

**CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
August 8, 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 Darin Wood, First Baptist Church of Midland
2. Pledge of Allegiance

CONSENT AGENDA

3. MOTION APPROVING THE FOLLOWING MINUTES:
 - 3a. WORK SESSION OF JULY 25, 2023
 - 3b. REGULAR SESSION OF JULY 25, 2023
 - 3c. REGULAR SESSION OF AUGUST 2, 2023
4. 093-2023 – MOTION TRANSFERRING THE SUM OF \$10,000,000.00 FROM THE WATER & SEWER OPERATING BUDGET TO THE WATER & SEWER DEBT SERVICE FUND; AND APPROPRIATING AND TRANSFERRING THE SUM OF \$952,255.53 FROM THE WATER & SEWER UNAPPROPRIATED FUND BALANCE TO THE WATER & SEWER DEBT SERVICE FUND (DISTRICT: NONE) (FINANCE)
5. 094-2023 – MOTION APPROPRIATING AND TRANSFERRING THE SUM OF \$1,729,421 FROM THE GENERAL FUND TO THE DEBT SERVICE FUND (DISTRICT: NONE) (FINANCE)
6. 2023-101 – RESOLUTION AUTHORIZING THE EXECUTION OF A SOLE-SOURCE CONTRACT WITH UTILIS, INC., FOR SATELLITE LEAK DETECTION SERVICES FOR THE UTILITIES DEPARTMENT AT A TOTAL COST OF \$212,000.00 (DISTRICT: ALL) (GENERAL SERVICES)
7. 2023-102 – RESOLUTION AWARDED A CONTRACT FOR THE WATER REHAB PACKET

PROGRAM 01 PROJECT TO ENTRENCH, INC., FOR AN AMOUNT OF \$2,000,000.00; AND TRANSFERRING AND APPROPRIATING FUNDS (DISTRICT: ALL) (GENERAL SERVICES)

8. 2023-103 – RESOLUTION RATIFYING AND APPROVING THE PAYMENT FOR EMERGENCY PUMP AND MOTOR REPAIRS AT THE T-BAR WELL FIELD BY ADVANCED WATER WELL TECHNOLOGIES, LLC, FOR A TOTAL COST OF \$139,915.00 (DISTRICT: NONE) (GENERAL SERVICES)
9. 2023-104 – RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH LEVEL 5 ARCHITECTURE, PLLC, FOR ARCHITECTURAL, DESIGN AND ENGINEERING SERVICES RELATED TO THE DOUG RUSSELL BATH HOUSE PROJECT FOR A TOTAL COST OF \$175,000.00; AND TRANSFERRING AND APPROPRIATING FUNDS FOR SAID PROJECT (DISTRICT 3) (GENERAL SERVICES)
10. 2023-105 – RESOLUTION AMENDING THE CITY OF MIDLAND PERSONNEL POLICIES; AMENDING AND CLARIFYING CERTAIN ATTENDANCE AND LEAVE POLICIES; AND PROVIDING AN EFFECTIVE DATE OF AUGUST 9, 2023 (DISTRICT: NONE) (ADMINISTRATIVE SERVICES)
11. 095-2023 – MOTION RATIFYING AND APPROVING AN AMENDMENT TO THAT CERTAIN NON-EXCLUSIVE COMMERCIAL FIXED BASE OPERATOR LEASE AGREEMENT DATED MARCH 29, 2023, BETWEEN THE CITY OF MIDLAND, TEXAS, AND FRANKLIN MOUNTAIN AVIATION MAF, LLC; SAID AMENDMENT PROVIDING FOR AN EXTENSION OF THE DUE DILIGENCE EXPIRATION DATE FROM JULY 27, 2023, TO NOVEMBER 24, 2023 (DISTRICT 4) (AIRPORTS)
12. 2023-106 – RESOLUTION AUTHORIZING THE ISSUANCE OF AN OPERATING CERTIFICATE FOR B & B PLATINUM LIMO, LLC; SETTING FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING THE TERMS OF THE CERTIFICATE (DISTRICT: ALL) (POLICE)
13. 096-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-329-026) WITH ENVIRONMENTAL DISPOSAL SYSTEMS, L.L.C., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 24, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
14. 097-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-329-039) BETWEEN THE CITY OF MIDLAND AND BRAZOS MIDSTREAM GAS, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 18 AND 19, BLOCK 36, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES)
15. 098-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-317-041) WITH WTG GAS GATHERING COMPANY, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 36, BLOCK 39, T-1-N, T&P RR CO.

SURVEY, MARTIN COUNTY (DISTRICT: NONE) (UTILITIES)

16. 099-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-317-037) WITH WTG GAS GATHERING COMPANY, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 23, BLOCK 40, T-1-N, T&P RR CO. SURVEY, MIDLAND COUNTY (DISTRICT 4) (UTILITIES)
17. 100-2023 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (23-317-038) WITH WTG GAS GATHERING COMPANY, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 23 AND 24, BLOCK 40, T-1-N, T&P RR CO. SURVEY, MIDLAND COUNTY (DISTRICT 4) (UTILITIES)

SECOND READINGS

18. 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) (FIRST READING HELD JULY 25, 2023)

PUBLIC HEARINGS

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

19. 10428 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 10, 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 ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 1,335 FEET SOUTH OF WEST LOOP 250 FRONTAGE ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)
20. 10429 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 2, WEST 191 INDUSTRIAL PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 685 FEET EAST OF FARM TO MARKET ROAD 1788); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 4) (DEVELOPMENT SERVICES)

MISCELLANEOUS

21. 10430 – AN ORDINANCE AMENDING TITLE I, “ADMINISTRATIVE”, CHAPTER 12, “RECORDS MANAGEMENT POLICY”, SECTION 4, “RECORDS MANAGEMENT PACKET

OFFICER" OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DESIGNATE THE CITY'S RECORDS MANAGER AS THE CITY'S RECORDS MANAGEMENT OFFICER; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (DISTRICT: NONE) (CITY SECRETARY'S OFFICE)

22. 10431 – AN ORDINANCE RELEASING THE CITY OF MIDLAND'S EXTRATERRITORIAL JURISDICTION THAT WAS ACQUIRED FROM AN ANNEXATION COMMENCED AFTER JANUARY 1, 2023; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE OF SEPTEMBER 1, 2023; AND ORDERING PUBLICATION (DISTRICT: NONE) (DEVELOPMENT SERVICES)
23. 101-2023 – MOTION AUTHORIZING THE CITY MANAGER AND THE MIDLAND DEVELOPMENT CORPORATION CHAIRMAN TO NEGOTIATE AN AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MIDLAND, THE MIDLAND DEVELOPMENT CORPORATION, AND C. HODGES DEVELOPMENT SERVICES, L.P.; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AMENDMENT TO THE CHAPTER 312 TAX ABATEMENT AGREEMENT BETWEEN THE CITY OF MIDLAND AND C. HODGES DEVELOPMENT SERVICES, L.P.; AND PROVIDING THAT ANY SUCH AMENDMENTS SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE MIDLAND CITY COUNCIL (DISTRICT 4) (CITY MANAGER)

PUBLIC COMMENT

24. Receive public comments where individuals may address the City Council on City related issues and projects not on the present agenda. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting. (Please limit comments to three minutes or less.)

EXECUTIVE SESSION

25. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:
 - a. Section 551.071, Consultation with Attorney
 - a.1. Discuss matters in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.
 - b. Section 551.087, Deliberate Economic Development Negotiations
 - b.1. Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Respectfully Submitted,

Tommy Gonzalez
City Manager

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

**MIDLAND CITY COUNCIL
COUNCIL WORK SESSION
MINUTES
July 25, 2023**



The City Council convened in a work session in the Basement Conference Room, City Hall, Midland, Texas, at 9:00 AM, July 25, 2023.

Council Members present: Amy Stretcher Burkes, Dan Corrales, Lori Blong, Scott Dufford, John Norman

Council Members absent: Robin Poole, Jack Ladd

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 9:02 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 report from the Midland-Odessa Urban Transit District regarding its Fiscal Year 2024 Budget request.

Doug Provance, General Manager of Midland-Odessa Urban Transit District (MOUTD), provided a brief overview of their Fiscal Year 2024 Budget request. Mr. Provance reported on the 2023 budget and the projected 2024 budget along with wages, fringe benefits, services, and materials and supplies; just to name a few. Mr. Provance also spoke on income and expenses and how they have cut cost.

2. Receive a report from the Finance Department and George Williford from Hilltop Securities regarding the issuance of general obligation bonds and certificates of obligation and the effect on the City's tax rate.

George Williford, Hilltop Securities, gave a brief overview of the City's debt finance. Mr. Williford reported on Debt instruments such as general obligation bonds, certificates of obligation, tax notes and water and sewer revenue bonds. Mr. Williford also reported on self-supported debt, general obligation debt service requirements and provided considerations regarding debt financing.

All the business at hand having been completed, the meeting adjourned at 9:42 a.m.

PACKET

3a.1

August 8, 2023

PASSED AND APPROVED August 8, 2023.

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer /City Secretary

DRAFT

**MIDLAND CITY COUNCIL
MINUTES
July 25, 2023**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., July 25, 2023.

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

Council Members absent: Robin Poole

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 10:00 a.m.

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 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 AWARDED 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 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 (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
PACKET

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 PIPELINE TEXAS LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, T-3-S, T&P RR CO.

PACKET

3b.3

August 8, 2023

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 PIPELINE TEXAS 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 (23-329-034) WITH TARGA PIPELINE MID-CONTINENT WESTTEX 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)

Dan Corrales moved to approve the Consent Agenda, excluding no items; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10420.

John Norman moved to approve the second and final reading of Ordinance No. 10420; seconded by Amy Stretcher Burkes.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10421.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10421; seconded by Dan Corrales.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10422.

Dan Corrales moved to approve the second and final reading of Ordinance No. 10422; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10423.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10423; seconded by Dan Corrales.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10424.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10424; seconded by Dan Corrales.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10425.

John Norman moved to approve the second and final reading of Ordinance No. 10425; seconded by Dan Corrales.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10426.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10426; seconded by Amy Stretcher Burkes.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10427.

PACKET

3b.7

August 8, 2023

MINUTES

Page 7

July 25, 2023

Finance Director Christy Weakland gave a brief overview of the different fee schedules within the department budgets.

Jack Ladd moved to approve the first of two readings of Ordinance No. 10427; seconded by Dan Corrales.

The motion passed by the following vote:

AYE: Stretcher Burkes, Corrales, Blong, Dufford, Ladd, Norman

NAY: None

ABSTAIN: None

ABSENT: Poole

29. MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS (CITY SECRETARY'S OFFICE)

Council Member Corrales spoke on the importance of attending Board and Commission meetings and having a quorum when necessary so that they may help the City be a better place to live. He also spoke on the need to speak with staff or a Council Member if there is an issue while serving on a Board or Commission. The Mayor and Council Member Dufford agreed.

No action taken on this item.

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.)

Glenda Southerland, 728 Beckley Dr., praised the City for the work done on Thomason and for the street sign. Ms. Southerland needs City to help with problems in her area with neighbors. Ms. Southerland reported that the alleys are bad with furniture and trash and provided pictures for Council of the areas she is speaking of.

All the business at hand having been completed, the meeting adjourned at 10:20 a.m.

PASSED AND APPROVED August 8, 2023.

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer/City Secretary

**MIDLAND CITY COUNCIL
MINUTES
August 2, 2023**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., August 02, 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, City Manager Tommy Gonzalez, Deputy City Manager Morris Williams Jr., Assistant City Manager Tina Jauz, Solid Waste Director Jeffery Ahrlott, Fire Chief Charles Blumenauer, Utilities Director Carl Craig, Chief Information Officer Jennifer Frescaz, Police Chief Seth Herman, Presiding Judge Tim Meek, Director of Community Services Cristina Odenborg Burns, Engineering Services Director Jose Ortiz, Airports Director Justine Ruff, General Services Director Regina Stephenson, Director of Finance Christy Weakland, Administrative Services Director Mark Widmann, Interim Development Services Director Rolandrea Russell

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

MISCELLANEOUS

1. 2023-100 – RESOLUTION RECORDING A VOTE ON A PROPOSAL TO CONSIDER AN AD VALOREM TAX RATE FOR THE FISCAL YEAR 2023-2024 AND TO ESTABLISH A DATE TO HOLD A PUBLIC HEARING ON THE PROPOSED TAX RATE; ESTABLISHING DATES WHEN THERE WILL BE A RECORD VOTE ON THE TAX RATE; AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO POST ALL APPROPRIATE NOTICES (DISTRICT: ALL) (FINANCE)

Finance Director Christy Weakland gave a presentation of the upcoming 2024 budget for the City of Midland. Ms. Weakland reported that the Midland job market is still growing and outpacing other major metro areas in the State of Texas and remains the fastest growing US city by Gross Domestic Product (GDP). Ms. Weakland reviewed the City of Midland expense history and the FY 2024 budget priorities which are: becoming a premier city in West Texas, upgraded city facilities & infrastructure, being a high performing city team and having a strong economy with more quality jobs.

Ms. Weakland reviewed the tax rate calculation and proposed a tax rate of .353162 which is 1.8 cents lower than the rate adopted in 2023. Ms. Weakland reported on the 2022-2023 property tax rate comparisons among surrounding cities and also reported on the City of Midland's general fund. Ms. Weakland and some of the Directors addressed questions by Council.

Dan Corrales moved to approve Resolution No. 2023-100 setting the proposed tax rate of .35316; 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

All the business at hand having been completed, the meeting adjourned at 10:44 a.m.

PASSED AND APPROVED August 8, 2023.

Lori Blong, Mayor

ATTEST:

Marcia Bentley-German
City Governance Officer/City Secretary



City Council Meeting

Item Number: 4
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Christy Weakland, Director
Subject: MOTION TRANSFERRING THE SUM OF \$10,000,000.00 FROM THE WATER & SEWER OPERATING BUDGET TO THE WATER & SEWER DEBT SERVICE FUND; AND APPROPRIATING AND TRANSFERRING THE SUM OF \$952,255.53 FROM THE WATER & SEWER UNAPPROPRIATED FUND BALANCE TO THE WATER & SEWER DEBT SERVICE FUND (DISTRICT: NONE) (FINANCE)

Purpose:

To appropriate funds for Water & Sewer debt service per amortization schedule.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds of \$10,000,000 will be transferred from the Water & Sewer operating budget to the Water & Sewer Debt Service fund. \$952,255.53 will be appropriated from Water & Sewer unappropriated fund balance and will be transferred to the Water & Sewer Debt Service Fund. The total of \$10,952,255.53 will be appropriated in the Water & Sewer Debt Service Fund.

Discussion:

Appropriation and transfer of funds is necessary to accommodate amortization schedules made available after FY 2023 Budget was finalized. \$10,000,000 was budgeted in the operating budget by the Water & Sewer Director as an estimate to accommodate this debt. The amount over this will be appropriated from net position.

Morris Williams Jr.

City Manager's Office



City Council Meeting

Item Number: 5
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Christy Weakland, Director
Subject: MOTION APPROPRIATING AND TRANSFERRING THE SUM OF \$1,729,421 FROM THE GENERAL FUND TO THE DEBT SERVICE FUND (DISTRICT: NONE) (FINANCE)

Purpose:

To appropriate and transfer funds from General Fund to the Debt Service Fund to accommodate debt service requirements.

Recommended City Council Action:

Approve

Fiscal Impact:

\$1,729,421 will be appropriated from General Fund unappropriated fund balance and will be transferred to and appropriated in the Debt Service Fund.

Discussion:

Due to an oversight in prior year budget preparation, this amount was not included in the calculation for the debt tax rate. A checklist for the debt payment schedule process will be implemented to ensure this schedule's accuracy going forward.

Monnie Williams Jr.

City Manager's Office



City Council Meeting

Item Number: 6
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A SOLE-SOURCE CONTRACT WITH UTILIS, INC., FOR SATELLITE LEAK DETECTION SERVICES FOR THE UTILITIES DEPARTMENT AT A TOTAL COST OF \$212,000.00 (DISTRICT: ALL) (GENERAL SERVICES)

Purpose:

Resolution awarding a sole source contract for Satellite Leak Detection Services for one (1) year for the Utilities Department to Utilis, Inc. dba ASTERRA of La Jolla, California for a total cost of \$212,000.00.

Recommended City Council Action:

Approve

Fiscal Impact:

\$212,000.00 is available in the Water & Sewer Fund operating budget.

Discussion:

Staff recommends awarding a sole source contract for the purchase for Satellite Leak Detection Services for one (1) year for the Utilities Department. According to Texas Local Government Code 252.022 (a)(7)(A), competitive bidding requirements do not apply to items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies. Please see the attached memo from Carl Craigo, Utilities Director, for additional information.

Therefore, please consider a resolution awarding a sole source contract for Satellite Leak Detection Services for one (1) year for the Utilities Department to Utilis, Inc. dba ASTERRA of La Jolla, California for a total cost of \$212,000.00.

Jina Gang

City Manager's Office



Subject: Project Approval Request: Satellite Water Leak Detection for City of Midland Utilities

Date: July 12, 2023

To: Regina Stephenson, General Services Director

From: Carl Craig, Utilities Director

Dear Regina,

I am writing to seek council approval for a resolution for an innovative and efficient project proposed by Asterra USA, aimed at performing satellite water leak detection for the City of Midland Utilities department. This project aims to leverage advanced satellite imaging technology to identify and address water leakages within the city's water distribution network, ultimately reducing water loss and optimizing resource utilization.

1. **Project Overview:** The primary objective of this project is to deploy Asterra USA's state-of-the-art satellite imaging system to detect and locate potential water leakages within the City of Midland's Utilities department infrastructure. By utilizing high-resolution satellite imagery and advanced data analytics, the project aims to provide accurate and real-time information on water leakages, enabling prompt repairs and substantial water conservation.
2. **Project Benefits:** a. **Water Conservation:** Early detection of water leaks will enable swift remedial action, significantly reducing water loss and associated costs. b. **Cost Efficiency:** By addressing leaks proactively, the City of Midland can minimize maintenance expenses, operational inefficiencies, and potential infrastructure damage caused by undetected leaks. c. **Improved Service:** Timely repairs and preventive maintenance will enhance the reliability and efficiency of the water distribution system, ensuring uninterrupted service to the community. d. **Environmental Impact:** By conserving water resources, the project aligns with sustainable practices and contributes to the city's environmental stewardship goals. e. **Data-Driven Insights:** The project will provide valuable data and insights into the water distribution system, aiding in long-term planning, infrastructure improvements, and leak prevention strategies.
3. **Project Scope:** a. **Satellite Imagery Acquisition:** Asterra USA will acquire high-resolution satellite imagery, covering the entire City of Midland Utilities service area, at regular intervals to detect potential water leakages. b. **Data Analysis and Leak Detection:** Leveraging advanced analytics and image processing algorithms, Asterra USA will analyze the satellite imagery to identify and locate possible water leakages within the infrastructure. c. **Reporting and Integration:** The project will include the development of a user-friendly reporting system that integrates with the City of Midland Utilities Department's existing systems, providing actionable insights to facilitate efficient leak repair and maintenance processes.
5. **Project Budget:** The total cost of the project, including satellite imagery acquisition, data analysis, reporting system development, integration, and testing, is estimated at \$212,000 funded out of Utilities Operating funds.
6. **Recommendation:** Considering the significant benefits of this project, both in terms of water conservation and cost efficiency, we strongly recommend granting approval for Asterra USA to proceed with the satellite water leak detection project for the City of Midland Utilities department. The project

aligns with the city's goals of sustainability, improved service, and data-driven decision-making, and we are confident that its successful implementation will yield substantial long-term benefits. Thank you for considering this request. Should you require any further information or clarification, please do not hesitate to reach out. We are excited about the potential.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
SOLE-SOURCE CONTRACT WITH UTILIS, INC., FOR
SATELLITE LEAK DETECTION SERVICES FOR THE
UTILITIES DEPARTMENT AT A TOTAL COST OF
\$212,000.00**

WHEREAS, the Utilities Department is in need of satellite imaging technology to identify and address water leakages within the City of Midland's infrastructure; and

WHEREAS, Utilis, Inc., is the sole source provider for satellite leak detection services; and

WHEREAS, Utilis, Inc., has agreed to provide the City of Midland with satellite leak detection services for a total cost of \$212,000.00; and

WHEREAS, the City Council finds the price proposed for said satellite leak detection services to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of a sole-source contract for said satellite leak detection services;

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

SECTION ONE. That the City Manager and the City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a sole-source contract with Utilis, Inc., for preventative maintenance services for the Utilities Department at a total cost of \$212,000.00. Said contract being attached hereto as Exhibit A and incorporated herein for all purposes.

SECTION TWO. That funding shall be available in the Water & Sewer Fund operating budget.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Utilis, Inc., in accordance with the terms of the above-referenced contract, from funding available funds 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:

Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Regina Stephenson, General Services Director

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney



Utilis Inc., Db., ASTERRA

4180 La Jolla Village Dr. Suite 530
San Diego, CA 92037

June 2nd, 2023

Attn: **City of Midland, TX**

300 N. Loraine, Suite 520 | Midland, Texas 79702

To Whom It May Concern:

This letter is in regard to ASTERRA and the **sole source provider status** for the City of Midland, TX remote sensing water leak survey project. This letter is to confirm that the ASTERRA data analysis for identifying possible potable water leaks in water distribution systems is a sole source product, manufactured and sold by ASTERRA. No division of ASTERRA, nor any other company, makes a similar or competing product.

ASTERRA developed a unique and patented algorithm for leaks detection in urban freshwater distribution networks. ASTERRA uses spectral aerial imaging, taken from a satellite mounted sensor, using the L band microwave wavelength, to spot leakage in subterranean drinking water networks. Drinking water is detected, by looking for the particular spectral signature typical to drinking water.

ASTERRA analysis identifies the leaks within a search distance from the actual leak. The search distance is defined by a "Dynamic buffer", which is calculated specifically according to physical properties of the analyzed area and technical components of the satellite. For every new analysis, the size of the dynamic buffer is specifically calculated. The polygon area size varies for each analysis.

Additionally, **competition is precluded by the existence of patent:** ASTERRA' algorithm and process are patented US 9285475 Mar, 15 2016 SYSTEM AND METHOD OF UNDERGROUND WATER DETECTION assigned to ASTERRA. ASTERRA is 100% owned subsidiary of Utilis Inc.

If you desire additional information, don't hesitate to contact us at 1-858-521-9442 at any time or visit our website at www.asterra.io

A handwritten signature in black ink, appearing to read "James D. Perry", followed by a horizontal line.

Sincerely,
James D. Perry
Executive Vice President

**CITY OF MIDLAND
SERVICE CONTRACT
#23004544**

THIS CONTRACT, effective this 9th day of August 2023, by and between the City of Midland, hereinafter referred to as the "CITY" and Utilis, Inc. dba ASTERRA, hereinafter referred to as the "COMPANY".

Projected Annual Cost: \$212,000.00

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

1. COMPANY shall perform all work as set forth in Exhibit "A", which is incorporated as part of this Contract. In performing the work, COMPANY shall, at its own cost and expense furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said work, in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with the Notice to Bidders, Instructions to Bidders, and the Specifications and addenda therefor, and the Performance Bond hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.
2. COMPANY hereby agrees to commence work within fifteen (15) days after the date written notice to do so shall have been given to it by CITY.
3. CITY agrees to pay COMPANY in current funds the price or prices shown in the Proposal, which forms a part of this Contract. No payment shall be due until the monthly service report has been delivered to CITY.
4. COMPANY shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws and building codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of Associated General Contractors of America, except where incompatible with federal, state or municipal laws or regulations.
5. **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, IT'S AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

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

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

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

- a. defective work not corrected;
- b. completed service report not submitted;
- c. failure of COMPANY to pay subcontractors or suppliers;
- d. damage to other work or CITY's property or equipment; or
- e. default of COMPANY in performance of this Contract.

The term of this agreement shall be for a period of one (1) year commencing on August 9, 2023, and terminating on August 10, 2024, unless sooner terminated as provided in this agreement.

8. COMPANY shall:

- a. comply with all applicable laws, rules, codes and regulations of Local, State and U.S. Governments;
- b. have a designated supervisor on the job site at all times work is in progress;
- c. make no changes in the scheduled work without written authorization from CITY;
- e. permit and facilitate inspection of the work in progress by CITY;
- f. not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex or national origin;
- g. be responsible for any damage caused by COMPANY to CITY property and repair such damage at his own cost;

h. remedy all defects in workmanship which develop within a period of one (1) year from the date of service report acceptance by CITY; and

i. not permit any worker to labor more than eight (8) hours during any one (1) calendar day or more than forty (40) hours during any one (1) calendar week, except as permitted by law; pay all royalties, license, and permit fees and applicable taxes required to execute this Contract.

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

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

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

To CITY:

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

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

To COMPANY. Utilis, Inc. dba ASTERRA
4180 La Jolla Village Drive, Suite 530
La Jolla, CA 92037

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

12. **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.

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

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

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

16. **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.

17. **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.

18. **WAIVER OF ATTORNEY FEES**: BY EXECUTING THIS CONTRACT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OR ATTORNEY’S FEES, WHICH ARE IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS CONTRACT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL

PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

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

19. **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.

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

22. **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.

23. **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.

24. **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.

25. **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.

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

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

28. **INSURANCE**

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

Commercial General Liability (including Contractual liability):

-Personal Injury:	\$1,000,000.00 per person
	\$1,000,000.00 per occurrence
-Property Damage:	\$500,000.00 per occurrence

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

Worker's Compensation: Statutory limits

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

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

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

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

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

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

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

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 _____, 2023 personally appeared, _____, an officer of Utilis, Inc. dba ASTERRA, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

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

Notary Public, State of _____



**ASTERRA Statement of Work
&
Software Terms of Use**

Provided to:

City of Midland, TX

July 19, 2023

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Statement of Work (SOW)

This Statement of Work (“**SOW**”) is provided in connection with the Terms of Use governing the use of ASTERRA’s Services and Platform.

Capitalized terms not defined herein shall have the respective meanings as set forth in the Terms of Use.

A. ROLES, RESPONSIBILITIES AND SERVICES – ASTERRA

1. GENERAL

ASTERRA offers its Clients, a patented technology operated by **Utilis Inc.** for pipe replacement modeling, and leak detection in urban and rural water networks, using L-band synthetic aperture radar (SAR) mounted on a satellite. The technology is based on a proprietary algorithm that detects soil moisture through the analysis of SAR data.

2. ASTERRA’S PRODUCTS OVERVIEW

ASTERRA will provide Client with the following Products available through the Platform: “Recover”, “MasterPlan” (the “**Products**”), and their related Service Tiers: “Detect”, “Prevent” or “Advise” (the “**Service Tiers**”). Products related deliverables and Service Tiers are detailed under Section F Below.

2.1 Recover - Satellite-Based Leak Detection and Analysis

ASTERRA Recover provides customers with leak detection monitoring for drinking and wastewater systems utilizing Synthetic Aperture Radar (SAR) signals from satellites to illuminate the area of interest and collect the resulting reflected signals. These signals are analyzed with the ASTERRA patented algorithm and processed to identify specific indicators of wet soil saturated with potable or wastewater, screening out the signal noise and other interference. The result is a map showing likely leak locations, or Points of Interest (POI). These results typically encompass 5 – 10 % of the entire system length, so that the clients time and resource cost to inspect is much lower than traditional inspection methods. Recover is available as a subscription with various levels of service to match client’s needs.

2.2 MasterPlan – Pipeline Monitoring and Deficiency Assessment

Similar to Recover, ASTERRA MasterPlan utilizes Synthetic Aperture Radar (SAR) signals from satellites to illuminate the area of interest and collect the resulting reflected signals over time. These signals are analyzed with the ASTERRA patented algorithm and processed to identify the condition of underground water infrastructure, with pipes scored on a 1 – 5 scale, from a low level of deficiency observed to high levels of deficiency. The algorithm scores pipe segments exhibiting non-surfacing leaks and analyzes leak clusters over time contributing to the development of long-term maintenance and pipe replacement plans. MasterPlan is compatible with all GIS-based asset planning model tools and easily integrates with attribute



data such as pipe age, material, and work orders from surfacing leaks. MasterPlan is available in the Advise level subscription or as an additional service to Clients in the Prevent tier.

B. ROLES, RESPONSIBILITIES – CLIENT

1. GENERAL

Client is responsible for providing baseline system data, work order history and in some cases, an acoustic field verification team to inspect points of interests (POI) identified by ASTERRA. **Client** shall identify a primary contact person for technical, administrative, and field inspection coordination.

2. CLIENT RESPONSIBILITIES:

Client shall provide ASTERRA with the following materials ("**Materials**"):

2.1 Area of interest (AOI): the Client will provide ASTERRA with an area of interest (AOI). Unless agreed otherwise by the parties, the AOI is a designated geographical area to be surveyed using ASTERRA technology. AOI is required for all Products. AOI is attached as **Annex A** hereto and as agreed upon number of linear miles or area defined in Section F herein.

2.2 Recover Product/MasterPlan Pipe System Information: prior to image acquisition, the Client shall provide ASTERRA with a detailed and accurate GIS pipe system layer in the form of a shapefile or KML/KMZ. ASTERRA will use this layer to identify POI locations. The GIS layer should include pipe material, pipe age, pressure zone, and diameter, length of pipeline, trunk, main and service to be analyzed, and major appurtenances including hydrants, valves, and any other detailed information available.

2.3 Recover/MasterPlan Leak Detection History (Work Orders): The Client shall provide ASTERRA with a detailed and accurate history of leak findings and repairs through the "Go-Live Date".

2.4 Recover/MasterPlan Leak Detection Performance Metrics: The Client shall provide ASTERRA with relevant and available performance metric data related to previous Client-utilized leak detection methodologies, field investigation process, timing, methods, and data delivery timing information, customer cost of water and cost of energy per CSM interview. This information will be used to calculate performance metrics of the service.

C. WORK PROCESS TIMELINE

1. Upon receipt of Client's Materials, ASTERRA shall initiate the satellite imagery acquisition and analysis. Once the analysis is completed, ASTERRA will inform Client of the "Go-Live-Date" and access to Product will be granted to Client. "Go-Live-Date" notice will be furnished by ASTERRA upon 7-14 business days after the scheduled image acquisition date. Image



acquisition dates may be changed by a third party (satellite operator) or due to technical constraints. "Go-Live-Date" may be affected due to poor image quality according to ASTERRA's quality assurance standards.

2. Unless otherwise agreed upon by both parties, ASTERRA will provide Services only in the AOI overlapping with the Client's provided GIS pipe system layer.
3. Recover leak field inspection work can begin after the leakage report has been delivered to the Client customer portal and ASTERRA has provided training, guidance, and interpretation of the leakage data.
4. Unless otherwise agreed upon by the parties, field work with an ASTERRA field engineer will be conducted only within the borders of the AOI and at sites where access is provided by the client.
5. Delays in the provision of Materials may result in delays and/or additional cost in performing the Services. Where required, Client shall furnish access to Client's premises, and appropriate worksite, as necessary for performance of those portions of the Services to be performed at Client's premises.

D. ACCESS TO PLATFORM AND PRODUCTS

1. Provision of the Platform: portal environment, applicable licenses, including U-Collect and U-View licenses, analytics, reports and data that can be used in Client's GIS systems.
2. Access to the Platform shall only be granted upon ASTERRA's "Go-Live" notice to the Client and shall expire on the Service termination date.
3. Upon expiration or termination of the Agreement for any reason, Client will not be able to access the Services and/or, the data stored within the Platform, the Platform, related software and mobile applications, ASTERRA's support and any other software or data related to the Service. Any and all data not exported by Client to Client's own storage, shall no longer be available to Client following Service's termination. An exception will be made for Clients who renew their subscription within 12 months of termination of their previous subscription.
4. The provision of ongoing technical and support services by ASTERRA are in accordance with the Service Level Agreement ("SLA").



E. FEES & PAYMENT TERMS

1. Annual subscription fee per Package and Service Tier requested by Client (exclusive of Taxes) ("Annual Fee") and Additional Services as required by Client ("Support Service Fee") as provided in the table below.
2. Package Name: Prevent, Subscription Duration: 12 Months
3. Potable Water lines surveyed: 920 Miles, Wastewater lines surveyed: 0 Miles.
4. Table of fees:

ASTERRA Package: Prevent	QTY	Price
Annual Subscription Package	1	\$140,000
Additional Services		
Subcontracted BOTG (5 Days minimum)	40 Days	\$72,000
Final Program Report	1	Included
TOTAL		\$212,000

5. Payments by Client shall be made as follows:
 - a. Annual Subscription Fee and any additional services shall be invoiced by ASTERRA on the Go-Live-Date.
 - b. Subcontracted Acoustic Leak Detection (BOTG) will be invoiced 14 days prior to the commencement of the field investigation.
6. Payment is due 30 days from the invoice date.
7. Requests for analysis outside the agreed upon AOI provided by the Client in Annex A may result in additional fees.
8. CSM SERVICES LIST & Service Level Agreement (SLA) is attached hereto as Annex B



ACCEPTANCE OF TERMS

By executing this SOW, you confirm your approval of the SOW on behalf of Client listed below, to be contractually bound by:

1. This SOW; and
2. The Terms of Use and Service Level Agreement incorporated by reference into this SOW.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Utilis Inc., dba., ASTERRA

City of Midland, TX

Signature: _____

Signature: _____

Name: Gadi Kovarsky

Name: _____

Title: General Manager, Water Division

Title: _____

Date: _____

Date: _____



TERMS OF USE

These Terms of Use (the “**Terms**”) is made and entered into as this 27th day of June 2023 (“**Effective Date**”), by and between Utilis Inc., dba., ASTERRA (the “**Company**”, “**ASTERRA**”) a private company having its registered offices at 4180 La Jolla Village Dr., Suite 530, La Jolla, CA 92037, and City of Midland, TX (“**Client(s)**”, “**you**”) a home-rule municipal corporation organized and existing under the laws of Texas with a principle place of business and mailing address at 300 N. Loraine, | P.O. Box 1152 | Midland, TX 79701. Terms of use govern the provision of the services that provide information for leak detection analysis, pipeline monitoring and deficiency assessment, using remote sensing technology (the “**Service(s)**”) operated by Utilis Israel Ltd., Utilis, Inc., Utilis SAR Ltd or Utilis Japan., all trading and doing business as ASTERRA (“**ASTERRA**”). Each of Client and ASTERRA will be referred to as a “party” and together the “parties”.

1. Definitions and Interpretation

1.1. Capitalized terms not defined herein have the meanings given in the Statement of Work (the “**SOW**”), the Service Level Agreement (the “**SLA**”), or the Service Contract (the “**SC**”), which are hereby incorporated into, and form part of, these Terms (together the “**Agreement**”), unless specifically excluded.

1.2. If there is a conflict between any provision of these Terms, the SOW, the SLA, the SC, or any other agreement related to the Services, the provisions of the SC shall prevail.

2. License Grant

2.1 Subject to the Terms, Client requests and ASTERRA grants, a nonexclusive, non-transferable, non-sublicensable, limited access license, to use the portal environment, applicable licenses, analytics, reports and data that can be used in client’s GIS systems (the “**Platform**”) during the Term, solely in accordance with the Terms herein, for Client’s internal business purposes only.

2.2 Services, additional services, and/or licenses shall be issued in separate SOWs, in the form attached hereto as Statement of Work, signed by both parties, numbered sequentially (SOW1, SOW2, etc.), all attached to and governed by these Terms.

3. ASTERRA Limited Warranties

ASTERRA warrants and undertakes that:

3.1. it will provide the Services using the degree of skill, care, and diligence which would reasonably and ordinarily be expected from a skilled and experienced provider of the Services (or of services materially similar to the Services);

3.2. each member or individual involved in the provision of the Services shall be suitably qualified, adequately trained and competent to provide the relevant part of the Services in respect of which they are engaged.

3.3. the Services, when used in the manner envisaged by this Agreement, do not, to the best of ASTERRA’s knowledge, infringe the intellectual property rights of any third party.



3.5. ASTERRA shall not be liable for any material delay or failure to provide the Services to the extent that such material delay or failure is caused by Client's failure to comply with the Agreement, including but not limited to, the following obligations:

a. provision of data as agreed between the Parties and set out in the SOW – to be made ready on or before any agreed date of provision.

b. failure by Client to make available personnel, Information, or to provide site physical access, as reasonably required for the performance of the Services.

c. a failure by Client to make available adequate infrastructure to install, activate and use of the Service (such as: Client's systems and devices) to support the provision of the Services.

3.6 The Services hereunder are provided on an "AS IS" basis. Except for the above express warranty, ASTERRA makes no other warranties, express or implied, relating to the Services. ASTERRA does not represent or warrant that the Services shall be uninterrupted or error-free. ASTERRA disclaims and excludes any implied warranties of non-infringement, merchantability and/or fitness for a particular purpose.

4. **Payment Terms**

4.1 In consideration of the Service, Client will pay all invoices issued under this Agreement in accordance with stated payment terms on the relevant SOW. Any invoice that has not been paid within such period of time shall bear interest at the rate of 1% per month or any part of a month. Client is responsible for any applicable tax, duty,

or tariff (except with respect to ASTERRA's income), and all reasonable costs of shipment.

4.2 All Customer's payment obligations to ASTERRA are non-cancelable and paid fees are non-refundable. Client is responsible for paying all fees applicable to its subscription to the Service, whether or not it actively used, accessed or otherwise benefited from the Service. Unless stated differently in the SOW, fees are exclusive of any sales tax, VAT, withholding tax or other governmental charges or transaction charges. Where applicable, ASTERRA will provide the Client its tax certificates and Client shall withhold taxes from payments due as per such certificates.

5. **Technical Support**

5.1. During the Term, ASTERRA, either directly or with the assistance of third parties, will provide Client technical support for technical issues regarding the Services, in accordance with the SLA terms. For the purpose of the provision of technical support for the Client's technical questions, problems and inquiries, Client will cooperate, and work closely with ASTERRA, to reproduce malfunctions, including conducting diagnostic or troubleshooting activities, as ASTERRA reasonably requests.

ASTERRA may suspend the Services for planned maintenance work ("**Planned Maintenance**") or for rectifying critical outages ("**Unplanned Maintenance**"). In relation to Planned Maintenance, ASTERRA shall provide Client at least 14 calendar days' prior notice stating the scope, time, and duration of the Planned Maintenance. In relation to Unplanned Maintenance, ASTERRA shall endeavor to



provide Client with such advance notice as is reasonably practicable in the circumstances.

6. Privacy

As part of the Services, you may be granted a certain number of U-Collect, U-View and ASTERRA's Dashboard Licenses. The applicable terms of use and privacy policy are detailed in <https://ASTERRA.io/privacy-policy-portal-application/>

7. Confidentiality

Each party ("**Recipient**") agrees to: (a) keep all Confidential Information (as defined below) confidential; (b) not without the other party's ("**Discloser**") prior written consent to disclose any Confidential Information to any other person save those of its personnel who have a need to know the same in connection with this Agreement and its performance of this Agreement; (c) to use the Confidential Information solely in connection with this Agreement and the performance of its obligations hereunder and not otherwise for its own benefit or for the benefit of any third party. "Confidential Information" means all data, material, and information of a confidential nature in any form whatsoever disclosed (whether directly or indirectly) by or on behalf of the Discloser to Recipient, including: (a) the identity and business, financial and/or technical affairs of that party's business contacts, including Clients, agents, distributors and licensees (b) all financial information of Discloser; (c) all data provided to Recipient by or on behalf of the Discloser in connection with the Services.

Confidential Information does not include information: (a) disclosed as a requirement of law or any regulatory body to whose rule Recipient is subject provided that Recipient, if legally permissible, gives Discloser prompt written notice of such requirement prior to such disclosure and only discloses that portion of the Confidential Information that is legally required; (b) known to Recipient prior to the commencement of this Agreement otherwise than as a result of being obtained directly or indirectly from the Discloser; (c) obtained from a third party who lawfully possessed such Confidential Information and which has not been obtained in a breach of a duty of confidence owed to the Discloser; (d) developed independently by Recipient without the use of Discloser's Confidential Information; or (e) in the public domain other than as a result of a breach of a duty of confidence owed to the Discloser. Notwithstanding any contrary provision contained herein, ASTERRA acknowledges that Client is a governmental entity subject to the Texas Public Information Act, as amended, and ASTERRA agrees that the Agreement in no way affects, modifies, or limits Client's obligation to comply with the Texas Public Information Act or any ruling or decision issued by the Texas Attorney General. Client further agrees that Client retains the right to exercise its sole and absolute discretion in determining its obligations under the Texas Public Information Act. Finally, ASTERRA agrees that Client's compliance with the Texas Public Information Act with regard to matters pertinent to this Agreement shall absolve and forever discharge Client of any claim that Client breached this Agreement by disclosing Confidential Information. Upon request of Discloser or upon the expiry or termination of this Agreement, Recipient shall delete and destroy any Discloser's Confidential



Information then in its possession or control. Recipient acknowledges that ASTERRA may seek injunctive relief or any other remedies at law, in the event of any such breach by Client.

8. Client Data; Client Feedback

8.1 Client acknowledges and agrees that ASTERRA will handle and use (by itself or by using trusted third-party service providers) the data that the Client feeds to the Platform (or that ASTERRA feeds to the Platform on Client's behalf) ("**Client Data**") and the data and output generated by the Platform when used by the Client, as follows:

- (a) To provide the Services to the Client, conduct administrative and technical activities necessary to maintain and provide the Services and to improve and customize the Services;
- (b) To conduct analysis or generate metrics related to the Services;
- (c) For commercial and marketing purposes, publication of case studies and white papers regarding the Services itself (only in a form not identifying the Client and not disclosing any Client-specific output generate by the Platform unless specifically approved by the client);
- (d) To bill and collect fees (if applicable), to enforce this Agreement, and to take any action in any case of dispute or legal proceeding of any kind involving the Client with respect to this Agreement;
- (e) To prevent fraud, misappropriation, infringements, and other illegal activities and misuse of the Services;
- (f) To develop new products, features, and services, and for research and testing, provided that no information identifying the Client is

publicly shared without prior authorization from the Client.

The Client will not be entitled to any remuneration from ASTERRA for the foregoing uses.

8.2 ASTERRA may, but are under no duty to, review Client Data made available through the Service. We may, in our sole discretion, temporarily or permanently delete or block access Service, if we find that it violates these Terms or for any other reason

8.3 Client may provide ASTERRA with information or content concerning enhancements, changes, or additions to the Service or other Company offerings, that are requested, desired or suggested by the Client or users on its behalf, including information pertaining to bugs, errors and malfunctions of the Service, performance of the Service, content and accuracy of the Service, the Service's compatibility and interoperability, and information or content concerning enhancements, changes or additions to the Service that Client requests, desires or suggests ("**Feedback**"). Client hereby assigns, without charge, all right, title and interest in and to the Feedback to ASTERRA, including the right to make commercial use thereof, for any purpose ASTERRA deems appropriate.

9. Intellectual Property

9.1 All rights, title and interest in and to the Service, Platform and the Service's software, including, without limitation, patents, copyrights, trademarks, trade names, service marks, trade secrets and other intellectual property rights,



and any goodwill associated therewith, including computer code, graphic design, layout and the user interfaces of the Service, whether or not based on or resulting from Feedback, are and will remain at all times owned by ASTERRA, or licensed to ASTERRA.

All rights in and to the Service or Platform that are not expressly granted to Client in this Agreement are hereby reserved by ASTERRA.

9.2 Except for Client's limited access to use the Service during the Term, this Agreement does not grant or assigns to Client, any other license, right, title, or interest in or to the Service or Platform, or the intellectual property rights associated with them.

9.3 Client acknowledges and agrees solely in connection with Client's provision of the Service, ASTERRA is hereby granted a limited, revocable, nonexclusive, internal, and royalty-free license, solely during the Term to access, host and maintain Client Data for the strict limited purposes of delivering the Service to Client and supporting Client's use of the Service as described herein.

10. Disclaimer; Limitation of Liability; Indemnification

10.1 The Services, as set forth in this Agreement, include the provision of information and investigative output based on the technology developed by ASTERRA, and subsequent analyses, recommendations, evaluations, ranking reports, and guidance on best practices based on the foregoing. By their nature, the Services provided are solely decision making and support tools acquired by Client. Any and all acts,

omissions decisions and performance by Client based on the Services provided to Client under this Agreement, are the sole responsibility of Client and such activity does not form any part of the Services. By signing the Agreement Client signals its understanding of the scope of the Services. The contract is with Utilis Israel Ltd., Utilis, Inc., Utilis SAR Ltd and Utilis Japan, as applicable, also doing business as ASTERRA.

10.2 LIMITATION OF LIABILITY. IN THE EVENT THAT, NOTWITHSTANDING THE TERMS ABOVE, ASTERRA OR CLIENT IS FOUND LIABLE FOR DAMAGES OF ANY KIND BASED ON ANY THEORY OF LIABILITY (INCLUDING LIABILITY FOR NEGLIGENCE) CONNECTED AND/OR RELATED TO THE SERVICES COVERED BY THIS AGREEMENT, ASTERRA'S OR CLIENT'S TOTAL AND AGGREGATE LIABILITY FOR SUCH DAMAGES SHALL NOT EXCEED THE PAYMENTS MADE BY CLIENT TO ASTERRA IN THE TWELVE MONTHS PRECEDING THE EVENT PURPORTEDLY GIVING RISE TO THE CLAIM.

10.3 EXCLUSION OF CONSEQUENTIAL DAMAGES. ASTERRA AND CLIENT SHALL NOT BE LIABLE TOWARD THE OTHER PARTY, OR ANY OTHER THIRD PARTY FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGE OR INJURY TO BUSINESS EARNINGS, LOSS OF DATA, LOST PROFITS OR GOODWILL AND/OR PERSONAL INJURY, SUFFERED BY ANY PERSON ARISING FROM AND/OR RELATED WITH AND/OR CONNECTED TO THE SERVICES COVERED BY THIS AGREEMENT, WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, TORT, OR OTHERWISE, (INCLUDING NEGLIGENCE) EVEN IF THE CLAIMANT IS ADVISED OF OR SHOULD HAVE



BEEN AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

10.4 INDEMNIFICATION

10.4.1 Indemnification by ASTERRA.

Subject to this Agreement and without derogating from the foregoing, ASTERRA shall defend and indemnify Client and its respective directors, officers, employees, consultants, successors and assigns (collectively “**Client Indemnitee**”) from and against any claim by a third party alleging that the use of the Service as contemplated under this Agreement, infringes a third party’s patent, copyright, trade secret or other intellectual property rights which are enforceable in the jurisdictions in which the Client’s support teams operate. Notwithstanding the foregoing, ASTERRA shall have no liability or obligation to Client Indemnitees with respect to any claim for infringement relating to: (1) Client’s use of the Service in combination with other products not provided or endorsed by ASTERRA; (2) modifications or alterations of the Service which are not performed by ASTERRA or with its permission; (3) a breach or alleged breach by Client of its representations, under the Agreement; in any case of (1) – (3) above, only to the extent that the Service would not be infringing in the absence of such circumstances.

10.4.2 The indemnified party shall promptly notify the indemnifying party in writing of any claim for which it seeks indemnification hereunder; provided that the failure to provide such notice shall not relieve the indemnifying party of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure. The indemnifying party shall bear full responsibility

for, and shall have the right to solely control, the defense (including any settlements) of any such claim; provided, however, that (a) the indemnifying party shall keep the indemnified party informed of, and consult with the indemnified party in connection with the progress of such litigation or settlement and (b) the indemnifying party shall not have any right, without the indemnified party’s written consent (which consent shall not be unreasonably withheld), to settle any such claim in a manner that does not unconditionally release the indemnified party. At the indemnifying party’s request, the indemnified party will provide reasonable cooperation with respect to any defense or settlement.

11. Term and Termination

11.1 Unless otherwise specified in the applicable SOW, this Agreement commences upon the Client’s date of signature herein or acceptance date by Client, as applicable. The Service shall commence on the date on which the relevant Service is 'live', being the first date on which the Client or the first of the Client’s users is granted access to the Platform’s data, upon a notice by ASTERRA to Client (“**Go – Live- Date**”) and will continue for a period of twelve (12) months thereafter.

11.2 Notwithstanding the foregoing, either party may terminate this Agreement at will for no or any reason by giving at least one hundred eighty (180) days’ written notice. The parties agree that it is in each party’s sole discretion to cancel this Agreement during the term of this Agreement without penalty. Neither party has received any expectation or guarantee that this Agreement will not be terminated during the term.



11.3 Either party may immediately terminate this Agreement if (A) any proceeding is commenced in good faith against the other party for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition, or extension of debts; (B) the other party commences proceedings for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition, or extension of debts; (C) there is issued a decree or order of a court having jurisdiction for the appointment of a receiver, liquidator, or trustee or assignee in bankruptcy or insolvency of the other party or of a substantial part of the other party's property, or for the winding up or liquidation of the other party's affairs; or (D) there is a general assignment by the other party for the benefit of creditors or the admission by the other party in writing of its inability to pay its debts generally as they become due.

11.4 Upon expiration or termination of this Agreement for any reason: (i) Client will not be able to access the Services and/or the data stored within the Platform, the Platform, ASTERRA's support and any other software or data related to the Service. Any and all data not exported by Client to Client's own storage, shall no longer be available to Client afterward; and payment obligations of Client for Services provided through the date of termination will immediately become due. Client data will be accessible to a returning Client if they renew their subscription within 12 months of termination of their previous subscription

11.5 Upon expiration or termination of this Agreement and in any event, upon ASTERRA's written request, Client shall return or destroy any and all Confidential Information including, but not limited to ASTERRA training materials, and any and all materials incorporating ASTERRA's Confidential Information and all copies and derivatives thereof.

11.6 Sections 3-10, 11.4-11.6, 12 and 13 shall survive any termination or expiration of the Agreement for any reason.

12. Governing Law

The parties exclusively submit to the governing law of Texas, and the exclusive jurisdiction and venue of the state district courts of Midland County, Texas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply in any respect to this Agreement or the parties. Client shall comply with all applicable (including, all U.S. and applicable foreign) laws and administrative regulations relating to the control of exports of commodities and technical and/or personal data, and all laws directly or indirectly applicable to its activities hereunder or otherwise pursuant to or in connection with this Agreement, the Licenses or use of any software, and the provision of any Services and/or support.

13. Miscellaneous

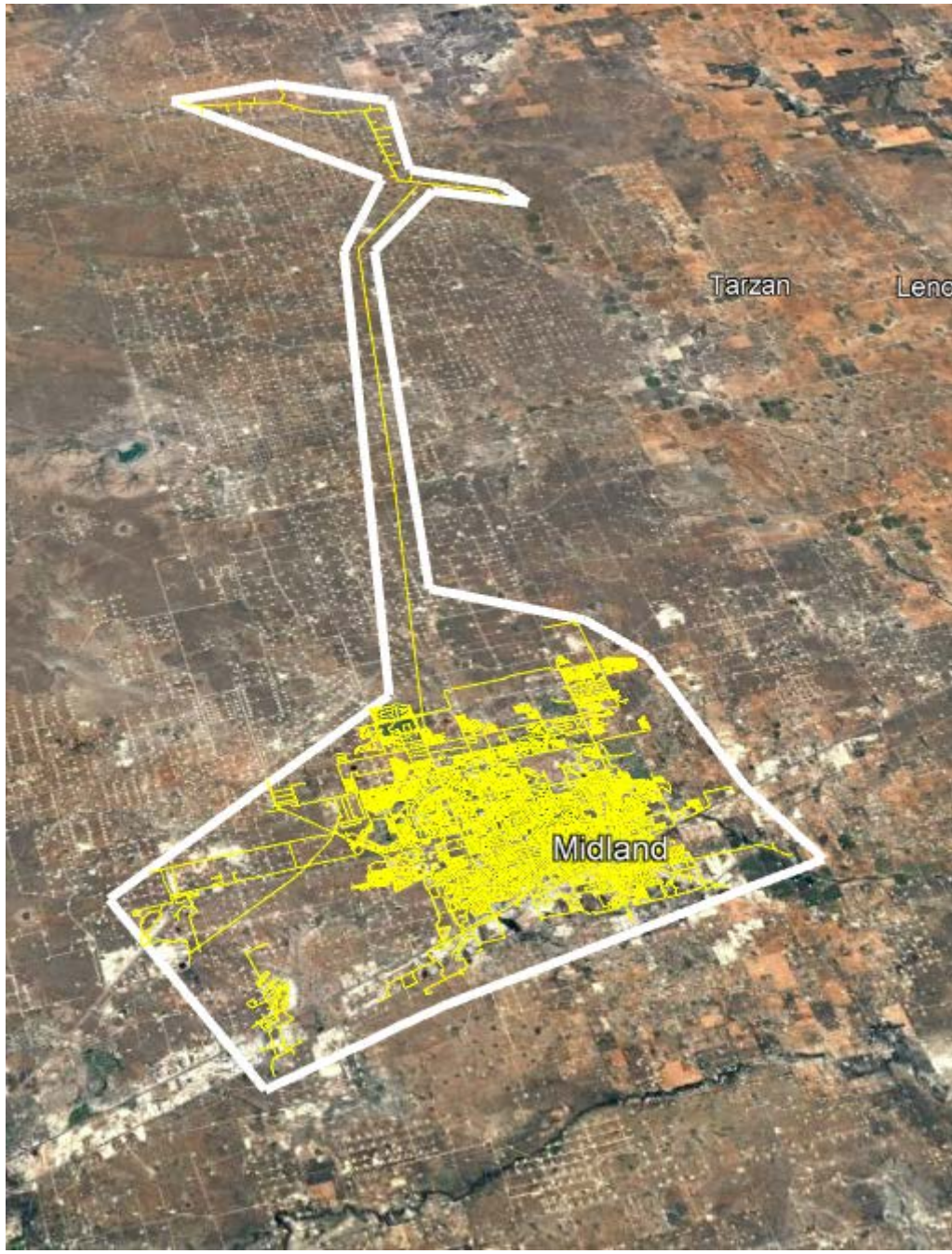
This Agreement may be amended by an authorized representative of each party in a duly executed written document referencing this Agreement and expressing the intent of each



party to amend this Agreement. If any provision of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect, and this Agreement shall be deemed amended to replace, to the extent legally permitted, the rights and obligations contained in such invalid or unenforceable provision. The invalidity or unenforceability of any provision shall not constitute a failure of consideration hereunder. Any failure or delay in exercising, or any single or partial exercise of, any right or remedy by either party hereto shall not be deemed a waiver of any further, prior, or future right or remedy hereunder, including the right of such party at any time to seek such remedies as may be available for any breach or breaches of such term or condition. Nothing in this Agreement shall make either party the agent of the other for any purposes whatsoever. Except to the extent such rights cannot be restricted by applicable law, neither party may assign, sublicense, or transfer this Agreement without the prior written consent of the other party, and any such attempt by a party to sublicense, assign or transfer any rights, duties, or obligations hereunder is null and void and subject to the other party's right to immediately terminate this Agreement. Notwithstanding the above, ASTERRA may assign, sublicense, or transfer this Agreement to an affiliate of ASTERRA or in connection with the merger, acquisition, or sale of all or substantially all of the assets of ASTERRA relating to this Agreement. This Agreement entered into between the parties on or around the date of this Agreement, together with the signed SOW constitute the entire agreement and understanding of the parties relating to the subject matter hereof, superseding all prior or contemporaneous agreements, representations, promises, and understandings, whether written,

electronic, oral or otherwise and any additional or conflicting terms contained in any other document (including, without limitation, any pre-printed, additional or conflicting terms on any Client purchase order, or acknowledgment from either party) shall be null, void and of no effect on either party.

ANNEX A – AREA OF INTEREST





ANNEX B - CSM SERVICES DESCRIPTION LIST AND SLA

Tier: Prevent

Standard Features:

- **System-Wide Advanced Temporal and Spatial Leak Analysis** - ASTERRA will provide the customer with a system-wide analysis of those locations identified as having a high probability of subsurface leakage using advanced temporal (data collected across time) and spatial (data collected across space) analysis.
- **Leak Location List with Prioritization** - Each customer will receive a list of potential leaks (Points of Interest, POI's) for leak detection investigation based on SAR algorithm results and machine learning. Each list can be prioritized based on piping attributes (pipe type, age, pressure, etc.) if available and provided by the client.
- **Customer Portal and Performance Dashboard (4 Licenses)** - Licenses for access to EO Discover, ASTERRA's Customer Portal and Performance Dashboard for tracking leak investigation results over the course of the subscription period.
- **U-Collect Software & U-View Software (4 Licenses)** - Access to field investigation input and viewing software.
- **On-Line Customer Support**
- **Customer Success Plan** - ASTERRA will provide each customer with a customized execution and success plan that will be reviewed and updated over the course of the subscription period.
- **Best Practice Tutorials (On-Line)** - ASTERRA will provide on-line tutorials which cover training and troubleshooting for the customer portal, U-Collect and U-View applications.

Additional Services available to the customer include:

Final Program Report – ASTERRA will provide a cost benefit report summarizing program progress, estimated water saved and impact of project on utility non-revenue water savings. Report is provided in PDF format.

Subcontracted Leak Detection Services - ASTERRA will provide the services of a preferred leak detection vendor subcontracted for 5-days/40-hour leak detection period. Following ASTERRA's best practices, identified leak locations will be investigated to pinpoint water loss. The schedule will be coordinated with the vendor and utility by ASTERRA Customer Success Manager.



Service Level Agreement (SLA)

This Service Level Agreement (“**SLA**”) is provided in connection with the Terms of Use governing the use of the ASTERRA’s Services and proprietary Platform (the “**Software**”). ASTERRA will endeavor to quickly respond to Software support requests and reported Software errors, bugs, or malfunctions (each, an “**Inquiry**”), and provide a solution to your Inquiry, as set forth in this SLA. Capitalized terms not defined herein shall have the respective meanings as set forth in the Terms of Use.

ASTERRA’s handling and resolution of Inquiries is subject to the following procedure and processes:

1. Inquiries shall be submitted to ASTERRA’s helpdesk by e-mail (csm@ASTERRA.io), or via the Client’s portal help feature, during ASTERRA’s standard business hours (9:00am to 5PM).
2. When ASTERRA receives notice of an Inquiry from you, along with all pertinent information at your disposal, regarding the Inquiry, ASTERRA will record the time in which the notification was received, during ASTERRA’s business hours indicated above (if the Inquiry is received by ASTERRA outside of its business hours, the Inquiry receipt time will be recorded as 9:00 am on ASTERRA’s next business day - the “**Opening Time**”).
3. Upon receiving an Inquiry, ASTERRA, using its reasonable judgment, will classify the Inquiry’s severity level as Critical, High, Medium, or Low, in accordance with the following guidelines:
 - a. Critical – Complete failure of the Software.
 - b. High – Significant fault in one or more of the primary functionalities of the Software.
 - c. Medium – Features of the Software are partially malfunctioning.
 - d. Low – Minor error or malfunction in the Software.
4. “Response” is ASTERRA’s provision of a preliminary, interim resolution or workaround for the Inquiry, partially alleviating the symptoms reported in the Inquiry. ASTERRA’s response will be in writing via email or via phone contact from the Client’s assigned Customer Success Manager.
5. “Final Resolution” is ASTERRA’s provision of a permanent and full resolution to the Inquiry.

ASTERRA will endeavor, using commercial efforts, to respond to Inquiries as set forth below and to provide a Final Resolution. Response Times are specified in relation to the Opening Time, as recorded in ASTERRA’s logs, as follows:

Priority	ASTERRA’s availability to commence handling the Inquiry	Response Time after Opening Time
Critical	ASTERRA’s business hours	8 hours
High	ASTERRA’s business hours	32 hours
Medium	ASTERRA’s business hours	3 business days
Low	ASTERRA’s business hours	2 business weeks

**CITY OF MIDLAND
SERVICE CONTRACT
#23004544**

THIS CONTRACT, effective this 9th day of August 2023, by and between the City of Midland, hereinafter referred to as the "CITY" and Utilis, Inc. dba ASTERRA, hereinafter referred to as the "COMPANY".

Projected Annual Cost: \$212,000.00

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

1. COMPANY shall perform all work as set forth in Exhibit "A", which is incorporated as part of this Contract. In performing the work, COMPANY shall, at its own cost and expense furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said work, in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with the Notice to Bidders, Instructions to Bidders, and the Specifications and addenda therefor, and the Performance Bond hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.
2. COMPANY hereby agrees to commence work within fifteen (15) days after the date written notice to do so shall have been given to it by CITY.
3. CITY agrees to pay COMPANY in current funds the price or prices shown in the Proposal, which forms a part of this Contract. No payment shall be due until the monthly service report has been delivered to CITY.
4. COMPANY shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws and building codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of Associated General Contractors of America, except where incompatible with federal, state or municipal laws or regulations.
5. **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, IT'S AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 5 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

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

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

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

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

- a. defective work not corrected;
- b. completed service report not submitted;
- c. failure of COMPANY to pay subcontractors or suppliers;
- d. damage to other work or CITY's property or equipment; or
- e. default of COMPANY in performance of this Contract.

The term of this agreement shall be for a period of one (1) year commencing on August 9, 2023, and terminating on August 10, 2024, unless sooner terminated as provided in this agreement.

8. COMPANY shall:

- a. comply with all applicable laws, rules, codes and regulations of Local, State and U.S. Governments;
- b. have a designated supervisor on the job site at all times work is in progress;
- c. make no changes in the scheduled work without written authorization from CITY;
- e. permit and facilitate inspection of the work in progress by CITY;
- f. not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex or national origin;
- g. be responsible for any damage caused by COMPANY to CITY property and repair such damage at his own cost;

h. remedy all defects in workmanship which develop within a period of one (1) year from the date of service report acceptance by CITY; and

i. not permit any worker to labor more than eight (8) hours during any one (1) calendar day or more than forty (40) hours during any one (1) calendar week, except as permitted by law; pay all royalties, license, and permit fees and applicable taxes required to execute this Contract.

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

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

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

To CITY:

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

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

To COMPANY. Utilis, Inc. dba ASTERRA
4180 La Jolla Village Drive, Suite 530
La Jolla, CA 92037

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

12. **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.

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

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

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

16. **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.

17. **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.

18. **WAIVER OF ATTORNEY FEES**: BY EXECUTING THIS CONTRACT, COMPANY AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY REGARDING THE AWARD OR ATTORNEY’S FEES, WHICH ARE IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS CONTRACT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, INCLUDING, BUT NOT LIMITED TO, ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL

PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

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

19. **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.

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

22. **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.

23. **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.

24. **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.

25. **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.

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

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

28. **INSURANCE**

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

Commercial General Liability (including Contractual liability):

-Personal Injury:	\$1,000,000.00 per person
	\$1,000,000.00 per occurrence
-Property Damage:	\$500,000.00 per occurrence

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

Worker's Compensation: Statutory limits

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

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

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

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

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

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

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

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 _____, 2023 personally appeared, _____, an officer of Utilis, Inc. dba ASTERRA, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

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

Notary Public, State of _____



**ASTERRA Statement of Work
&
Software Terms of Use**

Provided to:

City of Midland, TX

July 19, 2023

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Statement of Work (SOW)

This Statement of Work (“**SOW**”) is provided in connection with the Terms of Use governing the use of ASTERRA’s Services and Platform.

Capitalized terms not defined herein shall have the respective meanings as set forth in the Terms of Use.

A. ROLES, RESPONSIBILITIES AND SERVICES – ASTERRA

1. GENERAL

ASTERRA offers its Clients, a patented technology operated by **Utilis Inc.** for pipe replacement modeling, and leak detection in urban and rural water networks, using L-band synthetic aperture radar (SAR) mounted on a satellite. The technology is based on a proprietary algorithm that detects soil moisture through the analysis of SAR data.

2. ASTERRA’S PRODUCTS OVERVIEW

ASTERRA will provide Client with the following Products available through the Platform: “Recover”, “MasterPlan” (the “**Products**”), and their related Service Tiers: “Detect”, “Prevent” or “Advise” (the “**Service Tiers**”). Products related deliverables and Service Tiers are detailed under Section F Below.

2.1 Recover - Satellite-Based Leak Detection and Analysis

ASTERRA Recover provides customers with leak detection monitoring for drinking and wastewater systems utilizing Synthetic Aperture Radar (SAR) signals from satellites to illuminate the area of interest and collect the resulting reflected signals. These signals are analyzed with the ASTERRA patented algorithm and processed to identify specific indicators of wet soil saturated with potable or wastewater, screening out the signal noise and other interference. The result is a map showing likely leak locations, or Points of Interest (POI). These results typically encompass 5 – 10 % of the entire system length, so that the clients time and resource cost to inspect is much lower than traditional inspection methods. Recover is available as a subscription with various levels of service to match client’s needs.

2.2 MasterPlan – Pipeline Monitoring and Deficiency Assessment

Similar to Recover, ASTERRA MasterPlan utilizes Synthetic Aperture Radar (SAR) signals from satellites to illuminate the area of interest and collect the resulting reflected signals over time. These signals are analyzed with the ASTERRA patented algorithm and processed to identify the condition of underground water infrastructure, with pipes scored on a 1 – 5 scale, from a low level of deficiency observed to high levels of deficiency. The algorithm scores pipe segments exhibiting non-surfacing leaks and analyzes leak clusters over time contributing to the development of long-term maintenance and pipe replacement plans. MasterPlan is compatible with all GIS-based asset planning model tools and easily integrates with attribute



data such as pipe age, material, and work orders from surfacing leaks. MasterPlan is available in the Advise level subscription or as an additional service to Clients in the Prevent tier.

B. ROLES, RESPONSIBILITIES – CLIENT

1. GENERAL

Client is responsible for providing baseline system data, work order history and in some cases, an acoustic field verification team to inspect points of interests (POI) identified by ASTERRA. **Client** shall identify a primary contact person for technical, administrative, and field inspection coordination.

2. CLIENT RESPONSIBILITIES:

Client shall provide ASTERRA with the following materials ("**Materials**"):

2.1 Area of interest (AOI): the Client will provide ASTERRA with an area of interest (AOI). Unless agreed otherwise by the parties, the AOI is a designated geographical area to be surveyed using ASTERRA technology. AOI is required for all Products. AOI is attached as **Annex A** hereto and as agreed upon number of linear miles or area defined in Section F herein.

2.2 Recover Product/MasterPlan Pipe System Information: prior to image acquisition, the Client shall provide ASTERRA with a detailed and accurate GIS pipe system layer in the form of a shapefile or KML/KMZ. ASTERRA will use this layer to identify POI locations. The GIS layer should include pipe material, pipe age, pressure zone, and diameter, length of pipeline, trunk, main and service to be analyzed, and major appurtenances including hydrants, valves, and any other detailed information available.

2.3 Recover/MasterPlan Leak Detection History (Work Orders): The Client shall provide ASTERRA with a detailed and accurate history of leak findings and repairs through the "Go-Live Date".

2.4 Recover/MasterPlan Leak Detection Performance Metrics: The Client shall provide ASTERRA with relevant and available performance metric data related to previous Client-utilized leak detection methodologies, field investigation process, timing, methods, and data delivery timing information, customer cost of water and cost of energy per CSM interview. This information will be used to calculate performance metrics of the service.

C. WORK PROCESS TIMELINE

1. Upon receipt of Client's Materials, ASTERRA shall initiate the satellite imagery acquisition and analysis. Once the analysis is completed, ASTERRA will inform Client of the "Go-Live-Date" and access to Product will be granted to Client. "Go-Live-Date" notice will be furnished by ASTERRA upon 7-14 business days after the scheduled image acquisition date. Image



acquisition dates may be changed by a third party (satellite operator) or due to technical constraints. "Go-Live-Date" may be affected due to poor image quality according to ASTERRA's quality assurance standards.

2. Unless otherwise agreed upon by both parties, ASTERRA will provide Services only in the AOI overlapping with the Client's provided GIS pipe system layer.
3. Recover leak field inspection work can begin after the leakage report has been delivered to the Client customer portal and ASTERRA has provided training, guidance, and interpretation of the leakage data.
4. Unless otherwise agreed upon by the parties, field work with an ASTERRA field engineer will be conducted only within the borders of the AOI and at sites where access is provided by the client.
5. Delays in the provision of Materials may result in delays and/or additional cost in performing the Services. Where required, Client shall furnish access to Client's premises, and appropriate worksite, as necessary for performance of those portions of the Services to be performed at Client's premises.

D. ACCESS TO PLATFORM AND PRODUCTS

1. Provision of the Platform: portal environment, applicable licenses, including U-Collect and U-View licenses, analytics, reports and data that can be used in Client's GIS systems.
2. Access to the Platform shall only be granted upon ASTERRA's "Go-Live" notice to the Client and shall expire on the Service termination date.
3. Upon expiration or termination of the Agreement for any reason, Client will not be able to access the Services and/or, the data stored within the Platform, the Platform, related software and mobile applications, ASTERRA's support and any other software or data related to the Service. Any and all data not exported by Client to Client's own storage, shall no longer be available to Client following Service's termination. An exception will be made for Clients who renew their subscription within 12 months of termination of their previous subscription.
4. The provision of ongoing technical and support services by ASTERRA are in accordance with the Service Level Agreement ("SLA").



E. FEES & PAYMENT TERMS

1. Annual subscription fee per Package and Service Tier requested by Client (exclusive of Taxes) ("Annual Fee") and Additional Services as required by Client ("Support Service Fee") as provided in the table below.
2. Package Name: Prevent, Subscription Duration: 12 Months
3. Potable Water lines surveyed: 920 Miles, Wastewater lines surveyed: 0 Miles.
4. Table of fees:

ASTERRA Package: Prevent	QTY	Price
Annual Subscription Package	1	\$140,000
Additional Services		
Subcontracted BOTG (5 Days minimum)	40 Days	\$72,000
Final Program Report	1	Included
TOTAL		\$212,000

5. Payments by Client shall be made as follows:
 - a. Annual Subscription Fee and any additional services shall be invoiced by ASTERRA on the Go-Live-Date.
 - b. Subcontracted Acoustic Leak Detection (BOTG) will be invoiced 14 days prior to the commencement of the field investigation.
6. Payment is due 30 days from the invoice date.
7. Requests for analysis outside the agreed upon AOI provided by the Client in Annex A may result in additional fees.
8. CSM SERVICES LIST & Service Level Agreement (SLA) is attached hereto as Annex B



ACCEPTANCE OF TERMS

By executing this SOW, you confirm your approval of the SOW on behalf of Client listed below, to be contractually bound by:

1. This SOW; and
2. The Terms of Use and Service Level Agreement incorporated by reference into this SOW.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Utilis Inc., dba., ASTERRA

City of Midland, TX

Signature: _____

Signature: _____

Name: Gadi Kovarsky

Name: _____

Title: General Manager, Water Division

Title: _____

Date: _____

Date: _____



TERMS OF USE

These Terms of Use (the “**Terms**”) is made and entered into as this 27th day of June 2023 (“**Effective Date**”), by and between Utilis Inc., dba., ASTERRA (the “**Company**”, “**ASTERRA**”) a private company having its registered offices at 4180 La Jolla Village Dr., Suite 530, La Jolla, CA 92037, and City of Midland, TX (“**Client(s)**”, “**you**”) a home-rule municipal corporation organized and existing under the laws of Texas with a principle place of business and mailing address at 300 N. Loraine, | P.O. Box 1152 | Midland, TX 79701. Terms of use govern the provision of the services that provide information for leak detection analysis, pipeline monitoring and deficiency assessment, using remote sensing technology (the “**Service(s)**”) operated by Utilis Israel Ltd., Utilis, Inc., Utilis SAR Ltd or Utilis Japan., all trading and doing business as ASTERRA (“**ASTERRA**”). Each of Client and ASTERRA will be referred to as a “party” and together the “parties”.

1. Definitions and Interpretation

1.1. Capitalized terms not defined herein have the meanings given in the Statement of Work (the “**SOW**”), the Service Level Agreement (the “**SLA**”), or the Service Contract (the “**SC**”), which are hereby incorporated into, and form part of, these Terms (together the “**Agreement**”), unless specifically excluded.

1.2. If there is a conflict between any provision of these Terms, the SOW, the SLA, the SC, or any other agreement related to the Services, the provisions of the SC shall prevail.

2. License Grant

2.1 Subject to the Terms, Client requests and ASTERRA grants, a nonexclusive, non-transferable, non-sublicensable, limited access license, to use the portal environment, applicable licenses, analytics, reports and data that can be used in client’s GIS systems (the “**Platform**”) during the Term, solely in accordance with the Terms herein, for Client’s internal business purposes only.

2.2 Services, additional services, and/or licenses shall be issued in separate SOWs, in the form attached hereto as Statement of Work, signed by both parties, numbered sequentially (SOW1, SOW2, etc.), all attached to and governed by these Terms.

3. ASTERRA Limited Warranties

ASTERRA warrants and undertakes that:

3.1. it will provide the Services using the degree of skill, care, and diligence which would reasonably and ordinarily be expected from a skilled and experienced provider of the Services (or of services materially similar to the Services);

3.2. each member or individual involved in the provision of the Services shall be suitably qualified, adequately trained and competent to provide the relevant part of the Services in respect of which they are engaged.

3.3. the Services, when used in the manner envisaged by this Agreement, do not, to the best of ASTERRA’s knowledge, infringe the intellectual property rights of any third party.



3.5. ASTERRA shall not be liable for any material delay or failure to provide the Services to the extent that such material delay or failure is caused by Client's failure to comply with the Agreement, including but not limited to, the following obligations:

- a. provision of data as agreed between the Parties and set out in the SOW – to be made ready on or before any agreed date of provision.
- b. failure by Client to make available personnel, Information, or to provide site physical access, as reasonably required for the performance of the Services.
- c. a failure by Client to make available adequate infrastructure to install, activate and use of the Service (such as: Client's systems and devices) to support the provision of the Services.

3.6 The Services hereunder are provided on an "AS IS" basis. Except for the above express warranty, ASTERRA makes no other warranties, express or implied, relating to the Services. ASTERRA does not represent or warrant that the Services shall be uninterrupted or error-free. ASTERRA disclaims and excludes any implied warranties of non-infringement, merchantability and/or fitness for a particular purpose.

4. **Payment Terms**

4.1 In consideration of the Service, Client will pay all invoices issued under this Agreement in accordance with stated payment terms on the relevant SOW. Any invoice that has not been paid within such period of time shall bear interest at the rate of 1% per month or any part of a month. Client is responsible for any applicable tax, duty,

or tariff (except with respect to ASTERRA's income), and all reasonable costs of shipment.

