roads depicted on the Transportation Route. The amount drawn from the letter of credit, certificate of deposit or surety bond shall not exceed the limits previously described by this agreement.

AGREED TO AND ACCEPTED on the ____ day of July 2023, by the following parties:

ENDEAVOR ENERGY RESOURCES, L.P.



Lance Robertson
Chief Executive Officer

CITY OF MIDLAND, TEXAS

Lori Blong, Mayor

EXHIBIT "H"

Business
20

Midland
Drive

Wildlife
Preserve

Lela
Well Site

Interstate
20

PACKET

16.6

31°57'49.15" N 102°07'34.33" W el



ROAD REPAIR AGREEMENT

Endeavor Energy Resources, LP ("Operator"), intends to use portions of South Midland Drive and West Industrial Avenue to access its oil and gas lease as shown on the transportation route depicted on the attached Exhibit H (the "Transportation Route"). Operator agrees to pay actual road repair costs up to a maximum amount of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) per calendar year for damage done to the roads on the Transportation Route and the lease entrance gate to the extent that any such damage is verifiably attributable to traffic serving Operator. Operator will not be obligated to pay for any damage to roads on the Transportation Route which is attributable to other parties or for damage associated with normal wear and tear. Operator will not be required to pay road repair expenses in excess of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) per calendar year per well, not to exceed a total of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) per calendar year for all wells it operates within the city limits of the City of Midland, Texas (the "City"). Operator has attached to this agreement a letter of credit, certificate of deposit, or surety bond in the amount of Seventy-Five Thousand and No/100 Dollars (\$75,000.00) which will serve to secure payment of any such road repair expenses for the wells it operates within the city limits of the City. In the event the attached letter of credit, certificate of deposit or surety bond is not restored to Seventy-Five Thousand and No/100 Dollars (\$75,000.00) within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the applicable Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under such Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, certificate of deposit or surety bond.

Operator and the City agree that documentation of any road damage determined by the City to be caused by the Operator's use of any roads depicted on the Transportation Route shall be presented to Operator. If the Operator does not agree that the damage was caused by traffic serving Operator, the Operator may file a written objection with the City Manager within ten (10) days of being notified of the road damage. The City Manager shall review the objections and give the Operator the opportunity to be heard and present facts that Operator deems relevant. The City reserves the right, after giving ten (10) business days' written notice to the Operator regarding such damage, to draw upon the letter of credit, certificate of deposit or surety bond, as outlined in Subsection (K), General Conditions of all Oil and Gas Well Permits, in order to remedy the damage to the roads depicted on the Transportation Route. The amount drawn from the letter of credit, certificate of deposit or surety bond shall not exceed the limits previously described by this agreement.

AGREED TO AND ACCEPTED on the ____ day of July 2023, by the following parties:

ENDEAVOR ENERGY RESOURCES, L.P.



Lance Robertson
Chief Executive Officer

CITY OF MIDLAND, TEXAS

Lori Blong, Mayor



Business
20

Midland
Drive

Wildlife
Preserve

Lela
Well Site

Interstate
20



City Council Meeting

Item Number: 17
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Charles Blumenauer, Fire Chief
Subject: Motion approving the Memorandum of Understanding between the City of Midland and the Midland College Community District for use of the Midland Fire Department Training facility (DISTRICT: NONE) (FIRE)

Purpose:

The purpose of this MOU is to set forth the terms and conditions governing College's use of the Property for fire academy training purposes in connection with the Program. The Parties acknowledge and agree that the obligations and undertakings of the Parties hereunder constitute a public purpose and are governmental functions.

Recommended City Council Action:

Approve

Fiscal Impact:

No cost to the City and it generates revenue for the Fire Technology fund (076) which is used for training, educational, and equipment needs of the Fire Department.

Discussion:

The Midland Fire Department and Midland College have a long-term relationship when it comes to the use of Harris Field (Midland Fire Department Training). This continued partnership has led to Midland College placing a portable building on our facility that hosts, not only the College Fire and EMS programs, but also the new High School program which led to the hiring of three (3) 2023 graduates in June of 2023. This continued relationship is vital for both the recruiting needs of the Midland Fire Department and for the viability of the Midland College and MISD programs.

Morris Williams Jr.

City Manager's Office

**Memorandum of Understanding
between
the City of Midland, Texas
and
the Midland Community College District**

This Memorandum of Understanding (“*MOU*”) is entered into this ____ day of _____, 2023, by and between the City of Midland, Texas (“*City*”) and the Midland Community College District (“*College*”). In this MOU, City and College are sometimes individually referred to as a “*Party*” and collectively referred to as the “*Parties*.”

WHEREAS, City owns certain real property described as the Southwest quarter of Section 44, Block 38, T-1-S, T & P R.R. Co. Survey (the “*Property*”), as described in Exhibit A attached hereto, which the City of Midland Fire Department utilizes for fire training purposes; and

WHEREAS, College has developed the Midland College Dual Credit Fire Academy Program (the “*Program*”) and wishes to utilize the Property for training purposes in connection with the Program; and

WHEREAS, the City Council of the City of Midland, Texas, finds and determines that the Parties’ obligations under this MOU, including without limitation the operation of the Program, constitute a public purpose;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to the Parties, the Parties have agreed and do hereby agree as follows:

- A. **Purpose.** The purpose of this MOU is to set forth the terms and conditions governing College’s use of the Property for fire academy training purposes in connection with the Program. The Parties acknowledge and agree that the obligations and undertakings of the Parties hereunder constitute a public purpose and are governmental functions.
- B. **Covenants.** The Parties expressly agree to the following terms and conditions:
1. **Use of Property.** City agrees to permit College to place a temporary building (the “*Building*”) on the Property, the location, type, and size of which shall be subject to the approval of City’s City Manager (“*City Manager*”) or the City Manager’s designee, which shall be in the sole discretion of the City Manager or the City Manager’s designee. City agrees to grant College the rights of ingress and egress to and from the Property for the purposes of accessing and utilizing the City’s fire training facility located on the Property subject to rules and regulations promulgated by City’s Fire Department Chief (“*Fire Chief*”), which shall be in the sole discretion of the Fire Chief.
 2. **No Interference.** College shall not use the Property in any way that interferes with the City’s use of the Property. College shall cease any such interference immediately, upon notice of same from City.

3. Costs. All costs associated College's activities on the Property, including without limitation all costs associated with the Building, shall be the responsibility of College. Nothing in this MOU shall be construed or interpreted to obligate any City funds to support College's activities hereunder.
4. Reimbursement. College shall reimburse City at a rate of fifty (50) percent of actual state reimbursement received for Midland Fire Department training hours. College guarantees that City shall receive a minimum of \$12,000.00 annually through actual state reimbursement, funding from College or a combination thereof.
5. Teaching Access. College shall give Midland Fire Department personnel priority access to teaching opportunities and support access through early notification and convenience of scheduling.
6. Reporting. College shall keep the Fire Chief informed of all College's activities on the Property in a manner reasonably acceptable to the Fire Chief.
7. Term. The term of this MOU shall commence July 26, 2023 and terminate on July 27, 2024 (the "*Initial Term*"), unless terminated earlier as provided for herein. This MOU may be renewed at the end of the Initial Term for three (3) additional terms of one (1) year, upon the written request of College to the City Manager received not less than sixty (60) days prior to the expiration of the then-existing term and subject to the express written consent of the City Manager, which shall be in the sole discretion of the City Manager.
8. Termination. This MOU may be terminated, without any penalty or further liability, upon at least thirty (30) days' written notice by either Party upon default of any covenant or term hereof by the other Party that is not cured within thirty (30) days of receipt of written notice of such default.
9. Building Removal. College shall have the right at any time prior to sixty (60) days after the termination of this MOU to remove the Building at College's sole cost and expense. If College does not remove the Building within said sixty (60) day period, City may (i) remove the Building at College's sole cost and expense, or (ii) elect to take ownership of the Building at no cost or expense to City.
10. Partnership Agreement. City agrees to enter into a Texas Regional Pathways Network Partnership Agreement with College, Greenwood Independent School District, Midland Independent School District, Stanton Independent School District, and Educate Midland and Midland County in the form attached hereto as Exhibit B.

C. General Terms.

1. Entire Agreement. This MOU constitutes the entire agreement between the Parties and shall not be explained, modified, or contradicted by any prior or

contemporaneous negotiations, representations, or agreements, either written or oral. Only a subsequent, written agreement can modify this MOU.

2. Assignment. College shall not, either directly or indirectly, assign all or any part of this MOU or any interest, right, or privilege herein, without the prior written consent of City, the granting of which shall be in City's sole discretion.
3. Notices. Any notice to either Party required under this MOU shall be sent by certified U.S. mail, postage prepaid, addressed to such Party at the addresses shown below. All notices shall be deemed given on the date so deposited in the mail, unless otherwise provided herein. Either Party hereto may change the address below by sending written notice of such change to the other Party in the manner provided herein.

If to City:
City of Midland
Attn: City Manager
300 N. Loraine St., Suite 310
Midland, Texas 79701

If to College:
Midland College
Attn: President
3600 N. Garfield
Midland, Texas 79705

4. No Third-Party Beneficiary. The Parties' approval of this MOU does not create a third-party beneficiary. There is no third-party beneficiary to this MOU. No person or entity who is not a party to this MOU shall be considered a third-party beneficiary or have any rights hereunder.
5. Legal Relationship. The Parties are not, and shall not be considered as, joint venturers, partners, or agents of each other; and neither shall have the power to bind nor obligate the other, except as set forth in this MOU. The Parties agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another. It is mutually understood and agreed that nothing in this MOU is intended or shall be construed as in any way creating or establishing any partnership, joint venture, or agency between City and College. Further, it is specifically understood and agreed that nothing in this MOU is intended or shall be construed as creating a "community of pecuniary interest" or "an equal right of control" that would give rise to vicarious liability.
6. Consideration. The Parties hereby agree and acknowledge that this MOU is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties.
7. Governing Law & Venue. This MOU shall be governed by the laws of the State of Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this MOU or the performance of this MOU shall be in Midland County, Texas.

8. Governmental Immunity. By executing this MOU, neither Party is waiving its right of governmental immunity. Each Party is retaining its immunity from suit. Neither party is granting consent to be sued by legislative resolution or action.
9. **Release. NEITHER PARTY SHALL BE RESPONSIBLE FOR PERSONAL INJURY OR PROPERTY DAMAGE OR LOSS EXCEPT THAT RESULTING FROM ITS OWN NEGLIGENCE OR THE NEGLIGENCE OF ITS EMPLOYEES OR OTHERS FOR WHOM THE PARTY IS LEGALLY RESPONSIBLE.**

CITY OF MIDLAND, TEXAS

Morris Williams, Jr., Interim City Manager

ATTEST:

Marcia Bentley-German, City Secretary

**MIDLAND COMMUNITY COLLEGE
DISTRICT**

Damon Kennedy, President

THE STATE OF TEXAS

§

§

COUNTY OF MIDLAND

§

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of the MIDLAND COMMUNITY COLLEGE DISTRICT, 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 College, 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



City Council Meeting

Item Number: 18
Meeting Date: July 25, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way License (23-329-036) with Enterprise Navitas Midstream Midland Basin, LLC, regarding City-owned property described as Section 30, Block 36, T-3-S, T&P RR Co. Survey, Midland County, Texas (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion will provide the applicant with a 20' wide and 4,679.21-foot-long access road right of way to a 2,250 square foot surface area for an above-ground valve connection and a 30' wide right of way to place an Eight Inch (8) Discharge and a Four Inch (4) Fuel Gas, privately owned, poly construction, natural gas pipelines on City of Midland owned Sprayberry Farm real property. The applicant will need additional temporary workspaces for construction as shown on the plats.

This Right-of-Way License is proposed for a single ten (10) year period, paid in advance. Terms are consistent with the City's standard license for facilities of this nature

Recommended City Council Action:

Approve

Fiscal Impact:

8" Discharge pipeline (166.86 rods x \$260/rod): \$43,383.60
4" Fuel Gas pipeline (11.31 rods x \$170) \$1,922.70
20' wide access road (283.59 rods x \$140.00): \$39,702.60

Surface use area (2,250 sq. ft. x \$0.24 per sq. ft.): \$540.00

Surface Damages: included in the new annual rate

Total Collected: \$86,548.90

Discussion:

This Right of Way is in the South Half of Section 30 in the Sprayberry Farm area and is over 2 miles from COM infrastructure. The proposed pipelines are both private, poly-construction gas lines that service existing mineral extraction infrastructure and will be buried a minimum of thirty-six inches (36") deep. The road will allow access to multiple new valve connections and compression facilities.

Certificates of Insurance are on file

City Secretary is to record all documents.



City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS
COUNTY OF MIDLAND

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KNOW ALL MEN BY THESE PRESENTS:

Date: July 26, 2023

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

Licensor's Representative: Morris Williams, Jr., Interim City Manager

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

Licensee: Enterprise Navitas Pipeline Texas LLC

Licensee's Representative: Thomas Goolsby

Licensee's Mailing Address: 1100 Louisiana Street, Suite 1000
Houston, Texas 77002

Property: As described in Article III below

License Number: 23-329-036

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 EIGHTY-FIVE THOUSAND FIVE HUNDRED FORTY-EIGHT and 90/100 Dollars (\$85,548.90) ("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 fifty (50) feet in width of the locations as shown on Exhibits A and B attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a poly construction pipeline, not to exceed eight (8) inches in diameter, for the transportation of natural gas, a poly construction pipeline, not to exceed four (4) inches in diameter, for the transportation of natural gas, an access road, and a two thousand two hundred fifty (2,250) square foot surface site 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 be promptly removed from the Property.

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

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

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace 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.

Licensors 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. Licensors shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required 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 Indemnities, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

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

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where

and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licensor within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

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

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

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

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensors. 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 Licensors and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensors 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 Licensors to enforce any provision of this License shall not be deemed nor shall constitute a waiver of the right of Licensors 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 Licensors from asserting any right to specific performance, damages or any other rights or remedies to which Licensors 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 Licensors in form and substance satisfactory to Licensors.

S. Entire Agreement. This License constitutes the entire agreement between Licensors 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 Licensors 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 Craig, Director of Utilities

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

LICENSEE:
ENTERPRISE NAVITAS PIPELINE TEXAS
LLC

By: Thomas Goolsby
Printed Name: Thomas Goolsby
Title: Agent and Attorney-in-Fact

THE STATE OF Texas
COUNTY OF Harris

§
§
§

BEFORE ME, the undersigned authority, on this 27th day of June, 2023 personally appeared Thomas Goolsby an officer of Enterprise Navitas Pipeline Texas 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 27th day of JUNE, 2023.

Lochlin Shaun Bramlett
Notary Public, State of TEXAS

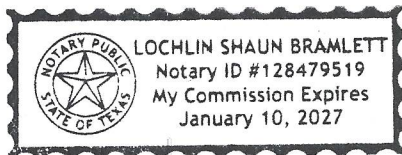


EXHIBIT "A"

CENTERLINE DESCRIPTION

RIGHT OF WAY CENTERLINE

BEING THE CENTERLINE OF A PROPOSED PIPELINE RIGHT OF WAY SITUATED IN SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, T. & P. RR. CO. SURVEY, ABSTRACT NO. 957, MIDLAND COUNTY, TEXAS. SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT (N: 10644331.88, E: 1844203.36) IN SAID SECTION 30, FROM WHICH THE CALCULATED SOUTHWEST CORNER OF SAID SECTION 30 BEARS S 14°09'54" E, A DISTANCE OF 2852.77 FEET (TIE), FROM WHICH A FOUND 5/8" IRON ROD BEARS N 75°11'12" W, A DISTANCE OF 55.22 FEET (TIE);

THENCE N 75°50'06" E, A DISTANCE OF 2753.21 FEET TO THE POINT OF TERMINATION (N: 10645005.63, E: 1846872.86) OF SAID CENTERLINE, FROM WHICH A 1" IRON PIPE FOUND FOR THE NORTHWEST CORNER OF SAID SECTION 30 BEARS N 62°17'45" W, A DISTANCE OF 3697.23 FEET (TIE).

SAID CENTERLINE CONTAINING A TOTAL OF 2753.21 FEET OR 166.86 RODS IN SAID SECTION 30.

TEMPORARY RIGHT OF WAY

BEING A TWENTY (20) FOOT WIDE STRIP OF LAND, PARALLEL WITH AND ADJOINING THE SOUTHERLY SIDE OF THE ABOVE DESCRIBED RIGHT-OF-WAY, EXTENDING OR SHORTENING THE SIDE LINES OF THE HEREIN DESCRIBED TEMPORARY WORKSPACE AT THE BEGINNING OF THE SAID RIGHT-OF-WAY LINES, TO INTERSECT WITH THE PROPERTY LINES AND OR ROAD LINE OF THE ABOVE REFERENCED TRACT OF LAND. HEREIN DESCRIBED TEMPORARY WORKSPACE CONTAINING 1.264 ACRES OF LAND.

ACCESS ROAD

BEING THE CENTERLINE OF A PROPOSED TWENTY (20) FOOT WIDE ACCESS ROAD SITUATED IN SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, T. & P. RR. CO. SURVEY, ABSTRACT NO. 957, MIDLAND COUNTY, TEXAS. SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT (N: 10645023.99, E: 1846945.58) IN SAID SECTION 30, FROM WHICH A 1/2" IRON PIPE FOUND FOR THE NORTHEAST CORNER OF SAID SECTION 30 BEARS N 31°06'29" E, A DISTANCE OF 3602.24 FEET (TIE).

THENCE N 75°50'06" E, A DISTANCE OF 501.99 FEET TO A POINT;
THENCE S 14°53'59" E, A DISTANCE OF 876.91 FEET TO A POINT;
THENCE S 14°02'38" W, A DISTANCE OF 76.69 FEET TO A POINT;
THENCE S 74°39'52" W, A DISTANCE OF 1063.94 FEET TO A POINT;
THENCE S 65°59'50" W, A DISTANCE OF 93.53 FEET TO A POINT;
THENCE S 36°57'25" W, A DISTANCE OF 136.48 FEET TO A POINT;
THENCE S 56°40'47" W, A DISTANCE OF 106.55 FEET TO A POINT;
THENCE S 69°08'22" W, A DISTANCE OF 125.83 FEET TO A POINT;
THENCE S 00°36'47" W, A DISTANCE OF 158.11 FEET TO A POINT;
THENCE S 48°30'00" W, A DISTANCE OF 68.90 FEET TO A POINT;
THENCE S 78°14'17" W, A DISTANCE OF 810.13 FEET TO A POINT;
THENCE S 76°18'16" W, A DISTANCE OF 308.09 FEET TO A POINT;
THENCE S 78°18'01" W, A DISTANCE OF 309.41 FEET TO A POINT;

THENCE N 81°19'19" W, A DISTANCE OF 42.65 FEET TO THE POINT OF TERMINATION (N: 10643195.03, E: 1844748.12) OF SAID CENTERLINE, FROM WHICH THE CALCULATED SOUTHWEST CORNER OF SAID SECTION 30 BEARS S 05°22'38" E, A DISTANCE OF 1636.38 FEET (TIE), FROM WHICH A 5/8" IRON ROD FOUND BEARS N 75°11'12" E, A DISTANCE OF 55.22 FEET (TIE).

SAID CENTERLINE CONTAINING A TOTAL OF 4679.21 FEET OR 283.59 RODS IN SAID SECTION 30.

METES AND BOUNDS DESCRIPTION

SURFACE SITE

BEING A PROPOSED SURFACE SITE SITUATED IN SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, T. & P. RR. CO. SURVEY, ABSTRACT NO. 957, MIDLAND COUNTY, TEXAS. SAID SURFACE SITE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT (N: 10645020.18, E: 1846869.19) IN SAID SECTION 30, FROM WHICH A 1" IRON PIPE FOUND FOR THE NORTHWEST CORNER OF SAID SECTION 30 BEARS N 62°28'10" W, A DISTANCE OF 3687.23 FEET (TIE);

THENCE N 75°50'06" E, A DISTANCE OF 75.00 FEET TO A POINT, FROM WHICH A 1/2" IRON PIPE FOUND FOR THE NORTHEAST CORNER OF SAID SECTION 30 BEARS N 31°16'41" E, A DISTANCE OF 3591.70 FEET (TIE);
THENCE S 14°09'54" E, A DISTANCE OF 30.00 FEET TO A POINT;
THENCE S 75°50'06" W, A DISTANCE OF 75.00 FEET TO A POINT;

THENCE N 14°09'54" W, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

SAID SURFACE SITE CONTAINING A TOTAL OF 2,250 SQUARE FEET OR 0.052 ACRES IN SAID SECTION 30.

NOTES:

1. BEARINGS, DISTANCES, AREA AND COORDINATES SHOWN HEREON ARE CORRELATED TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS CENTRAL ZONE (4203). ALL BEARINGS AND DISTANCES SHOWN ARE GRID.
2. LATITUDE & LONGITUDE ARE NAD 83 DECIMAL GEOGRAPHIC.
3. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THE REVIEW OF THE ABSTRACT OF TITLE. THERE MAY BE EASEMENTS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON. LOCATION OF ALL IMPROVEMENTS WAS BEYOND COMMISSIONED SCOPE OF THIS PROJECT AND HAS BEEN SPECIFICALLY OMITTED. VESTING DOCUMENTS NOT FURNISHED FOR THIS SURVEY.

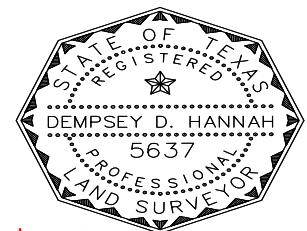
1	06/16/23	JMJ	ADDED REQUESTED CLIENT UPDATES	DDH
#	DATE	BY:	DESCRIPTION	CHK

PROJECT NO. 20357



TBPELS FIRM# 10194245
201 West Wall Street, Suite 325
Midland, TX 79701
(817) 529-1180 ~ Fax (817) 529-1181

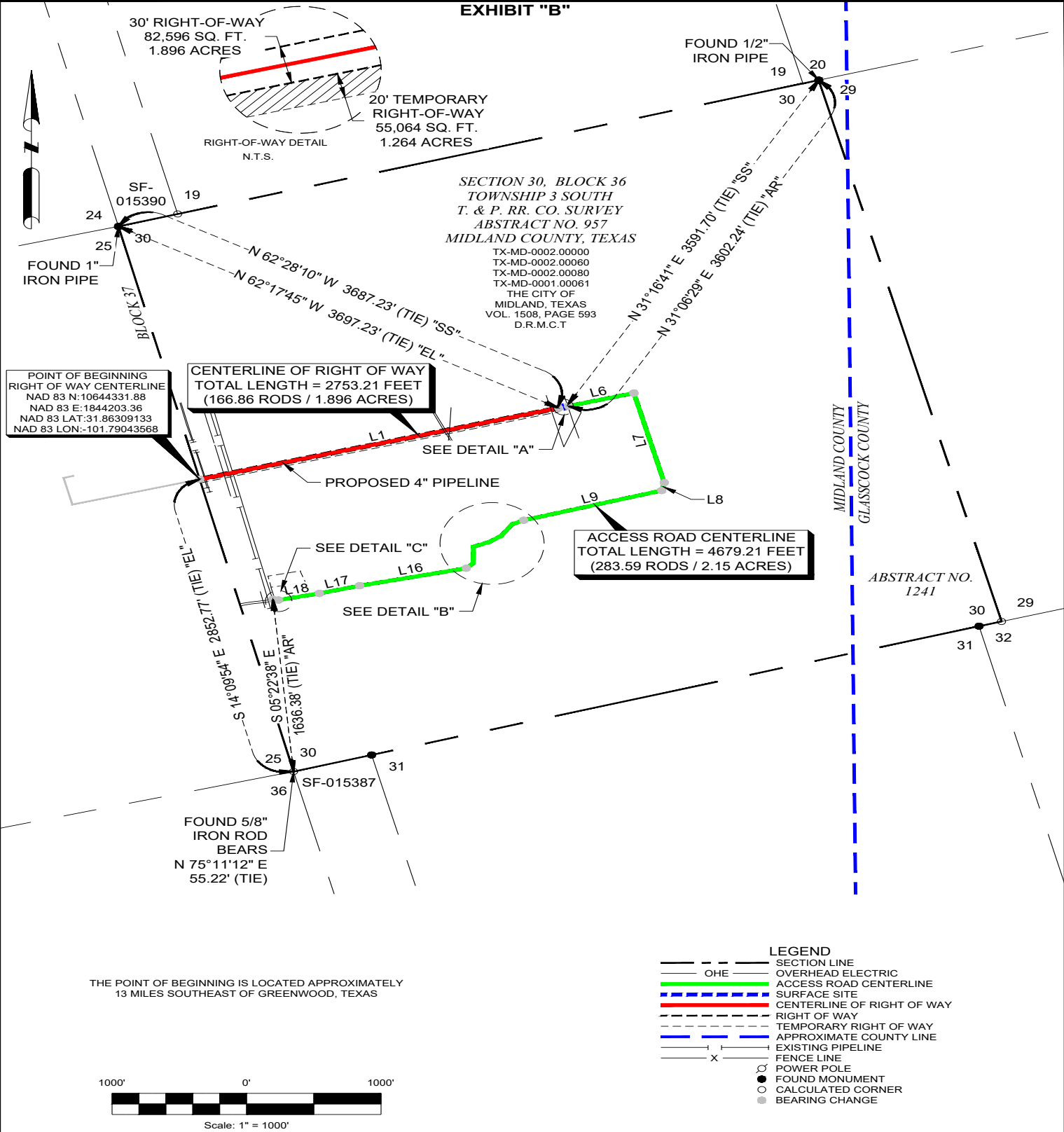
1818



Dempsey D. Hannah 06/16/2023
DEMPSEY D. HANNAH TEXAS R.P.L.S. NO. 5637 DATE

		RHODES DISCHARGE THE CITY OF MIDLAND, TEXAS PROPOSED RIGHT OF WAY CENTERLINE, SURFACE SITE & ACCESS ROAD SITUATED IN SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH T. & P. RR. CO. SURVEY ABSTRACT NO. 957 MIDLAND COUNTY, TEXAS July 25, 2023	
		DRAWN BY: AVP	DATE: 06/05/2023
		CHECKED BY: DDH	DATE: 06/09/2023
		SCALE: 1"=1000'	PAGE 1 OF 3
		DWG. NO. 20357_TX-MD-0002.00000	REV. 1

EXHIBIT "B"



THE POINT OF BEGINNING IS LOCATED APPROXIMATELY
13 MILES SOUTHEAST OF GREENWOOD, TEXAS

NOTES:

1. BEARINGS, DISTANCES, AREA AND COORDINATES SHOWN HEREON ARE CORRELATED TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS CENTRAL ZONE (4203). ALL BEARINGS AND DISTANCES SHOWN ARE GRID.
2. LATITUDE & LONGITUDE ARE NAD 83 DECIMAL GEOGRAPHIC.
3. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THE REVIEW OF THE ABSTRACT OF TITLE. THERE MAY BE EASEMENTS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON. LOCATION OF ALL IMPROVEMENTS WAS BEYOND COMMISSIONED SCOPE OF THIS PROJECT AND HAS BEEN SPECIFICALLY OMITTED. VESTING DOCUMENTS NOT FURNISHED FOR THIS SURVEY.

#	DATE	BY:	DESCRIPTION	CHK
1	06/16/23	JMJ	ADDED REQUESTED CLIENT UPDATES	DDH

PROJECT NO. 20357



TBPELS FIRM# 10194245
201 West Wall Street, Suite 325
Midland, TX 79701
(817) 529-1180 ~ Fax (817) 529-1181

1819



RHODES DISCHARGE THE CITY OF MIDLAND, TEXAS PROPOSED RIGHT OF WAY CENTERLINE, SURFACE SITE & ACCESS ROAD

SITUATED IN
SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH
T. & P. RR. CO. SURVEY
ABSTRACT NO. 957
MIDLAND COUNTY, TEXAS

July 25, 2023

DRAWN BY: AVP	DATE: 06/05/2023
CHECKED BY: DDH	DATE: 06/09/2023
SCALE: 1"=1000'	PAGE 2 OF 3

DWG. NO.
20357_TX-MD-0002.00000

REV.
1

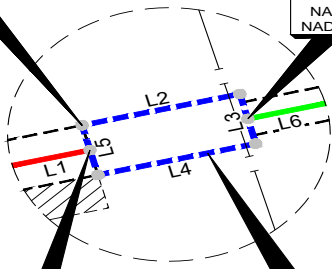
EXHIBIT "B"

POINT OF BEGINNING
SURFACE SITE
NAD 83 N:10645020.18
NAD 83 E:1846869.19
NAD 83 LAT:31.86507887
NAD 83 LON:-101.78187895

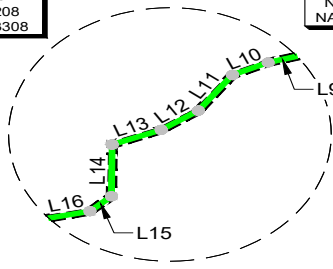
POINT OF BEGINNING
ACCESS ROAD
NAD 83 N:10645023.99
NAD 83 E:1846945.58
NAD 83 LAT:31.86509208
NAD 83 LON:-101.78163308

POINT OF TERMINATION
ACCESS ROAD
NAD 83 N:10643195.03
NAD 83 E:1844748.12
NAD 83 LAT:31.85998618
NAD 83 LON:-101.78863331

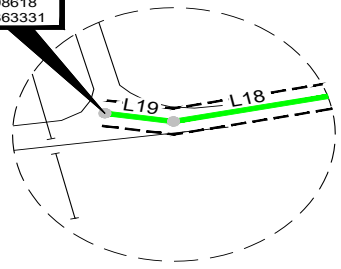
POINT OF TERMINATION
RIGHT OF WAY CENTERLINE
NAD 83 N:10645005.63
NAD 83 E:1846872.86
NAD 83 LAT:31.86503903
NAD 83 LON:-101.78186652



DETAIL "A"
N.T.S.



DETAIL "B"
N.T.S.



DETAIL "C"
N.T.S.

SURFACE SITE
AREA = 2,250 SQUARE FEET
(0.052 ACRES)

RIGHT OF WAY CENTERLINE BEARING & DISTANCE TABLE		
LINE #	BEARING	DISTANCE
L1	N 75°50'06" E	2753.21'

SURFACE SITE BEARING & DISTANCE TABLE		
LINE #	BEARING	DISTANCE
L2	N 75°50'06" E	75.00'
L3	S 14°09'54" E	30.00'
L4	S 75°50'06" W	75.00'
L5	N 14°09'54" W	30.00'

ACCESS ROAD BEARING & DISTANCE TABLE		
LINE #	BEARING	DISTANCE
L6	N 75°50'06" E	501.99'
L7	S 14°53'59" E	876.91'
L8	S 14°02'38" W	76.69'
L9	S 74°39'52" W	1063.94'
L10	S 65°59'50" W	93.53'
L11	S 36°57'25" W	136.48'
L12	S 56°40'47" W	106.55'
L13	S 69°08'22" W	125.83'
L14	S 00°36'47" W	158.11'
L15	S 48°30'00" W	68.90'
L16	S 78°14'17" W	810.13'
L17	S 76°18'16" W	308.09'
L18	S 78°18'01" W	309.41'
L19	N 81°19'19" W	42.65'

NOTES:

1. BEARINGS, DISTANCES, AREA AND COORDINATES SHOWN HEREON ARE CORRELATED TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS CENTRAL ZONE (4203). ALL BEARINGS AND DISTANCES SHOWN ARE GRID.
2. LATITUDE & LONGITUDE ARE NAD 83 DECIMAL GEOGRAPHIC.
3. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THE REVIEW OF THE ABSTRACT OF TITLE. THERE MAY BE EASEMENTS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON. LOCATION OF ALL IMPROVEMENTS WAS BEYOND COMMISSIONED SCOPE OF THIS PROJECT AND HAS BEEN SPECIFICALLY OMITTED. VESTING DOCUMENTS NOT FURNISHED FOR THIS SURVEY.

1	06/16/23	JMJ	ADDED REQUESTED CLIENT UPDATES	DDH
#	DATE	BY:	DESCRIPTION	CHK

PROJECT NO. 20357



PACKET

TBPELS FIRM# 10194245
201 West Wall Street, Suite 325
Midland, TX 79701
(817) 529-1180 ~ Fax (817) 529-1181

18-20



RHODES DISCHARGE
THE CITY OF MIDLAND, TEXAS
PROPOSED RIGHT OF WAY CENTERLINE,
SURFACE SITE & ACCESS ROAD

SITUATED IN
SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH
T. & P. RR. CO. SURVEY
ABSTRACT NO. 957
MIDLAND COUNTY, TEXAS

July 25, 2023

DRAWN BY: AVP	DATE: 06/05/2023
CHECKED BY: DDH	DATE: 06/09/2023
SCALE: 1"=1000'	PAGE 3 OF 3

DWG. NO.
20357_TX-MD-0002.00000

REV.
1

EXHIBIT "A"

CENTERLINE DESCRIPTION

BEING THE CENTERLINE OF A PROPOSED 30 FOOT WIDE RIGHT OF WAY SITUATED IN SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, T. & P. RR. CO. SURVEY, ABSTRACT NO. 957, MIDLAND COUNTY, TEXAS. SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT (N:10644406.63, E:1844376.93) IN SAID SECTION 30, FROM WHICH A 1" IRON PIPE FOUND FOR THE NORTHWEST CORNER OF SAID SECTION 30 BEARS N 18°32'32" W, A DISTANCE OF 2444.78 FEET (TIE);

THENCE S 75°50'06" W, A DISTANCE OF 186.59 FEET TO THE POINT OF TERMINATION (N:10644360.97, E:1844196.02) OF SAID CENTERLINE, AT A POINT IN THE WEST BOUNDARY LINE OF SAID SECTION 30, FROM WHICH THE CALCULATED SOUTHWEST CORNER OF SAID SECTION 30 BEARS S 14°09'54" E, A DISTANCE OF 2882.77 FEET (TIE), FROM WHICH A FOUND 1/2" IRON ROD BEARS N 70°00'48" E, A DISTANCE OF 52.51 FEET (TIE).