4.2 All Customer's payment obligations to ASTERRA are non-cancelable and paid fees are non-refundable. Client is responsible for paying all fees applicable to its subscription to the Service, whether or not it actively used, accessed or otherwise benefited from the Service. Unless stated differently in the SOW, fees are exclusive of any sales tax, VAT, withholding tax or other governmental charges or transaction charges. Where applicable, ASTERRA will provide the Client its tax certificates and Client shall withhold taxes from payments due as per such certificates.

5. **Technical Support**

5.1. During the Term, ASTERRA, either directly or with the assistance of third parties, will provide Client technical support for technical issues regarding the Services, in accordance with the SLA terms. For the purpose of the provision of technical support for the Client's technical questions, problems and inquiries, Client will cooperate, and work closely with ASTERRA, to reproduce malfunctions, including conducting diagnostic or troubleshooting activities, as ASTERRA reasonably requests.

ASTERRA may suspend the Services for planned maintenance work ("**Planned Maintenance**") or for rectifying critical outages ("**Unplanned Maintenance**"). In relation to Planned Maintenance, ASTERRA shall provide Client at least 14 calendar days' prior notice stating the scope, time, and duration of the Planned Maintenance. In relation to Unplanned Maintenance, ASTERRA shall endeavor to



provide Client with such advance notice as is reasonably practicable in the circumstances.

6. Privacy

As part of the Services, you may be granted a certain number of U-Collect, U-View and ASTERRA's Dashboard Licenses. The applicable terms of use and privacy policy are detailed in <https://ASTERRA.io/privacy-policy-portal-application/>

7. Confidentiality

Each party ("**Recipient**") agrees to: (a) keep all Confidential Information (as defined below) confidential; (b) not without the other party's ("**Discloser**") prior written consent to disclose any Confidential Information to any other person save those of its personnel who have a need to know the same in connection with this Agreement and its performance of this Agreement; (c) to use the Confidential Information solely in connection with this Agreement and the performance of its obligations hereunder and not otherwise for its own benefit or for the benefit of any third party. "Confidential Information" means all data, material, and information of a confidential nature in any form whatsoever disclosed (whether directly or indirectly) by or on behalf of the Discloser to Recipient, including: (a) the identity and business, financial and/or technical affairs of that party's business contacts, including Clients, agents, distributors and licensees (b) all financial information of Discloser; (c) all data provided to Recipient by or on behalf of the Discloser in connection with the Services.

Confidential Information does not include information: (a) disclosed as a requirement of law or any regulatory body to whose rule Recipient is subject provided that Recipient, if legally permissible, gives Discloser prompt written notice of such requirement prior to such disclosure and only discloses that portion of the Confidential Information that is legally required; (b) known to Recipient prior to the commencement of this Agreement otherwise than as a result of being obtained directly or indirectly from the Discloser; (c) obtained from a third party who lawfully possessed such Confidential Information and which has not been obtained in a breach of a duty of confidence owed to the Discloser; (d) developed independently by Recipient without the use of Discloser's Confidential Information; or (e) in the public domain other than as a result of a breach of a duty of confidence owed to the Discloser. Notwithstanding any contrary provision contained herein, ASTERRA acknowledges that Client is a governmental entity subject to the Texas Public Information Act, as amended, and ASTERRA agrees that the Agreement in no way affects, modifies, or limits Client's obligation to comply with the Texas Public Information Act or any ruling or decision issued by the Texas Attorney General. Client further agrees that Client retains the right to exercise its sole and absolute discretion in determining its obligations under the Texas Public Information Act. Finally, ASTERRA agrees that Client's compliance with the Texas Public Information Act with regard to matters pertinent to this Agreement shall absolve and forever discharge Client of any claim that Client breached this Agreement by disclosing Confidential Information. Upon request of Discloser or upon the expiry or termination of this Agreement, Recipient shall delete and destroy any Discloser's Confidential



Information then in its possession or control. Recipient acknowledges that ASTERRA may seek injunctive relief or any other remedies at law, in the event of any such breach by Client.

8. Client Data; Client Feedback

8.1 Client acknowledges and agrees that ASTERRA will handle and use (by itself or by using trusted third-party service providers) the data that the Client feeds to the Platform (or that ASTERRA feeds to the Platform on Client's behalf) ("**Client Data**") and the data and output generated by the Platform when used by the Client, as follows:

- (a) To provide the Services to the Client, conduct administrative and technical activities necessary to maintain and provide the Services and to improve and customize the Services;
- (b) To conduct analysis or generate metrics related to the Services;
- (c) For commercial and marketing purposes, publication of case studies and white papers regarding the Services itself (only in a form not identifying the Client and not disclosing any Client-specific output generate by the Platform unless specifically approved by the client);
- (d) To bill and collect fees (if applicable), to enforce this Agreement, and to take any action in any case of dispute or legal proceeding of any kind involving the Client with respect to this Agreement;
- (e) To prevent fraud, misappropriation, infringements, and other illegal activities and misuse of the Services;
- (f) To develop new products, features, and services, and for research and testing, provided that no information identifying the Client is

publicly shared without prior authorization from the Client.

The Client will not be entitled to any remuneration from ASTERRA for the foregoing uses.

8.2 ASTERRA may, but are under no duty to, review Client Data made available through the Service. We may, in our sole discretion, temporarily or permanently delete or block access Service, if we find that it violates these Terms or for any other reason

8.3 Client may provide ASTERRA with information or content concerning enhancements, changes, or additions to the Service or other Company offerings, that are requested, desired or suggested by the Client or users on its behalf, including information pertaining to bugs, errors and malfunctions of the Service, performance of the Service, content and accuracy of the Service, the Service's compatibility and interoperability, and information or content concerning enhancements, changes or additions to the Service that Client requests, desires or suggests ("**Feedback**"). Client hereby assigns, without charge, all right, title and interest in and to the Feedback to ASTERRA, including the right to make commercial use thereof, for any purpose ASTERRA deems appropriate.

9. Intellectual Property

9.1 All rights, title and interest in and to the Service, Platform and the Service's software, including, without limitation, patents, copyrights, trademarks, trade names, service marks, trade secrets and other intellectual property rights,



and any goodwill associated therewith, including computer code, graphic design, layout and the user interfaces of the Service, whether or not based on or resulting from Feedback, are and will remain at all times owned by ASTERRA, or licensed to ASTERRA.

All rights in and to the Service or Platform that are not expressly granted to Client in this Agreement are hereby reserved by ASTERRA.

9.2 Except for Client's limited access to use the Service during the Term, this Agreement does not grant or assigns to Client, any other license, right, title, or interest in or to the Service or Platform, or the intellectual property rights associated with them.

9.3 Client acknowledges and agrees solely in connection with Client's provision of the Service, ASTERRA is hereby granted a limited, revocable, nonexclusive, internal, and royalty-free license, solely during the Term to access, host and maintain Client Data for the strict limited purposes of delivering the Service to Client and supporting Client's use of the Service as described herein.

10. Disclaimer; Limitation of Liability; Indemnification

10.1 The Services, as set forth in this Agreement, include the provision of information and investigative output based on the technology developed by ASTERRA, and subsequent analyses, recommendations, evaluations, ranking reports, and guidance on best practices based on the foregoing. By their nature, the Services provided are solely decision making and support tools acquired by Client. Any and all acts,

omissions decisions and performance by Client based on the Services provided to Client under this Agreement, are the sole responsibility of Client and such activity does not form any part of the Services. By signing the Agreement Client signals its understanding of the scope of the Services. The contract is with Utilis Israel Ltd., Utilis, Inc., Utilis SAR Ltd and Utilis Japan, as applicable, also doing business as ASTERRA.

10.2 LIMITATION OF LIABILITY. IN THE EVENT THAT, NOTWITHSTANDING THE TERMS ABOVE, ASTERRA OR CLIENT IS FOUND LIABLE FOR DAMAGES OF ANY KIND BASED ON ANY THEORY OF LIABILITY (INCLUDING LIABILITY FOR NEGLIGENCE) CONNECTED AND/OR RELATED TO THE SERVICES COVERED BY THIS AGREEMENT, ASTERRA'S OR CLIENT'S TOTAL AND AGGREGATE LIABILITY FOR SUCH DAMAGES SHALL NOT EXCEED THE PAYMENTS MADE BY CLIENT TO ASTERRA IN THE TWELVE MONTHS PRECEDING THE EVENT PURPORTEDLY GIVING RISE TO THE CLAIM.

10.3 EXCLUSION OF CONSEQUENTIAL DAMAGES. ASTERRA AND CLIENT SHALL NOT BE LIABLE TOWARD THE OTHER PARTY, OR ANY OTHER THIRD PARTY FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGE OR INJURY TO BUSINESS EARNINGS, LOSS OF DATA, LOST PROFITS OR GOODWILL AND/OR PERSONAL INJURY, SUFFERED BY ANY PERSON ARISING FROM AND/OR RELATED WITH AND/OR CONNECTED TO THE SERVICES COVERED BY THIS AGREEMENT, WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, TORT, OR OTHERWISE, (INCLUDING NEGLIGENCE) EVEN IF THE CLAIMANT IS ADVISED OF OR SHOULD HAVE



BEEN AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

10.4 INDEMNIFICATION

10.4.1 Indemnification by ASTERRA.

Subject to this Agreement and without derogating from the foregoing, ASTERRA shall defend and indemnify Client and its respective directors, officers, employees, consultants, successors and assigns (collectively “**Client Indemnitee**”) from and against any claim by a third party alleging that the use of the Service as contemplated under this Agreement, infringes a third party’s patent, copyright, trade secret or other intellectual property rights which are enforceable in the jurisdictions in which the Client’s support teams operate. Notwithstanding the foregoing, ASTERRA shall have no liability or obligation to Client Indemnitees with respect to any claim for infringement relating to: (1) Client’s use of the Service in combination with other products not provided or endorsed by ASTERRA; (2) modifications or alterations of the Service which are not performed by ASTERRA or with its permission; (3) a breach or alleged breach by Client of its representations, under the Agreement; in any case of (1) – (3) above, only to the extent that the Service would not be infringing in the absence of such circumstances.

10.4.2 The indemnified party shall promptly notify the indemnifying party in writing of any claim for which it seeks indemnification hereunder; provided that the failure to provide such notice shall not relieve the indemnifying party of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure. The indemnifying party shall bear full responsibility

for, and shall have the right to solely control, the defense (including any settlements) of any such claim; provided, however, that (a) the indemnifying party shall keep the indemnified party informed of, and consult with the indemnified party in connection with the progress of such litigation or settlement and (b) the indemnifying party shall not have any right, without the indemnified party’s written consent (which consent shall not be unreasonably withheld), to settle any such claim in a manner that does not unconditionally release the indemnified party. At the indemnifying party’s request, the indemnified party will provide reasonable cooperation with respect to any defense or settlement.

11. Term and Termination

11.1 Unless otherwise specified in the applicable SOW, this Agreement commences upon the Client’s date of signature herein or acceptance date by Client, as applicable. The Service shall commence on the date on which the relevant Service is 'live', being the first date on which the Client or the first of the Client’s users is granted access to the Platform’s data, upon a notice by ASTERRA to Client (“**Go – Live- Date**”) and will continue for a period of twelve (12) months thereafter.

11.2 Notwithstanding the foregoing, either party may terminate this Agreement at will for no or any reason by giving at least one hundred eighty (180) days’ written notice. The parties agree that it is in each party’s sole discretion to cancel this Agreement during the term of this Agreement without penalty. Neither party has received any expectation or guarantee that this Agreement will not be terminated during the term.



11.3 Either party may immediately terminate this Agreement if (A) any proceeding is commenced in good faith against the other party for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition, or extension of debts; (B) the other party commences proceedings for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition, or extension of debts; (C) there is issued a decree or order of a court having jurisdiction for the appointment of a receiver, liquidator, or trustee or assignee in bankruptcy or insolvency of the other party or of a substantial part of the other party's property, or for the winding up or liquidation of the other party's affairs; or (D) there is a general assignment by the other party for the benefit of creditors or the admission by the other party in writing of its inability to pay its debts generally as they become due.

11.4 Upon expiration or termination of this Agreement for any reason: (i) Client will not be able to access the Services and/or the data stored within the Platform, the Platform, ASTERRA's support and any other software or data related to the Service. Any and all data not exported by Client to Client's own storage, shall no longer be available to Client afterward; and payment obligations of Client for Services provided through the date of termination will immediately become due. Client data will be accessible to a returning Client if they renew their subscription within 12 months of termination of their previous subscription

11.5 Upon expiration or termination of this Agreement and in any event, upon ASTERRA's written request, Client shall return or destroy any and all Confidential Information including, but not limited to ASTERRA training materials, and any and all materials incorporating ASTERRA's Confidential Information and all copies and derivatives thereof.

11.6 Sections 3-10, 11.4-11.6, 12 and 13 shall survive any termination or expiration of the Agreement for any reason.

12. Governing Law

The parties exclusively submit to the governing law of Texas, and the exclusive jurisdiction and venue of the state district courts of Midland County, Texas. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply in any respect to this Agreement or the parties. Client shall comply with all applicable (including, all U.S. and applicable foreign) laws and administrative regulations relating to the control of exports of commodities and technical and/or personal data, and all laws directly or indirectly applicable to its activities hereunder or otherwise pursuant to or in connection with this Agreement, the Licenses or use of any software, and the provision of any Services and/or support.

13. Miscellaneous

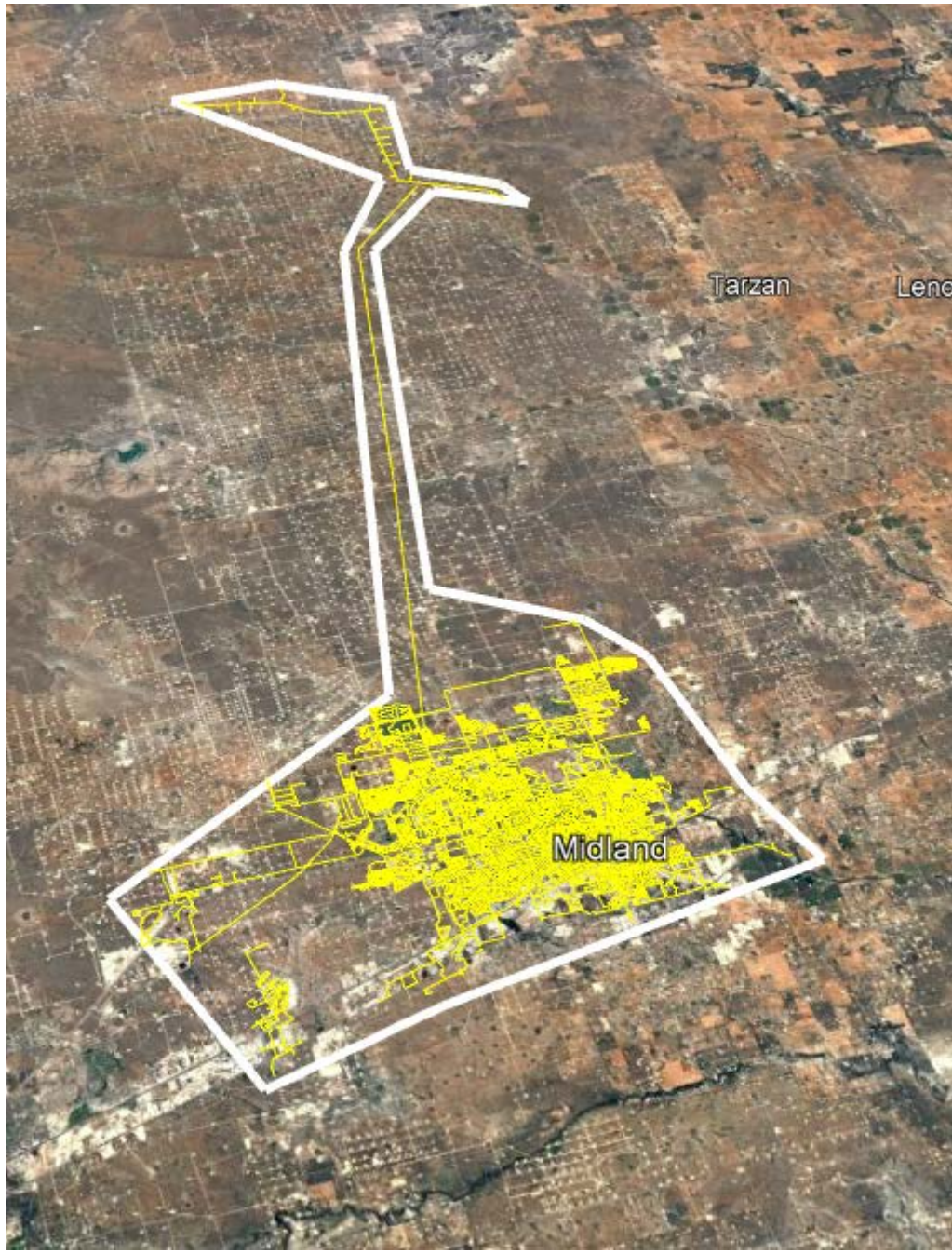
This Agreement may be amended by an authorized representative of each party in a duly executed written document referencing this Agreement and expressing the intent of each



party to amend this Agreement. If any provision of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect, and this Agreement shall be deemed amended to replace, to the extent legally permitted, the rights and obligations contained in such invalid or unenforceable provision. The invalidity or unenforceability of any provision shall not constitute a failure of consideration hereunder. Any failure or delay in exercising, or any single or partial exercise of, any right or remedy by either party hereto shall not be deemed a waiver of any further, prior, or future right or remedy hereunder, including the right of such party at any time to seek such remedies as may be available for any breach or breaches of such term or condition. Nothing in this Agreement shall make either party the agent of the other for any purposes whatsoever. Except to the extent such rights cannot be restricted by applicable law, neither party may assign, sublicense, or transfer this Agreement without the prior written consent of the other party, and any such attempt by a party to sublicense, assign or transfer any rights, duties, or obligations hereunder is null and void and subject to the other party's right to immediately terminate this Agreement. Notwithstanding the above, ASTERRA may assign, sublicense, or transfer this Agreement to an affiliate of ASTERRA or in connection with the merger, acquisition, or sale of all or substantially all of the assets of ASTERRA relating to this Agreement. This Agreement entered into between the parties on or around the date of this Agreement, together with the signed SOW constitute the entire agreement and understanding of the parties relating to the subject matter hereof, superseding all prior or contemporaneous agreements, representations, promises, and understandings, whether written,

electronic, oral or otherwise and any additional or conflicting terms contained in any other document (including, without limitation, any pre-printed, additional or conflicting terms on any Client purchase order, or acknowledgment from either party) shall be null, void and of no effect on either party.

ANNEX A – AREA OF INTEREST





ANNEX B - CSM SERVICES DESCRIPTION LIST AND SLA

Tier: Prevent

Standard Features:

- **System-Wide Advanced Temporal and Spatial Leak Analysis** - ASTERRA will provide the customer with a system-wide analysis of those locations identified as having a high probability of subsurface leakage using advanced temporal (data collected across time) and spatial (data collected across space) analysis.
- **Leak Location List with Prioritization** - Each customer will receive a list of potential leaks (Points of Interest, POI's) for leak detection investigation based on SAR algorithm results and machine learning. Each list can be prioritized based on piping attributes (pipe type, age, pressure, etc.) if available and provided by the client.
- **Customer Portal and Performance Dashboard (4 Licenses)** - Licenses for access to EO Discover, ASTERRA's Customer Portal and Performance Dashboard for tracking leak investigation results over the course of the subscription period.
- **U-Collect Software & U-View Software (4 Licenses)** - Access to field investigation input and viewing software.
- **On-Line Customer Support**
- **Customer Success Plan** - ASTERRA will provide each customer with a customized execution and success plan that will be reviewed and updated over the course of the subscription period.
- **Best Practice Tutorials (On-Line)** - ASTERRA will provide on-line tutorials which cover training and troubleshooting for the customer portal, U-Collect and U-View applications.

Additional Services available to the customer include:

Final Program Report – ASTERRA will provide a cost benefit report summarizing program progress, estimated water saved and impact of project on utility non-revenue water savings. Report is provided in PDF format.

Subcontracted Leak Detection Services - ASTERRA will provide the services of a preferred leak detection vendor subcontracted for 5-days/40-hour leak detection period. Following ASTERRA's best practices, identified leak locations will be investigated to pinpoint water loss. The schedule will be coordinated with the vendor and utility by ASTERRA Customer Success Manager.



Service Level Agreement (SLA)

This Service Level Agreement (“**SLA**”) is provided in connection with the Terms of Use governing the use of the ASTERRA’s Services and proprietary Platform (the “**Software**”). ASTERRA will endeavor to quickly respond to Software support requests and reported Software errors, bugs, or malfunctions (each, an “**Inquiry**”), and provide a solution to your Inquiry, as set forth in this SLA. Capitalized terms not defined herein shall have the respective meanings as set forth in the Terms of Use.

ASTERRA’s handling and resolution of Inquiries is subject to the following procedure and processes:

1. Inquiries shall be submitted to ASTERRA’s helpdesk by e-mail (cs@ASTERRA.io), or via the Client’s portal help feature, during ASTERRA’s standard business hours (9:00am to 5PM).
2. When ASTERRA receives notice of an Inquiry from you, along with all pertinent information at your disposal, regarding the Inquiry, ASTERRA will record the time in which the notification was received, during ASTERRA’s business hours indicated above (if the Inquiry is received by ASTERRA outside of its business hours, the Inquiry receipt time will be recorded as 9:00 am on ASTERRA’s next business day - the “**Opening Time**”).
3. Upon receiving an Inquiry, ASTERRA, using its reasonable judgment, will classify the Inquiry’s severity level as Critical, High, Medium, or Low, in accordance with the following guidelines:
 - a. Critical – Complete failure of the Software.
 - b. High – Significant fault in one or more of the primary functionalities of the Software.
 - c. Medium – Features of the Software are partially malfunctioning.
 - d. Low – Minor error or malfunction in the Software.
4. “Response” is ASTERRA’s provision of a preliminary, interim resolution or workaround for the Inquiry, partially alleviating the symptoms reported in the Inquiry. ASTERRA’s response will be in writing via email or via phone contact from the Client’s assigned Customer Success Manager.
5. “Final Resolution” is ASTERRA’s provision of a permanent and full resolution to the Inquiry.

ASTERRA will endeavor, using commercial efforts, to respond to Inquiries as set forth below and to provide a Final Resolution. Response Times are specified in relation to the Opening Time, as recorded in ASTERRA’s logs, as follows:

Priority	ASTERRA’s availability to commence handling the Inquiry	Response Time after Opening Time
Critical	ASTERRA’s business hours	8 hours
High	ASTERRA’s business hours	32 hours
Medium	ASTERRA’s business hours	3 business days
Low	ASTERRA’s business hours	2 business weeks



City Council Meeting

Item Number: 7
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION AWARDING A CONTRACT FOR THE WATER REHAB PROGRAM 01 PROJECT TO ENTRENCH, INC., FOR AN AMOUNT OF \$2,000,000.00; AND TRANSFERRING AND APPROPRIATING FUNDS (DISTRICT: ALL) (GENERAL SERVICES)

Purpose:

Resolution awarding a contract for the Water Rehab Program 01 Project for the Utilities Department to Entrench, Inc. of Hobbs, New Mexico for a cost not to exceed of \$2,000,000.00.

Recommended City Council Action:

Approve

Fiscal Impact:

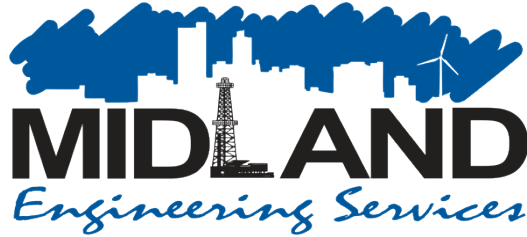
\$2,000,000.00 will be appropriated from the Water and Sewer Fund unappropriated fund balance and will be transferred and appropriated to a project in the Water & Sewer Capital Projects Fund.

Discussion:

The City Manager approved plans and specifications and authorized advertisement for bids for the Water Rehab Program 01 Project for the Utilities Department. The bid request was sent to one hundred fourteen (114) companies. We received three (3) bids. Staff recommends awarding a contract to Entrench, Inc. for the amount of \$2,000,000.00. Please see the attached memo from Joshua Ferguson, Assistant City Engineer, for more information.

Therefore, please consider a resolution awarding a contract for the Water Rehab Program 01 Project for the Utilities Department to Entrench, Inc. of Hobbs, New Mexico for a cost not to exceed of \$2,000,000.00.

Jina Gang
City Manager's Office



INTEROFFICE MEMORANDUM

TO: Erika Martinez; City of Midland, Purchasing Manager

FROM: Joshua C. Ferguson, P.E.; City of Midland, Assistant City Engineer

SUBJECT: Water Rehab Program 01 ♦ Engr. Project No. U22-02 ♦ Bid Tabulation ♦
Funding # [REDACTED]

DATE: July 21, 2023

Erika,

Engineer staff has reviewed the bid tabulation for the Water Rehab Program 01. Entrench, Inc. of Hobbs, New Mexico, is the apparent successful low bidder. Staff recommends awarding the Water Rehab Program 01 to Entrench, Inc.

Entrench, Inc. has an established history with the City of Midland of performing work of similar scale and scope to the Water Rehab Program 01. Furthermore, the unit prices appear to be in line with current pricing trends.

Funding will be appropriated from Water and Sewer fund for this project.

The agreement specifies awarding an amount not to exceed \$2,000,000.00 with a construction period beginning within 15 calendar days of a written notice to proceed for construction and an initial construction deadline of September 30, 2024 with an option of renewing the program for no more than two (2) additional one (1) year terms after the initial construction deadline for an amount not to exceed \$2,000,000.00 per term.

Joshua C. Ferguson, P.E.
Assistant City Engineer

Cc: Jose Ortiz
Regina Stephenson

RESOLUTION NO. _____

**RESOLUTION AWARDDING A CONTRACT FOR THE
WATER REHAB PROGRAM 01 PROJECT TO
ENTRENCH, INC., FOR AN AMOUNT OF \$2,000,000.00;
AND TRANSFERRING AND APPROPRIATING FUNDS**

WHEREAS, the City Manager approved plans and specifications and authorized the advertisement for bids for the Water Rehab Program 01 Project; and

WHEREAS, bids were opened on August 9, 2023, with the lowest bid being submitted by Entrench, 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 Entrench, Inc., to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to award a contract to Entrench, Inc., for the Water Rehab Program 01 Project;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract with Entrench, Inc., for the Water Rehab Program 01 Project for an amount of \$2,000,000.00. 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 shall be appropriated from the Water and Sewer Fund unappropriated fund balance and will be transferred and appropriated to a project in the Water & Sewer Capital Projects Fund.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Entrench, 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:

Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Regina Stephenson, General Services Director

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

WATER REHAB PROGRAM 01

Project Number: U23-02
City of Midland - Engineering Services
August 9, 2023

BID TAB					Boler Equipment Service, Inc.			Entrench, Inc.			TEC Excavation, Inc.		
Bid Item	Pay Note	Description	Quantity	Units	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total
1	M1	20" Steel Pipe Casing (1/4" Wall Thickness)	80	LF	\$220.00	\$17,600.00	\$ 17,600.00	\$265.00	\$21,200.00	\$ 21,200.00	\$225.00	\$18,000.00	\$ 18,000.00
2	M1	16" Steel Pipe Casing (1/4" Wall Thickness)	80	LF	\$190.00	\$15,200.00	\$ 15,200.00	\$195.00	\$15,600.00	\$ 15,600.00	\$160.00	\$12,800.00	\$ 12,800.00
3	M1	12" Steel Pipe Casing (1/4" Wall Thickness)	40	LF	\$135.00	\$5,400.00	\$ 5,400.00	\$145.00	\$5,800.00	\$ 5,800.00	\$130.00	\$5,200.00	\$ 5,200.00
4	M1	16" PVC Pipe Casing, SDR 26 ASTM D2241	40	LF	\$230.00	\$9,200.00	\$ 9,200.00	\$170.00	\$6,800.00	\$ 6,800.00	\$205.00	\$8,200.00	\$ 8,200.00
5	M1	12" PVC Pipe Casing, SDR 26 ASTM D2241	20	LF	\$160.00	\$3,200.00	\$ 3,200.00	\$95.00	\$1,900.00	\$ 1,900.00	\$120.00	\$2,400.00	\$ 2,400.00
6	M2	Cement Stabilizing Bedding (2.5-Sack)	20	LF	\$50.00	\$1,000.00	\$ 1,000.00	\$135.00	\$2,700.00	\$ 2,700.00	\$20.00	\$400.00	\$ 400.00
7	M3	Erosion/Sediment Control	40	EA	\$800.00	\$32,000.00	\$ 32,000.00	\$500.00	\$20,000.00	\$ 20,000.00	\$700.00	\$28,000.00	\$ 28,000.00
8	M4	Traffic Control for Collector/Local Road Conditions	15	EA	\$4,200.00	\$63,000.00	\$ 63,000.00	\$2,000.00	\$30,000.00	\$ 30,000.00	\$2,000.00	\$80,000.00	\$ 30,000.00
9	M5	Traffic Control for Alley/Easement Conditions	25	EA	\$500.00	\$12,500.00	\$ 12,500.00	\$1,000.00	\$25,000.00	\$ 25,000.00	\$1,000.00	\$25,000.00	\$ 25,000.00
10	M6	Job Site Safety	40	EA	\$800.00	\$32,000.00	\$ 32,000.00	\$750.00	\$30,000.00	\$ 30,000.00	\$500.00	\$20,000.00	\$ 20,000.00
11	M7	Additional Labor, Downtown Area, Water Improvements	300	LF	\$60.00	\$18,000.00	\$ 18,000.00	\$40.00	\$12,000.00	\$ 12,000.00	\$40.00	\$12,000.00	\$ 12,000.00
12	M8	Additional Labor, Downtown Area, Wastewater Improvements	300	LF	\$65.00	\$19,500.00	\$ 19,500.00	\$40.00	\$12,000.00	\$ 12,000.00	\$40.00	\$12,000.00	\$ 12,000.00
13	M9	Material Mark-up	N / A	%	20	N / A	N / A	15	N / A	N / A	15	N / A	N / A
14	M10	Labor Mark-up (Regular Work Hours)	N / A	%	20	N / A	N / A	15	N / A	N / A	15	N / A	N / A
15	M11	Equipment Rental Mark-up (Non-Standard Equipment Only)	N / A	%	20	N / A	N / A	15	N / A	N / A	15	N / A	N / A
1	D1	Removal & Disposal of Existing Utility Mains	1650	LF	\$25.00	\$41,250.00	\$ 41,250.00	\$15.00	\$24,750.00	\$ 24,750.00	\$15.00	\$24,750.00	\$ 24,750.00
2	D2	Flowable Fill for Existing Pipes Abandoned In Place	150	CY	\$110.00	\$16,500.00	\$ 16,500.00	\$130.00	\$19,500.00	\$ 19,500.00	\$170.00	\$25,500.00	\$ 25,500.00
1	W1	16" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$195.00	\$11,700.00	\$ 11,700.00	\$195.00	\$11,700.00	\$ 11,700.00	\$195.00	\$11,700.00	\$ 11,700.00
2	W1	12" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$158.00	\$9,480.00	\$ 9,480.00	\$145.00	\$8,700.00	\$ 8,700.00	\$150.00	\$9,000.00	\$ 9,000.00
3	W1	10" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$110.00	\$6,600.00	\$ 6,600.00	\$115.00	\$6,900.00	\$ 6,900.00	\$130.00	\$7,800.00	\$ 7,800.00
4	W1	8" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$120.00	\$7,200.00	\$ 7,200.00	\$95.00	\$5,700.00	\$ 5,700.00	\$120.00	\$7,200.00	\$ 7,200.00
5	W1	6" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$105.00	\$6,300.00	\$ 6,300.00	\$75.00	\$4,500.00	\$ 4,500.00	\$105.00	\$6,300.00	\$ 6,300.00
6	W1	16" AWWA C-900 DR18, PVC, Water Main	200	LF	\$210.00	\$42,000.00	\$ 42,000.00	\$200.00	\$40,000.00	\$ 40,000.00	\$175.00	\$35,000.00	\$ 35,000.00
7	W1	12" AWWA C-900 DR18, PVC, Water Main	1500	LF	\$130.00	\$195,000.00	\$ 195,000.00	\$125.00	\$187,500.00	\$ 187,500.00	\$127.00	\$190,500.00	\$ 190,500.00
8	W1	10" AWWA C-900 DR18, PVC, Water Main	10	LF	\$105.00	\$1,050.00	\$ 1,050.00	\$95.00	\$950.00	\$ 950.00	\$130.00	\$1,300.00	\$ 1,300.00
9	W1	8" AWWA C-900 DR18, PVC, Water Main	1500	LF	\$95.00	\$142,500.00	\$ 142,500.00	\$70.00	\$105,000.00	\$ 105,000.00	\$99.00	\$148,500.00	\$ 148,500.00
10	W1	6" AWWA C-900 DR18, PVC, Water Main	3000	LF	\$85.00	\$255,000.00	\$ 255,000.00	\$60.00	\$180,000.00	\$ 180,000.00	\$85.00	\$255,000.00	\$ 255,000.00
11	W2	16" Tapping Sleeve	5	EA	\$7,490.00	\$37,450.00	\$ 37,450.00	\$7,100.00	\$35,500.00	\$ 35,500.00	\$7,200.00	\$36,000.00	\$ 36,000.00
12	W2	12" Tapping Sleeve	5	EA	\$6,275.00	\$31,375.00	\$ 31,375.00	\$5,500.00	\$27,500.00	\$ 27,500.00	\$5,800.00	\$29,000.00	\$ 29,000.00
13	W2	10" Tapping Sleeve	5	EA	\$4,338.00	\$21,690.00	\$ 21,690.00	\$4,800.00	\$24,000.00	\$ 24,000.00	\$4,900.00	\$24,500.00	\$ 24,500.00
14	W2	8" Tapping Sleeve	5	EA	\$3,435.00	\$17,175.00	\$ 17,175.00	\$3,500.00	\$17,500.00	\$ 17,500.00	\$3,500.00	\$17,500.00	\$ 17,500.00
15	W2	6" Tapping Sleeve	5	EA	\$3,010.00	\$15,050.00	\$ 15,050.00	\$2,700.00	\$13,500.00	\$ 13,500.00	\$3,200.00	\$16,000.00	\$ 16,000.00
16	W3	16" Gate Valve & Vault (MJxMJ/FL)	5	EA	\$29,800.00	\$149,000.00	\$ 149,000.00	\$32,500.00	\$162,500.00	\$ 162,500.00	\$28,000.00	\$140,000.00	\$ 140,000.00
17	W4	12" Gate Valve & Box (MJxMJ/FL)	10	EA	\$6,380.00	\$63,800.00	\$ 63,800.00	\$5,900.00	\$59,000.00	\$ 59,000.00	\$5,100.00	\$51,000.00	\$ 51,000.00
18	W4	10" Gate Valve & Box (MJxMJ/FL)	5	EA	\$4,345.00	\$21,725.00	\$ 21,725.00	\$4,800.00	\$24,000.00	\$ 24,000.00	\$4,100.00	\$20,500.00	\$ 20,500.00
19	W4	8" Gate Valve & Box (MJxMJ/FL)	20	EA	\$3,885.00	\$77,700.00	\$ 77,700.00	\$3,100.00	\$62,000.00	\$ 62,000.00	\$2,700.00	\$54,000.00	\$ 54,000.00
20	W4	6" Gate Valve & Box (MJxMJ/FL)	30	EA	\$3,105.00	\$93,150.00	\$ 93,150.00	\$2,100.00	\$63,000.00	\$ 63,000.00	\$2,000.00	\$60,000.00	\$ 60,000.00
21	W5	Air Relief Valve & Vault (Water Main)	5	EA	\$24,800.00	\$124,000.00	\$ 124,000.00	\$18,900.00	\$94,500.00	\$ 94,500.00	\$22,200.00	\$111,000.00	\$ 111,000.00
22	W6	Fire Hydrant Assembly (< 5' Water Main Bury Depth)	20	EA	\$6,315.00	\$126,300.00	\$ 126,300.00	\$5,200.00	\$104,000.00	\$ 104,000.00	\$5,500.00	\$110,000.00	\$ 110,000.00
23	W7	Fire Hydrant Riser (> 5' Water Main Bury Depth)	40	VF	\$1,385.00	\$55,400.00	\$ 55,400.00	\$950.00	\$38,000.00	\$ 38,000.00	\$825.00	\$33,000.00	\$ 33,000.00
24	W8	Ductil Iron Fittings	4600	LBS	\$10.00	\$46,000.00	\$ 46,000.00	\$9.00	\$41,400.00	\$ 41,400.00	\$11.00	\$50,600.00	\$ 50,600.00
25	W9	Dresser Coupling	5	EA	\$1,825.00	\$9,125.00	\$ 9,125.00	\$1,500.00	\$7,500.00	\$ 7,500.00	\$1,800.00	\$9,000.00	\$ 9,000.00
26	W10	16" Tapping Saddle (2" or 1")	10	EA	\$1,900.00	\$19,000.00	\$ 19,000.00	\$1,500.00	\$15,000.00	\$ 15,000.00	\$730.00	\$7,300.00	\$ 7,300.00
27	W10	12" Tapping Saddle (2" or 1")	20	EA	\$1,725.00	\$34,500.00	\$ 34,500.00	\$975.00	\$19,500.00	\$ 19,500.00	\$670.00	\$13,400.00	\$ 13,400.00
28	W10	10" Tapping Saddle (2" or 1")	10	EA	\$1,205.00	\$12,050.00	\$ 12,050.00	\$800.00	\$8,000.00	\$ 8,000.00	\$650.00	\$6,500.00	\$ 6,500.00
29	W10	8" Tapping Saddle (2" or 1")	40	EA	\$1,170.00	\$46,800.00	\$ 46,800.00	\$575.00	\$23,000.00	\$ 23,000.00	\$610.00	\$24,400.00	\$ 24,400.00
30	W10	6" Tapping Saddle (2" or 1")	130	EA	\$1,150.00	\$149,500.00	\$ 149,500.00	\$490.00	\$63,700.00	\$ 63,700.00	\$590.00	\$76,700.00	\$ 76,700.00
31	W11	2" Water Service Connection, Long (> 20')	10	EA	\$3,500.00	\$35,000.00	\$ 35,000.00	\$2,100.00	\$21,000.00	\$ 21,000.00	\$2,700.00	\$27,000.00	\$ 27,000.00
32	W11	2" Water Service Connection, Short (< 20')	20	EA	\$3,500.00	\$70,000.00	\$ 70,000.00	\$1,550.00	\$31,000.00	\$ 31,000.00	\$2,500.00	\$50,000.00	\$ 50,000.00
33	W11	1" Water Service Connection, Long (> 20')	50	EA	\$2,500.00	\$125,000.00	\$ 125,000.00	\$1,300.00	\$65,000.00	\$ 65,000.00	\$1,500.00	\$75,000.00	\$ 75,000.00
34	W11	1" Water Service Connection, Short (< 20')	130	EA	\$2,500.00	\$325,000.00	\$ 325,000.00	\$1,050.00	\$136,500.00	\$ 136,500.00	\$1,500.00	\$195,000.00	\$ 195,000.00
35	W12	Flushing Station Installation, Long (> 20')	4	EA	\$12,440.00	\$49,760.00	\$ 49,760.00	\$4,500.00	\$18,000.00	\$ 18,000.00	\$11,700.00	\$46,800.00	\$ 46,800.00
36	W12	Flushing Station Installation, Short (< 20')	4	EA	\$12,440.00	\$49,760.00	\$ 49,760.00	\$3,200.00	\$12,800.00	\$ 12,800.00	\$11,400.00	\$45,600.00	\$ 45,600.00
37	W13	Sample Point Installation, Long (> 20')	4	EA	\$4,200.00	\$16,800.00	\$ 16,800.00	\$2,800.00	\$11,200.00	\$ 11,200.00	\$3,200.00	\$12,800.00	\$ 12,800.00

PACKET

7.6

August 8, 2023

BID TAB					Boler Equipment Service, Inc.			Entrench, Inc.			TEC Excavation, Inc.		
Bid Item	Pay Note	Description	Quantity	Units	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total
38	W13	Sampling Station Installation, Short (≤ 20')	4	EA	\$4,200.00	\$16,800.00	\$ 16,800.00	\$2,000.00	\$8,000.00	\$ 8,000.00	\$3,100.00	\$12,400.00	\$ 12,400.00
39	W14	Water Meter Installation (New Service Lateral)	210	EA	\$700.00	\$147,000.00	\$ 147,000.00	\$550.00	\$115,500.00	\$ 115,500.00	\$460.00	\$96,600.00	\$ 96,600.00
40	W15	Water Meter & Meter Box installation (Existing Service Lateral)	5	EA	\$2,000.00	\$10,000.00	\$ 10,000.00	\$750.00	\$3,750.00	\$ 3,750.00	\$630.00	\$3,150.00	\$ 3,150.00
41	W16	Replace Water Meter In Existing Vault	5	EA	\$2,000.00	\$10,000.00	\$ 10,000.00	\$1,000.00	\$5,000.00	\$ 5,000.00	\$1,000.00	\$5,000.00	\$ 5,000.00
42	W17	Stand-Alone Gate Valve & Vault Replacement / Installation A	5	EA	\$34,900.00	\$174,500.00	\$ 174,500.00	\$39,000.00	\$195,000.00	\$ 195,000.00	\$28,000.00	\$140,000.00	\$ 140,000.00
43	W18	Stand-Alone Gate Valve & Box Replacement / Installation Ad	5	EA	\$10,000.00	\$50,000.00	\$ 50,000.00	\$7,500.00	\$37,500.00	\$ 37,500.00	\$8,200.00	\$41,000.00	\$ 41,000.00
44	W19	Stand-Alone Water Service Connection Add-On	5	EA	\$7,150.00	\$35,750.00	\$ 35,750.00	\$4,200.00	\$21,000.00	\$ 21,000.00	\$5,200.00	\$26,000.00	\$ 26,000.00
45	W20	Open Trenching of Waters Main (0' - 5' Deep)	6000	LF	\$20.00	\$120,000.00	\$ 120,000.00	\$20.00	\$120,000.00	\$ 120,000.00	\$10.00	\$60,000.00	\$ 60,000.00
46	W20	Open Trenching of Waters Main (5' - 8' Deep)	330	LF	\$25.00	\$8,250.00	\$ 8,250.00	\$30.00	\$9,900.00	\$ 9,900.00	\$15.00	\$4,950.00	\$ 4,950.00
47	W20	Open Trenching of Waters Main (8' - 10' Deep)	130	LF	\$30.00	\$3,900.00	\$ 3,900.00	\$40.00	\$5,200.00	\$ 5,200.00	\$21.00	\$2,730.00	\$ 2,730.00
48	W20	Open Trenching of Waters Main (10' - 12' Deep)	130	LF	\$35.00	\$4,550.00	\$ 4,550.00	\$50.00	\$6,500.00	\$ 6,500.00	\$25.00	\$3,250.00	\$ 3,250.00
1	P1	6" Concrete Pavement Repair	100	SY	\$165.00	\$16,500.00	\$ 16,500.00	\$95.00	\$9,500.00	\$ 9,500.00	\$135.00	\$13,500.00	\$ 13,500.00
2	P2	4" Concrete Pavement Repair	100	SY	\$165.00	\$16,500.00	\$ 16,500.00	\$80.00	\$8,000.00	\$ 8,000.00	\$110.00	\$11,000.00	\$ 11,000.00
3	P3	2" Asphalt Pavement Repair	750	SY	\$60.00	\$45,000.00	\$ 45,000.00	\$49.00	\$36,750.00	\$ 36,750.00	\$65.00	\$48,750.00	\$ 48,750.00
4	P4	6" Base Rock Pavement Repair	2100	SY	\$20.00	\$42,000.00	\$ 42,000.00	\$21.00	\$44,100.00	\$ 44,100.00	\$20.00	\$42,000.00	\$ 42,000.00
5	P5	20" Flowable Fill - 2-Sack Backfill	850	SY	\$150.00	\$127,500.00	\$ 127,500.00	\$130.00	\$110,500.00	\$ 110,500.00	\$103.00	\$87,550.00	\$ 87,550.00
					Base Bid Total =	\$3,613,540.00	\$ 3,613,540.00	Base Bid Total =	\$2,713,000.00	\$ 2,713,000.00	Base Bid Total =	\$2,887,030.00	\$ 2,837,030.00
						\$	-		\$0.00				(\$50,000.00)

PACKET

7.7

August 8, 2023



SPECIFICATIONS

Project Name: Water Rehab Program 01

Project Number: U23-02

MAYOR

Lori Blong

COUNCIL MEMBERS

District 1 Scott Dufford

District 2 John Norman

At-Large Dan Corrales

District 3 Jack Ladd

District 4 Amy Stretcher Burkes

At Large Robin Poole

ENGINEERING SERVICES DIRECTOR

Jose E. Ortiz, P.E.



Prepared by City of Midland, Texas
Engineering Services Division

June 2023

NOTICE TO BIDDERS

ATTENTION: All bidders who choose to mail bid packets must address them to one of the addresses below:

USPS Mailing Address:

City of Midland, Texas

Attn: City Secretary's Office

P O Box 1152

Midland, TX 79702

OR

Physical Address for mail carriers other than USPS:

City of Midland, Texas

Attn: City Secretary's Office

300 North Loraine St, Suite 330

Midland, TX 79701

If bid packets are delivered in person then bidders must drop the bid packets off at the first-floor front desk of City Hall before the bid opening deadline.

Sealed proposals, addressed to the Mayor and City Council of the City of Midland, Texas, for the furnishing of materials and labor together with other miscellaneous and appurtenant work will be received at the office of the City Secretary, City Hall, Midland, Texas, until 2:00 p.m. on the 5th day of July, 2023, and publicly opened and read aloud at that time.

Delivery of Submittals

Bid packets must be received in the City Secretary's Office no later than July 5, 2023 at 2:00 p.m. Bidders are responsible for the means of timely delivering the bid packet. Delays due to any instrumentality used to transmit the bid packet (e.g., delay occasioned by a bidder, City's internal mailing system, etc.) are the sole responsibility of the bidder. **Late bid packets will not be accepted under any circumstances.**

ATTENTION: The public bid opening will be in the City Council Meeting Chambers.

The Proposed Work provides for the furnishing of materials and labor for
— Water Rehab Program 01 — together with other miscellaneous and appurtenant work.

ATTENTION: A NON-MANDATORY PRE-BID MEETING will be held at 3:00 p.m. on Wednesday, June 28th, 2023 in the basement conference room of City Hall, 300 N. Loraine Street, Midland, Texas.

ATTENTION: All questions submitted before or after the Non-Mandatory Pre-Bid Meeting must be submitted via email to the following email address:

jferguson@midlandtexas.gov

The deadline for submitting additional questions after the Non-Mandatory Pre-Bid Meeting is Noon on Friday, June 30, 2023. Questions submitted before the Noon deadline will be included in the Addendum that will go out that same day along with all discussion items, questions, answers, and any new information resulting from the Non-Mandatory Pre-Bid Meeting. Questions submitted after the Noon deadline will not receive any additional information and will instead only be directed to the information already provided.

Bids will be received on a unit price basis.

No Bid may be withdrawn within a period of 60 days after the date fixed for opening Bids.

"FAX" or telephone bids or modifications will not be accepted.

Bid Envelopes shall be plainly marked "Proposal for City of Midland".

ATTENTION: Information for bidders, proposal forms, specifications, and plans may be obtained by emailing purchasing@midlandtexas.gov.

A bid bond or proposal guaranty is to accompany the bid, thereby guaranteeing the good faith of the bidder and that the bidder will enter into the written contract. The guaranty is to amount to five percent (5%) of the total bid and must be in the form of cash or certified check, issued by a bank satisfactory to the City of Midland, or bid bond. If in the form of cash or certified check, it is expressly understood and agreed that the City of Midland is given the right to retain such as liquidated damages if such bidder withdraws its bid anytime after such bid is opened and before official rejection of such bid, or if successful in securing the awarded thereof, such bidder fails to enter into the contract and furnish satisfactory performance and payment bonds. If a bid bond is submitted, it shall be executed on forms contained in these contract documents by a corporate surety authorized to do business in the State of Texas and acceptable to the City of Midland.

WAIVER OF ATTORNEY FEES

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

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

THE BIDDER AND OWNER ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

WAIVER

BIDDER'S WAIVER:

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

1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY BID;

2. WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE BID DOCUMENTS OR THE CONTRACT DOCUMENTS;
3. ACCEPTANCE OR REJECTION OF ANY BIDS; OR
4. AWARD OF THE CONTRACT

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

City of Midland

Marcia Bentley-German
City Secretary

Form Revised June 2023

INSTRUCTION AND INFORMATION FOR BIDDERS

1. LOCATION AND EXTENT OF WORK

The work and construction contemplated to be accomplished under this Contract is located in the City of Midland, Texas, and consists of municipal public works projects as set forth in the proposal.

The location and details for the construction and related work are shown upon a set of drawings dated on or after June 13, 2023. These drawings and plans, together with the specifications, form a part of the Contract. Where figures are shown on the drawings, they shall take precedence over scaled distances and dimensions.

2. TIME AND PLACE OF RECEIVING BIDS

All bids shall be sealed, addressed to the Mayor and City Council of the City of Midland, Texas, and will be received by the City Secretary in her office at City Hall, 300 N. Loraine Street, Midland, Texas, mailing address is P.O. Box 1152, Midland, Texas 79702, until time stated on the Advertisement for Bids.

3. PREPARATION OF BID FORM

Bids shall be submitted only on the forms provided therefore in the Contract Documents, and must not be submitted in letter form or in any other form. They shall be filled out in ink in both script and figures. The Proposal form provided in the Contract Documents sets forth in detail the various items and approximate quantities thereof contained in the Project. Bids submitted in any other form will be considered irregular and will be returned to the Bidder without receiving consideration by the Owner.

All bids must be submitted in sealed envelopes bearing on the outside the name of the Bidder, his address, and the name of the Project for which the bid is submitted. It is the sole responsibility of the Bidder to see that his bid is received in proper time. Any bid received after the scheduled closing time for receipt of bids will be returned to the Bidder unopened.

The bid must be signed in the name of the Bidder and must bear the signature in longhand of the persons duly authorized to sign the bid.

Changes in or additions to the bid form, recapitulations of the work bid upon, alternative proposals, or any other modification of the bid form which is not specifically called for in the Contract Documents may result in the Owner's rejection of the bid as not being responsive to the invitation. No oral or telephonic modification of any bid submitted will be considered and a telegraphic modification may be considered only if the postmark evidences that a confirmation of the telegram duly signed by the Bidder was placed in the mail prior to the opening of bids.

The bid submitted must not contain any erasures, interlineations or other corrections unless each such correction is suitably authenticated by affixing in the margin immediately opposite the correction the surnames of the person or persons signing the bid.

4. EXAMINATION OF SITE, DRAWINGS, ETC

Each Bidder is requested to visit the site of the proposed work and fully acquaint himself with the conditions relating to the construction and labor so that he may fully understand the facilities, difficulties and restrictions attending the execution of the work under the Contract. Bidders shall thoroughly examine and be familiar with the Plans and the Specifications. The failure or omission of any Bidder to receive or examine any form, instrument, addendum or other document or to visit the site and acquaint himself with conditions there existing shall in no way relieve any Bidder from obligations with respect to his bid or to the Contract. The submission of a bid shall be taken as prima-facie evidence of compliance with this section.

5. WITHDRAWAL OF BIDS

Any Bidder may withdraw his bid, either personally, by written request, or by telegraphic request confirmed in the manner specified above, at any time prior to the scheduled closing time for receipt of bids.

6. AGREEMENT AND BONDS

The successful Bidder will be required to furnish a Performance Bond, and a Payment Bond, 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, and 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.

7. INTERPRETATION OF PLANS AND DOCUMENTS

If any person contemplating submitting a bid for the proposed Contract is in doubt as to the true meaning of any part of the Plans, Specifications, or other Contract Documents or finds discrepancies in, or omissions from the Plans or Specifications, he may submit to the Owner written request for an interpretation or correction thereof. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the Contract Documents will be made only by Addendum duly issued and a copy of such addendum will be mailed or delivered to each person receiving a set of such Contract Documents. The Owner will not be responsible for any other explanations or interpretations of the Contract Documents. No oral interpretations of any provision in the Contract Documents will be made to any Bidder.

8. BIDDERS INTERESTED IN MORE THAN ONE BID

No person, firm or corporation shall be allowed to make, or file more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a Bidder, or that has quoted prices of materials to a Bidder is not thereby disqualified from submitting a sub-proposal or quoting prices to other Bidders or making a prime proposal.

9. AWARD OF CONTRACT

The Owner reserves the right to reject any or all bids submitted and not make an award. The Owner also reserves the privilege of accepting any item as a separate contract or the combination of items of a contract. The Owner and Bidder agree that, if the Contract is awarded, that it will be awarded to either the lowest responsible bidder/proposer, or to the bidder/proposer who provides goods or services at the best value for the

City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Further, the Owner reserves all rights granted by Section 271.027 of the Texas Local Government Code. The Owner reserves the right to award the bid to the lowest responsible bidder.

10. OPENING OF BIDS

Bidders are invited to be present at the opening of the Proposals. All Proposals shall be made and received with the understanding that the Bidder accepts the terms and conditions contained in the Contract Documents.

11. COMPARISON OF BIDS

All bids will be compared on the basis of the Proposal.

12. BID GUARANTY

A Certified Check, Bank Money Order, issued by a bank satisfactory to the Owner, or a Bidder's Bond on the form provided and approved by the City Attorney, in the amount of five percent (5%) of the largest possible lump sum bid submitted, payable without recourse to the Owner, must accompany the Bidder's Proposal, as a guaranty that the Bidder will enter into a Contract and execute the required Performance 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 Proposals shall remain in effect for a period of thirty (30) days after date of bid opening.

13. CONTRACT DOCUMENTS

The complete Contract Documents may include the following: (1) Notice to Bidders, (2) Instructions and Information for Bidders, (3) Proposal, (4) Experience Record, (5) Bid Bond, (6) Contract Agreement, (7) Performance Bond, (8) Payment Bond, (9) Insurance Certificate, (10) General Conditions, (11) Special Conditions, (12) Detailed Specifications all of which are bound together, and/or (13) Certificate of Payment. The Contract Documents shall also include Drawings or Detailed Plans for the proposed work. A complete set of the Contract Documents and the detailed plans are on file in the Office of the City Secretary.

14. TIME ELEMENT

The work to be done under this Contract shall be commenced within fifteen (15) days from the date of the notice from the City to the Contractor to commence work. The Contractor shall commence performance of the Contract on the date stated in the City's notice to the Contractor to proceed and shall complete the performance of the Contract without delay.

15. PAYMENTS

Payments to the Contractor will be based upon the prices stated in the proposal and upon basis of the work performed as determined by the Engineer. The Engineer's determination shall be considered as final unless changes are authorized by the City in writing which shall affect the work. Upon issuance of the Certificate of Completion, the Engineer shall proceed to take final measurements and prepare a final statement of the value of all work performed and materials furnished under the terms of the agreement and shall certify same to the Owner who shall pay to the Contractor on or after the 30th day, and before the 35th day, after the date of the

Certificate of Completion, the balance due the Contractor under the terms of this agreement, provided he has fully performed his contractual obligations under the terms of this Contract, and said payment shall become due in any event upon said performance by the Contractor. Notwithstanding any provision of these Contract documents to the contrary, it is expressly understood and agreed by the parties hereto that neither the Certificate of Acceptance, nor the final or any other payment hereunder, nor any partial or total occupancy or possession of the project by the Owner, shall relieve the Contractor of his responsibility for completion of the entire project in a good workmanlike manner and in full compliance with the plans and specifications and the fulfillment of any warranties which may be required in the Contract documents.

Revised June 2023

NOTICE TO BIDDERS

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

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

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

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

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

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

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.

Entrench, Inc.

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

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

Name of Officer

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

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

☐ Yes

☐ No

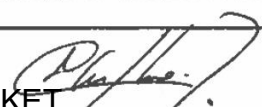
B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

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

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

7

PACKET 7.19
Signature of vendor doing business with the governmental entity

6/29/2023
August 8, 2023
Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

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

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

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

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

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

- (2) the vendor:

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

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

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

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

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

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

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

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

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

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

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

- (1) the date that the vendor:

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

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

- (2) the date the vendor becomes aware:

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

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

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

CITY OF MIDLAND

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

Affidavit of Eligibility

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

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

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

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

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: Entrench, Inc.

Local Address (must be within the City limits): 3405 S. CR216, Midland, TX 79708/PO Box 7605, Midland, TX 79706

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
3. Year your business was established in the City of Midland: 2010
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):

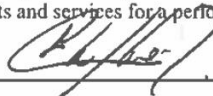
5. Does your business have more than one office in the State of Texas? ☐ Yes ☒ No
If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:

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: 6/29/2023

Printed Name and Title: Alberto Caballero, President



ENTRINC-01

SBOSWELL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/22/2023

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 certification does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Burke Insurance Group, LLC 1690 S. Telshor Blvd Las Cruces, NM 88011		CONTACT NAME: Stacey Boswell PHONE (A/C, No, Ext): (575) 524-2222 2 FAX (A/C, No): E-MAIL ADDRESS: sboswell@burke-insurance.com	
INSURED Entrench, Inc. 1728 W. Bender Blvd Hobbs, NM 88240		INSURER(S) AFFORDING COVERAGE INSURER A: Cincinnati Insurance Company (The) INSURER B: Builders Trust of NM INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 10677 525190	

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	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	X	X	EPP 0405600	10/1/2022	10/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	X	X	EPP 0405600	10/1/2022	10/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Hired Non Owned \$ 1,000,000
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	WC-100-0006086-2023A	1/1/2023	1/1/2024	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 2,000,000 E.L. DISEASE - EA EMPLOYEE \$ 2,000,000 E.L. DISEASE - POLICY LIMIT \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Project: WATER REHAB PROGRAM 01 U23-02

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

CANCELLATION

City of Midland
300 North Loraine
Midland, TX 79701

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

AUTHORIZED REPRESENTATIVE

PACKET

7.22

August 8, 2023



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Burke Insurance Group, LLC		NAMED INSURED Entrench, Inc. 1728 W. Bender Blvd Hobbs, NM 88240 Lea	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:

City of Midland is named as Additional Insured per Additional Insured Endorsement for ongoing and completed operation for General Liability as required by written contract. City of Midland is named as Additional Insured on all policies except Worker's Compensation per written contract. A waiver of subrogation exists in favor of City of Midland as to the general liability, auto, and workers compensation policies per written contract. The general liability, auto policies are primary and non-contributory.

PACKET

7.23

August 8, 2023

TECHNICAL SPECIFICATIONS

FOR: _____

All construction for this project must conform to the City of Midland "STANDARD SPECIFICATIONS" issued by the Engineering Services Department which are herein made a part of these specifications by reference.

The bidder/contractor is to pay particular attention to the following items in the "STANDARD SPECIFICATIONS" for this project.

- 1) Preparation of Right of Way
- 2) Excavation, Embankment and Preparation of Subgrade
- 3) Concrete Curb and Gutter, Sidewalks, Driveways, Valley Gutters, Center Drains and Rip Rap
- 4) Concrete Structures
- 5) Flexible Base, Caliche
- 6) Bituminous Prime
- 7) Bituminous Tack
- 8) Hot Mix Asphaltic Concrete
- 9) Double Course Asphalt Surface Treatment
- 10) Preparation of Asphaltic Concrete Surface for Overlay or Seal Coat
- 11) Seal Coat
- 12) Asphalt –Rubber Seal Coat
- 13) Polymer Modified Slurry
- 14) PVC Pipe Casings
- 15) Water Line Specifications
- 16) Gravity Flow Sewers for Waste Water and Storm Water

The "STANDARD SPECIFICATIONS" are available from the Department of Engineering Services, City Hall, 300 North Lorraine Street, Suite 510, Midland, Texas.

GENERAL CONDITIONS AND PROVISIONS

1. DEFINITIONS

The following terms as used in this contract shall be defined and interpreted as follows:

- (a) "Contract" or "This Contract" or "Agreement": The particular Contract executed by the Contractor and the Owner of which these general conditions are integral parts.
- (b) "Contractor": The person, firm or corporation to whom this Contract is awarded by the Owner and who is a party thereto.
- (c) "Owner", "City", or pronouns instead: The entity that is a party to this Contract, contracting under the official name of the City of Midland, Texas or the City Council of the City of Midland.
- (d) The words "as directed", "as required", "as permitted", "acceptable to", "satisfactory", and the words of like import, shall mean that the direction, requirement or permission of the Engineer is intended.
- (e) "Engineer": The word "Engineer" used in these specifications or in this Contract means the duly authorized representative or agent of the Owner supervising the performance of the Contract and representing the Owner in his Contractual relations and negotiations with the Contractor during the period of construction. The Engineer will be represented by assistants and inspectors authorized to act for him. On all questions concerning the acceptability of material or equipment, the classifications of material, the execution of the work, conflicting interest of Contractors performing related work and the determination of costs, the decision of the Engineer shall be final, but shall not relieve the Contractor of his responsibility for completion of the entire work in a good and workmanlike manner and in full compliance with the plans and specifications.

Inspectors are required to see that all the provisions of the Contract specifications are faithfully adhered to. Any inspector may, if authorized by the Engineer, stop the work entirely if there is not sufficient quantity of suitable and approved material on the ground to carry it on properly, or for any other good and sufficient cause. Any work done in the absence of an inspector may be ordered opened up for thorough examination, and must be rebuilt or replaced at the Contractors sole expense if found to be deficient or not in accordance with the plans and specifications. But no approval by an inspector shall be construed as an acceptance of defective or improper work or material, which must be rebuilt or properly replaced whenever discovered. Inspectors have not the power to give orders or directions under any possible circumstances, except as herein defined and provided, and on authority of the Engineer

- (f) "Subcontractor": Any person, firm or corporation other than an employee of the contractor, supplying, for and under agreement either with the Contractor or any subcontractor of the Contractor, labor or material, or both, at the site of the project in connection with this Contract.
- (g) "Project": The structure or improvement to be constructed in whole or in part through the performance of this Contract.
- (h) "Work on the Project": Such work as is performed or ordinarily would be performed at the site of the project.

- (i) "Surety": Any firm or corporation executing a Surety Bond or Bonds payable to the Owner securing the performance of the Contract either in whole or in part.
- (j) Whenever certain articles are specifically mentioned, by brand name or name of the manufacturer, such materials shall be taken as standard and guide for quality, operation, capacity, etc. The term "or equal" shall mean that articles of equal characteristics as required, but of different brand or manufacturer, may be substituted and accepted, subject in all instances to the approval of the Engineer.
- (k) "Special Provisions", "Special Conditions", "Project Specific Specification" or "Job Specific Specifications" are included as amendment of and/or additions to the General Conditions and/or Standard Specifications for the particular project in which they are included and will take precedence over the General Conditions and Standard Specifications only in so far as the amendments and/or additions. All other provisions in the General Conditions and/or Standard Specifications will not be affected.
- (l) "Drawings" "Contract Drawings", "Plans" "Detail Drawings" "Detail Sheets" or "Plans and Details" refers to the set of drawings which show the details for the construction and related work anticipated on this project and upon which bids are being solicited.

2. CONFLICT OF PROVISIONS

Unless it is specifically provided otherwise, any provision in any other part of this Contract which may be in conflict or inconsistent with any provision in the General Conditions and Provisions shall be void to the extent only of such conflict or inconsistency.

3. DUTIES AND RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall have charge of and shall be responsible for the entire work under this Contract until its completion and acceptance by the city. A competent superintendent, foreman or other representative, invested with sufficient authority to conduct the work properly, shall be maintained on the work at all times.

It is expressly agreed and understood that no decision of the Engineer or any certificate issued nor payment made to the Contractor nor partial or entire use or occupancy of the work by the Owner, shall be an acceptance of any work or materials not in accordance with this Contract, nor constitute a waiver of the Contractor's responsibility to perform the entire work in a good and workmanlike manner and in accordance with the plans and specifications.

4. TIME ELEMENT

The work shall be commenced and finished within the time set out in the Form of Contract.

The time of completion of this Contract is an essential element and consideration. Since, therefore, time is of the essence thereof, and in the event of delay in the completion of the entire work required hereunder beyond the period prescribed, or beyond the period for which time may be extended by authority of the Owner for good cause shown, the Owner shall be paid damages for such delay. Inasmuch as the amount of such damages is difficult to ascertain, it is hereby stipulated and agreed that such damages shall be liquidated and the Owner shall be paid damages at the rate as set forth in the Special Provisions, said damages to be paid to the Owner for each and every day that the Contractor be in default in completing the entire work required under this Contract. The Owner shall have the right to deduct such amounts from any monies due, or which may become due, under

this Contract. In the event that no amount for such damages is shown in the Special Provisions of these specifications, it is agreed that the amount of damages shall be Five Hundred dollars (\$500.00) per day.

If during the progress of the work weather conditions, or other circumstances beyond the control of the Contractor should prevail to the extent that the work cannot be prosecuted and completed within the time specified in the Contract, the Contractor shall file with the Engineer within one week of the occurrence of such delay a request for a credit on the time of completion. Unless the Contractor files such request, the liquidated damages specified above will be enforced.

5. PAYMENT TO CONTRACTOR

ESTIMATED QUANTITIES:

This Contract, including the specifications, plans and estimate, is intended to show clearly all work to be done and material to be furnished hereunder. Where the estimated quantities are shown for the various classes of work to be done and material to be furnished under this Contract, they are approximate and are to be used only as a basis for estimating the probable cost of the work and for comparing the proposals offered for the work. It is understood and agreed that the actual amount of work to be done and material to be furnished under this Contract may differ somewhat from these estimates, and that where the basis for payment under this Contract is the unit price method, payment shall be for the actual amount of such work done and the material furnished.

Where payment is based on the unit price method, the Contractor agrees that he will make no claim for damages, anticipated profits or otherwise on account of any differences which may be found between the quantities of work actually done, the material actually furnished under this Contract and the estimated quantities contemplated and contained in the proposal provided, however, that in case the actual quantity of any major item should become as much as twenty percent (20%) more than, or twenty percent (20%) less than the estimated or contemplated quantity for such items, then either party of this agreement, upon demand, shall be entitled to a revised consideration upon the portion of the work above or below twenty percent (20%) of the estimated quantity.

A "Major Item" shall be construed to be any individual item incurred in the proposal that has a total cost equal to or greater than five percent (5%) of the total Contract cost, computed on the basis of the proposal quantities and the Contract unit price.

Any revised consideration is to be determined by agreement between the parties, otherwise by the terms of this Contract, as provided under "Extra Work".

PAYMENT; RETAINAGE:

On or before the 1st day of each month the Contractor shall prepare an itemized statement showing the total value of the work completed by the Contractor up to and including the 25th day of the preceding month; said statement shall also include the value of all sound materials delivered on the site of the work that are to be fabricated into the work. NO ESTIMATE WILL BE MADE ON UNCOMPLETED PORTIONS OF THE WORK.

After all work is completed by Contractor, 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 Contractor in the amount of the contract and all Change Orders. The City shall be the final judge of when the

work is completed by Contractor. 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.

The City may make periodic payments to Contractor; 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 Contractor 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.

FINAL COMPLETION AND ACCEPTANCE:

Within ten (10) days after the Contractor has given the Engineer written notice that the work has been completed, or substantially completed, the Engineer and the Owner shall inspect the work and within said time, if the work be found to be completed or substantially completed in accordance with the Contract documents, the Engineer shall issue to the Owner and the Contractor his Certificate of Completion.

FINAL PAYMENT:

Upon the issuance of the Certificate of Completion, the Engineer shall proceed to make final measurements and prepare final statement of the value of all work performed and materials furnished under the terms of the Contract and shall certify same to the Owner, who shall pay to the Contractor the balance due the Contractor under the terms of this Contract, provided he has fully performed his obligations under the terms of this Contract. Notwithstanding any provision of these Contract Documents to the contrary, it is expressly understood and agreed by the parties hereto that neither the certificate of acceptance, nor the final or any other payment hereunder, nor any partial or total occupancy or possession of the project by the Owner, shall relieve the Contractor of his responsibility for completion of the entire project in a good and workmanlike manner and a full compliance with the plans and specifications and the fulfillment of any warranties which may be required in the Contract Documents.

6. OWNER'S RIGHT TO WITHHOLD CERTAIN AMOUNTS AND MAKE APPLICATION THEREOF

In addition to the amount which the Owner may otherwise retain under the Contract, the Owner may withhold a sufficient amount or amounts of any payment or payment otherwise due to the Contractor, as in this judgment may be necessary to cover:

- (a) Payments which may be past due and payable for just claims against the Contractor or any subcontractor for labor or materials furnished for the performance of this Contract.
- (b) For defective work not remedied.
- (c) For failure of the Contractor to make proper payments to his subcontractors.

7. CERTIFICATE OF PAYMENT

Contractor shall, prior to issuance of final payment pursuant to the terms herein stated, provide proof satisfactory to the owner that all debts, bills and expenses incurred by the Contractor, his agents, employees or subcontractors employed by him, for labor, wages, materials and other purposes, in the furtherance of this

project, have been paid and satisfied in full. Satisfactory proof shall consist of an executed Certificate of Payment.

8. EXTRA, ADDITIONAL OR OMITTED WORK PAYMENT

The Owner, upon proper action by its governing body, may require changes in this Contract, or additions to, or deductions from the work to be performed or the materials to be furnished pursuant to this Contract. No employee, agent or representative of the Owner, with the exception of the governing body authorized to award this Contract, has any power to approve any change in this Contract and it is the responsibility of the Contractor before proceeding with any change to satisfy himself that the change has been properly authorized on behalf of the Owner. No charge for any extra work or other change in the Contract will be allowed unless the extra work or change has been authorized in writing by the Owner, or its duly authorized representative, and the price therefore is stated in such written authority.

Adjustments, if any, in the amounts to be paid the Contractor where such adjustments are made by reason of additions to or deductions from the quantities of units or items bid upon in the proposal schedules, shall be paid for in accordance with the provisions of the Specifications, at the unit and/or lump sum prices bid in such proposal schedules.

Adjustments, if any, in the amounts to be paid the Contractor where such adjustments are made by reason of additions of items not appearing in the proposal schedules, or addition of work of such a nature that unit and/or lumps sum prices contained in the proposal schedules cannot reasonably or equitably be applied to provide proper payment therefore, the payment to the Contractor for such work shall be determined by one or more of the following methods:

- (a) By an acceptable lump sum proposal from the Contractor.
- (b) By unit prices contained in the Contractor's proposal and incorporated in the Contract or fixed by subsequent agreement between the Owner and the Contractor.
- (c) By a cost method pursuant to which the Contractor shall be paid the costs of the change or addition. He shall be required to keep and present in such form as the Owner may direct, a correct account of the cost of the change or addition, together with all vouchers therefore. The cost may include an allowance for overhead and profit not to exceed fifteen percent (15%) of the net cost.

In computing the cost, there shall be considered reasonable and proper net expenditures for labor, materials, power tools and equipment, pro rata charges for foremen, deductions for social security, old age and unemployment benefits and workmen's compensation insurance and surety bond premium. In computing cost of machinery and equipment involved in additional work, the amount to be paid shall be not more than one hundred percent (100%) of the latest schedule of "Equipment Ownership Expense" adopted by Associated General Contractors of America. No overhead and profit shall be allowed on the deductions for Social Security, old age and unemployment benefits. All other expenditures shall be treated as overhead costs.

No extra work shall be performed or change made unless in pursuance of a written order from the Owner stating that the extra work or change is authorized and no claim for an addition to the Contract sum shall be valid unless so ordered; provided, however, that nothing in this Article shall excuse the Contractor from proceeding with the prosecution of the work so changed.

The Contractor shall, when required by the Owner, furnish an itemized breakdown of the quantities and prices used in computing the value of any change, addition or deduction that might be ordered.

If the Contractor should claim that any instruction, request, drawing, specification, action, condition, omission, default, or other situation obligated or may obligate the Owner to pay additional compensation to the Contract, or constitutes a waiver of any provision in the Contract, he shall notify the Owner in writing of such claim within ten (10) days from the date he has actual or constructive notice of the factual basis supporting the claim. The Contractor's failure to notify the Owner within such ten (10) days period shall be deemed a waiver and relinquishment of any such claim against the Owner. The procedure for consideration of such claims shall be as stated in this Article.

9. ASSIGNMENT OF CONTRACT

The Contractor shall not assign this Contract or any part thereof, nor any monies due or to become due thereunder without the prior written consent of the Owner. No assignment of this Contract shall be valid unless it shall contain a provision that the funds to be paid to the assignee under the assignment are subject to a prior lien for services rendered or material supplied for performance of the work called for under this Contract in favor of all persons, firms, or corporations rendering such services or supplying such materials.

10. SUBCONTRACTORS

Specialty subcontractors may be utilized for the performance of such parts of the work under this Contract as, under normal practices, are performed by Specialty subcontractors, unless the Owner determines that the Contractor has heretofore customarily performed such specialty work with his own organization and is equipped to do so, or unless the Owner determines that performance of the specialty work by Specialty subcontractors will result in increased costs or inordinate delays.

The Contractor shall not subcontract any work to be performed or any materials to be furnished in the performance of this Contract without the prior written consent of the Owner. If the Contractor shall subcontract any part of this Contract, the Contractor shall be as fully responsible to the Owner for the acts and omissions of his subcontractor and of the persons either directly or indirectly employed by the subcontractor as he is for the acts and omissions of persons directly employed by himself. Nothing contained in this Contract shall create any Contractual relations between any subcontractor and the Owner. The Contractor shall ensure that the subcontractor has the insurance coverage required by this contract.

The Owner's consent to or approval of any subcontract under this Contract shall not in any way relieve the Contractor of his obligations under this Contract and no such consent or approval shall be deemed to waive any provisions of this Contract.

11. SUSPENSION OF WORK

Pending settlement of disputes on any point of controversy, the Engineer may suspend action on all or any part of the work. The Contractor shall not be entitled to any claim for loss or damage by reason of such, nor shall he be entitled to extension of time, although such extension of time may be granted by the Engineer if he deems it in the interest of the work.