SAID CENTERLINE CONTAINING A TOTAL OF 186.59 FEET OR 11.31 RODS AND 0.128 ACRES IN SAID SECTION 30.



NOTES:

1. BEARINGS, DISTANCES, AREA AND COORDINATES SHOWN HEREON ARE CORRELATED TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS CENTRAL ZONE (4203). ALL BEARINGS AND DISTANCES SHOWN ARE GRID.
2. LATITUDE & LONGITUDE ARE NAD 83 DECIMAL GEOGRAPHIC.
3. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THE REVIEW OF THE ABSTRACT OF TITLE. THERE MAY BE EASEMENTS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON. LOCATION OF ALL IMPROVEMENTS WAS BEYOND COMMISSIONED SCOPE OF THIS PROJECT AND HAS BEEN SPECIFICALLY OMITTED. VESTING DOCUMENTS NOT FURNISHED FOR THIS SURVEY.

Dempsey D. Hannah 06/16/2023
DEMPSEY D. HANNAH TEXAS R.P.L.S. NO. 5637 DATE

#	DATE	BY:	DESCRIPTION	CHK
1	06/16/23	JMJ	ADDED REQUESTED CLIENT UPDATES	DDH

PROJECT NO. 20358



TBPCLS FIRM# 10194245
201 West Wall Street, Suite 325
Midland, TX 79701
(817) 529-1180 ~ Fax (817) 529-1181

1821



RHODES FUEL GAS
THE CITY OF MIDLAND, TEXAS
PROPOSED CENTERLINE OF RIGHT OF WAY
SITUATED IN
SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH
T. & P. RR. CO. SURVEY
ABSTRACT NO. 957
MIDLAND COUNTY, TEXAS

DRAWN BY: MJM	DATE: 06/07/23	DWG. NO.	REV.
CHECKED BY: DDH	DATE: 06/12/23	20358_TX-MD-0002.00000	1
SCALE: 1"=1000'	PAGE 1 OF 2		

EXHIBIT "B"

FOUND 1" IRON PIPE

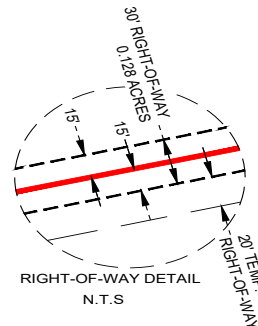
TX-MD-0002.00000
THE CITY OF MIDLAND, TEXAS
VOL. 1508, PG. 593
D.R.M.C.T.

SECTION 30, BLOCK 36
TOWNSHIP 3 SOUTH
T. & P. RR. CO. SURVEY
ABSTRACT NO. 957
MIDLAND COUNTY, TEXAS

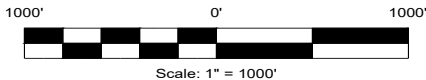
CENTERLINE OF RIGHT OF WAY BEARING & DISTANCE TABLE		
LINE #	BEARING	DISTANCE
L1	S 75°50'06" W	186.59'

- LEGEND**
- SECTION LINE
 - OHE OVERHEAD ELECTRIC
 - CENTERLINE OF RIGHT OF WAY
 - RIGHT OF WAY
 - EXISTING PIPELINE
 - FENCE LINE
 - POWER POLE
 - FOUND MONUMENT
 - CALCULATED CORNER
 - BEARING CHANGE

CENTERLINE OF RIGHT OF WAY
TOTAL LENGTH = 186.59 FEET
(11.31 RODS/ 0.128 ACRES)



THE POINT OF BEGINNING IS LOCATED APPROXIMATELY 19.5
MILES SOUTHEAST OF MIDLAND, TEXAS



NOTES:

- BEARINGS, DISTANCES, AREA AND COORDINATES SHOWN HEREON ARE CORRELATED TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS CENTRAL ZONE (4203). ALL BEARINGS AND DISTANCES SHOWN ARE GRID.
- LATITUDE & LONGITUDE ARE NAD 83 DECIMAL GEOGRAPHIC.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THE REVIEW OF THE ABSTRACT OF TITLE. THERE MAY BE EASEMENTS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON. LOCATION OF ALL IMPROVEMENTS WAS BEYOND COMMISSIONED SCOPE OF THIS PROJECT AND HAS BEEN SPECIFICALLY OMITTED. VESTING DOCUMENTS NOT FURNISHED FOR THIS SURVEY.

#	DATE	BY:	DESCRIPTION	CHK
1	06/16/23	JMJ	ADDED REQUESTED CLIENT UPDATES	DDH

PROJECT NO. 20358



TBPCLS FIRM# 10194245
201 West Wall Street, Suite 325
Midland, TX 79701
(817) 529-1180 ~ Fax (817) 529-1181



RHODES FUEL GAS
THE CITY OF MIDLAND, TEXAS
PROPOSED CENTERLINE OF RIGHT OF WAY
SITUATED IN
SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH
T. & P. RR. CO. SURVEY
ABSTRACT NO. 957
MIDLAND COUNTY, TEXAS

DRAWN BY: MJM
CHECKED BY: DDH
SCALE: 1"=1000'

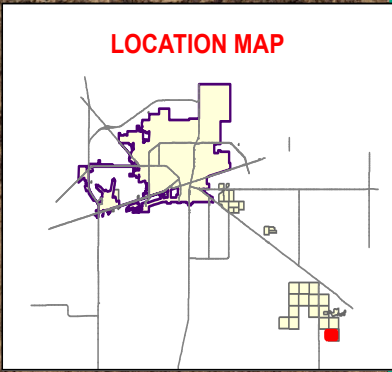
DATE: 06/07/23
DATE: 06/12/23
PAGE 2 OF 2

DWG. NO.
20358_TX-MD-0002.00000

REV.
1

18-22

July 25, 2023



BLK 37-3-S
SEC 25

BLK 36-3-S
SEC 30

Rhodes Fuel Gas
Proposed ROW (30 ft Wide)
11.31 Rods (186.59 Ft)

Rhodes Discharge
Proposed ROW (20 ft Wide)
166.86 Rods (2,753.21 Ft)

Surface Site
2,250 SQFT (0.052 Acres)

Proposed Access Road ROW (20 ft Wide)
283.59 Rods (4,679.21 Ft)

- Surface Site
- Proposed ROW
- Proposed Access Road
- Survey Section

PACKET

18.23

Enterprise Proposed ROW, Access Road and Surface Site

July 25, 2023



0 150 300 Feet

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THIS DATA IS NOT A SUBSTITUTION FOR A
SURVEY PROJECT. NOR IS IT DESIGNED TO
BE USED AS A PRIMARY TOOL IN PLANNING
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.

Date: 6/21/2023



EPOLLC
P.O. Box 4324
Houston, TX 77210-4324

Land Account

Check No. **091490**
Date: **06/30/2023**

PAY
TO THE
ORDER
OF

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

\$ **85,548⁹⁰**

VOID AFTER 180 DAYS

Eighty-Five Thousand Five Hundred Forty-Eight ⁹⁰/₁₀₀

DOLLARS

MEMO

Rhodes Discharge/Fuel Gas

Jeremiah A. Polito

AUTHORIZED SIGNATURE

Print Name

⑈091490⑈ ⑆044115443⑆

662639962⑈

ORIGINAL DOCUMENT HAS A WATERMARK



City Council Meeting

Item Number: 19
Meeting Date: July 25, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way License (23-329-035) with Enterprise Navitas Midstream Midland Basin, LLC, regarding City-owned property described as Section 30, Block 36, T-3-S, T&P RR Co. Survey, Midland County, Texas (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion will provide the applicant a 20-foot wide, 2,228.41' total length road to access existing and future above-ground pipeline valve connections on the City of Midland-owned Sprayberry Farm real property. The applicant will need an additional 20' of temporary workspaces for construction.

This Right-of-Way License is proposed for a single ten (10) year period, paid in advance. 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

10-Years Paid In advance:

Road (135.06 rods x \$140/rod): \$18,908.40

Surface Damages: included in the new annual rate

Total Collected: \$19,908.40

Discussion:

This Right of Way is in the South Half of Section 30 in the Sprayberry Farm area and is over 2 miles from COM infrastructure. The proposed road is between the existing facilities and the proposed new facilities.

Certificates of Insurance are on file

City Secretary is to record all documents.



City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§ KNOW ALL MEN BY THESE PRESENTS:
§

Date: July 26, 2023

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

Licensor's Representative: Morris Williams, Jr., Interim City Manager

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

Licensee: Enterprise Navitas Pipeline Texas LLC

Licensee's Representative: Thomas Goolsby

Licensee's Mailing Address: 1100 Louisiana Street, Suite 1000
Houston, Texas 77002

Property: As described in Article III below

License Number: 23-329-035

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.

WITNESSETH:

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 EIGHTEEN THOUSAND NINE HUNDRED EIGHT and 40/100 Dollars (\$18,908.40) ("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 forty (40) feet in width of the locations as shown on Exhibits A and B attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations an access road and to have the right of ingress and egress at convenient points for such purpose and said construction width shall revert to twenty (20) feet after the road is completed (the "Property"). **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the access road 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 access road 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. Intentionally omitted.

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 ACCESS ROAD 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 portion of the access road 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 be promptly removed from the Property.

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

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

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace 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 portion or the entirety of Licensee's access road, 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
<i>Business Automobile Liability:</i>	\$1,000,000.00 combined single limit-- Personal Injury and Property Damage
<i>Workers' Compensation:</i>	Statutory limits
<i>Employers' Liability:</i>	\$1,000,000.00 per accident or occurrence
<i>Umbrella Liability:</i>	\$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 ACCESS ROAD 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 ACCESS ROAD ON LICENSOR'S PROPERTY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY INDEMNITEE, INCLUDING RELATED ATTORNEY'S FEES.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE, ITS SUCCESSORS AND ASSIGNS, SHALL INDEMNIFY, PROTECT, DEFEND AND HOLD INDEMNITEES HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, THE "INDEMNIFYING PARTIES"), TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR

AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY INDEMNIFYING PARTY'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR (ii) ANY INDEMNIFYING PARTY'S HANDLING, STORING, RELEASING OR TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE PROVISIONS OF THIS INDEMNIFICATION SHALL APPLY TO AND PROTECT EACH INDEMNITEE FROM THE CONSEQUENCES OF STRICT LIABILITY IMPOSED OR THREATENED TO BE IMPOSED ON SUCH INDEMNITEE, AS WELL AS FROM THE CONSEQUENCES OF THE NEGLIGENCE OF ANY INDEMNITEE, WHETHER OR NOT THAT NEGLIGENCE IS A CONTRIBUTING OR CONCURRING CAUSE OF ANY LIABILITY INDEMNIFIED AGAINST IN THIS ARTICLE IV.B.

THE TERMS, PROVISIONS, REQUIREMENTS AND OBLIGATIONS OF THIS ARTICLE IV.B. SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS LICENSE, AND SHALL NOT BE LIMITED BY OR TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

C. Assignment. The provisions of this License shall inure to the benefit of and be binding upon Licensor and Licensee and their respective successors and permitted assigns. The rights and privileges granted by Licensor under this License inure to the benefit of Licensee. No rights, privileges or obligations hereunder shall be assignable by Licensee without the express prior written consent of Licensor. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager

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

of this subparagraph (D.) shall not be deemed or construed as contradicting, limiting or conflicting with the provisions of subparagraph (M.) below.

E. Attorney Fees. SHOULD LICENSOR BE REQUIRED TO RESORT TO EMPLOYMENT OF ATTORNEYS TO ENFORCE THIS LICENSE, OR ANY OF ITS RIGHTS UNDER THIS LICENSE, LICENSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM LICENSEE FOR LICENSOR'S ATTORNEYS' FEES. LICENSEE SHALL REIMBURSE LICENSOR FOR LICENSOR'S ATTORNEYS' FEES INCURRED IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS LICENSE. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LICENSE, OR THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE. WITHOUT LIMITING THE FOREGOING, LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, OR TO THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

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

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

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

I. Third Party Beneficiary. Except as provided in Article IV.B. above with respect to Indemnitees, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

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

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licensor within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Licensee's failure to comply with the requirements herein shall perpetually bar Licensee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless

if Licensor has actual or constructive notice or knowledge of said claim or alleged damages. Licensee agrees that the requirements of this entire License are reasonable.

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

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

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

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

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

P. Waiver. No waiver of any of the provisions of this License shall be deemed or constitute a waiver of any other provisions of this License, nor shall such waiver constitute a continuing waiver

unless otherwise expressly provided. Likewise, the failure of Licensor to enforce any provision of this License shall not be deemed nor shall constitute a waiver of the right of Licensor to enforce such provision.

Q. Counterpart Execution. This License may be executed in several counterparts, and any such agreement shall be deemed an original for all intents and purposes.

R. No Release of Liability. Notwithstanding anything to the contrary contained in this License, the termination or expiration of this License shall not relieve Licensee of any liability, duty or obligation under this License, nor shall it preclude Licensor from asserting any right to specific performance, damages or any other rights or remedies to which Licensor may be entitled. Upon termination or expiration of this License for any reason, Licensee shall execute and deliver a recordable release of this License to Licensor in form and substance satisfactory to Licensor.

S. Entire Agreement. This License constitutes the entire agreement between Licensor and Licensee concerning the subject matter hereof, superseding all negotiations, prior discussions, prior licenses and prior agreements and understandings related to the subject matter hereof. This License may only be amended by written instrument executed by Licensor and Licensee.

[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:
ENTERPRISE NAVITAS PIPELINE TEXAS
LLC

By: Thomas Goolsby
Printed Name: Thomas Goolsby
Title: Agent and Attorney-in-Fact

THE STATE OF Texas

§

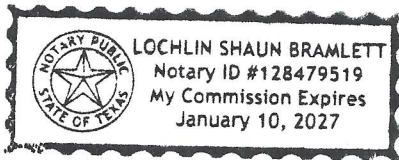
COUNTY OF Harris

§

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BEFORE ME, the undersigned authority, on this 27th day of JUNE, 2023 personally appeared Thomas Goolsby an officer of Enterprise Navitas Pipeline Texas 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 27th day of JUNE, 2023.



Lochlin Shaun Bramlett
Notary Public, State of TEXAS

EXHIBIT "A"

CENTERLINE DESCRIPTION

BEING THE CENTERLINE OF A PROPOSED 20 FOOT WIDE ACCESS ROAD SITUATED IN SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, T. & P. RR. CO. SURVEY, ABSTRACT NO. 957, MIDLAND COUNTY, TEXAS. SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT (N:10644792.44, E:1844087.12) IN THE WEST BOUNDARY LINE OF SAID SECTION 30, FROM WHICH A 1" IRON PIPE FOUND FOR THE NORTHWEST CORNER OF SAID SECTION 30 BEARS N 14°09'54" W, A DISTANCE OF 1992.65 FEET (TIE);

THENCE N 75°50'06" E, A DISTANCE OF 267.69 FEET TO A POINT;
THENCE S 13°34'21" E, A DISTANCE OF 1710.69 FEET TO A POINT;

THENCE S 76°49'54" W, A DISTANCE OF 250.03 FEET TO THE POINT OF TERMINATION (N:10643138.07, E:1844504.66) OF SAID CENTERLINE, AT A POINT IN THE WEST BOUNDARY LINE OF SAID SECTION 30, FROM WHICH THE CALCULATED SOUTHWEST CORNER OF SAID SECTION 30 BEARS S 14°09'54" E, A DISTANCE OF 1621.52 FEET (TIE), FROM WHICH A FOUND 1/2" IRON ROD BEARS N 70°00'48" E, A DISTANCE OF 52.51 FEET (TIE).

SAID CENTERLINE CONTAINING A TOTAL OF 2228.41 FEET OR 135.06 RODS AND 1.023 ACRES IN SAID SECTION 30.

NOTES:

1. BEARINGS, DISTANCES, AREA AND COORDINATES SHOWN HEREON ARE CORRELATED TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS CENTRAL ZONE (4203). ALL BEARINGS AND DISTANCES SHOWN ARE GRID.
2. LATITUDE & LONGITUDE ARE NAD 83 DECIMAL GEOGRAPHIC.
3. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THE REVIEW OF THE ABSTRACT OF TITLE. THERE MAY BE RIGHT-OF-WAYS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON. LOCATION OF ALL IMPROVEMENTS WAS BEYOND COMMISSIONED SCOPE OF THIS PROJECT AND HAS BEEN SPECIFICALLY OMITTED. VESTING DOCUMENTS NOT FURNISHED FOR THIS SURVEY.

#	DATE	BY:	DESCRIPTION	CHK

PROJECT NO. 20355



TBPELS FIRM# 10194245
201 West Wall Street, Suite 325
Midland, TX 79701
(817) 529-1180 ~ Fax (817) 529-1181

1918



RHODES COMPRESSOR STATION THE CITY OF MIDLAND, TEXAS PROPOSED ACCESS ROAD CENTERLINE

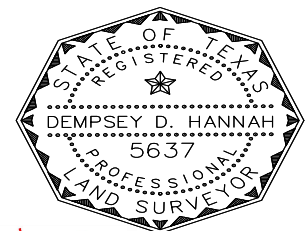
SITUATED IN
SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH
T. & P. RR. CO. SURVEY
ABSTRACT NO. 957
MIDLAND COUNTY, TEXAS

DRAWN BY: MAC
CHECKED BY: DDH
SCALE: 1"=1000'

DATE: 06/05/23
DATE: 06/09/23
PAGE 1 OF 2

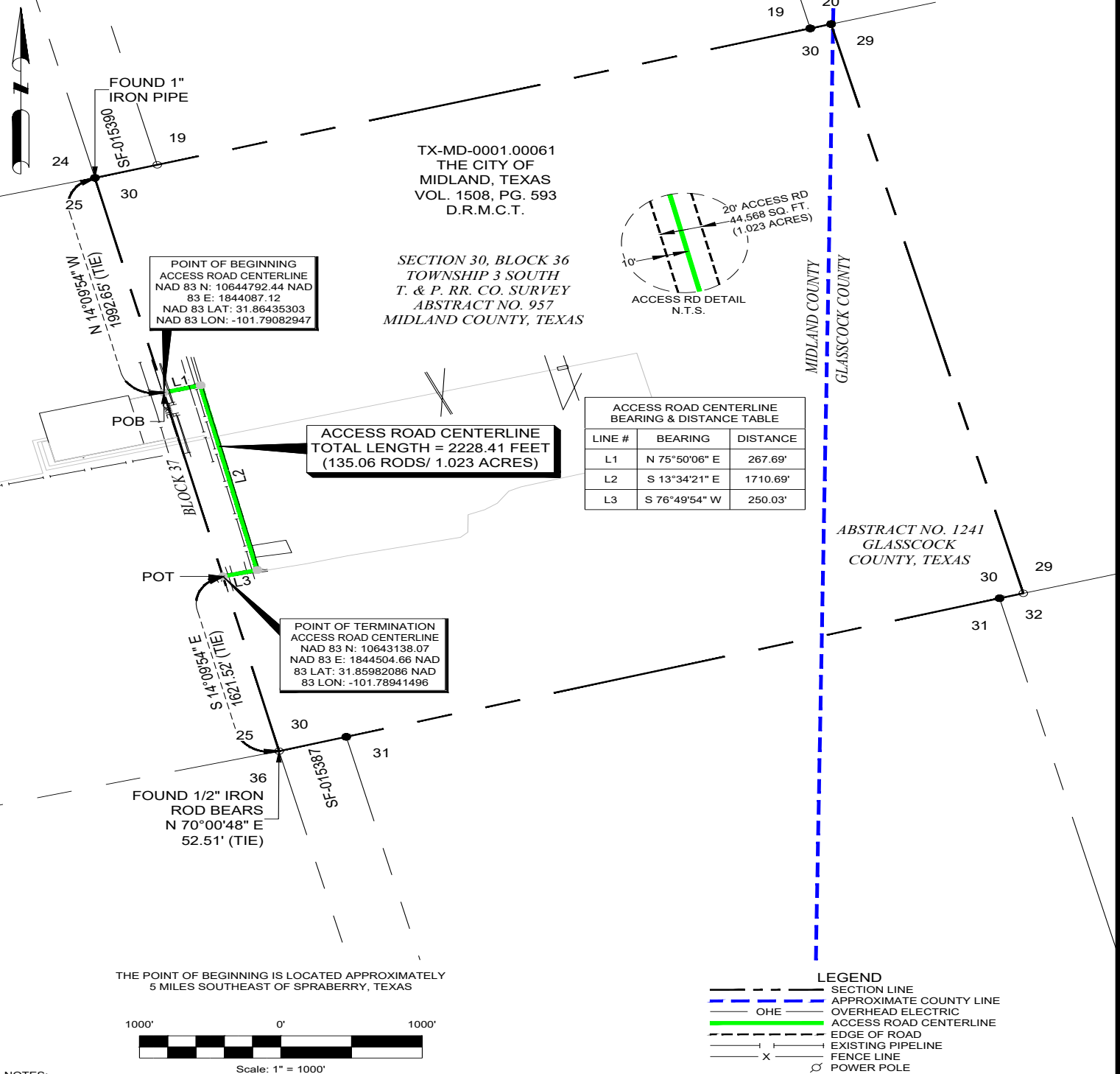
DWG. NO.
20355_TX-MD-0001.00061

REV.
0



Dempsey D. Hannah
DEMPSEY D. HANNAH TEXAS R.P.L.S. NO. 5637 DATE 06/12/2023

EXHIBIT "B"



NOTES:

- BEARINGS, DISTANCES, AREA AND COORDINATES SHOWN HEREON ARE CORRELATED TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS CENTRAL ZONE (4203). ALL BEARINGS AND DISTANCES SHOWN ARE GRID.
- LATITUDE & LONGITUDE ARE NAD 83 DECIMAL GEOGRAPHIC.
- THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THE REVIEW OF THE ABSTRACT OF TITLE. THERE MAY BE RIGHT-OF-WAYS AND/OR COVENANTS AFFECTING THIS PROPERTY NOT SHOWN HEREON. LOCATION OF ALL IMPROVEMENTS WAS BEYOND COMMISSIONED SCOPE OF THIS PROJECT AND HAS BEEN SPECIFICALLY OMITTED. VESTING DOCUMENTS NOT FURNISHED FOR THIS SURVEY.

#	DATE	BY:	DESCRIPTION	CHK

PROJECT NO. 20355



TBPELS FIRM# 10194245
201 West Wall Street, Suite 325
Midland, TX 79701
(817) 529-1180 ~ Fax (817) 529-1181

1919



RHODES COMPRESSOR STATION THE CITY OF MIDLAND, TEXAS PROPOSED ACCESS ROAD CENTERLINE

SITUATED IN
SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH
T. & P. RR. CO. SURVEY
ABSTRACT NO. 957
MIDLAND COUNTY, TEXAS

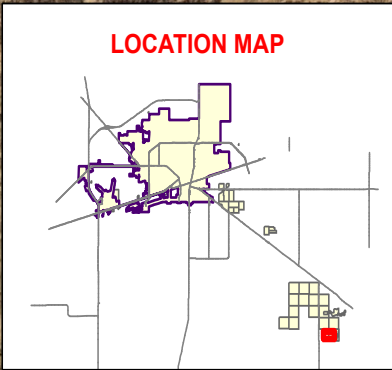
July 25, 2023

DRAWN BY: MAC
CHECKED BY: DDH
SCALE: 1"=1000'

DATE: 06/05/23
DATE: 06/09/23
PAGE 2 OF 2

DWG. NO.
20355_TX-MD-0001.00061

REV.
0



BLK 37-3-S
SEC 25

BLK 36-3-S
SEC 30

Proposed Access Road ROW
135.06 Rods (2228.41 Ft)

Proposed ROW
Survey Section

PACKET

19.20
Enterprise Access Road ROW

Date: 6/20/2023

July 25, 2023

250 500 Feet

©THE CITY OF MIDLAND - 2023
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT. WORK IS 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.



EPOLLC
P.O. Box 4324
Houston, TX 77210-4324

Land Account

Check No. **091491**
Date: **6/30/2023**

PAY
TO THE
ORDER
OF

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

\$ **18,908⁴⁰**
VOID AFTER 180 DAYS

Eighteen Thousand Nine Hundred Eight ⁴⁰/₁₀₀ DOLLARS

MEMO **Rhodes CS Access Rd**

Jeremiah A. Polito
AUTHORIZED SIGNATURE
Print Name

⑈091491⑈ ⑈044115443⑈ 662639962⑈

ORIGINAL DOCUMENT HAS A WATERMARK



City Council Meeting

Item Number: 20
Meeting Date: July 25, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way License (23-329-034) with Midland-Permian Pipeline LLC, regarding City-owned property described as Section 24, Block 37, T-3-S, T&P RR Co. Survey, Midland County, Texas (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion will provide the applicant a 30' wide right of way for a Sixteen Inch (16) poly-construction natural gas pipeline to connect existing facilities located on the City of Midland-owned Sprayberry Farm real property. This area is a predominantly mineral-producing area and is over a mile away from any City operations. The applicant will need an additional 30' wide temporary workspace for construction.

This Right-of-Way License is proposed for a single ten (10) year period, paid in advance. 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

10-year Lease Rate:

16" pipeline (\$440.00 per rod x 18.36 rods) \$8,078.40

Total Collected: \$9,078.40

Discussion:

This right of way will allow the applicant to build a 16" natural gas pipeline to connect existing gas pipeline facilities with safety and monitoring equipment on an existing gas pipeline. This section of Sprayberry Farm property is predominately used for mineral extraction, all construction work will be over a mile away from any City activity.

Certificates of Insurance are on file

City Secretary is to record all documents



City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

Date: July 26, 2023

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

Licensor's Representative: Morris Williams, Jr., Interim City Manager

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

Licensee: Targa Pipeline Mid-Continent WestTex LLC

Licensee's Representative: Norman L. Winter

Licensee's Mailing Address: 811 Louisiana St., Suite 2100
Houston, Texas 77002

Property: As described in Article III below

License Number: 23-329-034

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.

WITNESSETH:

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, Licensors 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 Licensors' sole discretion to terminate this License during the term of this License without penalty to Licensors. 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 Licensors upon inspection by Licensors' 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 EIGHT THOUSAND SEVENTY-EIGHT and 40/100 Dollars (\$8,078.40) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensors terminates this License pursuant to the provisions of Section I.B., Licensors agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensors 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 Licensors 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 Licensors' Representative. Said fee shall revert to Licensors 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 Licensors at the office of Licensors' 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 Licensors a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensors does hereby grant unto Licensee, the right to enter upon the Property, being sixty (60) feet in width of the pipeline location as shown on Exhibit A attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline locations, a poly construction pipeline, not to exceed sixteen (16) inches in diameter, 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 Licensors 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 Licensors 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 Licensors.**

B. Road Repair. Licensee covenants and agrees that it will repair, at its own expense, any of Licensors's roads that Licensee, its employees, contractors, representatives, agents or assigns damage on Licensors's property, so that such roads will comply with Licensors'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 Licensors 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 Licensors'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%). Licensors 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 Licensors's Representative, which approval shall be at Licensors's Representative's sole discretion.

F. Reservation of Rights. Licensors 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.

Licensors 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

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 be promptly removed from the Property.

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

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

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace 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. Licensee acknowledges the potential need for relocation, change or alteration of any of Licensee's pipeline, property or casing due to road expansion and that 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.

Licensors 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. Licensors shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required 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 Indemnites, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

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

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where

and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licensor within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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

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

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

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

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensors. 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 Licensors and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensors 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 Licensors to enforce any provision of this License shall not be deemed nor shall constitute a waiver of the right of Licensors 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 Licensors from asserting any right to specific performance, damages or any other rights or remedies to which Licensors 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 Licensors in form and substance satisfactory to Licensors.

S. Entire Agreement. This License constitutes the entire agreement between Licensors 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 Licensors 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 Craig, Director of Utilities

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

LICENSEE:

TARGA PIPELINE MID-CONTINENT
WESTTEX LLC

By: *Norman L. Winter*

Printed Name: Norman L. Winter

Title: Vice President of Land and ROW

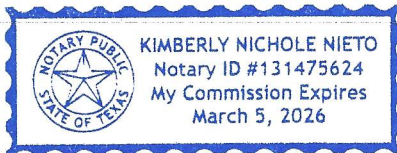
THE STATE OF Texas

COUNTY OF Harris

§
§
§

BEFORE ME, the undersigned authority, on this 15th day of June, 2023 personally appeared Norman L. Winter an officer of Targa Pipeline Mid-Continent WestTex 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 15th day of June, 2023.



Kimberly Nichole Nieto
Notary Public, State of Texas

GRAPHIC SCALE

0 250 500



(IN FEET)

1 inch = 500 ft.



T. & P. RR. CO.
SECTION 24, BLOCK 37, T-3-S

A-954
(72076)

TRACT ONE
ROBERT C. FLOYD
TO THE CITY OF MIDLAND
NOVEMBER 4, 1997
VOLUME 1508, PAGE 593
O.P.R.M.C.T.

P.O.B.

NAD83 (TXC)

Y = 10,646,527.11

X = 1,842,089.20

LAT. = 31.869049° N

LONG. = 101.797338° W

FROM WHICH A 1" IRON PIPE

FOUND FOR THE SOUTHEAST

CORNER OF SECTION 24

BEARS N82°33'28"E 1,523.03'

NAVTAS GAS LINE

P.O.T.

NAD83 (TXC)

Y = 10,646,333.29

X = 1,842,013.55

LAT. = 31.868513° N

LONG. = 101.797573° W

FROM WHICH A 1/2" IRON ROD

W/YELLOW CAP FOUND IN THE EAST

ROW LINE OF FM 1379 AND IN THE

SOUTH LINE OF SECTION 24

BEARS S76°08'46"W 3,596.41'

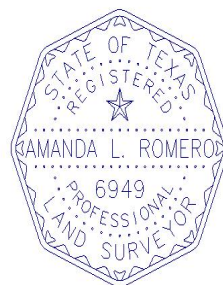
1" IRON PIPE
70
25 30

LINE TABLE		
LINE	BEARING	LENGTH
L1	S75°16'11"W	133.51'
L2	S15°05'02"E	83.42'
L3	S26°14'22"E	56.18'
L4	S13°27'08"E	29.77'

TOTAL PROPOSED LENGTH =
302.88 FEET OR 18.36 RODS

THIS SURVEY EXHIBIT WAS PREPARED FROM RECORD DATA FURNISHED BY THE CLIENT AND WAS DONE WITHOUT THE BENEFIT OF A TITLE REPORT. SURVEYOR HAS MADE NO INVESTIGATION OR SEARCH FOR PIPELINES OR OTHER MATTERS OF RECORD THAT A TITLE REPORT WOULD DISCLOSE AND THIS SURVEY DOES NOT REPRESENT WARRANTY OF TITLE OR A GUARANTEE OF OWNERSHIP.

I, AMANDA L. ROMERO, DO HEREBY STATE THAT THE ABOVE FOREGOING EXHIBIT WAS PREPARED UNDER MY DIRECTION AND SUPERVISION IN JUNE, 2023



Amanda L. Romero

AMANDA L. ROMERO
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS NO. 6949

LEGEND

- SECTION LINE
- PROPOSED CENTERLINE
- EXISTING PAD
- EXISTING ROAD
- EXISTING GAS LINE
- ⊙ EXISTING MONUMENT
- A-# ABSTRACT NUMBER
- (#) GLO FILE NUMBER
- D.R.M.C.T. DEED RECORDS OF MIDLAND COUNTY TEXAS
- O.P.R.M.C.T. OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY TEXAS
- P.O.B. POINT OF BEGINNING
- P.O.T. POINT OF TERMINUS



505 Pecan Street, Ste 201, Fort Worth, TX 76102 ph:682.882.4570 manhard.com
Texas Board of Professional Engineers & Land Surveyors
Reg. No. F-10194754 (Surv), F-21732 (Eng)

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TARGA MIDSTREAM SERVICES LLC
811 LOUISIANA, SUITE 2100 HOUSTON, TX 77002

CHECKED BY:
AR

DATE:
06/15/2023

SCALE:
1" = 500'

PROJECT NO.:
618.008028.00

DRAWN BY:
CM

FIELD CREW:
PH

REVISION NO.:
0

SHEET:
1 OF 2

AN EXHIBIT OF:
A PROPOSED PIPELINE
WITH 24-13 16" LINE
THE CITY OF MIDLAND

SITUATED IN
SECTION 24, BLOCK 37, T-3-S OF THE
T. & P. RR. CO. SURVEY IN MIDLAND COUNTY, TEXAS

- ALL BEARINGS AND DISTANCES REFER TO THE TEXAS STATE PLANE COORDINATE SYSTEM OF NAD 1983 (HARN), CENTRAL ZONE 4203.
- AREA, DISTANCE, AND COORDINATES ARE "GRID."
- UNITS ARE UNITED STATES SURVEY FOOT.
- VERTICAL DATUM IN NAVD 88
- CALL BEFORE YOU DIG - TEXAS811.ORG

GENERAL NOTES

- ALL LEASE AND TRACT INFORMATION SHOWN HEREON IS DONE SO BY LIMITED DEED RECORD INFORMATION ONLY. ALL ACRESAGES SHOWN ARE BY DEED AND LEASE CALL, EXCEPT WHERE NOTED. THIS IS NOT IN ANY WAY A "BOUNDARY SURVEY".
- LOCATION OF PIPELINES SHOWN ARE BASED ON THE USE OF SCARS AND PIPELINES SHOWN ARE BASED ON THE USE SCARS AND PIPELINE MARKERS. PIPELINES WERE COVERED.

July 25, 2023



Exhibit B

A CENTERLINE OF A PROPOSED PIPELINE WTH 14-23 16" LINE CITY OF MIDLAND

Being a proposed centerline of a pipeline situated in Section 24, Block 37, T-3-S of the T. & P. RR. Co. Survey in Midland County, Texas, and being out of a tract, designated as Tract One, described in a deed from Robert C Floyd to the City of Midland, on November 4, 1997 and recorded in Volume 1508, Page 593 of the Official Public Records of Midland County, Texas, and being more particularly described as follows, to wit:

BEGINNING at a point (Y = 10,646,527.11, X = 1,842,089.20) on an existing pad from which a 1" iron pipe found for the southeast corner of Section 25 bears North 82 degrees 33 minutes 28 seconds East, a distance of 1,523.03 feet;

THENCE over and across said City of Midland tract and said Section 24, the following four (4) courses and distances:

1. South 75 degrees 16 minutes 11 seconds West, a distance of 133.51 feet to a point;
2. South 15 degrees 05 minutes 02 seconds East, a distance of 83.42 feet to a point;
3. South 26 degrees 14 minutes 22 seconds East, a distance of 56.18 feet to a point;
4. South 13 degrees 27 minutes 08 seconds East, a distance of 29.77 feet to the **POINT OF TERMINYUS** (Y = 10,646,333.29, X = 1,842,013.55) in the south line of said Section 24, from which a 1/2 inch iron rod with yellow cap found in the east right of way line of Farm to Market Road 1379, a 120 foot wide right-of-way, and in the south line of said Section 24, bears South 76 degrees 08 minutes 46 seconds West, a distance of 3596.41 feet. Said centerline being a total length of 302.88 feet or 18.36 rods.

All bearings, distances and coordinates are grid and refer to the Texas Coordinate System of 1983, Texas Central Zone 4203.

This Field Notes Description constitutes a legal document, and, unless it appears in its entirety, in its original form does not constitute a legal document. This is not in any way a "boundary survey." It is strongly recommended, for the continuity of future surveys, that this document be incorporated in *all* future conveyances, *without any revisions or deletions*.

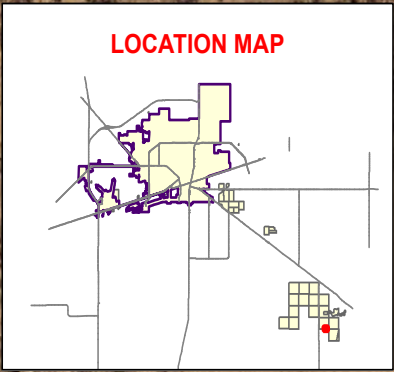
This herein survey description was prepared from record data furnished by the client and was done without the benefit of a title report. Surveyor has made no investigations or search for pipelines or other matters of record that a title report would disclose and this survey does not represent a warranty of title or a guarantee of ownership.

Amanda L. Romero



Amanda Romero
Registered Professional Land Surveyor No. 6949
Project No. 618.008028.00

Date: 06-15-2023



BLK 37-3-S
SEC 24

Proposed Pipeline ROW
18.36 Rods (302.88 Ft)

BLK 37-3-S
SEC 25

Proposed ROW
Survey Section

PACKET

20.20
Targa Pipeline ROW

Date: 6/15/2023

July 25, 2023

0 50 100 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.

TARGA RESOURCES, LLC

811 LOUISIANA STREET, SUITE 2100
HOUSTON, TX 77002JPMorgan Chase Bank, N.A.
CHICAGO, IL

2-17710

0032734

DATE: June 20, 2023

AMOUNT: \$8,078.40

PAY Eighty Thousand Seventy-Eight Dollars & 40/100*****

DOLLARS

TO THE
ORDER
OF City of Midland
P.O. Box 1152
Midland, TX 79702


SIGNATURE
JUSTIN WENGER
PRINTED NAME
Security Features Included.
Details On Back

⑈0032734⑈ ⑆071000013⑆

632558805⑈

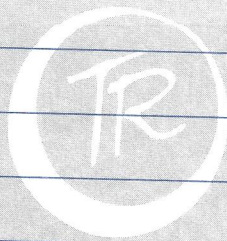
TAXPAYER ID/SSN NO.

0032734

IN FULL FOR

Consideration for a pipeline easement and all damages associated with said easement located in
Section 24, Block 37, T-3-S, T&P RR Co. Survey, Midland County, Texas.

Total rods 18.36 = \$8,078.40

Targa
Resources, LLC

DEPT APPROVAL

DATE:

TARGA RESOURCES, LLC.

GL COMPANY 35041 GL ACCOUNT 150900 RC 53500 LOC 2001

PROJECT NO 110777 TASK 1004 - Land-ROW/Easement

PROJECT NAME Endeavor WTH 24-13
PACKET 20.21 July 25, 2023ENTERED THE ONE NET June 20, 2023
DATE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/30/2023

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 MARSH USA LLC. 2929 Allen Parkway, Suite 2500 Houston, TX 77019	CONTACT NAME: PHONE (A/C, No. Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Arch Insurance Company	11150
INSURER B : ACE American Insurance Company	22667
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** HOU-003723083-15 **REVISION NUMBER:** 3

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	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ SIR: \$500,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			81REG5046700	03/31/2023	03/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			ISA H10753223	10/31/2022	10/31/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			81REU5046700 Excess of GL	03/31/2023	03/31/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
B	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WLR C50722995	10/31/2022	10/31/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

RE: Right of Way

The Certificate Holder is included as additional insured (except workers' compensation) where required by written contract. Waiver of subrogation is applicable where required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Midland, Texas Attn: Robert Patrick, Asst. City Manager P.O. 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 <i>Marsh USA LLC</i> July 25, 2023
--	--

PACKET

20:22

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City Council Meeting

Item Number: 21
Meeting Date: July 11, 2023
To: City Council / City Manager
From: Tina Jauz, Assistant City Manager
Subject: AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, DESIGNATING LOTS 22, 23 AND 24, BLOCK 65, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH LORAIN STREET, APPROXIMATELY 130 FEET NORTH OF WEST MISSOURI AVENUE) AS TAX ABATEMENT REINVESTMENT ZONE NUMBER 2023-02 FOR COMMERCIAL AND INDUSTRIAL TAX ABATEMENT AS AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX CODE; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE (DISTRICT 2) (CITY MANAGER)

Purpose:

An ordinance designating Lots 22, 23, and 24, Block 65, Original Town Addition, City and County of Midland, Texas (Generally located on the west side of South Loraine Street, approximately 130 feet north of West Missouri Avenue) as a Tax Abatement Reinvestment Zone Number 2023-02 for commercial and industrial tax abatement as authorized by Chapter 312 of the Texas Tax Code; establishing the boundaries thereof and other matters relating thereto; declaring findings of fact; and providing a savings and severability clause.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Discussion:

The public hearing is the first step in establishing a Reinvestment Zone. A public notice was issued and all taxing entities were notified of the proposed Reinvestment Zone. If approved, following a second reading of the ordinance, the city will have the ability to enter into a Tax Abatement Agreement with any interested party. Any such agreement would be subject to City Council approval.

On November 15, 2022, the City Council approved a resolution adopting guidelines and criteria for Tax Abatement Agreements as authorized by Chapter 312 of the Texas Tax Code. The guidelines are in place for two years.



City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, DESIGNATING LOTS 22, 23 AND 24, BLOCK 65, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH LORAIN STREET, APPROXIMATELY 130 FEET NORTH OF WEST MISSOURI AVENUE) AS TAX ABATEMENT REINVESTMENT ZONE NUMBER 2023-02 FOR COMMERCIAL AND INDUSTRIAL TAX ABATEMENT AS AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX CODE; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE

WHEREAS, the City Council of the City of Midland, Texas (the “City”), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a reinvestment zone for commercial and industrial tax abatement as authorized by Chapter 312 of the Texas Tax Code; and

WHEREAS, by Resolution No. 2001-129, dated April 24, 2001, the City Council of the City of Midland stated its intention to consider granting tax abatement within the City; and

WHEREAS, by Resolution No. 2022-162, dated November 15, 2022, the City Council of the City of Midland adopted Guidelines and Criteria governing tax abatement reinvestment zones and agreements within the City; and

WHEREAS, at the City Council meeting scheduled for 10:00 a.m. on July 11, 2023, the City Council of the City of Midland held a public hearing regarding the designation of Lots 22, 23 and 24, Block 65, Original Town Addition, City and County of Midland, Texas (the “Area”) as a reinvestment zone for tax abatement purposes as authorized by the Texas Tax Code; and

WHEREAS, not later than the seventh day before the date of the public hearing, notice of the public hearing was published in a newspaper having general circulation in the municipality and delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed

reinvestment zone; and

WHEREAS, the City Council at such public hearing invited interested persons to speak and present evidence for or against said designation; and

WHEREAS, all interested persons were provided an opportunity to present comments on said designation;

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

SECTION ONE. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

SECTION TWO. That the City Council, after conducting such public hearing and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

- A. That a public hearing on the designation of the Area as a reinvestment zone was properly held and conducted and that notice of such public hearing was published and delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the reinvestment zone as required by law;
- B. That the boundaries of the reinvestment zone shall be the boundaries of the Area;
- C. That the improvements sought are feasible and practical and would be a benefit to the land to be included in the reinvestment zone and to the City after the expiration of an agreement entered into under Section 312.204 of the Texas Tax Code;
- D. That the Area meets the criteria for designation as a reinvestment zone as set forth in Section 312.202 of the Texas Tax Code in that it is reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City; and
- E. That the Area meets the criteria for the designation of a reinvestment zone as set forth in the City of Midland's Guidelines and Criteria governing tax abatement reinvestment zones and agreements within the City.

SECTION THREE. That pursuant to Section 312.201 of the Texas Tax Code, the City hereby designates the Area as a reinvestment zone for commercial and industrial tax abatement, and such reinvestment zone shall hereafter be officially designated as Tax

Abatement Reinvestment Zone Number 2023-02, City of Midland, Midland County, Texas.

SECTION FOUR. That said designation of the Area as Tax Abatement Reinvestment Zone Number 2023-02 shall take effect immediately upon the final adoption of this ordinance.

SECTION FIVE. That in order for a commercial-industrial project to be considered for an agreement for tax abatement, the project shall:

- A. Be located wholly within Tax Abatement Reinvestment Zone Number 2023-02 as established herein;
- B. Not include property that is owned or leased by a member of the City Council of the City of Midland; and
- C. Conform to the requirements of the Guidelines and Criteria governing tax abatement reinvestment zones and agreements within the City, and all other applicable laws and regulations.

SECTION SIX. That written agreements for tax abatement as provided for by Section 312.205 of the Texas Tax Code shall:

- A. List the kind, number, and location of all proposed improvements of the property;
- B. Provide access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the agreement;
- C. Limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect;
- D. Provide for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements, repairs, or provide employment as provided by the agreement;
- E. Contain each term agreed to by the owner of the property;
- F. Require the owner of the property to certify annually to the governing body of each taxing unit that the owner is in compliance with each applicable term of the agreement; and
- G. Provide that the governing body of the municipality may cancel or modify the agreement if the property owner fails to comply with the agreement.

SECTION SEVEN. 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 EIGHT. The designation of Tax Abatement Reinvestment Zone Number 2023-02 shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council of the City of Midland, 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 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:

Tina Jauz, Assistant City Manager

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 22
Meeting Date: July 11, 2023
To: City Council / City Manager
From: Alexandra Walling, Senior Planner
Subject: AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Charles Hodges, is requesting an Annexation of a 17.345-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas, located north of State Highway 191, approximately 700-feet west of State Highway 158. An associated Initial Zoning is also in review to zone the land to RR, Regional Retail District.

Recommended City Council Action:

Approve

Fiscal Impact:

Additional land to be developed under City regulations in an expanded growth area.

Discussion:

The applicant, Charles Hodges is requesting to annex a 17.345-acre tract of land out of Section 35, 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 10, 2023, the service agreement between the City and the petitioner was executed. This is the next step in the annexation process.

This project has been circulated to all respective departments for internal review and received no objections.

Engineering: (Approved)

No objection.

Transportation: (Approved)

No objections.

Fire: (Approved)

All future development shall meet the requirements of IFC 2015 ed. and local ordinances.

Building Code: (Approved)

No objection.

Oil and Gas: (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.

GIS: (Approved)

Portion of annexation along HWY 158 does not connect to city limits.

Planning:

The Future Land Use Map in the Tall City Tomorrow Comprehensive Plan calls for Urban-Medium (U-M) and Urban-High (U-H) utilization in this area which represents commercial land uses, single-family dwellings, and high connectivity with good access to highways, freeways, and arterial roads.

As this proposed development will conform with the Tall City Tomorrow Comprehensive Plan,

staff recommends approval of this annexation.

Letters of Objection:

As of June 14, 2023, staff has received no letters of objection to this request.

Attachments:

Application
Petition (Exhibit A)
Maps



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 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158); 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 July 11, 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 June 23, 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 June 23, 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 lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 17.345-acre tract of land out of Section 35, 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 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"

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract of land described in Exhibit A, which is attached hereto and incorporated herein (the "Property"), **Bass Pro Outdoor World, L.L.C**, a Missouri limited liability company ("Owner"), submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.

OWNER

By:

Signature

Printed Name

Title

THE STATE OF Missouri §
COUNTY OF Greene §

This instrument was acknowledged before me on the 4th day of April, 2023, by Kevin Maliszewski in the capacity herein stated.

MY COMMISSION EXPIRES

8/5/2024

Notary Public, State of Missouri

TAMMY L. CAMERON
Notary Public – Notary Seal
STATE OF MISSOURI
Greene County
My Commission Expires Aug. 5, 2024
Commission #12521666

EXHIBIT A TO PETITION FOR ANNEXATION

FIELD NOTE DESCRIPTION OF A 17.345 ACRE TRACT OF LAND, SITUATED IN SECTION 35, BLOCK 40, TOWNSHIP 1 SOUTH, TEXAS and PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS, BEING A PORTION OF THAT SAME LAND AS DESCRIBED AS TRACT SEVEN IN A WARRANTY DEED FILED AS DOCUMENT NUMBER 2008-26873 IN VOLUME 3131 ON PAGE 210 OF THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT N.(Y):10693732.66, E.(X):1726261.95, A POINT WITHIN A TXDOT TYPE I CONCRETE MONUMENT (TYPE I) FOUND AND ACCEPTED AS BEING ON THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 191, AS DESCRIBED IN VOLUME 715 ON PAGE 287 OF SAID "OPR" AT THE SOUTHEAST CORNER OF A TRACT DESCRIBED AS AN 80-FOOT-WIDE DRAINAGE EASEMENT IN VOLUME 715 ON PAGE 280 OF SAID "OPR" AND BEING THE SOUTHWEST CORNER OF A CALLED 7.573 ACRE TRACT IN DOCUMENT NUMBER 2018-31010 OF SAID "OPR", **THENCE** S.75°15'20"W., ALONG SAID RIGHT-OF-WAY, 79.47 FEET TO A "TYPE I" FOUND FOR THE **POINT OF BEGINNING** AND THE SOUTHEAST CORNER HEREOF;

THENCE S.75°15'20"W., ALONG SAID RIGHT-OF-WAY, 724.82 FEET TO A "TYPE I" FOUND FOR AN ANGLE CORNER HEREOF;

THENCE S.71°08'16"W., ALONG SAID RIGHT-OF-WAY, 80.97 FEET TO A POINT THAT BEARS S.14°44'01"E., 0.31 FEET FROM A ONE HALF INCH IRON ROD WITH A PLASTIC CAP MARKED "WAI 5714" (WAI) FOR THE SOUTHWEST CORNER HEREOF;

THENCE N.14°44'01"W., ACROSS SAID TRACT SEVEN, 742.30 FEET TO A "WAI" FOUND FOR THE POINT OF CURVATURE FOR A CURVE TO THE LEFT HAVING A RADIUS OF 220.00 FEET AND A CHORD BEARING AND DISTANCE OF N.22°58'18"W., 62.86 FEET;

THENCE ALONG THE ARC OF SAID CURVE 63.08 FEET TO A "WAI" FOUND FOR A POINT OF DEFLECTION HEREOF;

THENCE N.79°38'54"W., 30.25 FEET TO A "WAI" FOUND FOR AN ANGLE CORNER HEREOF;

THENCE N.30°32'30"W., 99.89 FEET TO A "WAI" FOUND FOR A POINT OF DEFLECTION AND THE POINT OF CURVATURE FOR A CURVE TO THE NORTHEAST HAVING A RADIUS OF 550.00 FEET AND A CHORD BEARING AND DISTANCE OF N.45°10'40"E., 271.48 FEET FOR THE NORTHWEST CORNER HEREOF;

THENCE ALONG THE ARC OF SAID CURVE 274.32 FEET TO A "WAI" FOUND FOR A POINT OF TANGENCY HEREOF;

THENCE N.30°55'14"E., 384.19 FEET TO A ONE HALF INCH IRON ROD FOUND FOR A CUTBACK CORNER HEREOF;

THENCE N.14°40'14"W., 28.28 FEET TO A POINT ON THE SOUTHWEST RIGHT-OF-WAY LINE OF STATE HIGHWAY 158, BEING THE NORTHEAST LINE OF SAID "TRACT SEVEN" THAT BEARS S.69°42'03"W., 0.23 FEET FROM A ONE HALF INCH IRON ROD, FOR THE NORTH CORNER HEREOF;

THENCE S.59°05'27"E., ALONG SAID TRACT SEVEN AND SAID RIGHT OF WAY, A DISTANCE OF 120.15 FEET TO A ONE-HALF INCH IRON ROD WITH RED PLASTIC CAP MARKED "MAVERICK FIRM #10194514" (RPC) SET FOR THE NORTH NORTHEAST CORNER HEREOF;

THENCE S.30°54'15"W., A DISTANCE OF 300.00 FEET TO AN "RPC" SET FOR AN INTERIOR CORNER HEREOF;

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THENCE ALONG AND ACROSS SAID DRAINAGE EASEMENT THE FOLLOWING 4 CALLS:

- 1.) S.14°42'47"E., A DISTANCE OF 217.83 FEET TO AN "RPC" SET FOR AN INTERIOR CORNER HEREOF;
- 2.) N.75°16'29"E., A DISTANCE OF 79.54 FEET TO AN "RPC" SET FOR A CORNER HEREOF;
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- 4.) S.75°16'29"W., A DISTANCE OF 79.52 FEET TO AN "RPC" SET FOR AN INTERIOR CORNER HEREOF;

THENCE S.14°42'47"E., CONTINUING ALONG SAID EASEMENT, 245.61 FEET TO THE POINT OF BEGINNING, CONTAINING 17.345 ACRES OF LAND.

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 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158); 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 July 11, 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 June 23, 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 June 23, 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 lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 17.345-acre tract of land out of Section 35, 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 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"

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract of land described in Exhibit A, which is attached hereto and incorporated herein (the "Property"), **Bass Pro Outdoor World, L.L.C**, a Missouri limited liability company ("Owner"), submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.

OWNER

By:

Signature

Printed Name

Title

THE STATE OF Missouri §
COUNTY OF Greene §

This instrument was acknowledged before me on the 4th day of April, 2023, by Kevin Maliszewski in the capacity herein stated.

MY COMMISSION EXPIRES

8/5/2024

Notary Public, State of Missouri

TAMMY L. CAMERON
Notary Public – Notary Seal
STATE OF MISSOURI
Greene County
My Commission Expires Aug. 5, 2024
Commission #12521666

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**Annexation/Initial Zoning
Application**

Project Number:

Case Number:

A-23-0033
2-23-0329

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

Printed Name: Charles Hodges

Phone (972) 387-1000

Email
chodges@hodesusa.com

Address
13642 Omega Road

City
Dallas

State
Texas

Zip
75244

Property Owner

Printed Name: Bass Pro Outdoor World, L.L.C.

Phone (972) 387-1000

Email
CRGreene@basspro.com

Address
2500 E. Kearney

City
Springfield

State
Missouri

Zip
65898

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: Charles Hodges

Phone (972) 387-1000

Email

Address

City

State

Zip

Street Address: N/A... 17.345 Acre Tract of Land at Northwest Corner of Hwys 158 and 191

Legal Description

Lot: Section 35 Block: 40 Subdivision: Township 1 South, Texas

Current Zoning:

N/A

Proposed Zone: Mixed Use/Commercial

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

Reason for Annexation/Zone Change Request: _____

Provision of City Services and Economic Incentives

Present Use of Property: Agricultural

Proposed Use of Property: Mixed Use Development

How would this annexation/zone change affect the public health, safety and welfare? _____

Increasing City Revenue, attracting tourism, etc.

Describe how this annexation/zone change will affect adjacent properties: _____

Will add value to all surrounding properties

Submittal and Fees

Items to be submitted with this application form:

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

Signature (by property owner only – authorized agent must sign affidavit below)	
Applicant (signature): <u>[Signature]</u>	Date: April 13, 2023
Applicant (printed): Charles Hodges	
Property Owner (signature): <u>[Signature]</u>	Date: April 13, 2023
Property Owner (printed): Bass Pro Outdoor World, L.L.C	
The Annexation/Initial Zoning shall be considered officially received in the Planning office <u>only</u> when it has been submitted in <u>full compliance</u> with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.	
All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.	

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~~ DALLAS

Before me, the undersigned authority, on this day personally appeared Charles M. Hodges who, being by me duly sworn, upon oath says: That (s)he is authorized by Bass Pro Outdoor World the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

[Signature]
Authorized Agent (signature)

Subscribed and sworn to before me, this 18th day of April, 2023, to certify which witness my hand and seal of office.



[Signature]
NOTARY PUBLIC, ~~MIDLAND COUNTY~~, TEXAS
DALLAS COUNTY

FOR OFFICE USE ONLY	
☒ Property Owner Authorization	☐ Metes and Bounds (Sealed by Surveyor)
☒ Application Fee <u>waived.</u>	☒ Files in Digital Format (PDF/JPEG)
Check # _____	☒ Petition
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 of land described in Exhibit A, which is attached hereto and incorporated herein (the "Property"), **Bass Pro Outdoor World, L.L.C.**, a Missouri limited liability company ("Owner"), submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.

OWNER

By:

Signature

Printed Name

Title

THE STATE OF Missouri §

COUNTY OF Greene §

This instrument was acknowledged before me on the 4th day of April, 2023, by Kevin Maliszewski in the capacity herein stated.

MY COMMISSION EXPIRES

8/5/2024

Notary Public, State of Missouri

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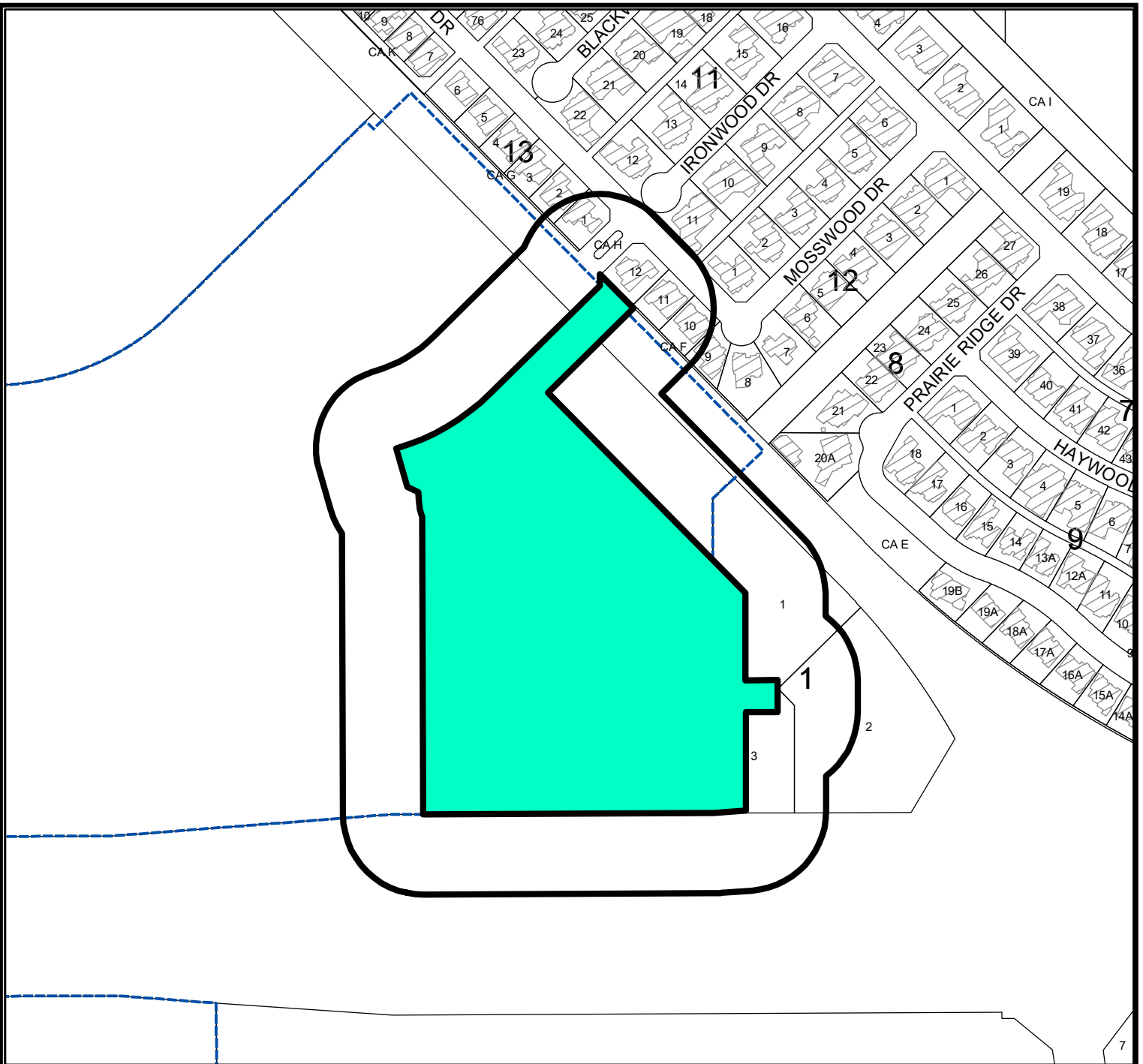
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LOCATION MAP

A-23-0033

Scale: 1" = 200'

A 17.345-acre tract of land located in Section 35, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

Generally located on the northwest corner of Highway 191, approximately 700-feet west of Highway 158 - (Extraterritorial Jurisdiction)

PACKET

22.21

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR FOR IS IT DESIGNED TO BE USED AS A 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.

July 25, 2023



PACKET

22.22

July 25, 2023



PACKET

22.23

July 25, 2023





PACKET

22.25

July 25, 2023



City Council Meeting

Item Number: 23
Meeting Date: July 11, 2023
To: City Council / City Manager
From: Alexandra Walling, Senior Planner
Subject: AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFIATION OF THE AREA INDICATED AS BEING A 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158; 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, Charles Hodges, is requesting the initial zoning of RR, Regional Retail of a 17.345-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. An associated annexation is also in review.

The Planning and Zoning Commission reviewed this request on June 20, 2023, and recommended approval.

Recommended City Council Action:

Approve

Fiscal Impact:

Additional land to be developed under City regulations in an expanded growth area.

Discussion:

The applicant, Charles Hodges, is requesting an initial zoning of the annexed land to RR, Regional Retail District.

The site is currently in the process of being annexed into City Limits as well as in the process of being platted.

This project has been circulated to all respective departments for internal review and received no objections.

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 Objection.

Oil and Gas: (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.

GIS: (Approved)

No comment.

Planning:

The Future Land Use Map in the Tall City Tomorrow Comprehensive Plan calls for Urban-Medium (U-M) and Urban-High (U-H) utilization in this area which represents commercial land uses, single-family dwellings, and high connectivity with good access to highways, freeways, and arterial roads.

As this proposed initial zoning conforms to the Tall City Tomorrow Comprehensive Plan, staff recommends approval of this initial zoning of RR, Regional Retail District subject to condition A.

Condition(s):

- A. That the use and development of this property shall conform to the regulations of the RR, Regional Retail District.**

Letters of Objection:

As of June 28, 2023, staff has received no letters of objection to this request.

Attachments:

Application
Petition (Exhibit A)
Maps



City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 17.345-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN RR, REGIONAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE NORTH SIDE OF HIGHWAY 191, APPROXIMATELY 700 FEET WEST OF HIGHWAY 158; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise of a public hearing to be held before the City Council on July 11, 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 RR, Regional Retail District, as set out in Title XI, Chapter 1 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers on the Hearing Date, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the Zoning District Map accordingly;

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

SECTION ONE. That the initial zoning classification of the area indicated on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

a RR, Regional Retail District, and the Zoning District Map of the City of Midland, Texas, is hereby amended to reflect the establishment of this initial zoning classification.

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

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

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

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 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"

PETITION FOR ANNEXATION

Dear City of Midland:

As current owner of the tract of land described in Exhibit A, which is attached hereto and incorporated herein (the "Property"), **Bass Pro Outdoor World, L.L.C**, a Missouri limited liability company ("Owner"), submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.

OWNER

By:

Signature

Printed Name

Title

THE STATE OF Missouri §
COUNTY OF Greene §

This instrument was acknowledged before me on the 4th day of April, 2023, by Kevin Maliszewski in the capacity herein stated.

MY COMMISSION EXPIRES

8/5/2024

Notary Public, State of Missouri

TAMMY L. CAMERON
Notary Public – Notary Seal
STATE OF MISSOURI
Greene County
My Commission Expires Aug. 5, 2024
Commission #12521666

EXHIBIT A TO PETITION FOR ANNEXATION

FIELD NOTE DESCRIPTION OF A 17.345 ACRE TRACT OF LAND, SITUATED IN SECTION 35, BLOCK 40, TOWNSHIP 1 SOUTH, TEXAS and PACIFIC RAILWAY COMPANY SURVEY, MIDLAND COUNTY, TEXAS, BEING A PORTION OF THAT SAME LAND AS DESCRIBED AS TRACT SEVEN IN A WARRANTY DEED FILED AS DOCUMENT NUMBER 2008-26873 IN VOLUME 3131 ON PAGE 210 OF THE OFFICIAL PUBLIC RECORDS (OPR) OF SAID MIDLAND COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT N.(Y):10693732.66, E.(X):1726261.95, A POINT WITHIN A TXDOT TYPE I CONCRETE MONUMENT (TYPE I) FOUND AND ACCEPTED AS BEING ON THE NORTH RIGHT-OF-WAY LINE OF STATE HIGHWAY 191, AS DESCRIBED IN VOLUME 715 ON PAGE 287 OF SAID "OPR" AT THE SOUTHEAST CORNER OF A TRACT DESCRIBED AS AN 80-FOOT-WIDE DRAINAGE EASEMENT IN VOLUME 715 ON PAGE 280 OF SAID "OPR" AND BEING THE SOUTHWEST CORNER OF A CALLED 7.573 ACRE TRACT IN DOCUMENT NUMBER 2018-31010 OF SAID "OPR", **THENCE** S.75°15'20"W., ALONG SAID RIGHT-OF-WAY, 79.47 FEET TO A "TYPE I" FOUND FOR THE **POINT OF BEGINNING** AND THE SOUTHEAST CORNER HEREOF;

THENCE S.75°15'20"W., ALONG SAID RIGHT-OF-WAY, 724.82 FEET TO A "TYPE I" FOUND FOR AN ANGLE CORNER HEREOF;

THENCE S.71°08'16"W., ALONG SAID RIGHT-OF-WAY, 80.97 FEET TO A POINT THAT BEARS S.14°44'01"E., 0.31 FEET FROM A ONE HALF INCH IRON ROD WITH A PLASTIC CAP MARKED "WAI 5714" (WAI) FOR THE SOUTHWEST CORNER HEREOF;

THENCE N.14°44'01"W., ACROSS SAID TRACT SEVEN, 742.30 FEET TO A "WAI" FOUND FOR THE POINT OF CURVATURE FOR A CURVE TO THE LEFT HAVING A RADIUS OF 220.00 FEET AND A CHORD BEARING AND DISTANCE OF N.22°58'18"W., 62.86 FEET;

THENCE ALONG THE ARC OF SAID CURVE 63.08 FEET TO A "WAI" FOUND FOR A POINT OF DEFLECTION HEREOF;

THENCE N.79°38'54"W., 30.25 FEET TO A "WAI" FOUND FOR AN ANGLE CORNER HEREOF;

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THENCE ALONG THE ARC OF SAID CURVE 274.32 FEET TO A "WAI" FOUND FOR A POINT OF TANGENCY HEREOF;

THENCE N.30°55'14"E., 384.19 FEET TO A ONE HALF INCH IRON ROD FOUND FOR A CUTBACK CORNER HEREOF;

THENCE N.14°40'14"W., 28.28 FEET TO A POINT ON THE SOUTHWEST RIGHT-OF-WAY LINE OF STATE HIGHWAY 158, BEING THE NORTHEAST LINE OF SAID "TRACT SEVEN" THAT BEARS S.69°42'03"W., 0.23 FEET FROM A ONE HALF INCH IRON ROD, FOR THE NORTH CORNER HEREOF;

THENCE S.59°05'27"E., ALONG SAID TRACT SEVEN AND SAID RIGHT OF WAY, A DISTANCE OF 120.15 FEET TO A ONE-HALF INCH IRON ROD WITH RED PLASTIC CAP MARKED "MAVERICK FIRM #10194514" (RPC) SET FOR THE NORTH NORTHEAST CORNER HEREOF;

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THENCE S.14°42'47"E., CONTINUING ALONG SAID EASEMENT, 245.61 FEET TO THE POINT OF BEGINNING, CONTAINING 17.345 ACRES OF LAND.