12. RIGHT OF OWNER TO TERMINATE CONTRACT

If, in the opinion of the Engineer, the Contractor shall be improperly performing the work under this Contract, or shall neglect or refuse to take out or rebuild such work as shall have been rejected by the Engineer as being defective or unsuitable, or if, any time, the Engineer shall be of the opinion that the work is unnecessarily delayed and will not be finished within the prescribed time, or if the Contractor shall abandon the work, or shall neglect or refuse to comply with the instructions of the Engineer relative thereto, or shall fail in any manner to comply with the Specifications or Stipulations herein contained, the Engineer shall notify the Contractor to that effect in writing, and if the Contractor shall not within five (5) days thereafter take such measures as will, in the judgment of the Engineer, insure the satisfactory performance or construction of the work, the City may annul and cancel the Contract, in which event it shall notify the Contractor to discontinue all work under this Contract, and the Contractor shall immediately respect such notice and stop work and cease to have any rights to the possession of the ground and shall forfeit his Contract. Such annulment shall not entitle the Contractor to any claim for damages on account thereof, nor shall it affect the right of the City of Midland to recover damages on account of such failure. The City Council may thereupon advertise and re-let a new Contract for the uncompleted work without further ordinance, in the same manner as was followed in the letting of this Contract, and any excess of cost arising there from over and above what would have resulted from the prices set forth in this Contract will be charged against the Contractor and his surety or sureties hereto, who shall be liable therefore.

13. RIGHT OF CONTRACTOR TO TERMINATE CONTRACT

If the work should be stopped under an order of any court or other public authority for a period of three (3) months, through no act or fault of the Contractor or of anyone employed by him, or if the City should fail to make payment to the Contractor within thirty (30) days after such payment is due, as set out in the Contract, then the Contractor may, upon seven (7) days written notice to the City and the Engineer, stop work or terminate his Contract and recover from the City payment for all work executed and for any loss sustained upon any plant or materials and reasonable profit and damages.

14. INCIDENTAL WORK

Any and all minor details 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 and included with the work for which the prices are named in the Contract Documents. The Contractor will not be entitled to any extra or additional compensation therefore, unless specifically stated otherwise.

15. PERMITS – COMPLIANCE WITH LAW

The Contractor shall, at his expense, obtain all permits and licenses necessary for the performance of this Contract, and give all necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the Contract.

Portions of this contract qualify for exemption pursuant to the provisions of the Texas Limited Sales, Excise and Use Tax Act. The Contractor shall obtain a sales tax exemption certificate from the City. All labor performed on the project and all materials incorporated into the project qualify for such tax exemption. However, equipment and parts for equipment purchased to be used on the project, but are not incorporated into the project; do not qualify for said tax exemption. Contractor shall issue a resale certificate in lieu of paying such sales tax for all

materials incorporated into the project. Further Contractor shall separate the charges for materials incorporated into the project from the charges for labor.

16. INSPECTION BY OWNER

The Owner and its representatives shall at all times have access to all parts of the work and to the shops wherein the work is in preparation for the purpose of inspection, and the Contractor shall at all times maintain proper facilities and provide safe access for such inspection.

The Owner shall have the right to reject materials and workmanship which are defective, or to require their correction. Rejected workmanship shall be satisfactorily corrected and rejected materials shall be removed from the premises without charge to the Owner. If the Contractor does not correct such rejected work within a reasonable time, fixed by written notice, the Owner may correct same and charge the expense to the Contractor. No inspector shall have the power to waive the obligation resting upon the Contractor to furnish good material or do work as herein prescribed, and any failure or omission of any inspector or the Engineer to condemn any defective material or work shall not release the Contractor from the obligation to at once tear out, remove and properly rebuild the same at any time upon discovery of the defect and upon receipt of notice of the Engineer to do so.

Should it be considered necessary or advisable by the Owner at any time before final acceptance of the entire work to make an examination of work already completed by removing or tearing out any portion thereof, the Contractor shall on request promptly furnish all necessary facilities, labor and materials. If such work is found to be defective in any respect due to the fault of the Contractor or his subcontractor, he shall defray all the expenses of such examinations and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the additional cost of labor and materials necessarily involved in such examination and replacement, plus fifteen percent (15%) for overhead and profit, shall be allowed the Contractor.

Where the Specifications require work to be specifically tested or approved, it shall not be tested or covered up without timely notice to the Owner of its readiness for inspection and without the approval or consent thereto by the Owner. Should any such work be covered up without such notice, approval or consent, it must, if required by the Owner, be uncovered for examination at the Contractor's expense.

17. PATENTS

The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including all costs and legal expenses, for or on account of, any patented or unpatented invention, process, article or appliance, manufactured for or used in the performance of the Contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract.

18. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration, if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.

The Contractor must ascertain to his own satisfaction the scope of the project and the nature of any other Contracts that have been or may be awarded by the Owner in the prosecution of the project to the end that the Contractor may perform this Contract in the light of such other Contract, if any.

Nothing herein contained shall be interpreted as granting the Contractor exclusive occupancy of the site of the project. The Contractor shall not cause any unnecessary hindrance or delay to any other Contractor working on the project. If the performance of any Contract for the project is likely to be interfered with by the simultaneous execution of some other Contract or Contracts, the Owner shall decide which Contractor shall cease work temporarily and which shall continue, or whether the work under the Contracts can be coordinated so that the Contractors may proceed simultaneously. The Owner shall not be responsible for any damages suffered or extra costs incurred by the Contractor, resulting directly or indirectly from the award or performance or attempted performance of any other Contract or Contracts on the project, or caused by any decision or omission of the Owner respective to the order of precedence in the performance of Contracts.

19. NOTICE AND SERVICE THEREOF

Any notice from one party to another under the Contract shall be in writing and shall be dated and signed by the party giving such notice or by duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in the following manner; namely, if the notice is given to the Owner, (a) by personal delivery thereof to the individual duly authorized to direct and supervise the project of the Owner, or (b) by depositing the same in the United States Mail, enclosed in a sealed envelope, addressed to the City of Midland, 300 North Loraine Street, Midland, Texas, 79701, postage prepaid and certified; or if the notice is given to the contractor (a) by personal delivery thereof to the project superintendent or other person authorized to act for the contractor, or (b) by depositing the same in the United States Mail, enclosed in a sealed envelope, addressed to the Contractor at his regular place of business or at such other address as may have been established for the conduct of the work under this Contract, postage prepaid and certified; or (c) if the notice is given to the Surety or any other person by personal delivery to such Surety or other person, or by depositing the same in the United States Mail, enclosed in a sealed envelope addressed to such Surety or other person, at the address of such surety or other person last communicated by him to the party giving the notice, postage prepaid and certified.

20. QUALITY OF MATERIALS AND WORKMANSHIP

It is the intention of this Contract to have only first class materials and the best workmanship throughout, and the methods and appliances adopted by the Contractor must be such as will secure a satisfactory quality of work and will enable him to complete the work in the time agreed upon. If at any time such methods and appliances appear inadequate, the Engineer may order the Contractor to improve their character or increase their efficiency, and the Contractor must conform to such order; but the failure of the Engineer to order such improvement of methods or increase of efficiency will not relieve the Contractor from his obligations to perform good work or finish it in the time agreed upon. The Contractor shall submit samples or specimens of any and all materials proposed to be used in the work when required to do so by the Engineer. All materials must be of specified quality and fully equal to approved samples. All work must be done and completed in a thorough and workmanlike manner. All materials furnished and all work done must be satisfactory to the Engineer and will be subject to rigid inspection, and if not in accordance with the Specifications in the opinion of the Engineer, shall be made to conform thereto.

It is understood that except as otherwise specifically stated in the Contract, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence of temporary

construction of every nature, and all other services and facilities required for the completion of the Contract within the specified time.

21. SPECIAL METHODS

The Engineer may consent to special methods for carrying out the work in difficult cases, but the Contractor will not be relieved of responsibility for the result. The Contractor shall be responsible for the result of all work performed by him whether directed by the Engineer or not.

22. REMOVAL OR REPLACEMENT OF WORK DONE WITHOUT LINES OR GRADES

Any work done without lines or grades given by the Engineer or under his direction or without the supervision of an inspector, may be ordered removed and replaced by the Engineer at the Contractor's expense.

23. COVERING WORK

No work shall be covered until it has been examined and approved by the Engineer.

24. UNFAVORABLE WEATHER

During unfavorable weather and other adverse conditions, only such portions of the work may be done which will not be damaged thereby, unless by special means or precautions approved by the Engineer.

25. ALL WORK SUBJECT TO FINAL INSPECTION

Failure to neglect on the part of the Engineer or his inspectors to condemn or reject bad or inferior work or materials shall not be construed to imply his acceptance of such work or materials if it becomes evident at any time prior to the final acceptance of the work and the release of the Contractor.

26. PUBLIC CONVENIENCE

When materials for construction are brought on the work site they shall be neatly piled so as to cause as little obstruction to travel as possible, and so that they may be conveniently inspected.

No material or other obstruction shall be placed within five (5) feet of fire hydrants, which must at all times be readily accessible to the fire department, nor shall any material be piled within two (2) feet of any trees.

The Contractor shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of the Contract and shall be responsible for the proper care and protection of all materials delivered and work performed until completion, and final acceptance by the Owner.

The Contractor shall provide such heat, covering and enclosures as are necessary to protect all work and materials against damage by weather conditions.

The Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavement, utilities, adjoining property, and structures, and avoid damage thereto, and he shall at his own expense completely repair any damage thereto caused by his operations.

If required by the Engineer, the Contractor shall shore up, brace, underpin, and protect as may be necessary, all foundations, and other parts of all existing structures adjacent and adjoining the site of the Project, which are in any way affected by the excavations or other operations connected with the completion of the work under this Contract. Whenever any notice is required to be given by the Owner or the Contractor to any adjoining or adjacent landowner or other party before commencement of any work under this Contract, such notice shall be given by the Contractor. The Contractor shall indemnify the Owner and save it harmless from any damages on account of settlement or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the Owner may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

During the progress of the work the convenience of the public and of the residents along streets must be provided as far as practicable. Convenient access to driveways, houses and buildings along streets must be maintained whenever possible.

Temporary approaches and crossings of streets and sidewalks must be provided and kept in good condition whenever practicable.

The Contractor shall provide and maintain such fences, barriers, "Street Closed" signs, red lights and watchmen as may be necessary to prevent avoidable accidents to residents and to the public.

The Contractor alone shall be held responsible for all injuries to persons, and for all damages to property of the City or others, caused by or resulting from the negligence of himself, his employees or agents during the progress of or connected with the prosecution of the work, whether within the limits of the work or elsewhere. He must restore all injured public or private property to a condition as good as it was when he entered upon the work, purchasing new materials to replace all that which is injured or destroyed during the course of the work.

In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorization from the Owner is authorized to act at his discretion to prevent such threatened loss or injury and he shall so act.

27. TRAFFIC CONTROL

It is the policy of the City of Midland to keep at least two travel lanes open to traffic at all times and where possible to have three travel lanes between 7:30 a.m. and 9:00 a.m. and 4 p.m. and 6 p.m. (Two (2) lanes in the direction of peak travel).

At least 48 hours before beginning work the contractor shall present a traffic control and/or barricade plan prepared as per the approved Barricading Standards to the Traffic Engineering Division for review and approval. When approved and barricades are in place, they shall be inspected by the Traffic Engineering Division prior to beginning work.

Traffic control signs, such as stop signs, yield signs, etc., are placed in various intersections for the safety and protection of the traveling public. The contractor shall not move, alter or damage said signs for any reason. If said signs must be removed for construction purposes, contractor shall notify the City of Midland, Traffic Division Operations Superintendent at least 48 hours (not including weekends) before construction activities are scheduled to begin. All construction barricading, warning signs, and other construction traffic control devices shall be in place and shall be in accordance with the Texas Manual on Uniform Traffic Control Devices and approved Barricading Standards included in plans before traffic signs can be removed. The contractor shall notify the Traffic Division Operations Superintendent at least 72 hours (not including weekends) before

scheduled removal of construction barricades, warning signs, and traffic control devices. But in all cases the contractor shall not remove said barricades, warning signs, and traffic control devices until the City of Midland's Traffic Department has replaced stop signs, yield signs, etc., in their proper location. The Contractor shall notify Traffic Engineering Division at least 24 hours in advance of any Traffic Signal modification due to construction (i.e. eliminating left turn phases). Notice shall also be given to the Traffic Engineering Division at least 24 hours prior to removing barricades at signalized intersections.

28. PROTECTION OF NEW WORK

All new work shall be carefully protected by the Contractor, and any work injured from any cause before the completion of the whole project must be rebuilt by the Contractor at his own expense.

29. MONUMENTS OR STAKES

The Contractor must carefully protect from disturbance or injury all monuments, stakes and bench marks, of City County, State or Federal Government and shall not excavate nearer than five (5) feet to any of them without the permission of the Engineer, or until they have been removed, witnessed or otherwise disposed of by the Engineer.

30. USE OF COMPLETED PORTIONS

The City shall have the right to take possession of and use any completed or partially completed portions of the work notwithstanding the time for completing the entire work on such portions may not have expired; but such taking possession and use shall not be deemed an acceptance of any work not completed in accordance with the Contract Documents. If such prior use increases the cost of, or delays the work, the Contractor shall be entitled to such extra compensation or extension of time, or both as the Engineer may determine.

The Owner, in taking possession of completed portions, shall agree to accept the decision of the Engineer on matters relating to responsibility for damages that may occur to any portions of the work during the period of possession preceding acceptance and final payment.

31. USE OF PREMISES

The Contractor shall confine his apparatus, storage of materials and construction operations to such limits as may be directed by the Owner, and shall not unreasonably encumber the premises with his materials.

The Contractor shall enforce any instructions of the Owner regarding advertising, fires, danger signals, barricades and smoking, and shall require all persons employed on the work to comply with all building, post or institutional regulations while on the premises.

32. SAFETY RESTRICTIONS

The following procedures will be followed regarding the subject item on this contract:

A warning sign painted yellow with black letters that are legible at twelve feet shall be placed inside and outside vehicles such as cranes, 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."

Equipment that may be operated within ten feet of high voltage lines shall have an insulating cage type of guard about the boom or arm, except back hoes or dippers, and insulator links on the lift hook connections.

When necessary to work within six feet of high voltage electric lines, notification shall be given to the power company who will erect temporary mechanical barriers, de – energize the line, or raise or lower the line. The notifying department

The Contractor is required to make arrangements with the Power Company for the temporary relocation or raising of high voltage lines at the Contractor’s sole cost and expense.

No person shall work within six feet of high voltage line without precautions having been taken and protection provided as outlined in Paragraph (3) above.

33. INSURANCE REQUIREMENTS AND WORKERS COMPENSATION

INSURANCE REQUIREMENTS

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

Commercial General Liability (including Contractual liability):

- | | |
|--------------------|--|
| — Personal Injury: | \$1,000,000.00 per person
\$1,000,000.00 per occurrence |
| — Property Damage: | \$500,000.00 per occurrence |

<u>Business Automobile Liability:</u>	\$250,000.00 combined single limit - Personal Injury and Property Damage
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<u>Workers’ Compensation:</u>	Statutory limits
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<u>Employers’ Liability:</u>	\$500,000.00 per accident or occurrence
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The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on an occurrence basis. This insurance shall name the City as an additional insured and waive subrogation in favor of the City.

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

work that is the subject of this Contract. This insurance shall name the City as an additional insured and waive subrogation in favor of the City.

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

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

Contractor shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of 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, Contractor shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of the City. The City shall not be required to provide any insurance whatsoever pursuant to this Contract.

The Contractor certifies that the certificate of insurance provided as required herein complies with the requirements of Senate Bill 425, passed during the 82nd regular session of the Texas Legislature, and effective January 1, 2012. The Contractor shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of the Contractor.

34. INDEMNIFICATION

INDEMNITY: THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 THE CONTRACTOR, 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 CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE OWNER AND ALL OF THE OWNER'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 THE OWNER, THE OWNER'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 THE CONTRACTOR OR THE CONTRACTOR'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE OWNER OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

THE CONTRACTOR AGREES THAT HE WILL INDEMNIFY AND SAVE THE OWNER HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. WHEN OWNER SO DESIRES, THE CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED. THE CONTRACTOR, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS THE OWNER 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 THE CONTRACTOR 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 THE OWNER OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

35. RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, CONTRACTOR HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES OWNER, OWNER'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH CONTRACTOR 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 OWNER'S NEGLIGENCE.

36. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the Owner; that Contractor 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 respondent superior shall not apply as between Owner and Contractor, its officers, agents, employees, contractors and subcontractors; and

that nothing herein shall be construed as creating a partnership or joint enterprise between Owner and Contractor. No person performing any of the work and services described hereunder by Contractor shall be considered an officer, agent, servant or employee of the Owner. Further, it is specifically understood and agreed that nothing in this Contract 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. Contractor 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. The Owner does not have the power to direct the order in which the work is done. The Owner shall not have the right to control the means, methods or details of the Contractor's work. Contractor shall assume exclusive responsibility for the work. Contractor is entirely free to do the work in its own way.

37. QUALIFICATIONS FOR EMPLOYMENT

Preference shall be given to qualified local residents in the employment of laborers and mechanics for work on the Project under this Contract. No person under the age of sixteen (16) years shall be employed on the project under this Contract. No person whose age or physical condition is such as to make his employment dangerous to his health or safety or to the health or safety of others shall be employed on the Project under this Contract: Provided, that this shall not operate against the employment of physically handicapped persons, otherwise employable, where such persons may be safely assigned to work which they can ably perform. No person currently serving sentence in a penal or correctional institution and no inmate of an institution for mentally defective shall be employed on the project under this contract.

38. PAYROLLS OF CONTRACTOR AND SUBCONTRACTORS

The Contractor and each of his subcontractors shall prepare payrolls for the workers on the Project. Not later than the seventh (7th) day following the payment of wages, the Contractor shall transmit to the Owner, if requested, a certified legible copy and two confirmed copies of such payroll.

Such copies of payrolls shall be accompanied by substantial proof that all bills for services rendered and materials supplied have been duly paid and by such other data as the Owner may require.

39. POSTING WAGE RATES

The Contractor shall post at appropriate conspicuous points at the site of the Project a schedule showing the wage rates for the various classes of laborers and mechanics to be engaged in work on the Project under this Contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.

40. PAYMENT OF EMPLOYEES

The Contractor shall post at appropriate conspicuous points at the site of the Project a schedule showing the wage rates for the various classes of laborers and mechanics to be engaged in work on the Project under this Contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.

41. WAGE UNDERPAYMENT AND ADJUSTMENTS

The Contractor agrees that, in case of underpayment of wages to any worker on the project under this Contract by the Contractor or any subcontractor, the Owner shall withhold from the Contractor out of payments due, an amount sufficient to pay such worker the difference between the wages required to be paid under this Contract and the wages actually paid such worker for the total number of hours worked and that the Owner may disburse such amount so withheld by it for and on account of the Contractor to the employee to whom such amount is due. The Contractor further agrees that the amounts to be withheld pursuant to this Article may be in addition to other amounts that may be retained by the Owner pursuant to other provisions of this Contract.

42. COMPUTATION OF WAGES ON 8 – HOUR DAY

The wages of each laborer and mechanic engaged in work on the project under this Contract shall be computed on a basis of eight (8) hours per day, eight (8) hours continuous employment except for lunch periods, constituting a day's work.

Legal holiday work shall be paid for at the regular governing per diem wage rates.

Work in excess of 40 hours per week shall be paid for at 1 ½ times the basic rate of pay.

43. OVERTIME WORK AND WORK ON SUNDAYS AND LEGAL HOLIDAYS

The Contractor will not be permitted to work on Sundays or legal holidays except in an emergency and then only upon written permission of the Engineer.

Any work necessary to be performed after regular working hours and when permitted on Sundays or legal holidays, shall be performed without additional expense to the Owner.

No work on any Contract item will be permitted before daylight or later than one hour after sundown.

44. CONTRACT SECURITY

The Contractor shall furnish a performance bond and payment bond in an amount equal to one hundred percent (100%) of the amount of the Contract as security for the faithful performance of the Contract, including the payment of all persons performing labor on the project and furnishing of materials in connection with this Contract. All Bonds must be executed in five (5) original counterparts by a corporate surety authorized to do business in the State of Texas. Bonds executed by individuals or any other than recognized and authorized corporate surety companies will not be acceptable.

45. DELAYS

The Contractor shall receive no compensation for delays or hindrances to the work, except when, in the judgment of the Engineer, direct or unavoidable extra cost to the Contractor is caused by such hindrances or delays. When such extra compensation is claimed, a written statement thereof shall be presented by the Contractor, as provided in Paragraph 18 hereof. Such claim, if found correct, will be approved, and the decision of the Engineer whether extra cost has been incurred and the amount thereof, shall be final. If delays are caused by specific orders to stop work, given by the Engineer, or by the performance of extra work, or by unforeseen causes beyond the control of the Contractor, or by the failure of the Owner to provide materials or necessary instructions for carrying on the work, or to provide the necessary right-of-way or site for installation,

then delay will entitle the Contractor to an equivalent extension of time. Application for extension of time must be approved by the Owner and, shall not release the Sureties from their obligations, which shall remain in full force until the discharge of the Contract.

LATE COMPLETION; LIQUIDATED DAMAGES:

It is hereby understood and mutually agreed, by and between Contractor 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." Contractor 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 Contractor 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.

In the event Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the City, then Contractor and Contractor'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 calendar day that Contractor 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 Contractor only those monies deemed appropriate by the City, in its sole discretion, to compensate Contractor for any work actually performed, less any liquidated damages Contractor owes the City.

The said amount is fixed and agreed upon by and between Contractor 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.

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 Contractor shall not be charged with liquidated damages or any excess cost when the City determines, in its sole discretion, that Contractor is without fault and Contractor's reasons for the time extension are acceptable to the City. Provided, further, that Contractor shall not be charged with liquidated damages of any excess cost when the delay in completion of the work is due:

- a. To any preference, priority or allocation order duly issued by the Government;
- b. To unforeseeable cause beyond the control and without the fault or negligence of Contractor, 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.

Provided, further, that Contractor shall, within ten (10) calendar 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 Contractor within a reasonable time of its decision in the matter.

CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR AS LIQUIDATED DAMAGES FOR CONTRACTOR'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.

CONTRACTOR SHALL RECEIVE NO FINANCIAL COMPENSATION FOR DELAY OR HINDRANCE TO THE WORK. IN NO EVENT SHALL THE CITY BE LIABLE TO CONTRACTOR 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. CONTRACTOR'S SOLE REMEDY IN ANY SUCH CASE SHALL BE AN EXTENSION OF TIME.

46. ERRORS AND OMISSIONS

The Contractor will not be permitted to take advantage of any error or omission in these specifications. Suitable instructions will be given by the Engineer when such error or omission is discovered.

47. SPECIFICATIONS AND DRAWINGS

The Contractor shall keep on the work a copy of the Specifications and Drawings, and shall at all times give the Engineer access thereto. Any drawings or plans listed in the detailed specifications shall be regarded as part thereof and of the Contract. Anything mentioned in these specifications and not mentioned or shown in the drawings, or shown in the drawings and not mentioned in these specifications, shall be done as though shown or mentioned in both. The Engineer will furnish from time to time, such detailed drawings, plans, profiles and information as he may consider necessary for the Contractor's guidance.

In the event of any discrepancy between the plans and these specifications, the decisions of the Engineer will be decisive thereon. The written dimensions on the plans are to be taken as correct, but the Contractor is required to check carefully all dimensions before beginning work thereon. Should any errors or omissions be discovered, the Engineer's attention shall be called to the same, and the proper corrections made. All notes on the plans shall be carefully observed by the Contractor and are a part of the Contract.

48. CONSTRUCTION STAKING

The Engineer will furnish a complete set of plans and profiles and set control stakes at fifty foot (50') intervals along the entire length of the project and at such control points he deems necessary for proper execution of the work. The Contractor will thereafter be required to lay out the work accurately and furnish at his own expense, all lines, levels, and dimensions necessary to the proper and correct execution of the entire work and be responsible for any errors resulting from his own work.

The Contractor shall give the Engineer at least 36 hours notice in writing before requiring stakes to be set on any new portion of the work, and he shall state clearly in such notice the exact locality or localities where such stakes are needed for immediate use.

The Contractor must satisfy himself, before commencing work, as to the meaning or correctness of all stakes or marks, and no claim will be entertained by the Owner for or on account of any alleged inaccuracies, or for the alterations subsequently rendered necessary on account of such alleged inaccuracies unless the Contractor notifies the Engineer thereof in writing before commencing to work thereon.

The Contractor will at all times conduct the work in such a manner as to prevent damage to construction stakes set by the Engineer. When construction stakes are damaged to such extent that they must be reset, as a result of carelessness or negligence on the part of the Contractor or his workmen, the costs thereof shall be kept by the Engineer and shall be deducted from the moneys due or to become due the Contractor under the terms of his contract.

Benchmark and survey stakes shall be preserved by the Contractor, and in case of their destruction or removal by him or his employees, they will be replaced by the Engineer at the Contractor's expense.

49. SANITATION

The Contractor shall provide suitable drinking water receptacles or containers equipped with dust-tight covers and spigots or faucets. A supply of sanitary paper drinking cups shall be kept on hand for general use near the drinking water containers. The use of common drinking cups or tin cups will not be permitted.

The Contractor shall furnish "Porta-Johns" or other approved sanitary facilities for use by all workers on the Project. Such facilities shall be placed and kept in close proximity of the site where work is being performed. Such facilities shall be properly serviced and maintained.

The Engineer may establish such other sanitary rules and regulations as may seem necessary and desirable to the safe prosecution of the work, such rules and regulations to apply to all forces employed under this Contract, and if, the Contractor fails to observe and enforce these rules, the Engineer may enforce them at the expense of the Contractor.

50. WATER FOR CONSTRUCTION

The Contractor may obtain all water necessary for construction purposes from the Municipal Waterworks System at the regular customer service rate, but the Contractor must make all necessary arrangements with the Director of Utilities for necessary connections and meters. The Contractor must make his own provisions and provide such equipment as is necessary for conveying water from point of service to point of use. No extra compensation will be allowed and the Contractor shall anticipate the expense connected herewith and absorb said expense in the prices bid for the various bid items.

51. SEQUENCE AND SPEED OF WORK

The Engineer shall direct the order and sequence of the work. If at any time before the commencement or during the progress of the work, the materials and appliances used appear to the Engineer as insufficient and improper for securing the quality of work required or the required rate of progress, he may order the Contractor to increase their efficiency or to improve their character and the Contractor shall conform to such order. The

failure of the Engineer to demand any increase of such efficiency or improvement shall not release the Contractor from his obligations to secure the quality of work or the rate of progress specified.

52. INSPECTION AND TESTING OF MATERIAL

The sampling and testing of materials used or proposed to be used in the construction of this project will be made by the Engineer, his designated representative or certified testing laboratory personnel in accordance with methods prescribed by the American Society of Testing Materials and/or the American Association of State Highway Officials, with subsequent approved revisions made prior to the date of the Proposal. The selection of the method of test shall be designated by the Engineer. The Contractor shall bear the cost of all tests required before a material or a method is approved for use on the job, unless the Owner specifically agrees to bear the cost of these tests.

All tests required by the Owner after materials and/or methods have been approved and after they have been incorporated or used in the job will be paid for by the Owner, except if the Owner's tests reveal non-conformance with the specifications, subsequent tests on that part of the work required to determine if the replaced or reworked material meets the specifications, will be paid for by the Contractor. The City will pay only one time for any required testing.

The following is a summary of test required for the approval of materials or methods:

Material	Test
Subgrade	Maximum density, optimum moisture
Caliche Base:	Maximum density, optimum moisture, hardness, gradation, liquid limit, plasticity index, Texas Triaxial Classification
Aggregates for hot-mix:	Gradation, unit weight, abrasion, soundness, liquid limit, plasticity index, density
Asphalt, emulsions and tars:	Certified plant test and certificates of compliance with each shipment
Hot- Mix asphaltic concrete:	Design mix, swell test, stripping test
Portland cement concrete pavement:	Design mix with test cylinders

Any materials shipped by the Contractor from the factory prior to having satisfactorily passed such testing and inspection by the Owner's representative or prior to the receipt of notice from said representative that such testing and inspection will not be required, shall not be incorporated in the work.

The Owner may, at its discretion, approve materials and/or methods for use on this project without testing when they are from sources previously tested and approved for City of Midland projects.

53. CONSTRUCTION SCHEDULE

It shall be the responsibility of the Contractor to furnish the Construction Engineer prior to construction a schedule out – lining the anticipated time each phase of construction will begin and be completed, including sufficient time being allowed for clean – up.

54. PROFILES AND ELEVATIONS

Profiles and elevations of the ground are shown on the plans hereto attached. These profiles and elevations are believed to be reasonably correct, but are not guaranteed to be absolutely so, and are represented only as an approximation. Elevations are referred to datum given by the Engineer.

55. CLEANUP

During the progress of the work, the Contractor shall maintain the work area in a reasonably clean and safe condition. Dirt, debris, excess excavation and other objectionable materials shall be removed from the site and disposed of on a daily basis.

After completion of all the work contemplated to be done in accordance with the detailed plans and these specifications, the premises and area along the entire line of the work shall be thoroughly cleaned up and all remaining structural materials, excess or surplus excavation and debris of any nature shall be removed and disposed of in a satisfactory manner and as directed by the Engineer. The site of all work shall appear neat and finished. All portions of the project when completed shall be ready for use or occupancy.

No compensation or payment shall be made for any cleanup work. The price for such cleanup work shall be absorbed in the items covered in the proposal.

56. GUARANTEE

The contractor shall and hereby does guarantee: (1) all work performed by him directly and all work performed by his subcontractors; (2) that all material specified; and (3) that any defect due to improper workmanship or material discovered and made known to him within one year (1) f the date of final acceptance of the improvements shall be repaired, replaced, corrected or otherwise made good by him without additional expense to the Owner. The Contractor shall, in case of work performed by his subcontractors and where guarantees are required, secure guarantees from said subcontractors and deliver copies of same to the Engineer upon completion of the work.

57. WAIVER OF ATTORNEY FEES:

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

CONTRACTOR AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE CONTRACTOR ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE CONTRACT. THE CONTRACTOR FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN

THE OWNER AND THE CONTRACTOR. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

THE CONTRACTOR AND OWNER ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

58. GOVERNING LAW AND VENUE

This Contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Contract shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Contract or the performance of this Contract shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Contract shall be deemed to have occurred in Midland County, Texas. This Contract shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way that would direct application of the laws of another jurisdiction.

59. SOVEREIGN IMMUNITY

By executing this Contract, the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

60. NO THIRD – PARTY BENEFICIARY

The 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.

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

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

62. ASSIGNMENT

Contractor shall not, either directly or indirectly, assign all or any part of this contract or any interest, right or privilege herein, without the prior written consent of the owner. The issue on whether or not to grant consent to an assignment is in the sole discretion of the owner.

63. 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 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.

64. PROMPT PAY ACT

The owner and contractor agree that Texas Government Code, Chapter 2251, Payment for Goods and Services (the "Prompt Pay Act") does not waive governmental immunity.

65. OTHER FEDERAL REQUIREMENTS

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.

Updated June 2023

SPECIAL PROVISIONS

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 **Water Rehab Program 01** will be the removal, replacement, relocation, placement, and installation of existing and proposed water infrastructure and appurtenances including all necessary mobilization, saw-cutting, pavement removal, excavation, embankment, embedment, backfill, compaction, form work, pavement repair, sidewalk repair, concrete joint sealing, erosion control, traffic control, coordination with City of Midland staff and organizations such as TxDOT, OSHA, franchise utilities, etc. as needed, One Call (Texas 811) notifications for pending work, notifications to adjacent property owners as directed by City of Midland staff, and all other work to be performed as outlined in the Plans and Specifications, which are necessary to satisfactorily complete the work.

The Owner reserves the right to abandon, without obligation to the Contractor, any part of the program, or the entire program, at any time before the Contractor begins any construction work authorized by the Owner. This applies to the individual projects assigned throughout the course of this program, and does not refer to the start of work for the program as a whole.

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.

The 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 the 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:

The Contractor will receive full payment from the Owner for each work order when the work order is 100% complete. Payment will not be made prior to a work order being 100% complete, and payment will be made for material installed, not for material delivery. This will apply to 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 Bid Items: 1 – 5

Water Bid Items: 1 – 38 and 42 – 44

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 the 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 the Contractor at no additional cost to the City of Midland.

Only one (1) Open Trench Depth bid item in the Proposal will apply at a time to any given length of open trench excavation. These bid items are not stacked when determining payment for open trench excavation.

5. SAFETY REQUIREMENTS:

It is the responsibility of the 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 at any time if they are needed in the opinion of the Engineer for the safety of the work crews or public.

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 twelve 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 ten 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 six 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) The Contractor is required to make arrangements with the Power Company for the temporary relocation or raising of high voltage lines at the Contractor's sole cost and expense.
- 5) No person shall work within six feet of a high voltage line without protection having been taken as outlined in Paragraph (3).

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 (2) 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, the 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. The 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
 - iii. Ensuring the proper location, orientation, and operation of arrow boards or message boards, if present.
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 (1) hour;
 - b. On roadways with a posted speed limit of 45 MPH or greater, for closures lasting more than four (4) 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. COMPLETION OF WORK:

Any work assigned to the Contractor is to be considered part of a work order, and completion of the assigned work occurs when the work order is 100% complete. A work order may only be completed after all utility, paving, sidewalk, erosion control, traffic control, and site cleanup work has been completed. All work must be inspected by the City's Inspector or Engineer before being accepted, and the City's inspector or Engineer and the Contractor must sign or initialize the finalized work order before it is considered 100% complete.

Work orders that are considered 100% complete and are signed or initialized are final and no subsequent changes, additional, reductions, or corrections will be made to the quantities listed on the work orders. The only exception that may occur will be at the sole discretion of the Engineer, who may add quantities to the work order for work that was performed but not accounted for in the original signed or initialized work order.

Errors in the unit prices used to calculate totals for work orders may be corrected by the City's Inspector or Engineer after work orders are signed and initialized so long as no change is made to the original work order

quantities – OR – the Contractor may request that a new work order with the correct unit prices be provided for fresh signatures or initials. Quantities for work orders will remain fixed after the original work order is signed or initialized regardless of whether or not corrections are made to the unit prices and returned for a second round of signatures or initials, except as stated in the previous paragraph.

9. DETOURS:

The 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.

10. PROPERTY AND RIGHT-OF-WAY ACCESS:

Access to adjacent properties must be maintained at all times unless otherwise directed by the Engineer. If the 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. Contractor must notify affected properties no less than two (2) business days prior to any planned access interruptions.

Contractor must coordinate with the City of Midland regarding any planned access interruptions for public Right-of-Way, or to restore any public infrastructure damaged during construction activities.

Steel plates or equivalent means must be used as needed to enable vehicle access across a trench that would otherwise prevent access to a private property unless construction work is actively taking place at this location. These temporary measures are to be kept in place any time construction activity is not actively taking place, or until the trench pavement repair is complete.

11. PROPERTY AND RIGHT-OF-WAY SERVICE:

Service to adjacent properties must be maintained at all times unless otherwise directed by the Engineer. Such services include water, wastewater, fiber, cable, electric, and gas. Contractor must notify affected properties no less than two (2) 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.

12. CONSTRUCTION SCHEDULE:

It is the responsibility of the 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.

13. CONSTRUCTION STAKING:

The Contactor has sole responsibility for construction staking.

It is the responsibility of the Contractor to provide the project construction staking at fifty-foot (50') intervals along the entire length of the project as well as at such control points as the 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 the Engineer by the Contractor for review and approval.

14. SURVEY:

The Contractor has sole responsibility for construction survey.

The 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 1.0' accuracy or better. Survey data is to be provided in Excel csv. file format with all rounding functions turned off.

15. CONSTRUCTION MATERIALS:

The 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 Fahrenheit and the ambient temperature in the shade is higher than 40 degrees Fahrenheit or is 40 degrees Fahrenheit 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.

16. EROSION CONTROL:

Erosion control is the responsibility of the 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 the Owner feel that supplementary erosion control measures are required in addition to those implemented by the Contractor then the Contractor will include additional erosion control measures within reason to the 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 the Engineer.

17. WASTE MATERIAL:

Excess material from excavation and other construction or demolition activity will become the property of the Contractor. Excess excavation will be disposed of at locations secured by the Contractor and if necessary, approved by the Engineer. No material is to be placed on private property or City property without the approval of the Engineer and the 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 the 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.

18. TESTING:

It is the Contractor's responsibility to perform all required testing for any and all materials and workmanship performed or installed as part of the project's work. The cost of all such testing is to be borne solely by the Contractor unless required by the 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 the Contractor's work or actions; or unless additional testing outside of the project scope is performed at the request of the Engineer.

Required testing includes:

Concrete Pavement For Trench Repair – A Slump Test is required only if directed by the Engineer for pavement patches that are equal to or greater than 50 cubic yards (roughly equal to an 8' wide by 340' long by 6" thick pavement section). The slump test is to be performed once for every cylinder set (3 cylinders) taken, and no less than 1 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. There will be no testing for curb, ramps, and sidewalks.

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

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 (4) hours rather than eight (8) hours. The acceptable field pressure limit will be a minimum 180 psi and a maximum 185 psi. A 2-3 psi drop in the measured pipe pressure during the first two (2) 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 (2) 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 (4) hours rather than eight (8) hours. The acceptable field pressure limit will be a minimum 180 psi and a maximum 185 psi. A 2-3 psi drop in the measured pipe pressure during the first two (2) 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 (2) 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 fifty-foot (50') 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 the Engineer.

19. 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.

20. PERSONNEL:

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

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

21. 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 in an amount not to exceed \$2,000,000.00. The initial term of the contract will expire on September 31, 2024.

22. RENEWAL OF CONTRACT:

If the Owner and Contractor agree in writing, the contract may be renewed for up to two (2) additional one (1) year terms (for an amount not to exceed \$2,000,000.00 per term).

All renewal time periods will begin on October 1st of the calendar year the renewal is agreed to and will end on September 30th of the following calendar year.

If the Owner and Contractor do not agree to renew the existing contract then the contract will expire at the end of the term for either the first award period or, if applicable, the first period of contract renewal.

23. WARRANTY PERIOD:

There is no warranty period for this program as all work performed is to be subject to City inspection prior to acceptance. Any work performed without City inspection is subject to re-excavation for inspection, removal, replacement, reinstallation, or any other work deemed necessary by the City Inspector or Engineer to address the failure by the Contractor to have the required inspection performed at the Contractor's sole expense.

24. 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 the 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 the Contractor to renew both of their active licenses before resuming work or to end the project immediately.

PROPOSAL

TO: Honorable Mayor and City Council
City of Midland
Midland, Texas

Mayor and Members of Council: The undersigned bidder, having examined the drawings, specifications and contract documents, the location of the proposed work, and being fully advised as to the extent and character of the work, proposes to furnish all material, equipment, and to perform all labor and work necessary for the completion of the construction of the work described by and in accordance with the attached drawings, specifications, and contract, for the following prices, to wit:

Project Name: Water Rehab Program 01
Project Number: U23-02

Base Bid: Miscellaneous Items				
Item No.	Quantity	Description	Unit Price	Total Amount
1)	80 LF	20" Steel Pipe Casing (1/4" Wall Thickness), furnished, installed, complete and in place, for the sum of: Two hundred sixty five _____ dollars and _____ zero _____ cents per linear foot. (Pay Note M1)	\$ 265.00	\$ 21,200.00
2)	80 LF	16" Steel Pipe Casing (1/4" Wall Thickness), furnished, installed, complete and in place, for the sum of: One hundred ninety five _____ dollars and _____ zero _____ cents per linear foot. (Pay Note M1)	\$ 195.00	\$ 15,600.00
3)	40 LF	12" Steel Pipe Casing (1/4" Wall Thickness), furnished, installed, complete and in place, for the sum of: One hundred forty five _____ dollars and _____ zero _____ cents per linear foot. (Pay Note M1)	\$ 145.00	\$ 5,800.00

Base Bid: Miscellaneous Items				
Item No.	Quantity	Description	Unit Price	Total Amount
4)	40 LF	16" PVC Pipe Casing, SDR 26 ASTM D2241, furnished, installed, complete and in place, for the sum of: One hundred seventy _____ dollars and _____ zero _____ cents per linear foot. (Pay Note M1)	\$ 170.00	\$ 6,800.00
5)	20 LF	12" PVC Pipe Casing, SDR 26 ASTM D2241, furnished, installed, complete and in place, for the sum of: Ninety five _____ dollars and _____ zero _____ cents per linear foot. (Pay Note M1)	\$ 95.00	\$ 1,900.00
6)	20 LF	Cement Stabilized Sand Bedding (2.5-Sack) Encasement, furnished, installed, complete and in place, for the sum of: One hundred thirty five _____ dollars and _____ zero _____ cents per linear foot. (Pay Note M2)	\$ 135.00	\$ 2,700.00
7)	40 EA	Erosion/Sediment Control, furnished, installed, complete and in place, for the sum of: Five hundred _____ dollars and _____ zero _____ cents per each. (Pay Note M3)	\$ 500.00	\$ 20,000.00
8)	15 EA	Traffic Control for Collector/Local Road Conditions, furnished, installed, complete and in place, for the sum of: Two thousand _____ dollars and _____ zero _____ cents per each. (Pay Note M4)	\$ 2,000.00	\$ 30,000.00
9)	25 EA	Traffic Control for Alley/Easement Conditions, furnished, installed, complete and in place, for the sum of: One thousand _____ dollars and _____ zero _____ cents per each. (Pay Note M5)	\$ 1,000.00	\$ 25,000.00

Base Bid: Miscellaneous Items				
Item No.	Quantity	Description	Unit Price	Total Amount
10)	40 EA	Job Site Safety, furnished, installed, complete and in place, for the sum of: Seven hundred fifty dollars and zero cents per each. (Pay Note M6)	\$ 750.00	\$ 30,000.00
11)	300 LF	Additional Labor, Downtown Area, Water Improvements, furnished, installed, complete and in place, for the sum of: Forty dollars and zero cents per linear foot. (Pay Note M7)	\$ 40.00	\$12,000.00
12)	300 LF	Additional Labor, Downtown Area, Wastewater Improvements, furnished, installed, complete and in place, for the sum of: Forty dollars and zero cents per linear foot. (Pay Note M8)	\$ 40.00	\$12,000.00
13)	N/A	Material Mark-up, complete and in place, for the sum of: Fifteen percent. (Pay Note M9)	% 15	\$ N/A
14)	N/A	Labor Mark-up (Regular Work Hours), complete and in place, for the sum of: Fifteen percent. (Pay Note M10)	% 15	\$ N/A
15)	N/A	Equipment Rental Mark-up (Non-Standard Equipment Only), complete and in place, for the sum of: Fifteen percent. (Pay Note M11)	% 15	\$ N/A
Total Miscellaneous Items 1-15			\$ 183,000.00	

Base Bid: Demolition Items				
Item No.	Quantity	Description	Unit Price	Total Amount
1)	1650 LF	Removal & Disposal of Existing Utility Mains, complete and in place, for the sum of: Fifteen _____ dollars and _____ zero _____ cents per linear foot. (Pay Note D1)	\$ 15.00	\$ 24,750.00
2)	150 CY	Flowable Fill for Existing Pipes Abandoned In Place, furnished, installed, complete and in place, for the sum of: One hundred thirty _____ dollars and _____ zero _____ cents per cubic yard. (Pay Note D2)	\$ 130.00	\$ 19,500.00
Total Demolition Items 1-6			\$ 44,250.00	

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
1)	60 LF	16" Ductile Iron Pipe Pressure Class 150, Water Main, furnished, installed, complete and in place, for the sum of: One hundred ninety five dollars and zero cents per linear foot. (Pay Note W1)	\$ 195.00	\$ 11,700.00
2)	60 LF	12" Ductile Iron Pipe Pressure Class 150, Water Main, furnished, installed, complete and in place, for the sum of: One hundred forty five dollars and zero cents per linear foot. (Pay Note W1)	\$ 145.00	\$ 8,700.00
3)	60 LF	10" Ductile Iron Pipe Pressure Class 150, Water Main, furnished, installed, complete and in place, for the sum of: One hundred fifteen dollars and zero cents per linear foot. (Pay Note W1)	\$ 115.00	\$ 6,900.00
4)	60 LF	8" Ductile Iron Pipe Pressure Class 150, Water Main, furnished, installed, complete and in place, for the sum of: Ninety five dollars and zero cents per linear foot. (Pay Note W1)	\$ 95.00	\$ 5,700.00
5)	60 LF	6" Ductile Iron Pipe Pressure Class 150, Water Main, furnished, installed, complete and in place, for the sum of: Seventy five dollars and zero cents per linear foot. (Pay Note W1)	\$ 75.00	\$ 4,500.00

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
6)	200 LF	16" AWWA C-900 DR18, PVC, Water Main, furnished, installed, complete and in place, for the sum of: Two hundred _____ dollars and _____ zero _____ cents per linear foot. (Pay Note W1)	\$ 200.00	\$ 40,000.00
7)	1500 LF	12" AWWA C-900 DR18, PVC, Water Main, furnished, installed, complete and in place, for the sum of: One hundred twenty five _____ dollars and _____ zero _____ cents per linear foot. (Pay Note W1)	\$ 125.00	\$ 187,500.00
8)	10 LF	10" AWWA C-900 DR18, PVC, Water Main, furnished, installed, complete and in place, for the sum of: Ninety five _____ dollars and _____ zero _____ cents per linear foot. (Pay Note W1)	\$ 95.00	\$ 950.00
9)	1500 LF	8" AWWA C-900 DR18, PVC, Water Main, furnished, installed, complete and in place, for the sum of: Seventy _____ dollars and _____ zero _____ cents per linear foot. (Pay Note W1)	\$ 70.00	\$ 105,000.00
10)	3000 LF	6" AWWA C-900 DR18, PVC, Water Main, furnished, installed, complete and in place, for the sum of: Sixty _____ dollars and _____ zero _____ cents per linear foot. (Pay Note W1)	\$ 60.00	\$ 180,000.00
11)	5 EA	16" Tapping Sleeve furnished, installed, complete and in place, for the sum of: Seven thousand one hundred _____ dollars and _____ zero _____ cents per each. (Pay Note W2)	\$ 7,100.00	\$ 35,500.00

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
12)	5 EA	12" Tapping Sleeve furnished, installed, complete and in place, for the sum of: Five thousand five hundred _____dollars and _____zero_____cents per each. (Pay Note W2)	\$ <u>5,500.00</u>	\$ <u>27,500.00</u>
13)	5 EA	10" Tapping Sleeve furnished, installed, complete and in place, for the sum of: Four thousand eight hundred _____dollars and _____zero_____cents per each. (Pay Note W2)	\$ <u>4,800.00</u>	\$ <u>24,000.00</u>
14)	5 EA	8" Tapping Sleeve furnished, installed, complete and in place, for the sum of: Three thousand five hundred _____dollars and _____zero_____cents per each. (Pay Note W2)	\$ <u>3,500.00</u>	\$ <u>17,500.00</u>
15)	5 EA	6" Tapping Sleeve furnished, installed, complete and in place, for the sum of: Two thousand seven hundred _____dollars and _____zero_____cents per each. (Pay Note W2)	\$ <u>2,700.00</u>	\$ <u>13,500.00</u>
16)	5 EA	16" Gate Valve & Vault (MJxMJ/FL), furnished, installed, complete and in place, for the sum of: Thirty two thousand five hundred _____dollars and _____zero_____cents per each. (Pay Note W3)	\$ <u>32,500.00</u>	\$ <u>162,500.00</u>
17)	10 EA	12" Gate Valve & Box (MJxMJ/FL), furnished, installed, complete and in place, for the sum of: Five thousand nine hundred _____dollars and _____zero_____cents per each. (Pay Note W4)	\$ <u>5,900.00</u>	\$ <u>59,000.00</u>

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
18)	5 EA	10" Gate Valve & Box (MJxMJ/FL), furnished, installed, complete and in place, for the sum of: Four thousand eight hundred _____ dollars and _____ zero _____ cents per each. (Pay Note W4)	\$4,800.00	\$ 24,000.00
19)	20 EA	8" Gate Valve & Box (MJxMJ/FL), furnished, installed, complete and in place, for the sum of: Three thousand one hundred _____ dollars and _____ zero _____ cents per each. (Pay Note W4)	\$3,100.00	\$ 62,000.00
20)	30 EA	6" Gate Valve & Box (MJxMJ/FL), furnished, installed, complete and in place, for the sum of: Two thousand one hundred _____ dollars and _____ zero _____ cents per each. (Pay Note W4)	\$2,100.00	\$ 63,000.00
21)	5 EA	Air Relief Valve & Vault (Water Main), furnished, installed, complete and in place, for the sum of: Eighteen thousand nine hundred _____ dollars and _____ zero _____ cents per each. (Pay Note W5)	\$18,900.00	\$ 94,500.00
22)	20 EA	Fire Hydrant Assembly, ($\leq$ 5' Water Main Bury Depth), furnished, installed, complete and in place, for the sum of: Five thousand two hundred _____ dollars and _____ zero _____ cents per each. (Pay Note W6)	\$5,200.00	\$ 104,000.00

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
23)	40 VF	Fire Hydrant Riser, (> 5' Water Main Bury Depth), furnished, installed, complete and in place, for the sum of: Nine hundred fifty dollars and zero cents per vertical foot. (Pay Note W7)	\$ 950.00	\$ 38,000.00
24)	4600 LBS	Ductile Iron Fittings, furnished, installed, complete and in place, for the sum of: Nine dollars and zero cents per pound. (Pay Note W8)	\$ 9.00	\$ 41,400.00
25)	5 EA	Dresser Coupling, furnished, installed, complete and in place, for the sum of: One thousand five hundred dollars and zero cents per each. (Pay Note W9)	\$1,500.00	\$ 7,500.00
26)	10 EA	16" Tapping Saddle for water service connection (2" or 1"), furnished, installed, complete and in place, for the sum of: One thousand five hundred dollars and zero cents per each. (Pay Note W10)	\$1,500.00	\$ 15,000.00
27)	20 EA	12" Tapping Saddle for water service connection (2" or 1"), furnished, installed, complete and in place, for the sum of: Nine hundred seventy five dollars and zero cents per each. (Pay Note W10)	\$ 975.00	\$ 19,500.00

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
28)	10 EA	10" Tapping Saddle for water service connection (2" or 1"), furnished, installed, complete and in place, for the sum of: Eight hundred dollars and zero cents per each. (Pay Note W10)	\$ 800.00	\$ 8,000.00
29)	40 EA	8" Tapping Saddle for water service connection (2" or 1"), furnished, installed, complete and in place, for the sum of: Five hundred seventy five dollars and zero cents per each. (Pay Note W10)	\$ 575.00	\$ 23,000.00
30)	130 EA	6" Tapping Saddle for water service connection (2" or 1"), furnished, installed, complete and in place, for the sum of: Four hundred ninety dollars and zero cents per each. (Pay Note W10)	\$ 490.00	\$ 63,700.00
31)	10 EA	2" Water Service Connection, Long (> 20'), furnished, installed, complete and in place, for the sum of: Two thousand one hundred dollars and zero cents per each. (Pay Note W11)	\$ 2,100.00	\$ 21,000.00
32)	20 EA	2" Water Service Connection, Short ($\leq$ 20'), furnished, installed, complete and in place, for the sum of: One thousand five hundred fifty dollars and zero cents per each. (Pay Note W11)	\$ 1,550.00	\$ 31,000.00

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
33)	50 EA	1" Water Service Connection, Long (> 20'), furnished, installed, complete and in place, for the sum of: One thousand three hundred dollars and zero cents per each. (Pay Note W11)	\$1,300.00	\$ 65,000.00
34)	130 EA	1" Water Service Connection, Short ($\leq$ 20'), furnished, installed, complete and in place, for the sum of: One thousand fifty dollars and zero cents per each. (Pay Note W11)	\$1,050.00	\$ 136,500.00
35)	4 EA	Flushing Station Installation, Long (> 20'), furnished, installed, complete and in place, for the sum of: Four thousand five hundred dollars and zero cents per each. (Pay Note W12)	\$4,500.00	\$ 18,000.00
36)	4 EA	Flushing Station Installation, Short ($\leq$ 20'), furnished, installed, complete and in place, for the sum of: Three thousand two hundred dollars and zero cents per each. (Pay Note W12)	\$ 3,200.00	\$ 12,800.00
37)	4 EA	Sampling Station Installation, Long (> 20'), furnished, installed, complete and in place, for the sum of: Two thousand eight hundred dollars and zero cents per each. (Pay Note W13)	\$2,800.00	\$ 11,200.00
38)	4 EA	Sampling Station Installation, Short ($\leq$ 20'), furnished, installed, complete and in place, for the sum of: Two thousand dollars and zero cents per each. (Pay Note W13)	\$ 2,000.00	\$ 8,000.00

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
39)	210 EA	Water Meter Installation (New Service Lateral), furnished, installed, complete and in place, for the sum of: Five hundred fifty dollars and zero cents per each. (Pay Note W14)	\$ 550.00	\$ 115,500.00
40)	5 EA	Water Meter & Meter Box Installation (Existing Service Lateral), furnished, installed, complete and in place, for the sum of: Seven hundred fifty dollars and zero cents per each. (Pay Note W15)	\$ 750.00	\$ 3,750.00
41)	5 EA	Replace Water Meter In Existing Vault, furnished, installed, complete and in place, for the sum of: One thousand dollars and zero cents per each. (Pay Note W16)	\$ 1,000.00	\$ 5,000.00
42)	5 EA	Stand-Alone Gate Valve & Vault Replacement / Installation Add-On, furnished, installed, complete and in place, for the sum of: Thirty nine thousand dollars and zero cents per each. (Pay Note W17)	\$ 39,000.00	\$ 195,000.00
43)	5 EA	Stand-Alone Gate Valve & Box Replacement / Installation Add-On, furnished, installed, complete and in place, for the sum of: Seven thousand five hundred dollars and zero cents per each. (Pay Note W18)	\$ 7,500.00	\$ 37,500.00

Base Bid: Water Items				
Item No.	Quantity	Description	Unit Price	Total Amount
44)	5 EA	Stand-Alone Water Service Connection Add-On, furnished, installed, complete and in place, for the sum of: Four thousand two hundred dollars and zero cents per each. (Pay Note W19)	\$4,200.00	\$ 21,000.00
45)	6000 LF	Open Trenching of Water Main (0' – 5' Deep), furnished, installed, complete and in place, for the sum of: Twenty dollars and zero cents per linear foot. (Pay Note W20)	\$ 20.00	\$120,000.00
46)	330 LF	Open Trenching of Water Main (5' – 8' Deep), furnished, installed, complete and in place, for the sum of: Thirty dollars and zero cents per linear foot. (Pay Note W20)	\$ 30.00	\$ 9,900.00
47)	130 LF	Open Trenching of Water Main (8' – 10' Deep), furnished, installed, complete and in place, for the sum of: Forty dollars and zero cents per linear foot. (Pay Note W20)	\$ 40.00	\$ 5,200.00
48)	130 LF	Open Trenching of Water Main (10' – 12' Deep), furnished, installed, complete and in place, for the sum of: Fifty dollars and zero cents per linear foot. (Pay Note W20)	\$ 50.00	\$ 6,500.00
Total Water Items 1-48			\$ 2,276,900.00	

Base Bid: Paving Items				
Item No.	Quantity	Description	Unit Price	Total Amount
1)	100 SY	6" Concrete Pavement Repair, furnished, installed, complete and in place, for the sum of: Ninety five dollars and zero cents per square yard. (Pay Note P1)	\$ 95.00	\$ 9,500.00
2)	100 SY	4" Concrete Sidewalk Repair, furnished, installed, complete and in place, for the sum of: Eighty dollars and zero cents per square yard. (Pay Note P2)	\$ 80.00	\$ 8,000.00
3)	750 SY	2" Asphalt Pavement Repair, furnished, installed, complete and in place, for the sum of: Forty nine dollars and zero cents per square yard. (Pay Note P3)	\$ 49.00	\$ 36,750.00
4)	2100 SY	6" Base Rock Pavement Repair (Flexible Base), furnished, installed, complete and in place, for the sum of: Twenty one dollars and zero cents per square yard. (Pay Note P4)	\$ 21.00	\$ 44,100.00
5)	850 SY	Flowable Fill / 2-Sack Backfill, furnished, installed, complete and in place, for the sum of: One hundred thirty dollars and zero cents per square yard. (Pay Note P5)	\$ 130.00	\$ 110,500.00
Total Paving Items 1-5			\$ 208,850.00	

Bid Price For:	
1. Miscellaneous Items	\$ 183,000.00
2. Demolition Items	\$ 44,250.00
3. Water Items	\$ 2,276,900.00
4. Paving Items	\$ 208,850.00
Total Price	\$ 2,713,000.00

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

Two million seven hundred thirteen thousand _____ dollars
and _____ zero _____ cents total.

The undersigned bidder hereby declares that he has visited the site of the work and has carefully examined the contract documents pertaining to the work covered by the above bid. The selected contractor will receive written notice to proceed. The initial term of the contract shall expire on September 30, 2024. If the Owner and Contractor agree in writing, the contract may be renewed for up to two (2) additional one (1) year terms (at an amount not to exceed \$2,000,000.00 per term.)

PUBLIC INFORMATION

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

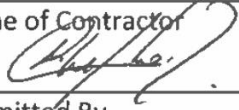
Enclosed herewith in this proposal is a cashier's check, cash or bid bond on a form approved by the City Attorney, for

One hundred thirty five thousand six hundred fifty _____ dollars
and _____ zero _____ cents total. (\$ 135,650.00)

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

Entrench, Inc.

Name of Contractor



Alberto Caballero, President

Submitted By

Print Name and Title

1728 W. Bender Blvd.

Mailing Address

Hobbs

NM

88240

City

State

Zip

PAY NOTES

Water Rehab Program 01

Bid Item	Pay Quantity Note
<i>Miscellaneous Items</i>	
1 20" Steel Pipe Casing (1/4" Wall Thickness)	M1
2 16" Steel Pipe Casing (1/4" Wall Thickness)	M1
3 12" Steel Pipe Casing (1/4" Wall Thickness)	M1
4 16" PVC Pipe Casing, SDR 26 ASTM D2241	M1
5 12" PVC Pipe Casing, SDR 26 ASTM D2241	M1
6 Cement Stabilized Bedding (2.5-Sack)	M2
7 Erosion/Sediment Control	M3
8 Traffic Control for Collector/Local Road Conditions	M4
9 Traffic Control for Alley/Easement Conditions	M5
10 Job Site Safety	M6
11 Additional Labor, Downtown Area, Water Improvements	M7
12 Additional Labor, Downtown Area, Wastewater Improvements	M8
13 Material Mark-up	M9
14 Labor Mark-up (Regular Work Hours)	M10
15 Equipment Rental Mark-up (Non-Standard Equipment Only)	M11
<i>Demolition Items</i>	
1 Removal & Disposal of Existing Utility Mains	D1
2 Flowable Fill for Existing Pipes Abandoned In Place	D2

Water Items

1	16" Ductile Iron Pipe Pressure Class 150, Water Main	W1
2	12" Ductile Iron Pipe Pressure Class 150, Water Main	W1
3	10" Ductile Iron Pipe Pressure Class 150, Water Main	W1
4	8" Ductile Iron Pipe Pressure Class 150, Water Main	W1
5	6" Ductile Iron Pipe Pressure Class 150, Water Main	W1
6	16" AWWA C-900 DR18, PVC, Water Main	W1
7	12" AWWA C-900 DR18, PVC, Water Main	W1
8	10" AWWA C-900 DR18, PVC, Water Main	W1
9	8" AWWA C-900 DR18, PVC, Water Main	W1
10	6" AWWA C-900 DR18, PVC, Water Main	W1
11	16" Tapping Sleeve	W2
12	12" Tapping Sleeve	W2
13	10" Tapping Sleeve	W2
14	8" Tapping Sleeve	W2
15	6" Tapping Sleeve	W2
16	16" Gate Valve & Vault (MJxMJ/FL)	W3
17	12" Gate Valve & Box (MJxMJ/FL)	W4
18	10" Gate Valve & Box (MJxMJ/FL)	W4
19	8" Gate Valve & Box (MJxMJ/FL)	W4
20	6" Gate Valve & Box (MJxMJ/FL)	W4
21	Air Relief Valve & Vault (Water Main)	W5
22	Fire Hydrant Assembly (≤ 5' Water Main Bury Depth)	W6
23	Fire Hydrant Riser (> 5' Water Main Bury Depth)	W7
24	Ductile Iron Fittings	W8
25	Dresser Coupling	W9
26	16" Tapping Saddle (2" or 1")	W10
27	12" Tapping Saddle (2" or 1")	W10
28	10" Tapping Saddle (2" or 1")	W10
29	8" Tapping Saddle (2" or 1")	W10
30	6" Tapping Saddle (2" or 1")	W10
31	2" Water Service Connection, Long (> 20')	W11
32	2" Water Service Connection, Short (≤ 20')	W11
33	1" Water Service Connection, Long (> 20')	W11
34	1" Water Service Connection, Short (≤ 20')	W11
35	Flushing Station Installation, Long (> 20')	W12
36	Flushing Station Installation, Short (≤ 20')	W12
37	Sampling Station Installation, Long (> 20')	W13
38	Sampling Station Installation, Short (≤ 20')	W13
39	Water Meter Installation (New Service Lateral)	W14
40	Water Meter & Meter Box Installation (Existing Service Lateral)	W15
41	Replace Water Meter In Existing Vault	W16
42	Stand-Alone Gate Valve & Vault Replacement / Installation Add-On	W17
43	Stand-Alone Gate Valve & Box Replacement / Installation Add-On	W18
44	Stand-Alone Water Service Connection Add-On	W19
45	Open Trenching of Water Main (0' - 5' Deep)	W20
46	Open Trenching of Water Main (5' - 8' Deep)	W20
47	Open Trenching of Water Main (8' - 10' Deep)	W20
48	Open Trenching of Water Main (10' - 12' Deep)	W20

Paving Items

1	6" Concrete Pavement Repair	P1
2	4" Concrete Sidewalk Repair	P2
3	2" Asphalt Pavement Repair	P3
4	6" Base Rock Pavement Repair	P4
5	20" Flowable Fill / 2-Sack Backfill	P5

PAY QUANTITY NOTES

- M1 Includes the necessary equipment, labor, materials, and incidentals for the installation of Pipe Casing per the construction drawings and City of Midland standards and specifications, including all spacers, grout, embedment, detector wire, tracer tape, and appurtenances. Measurement and payment to be per linear foot measured along the ground surface following the pipe centerline through all valves, fittings, structures, and appurtenances.
- M2 Includes the necessary equipment, labor, materials, and incidentals for the installation of Cement Stabilized Bedding Encasement (Portland Cement 2.5 Sack Cement = 235 LBS/CY) per the construction drawings, City of Midland standards and specifications, and Texas Administrative Code Title 30, Ch. 290, Sub-Ch. D Rule§290.44(e)(4)(B)(v), including all embedment, detector wire, tracer tape, and appurtenances. Measurement and payment to be per linear foot measured along the ground surface following the pipe centerline through all valves, fittings, structures, and appurtenances.
- M3 Includes the necessary equipment, labor, materials, and incidentals to implement the Erosion Control Plan per the construction drawings and City of Midland standards and specifications. Measurement and payment to be made per each block measured from street intersection to street intersection, or per each street crossing between blocks.
- M4 Includes the necessary equipment, labor, materials, and incidentals to implement the Traffic Control for Collector/Local Road Conditions per the approved Traffic Control Plan. Any required traffic control devices are to meet the City of Midland Traffic Division Standards. Measurement and payment to be made per each block measured from street intersection to street intersection, or per each collector/local road crossed.
- M5 Includes the necessary equipment, labor, materials, and incidentals to implement the Traffic Control for Alley/Easement Conditions per the approved Traffic Control Plan. Any required traffic control devices are to meet the City of Midland Traffic Division Standards. Measurement and payment to be made per each block measured from street intersection to street intersection, or per each alley/easement crossed.
- M6 Includes the necessary equipment, labor, materials, and incidentals to implement Job Site Safety and to provide a safe work environment for the project work area (including all personal protection equipment, trench safety, etc.) per the construction drawings and in compliance with all applicable Federal, State, and Local requirements or regulations including those of OSHA and the City of Midland. JOB SITE SAFETY IS THE RESPONSABILITY OF THE CONTRACTOR. Measurement and payment to be made per each block measured from street intersection to street intersection, or per each street crossing between intersections.
- M7 Includes the necessary equipment, labor, materials, and incidentals to complete work for water improvements in the downtown Midland area per the construction drawings and City of Midland standards and specifications. The downtown Midland area is considered to be the area bordered by Kansas Avenue to the north, Lamesa Road to the east, Front Street to the south, and 'A' Street to the west. Measurement and payment to be per linear foot measured along the ground surface following the water pipe centerline through all valves, fittings, structures, and appurtenances. This will be applied solely at the discretion of the Engineer or Records or the City of Midland designee.
- M8 Includes the necessary equipment, labor, materials, and incidentals to complete work for wastewater improvements in the downtown Midland area per the construction drawings and City of Midland standards and specifications. The downtown Midland area is considered to be the area bordered by Kansas Avenue to the north, Lamesa Road to the east, Front Street to the south, and 'A' Street to the west. Measurement and payment to be per linear foot measured along the ground surface following the wastewater pipe centerline through all structures and appurtenances. This will be applied solely at the discretion of the Engineer or Records or the City of Midland designee.
- M9 Includes the Material Mark-up for materials and material sizes (pipe, valve, manhole, etc.) required to complete work for improvements not covered by the bid items listed in the Proposal for this project per the construction drawings and the City of Midland standards and specifications. Measurement and payment to be made per the cost of the material in question plus the set percent increase established by this bid item. The Contractor must provide a copy of the invoice for the material cost from the supplier to the Engineer of Record or the City of Midland designee before this bid item may be claimed for any material. This will be applied solely at the discretion of the Engineer of Record or the City of Midland designee.
- M10 Includes the Labor Mark-up (Regular Work Hours) for labor required to complete work for improvements not covered by the bid items listed in the Proposal for this project per the construction drawings and the City of Midland standards and specifications. Measurement and payment to be made per the cost of labor in question plus the set percent increase established by this bid item. The Contractor must provide a typical hourly pay rate for work crews prior to the percent increase along with the number of workers on the crew and the number of hours worked by the crew for the project in question to the Engineer of Record or the City of Midland designee before this bid item may be claimed for any labor. This will be applied solely at the discretion of the Engineer of Record or the City of Midland designee.

- M11 Includes the Equipment Rental Mark-up (non-standard equipment only) required to complete work for improvements not covered by the bid items listed in the Proposal for this project per the construction drawings and the City of Midland standards and specifications. Measurement and payment to be made per the cost of the equipment rental in question plus the set percent increase established by this bid item. The Contractor must provide a copy of the invoice for the rented equipment from the equipment supplier to the Engineer of Record or the City of Midland designee before this bid item may be claimed for any rented equipment. This will be applied solely at the discretion of the Engineer of Record or the City of Midland designee.
- D1 Includes the necessary equipment, labor, materials, and incidentals for the Removal & Disposal of Existing Utility Mains per the construction drawings and City of Midland standards and specifications, including the removal and disposal of all pipes, fittings, structures, and appurtenances. All existing fire hydrants and meters removed are to be returned to the City of Midland. Measurement and payment to be made per linear foot measured along the ground surface following the pipe centerline through all valves, manholes, fittings, junctions, structures, and appurtenances.
- D2 Includes the necessary equipment, labor, materials, and incidentals for the placement of Flowable Fill for Existing Pipes Abandoned In Place (Portland Cement 2-Sack = 188 LBS / CY) per the construction drawings and City of Midland standards and specifications, including all plugging (wastewater) or capping (water) of the pipe to be abandoned, and appurtenances. Measurement and payment to be made per cubic yard volume of flowable fill placed in pipe abandoned in place.
- W1 Includes the necessary equipment, labor, materials, and incidentals for the installation of Water Mains per the construction drawings and City of Midland standards and specifications, including all embedment, detector wire, tracer tape, necessary testing, and appurtenances. Measurement and payment to be made per linear foot measured along the ground surface following the pipe centerline through all valves, fittings, structures, and appurtenances.
- W2 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Tapping Sleeve per the construction drawings and City of Midland standards and specifications, including all joint restraints, embedment, thrust blocking, and appurtenances. Valves are addressed in a separate pay note. Measurement and payment to be made per each tapping sleeve installed.
- W3 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Gate Valve & Vault per the construction drawings and City of Midland standards and specifications, including all embedment, vault, joint restraint, thrust blocking, concrete collar, and appurtenances. Measurement and payment to be made per each valve and vault installed. Includes valves associated with tapping sleeves. Stand alone valve replacements are addressed in a separate pay note.
- W4 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Gate Valve & Box per the construction drawings and City of Midland standards and specifications, including all embedment, valve box, joint restraint, thrust blocking, concrete collar, and appurtenances. Measurement and payment to be made per each valve and box installed. Includes valves associated with tapping sleeves. Stand alone valve replacements are addressed in a separate pay note.
- W5 Includes the necessary equipment, labor, materials, and incidentals for the installation of an Air Relief Valve & Vault (Water Force Main) per the construction drawings and City of Midland standards and specifications, including all embedment, wrapping, joint restraint, thrust blocking, backfill, concrete collar, and appurtenances. Measurement and payment to be made per each valve and vault installed.
- W6 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Fire Hydrant Assembly to a depth of 5' per the construction drawings and City of Midland standards and specifications, including all risers, embedment, gravel sump, thrust blocking, necessary testing, and appurtenances. Measurement and payment to be made per each fire hydrant assembly installed.
- W7 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Fire Hydrant Riser (> 5' Water Main Bury Depth) per the construction drawings and City of Midland standards and specifications, including all embedment and appurtenances. Measurement and payment to be made per vertical foot of riser below a water main bury depth of 5' measured from the water main invert and rounded up to the nearest 0.5'.

- W8 Includes the necessary equipment, labor, materials, and incidentals for the installation of Ductile Iron Fittings per the construction drawings and City of Midland standards and specifications, including all embedment, wrapping, thrust blocking, joint restraints, and appurtenances. All fittings are to be C153 ductile iron compact fittings. Fitting weights are established from Tyler Union Quality Waterworks Products Catalog PC-U2014, December, 2014 and payment will be made at the standard compact weight. Nuts, bolts, glands, and other associated accessories are not included as part of the fitting weight and are considered subsidiary to the weight of the fitting. Any additional required fittings not shown on the drawings will be paid for at weights established in the Tyler Union Waterworks Catalog.
- W9 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Dresser Coupling per the construction drawings and City of Midland standards and specifications, including all embedment, wrapping, thrust blocking, and appurtenances. Measurement and payment to be made per each dresser coupling / adaptor installed.
- W10 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Tapping Saddle for a water service connection per the construction drawings and City of Midland standards and specifications, including all embedment, thrust blocking, and appurtenances. Measurement and payment to be made per each tapping saddle installed.
- W11 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Water Service Connection per the construction drawings and City of Midland standards and specifications, including all excavation, embedment, backfill not including flowable fill backfill, polyethylene service line or other pipe, brass goods from the corporation stop to the brass angle valve (inclusive), meter box, and all appurtenances. Measurement to be per linear foot measured along the ground surface following the pipe centerline through all valves, fittings, structures, and appurtenances, and payment to be made per each water service connection installed.
- W12 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Flushing Station per the construction drawings and City of Midland standards and specifications, including all excavation, embedment, backfill not including flowable fill backfill, polyethylene service line or other pipe, brass goods between the tapping saddle and flushing station, and all appurtenances. The flushing station will be provided by the City of Midland. Measurement to be per linear foot measured along the ground surface following the pipe centerline through all valves, fittings, structures, and appurtenances, and payment to be made per each flushing station installed.
- W13 Includes the necessary equipment, labor, materials, and incidentals for the installation of a Sampling Station per the construction drawings and City of Midland standards and specifications, including all excavation, embedment, backfill not including flowable fill backfill, polyethylene service line or other pipe, brass goods between the tapping saddle and sampling station, and all appurtenances. The sampling station will be provided by the City of Midland. Measurement to be per linear foot measured along the ground surface following the pipe centerline through all valves, fittings, structures, and appurtenances, and payment to be made per each sampling station installed.
- W14 Includes the necessary equipment, labor, materials, and incidentals for a new Water Meter Installation as part of a new water service lateral installation per the construction drawings and City of Midland standards and specifications, including all appurtenances. The new water meter will be provided by the City of Midland. Measurement and payment to be per each water meter set.
- W15 Includes the necessary equipment, labor, materials, and incidentals to set a new Water Meter and Meter Box for an existing water service lateral, or to replace an existing water meter and water meter box, per the construction drawings and City of Midland standards and specifications, including all appurtenances. Return the existing water meter to the City of Midland. The new water meter will be provided by the City of Midland. Measurement and payment to be per each water meter and meter box set.
- W16 Includes the necessary equipment, labor, materials, and incidentals to Replace Water Meter in Existing Vault per the construction drawings and City of Midland standards and specifications, including all appurtenances. Return the existing water meter to the City of Midland. The new water meter will be provided by the City of Midland. Measurement and payment to be per each water meter replaced.
- W17 Includes the additional necessary equipment, labor, materials, and incidentals for a Stand-Alone Gate Valve & Vault Replacement / Installation Add-On per the construction drawings and City of Midland standards and specifications, including all saw-cutting, pavement removal, unclassified excavation, removal of fittings, removal of structures, embedment, vault, joint restraint, thrust blocking, backfill not including flowable fill backfill, concrete collar, and appurtenances. Measurement and payment to be made per each valve and vault replaced or installed that is stand-alone and not connected to a larger water improvement project. Includes valves associated with tapping sleeves.
- W18 Includes the additional necessary equipment, labor, materials, and incidentals for a Stand-Alone Gate Valve & Box Replacement / Installation Add-On per the construction drawings and City of Midland standards and specifications, including all saw-cutting, pavement removal, unclassified excavation, removal of fittings, removal of structures, embedment, box, joint restraint, thrust blocking, backfill not including flowable fill backfill, concrete collar, and appurtenances. Measurement and payment to be made per each valve and box replaced or installed that is stand-alone and not connected to a larger water improvement project. Includes valves associated with tapping sleeves.