**Annexation/Initial Zoning
Application**

Project Number:

Case Number:

A-23-0033
2-23-0329

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

Printed Name: Charles Hodges

Phone (972) 387-1000

Email
chodges@hodesusa.com

Address
13642 Omega Road

City
Dallas

State
Texas

Zip
75244

Property Owner

Printed Name: Bass Pro Outdoor World, L.L.C.

Phone (972) 387-1000

Email
CRGreene@basspro.com

Address
2500 E. Kearney

City
Springfield

State
Missouri

Zip
65898

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: Charles Hodges

Phone (972) 387-1000

Email

Address

City

State

Zip

Street Address: N/A... 17.345 Acre Tract of Land at Northwest Corner of Hwys 158 and 191

Legal Description

Lot: Section 35 Block: 40 Subdivision: Township 1 South, Texas

Current Zoning:

N/A

Proposed Zone: Mixed Use/Commercial

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

Reason for Annexation/Zone Change Request: _____

Provision of City Services and Economic Incentives

Present Use of Property: Agricultural

Proposed Use of Property: Mixed Use Development

How would this annexation/zone change affect the public health, safety and welfare? _____

Increasing City Revenue, attracting tourism, etc.

Describe how this annexation/zone change will affect adjacent properties: _____

Will add value to all surrounding properties

Submittal and Fees

Items to be submitted with this application form:

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

Signature (by property owner only – authorized agent must sign affidavit below)	
Applicant (signature): <u>[Signature]</u>	Date: April 13, 2023
Applicant (printed): Charles Hodges	
Property Owner (signature): <u>[Signature]</u>	Date: April 13, 2023
Property Owner (printed): Bass Pro Outdoor World, L.L.C	
The Annexation/Initial Zoning shall be considered officially received in the Planning office <u>only</u> when it has been submitted in <u>full compliance</u> with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.	
All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.	

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~~ DALLAS

Before me, the undersigned authority, on this day personally appeared Charles M. Hodges who, being by me duly sworn, upon oath says: That (s)he is authorized by Bass Pro Outdoor World the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

[Signature]
Authorized Agent (signature)

Subscribed and sworn to before me, this 18th day of April, 2023, to certify which witness my hand and seal of office.



[Signature]
NOTARY PUBLIC, ~~MIDLAND COUNTY~~, TEXAS
DALLAS COUNTY

FOR OFFICE USE ONLY	
☒ Property Owner Authorization	☐ Metes and Bounds (Sealed by Surveyor)
☒ Application Fee <u>waived.</u>	☒ Files in Digital Format (PDF/JPEG)
Check # _____	☒ Petition
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 of land described in Exhibit A, which is attached hereto and incorporated herein (the "Property"), **Bass Pro Outdoor World, L.L.C.**, a Missouri limited liability company ("Owner"), submits this petition for annexation and hereby requests that the Property be added to and annexed to the City of Midland.

OWNER

By:

Signature

Printed Name

Title

THE STATE OF Missouri §
§
COUNTY OF Greene §

This instrument was acknowledged before me on the 4th day of April, 2023, by Kevin Maliszewski in the capacity herein stated.

MY COMMISSION EXPIRES

8/5/2024

Notary Public, State of Missouri

TAMMY L. CAMERON
Notary Public - Notary Seal
STATE OF MISSOURI
Greene County
My Commission Expires Aug. 5, 2024
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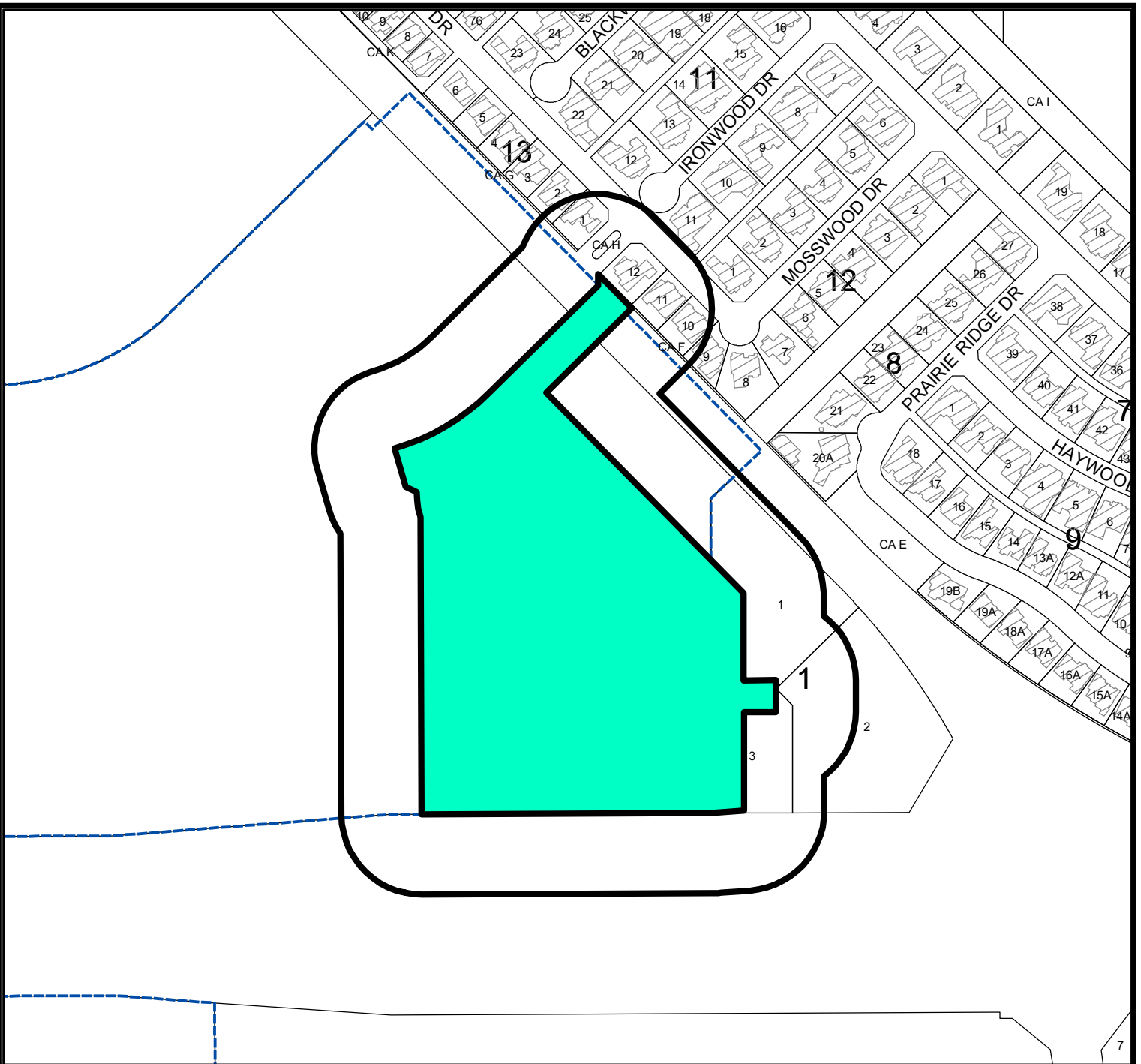
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LOCATION MAP

Z-23-0329

Scale: 1" = 200'

An initial zoning of RR, Regional Retail District on a 17.345-acre tract of land located in Section 35, Block 40, T-1-S, T&P RR. Co Survey, Midland County, Texas.

Generally located on the northwest corner of Highway 191, approximately 700-feet west of Highway 158 (at territorial Jurisdiction)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

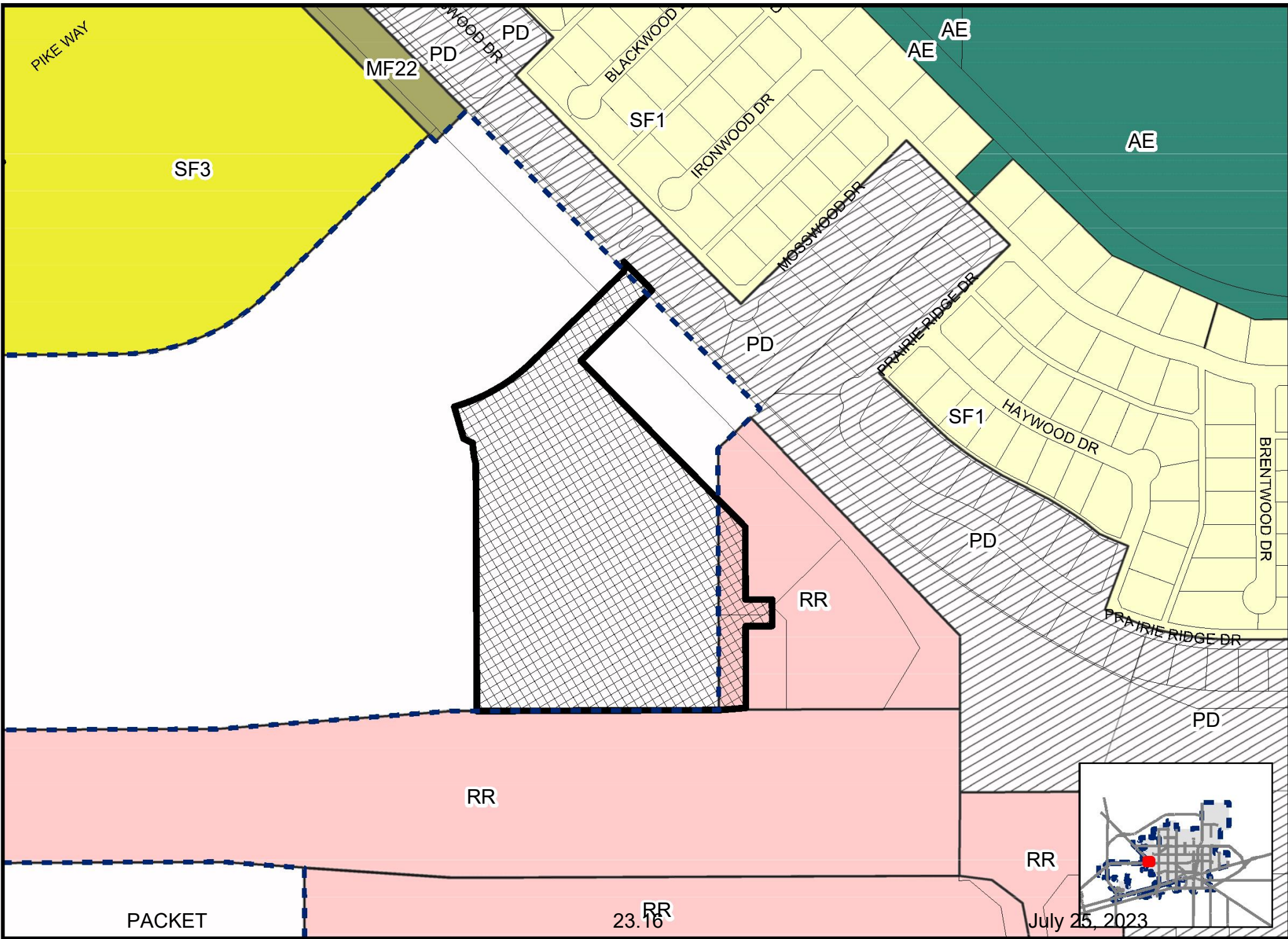


©THE CITY OF MIDLAND - 2021

July 25, 2023

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR FOR IS IT DESIGNED TO BE USED AS A TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.





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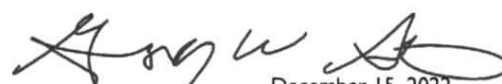
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December 15, 2022

Gregory W. Shoults
www.maverick-eng.com
Texas RPLS - No. 5356

Maverick Engineering (FIRM - No. 10194514)





PACKET

23.19

July 25, 2023



PACKET

23.20

July 25, 2023







City Council Meeting

Item Number: 24
Meeting Date: July 11, 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 GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,400-SQUARE FOOT PORTION OF LOT 12, BLOCK 38, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MAIN STREET, APPROXIMATELY 25 FEET SOUTH OF EAST ILLINOIS AVENUE), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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, Lori Michele Kettle, is requesting a Specific Use Designation (SUD) with Term for Alcoholic Beverages Sales for On-Premises Consumption in a Bar.

Recommended City Council Action:

Approve

Fiscal Impact:

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

Current Zoning:

CB, Central Business District.

Surrounding Zoning and Land Use:

The properties to the north, east, south, and west are all zoned CB, Central Business District. A church is located to the north, a parking lot is located to the east, a business office is located to the south, and retail stores to the west of the property.

Analysis:

The property is zoned CB, Central Business District which allows for Alcoholic Beverages Sales for On-Premises Consumption in a Bar with the approval of an SUD. The total bar area is 3,400-square feet and the proposed alcohol serviceable area is 1,835-square feet. The property has an existing SUD for Alcoholic Beverage Sales for On-Premises Consumption for the same bar, Buffalo Nickel (Ordinance No. 9910). The applicant is requesting this SUD to expand the hours of operation from the current Monday through Saturday from 3:00 p.m. to 11:00 p.m., and Sunday from 12:00 p.m. to 12:00 a.m. to the hours below:

Monday through Sunday from 12 p.m. to 2 a.m.

Per Midland City Code 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 stadium, public hospital within 300 feet measurement along the property lines of the street fronts, and from the front door in a direct line across intersection where they occur within this site.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

No objections.

Engineering: (Approved)

No objections. [For Applicant's Information Only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Building Code: (Approved)

The SUD is approved based on the current occupant load pending that no changes to the occupancy, seating count, physical structure, and/or the floor layout has taken place when compared to previously approved SUDs. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

The request follows 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). The existing Buffalo Nickel is a destination where Midland residents gather and socialize.

This request meets all requirements; therefore, staff recommends approval of the request of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, subject to Condition A through E.

Conditions:

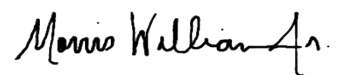
- A. That the serviceable area of the Establishment shall be limited to approximately 1,835-square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.**
- B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.**
- C. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.**
- D. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Sunday from 12:00 p.m. (noon) to 2:00 a.m. of the following day.**
- E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.**

Letters of Objection:

As of June 28, 2023, staff has not received any letters of objection.

Attachments:

Application
Floor Plan (Exhibit A)
Maps



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
3,400-SQUARE FOOT PORTION OF LOT 12, BLOCK 38,
ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND,
TEXAS (GENERALLY LOCATED ON THE EAST SIDE
OF NORTH MAIN STREET, APPROXIMATELY 25

WHEREAS, the City Planning and Zoning Commission and the Governing Body
of

PRESENTLY ZONED CB, CENTRAL BUSINESS

the City of Midland, Texas, in compliance with the City Charter, the City Code, and
State

FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN

law, have given the requisite notice by United States Mail, publication and
otherwise; and

SAID DESIGNATION SUBJECT TO CERTAIN

after holding due hearings affording a full and fair hearing to all of the property
owners

HEREIN; CONTAINING A CUMULATIVE CLAUSE;

generally, and particularly to those interested persons situated in the affected area
and in the

CLAUSE; PROVIDING FOR A MAXIMUM PENALTY
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE

CITY OF MIDLAND, OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00);
vicinity thereof, the Governing Body of the City of Midland finds that the public

convenience and interest of the City of Midland, Texas, is
SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is

AND ORDERING PUBLICATION

will be preserved by granting the Specific Use Designation With a Term With a 3,400 square
foot of

portion of lot 12, Block 38, (Original Town, City and County of Midland, Texas)
SECTION TWO. That the Property shall be subject to the following conditions
together and

With property's use permitted in the present CB, Central Business District.

restrictions:

A. That the serviceable area of the Establishment shall be limited to

B. approximately 1,835 square feet as shown in Exhibit "A" which is attached

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance conforms to all applicable state and local laws, shall be

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

E. That the Establishment shall meet the requirements of the Fire Department and
SECTION THREE. The provisions of this ordinance are to be cumulative of all the Code Administration Division.

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, or more

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. 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 law as an alternative method of

publication
PACKET

24.6

July 25, 2023

descriptive caption of this ordinance in the manner and for the length of time prescribed by

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

Council members voting "AYE":
on motion of Council member _____, seconded by Council member _____

Council members voting "NAY":

_____, by the following vote:
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

Council members voting "NAY":
meeting of the City Council:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

ATTEST:

Lori Merritt Blong, Mayor

Marcia Bentley-German, City Secretary
APPROVED AS TO CONTENT

AND COMPLETENESS:

Charles Harrington, Director of Development

Services
PACKET

APPROVED ONLY AS TO FORM:

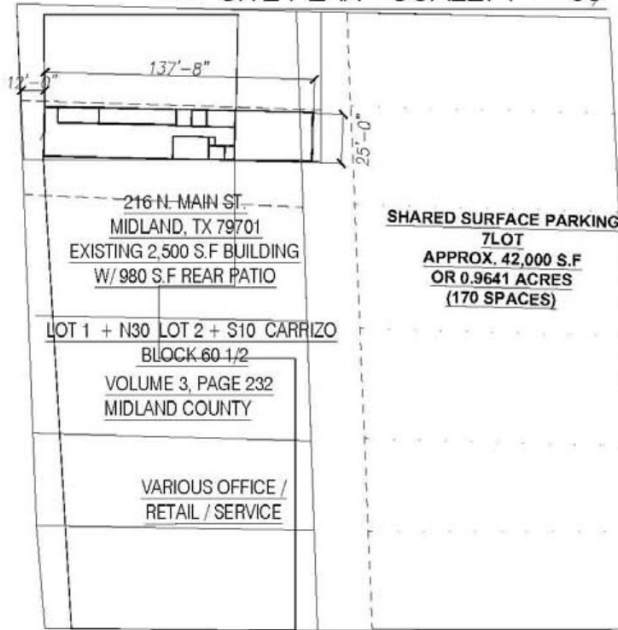
John Ohnemiller, City Attorney

EXHIBIT "A"

NORTH MAIN STREET

ILLINOIS AVENUE

150'-0" SITE PLAN - SCALE: 1" = 30'



BAIRD STREET



VICINITY MAP - N.T.S.

Submittal and Fees

Items to be submitted with this application form:

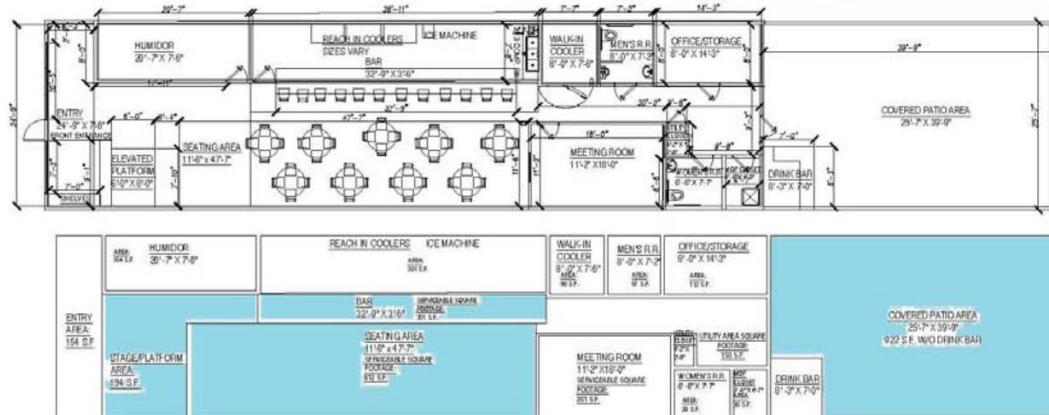
- Application Fee - Payable to the "City of Midland"
- Dimensioned Floor Plan showing:
 - Seating
 - Exits
 - Restrooms
 - Kitchen
 - Total Square Footage
 - Serviceable Square Footage
- Dimensioned Site Plan showing:
 - Parking
 - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

TEXAS AVENUE

PARKING ANALYSIS					
USE	SQUARE FOOTAGE	APPL. RATION 1 CAR PER	PARKING REQUIRED	PARKING PROVIDED	PARKING AVAILABLE
THE BUFFALO NICKEL	3,400	100 SQ. FT.	34	34	170
Legal Art of Southwest	6,400	100 SQ. FT.	26	20	170
NORTH MAIN STREET (VARIOUS USES)	14,800	200 SQ. FT.	59	59	170
TOTAL			119	113	340

170 SPACES ARE PROVIDED
THE LOT MEETS THE 34 PARKING SPACES REQUIRED

FLOOR PLAN - SCALE: 1/8" = 1'



SERVICEABLE AREA:
2,029 SQUARE FEET

Oak Cliff Drafting Solutions

"Convenient, Conventional & Creative"
DALLAS, ARLINGTON, FORT WORTH,
Grand Prairie, Cedar Hill, Richardson, Mesquite, Plano, Irving,
Lancaster, DeSoto, Duncanville, Irving, Garland,
Glenn Heights, Red Oak, Frisco
TEL: 214-586-6082
email: ocdraftingsolutions@gmail.com
ocdraftingsolutions@gmail.com



THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THIS STRUCTURE. THESE PLANS MUST BE VERIFIED AND CHECKED BY THE BUILDER, HOMEOWNER, AND ALL CONTRACTORS OF THIS JOB PRIOR TO CONSTRUCTION. BUILDER SHOULD OBTAIN COMPLETE ENGINEERING SERVICES, HVAC, AND ELECTRICAL BEFORE BEGINNING CONSTRUCTION OF ANY KIND. NOTE: ALL FEDERAL, STATE, AND LOCAL CODES AND RESTRICTIONS TAKE PRECEDENCE OVER ANY PART OF THESE PLANS.

GREAT CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS. HOWEVER, BECAUSE OF THE VARIANCE IN GEOGRAPHIC LOCATIONS, OAK CLIFF DRAFTING SOLUTIONS, WILL NOT ASSUME LIABILITY FOR ANY DAMAGES DUE TO ERRORS, OMISSIONS, OR DEFICIENCIES ON THESE PLANS. OWNER/BUILDER MUST COMPLY WITH LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE PURCHASE OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE ONLY ONCE. ANY COPYING, TRADING, OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

Project Name & Address

216 N MAIN ST
MIDLAND, TX
79701
THE BUFFALO NICKEL
LOT 1 + N30 LOT 2 +
S10 CARRIZO STREET, BLOCK 38
VOLUME 3, PAGE 232
MIDLAND COUNTY

APPLICABLE BUILDING CODES:
2015 IBC - International Building Code
2015 IRC - International Residential Code
2015 IFC - International Fire Code
2015 IMC - International Mechanical Code
2015 IPC - International Plumbing Code
2015 IFGC - International Fuel Gas Code
2015 IECC - International Energy Conservation Code
2014 NEC - National Electrical Code

Date
06/20/2018

Scale
1"=30'-0"

Drawn By
JR

Sheet #

1

Sheet Name

SITE
PLAN



Specific Use Designation with
Term for the Sale of Alcoholic
Beverages for On-Premises
Consumption

Project Number: SUD-23-0158
Case Number: 11-1-11-11

Applicant (if acting as Agent, see affidavit on page 2) Printed Name: <u>LORI MICHELE KETTLE</u>		Phone (817) <u>723-9896</u> Email: <u>L.Kettle@thebuffalonickelbar.com</u>	
Address <u>8608 Lake Country Drive</u>	City <u>MIDLAND</u>	State <u>TX</u>	Zip <u>76179</u>
Property Owner Printed Name: <u>WSJV, LLC Frank Tirey</u>		Phone (713) <u>385-6527</u> Email: <u>becky.thompson@rtsspecialty.com</u>	
Address <u>206 North Main St</u>	City <u>MIDLAND</u>	State <u>TX</u>	Zip <u>79701</u>

Representative (if different from Applicant or Property Owner) Firm: _____ Printed Name: _____		Phone () _____ Email _____	
Address _____	City _____	State _____	Zip _____

Street Address: <u>216 N Main St, MIDLAND, TX 79701</u>	
Business Name: <u>W and R consultants, LLC dba The Buffalo Nickel by Cibolo Creek</u>	
Legal Description Lot: <u>1+N30'W2</u> Block: <u>38</u> Subdivision: <u>Original Town of MIDLAND</u>	
Current Zoning: <u>C1 Central Area District</u>	
Reason for Request: <u>extension of business hours</u>	

Type of Business (restaurant, bar, lounge, nightclub, etc.): <u>bar</u>			
Proposed/Current Days and Hours of Operation: <u>MONDAY-SUNDAY 12pm-2am</u> <u>Current: MONDAY-SUNDAY 12pm-12am</u>			
Proposed Days and Hours of Alcohol Service: <u>MONDAY-SUNDAY 12pm-2am</u> <u>Current: Monday-Sunday 12pm-12am</u>			
Total Square Footage of Business: <u>3,400 sq ft</u>			
Square Footage of Alcohol Serviceable Area: <u>1,835 sq ft</u>			
Restroom Fixtures:	Men	Toilets/Urinals: <u>1 / 1</u>	Bathroom Sinks: <u>1</u>
	Women	Toilets: <u>1</u>	Bathroom Sinks: <u>1</u>

RECEIVED
MAY 04 2023

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:

Applicant (printed):

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, 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 _____ 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☐ Dimensioned Floor Plan☐ Application Fee☐ Site Plan

Check # _____

☐ Plans in Digital Format (PDF/JPEG)

Received By: _____

Date: _____

Submittal and Fees

Items to be submitted with this application form:

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- Dimensioned Floor Plan showing:
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 - 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: 5/2/2023

Applicant (printed):

LORI M KETTLE

Property Owner (signature):

Date:

Property Owner (printed):

FRANK TIREY

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.

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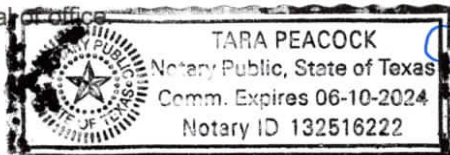
STATE OF TEXAS

COUNTY OF MIDLAND

Tarrant

Before me, the undersigned authority, on this day personally appeared Lori Kettle who, being by me duly sworn, upon oath says: That (s)he is authorized by Frank Tirey, 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 02 day of May, 2023 to certify which witness my hand and seal of office.



Notary Public

FOR OFFICE USE ONLY

☒ Property Owner Authorization

☒ Dimensioned Floor Plan

☒ Application Fee

☒ Site Plan

Check #

1861

☐ Plans in Digital Format (PDF/JPEG)

Received By:

W

Date:

RECEIVED
MAY 04 2023

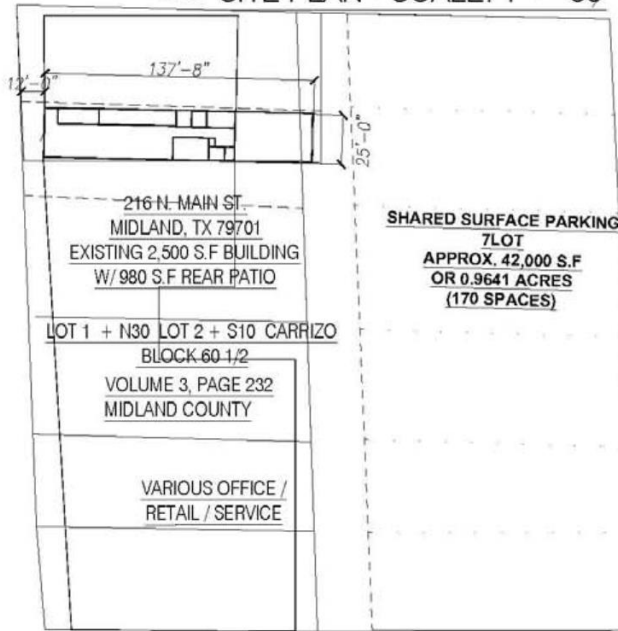
BY:

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

NORTH MAIN STREET

ILLINOIS AVENUE

150'-0" SITE PLAN - SCALE: 1" = 30'



BAIRD STREET



VICINITY MAP - N.T.S.