- W19 Includes the additional necessary equipment, labor, materials, and incidentals for a Stand-Alone Water Service Connection Add-On per the construction drawings and City of Midland standards and specifications, including all excavation, embedment, backfill not including flowable fill backfill, polyethylene service line or other pipe, brass goods from the corporation stop to the brass angle valve (inclusive), meter box, and all appurtenances. Measurement and payment to be per each water service connection made that is stand-alone and not connected to a larger water improvement project.
- W20 Includes the necessary equipment, labor, materials, and incidentals for Open Trenching of Water Main per the construction drawings and City of Midland standards and specifications, including all saw cutting, pavement removal, curb removal, sidewalk or ramp removal, unclassified excavation, backfill not including flowable fill backfill, providing trench safety and protection for workers to install pipe and other infrastructure, structures, and appurtenances. Depth measurement to be measured to the nearest 0.5' from the flowline of the pipe to the existing surface. Measurement and payment to be made per linear foot measured along the ground surface following the pipe centerline through all valves, fittings, structures, and appurtenances.
- P1 Includes the necessary equipment, labor, materials, and incidentals for Concrete Pavement Repair per the construction drawings and City of Midland standards and specifications, including all forming, placement, jointing, fiber or rebar reinforcement, sealing, finishing, and appurtenances. Curb repair is included with this bid item and pay note. Concrete pavement joints are to typically be 10'x10' joints, and are to be no larger than 15'x15' joints. Concrete pavement joints are to typically be saw-cut or expansion joints, and must all be sealed with TxDOT DMS-6310 SL-2 sealant. Curb joint spacing is to match adjacent concrete pavement joints or be no more than 10'. Curb joints are to be expansion joints between new and existing curb, saw-cut joints everywhere else, and do not have to be sealed. Measurement and payment to be made per square yard measured along the ground surface.
- P2 Includes the necessary equipment, labor, materials, and incidentals for Concrete Sidewalk Repair per the construction drawings and City of Midland standards and specifications, including all forming, placement, jointing, fiber reinforcement, finishing, and appurtenances. Concrete pedestrian access ramp repairs are included with this bid item and pay note. Measurement and payment to be made per square yard.
- P3 Includes the necessary equipment, labor, materials, and incidentals for Asphalt Pavement Repair per the construction drawings and City of Midland standards and specifications, including all pavement, compaction, prime coat, tack coat, and appurtenances. Asphalt may be Type "D" HMAc Asphalt with PG 70-22, or either Type "B" or "C" HMAc Asphalt with PG 64-22. All asphalt is assumed to be 110 LBS / SY at 1" thick. Prime and tack coats are to be Bituminous Prime Coat (MC-30, 0.20 GAL / SY), and Tack Coat (MC-30, 0.10 GAL / SY). Measurement and payment to be made per square yard measured along the ground surface.
- P4 Includes the necessary equipment, labor, materials, and incidentals for Base Rock Pavement Repair including the installation of base rock backfill (City base) per the construction drawings and City of Midland standards and specifications including all pavement, compaction, and appurtenances. Measurement and payment to be made per square yard measured along the ground surface.
- P5 Includes the necessary equipment, labor, materials, and incidentals for installation of Flowable Fill / 2-Sack Backfill (Portland Cement 2 Sack = 188 LBS/CY) per the construction drawings and City of Midland standards and specifications, including all appurtenances. Measurement and payment to be made per square yard measured along the ground surface.

BID BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND §

SURETY NO _____

KNOW ALL MEN BY THESE PRESENTS, THAT

Entrench, Inc., 1728 W. Bender Blvd., Hobbs, New Mexico 88240 (Hereinafter called the Principal), as
Principal, and United Fire & Casualty Company, 118 Second Ave. SE, Cedar Rapids, IA 52401

(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 (5%) of Amount Bid Dollars

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

WHEREAS, the Principal has submitted a Bid or Proposal to enter into a certain written contract for the
construction of Water Rehab Program 01.

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 AGREE 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 of such events, shall be entitled and is hereby given the right to collect the full amount of
this Bid Bond as liquidated damage.

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 5th day of July, 2023.

Entrench, Inc.
Principal

By 

Address 1728 W. Bender Blvd.
Hobbs, New Mexico 88240

APPROVED AS TO FORM:

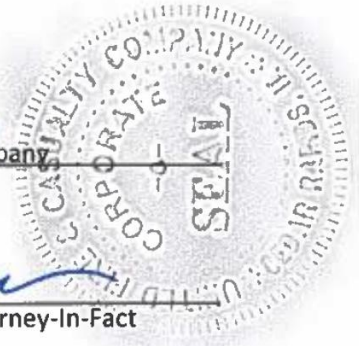
City Attorney

NOTE: Attach Power of Attorney

United Fire & Casualty Company
Surety

By 
William W. Burke Jr., Attorney-In-Fact

Address 118 Second Ave. SE
Cedar Rapids, IA 52401





UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA
UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX
FINANCIAL PACIFIC INSURANCE COMPANY, LOS ANGELES, CA
CERTIFIED COPY OF POWER OF ATTORNEY
(original on file at Home Office of Company – See Certification)

Inquiries: Surety Department
118 Second Ave SE
Cedar Rapids, IA 52401

KNOW ALL PERSONS BY THESE PRESENTS, That United Fire & Casualty Company, a corporation duly organized and existing under the laws of the State of Iowa; United Fire & Indemnity Company, a corporation duly organized and existing under the laws of the State of Texas; and Financial Pacific Insurance Company, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint

WILLIAM W. BURKE, SHAWN GUSTAFSON, STACEY BOSWELL, WILLIAM W. BURKE JR., EACH INDIVIDUALLY

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$100,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted is continuous and shall remain in full force and effect until revoked by United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted by the Boards of Directors of United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

"Article VI – Surety Bonds and Undertakings"

Section 2, Appointment of Attorney-in-Fact. "The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this

15th day of November, 2017



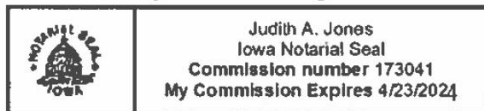
UNITED FIRE & CASUALTY COMPANY
UNITED FIRE & INDEMNITY COMPANY
FINANCIAL PACIFIC INSURANCE COMPANY

By: *Dennis J. Richmann*
Vice President

State of Iowa, County of Linn, ss:

On 15th day of November, 2017, before me personally came Dennis J. Richmann

to me known, who being by me duly sworn, did depose and say; that he resides in Cedar Rapids, State of Iowa; that he is a Vice President of United Fire & Casualty Company, a Vice President of United Fire & Indemnity Company, and a Vice President of Financial Pacific Insurance Company the corporations described in and which executed the above instrument; that he knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



Judith A. Jones
Notary Public
My commission expires: 4/23/2024

I, Mary A. Bertsch, Assistant Secretary of United Fire & Casualty Company and Assistant Secretary of United Fire & Indemnity Company, and Assistant Secretary of Financial Pacific Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations
this 5th day of July, 2023



By: *Mary A. Bertsch*
Assistant Secretary,
UF&C & UF&I & FPIC
August 8, 2023

CONTRACT

THE STATE OF TEXAS §

COUNTY OF MIDLAND §

THIS CONTRACT, made and entered into this 9th day of August, 2023, by and between the City of Midland of the County of Midland and State of Texas, acting through its Mayor thereunto duly authorized so to do, Party of the First Part, hereinafter termed OWNER, and Entrench, Inc. of the City Hobbs, County of Lea, State of New Mexico, Party of the Second Part, herein-after termed CONTRACTOR.

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Party of the first Part (OWNER), and under the conditions expressed in the bond bearing even date herewith, the said Party of the Second Part (CONTRACTOR), hereby agrees with the said Party of the First Part (OWNER) to commence and complete the construction of certain improvements described as follows: Water Rehab Program 01 together with appurtenances and incidentals.

Conditions of the Contract and at his (or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendent, labor, insurance and other accessories and services necessary to complete the said construction in accordance with the conditions and prices stated in the Proposal attached hereto, and in accordance with the Notice to the Contractors, General and Special Conditions of Agreement, Plans and other drawings and printed or written explanatory matter thereof, and the Specifications and addenda therefore as prepared by Engineering and Transportation Department of the City of Midland, Texas, herein entitled the ENGINEER, together with the CONTRACTOR'S written Proposal, the General Conditions of the Contract, and the Performance and Payment Bonds hereto attached; all of which are made a part hereof and collectively evidence and constitute the entire Contract.

The CONTRACTOR hereby agrees to commence work within fifteen (15) calendar days after the written notice to do so. The initial term of the contract shall terminate on September 30, 2024, subject to such extensions of time as are provided by the General and Special Conditions.

The OWNER agrees to pay the CONTRACTOR in current funds the price or prices shown in the proposal, which forms a part of this Contract, such payments to be subject to the General and Special Conditions of the Contract.

The SUM TOTAL of this Contract shall be an amount not to exceed: \$2,000,000 Dollars and 00 Cents.

The initial term of the contract shall expire on September 30, 2023. If the Owner and Contractor agree in writing, the contract may be renewed for up to two (2) additional one (1) year terms (at an amount not to exceed \$2,000,000 per term).

INSURANCE

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

Commercial General Liability (including Contractual liability):

- Personal Injury: \$1,000,000.00 per person
\$1,000,000.00 per occurrence
- Property Damage: \$500,000.00 per occurrence

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

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 an occurrence basis. This insurance shall name the City as an additional insured and waive subrogation in favor of the City.

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

work that is the subject of this Contract. The insurance shall name the City as an additional insured and waive subrogation in favor of the City.

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

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

Contractor shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of 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, Contractor shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of the City. The City shall not be required to provide any insurance whatsoever pursuant to this Contract.

The Contractor certifies that the certificate of insurance provided as required herein complies with the requirements of Senate Bill 425, passed during the 82nd regular session of the Texas Legislature, and effective January 1, 2012. The Contractor shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of the Contractor.

WAIVER OF ATTORNEY FEES

WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, CONTRACTOR AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE OWNER, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE CONTRACT. THE CONTRACTOR SPECIFICALLY AGREES THAT IF THE CONTRACTOR BRINGS OR COMMENCES

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

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

THE CONTRACTOR AND OWNER ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

SOVEREIGN IMMUNITY

By executing this Contract, the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

GOVERNING LAW AND VENUE

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

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

VERIFICATION

To the extent that Sections 2271.002 and 2274.002 of the Texas Government Code (collectively, the “Anti-Boycott Statutes”) apply to this Contract, Contractor hereby verifies:

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

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

RECORDS RETENTION AND PRODUCTION OF INFORMATION

To the extent that this Contract is a contract described by Section 552.371 of the Texas Government Code, Contractor shall (1) preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the City of Midland for the duration of the contract, (2) promptly provide to the City of Midland any contracting information related to the Contract that is in the custody or possession of Contractor on request of the City of Midland, and (3) on completion of the Contract, either (i) provide at no cost to the City of Midland all contracting information related to the Contract that is in the custody or possession of Contractor, or (ii) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the City of Midland.

PUBLIC INFORMATION

To the extent that this Contract is a contract described by Section 552.371 of the Texas Government Code, Contractor agrees as follows in accordance with Section 552.372(b) of the Texas Government Code: The

requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement in the year and day first above written.

Parties of the First Part (Owner)

ATTEST:

By: _____
Lori Merritt Blong, Mayor

Marcia Bentley-German, City Secretary

APPROVED ONLY AS TO FORM:

By: _____
John Ohnemiller, City Attorney

By: _____
Party of the Second Part (CONTRACTOR)

By: _____
Title

THE STATE OF _____ §

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 20__ personally appeared _____, an officer of _____ Entrench, Inc. _____, 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 an 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 _____ day of _____, 20__

Notary Public

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 _____ Water Rehab Program 01 _____, 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 Water Rehab Program 01, 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

CERTIFICATE OF PAYMENT

THE STATE OF TEXAS §

COUNTY OF MIDLAND §

The undersigned states that all debts, bills, and expenses that were incurred by the undersigned, his agents, or subcontractors employed by him, for labor, wages, materials and other purposes furnished for the above project have been paid and satisfied in full.

The undersigned, as general contractor for the above described project agrees to indemnify, hold harmless and defend the City, its officers, agents, and employees, from and against all claims and suits for damages, expenses, including court costs and attorney fees, arising out of or resulting from the undersigned contractor, his agents or subcontractors employed by him for expenses, warranties for items furnished, or labor performed and for any party that has supplied materials in connection with the repair or construction of the above referenced premises.

The undersigned contractor agrees to waive any and all claims it may have against the City, associated with, resulting from or arising out of the work performed at the above premises.

Further, the undersigned states that all labor performed by the undersigned, his agents, and subcontractors employed by him, has been completed in the usual and customary workmanlike manner and all work performed is accompanied with the usual and appropriate warranties for such work or repair, absent any disclaimer previously approved by the City of Midland.

I, the undersigned, release and relinquish unto the City of Midland, and their assigns the above described lien upon the above referenced property and hereby certify that all debts, bills, and expenses incurred by the undersigned, his agents, or subcontractors employed by him in connection with work done at the above

premises have been fully paid, in exchange for payment in full to be made by the City of Midland for the performance on the above described premises.

WITNESS MY HAND on this _____ day of _____, 20_____.

Signature

Typed or Printed Name

Title

Name of Company

SUBSCRIBED AND SWORN to before me on the _____ day of _____, 20_____.

Notary Public, State of Texas

Typed or printed name

My Commission expires:



MEMO

TO: All Project Bidders
FR: Joshua C. Ferguson, P.E. / City of Midland
DA: June 10, 2023
RE: Water Rehab Program 01 – Anticipated Equipment List

To discuss the comments outlined below, or any other engineering issues related to this project, please call 432.685.7286 to speak with Josh Ferguson. Thank you.

Dept of Engineering Services, Engineering Services Division, has put together an Anticipated Equipment List for the City of Midland Water Rehab Program 01. The list includes equipment that the contractor may need but is in no way meant to be a final list of all necessary equipment, nor does it relieve the contractor of their obligation to have or acquire any additional equipment necessary to complete the project work. Below is a summary of the list:

- **Water Improvements**
 - Water Pump
 - Backhoe or Trenching Machine
 - Dump Truck
 - Crimpers
 - Tapping Machine (different sizes)
- **Wastewater Improvements**
 - Clay Cutters
 - Backhoe with Ramhoe and Trenching Machine
 - Dump Truck
 - Water Pump
 - Chop Saw
 - Hole Saw (4" & 6")
 - Clay Shell Cutter
 - Closed Circuit Televising
- **Pavement Patching**
 - Pneumatic Roller
 - Excavator and Jack-Hammer
 - Pavement Saw (Asphalt & Concrete)
- **Safety**
 - Shoring
 - Steel Plates
 - Traffic Control Devices
 - Ladders
 - Personnel Safety Gear

If you have any questions, please feel free to call Josh Ferguson at our office.

— JCF

Sample Work Orders And Calculations

2023-2026 Term - Water Main Extension - WRP01 Work Order

Address: _____

Start Date: _____

Completion Date: _____

GIS Sketch Complete: _____

Description of work: _____

Sketch/Measurements

(Attach additional sheet if necessary)

See Attached Sketch

Calculations

(Attach additional sheet if necessary)

See Attached Calculations

Pay Quantities	Quantity	Unit Price	Total	Comment/Description
()" DIP Pressure Class 150				
()" AWWAC-900 DR 18 PVC				
()" AWWAC-900 DR 18 PVC				
()" Pipe Casing ()				
()" Tapping Sleeve				
()" Tapping Sleeve				
()" Gate Valve & Vault (M)x(M)/FL)				
()" Gate Valve & Box (M)x(M)/FL)				
()" Gate Valve & Box (M)x(M)/FL)				
Fire Hydrant (≤ 5' Bury Depth)				
Fire Hydrant Riser (> 5' Water Main Bury Depth)				
Ductile Iron Fittings				
Anchor Coupling / Foster Adapter				
(x)" Tapping Saddle				
(x)" Tapping Saddle				
()" Water Service Connection (Long > 20')				
()" Water Service Connection (Short ≤ 20')				
Trenching Depth (Deep)				
Trenching Depth (Deep)				
Concrete Utility Cut Repair				
Asphalt Utility Cut Repair				
Base Rock Utility Cut Repair				
Flowable Fill / 2-Sack Backfill				
Erosion/Sediment Control				
Job Site Safety				
() Traffic Control				
() Traffic Control				
TOTAL =	-----	-----		

(Attach concrete/asphalt tickets)

Contractor Name (Print): _____

Quantities verified (City): _____
 initial date

Quantities Agreed (Contractor): _____
 initial date

PACKET

7.99

August 8, 2023

Sketch/Measurements

Calculations

2023-2026 Term - Water Main Extension - WRP01 Work Order

Address: Tennessee Ave. Alley WL

Start Date: 6/13/2023

Completion Date: 9/01/2023

GIS Sketch Complete: 9/01/2023

Description of work: 4" Water Main removal and replacement with new 6" Water Main along alley south of Tennessee Avenue between 'M' Street and 'N' Street.

Sketch/Measurements

(Attach additional sheet if necessary)

See Attached Sketch

Calculations

(Attach additional sheet if necessary)

See Attached Calculations

Pay Quantities	Quantity	Unit Price	Total	Comment/Description
()" DIP Pressure Class 150				
(12)" AWWAC-900 DR 18 PVC	36			
(6)" AWWAC-900 DR 18 PVC	384			
(12)" Pipe Casing (AWWA C-900 PVC)	12			
()" Tapping Sleeve				
()" Tapping Sleeve				
()" Gate Valve & Vault (MJxMJ/FL)				
(12)" Gate Valve & Box (MJxMJ/FL)	2			
(6)" Gate Valve & Box (MJxMJ/FL)	3			
Fire Hydrant (≤ 5' Bury Depth)				
Fire Hydrant Riser (> 5' Water Main Bury Depth)				
Ductile Iron Fittings	762			
Anchor Coupling / Foster Adapter				
(6 x 1)" Tapping Saddle	4			
(x)" Tapping Saddle				
()" Water Service Connection (Long > 20')				
(1)" Water Service Connection (Short ≤ 20')	4			
Trenching Depth (0' - 5' Deep)	420			
Trenching Depth (Deep)				
Concrete Utility Cut Repair	5			
Asphalt Utility Cut Repair	40			
Base Rock Utility Cut Repair				
Flowable Fill / 2-Sack Backfill	45			
Erosion/Sediment Control	3			
Job Site Safety	3			
(Local) Traffic Control	2			
(Alley) Traffic Control	1			
Removal & Disposal of Existing Utility Mains	342			
Flowable Fill For Ex. Pipe Abandoned In Place	1.5			
TOTAL =	-----	-----		

(Attach concrete/asphalt tickets)

Contractor Name (Print): Example Construction Company

Quantities verified (City): ## 9/01/2023 Quantities Agreed (Contractor): ## 9/01/2023
initial date initial date

PACKET

7.101

August 8, 2023

Sketch/Measurements

Calculations

Total 12" Pipe = 20' + 5' + 5' + 3' + 3' = 36.0'

Total 6" Pipe = 340' + 20' + 5' + 5' + 7' + 7' = 384.0'

Total Pipe Removed = 342.0'

Total 12" Pipe Abandoned = 30' + 2' + 2' = 34.0', Total 6" Pipe Abandoned = 30' + 5' + 5' = 40.0'

Flowable Fill Abandoned Pipe = 34' (12" pipe) + 40' (6" pipe) = $(\pi * ((12" / 12) / 2) ^ 2 * 34') / 27 + (\pi * ((6" / 12) / 2) ^ 2 * 40') / 27 = 1.3\text{-cy} \sim (\text{round up}) \sim 1.5\text{-cy}$

Fittings = 1 * (12"x6" Bend) + 1 * (6" Cross) + 4 * (12" 45° Bend) + 4 * (6" 45° Bend)
= 1 * (119-lbs) + 1 * (79-lbs) + 4 * (102-lbs) + 4 * (39-lbs) = 762-lbs

Concrete Trench Repair = Length = 5' + 5' = 10.0' >> Width = 4.0' per detail >> $10' * 4' / 9 = 4.44\text{-sy} \sim (\text{round up}) \sim 5.0\text{-sy}$

Asphalt Trench Repair = Length = 30' + 5' + 5' + 30' + 7' + 7' + 6' = 90.0' >> Width = 4.0' per detail >> $90' * 4' / 9 = 40.0\text{-sy}$

**Tennessee Avenue Water Project
Water Rehab Program 01
June 13, 2023**

EROSION CONTROL NOTES:

- A) Any on-site storage of spoils, materials, or equipment is to be located within existing Alley or 'M' Street Right-of-Way. There is to be no storage of spoils, materials, or equipment within existing 'N' Street Right-of-Way.
- B) During a storm event supplemental erosion control measures are to be implemented as needed to protect un-paved trenching from erosion and runoff.
- C) Additional measures may be required at the direction of the Engineer.

LEGEND:

- Prop. Water Main
- Prop. Water Lateral
- Prop. Water Valve
- Prop. Fire Hydrant
- Ex. Water Main
- ⊗ Ex. Water Valve
- Ex. Water Lateral
- Ex. Fire Hydrant
- Ex. Water Meter
- Ex. Wastewater Main
- Ex. Wastewater Manhole
- Ex. Storm Drain

0 20 40 80 Feet



KEYED NOTES:

01 Project Area

02 STA: 0+00.00
N: 10694583.794
E: 1749509.222
Abandon:
40.0' - 12" Water Main, N-S

Install:
1 - 12"x6" Tee (MJxMJ)
1 - 12" Water Valve & Box, N (MJxMJ)
10.0' - 12" Water Main, N (C-900 PVC)
1 - 45° Bend, N (MJxMJ)
3.0' - 12" Water Main, NW (C-900 PVC)
1 - 45° Bend, NW (MJxMJ)
1 - 12" Water Valve & Box, S (MJxMJ)
20.0' - 12" Water Main, S (C-900 PVC)
1 - 45° Bend, S (MJxMJ)
3.0' - 12" Water Main, SW (C-900 PVC)
1 - 45° Bend, SW (MJxMJ)

03 Remove:
342.0' - 4" Water Main

Install:
340.0' - 6" Water Main (C-900 PVC)

04 STA: 3+40.00
N: 10694669.011
E: 1749838.979
Abandon:
40.0' - 6" Water Main, N-S

Install:
1 - 6"x6" Cross (MJxMJ)
1 - 6" Water Valve & Box, W (MJxMJ)
1 - 6" Water Valve & Box, N (MJxMJ)
10.0' - 12" Water Main, N (C-900 PVC)
1 - 45° Bend, N (MJxMJ)
7.0' - 12" Water Main, NW (C-900 PVC)
1 - 45° Bend, NW (MJxMJ)
1 - 6" Water Valve & Box, S (MJxMJ)
20.0' - 12" Water Main, S (C-900 PVC)
1 - 45° Bend, S (MJxMJ)
7.0' - 12" Water Main, SW (C-900 PVC)
1 - 45° Bend, SW (MJxMJ)

05 STA: 3+40.00 (offset 5' south)
Encase Water Main At
Crossing, Center on Wastewater
Main Crossing, Maintain Minimum
2.0' Vertical Separation Between
Water Main And Wastewater Main.
Ex. Surface = 2805.00
Ex. WW ToP = 2801.50 (approx)
Ex. WW Inv = 2801.00 (approx)
WL Inv = 2798.50 (6.5' depth)
20.0' - 12" Casing Pipe (C-900 PVC)

OHIO AVE.

TENNESSEE AVE.

CONSTRUCTION NOTES:

- i) This design is for the public water improvements in the Tennessee Avenue Alley only.
- ii) All new water mains are to maintain a minimum cover of 3.5', and a minimum vertical separations of 2.0' above existing wastewater mains.
- iii) Proposed water main to be located 5.0' south of northern Right-of-Way in alley running east-to-west.
- iv) All new water meters and laterals are to be 1.0" meters and laterals unless otherwise noted.

- v) Existing water meters and boxes are to remain in place if they are newer models with remote sensor antenna. If any meters and meter boxes are older models, replace with new City meters and meter box type.

New meters are to go in same location as existing meters anytime an existing meter is replaced regardless of meter location shown on these design drawings.

- vi) Replace all water service laterals even if existing water meter and box are to remain.

- vii) All construction is to be in compliance with Water Rehab Program 01 standards and specifications where applicable. All other construction is to be in compliance with City of Midland standards and requirements.



Joshua C. Ferguson

August 8, 2023

2023-2026 Term - Fire Main Extension - WRP01 Work Order

Address: _____

Start Date: _____

Completion Date: _____

GIS Sketch Complete: _____

Description of work: _____

Sketch/Measurements

(Attach additional sheet if necessary)

See Attached Sketch

Calculations

(Attach additional sheet if necessary)

See Attached Calculations

Pay Quantities	Quantity	Unit Price	Total	Comment/Description
()" DIP Pressure Class 150				
()" AWWAC-900 DR 18 PVC				
()" AWWAC-900 DR 18 PVC				
()" Tapping Sleeve				
()" Tapping Sleeve				
()" Gate Valve &Box (MJxMJ/FL)				
()" Gate Valve &Box (MJxMJ/FL)				
Fire Hydrant ($\leq$ 5' Bury Depth)				
Fire Hydrant Riser (> 5' Water Main Bury Depth)				
Ductile Iron Fittings				
Anchor Coupling / Foster Adapter				
Trenching Depth (Deep)				
Trenching Depth (Deep)				
Concete Utility Cut Repair				
Asphalt Utility Cut Repair				
Base Rock Utility Cut Repair				
Flowable Fill/ 2-Sack Backfill				
Erosion/Sediment Control				
Job Site Safety				
() Traffic Control				
() Traffic Control				
TOTAL =	-----	-----		

(Attach concrete/asphalt tickets)

Contractor Name (Print):

Quantities verified (City): _____ Quantities Agreed (Contractor): _____
initial date initial date

PACKET

7.104

August 8, 2023

2022-2025 Term - Utility Main Extension - UEP05 Work Order

Address: _____

Start Date: _____

Completion Date: _____

GIS Sketch Complete: _____

Description of work:

Sketch/Measurements

(Attach additional sheet if necessary)

See Attached Sketch

Calculations

(Attach additional sheet if necessary)

See Attached Calculations

Pay Quantities	Quantity	Unit Price	Total	Comment/Description
TOTAL =	-----	-----		

(Attach concrete/asphalt tickets)

Contractor Name (Print): _____

Quantities verified (City): _____ Quantities Agreed (Contractor): _____
initial date initial date

PACKET

7.106

August 8, 2023

Sketch/Measurements

Calculations

Address: _____

Start Date: _____

Completion Date: _____

GIS Sketch Complete: _____

Description of work: _____

(Attach additional sheet if necessary)

Calculations

(Attach additional sheet if necessary)

[illegible]

(Attach concrete/asphalt tickets)

Contractor Name (Print):

Quantities verified (City): PACKET initial 7.108 date August 8, 2023

Sketch/Measurements

Calculations

City of Midland Specifications

PREPARATION OF RIGHT OF WAY

1. GENERAL

Includes the preparation of right-of-way for construction by clearing, grubbing, removing and disposing of all obstructions and objectionable material from the right-of-way and designated easements, which is not specifically provided for on the plans.

Obstructions and objectionable material refer to all objects or material that do not meet the quality of standards for the courses of pavement to be constructed or which protrude into the excavation for slopes.

Measurement and Payment - Measurement and payment will be at the units and prices for the applicable bid item in the proposal.

When no specific bid items are included in the bid proposal for work specified under this section this work shall be considered as incidental to other items of work and the cost shall be included in the bid for these items. No separate payment will be made.

2. CONSTRUCTION METHODS

Removal - Obstructions and objectionable material to be removed by blading, plowing, bulldozing, or other methods approved in writing by the Engineer. The use of explosives will not be permitted. Solid objects must be removed to a depth of at least one (1) foot below the finished slope or subgrade elevation. Hollow objects must be removed entirely.

Disposal - Material to be removed from the right-of-way becomes the property of the Contractor. If disposal areas are available, they will be indicated on the plans.

Preservation of Trees and Shrubs - Trees and shrubs to be preserved in the right of way are shown on the plans and must be protected from injury during construction.

Removal of Concrete - Cut concrete at the right-of-way line straight and vertical by sawing or other approved methods prior to the removal of concrete in the right-of-way.

8/07

EXCAVATION, EMBANKMENT AND PREPARATION OF SUBGRADE.....1

1. GENERAL2

2. CONSTRUCTION METHODS.....2

EXCAVATION, EMBANKMENT AND PREPARATION OF SUBGRADE

1. GENERAL

Includes the excavation, embankment and preparation of subgrade determined by the lines, grades and sections shown on the plans and in accordance with the provisions of the specifications.

Excavation - Includes excavation to planned grade, disposal of the material, removal of unsuitable subgrade material and borrow material when required in the construction. All excavation to be classified as common.

Embankment - Consists of excavated or borrow materials placed and compacted in horizontal layers in accordance with the specifications.

Subgrade - The upper eight inches (8") of embankment or the upper eight inches (8") below the roadway excavation finished grade. The subgrade shall extend from six inches (6") back of curb to six inches (6") back of curb where curb and gutter is to be constructed.

Measurement and Payment - Measurement and payment to be at the units and prices for the applicable bid items in the proposal.

2. CONSTRUCTION METHODS

Excavation - Made at the location and to the lines and grades shown on the plans in areas previously prepared in accordance with provisions of Section 2A. Dispose of excess material not required in the embankment and material that is unsuitable for subgrade. Excavation tolerance to be plus or minus 1/10 foot from the plan grade.

The area between the curb and property line shall be excavated or filled, whichever is necessary, to curb height at back of curb and finished to a straight even surface to the property line. The minimum elevation at the property line shall be the elevation of the top of the curb. The maximum elevation at the property line shall be equal to a rise of 1/4 inch per foot from the back of the curb to the property line.

During the excavation of this project, it will be required that all parkways be excavated and shaped at the same time the roadway is excavated. Excess excavation will be disposed of at locations approved by the Engineer.

Embankment shall be constructed at the locations and to the lines and grades shown on the plans in areas previously prepared in accordance with Section 2A of these specifications. Top eight inches (8") of natural ground to be compacted

to embankment density requirements. Embankment shall be constructed from suitable material obtained from the excavation or borrow free of roots, rocks in excess of three inches (3"), debris and other objectionable material. Excavation deficiencies shall be supplemented from a borrow source approved by the Engineer. Embankment shall be constructed in uniform horizontal layers not to exceed eight inches (8") of loose depth and compact with suitable equipment to a minimum of ninety percent (90%) AASHTO T180. The materials shall be processed by aeration or watering to bring the material to the approximate optimum moisture. Dry layers will not be permitted. Soft spots that develop in the embankment shall be removed and replaced with suitable material. No payment will be made for removal of soft spots. Tolerance for embankment grading shall be one-half foot (1/2) plus or minus the plan grade.

Preparation of Subgrade - Eight inches (8") of the upper portion of the embankment or excavation shall be shaped and compacted to a minimum density of 95 percent (95%) AASHTO T180 and finished within a tolerance of one-half inch (1/2") in ten feet (10'). The finished subgrade shall be protected and maintained in a satisfactory condition until covered by succeeding construction.

Compaction Tests - Field density tests will be made by the Owner or by a laboratory selected by the Owner. The Contractor shall notify the Engineer when compaction has been achieved. The Contractor shall allow 24 hours for scheduling of test. Prior to the taking of subgrade density test, the entire subgrade will be tested by proof-rolling using a pneumatic roller weighing not less than 50,000 lbs. gross with tire pressure being not less than 110 psi. Any soft spots, pumping, or other evidence of weakness shall be remedied before density tests are made. Proof rolling shall be in the presence of the Engineer or his duly authorized representative.

The City will pay the cost of initial density tests made on the subgrade. If the subgrade fails to meet the density requirements on the first test, the contractor will be required to have subsequent density tests made by the commercial lab selected by owner. The cost of all subsequent density tests will be born by the contractor.

08/07

CONCRETE CURB AND GUTTER, SIDEWALKS AND DRIVEWAYS, VALLEY GUTTERS, CENTER DRAINS AND RIP RAP

1. GENERAL

Includes the construction of concrete curb and gutter, sidewalks, driveways, valley gutters, center drains and rip rap in accordance with lines, grades and the sections shown on the plans and constructed in full compliance with provisions of the specifications.

A proven performance record by the Texas Highway Department shall be supplied by material producers for all materials supplied by them.

2. MATERIALS

Concrete - All concrete other than rip rap shall be Class "A" concrete in accordance with Texas Highway Department specifications Item No. 421. Concrete for rip rap shall be the class as shown on the plans and detail drawings. When no concrete class is shown the plans concrete for rip rap shall be Class "B" concrete.

Concrete batch designs shall be furnished for each project and shall include all classes of concrete proposed for use on the project.

Reinforcing Steel - Reinforcing steel shall be deformed bars or wire mesh fabric conforming to the requirements of "Texas State Department of Highways and Public Transportation 1982 Standard Specifications for Construction of Highways, Streets and Bridges" Item No. 440 and shall be of the sizes and grades as shown on the plans.

The contractor, at his option, may use fiber reinforcing in lieu of the wire mesh for all concrete slab on grade. When fiber reinforcing is used, it shall be "Fiber Mesh" or "Caprolan RC" or approved equal. The material and rate of application shall be approved by the Engineer prior to its use.

Expansion Joints - Bituminous pre-molded joint filler shall be composed of top grade fiber, treated by special impregnation system with water repellent bituminous materials. It shall be a non-extruding type, resilient, expanding on release of compression, preventing open joint crevices. The pre-molded joint filler shall be of such character, that it will not be deformed by handling during hot weather, nor shall it become brittle in cold weather. It shall be free from visible external defects such as holes, ragged or untrue edges, breaks, cracks or tears. It may be covered on both sides with paper to facilitate handling.

The joint filler shall be accurately cut to the dimensions and shapes required. It shall be of the thickness required by the plans, or as specified elsewhere.

3. CONSTRUCTION METHODS

GENERAL

No concrete shall be placed when, in the Engineers opinion, weather or other conditions would be detrimental to the structure placed. No concrete shall be placed on grade when the ground temperature is 35° F or lower. Concrete may be placed when the ground temperature is rising from 35° F. Concrete placed in cold weather shall be protected from freezing for 72 hours after being placed.

CURB AND GUTTER

EXCAVATION AND SUBGRADE - Excavation for curb, gutter, and combined curb and gutter shall be done with the subgrade excavation for the street. Street subgrade shall extend from six inches (6") back of curb to (6") back of curb and shall be compacted for a full width to a minimum of 95% AASHTO T180-61. Where subgrade is more than three inches (3") below bottom of curb, fill shall be compacted caliche base constructed from six inches (6") back of curb to six inches (6") back of curb as specified for base course.

Whenever subgrade or base is dry or dusty, it shall be thoroughly moistened, not made muddy, before the concrete is placed.

Forms - Forms shall be of steel, of a type to be approved by the Engineer, except that curves may be formed with wood sections built up or laminated, upon prior approval by the Engineer.

The forms shall be attached securely to stakes, shall be set true to line and grade, and braced sufficiently to remain true during the placing and tamping of the concrete. Forms shall be thoroughly cleaned and oiled before each use.

Curves - All changes in direction of the curbs shall be by means of true circular curves of the radii as shown on the plans.

Expansion Joints - Expansion joints shall be placed between curb and gutter sections at the tangent points of all curves, at each side of the inlet boxes, drives, alleyways, and at intervals of not more than forty feet (40') in straight runs. The expansion material shall be pre-molded three-fourths inch (3/4") in thickness, and shall conform to the requirements of expansion material as specified herein. It shall be cut to the full size and shape or the cross section of the curb and gutter, less one-half inch (1/2") from the finished surface thereof. The edges of sections against the joint shall be finished with an edging tool and the joint raked clean of concrete.

Finishing - There shall be provided on the job a metal screed or mule designed to give proper shape to the curb and gutter. It shall be bent to the exact shape of the finished curb and gutter and the forward edge turned up slightly to prevent disturbing the mortar. It shall be designed to ride on the forms and when properly manipulated shall leave the curb and gutter in its proper shaped condition. An "S" trowel shall be used to finish the surface and minor imperfections shall be corrected with a mason's trowel. Care shall be taken to finish

the gutter flow line to a true, uniform grade. All edges shall be finished with an edging tool, and joints marked with a jointer. Joint marks shall coincide with actual joints and shall be straight and true.

Curing - The completed curb and gutter, shall be cured in accordance with the requirements of the item "Membrane Curing", Texas Highway Department Item 531.

DRIVEWAYS AND ALLEY RETURNS

Driveways and alley returns shall be constructed of Class "A" concrete to the lines and grades as shown on the plans and detail sheets. All driveways and alley returns shall be reinforced as shown on the detail drawings.

Excavation and Subgrade - Excavation shall be accomplished in the same manner as for streets and curbs. The subgrade for all driveways and alley returns shall be compacted to 95% modified proctor density for 8 inches depth.

Driveways for single family residences and property used for two family residential purposes (duplexes) may be placed on the compacted subgrade. All other driveways shall be considered as commercial driveways and shall be constructed on 6 inches compacted flexible base.

Flexible Base - Commercial driveways and alley returns shall be constructed on 6 inches of flexible base conforming to Section 2-C- Flexible Base, Caliche.

Forms - Forms shall be constructed of steel or, when approved by the engineer, wood conforming to the requirements for curb and gutter forms.

Expansion Joints - Expansion joints shall be placed at the ends of abutting curb and gutter at the end of radii for all driveways and alley returns. In addition, expansion joints shall be placed at the ends of abutting sidewalk sections and at any point where the driveway or alley return abuts another concrete structure. Expansion joint material shall be pre-molded three fourths inch (3/4") in thickness, cut to the shape and dimensions required and shall extend the full depth of the concrete.

Finishing - Shaping and finishing of driveways and alley returns shall be accomplished by using a screed to shape the driveway or alley return to the lines and grade required. Finishing shall be accomplished by use of wooden floats and stiff bristled brushes or brooms. The last finish shall be by brushing or brooming in
A direction transverse to the direction of traffic.

During the entire finishing process care shall be taken to maintain the true gutter invert in line with the street curb and gutter.

Curing - Finished driveways and alley returns shall be cured in accordance with the requirements "membrane curing" "Texas Department of Highways and Public Transportation, 1982 Standard Specifications for Highways, Streets and Bridges", Item Number 531.

CONCRETE VALLEY GUTTERS, CENTER DRAINS AND DRAINWAYS

Concrete slab type street drainage structures with or without curbs, shall be constructed of Class "A" concrete to the lines and grades as shown on the plans and detail sheets or as may be established in the field by the engineer.

Subgrade excavation preparation and compaction and flexible base shall be the same as specified for street construction. All drainage structures within the roadway shall be constructed on a flexible caliche base so that the thickness of the concrete slab plus base is equal to the thickness of the hot mix asphaltic concrete surface plus base.

Forms - Forms shall be as specified for curb and gutter.

Reinforcing - All slab type drainage structures shall be reinforced as shown on the plans and detail drawings. Care shall be taken to maintain all reinforcing in good condition and at its proper location within the slab.

Expansion Joints - Expansion joint material shall be as specified for curb and gutter and for driveways and alley returns.

Expansion joints for valley gutter shall be placed at the ends of radii and at the juncture between the fillet and the cross valley as shown on the detail sheet.

For center drains, expansion joints shall be placed at the ends of widened or transition sections and at each end of a section containing a manhole or other structure and at intervals of sixty feet (60') measured along the center line of the drain.

Additional expansion joints shall be placed where drainage slabs abut backs of curbs, sidewalks and at contact points with other concrete structures.

Contraction Joints - Contraction joints shall be spaced at 15' intervals along the center line of center drains. These contraction joints shall be saw cut 3/8" wide minimum and 1/4 the depth of the slab using an approved concrete saw.

Saw cut contraction joints shall be made after the concrete has set sufficiently to prevent excessive raveling during sawing and shall be completed before the concrete is 48 hours old.

Finishing - Finishing shall be the same as for alley returns and driveways with the last finishing operation for structures subject to vehicular traffic being by broom or stiff brush in a direction transverse to the direction of traffic.

Curing - Curing shall be the same as for curb and gutter and driveways and alley returns.

SIDEWALKS

Sidewalks shall be constructed of Class A" concrete to the lines and grades as shown on the plans and detail drawings or as may be established in the field by the engineer. Sidewalks shall be constructed parallel to the back of the curb and on a grade parallel to

the top of curb grade. The minimum thickness for any sidewalk is 4 inches. The minimum width of any sidewalk is 4 feet.

Excavation and Subgrade - Excavation for sidewalk shall be made with street excavation where applicable. Care shall be exercised in excavating for sidewalks. Any over excavation or any fill required for sidewalk must be brought to grade in lifts not to exceed two inches (2") and thoroughly tamped. Subgrade for sidewalks shall be compacted to at least the density of the adjacent soil or to 85% modified proctor whichever is greater.

When a sidewalk is to be constructed on an embankment the fill must extend at least 3 feet beyond the edge of the sidewalk.

If the subgrade is dry or dusty it must be thoroughly moistened but not made muddy before concrete is placed.

Forms - Forms for sidewalks may be either steel or wood. Forms must be in good shape and true to line and grade. If nominal 2" x 4" lumber is used the subgrade must be finished one half inch (1/2") below the bottom of the form to provide the required 4 inch thickness.

Expansion Joints - Expansion joint material shall be pre-molded conforming to these specifications and shall be one half inch (1/2") thick. The expansion joint shall extend the full depth of the sidewalk.

Expansion joints shall be placed at points where the sidewalk contacts the back of curb, at all junctures between sidewalks all directions, and at all points where the sidewalk abuts a driveway, alley return or other concrete structure including fence foundations.

Transverse expansion joints shall be constructed in the sidewalk at intervals not exceeding twenty eight feet (28') as measured along the centerline of the walk except for sidewalks that are constructed wider than four feet (4') in which case expansion joints may be placed at intervals that are multiples of the width but not exceeding thirty feet (30').

Contraction Joints - Contraction joints consisting of trowel cuts one and one half inches (1-1/2") deep shall be spaced at four foot (4') intervals along the sidewalk. Contraction joints shall be edged using an edging tool with a 1/4 inch or 3/8 inch radius.

For sidewalks wider than four feet (4') contraction joints may be placed at intervals equal to the width of the walk up to but not exceeding ten feet (10').

Finishing - Sidewalks shall be "struck off" with a screed to provide an even surface and float finished using a wooden float.

The final finish on the sidewalk shall be accomplished by brooming or brushing using a stiff bristled brush or broom with the final strokes being in the transverse direction.

Curing - Curing shall be as specified for curb and gutter and driveways and alley returns.

CONCRETE RIP RAP

Concrete rip rap shall be constructed of concrete of the class and to the line and grades as shown on the plans.

Excavation and Subgrade - Care shall be taken not to over excavate for rip rap. The subgrade for rip rap shall be compacted to at least the density of the adjacent undisturbed soil or 85% modified proctor whichever is higher.

Forms - Forms, where required, may be either steel or wood. Forms must be in good condition and true to line and grade.

Expansion Joints - Expansion joints, where required, will meet the requirements of expansion joints materials as specified herein and will be placed as shown on the plans or directed by the engineer.

Finishing - Finishing shall be by screed and wooden float to produce true uniform surface.

Curing - Curing shall be as specified for other concrete herein.

Slope Paving - Slope paving may be required behind the curb or behind sidewalks where street paving requires deeper cuts in developed areas. Slope paving shall be constructed of Class "A" concrete and shall be constructed to the lines and grades as shown on the plans or as established in the field. Slope pavement shall be four inches (4") thick and shall be constructed in accord with the specifications for sidewalks.

When no slope grade is given on the plans the slope gradient shall be 1:1.

Unless listed separately on the bid proposal, slope pavement shall be measured and paid for as sidewalk.

4. BACKFILL AND CLEANUP

GENERAL

Backfill and clean up are an integral part of the various items covered by this specification and must be completed for each item before that item will be considered for payment.

CONCRETE STRUCTURES WITHIN THE PAVED AREA OF STREETS

Backfill and clean up for concrete structures within the paved areas of streets, alleys, etc. shall receive special attention to assure the integrity of the street pavement.

Structures constructed in previously paved areas shall have sufficient surface removed along with base and subgrade where necessary to set full face forms for the concrete. As soon as the forms are removed all loose material shall be removed from the form trench and the trench filled to the base level with Portland cement stabilized backfill material

consisting of two (2) sacks Portland cement to one (1) cubic yard of caliche base material or one (1) cubic yard "blow sand". When the cement stabilized backfill has cured the pavement edge shall be saw cut to provide true and straight lines and the pavement restored to its original or revised grade using Hot mix asphaltic concrete conforming to the requirements of Section 2-F of these specifications.

For structures constructed on previously prepared subgrade or base course, clean up and backfill shall be considered complete when the subgrade or base course has been made ready to receive the next course.

When a structure is constructed on a finished base course and it is necessary to remove base material to set forms, backfill and cleanup shall be as described for previously paved areas and shall be considered complete when the base course is made ready to receive the surface course or courses.

BACKFILL BEHIND CURBS AND ALONG SIDEWALKS

Backfill behind curbs and along sidewalks that is to be grassed shall be made using good top soil. Top soil shall be free of caliche, rocks, clods, lumps, debris and other objectionable material. This backfill shall be compacted to at least the density of undisturbed adjacent soil but not less than 85% modified proctor.

Backfill behind curbs and along sidewalks that is to receive paving shall be constructed to conform to the base and subgrade of the adjacent paving and shall be compacted to 95% modified proctor. Or the contractor may elect to backfill to the top of the base with two (2) sack cement stabilized backfill.

In undeveloped areas and in areas where no sidewalks exist the contractor shall slope from the back of the curb to a maximum height of 1/4 inch per foot rise from the top of the curb to the property line on a straight line grade. The minimum elevation at the property lines shall be top of curb elevation.

In deeper cut areas slope paving may be required. When slope paving is required it shall be constructed to the lines and grades shown on the plans. Backfill and shaping beyond the slope paving shall be in accord with the applicable portions of this specification.

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CONCRETE CURB AND GUTTER, SIDEWALKS AND DRIVEWAYS.....1

VALLEY GUTTERS, CENTER DRAINS AND RIP RAP1

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CONCRETE STRUCTURES

1. GENERAL

This specification covers concrete structures including but not limited to junction boxes, culverts, head walls, cast in place manholes, valve vaults, meter vaults and retaining walls.

2. MATERIALS

CONCRETE

Concrete for cast in place manholes, junction boxes, storm sewer inlet boxes, valve vaults and direct traffic culvert and bridge decks shall be a modified class "C" concrete using a minimum of 6 sacks cement per cubic yard with a maximum water content of 5 gallons per sack of cement and producing a concrete with 4000 psi 28 day compressive strength.

Concrete for other structures shall be class "A" as specified in "Texas State Department of Highways and Public Transportation 1982 Standard Specifications for Construction of Highways, Streets and Bridges" item number 421. Concrete for riprap shall be class "B".

Reinforcing steel shall conform to the requirements of item number 440 or "Texas State Department of Highways and Public Transportation 1982 Standard Specifications for Construction of Highways, Streets and Bridges" and shall be of the sizes and grades as shown on the plans.

3. CONSTRUCTION

Construction of concrete structures shall be in accordance with the provisions of item 420 "Texas State Department of Highways and Public Transportation 1982 Standard Specifications for Construction of Highways, Streets and Bridges".

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FLEXIBLE BASE, CALICHE

1. GENERAL

This item consists of the construction of a caliche flexible base course to the lines, grades and thickness shown on the plans and in accordance with the provisions of the specifications.

Qualification of Material Source - There will be no designated material sources, but the source proposed by the Contractor must be approved by the Engineer. The contractor shall furnish evidence of capability to crush and screen the material with suitable equipment.

Measurement and Payment - Measurement and payment to be at the units and price for the applicable bid item in the proposal.

2. MATERIALS

Material from the approved source shall meet the following requirements when tested in accordance with the referenced testing standards:

Gradation - Tested by ASTM C 136-67 to meet the following gradation limits:

Sieve Size	Percent Passing
1-3/4"	100.0
7/8"	65-90
3/8"	50-70
No. 4	30-60
No. 40	15-35

Liquid Limit and Plasticity Index - Tested by ASTM D423-66 and D 424-59.

Liquid Limit - 30.0 Maximum

Plasticity Index - 10.0 Maximum

Triaxial Classification - Tested by Texas Highway Department Method TEX 117-E, Part II - minimum class 3.0.

Source Quality Control - The contractor shall exercise caution in the operation of the material source to prevent the inclusion of inferior materials.

Caliche 2

3. CONSTRUCTION

- A. The subgrade shall be finished true to the lines and grades as shown on the plans or as established by the Engineer and finished within specified tolerances and properly maintained to prevent drying and/or loosening of the surface.

No base material may be dumped on any subgrade until it has been tested and approved by the Engineer.

- B. Flexible caliche base material shall be placed in uniform courses and processed to provide a uniformly mixed base course of the proper moisture content for compaction. The processing and compaction procedure used shall provide a uniform base course compacted to ninety-five percent (95%) modified proctor density (YACHT T180) minimum. The minimum thickness of any one compacted course shall be three inches (3"). The maximum thickness of any one compacted course shall be eight inches (8").

Any soft or segregated spots that appear in the base shall be removed, replaced or reprocessed and recompact prior to final finishing of the base.

The finished base shall conform to the lines and grades as shown on the plans or established by the Engineer. Finished tolerances shall not exceed one half inch (1/2") in ten feet (10').

The finished base shall be primed as soon after finishing as practical and shall be protected until the hot mix asphaltic concrete surface is applied. In no case will prime be applied until the finished base has been approved by the Engineer.

4. TESTING

- A. All test for approval of the source shall be performed by a commercial lab selected by the owner and shall be paid for by the contractor.
- B. Gradation and soil constants tests (ASTM C-136, D423 and D424) and THD Triaxial Test (THD TEX117-E Part II) will be performed for source approval. Should the appearance, workability or other visual checks indicate a possible change in the material being furnished, the Engineer may require the contractor to retest the material for source approval.

- C. Field quality control test will consist of the finish tolerance test and density test.

The finish tolerance test will be performed by the contractor at his expense using a 10' rolling straight edge. This test shall be performed at the direction of the Engineer or his representative. When required, the test shall consist of checking one path in each lane with the rolling straight edge.

Density test will be made by the City or a commercial laboratory chosen by the City using Troxler 3411-B nuclear density gauges or approved equal at the minimum rate of one test for each 1000 square yards of base. In no case shall less than three tests be run on any one area processed as a unit. The City will bear the cost of the first test or set of tests only. If the base fails the first test the contractor, at his own expense, will be required to have all subsequent tests performed by the commercial laboratory chosen by the city.

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Caliche 5

PACKET

7.128

August 8, 2023

BITUMINOUS PRIME

1. GENERAL

This item consists of the application of a bituminous prime coat to the finished caliche base in accordance with the provisions of the Specifications.

Qualification of Material Source - Material shall be supplied by a producer with a proven performance record of acceptance by the Texas Highway Department.

Measurement and Payment - Measurement and payment will be at the units and price for the applicable bid item in the proposal.

2. MATERIALS

Cut-back asphalt grade MC-30, Texas Highway Department Item 300.

Source Quality Control - Certificates of compliance to be furnished by the producer to the Engineer.

3. CONSTRUCTION METHODS

Condition of Base - The surface of the base shall be tightly compacted to the line and grade shown on the plans and within the tolerances of the specifications. The surface shall be clean and the base shall contain sufficient moisture to assure the proper penetration of the prime.

The prime shall be applied with an approved distributor to the surface of the base at a rate of between 0.15 and 0.40 gallon per square yard. The application rate shall be varied to meet field conditions and to obtain uniform coverage, and adequate penetration. Properly applied prime coat should penetrate from 3/8" to 1/2" into the base and should cure in approximately 72 hours with ambient temperatures at or near 70 degrees F. The prime shall be applied at a temperature within the range of temperatures recommended in Item 300 of Texas Highway Department Standard Specifications. The temperature shall be varied within this range to provide a viscosity that will assure even spreading and penetration of the base. Air Temperatures at the time of application shall be above 50°F.

BITUMINOUS TACK

1. GENERAL

This item consists of the application of a bituminous tack coat to the primed base or existing asphaltic concrete or Portland cement concrete pavement in accordance with the provisions of the specification.

Qualification of Material Source - Material shall be supplied by producer with a proven performance record of acceptance by the Texas Highway Department.

Measurement and Payment - Measurement and payment will be at the units and price for the applicable bid item in the proposal.

2. MATERIALS

Cut-back asphalt grade RC-250, Texas Highway Department Item 300.

3. CONSTRUCTION METHODS

Conditions of Surface - Prior to application of tack to the base course the prime must be completely penetrated into the base and the surface cleaned of foreign objects.

The tack shall be applied with an approved distributor at a rate of between 0.05 and 0.10 gallons per square yard. The temperature of application shall be within the range recommended by the Texas Highway Department in Item 300. The surface temperature to which tack is being applied shall be above 50 degrees F. at the time of application.

When the asphaltic concrete surface is being placed on primed caliche base, use of the tack coat may be waived by the Engineer if the contractor can show that adequate adhesion of the surface being placed to the base course is achieved without it.

Tack coat shall be placed on all asphaltic concrete or portland cement concrete surfaces on which an additional course of asphaltic concrete surfacing is to be placed. The tack coat shall be rolled with a pneumatic roller to assure even distribution over the entire surface and to achieve proper penetration into and adhesion to the surface being overlaid.

HOT MIX ASPHALTIC CONCRETE

I. GENERAL

Includes the construction of the hot mix asphaltic concrete surface in accordance with lines, grades and the sections shown on the plans and with the provisions of the specifications.

Qualification of Material Sources - Producers of oil asphaltic concrete mixture to have a proven record of acceptance by the Texas Highway Department.

Measurement and Payment - Measurement and payment to be at the units and price for the applicable bid item in the proposal.

2. MATERIALS

Oil Asphalt - Oil asphalt grade AC-10 or AC-20, Texas Highway Department Item 300. When no asphalt grade is shown on the plans, and unless directed otherwise by the Engineer, asphalt for this project shall be grade AC-10.

Coarse Aggregate - Crushed stone or crushed gravel with a minimum of 75 percent of the aggregates having two or more crushed faces. Additional requirements:

- (a) Los Angeles Abrasion: ASTM C 131, Wear not to exceed 40.
- (b) Decantation: Maximum 2.0 percent by weight

Fine Aggregates - Natural sand and screenings crushed from the same or similar material meeting the requirements of the coarse aggregates. Additional requirements.

- (a) Plasticity Index: Maximum of 6.
- (b) Sand Equivalents: Minimum of 50 for each individual fine aggregate.

Paving Mixtures - The paving mixture(s) shall be as shown on the plans and details. If no mixtures are shown on the plans surface or wearing courses up to 1-3/4 inches thick shall be Type D, base courses up to 2 inches thick shall be Type C and base courses over 2 inches thick shall be Type B or Type A.

(a) Gradation: The master gradations for the paving mixtures are:

TYPE "A" (Coarse Graded Base Course):	Percent Aggregate by weight or volume
Passing 2" sieve	100
Passing 1-3/4" sieve	95 to 100
Passing 1-3/4" sieve, retained on 7/8" sieve	16 to 42
Passing 7/8" sieve, retained on 3/8" sieve	16 to 42
Passing 3/8" sieve, retained on No. 4 sieve	10 to 26
Passing No. 4 sieve, retained on No. 10 sieve	5 to 21
Total retained on No. 10 sieve	68 to 84
Passing No. 10 sieve, retained on No. 40 sieve	5 to 21
Passing No. 40 sieve, retained on No. 80 sieve	3 to 16
Passing No. 80 sieve, retained on No. 200 sieve	2 to 16
Passing No. 200 sieve	1 to 8

The asphaltic material shall form from 3.5 to 7 percent of the mixture by weight.

TYPE "B" (Fine graded Base or Leveling-up course)	Percent Aggregate by Weight or Volume
Passing 1" sieve	100
Passing 7/8" sieve	95 to 100
Passing 7/8" sieve, retained on 3/8" sieve	21 to 53
Passing 3/8" sieve, retained on No. 4 sieve	11 to 42
Passing No. 4 sieve, retained on No. 10 sieve	5 to 26
Total retained on No. 10 sieve	58 to 74
Passing No. 10 sieve, retained on No. 40 sieve	6 to 32
Passing No. 40 sieve, retained on No. 80 sieve	4 to 21
Passing No. 80 sieve, retained on No. 200 sieve	3 to 21
Passing No. 200 sieve	1 to 8

The asphaltic material shall form from 3.5 to 7 percent of the mixture by weight.

Type "C" (Coarse Graded Surface Course):

Percent Aggregate
by Weight or Volume

Passing 7/8" sieve	100
Passing 5/8" sieve	95 to 100
Passing 5/8" sieve, retained on 3/8" sieve	16 to 42
Passing No. 4 sieve, retained on No. 10 sieve	11 to 37
Total retained on No. 10 sieve	54 to 74
Passing No. 10 sieve, retained on No. 40 sieve	6 to 32
Passing No. 40 sieve, retained on No. 80 sieve	4 to 27
Passing No. 80 sieve, retained on No. 200 Sieve	3 to 27
Passing No. 200 sieve	1 to 8

The asphaltic material shall form from 3.5 to 7 percent of the mixture by weight.

TYPE "D" (Fine Graded Surface Course):

Percent Aggregate
by Weight or Volume

Passing 1/2" sieve	100
Passing 3/8" sieve	85 to 100
Passing 3/8" sieve, retained on 4" sieve	21 to 53
Passing No. 4 sieve, retained on No. 10 sieve	54 to 74
Total retained on No. 10 sieve	54 to 74
Passing No. 10 sieve, retained on No. 40 sieve	6 to 32
Passing No. 40 sieve, retained on No. 80 sieve	4 to 27
Passing No. 80 sieve, retained on No. 200 sieve	3 to 27
Passing No. 200 sieve	1 to 8

The asphaltic material shall form from 4 to 8 percent of the mixture by weight.

TYPE "F" (Fine Graded Surface Course):

Percent Aggregate
by Weight or Volume

Passing 3/8" sieve	100
Passing No. 4 sieve	95 to 100
Passing No. 4 sieve, retained on No. 10 sieve	58 to 73
Passing No. 10 sieve, retained on No. 40 sieve	6 to 26
Passing No. 40 sieve, retained on No. 80 sieve	3 to 13
Passing No. 80 sieve, retained on No. 200 sieve	2 to 11
Passing No. 200 sieve	1 to 8

The asphaltic material shall form from 3.5 to 6.5 percent of the mixture by weight.

- (b) Tolerances: Deviations from job mix formula limited to:
- (1) Sizes larger than the 10 sieve- Plus or Minus 4 percent.
 - (2) No. 10 sieve and smaller - Plus or Minus 3 percent.
 - (3) The deviation from the job mix formula shall be further limited in that the total deviation from the job mix formula between any two adjacent aggregate grades shall not exceed the allowable deviation for either one.
 - (4) Asphalt - Plus or Minus 0.3 percent.
- (c) Density - The mixture shall be designed to produce an acceptable mixture within tolerance, at or near optimum density. The mixture molded in the laboratory should have the following percent of maximum theoretical density:
- | | | |
|---------|---------|---------|
| Minimum | Maximum | Optimum |
| 96 | 98 | 97 |
- (d) Stability: Minimum of 35 Hveem

Source Quality Control - Paving mixture and plant tests to be performed by laboratory selected and paid by the Owner, except as noted.

Job Mix Formula - The contractor shall submit a job mix formula, prepared by laboratory chosen by the owner, at least 10 days in advance of laying operations to allow time for review by the engineer. Substitution of one or more materials will require a new job mix formula and must be approved by the engineer.

The design of job mix formula whether for original submittal or revisions shall be paid for by the contractor.

Plant Tests - Check of raw material uniformity, quality and flow, hot bin gradations, temperature of mixture, mixture tests for density, stability and percent asphalt and other necessary tests to be performed by the laboratory selected by the owner for each day's production.

Oil Asphalt - Producer to furnish certificates of compliance to the Engineer.

3. CONSTRUCTION METHODS

A. GENERAL

Condition of Base - The surface of the base shall be tight and free of debris. The prime coat shall be uniformly distributed, well penetrated and completely cured prior to application of the tack coat. If the mixture will adhere to the surface of the base without the application of a tack coat, the tack coat can be eliminated. If the surface of the base is one half (1/2") inch or more lower than the proposed bottom of the asphaltic concrete it shall be corrected by placing and compacting a level up course of the asphaltic concrete before the mat is placed on it.

Stockpiling, Storage, Batching and Mixing - Shall meet the requirements of Item 340, "Texas Highway Department 1982 Standard Specifications for Road and Bridge Construction.

Weather Limitations - Shall be the requirements of Item 340, "Texas Highway Department 1982 Standard Specifications for Road and Bridge Construction." With the added provision that no asphaltic concrete shall be placed when the surface on which the mat is to be placed is below 50 degrees F.

Thickness - Shall be as shown on plans. Unless shown otherwise on the plans, the maximum compacted thickness of any one course of asphaltic concrete shall be two and one-half (2-1/2) times the maximum aggregate size of the mixture being placed. The minimum shall be one (1) inch or one and one fourth (1-1/4) times the maximum particle size which ever is greater.

B. PLACING

Placing of Asphaltic Concrete shall be accomplished using an approved self propelled spreading and finishing machine with a heated vibrating screed capable of producing a surface that will meet the requirements of the typical cross section and the surface test, and when the mixture is dumped directly into the finishing machine shall have adequate power to propel the delivery vehicles in a satisfactory manner. The finishing machine shall be equipped with a flexible spring and/or hydraulic type hitch sufficient in design and capacity to maintain contact between the rear wheels of the hauling equipment and the pusher rollers of the finishing machine while the mixture is being unloaded.

The use of any vehicle which requires dumping directly into the finishing machine and which the finishing machine cannot push or propel in such a manner as to obtain the desired lines and grades without resorting to hand finishing will not be allowed. Vehicles dumping directly or indirectly into the finishing machine shall be so designed and equipped that unloading into the finishing machine can be mechanically and/or automatically operated in such a manner that overloading the finishing machine being used cannot occur and the required lines and grades shall be obtained without resorting to hand finishing.

Automatic screed controls will be required and shall meet the requirements item, 528 "automatic screed controls for asphaltic concrete spreading and finishing machines "Texas Department of Highways and Public Transportation 1982 Specifications for Construction of Highways, Streets and Bridges".

The screed shall be ski controlled using a ski of not less than 18' in length. Curb shoe control will not be allowed.

The spreading and finishing machine shall be maintained in good working order and operated by competent trained personnel.

The Engineer may require the contractor to place a test strip to prove the capability of the machine and the competency of the operating personnel to produce a satisfactory finished surface.

In dips and on curved surfaces where the ski control cannot be used, the surface will be controlled using a 10' straight edge.

Fillet areas, turn outs and other areas not accessible to the spreading machine may be hand laid provided a satisfactory surface is produced.

C. COMPACTION AND FINISHING

Compaction Requirements - The asphaltic concrete surface shall be compacted so that the compacted mixture will contain not more than seven percent (7%) nor less than three percent (3%) air voids.

The surface of the pavement, after compaction, shall be smooth and true to the established line, grade and cross section, and when tested with a 10 foot rolling straightedge, except as provided herein, the maximum deviation shall not exceed 1/8 inch in 10 feet, and any surface not meeting this requirement shall be corrected as directed by the engineer.

Raking and Leveling - Minor leveling may be accomplished using asphalt rakes prior to compacting the surface. The surface shall be leveled by loosening the surface of the asphaltic concrete using an asphalt rake then adding or removing material and smoothing the surface. Any large aggregate worked to the surface in this process shall be removed before compaction. The large aggregate shall not be spread over the new asphaltic concrete surface.

Edges and joints with compacted asphalt or concrete gutters shall be carefully squared and excess material removed before compaction. Care shall be taken to see that NO excess material laps over onto the surface of existing asphaltic concrete paving or concrete gutters. Large aggregate worked to the surface in this process shall be removed. It shall not be spread over the new asphaltic concrete surface.

Rolling - In general rolling shall conform to the requirements of item 340 of the Texas Department of Highways and Transportation 1982 Specifications for Construction of Highways, Streets and Bridges except as modified herein.

It shall be the responsibility of the contractor to have rolling equipment available on the job to properly compact the paving mixture in place as required without delay to the lay down operation. Rollers provided shall meet the qualifications for their type as follows:

PNEUMATIC TIRE ROLLERS: The rollers shall be acceptable medium pneumatic tire rollers conforming to the requirements of the item, "Rolling (pneumatic tire)", Type B, unless otherwise specified on plans.

TWO AXLE TANDEM ROLLER: This roller shall be an acceptable power driven tandem roller weighing not less than 8 tons.

THREE WHEEL ROLLER: This roller shall be an acceptable power driven three wheel roller weighing not less than 10 tons.

THREE AXLE TANDEM ROLLER: This roller shall be an acceptable power driven three axle roller weighing not less than 10 tons.

Vibrating rollers will not be used without prior written approval of the engineer. Written approval will be granted only upon demonstration by the contractor that the roller and operator can produce a satisfactory surface within the tolerances of these specifications. Only the operator or operators thus approved will be allowed to operate the vibrating roller on this project.

Areas not accessible to standard rollers shall be compacted using trench rollers, impact tampers, hand tamps or other approved means that will produce the density and surface required.

JOINTS- Shall be carefully rolled to provide compaction of the asphalt against the existing surface or face of the concrete gutter. Joints between concrete gutters and Hot Mix Asphaltic Concrete shall be placed so that the HMAC will be approximately 1/2 inch higher than the concrete when compaction is completed. At transverse joints such as valley gutters and fillet areas where finishing asphalt paving 1/2 inch above the edge of concrete will adversely affect ride quality the asphalt shall be finished 1/4 inch above the edge of the concrete.

Transverse joints shall be rolled in the transverse direction with the first pass extending approximately six (6") inches onto the new asphalt each additional pass shall extend approximately twelve (12") inches further onto the new asphalt until the full width of the roller is on the new asphalt. Longitudinal rolling may begin then.

All transverse joints shall be checked with a 10" straight edge while the material is

still hot enough to roll. Any corrections shall be made by loosening the material using an asphalt rake and adding or removing material and recompact the surface. The surface shall be rechecked and when the joint is acceptable the asphalt spreading machine may proceed with the pass.

Final or finish rolling shall be accomplished using a two axle tandem roller to remove roller marks. This rolling shall be accomplished after the surface has cooled sufficient to minimize further marking but before it is too cool to respond to rolling.

STRAIGHTEDGES AND TEMPLATES - The contractor shall provide acceptable 10 foot straightedge for surface testing. Satisfactory templates shall be provided as required by the Engineer.

4. FIELD QUALITY CONTROL

Test Lots - Field Quality Control Tests shall be made by lot with a lot being the amount of contiguous surface laid in one day. No lot shall exceed 10,000 S.Y. If a days laying exceeds 10,000 S.Y., that days laying shall be divided into two approximately equal lots. The same lot divisions shall be used for all Quality Control Tests. Each separate block or combination of contingeous (blocks) of paving shall be considered as a separate lot even though they may be placed in a single day and do not comprise 10,000 S.Y. of surface.

Surface Tests - Surface tolerance tests will be performed in both longitudinal and transverse directions. The test for longitudinal surface tolerance will be performed with a ten-foot rolling straightedge furnished by the contractor, and calibrated and used in accordance with the manufacturer's recommendation or other approved method.

The maximum allowable deviation in surface shall be 1/8 inch in 10 feet. Tests for longitudinal surface tolerance will be performed by the contractor, accompanied by the engineer within 24 hours of the completion of a lot. One path in each lane for the length of the entire lot will be tested. The location of the test path (Distance from centerline or pavement edge) will be determined by the engineer through the use of random numbers. Any deviations in the surface finish of a roadway wearing course which exceeds 1/4 inch must be corrected. After corrections have been made, the entire lot must meet the 1/8 inch surface tolerance.

Thin course "scab on" patching will NOT be permitted. Corrections may be made by planning, milling and patching or by removing and replacing affected surface area.

When milling and patching is used to correct surface defects the minimum depth of removal shall be 1".

For milling and patching or surface removal the area removed or milled shall be sufficiently large to avoid the appearance of patching.

When planning is used to correct defects the thickness of the remaining paving shall meet the thickness requirements as shown on the plans.

Surface tolerance test will be performed on the last or wearing course only.

Asphaltic concrete pavement constructed under these specifications that does not meet the surface tolerance requirements and is allowed to remain in place will be paid for at a reduced rate determined by multiplying the price bid for the wearing surface course by a surface tolerance quality factor. This rate shall apply to the entire lot.

Lower courses will not be affected by this quality factor but will be paid for at the price bid or such price as it may be affected by other quality factors.

The surface tolerance quality factor will be determined according to the following schedule:

Linear % of pavement exceeding 1/8 inch surface tolerance			Surface tolerance quality factor
0.0	to	1.0	1.0
1.1	to	1.5	0.9
1.6	to	2.5	0.8
over		2.5	0.5

Roadway surface requirements will not be applied for paved drives, aprons, turnouts, and other irregular sections, however, asphaltic concrete shall be placed in such a manner as to provide a neat and uniform appearance and shall be compacted by methods satisfactory to the engineer.

The contractor may request permission to reconstruct a portion of the pavement when, in his opinion, the surface tolerance quality factor can be improved. Upon approval of the engineer, the contractor shall take sufficient tests to isolate the portion or portions of pavement to be pre-constructed and remove and reconstruct the pavement. All costs in connection with this reconstruction are to be born by the contractor. The minimum width of this reconstruction shall be 1/2 the street width unless approved otherwise in writing by the engineer. The portions reconstructed shall be re-tested and the surface tolerance quality factor recomputed using the new information along with the test from the area within the portion of the lot not reconstructed.

When other quality factor reductions are provided for on the plans or in the specifications the effect shall be cumulative ie: $QF1 \times QF2 \times QF3 \times \dots \times QFn \times \text{unit price}$.

No payment will be made for pavement with a combined quality factor of less than 0.5.

Thickness Test - Thickness test will be made by the engineer on each course of asphaltic concrete laid. Test specimens shall be made by a commercial laboratory selected by the owner. Test specimens shall be cores having a minimum nominal diameter of 6". These cores shall be made in the presence of the inspector at locations designated by the inspector using an approved power operated coring machine.

For thickness and compaction test, each lot shall be divided into approximately equal sublots corresponding in width to each pass of the lay down machine and containing up to but not exceeding 2,000 square yards each. If a lot contains less than 2,000 square yards the engineer may, at his option, divide the lot into two equal sublots, or, if the contractor has a record of satisfactory workmanship, the engineer may waive tests on said lots.

The engineer will locate one test spot for each 1,000 S.Y. and/or fraction thereof in each sub-lot using random numbers. If a spot thus located falls within one foot of a longitudinal joint or lip of gutter or within two feet of an unsupported edge or within 15 feet of the beginning or ending edge of a pass, the engineer will relocate the spot using random numbers. The commercial laboratory chosen by the owner will remove the test specimen from each designated spot, mark the specimen and the adjacent pavement for future reference and perform the required tests. Test specimens shall be removed with special caliper type tongs having circular jaws of the diameter of the specimen being removed. These jaws shall grip at least 1/2 of the circumference of the specimen. Screw drivers or other type of prying instruments shall not be used to remove the specimens.

The thickness of a specimen shall be determined by averaging four (4) measurements made at ninety degree (90) intervals around the specimen. Any thickness less than design thickness shall be considered as deficient.

For hot mix asphaltic concrete pavement less than 2 inches thick the maximum allowable deficiency in any one test specimen is 1/8 inch provided that no more than twenty five percent (25%) of the specimens tested show a deficiency. For pavement in excess of 2 inches in thickness the maximum allowable deficiency in any one specimen shall be 1/8 inch plus 1/16 inch for each additional inch of thickness provided that no more than twenty five percent (25%) of the test specimens show a deficiency.

When a test specimen has a greater deficiency and less than (25%) of the test specimens show a deficiency the contractor shall, at his own expense, determine the extent of the deficiency and correct it by removing and replacing the surface. The minimum width for such correction will be the full width of the pass or passes of the lay down machine in which the deficiency occurs.

The minimum length of such correction shall be three times the width removed. When more than (25%) of the test specimens show a deficiency the surface may at

the engineers option be declared uniformly deficient and the contractor shall correct the deficiency by removing and reconstructing the surface or by constructing an overlay of not less than 1 inch thickness over the deficient area. The construction of an overlay will require milling at lip lines and dips.

The corrected surface shall meet all the requirements of these specifications.

Asphaltic concrete pavement constructed under these specifications that is less than design thickness, if allowed to remain in place, will be paid for at a reduced rate determined by multiplying the unit price bid in the bid proposal by a thickness quality factor. This rate shall apply to the entire lot in which the deficiency is found.

The thickness quality factor for hot mix asphaltic concrete pavement less than 2 inches in thickness shall be:

Thickness Deficiency	Quality Factor
Maximum 1/8" for any one specimen with no more than 25% of the specimens showing a deficiency.	1.0
Pavement not meeting the 25% limitation with an average specimen deficiency up to 1/8 inch.	0.75
Average specimen deficiency of 1/8 inch to 1/4 inch	.55
Average deficiency of more than 1/4 inch	0.0

The thickness quality factor for hot mix asphaltic concrete more than 2 inches thick will be 1.0 if the maximum deficiency for any one specimen is 1/8 inch plus 1/16 inch for each additional inch of thickness over 2 inches and not more than twenty five percent (25%) of the test specimens in the lot are deficient. For thickness test that fall outside this area either by single specimen thickness deficiency or more than twenty five percent (25%) of the specimens showing deficiency the thickness quality factor shall be computed as follows:

$$\text{Thickness Quality Factor} = \frac{1}{\left(\frac{1}{\text{Thickness Ratio}} \right)^2}$$

The thickness ratio for a lot is the average specimen thickness for that lot, with no allowance for thickness in excess of design, divided by the design thickness. For determining the average specimen thickness, those specimens in excess of design thickness shall be considered at design thickness.

The minimum thickness quality factor for which payment will be allowed is .55. Any pavement with a thickness quality factor below .55 will be considered as having a thickness quality factor of 0. This shall apply only if the contractor requests, in writing, to have this paving remain in place and this request is approved in writing by the engineer.

When the deficient area is in a lower course of a multi-course paving structure the contractor may reduce or correct the deficiency by increasing the thickness of the subsequent course or courses as follows:

When subsequent course is	Maximum increase in course thickness
Type B	1/2"
Type C	3/8"
Type D	1/4"

When corrected in this manner the thickness quality factor shall be determined using the combined thickness of the corrected courses and shall apply to all unit prices applicable to this lot.

The contractor may request permission to reconstruct a portion of the pavement when, in his opinion, the thickness quality factor can be improved. Upon approval of the engineer, the contractor shall take sufficient tests to isolate the portion or portions of pavement to be reconstructed and remove and reconstruct the pavement. All cost in connection with this reconstruction are to be born by the contractor. The minimum width of this reconstruction shall be 1/2 the street width unless approved otherwise in writing by the engineer. The portions reconstructed shall be retested and the thickness quality factor recomputed using the new information along with the test from the area within the portion of the lot not reconstructed.

When other quality factor reductions are provided for on the plans or in the specifications the effect shall be cumulative ie: $QF1 \times QF2 \times QF3 \times \dots \times QFn$ x unit price.

No payment will be made for pavement with a combined quality factor of less than 0.5.

Compaction Test: Compaction test will be made by the commercial laboratory chosen by the owner on the core samples removed from the paving for thickness testing.

The percent air voids will be calculated using maximum theoretical specific gravity of the mixture.

The contractor may attempt to correct deficiencies in compaction by additional pneumatic rolling upon written permission of the engineer. Requests for permission to conduct additional rolling shall be submitted, in writing, to the engineer no later than three days following notification of the deficiency by the commercial laboratory and the additional rolling shall be completed within ten (10) days following said notification weather permitting.

In no case shall the additional rolling be delayed beyond thirty (30) days from the date the surface was laid. All cost for additional rolling and additional coring and testing of the re-rolled surface shall be born by the contractor.

Asphaltic concrete pavement not meeting this specification and that is allowed to remain in place shall be paid for at a reduced rate determined by multiplying the price bid in the bid proposal by a compaction quality factor determined according to the following schedule:

Percent air voids (average of all specimens for the lot)	Compaction Quality factor	
less than 3	0	
3.0 to 8.0	1.0	
8.1 to 9.0	0.9	
9.1 to 10.0	0.7	
10.1 to 11.0	0.5	and the engineer may require a chip seal to be applied at the contractor's expense
More than 11	0	and the engineer may require a chip seal to be applied at the contractor's expense.

NOTE: HMAC surfacing with between 11% and 15% air voids may, upon written request by the Contractor, be reviewed by the Engineer to determine if it may be left in place. The Engineer's review will consider the type of street and expected traffic conditions among other factors and a written determination will be issued. If the surface is allowed to remain in place, a chip seal will be required at the Contractor's expense. The quality factor for this paving will remain at 0.

The reduced rate shall apply to the entire lot.

The effect of compaction quality factors shall be cumulative and shall be applied as described for surface quality factors and thickness quality factors.

Cost for Field Quality Control - The surface tolerance test shall be made by the contractor at his expense.

The initial thickness and compaction test will be made at no cost to the contractor except for the cost of materials and labor to repair the holes left when cores are removed.

The cost of all thickness test to isolate a deficient area and the cost of retesting the corrected area shall be born by the contractor.

The cost of all retesting of compaction after additional rolling to correct compaction deficiencies shall be born by the contractor.

Areas reconstructed to remedy deficiencies shall meet all the requirements of these specifications and shall be tested in the same manner as original construction. The cost of all tests on reconstructed areas shall be born by the contractor.

5. ADDITIVES

Anti-stripping: An approved liquid anti-stripping agent shall be added to the asphalt used in the hot mix asphaltic concrete. The rate of application shall be in accordance with the manufacturer's recommendation. The minimum anti-stripping agent added shall be one-half (1/2) of 1%.

The anti-stripping agent used shall have a proven record when used with similar aggregate and shall be approved by the engineer in writing prior to the date set for reception of bids.

08/07

P.V.C. PIPE CASINGS

1. SCOPE

This item consists of furnishing and installing PVC pipe for casing for future water and electric lines at locations shown on the plans or as directed by the Engineer.

2. MATERIAL

Pipe shall be ASTM D 1785 schedule 40 PVC pipe or ASTM D 2241 PVC SDR 32.5 pressure pipe. The ASTM designation and schedule or SDR shall be clearly marked on the outside of the pipe.

3. CONSTRUCTION

Pipe shall be laid in straight alignment and grade in trenches as narrow as the diameter of the pipe can be laid. Pipe shall be placed after the sub grade is prepared but before base material is placed. Bedding under the pipe shall be a minimum of 2 inches in thickness and shall be carefully graded and leveled before pipe is placed. Joints shall be water tight. They may be solvent cement welded using approved materials, or may be made using a gasketed collars or push on gasketed bell and spigot. When collars are used care shall be exercised to assure that the collar is centered over the joint. All joints shall be made in accord with the manufacturer's recommendations. After pipe has been joined and inspected the pipe shall be encased in bedding/encasement material to a thickness of 3 inches above the pipe. Care shall be exercised to be sure the encasement material is worked in under the haunches of the pipe and compacted along the side of the pipe to assure adequate lateral support. The balance of the trench shall be back filled using cement stabilized backfill consisting of 2 sacks of Portland cement to 1 cubic yard of blow sand or crushed caliche mixed with sufficient water to form a stiff place able mixture that can be consolidated in the trench by rodding or vibrating. The back fill shall be "struck off" at the finished sub grade level using square point shovels or suitable screeds. The ends of the pipe shall be tightly plugged to prevent the entrance of water debris or other foreign material. These plugs shall be PVC or rubber stoppers designed to endure until the water lines and/ or electric lines are places.

4. MEASUREMENT AND PAYMENT

Casing pipe shall be measured by the linear foot along the center of the pipe and shall be paid for at the unit price in the bid proposal.

WATER LINE SPECIFICATIONS

1. SCOPE OF WORK

The work covered by this section consists of all water pipe lines and piping, including valves, valve boxes, tapping sleeves, fire hydrants and other accessories, required to complete the project. The contractor shall furnish all materials, labor, superintendence, tools, equipment and incidentals necessary for the complete construction of this work in accordance with the drawings and these specifications.

2. PIPE AND MATERIAL

2.1 General

Pipe shall be polyvinyl chloride (PVC) AWWA C900, ductile iron AWWA C-151 or steel cylinder concrete pipe AWWA C-303.

2.2 Polyvinyl Chloride (PVC) Pipe

A. PVC pipe furnished for use on this project shall conform to the requirements of AWWA C900 Polyvinyl Chloride (PVC) Pressure Pipe, 4 in. through 12 in., for water distribution pressure class 150, DR18. and shall be NSF approved for potable water supply.

B. The pipe furnished shall have an integral bell designed for joint assembly using elastomeric seals.

C. Markings for the pipe shall include all the requirements of AWWA C900 and the NSF approval stamp.

D. Elastomeric seals shall be furnished by the pipe manufacturer. Seals shall be manufactured to conform with the requirements of ASTM F4 77 and shall be specifically designed for use with the pipe furnished.

E. Lubricants intended for use with PVC pipe and seals (gaskets) shall be compatible with both PVC and the seal material. Lubricant shall not support growth of bacteria and shall not adversely affect the potable quality of the water that is to be transported.

F. Pipe laying lengths shall be 20'.

G. Service taps on PVC water lines shall be made using hinged type or double strap type saddles. Tapping saddles shall support the full circumference of the pipe and shall have a bearing area of sufficient width along the axis of the pipe to prevent distortion of the pipe when saddle is tightened.

No direct taps into the wall of PVC pipe will be permitted.

Seals for tapping saddles shall be recessed into the body of the saddle and shall be

a rubber - compound conforming to the requirements of ASTM F477.

Tapping saddles shall be SMITH-BLAIR Taper Seal Style 313 or DMD Dresser style 194 or approved equal.

H. Tapped connections for water mains and fire lines made on PVC water mains shall be accomplished using full bodied ductile iron tapping sleeves of a pressure rating equal to or greater than the pressure rating of the pipe specified.

I. Bedding for AWWA C900 PVC water pipe shall extend from a minimum depth of 4 inches below the outside of the water line to a minimum cover of 6 inches over the top outside of the water line.

J. AWWA C900 PVC water pipe shall be installed in accord with the applicable requirements for installing ductile iron pipe.

Care shall be taken to install each joint of PVC water pipe to, but not beyond the factory insertion mark on the pipe.

When a joint of PVC water pipe must be cut, the end of the pipe shall be carefully beveled to match the factory bevel on the uncut pipe. An insertion mark matching the factory insertion mark on the uncut pipe must be made before the pipe is inserted into the bell.

When PVC water pipe is to be inserted into a ductile iron fitting or valve, the factory bevel must be removed to form a square plain end pipe.

2.2 (a) Metallic Marking Tape (For PVC Water Pipe)

2.2(a).1 General

When non-metallic pipelines are to be installed, then the Contractor shall furnish and lay, above the pipeline, a continuous strip of metallic identification tape.

2.2 (a).2 Tape Material

The metallic identification tape shall be at least two inches (2") in width and shall be of corrosive resistant metal of sufficient thickness to be stable and reflect electronic signals to electronic pipeline detector when buried to a dept of twenty-four (24") below normal ground level.

The metallic tape shall be painted blue on one side and shall have 1-inch high letters painted continuously on the same side of the tape which read, "CAUTION: BURIED WATER LINE BELOW" or other words to this effect.

The marking tape shall be "Detectable Warning Tape", as manufactured by the Omega Marking Company, or equal approved by the Engineer.

2.2(a).3 Construction Methods

The Contractor shall backfill over non-metallic pipelines to a depth which is less than twenty-four (24") and not more than twelve inches (12) from the top of the cut of the ditch section in which the pipeline is laid. Contractor shall stop the backfilling material to a generally uniform level. All machine tamping, jetting and other compaction activities shall be accomplished up to this point of height in the backfilling the marking tape is placed in the trench.

The Contractor shall then lay the marking tape in the pipe trench and shall be held in position by the spot placement of backfill materials over it to keep it from sliding to the sides and/or from being blown about in the ditch by the wind. The tape shall be laid with the painted side, which shall also be the side with the identification lettering on it, in the "up" position. The tape shall be laid in the flat position and kept there until backfill is accomplished.

The Contractor shall then complete the backfilling operation in such a manner that the marking tape is not cut, crimped, ruptured or separated by the backfilling work.

2.2(a).4 Measurement and Payment

No separate pay item will be provided for furnish and placing the marking tape. This item shall be considered subsidiary to the non-metallic pipe being placed.

2.3 Ductile Iron Pipe

A. All ductile iron pipe used in the construction of water works improvements shall be Cement Lined and shall be manufactured in accordance with and shall meet the requirements of AWWA Specification C-151.

B. Pipe shall be cast in lengths of not less than 12 feet and shall be designed for a working pressure of 150 pounds per square inch. Thickness of ductile iron pipe shall be as shown on the plans and bid proposal or shall be computed in accordance with AWWA Specification C-150, based on 150 pounds per square inch working pressure for 10 feet of cover and laying condition 2.

C. All ductile iron pipe shall have an exterior, bituminous coating and an inside cement-mortar lining in accordance with the requirements of AWWA Specification C-104.

2.4 Polyethylene Plastic Tubing

Service lines shall be constructed with polyethylene plastic tubing as specified in ASTM D 2737 with a rating of 160 psi.

2.5 Ductile Iron Pipe Fittings

All fittings for ductile iron pipe and PVC pipe shall be ductile iron and shall be mechanical joint all connections except tees for fire hydrant leads unless shown otherwise on the plans. Tees for connecting fire hydrant leads shall be MJ- with a flange outlet.

All ductile iron fittings shall conform to AWWA Specification C-110, designed for a working pressure of 250 psi. All ductile iron fittings shall have an external coating and shall be cement lined in accordance with the specifications for coating and lining the pipe.

2.6 Pretensioned Concrete Cylinder Pipe

A. The contractor shall furnish and install all concrete cylinder pipe and fittings, including connections and appurtenances complete as shown on the plans and specified herein.

B. The contractor shall submit six (6) sets of full and complete shop drawings on the concrete cylinder pipe and fittings. All of the drawings and data shall be complete and shall include a complete description of the pipe offered, including cuts, tabulated layout and all pertinent engineering data required for a complete evaluation of the submittal. Submittal data shall be in such form and so presented that the Engineer may readily review the data.

C. Prior to delivery of the pipe to the project site, the manufacturer shall furnish an affidavit certifying that all pipe, fittings, and specials, and other products and materials furnished, comply with the applicable provisions of this specification.

D. The pipe manufacturer shall furnish a factory trained, job experienced field representative who shall visit the project periodically during the course of installation. He shall also be subject to call by the contractor and/or engineer to advise and assist with the solution of field problems.

During visits, the representative shall observe all phases of the project including location and condition of pipe strung ahead of the contractor, trench width, if applicable, bedding and backfill, assembly of pipe joints and protection of steel. If, in the opinion of the representative any phase of the installation is unsatisfactory, he shall so advise the contractor's superintendent and also advise the owner or engineer's representative on the job site.

E. All closure sections shall be the jack on type and "field welding" will not be permitted without the written permission of the engineer.

F. Pipe manufacturer will install all necessary taps for the contractor to disinfect and field hydrostatic test the pipe.

G. Pretensioned concrete cylinder pipe, fittings and specials shall be designed, fabricated and tested in accordance with the latest requirements of AWWA C-303, "Reinforced Concrete Pressure Pipe Steel Cylinder Type, Pretensioned, for Water and Other Liquids" with additional requirements or modifications as described herein.

H. Pretensioned concrete cylinder pressure pipe shall be designed for 150 psi, working pressure and manufactured in 32 foot nominal lengths in accordance with the provisions of AWWA Standard C-303.

I. Inspection and Testing

(1) The owner reserves the option to have an independent testing laboratory, at the owner's expense, inspect pipe and fittings at the pipe manufacturer's plant to ensure compliance with the applicable specifications. The owner's testing laboratory and Engineer shall have free access to those parts of the manufacturer's plant that are necessary to ensure compliance with the governing standard. The pipe manufacturer shall notify the owner, in writing, at least two weeks ahead of pipe fabrication as to start of fabrication and fabricating schedule so that the owner can advise the manufacturer as to owners' decision regarding tests to be performed by an independent testing laboratory. In event the owner elects to retain an independent testing laboratory to make material tests and weld test, it is the intent that the tests be limited to one spot testing of each category unless the tests do not show compliance with the standard. If these tests do not show compliance, the owner reserves the right to have the laboratory make additional tests and observations to ensure compliance of the finished product with the standard.

(2) In any event, the manufacturer shall perform the tests described in AWWA C 303, and furnish the owner with a copy of the test reports, if requested, at the expense of the pipe manufacturer. The pipe manufacturer shall furnish the owner with affidavit of compliance as outlined in the standard.

(3) All welds for water tightness in special pipe and fittings that have not been hydrostatically tested may be examined by use of visible dye penetrant system meeting requirement of ASTM E165; however, collar reinforcement and all other lap welds shall be tested by introducing air under 10 psi pressure between the collar and cylinder and checking for leaks around and through the welds with soap solution.

The area to receive the dye penetrant shall be cleaned free from contaminants that might interfere with the penetrant process. The temperature of the steel in the weld area shall be between 60 and 125 degrees F. when the penetrant is applied. Dwell time of six hours shall be allowed after application of the penetrant and developer before interpreting the results.

Defects that are found shall be repaired and the test repeated until all defects

are eliminated. Colored penetrant shall be removed before fittings are lined.

2.7 Casing Pipe

Casing pipe to be installed in bore or open cut may be limited service pipe, corrugated galvanized steel pipe or new straight seam or spiral welded steel pipe. Casing pipe shall be furnished in thickness or gage as shown on the plans.

Limited service pipe proposed for use on this project must be approved a minimum of four (4) working days prior to the time of opening bids and shall be in good condition and shall meet the same service requirements as the corrugated galvanized steel or welded steel pipe.

Welded steel casing pipe shall be coated inside and out using a coal tar epoxy or shall be bituminous coated in side and out by the hot dip method.

2.8 Bedding Materials

A. All water pipelines placed on this project shall be bedded with crushed stone bedding materials to the minimum as shown on the plans and in the Detail Drawings.

B. Granular material furnished for foundation, bedding, encasement, backfill, or other purposes as may be specified, shall consist of any natural or synthetic mineral aggregate such as, crushed gravel, crushed rock, crushed stone, or slag, and shall conform to the following specifications and/or gradation.

Note, all materials used for these purposes shall be crushed and shall have at least two broken faces. Pea gravel will NOT be allowed.

	Foundation	Bedding	Encasement	Backfill
ASTM c33 Grade #57	X			
ASTM C33 Grade #67	X			
ASTM C33 Grade #8		X	X	
THD 1982 ITEM 302				
Type "D" Grade #4		X	X	
THD 1982 Item 302				
Type "D" Grade #5			X	
Crusher Fines**			*X	X

* 100 percent of crusher fines that are to be used within 12 inches of the top of pipe must pass the 3/4" sieve.

**** Approximate Gradation for Crusher Fines**

Sieve Size	% Passing
2 inch	100
#4	35 - 100
#10	20 - 100
#40	5 - 35
#200	4 - 10

Crushed stone material proposed as an alternate for use on this project and not meeting the above specifications must be approved in writing at least 48 hours prior to the time scheduled for opening bids.

C. Granular materials provided for Foundation, Bedding, Encasement, or backfill use as required by the contract, either as part of the pipe item work unit or as a separate contract item, shall be classified as to use in accordance with the following:

MATERIAL USE DESIGNATION	ZONE DESIGNATION
Granular Foundation	Placed below the bottom of pipe grade as replacement for unsuitable or unstable soils, to achieve better foundation support.
Granular Bedding	Placed below the midpoint of the pipe prior to pipe installation, to facilitate proper shaping and achieve uniform pipe support. Also for Class B Bedding where specified.
Granular Encasement	Placed below an elevation one half (6") foot above the top of pipe, after pipe installation, for protection of the pipe and to assure proper filling of voids and thorough consolidation of backfill.
Granular Backfill	Placed below the surface base course, if any, as the second stage of backfill, to minimize trench settlement and provide support for surface improvements.

In each case above, unless otherwise indicated, the lower limits of any particular zone shall be the top surface of the next lower course as constructed. The upper limits of each zone are established to define variable needs for material gradation and compaction or void content, taking into consideration the sequence of construction and other conditions. The material use and zone designations described above shall only serve to fulfill the objectives and shall not be construed to restrict the use of any particular material in other zones where the gradation requirements are met.

3. VALVES AND VALVE BOXES

3.1 General

A. Valves 4" through 12" shall be resilient seated gate valves with non-rising stems and shall open by turning to the left (counter clock wise).

B. Valves 14" and larger shall be resilient seated butterfly valves and have operators suitable for direct burial and shall open by turning to the left (counter clock wise).

All valves except valves for use in fire hydrant leads shall have mechanical joint ends unless shown otherwise on the plans. Valves for use in fire hydrant leads shall be flange by mechanical joint.

C. All valves and fire hydrants shall be spray coated with a two component thermal setting epoxy to cover all interior wetted ferrous surfaces. Finished coating shall have a minimum thickness of 4 mils. The coating shall conform to the coating section of these specifications.

D. All valves for buried service shall be equipped with 2" square AWWA operating nuts.

3.2 Gate Valves

A. Gate valves shall be iron body, resilient **wedge gate** and shall be in compliance with AWWA Standard C-509-80 or latest revision thereof and shall have the following design features:

B. All valves shall have a working pressure of 200 psi and shall be bottle tight tested at this pressure from both directions. The gate body shall also be hydrostatically tested at 400 psi. Zero leakage will be required in all tests. The body, bonnet, and stuffing box shall be flange together with ASTM A-307 Grade B bolts and nuts to insure repairability.

C. Stems shall be machined from modified manganese bronze rod with an integral forged thrust collar machined to size.

D. Stem seals shall be dual "O" ring type.

E. Valve discs shall be rubber encapsulated or have disc seat rings molded of natural rubber, internally steel reinforced retained to the disc by self-locking type 304 stainless steel screws. Valve gates shall seat against a machined epoxy coated mating surface in the body of the valve.

F. All internal ferrous metal surfaces (machined or cast) shall be factory spray coated with a two component thermosetting epoxy to a nominal thickness of 4 mils and the exterior shall be coated with asphalt varnish as specified for coating of the pipe. (See Sec. 3.4 of these specifications for epoxy coating).

G. Valves shall be Mueller A-**2360** or Dresser-M&H **4067** or approved equal. Any alternate (approved equal) to these specifications **shall have completely interchangeable parts with either of the specified valves.**

3.3 Butterfly Valves

A. General - All butterfly valves shall be of the rubber seated tight-closing type. They shall meet or exceed AWWA Standard C-504, Class I50B. Both valve ends shall be mechanical-joint per AWWA Standard C-III. Accessories (bolts, glands, and gaskets) shall be supplied by the valve manufacturer.

B. All valves must use full AWWA C-504 Class I50 B valve shaft diameter, and full Class I50 B underground service operator torque rating throughout entire travel, to provide capability for operation in emergency service.

C. Valve body shall be high strength cast iron ASTM A 126 Class B with I8-8 type 304 stainless steel body seat. Valve vane shall be high strength cast iron ASTM A 48 Class 40 or ASTM A 536, Grade 65-45-I2 ductile iron having rubber seat mechanically secured with an integral I8-8 stainless steel clamp ring and I8-8 stainless steel self locking screws.

D. Rubber seat shall be a full circle 360° seat not penetrated by the valve shaft. Valve shall have permanently set two way thrust bearing. Packing shall be designed for permanent duty in underground service.

E. Valve operator shall be of the traveling nut type, sealed, gasketed and lubricated for underground service. It shall be capable of withstanding an overload input torque of 450 ft. lbs. at full open or closed position without damage to the valve or valve operator. It shall be designed to resist submergence in water to 25 ft. head pressure. Number of turns to operate valve shall be as listed below in order to closely resemble conventional distribution valve practices and to minimize water hammer:

Pipe and Valve Size	Turns to close	Pipe and Valve Size	Turns to Close
4" - 6"	16-1/2	14" - 16"	48"
8"	24	18" - 20"	72
10" - 12"	36	24"	90

F. Valves shall be capable of easy closure by one man using standard valve key, even under emergency line-break conditions as severe as those that would - cause a valve maximum opening torque requirement of as much as two times AWWA Class I50 B.

G. All valves shall be tested bottle-tight at rated working pressure by the manufacturer as follows:

14" up. 150 psi

In addition a hydrostatic test with vane partially open shall be given to the assembled valve as follow:

14" up. 300 psi

H. Valve shafts shall be 18-8 type 304 stainless steel. Shaft bearings shall be of the self lubricating sleeve type.

I. Valve discs or vanes for valves 30" and larger shall be the flow through (bridge or truss) type.

J. Butterfly valves shall be Dresser-M&H Model "450", "4500" or "1450" or Mueller line seal III or approved equal. Alternates (approved equal) to these specifications must be approved in writing 48 hours prior to time bids are received.

3.4 Coating

A. The coating shall be a two part thermosetting epoxy protective coating and shall function as a physical, chemical and electrical barrier between the base metal to which it is applied and the surroundings.

B. The coating shall be non-toxic and shall not impart taste to water. The coating must be formulated from materials deemed acceptable per the FOOD AND DRUG ADMINISTRATION DOCUMENT TITLE 21 of the FEDERAL REGULATIONS ON FOOD ADDITIVES SECTION 121.2514 entitled, RESINS AND POLYMERIC COATINGS.

C. The coating shall have a satin finish and shall be suitable for field over coating and touchup with same coating material without sanding or special surface preparation, or application of heat in excess of room temperature.

D. The coating shall have a successful record of performance in valves, pipe or other allied equipment for a minimum of two years.

E. The coating adhesion to the substrate shall exceed cohesion of the coating film as demonstrated by the following test:

(1) Prepare test panel and apply coating per manufacturer's recommendation.

(2) After sample has properly cured per manufacturer's recommendation, scribe an "X" using a sharp knife or scalpel through the coating to the metal substrate.

(3) Then with the point of the knife at the juncture of two scribes, attempt to lift off coating. Coating should not lift off substrate or between coats readily, but should break up leaving coating material on the substrate of this damaged area.

(4) No disbandment of the film shall be noted as tested above after immersion in tap water for 1500 hours at 100°F.

F. A falling sand abrasion test using ASTM D968 shall produce an abrasion coefficient of 25-30 liters/mil. As an alternative, a Taber Abrader Test should find 3.5 - 3.7 milligrams coating loss per 100 cycles when using a CSF 10 Wheel (1000 gram weight).

3.5 Valve Boxes

All valves to be used in buried service shall be enclosed in cast iron valve boxes. Care shall be taken to place and maintain the 2" square operating nut in the center of the valve box. The valve box shall be two piece cast iron suitable for use with PVC pipe box risers. The 6 inch diameter cover shall be marked "Water". The PVC riser pipe shall be furnished in lengths as required (minimum pipe cover 42") PVC pipe for valve box riser may be ASTM C-900, ASTM D1785 schedule 40, ASTM D2241 pressure class 125 or ASTM D3034 DR 35. Valve boxes shall have a concrete ring 8" thick and having a radius equal to the radius of the valve box plus one foot (1') cast around them. Valve boxes placed in unpaved areas shall be set level with or slightly higher than the finished ground elevation. Valve boxes set in paved areas shall match the finished pavement surface.

3.6 Fire Hydrants

A. Fire hydrants shall conform to the requirements of AWWA C 502 dry barrel type. The fire hydrants shall be designed for a depth of bury of 4.5 feet, however the depth of bury may vary according to field conditions and extensions or shorter bury depth may be required.

B. The hydrants shall have a 5-1/4 inch valve opening, two 2-1/2 inch hose nozzles and one 4-1/2 inch pumper nozzle.

C. Hose threads shall be National Standard threads.

D. The hydrants shall be sized for 6-inch mains and shall have an inlet connection compatible with the type pipe used. All gaskets, nuts, bolts and other jointing materials shall be considered part of the fire hydrant installation.

- E. Operating nut shall be standard 1-1/2 inch pentagon opening counter-clockwise. The hydrant shall close with the pressure.
- F. Hydrants shall be painted Federal Safety Yellow.
- G. Fire hydrants shall have all interior wetted ferrous surfaces epoxy coated as required in the general and coating section of this item.
- H. The hydrants shall have a minimum of two (2) drain holes located on opposite sides of the hydrant. The entire drainage channel must be made of non-corrosive material and sealed by acceptable resilient material (metal and/or leather seals are not acceptable).
- I. The hydrants shall have a breakable safety flange and breakable stem coupling which breaks cleanly upon impact.
- J. The hydrants shall be AWWA improved type hydrants and shall have self-oiling reservoirs.
- K. Fire hydrants shall be the Mueller Centurion, the Dresser -M & H 929 Reliant, or The American Darling.

4. EXCAVATION, TRENCHING BEDDING AND BACKFILLING

4.1 Trenching

- A. The trench shall be excavated to the lines and grades as established by the engineer and as shown on the plans. The depth of cover for all main lines on which the grades and elevations are not shown on the plans, shall in general be Forty-two (42) inches. The amount of cover may vary over or under 42 inches as directed by the engineer but in no case will the amount of cover be less than thirty-six (36) inches. Depth of cover for service lines shall be as shown on the detail drawings.
- B. Water lines constructed in proposed streets and service drives shall have the depth of cover measured from the finished grade. The contractor is hereby cautioned that proposed street finished grades are sometimes cut below the existing ground elevation.
- C. The minimum width of the trench shall be the outside diameter of the pipe plus twelve (12) inches for pipe diameter through 18", the outside diameter of the pipe plus eighteen (18) inches for pipe diameters over 18". The trenching equipment shall be maintained on a sufficiently level road bed to provide substantially vertical trench walls. The maximum horizontal offset of the trench wall from bottom of trench to the top of the trench (under-cutting) shall be four (4) inches.

D. The trench shall be over excavated to an even grade to the depth of required bedding so that the bottom of the pipe will rest on a uniform thickness of bedding material on the bottom of trench throughout the entire length of the pipe. In order to obtain a true even grade, the bedding material shall be fine graded by hand. On lines that are to be laid to established grades batter boards shall be set at fifty foot intervals and the trench graded to the established grade.

E. Any part of the trench excavated below grade shall be corrected by filling with bedding material. The bedding material shall be thoroughly compacted.

E. If large rock, rock fragments or other unyielding materials are encountered in the bottom of the trench they shall be removed to a depth of six inches below grade, and the void filled with thoroughly compacted approved bedding material.

G. Bell holes of ample dimensions shall be dug at each joint to permit the jointing of pipe to be made properly and of sufficient depth to prevent the bell of the pipe from resting on undisturbed materials.

H. Wherever necessary to prevent caving, the trench shall be adequately braced and sheeted. Trench safety shall be in accordance with item I4 "Shoring and Sheeting of this specification.

I. Trench digging machinery may be used to make the trench excavations except in places where operation of same would cause damages to trees, buildings or other existing structures either above or below ground. In such instances hand trenching methods shall be employed.

J. All excavated material shall be stockpiled in a manner that will not endanger the work or existing structures and that will cause the least amount of obstructions to walks and driveways.

K. There will be no classification of the excavated materials and the term excavation shall include all materials encountered in excavating the trenches or structural excavations.

L. The contractor shall take all necessary precautions for protecting paved areas from being damaged by the trenching and backfilling equipment. Any damage done to any paved area, outside of the area set forth in the plans, as a result of the construction work shall be repaired by the contractor at his own expense.

M. Where the lines are located behind curbs, the contractor shall take special precautions to protect trees and shrubs. Care shall be exercised to cause as little damage to lawns as possible.

Where lines cross under curbs, gutters or curbs and gutters, tunneling will be required.

N. Blasting for excavation of solid rock will be permitted only after securing the

approval of the Director of Engineering and Transportation and the engineer and only when proper precautions are taken for protection of persons and property. The hours of blasting will be fixed by the engineer. Any damage caused by blasting shall be paid for by the contractor. The method or procedure relative to blasting shall conform to all state laws and local ordinances.

O. The contractor will be required to locate all known utility lines, including consumer service lines, far enough in advance of the trenching to make proper provisions for protecting the lines and to allow for any deviations that may be required from the established lines and grades.

P. The contractor shall not be allowed to disrupt the service on any utility lines except consumers service lines, which may be taken out of service for short periods of time, if the contractor obtains permission from the engineer and from the owner of the premises being served by the utility.

Q. The contractor shall immediately notify the proper utility company of any damage to utility lines, in order that service may be reestablished with the least possible delay. Repair of any damage to existing lines and the repair of consumer lines which are authorized to be cut or temporarily taken out of service shall be made by the contractor at his own expense, and as directed by an official representative of the utility company involved.

R. All utility lines shall be properly supported to prevent settlement or damage to the line both during and after construction.

S. Any permanent relocations of existing utility lines shall be done by the proper utility company without expense to the contractor.

4.2 Backfill General

A. All pipeline excavations shall be backfilled in a manner that will restore pre-existing conditions as the minimum requirement and fulfill all supplementary requirements indicated in the Plans and Specifications. The backfilling operations shall be started as soon as conditions will permit on each section of pipeline to provide continuity in subsequent operations and restore normal public service as soon as practicable on a section-by-section basis. All operations shall be pursued diligently, with proper and adequate equipment, to assure acceptable results.

B. Depositing of the backfill shall be done so the shock of falling material will not injure the structure. Grading over and around all parts of the work shall be done as directed by the Engineer.

C. Whenever soil types which are determined by the Inspector to be undesirable for backfill are excavated from the trench, such material shall be hauled away and deposited where directed by the Inspector at no additional compensation.

D. In the absence of special work item requirements the backfilling shall be accomplished with the use of suitable materials selected from the excavated

materials to the extent available and practical. Should the materials available from the trench section be unsuitable or insufficient, the required additional materials shall be furnished from outside sources at the Owners expense.

E. Suitable material shall be defined as a mineral soil reasonable free of foreign materials (rubbish, debris, etc.) frozen clumps, oversize stone, rock, concrete or bituminous chunks and other unsuitable materials, that may damage the pipe installation, prevent thorough compaction, or increase the risks of after settlement unnecessarily. Material selection shall be such as to make the best and fullest utilization of what is available, taking into consideration particular needs of different backfill zones. Material containing stone, rock, or chunks of any sort shall only be utilized where and to the extent there will be no detrimental effects.

F. Backfill materials shall be carefully placed in relatively uniform depth layers spread over the full width and length of the trench section in a manner and/or sequence that will provide simultaneous support on both sides of the pipeline. Each layer shall be compacted effectively, by approved mechanical or hand methods, until there is no further visual evidence of increased consolidation. Compaction of the in place layer shall be completed acceptably before placing material for a succeeding layer thereon. The manner of placement, layer thickness, compaction equipment, and procedure effectiveness shall be subject to approval of the Engineer. Water jetting or flooding shall NOT be used to compact trench backfill.

G. Within the pipe bedding and encasement zones described as that portion of the trench which is below an elevation one foot above the top of the pipe, the materials placed shall be limited in particular size to 3/4 inch maximum. For larger pipe in excess of 18 inches in diameter the Engineer may allow particle sizes up to 2 inches maximum if it can be shown that the backfill can be satisfactorily compacted without leaving voids or damaging pipe or joints. Above these zones, the placement of material containing stones, boulders, chunks, etc. shall be governed by the layer thickness and compaction equipment capabilities.

H. Compaction of materials placed within the pipe bedding and encasement zones shall be accomplished with portable or hand equipment methods to achieve thorough consolidation under and around the pipe and avoid damage to the pipe. Above the pipe zone material, the use of heavy roller type compaction equipment shall be limited to safe pipe loading.

I. The maximum loose thickness of each backfill layer shall be 12 inches, except that 16 inches will be permitted for Granular Materials placed above an elevation one foot above the top of pipe, and with the provision that, by authority of the Engineer in consideration of the demonstrated capability of special type vibratory compactors, these maximums may be increased at his discretion. "Hydro tamps" or "vibra tamp" or other heavy vibrating equipment shall not be used until the backfill has reached a depth of four (4) feet above the top of the pipe.

J. All surplus or waste materials remaining after completion of the backfilling operations shall be disposed of in an acceptable manner within 24 hours after

completing the backfill work on each particular pipeline section. Disposal at any location within the project limits shall be as specified, or as approved by the Engineer; otherwise, disposal shall be accomplished outside the project limits at the Contractor's discretion. The backfilling and surplus or waste disposal operations shall be a part of the work required under the pipeline installation items, not as work that may be delayed until final cleanup.

K. Until final acceptance of the project, the Contractor shall assume full Responsibility and expense for all backfill settlement and shall refill and restore the work as directed to maintain an acceptable surface condition. All additional materials required shall be furnished without additional cost to the Owner.

4.3 Backfill Procedure above Pipe Zone, in Public Rights-of-way and other areas where settlement is important.

A. Backfill above the pipe zone shall be made using Portland cement stabilized backfill or crushed stone screening (crusher fines).

B. Backfill around structures such as manholes, junction boxes, transformer boxes and valve boxes shall be made using portland cement stabilized backfill material or crushed stone screening (crusher fines).

C. The minimum depth of stabilized backfill or crusher fines shall be twelve (12") inches.

When utilities are being constructed under existing paving, the stabilized backfill or crusher fines shall extend from top of the pipe zone to the top of the base course.

When utilities are being constructed under existing unpaved streets that are not scheduled for immediate pavement construction, the stabilized backfill or crusher fines shall extend from the top of the pipe zone to the existing roadway surface.

When utilities are being constructed in new streets that are scheduled for immediate paving or in streets in a new subdivision for which a paving contract with the property developer has been approved the stabilized backfill or crusher fines shall extend from the top of the pipe zone to the bottom edge of the eight (8") inches of subgrade, or, if the paving contractor has constructed a portion of the roadway prior to the construction of the utilities stabilized backfill shall extend to the top of the course the contractor has finished. In no case shall the backfill extend above the top of the base course.

If the final course of asphaltic concrete has been placed, the street or alley surface shall **NOT** be cut for utility installation.

In new streets where stabilized backfill is required only to the bottom of the subgrade course, the minimum depth of stabilized backfill may be reduced to six (6") inches in which case the maximum depth of the "pipe zone" shall be limited to six (6") inches above the top of the utility line or conduit.

D. Backfill Materials

(1) Portland cement stabilized backfill shall consist of caliche base material, blow sand or native soil stabilized by the addition of Portland cement. Crushed stone or concrete aggregate shall **NOT** be used.

The Contractor shall submit a mix design prepared by an approved Commercial Laboratory that will produce a minimum 7 day compressive strength of 150 psi. In no case shall the minimum cement content of the mix be less than 1 sack per cubic yard.

(2) Cement used in Portland cement stabilized backfill shall be Type I or Type II conforming to the requirements of ASTM Designation C150.

(3) Caliche used for Portland cement stabilized backfill shall be crushed material con-forming to Texas State Department of Highways and Transportation 1982Standard Specifications for Construction of Highways, Streets and Bridges Item 248 Type F, Grade 2.

(4) Blow sand used for Portland cement stabilized backfill shall be clean, free from organic matter, clay lumps, rock and other deleterious matter.

(5) Native soil used for Portland cement stabilized backfill shall be clean, free from clods and organic matter, and rock in excess of 2".

(6) Crushed stone screening (crusher fines) used for back fill shall be sharp grained particles of crushed stone conforming to the following gradation

Sieve Size	% Passing
2"	100
#4	35-100
#10	20-100
#40	5-35
#200	4-10

and may be the by product of crushing stone for other purposes or may be stone specifically crushed for use in backfill. Crusher fines not meeting these specifications may be approved for backfill upon demonstration that the desired results will be obtained.

E. Backfill Construction

(1) Portland cement stabilized caliche backfill or Portland cement stabilized native soil backfill may be constructed using either the "dry" method or the "wet" method.

(a) The dry method of stabilized backfill construction consists of dry mixing of the cement and caliche, sand or soil to produce a homogenous mixture then adding and mixing sufficient water for proper compaction and hydration of the cement. The water content of the mixture will be approximately one to two percent above the optimum moisture for soil compaction. The mixing may be accomplished by using batch mixers or on the job site by "blade Mixing" or other suitable method to produce the desired backfill material. The mixed material shall be placed in lifts of up to a maximum of 12 inches and compacted to ninety five (95%) modified proctor density by use of suitable compacting equipment.

(b) In the "wet" method of cement stabilized backfill construction, the materials shall be mixed in an approved concrete batching plant or mixer to the consistency of concrete and placed as concrete would be placed. The slump of the backfill material shall be such that all voids will be filled, approximately four (4") to six (6") inches. The backfill shall be consolidated by rodding or by the use of mechanical vibrators.

(c) The mix design used must be for the method of placement chosen.

(2) Portland cement stabilized blow sand backfill shall be mixed and placed by the "wet" method as described above.

(3) Crushed stone screening (crusher fines) shall be wetted uniformly throughout with sufficient moisture to assure proper compaction before being placed in the trench.

The moistened crushed stone screening (crusher fines) shall be placed in maximum lifts of twelve (12") inches and consolidated using vibratory type compaction equipment except when it has been demonstrated that the compaction equipment employed will adequately compact deeper lifts in which case the maximum depth of a lift shall be limited by the capabilities of the equipment used.

Tests to determine the compacted density of the backfill shall be ordered by the Engineer if in his opinion the compaction is not adequate. Test showing a minimum compacted density of 90% modified proctor will be deemed adequate compaction.

5. INSTALLATION OF DUCTILE IRON PIPE

5.1 Pipe Laying - General

A. All pipe and accessories shall be unloaded, handled, laid, jointed, tested for defects and for leakage and chlorinated in the manner herein specified.

B. The pipe, fittings, valves, and accessories shall be inspected upon delivery and during the progress of the work and any material found to be defective will be rejected by the engineer and the contractor shall remove such defective material from the site of the work.

C. The contractor shall be responsible for all material furnished by him and he shall replace at his own expense all such material that is found to be defective in manufacturer or has become damaged in handling after delivery.

D. All pipe, fittings, valves, and other accessories shall, unless otherwise directed, be unloaded at the point of delivery, hauled to and distributed at the site of the work by the contractor. Loading and unloading, of pipe and fittings shall be by hoisting or by sliding, or rolling on skidways in such a manner as to avoid shock or damage to the material. Under no circumstances shall pipe or fittings be dropped. Pipe handled on skidways must not be skidded or rolled against pipe already on the ground.

The pipe, fittings and accessories shall be placed along the site in such a manner as to be kept as free as possible from dirt, sand, mud, and other foreign matter.

E. All pipe shall be laid and maintained to the lines and grades shown on the plans
or as established on the ground by the engineer.

F. Wherever it is necessary to deflect pipe from a straight line either in a vertical or horizontal plane to avoid obstructions, to plumb valves and hydrants, or where vertical or horizontal curves are shown or permitted, the degree of deflection at each joint shall not exceed the maximum deflection recommended by the manufacturer of the particular kind of pipe being laid and the degree of deflection shall be approved by the engineer.

G. After the trench grade has been completed and all bell holes dug and the grade inspected, the pipes and accessories may be placed in the trench. All pipe, fittings, valves, and hydrants shall be carefully lowered into the trench piece by piece by means of derricks, ropes, or other suitable tools or equipment, in such a manner as to prevent damage to the material in any way. Under no circumstances shall pipe or accessories be dropped or dumped in the trench.

H. Before lowering into trench the pipe shall be again inspected for defects and the pipe while suspended shall be lightly hammered to detect cracks. Any defective, damaged or unsound pipe and materials shall be rejected.

I. All foreign matter or dirt shall be removed from the inside of the pipe and from all bells, spigots or parts of the pipe used in forming the joint, before the pipe is lowered into the trench, and it shall be kept clean by approved means during and after laying.

5.2 Laying and Jointing Ductile Iron Pipe

A. Unless otherwise directed, pipe shall be laid with bells facing in direction of laying; and for lines on appreciable slopes, bells shall, at the discretion of the engineer, face up grade. Cutting of pipe for inserting valves, fittings or closure pieces shall be done in a neat and workmanlike manner without damage to the pipe or the cement lining.

B. The jointing shall be completed for all pipe laid each day. No open joints will be left in the trench overnight. At times when pipe laying is not in progress, the open ends of pipe shall be closed by approved means. No trench water shall be permitted to enter the pipe.

C. No pipe shall be laid in water, or when the trench conditions or weather is unsuitable for such work, except by written permission of the engineer.

D. Rubber Gasket joints for cast iron or ductile iron pressure pipe and fittings shall conform to AWWA Standard C-III.

E. Before laying the pipes, all lumps, blisters and excess coal tar coating shall be removed from the bell and spigot ends of each pipe; the outside of the spigot and the inside of the bell shall be wire brushed and wiped clean and dry. Pipe ends shall be kept clean until joints are made.

F. The pipe and fittings shall be properly aligned and free to move in any direction while bolting, and the bolts shall be gradually tightened at a uniform rate around the entire flange.

G. Flange joints where used shall be bolted with flange bolts of best quality mild steel and of the size and length required by AWWA C-II5: Bolts and nuts shall be provided with standard hexagonal heads. Gasket rings shall be used and shall be made of best quality rubber composition sheet packing one-eighth (1/8) inch thick, of a brand and quality approved by the engineer.

H. Standard plugs shall be inserted into the bells of all dead end pipes, tees, or crosses and spigot ends shall be capped. Plugs or caps shall be jointed to the pipe or fittings in the same manner used in joining the pipe.

6. SPECIFICATIONS FOR INSTALLING PRETENSIONED CONCRETE CYLINDER PIPE

6.1 General

The applicable portions of the specifications for installing ductile iron pipe shall apply except as amended or supplemented herein.

6.2 Pipe Laying

A. Pipe and fittings shall be handled with care at all times to avoid damage. They shall be lifted by hoists or slide or rolled on skid-ways in such manner as to avoid shock. Under no circumstances shall they be dropped. Pipe must not be skidded or rolled against other pipe or object.

B. Just before making the joint, the bell and spigot rings shall be thoroughly cleaned by wire-brushing until clean and dry. The gasket and the inside surface of the bell shall be lubricated with a light film or soft vegetable soap compound (flax soap) to facilitate telescoping the joint. The rubber gasket shall be stretched uniformly as it is placed in the spigot groove to insure a uniform volume of rubber around the circumference of the groove.

C. The joint shall be telescoped by pulling directly along the centerline of the pipe so that the spigot enters squarely into the bell. After the spigot has been telescoped into the bell, the bell end of the pipe being laid shall be moved in accordance with the plans to secure proper grade and alignment. After the joint is in place, a thin metal feeler gauge shall be used to check the position of the rubber gasket around the circumference of the joint.

D. The inside joint recess shall be filled immediately prior to placing the pipe together by buttering the bell end with mortar. After the joint is engaged, the joint mortar of pipe 18" in diameter and larger shall be finished off smooth by hand. The mortar in pipe smaller than 18" in diameter shall be smoothed and cleaned with a swab.

E. After the spigot has been telescoped into the bell, the joint checked and found satisfactory, a canvas wrapper shall be placed around the pipe, covering the joint. The canvas type wrapper shall be of the quality manufactured by the Mar-Mac Manufacturing Company or approved equal burlap type, and shall be hemmed at each edge to allow threading with a steel strap to securely fasten the wrapper around the pipe by means of a stretcher and sealer.

The wrapper shall have a minimum width of 7" and sufficient length to encircle the pipe leaving enough space between the ends at the top to allow the cement mortar to be poured. The entire joint shall be poured with cement mortar and rodded or agitated to eliminate voids and settlement. Prior to pouring the cement mortar the joint shall be thoroughly cleaned and saturated with clean water. Any joint showing shrinkage or excessive cracking shall be cleaned and remade. In hot weather,

additional measures may be required to obtain the best quality of joint, such as additional wet burlap, curing membrane, or immediate careful and well controlled backfilling of the joint with damp earth.

F. The mortar used at the exterior joint shall consist of one part Portland cement to 2-1/2 parts fine, sharp, clean sand and mixed with water to the consistency of thick cream. Mortar required at the joint shall not be placed in freezing weather unless adequately protected from freezing.

G. The joints for pipe to be installed in casing shall be made as for pipe laid in trench except that the outside portion of the joint shall be wrapped in a special polyurethane wrap impregnated with unhydrated cement manufactured for this purpose, prior to being jacked into the casing pipe. The wrap shall be "Flex-Protex" as manufactured by Mar-Mag Mfg. Corporation or approved equal. The interior of the joints shall be mortared after the pipe to be installed in casing has been jacked into place. The pipe shall not be moved after interior mortaring is completed. After the water line has been installed in the casing the ends of the casing shall be sealed using concrete or cement mortar.

H. Steel cylinder reinforced concrete pipe shall not be pressure tested until it has been in place a minimum of 14 days.

I. The contractor shall fill the steel cylinder reinforced concrete pipe under slight pressure and allow approximately 24 hours for water absorption by concrete lining before performing pressure test.

7. SETTING VALVES, VALVE BOXES, FIRE HYDRANTS AND FITTINGS

7.1 General

Valves and fittings shall be set at the locations shown on the plans or at locations as established by the engineer, and shall be set and jointed to the pipe in the manner heretofore specified for pipe installation. All valves buried in the ground shall have a cast iron valve box set over the valve and set to grade. All valves shall be set vertical, unless otherwise specified, and shall be thoroughly inspected and checked for operation before installation.

7.2 Valve Boxes

Cast Iron valve boxes shall be firmly supported and maintained centered and plumb over the wrench nut of the valve, with box cover flush with the surface of the ground or street paving.

Valve boxes shall be supported by a ring of concrete as shown on the plans and Detail Drawings. This ring shall be Class "A" concrete having a minimum thickness of six (6") inches and shall extend a minimum of twelve (12") inches in all directions from the outside diameter of the valve box and shall be supported on thoroughly compacted backfill.

7.3 Setting Fire Hydrants

A. Fire hydrants shall be located at points shown on the plans, the exact location of the hydrant to be established by the engineer. All hydrants shall be set plumb, to the grade as established by the engineer, and shall have their nozzles parallel with and/or at right angles to the curb, with the pumper nozzle facing the curb. The hydrants shall be supported in such a manner as not to cause a strain on the fire hydrant lead or branch.

The bowl of the hydrant shall be well braced against unexcavated earth at the end of the trench with concrete blocking. The concrete blocking shall be placed so as not to interfere with the hydrant drains and so that the joints or flanges are accessible.

B. Each hydrant shall be connected to the main with a six (6) inch ductile iron branch controlled by an independent six (6) inch gate valve. Each hydrant shall be set upon a stone or concrete slab not less than four (4) inches thick and not less than one square foot of surface area. Where solid rock exists in the bottom of the trench and same is excavated to the proper depth to form a foundation for the hydrant, the slab of stone or concrete may be omitted.

C. There shall be placed around the base of the hydrant not less than seven (7) cubic feet of sound broken stone or clean gravel, or other suitable material to provide reservoir capacity so that the hydrant will completely drain when closed. The gravel or broken stone shall reach from the bottom of the trench to at least six (6) inches above the waste opening in the hydrant. Each hydrant shall be operated by the contractor to prove to the inspector that the drain hole has not been plugged with concrete or other material.

8. ANCHORAGE OF BENDS, TEES AND PLUGS, ETC.

Reaction or thrust blocking shall be applied to all pipe lines at all tees, plugs, caps, valves, fire hydrants, and at bends deflecting 11-1/4 degrees or more. Concrete shall be used for blocking the pipe and fittings. Concrete for thrust block shall have a minimum compressive strength of 3,000 psi and shall conform to Texas Highway Department Class "A" concrete. Before thrust blocking is placed the element to be blocked shall be carefully wrapped in polyethylene sheeting having a minimum thickness of 3 mils. The blocking shall be placed between solid ground and the fitting to be anchored; the area of bearing on pipe and on the ground in each instance shall be that required by the engineer. The blocking shall be so placed that the pipe and fitting joints will be accessible for repair.

9. DISINFECTION OF PIPE LINES

The contractor shall furnish all labor, equipment, and materials necessary to the disinfecting of the new pipe lines which shall be disinfected before being placed in service. The lines shall be disinfected by the application of a chlorinating agent. The chlorinating agent may be a liquid chlorine, liquid chlorine gas water mixture, or a calcium hypochlorite solution, which shall be fed into the lines through a suitable solution feed device, or other methods approved by the engineer. The chlorinating agent shall be readily dissolvable and of a type that will rapidly mix with the water as it is loaded into the water line. Tablets or other solid form shall not be used unless they are dissolved before being placed into the line. The chlorinating agent shall be applied at or near the point from which the line is being filled, and through a corporation stop or other approved connection inserted in the horizontal axis of the newly laid pipe. The water being used to fill the line shall be controlled to flow into the section to be disinfected very slowly, and the rate of application of the chlorinating agent shall be in such proportion to the rate of water entering the pipe that the chlorine dose applied to the water entering the line shall be at least 50 parts per million. The treated water shall be retained in the pipe lines for a period of not less than twenty four (24) hours. At the end of the retention period all treated water shall be thoroughly flushed from the lines until the replacement water in the lines shall have a chlorine residual of not more than 0.2 parts per million. Where it is necessary to place the new lines in service in less than 24 hours, the concentration of chlorine may be increased to 300 ppm and the lines flushed and placed in service in 3 hours. Disinfecting procedures shall conform to AWWA C 601.

10. HYDROSTATIC TESTS

All pipe lines constructed under this contract before being accepted, shall be tested at 120% design pressure as described in the following paragraphs. This test shall apply to all newly laid pipe or any valved sections thereof.

The required test pressure (180 pounds per square inch) shall be maintained over a continuous period of not less than eight (8) hours.

Each valved section of pipe shall be slowly filled with water, being certain that all air is expelled from the pipe by using hydrants, blow-offs or taps at points of highest elevation in the line. The specified pressure shall be applied by means of a pump and flow meter (gpm and amount) connected to the pipe in a manner satisfactory to the engineer. The contractor shall furnish all necessary equipment, materials and labor to satisfactorily make the hydrostatic tests.

After the line section to be tested has been brought to pressure, a visual inspection shall be made of all joints, fittings, valves, and appurtenance. Any leaks thus located shall be corrected before continuing with the test.

If the test indicates a leakage in excess of a rate equal to twenty-five (25) gallons per inch of nominal diameter of pipe line per mile per day (maximum 600 gallon per mile per day total leakage) the cause of such leaks shall be determined and corrected and the line retested until satisfactory results are obtained.

11. REMOVING AND REPLACING PAVEMENT

A. When it is necessary to cut existing paving to install utilities the paving shall be repaired as soon after the backfill is consolidated or the cement stabilized backfill has reached sufficient strength as practical. The repair shall be made using Texas Highway Department Type "D" Hot Mix Asphaltic Concrete and shall have a minimum thickness equal to the thickness of the existing surface.

B. Edges along the trenches and around pits shall be saw cut to remove damaged edges and/or surface. Saw cuts shall be straight and parallel to or at right angles to the street or alley center line in so far as practical. Meandering, zig-zag or notched saw lines will not be permitted. The saw cuts shall be such that a minimum of 6" of surface is removed beyond the edges of the trench.

C. The edges of the saw cut and surface of the backfill material shall be tack coated prior to the placing of hot mix asphaltic concrete. The tack coat shall be either RC-250 cut back asphalt or RS2h emulsified asphalt or approved equal. When emulsified asphalt is used for tack coat the asphaltic concrete shall not be placed until the break of the emulsion is complete and all free water has evaporated or has been removed.

D. After the tack coat is cured the hot mix asphaltic concrete shall be placed uniformly throughout the repair area. The edges of the repair shall be squared up and the hot mix asphaltic concrete thoroughly compacted. Any large aggregate that is separated from the mix during the leveling process shall be removed from the surface and disposed of off the project. Care shall be taken that none of the mix overlaps the old paving. Any mix that has "scabbed" onto the paving shall be removed before the section is reopened to traffic.

Sufficient mix shall be placed so that the finished repair is from one eighth (1/8") inch to one quarter (1/4") inch above the old paving surface to allow for further consolidation by traffic.

12. TUNNELING UNDER UTILITY LINES, ETC.

Where pipes, conduits or concrete curbs, gutters or other obstructions are encountered in the construction, the cost of tunneling under such obstructions shall be included as a part of the cost of the pipe line, or other pay items, complete in place.

13. HIGHWAY CROSSING

A. The City of Midland will obtain any required permits from the State Highway Department for installation of the water line along and across the highway right-of-way. It shall be the contractor's duty and responsibility to coordinate the time of making the crossing and the manner of handling traffic.

B. Installations of the casing pipe shall be accomplished by boring or open cut trench as indicated on the drawings and in accordance with the Texas Department of Transportation permit and requirements. Equipment used shall be of such size and capacity as to allow the placement of the casing to proceed in a safe and expeditious manner. Installation of the casing and the excavation and removal of the materials

within the casing shall proceed simultaneously.

The boring shall proceed from a pit provided for the boring equipment and workmen. Excavation and location of the pit shall be approved by the Engineer. Boring without the concurrent installation of the casing pipe will not be permitted. The use of water or other fluids in connection with the boring operation will be permitted only to the extent of lubricating cuttings. Jetting will not be permitted. Overcutting in excess of one inch shall be remedied by concrete pressure grouting the entire length of the installation. All joints for casing pipe installed in bore shall be welded. Care shall be taken to keep the casing pipe on the proper line and grade.

C. After the casing pipe has been installed and is accepted by the Engineer, the pipe shall be shoved through the casing. The pipe shall be pushed or pulled through the casing by exerting pressure on the barrel of the pipe and not on the bell, and shall be done in such a manner that the joint is always in compression during the shoving operation. Hardwood, or other suitable material skids shall be banded with stainless steel bands to each joint of pipe in accordance with the pipe manufacturers recommendation. The hardwood skids shall be of sufficient dimensions to allow the bell of the pipe to clear the casing pipe by at least one-half inch. The length of the skid shall be in accordance with the pipe manufacturers recommendations. A minimum of three bands shall be used to secure the skids to the pipe. The skids shall be such that the carrier pipe will be centered in the casing pipe. The design of skids and bonding techniques shall be submitted to the Engineer for approval prior to use.

In general waterline installation in the casing pipe shall conform to AWWA C 600-Section 6 requirements.

After completion of pipe installation in casing, the ends of the casing shall be sealed off by use of concrete grout. The minimum compressive strength of the grout shall be 2,000 psi in 28 days.

14. SHORING & SHEETING

14.1 Description

This item shall govern for the Trench Safety Systems required for the construction of all trench excavation to be utilized in the project and including all additional excavation and backfill necessitated by the safety system. A trench shall be defined as a narrow excavation (in relation to its length) made below the surface of the ground. In general, the depth is greater than the width, but the width of a trench (measured at the bottom) is not greater than 15 feet. The depth is five feet or more.

Trench Safety Systems include but are not limited to sloping, sheeting, trench boxes or trench shields, sheet piling, cribbing, bracing, shoring, dewatering or diversion of water to provide adequate drainage.

14.2 Construction Methods

Trench safety systems shall be accomplished in accordance with the detailed specifications set out in the provisions of Excavation, Trench, and Shoring, Federal Occupational Safety and Health Administration (OSHA) Standards, 29CFR, Part 1926, Subpart P, as amended, including Proposed Rules published in the Federal Register (Vol. 52, No. 72) on Tuesday, October 31, 1989. The sections that are incorporated into these specifications by reference include Sections 1926-650 through 1926-652. Legislation that has been enacted by the Texas Legislature, being Tex. Rev. Civ. Stat. Ann. arts. 1015q, 2368a.6 (Vernon Supp. 1988) with regard to Trench Safety Systems, is hereby incorporated, by reference into these specifications.

A reproduction of the OSHA Publication 2226 is attached for the convenience of the Contractor. The City assumes no responsibility for the accuracy of the reproduction or that it reflects current law. The Contractor is responsible for obtaining a copy of this section of the Federal Register for his use.

If the contractor elects to use a trench protective system that, in the Proposed Rules, requires "Design by a qualified person or a qualified engineer," [For example see 1926.652(b) (3) and 1926.652(c) (4)], "a qualified person or qualified engineer" shall be a Professional Engineer registered in the State of Texas. The Contractor is responsible for obtaining boring and soil analysis as required for the planned design. The trench excavation is to be designed in conformance with OSHA standards and regulations.

14.3 Safety Program

The Contractor shall submit a safety program specifically for the construction of trench excavation. The trench safety program shall be in accordance with OSHA standards governing the presence and activities of individuals working in and around trench excavation.

14.4 Inspection

The Contractor shall make daily inspections of the Trench Safety Systems to ensure that the systems meet OSHA requirements. Daily inspection is to be made by a "competent person" provided by the Contractor. If evidence of possible cave-ins, or slides, is apparent, all work in the trench shall cease until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench. It is the sole duty, responsibility and prerogative of the Contractor, not the owner or the Engineer, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project. The Contractor shall maintain a permanent record of daily inspections.

14.5. Safety Restrictions - work near high voltage lines

The following procedures will be followed regarding the subject item on this contract:

A. Warning signs painted yellow with black letters that are legible at twelve 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."

B. All equipment except back hoes or dippers that may be operated within ten feet of high voltage lines shall have an insulating cage-type of guard about the boom or arm and insulator links on the lift hook connections.

C. When necessary to work within six feet of high voltage electric lines, notification shall be given the power company 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.

D. The Contractor is required to make arrangements with the Power Company for the temporary relocation or raising of high voltage lines at the Contractor's sole cost and expense.

15. MEASUREMENT AND PAYMENT

15.1 General

The unit price or lump sum price bid on each item, as stated in the proposal, shall include furnishing all labor, superintendence, machinery, equipment, and materials necessary to complete the various items of work in accordance with the plans and specifications. Cost of work or materials shown on the plans and called for in the specifications and on which no separate payment is made shall be included in the bid price on the various pay items.

15.2 Water Lines

A. Measurement

The length of pipe lines for the various sizes, classes and types to be paid for will be determined by measurement along the center lines of the pipe installed, measurement being made from the center of fitting to center of fitting or end of pipe, without any deduction for the length of intermediate fittings or valves including pipe installed in casing.

B. Payment

Furnishing and installing approved type pipe of the various sizes and classes shown on the plans or as required will be paid for at the unit price bid per linear foot for furnishing and installing the various sizes and classes of approved pipe complete in place. The unit price bid shall be complete compensation for furnishing and installing the pipe complete in place including all excavation, backfilling, testing and disinfection of lines and shall include any and all incidental work not otherwise included in the bid items or otherwise provided for in the specifications.

I5.3 Solid Rock Excavation

All excavation for pipe trenches shall be unclassified and no extra compensation will be made for solid rock excavation. The contractor is expected to make boring of his own and satisfy himself to the character of material which will be encountered.

I5.4 Gate Valves or Butterfly Valves

A. Measurement

Gate valves or butterfly valves will be counted in the field after installation by the size and type specified and actually installed.

B. Payment

The unit price bid for each type and size valve shall be complete compensation for furnishing and installing the valves, complete in place, including the furnishing and installation of cast iron valve boxes on all valves to the finished grade of the adjacent surface. All valves in paved areas shall be set to finish pavement grades

I5.5 Fire Hydrants

A. Measurement

Fire hydrants will be counted in the field after installation in accordance with the plans and specifications.

B. Payment

The unit price bid shall be complete compensation for furnishing and installing the fire hydrants, complete in place, each, including lead pipe the gravel drain, concrete blocking, extension or additional bury depth as required for a complete installation.

I5.6 Service Connections

A. Measurement

The number of service connections of the type and size specified to be paid for will be counted in the field after complete installation.

B. Payment

The unit price bid shall be complete compensation for furnishing and installing the service connections, complete in place, including the meter box and lid, service line, corporation stop, meter stop and incidentals required for a complete installation.

I5.7 Ductile Iron Fittings

A. Measurement

The weight of the various ductile iron fittings and specials were estimated by using the standard weights for cast iron fittings as established by the American Water Works Association or American Standard Association. Measurement of ductile iron fittings will be made by counting the actual number of fittings installed and multiplying the number of fittings by the catalog weights for those types of fittings actually installed. Allowance will be made for glands and bolts.

B. Payment

The ductile iron fittings or specials required in the construction of the various size pipe lines as shown on the plans or as required will be paid for at the unit price bid per ton for furnishing and installing the ductile iron fittings complete in place. The unit price shall also include all materials, excavation, backfilling, concrete blocking and other incidental work required for the complete installation.

I5.8 Steel Cylinder Concrete Pipe Fittings

A. Measurement

No separate measurement or count of fittings and specials for steel cylinder concrete pipe will be made.

B. Payment

No separate payment will be made for fittings or specials for steel cylinder concrete pipe used on this project, but the cost of same shall be included in the price bid per linear foot for the various classes and sizes of pipe in the bid proposal.

15.9 Casing Pipe In Bored Hole Or Open Cut

A. Measurement

Measurement of the casing pipe, of the type and size specified, shall be made by the linear foot of casing installed complete in bored hole or installed complete in open cut.

B. Payment

The unit price bid per linear foot for casing in bored hole or for casing in open cut shall be complete compensation for furnishing and installing the casing, complete in place, including all pits, boring equipment, materials and labor required for a complete installation. Payment for carrier pipe installed in the casing will be made as stated under Waterlines above.

15.10 Paving Cut and Repair

A. Measurement

Measurement of paving cut and repair will be made by the square yard for replacing pavement of the type specified. The area of the pavement replaced shall be determined by actual measurements on the ground; however, measurement will be limited to areas within widths of cuts as shown on the plans unless additional widths are authorized by the engineer. Any pavement removed or damaged outside of the aforementioned limits shall be replaced as prescribed with these specifications, but will not be measured for payment.

B. Payment

The unit price bid, per square yard, shall be complete compensation for cutting and removing the pavement, and constructing the concrete base and surfacing of the type specified, all as specified herein and as shown on the plans.

15.11 Trench Safety Systems, Sheeting and Shoring

A. Measurement

Trench Safety Systems shall be measured by the linear foot along the centerline of trench including manholes and other line structures.

B. Payment

Payment for Trench Safety Systems, measured as prescribed above, shall be made at the unit price bid per linear foot of "Trench Safety Systems: Payment of all work prescribed under this item shall be full compensation for the Trench Safety Systems including all Engineering cost and any additional excavation and backfill required, for furnishing, placing, maintaining and removing all shoring, sheeting, or bracing; for dewatering or diversion of water; for all jacking and jack removal; and for all other labor, materials, tools, equipment and incidentals necessary to complete the work.

Revised 08/07

GRAVITY FLOW PIPE SEWERS AND FITTINGS FOR WASTE WATER AND STORM WATER

PART I – GENERAL

1.01 SCOPE

- A. The work covered by this specification shall include the furnishing of all material, labor and equipment to construct, complete in place, all Gravity sewers including jointing, gaskets, fittings, castings, mortar, concrete, the placing of sewer pipe, and the construction of manholes and other appurtenance, all in accordance with the details shown on the plans and these specifications for the drainage of sanitary and/or storm sewage.
- B. Sanitary and storm sewer lines constructed under these specifications shall be straight in grade and alignment between manholes. Manholes shall be constructed at any change in grade and at any change in alignment. In general manholes are to be constructed at 300 feet intervals or less with the maximum distance between manholes being 350 feet when approved by the Engineer.

1.02 QUALITY ASSURANCE

- A. The Contractor, at the Engineer's request, shall furnish a certificate from the manufacturer of the pipe and fittings that the manufacturer is fully competent and capable of manufacturing sewer pipe, fittings, and accessories of the type, size and grade proposed for use in this project that are of uniform texture and strength that will fully comply with these specifications and have so manufactured this class of pipe in sufficient quantities to be certain that it will meet all normal field conditions of usage. The manufacturer must have adequate equipment and quality control facilities to be sure that each extrusion casting or run of pipe is uniform in texture, dimensions, and strength.
- B. All PVC, HDPE, or plastic resin based pipe and fittings shall be covered during storage to protect them from excessive heat and direct sunlight.
- C. All pipe and accessories shall be stored above ground and fully supported so that they will not bend or deflect excessively under their own weight.
- D. Pipe in any way damaged or deformed during storage shall not be incorporated into this project, but at the direction of the Engineer, shall be permanently removed from the job site and project area.

1.03 TYPE OF PIPE

- A. Pipe for sanitary sewers 15 inches in diameter and less shall be PVC. Pipe for storm drains 15 inches in diameter and less may be corrugated steel pipe when called for on the plans and in the bid proposal. Pipe 18 inches in diameter and larger shall be of the type shown on the plans and bid proposal.

- B. The contractor may be allowed to bid a choice of two or more of the pipe materials when pipe 18 inches in diameter and larger are proposed for use on a project. When such choice is allowed the permissible choices will be clearly stated on the plans and/or bid proposal and a blank space will be provided for the contractor to write in the type of pipe proposed for use on the project. When such blank spaces are provided, the contractor must choose one of the permitted pipe materials as specified in part 2 "Materials" of these specifications and write in the type of pipe bid. Failure to write in the type of pipe bid may be reason to disqualify the bid. One or more types of pipe 18 inches in diameter and larger may be excluded from consideration on any given project by notes on the plans and/or the bid proposal.

PART 2 – MATERIALS

2.01 POLYVINYL CHLORIDE (PVC) PIPE AND FITTINGS FOR SANITARY AND STORM SEWERS

A. GRAVITY SEWERS

- (1) Pipe and fittings in nominal diameters from 4-inch through 15-inch shall be manufactured in accordance with ASTM D3034, "Type PSM Polyvinyl Chloride (PVC) Sewer Pipe and Fittings" and pipe and fittings in diameter 18" through 36" shall be manufactured in accordance with ASTM F-679 or ASTM F-794, closed profile, subject to the modifications and limitations below.

B. MODIFICATIONS AND LIMITATIONS

- (1) The concrete slab manhole tops shall be reinforced with number 4 steel reinforcing bars spaced at 12 inches on center each way. Additional diagonal bars shall be placed on 4 sides around the manway opening. The diagonal bars shall be number 4 rebar with a minimum length equal to the diameter of the manway opening plus 4 inches. The steel reinforcing mat shall be placed in the bottom of the slab with 1-1/2 inches protective covering.
- (2) The term Dimension Ratio (DR) or standard dimension ratio (SDR) is the ratio of the average outside pipe diameter to the minimum wall thickness rounded to the nearest 0.5. The maximum DR for PVC sewer pipe shall be 35. PVC pipe sewers that will have less than 4 feet of cover shall be DR26.
- (3) PVC pipe manufactured under ASTM F679 or F794 shall have a wall thickness that will meet or exceed the D.R. and stiffness specified herein. The minimum pipe stiffness for pipe having a DR of 26 shall be 115 psi. The minimum pipe stiffness for DR 35 pipe shall be 46 psi.
- (4) Where DR 26 pipe is specified, all necessary fittings shall be the same as for SDR 35 PVC pipe.

(5) Minimum wall thickness for ASTM D-3034 PVC pipe shall be as follows:

Nominal Size (in.)	Min. Wall Thickness (in.)	
	DR 26	DR 35
4	0.162	0.120
6	0.241	0.180
8	0.323	0.240
10	0.404	0.300
12	0.481	0.360
15	0.588	0.437

The minimum wall thickness for PVC pipe meeting ASTM F-679 or F-794 requirements shall be the thickness as set forth in said ASTM specification that will meet or exceed the pipe stiffness and DR required.

- (5) The identification markings as shown in Section 12 of ASTM 3034 shall note the specified DR of 26 where applicable.
- (6) All pipe and fittings shall have the dimensions for inside diameter, outside diameter, etc. as shown in ASTM D3034 and/or ASTM F-679 except that the inside diameter DR 26 may be reduced by the added wall thickness.
- (7) The pipe and fittings shall be homogeneous throughout and free from visible cracks, holes, foreign inclusions, or other injurious defects. The pipe shall be as uniform as commercially practical in color, opacity, density, and other physical properties.
- (8) The Contractor shall provide wyes, tees, bends, adapters, and any other fittings called for in the specifications and/or shown on the plans or directed by the Engineer.
- (9) The standard length of ASTM, D-3034 SDR 35 or SDR 26 PVC pipe under this specification shall be 20 feet with a minimum of 10 feet, except that all pipe used in service lines shall not exceed 10 feet in length unless otherwise approved by the Engineer. The standard laying length for ASTM F-679 PVC pipe shall be 13 feet. The Engineer must approve other laying lengths.

C. SEWER LATERALS AND CONNECTIONS

Pipe and fittings for service lines shall be the same material and thickness class as required for the main sewer. Schedule 40 PVC pipe may be used for 4" service lines when PVC pipe meeting requirements of ASTM 3034, SDR 35 is required.

D. JOINING SYSTEMS

(1) PIPE JOINTS

The pipe shall be joined with an integral bell, bell and spigot type rubber gasket joint. Each integral bell joint shall consist of a formed bell complete with a single rubber o-ring gasket. Gaskets shall be manufactured in accordance with ASTM F477 and shall be installed in accordance with the pipe manufacturer's instructions using all the necessary materials, lubricants and equipment recommended by the manufacturer.

For pipe 18" through 36" gaskets shall be factory installed and chemically bonded to the bell end of the pipe.

Lubricant shall be water soluble, non-toxic and have no deteriorating effects on gasket or pipe materials and shall not support the growth of bacteria. Lubricant shall be suitable for use at temperatures from 5° to 120° F (-15° to 50° C). Containers shall be labeled with the manufacturer's name and identified as PVC pipe joint lubricant. Each lubricant container shall have printed instructions for usage and joint assembly.

Field welded joints will not be allowed.

(2) FITTING JOINTS

All fittings shall utilize rubber gasket joints of the same type design and specifications as pipe joints.

(3) PIPE SPIGOT

The pipe spigot shall have a bevel and an insertion stop mark. The assembled joint shall be designed so the gasket shall be radially compressed to assure a positive water-tight seal for all installation conditions recommended by the manufacturer and under all combinations of production tolerances for the joint components. Each size joint shall be qualified to no leakage under various test conditions in conformance with ASTM Specification D-3212, "Joints for Drain and Sewer Plastic Pipes Using Flexible Elastomeric Seals."

E. INSPECTION AND TESTING

(1) INSPECTION REQUIREMENTS

Certification: as the basis of the acceptance of the material, the manufacturer will furnish a certificate of conformance to these specifications. The manufacturer will furnish other conformance certification in the form of affidavit of conformance, test results, and copies of test reports.

(2) PHYSICAL TEST REQUIREMENTS

For each 4,000 linear feet of pipe manufactured of each class and size of pipe, the following certified test data shall be required:

1. The basic dimensions shall be measured.
2. The allowable crush load (lbs/ft²) shall be calculated.
3. Impact resistance, fusion quality and ductility shall be tested.

F. MARKING AND DELIVERY

Each pipe shall be identified with the name of manufacturer, nominal size, cell classification, ASTM designation F794, Uni-Bell Plastic Pipe Association designation Uni-B-9, the pipe stiffness designation "PS-46 psi" and manufacturer's date code.

1. MANHOLE CONNECTIONS

The Contractor shall provide smooth pieces of pipe for connecting sewer line into manholes. The Contractor shall be required to assist the manhole gasket supplier with the nominal outside diameter of these smooth pieces of pipe, as manufactured. There shall be only one plain end thickness for each diameter of pipe specified for the project.

2. DELIVERY

All pipe couplings and fittings shall be prepared for standard commercial shipment.

The pipe shall be inspected upon delivery to the job site for final acceptance. The contractor shall be responsible for all material furnished by him and he shall replace, at his own expense, all such material that is found to be defective in manufacture or which has become damaged in handling until final acceptance has been made. Pipe, which exhibits excessive ovality or curvature, shall be rejected.

PVC pipe and fittings shall be covered during storage to protect them from excessive heat and direct sunlight.

All pipe and accessories shall be stored above ground and fully supported so as not to bend or deflect excessively under its own weight.

2.01(a) Metallic Marking Tape (For PVC Sewer Pipe)

2.01 (a).1 General

When non-metallic pipelines are to be installed, then the Contractor shall furnish and lay, above the pipeline, a continuous strip of metallic identification tape.

2.01 (a).2 Tape Material

The metallic identification tape shall be at least two inches (2") in width and shall be of corrosive resistant metal of sufficient thickness to be stable and reflect electronic signals to electronic pipeline detector when buried to a depth of twenty-four (24") below normal ground level.

The metallic tape shall be painted green on one side and shall have 1-inch high letters painted continuously on the same side of the tape which read, "CAUTION: BURIED SEWER LINE BELOW" or other words to this effect.

The marking tape shall be "Detectable Marking Tape", as manufactured by the Omega Marking Company, or equal approved by the Engineer.

2.01(a).3 Construction Methods

The Contractor shall backfill over non-metallic pipelines to a depth which is less than twenty-four (24") and not more than twelve inches (12) from the top of the cut of the ditch section in which the pipeline is laid. Contractor shall stop the backfilling material to a generally uniform level. All machine tamping, jetting and other compaction activities shall be accomplished up to this point of height in the backfilling the marking tape is placed in the trench.

The Contractor shall then lay the marking tape in the pipe trench and shall be held in position by the spot placement of backfill materials over it to keep it from sliding to the sides and/or from being blown about in the ditch by the wind. The tape shall be laid with the painted side, which shall also be the side with the identification lettering on it, in the "up" position. The tape shall be laid in the flat position and kept there until backfill is accomplished.

The Contractor shall then complete the backfilling operation in such a manner that the marking tape is not cut, crimped, ruptured or separated by the backfilling work.

2.01(a).4 Measurement and Payment

No separate pay item will be provided for furnish and placing the marking tape. This item shall be considered subsidiary to the non-metallic pipe being placed.