Submittal and Fees

Items to be submitted with this application form:

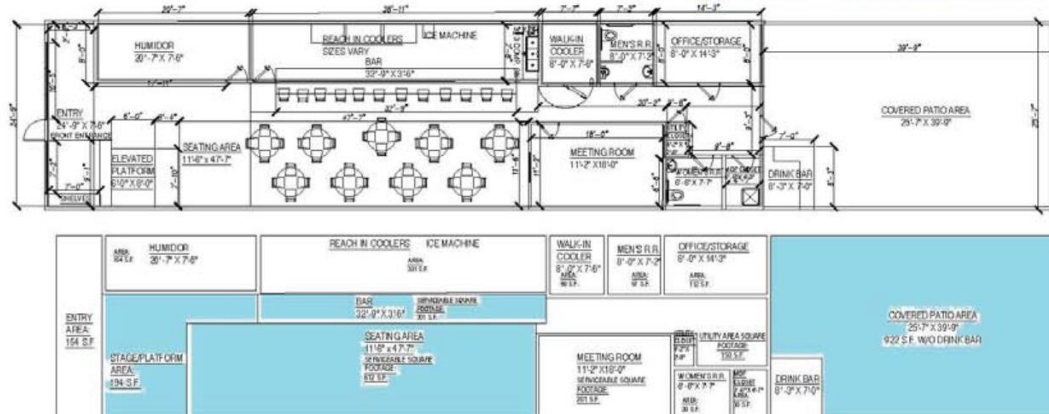
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 - Seating
 - Exits
 - Restrooms
- Dimensioned Site Plan showing:
 - Parking
 - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)
- Kitchen
- Total Square Footage
- Serviceable Square Footage

TEXAS AVENUE

PARKING ANALYSIS					
USE	SQUARE FOOTAGE	APPL. RATION 1 CAR PER	PARKING REQUIRED	PARKING PROVIDED	PARKING AVAILABLE
THE BUFFALO NICKEL	3,400	100 SQ. FT.	34	34	170
Legal Art of Southwest	6,400	100 SQ. FT.	26	20	170
NORTH MAIN STREET (VARIOUS USES)	14,000	200 SQ. FT.	55	55	170
TOTAL			115	109	370

170 SPACES ARE PROVIDED
THE LOT MEETS THE 34 PARKING SPACES REQUIRED

FLOOR PLAN - SCALE: 1/8" = 1'



SERVICEABLE AREA:
2,029 SQUARE FEET

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Glenn Heights, Red Oak, Frisco
TEL: 214-586-6082
email: ocdraftingsolutions@gmail.com
ocdraftingsolutions.com



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Project Name & Address

216 N MAIN ST
MIDLAND, TX
79701
THE BUFFALO NICKEL
LOT 1 + N30 LOT 2 +
S10 CARRIZO STREET, BLOCK 38
VOLUME 3, PAGE 232
MIDLAND COUNTY

APPLICABLE BUILDING CODES:
2015 IBC - International Building Code
2015 IRC - International Residential Code
2015 IFC - International Fire Code
2015 IMC - International Mechanical Code
2015 IPC - International Plumbing Code
2015 IFGC - International Fuel Gas Code
2015 IECC - International Energy Conservation Code
2014 NEC - National Electrical Code

Date
06/20/2018

Scale
1"=30'-0"

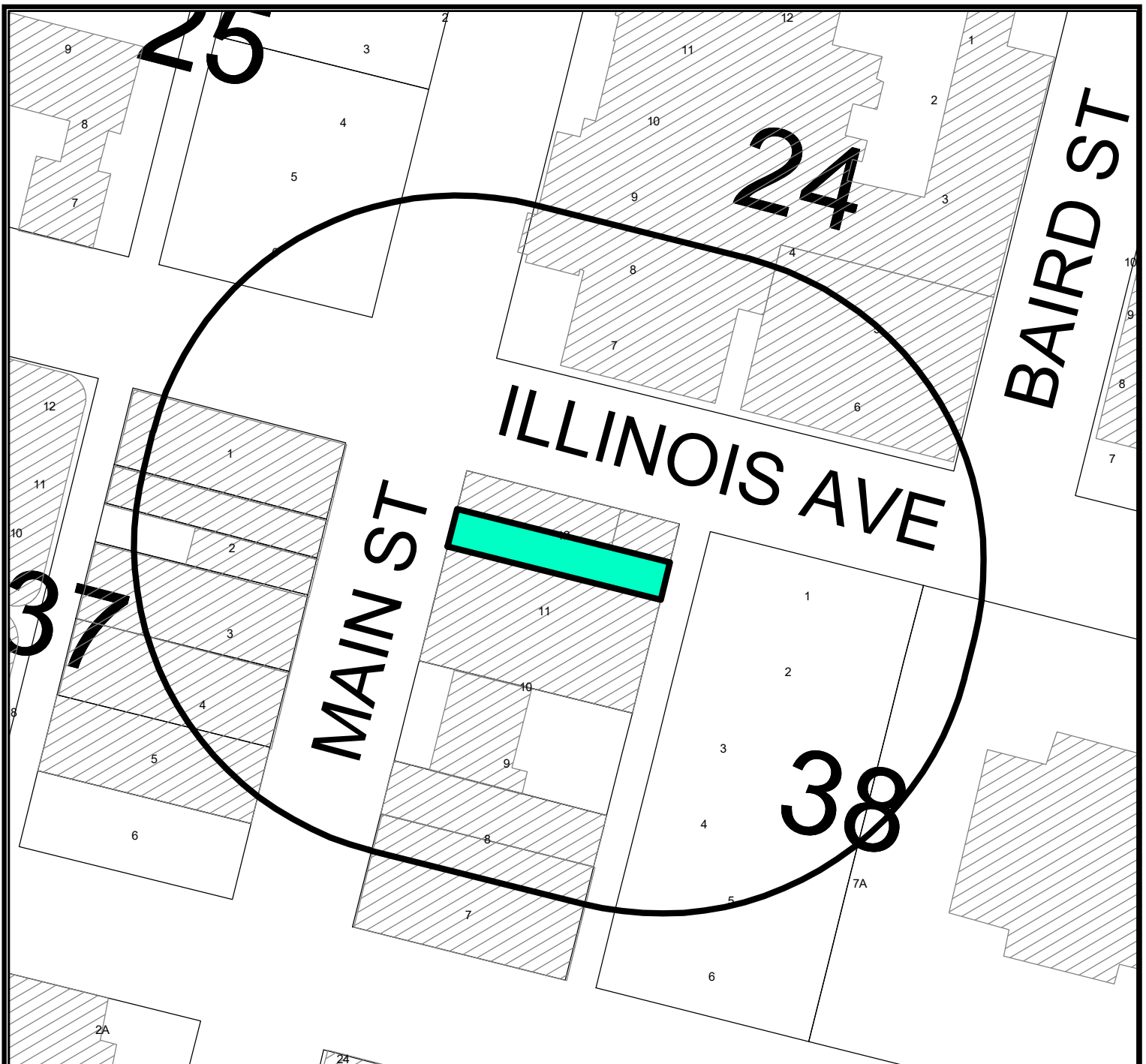
Drawn By
JR

Sheet #

1

Sheet Name

SITE
PLAN



LOCATION MAP

SUD-23-0158

Scale: 1" = 200'

A Specific Use Designation with Term for the Sale of all Alcoholic Beverages, for On-Premises Consumption in a Bar on A 3,400-square foot portion of Lot 12, Block 38, Original Town Addition, City and County of Midland, Texas.

Generally located on the east side of North Main Street, approximately 25-feet south of East Illinois Avenue. - (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021

July 25, 2023

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR FOR IT IS DESIGNED TO BE USED AS A TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

MAIN ST

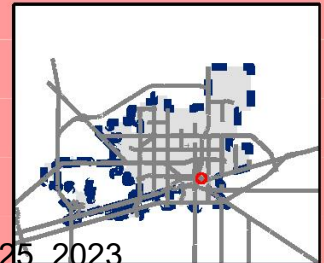
ILLINOIS AVE

BAIRD

CB

PACKET

24.15



July 25, 2023











City Council Meeting

Item Number: 25
Meeting Date: July 11, 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 GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 1,595-SQUARE FOOT PORTION OF LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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, Ariel Windsor, is requesting a Specific Use Designation with Term (SUD) for the sale of Alcoholic Beverages Sales, for On-Premises Consumption in a Bar.

Recommended City Council Action:

Approve

Fiscal Impact:

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

Current Zoning:

CB, Central Business District.

Surrounding Zoning and Land Use:

The properties to the north are zoned CB, Central Business District and the location of businesses. The properties to the east and south are zoned PD, Planned Development District and the location of apartments. The properties to the west are zoned CB, Central Business District, and the location of businesses.

Discussion:

The property is zoned CB, Central Business District which allows for Alcoholic Beverages Sales for On-Premises Consumption with the approval of an SUD. The total bar area is 1,595-square feet with an alcohol serviceable area of 885.5-square feet. The property has an existing SUD for Alcoholic Beverages Sales for On-Premises Consumption in a bar (Ordinance No. 8953). The applicant is requesting an amendment to the current SUD to change their hours from 12:00 p.m. to 1:30 a.m., Monday through Sunday, to the new hours as specified below:

Monday through Sunday from 11 a.m. to 2 a.m. (the next day)

Per Midland City Code 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 stadium, or public hospital within 300 feet measurement along the property lines of the street fronts, and from the front door in a direct line across intersection where they occur within this site.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

No comments or objections.

Engineering: (Approved)

No objections. [For Applicant's Information Only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Building Code: (Approved)

The SUD for Bourbon Street is acceptable. The property must adhere to the maximum occupant load of 59 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 follows 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). The new bar, Bourbon Street, is intended to be a destination where Midland residents can gather and socialize.

This request meets all requirements; therefore, staff recommends approval of the request of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, subject to Condition A through E.

Conditions:

- A. That the serviceable area of the Establishment shall be limited to approximately 885.5-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 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.**

Letters of Objection:

As of June 14, 2023, staff has not received any letters of objection.

Attachments:

Application
Floor Plan (Exhibit A)
Maps



City Manager's Office



Specific Use Designation with
Term for the Sale of Alcoholic
Beverages for On-Premises
Consumption

Project Number: 340-23-0160
Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2) Printed Name: <u>Ariel Windsor</u>		Phone (432) <u>208-1962</u> Email: <u>arielss90@outlook.com</u>	
Address: <u>1408 Harvest Rain St.</u>	City: <u>Midland</u>	State: <u>TX</u>	Zip: <u>79705</u>

Property Owner Printed Name: <u>Hilda Armenthariz</u>		Phone (432) <u>661-2778</u> Email: <u>bourbon.arman@yahoo.com</u>	
Address: <u>120 N. Main St.</u>	City: <u>Midland</u>	State: <u>TX</u>	Zip: <u>79701</u>

Representative (if different from Applicant or Property Owner) Firm: _____ Printed Name: _____		Phone () _____ Email: _____	
Address: _____	City: _____	State: _____	Zip: _____

Street Address: <u>120 N. Main St. Midland, TX 79701</u>			
Business Name: <u>Bourbon Street DC</u>			
Legal Description Lot: <u>24</u> Block: <u>53</u> Subdivision: <u>Original Town</u>			
Current Zoning: _____			
Reason for Request: <u>New Hours / New Management</u>			

Type of Business (restaurant, bar, lounge, nightclub, etc.): <u>Bar</u>			
Proposed/Current Days and Hours of Operation: <u>Monday - Sunday 11:00am - 2:00am</u>			
Proposed Days and Hours of Alcohol Service: <u>Monday - Sunday 11:00am - 2:00am</u>			
Total Square Footage of Business: <u>1595 sq. ft.</u>			
Square Footage of Alcohol Serviceable Area: <u>885.5 sq. ft.</u>			
Restroom Fixtures:	Men	Toilets/Urinals: <u>1 /</u>	Bathroom Sinks: <u>1</u>
	Women	Toilets: <u>1</u>	Bathroom Sinks: <u>1</u>

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
- Dimensioned Site Plan showing:
 - Parking
 - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)
- Kitchen (if applicable)
- Total Square Footage
- Serviceable Square Footage

Signatures

Applicant (signature):

Ariel Windsor

Date: 5/15/23

Applicant (printed):

Ariel Windsor

Property Owner (signature):

Hilda Armendariz

Date: 5/15/23

Property Owner (printed): HILDA (ILDA) ARMENDARIZ

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.

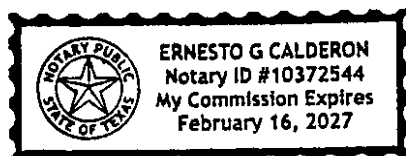
If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Ariel Windsor who, being by me duly sworn, upon oath says: That (s)he is authorized by Hilda Armendariz, 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.

Ariel Windsor
Authorized Agent (signature)

Subscribed and sworn to before me, this 15 day of May, 2023, to certify which witness my hand and seal of office.



Ernesto G Calderon

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

PACKET 256 Application will not be considered for scheduling until reviewed by a planner. July 25, 2023

FOR OFFICE USE ONLY

☒ Property Owner Authorization

☒ Dimensioned Floor Plan

☒ Application Fee

☐ Site Plan

Check # 2158

☐ Plans in Digital Format (PDF/JPEG)

Received By: DB

Date: _____

RECEIVED
MAY 24 2023

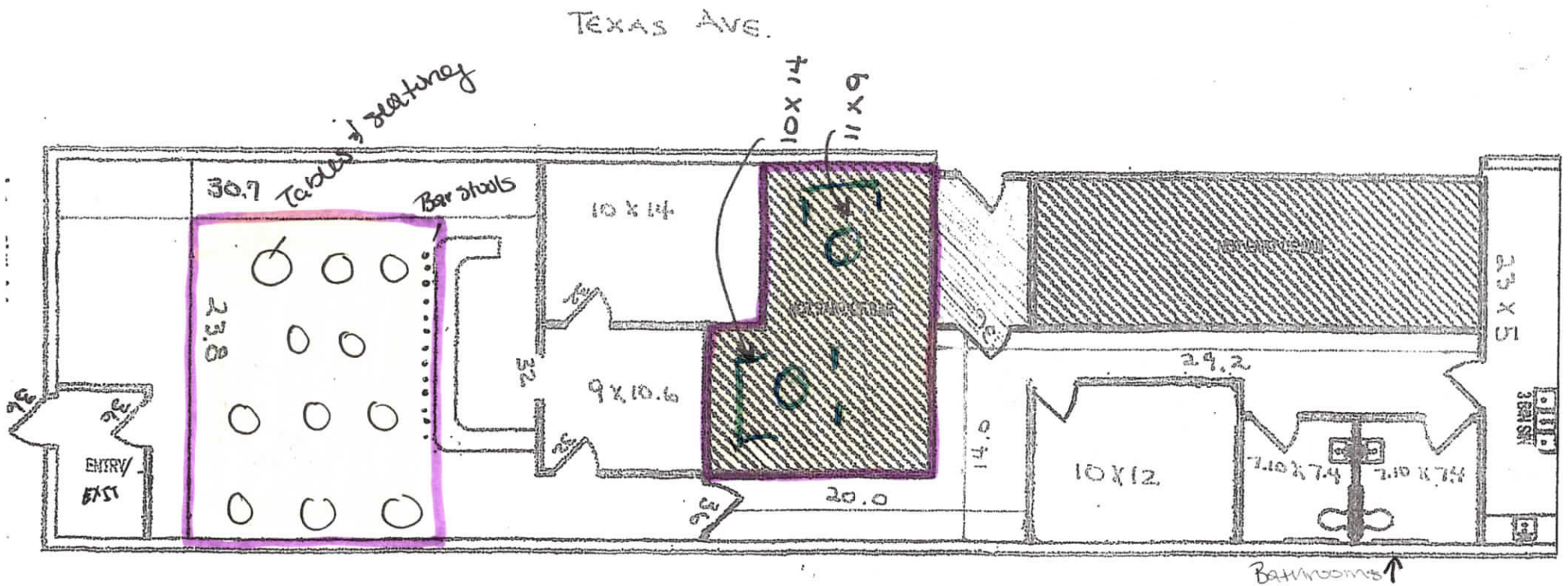
BY:

PACKET

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

257

July 25, 2023



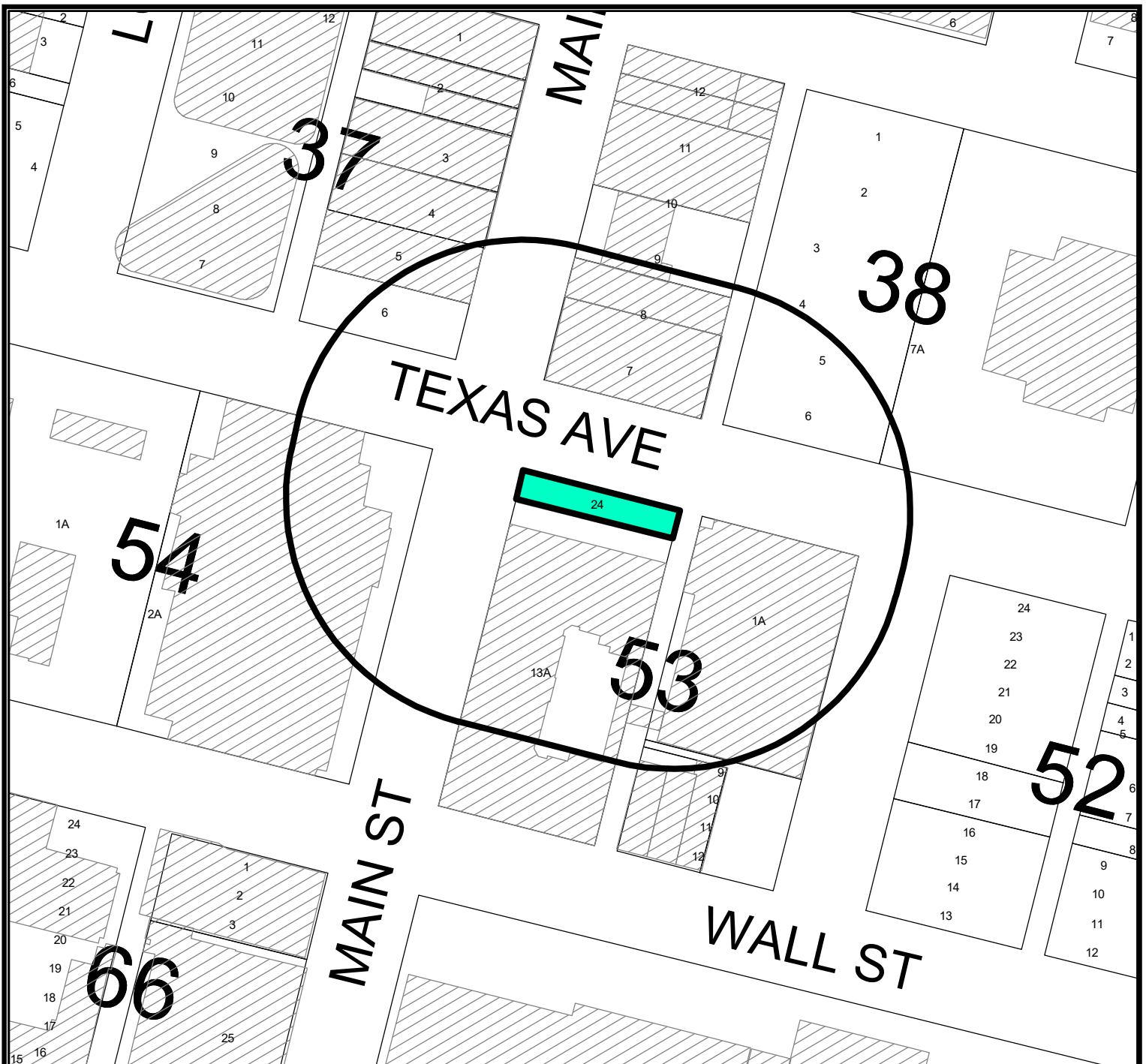
SITE PLAN

EXHIBIT A

25.8

July 25, 2023

CASE NO. S-11-016



LOCATION MAP

SUD-23-0160

Scale: 1" = 200'

A Specific Use Designation with Term for the sale of all alcoholic beverages, for on premises consumption in a bar, on a 1,595-square foot portion of Lot 24, Block 53, Original Town, City and County of Midland, Texas.

Generally located on the southeast corner of the intersection of North Main Street and East Texas Avenue. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

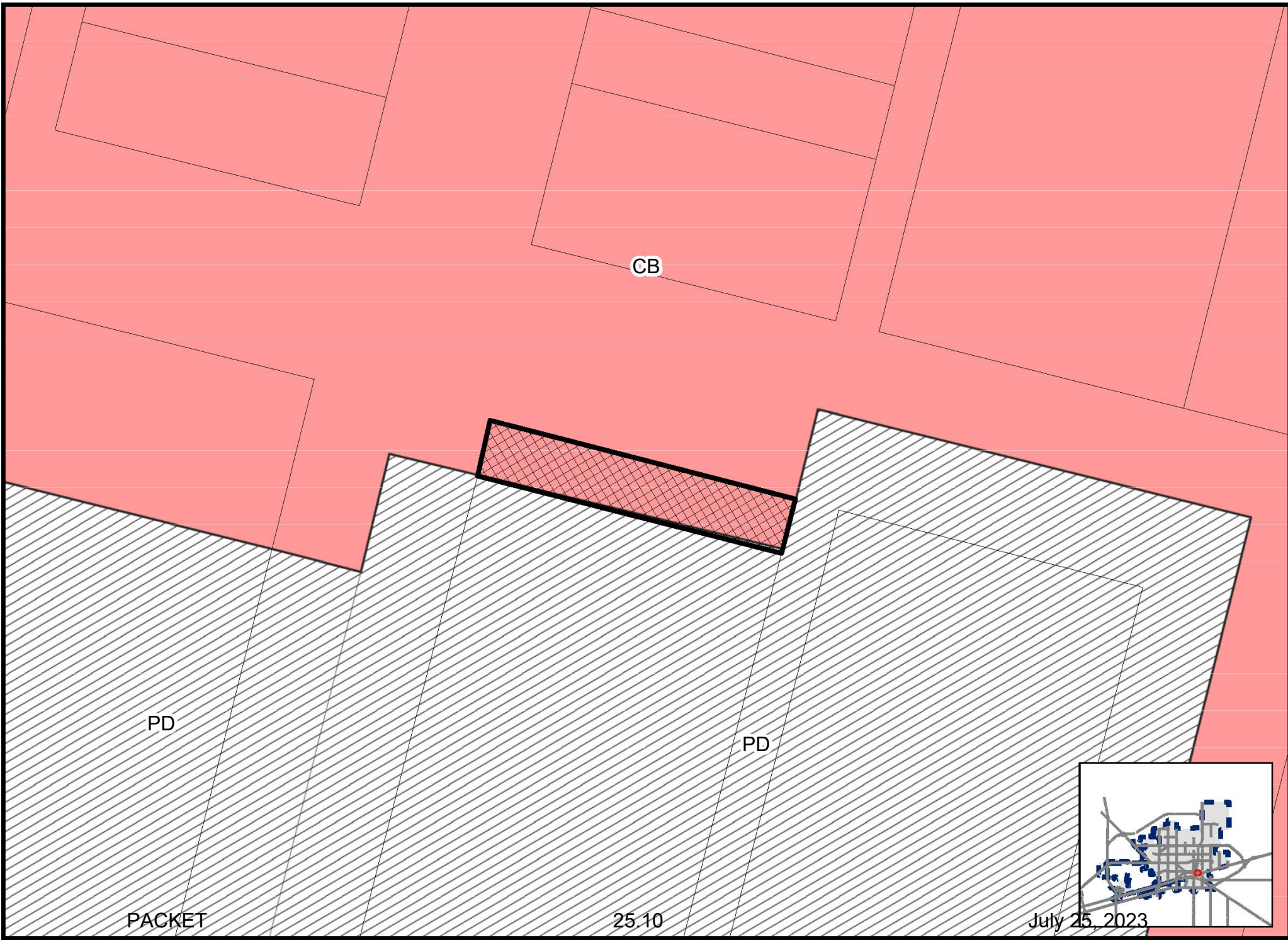


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July 25, 2023

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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.











ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 1,595-SQUARE FOOT PORTION OF LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED CB, CENTRAL BUSINESS DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 1,595-square foot portion of Lot 24, Block 53, Original Town, 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 bar (the “Establishment”) for on-premises consumption, together with the uses permitted in the present CB, Central Business District.

SECTION TWO. That the Property shall be subject to the following conditions and

restrictions:

- A. That the serviceable area of the Establishment shall be limited to approximately 885.5 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 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

SITE PLAN

EXHIBIT A

25.19

July 25, 2023

CASE NO. S-11-016



City Council Meeting

Item Number: 26
Meeting Date: July 11, 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 LOTS 1 AND 2, BLOCK 182, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH BIG SPRING STREET AND WEST FLORIDA AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 2) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Leovardo Leon, is requesting a Special Use Designation (SUD) for the sale of Alcoholic Beverages 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.

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The property to the north is zoned RR, Regional Retail District, and the location of a gas station. The properties to the east are zoned RR, Regional Retail District, and the location of a restaurant and automotive dealership. The property to the south is zoned RR, Regional Retail District and the location of retail uses. The property to the west is zoned C, Commercial, and the location of retail uses.

Analysis:

The subject property is zoned RR, Regional Retail District, which allows Alcoholic Beverages Sales for On-Premises Consumption in a Restaurant with the approval of a Specific Use Designation. The total restaurant area is 2,790-square feet with an alcohol serviceable area of 987-square feet.

The applicant is requesting the following days and hours for Alcoholic Beverages Sales for On-Premises Consumption as specified below:

Monday through Sunday from 10:30 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.

Adequate parking has been provided on the 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. [For Applicant's Information Only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Building Code: (Approved)

The SUD for Tacos Wey is acceptable. The property must adhere to the maximum occupant load of 65 for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Code Compliance: (Approved)

No objections. [For the Applicant's information only.]

Planning: (Approved)

The request is in compliance with *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 approval this Specific Use Designation will provide a place to gather and socialize to 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 serviceable area of the Establishment shall be limited to approximately 987-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 applicable state and local laws.**
- C. That the days and hours of alcoholic beverages sales and consumption shall be limited to Monday through Sunday from 10:30 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 all requirements of the Fire Department and Code Administration.**

Letters of Objection:

As of June 28, 2023, staff have received no letters of objection for this request.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan
Maps



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 LOTS 1 AND 2, BLOCK 182, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH BIG SPRING STREET AND WEST FLORIDA AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for Lots 1 and 2, Block 182, Southern 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 987 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 10:30 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

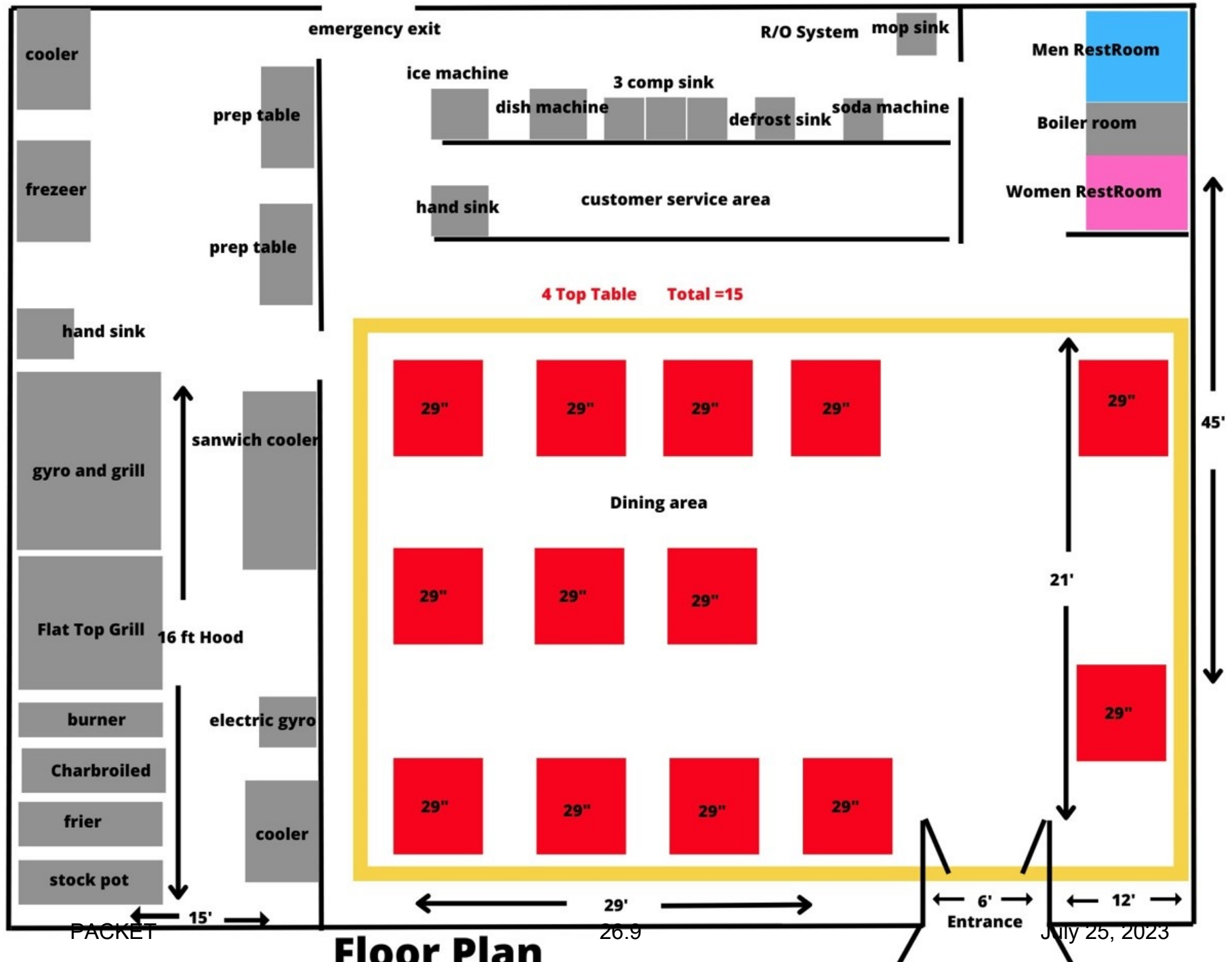
APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT "A"





Specific Use Designation with
Term for the Sale of Alcoholic
Beverages for On-Premises
Consumption

Project Number:

SW-23-0157

Case Number:

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

Printed Name: Leovaldo Leon

Phone (281) 830-1286

Email leo@leon777@gmail.com

Address 3611 Shell Ave

City Midland

State

TX

Zip

79705

Property Owner

Printed Name: George O. Sosa

Phone (432)

Email 2625763

Address 1206 Storey Ave.

City Midland

State

TX

Zip

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: _____

Phone ()

Email

Address

City

State

Zip

Street Address: 900 S. Big Spring Midland TX 79701

Business Name: Tacos Wer

Legal Description

Lot: 182 Block: 182 Subdivision: Southern Addition

Current Zoning: RL

Reason for Request: Restaurant

Type of Business (restaurant, bar, lounge, nightclub, etc.):

Restaurant

Proposed/Current Days and Hours of Operation: 7 Days 10:30 AM to 12 AM

Proposed Days and Hours of Alcohol Service: 7 Days 10:30 AM to 12 AM

Total Square Footage of Business: 2790

Square Footage of Alcohol Serviceable Area: 987

Restroom Fixtures:

Men

Toilets/Urinals: 1 1 2

Bathroom Sinks: 1

Women

Toilets: 2

Bathroom Sinks: 1

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

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
 - Seating
 - Exits
 - Kitchen (if applicable)
 - Total Square Footage
 - Serviceable Square Footage
- Dimensioned Site Plan showing:
 - Parking
 - Business Footprint

PACKET

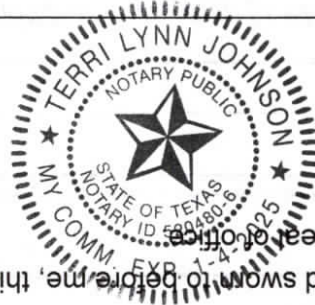
26.10

July 25, 2023

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

BY:

Received By: <u>LT</u>		Date: <u>APR 26 2023</u>
Check # <u>CA</u>	☐ Plans in Digital Format (PDF/JPEG)	FOR OFFICE USE ONLY
☒ Application Fee	☒ Site Plan	
☒ Property Owner Authorization	☒ Dimensioned Floor Plan	



Subscribed and sworn to before me, this 18 day of April, 2023, to certify which witness my hand and seal of office.

sign said owner's name hereto as his/her attorney in fact.

described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to me duly sworn, upon oath says: That (s)he is authorized by George Sosa, the owner of the above

Before me, the undersigned authority, on this day personally appeared Leovardo Leon who, being by

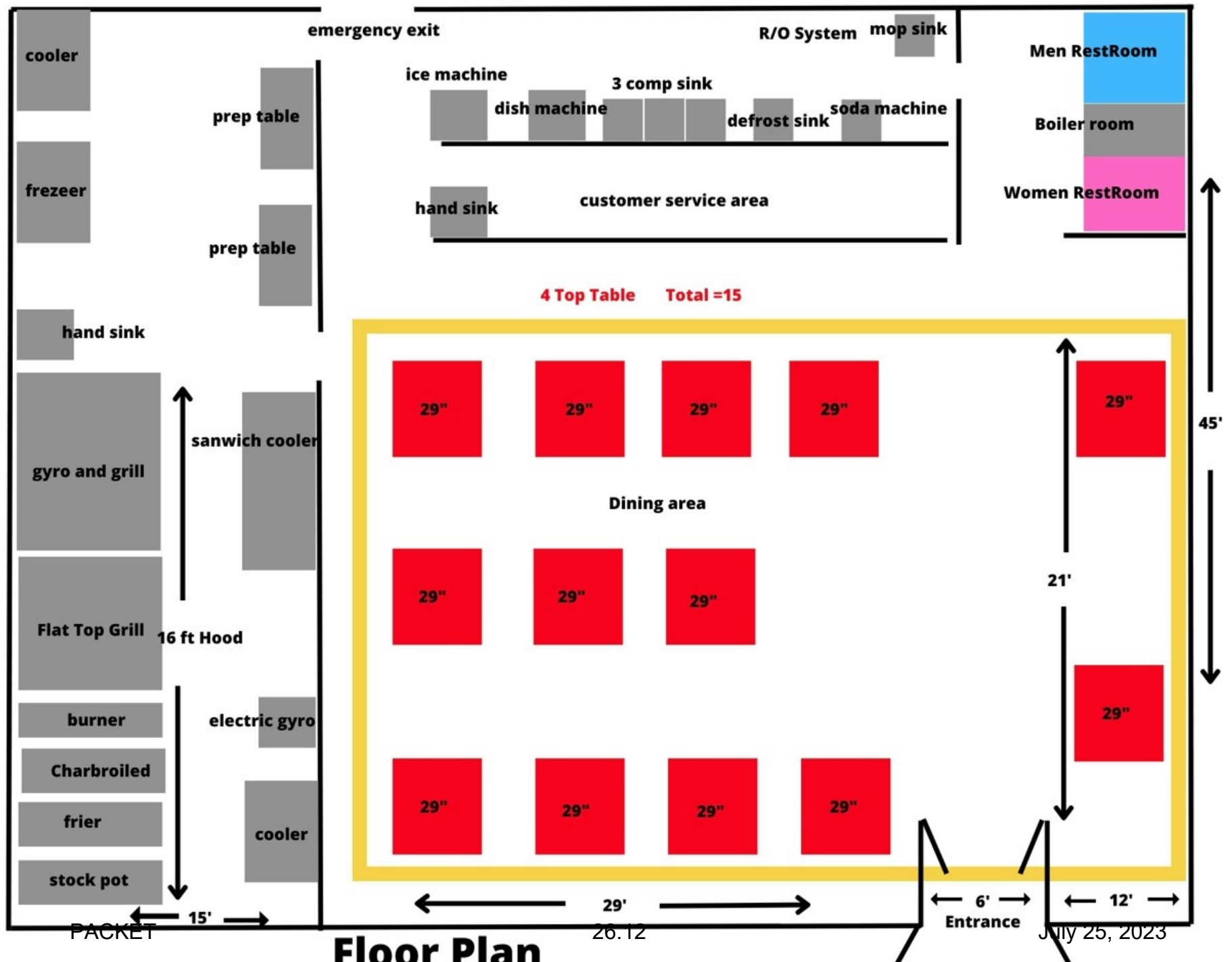
Authorized Agent (signature) [Signature]

NOTARY PUBLIC, MIDLAND COUNTY, TEXA

STATE OF TEXAS
COUNTY 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.