2.02 CORRUGATED STEEL PIPE (CSP) FOR STORM SEWERS AND CULVERTS ONLY

1. PIPE

A. STEEL SHEET STOCK

- (1) Corrugated steel pipe shall be manufactured using galvanized steel sheet AASHTO M 218 or aluminized steel sheet AASHTO M 274.

- (2) The lining for smooth lined corrugated steel pipe shall be polymer coated on both sides. The minimum thickness of the polymer coating shall be 10 mils.

B. PIPE DESIGNATION

- (1) Pipe furnished shall be manufactured in accordance with AASHTO Specification M 36.
- (2) Corrugated steel pipe shall be one or more of the following type as designated in AASHTO M 36.

Type I - Full circular cross section having helical corrugations.

Type IA - Full circular smooth lined pipe constructed of an outer shell having helical corrugations with a smooth sheet lining attached to the outer shell at helical lock seams.

Type IR - Full circular cross section with helical rib protruding outward.

Type II - Type I pipe formed into a pipe arch.

Type IIA - Type IA pipe formed into a pipe arch.

The type of pipe furnished on this project will be as shown on the plans and in the bid proposal.

When no type of pipe is called for on the plans or in the bid proposal helically corrugated circular single wall pipe (Type I or Type IR) shall be furnished.

C. MANUFACTURERS CERTIFICATION

- (1) The pipe manufacturer will be required to certify the adequacy of the pipe furnished for the application and design life of the project.
- (2) The design life for storm sewers constructed under this specification is 50 years.
- (3) The pipe manufacturer will be required to run soil pH, soil resistivity and such other test as they deem necessary to design pipe thickness and protective coatings required to assure the adequacy of the pipe supplied.

D. CORRUGATION AND MINIMUM THICKNESS

- (1) Thickness used in this specification refers to the bare steel thickness before coating is applied. The minimum thickness for any single wall corrugated steel pipe furnished under this specification is 16 gage.

- (2) All corrugated steel pipe furnished under these specifications shall have helical corrugations.
- (3) Circular corrugated steel pipe 48" in diameter and smaller shall have 2-2/3" x 1/2" corrugation and shall be a minimum of 16 gage in thickness.

Circular corrugated steel pipe larger than 48" in diameter may have either 2-2/3 x 1/2" or 3" x 1" corrugations. The minimum thickness for corrugated steel pipe larger than 48" in diameter and having 2-2/3 x 1/2" corrugation shall be as follows:

54" Diameter - 12 gage
60" Diameter - 10 gage
66" through 90" Diameter - 8 gage

The minimum thickness for circular corrugated steel pipe having 3" x 1" corrugation and diameters of 54" through 90" shall be 14 gage.

- (4) For smooth lined corrugated steel pipe the minimum thickness for the lining shall be 20 gage and the minimum thickness for the outer shell shall be 18 gage.

The corrugations for the outer shell shall be 2-2/3" x 1/2" for pipe 48" diameter and smaller. Larger diameter pipe may use 3" x 1" corrugations in the outer shell. The sum of the thickness for the outer shell and the liner shall be a minimum of one thickness unit greater than the thickness that would be required for single wall pipe of the same diameter or span.

- (5) Spiral rib steel pipe (Type IR) shall have outward projecting spiral corrugations of 3/4" x 1" at 11-1/2" on center in accord with AASHTO specification M 36 or 3/4" x 3/4" at 7-1/2" on center as described in AASHTO specification M 196.

The minimum thickness for spiral rib pipe 48" in diameter and smaller shall be 16 gage.

The minimum thickness for spiral rib pipe 54" and 60" in diameter shall be 14 gage.

The minimum thickness for spiral rib pipe 66" and 72" in diameter shall be 12 gage.

The minimum thickness for spiral rib pipe larger than 72" in diameter shall be as shown on the plans.

- (6) The corrugations and minimum thickness of corrugated steel pipe arch shall be in accord with the following table:

EQUIV. Dia. (in.)	2-2/3" x 1/2" Corrugations			3" x 1"			
	Span (in.)	Rise (in.)	Gage	Nominal Size Span (in.)		Gage Rise (in.)	
15"	17	x 13	14				
18"	21	x 15	14				
24"	28	x 20	14				
30"	35	x 24	14				
36"	42	x 29	14	40	x	31	16
42"	49	x 33	12	40	x	36	14
48"	57	x 38	10	53	x	41	12
54"	64	x 43	10	60	x	46	12
60"	71	x 47	8	66	x	51	12
66"	77	x 52	8	73	x	55	12
72"	83	x 57	8	81	x	59	12
78"				87	x	63	12
84"				95	x	67	12
90"				103	x	71	12

When 2-2/3" x 1/2" corrugations are called for on the plans and/or on the bid schedule the substitution of 3" x 1" corrugations will be allowed only upon the demonstration by the contractor that there is sufficient head room to accommodate the higher rise for arch pipe of this cross section.

E. END TREATMENT AND JOINING

- (1) The ends of all corrugated steel pipe furnished for this project shall be rolled to provide circumferential corrugations for coupling. The end corrugations for all pipe 48" in diameter and less shall be 2-2/3 x 1/2". The end corrugations for single wall helically corrugated steel pipe or for smooth lined corrugated steel pipe 54" in diameter and larger shall be the same pitch as the pipe furnished and may be either 2-2/3" x 1/2" or 3" x 1". The end corrugations for spiral rib (Type IR) corrugated steel pipe shall be 2-2/3" x 1/2" or 3" x 1" for pipe 54" and larger in diameter.
- (2) Coupling bands shall be made of the same material as the pipe and shall be not more than 3 nominal sheet thicknesses lighter than the pipe joined and in no case less than .052 inch.

Jointing devices for joining corrugated steel pipe shall have a gasket and shall produce a joint meeting the infiltration/exfiltration requirements of these specifications.

If it should be necessary to cut a joint of Helically corrugated pipe and join the unreformed end to another section of pipe or fitting extra width bands will be required and special care must be taken to insure a water tight connection.

Locking bands shall be corrugated and shall securely fit into at least one full annular corrugation. The corrugations on the locking band must match the corrugations on the pipe being joined.

The minimum width for locking bands is as follows:

for 2-2/3 x 1/2 inch corrugations	10-1/2 inches
3 x 1 inch corrugation	12 inches

For helical corrugations that have not been reformed the coupling bands must be at least 2 inches wider than the widths listed above.

Unless shown otherwise on the plans all bolts for coupling or locking bands shall be 1/2 inch in diameter. Bands 12 inches wide or less shall have a minimum of 2 bolts. Bands wider than 12 inches shall have a minimum of 3 bolts.

Bolts must be galvanized in accordance with AASHTO Designation M232 or ASTM A164 Type RS.

- (3) Gaskets for corrugated steel pipe shall be closed cell expanded rubber and shall be formed into a continuous band. Gaskets may be either "O" ring or flat band as recommended by the pipe manufacturer. Flat band gaskets shall be a minimum of 7" wide and 3/8" thick. "O" ring gaskets shall be 13/16" diameter minimum for pipe 36" in diameter or less and 7/8" for pipe larger than 36" diameter and having 1/2" deep corrugations. "O" ring gaskets shall be a minimum of 1-3/8" diameter for pipe having 1" deep corrugations. When "O" ring gaskets are furnished, an additional flat gasket shall be furnished and placed between the overlapping ends of the coupling band. This flat gasket shall completely fill the gap between the "O" rings. All gasket materials shall be capable of producing a water tight joint that will meet the leakage requirements of these specifications.

2. CORRUGATED STEEL MANHOLE FITTINGS, AND CLEAN OUTS

A. FABRICATION

- (1) Corrugated steel manholes and fittings shall be constructed of the same material and type of pipe furnished for the storm sewer line with the exception that manhole risers shall be helical corrugated single wall circular pipe when used with pipe arch sewers or smooth lined corrugated steel pipe. The thickness of the manhole riser shall be the same as would be required for the same type and diameter pipe if it were used for the storm sewer.
- (2) Cleanouts for use on shallow storm sewer and inlet leads shall be manufactured from pipe meeting the requirements of these specifications. Cleanouts shall be constructed to the dimensions and in accord with the details shown on the plans.

B. CONNECTION TO MANHOLES AND CLEANOUTS

- (1) Stub outs from manholes and cleanouts for connection to storm sewers and inlet leads shall have annular corrugations and shall be compatible with the type and size of pipe being connected. Stub outs provided for connection to PVC pipe storm sewers and inlet leads shall be sized so that the PVC pipe can be inserted into the stub leaving the least amount of annular space between the PVC pipe and the CSP practical. The PVC pipe shall be connected using an approved molded rubber or PVC sleeve connector clamped to both pipes with stainless steel straps.

The connector shall be a flexible coupling as manufactured by Fernco, 300 S. Dayton St., Davison, MI., or approved equal.

C. LEAKAGE

Manholes, fittings and cleanouts shall meet the leakage requirements of these specifications.

D. SHOP DRAWINGS

The contractor shall submit shop drawings of all manholes, fittings and cleanouts for approval prior to their fabrication. A minimum of 5 sets of drawings for each manhole, each fitting and each cleanout shall be submitted.

E. CONCRETE SLAB TOPS

A reinforced concrete slab top shall be constructed for each manhole and cleanout. The slab shall extend to one foot (1') outside the riser section on all sides and shall have an eccentric 2' diameter opening for the manway located at the outside edge of the riser section. For manholes and cleanouts designated for standard manhole rings and covers the concrete top shall be 8 inches thick and shall be finished smooth to receive the manhole ring.

For manholes designated to receive pressure type manhole rings and covers the concrete slab top shall be a minimum of 12 inches thick and shall have L bolts imbedded in the concrete to fit the requirements of the manhole ring furnished. The slab shall be finished smooth to receive the manhole ring. The manhole ring shall be securely bolted to the slab and sealed using "Ram Nek" or an approved equal bitumastic sealer between the manhole ring and the concrete slab.

The concrete slab manhole tops shall be reinforced with number 4 steel reinforcing bars spaced at 12 inches on center each way. Additional diagonal bars shall be placed on 4 sides around the manway opening. The diagonal bars shall be number 4 rebar with a minimum length equal to the diameter of the manway opening plus 4 inches. The steel reinforcing mat shall be placed in the bottom of the slab with 1-1/2 inches protective covering.

F. PRESSURE MANHOLE RING AND COVER

- (1) Pressure type manhole rings and covers shall be Western Iron Works No. 380-24P or approved equal. The manhole cover shall be sealed with an "O" ring gasket in a ring groove and shall be secured to the ring by six (6) 5/8-inch stainless steel bolts.
- (2) The ring shall have six (6) 1-1/4 inch bolt holes in the flange for securing the ring to the concrete slab top on the manhole.

3. CORRUGATED STEEL PIPE SLOTTED DRAIN

- (1) Corrugated steel pipe slotted drains shall be fabricated from full circle corrugated steel pipe conforming to these specifications.
- (2) C.S.P. Slotted drains shall be of a type as manufactured by "Contech Construction Products, Inc.", "Texas Corrugators", "Caldwell Culvert Company" or approved equal.
- (3) The upstream end of CSP slotted drains shall be equipped with a bend and a ring and cover of the same size as the pipe from which the slotted drain was fabricated to allow cleaning equipment to be inserted into the slotted drain. The ring and cover shall be Nenah Foundry Co. R-5901 open grate or R-5900 solid lid or approved equal. Unless shown otherwise on the plans the open grate shall be furnished.
- (4) When slotted drain is to be connected to PVC leads, molded rubber or PVC flexible connector as specified for connections to manholes and cleanouts shall be furnished.

4. DAMAGED COATING

A. PROTECTION OF PIPE

- (1) Pipe fittings and specials shall be handled and stored in a manner that will minimize damage to the coating.
- (2) The fabrication process shall be designed to minimize the burning of coatings during welding.
- (3) Pipe and/or fittings showing excessive abuse or damage will be rejected.

B. REPAIRING DAMAGE

- (1) Pipe on which the metallic coating has been burned by welding or has been otherwise damaged in fabricating or handling, shall be repaired. The repair shall be done so that the completed pipe shall show careful finished workmanship in all particulars.

- (2) The damaged area shall be cleaned to bright metal by blast cleaning, power disk sanding, or wire brushing. The cleaned area shall extend at least ½ inch into the undamaged section of the coating. The cleaned area shall be coated within 24 hours and before any rusting or soiling.
- (3) Zinc-rich paint shall be applied to a dry film thickness of at least 0.005 inches over the damaged section and surrounding cleaned area. Zinc-rich paint shall be used for repair of damage to all types of metallic coating -zinc, aluminum, and aluminum-zinc alloy.

2.03 CAST-IN-PLACE CONCRETE SEWER PIPE (NON-REINFORCED) FOR STORM SEWERS ONLY

1. DESCRIPTION

This item shall cover machine cast-in-place monolithic non-reinforced concrete pipe, which shall consist of Portland cement concrete placed in a prepared trench at such locations and grades shown on the plans and intended to be used for the conveyance of storm water. Items and item numbers referred to in this specification are the items as given in the "Texas State Department of Highways and Public Transportation 1982 Standard Specifications for Construction of Highways, Streets and Bridges."

2. MATERIALS

The cast-in-place pipe shall be constructed of Class "C" concrete. The concrete shall meet the requirements of Item 421, "Concrete for Structures," and Special Provision thereto, except as otherwise noted herein or on the plans. Type III Portland Cement shall be used.

The minimum compressive strength for concrete used in this item is 4000 psi. Backfilling operations may proceed when the concrete has reached 2000 psi compressive strength.

The coarse aggregate grading for pipe diameters 48 inches or less shall conform to that of Aggregate Grade No. 3, one inch (1") maximum size aggregate under Item 421. For pipe diameters over 48 inches, Coarse Aggregate No. 2, one and one third inch (1-1/3") maximum size aggregate shall be used.

No concrete having a slump in excess of 2" will be permitted for use in pipes with diameters of 48 inches and over. For pipes with diameters less than 48 inches, no concrete having a slump in excess of 3" will be permitted for use. At the option of the Contractor, sections of precast reinforced concrete pipe (D-load) may be substituted for cast-in-place concrete pipe. Pipe and installation shall conform to the requirements of Item 465, "Pipe Sewers." Backfill shall be in accordance with the requirements for other storm sewers in these specifications using crusher fines (chat).

3. PIPE MAKING EQUIPMENT

The pipe shall be constructed with equipment specially designed for constructing cast-in-place monolithic concrete pipe. The equipment shall be acceptable to the Engineer and the Contractor may be required to furnish evidence of successful operation in other work of the equipment he proposes to use. Equipment not suitable to produce the quality of work required for the pipeline will not be permitted to operate on the project.

4. DIMENSIONS AND TOLERANCES

The design shell thickness shall be as specified in Table 1.

TABLE I	
Internal Diameter inches	Min. Shell Thickness inches
18	2
24	2-1/2
30	3
36	3-1/2
42	4
48	5
54	5-1/2
60	6
66	6-1/2
72	7
84	8
96	9
108	10
120	11

Variation in the internal diameter shall not exceed plus or minus 3 percent. The maximum allowable deviation from the true grade of the design invert of the pipe shall not exceed 1/2 inch either side of true grade. Where deviation from true grade occurs, true grade shall be re-established at a maximum departure of one-eighth inch per foot.

5. EXCAVATION AND BACKFILL

Excavation shall be in accordance with the requirement for other types of storm drains, except as modified herein. The trench shall be excavated in the lines and grades shown on the plans or as directed by the Engineer. The width of the trench shall be sufficient to accommodate travel of the pipe machine only. The bottom of the trench shall be shaped to the nominal outside circumference of the pipe. Excavation shall be performed from the outlet to the inlet. If the trench is over-excavated for the bottom 210 degrees of the pipe the excess area shall be filled with concrete. If rock is encountered, it will be removed at least 6 inches below the bottom of the pipe and the trench refilled with material sufficiently compacted to

allow operation of the machine and provide a smooth firm surface. The sidewall of the pipe shall be placed against undisturbed material.

Backfill material will be a crusher fine (chat) as described elsewhere in these Specifications. No backfill other than permitted for curing purposes shall be placed until the line has been inspected and approved by the Engineer. The trench may be completely backfilled after the pipe has been in place at least 24 hours and concrete strength requirements have been reached. Light traffic, axle load less than 6,000 pounds, may be routed over the pipe after backfill has been completed for twenty-four (24) hours. Unrestricted traffic may be permitted over the pipe after the backfill has been in place for forty-eight (48) hours.

All backfill material shall be mechanically compacted to 95% modified proctor or as directed by the Engineer.

6. CONSTRUCTION

All surfaces against which concrete are to be placed shall be free from standing water, mud, and debris. Absorptive surfaces against which concrete are to be placed shall be moistened thoroughly so that moisture will not be drawn from the freshly placed concrete.

The concrete shall be placed in one operation around the full circumference of the pipe by means of a traveling form. The forms shall be of sufficient strength to withstand vibrating or tamping the concrete and to permit workmen to walk on the forms without causing springing or bulging at any point.

As the traveling form moves forward, forms shall be placed inside the newly formed pipe to support a minimum of 230 degrees of the upper portion of the pipe.

The concrete shall be vibrated, rammed, tamped or worked with suitable appliances until the concrete has been consolidated to the maximum practicable density, free of rock pockets, and closes snugly against all surfaces or forms and provides a bond between the pipe shell and supporting earth.

When placing operations cease for any reason, the end of the pipe shall be left rough with a slope of approximately 45 degrees. The ends of the pipeline shall be covered with canvas or other suitable cover material to prevent excessive loss of moisture from the interior of the pipe already placed.

When starting pipe laying operation from a previously laid cast-in-place pipe or section of pre-cast pipe, a construction joint shall be made by excavating a "bell" completely around the end of the existing pipe and constructing a concrete collar to extend at least one foot either side of the joint with a minimum thickness equal to that of the wall of the pipe. The end of the existing pipe shall be clean and damp before continuing pipe making operations. Cleaning of the construction joint shall consist of removing all latency, loose or defective concrete, coatings, and any other deleterious materials.

All forms shall be clean and shall be placed at the trench side at the location of their proposed use for inspection by the Engineer. Forms, which are defective in any way, will not be used, and upon condemnation they shall be removed from the site of the work. The forms shall not vary more than ½ inch from the lower edge of a straightedge laid parallel to the centerline of the form, and shall be free of any holes larger than 5/8 inch in greatest dimension. The pipe machine shall be thoroughly clean and serviced prior to the placing of the concrete. Particular attention will be given to all parts of the machine with which concrete comes into contact.

Concrete chutes or trunks shall be provided to reach within 1 foot of the pipe machine hopper. The end of the chute or trunk shall discharge the concrete at the center of the hopper. Provisions shall be maintained to minimize segregation of the concrete mix in all phases of the operation.

Delays in placing shall be handled as follows or as otherwise directed. The concrete hopper on the pipe laying machine shall be kept ½ full at all times, provided, however, that when placing operations cease or are delayed for any reason for more than 20 minutes, the pipe machine shall be pulled forward until all the concrete is exhausted and until the top troweling skirt is clear of the concrete. If the pipe laying operation proceeds within one hour of the time of the last placement, no further steps need to be taken. However, if longer than one hour has elapsed, then a construction joint must be made as previously described. The end of the pipe shall be left rough and at the natural slope when the machine is moved forward.

All junctions of pipe shall be provided for at the time the cast-in-place pipe is placed.

Inside forms shall be removed from the pipe not sooner than 4 hours nor longer than 24 hours after placement of the concrete. Care shall be taken when removing forms to prevent damage to the pipe. The inside of the pipe shall be carefully inspected for imperfections in placement, and any required repairs or smoothing shall be made immediately to provide a uniform interior surface. No wash, mortar or concrete shall be applied to a surface not properly moistened or cleaned. Visible cracks shall be brushed with cement paste or chipped out and pointed up with cement mortar. Any cracks that appear to go through the shell shall be grooved and filled with mortar. All construction operations and methods for providing a watertight pipeline shall be the responsibility of the Contractor. Mortar shall consist of one part cement; two parts well graded sand passing 1/8-inch sieve. Wash shall consist of four parts cement, one part fire clay. The finished surface of the concrete pipe shall be substantially free of fractures, cracks and surface roughness.

7. CURING CONCRETE

Immediately after the concrete is placed the exposed surface of the concrete shall be cured by covering the top with a sheet of polyethylene film sealed with dirt along the edges. During the curing period following the placement of the concrete, the ends of the pipeline and all other openings into the pipeline shall be covered with canvas or other suitable material, except at locations where work is actually in progress. The inside surface of the pipeline shall not be cured.

8. MANHOLES AND BENDS

Manhole bases shall be hand formed on top of the pipe as soon as the pipe-placing machine has passed. Where required, the extra width for manholes shall be excavated ahead of the pipe placing operation. The base for the manhole shall be formed to receive a standard precast concrete barrel section and shall be shaped and smoothed so that the joint can be sealed water tight by use of "Ram Nek" or other approved joint sealing material.

Bends may be formed and cast in place or fabricated using precast reinforced concrete pipe (load D). Design and shop drawings shall be submitted to and approved by the Engineer before the bends are fabricated or cast.

9. MEASUREMENT

Measurement of manholes shall be as specified elsewhere in these specifications. Measurement of bends shall be as for other storm sewer pipe. The method of pipe measurement shall conform to that for other types of storm drainpipe in the section or storm drains in these specifications.

10. PAYMENT

Payment for cast-in-place non-reinforced pipe sewers, measured as prescribed above, will be made at the unit price bid per linear foot for the various sizes of "Pipe Sewers (Cast-in-Place)" complete in place. Payment for manholes shall be as specified elsewhere in these specifications.

Such payment shall be full compensation for furnishing all concrete materials, precast reinforced concrete pipe used in place of cast-in-place pipe, and for all other materials, tools, labor, equipment, and incidentals required to perform the applicable work prescribed herein.

When precast reinforced concrete pipe at the Contractor's option is used in a line of cast-in-place pipe the additional excavation for the pipe will be subsidiary.

2.04 CENTRIFUGALLY CAST FIBERGLASS REINFORCED RESIN PIPE SEWERS

A. DIRECT BURY PIPES

1. GENERAL

All pipes, joints and fittings shall be manufactured in accordance with the requirements of the applicable standard given below except as noted herein:

Service	Standard
Non pressure Sanitary Sewer	ASTM D3262
Sewer Force Main and Effluent Lines	ASTM D3754

Pipes shall be centrifugally cast, fiberglass-reinforced polyester resin as manufactured by Hobas USA, Inc. or approved equal.

Minimum pipe stiffness when tested in accordance with ASTM D2412 shall be 46 psi.

2. MATERIALS

The manufacturer shall use only approved polyester resin systems for which he can provide a proven history of performance in these particular applications. The historical data shall have been acquired from a composite material of similar construction and composition as the proposed product.

The reinforcing glass fibers used to manufacture the components shall be of highest quality commercial grade of E-glass filaments with binder and sizing compatible with impregnating resins. Sand shall be minimum 98% silica with a maximum moisture content of 0.2%

3. DIMENSIONS

Pipe outside diameters shall be in accordance with AWWA Standard C151 and C950. For diameters larger than covered in those documents, OD's shall be as shown in Table 1.

TABLE I

*WP/s		0/46		50/46		100/46		150/46		200/46	
Nomin Pipe Sz. (in.)	Pipe OD (in.)	Min. wall (in.)	Wgt. (lb/ ft)	Min. Wall (in.)	Wgt. (lb/ ft)	Min. Wall (in.)	Wgt. (lb/ ft)	Min. Wall (in.)	Wgt. (lb/ ft)	Min. Wall (in.)	Wgt (lb/ ft.)
18	19.50	.42	20	.41	20	.40	19	.38	18	.37	18
20	21.60	.46	25	.45	24	.43	23	.42	22	.40	21
24	25.80	.54	35	.53	34	.51	33	.49	31	.47	30
30	32.00	.66	54	.65	53	.62	51	.60	49	.57	47
36	38.30	.78	77	.77	76	.74	73	.71	70	.68	67
42	44.50	.90	104	.88	101	.85	98	.82	94	.78	89
48	50.80	1.02	134	1.00	131	.96	126	.93	122	.88	115
54	57.10	1.14	169	1.12	166	1.08	160	1.04	155	.99	147
60	62.90	1.26	209	1.23	204	1.19	197	1.14	188	1.09	180
66	69.20	1.38	249	1.35	243	1.30	234	1.25	228		
72	75.40	1.50	298	1.47	292	1.41	280	1.36	270		
78	81.60	1.62	352	1.58	343	1.52	331	1.47	320		
84	88.00	1.74	409	1.70	399	1.64	385				
90	94.30	1.86	468	1.82	458	1.75	440				
96	100.6	1.98	531	1.94	520	1.87	501				

- Maximum nominal working pressure in psi/pipe stiffness in psi

Pipe shall be supplied in nominal lengths of 20 feet. Actual laying length shall be the nominal plus or minus 2 inches. At least 90% of the total footage of each size and class of pipe, excluding special order lengths, shall be furnished in nominal length sections.

4. PRESSURE CLASS & TESTING FOR SEWER FORCE MAINS AND EFFLUENT LINES

The pipe nominal pressure class (PN) shall be equal to or greater than the maximum sustained operating pressure of the line. The minimum pressure rating for non-pressure pipe shall be 15 psi.

The maximum transient (operating plus surge) pressure of the line shall not exceed the pipe nominal pressure class by more than 40%.

Pipe hoop tensile strength for pressure pipe shall be verified as specified in the applicable standard (D3754 or C950) or by random burst testing at the same sampling frequency. All pipes shall be capable of withstanding a test pressure of 2 times the maximum sustained operating pressure of the line without leaking or cracking. This performance shall be periodically verified at the factory for pressure pipe at least once per lot as defined in D3754, section 7.1.

A. JOINTS

Unless otherwise specified, the pipe shall be field connected with fiberglass sleeve couplings that utilize elastomeric sealing gaskets made of EPDM rubber compound as the sole means to maintain joint water tightness. The joints must meet the performance requirements of ASTM D4161.

B. FITTINGS

Flanges, elbows, reducers, tees, wyes, laterals and other fittings shall, when installed, be capable of withstanding all operating conditions. Acceptable configurations include contact molded or metered fiberglass or properly protected standard ductile iron.

Unbalanced thrust forces shall be restrained with thrust blocks or other approved suitable methods. Fiberglass tees, wyes, laterals, or other similar fittings shall be fully encased in reinforced concrete designed to withstand the pressure forces.

2.05 POLYETHYLENE SEWER PIPE

A. SCOPE

- (1) This specification covers Polyethylene (PE) pipe with a corrugated outer wall and a smooth interior wall, for use with non-pressure sanitary sewer systems. The PVC fittings and joints are included in the specification.

B. MATERIAL AND MANUFACTURING

1. PIPE MATERIALS

The pipe shall be made from clean virgin Polyethylene compounds having a cell classification of 324420C as defined by ASTM D-3350.

2. FITTING MATERIALS

The fittings shall be made from clean virgin polyvinyl chloride (PVC) compounds having a cell classification of 12454B, 1245C or 13343C as defined by ASTM D-1784.

Pipe shall be manufactured by simultaneous extrusion of the corrugated and smooth walls with the smooth inner wall fused to the outer corrugated wall.

Fittings shall be molded or fabricated.

3. JOINING MATERIALS

- a. Gaskets
- b. Elastomeric gaskets shall meet the requirements of ASTM F-477.
- c. Lubricants

The lubricants used for assembly shall have no detrimental effect on the gasket or the pipe, and shall be per published recommendations of the pipe manufacture.

4. MATERIAL CERTIFICATION

A manufacture's or an independent laboratory certification shall be furnished to the purchaser/engineer that the products were manufactured, sampled, tested, and inspected at the time of manufacture in accordance with this specification.

C. PIPE DIMENSIONS

Pipe dimensions shall meet the following requirements when tested in accordance with ASTM D-2122.

Nominal Size	Avg. O.D.	Avg. I.D.
4	4.790 (121.7)	4.00 (101.6)
6	6.930 (176.0)	6.00 (152.4)
8	9.145 (232.2)	8.00 (203.2)
10	11.405 (289.7)	10.00 (254.0)
12	14.450 (367.0)	12.00 (304.8)
15	17.530 (445.3)	15.00 (381.0)
18	21/150 (537.2)	18.00 (457.2)

D. INSTALLATION

1. Joint Tightness

Minimum joint performance shall show no leakage when tested in accordance with ASTM D-3212.

2. Supplier Assistance

A manufacturers representative of the above referenced pipe material shall be present at the beginning of the installation as required by the Design Engineer or Contractor and shall remain on site until released by the Design Engineer or Field Inspector/Engineer.

2.06 INLETS FOR STORM SEWERS

A. CURB TYPE INLETS

- (1) Curb inlets shall be constructed at the locations and to the lines and grades or shown on the plans or as directed by the Engineer.
- (2) Curb inlets shall be constructed of reinforced class "C" concrete in accordance with Section 1-B "Concrete Structures" and the plans and detail drawings.
- (3) The curb section and the curb inlet shall conform to the curb and gutter section in which it is placed in so far as it is possible.

B. GRATE TYPE INLETS

- (1) Grate inlets shall be constructed at the locations and the lines and grades as shown on the plans or as directed by the Engineer.
- (2) Concrete boxes for grate inlets shall be constructed of reinforced Class "C" concrete in accordance with Section 1-B "concrete Structures" and the plans and detail drawings.
- (3) Grates shall be constructed of ASTM A-48 gray iron having minimum tensile strength of 35,000 psi or ductile iron having a minimum tensile strength of 60,000 psi and a yield strength of 40,000 psi.

The size, style, shape, type, weight and class shall be as shown on the plans.

Grate frames shall be as manufactured for the grate by the grate fabricator. If more than one type or style or frame is available, the type and/or style shall be as indicated on the plans.

C. COMBINATION INLETS

- (1) Combination curb and grate inlets shall be constructed at the locations and to the lines and grades as shown on the plans or as directed by the Engineer.
- (2) Combination inlets shall be constructed in accordance with the applicable requirements for "Curb type inlets" and "Grate type inlets" above.

D. INLET LEADS

- (1) Inlet leads may be PVC pipe or CSP as shown on the plans and called for in the bid proposal.
- (2) Inlet leads shall be constructed in accordance with the specifications for type of material used and the plans and detail drawings.
- (3) Where two or more leads are joined together to form a single lead to the storm sewer they shall be joined at a cleanout unless shown otherwise on the plans.
- (4) Inlet leads shall be connected to the storm sewer at a manhole. The leads shall enter the manhole at a point that will match the .8 points of the two pipes as near as practical.

E. CLEANOUT FOR STORM SEWER INLET LEADS

Cleanouts at the juncture of inlet leads shall be constructed in accordance with the dimensions and requirements shown on the plans and detail drawings.

F. CORRUGATED STEEL SLOTTED DRAINS

- (1) Corrugated steel slotted drains shall be as specified in section 2.02-3 of these specifications and shall be furnished in the lengths and diameters as shown on the drawings and in the bid proposal.
- (2) Corrugated steel slotted drains are approved for nuisance water inlets only and are sized to allow for considerable clogging before they will cease to function in this capacity.

2.07 MANHOLES

1. GENERAL

- A. **CONCRETE MANHOLES ARE NOT TO BE USED FOR SANITARY SEWERS AFTER DECEMBER 31, 2002. FIBERGLASS MANHOLES ARE TO BE USED FOR ALL SANITARY SEWERS.** Concrete manholes can be used for storm water sewers.

All manholes furnished for this project shall be precast unless noted otherwise on the plans and or bid proposal.

Precast manholes shall conform to the requirements of ASTM Specification C-478 with the modifications given in this article.

Concrete used for precast manholes shall have a minimum 28-day compressive strength of 4,000 psi and shall have a minimum cement content of 7 sacks per cubic yards.

All manhole sections shall be furnished with tongue and groove type joints suitable for sealing water tight with rubber or bituminous joint sealer or gaskets.

- B. When cast in place components for manholes are called for on the plans the concrete used shall have a minimum 28 day compressive strength of 4,000 psi and a minimum cement content of 7 sacks per cubic yard and shall conform to the requirements of ASTM Specification C-478 with wall thickness as shown on the plans and detail drawings.

Aggregate for the concrete shall meet the sodium sulfate and magnesium sulfate test as required in ASTM Specification C-33.

- C. Mortar for filling and shaping the inverts in precast manhole bases and for mortaring precast grade rings and cast iron rings and covers shall consist of one part Portland cement ASTM C150 Type 1 to 3 parts washed sand mixed with just enough water to make a workable mix.
- D. Manholes for corrugated steel pipe may be precast concrete or corrugated steel as described in Article 2.02. The type and material shall be as shown on the plans and called for on the bid proposal.

2. PRECAST MANHOLES

- A. Manhole base sections shall be cast with an integral floor and shall be constructed in accordance with the details shown on the plans.
- B. Manhole riser sections shall be constructed in accordance with the plans and details and these specifications. When pipe openings are required in manhole riser sections they shall be of the same type and meet the same requirements as the pipe openings in the precast bases.

Manhole riser sections for each manhole shall be furnished in the proper combination of lengths to construct the manhole in conjunction with the other components to the finished grade shown on the plans.

- C. Eccentric cone sections shall be constructed in the same manner as other components except the top of the cone will have a flat surface to accommodate the manhole ring and cover or grade adjusting rings instead of a tongue or groove.

Generally openings will not be required in the wall of the cone section of the manhole.

- D. Manhole grade rings shall comply with all the requirements for manhole riser sections except they shall be cast smooth both sides without tongues and/or grooves.

Manhole grade rings shall be sized to fit the smooth small end of the cone section and shall be cast in heights of 2", 4" or 6".

- E. Joint seals for precast concrete manholes shall be a bitumastic sealer such as Ram-Nek or approved equal, a soft rubber sealer such as Butyl-Lok or approved equal or an approved "O" ring gasket or a combination of the above if required to achieve a water tight joint.

- F. All water tight Storm Sewer Manholes constructed on this project shall have Neenah R-1755-C watertight manhole rings and covers or approved equal.

No separate payment will be made for the protective plastic manhole linings or for the water tight manhole rings and covers but the cost of these items shall be included in the price bid for water tight Storm Sewer Manholes.

In addition to the markings required by ASTM Specification C-478, all components of each manhole shall be, marked with location identifying information such as manhole number or line number and station value where manhole is to be installed. If the manhole has openings for installation of branch lines above the base section, each manhole section shall be clearly marked with the sequence of installation to assure the branch opening will be at the correct elevation.

3. FIBERGLASS MANHOLES

A. SCOPE

Fiberglass reinforced polyester manholes shall be manufactured from commercial grade polyester resin or other suitable polyester or vinyl resins, with fiberglass reinforcements and in accordance with the latest edition of ASTM D 3 753 (Standard Specification for Glass-Fiber Reinforced Polyester Manholes). Fiberglass manholes shall be used with fiberglass or plastic sewer pipe.

B. MATERIALS

1. **Resin**: The resins used shall be a commercial grade unsaturated polyester resin.
2. **Reinforcing Materials**: The reinforcing materials shall be commercial Grade "E" type glass in the form of mat, continuous roving, chopped roving, roving fabric, or a combination of the above, having a coupling agent that will provide a suitable bond with the resin and leave a resin rich surface.
3. **Surfacing Materials**: If reinforcing materials are used on the surface exposed to the contained substance, they shall be a commercial grade chemical-resistant glass organic surfacing mat having a coupling agent that will provide a suitable bond with the resin and leave a resin rich surface.
4. **Fillers and Additives**: Fillers, when used, shall be inert to the environment and wet well construction. Additives, such as thixotropic agents, catalysts, promoters, etc., may be added as required by the specific manufacturing process to be used. The resulting reinforced plastic material must meet the requirement of this specification.

C. FABRICATION

1. **Exterior Surface**: The exterior surface shall be relatively smooth with no sharp projections. Handwork finish is acceptable if enough resin is present to eliminate fiber show. The exterior surface shall be free of blisters larger than ½ inch in diameter, de-lamination and fiber show.
2. **Interior Surface**: The interior surface shall be resin rich with no exposed fibers. The surface shall be free of crazing, de-lamination, blisters larger than ½ inch in diameter, and wrinkles of 1/8 inch or greater in depth. Surface pits shall be permitted up to 6 per square foot if they are less than ¾ inch in diameter and less than 1/16 inch deep.
3. **Defects not permitted:**

Exposed fibers: glass fibers not wet out with resin.

Resin runs: runs of resin and sand on the surface

Dry areas: areas with glass not wet out with resin.

De-lamination: separation in the laminate.

Blisters: light colored areas larger than ½ inch in diameter.

Crazing: cracks caused by sharp objects

Pits or Voids: air pockets.

Wrinkles: smooth irregularities in the surface.

Sharp projection: fiber or resin projection necessitating gloves for handling.

D. PHYSICAL REQUIREMENTS

1. **Load Rating**: The complete manholes shall have a minimum dynamic-load rating of 16,000 ft-lbs. when tested in accordance with this standard. In order to establish this rating, the complete manhole shall not leak, crack, or suffer other damage when load

tested to 40,000 ft-lbs. and shall not deflect vertically downward more than ¼ inch at the point of load application when loaded to 24,000 lbs.

2. **Stiffness**: The manhole cylinder shall have a minimum pipe stiffness value as shown below when tested in accordance with A.S.T.M. 3753 8.5 (note 1)

Depth Ft.	F/dy.psi
3 – 6.5	0.75
7 – 12.5	1.26
13 – 20.5	2.01
21 – 25.5	3.02
26 – 35	5.24

3. **Soundness**: In order to determine soundness, apply an air or water pressure test to the manhole test sample. Test pressure shall not be less than 3 psig or greater than 5 psig. While holding at the established pressure, inspect the entire manhole for leaks. Any leakage through the laminate is cause for failure of the test. Refer to A.S.T.M. 3753 8.6.

4. **Chemical Resistance**: The fiberglass manhole and all related components shall be fabricated from corrosion proof material suitable for atmospheres containing hydrogen sulfide and dilute sulfuric acid as well as other gases associated with the wastewater collection.

5. **Physical Properties**:

	Hoop Direction	Axial Direction
a. Tensile Strength (pi)	18,000	5,000
b. Tensile Modulus (pi)	0.6×10^6	0.7×10^6
c. Flexural Strength (psi)	26,000	4,500
d. Flexural Modulus (psi)	1.4×10^6	0.7×10^6
e. Compressive (psi)	18,000	10,000

6. **Minimum Wall Thickness**: Shall be 0.48" nominal at all depths of the manholes.

E. TEST METHODS: All tests shall be performed as specified in A.S.T.M 3753 latest edition, section 8. Test method D-790 (see note 5) and test method D-695.

F. QUALITY CONTROL: Each completed manhole shall be examined for dimensional requirements, hardness, and workmanship. All required A.S.T.M 3753 testing shall be completed and records of all testing shall be kept and copies of test records shall be presented to customer upon formal written request within a reasonable time period.

G. CERTIFICATIONS: As a basis of acceptance the manufacturer shall provide a independent certification which consist of a copy of the manufacturer's test report and accompanied by a copy of the test results that the manhole has been sampled, tested,

and inspected in accordance with the provisions of this specification and meets all requirements.

H. SHIPPING AND HANDLING: Do not drop or impact the fiberglass manhole. Fiberglass manhole may be lifted by inserting a 4" x 4" x 30" timber into the top of manhole with cable attached or by a sling or "choker" connection around center of manhole, lift as required. Use of chains or cables in contact with the manhole surface is prohibited.

I. CONCRETE:

1. **Fiberglass Bottom:** Manholes may have fiberglass bottoms that are a minimum of 6" below the OD of the pipe invert when concrete is used to form the invert. Manufactured fiberglass inverts and bench areas are allowed, or concrete may be used to form bench area and invert. Concrete is to be used on top of anti-flotation ring and around the reducer section as required for buoyancy.

2. **Concrete Bottom:** Lower manhole into wet concrete until it rests at the proper elevation, with a minimum of 4 inches of fiberglass manhole inserted into the wet concrete below flow line, then move manhole to plumb. The concrete shall extend a minimum of one foot from the outside wall of the manhole and a minimum of 6 inches above incoming lines. On the inside concrete shall form the bench and invert area and rise a minimum of 4 inches above incoming lines. If required by Engineer concrete may be used around reducer section for buoyancy control.

BACKFILL:

1. **Backfill Material:** Unless shown otherwise on drawings and approved by the Engineer, sand, crushed stone, or crushed gravel shall be used for backfill around the manhole for a minimum distance of one foot from the outside surface and extending from the bottom of the excavation to the top of the reducer section. Suitable material chosen from the excavation may be used for the remainder of the backfill. The material chosen shall be free of large lumps or clods, which will not readily break down under compaction. This material will be subject to approval by Engineer.

2. **Backfill Procedure:** Backfill shall be placed in layers of not more than 12 loose measure inches and mechanically tamped to 95% Modified Proctor Density, unless otherwise approved by Engineer. Backfill shall be placed in such a manner as to prevent any wedging action against the fiberglass manhole structure.

K. MARKING and IDENTIFICATION: Each manhole shall be marked on the inside and outside with the following information:

Manufacturer's name or trademark
Manufacturer's factory location
Manufacturer's serial number
Total length

4. MANHOLE RINGS AND COVERS

- A. Manhole rings and covers furnished for this project shall be pattern No. 300-24 as produced by Western Iron Works, Inc., 21 E. 6th St., San Angelo, Texas 76903-5493 or Bass and Hays Foundry, Inc., 238 South Bagdad Rd., Grand Prairie, Texas 75050, or approved equal.

B. WATER TIGHT MANHOLE COVERS

(1) Water tight manhole rings and covers furnished for this project shall be number R-1755-C as manufactured by Neenah Foundry Company, P.O. Box 729, Neenah, Wisconsin 54957, or approved equal.

(2) When watertight replacement sanitary sewer manhole rings and covers are called for on the plans and in the bid proposal they shall be Neenah Foundry Co. No. R-1755-C or approved equal.

No separate payment will be made for adjusting to grade of the replacement watertight manhole rings and covers. The contractor shall schedule this work to coincide with other manhole and water valve adjustments and any costs that might be involved shall be included in the price bid for replacement water tight manhole rings and covers.

(3) Manhole vents shall be used in conjunction with watertight rings and covers spaced every third manhole or as indicated on the plans. Vents shall be constructed as indicated on City design and construction standards.

- C. Pressure type manhole rings and covers may be required for certain storm sewer applications. When pressure type manhole rings and covers are called for on the plans and/or bid schedule they shall be Western Iron Works Pattern #380-24P or approved equal. The manhole cover shall be sealed with an "O" ring gasket in a ring groove and shall be secured to the ring by six (6) five-eighths inch (5/8") stainless steel bolts. The ring shall have six (6) one and one quarter inch (1-1/4") bolt holes in the flanges for securing the ring to the concrete slab top on the manhole.
- D. All manhole covers except grate type shall have two blind pick holes or pick bar cast into them. The blind pick holes or pick bars shall be placed on opposite sides of the cover.
- E. All manhole covers except grate type shall have cast into their tops in letters 2 inches high minimum one of the following:

CITY OF MIDLAND
SANITARY SEWER
OR
CITY OF MIDLAND
STORM DRAIN

which ever is applicable.

2.08 GRANULAR MATERIALS

A. GRANULAR MATERIAL GRADATION CLASSIFICATIONS:

Granular materials furnished for foundation, bedding, encasement, backfill, or other purposes as may be specified, shall consist of any natural or synthetic mineral aggregate such as sharp grained sand, crushed gravel, crushed rock, crushed stone, or slag, and shall conform to the following specifications and/or gradation.

Note all materials used for these purposes shall be crushed and shall have at least two broken faces. Pea gravel will NOT be allowed.

	Foundation	Bedding	Encasement	Backfill
ASTM C33 Grade #57	x			
ASTM C33 Grade #67	x			
ASTM C33 Grade #8		x	x	
THD 1982 Item 302 Type D Grade 4		x	x	
THD 1982 Item 302 Type D Grade 5			x	
Crusher fines**			*x	x

*100 percent of crusher fines that are to be used within 12 inches of the top of pipe must pass the $\frac{3}{4}$ " sieve.

** Approximate Gradation for Crusher Fines.

Sieve Size	% Passing
2 inch	100
# 4	35 - 100
# 10	20 - 100
# 40	5 - 35
#200	4 - 10

Crushed stone material proposed as an alternate for use on this project and not meeting the above specifications must be approved in writing at least 48 hours prior to the time scheduled for opening bids.

B. GRANULAR MATERIAL USE DESIGNATIONS:

Granular materials provided for Foundation, Bedding, Encasement, or Backfill use as required by the contract, either as part of the pipe item work unit or as a separate contract item, shall be classified as to use in accordance with the following:

MATERIAL USE DESIGNATION

ZONE DESIGNATION

Granular Foundation	Placed below the bottom of pipe grade as replacement for unsuitable or unstable soils, to achieve better foundation support.
Granular Bedding	Placed below the midpoint of the pipe prior to pipe installation, to facilitate proper shaping and achieve uniform pipe support. Also for Class B bedding where specified.
Granular Encasement	Placed below an elevation one half foot (6") above the top of pipe, after pipe installation, for protection of the pipe and to assure proper filling of voids and thorough consolidation of backfill.

In each case above, unless otherwise indicated, the lower limits of any particular zone shall be the top surface of the next lower course as constructed. The upper limits of each zone are established to define variable needs for material gradation and compaction or void content, taking into consideration the sequence of construction and other conditions. The material use and zone designations described above shall only serve to fulfill the objectives and shall not be construed to restrict the use of any particular material in other zones where the gradation requirements are met.

PART 3 – EXECUTION

3.01 LOCATION OF WORK

- A. The work will be located as shown on the plans.
- B. It may be necessary for the Engineer to shift lines as reasonable amount to avoid an obstruction to the construction or to reduce right of way difficulties. The Contractor will not be allowed any additional compensation due to shift of lines. Additional compensation will be allowed only for lengthening of lines.

3.02 PROTECTION OF SURFACE STRUCTURES

- A. All surface structures and features located outside the permissible excavation limits for underground installations, together with those within the construction areas which are indicated in the Plans as being saved, shall be properly protected against damage and shall not be disturbed or removed without approval by the Engineer.
- B. Obstructions such as street signs, guard posts, mail boxes and other items of prefabricated construction may be temporarily removed during construction provided that essential service is maintained in a relocated setting as

approved by the Engineer and that non-essential items are properly stored for the duration of construction. Upon completion of the underground work, all such items shall be replaced in their proper setting. This removal, relocation and replacement shall be at the sole expense of the Contractor.

In the event of damage to any surface structures or improvements, either privately or publicly owned, in the absence of construction necessity, the Contractor will be required to replace or repair the damaged property to the satisfaction of the Engineer and without cost to the Owner.

3.03 INTERFERENCE OF UNDERGROUND STRUCTURES

- A. When any underground structure interferes with the planned placement of the pipeline or appurtenances to such an extent that alterations in the work are necessary to eliminate the conflict or avoid endangering effects on either the existing or proposed facilities, the Contractor shall immediately notify the Engineer and the Owner of the affected structure. When any existing facilities are endangered by the Contractor's operations, he shall cease his operations at the site and take such precautions as may be necessary to protect the in place structures until a decision is made as to how the conflict will be resolved.
- B. Without specific authorization from the Engineer, no essential utility service shall be disrupted, nor shall any change be made in either the existing structures or the planned installations to overcome the interference. Alterations in existing facilities will be allowed only to the extent that service will not be curtailed unavoidably and then only when the encroachment or relocation will satisfy all applicable regulations and conditions.
- C. Wherever alterations are required as a result of unforeseen underground interference not due to any fault or negligence of the Contractor, the Engineer will issue a written order covering any additional or extra work involved and specifying the revised basis of payment, if any. Any alterations made strictly for the convenience of the Contractor shall be subject to prior approval and shall be at the Contractor's expense.
- D. No extra compensation will be allowed for delays caused by the interference of underground structures.

3.04 SEPARATION BETWEEN SANITARY SEWERS AND WATER MAINS

- A. Sanitary sewers and service lines shall be installed so that the separation between the sewer and water mains is not less than 9 feet in all directions. The 9 feet shall be measured between the nearest outside edges of the pipe.
- B. When the required 9 foot minimum separation cannot be maintained and a sanitary sewer must be constructed parallel to a water main, the sanitary sewer shall be constructed of ductile iron or PVC pipe meeting AWWA specification or having NSF approval for potable water pipe, with a pressure rating of 100 psi for both the pipe and the joint. The sanitary sewer line shall

be installed in a separate trench and may be placed no closer than 2 feet vertically and 4 feet horizontally from the water main, with the separation being measured from the nearest outside walls of the pipes. The sanitary sewer shall be constructed lower than the water main.

- C. When a sanitary sewer must cross a water main and the 9 feet required separation cannot be maintained, the sanitary sewer may be constructed with a minimum clear separation between the outside diameters of the two pipes of 6 inches if that part of the sanitary sewer within 9 feet of the water main is constructed of ductile iron pipe or PVC pipe meeting AWWA specifications, having a 150 psi pressure rating and equipped with pressure type joints. One length of the sewer pipe must be centered on the water main and where possible, the sanitary sewer should pass under the water line.
- D. When the 9 foot required separation cannot be maintained and a sanitary sewer force main must be constructed parallel to a water main, the sanitary sewer force main shall be constructed of ductile iron or PVC pipe meeting AWWA specifications and having a pressure rating of 150 psi and equipped with pressure type joints. The force main must be constructed with a minimum vertical separation of 2 feet and a minimum horizontal separation of 4 feet measured between the outside diameters of the pipes. The force main must be constructed lower than water main.

Table I showing separation of water and sewer lines and construction materials allowed:

TABLE 1 SEPARATION OF WATER AND SEWER LINES						
Condition	Location	Material		Separation (Min.)		Comments
		Water	Sewer	Vertical	Horizontal	
NEW WATER AND NEW SEWER SYSTEM						
New Water & New Sewer Gravity Sanitary Sewer Parallel to Water Main	Water above Sewer	Std.	CI DI PVC 150 PSI	2'	4'	Separate Trenches
Gravity Sanitary Sewer Crossing Water Main	Water above Sewer or Sewer above Water	Std	CI DI PVC. 150 PSI	6"	NA	Center one joint of sewer pipe on water main
Gravity Sewer Crossing Water Main	Water above Sewer	Std	ABS, Clay Conc. composite	2'	NA	Cement stabilize sand initial backfill zone each side of crossing. Center of sewer for 9 ft one joint of sewer pipe on water Main
NEW WATER AND EXISTING SANITARY SEWER						
New Water Parallel Existing Sewer	Water above Sewer	Std.	Clay, Conc. ABS CI DI PVC	2'	4'	If sewer shows no sign of leakage, then leave sewer alone. If Sewer shows signs of leakage, then repair or replace.
New Water Crossing Existing Sewer	Water above Sewer	Std	Clay, ABS Conc. composite	2"	NA	If sewer shows no sign of leakage, then leave sewer alone if sewer shows signs of leakage then repair or replace.
New Water Crossing Existing Sewer	Sewer above Water	Std	Clay, ABS Conc. composite	2'	NA	Replace existing sewer with one joint CI,DI,PVC-150 Centering over waterline
New Water Parallel to Existing Sewer	Sewer above Water	Std	Clay, ABS Conc. composite	2'	4'	Replace existing sewer with CI, DI, PVC – 150 PSI or Cement Stabilized sand back- fill initial Backfill none of sewer where parallel closer than 9 ft., or Encase the water in 150 PSI Pipe two nominal sizes larger.

EXISTING WATER AND NEW SANITARY SEWER						
New Sewer parallel Existing Water	Water above Sewer Or Sewer above Water	Std	CI DI PVC 150 PSI	2'	4'	Separate trenches
New Sewer crossing Existing Water	Water above Sewer or Sewer above water	Std	CI DI PVC 150 PSI	6"	NA	Center one joint of sewer pipe on water main.
New Sewer crossing Existing Water	Water Above Sewer	Std	Clay, ABS Conc. composite	2'	NA	Cement Stabilize sand initial backfill zone of sewer for 9 ft each side of crossing. Center one joint of sewer pipe on water main.

3.05 EXCAVATION

- A. Excavation of every description and of whatever materials encountered shall be made to the alignment and depth shown on the plans or as directed by the Engineer. Excavation shall be made by open cut. Sides of trenches shall be kept as nearly vertical as possible and the trench shall be so braced, sheeted and drained that workmen may work safely and efficiently therein. The trenches shall be sufficiently straight between designated angle points to permit the pipe to be laid true to line in the approximate center of the trench.
- B. The trench width may vary with and depend upon the depth of trench, the diameter of pipe to be laid and the nature of the material to be excavated; but in any case shall be of ample width to permit the pipe to be laid and jointed properly and the backfill to be placed and compacted properly. The minimum width of unsheeted trench shall be 18 inches. The maximum clear width of trench at the top of the pipe shall be not more than two (2) feet greater than the outside diameter of the pipe for pipes up to 33" diameter except by consent of the Engineer. Whenever, for any reason, the maximum trench width is exceeded, the Contractor shall provide, at his own expense, pipe of higher class and/or bedding adequate to sustain the increased soil load as calculated by the Engineer.
- C. Trenches shall be undercut to provide for the class bedding specified and/or shown on the plans. Bell holes shall be excavated to insure the pipe resting for its entire length upon the bedding material. Where trenches are under-cut beyond the depth required for bedding the trench shall be brought to grade by using crushed aggregate as specified for foundation herein. The use of loose native soil will NOT be permitted for this purpose.
- D. No pipe shall be laid in water. Where the ground water table is at or above trench bottom, the Contractor shall de-water the trench to permit the pipe to be laid on a solid foundation.

Costs for de-watering by whatever method selected shall be considered incidental to the price bid per foot of pipe.

The Contractor shall discharge pumps to the natural drainage channels, or if permitted, to other sewer or drains.

Where sewer pipelines are located in or across streambeds or drainage ditches, the Contractor shall divert the stream flow and de-water each section as the work progresses.

- E. Temporary support, adequate protection and maintenance of all underground and surface utility structures, drains, sewers, and other obstructions encountered in the progress of the work shall be furnished by the Contractor at his own expense under the direction of the Engineer.
- F. Whenever wet, soft or unstable soil, incapable of properly supporting the pipe, manholes or other structure is encountered in the trench, a further depth and/or width shall be excavated and refilled to trench bottom grade with gravel or other approved suitable material thoroughly compacted to assure a firm foundation for the pipe.
- G. Rock, boulders and large stones shall be removed to provide a clearance of at least six (6) inches below the outside barrel of the pipes, valves, or fittings and to a clear width of six (6) inches on each side of all pipe and appurtenances for pipe 15 inches in diameter or less, and a clear width of nine (9) inches on each side of all pipe and appurtenances for pipe larger than 15 inches in diameter. Adequate clearance for properly joining pipe laid in rock trenches shall be provided at bell holes. The space between the rock at the bottom of the trench and the bottom of the pipe barrel shall be filled with compacted bedding material.
- H. The Engineer shall be notified of any need for blasting to remove materials which cannot be broken up mechanically, and there shall be no blasting operations conducted until the Engineer's approval has been secured. Blasting operations will be allowed only when proper precautions are taken to protect life and property, and then shall be restricted as the Engineer directs. The Contractor shall assume full responsibility for any damage caused by blasting, regardless of the requirements for notification and approval. The Contractor shall secure any required permits for blasting and shall conduct blasting operations in conformance with all applicable State and local laws, regulations and ordinances.
- I. In the event the Contractor desires to employ tunneling in locations other than as shown on the Plans in order to avoid replacement of sidewalks, etc., he shall do so only upon receipt of specific permission from the Engineer. Tunneling of this nature shall be considered incidental.
- J. Excavated materials will be classified for reuse as being either suitable or unsuitable for backfill or other specified use.

3.06 SPECIAL SAFETY PROVISIONS

1. TRENCH SAFETY SYSTEMS

A. DESCRIPTION

This item shall govern for the Trench Safety Systems required for the construction of all trench excavation to be utilized in the project and including all additional excavation and backfill necessitated by the safety system. A trench shall be defined as a narrow excavation (in relation to its length) made below the surface of the ground. In general, the depth is greater than the width, but the width of a trench (measured at the bottom) is not greater than 15 feet. The depth is five feet or more. Trench Safety Systems include but are not limited to sloping, sheeting, trench boxes or trench shields, sheet piling, cribbing, bracing, shoring, de-watering or diversion of water to provide adequate drainage.

B. CONSTRUCTION METHODS

Trench safety systems shall be accomplished in accordance with the detailed specifications set out in the provisions of Excavation, Trench, and Shoring, Federal Occupational Safety and Health Administration (OSHA) Standards, 29CFR, Part 1926, Subpart P, as amended, including Proposed Rules published in the Federal Register (Vol. 52, No. 72) on Tuesday, October 31, 1989. The sections that are incorporated into these specifications by reference include Sections 1926-650 through 1926-652. Legislation that has been enacted by the Texas Legislature, being Tex. Rev. Civ. Stat. Ann. Arts. 1015q, 2368a.6 (Vernon Supp. 1988) with regard to Trench Safety Systems, is hereby incorporated, by reference into these specifications.

A reproduction of the OSHA Publication 2226 is attached for the convenience of the Contractor. The City assumes no responsibility for the accuracy of the reproduction or that it reflects current law. The Contractor is responsible for obtaining a copy of this section of the Federal Register for his use.

If the contractor elects to use a trench protective system that, in the Proposed Rules, requires "Design by a qualified person or a qualified engineer," [For example see 1926.652 (b) (3) and 1926.652 (c) (4)], a "qualified person or qualified engineer" shall be a Professional Engineer registered in the State of Texas. The Contractor is responsible for obtaining boring and soil analysis as required for the planned design. The trench excavation is to be designed in conformance with OSHA standards and regulations.

C. TRENCH SAFETY PROGRAM

The Contractor shall submit a safety program specifically for the construction of trench excavation. The trench safety program shall be in accordance with OSHA standards governing the presence and activities of individuals working in and around trench excavation.

D. INSPECTION

The Contractor shall make daily inspections of the Trench Safety Systems to ensure that the systems meet OSHA requirements. Daily inspection is to be made by a "competent person" provided by the Contractor. If evidence of possible cave-ins, or slides, is apparent, all work in the trench shall cease until the necessary precautions have been taken by the Contractor to safeguard personnel entering the trench. It is the sole duty, responsibility and prerogative of the Contractor, not the owner or the Engineer, to determine the specific applicability of the designed trench safety systems to each field condition encountered on the project. The Contractor shall maintain a permanent record of daily inspections.

2. SAFETY RESTRICTIONS - work near high voltage lines

The following procedures will be followed regarding the subject item on this contract:

A. Warning signs painted yellow with black letters that are legible at twelve 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."

B. All equipment except back hoes or dippers that may be operated within ten feet of high voltage lines shall have an insulating cage-type of guard about the boom or arm and insulator links on the lift hook connections.

C. When necessary to work within six feet of high voltage electric lines, notification shall be given the power company 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.

D. The Contractor is required to make arrangements with the Power Company for the temporary relocation or raising of high voltage lines at the Contractor's sole cost and expense.

3.07 PIPE LAYING

A. All gravity pipe shall be laid using approved grade boards, furnished and set by the Contractor at no additional cost to the Owner, according to the grade stakes established by the Engineer. The maximum spacing of grade boards shall be fifty (50) feet. No sewer shall be laid unless there is a minimum of three grade boards set to check the proper grade and alignment ahead. The Contractor shall provide and use a suitable grade rod to insure the proper grade of the pipe.

B. The Contractor may use the laser beam method of setting a line and grade for the sewer by using the laser beam coaxially through the center of the sewer being laid. The laser beam projector is to be rigidly mounted to its support platforms, with a two-point suspension, or equivalent, assuring that all ground and equipment vibrations are kept to an absolute minimum. The Contractor shall furnish all equipment including equipment necessary to control atmospheric conditions in the pipe to keep line and grade to acceptable standards of accuracy. Competent experienced people who have been properly trained to operate the equipment used must operate the laser beam system.

C. The Contractor shall stake check pegs at all manholes throughout the job. Check pegs midway between manholes and any other checkpoints deemed necessary to assure accuracy of the equipment shall be provided by the contractor.

D. Each piece of pipe and special fitting shall be carefully inspected before it is placed and no defective pipe shall be laid in the trench. Pipe laying shall proceed upgrade, starting at the lower end of the grade and with the bells uphill. No pipe shall be laid except in the presence of an inspector representing the Engineer. Any pipe laid except in the presence of an inspector representing the Engineer shall be subject, at the contractor's expense, to a television camera inspection and survey by the city. Trench bottoms found to be unsuitable for foundations after pipe laying operations have started shall be corrected and brought to exact line and grade with approved compacted granular material as specified for foundation in Item 2.07 A. of these specifications.

E. Pipe laying shall proceed up-grade with spigot or tongue ends pointing in the direction of flow. The spigot shall be centered in the bell, and pipe shoved into position, and brought into true alignment. It shall be secured there with bedding material carefully tamped under and on each side of it, excepting at bell holes. Care shall be taken to prevent dirt from entering the joint space.

F. Any defective or damaged pipe discovered after the line is laid or any gravity pipe, which has had its grade or joint, disturbed after laying shall be removed and replaced or relayed. The section of line in which such damaged or displaced section is discovered shall be retested after corrections are made.

G. Where excavation for buildings or other portions of the work have been carried below the line and grades of the pipe, thorough tamping of approved crushed stone backfill and the use of adequate bracing and blocking under the pipe will be required to insure against settling and shearing of the pipe. In areas where noted on plans, Portland cement stabilized material or concrete shall be used for backfill to provide adequate bracing for pipe and protection of structures.

H. All manhole connections for PVC or other Polymer based pipe shall be made using "A Lok Gaskets" or "Kor-N-Seal" boots or other approved water stop devices. Only Portland cement grout that expands upon curing or approved non-shrink grout will be incorporated into any manhole connection.

I. Connections to manholes for other types of pipe shall be in accord with the pipe manufacturers specifications and other applicable requirements of these specifications. The resulting joint shall meet the leakage test requirements of these specifications.

J. The exposed end of all pipes shall be fully protected with a stopper or bulkhead at the end of each day's work to prevent earth, debris, small animals, or other substances from entering the pipe. The interior of the sewer shall be carefully freed from all dirt, jointing compound, or superfluous material of every description as the work progresses.

3.08 CONNECTION AND ASSEMBLY OF JOINTS

1. JOINING PVC OR OTHER POLYMER BASED PIPE

A. The type of joint and the material to be used shall be as shown on the plans or specified herein. Factory cast compression joints shall be free of dirt and lubricated before inserting the barrel into the bell. After the spigot is centered in the bell, the pipe shall be shoved home solidly by using a wood block and bar. The Contractor shall keep the ends of the pipe closed to prevent dirt and other material from entering the pipe during placement. All joints must be water tight, and any leaks or defects discovered must be repaired immediately. Any pipe, which has been disturbed after being laid, must be taken up, the joint cleaned and properly relayed as directed by the Engineer.

Lubricant used shall be as recommended by the pipe manufacturer.

B. Field-cut pipe must be beveled for insertion into the gasketed bell or coupling. Bevels can be made with a hand or power tool. Bevels shall be made to pipe manufacturer's specifications. If pipe manufacturers specifications are not available the bevel may be made at 15 degrees to the longitudinal axis of the pipe through one half (1/2) the wall thickness.

C. After pipe has been cut and beveled, a new full insertion mark located as recommended by the pipe manufacture shall be made using a felt tip pen. The contractor may determine the location of the insertion mark by measuring the mark location on a factory marked joint of pipe if manufacturer's specifications are not available.

2. JOINTING CORRUGATED STEEL PIPE

A. Gaskets for corrugated steel pipe shall be "O" Ring or sleeve types. Sleeve gasket shall be carefully placed on one joint of pipe. When the pipe is aligned and brought end to end the gasket shall be carefully centered over the joint between the ends of the pipe. "O" ring gasket shall be installed in accordance with the manufacturer's recommendation.

B. When "O" ring gaskets are furnished a flat gasket shall be furnished and placed between the overlapping portions of the band. The gasket shall extend the full width of the band and shall be of sufficient depth to assure a watertight joint.

C. The coupling band shall be carefully centered over the joints and tightened to the pipe manufacturer specifications. Care shall be taken during the tightening process to assure a snug uniform fit for the entire circumference of the pipe.

3. PROTECTING AND COVERING JOINTS

- A. The contractor shall keep the ends of the pipe closed during the time of construction to prevent the entry of dirt, debris, small animals and other foreign objects.
- B. Joints shall not be covered until approved by Engineer or his representative. Connections, which are for future use, shall be properly capped.

3.09 CONNECTIONS TO EXISTING STRUCTURES

A. Where shown on the plans, the contractor shall connect the new sewer to existing manholes. If no stub out is present in the existing manhole for such connection, the contractor shall construct such connection by making a hole in the side of the existing manhole using a coring machine or other approved method and installing a "KOR N Seal" boot as manufactured by N.P.C. Systems, Inc. or other approved water tight manhole connector.

The contractor shall use caution in constructing the connection to the existing manhole. Damage to the manhole that, in the opinion of the Engineer, would impair the use and/or function of the manhole shall be just cause to require the contractor to reconstruct the manhole at contractor's expense. Such damage shall include but not be limited to cracking of the manhole riser section, spalling around the connection significantly reducing manhole wall thickness or excessive oversize in the opening for the new connection requiring any filler other than the manhole connector and/or non-shrink grout specified.

The contractor shall make such changes in the invert of the manhole as may be necessary to provide a smooth flow of the water through the manhole. Any connection to existing structures required in the Plans shall be accomplished by the Contractor and shall be incidental item with no direct compensation being made unless listed as a pay item in the bid proposal.

- B. If the work consists of the construction of a sewer that is to replace an existing sewer, all of the existing service lines shall be kept in operation and connected to the new line.
- C. Connections shall be made to all existing sewer lines in the vicinity of the work by removing a section of the sewer for the existing line and inserting in the space a tee branch of proper size, or by the construction of a manhole, regulator chamber of other structure as shown on the Drawings.
- D. Connections to building services shall be made in a neat and workman like manner. Clean out plugs shall be installed wherever feasible, by making the connections with a standard wye or tee-wye. When clean out plugs are installed they should be located as near the right of way line as practical.

3.10 BACKFILL OPERATIONS

1. GENERAL

A. All pipeline excavations shall be backfilled in a manner that will restore pre-existing conditions as the minimum requirement and fulfill all supplementary requirements indicated in the Plans and Specifications. The backfilling operations shall be started as soon as conditions will permit on each section of pipeline, so as to provide continuity in subsequent operations and restore normal public service as soon as practicable on a section-by-section basis. All operations shall be pursued diligently, with proper and adequate equipment, to assure acceptable results.

B. For this specification backfill is defined as any material placed in the trench above the bedding zone other than the pipe or conduit and appurtenance.

For flexible pipe the backfill between the bedding material and the crown of the pipe shall be crushed stone suitable for encasement as specified in article 2.07 of the specifications. When Portland cement stabilized backfill is used above the pipe zone; the crushed stone encasement shall extend to 1' above the crown of the pipe.

C. Depositing of the backfill shall be done so the shock of falling material will not injure the structure. Grading over and around all parts of the work shall be done as directed by the Engineer.

D. Whenever soil types which are determined by the Inspector to be undesirable for backfill are excavated from the trench, such material shall be hauled away and deposited at locations shown on the plans or as directed by the Engineer at no additional compensation.

E. Backfill materials placed in the pipe zone shall be carefully placed in relatively uniform depth layers spread over the full width and length of the trench section in a manner and/or sequence that will provide simultaneous support on both sides of the pipeline. Each layer shall be compacted effectively, by approved mechanical or hand methods, until there is no further visual evidence of increased consolidation. Above the pipe zone the backfill material shall be placed uniformly across and along the trench in depth suitable for the compaction method used and compacted to a minimum of the density specified for the material used and the trench location. Compaction of the in place layer shall be completed acceptably before placing material for a succeeding layer thereon.

The manner of placement, layer thickness, compaction equipment, and procedure effectiveness shall be subject to approval of the Engineer. Water jetting or flooding shall NOT be used to compact trench backfill.

F. Compaction of materials placed within the pipe bedding and encasement zones shall be accomplished with portable or hand equipment methods, so as to achieve thorough consolidation under and around the pipe and avoid damage to the pipe. Above the pipe zone, the use of heavy roller type compaction equipment shall be limited to safe pipe loading.

G. The maximum loose thickness of each backfill layer placed above the pipe zone shall be 12 inches, except that 16 inches will be permitted for Granular Materials placed above an elevation one foot above the top of pipe, and with the provision that, by authority of the Engineer and in consideration of the demonstrated capability of special type vibratory compactors, these maximums may be increased at his discretion. "Hydro tamps", "vibra tamps" or other heavy compacting equipment shall not be used until the backfill has reached a depth of four (4) feet above the top of the pipe.

H. All surplus or waste materials remaining after completion of the backfilling operations shall be disposed of in an acceptable manner within 24 hours after completing the backfill work on each particular pipeline section. Disposal at any location within the project limits shall be as specified, or as approved by the Engineer; otherwise, disposal shall be accomplished outside the project limits at the Contractor's discretion. The backfilling and surplus or waste disposal operations shall be a part of the work required under the pipeline installation items, not as work that may be delayed until final cleanup.

I. For the duration of the warranty period of the project, the Contractor shall assume full responsibility and expense for all backfill settlement and shall refill and restore the work as directed to maintain an acceptable surface condition. All additional materials required shall be furnished without additional cost to the Owner.

2. BACKFILL IN PUBLIC RIGHTS-OF-WAY AND OTHER AREAS WHERE SETTLEMENT IS CRITICAL

A. GENERAL REQUIREMENTS

(1). Backfill above the pipe zone in public rights-of-way and under paved parking lots, near structures or other utilities where settlement can cause damage shall be made using Portland cement stabilized backfill or crushed stone screenings (crusher fines).

The pipe zone is defined as that portion of the trench extending from the bottom of the trench to 12" above the crown of the pipe or conduit.

(2) Backfill around structures such as manholes, junction boxes, transformer boxes and valve boxes shall be made using Portland cement stabilized backfill material or crushed stone screening (crusher fines).

(3) The minimum depth of stabilized backfill or crusher fines shall be twelve (12") inches.

When utilities are being constructed under existing paving, the stabilized backfill or crusher fines shall extend from top of the pipe zone to the top of the base course.

When utilities are being constructed under existing unpaved streets that are not scheduled for immediate pavement construction, the stabilized backfill or crusher fines shall extend from the top of the pipe zone to the existing roadway surface.

When utilities are being constructed in streets that are scheduled for immediate paving, the stabilized backfill or crusher fines shall extend from the top of the pipe zone to the bottom edge of the eight (8") inches of subgrade, or, if the paving contractor has constructed a portion of the roadway prior to the construction of the utilities the backfill shall extend to the top of the course the contractor has finished, or the top of the base course, which ever is lower.

If the final course of asphaltic concrete has been placed, the street or alley surface shall not be cut for utility installation.

In streets where stabilized backfill is required only to the bottom of the subgrade course, the minimum depth of stabilized backfill may be reduced to six (6") inches in which case the maximum depth of the "pipe zone" shall be limited to six (6") inches above the top of the utility line or conduit.

B. BACKFILL MATERIALS

(1) Portland cement stabilized backfill shall consist of caliche base material, blow sand or native soil stabilized by the addition of Portland cement. Crushed stone or concrete aggregate shall NOT be used.

When Portland cement stabilized backfill is to be used, the contractor shall submit a mix design prepared by an approved commercial laboratory for approval before the trenching operation is begun. When native soil is to be used samples may be taken along the proposed route by boring or other approved means. Samples must be representative of the full trench depth.

The mix design shall be such that the minimum 7-day compressive strength is 150 psi when tested according to test method Tex 418-A.

The minimum cement content for Portland cement stabilized backfill shall be 1 sack per cubic yard.

Cement used in Portland cement stabilized backfill shall be Type I or Type II conforming to the requirements of ASTM Designation C150.

Caliche used for Portland cement stabilized backfill shall be crushed material conforming to Texas State Department of Highways and Transportation 1982 Standard Specifications for Construction of Highways, Streets and Bridges Item 248 Type F, Grade 2.

Blow sand used for Portland cement stabilized backfill shall be clean, free from organic matter, clay lumps, rock and other deleterious matter.

Native soil used for Portland cement stabilized backfill shall be clean, free of clods and organic matter, and free of rock in excess of 2".

(2) Crushed stone screening (crusher fines) used for back fill shall be sharp grained particles of crushed stone conforming to the requirements of Article 2.07 of these specifications.

(3) Trencher excavated rock material shall be screened so that the largest diameter material is less than 2". The screened rock material used for backfill shall have sufficient moisture added so that the backfill will bind with the fines. The rock material backfill shall be tamped or compacted in two (2) foot lifts. A sheeps foot roller shall not be used unless there is two (2) feet or more compacted backfill above the pipe bedding.

C. BACKFILL CONSTRUCTION

(1) Portland cement stabilized caliche backfill or Portland cement stabilized native soil backfill may be constructed using either the "dry" method or the "wet" method.

(a) The dry method of stabilized backfill construction consists of dry mixing of the cement and caliche or soil to produce a homogenous mixture then adding and mixing sufficient water for proper compaction and hydration of the cement. The water content of the mixture will be approximately one to two percent above the optimum moisture for soil compaction. The mixing may be accomplished by using batch mixers or on the job site by "blade mixing" or other suitable method to produce the desired backfill material. The mixed material shall be placed in lifts of up to a maximum of 12 inches and compacted to ninety-five (95%) modified proctor densities by use of suitable compacting equipment.

(b) In the "wet" method of cement stabilized backfill construction, the materials shall be mixed in an approved concrete batching plant or mixer to the consistency of concrete and placed as concrete would be placed. The slump of the backfill material shall be such that all voids will be filled, approximately four (4") to six (6") inches. The backfill shall be consolidated by rodding or by the use of mechanical vibrators.

Portland cement stabilized blow sand backfill shall be mixed and placed by the "wet" method as described above.

Crushed stone screening (crusher fines) shall be wetted uniformly throughout with sufficient moisture to assure proper compaction before being placed in the trench. The moistened crushed stone screening (crusher fines) shall be placed in maximum lifts of twelve inches and consolidated using vibratory type compaction equipment except when it has been demonstrated that the compaction equipment employed will adequately compact deeper lifts in which case the maximum depth of a lift shall be limited by the capabilities of the equipment used.

Tests to determine the compacted density of the backfill shall be ordered by the Engineer if in his opinion the compaction is not adequate. Test showing a minimum compacted density of 90%-modified proctor will be deemed adequate.