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.	
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.	
Property Owner (signature): <u>George R. Sosa</u>	Property Owner (printed): <u>George R. Sosa</u>
Applicant (signature): <u>Leovardo Leon</u>	Applicant (printed): <u>Leovardo Leon</u>
Date: <u>4-18-23</u>	Date: <u>4/13/23</u>
PACKET	
26.11	
July 25, 2023	
Signatures	



Floor Plan

Emergency Exit

Existing Building: 2790 sf

Parking Spaces: 21

Entrance

← 9' → ← 8' → ← 9' → ← 9' → ← 9' → ← 9' → ← 9' →



← 20' →

← 20' →

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PACKET

26.13

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← 6' →

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← 20' →

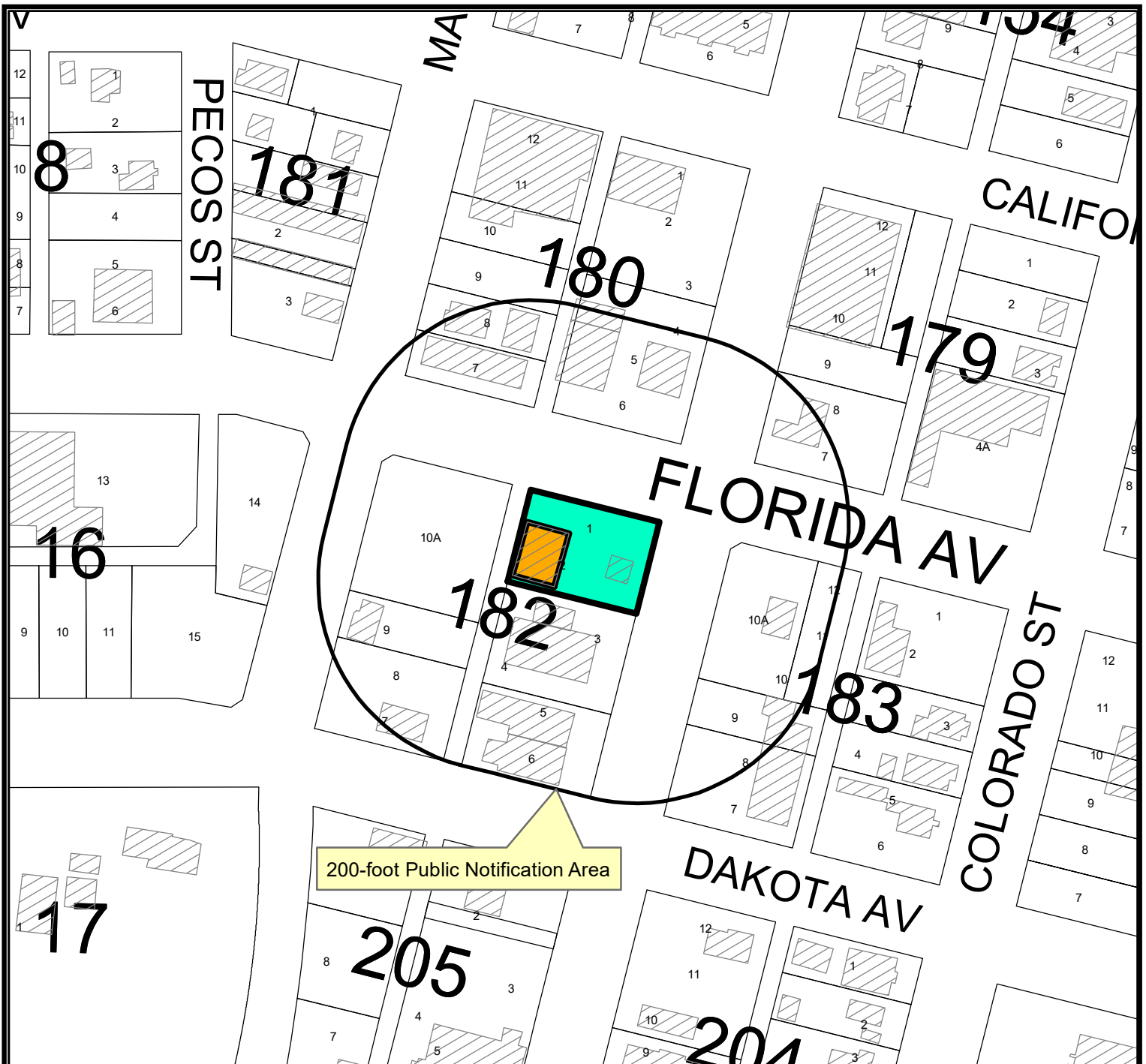
← 6' →

← 20' →

← 6' →

July 25, 2023

Site Plan and Parking



LOCATION MAP

SUD-23-0157

Scale: 1" = 200'

Request by Leovardo Leon for a Specific Use Designation with Term for Alcoholic Beverages Sales for On-Premises Consumption, on Lots 1 and 2, Block 182, Southern Addition, City and County of Midland, Texas.

Generally located on the southwest corner of the intersection of South Big Spring Street and West Florida Avenue. (Council District 2)

LEGEND

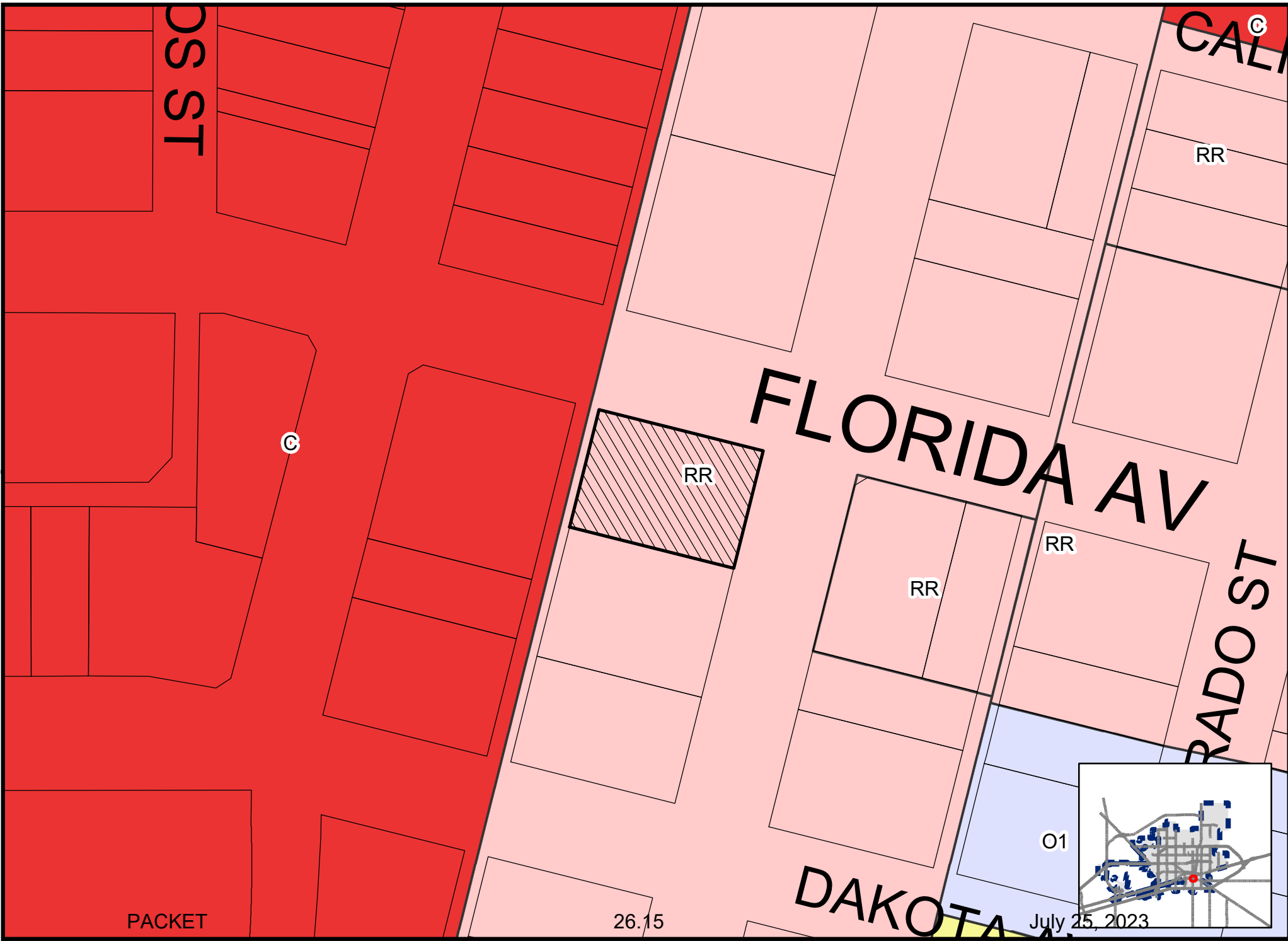
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.













City Council Meeting

Item Number: 27
Meeting Date: July 11, 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 6,529-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT 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, Besim Jaha, 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.

Current Zoning:

PD, Planned Development District for a Shopping Center. (Ordinance No. 7771).

Surrounding Zoning and Land Use:

The properties to the north are zoned O-1, Office District, and PD, Planned District for a Housing Development (Ordinance No. 7449), and the location of a hotel and assisted living facility. The properties to the east are zoned SF-2, Single-Family Dwelling District, and PD, Planned District for a Shopping Center (Ordinance No. 8261), and the location of single-family houses and mini storage units. The property to the south is zoned SF-1, Single-Family Dwelling District, and the location of the Midland Airpark. The properties to the west are zoned PD, Planned District for a Shopping Center (Ordinance No. 7256) and LR, Local Retail District, and the location of retail stores and a hotel.

Analysis:

The property is zoned PD, Planned District for a Shopping Center. The original Ordinance 5864 approved the Shopping Center with a base zoning of LR-2, Local Retail District which is now RR, Regional Retail District in the current Zoning Ordinance. The RR zoning allows for Alcoholic Beverages Sales for On-Premises Consumption in a Restaurant with the approval of an SUD. The total area of the restaurant, Fuoco, is 6,529-square feet and the proposed alcohol serviceable area is 3,569.5-square feet.

The applicant is requesting the following days and hours for Alcoholic Beverages Sales for On-Premises Consumption as specified below:

Monday through Sunday from 11 a.m. to 2 a.m. (the next day)

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no churches, private schools, public schools, public school grounds, athletic stadium, public hospital within 300 feet measurement along the property lines of the street fronts, and from the front door in a direct line across intersection where they occur within this site.

Adequate parking has been provided on site.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

All future development shall meet the requirements of IFC 2015 ed. and local ordinances.

Engineering: (Approved)

No objection 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.]

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.]

Building Code: (Approved)

The SUD is acceptable. The property must adhere to the maximum occupant load of 237 for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning: (Approved with Conditions)

The request is in compliance with the *Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to* "Encourage the development of places where Midland residents can gather and socialize to build connections." (Tall City Tomorrow page 137). Fuoco is a destination where Midland residents will gather and socialize.

This request meets all requirements; therefore, staff recommends approval of the request of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, subject to Condition A through E.

Conditions:

- A. That the serviceable area of the Establishment shall be limited to approximately 3,569.5 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 applicable state and local laws.**

- C. That the days and hours of alcoholic beverages sales and consumption shall be limited to Monday through Sunday from 11:00 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 all requirements of the Fire Department and Code Administration.

Letters of Objection:

As of June 28, 2023, staff has not received any letters of objections.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan
Maps



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 6,529-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT 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 a 6,529-square foot portion of Lot 1, Block 8, Polo Park, Section 3, 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 3,569.5 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 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:

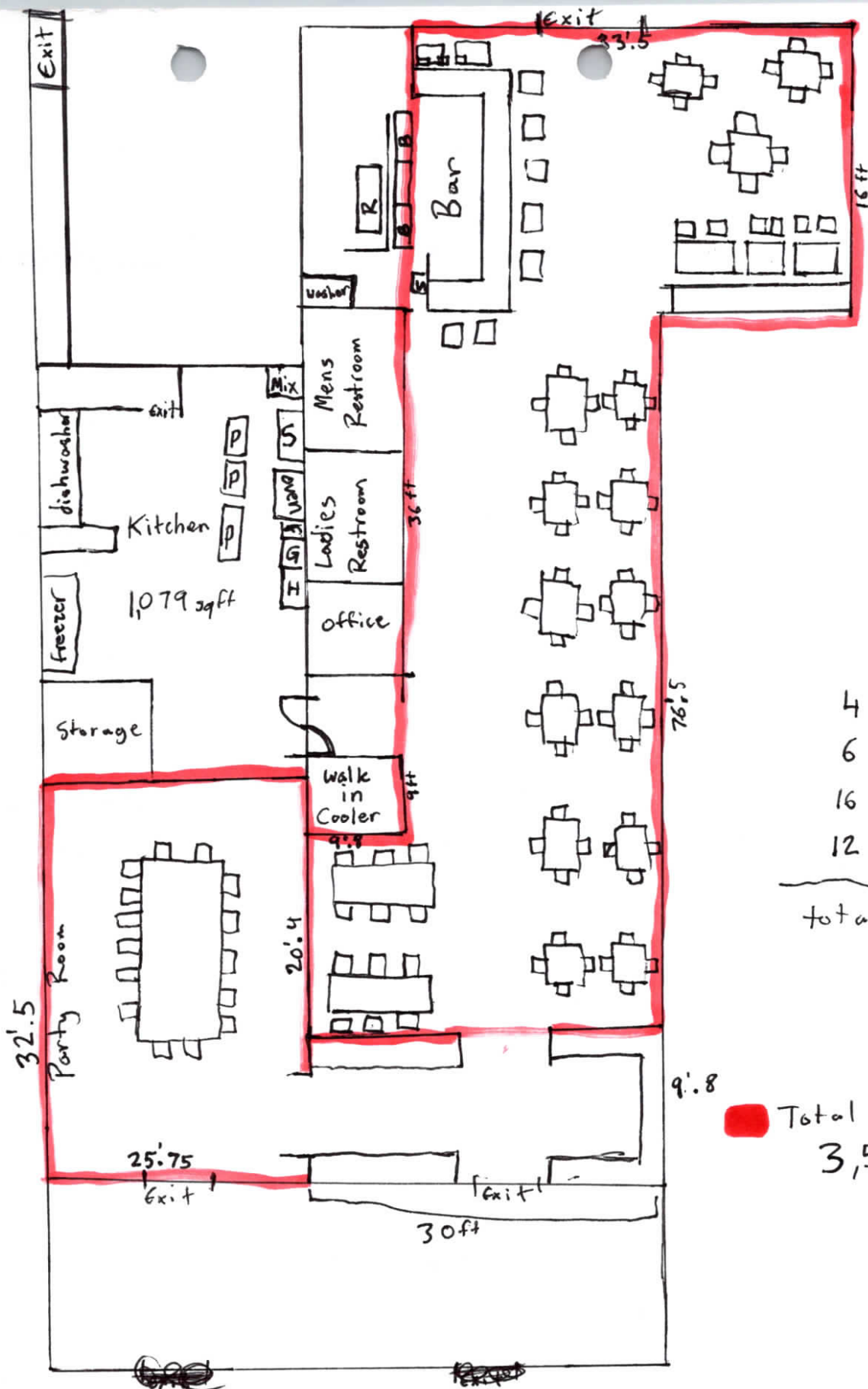
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



S = sink
 B = Beer tap
 R = Refrigerator
 F = fryer
 G = grill
 H = Hot plate
 P = Prep station

4 Top Table 25'
 6 Top Table 2
 16 Top Table 1
 12 Bar seating 1

total 29

Total Serviceable area
 3,569.5 sqft

RECEIVED
 MAY 22 2023
 July 25, 2023
 BY:

PACKET

27.9
 EXHIBIT "A"

RECEIVED
MAY 22 2023
BY: J1300

	Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption	Project Number: _____
		Case Number: _____

Applicant (if acting as Agent, see affidavit on page 2)		Phone (432) 606-0851	
Printed Name: <u>Besim Jaha</u>		Email <u>besimjaha@hotmail.com</u>	
Address	City	State	Zip
<u>2515 Broadway Street</u>	<u>Big Spring</u>	<u>Tx</u>	<u>79720</u>

Property Owner		Phone (817) 927-0050	
Printed Name: <u>Colonnade at Polo Park</u>		Email <u>AP@woodcrestcapital.com</u>	
Address	City	State	Zip
<u>3113 S. University Dr.</u>	<u>Ft Worth</u>	<u>Tx</u>	<u>76109</u>

Representative (if different from Applicant or Property Owner)		Phone ()	
Firm: _____		Email _____	
Printed Name: _____			
Address	City	State	Zip

Street Address: <u>4610 N. Garfield Street, Midland Tx 79705</u>			
Business Name: <u>FUOCO</u>			
Legal Description			
Lot:	Block:	Subdivision:	
Current Zoning: <u>commercial</u>			
Reason for Request: <u>New Restaurant</u>			

Type of Business (restaurant, bar, lounge, nightclub, etc.): _____			
Proposed/Current Days and Hours of Operation: <u>Monday - Sunday</u> <u>11:00 am - 9:00 pm</u>			
Proposed Days and Hours of Alcohol Service: <u>Monday - Saturday 11:00 am - 2:00 am</u> <u>Sunday 11:00 - 2:00 am whatever allowed by law</u>			
Total Square Footage of Business: <u>6,529</u>			
Square Footage of Alcohol Serviceable Area: <u>3,569.5 sqft</u>			
Restroom Fixtures:	Men	Toilets/Urinals: <u>1 1 2</u>	Bathroom Sinks: <u>2</u>
	Women	Toilets: <u>3</u>	Bathroom Sinks: <u>2</u>

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing
 - Seating
 - Exits
 - Restrooms
 - Kitchen (if applicable)
 - Total Square Footage
 - Serviceable Square Footage
- Dimensioned Site Plan showing: *Parking *Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature): [Signature] Date: _____
Applicant (printed): Besim Jaha
Property Owner (signature): [Signature] Date: 5.22.23
Property Owner (printed): James A Ryffel

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 214 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.

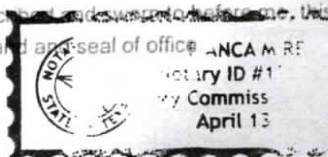
All materials submitted in support of an application or displayed during a public hearing shall remain the property of the City of Midland.

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.

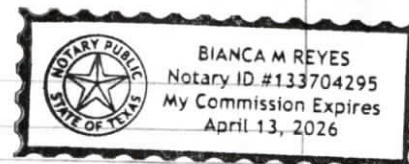
STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared _____ 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 has 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 22 day of May, 2023 to certify which witness
my hand and seal of office.



Notary Public

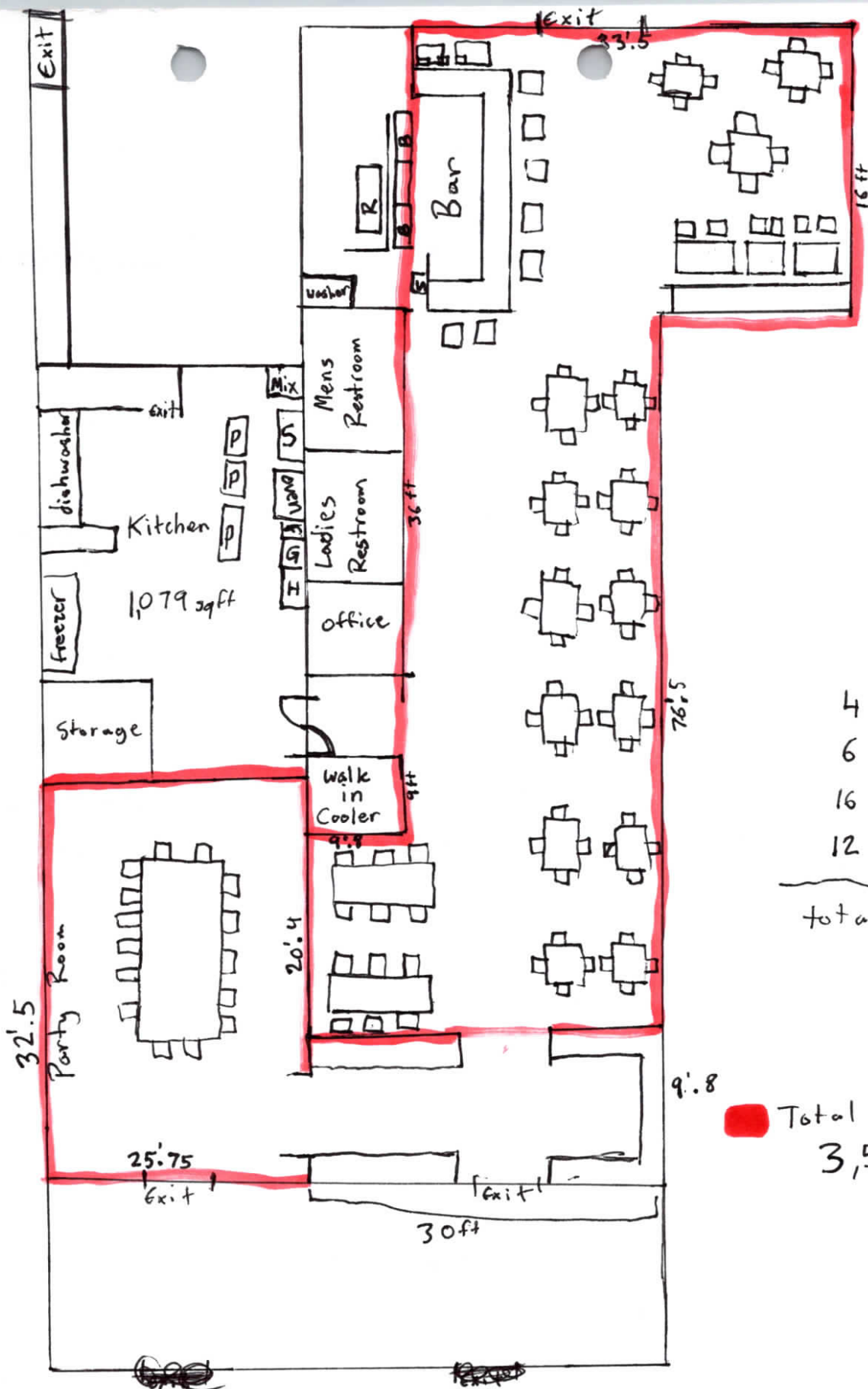


FOR OFFICE USE ONLY

☒ Property Owner Authorization
☒ Application Fee
Check # Cash
Received By [Signature]
☒ Dimensioned Floor Plan
☒ Site Plan
☐ Plans in Digital Format (PDF/JPEG)
Date _____

RECEIVED
MAY 22 2023
BY: _____

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



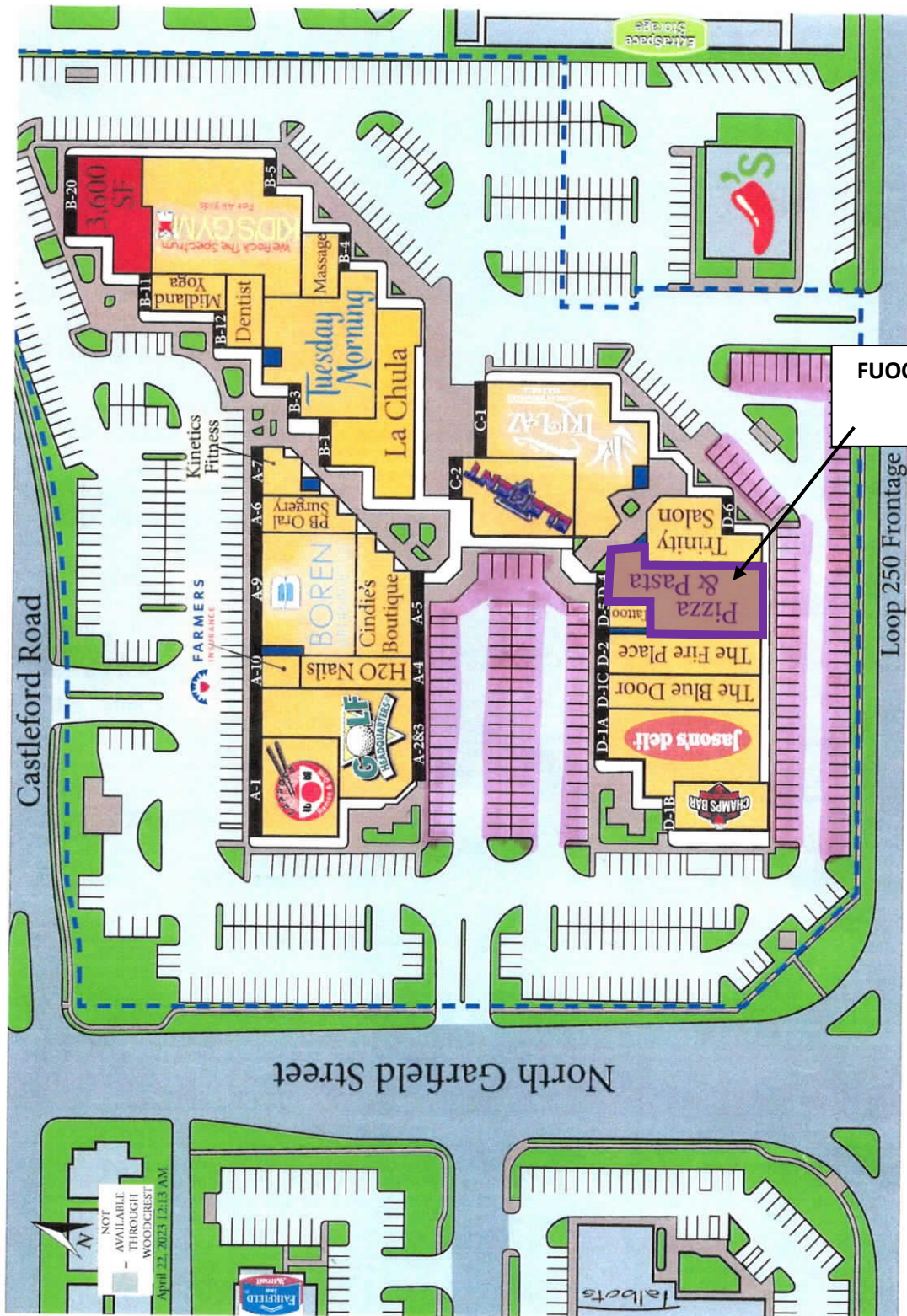
S = sink
 B = Beer tap
 R = Refrigerator
 F = fryer
 G = grill
 H = Hot plate
 P = Prep station

4 Top Table 25'
 6 Top Table 2
 16 Top Table 1
 12 Bar seating 1

total 29

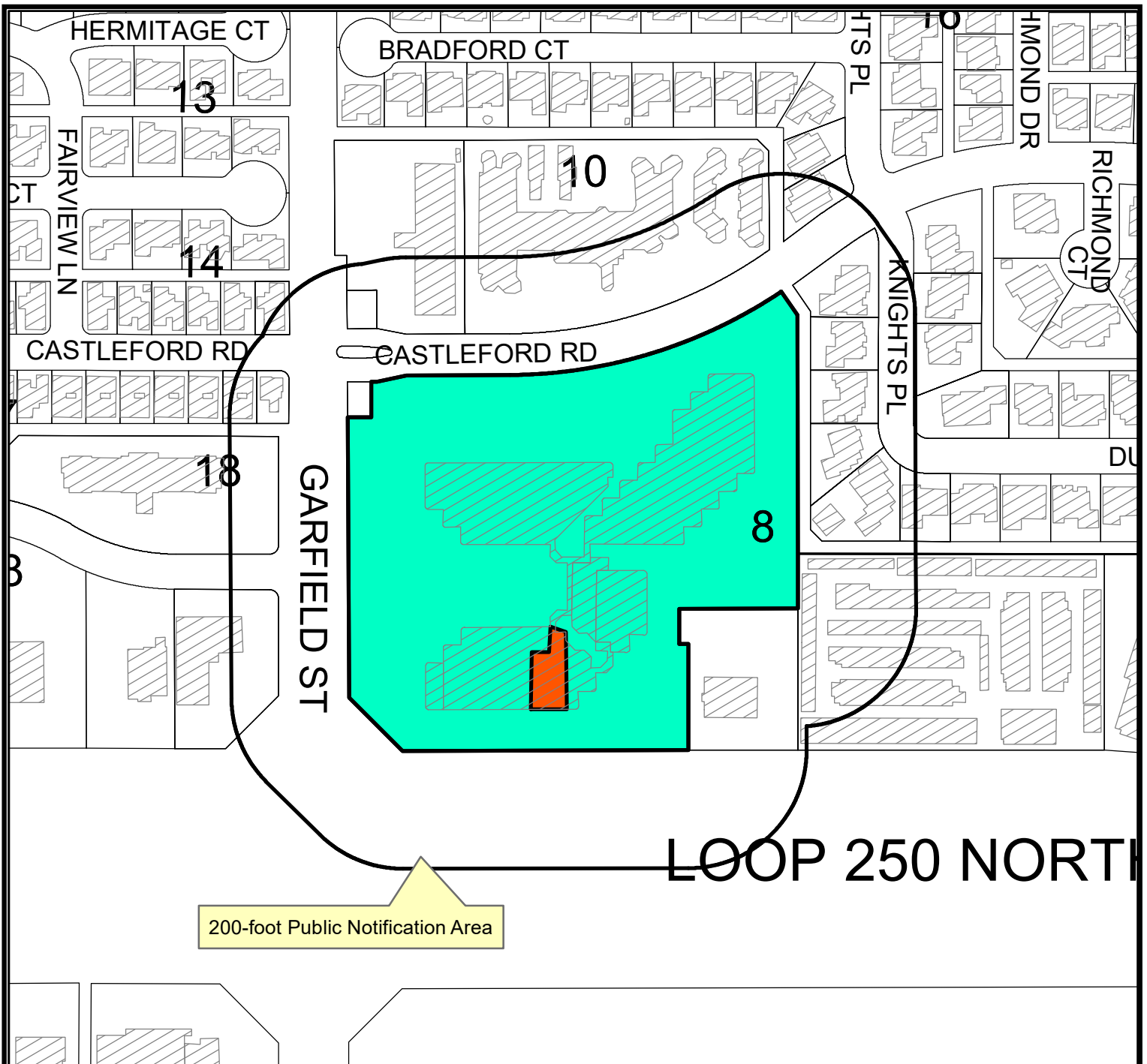
Total Serviceable area
 3,569.5 sqft

RECEIVED
 MAY 22 2023
 July 25, 2023
 BY:



FUOCO RESTAURANT
LOCATION

Parking space 9ft by 16
Parking spaces available 50



LOCATION MAP

SUD-23-0159

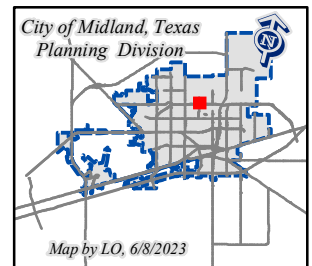
Scale: 1" = 2,931'

Consider a request by Besim Jaha for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages for on premises consumption in a Restaurant on 6, 529 square foot portion of Lot 1, Block 8, Polo Park, Section 3, City and County of Midland, Texas.

Generally located northeast of the intersection of North Garfield Street and West Loop 250 North.
(Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

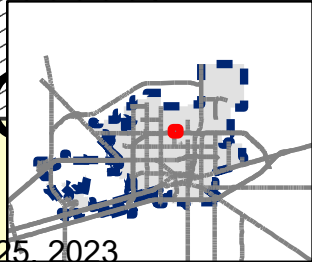


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July 25, 2023

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR FOR IT IS DESIGNED TO BE USED AS A TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.













City Council Meeting

Item Number: 28
Meeting Date: July 25, 2023
To: City Council / City Manager
From: Christy Weakland, Director
Subject: AN ORDINANCE ADOPTING A FEE SCHEDULE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN APPEAL PROCESS; ESTABLISHING AN EFFECTIVE DATE OF OCTOBER 1, 2023; AND ORDERING PUBLICATION (DISTRICT: ALL) (FINANCE)

Purpose:

Revise an ordinance establishing regulatory and user fees collected by the City of Midland to adequately cover the costs and expenses incurred by the City in connection with providing the services associated with said fees.

Recommended City Council Action:

Approve

Fiscal Impact:

Regulatory and User Fees generate revenue designed to cover the cost of the service being provided by the City of Midland

Discussion:

Fee revisions are from five separate departments:

1. **Sanitation** – Updates for residential and commercial pick-up fees as well as certain open top and landfill fees as listed in Exhibit L.
2. **Community Services** – changes in Animal Services, Health Services, Parks, Recreation, and Sports Complex divisions. Details are listed in the Community Services memo as well as Exhibit B, Exhibit C, Exhibit D, Exhibit E, and Exhibit N.

3. **Airport** – Updates to the parking fees in Exhibit M.
4. **Information Technology Services Department** – fees for the GIS division services; this is a new schedule, Exhibit Q, in the fee schedule.
5. **City Secretary** – remove passport fee section from Exhibit A.



City Manager's Office

CITY OF MIDLAND
Community Services Department
Interoffice Memorandum

Date: June 16, 2023
To: Morris Williams, Deputy City Manager
From: Cristina Burns, Community Services Director
Subject: 2023 Proposed Fee Changes for Community Services

The Community Services Department has reviewed the fee schedules for each division and is proposing some changes to better serve our community. The proposed changes are outlined below:

Animal Services

The only proposed fee change for Animal Services is to increase the impoundment fee for altered animals that end up at the shelter for the third time to \$75:

Proposed change

<i>Impoundment 3rd Offense (altered)</i>	<i>\$15 increase</i>
---	----------------------

Health Services

The proposed fee changes for Health Services are to add late fees for all environmental permits to encourage timely payments and adjustments to the fees for vaccines and administration fees. We adjusted the fees for vaccines to cover our costs but to still be below the prices of competitors and adjusted the administration fees based on recommendations from our third-party billing representative. Below are the proposed changes:

New fees

Mobile Food Vendor

<i>Late Fee (When not paid by specified date)</i>	<i>25% of permit fee</i>
---	--------------------------

Food Services Establishments

<i>Late Fee (When not paid by specified date)</i>	<i>25% of permit fee</i>
---	--------------------------

Retail Food Store

<i>Late Fee (When not paid by specified date)</i>	<i>25% of permit fee</i>
---	--------------------------

Child Care Programs

<i>Late Fee (When not paid by specified date)</i>	<i>25% of permit fee</i>
---	--------------------------

Swimming Pool, Spa, or Water Feature Permit	
Late Fee (When not paid by specified date)	25% of permit fee

Proposed changes

Kinrix (DTaP & Polio)	\$40 decrease
Pentacel (DTaP & Polio & Flu Type B)	\$25 decrease
HIB (Flu Type B)	\$15 decrease
Proquad (MMR & Varicella)	\$10 increase
PPSV23 (Pneumococcal Conjugate)	\$25 decrease
Varicella	\$10 increase
TD (Tetanus & Diphtheria)	\$5 decrease
HPV 9	\$15 increase
Trumenba (Meningococcal Group B)	\$25 increase
Bexsero (Meningococcal Group B)	\$15 increase
Adult Hep A	\$10 increase
Shingrix (Shingles)	\$10 increase
Flublok	\$5 increase
Pregnancy Test-Urine	\$5 increase
Administration Fees – Insured	\$35 increase
Administration Fees – Medicaid/CHIP	\$1.10 decrease
Administration Fees – Medicare Flu or Pneumonia	\$35 increase

Parks

For Parks, we removed the fees for the rental of temporary fencing since there are other companies that provide those services, added a separate deposit for the use of show lights for the Showmobile as replacement of those lights and accessory can be costly, increased the rental fee for the portable stage to account for the labor incurred for set up and take down, increased the rental for turf fields to account for the future replacement of the artificial turf, added a deposit for the rental of artificial turf fields to account for any damages, and added tournament cleaning fees and deposits. Below are the proposed changes:

New fees

Showmobile	
Deposit for Show Lights	\$500
Baseball/Softball Field Rentals	
Deposit for Artificial Turf Field Rental	\$100
Tournament Cleaning Fee	\$150/field
Tournament Deposit	\$100/field
Football/Soccer Field Rentals	
Deposit for Artificial Turf Field Rental	\$100

<i>Tournament Cleaning Fee</i>	<i>\$150/field</i>
<i>Tournament Deposit</i>	<i>\$100/field</i>

Proposed changes

<i>Portable Stage Rental Fee</i>	<i>\$150 increase</i>
--------------------------------------	-----------------------

<i>Baseball/Softball Field Rentals Artificial Turf Fields Rental Fee</i>	<i>\$15 increase</i>
--	----------------------

<i>Football/Soccer Field Rentals Artificial Turf Fields Rental Fee</i>	<i>\$15 increase</i>
--	----------------------

Fees removed

Temp Fencing

Recreation

The proposed changes for Recreation are to increase the entry fees for pools to cover the proposed increases in pool staff pay. We also removed the Bubble Soccer rentals as there is no demand. Below are the proposed changes:

Proposed changes

<i>Entry Fee</i>	<i>\$2 increase</i>
<i>10 Punch Card</i>	<i>\$5 increase</i>
<i>25 Punch Card</i>	<i>\$5 increase</i>
<i>75 Punch Card</i>	<i>\$5 increase</i>

Fees removed

Bubble Soccer

Sports Complex

For the Sports Complex, we are proposing a new fee for an all-inclusive football game package as we have seen the need, especially for playoff games. We are also proposing to remove the lighting fee for the common areas as those lights are always on and increasing the fee for auxiliary field rentals to \$65 to account for the future replacement of the artificial turf. Below are the proposed changes:

New fees

<i>All Inclusive Football Game Package</i>	<i>\$10,000/game</i>
--	----------------------

This package includes a whole stadium rental, cleaning, lighting, game officials and staff, operators, security, EMS, and UIL fees, if necessary.

Proposed changes

SSC – Auxiliary Fields

Non-Tournament Fees

Field Rental

\$15 increase

Fees Removed

SSC – Common Area/Parking Lot Rentals

Lighting Fee

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING A FEE SCHEDULE;
CONTAINING A SAVINGS AND SEVERABILITY
CLAUSE; PROVIDING AN APPEAL PROCESS;
ESTABLISHING AN EFFECTIVE DATE OF OCTOBER
1, 2023; AND ORDERING PUBLICATION**

WHEREAS, the City Council finds it to be in the public interest to establish fees collected by the City of Midland in order to adequately cover the costs and expenses incurred by the City in connection with providing the services associated with said fees; and

WHEREAS, the City Manager's designees have prepared Exhibits "A" through "P", which are attached hereto and incorporated herein for all purposes, identifying said fees (collectively, the "Fee Schedule"); and

WHEREAS, the City Council of the City of Midland, Texas, finds it to be in the public interest to adopt the Fee Schedule and to establish the fees identified therein as the fees to be collected by the City of Midland, said fees being reasonably related to the costs and expenses incurred by the City in connection with providing the services associated with said fees;

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

SECTION ONE. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct and are adopted as part of this ordinance for all purposes.

SECTION TWO. That the Fee Schedule is hereby approved and adopted. The fees identified in the Fee Schedule are hereby established as the fees to be collected by the City of Midland except for the following types of fees: a fee charged to a requestor who submits a request for information under the Texas Public Information Act; a fee assessed by the Municipal Court that is not identified in the Fee Schedule; a fee established by a contract, to the extent that the fee established by the contract conflicts with or is not identified in the Fee Schedule; a drainage charge; an impact fee; a fee prescribed by a state law, rule, or

regulation; or a fee for which a state law, rule, or regulation, or the City Charter requires a procedure to be followed to establish the fee other than the procedure that was followed to adopt the Fee Schedule.

To the extent that a fee identified in the Fee Schedule conflicts with a fee that was previously established by ordinance (including an ordinance that has been codified in the City Code), resolution, or other City of Midland instrument, this ordinance shall supersede such previous ordinance, resolution, or other instrument, and the fee identified in the Fee Schedule shall be the applicable fee.

To the extent that a fee identified in the Fee Schedule conflicts with a fee prescribed by a state law, rule, or regulation, the fee prescribed by the state law, rule, or regulation shall be the applicable fee.

To the extent that a fee identified in the Fee Schedule is a fee for which a state law, rule, or regulation, or the City Charter requires a procedure to be followed to establish the fee other than the procedure that was followed to adopt the Fee Schedule, such fee that was previously established by following the applicable procedure shall be the applicable fee.

SECTION THREE. Any person wishing to appeal the payment of a fee identified in the Fee Schedule may do so in accordance with the law, rule, regulation, or ordinance that established the procedure for appealing such fee. To the extent no such appeal procedure has been established for a fee identified in the Fee Schedule that is not a fee assessed by the Municipal Court, the following appeal procedure shall apply:

- A. Any person may appeal in writing to the City Manager, or the City Manager's designee, prior to paying the fee or after paying the fee. Any person may appeal in writing to the City Manager, or the City Manager's designee, if the person believes that he or she cannot afford the fee. The person may seek an exemption from all or part of the fee. The City Manager, or the City Manager's designee, shall make certain that the fee is not paid under duress.

If a person wishes to appeal after payment of the fee, the person shall appeal in writing to the City Manager, or the City Manager's designee, within ten (10) calendar days of paying the fee.

- B. The City shall not file criminal charges against any person related to non-payment of the fee if the fee is not paid. The City shall not file criminal charges against a person in an attempt to collect the fee.
- C. The City Manager, or the City Manager's designee, shall provide a full and meaningful review process. The City Manager, or the City Manager's designee, shall provide a fair opportunity for a person to challenge the accuracy and legal validity of his or her fee obligation. The City Manager, or the City Manager's designee, shall also provide a clear and certain remedy for any erroneous or unlawful fee collection to ensure that the opportunity to contest the fee is a meaningful one. Options that the City Manager, or the City Manager's designee, shall consider in providing a clear and certain remedy are a refund of any excess fee paid, as well as other factors, such as ensuring that a person may continue the operation of his or her business.
- D. The City Manager, or the City Manager's designee, shall make his or her decision within ten (10) days of receiving the written notice of appeal. The City Manager, or the City Manager's designee, shall ensure that a person has all rights under any applicable law. A person shall incur no financial hardship by exercising his or her right to appeal.

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. That this ordinance shall become effective on October 1, 2023.

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:

Morris Williams, Jr., Interim City Manager

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

Exhibit A

City Secretary

	Fee
Business Regulations	
Junk and secondhand goods license	\$25.00
Renewal of junk and secondhand good	\$10.00
Alcoholic Beverage License Fee	1/2 of State Fee
Taxicab annual operating fee (each)	\$200.00
Limo or Motorbus operating fee (each)	\$100.00

Exhibit B

Parks

	Fee
SHOWMOBILE	
Deposit	\$1,000.00
Rental Fee (minimum of 4 hours)	\$62.50/hour
Extensions	\$100.00
Show Lights	\$200.00
Deposit for Show Lights	\$500.00
PORTABLE BLEACHERS	
Deposit	\$100.00
Rental Fee (per day)	\$100.00
PORTABLE STAGE	
Deposit	\$100.00
Rental Fee	\$250.00
TRASH CANS	
Deposit	\$100.00
Rental Fee (minimum of 10 cans)	\$5.00/can/day
PARK PAVILION RENTAL	
Deposit	\$100.00
Rental Fee 9am-10pm	\$60.00
Rental Fee 9am-3pm	\$30.00
Rental Fee 4pm-10pm	\$40.00
BEAL RANCH HOUSE	
Deposit no Alcohol	\$300.00
Deposit w/Alcohol	\$500.00
Rental Fee Per Hour	\$50.00
GAZEBO RENTALS - WADLEY AND BEAL	
Deposit	\$100.00
Rental Fee 9 am- 3 pm	\$50.00
Rental Fee 4 pm-10 pm	\$50.00
Rental Fee 9 am-10 pm	\$100.00
BASEBALL/SOFTBALL FIELD RENTALS	
Artificial Turf Fields Rental Fee	\$65.00/hour
Deposit for Artificial Turf Field Rental	\$100.00
Natural Turf Field Rental Fee	\$25.00/hour
Lights	\$25.00/hour
Tournament Fee	\$25.00/team
Tournament Cleaning Fee	\$150/field
Tournament Deposit	\$100/field
FOOTBALL/SOCCER FIELD RENTALS	
Artificial Turf Fields Rental Fee	\$65.00/hour
Deposit for Artificial Turf Field Rental	\$100.00
Natural Turf Field Rental Fee	\$25.00/hour
Lights	\$25.00/hour
Tournament Fee	\$30/game
Tournament Cleaning Fee	\$150/field
Tournament Deposit	\$100/field

CONCESSION RENTALS	
Concession Stand Deposit	\$100.00
Concession Stand Rental	\$25.00/hour
ULMER SAND VOLLEYBALL COURT	
Deposit	\$25.00
Rental Fee	\$25.00/day
WHITEHOUSE RENTAL	
Deposit	\$200.00
Rental Fee 10 am - 4 pm	\$200.00
Rental Fee 6 pm - 12 am	\$200.00
Rental Fee All Day	\$400.00

Exhibit C

Recreation



	Fee
CITY POOL RATES	
Entry Fee	\$5.00
Children under 2	Free
10 Punch Card	\$20.00
25 Punch Card	\$40.00
75 Punch Card	\$80.00
Personal Cooler Admission	\$10.00
Soda	\$3.00
Water	\$2.00
Snacks	\$2.00
Swim lesson (1 week)	\$20.00
Life Jacket Rental	\$1.00
PRIVATE RENTALS	
DEPOSIT	\$150.00
RENTAL FEE (2 hours)	\$850.00
POOL PAVILION RENTALS	
(Doug Russell Only)	
DEPOSIT	\$100.00
RENTAL FEE	\$100/session
MARTIN LUTHER KING RECREATION CENTER	
	per hour
Activity Room	
During Operation	\$25.00
After Hours	\$35.00
Deposit	\$100.00
Activity Rm/with Gameroom	per hour
During Operation	\$50.00
After Hours	\$70.00
Deposit	\$300.00
Auditorium	per hour
During Operation	\$50.00
After Hours	\$75.00
Deposit No Alcohol	\$500.00
Deposit Alcohol	\$750.00
Gymnasium	per hour
During Operation	\$40.00
After Hours	\$60.00
Deposit	\$200.00
MLK Volleyball Net Setup Fee	\$15.00

Exhibit C

Recreation



	Fee
Training Room	per hour
Sporting Events ONLY	
During Operation	\$50.00
After Hours	\$75.00
Deposit	\$1,000.00
Daily Entrance Fee	\$1.00
Monthly Membership	\$15.00
MOVIE SCREEN	
Deposit	\$1,000.00
Fee (Maximum 4 hours)	\$500.00

Exhibit D

Health and Senior Services

	Fee
Environmental Section	
Mobile Food Vendor	
Mobile Food Vendor	\$175.00
Mobile Food (Seasonal)	\$105.00
Temporary Permit	\$70.00
Late Fee (When not paid by specified date)	25% of Permit Fee
Food Services Establishments	
1 thru 5 employees	\$150.00
6 thru 10 employees	\$200.00
11 or more employees	\$250.00
Deli/Meat Market/Bakery	\$75.00
Farmers Market	\$50.00
Late Fee (When not paid by specified date)	25% of Permit Fee
Retail Food Store	
1 thru 5 employees	\$150.00
6 thru 10 employees	\$200.00
11 or more employees	\$250.00
Temporary Permit	\$70.00
Late Fee (When not paid by specified date)	25% of Permit Fee
Child Care Programs	
Day Care	\$100.00
Foster Care	\$50.00
Child Care Program for after School	\$50.00
Late Fee (When not paid by specified date)	25% of Permit Fee
Swimming Pool, Spa, or Water Feature Permit	
Swimming Pool or Spa Permit	\$100.00
Water Feature Permit	\$100.00
Non-Profit Yearly	\$30.00
Non-Profit Temporary	\$30.00
Re-inspection (When Establishment is shut down)	\$75.00
Late Fee (When not paid by specified date)	25% of Permit Fee
Septic System Inspections	
Septic System Residential	\$150.00
Septic System Commercial	\$210.00
Septic re-inspection (When fails initial inspection)	\$50.00
Late Fee (When not paid by specified date)	25% of Permit Fee
Late Fee (When not paid by specified date)	25% of Permit Fee
Clinical Section	
Health Department Services	
DTaP	\$45.00
Kinrix (DTaP & Polio)	\$60.00

Exhibit D

Health and Senior Services

	Fee
Pentacel (DTaP & Polio & Flu Type B)	\$115.00
IPV (Polio)	\$50.00
Pedi HEP A	\$40.00
Pedi HEP B	\$35.00
HIB (Flu Type B)	\$25.00
Vaxelis (DTaP, HIB, Polio & HEB B)	\$150.00
Rototeg/Rotarix (Rotavirus)	\$140.00
Proquad (MMR & Varicella)	\$265.00
PCV 13 (Pneumococcal Conjugate)	\$260.00
PPSV23 (Pneumococcal Conjugate)	\$125.00
MMR	\$90.00
Varicella	\$165.00
TD (Tetanus & Diphtheria)	\$45.00
TDAP (Tetanus Diphtheria and Pertussis)	\$60.00
HPV 9	\$270.00
MCV4 (Meningitis)	\$150.00
Menquadfi (Meningitis)	\$200.00
Trumenba (Meningococcal Group B)	\$180.00
Bexsero (Meningococcal Group B)	\$200.00
Adult Hep A	\$80.00
Adult Hep B	\$65.00
Heplisav-Adult Hep B	\$125.00
Shingrix (Shingles)	\$185.00
Infant flu	\$25.00
Flu	\$30.00
High Dose Flu	\$65.00
Flublok	\$65.00
Yellow Fever	\$130.00
STD Testing	\$15.00
HIV Testing	\$15.00
STD Clinic Treatment	\$15.00
STD Clinic Retreatment	\$15.00
Pregnancy Test-Urine	\$15.00
Pregnancy Test - Blood	\$15.00
TB Test	\$15.00
TB Clinic	\$15.00
Administration Fees	
Insured	\$60.00
TVFC 1=\$10, 2=\$20, >or= 3 = \$30	
Refugee	\$0.00
Medicaid/CHIP	\$13.75
Medicare Flu or Pneumonia	\$60.00

Exhibit E

Animal Services

	Fee
Adoption Fees	
Adoption Fees (includes micro chipping)	\$50 for Cats; \$75 for Dogs
Ducks, Rabbits, Other	\$5.00
Rescue Fee (rabies, microchip, license)	\$32.00
Humane Coalition Transfer Fee (with micro chipping) Range \$17 to \$25	\$25.00
Animal Service Discount	\$6.73
Vaccines and Medical Fees	
Rabies (\$10 special event and \$20 reg)	\$10.00 or \$20.00
Rabies and Booster (\$15 special event)	\$15.00
Impoundment Fees	
Impoundment - 1st Offense (altered)	\$25.00
Impoundment - 1st Offense (unaltered)	\$50.00
Impoundment - 2nd Offense (altered)	\$50.00
Impoundment - 2nd Offense (unaltered)	\$75.00
Impoundment - 3rd+ Offense (altered)	\$75.00
Impoundment - 3rd+ Offense (unaltered)	\$100.00
Livestock Impoundment	\$100.00
Boarding & Quarantine	
Boarding (per day)	\$8.00
Quarantine Fees (minimum of 10 days)	\$10.00/day
Home Quarantine Fees (minimum of 10 days)	\$5.00/day
Pick-up Fees	
Pickup Fee - Owner release	\$15.00
Pickup Fee -Owner release (additional animals)	\$5.00/each
Pickup Fee - Deceased	\$15.00
Pickup Fee - Dead Small Livestock	\$75.00
Pickup Fee- Deceased Livestock	\$150.00
Transfer to Vet Fee	\$15.00
Miscellaneous Fees	
Drop off Fee - Owner release	\$10.00
Rabies Specimen Shipping	\$75.00
Wild Animal Permit	\$25.00
Dangerous Dog Yearly Registration	\$50.00
Off Leash Training Permit	\$5.00
Microchipping	
Microchips	\$8.00
Pet Services	
Flea/Tick Preventative	\$15.00
Euthanasia	
Euthanasia	\$15.00
Pet Licenses	
Pet License (yearly)	\$7.00
Pet License (replacement)	\$1.00
Pigeons	
Loft Permit for Pigeons	\$3.00
Renewal of Loft Permit	\$2.00

Exhibit F

Golf Course



	Fee
Green Fee - Weekday	\$21.25
Green Fee - Weekdays after 4:00	\$12.25
Green Fee - Weekend	\$26.25
Green Fee - Weekend after 4:00	\$16.00
Weekend AM - 9 Holes	\$15.00
Green Fee - Senior	\$16.25
Green Fee - Junior	\$9.50
Cart Fee (90%)	\$13.75

Exhibit G

Planning

	Fee
Preliminary Plat Application	
Sketch Plan Application (1st review)	\$225.00
Sketch Plan Application (2nd review)	\$100.00
Preliminary Plat Application (up to 50 acres)	\$350.00
Preliminary Plat Application (over 50 acres)	\$500.00
Final Plat Application	
Standard Plat or Residential Up to 50 acres	\$350.00
Standard Plat or Residential over 50 acres Max	\$500.00
Administrative Plat	\$250.00
Digital File Conversion Fee	\$50.00
Recording Fees- Plats up to 18"x24"	\$61.00
Recording Fees- Plats over 18"x24"	\$81.00
Related Documents	\$26.00
Replat	
Replat with Public Hearing	\$250.00
Replat without Public Hearing	\$250.00
Annexation/Zone Change Application	
Standard Zone Change	\$500.00
Planned District Zone Change	\$650.00
Multiple PD Proposal Basic	\$550.00
Multiple PD Proposal Per Additional District	\$100.00
Additional PD Regulations	\$75.00
Site Plan in PDF Format for City Council	\$50.00
Application Fee	\$500.00
Zoning Board of Appeal Fee	\$600.00
Special Exception Application Fee	\$500.00
Oil and Gas	
Application for Oil and Gas Permit	\$4,000.00
Credit Access Businesses	
Application Fee	\$50.00
Specific Use Permit (SUP) / Specific Use Designation (SUD)	
Application for SUP/SUD with Term for Alcoholic Beverage	\$300.00
Application for General SUP/SUD	\$400.00
Renewal SUP/SUD	\$75.00
Temporary Mobile Home	
Special Temporary Permit for Manufactured Home App (Based on Genuine Hardship Condition)	\$50.00
Special Temporary Permit for Manufactured Home App (For Occupancy by a Caretaker, Manager, or Guard)	\$100.00

Exhibit G

Planning

	Fee
Temporary Land Use	
Application Fee	\$300.00
For each additional event date	\$25.00
Clean-Up Deposit	\$500.00
Damage Deposit	\$500.00
Outside sale of dogs	\$20.00
Site Plan Review	
Single PD Amendment	\$550.00
Multiple PD Amendment	\$650.00
Dedications	
Review Fee	\$400.00
Vacation	
Application Fee	\$400.00
Creation of a Building Site	
Application Fee	\$400.00
Master Sign Plan	
Application Fee	\$300.00
Traffic Impact	
Traffic Impact (Staff Study)	\$350.00
Traffic Impact (Review of Submittal)	\$600.00
Portable Storage Containers	
Freight or Portable storage cont.- permit fee	\$125.00
Each add'l on same property	\$25.00
90- day permit fee for storage container	\$150.00
Each add'l container	\$25.00
45- day permit fee for storage container	\$125.00
Each add'l container	\$25.00
30 day permit fee for storage container	\$75.00
Certificate of occupancy and compliance	
Certificate of occupancy and compliance	\$10.00

Exhibit H

Code Enforcement

	Fee
Building Permits	
Construction Permit Fee	31.5 cents per square foot
Sidewalk/ROW Residential (No building permit)	\$50.00
Sidewalk/ROW Commercial (No building permit)	\$200.00
Street Improvement Fee	23 cents per square foot
Fence Fee	\$50.00
Manufactured Home	\$200.00
Manufactured Home Skirting Deposit	\$100.00
Moving Fee	\$200.00
Non-Profit Residential	\$150.00
Temporary Structure	\$100.00
Detached Assessory (120Sq.ft or less)	\$50.00
Detached Assessory (120Sq.ft to 200 sq.ft.)	\$100.00
Demolition Permits	
Commercial Demo Fee - Building	\$500.00
Commerical Demo Fee - Interior	\$100.00
Residential or Accessory Bldg	\$50.00
Temporary Sign Permits	
Permanent Sign Permits	\$50.00
Temporary sign annual permit fee	\$50.00
Failure to remove sign- hauling fee	\$50.00
Failure to remove sign- daily storage fee	\$10.00
Oil & Gas Drilling Permits	
Amendment Fee	\$1,000.00
Certification Fee & Inspection	\$300.00
Oil & Gas Application Fee	\$4,000.00
Well Tranfer Fee	\$500.00
*TX State HB-40 recognizes Ordinance 8769 including fees and may not be amended	
Mobile Home Park Licenses	
Mobile Home Park Licenses	\$25.00 plus \$1 ea/addl
Certificate of Occupancy	
Certificate of Occupancy	\$50.00
Lot Deposits	
Clearing Deposits (Floor & Foundation) Commercial	\$2,000.00
Clearing Deposits (Floor & Foundation) Residential	\$600.00
Clearing Deposits (Rubbish, Litter, Lot)	\$200.00
Clearing Deposit (Accessory Bldg, Debris, Material)	\$200.00

Exhibit H

Code Enforcement

	Fee
Lot Clearing	
Administrative Fee	\$100.00
Tree Removal	\$70.00
Debris Charge	\$110 per ton
Mow Vacant Lot	\$0.05 per sq. yd.
Mow Lot with Structure	\$0.055 per sq. yd.
Mow Acreage	\$70 per acre
Mowing Fee	\$0.10 per sq. yd.
Special Project	\$165.00
Minimum Lot Charge	\$45.00
Tires	Reimbursemt+\$2.00/tire
Electrical Fees	
Minimum Fee	\$50.00
Temporary Service	\$50.00
Temporary Construction Pole	\$50.00
Parking Lot Wiring	\$50.00
Building Wiring	\$0.05 per sq.ft
Service Change	\$50.00
Sign Electrical Fee	\$50.00
Electrical Fixture Fee (for first, \$1.00 each after)	\$15.00
Mobile Home Rewiring (\$5 for each add'l)	\$50.00
Clearance for Elec Connect/Disconnect Residential	\$50.00
Reinspection (Red Tag)	\$50.00
Mechanical Fees (when not part of bldg.permit)	
Minimum Fee	\$50.00
Inspection for Heating, AC,Venting,Ductwork,Fridge (\$5 for each add'l inspection)	\$50.00
Fire Extinguishing Permit	\$50.00
Boiler Inspections (33K to 1165 BTU)	\$50.00
Boiler Inspections (1165K to 3300 BTU)	\$50.00
Boiler Inspections (over 3300 BTU)	\$50.00
Reinspection (Red Tag)	\$50.00
Gas Fees (when not part of bldg.permit)	
Minimum Fee	\$50.00
Floor Furnace, Boiler	\$50.00
Vented Recessed Heater	\$50.00
Gas line service	\$50.00
Vented Appliance (\$10 each add'l)	\$50.00
Temporary Connection	\$50.00
Reinspection (Red Tag)	\$50.00

Exhibit H

Code Enforcement

	Fee
Plumbing Fees (when not part of bldg.permit)	
Minimum Fee	\$50.00
Furnace, unit or wall heater (\$10 each add'l)	\$50.00
Water heater (\$10 each add'l)	\$50.00
Water softener	\$50.00
Lawn Sprinkler	\$50.00
Water Line Service	\$50.00
Sewer Line Service	\$50.00
Replumb Bldg	\$0.05 Sq. Ft.
Fire Sprinkler	\$0.05 Sq. Ft.
Backflow Assembly Device (\$10 each add'l)	\$50.00
Reinspection (Red Tag)	\$30.00
Vendor Permit	
Vendor Permit	\$100.00
Water Well Fee	
Drill new well	\$50.00
Reinspection Fee	
Reinspection (All Permits)	\$100.00
Application to Board of Appeals	
Application	\$200.00
Public Ways and Property	
House moving permit fee	\$25.00
Network Nodes-5 in same application	\$500.00
Each additional node in application	\$250.00
Node Support Pole Application	\$1,000.00
Fee to attach network node to public ROW pole	\$20.00

Exhibit I

Engineering



	Fee
Traffic	
Street Name and Traffic Control Sign Fee	\$500/intersection
Right of Way Use Permit Fee	\$350.00

Exhibit J

Water & Sewer Fees

	Fee (as of July 1, 2020)
Water Rates Inside City:	
Base Rate for All Except Apartments for First 2,000 gallons	\$21.61
Base Rate for Apartments per Unit for first 2,000 gallons per Unit	\$17.60
Rate per 1,000 gallons over base of 2,000 up to 10,000	\$6.11
Rate per 1,000 gallons from 10,001 up to 25,000	\$8.03
Rate per 1,000 gallons from 25,001 up to 50,000	\$10.80
Irrigation)	\$13.50
Sewer Rates Inside City:	
All Customers Base Rate (First 2,000 gallons)	\$21.79
All Customers Rate per 1,000 after Base Rate	\$0.88
Water Rates Outside City:	
Base Rate for All Except Apartments for First 2,000 gallons	\$32.42
Base Rate for Apartments per Unit for first 2,000 gallons per Unit	\$26.40
Rate per 1,000 gallons over base of 2,000 up to 10,000	\$9.17
Rate per 1,000 gallons from 10,001 up to 25,000	\$12.05
Rate per 1,000 gallons from 25,001 up to 50,000	\$16.20
Irrigation)	\$20.25
Sewer Rates Outside City:	
Residential Base Rate (First 2,000 gallons)	\$32.69
Residential Rate per 1,000 after Base Rate	\$1.32
Miscellaneous:	
Septage waste hauler discharges and fees (per gallon)	\$0.30

Exhibit K

Customer Service/Utility Billing

	Fee
Account Billing	
Residential Utility Deposit	\$75.00
Re-read of Water Meter (2nd time)	\$25.00
Test of Water Meter (2nd time)	\$25.00
Non-sufficient fund check	\$30.00
Reconnect-Disconnect fee	\$30.00
Application Fee	\$20.00
Transfer Fee	\$20.00
Tampering/Straight Fee (1st time)	\$200.00
Tampering/Straight Fee (2nd time)	\$300.00
Water Meters & Tap Fees	
3/4" water meter-with existing meter box	\$40.00
1" water meter-with existing meter box	\$100.00
1" water meter tap (no paving cut or meter installation)	\$390.00
1" service charge for tap and meter with meter box	\$425.00
2" water meter- with existing meter box	\$240.00
2" water meter tap (no paving cut or meter installation)	\$564.00
2" service charge for tap and meter with meter box	\$710.00
3" water meter	\$375.00
4" water meter	\$375.00
4" sewer tap	\$350.00
6" sewer tap	\$400.00
Replacement sewer tap (per line)	\$300.00
Fee to abandon line for replacement	\$150.00
Paving cut/Boring & Casing Fee	\$400.00
Fire hydrant meter setting or moving	\$200.00
Fire Hydrant meter deposit setting	\$2,400.00
Drinking Water Testing- Total Coliform (Presence or absence)	\$18.00
Non-Potable H2O testing- Total Coliform & E.Coli (MPN)	\$25.00
Non-Potable H2O testing- Total Coliform & Fecal Coliform (MPN)	\$25.00
Move a service line no more than 5 feet	\$150.00

Exhibit L

Sanitation Fees

Inside City Limits				
# of Containers	Number of pickups per week			
	2X	3X	4X	5X
Residential				
0.25	\$21.00			
0.5	\$42.00			
0.75	\$63.00			
1	\$84.00			
Commercial				
0.25	\$30.00	\$45.00	\$60.00	\$75.00
0.5	\$60.00	\$90.00	\$120.00	\$150.00
0.75	\$90.00	\$135.00	\$180.00	\$225.00
1	\$120.00	\$180.00	\$240.00	\$300.00
2	\$228.00	\$342.00	\$456.00	\$570.00
3	\$336.00	\$504.00	\$672.00	\$840.00
4	\$444.00	\$666.00	\$888.00	\$1,110.00
5	\$552.00	\$828.00	\$1,104.00	\$1,380.00
6	\$660.00	\$990.00	\$1,320.00	\$1,650.00
7	\$768.00	\$1,152.00	\$1,536.00	\$1,920.00
8	\$876.00	\$1,314.00	\$1,752.00	\$2,190.00
9	\$984.00	\$1,476.00	\$1,968.00	\$2,460.00
10	\$1,092.00	\$1,638.00	\$2,184.00	\$2,730.00
11	\$1,200.00	\$1,800.00	\$2,400.00	\$3,000.00
12	\$1,308.00	\$1,962.00	\$2,616.00	\$3,270.00
13	\$1,416.00	\$2,124.00	\$2,832.00	\$3,540.00
14	\$1,524.00	\$2,286.00	\$3,048.00	\$3,810.00
15	\$1,632.00	\$2,448.00	\$3,264.00	\$4,080.00
16	\$1,740.00	\$2,610.00	\$3,480.00	\$4,350.00
17	\$1,848.00	\$2,772.00	\$3,696.00	\$4,620.00
18	\$1,956.00	\$2,934.00	\$3,912.00	\$4,890.00
19	\$2,064.00	\$3,096.00	\$4,128.00	\$5,160.00
20	\$2,172.00	\$3,258.00	\$4,344.00	\$5,430.00
21	\$2,280.00	\$3,420.00	\$4,560.00	\$5,700.00
22	\$2,388.00	\$3,582.00	\$4,776.00	\$5,970.00
23	\$2,496.00	\$3,744.00	\$4,992.00	\$6,240.00
24	\$2,604.00	\$3,906.00	\$5,208.00	\$6,510.00
25	\$2,712.00	\$4,068.00	\$5,424.00	\$6,780.00
Per Month				
Recycling fee	\$0.50			
Litter Abatement Fee	\$1.00			
PACKET	28.29			

July 25, 2023

Exhibit L

Sanitation Fees

Outside City Limits - Sanitation Fees

# of Containers	Number of pickups per week			
	2X	3X	4X	5X
Residential				
0.25	\$31.50			
0.5	\$63.00			
0.75	\$94.50			
1	\$126.00			
Commercial				
0.25	\$45.00	\$67.50	\$90.00	\$112.50
0.5	\$90.00	\$135.00	\$180.00	\$225.00
0.75	\$135.00	\$202.50	\$270.00	\$337.50
1	\$180.00	\$270.00	\$360.00	\$450.00
2	\$342.00	\$513.00	\$684.00	\$855.00
3	\$504.00	\$756.00	\$1,008.00	\$1,260.00
4	\$666.00	\$999.00	\$1,332.00	\$1,665.00
5	\$828.00	\$1,242.00	\$1,656.00	\$2,070.00
6	\$990.00	\$1,485.00	\$1,980.00	\$2,475.00
7	\$1,152.00	\$1,728.00	\$2,304.00	\$2,880.00
8	\$1,314.00	\$1,971.00	\$2,628.00	\$3,285.00
9	\$1,476.00	\$2,214.00	\$2,952.00	\$3,690.00
10	\$1,638.00	\$2,457.00	\$3,276.00	\$4,095.00
11	\$1,800.00	\$2,700.00	\$3,600.00	\$4,500.00
12	\$1,962.00	\$2,943.00	\$3,924.00	\$4,905.00
13	\$2,124.00	\$3,186.00	\$4,248.00	\$5,310.00
14	\$2,286.00	\$3,429.00	\$4,572.00	\$5,715.00
15	\$2,448.00	\$3,672.00	\$4,896.00	\$6,120.00
16	\$2,610.00	\$3,915.00	\$5,220.00	\$6,525.00
17	\$2,772.00	\$4,158.00	\$5,544.00	\$6,930.00
18	\$2,934.00	\$4,401.00	\$5,868.00	\$7,335.00
19	\$3,096.00	\$4,644.00	\$6,192.00	\$7,740.00
20	\$3,258.00	\$4,887.00	\$6,516.00	\$8,145.00
21	\$3,420.00	\$5,130.00	\$6,840.00	\$8,550.00
22	\$3,582.00	\$5,373.00	\$7,164.00	\$8,955.00
23	\$3,744.00	\$5,616.00	\$7,488.00	\$9,360.00
24	\$3,906.00	\$5,859.00	\$7,812.00	\$9,765.00
25	\$4,068.00	\$6,102.00	\$8,136.00	\$10,170.00

Exhibit L

Sanitation Fees

Open Top/Compactor Fees

One-time set up fee (Delivery fee)	\$37.00 + Tax
Daily Rental	\$8.00 + Tax
Haul Charge	\$186.00 + Tax
	\$46.00 per ton
Per Ton Disposal Fee (Landfill Charge)	

Removal of Garbage by Other Entity

Garbage Hauler's Permit	\$500.00
-------------------------	----------

Landfill- Dumping and Unloading Charges

Landfill Access Fee-	\$25.00
Unlimited Landfill Access Fee-year	\$500.00
Minimum Fee under 1 Ton	\$23.00
Per ton Disposal Fee	\$46.00
Materials not contained	\$15.00
Pull off Fee	\$75.00

Special Waste/Minor or TDH permit

Special Waste Fee- Per Ton	\$92.00
Minimum Fee under 1 Ton	\$46.00

Exhibit M

Airport

	Fee
Landing Fees (per 1000 pounds of gross landing weight)	\$0.70
Air carrier fees (per 1000 pounds of gross landing weight)	\$0.70
Public Aircraft parking – locally based aircraft (month)	\$25.00
Public Aircraft parking – transient aircraft (day)	\$1.50
Customer Facility Charge - vehicle rentals (per transaction day)	\$3.00
Public Parking – CI (Covered)	
0-30 minutes	Free
31-60 minutes	\$3.00
Every additional hour	\$2.00
Maximum per 24-hour period	\$16.00
Public Parking – P1 & P3 (Close-In)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$13.00
Public Parking – P2 & P4 (Economy)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$10.00
Public Parking – C2 (Remote Covered)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$12.00
Public Parking – P5 (Remote Economy)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$8.00
Ground Transportation Permits -per month, per vehicle	
Taxicab	\$25.00
Buses	\$25.00
Courtesy vehicles for off-airport hotel	\$25.00
Courtesy vehicles for off-airport car rental (plus 10% airport revenue)	\$25.00
Courtesy vehicles for off-airport parking lot (plus 10% airport revenue)	\$25.00

Exhibit M

Airport

	Fee
Employee Parking	
Annual Employee Parking media (prorated monthly)	\$40.00

Special assessments

1. Should any person upon driving a vehicle from the paid parking areas of the airport not be able to present an officially issued ticket indicating where that person's vehicle was parked and at what time, then the charge assessed for the parking of that vehicle shall be at least \$12.00. In addition to that fee, there shall also be a fee assessed for the parking of that vehicle equal to the amount of the daily rate, times number of days, for the area in which that vehicle was parked as is indicated by the daily lot inventory taken by the airport administration.
2. Whenever a person or an entity shall pay for the parking fees assessed by this Section with a check or draft, and that check or draft is dishonored, then there shall be an additional \$25.00 assessed against that person or entity.

Exhibit N

Sports Complex

	Fee
Football/Soccer Stadium	
<i>Sporting Events</i>	
Half Stadium Rental	\$1,500.00/day
Whole Stadium Rental	\$3,000.00/day
All Inclusive Football Game Package	\$10,000.00/game
<i>This package includes a whole stadium rental, cleaning, lighting, game officials and staff, operators, security, EMS, and UIL fees, if necessary.</i>	
<i>Non-Sporting Events</i>	
Non-Profit Deposit	\$1,500.00
Non-Profit Rental	\$1,500.00/day
Commercial Deposit	\$2,500.00
Commercial Rental	\$2,500.00/day
<i>Cleaning Fees</i>	
Less than 2,000 people	\$1,500/side
More than 2,000 people	\$2,500/side
Lighting Fee	\$75.00/hour
Baseball Stadium	
Baseball Events	\$750.00/day
<i>Non-Baseball Events</i>	
Non-Profit Deposit	\$1,000.00
Non-Profit Rental	\$1,000.00/day
Commercial Deposit	\$1,500.00
Commercial Rental	\$1,500/day
Cleaning Fees assessed by Midland Rockhounds	
Lighting Fee	\$75.00/hour
Groundskeeper and Grounds Material Fees assessed by Midland Rockhounds	
Diamond Club Deposit	\$100.00
Diamond Club Rental (minimum 2 hours)	\$50.00/hour
Diamond Club Cleaning Fee (payable to Midland Rockhounds)	\$150.00
OPERATOR FEES FOR BASEBALL AND FOOTBALL/SOCCER STADIUM	Hourly
Video Board Operator	\$50.00
Scoreboard Operator	\$50.00
PA Announcer	\$50.00
Camera Operator	\$45.00
Replay Technician	\$45.00
Sound Operator	\$45.00

SSC - Common Area/Parking Lot Rentals*Pavilion*

Non-Profit Deposit	\$1,500.00
Non-Profit Rental	\$1,500/day
Commercial Deposit	\$2,000.00
Commercial Rental	\$2,000/day

Parking Lot Only

Parking Lot Deposit	\$1,000.00
Set Up/Tear Down	\$1,000/day
Rental Fee	\$1,500/day

Cleaning Fees - Common Area/Parking Lot Rentals

Less than 1,000 people	\$1,000.00
1,001 to 2,500 people	\$1,500.00
More than 2,500 people	\$2,000.00

SSC - Auxiliary Fields*Non-Tournament Fees*

Deposit	\$100.00
Field Rental	\$65.00/hour

Tournament Fees

Deposit	\$100.00/field
Rental	\$30.00/game
Cleaning Fee	\$150.00/field
Lighting Fee	\$25.00/hour
Concession Stand Deposit	\$100.00
Concession Stand Rental	\$25.00/hour

Exhibit O

Miscellaneous

	Fee
Court Fees	
Municipal Court Building Security Fee	\$3.00
Municipal Court Technology Fee	\$4.00
Municipal Court Copy Fee	\$1.00 per page
Business Regulations	
Closing out sale license fees - 30 days	\$100.00
Closing out sale license fees - 60 days	\$125.00
Closing out sale license fees - 90 days	\$150.00
Peddler license	\$4.00
Mobile Home/Travel Trailer Park App Fee	\$10.00
Mobile Home/Travel Trailer Park License	\$25 plus \$1 ea.space
Mobile Home Mini Park location app	\$10.00
Mobile Home Mini Park revised site plan	\$10.00
City Chauffeur's license app fee	\$25.00
Airport Cabstand Permit fee (per month)	\$25.00
Special police officer license fee (individual)	\$10.00
Special police officer license fee (firm)	\$50.00
Carnival operator's license	\$50.00
Carnival employee's license	\$6.00
Side walk sale application fee	\$4.00
Police Regulations	
Ambulance Services- Basic Life Support	\$650 + \$10 per mile
Ambulance Services- Advanced Life Support	\$750 + \$10 per mile
Ambulance Services- Advanced Level II	\$850 + \$10 per mile
Ambulance Waiting Charge	\$200 per hour
Ambulance Service- Outside Midland County	\$100.00
Food Truck Fire Inspection	\$50 per inspection annually
Alarm Permit Application Fee-Commercial	\$25.00
Alarm Permit Application Fee-Residential	\$20.00
Alarm Permit Renewal Fee -Commercial	\$20.00
Alarm Permit Renewal Fee - Residential	\$15.00
Alarm Permit Service fee	\$50.00
Franchises	
Telecomm Carrier on public ROW Reg. Fee-	\$25.00
Franchise application and review fee	\$500.00
Franchise renewal application and review fee	\$500.00

Exhibit P

Right of Way

Right-of-Way License Fees and Rates for crossing property or public right-of-way
owned by the City of Midland.

Fees (non-refundable):

Application Fee:	\$ 1,000.00
Application Fee of Expired License:	\$ 1,500.00

The City of Midland's Rate and Damage Schedule is 200% of the then-current University Lands Rate and Damage Schedule for a 10-year license.

Fees and rates will be paid at the commencement of the 10-year license in one payment.

ORDINANCE NO. ~~10351~~

AN ORDINANCE ADOPTING A FEE SCHEDULE;
CONTAINING A SAVINGS AND SEVERABILITY
CLAUSE; PROVIDING AN APPEAL PROCESS;
ESTABLISHING AN EFFECTIVE DATE OF
~~NOVEMBER 1, 2022~~; AND ORDERING PUBLICATION
October 1, 2023

WHEREAS, the City Council finds it to be in the public interest to establish fees collected by the City of Midland in order to adequately cover the costs and expenses incurred by the City in connection with providing the services associated with said fees; and

WHEREAS, the City Manager's designees have prepared Exhibits "A" through ~~P~~, *Q*, which are attached hereto and incorporated herein for all purposes, identifying said fees (collectively, the "Fee Schedule"); and

WHEREAS, the City Council of the City of Midland, Texas, finds it to be in the public interest to adopt the Fee Schedule and to establish the fees identified therein as the fees to be collected by the City of Midland, said fees being reasonably related to the costs and expenses incurred by the City in connection with providing the services associated with said fees;

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

SECTION ONE. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct and are adopted as part of this ordinance for all purposes.

SECTION TWO. That the Fee Schedule is hereby approved and adopted. The fees identified in the Fee Schedule are hereby established as the fees to be collected by the City of Midland except for the following types of fees: a fee charged to a requestor who submits a request for information under the Texas Public Information Act; a fee assessed by the Municipal Court that is not identified in the Fee Schedule; a fee established by a contract, to the extent that the fee established by the contract conflicts with or is not identified in the Fee Schedule; a drainage charge; an impact fee; a fee prescribed by a state law, rule, or

regulation; or a fee for which a state law, rule, or regulation, or the City Charter requires a procedure to be followed to establish the fee other than the procedure that was followed to adopt the Fee Schedule.

To the extent that a fee identified in the Fee Schedule conflicts with a fee that was previously established by ordinance (including an ordinance that has been codified in the City Code), resolution, or other City of Midland instrument, this ordinance shall supersede such previous ordinance, resolution, or other instrument, and the fee identified in the Fee Schedule shall be the applicable fee.

To the extent that a fee identified in the Fee Schedule conflicts with a fee prescribed by a state law, rule, or regulation, the fee prescribed by the state law, rule, or regulation shall be the applicable fee.

To the extent that a fee identified in the Fee Schedule is a fee for which a state law, rule, or regulation, or the City Charter requires a procedure to be followed to establish the fee other than the procedure that was followed to adopt the Fee Schedule, such fee that was previously established by following the applicable procedure shall be the applicable fee.

SECTION THREE. Any person wishing to appeal the payment of a fee identified in the Fee Schedule may do so in accordance with the law, rule, regulation, or ordinance that established the procedure for appealing such fee. To the extent no such appeal procedure has been established for a fee identified in the Fee Schedule that is not a fee assessed by the Municipal Court, the following appeal procedure shall apply:

- A. Any person may appeal in writing to the City Manager, or the City Manager's designee, prior to paying the fee or after paying the fee. Any person may appeal in writing to the City Manager, or the City Manager's designee, if the person believes that he or she cannot afford the fee. The person may seek an exemption from all or part of the fee. The City Manager, or the City Manager's designee, shall make certain that the fee is not paid under duress.

If a person wishes to appeal after payment of the fee, the person shall appeal in writing to the City Manager, or the City Manager's designee, within ten (10) calendar days of paying the fee.

- B. The City shall not file criminal charges against any person related to non-payment of the fee if the fee is not paid. The City shall not file criminal charges against a person in an attempt to collect the fee.
- C. The City Manager, or the City Manager's designee, shall provide a full and meaningful review process. The City Manager, or the City Manager's designee, shall provide a fair opportunity for a person to challenge the accuracy and legal validity of his or her fee obligation. The City Manager, or the City Manager's designee, shall also provide a clear and certain remedy for any erroneous or unlawful fee collection to ensure that the opportunity to contest the fee is a meaningful one. Options that the City Manager, or the City Manager's designee, shall consider in providing a clear and certain remedy are a refund of any excess fee paid, as well as other factors, such as ensuring that a person may continue the operation of his or her business.
- D. The City Manager, or the City Manager's designee, shall make his or her decision within ten (10) days of receiving the written notice of appeal. The City Manager, or the City Manager's designee, shall ensure that a person has all rights under any applicable law. A person shall incur no financial hardship by exercising his or her right to appeal.

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. That this ordinance shall become effective on ~~November 1, 2022~~ ^{October 1, 2023}.

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 ~~11th~~ day of ~~October~~, A.D., ~~2022~~³; and passed to second reading on motion of Council member ~~Blong~~, seconded by Council member ~~Ladd~~, by the following vote:

Council members voting "AYE": Corrales, Poole, Blong, Payton, Dufford, Ladd, Norman

Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member ~~Blong~~, seconded by Council member ~~Norman~~, on the ~~25th~~ day of ~~October~~, A.D., ~~2022~~³, at a regular meeting of the City Council:

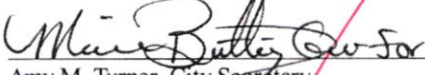
Council members voting "AYE": Corrales, Poole, Blong, Payton, Dufford, Norman

Council members voting "NAY": None

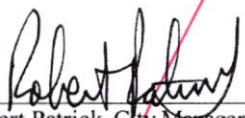
PASSED AND APPROVED THIS 25th day of October, A.D., 2022.


Patrick N. Payton, Mayor

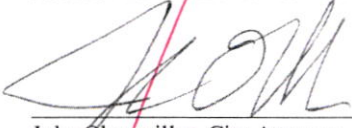
ATTEST:


Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:


Robert Patrick, City Manager

APPROVED ONLY AS TO FORM:


John Ohnemiller, City Attorney

BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND

July 25, 2023

AIRPORT PLANNING AND DEVELOPMENT BOARD

(Advisory)

(Membership-10; Terms - 3 Years expiring 3-3-4.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Wes Reeves	08/15*	Sept 30 2023	Sept 30 2023
Gena Linebarger	09/20	Sept 30 2023	Sept 30 2026
Benjamin Fietz	09/20	Sept 30 2023	Sept 30 2026
Beverly Dillow	10/21	Sept 30 2024	Sept 30 2027
Dave Joyner	10/21	Sept 30 2024	Sept 30 2027
James Linderman	04/22	Sept 30 2025	Sept 30 2028
Justin Kuethe	09/19	Sept 30 2025	Sept 30 2025
Nick McClure	09/19	Sept 30 2025	Sept 30 2025
Frank Kisner	09/22	Sept 30 2025	Sept 30 2028
Brandon Patterson	09/22	Sept 30 2025	Sept 30 2028

Justine Ruff (Liaison)

Lori Blong (Council Liaison)

Ex-Officio members are Earl Erdman and Harry Spannaus, the City Manager and the City Attorney. The Secretary is the Director of Aviation.

Eligibility Requirements: Resident of Midland County

ANIMAL CONTROL ADVISORY COMMISSION

(Advisory)

(Membership - 7; Terms - 4 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Tommy Johnson (daily operations)	09/17	Sept 30 2025	Does Not Expire
Dr. J. Annette Jensen (Veterinarian)	04/20	Sept 30 2024	Does Not Expire
Tasha Sport	04/20	Sept 30 2024	Sept 30 2028
Sharla Hotchkiss	04/20	Sept 30 2024	Sept 30 2028
Judge Terry Johnson (County)	05/23	Sept 30 2027	Does Not Expire
Alyson Dial	09/18	Sept 30 2026	Sept 30 2026
Beth Meeks	09/22	Sept 30 2026	Sept 30 2030

Tommy Johnson, Interim (Liasion)

Dan Corrales (Council Liaison)

Eligibility Requirements: 1 License Veterinarian, 1 Animal Shelter Employee, 1 Animal Welfare Organization Representative, 1 County or Municipal Official, 3 Citizens

**BUILDING AND FIRE CODE REVIEW COMMITTEE/CONSTRUCTION BOARD OF
ADJUSTMENTS & APPEALS**

(Decision Making)

(Membership – 9; Terms – 6 Years)

Shall consist of two architects, a fire protection contractor or specialist, a general contractor, an electrical contractor, a homebuilder, a plumbing and mechanical contractor, a structural engineer, a City Council Liaison

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ryan Almand (Electrical Contractor)	12/18	Sept 30 2024	Sept 30 2030
Jay Bradford (Architect)	12/18	Sept 30 2024	Sept 30 2030
T.J. McClure (Architect)	12/18	Sept 30 2024	Sept 30 2030
Laurence Oeth (Structural Engineer)	12/18	Sept 30 2024	Sept 30 2030
Gary Glasscock (General Contractor)	12/18	Sept 30 2024	Sept 30 2030
Robert Anderson (Homebuilder)	12/18	Sept 30 2024	Sept 30 2030
Dean Kelly (Plumbing & Mechanical Contractor)	04/22	Sept 30 2028	Sept 30 2034
Kenneth Whiting (Fire Protection)	04/22	Sept 30 2028	Sept 30 2034
Jeff Pinkstaff (Liaison)	12/18	Sept 30 2024	Sept 30 2030
Dan Corrales (Council Liaison)			

Eligibility Requirements: Members shall reside within the City.

CAPITAL IMPROVEMENT ADVISORY COMMITTEE

(Advisory)

(Membership – 7)

A minimum of 40% must be representative of real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity.)

	<u>Appt Date</u>
Carl Craigo	10/19
Walter Pate	06/18
Mark Payne	06/18
Brian Sales	06/18
Chuck Harrington	06/18
Jose Ortiz (Liaison)	06/18
Bill Scott	09/22
Robin Poole (Council Liaison)	

CITIZENS DEVELOPMENT AND HOTEL/MOTEL ADVISORY BOARD

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Clint Williamson	04/21*	Sept 30 2023	Sept 30 2025
VACANT (Ramsey)	10/18	Sept 30 2023	Sept 30 2023
Vicky Hailey	09/21	Sept 30 2023	Sept 30 2025
Brandon Ofield	09/20	Sept 30 2024	Sept 30 2024
Ankur Bhakta	09/22	Sept 30 2024	Sept 30 2026
Cole Harrison	09/22	Sept 30 2024	Sept 30 2026
Reggie Lawrence	09/22	Sept 30 2024	Sept 30 2026

Marcia Bentley-German (Liaison)

Robin Poole (Council Liaison)

John Norman (Council Liaison)

Eligibility Requirements: Members shall be thoroughly familiar with Chapter 351, "Municipal Hotel Occupancy Taxes", 1 Member Representative of Hotel/Motel Association.

MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

(Separate Legal Entity)

Five Directors, Elected by Local Taxing Entities.

City Nominates/Cast Vote for one Director

(Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>
Robert McNaughton	11/15	Dec 31 2024

MIDLAND DEVELOPMENT CORPORATION

(Decision Making/Separate Legal Entity)

(Membership - 7; Terms -3 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Chase Gardaphe	01/19	Jan 14 2025	Jan 14 2025
Barry Simpson	01/19	Jan 14 2025	Jan 14 2025
Brad Bullock	04/21*	Jan 14 2026	Jan 14 2029
Lucy Sisniega	02/22	Jan 14 2025	Jan 14 2028
P Lourcey Sams	04/20*	Jan 14 2026	Jan 14 2026
Jill Pennington	04/20*	Jan 14 2026	Jan 14 2026
Zachary Deck	01/23	Jan 14 2026	Jan 14 2029

Vanessa Magallanes (Liaison)

Amy Stretcher-Burkes (Council Liaison)

Lori Blong – Mayor (Council Liaison)

Eligibility Requirements: No director or employee shall be related to a current City Council member.

* Indicates appointment to an unexpired term.

MIDLAND DOWNTOWN PARK CONSERVANCY BOARD

(Separate Legal Entity)

(Membership - 7; City Appoints 3 Seats; Terms -3 Years - Staggered)

(Resolution of appointment is made each February and each appointment must be ratified by the Conservancy Board in March at their annual meeting)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Barry Beal Jr.	08/18	Sep 30 2024	Sep 30 2024
David Byrd (Elvie Brown)	08/18 (02/23)	Sep 30 2023	Sep 30 2023
Sharla Hotchkiss	07/20*	Sep 30 2025	Sep 30 2028

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Steve Jones	09/08*	Jan 1 2010	Jan 1 2012
Cathy Oestmann	11/05*	Jan 1 2010	Jan 1 2010
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2009	
Curt Kamradt	11/05*	Jan 1 2014	Jan 1 2014

Sharla Hotchkiss (Liaison)

MIDLAND HOUSING AUTHORITY COMMISSION

(Separate Legal Entity)

(Membership - 5; Terms - 2 Years expiring 3 even & 2 odd.)

Appointments Made by Mayor (LGC 392.031)

	<u>Appt Date</u>	<u>Term Expires</u>
Latoya Mayberry	06/21	Oct 2023
Sylvester Cantu	09/18*	Oct 2023
Cheryl Wadley (Resident Commissioner)	11/19	Oct 2023
Wes Gotcher	09/20	Oct 2024
Robert Lehrer	09/20	Oct 2024

Isaac Garnett (Staff Liaison)

Eligibility Requirements: No member may be an officer or employee of the City of Midland.

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Decision Making/Separate Legal Entity)

(Membership – 12 with 6 appointed by Midland; Terms - 2 Years Staggered; Can serve 3 terms)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Joseph Sanchez	12/19*	Sept 30 2023	Sept 30 2027
Daniel Norwood	04/21*	Sept 30 2023	Sept 30 2029
Brian Stubbs	06/22*	Sept 30 2023	Sept 30 2029
Don “Woody” Woodward	09/22	Sept 30 2024	Sept 30 2028
Dan Corrales	09/22	Sept 30 2024	Sept 30 2028
Robert Crites	10/22	Sept 30 2024	Sept 30 2028

Charles Harrington (Liaison)

OIL AND GAS ADVISORY COMMITTEE

(Advisory)

(Membership – 5; Terms – 3 Years expiring 2-2-1)

2 real property developer, real estate sales, or developer; 3 Lic. petroleum engineer, engineer w/ bachelor, or geologist

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Court Adkins (Petroleum Eng.)	09/17	Sept 30 2023	Sept 30 2023
Rhett Bullock (Petroleum Eng.)	09/21	Sept 30 2024	Sept 30 2027
Cameron Willmann (Real Estate)	10/21*	Sept 30 2024	Sept 30 2027
Scott Bowden (Real Estate)	10/19	Sept 30 2025	Sept 30 2025
Ross Klabon (Petroleum Eng.)	10/19	Sept 30 2025	Sept 30 2025

Ron Jenkins (Liaison)

Eligibility Requirements: 3 Petroleum Engineers or Geologists and 2 with Property Development or Real Estate Experience.

PARKS AND RECREATION COMMISSION

(Advisory)

(Membership - 9; Terms - 3 Years expiring 3-3-3.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Susannah Prucka	04/20*	Sept 30 2023	Sept 30 2026
Dal Watson	09/20	Sept 30 2023	Sept 30 2026
Ron Stroman	09/20	Sept 30 2023	Sept 30 2026
Shirley Howard	02/16*	Sept 30 2024	Sept 30 2024
Laura Smith	10/19	Sept 30 2025	Sept 30 2025
Amber Voithorer	09/22	Sept 30 2025	Sept 30 2028
Rachel Overman	09/22	Sept 30 2025	Sept 30 2028
Sarah Judge	09/22	Sept 30 2025	Sept 30 2028
Lynn Rogers	09/22	Sept 30 2025	Sept 30 2028

Cristina Odenburg-Burns (Liaison)

John Norman (Council Liaison)

Eligibility Requirements: Resident Citizen, Taxpayer and Qualified Voter.**PERMIAN BASIN COMMUNITY CENTER FOR MH/MR (PermiaCare)**

(Separate Legal Entity)

(Membership 9 - 2 (City); Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>
Derek Cook (City)	06/21	June 2025
VACANT (Peckham) (City)	08/20	June 2024

PERSONNEL BOARD OF APPEALS

(Decision Making)

(Membership - 3; No designated terms. Mayor appoints.)

	<u>Appt. Date</u>
Scott Dufford	01/14
Hugh A. "Andy" Shaffer	09/05
Patrick Payton	01/20

Mark Widman (Liaison)

Eligibility Requirements: Board consists of two City Council members and one other member who is not a City employee.

PLANNING AND ZONING COMMISSION

(Decision Making)

(Membership - 7; Terms - 3 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Diane Williams	09/17	Sept 30 2023	Sept 30 2023
Lucy Sisniega	09/20	Sept 30 2023	Sept 30 2026
Zachary Deck	09/20	Sept 30 2023	Sept 30 2026
Adrian Carrasco	09/21	Sept 30 2024	Sept 30 2027
Emily Holeva	09/22	Sept 30 2025	Sept 30 2028
Abraham Bejil	09/22	Sept 30 2025	Sept 30 2028
Steven Villela	05/23*	Sept 30 2026	Sept 30 2029

ALTERNATES:

Beverly Dillow	09/21	Sept 30 2024	Sept 30 2027
Sallie Vega	09/22	Sept 30 2025	Sept 30 2028

Jeff Fisher (Liaison)

Eligibility Requirements: Resident citizen of City of Midland, owner of real property within the City Limits and qualified Voter.

ZONING BOARD OF ADJUSTMENT**AND****AIRPORT ZONING BOARD OF ADJUSTMENT**

(Decision Making)

(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Derek Whiting	01/18*	Sept 30 2023	Sept 30 2023
E.J. Baldrige	02/18*	Sept 30 2023	Sept 30 2023
Robert Gray	01/21*	Sept 30 2023	Sept 30 2027
Reed Claybrook	03/19*	Sept 30 2024	Sept 30 2024
James Gerety	10/22	Sept 30 2024	Sept 30 2026

ALTERNATES: (not applicable to Airport Zoning)

Ross Schumann	Sept 30 2025
VACANCY	Sept 30 2020
VACANCY	Sept 30 2020
VACANCY	Sept 30 2020

Jeff Pinkstaff (Staff Liaison)

2nd Quarter Attendance Report 2023

Animal Control Advisory Committee

Member	April	May	June
Alyson Dial	NM	X	NM
Dr. J.A. Jensen	NM	X	NM
VACANT (Animal Services Manager)	NM		NM
Judge Terry Johnson (County)	NM	X	NM
Sharla Hotchkiss	NM	X	NM
Tasha Sport	NM	X	NM
Beth Meeks	NM	X	NM

X = Present

A = Absent

NM – No Meeting

2nd Quarter Attendance Report 2023

Airport Planning & Development Board

Member	April	May	June
Beverly Dillow	X	A	X
Benjamin Fietz	X	X	A
Dave Joyner	X	X	A
Frank Kisner	X	X	X
Justin Kuethe	X	X	A
James Linderman	X	A	A
Gena Linebarger	X	X	A
Nick McClure	X	X	X
Brandon Patterson	X	X	A
Wes Reeves	X	X	X

X = Present

A = Absent

2nd Quarter Attendance Report 2023

Citizens Development and Hotel/Motel Advisory Board

Member	Jan	Feb	March
Clint <u>Williamson</u>	X	X	A
Ellen Ramsey	X	X	RESIGNED
Vicky Hailey	X	A	X
Brandon Ofield	X	X	X
Ankur Bhakta	X	X	X
Cole Harrison	X	X	X
Reggie Lawrence	A	X	X

X = Present

A = Absent

2nd Quarter Attendance Report 2023

Capital Improvement Advisory Committee

Member	April	May	June
Carl Craig	NM	NM	X
Walter Pate	NM	NM	X
Mark Payne	NM	NM	A
Brian Sales	NM	NM	A
Chuck Harrington	NM	NM	X
Jose Ortiz	NM	NM	X
Bill Scott	NM	NM	A

X = Present

A = Absent

NM = No Meeting

2nd Quarter Attendance Report 2023

Midland Development Corporation

Member	04/03	05/01	06/05
Chase Gardaphe	X	X	X
Berry Simpson	X	X	X
P Lourcey Sams	X	X	X
Jill Pennington	X	X	X
Lucy Sisniega	X	X	X
Brad Bullock	X	A	X
Zach Deck	X	X	X

X = Present

A = Absent

2nd Quarter Attendance Report 2023

Midland Downtown Park Conservancy

Member	April	May	June
Sharla Hotchkiss	NM	X	NM
Barry Beal Jr.	NM	X	NM
David Byrd	NM	X	NM

X = Present

A = Absent

NM = No Meeting

2nd Quarter Attendance Report 2023

Midland Housing Authority Commission

Member	April	May	June
Latoya Mayberry	A	X	NM
Sylvester Cantu	X	X	NM
Cheryl Wadley	X	X	NM
Wes Gotcher	A	X	NM
Robert Lehrer	X	X	NM

X = Present

A = Absent

NM = No Meeting

2nd Quarter Attendance Report 2023

Midland-Odessa Urban Transit District Board

Member	April	May	June
Joseph Sanchez	A	A	A
Daniel Norwood	X	X	A
Brian Stubbs	X	X	X
Don Woodward	X	X	X
Dan Corrales	X	X	X
Robert Crites	X	X	X

X = Present

A = Absent

2nd Quarter Attendance Report 2023

Oil & Gas Advisory Committee

Member	April	May	June
Court Adkins	X	A	NM
Rhett Bullock	X	X	NM
Cameron Willmann	X	X	NM
Scott Bowden	A	X	NM
Ross Klabon	A	X	NM

X = Present

A = Absent

NM = No Meeting

2nd Quarter Attendance Report 2023

Parks & Recreation Committee

Member	April	May	June
Susannah Pruck	NM	X	NM
Shirley Howard	NM	A	NM
Sarah Judge	NM	X	NM
Ron Stroman	NM	X	NM
Rachel Overman	NM	A	NM
Lynn Rodgers	NM	X	NM
Laura Smith	NM	X	NM
Dal Watson	NM	X	NM
Amber Voithofer	NM	X	NM

X = Present

A = Absent

NM = No Meeting

2nd Quarter Attendance Report 2023

Planning & Zoning Commission

Member	04/03	04/17	05/01	05/15	06/05	06/20
Lucy Sisniega	X	X	X	X	X	X
Diane Williams	X	X	X	X	A	X
Zachary Deck	X	A	X	A	A	X
Emily Holeva	X	X	X	X	A	X
Stacy Jo Grosse	A	X				
Adrian Carrasco	A	X	A	X	X	X
Abraham Bejil	X	X	X	X	X	X
Steven Villela					X	X
Alternates						
Salli Vega	A	A	X	A	A	X
Beverly Dillow	A	X	A	A	X	X

Steven Villela was appointed on May 23, 2023, due to Stacey Jo Gross resigning

X = Present

A = Absent

2nd Quarter Attendance Report 2023

Permian Basin Community Center for MH/MR (PermiaCare)

Member	April	May	June
Derek Cook	X	X	NM
VACANT (Peckham)	X	X	NM

X = Present

A = Absent

(No meetings held in March)

2nd Quarter Attendance Report 2023

Zoning Board of Adjustment & Airport Zoning Board of Adjustment

Member	April	May	June
Derek Whiting	X	NM	NM
E.J. Baldridge	X	NM	NM
Robert Gray	A	NM	NM
Reed Claybrook	X	NM	NM
James Gerety	A	NM	NM
Alternates			
Ross Schumann	A	NM	NM
VACANT			
VACANT			
VACANT			

X = Present

A = Absent

NM = No Meeting