3. BACKFILL OUTSIDE OF PUBLIC RIGHTS-OF-WAY WHERE SETTLEMENT IS NOT CRITICAL

A. In areas outside of public rights-of-way and in the absence of special work item requirements the backfilling shall be accomplished with the use of suitable materials selected from the excavated materials to the extent available and practical. Should the materials available from the trench section be unsuitable or insufficient, the required additional materials shall be furnished from outside sources at the Owners expense.

B. Suitable material shall be defined as a mineral soil reasonably free of foreign materials (rubbish, debris, etc.) frozen clumps, oversize stone, rock, concrete or bituminous chunks and other unsuitable materials, that may damage the pipe installation, prevent thorough compaction, or increase the risks of after settlement unnecessarily. Material selection shall be such as to make the best and fullest utilization of what is available, taking into consideration particular needs of different backfill zones. Material containing stone, rock, or chunks of any sort shall only be utilized where and to the extent there will be no detrimental effects.

C. The backfill material placed in this area shall be compacted by suitable means to a minimum density equal to the density of the undisturbed surrounding soil. City Engineer MUST approve water flooding as a means of compaction.

4. TRENCH BACKFILL BEHIND CURB AND GUTTER

A. When utilities are placed behind the curb in paved streets and other landscaped areas the backfill shall be the same as elsewhere in the right-of-way or other applicable location except that in grassed areas and in flower beds the top six (6") inches of backfill shall be good quality top soil. When utilities are placed behind the curb in grassed or landscaped areas where no sidewalk is to be constructed and the edge of the trench is a minimum of 2 feet from the back of curb or where sidewalk is to be constructed and the minimum distance from both the back of curb and the edge of the sidewalk to the edge of the trench is 2 feet the contractor may elect to use suitable native soil for backfill. The native soil backfill shall be compacted to 95% modified proctor density to within 6" of the top of curb height. The top 6" of backfill shall be good topsoil and shall be compacted to the density of the adjacent soil.

B. Sidewalks shall be repaired by removing and replacing the complete section or sections that have been damaged. Strip patching through sidewalks will not be permitted.

The replacement sidewalk shall be of the same design and section as the walk removed and shall be of equal or better workmanship.

C. When utilities are placed in paved areas behind curbs the pavement shall be repaired as specified for street pavement.

D. Grassed areas and flowerbeds shall be restored as nearly as possible to the original condition. Care shall be taken to avoid damage to sprinkler systems.

Mail boxes and other appurtenance in the construction area. Any damage to said items shall be repaired immediately.

E. All repairs made behind the curb shall be to the satisfaction of the property owner responsible for their maintenance and/or to the satisfaction to the City Engineer.

3.11 INLET STRUCTURES AND LEADS AND CLEANOUTS FOR STORM SEWERS

A. Corrugated Galvanized Steel Slotted Drains for Nuisance water inlets only.

(1) Slotted drains shall be the sizes and lengths as shown on the plans and constructed at the locations as shown on the plans or at locations to be established on the job site.

(2) Slotted drains shall not be installed under asphalt pavement but shall have a section of concrete gutter constructed around it as shown on the detail drawings.

Slotted drains shall be protected from the entrance of debris, concrete or HMA by closing the slot with one or two layers of heavy duct tape or similar material. In addition, the slot for slotted drain shall have a 2-½ inch or ¾ inch board attached to use as a guide for placing and edging the concrete.

Unless otherwise approved or directed by the Engineer the removal of tape and planking from the slotted drain should be accomplished as part of the final clean up.

B. Curb inlets, grate inlets and combination inlets

(1) General

Curb inlets, grate inlets and combination inlets may be pre-cast or cast-in-place at the contractor's option unless specifically shown otherwise on the plans and bid proposal.

(2) Pre-cast inlet boxes

- (a) Construction and finish for pre-cast inlet boxes shall conform to details shown on the plans and all applicable requirements for pre-cast manholes.
- (b) Tops for curb inlets and combination inlets may be cast in place or pre-cast. Extra care will be required in setting pre-cast tops to assure curb and gutter match.
- (c) Pipe connections, bedding, setting and backfill for pre-cast inlets shall be in accord with the applicable requirements for pre-cast manholes article 3.12 of these specifications.

(3) Cast in place inlets

- (a) Cast in place inlets shall be constructed of class "C" reinforced concrete as specified in item 1-B "Concrete for Structure" in these specifications.

- (b) Forms for cast in place inlets shall be straight, clean and in good condition. Forms shall be properly cleaned and oiled before concrete is placed.
- (c) Construction joints may be placed in cast in place inlets at locations shown on the plans. When construction joints are used, extra care will be required to assure that the joints are watertight.
- (d) Cast in place inlets may be cast without outside forms if the soil conditions are such that true vertical walls can be cut and will stand during construction without sloughing or otherwise incorporation foreign materials into the concrete.
- (e) When inlets are cast without outside forms, a plastic sheet lining may be required to prevent excessive loss of moisture from the concrete and/or to prevent incorporation of foreign material into the concrete.

A. Inlet Leads

- (1) Inlet leads shall be constructed of corrugated steel pipe, PVC pipe or other material as called for on the plans and in the bid proposal.
- (2) Construction of inlet leads shall be in accord with the applicable requirements for the type of pipe used.
- (3) Junctions where two or more inlet leads are joined shall be made at clean outs or manholes.

B. Cleanouts

- (1) Clean outs shall be constructed in accord with the plans and detail drawings.
- (2) Construction and connections shall be in accord with the applicable specifications for construction of corrugated steel pipe manholes.

3.12 SANITARY SEWER SERVICES AND PLUGGED STUBS

A. Sanitary Sewer Services:

- (1) On new sewer main construction all sewer laterals shall be constructed as part of the initial installation. Sewer wye fittings for sewer laterals in new construction shall be molded or fabricated with all gasketed connections. Four (4") inch laterals shall be installed at all single-family residences and duplex. Laterals installed for apartment complexes, commercial and industrial areas shall be a minimum of six (6") inches. Depth of laterals will be determined by depth of sewer main and applicable building codes. Laterals shall be installed using tee wyes or wyes and bends so that they will be at 90 degrees to the sewer main. Laterals shall extend to 3' minimum beyond the property line of the served lot or tract. The contractor shall install sewer laterals according to the typical sewer lateral detail and the most current revisions of the Plumbing Code.

(2) Taps into existing lines shall use a gasketed fitting in conjunction with a full circle repair sleeve coupling, except that taps into existing ductile iron sewer may be made using the Genco Model DF sewer pipe saddle (The General Engineering Co., Frederic, MD Drawing No. R-3220-D dated 12/29/82) or approved equal.

(3) Cemented mitered connections without socket reinforcement shall not be permitted. The contractor will be permitted to use fittings, which are prefabricated, using pipe sections, molded saddles and PVC solvent cement, provided the solvent cement used in fabrication has cured for at least 24 hours prior to the installation. All solvent cement fittings shall be manufactured in the shop under controlled conditions.

(4) All caps and plugs shall be braced, staked, anchored, wired on or otherwise secured to the pipe to prevent leakage under maximum anticipated thrust from internal abnormal operating conditions or test pressures from water or air.

(5) It shall be the duty of the Contractor to keep a record of sewer service wye locations with respect to the nearest downstream manhole, but the Engineer will record ties on the end of all sewer services at the property line. When installing sewer services the Contractor shall, before backfilling, contact the Engineer or his representatives, and assist him in making ties to the end of the service in the open trench. At least two ties shall be made for each service, and if backfilling proceeds before such ties are made, the Contractor shall dig up the end of all such services, with no additional compensation, for the purpose of making ties. During backfilling the Contractor shall furnish and place a vertical steel post or 2 inch by 2 inch wooden stake set flush with finished ground surface, and extending down to the end of the sewer service, a nail shall be placed in the top of the stake to allow location of the service by metal finder.

(6) The main sewer service connection shall consist of installing an in-line wye section in the main sewer line at designated locations. Saddle wye installations will be permitted only when specifically called for. Orientation of service connection fittings shall be as shown in the standard drawings unless otherwise directed by the Engineer.

(7) Where the depth of cover over the main sewer invert is greater than 8 feet (or such other maximum as may be indicated), the service connection shall be extended outward then upward by use of bends to prevent excess loading on the sewer main in accordance with the details shown in the drawings.

(8) The Contractor shall provide the necessary wyes, tees and bends to bring the service to the proper place at the property line.

(9) Wherever service line connections to the main sewer are permitted or required to be made by the open cutout method in the absence of a built-in tee or wye fitting, the connection shall be made by using an approved type coring machine or by other approved methods producing a uniform, smooth circular cut-out as required for proper fit. The cutout discs shall be retrieved and shall not be allowed to remain within the main sewer pipe. The saddle tee shall be securely fastened to the main sewer pipe by means of epoxy resin or other approved adhesive. The entire connection fitting shall be encased in concrete to a minimum thickness of six inches and as may be shown in the standard drawings.

(10)Wherever service line connections to the main sewer are required to be made by means of built-in branch tee or wye fittings, the Contractor shall, in the absence of such fitting, remove a section of the main sewer pipe and replace it with the required branch tee wye or wye section connected by means of an approved sleeve coupling.

(11)Connections of service lines to the main sewer are required to be made by means of built-in branch tee or wye fittings, the Contractor shall, in the absence of such fitting, remove a section of the main sewer pipe and replace it with the required branch tee wye or wye section connected by means of an approved sleeve coupling.

(12)The end of all service connections shall be plugged with PVC plug and sealed with plastic joint material.

(13)Crushed stone bedding and backfill material, concrete encasement and protection, etc., for service line installation shall be the same as for the sewer lines.

(14)No service connections or laterals shall be covered until they have been inspected and located by the Engineer.

B. INSTALLATION OF PLUGGED STUBS ON SANITARY SEWERS

Plugged pipe stubs for future connections to manholes and sewerage structures shall be installed where shown on the Drawings or directed by the Engineer. The pipe stubs shall be installed in accordance with the specifications and details shown on the Drawings for connecting the type of pipe used to manholes.

3.13 MANHOLES

1. General

The manholes shall be constructed at the locations shown on the plans or as directed by the Engineer and in accordance with the details shown on the plans and as specified herein. After the excavation has been completed, the subgrade for the manhole base shall be graded and leveled. A crushed stone foundation having a minimum thickness of 6 inches shall then be placed on the subgrade. The crushed stone foundation shall be leveled and consolidated before the section of the manhole is placed. Pre-cast base sections shall sit in place level and plumb and to the lines and grade as shown on the plans. Cast in place bases shall be placed around the existing sewer line in accord with the plans and detail sheet. When pre-cast manhole bases are used, riser construction may proceed when the base is set on line and grade. When cast in place manhole bases are used, riser construction may proceed when the base has set sufficiently to support the weight of the riser.

Manholes shall be of the type and material shown on the plans and called for in the bid proposal and shall conform to these specifications.

All lift holes shall be filled with approved non shrink grout and bituminous material before final acceptance. Use of bituminous material or other flowable material alone to plug lift holes will not be permitted. Voids in the invert around the sewer pipe on the

inside wall of the manhole shall be grouted with cement rich grout, to conform to the rest of the wash, in accordance with the standard manhole details.

The backfill around the manhole shall be done in accordance with the details shown on the plans and trench backfill specifications.

The Contractor shall take whatever precautions necessary to protect the manholes that are under construction. At the end of the day or at such time as the Contractor deems necessary, all manholes not completed shall be covered, sealed, plugged, etc. to prevent the inflow of storm water or other objectionable material, and to prevent animals and humans from getting into the manhole.

2. PRE-CAST CONCRETE

A. Pre-cast tub bottom sections of manholes shall be set on a crushed stone foundation or bedding according to the details shown on the plans. Care shall be exercised to assure true alignment and grade for the pipe openings.

The invert of the manhole shall be constructed of cement rich grout and shall be formed to true lines; grades and curvature to assure smooth flow through the manhole. The invert shall have a steel trowel finish.

Joints for pre-cast concrete manhole riser sections shall be made Watertight by use of bitumastic or rubber sealers or "O" ring gaskets. Both sides of the tongue and groove joint shall be painted with a bitumastic primer before assembly.

The bitumastic or rubber sealer shall be clean and pliable and shall deform under the pressure of joint closure to assure a complete water tight seal. Care shall be exercised to assure proper alignment of the joint. The walls of the completed manhole shall be straight and vertical.

B. Pre-cast eccentric cone sections and precast slab manhole tops with eccentrically located manway shall be set with the manway adjacent to the up stream side of the manhole. The joints between the cone or slab top and the manhole riser shall be sealed in the same manner as the joints between the riser section. Care shall be taken in placing the cone and or slab tops to assure the manhole ring and cover can be set to match the finished paving.

C. Pre-cast grade rings will be used, when required, to bring the manhole ring and cover up to the finished grade. Grade rings may be set using cement rich grout or bitumastic seal and such as Ram-Nek or approved equal. When cement rich grout is used, care shall be taken that the space between the cone or slab top and the first grade ring and between the grade rings are completely filled without voids.

When bitumastic sealer is used the joints shall be constructed in the same manner as the joints between the riser sections.

When pre-cast manholes with PVC or other approved polymer lining are called for on the plans and bid proposal and are furnished under this contract they shall be constructed as other pre-cast concrete manholes.

In addition the joints in the lining shall be sealed by hot air welding, use of epoxy coating, or other approved means.

3. CAST IN PLACE MANHOLE BASES

A. Cast in place manhole bases shall be used only where shown on the plans or as directed by the Engineer and shall be constructed in accord with the details shown on the plans.

B. Special care shall be taken in casting the surfaces that will mate with the first riser section to assure a smooth even fit and a watertight joint.

C. The first riser section to be used with cast in place manhole bases shall be cast without tongue or groove. The joint between the riser section and the cast in place base shall be sealed with a bitumastic or rubber sealant in the same manner as the joints in the pre-cast riser sections.

D. Care shall be taken in forming the invert of the manhole around existing sewers to assure adequate opening for the insertion of a "go – no go" mandrel or other testing equipment and cleaning tools.

4. MANHOLE RING AND COVER

A. The tops of the manhole frame and cover (ring) shall be built to the grade shown on the plans. The cast iron frame shall be firmly embedded in mortar.

B. When pressure type manhole rings and cover are specified on storm sewer manholes they shall be bolted to the concrete slab top using the "L" bolts cast into the slab for this purpose. The joint between the ring and the concrete slab top shall be made watertight using a bitumastic or rubber seal and conforming to the requirements of these specifications.

5. CORRUGATED STEEL MANHOLES

A. Corrugated steel manholes shall be constructed in accord with the details shown on the plans and in accord with the applicable requirements for the construction of corrugated steel pipe sewers.

B. Care shall be taken during the placing of backfill around corrugated steel pipe manholes to maintain the horizontal and vertical alignment of the manhole.

C. Since full contact of the flat top slab with the cement stabilized backfill is critical the backfill shall be finished smooth and to the proper grade. A thin layer of cement rich grout shall be placed on the cement stabilized backfill immediately prior to placing the concrete slab top. The grout shall be sufficient to fill all voids between the backfill and the slab and of a consistency to be forced into the voids under the weight of the slab.

3.14 TESTING GRAVITY SEWER MAINS AND MANHOLES

A. Upon completion of the sewer construction including all wyes and service laterals and before any house drains or services are connected, all sewers shall be cleaned and lamped. All runs of sewer between manholes shall be straight and true. Leakage tests shall be made to determine the amount of ground water infiltration into the sewers. Infiltration tests shall be made when groundwater level is 18 inches or more above the top of the outside of the pipe. Measurement will be taken by means of a weir placed in the lines. The maximum allowable rate of leakage shall be 25 gallons per inch diameter per mile of pipe per 24 hours, for any section of pipe with a maximum total leakage of 200 gallons per mile per 24 hours for sanitary sewers with the exception that the maximum leakage for storm drains shall be 200 gallons per inch of diameter per mile per 24 hours with a total maximum leakage of 6,000 gallons per mile per 24 hours.

When the groundwater is not at sufficient height for infiltration testing the Contractor shall use exfiltration to test the sewer lines.

B. In lieu of the infiltration or exfiltration tests the Contractor may perform air tests on the sewers.

C. If the infiltration, exfiltration, or air tests fail to meet requirements specified herein, the Engineer reserves the right to request television work to be done to locate leaks. The Contractor shall furnish all materials and equipment necessary to accomplish all infiltration, exfiltration, air or television testing.

The Contractor shall receive no additional compensation for this testing or inspection work or for repairs of corrective work required to be done to the sewers. The exfiltration tests shall be used in areas where no ground water is present.

D. Test Procedure Hydrostatic (Exfiltration)

(1) The test section shall be bulk headed and the pipe subject to a hydrostatic pressure produced by a head of water at a depth of three (3) feet above the invert of the sewer at the upper manhole under test. In areas where ground water exists, this head of water shall be three feet above the existing water table.

(2) This head of water shall be maintained for a period of one hour during which it is presumed that full absorption of the concrete manhole body has taken place and thereafter for a further period of one (1) hour for the actual test of leakage. Fiber glass manholes are exempt from the one hour absorption requirement. During this one (1) hour test period, the measured maximum allowable rate of exfiltration for any section of sewer shall be the same as allowed for the infiltration test.

E. TEST PROCEDURE AIR

(1) Where the Contractor elects to air test, he shall perform these tests with equipment similar to Air-Loc equipment manufactured by Cherne Industrial, Inc. Hopkins, Minnesota.

(2) The air test shall be made when the sewer is clean. The line shall be plugged at each manhole with pneumatic balls. Low pressure air shall be introduced into the plugged line until the internal air pressure reaches 4.0 psig greater than the average

back pressure of any ground water pressure that may submerge the pipe. At least two (2) minutes shall be allowed for the air temperature to stabilize before readings are taken and the timing started.

(3) When testing pipes 14 inches and less in diameter between consecutive manholes, the portion being tested shall pass if it does not lose air at a rate to cause the pressure to drop from 4.0 to 3.0 psig (greater than the average back pressure of any groundwater that may submerge the pipe) in less time than listed as calculated from Table 1.

When testing pipes greater than 15 inches in diameter between consecutive manholes the portion being tested shall pass if it does not lose air at a rate to cause the pressure to drop from 3.5 psig 3.0 psig (greater than the average back pressure of any groundwater that may submerge the pipe) in less time than that shown in or calculated from Table II.

TABLE I
Specification Time Required for a 1.0 PSIG Pressure Drop for Size and Length of Pipe indicated for Q = 0.0015

Specification Time for Length (L) Shown (min: sec)											
1	2	3	4 (xL)	100 ft.	150 ft.	200 ft.	250 ft.	300 ft.	350 ft.	400 ft.	450 ft.
4	3:46	597	.380	3:46	3:46	3:46	3:46	3:46	3:46	3:46	3:46
6	5:40	398	.854	5:40	5:40	5:40	5:40	5:40	5:40	5:42	5:42
8	7:34	298	1.520	7:34	7:34	7:34	7:34	7:36	8:52	10:08	11:24
10	9:26	239	2.374	9:26	9:26	9:26	9:53	11:52	13:51	15:49	17:48
12	11:20	199	3.418	11:20	11:20	11:24	14:15	17:05	19:56	22:47	25:38
15	14:10	159	5.342	14:10	14:10	17:48	22:15	26:42	31:09	35:36	40:04
18	17:00	133	7.692	17:00	19:13	25:38	32:03	38:27	44:52	51:16	57:41
21	19:50	114	10.470	19:50	26:10	34:54	43:37	52:21	61:00	69:48	78:31
24	22:40	99	13.674	22:47	34:11	45:34	56:58	68:22	79:46	91:10	102:33
27	25:30	88	17.306	28:51	43:16	57:41	72:07	86:32	100:57	115:22	129:48
30	28:20	80	21.366	35:37	53:25	71:13	89:02	106:50	124:38	142:26	160:15
33	31:10	72	25.852	43:05	64:38	86:10	107:43	129:16	150:43	172:21	193:53
36	34:00	66	30.768	51:17	75:55	102:34	128:12	153:50	179:29	205:07	230:46

1. Pipe Diameter (in.)
Minimum Time (min:sec)
Length for Minimum Time (ft.)
Time for Longer Length (sec)

NOTE: When using column 4 multiply the number in column 4 opposite the pipe diameter by the length of pipe of that diameter and sum the times for the various pipe size in the run being tested. Computations shall include lengths for service connection laterals.

Table II
Specification Time Required for 0.5 PSIG Pressure Drop for Size and Length of Pipe Indicated for Q + 0.0015

Specification Time for Length (L) Shown (min: sec)											
1	2	3	4 (xL)	100 ft.	150 ft.	200 ft.	250 ft.	300 ft.	350 ft.	400 ft.	450 ft.
4	1:53	597	.190	1:53	1:53	1:53	1:53	1:53	1:53	1:53	1:53
6	2:50	398	.427	2:50	2:50	2:50	2:50	2:50	2:50	2:51	3:12
8	3:47	298	.760	3:47	3:47	3:47	3:47	3:48	4:26	5:04	5:42
10	4:43	239	1.187	4:43	4:43	4:43	4:57	5:56	6:55	7:54	8:54
12	5:40	199	1.709	5:40	5:40	5:40	7:08	8:33	9:58	11:24	12:50
15	7:05	159	2.671	7:05	7:05	8:54	11:08	13:21	15:35	17:48	20:02
18	8:30	133	3.846	8:30	9:37	12:49	16:01	19:14	22:26	25:38	28:51
21	9:55	114	5.235	9:55	13:05	17:27	21:49	26:11	30:32	34:54	39:16
24	11:20	99	6.837	11:24	17:57	22:48	28:30	34:11	39:53	45:35	51:17
27	12:45	88	8.653	14:25	21:38	28:51	36:04	43:16	50:30	57:42	64:54

30	14:10	80	10.683	17:48	26:43	35:37	44:31	53:25	62:19	71:13	80:07
33	15:35	72	12.926	21:33	32:19	43:56	53:52	64:38	75:24	86:10	96:57
36	17:00	66	15.384	25:39	38:28	51:17	64:06	75:55	89:44	102:34	115:23

- 1 Pipe Diameter (in.)
2 Minimum Time (min:sec)
3 Length for Minimum Time (ft.)
4 Time for Longer Length (sec)

NOTE: When using column 4 multiply the number in column 4 opposite the pipe diameter by the length of pipe of that diameter and sum the times for the various pipe size in the run being tested. Computations shall include lengths for service connection laterals. All service plugs shall be secured in place to prevent displacement during testing operation.

F: DEFLECTION TEST

Deflection tests shall be performed on all flexible pipe, the tests shall be conducted after the backfill has been in place at least 30 days. No pipe shall exceed a deflection of 5 percent. The deflection tests shall be run using a Go-No-Go mandrel having a diameter equal to 95 percent of the inside diameter of the pipe. The tests shall be performed without mechanical pulling device, any pipe not meeting the deflection test shall be excavated and re-bedded at no cost to the owner.

The Contractor at no additional cost to the owner shall furnish the Go-No-GO Mandrel.

Upon completion of all tests, the Contractor shall provide personnel to remove each manhole cover in the presence of the Engineer's representative for inspection and depth measurement.

G. TESTING SANITARY SEWER MANHOLES

All sanitary sewer manholes shall be tested for water tightness by one of the following methods.

Manholes, except those in streets scheduled for immediate paving, shall be complete, having all adjusting rings and cover rings in place and shall be backfilled prior to testing.

Manholes in streets scheduled for immediate paving shall be complete as described above except those acceptance tests shall be made at the top of the cone section.

(1.) Vacuum Test

a. General

This item will govern the testing of all sanitary sewer manholes. All connections to manholes including drop connections shall be in place before testing.

b. Equipment

Equipment for vacuum testing manholes shall be:
MANHOLE VACUUM TESTER as manufactured by:

P.A. Glazier, Inc.
P.O. Box 1002
Worcester, MA. 01613

Or

THE CHERNE AIR-LOC MANHOLE TESTER as manufactured by:

Cherne Industries, Inc.
5700 Lincoln Dr.
Minneapolis, MN 55436-1695

Or approved equal.

c. Preparation for Testing

All connections to the manhole; except plugged stubs for future line extensions, shall be plugged using suitable pneumatic plugs. Line plugs shall be placed at a point outside of the manhole wall (approximately 8" to 10" into the sewer pipe). Drop connections shall be plugged at a point up stream from the drop.

All plugs, pipe connections and plugged stub outs shall be adequately braced to prevent them being drawn into the manhole when vacuum is applied.

d. Testing

The contractor shall set the test equipment in place and operate it in accord with the manufacturer instructions. A copy of these instructions shall be kept on the job site and shall be available to the inspector when tests are performed. When equipment is properly set up a vacuum of 10" of mercury (Hg) shall be drawn and the vacuum line valve closed. After the vacuum pump is shut off the hose shall be disconnected before the test is started.

Note: Vacuum must be at 10" Hg when test is started. The contractor may wish to draw up to 10.5" Hg vacuum and then bleed back to 10" Hg before starting the test. The test shall pass when the minimum time for the vacuum to drop from 10" Hg to 9" Hg is greater than the time shown in the following table:

TABLE 1: Minimum test times for various manhole diameters.

Depth Feet	DIAMETER		
	48"	60"	72"
8'	0:20	0:26	0:33
10'	0:25	0:33	0:41
12'	0:30	0:39	0:49
14'	0:35	0:46	0:57
16'	0:40	0:52	1:05
18'	0:45	0:59	1:13
20'	0:50	1:05	1:21
* ADD	0:05	0:06.5	0:08

Any manhole that fails the test shall be repaired and retested until it passes the test.

e. Contractors Optional Test

The contractor, at his option may wish to test manholes before they are backfilled to assure himself that the manhole is sound.

Manholes that fail the test prior to being backfilled may be repaired under vacuum by coating the area of the leak with a liquid quick setting grout allowing the grout to be drawn into the opening until the leak is stopped.

Manholes will not be accepted on the bases of this test.

f. Fiberglass Manholes

Fiberglass manholes may be tested in the same manner as concrete manholes except that all repairs to the fiberglass body of the manhole shall be made using materials furnished by the manufacturer. Repairs shall be made in accord with the manufacturer instructions.

g. No separate payment will be made for vacuum testing of manholes, but the cost shall be considered incidental to furnishing and construction of manholes as bid in the bid proposal.

2. HYDROSTATIC TESTING

a. General

This item shall govern the hydrostatic testing of manholes and may be used as an alternative to vacuum testing by the contractor.

All connections to manholes including drop connections shall be in place prior to testing manholes.

b. Testing

All connections to the manhole, except plugged stubs installed for future line extensions, shall be plugged upstream from the drop.

Plugs in pipe connections must be placed outside the manhole wall (approximately 8" to 10" into the pipe).

The manhole shall then be filled to the top of the cast iron ring (or top of the cone section for manholes in streets scheduled for immediate paving) and allowed to stand for a minimum of one hour to allow for absorption by the components of the manhole. The inspector may extend the absorption period if it appears that the manhole has not reached a stable state.

The manhole shall then be refilled to the top of the ring (or cone) and allowed to stand for up to 24 hours.

The manhole shall be checked at the end of 4 hours and will be deemed to have passed if no perceptible loss has occurred – if loss has occurred the manhole will be checked after the 24 hour period and will be considered to have passed if loss does not exceed the following schedule

Depth Ft.	Loss Inches
0 - 10'	.2
10 – 20'	.4
20 - 30'	.6

c. No separate payment will be made for Hydrostatic Testing of manholes but the cost shall be considered as incidental to furnishing and constructing manholes as bid in the bid proposal.

H. TELEVISIONING NEW SEWER LINES

It is the city's intention to televise all new sanitary sewer lines for record purposes.

Immediately after the contractor completes all testing of sanitary sewer lines and manholes he shall leave all manholes accessible for televising and make allowances for the city's camera crews working on the project site.

The contractor at his own expense before final acceptance must correct any defects discovered during the televising of sanitary sewers.

3.15 RESTORATION

A. Whenever any surface improvements such as pavement, curbing, pedestrian walks, fencing, or turf have been removed, damaged or otherwise disturbed by the Contractor's operations, they shall be repaired or replaced to the Engineers satisfaction, to restore the improvement in kind and structure to the pre-existing condition. Each item of restoration work shall be done as soon as practicable after completion of installation and backfilling operations on each section of pipeline.

B. In absence of specific payment provisions, as separate Contract Items, the restoration work shall be compensated for as part of the work required under those Contract Items, which necessitated the destruction and replacement or repair, and there will be no separate payment therefor. If separate pay items are provided for restoration work, only that portion of the repair or reconstruction, which was necessitated by the contract, will be measured for payment. Any improvements removed or damaged unnecessarily shall be replaced or repaired at the Contractor's expense.

C. Turf restoration shall be accomplished by sod replacement except where seeding is specifically allowed or required.

Caliche or gravel surfaced streets and driveway shall be restored to their original condition by salvaging and replacing the pre-existing caliche or gravel. If the Contractor does not salvage sufficient material during excavation operation, he will be required to furnish material to restore the surface to the depth of the original section. This caliche or gravel restoration shall be considered a part of excavation and backfill and no extra compensation will be made.

E. Bituminous and concrete surfaced streets and driveways will be restored to equal or better condition than existed prior to sewer construction. Measurement will be made of the actual quantities required to be replaced by the sewer construction and paid for at the price bid in the appropriate bid items in the proposal.

No measurement or payment will be made for work done outside the lines considered necessary for sewer construction. The Contractor will be required to replace damage outside these lines at his own expense.

F. Reconstruction of caliche base courses and concrete or bituminous surface courses shall be in substantial compliance with all applicable City of Midland Specifications pertaining to the item being restored.

3.16 CLEANUP

After completing each section of the sewer line, the Contractor shall remove all debris, construction materials, and equipment from the site of the work, grade and smooth over the surface on both sides of the line and leave the entire right-of-way in a clean, neat, and serviceable condition. No separate compensation shall be made for clean up.

3.17 PAYMENT

A. General

Payment in accordance with the following items, at the unit price bid for the work, shall constitute full and complete payment for the entire project including all incidental terms necessary for the complete and successful prosecution of the work in accordance with the intent of the plans and specifications.

Materials and work required to complete the project for which there is no bid item in the bid proposal shall be considered as incidental and the cost shall be included in the prices bid for the various items in the bid proposal.

Where payment is to be made on a unit price basis, it shall be made on the actual measured quantities as constructed in the work.

B. Sewer Pipe in Place

Unit prices bid shall cover furnishing and installation of pipe and jointing materials, including tests and all other necessary work and material to install the pipe complete in place at the depth specified. The unit of work shall be the lineal foot of the various types and sizes as shown in the proposal form. The pipe installation shall be measured

along the centerline of the sewer from center to center of manholes with no deduction in footage for manholes, wye branches, riser bases or other structure.

C. Foundation Corrections Materials

Payment for foundation correction materials shall be made at the unit price bid per cubic yard for material furnished and placed to provide adequate pipe base in unstable soil. The unit price shall include extra excavation below pipe grade, the material, placing and tamping.

Additional material required to backfill excess depth of excavation caused by neglect or error on the part of the Contractor or wet conditions, shall be furnished and placed at his own expense.

Removal of Street Surfacing

The Contractor shall receive no extra compensation for the removal of street surfacing including cutting of a straight edge.

E. Trench Safety Systems, Sheet piling and Shoring

Measurement: Trench Safety Systems shall be measured by the linear foot of "Trench Safety Systems": Payment for work prescribed under this item shall be full compensation for the Trench Safety Systems including any Engineering and/or consulting fees and any additional excavation and backfill required, for furnishing, placing, maintaining and removing all shoring, sheet piling, or bracing; for de-watering or diversion of water; for all jacking and jack removal; and for all other labor, materials, tools, equipment and incidentals necessary to complete the work.

F. Manholes

Payment will be made for the various types of manholes at the unit prices bid for the various types of manholes 0 to 6' deep which price shall include excavation, furnishing and installing all materials pumping where necessary, and backfilling and all incidentals for the complete manhole in place. Measurement for manholes over 6 feet in depth shall be made of the depth of manhole in excess of six (6) feet. Manholes will be measured from the invert to the top of the casting as set.

Payment will be made for the manhole depth in excess of 6 feet at the vertical foot price bid in the bid proposal for extra depth of manhole over 6 feet for each type of manhole furnished.

G. Drop Connections to Manholes

Payment shall be made for drop connections to manhole for each drop connection made as counted in the field at the price bid in the proposal.

Said payment shall be complete compensation for furnishing all materials and fittings and making all connections to the manhole including 2' of vertical depth as measured from the invert of the incoming line to the invert of the manhole.

H. Drop Section for Manholes

Drop sections shall be paid for on a vertical footage basis as measured from the invert of the incoming line to the invert of the manhole less 2 feet and shall be paid for at the price bid per vertical foot for the various size drop connections in the bid proposal.

The price bid per vertical foot includes all fittings, granular material, if used and concrete and shall be full compensation for the complete in service drop connection.

I. Service Lines

Service lines will be measured from centerline of the sewer main to the plug end and paid for at the unit price bid per linear foot of each type of pipe as specified and as shown on the typical details.

J. Barricading and Traffic Control

The lump sum price bid in the bid proposal shall be full compensation for furnishing flag persons when required and all barricades, signs and other barricading and traffic control devices and for furnishing barricading plans and erecting and maintaining all such devices and signs as required for the duration of the period.

Updated
08/07

City of Midland

Water Rehab Program

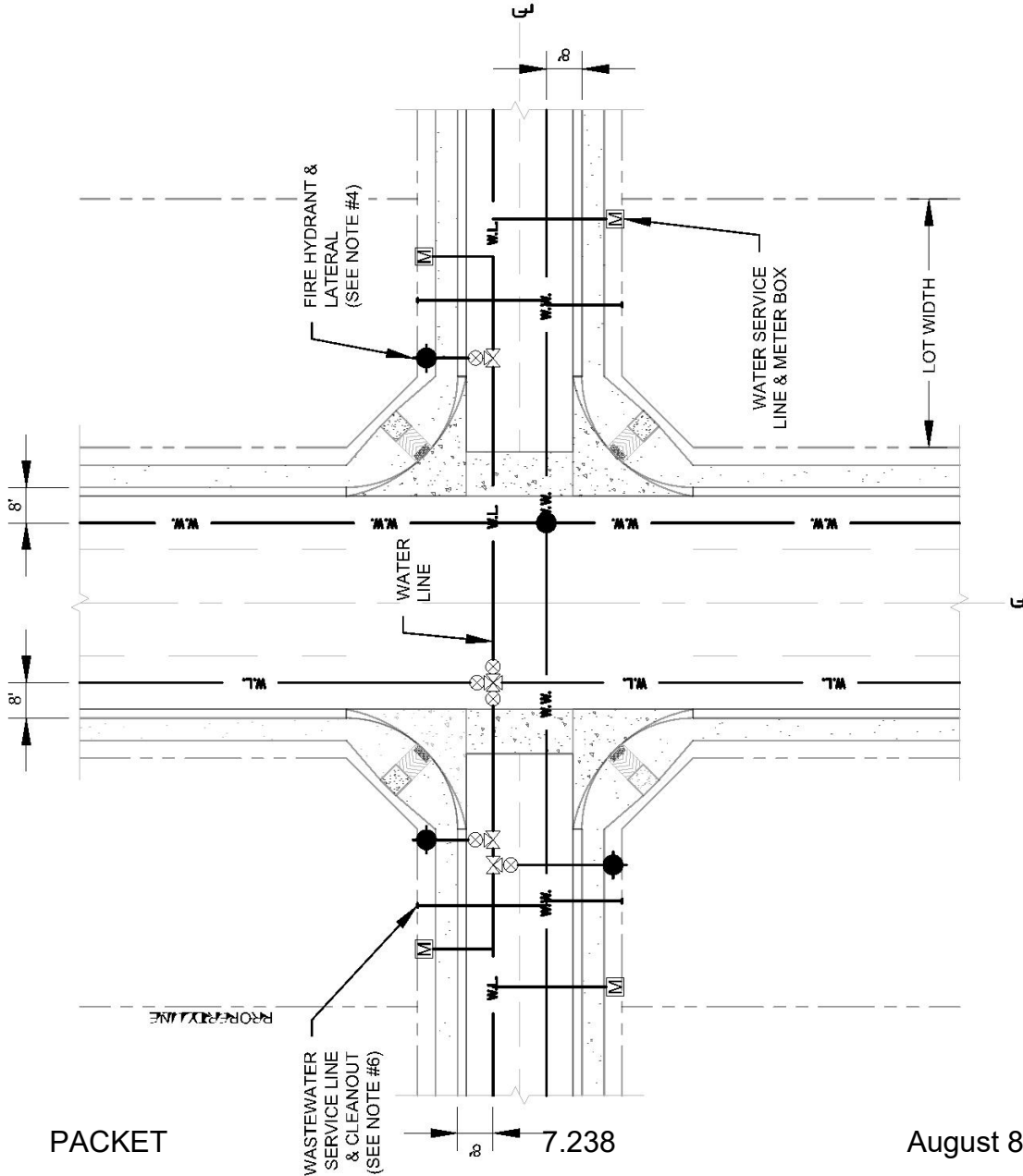
01 Details

LEGEND

	WATER MAIN
	WASTE WATER MAIN
	GATE VALVE
	CROSS FITTING
	TEE FITTING
	FIRE HYDRANT
	WATER METER
	MANHOLE

NOTES:

1. IF A SITE INCLUDES ALLEYS, OR IS ADJACENT TO EXISTING ALLEYS, THEN THE WASTEWATER MAIN IS TO BE LOCATED IN THE ALLEY AND NOT THE STREET RIGHT OF WAY.
2. ALL DIMENSIONS SHOWN ARE FROM BACK OF CURB. WHEN BIKE LANES ARE PRESENT CENTER UTILITIES IN THE OUTER VEHICLE TRAVEL LANE.
3. FIRE HYDRANTS PLACED AT INTERSECTIONS TO BE PLACED IN LINE WITH A FILLET BEGINNING-OF-RADIUS OR A FILLET END-OF-RADIUS.
4. FIRE HYDRANTS PLACED AT MID-BLOCK TO BE PLACED IN LINE WITH A LOT LINE.
5. FIRE HYDRANT COVERAGE DOES NOT EXTEND ACROSS ARTERIALS OR MAJOR COLLECTORS. FIRE HYDRANTS MAY BE REQUIRED ON BOTH SIDES OF A STREET OR INTERSECTION AT THESE LOCATIONS.
6. CLEANOUTS ARE TO BE INSTALLED BY THE PROPERTY OWNER.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



PACKET

August 8, 2023

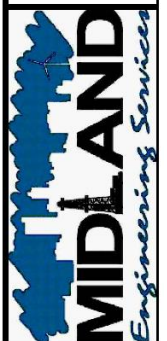
EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

TYPICAL UTILITY LAYOUT

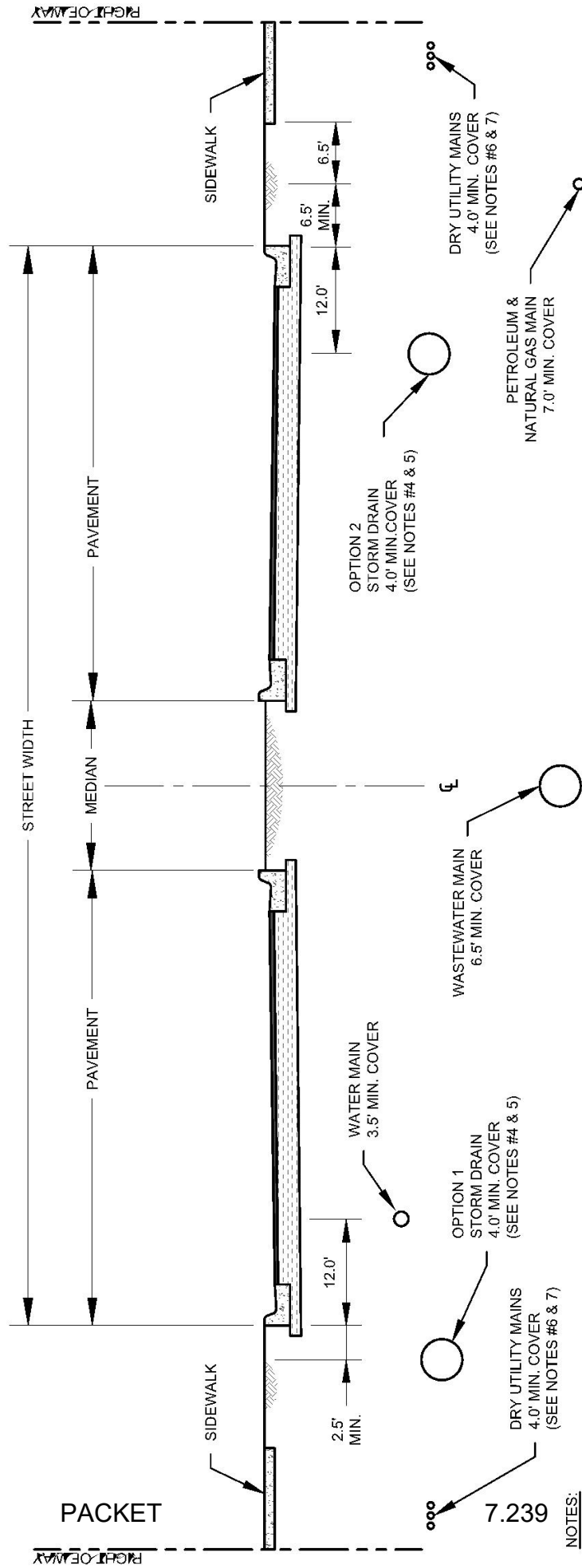
301



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CHECKED: JCF

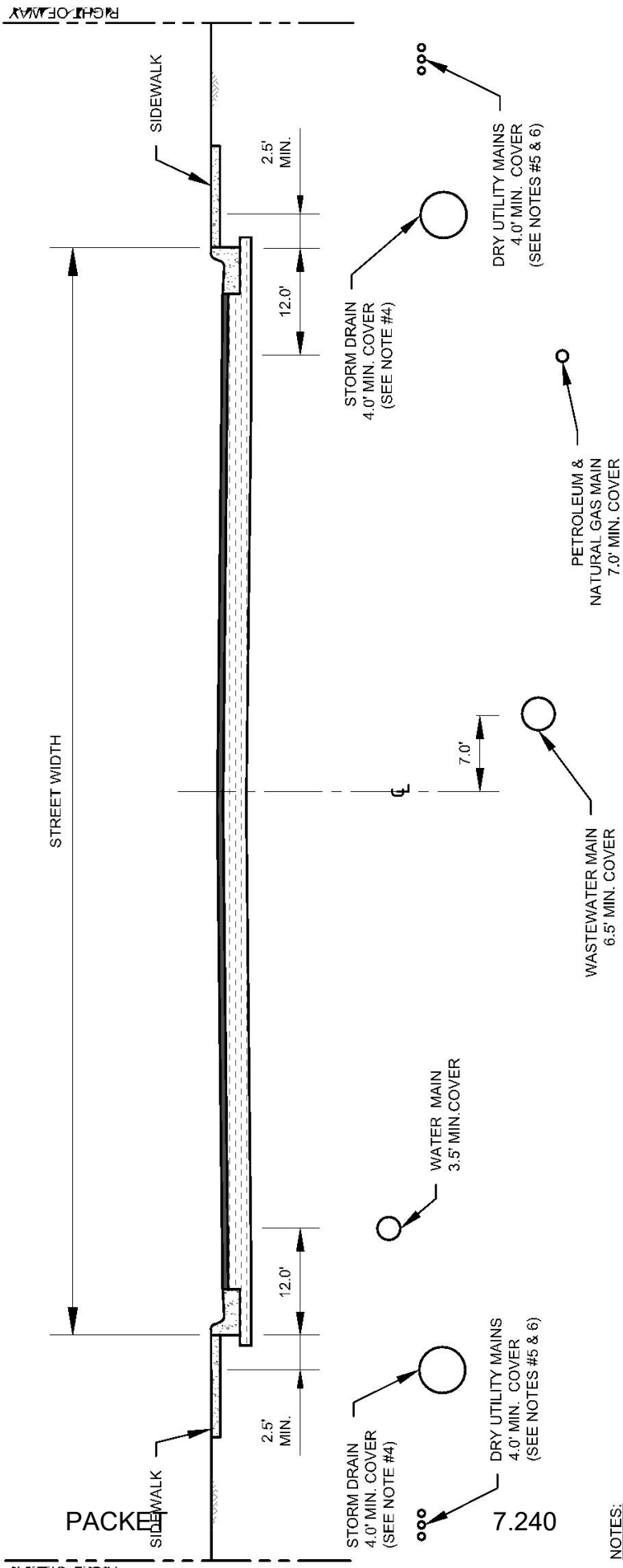
APPROVED: MCC



NOTES:

1. IF A SITE INCLUDES ALLEYS, OR IS ADJACENT TO EXISTING ALLEYS, THEN THE WASTEWATER MAIN IS TO BE LOCATED IN THE ALLEY AND NOT THE STREET RIGHT OF WAY.
2. ALL COVERS ARE FROM THE GUTTER FLOWLINE TO THE TOP OF PIPE.
3. ADDITIONAL UTILITY DEPTH MAY BE REQUIRED TO ACCOMMODATE LATERALS.
4. STORM DRAINS MAY BE LOCATED ON EITHER SIDE OR BOTH SIDES OF STREET AS NEEDED.
5. LOCATE STORM DRAIN BENEATH PAVEMENT IF ON SAME SIDE OF STREET AS PETROLEUM & NATURAL GAS MAIN, OTHERWISE LOCATE STORM DRAIN BEHIND BACK-OF-CURB.
6. DRY UTILITY MAINS MUST MAINTAIN 7.0' MINIMUM COVER WHEN CROSSING ULTIMATE STREET WIDTH. DRY UTILITY SERVICE LATERALS MUST MAINTAIN 2.0' MINIMUM COVER IN THE RIGHT OF WAY.
7. ALL DRY UTILITY MAINS AND SERVICE LATERALS MUST BORE TO CROSS EXISTING ARTERIAL PAVEMENT. NO OPEN TRENCHING.
8. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
9. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

	DRAWN: DPM CHECKED: JCF APPROVED: MCC	EFFECTIVE DATE: 10/01/2018 SCALE: NTS DETAIL: 302
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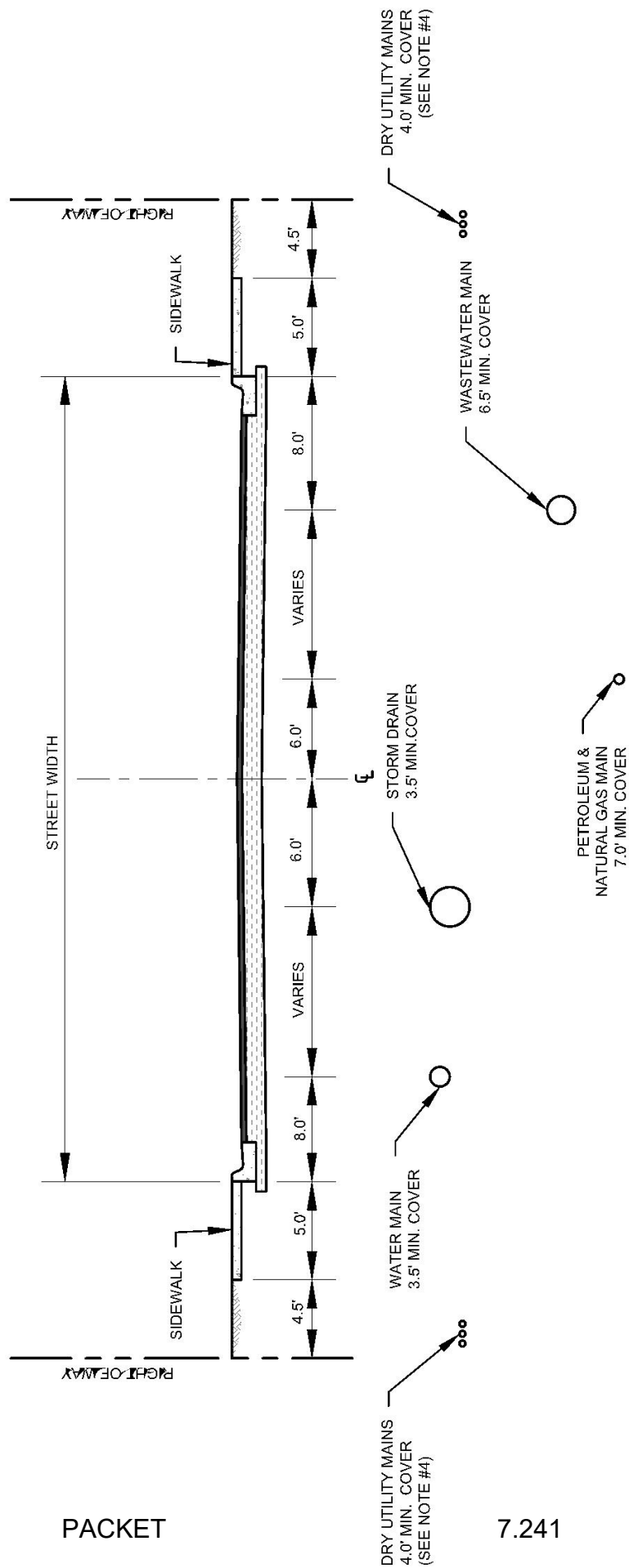


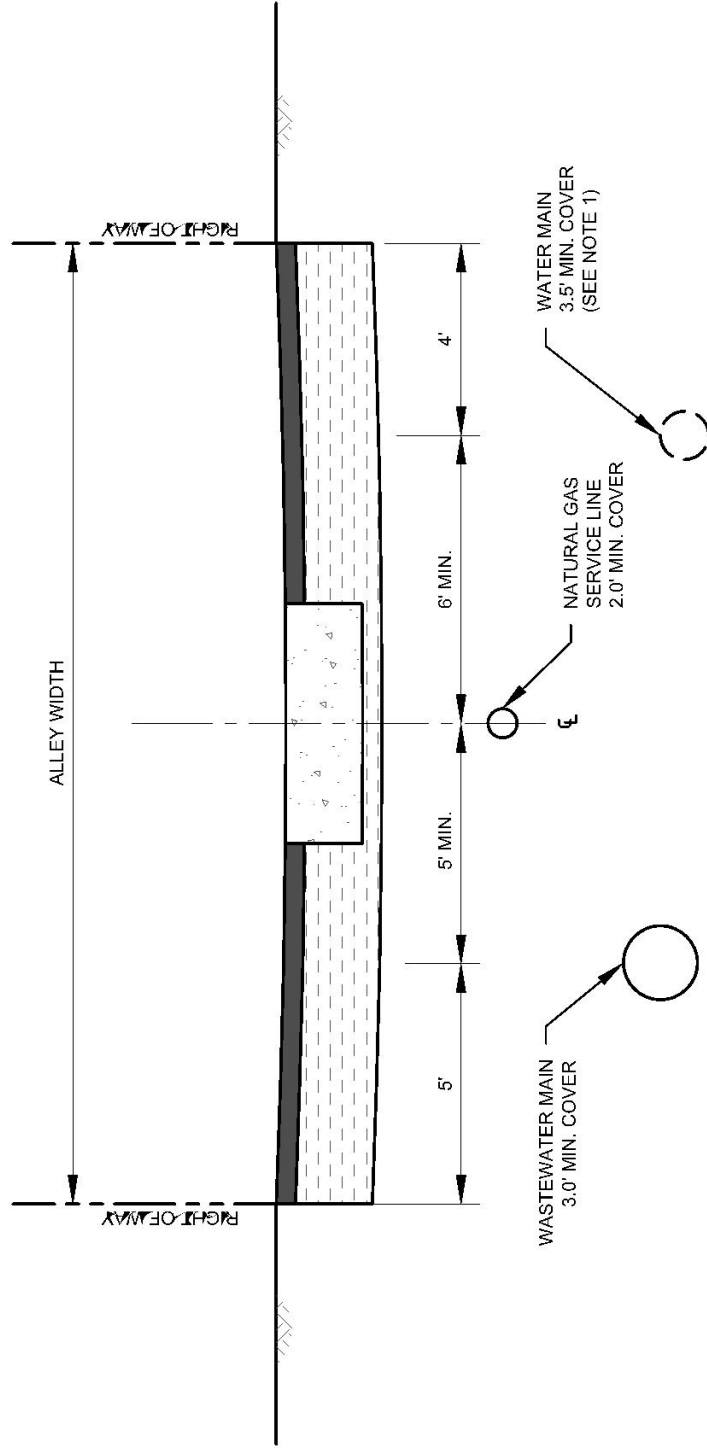
NOTES:

1. IF A SITE INCLUDES ALLEYS, OR IS ADJACENT TO EXISTING ALLEYS, THEN THE WASTEWATER MAIN IS TO BE LOCATED IN THE ALLEY AND NOT THE STREET RIGHT OF WAY.
2. ALL COVERS ARE FROM THE GUTTER FLOWLINE TO THE TOP OF PIPE.
3. ADDITIONAL UTILITY DEPTH MAY BE REQUIRED TO ACCOMMODATE LATERALS.
4. STORM DRAINS MAY BE LOCATED ON EITHER SIDE OR BOTH SIDES OF STREET AS NEEDED.
5. DRY UTILITY MAINS MUST MAINTAIN 7.0' MINIMUM COVER WHEN CROSSING RIGHT OF WAY. DRY UTILITY SERVICE LATERALS MUST MAINTAIN 2.0' MINIMUM COVER IN THE RIGHT OF WAY.
6. ALL DRY UTILITY MAINS AND SERVICE LATERALS MUST BORE TO CROSS EXISTING MAJOR COLLECTOR PAVEMENT. NO OPEN TRENCHING.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 2023

	DRAWN: DPM CHECKED: JCF APPROVED: MCC	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
COLLECTOR STREET UTILITY MAIN SPACING				
303				



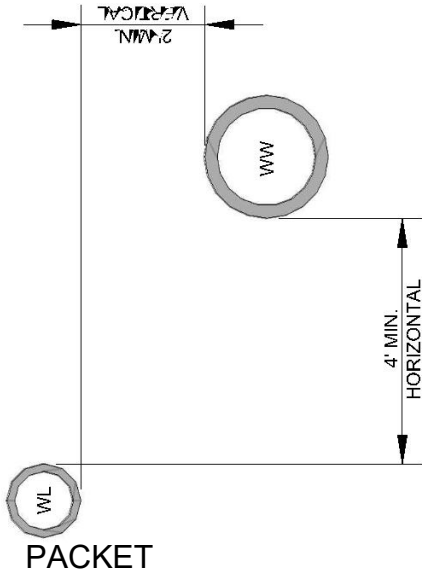


NOTES:

1. WATER MAIN LOCATION APPLIES FOR EXCEPTIONS ONLY. THE CITY STANDARD REMAINS LOCATING WATER MAINS IN STREETS. WHEN WATER MAINS ARE NOT EXISTING OR PROPOSED IN AN ALLEY THE EXPECTATION IS FOR DRY UTILITIES TO UTILIZE THIS ALIGNMENT LOCATION.
2. ALL COVERS ARE FROM THE ALLEY INVERT TO THE TOP OF PIPE.
3. ADDITIONAL UTILITY DEPTH MAY BE REQUIRED TO ACCOMMODATE LATERALS.
4. ALL DRY UTILITY LINES MUST MAINTAIN 2.0' MINIMUM COVER WHEN CROSSING RIGHT OF WAY, AND MUST MAINTAIN 5.0' MINIMUM HORIZONTAL SEPARATION DISTANCE FROM ALL PUBLIC UTILITY MAINS.
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 8, 2023

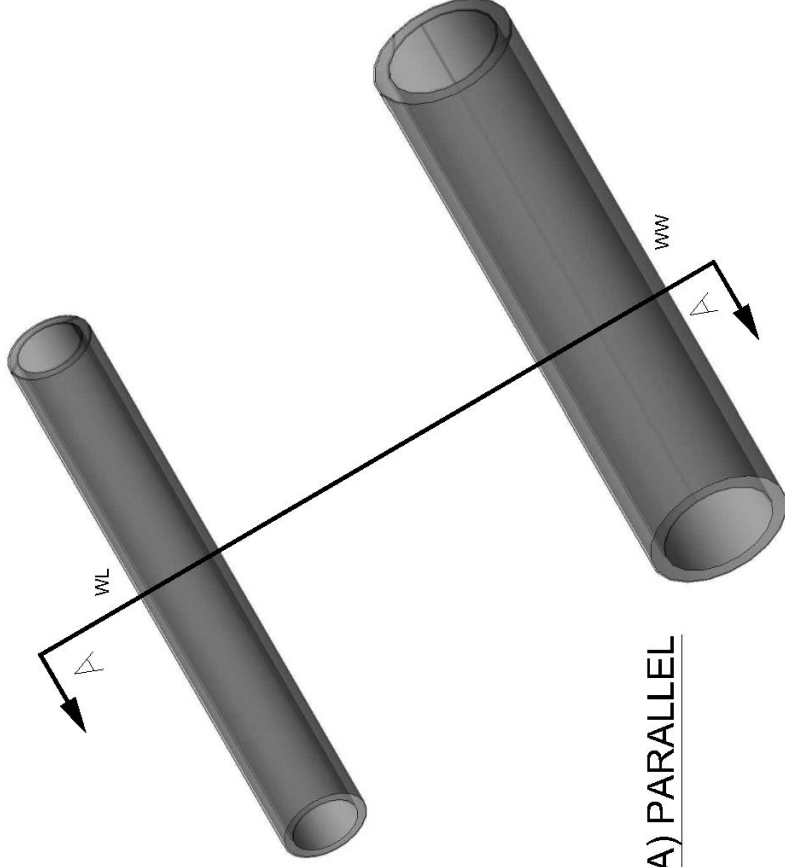
	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
	CHECKED: JCF	STANDARD ALLEY UTILITY MAIN SPACING		
	APPROVED: MCC			
305				



PACKET

7.243

(A) PARALLEL



NOTES:

- SEE CITY DETAIL 807 FOR NEW PETROLEUM OR NATURAL GAS LINE REQUIREMENTS WHEN IN PARALLEL WITH A WATER MAIN. REQUIREMENTS FOR WATER MAINS IN PARALLEL WITH PETROLEUM OR NATURAL GAS LINES ARE THE SAME AS WHEN THEY ARE PARALLEL WITH WASTEWATER MAINS UNLESS STATED OTHERWISE IN CITY DETAIL 807.
- IF AN EXISTING PETROLEUM OR NATURAL GAS LINE PREDATES A PUBLIC ROW OR EASEMENT THAT THE WATER MAIN IS LOCATED IN THEN THE WATER MAIN DESIGN AND CONSTRUCTION MAY BE SUBJECT TO ADDITIONAL REQUIREMENTS AS PER THE PETROLEUM OR NATURAL GAS LINE OWNER'S STANDARDS.
- WASTEWATER MAINS AND MANHOLES MUST BE LOCATED AT LEAST 9.0' FROM ALL WATER MAINS IN ALL DIRECTIONS. IF THIS IS NOT POSSIBLE THEN AN ENGINEERING REPORT IS REQUIRED PER TAC TO JUSTIFY WHY, AND THE REQUIREMENTS OF THIS DETAIL WILL APPLY. THIS DETAIL IS INTENDED TO COMPLY WITH TAC 217.53(d) AND TAC 290.44(e). IF TAC AND THIS DETAIL DIFFER THEN THE MORE RESTRICTIVE STANDARD GOVERNS.
- WHERE WATER MAINS ARE LOCATED IN PARALLEL WITH NEW WASTEWATER MAINS, WASTEWATER MAINS MUST BE CONSTRUCTED AT LEAST 150 PSI PRESSURE CLASS, CORROSION RESISTANT, NON-BRITTLE PIPE SUCH AS CIP, DIP, OR PVC PIPE THAT IS DESIGNED TO SEAL AT ATMOSPHERIC PRESSURE. EXISTING WASTEWATER MAINS IN PARALLEL THAT ARE LEAKING OR ARE DISTURBED AND THEN BEGIN TO LEAK MUST BE REPLACED WITH 150 PSI PRESSURE-RATED PIPE.
- MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 8, 2023



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CHECKED: JCF
APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

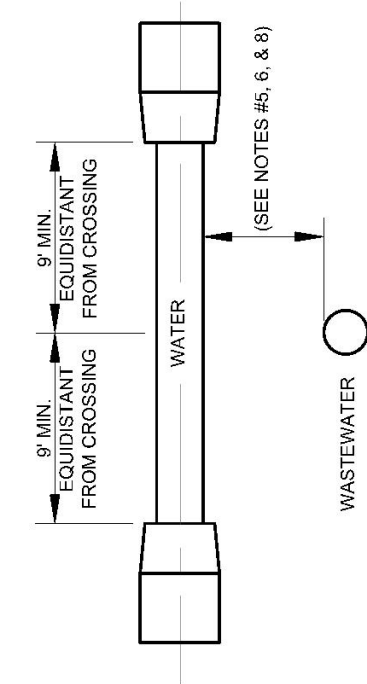
SCALE: NTS

PARALLEL WATER & WASTEWATER SPACING

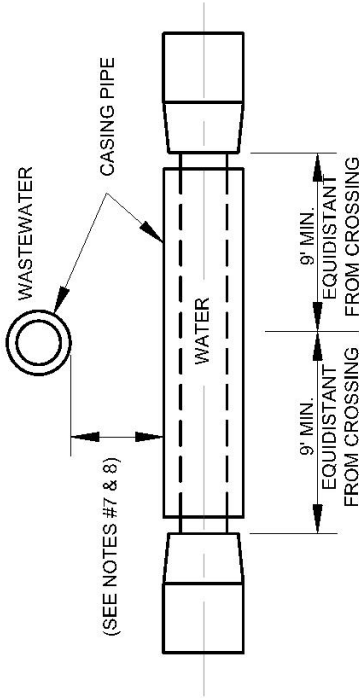
306

DETAIL:

NEW WATER OVER WASTEWATER



NEW WATER UNDER WASTEWATER



PACKET

NOTES:

1. SEE CITY DETAIL 309 FOR NEW WASTEWATER MAIN REQUIREMENTS AT WATER MAIN CROSSINGS.
2. WASTEWATER MAINS AND MANHOLES MUST BE LOCATED AT LEAST 9.0' FROM ALL WATER MAINS IN ALL DIRECTIONS. IF THIS IS NOT POSSIBLE THEN AN ENGINEERING REPORT IS REQUIRED PER TAC 290.44 TO JUSTIFY WHY, AND THE REQUIREMENTS OF THIS DETAIL WILL APPLY.
3. THIS DETAIL IS INTENDED TO COMPLY WITH TAC 217.53(d) AND TAC 290.44(e), IF TAC AND THIS DETAIL DIFFER THEN THE MORE RESTRICTIVE STANDARD GOVERNS.
4. CENTER NEW WATER MAIN PIPE SEGMENT ON CROSSING SO THAT ALL PIPE SEGMENT JOINTS ARE EQUIDISTANT AND AT LEAST 9.0' HORIZONTALLY FROM THE CENTERLINE OF THE CROSSING. NEW WATER MAIN IS TO CROSS WASTEWATER MAIN AT 90° ANGLE.
5. NEW WATER MAINS ARE TO HAVE NO LESS THAN 2.0' VERTICAL SEPARATION OVER THE OUTER EDGE OF ANY EXISTING NON-PRESSURE RATED WASTEWATER MAIN, AND NO LESS THAN 0.5' VERTICAL SEPARATION OVER THE OUTER EDGE OF ANY EXISTING PRESSURE-RATED (150 PSI) WASTEWATER MAIN.
6. VERTICAL SEPARATION DIMENSION REQUIREMENTS FOR NEW WATER MAINS CROSSING OVER NEW WASTEWATER MAINS ARE COVERED IN CITY DETAIL 309.
7. NEW WATER MAIN CROSSING BENEATH NEW OR EXISTING WASTEWATER MAIN TO HAVE NO LESS THAN 2.0' VERTICAL SEPARATION FROM WASTEWATER MAIN WITH MINIMUM 18.0' LONG PIPE ENCASEMENT CENTERED ON THE CROSSING. SEE CITY DETAIL 805 FOR PIPE CASING.
8. VERTICAL SEPARATION DIMENSIONS TO BE MEASURED FROM OUTER EDGE OF ALL PIPE ENCASEMENTS..
9. WHEN CROSSING AN EXISTING WASTEWATER MAIN AND IT IS DISTURBED OR SHOW SIGNS OF LEAKING, THE WASTEWATER MAIN MUST BE REPLACED AT LEAST 9.0' IN BOTH DIRECTIONS FROM THE CROSSING WITH AT LEAST 150 PSI PRESSURE-RATED PIPE EMBEDDED IN CEMENT STABILIZED SAND ENCASEMENT (2.5 SACKS / CUBIC YARD) FOR A TOTAL LENGTH OF ONE PIPE SEGMENT PLUS 1.0' BEYOND THE JOINT ON EACH END.
10. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
11. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

7-244

August 8, 2023



DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

NEW WATER MAIN CROSSING
WASTEWATER MAIN

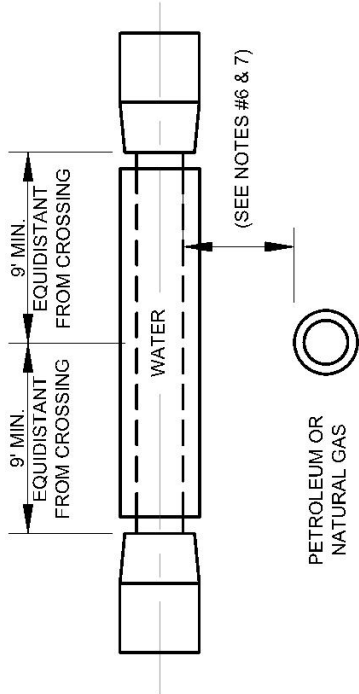
SCALE: NTS

307

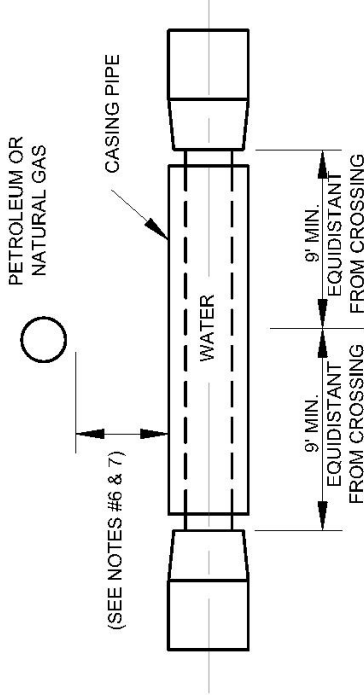
DETAIL:

NEW WATER OVER PETROLEUM & NATURAL GAS

PACKET



NEW WATER UNDER PETROLEUM & NATURAL GAS



7.2.5
NOTES

1. SEE CITY DETAIL 808 FOR NEW PETROLEUM OR NATURAL GAS LINE REQUIREMENTS AT WATER MAIN CROSSINGS. REQUIREMENTS FOR WATER MAINS CROSSING WITH PETROLEUM OR NATURAL GAS LINES ARE THE SAME AS WHEN THEY ARE CROSSING WASTEWATER MAINS UNLESS STATED OTHERWISE IN CITY DETAIL 808.
2. IF AN EXISTING PETROLEUM OR NATURAL GAS LINE PREDATES A PUBLIC ROW OR EASEMENT THAT THE WATER MAIN IS LOCATED IN THEN THE WATER MAIN DESIGN AND CONSTRUCTION MAY BE SUBJECT TO ADDITIONAL REQUIREMENTS AS PER THE PETROLEUM OR NATURAL GAS LINE OWNER'S STANDARDS.
3. PETROLEUM OR NATURAL GAS LINES AND MUST BE LOCATED AT LEAST 9.0' FROM ALL WATER MAINS IN ALL DIRECTIONS. IF THIS IS NOT POSSIBLE THEN AN ENGINEERING REPORT IS REQUIRED PER TAC TO JUSTIFY WHY, AND THE REQUIREMENTS OF THIS DETAIL WILL APPLY.
4. THIS DETAIL IS INTENDED TO COMPLY WITH TAC 217.53(d) AND TAC 290.44(e). IF TAC AND THIS DETAIL DIFFER THEN THE MORE RESTRICTIVE STANDARD GOVERNS.
5. CENTER NEW WATER MAIN PIPE SEGMENT ON CROSSING SO THAT ALL PIPE SEGMENT JOINTS ARE EQUITANT AND AT LEAST 9.0' HORIZONTALLY FROM THE CENTERLINE OF THE CROSSING. WATER MAIN TO CROSS PETROLEUM OR NATURAL GAS LINE AT 90° ANGLE.
6. NEW WATER MAIN CROSSING OVER OR BENEATH NEW OR EXISTING PETROLEUM OR NATURAL GAS LINES TO BE ENCASED IN MINIMUM 18" 0' LONG PIPE ENCASEMENT CENTERED ON THE CROSSING. SEE CITY DETAIL 805 FOR PIPE CASING. VERTICAL SEPARATION FROM OUTER EDGE OF PETROLEUM OR NATURAL GAS LINES TO BE NO LESS THAN 2.0'.
7. VERTICAL SEPARATION DIMENSIONS TO BE MEASURED FROM OUTER EDGE OF ALL PIPE ENCASEMENTS.
8. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
9. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



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EFFECTIVE DATE: 10/01/2018

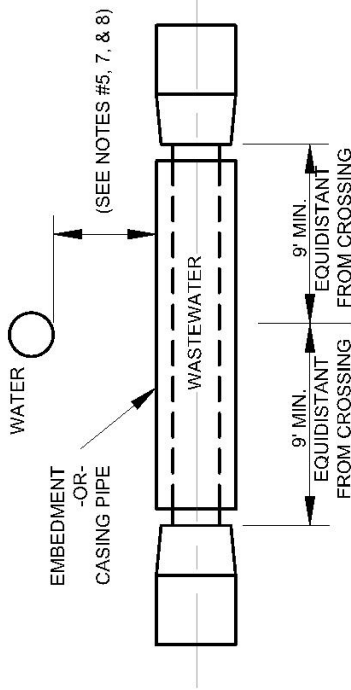
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NEW WATER MAIN CROSSING
PETROLEUM AND NATURAL GAS LINE

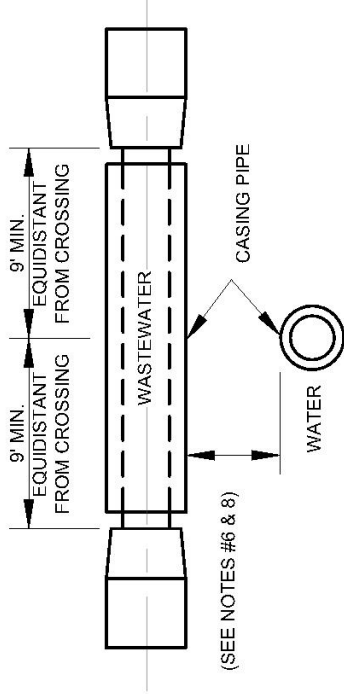
308

DETAIL:

NEW WASTEWATER UNDER WATER



NEW WASTEWATER OVER WATER



PACKET

NOTES:

1. SEE CITY DETAIL 307 FOR NEW WATER MAIN REQUIREMENTS AT WASTEWATER MAIN CROSSINGS.

2. WASTEWATER MAINS AND MANHOLES MUST BE LOCATED AT LEAST 9.0' FROM ALL WATER MAINS IN ALL DIRECTIONS. IF THIS IS NOT POSSIBLE THEN AN ENGINEERING REPORT IS REQUIRED PER TAC TO JUSTIFY WHY, AND THE REQUIREMENTS OF THIS DETAIL WILL APPLY.

3. THIS DETAIL IS INTENDED TO COMPLY WITH TAC 217.53(d) AND TAC 290.44(e). IF TAC AND THIS DETAIL DIFFER THEN THE MORE RESTRICTIVE STANDARD GOVERNS.

4. CENTER NEW WASTEWATER MAIN PIPE SEGMENT ON CROSSING SO THAT ALL PIPE SEGMENT JOINTS ARE EQUIDISTANT AND AT LEAST 9.0' HORIZONTALLY FROM THE CENTERLINE OF THE CROSSING. WASTEWATER MAIN IS TO CROSS WATER MAIN AT 90° ANGLE.

5. NEW WASTEWATER MAIN CROSSING BENEATH NEW OR EXISTING WATER MUST COMPLY WITH ONE OF THE FOLLOWING:

A. WASTEWATER MAIN PIPE TO BE PRESSURE RATED SDR-26 D2241 PIPE OR APPROVED EQUAL FROM MANHOLE TO MANHOLE WITH MINIMUM 18.0' LONG CEMENT STABILIZED SAND ENCASEMENT (2.5 SACKS/CUBIC YARD) CENTERED ON THE CROSSING. VERTICAL SEPARATION FROM OUTER EDGE OF WATER MAIN TO BE NO LESS THAN 2.0'.

B. WASTEWATER MAIN PIPE TO BE HEAVY-WALL GRAVITY PIPE SDR-26 D3034 OR APPROVED EQUAL FROM MANHOLE TO MANHOLE WITH MINIMUM 18.0' LONG PIPE ENCASEMENT CENTERED ON THE CROSSING. SEE CITY DETAIL 805 FOR PIPE CASING. VERTICAL SEPARATION FROM OUTER EDGE OF WATER MAIN TO BE NO LESS THAN 0.5'.

6. NEW WASTEWATER MAIN CROSSING OVER NEW OR EXISTING WATER MAIN TO BE PRESSURE RATED SDR-26 D2241 PIPE OR APPROVED EQUAL FROM MANHOLE TO MANHOLE WITH MINIMUM 18.0' LONG PIPE ENCASEMENT CENTERED ON THE CROSSING. SEE CITY DETAIL 805 FOR PIPE CASING. VERTICAL SEPARATION FROM OUTER EDGE OF WATER MAIN TO BE NO LESS THAN 2.0'.

7. NEW WATER MAINS CROSSING OVER EXISTING WASTEWATER MAINS ARE COVERED IN CITY DETAIL 307.

8. VERTICAL SEPARATION DIMENSIONS TO BE MEASURED FROM OUTER EDGE OF ALL PIPE ENCASEMENTS.

9. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.

10. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



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EFFECTIVE DATE: 10/01/2018

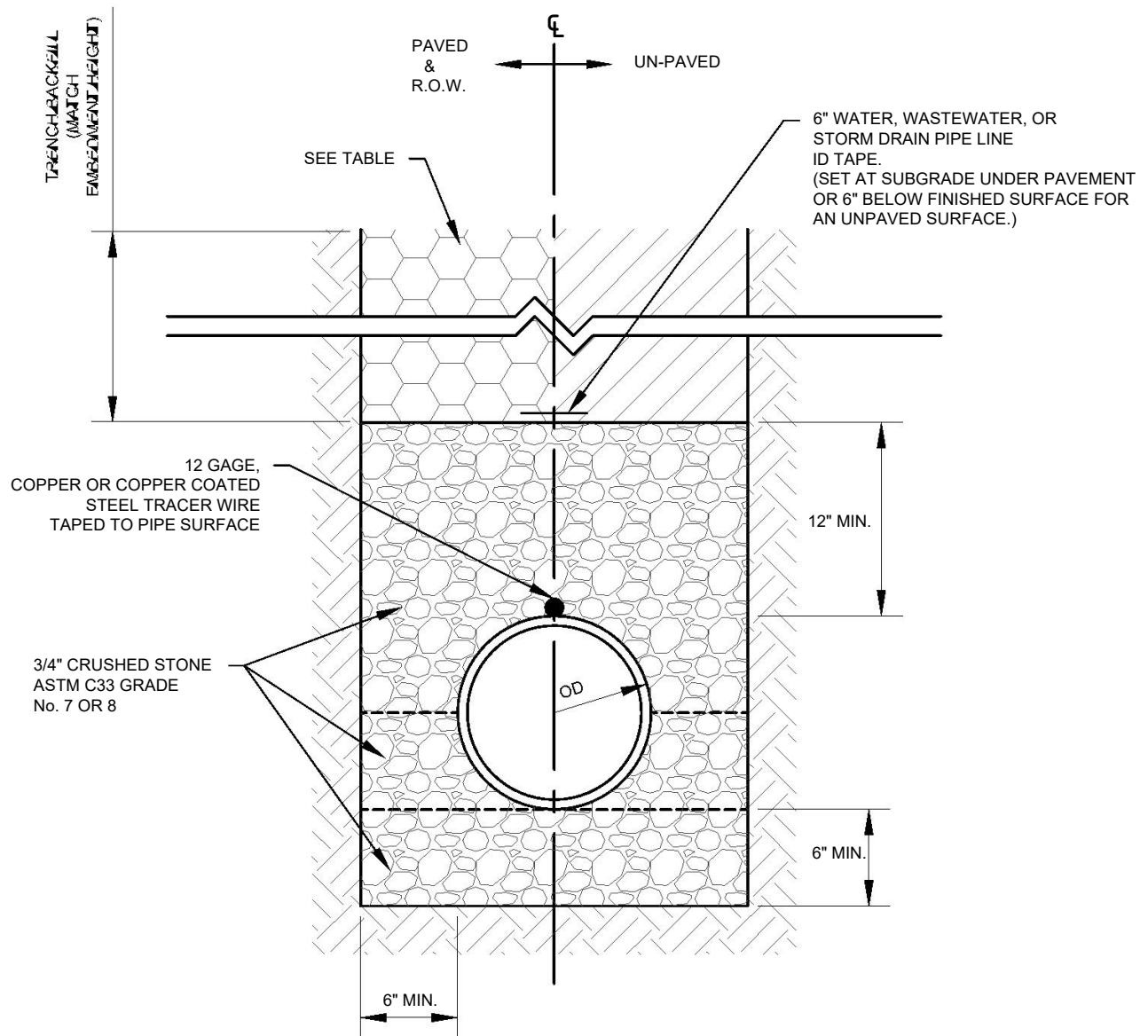
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NEW WASTEWATER MAIN CROSSING

WATER MAIN

309

DETAIL:

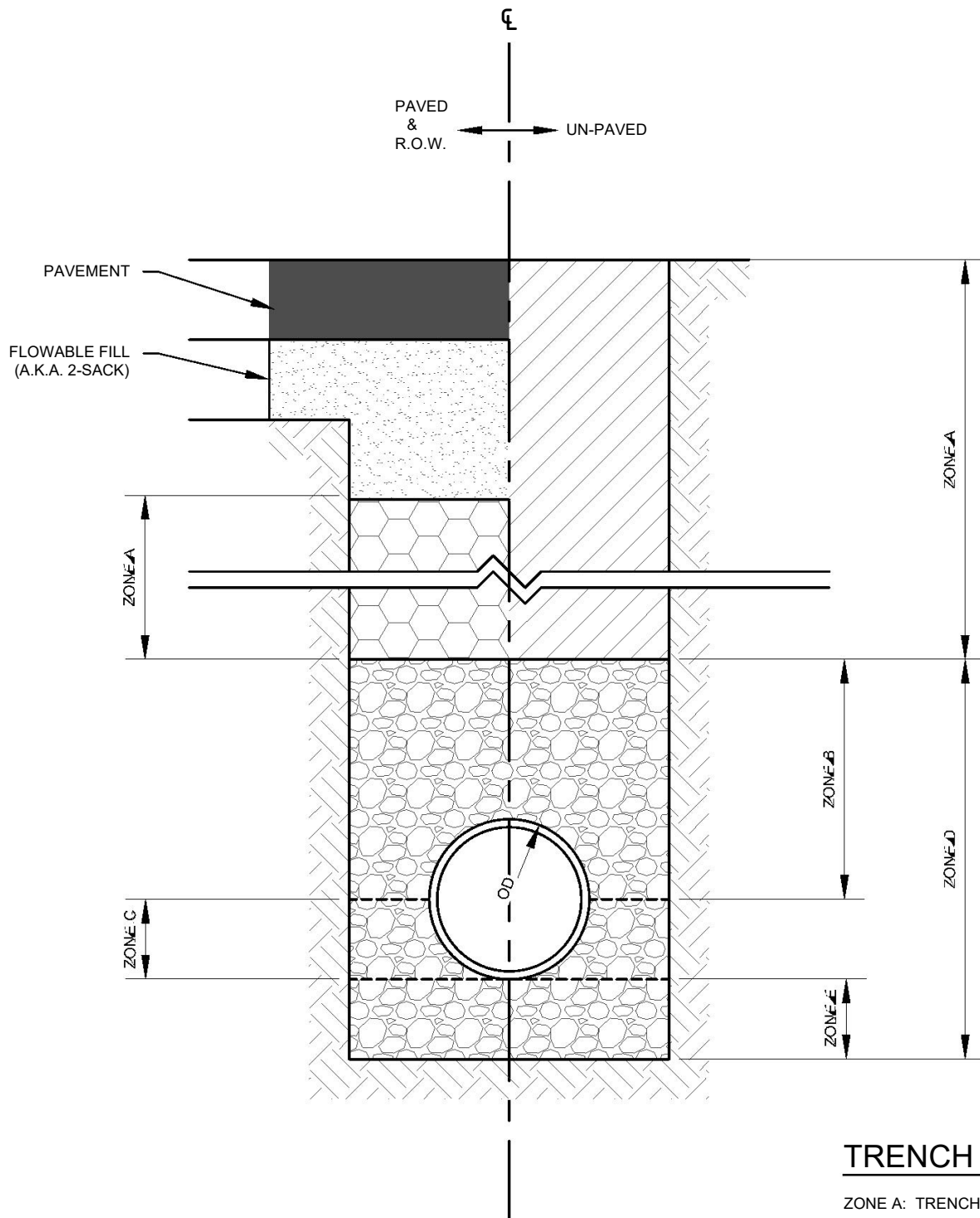


TRENCH BACKFILL NOTES:

1. APPLIES TO ALL PIPE TYPES. (DUCTILE IRON, PVC, ETC.)
2. UTILIZE SELECT FILL BACKFILL BENEATH ALL PAVED SURFACES. NATIVE MATERIAL BACKFILL CAN ONLY BE USER FOR UNPAVED TRENCH CONDITIONS IF BACKFILL MATERIAL IS $\leq 30LL$ AND $\leq 15 PI$.
3. NATIVE MATERIAL TO BE EXISTING EXCAVATED SOIL FROM TRENCH WITH ALL MATERIAL BROKEN DOWN $\leq 2"$.
4. MOISTURE CONDITION ALL BACKFILL MATERIAL PRIOR TO PLACING IN TRENCH.
5. PLACE TRENCH BACKFILL MATERIAL IN MAXIMUM 12" LOOSE LIFTS AND COMPACT TO MAXIMUM 8" COMPACTED LIFTS.
6. REFER TO CITY DETAILS 311 AND 312 FOR TRENCH PAVEMENT REPLACEMENT REQUIREMENTS.
7. PLACE LAYERS B, C, AND E FOUND ON CITY DETAIL 310(B) AS SEPARATE LAYERS.
8. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
9. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
TRENCHING AND BEDDING 7.247 August 8, 2023			310(A)





TRENCH ZONES:

ZONE A: TRENCH BACKFILL

ZONE B: PIPE BACKFILL

ZONE C: HAUNCHING

ZONE D: PIPE EMBEDMENT

ZONE E: BEDDING

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

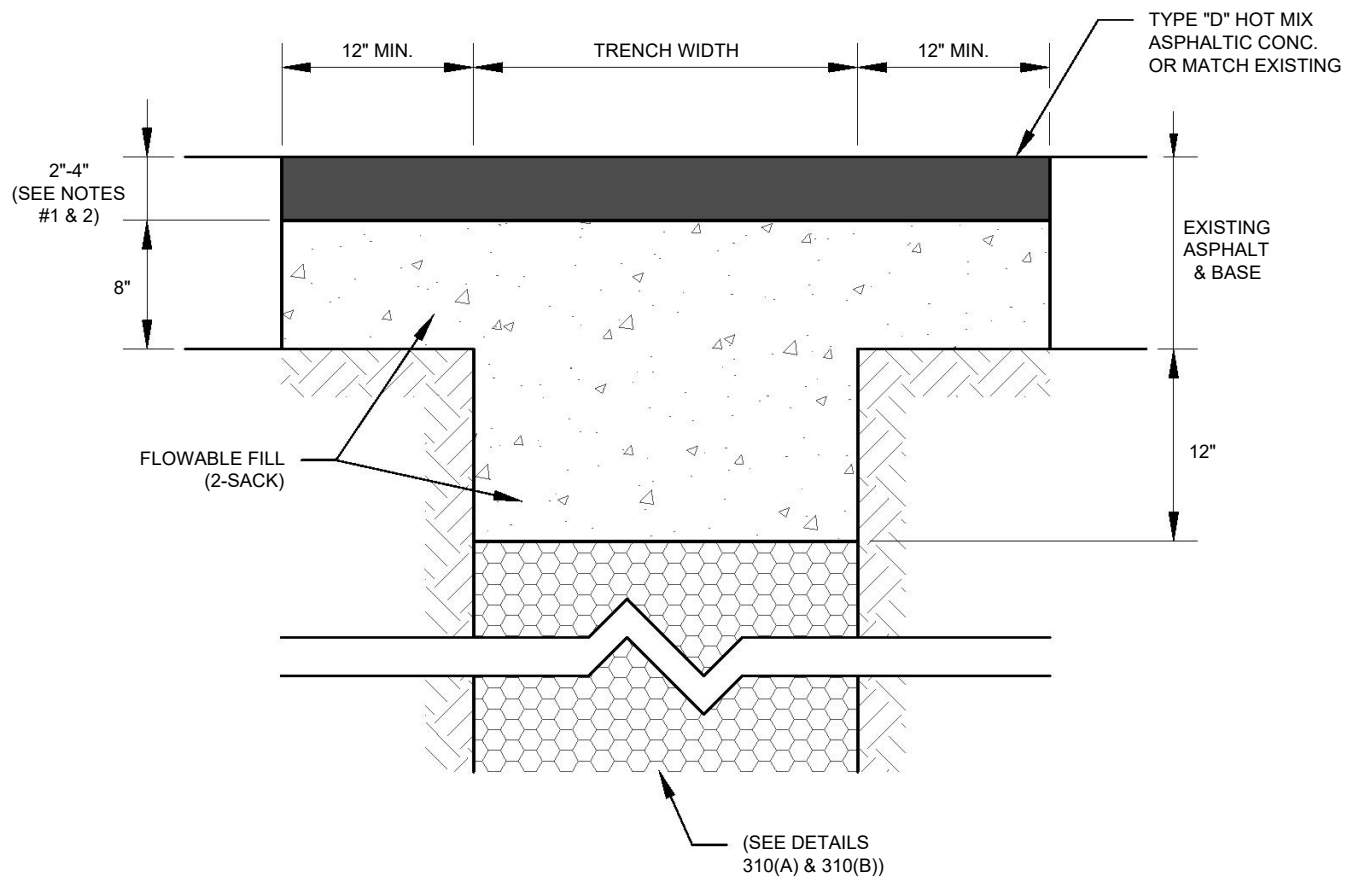


TRENCHING AND BEDDING

7.248

August 8, 2023

310(B)



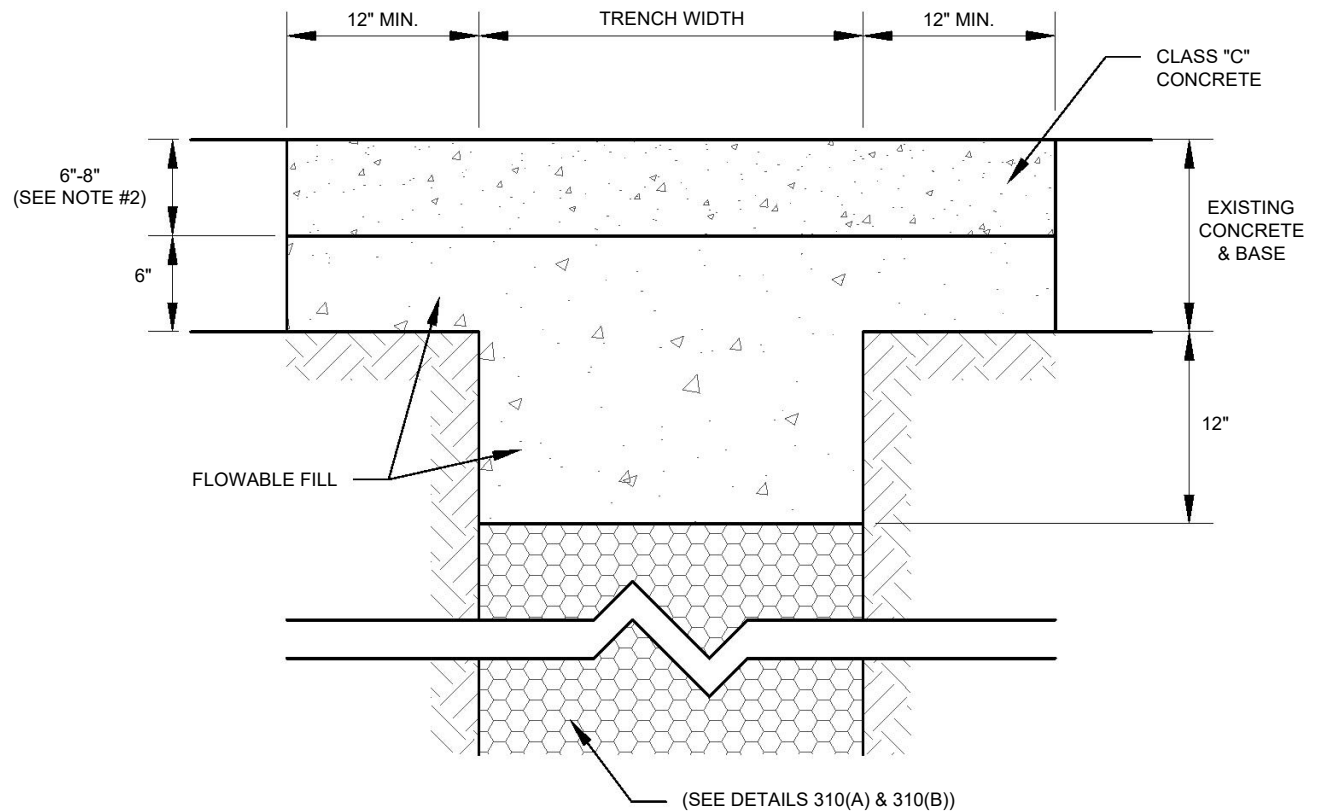
NOTES:

1. ASPHALT PAVEMENT THICKNESS TO BE A MINIMUM OF 2" OR MATCH THE EXISTING ASPHALT THICKNESS IF IT IS GREATER THAN 2" THICK.
2. PLACE ASPHALT PAVEMENT IN MAXIMUM 2" LIFTS, 95% MODIFIED COMPACTION.
3. PLACE ALL FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT) AS A SINGLE CONTINUOUS POUR.
4. EXTEND BOTH ASPHALT AND FLOWABLE FILL 12" BEYOND THE EDGE OF THE TRENCH ON BOTH SIDES.
5. SEE DETAILS 310(A) AND 310(B) REGARDING TRENCH BACKFILL REQUIREMENTS BENEATH THE FLOWABLE FILL.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
ASPHALT TRENCH PAVEMENT REPLACEMENT		311



August 8, 2023



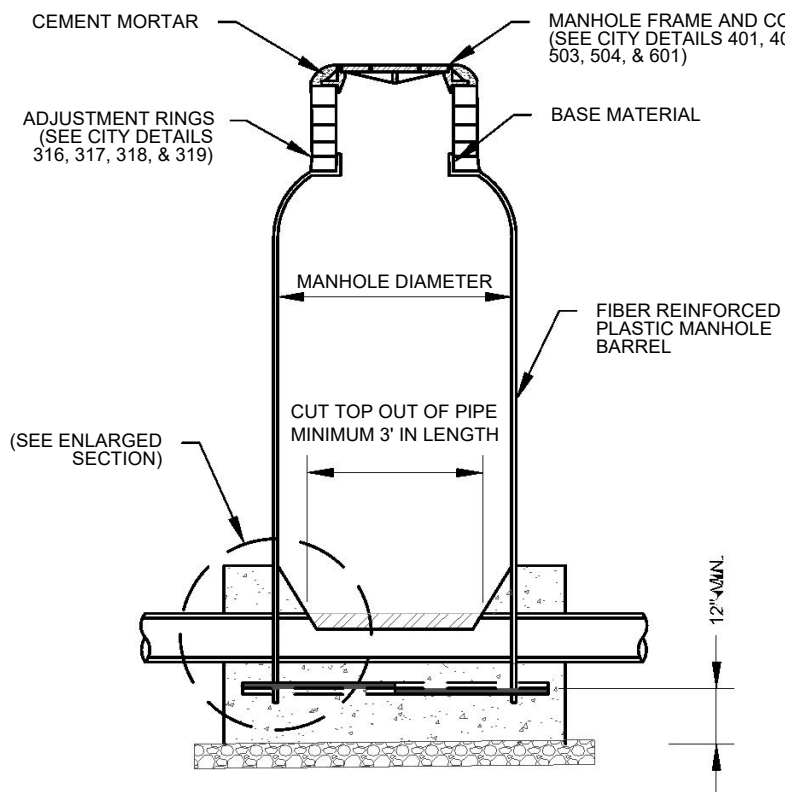
NOTES:

1. CONCRETE TO BE CITY OF MIDLAND CLASS "C" CONCRETE, 3600 PSI. USE FIBER REINFORCED CONCRETE PAVEMENT THROUGHOUT.
2. CONCRETE PAVEMENT THICKNESS TO BE A MINIMUM OF 6" OR MATCH THE EXISTING CONCRETE THICKNESS IF IT IS GREATER THAN 6" THICK. CONCRETE PAVEMENT THICKNESS TO BE MINIMUM 8" FOR ARTERIAL PAVEMENT.
3. PLACE ALL FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT) AS A SINGLE CONTINUOUS POUR.
4. EXTEND BOTH CONCRETE AND FLOWABLE FILL 12" BEYOND THE EDGE OF THE TRENCH ON BOTH SIDES.
5. SEE DETAILS 310(A) AND 310(B) REGARDING TRENCH BACKFILL REQUIREMENTS BENEATH THE FLOWABLE FILL.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

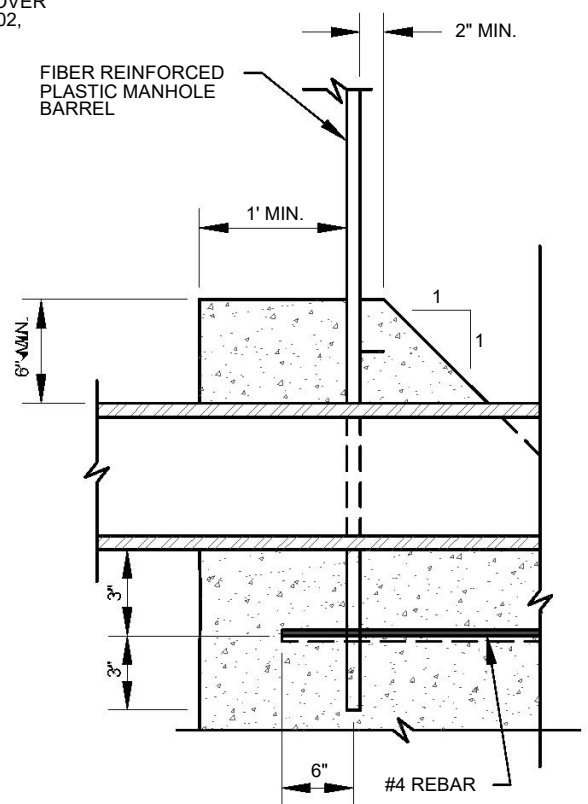
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EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
CONCRETE TRENCH PAVEMENT REPLACEMENT			312



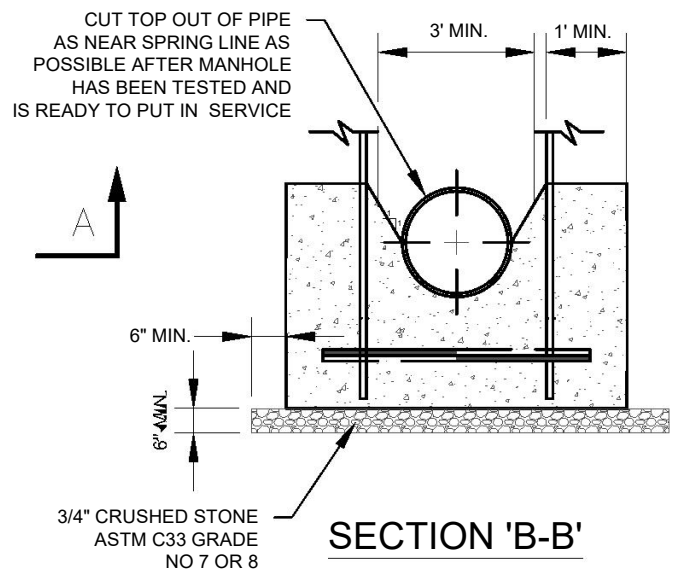
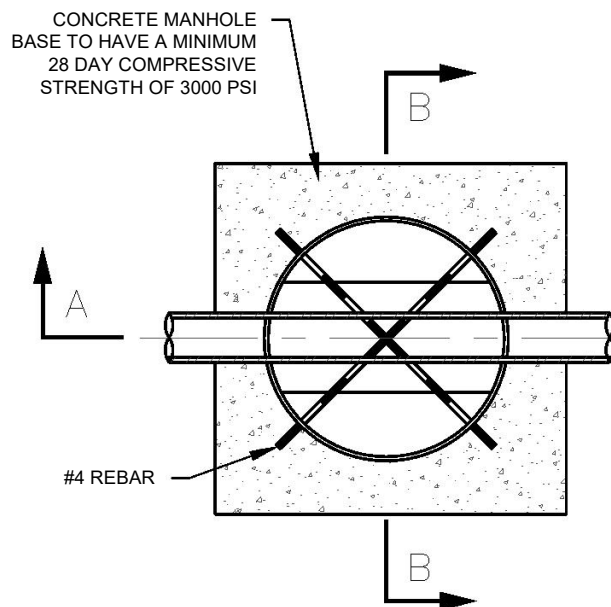
August 8, 2023



SECTION 'A-A'



ENLARGED SECTION



SECTION 'B-B'

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:



**TYPICAL FIBERGLASS
MANHOLE**

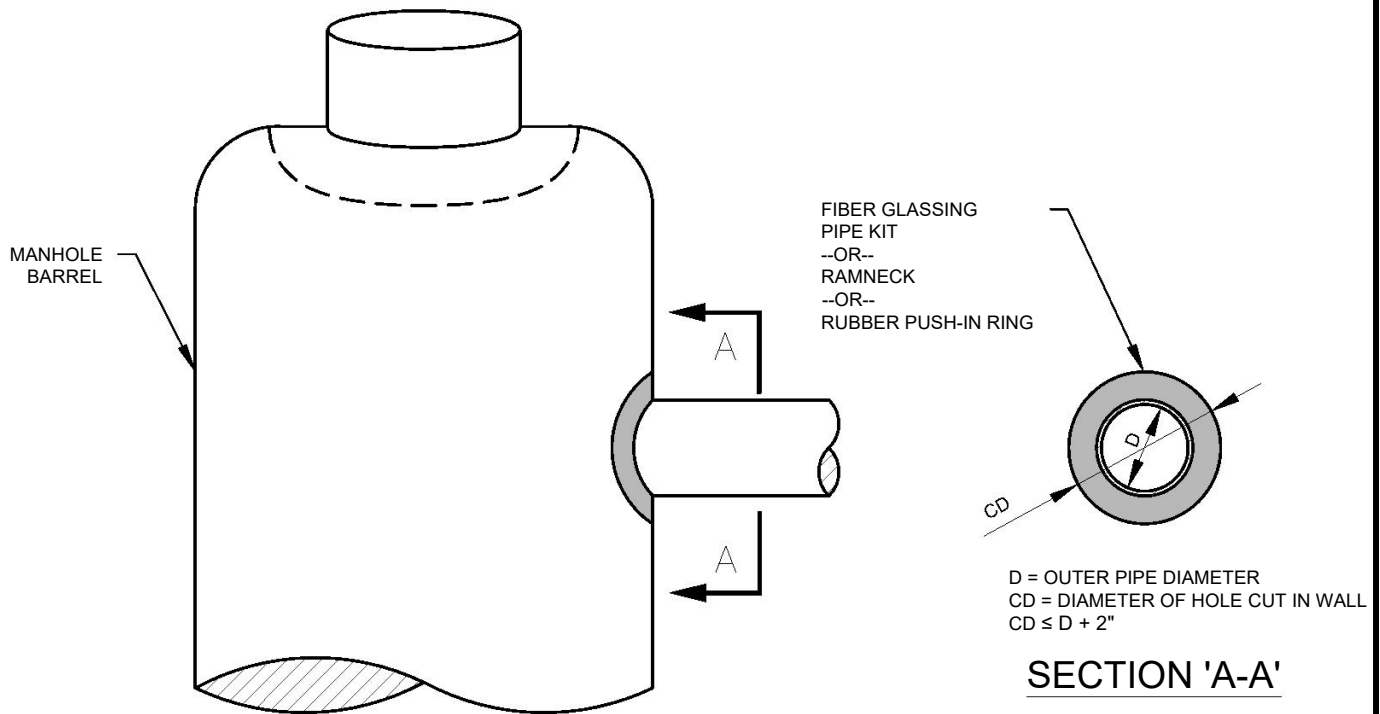
August 8, 2023

313(A)

NOTES:

1. 48" DIAMETER MANHOLES TO BE USED FOR PIPE DIAMETERS OF 24" OR SMALLER ONLY.
2. INSTALL DROPS AND INTERSECTING PIPES ONLY WHEN CALLED FOR IN CONSTRUCTION DRAWINGS.
3. SET MANHOLE FRAME IN SEALANT PER CITY OF MIDLAND STANDARD SPECIFICATIONS.
4. NEW MANHOLE TO HAVE SEAMLESS AND CONTINUOUS NECK, SHOULDER, AND BARREL.
5. ALL CONCRETE TO BE CLASS "A" CONCRETE.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM		CHECKED: JCF		APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018		SCALE: NTS		DETAIL:	
		TYPICAL FIBERGLASS MANHOLE			313(B) August 8, 2023



NOTES:

1. THE DIAMETER OF THE CUTOUT IN THE MANHOLE BARREL IS TO BE NO MORE THAN 2.0" WIDER THAN THE OUTER WALL DIAMETER OF THE PENETRATING PIPE.
2. THE PENETRATING PIPE IS TO BE CENTERED IN THE MANHOLE BARREL CUTOUT.
3. PIPES PENETRATING MANHOLE MUST BE MINIMUM 6" DIAMETER, AND SERVICE LINES MUST BE CONSTRUCTED TO CITY WASTEWATER MAIN OR STORM DRAIN STANDARDS WITHIN PUBLIC RIGHT OF WAY OR EASEMENT.
4. FORM FLOW SURFACE AND MOUND CONCRETE AROUND PIPE PENETRATIONS, TO FORM A SEAL, IN ONE CONTINUOUS PLACEMENT OPERATION.
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE:	DETAIL:	
TYPICAL FIBERGLASS MANHOLE PIPE PENETRATION			314
August 8, 2023			





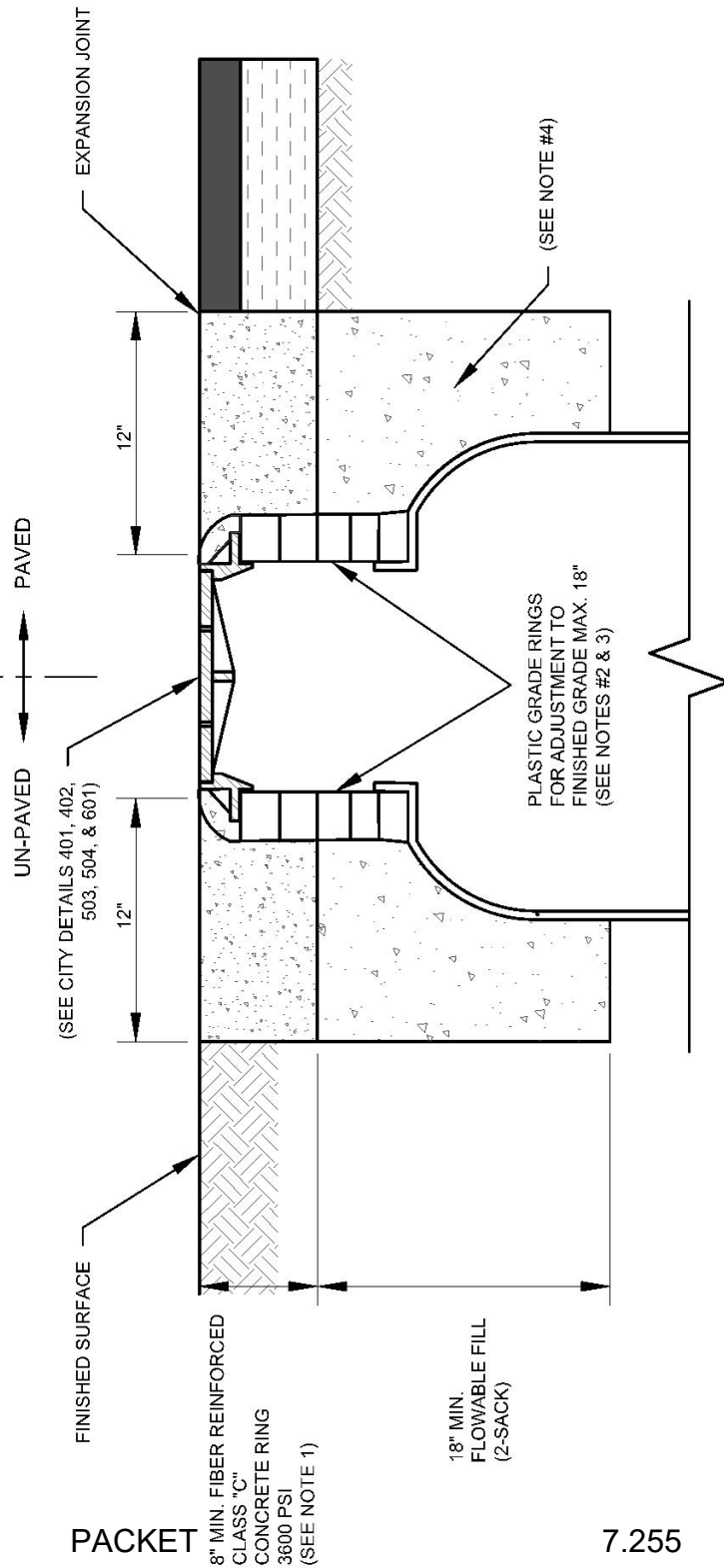
1. PLUG ALL WASTEWATER MAIN AND STORM DRAIN STUB OUTS. SECURE PLASTIC PLUG TO END OF STORM DRAIN.
2. FITTINGS TO BE POLY WRAPPED BEFORE BACKFILLING.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

GRAVITY MAIN PLUG

315

PACKET

7.255



NEW MANHOLE ADJUSTMENT

NOTES:

1. INSTALL 12" MIN. FIBER REINFORCED CLASS "C" CONCRETE RING, 3600 PSI, WHEN MANHOLE IS LOCATED IN AN ARTERIAL R.O.W.
2. GRADE RINGS TO MEET ASTM STANDARD A48 AND TO BE 2", 4", OR 6" THICKNESS AS REQUIRED. INSTALL ASPHALT TAR IN THICK, UNIFORM COATING OVER ALL OUTER ADJUSTMENT RING SURFACES AND JOINTS.
3. ENGINEERING SERVICES REPRESENTATIVE AND UTILITY SERVICES REPRESENTATIVE MAY ALLOW GREATER ADJUSTMENT RING DEPTH TO ACCOMMODATE PAVING STRUCTURES.
4. REMOVE ALL MATERIAL EXCAVATED FROM SITE AND EXCAVATION, AND FILL TO FINISHED BASE ELEVATION WITH FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT).
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

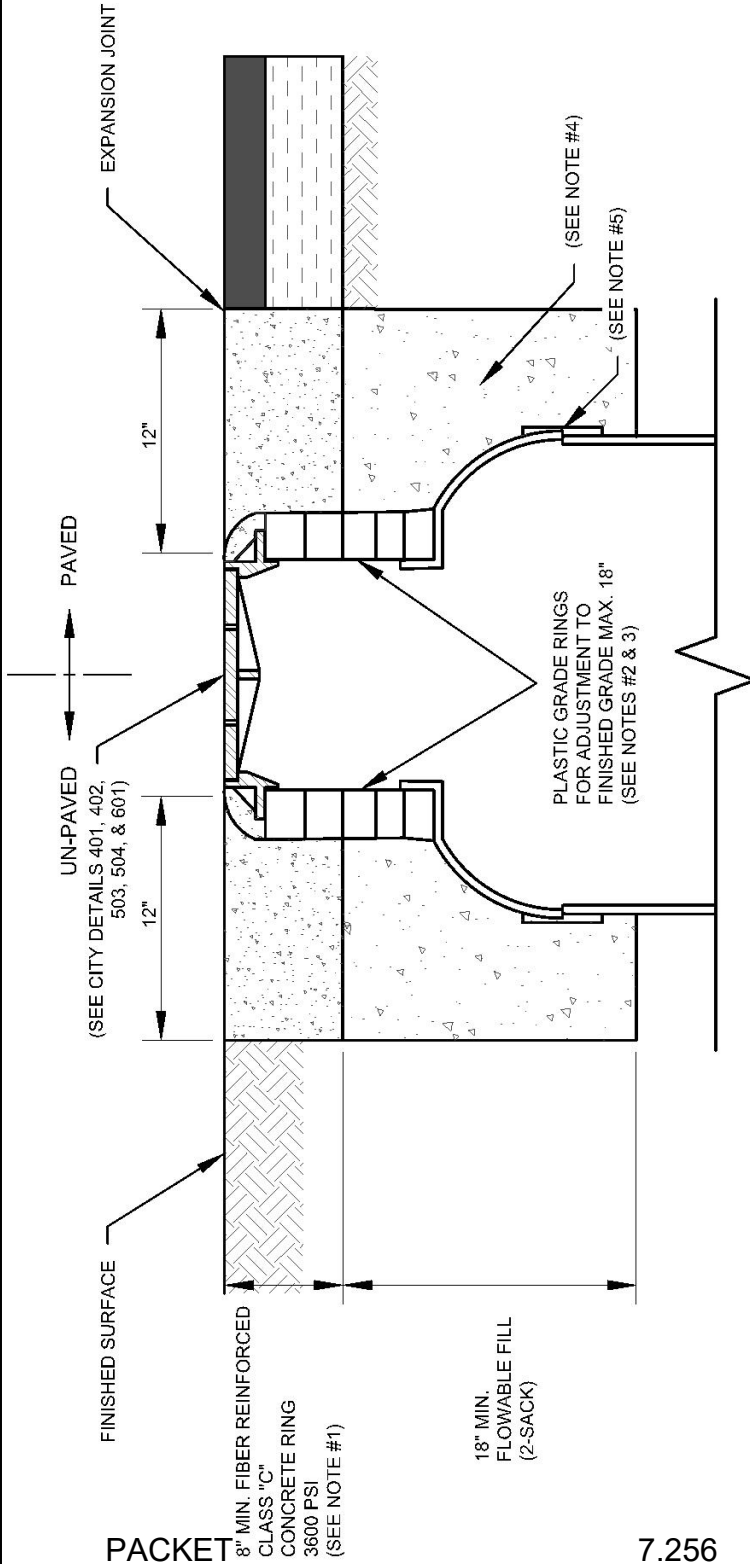
EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

NEW MANHOLE ADJUSTMENT

316



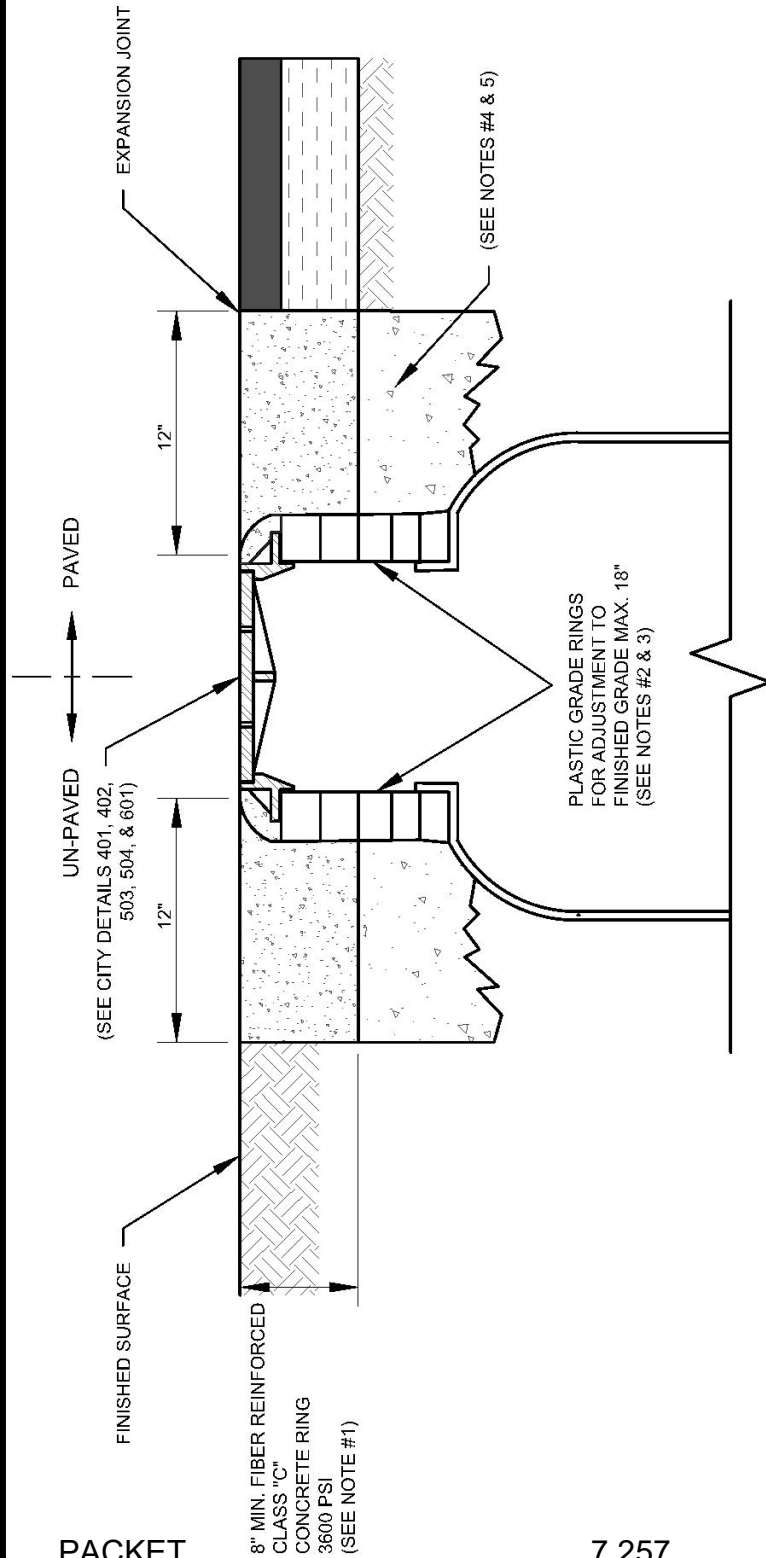
EXISTING MANHOLE BARREL ADJUSTMENT

NOTES:

1. INSTALL 12" MIN. FIBER REINFORCED CLASS "C" CONCRETE RING, 3600 PSI, WHEN MANHOLE IS LOCATED IN AN ARTERIAL R.O.W.
2. GRADE RINGS TO MEET ASTM STANDARD A48 AND TO BE 2", 4", OR 6" THICKNESS AS REQUIRED. INSTALL ASPHALT TAR IN THICK, UNIFORM COATING OVER ALL OUTER ADJUSTMENT RING SURFACES AND JOINTS.
3. ENGINEERING SERVICES REPRESENTATIVE AND UTILITY SERVICES REPRESENTATIVE MAY ALLOW GREATER ADJUSTMENT RING DEPTH TO ACCOMMODATE PAVING STRUCTURES.
4. REMOVE ALL MATERIAL EXCAVATED FROM SITE AND EXCAVATION, AND FILL TO FINISHED BASE ELEVATION WITH FLOWABLE FILL 2-SACK = 188 LBS/CY, PORTLAND CEMENT).
5. MANUFACTURED WATERTIGHT CONNECTOR, CORE DRILL AND INSTALL PER MANUFACTURER'S RECOMMENDATIONS.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 2, 2023

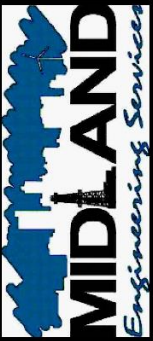
	DRAWN: DPM CHECKED: JCF APPROVED: MCC	EFFECTIVE DATE: 10/01/2018 EXISTING MANHOLE BARREL ADJUSTMENT	SCALE: NTS DETAIL: 317
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NEW MANHOLE RING & COVER ADJUSTMENT

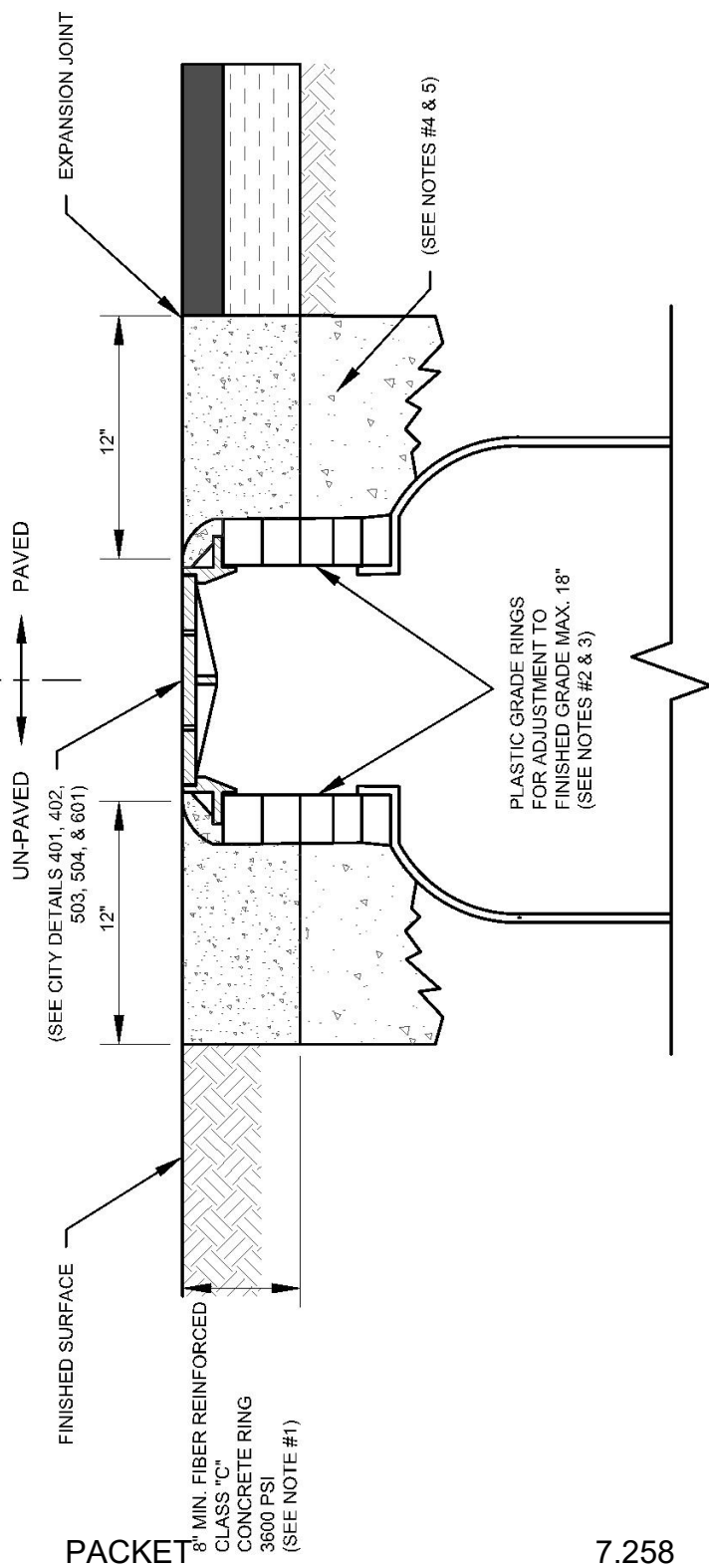
NOTES:

1. INSTALL 12" MIN. FIBER REINFORCED CLASS "C" CONCRETE RING, 3600 PSI, WHEN MANHOLE IS LOCATED IN AN ARTERIAL R.O.W.
2. GRADE RINGS TO MEET ASTM STANDARD A48 AND TO BE 2", 4", OR 6" THICKNESS AS REQUIRED. INSTALL ASPHALT TAR IN THICK, UNIFORM COATING OVER ALL OUTER ADJUSTMENT RING SURFACES AND JOINTS.
3. ENGINEERING SERVICES REPRESENTATIVE AND UTILITY SERVICES REPRESENTATIVE MAY ALLOW GREATER ADJUSTMENT RING DEPTH TO ACCOMMODATE PAVING STRUCTURES.
4. REMOVE ALL MATERIAL EXCAVATED FROM SITE AND EXCAVATION.
5. FILL ANY OVER-EXCAVATION WITH FLOWABLE FILL 2-SACK (2-SACK = 188 LBS/CY, PORTLAND CEMENT).
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
	CHECKED: JCF	NEW MANHOLE RING		
	APPROVED: MCC	& COVER ADJUSTMENT		
				318

PACKET

7.258

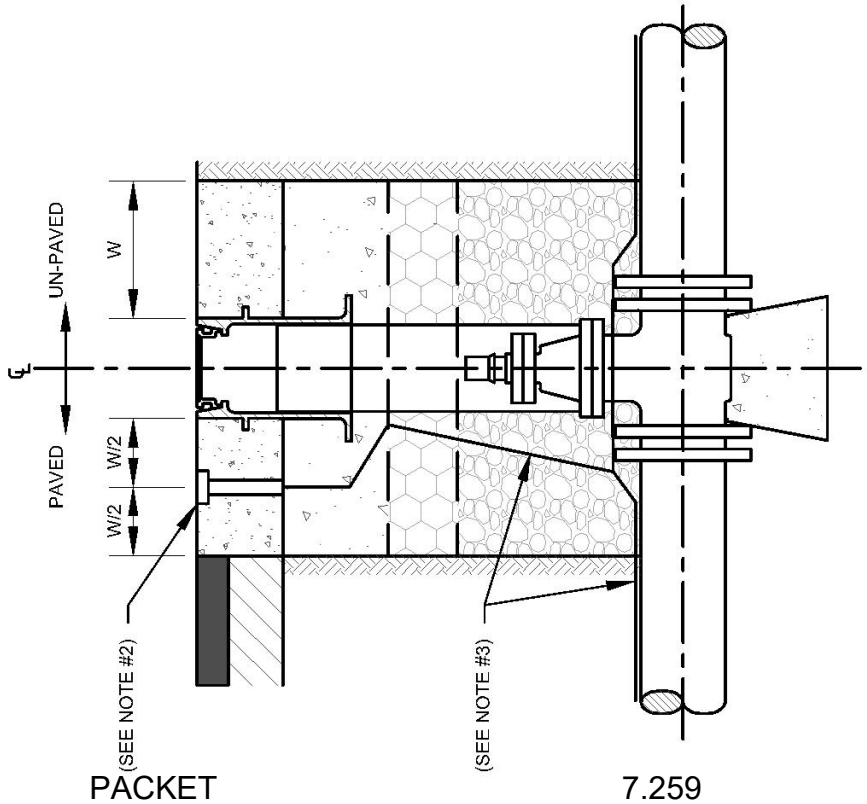


EXISTING MANHOLE RING & COVER ADJUSTMENT

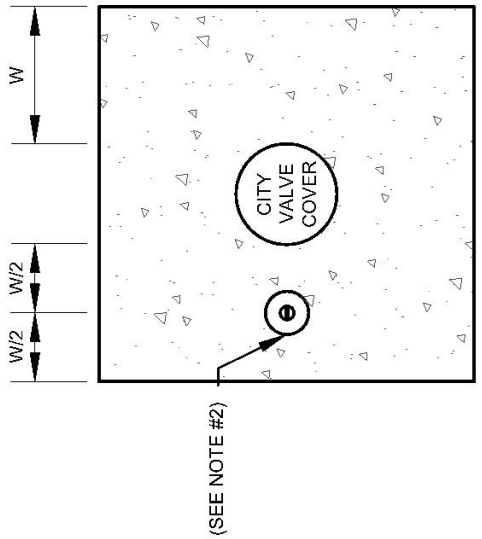
NOTES:

1. INSTALL 12" MIN. FIBER REINFORCED CLASS "C" CONCRETE RING, 3600 PSI, WHEN MANHOLE IS LOCATED IN AN ARTERIAL R.O.W.
2. GRADE RINGS TO MEET ASTM STANDARD A48 AND TO BE 2", 4", OR 6" THICKNESS AS REQUIRED. INSTALL ASPHALT TAR IN THICK, UNIFORM COATING OVER ALL OUTER ADJUSTMENT RING SURFACES AND JOINTS.
3. ENGINEERING SERVICES REPRESENTATIVE AND UTILITY SERVICES REPRESENTATIVE MAY ALLOW GREATER ADJUSTMENT RING DEPTH TO ACCOMMODATE PAVING STRUCTURES.
4. REMOVE ALL MATERIAL EXCAVATED FROM SITE AND EXCAVATION.
5. FILL ANY OVER-EXCAVATION WITH FLOWABLE FILL 2-SACK (2-SACK = 188 LBS/CY, PORTLAND CEMENT).
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
	CHECKED: JCF	EXISTING MANHOLE RING		
	APPROVED: MCC	& COVER ADJUSTMENT		
				319



CROSS SECTION VIEW



PLAN VIEW

NOTES:

1. SEE OTHER CITY STANDARD DETAILS FOR INFORMATION REGARDING VALVES, COVERS, CONCRETE RINGS, ETC.
2. TRAFFIC RATED COPPERHEAD SNAKEPIT TEST STATION OR APPROVED EQUAL. SET FLUSH WITH FINISHED SURFACE OF CONCRETE RING.
3. TRACER WIRE PER DETAIL 310 (A) TO BE TAPED TO SIDE OF VALVE BOX AND FASTENED SECURELY TO END OF TEST STATION. TRACER WIRE TO REMAIN ENTIRELY COVERED.
4. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

	DRAWN: DPM CHECKED: JCF APPROVED: MCC	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL: 320
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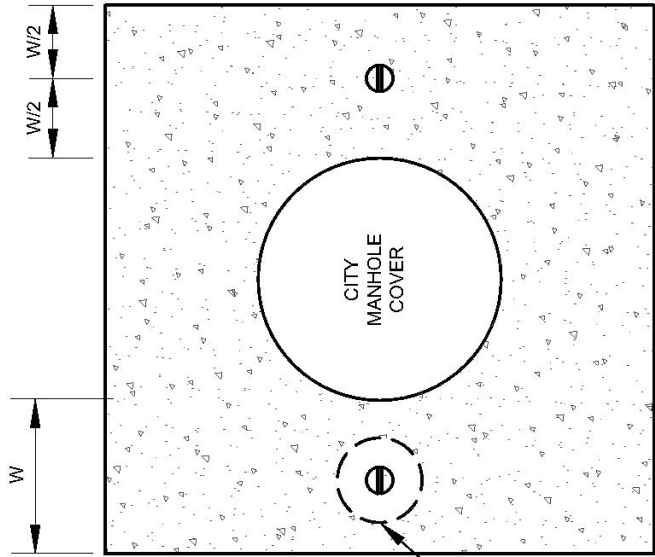
VALVE DETECTOR WIRE END

320

PACKET

7.259

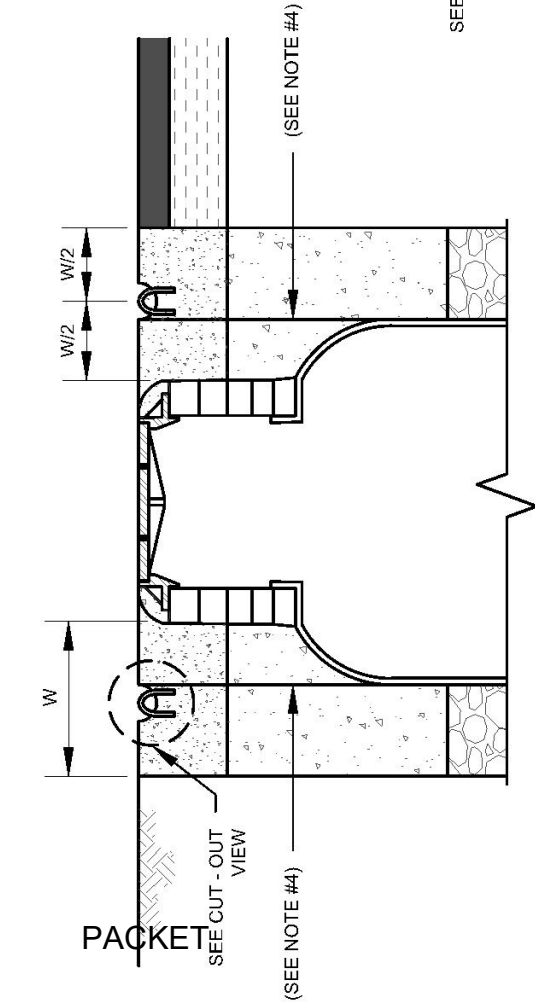
August 8, 2023



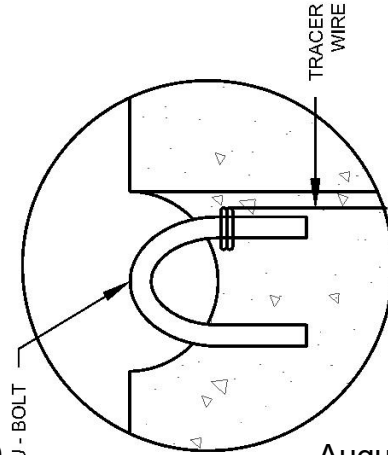
PLAN VIEW

NOTES:

1. SEE OTHER CITY STANDARD DETAILS FOR INFORMATION REGARDING MANHOLES, COVERS, CONCRETE RINGS, ETC.
2. U - BOLT IS TO BE GALVANIZED STEEL RATED FOR OUTDOOR EXPOSURE, 1.0" DIAMETER.
3. U - BOLT IS TO BE SET FLUSH WITH FINISHED SURFACE OF CONCRETE RING. THERE IS TO BE A SMALL DEPRESSION IN THE CONCRETE SUFFICIENT TO ALLOW A CLAMP OR WIRE TO BE PLACED AROUND THE EXPOSED METAL.
4. TRACER WIRE PER DETAIL 310(A) TO BE TAPED TO SIDE OF MANHOLE AND WRAPPED SECURELY TO END OF U-BOLT WHEN INSTALLED. TRACER WIRE IS TO REMAIN ENTIRELY COVERED.
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



CROSS SECTION VIEW



CUT - OUT VIEW

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

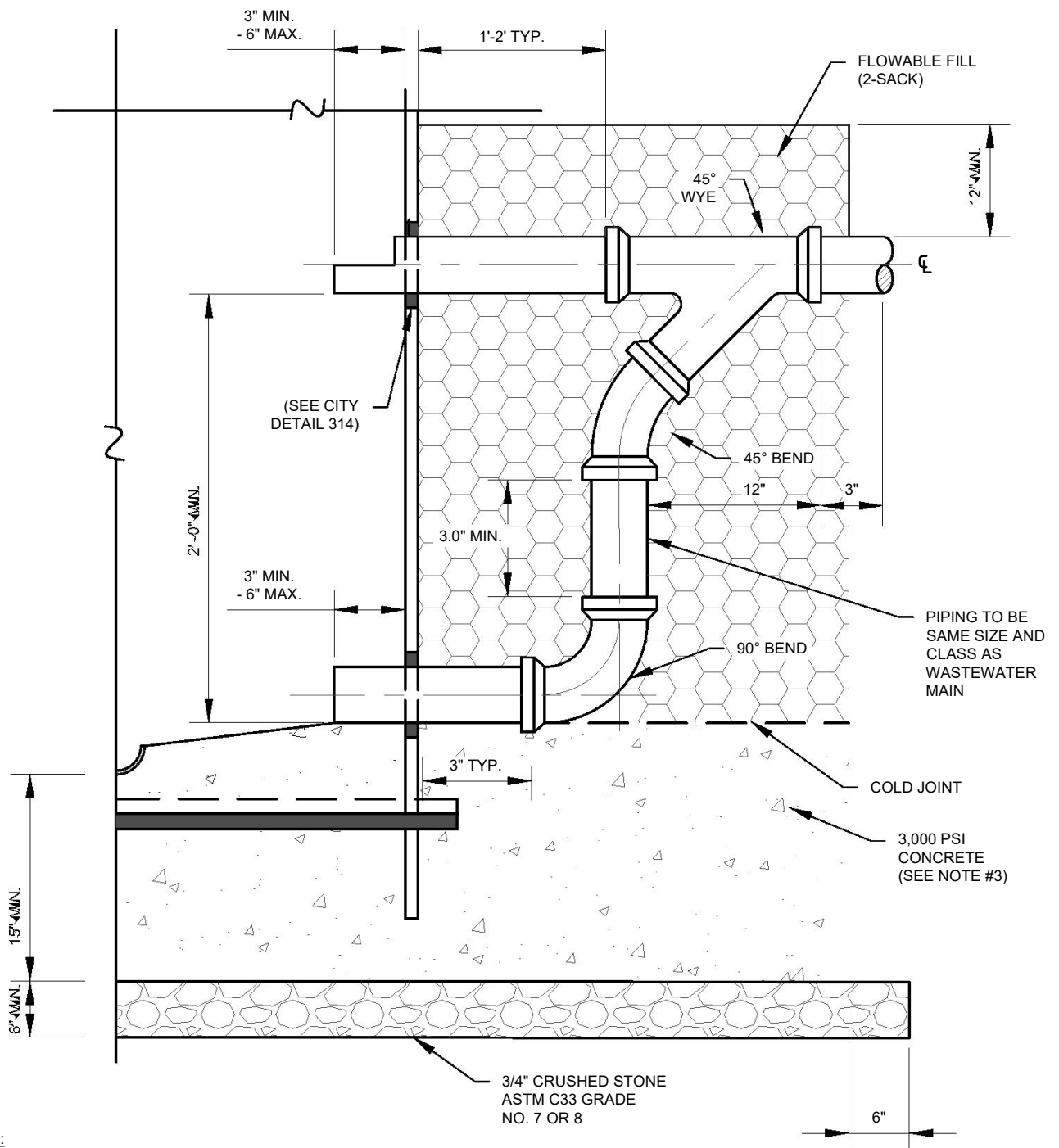
MANHOLE DETECTOR WIRE END

321



August 8, 2023

7.260



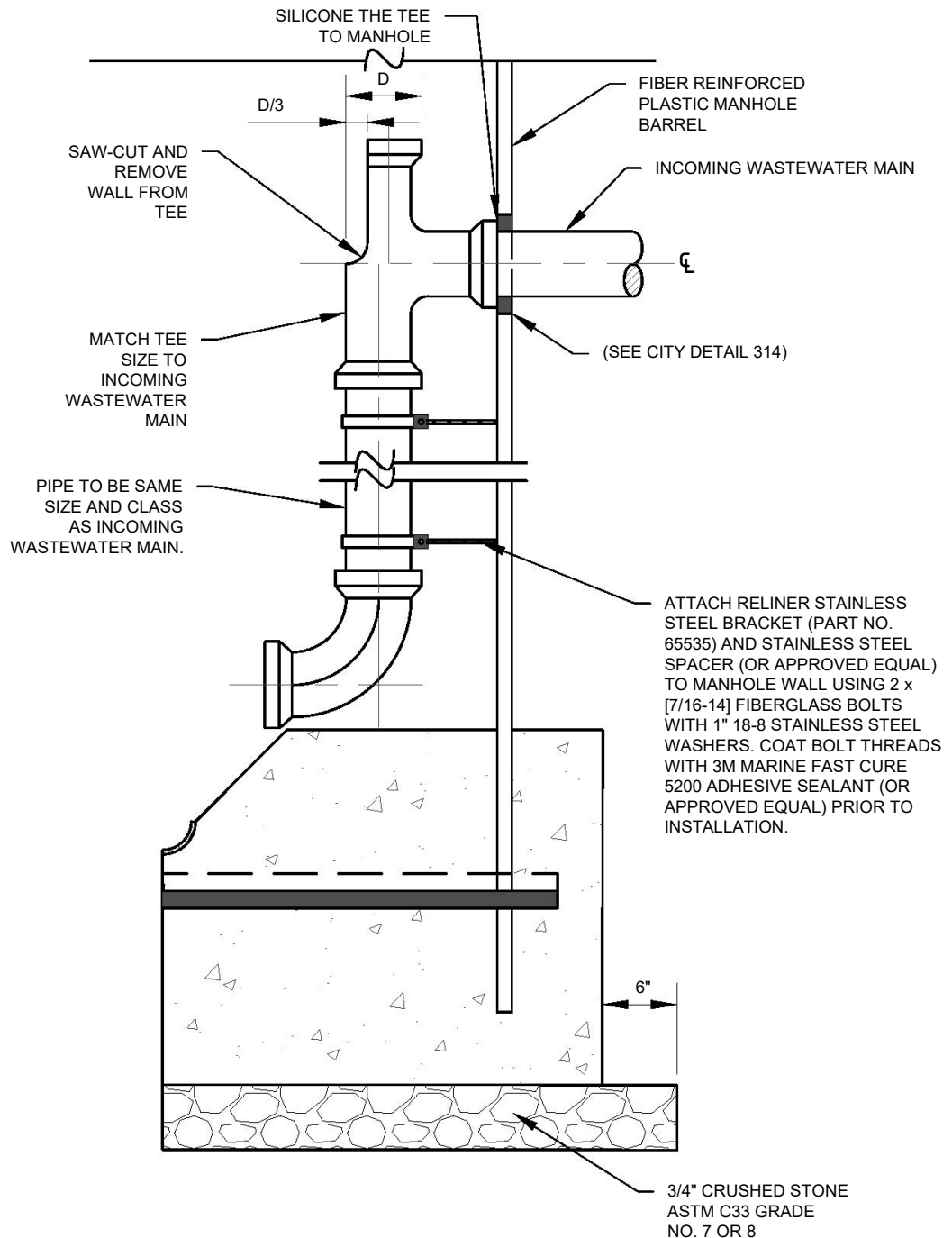
NOTES:

1. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT). REQUIRED FOR ALL OVER EXCAVATION BACKFILL.
2. INSTALL BEND AND WYE AS NEAR TO MANHOLE WALL AS PRACTICAL, USUALLY 3"-4" FROM THE BEND AT THE BOTTOM.
3. ALL CONCRETE TO BE CLASS "A" CONCRETE.
4. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
MIDLAND Engineering Services PACKET			EXTERNAL DROP STRUCTURE 501

7.261

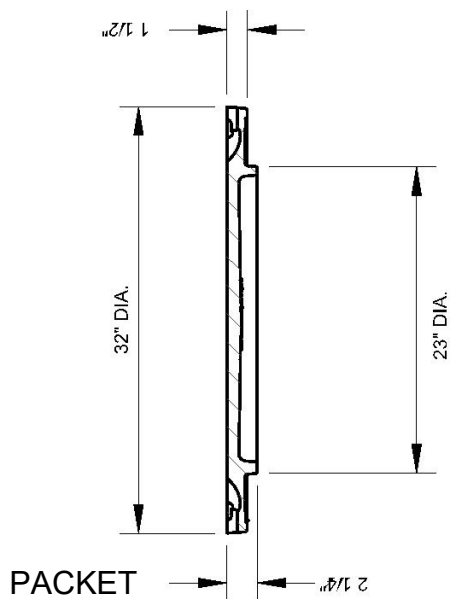
August 8, 2023



NOTES:

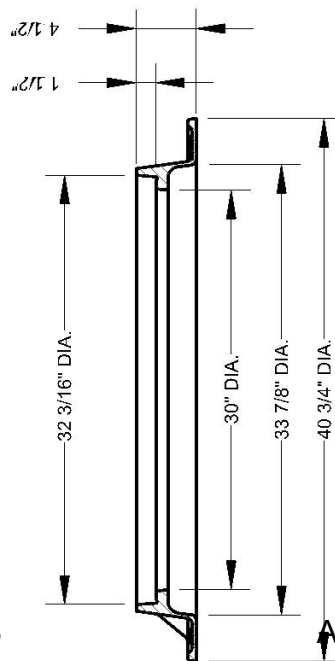
1. THIS DETAIL MAY ONLY BE USED WHEN CONNECTING TO AN EXISTING MANHOLE AND WITH THE PERMISSION OF BOTH THE CITY ENGINEER AND UTILITY DEPARTMENT REPRESENTATIVE.
2. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT). REQUIRED FOR ALL OVER EXCAVATION BACKFILL.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC
EFFECTIVE DATE: 10/01/2018	SCALE:	DETAIL:
MIDLAND Engineering Services PACKET		INTERNAL DROP STRUCTURE 7.262 August 8, 2023
		502

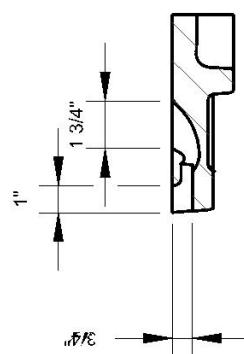


COVER SECTION

7.263



FRAME SECTION



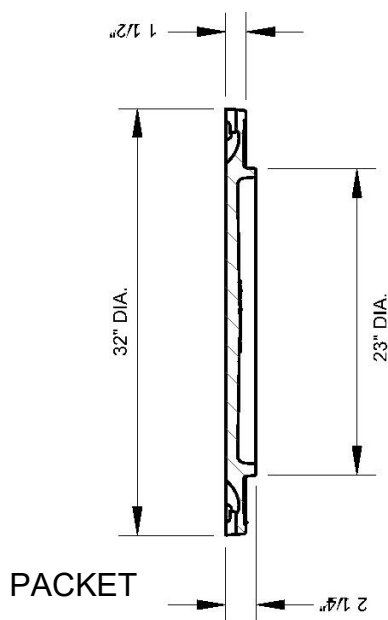
PICKHOLE DETAIL

1. MANHOLE COVERS TO BE CAST WITH THE FOLLOWING:
"NO DUMPING"
CITY OF MIDLAND LOGO
"WASTEWATER"

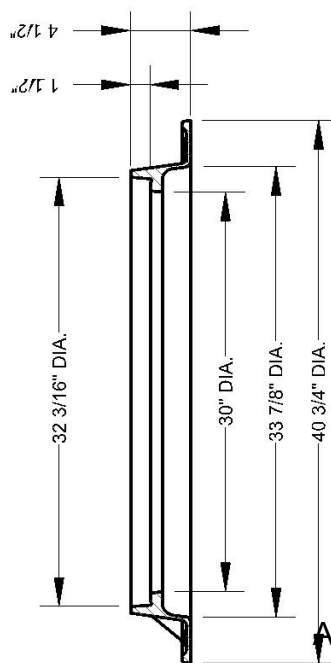
EAST JORDAN V1420Z1/V1430A ASSEMBLY
OR APPROVED EQUAL

2. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
3. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

 MIDLAND <i>Engineering Services</i>	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018 TYPICAL WASTEWATER MANHOLE COVER	SCALE: NTS	DETAIL: 503
	CHECKED: JCF			
	APPROVED: MCC			



COVER SECTION



FRAME SECTION

7.264

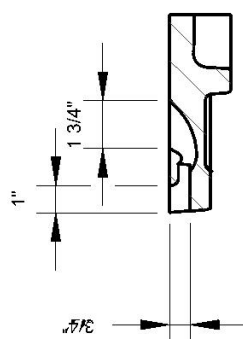
August 8, 2023

NOTES:

1. MANHOLE COVERS TO BE CAST WITH THE FOLLOWING:
"NO DUMPING"
CITY OF MIDLAND LOGO
"WASTEWATER"

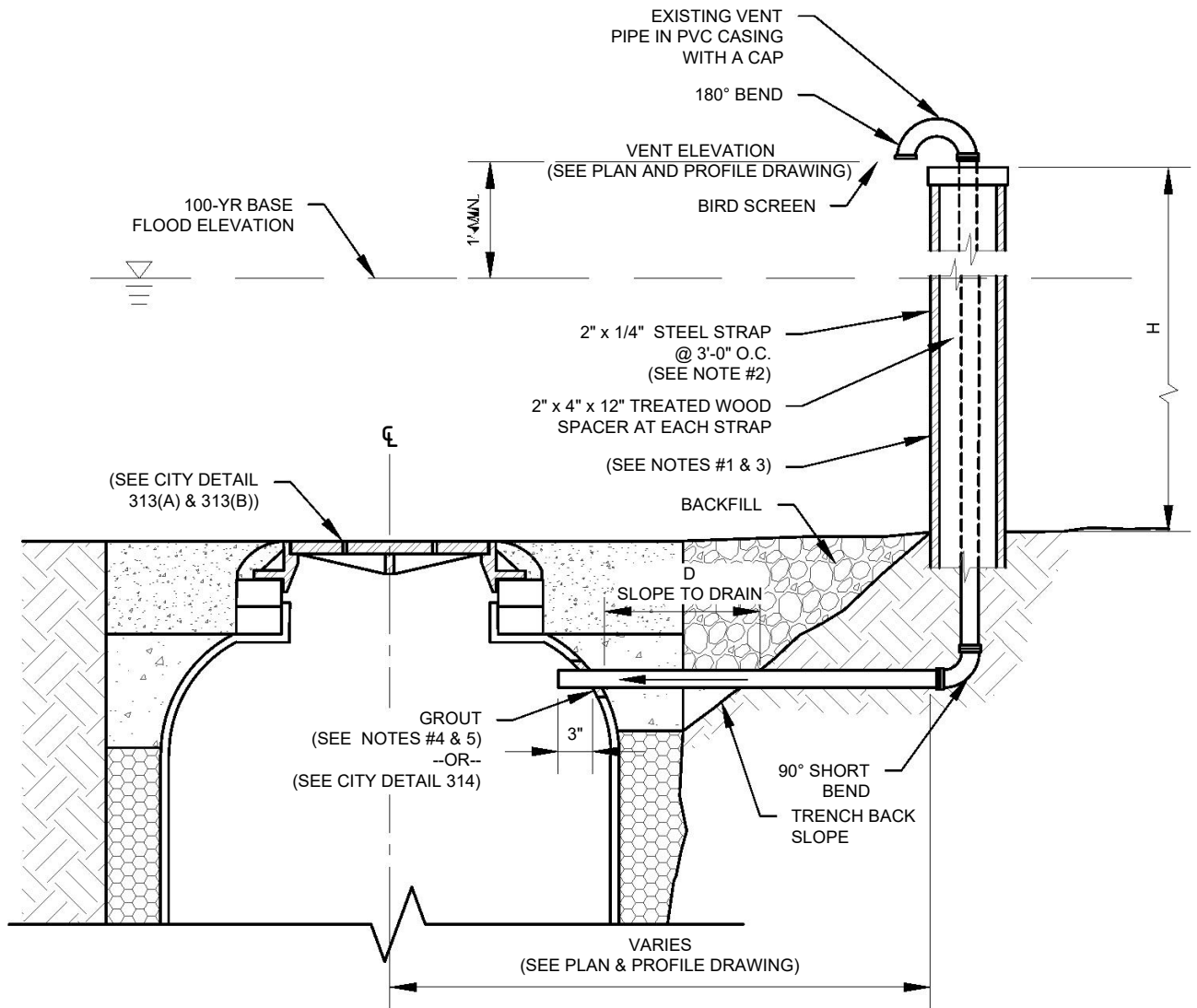
EAST JORDAN V1420PT/V1430APT ASSEMBLY
OR APPROVED EQUAL

2. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
3. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



PICKHOLE DETAIL

	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
	CHECKED: JCF			
APPROVED: MCC		WATER TIGHT WASTEWATER MANHOLE COVER		
		504		



REMOTE VENT PIPE

NOTES:

1. ALL PIPING TO BE 3" DIA. DUCTILE IRON WITH FLANGED JOINTS COATED INSIDE AND OUTSIDE.
2. PAINT ALL STRAPPING WITH 2 COATS OF ALL WEATHER EPOXY.
3. PAINT ALL EXPOSED PIPING WITH 2 COATS OF ALL WEATHER EPOXY.
4. APPROVED WATER TIGHT MANHOLE CONNECTOR INSTALLED PER SPECIFICATION AND/OR MANUFACTURER'S INSTRUCTIONS.
5. GROUT TO BE APPROVED NON-SHRINK TYPE.
6. MANHOLE VENT TO BE USED IN CONJUNCTION WITH WATER TIGHT MANHOLE RINGS AND COVERS SPACED EVERY THIRD MANHOLE OR AS SHOWN ON THE PLANS.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

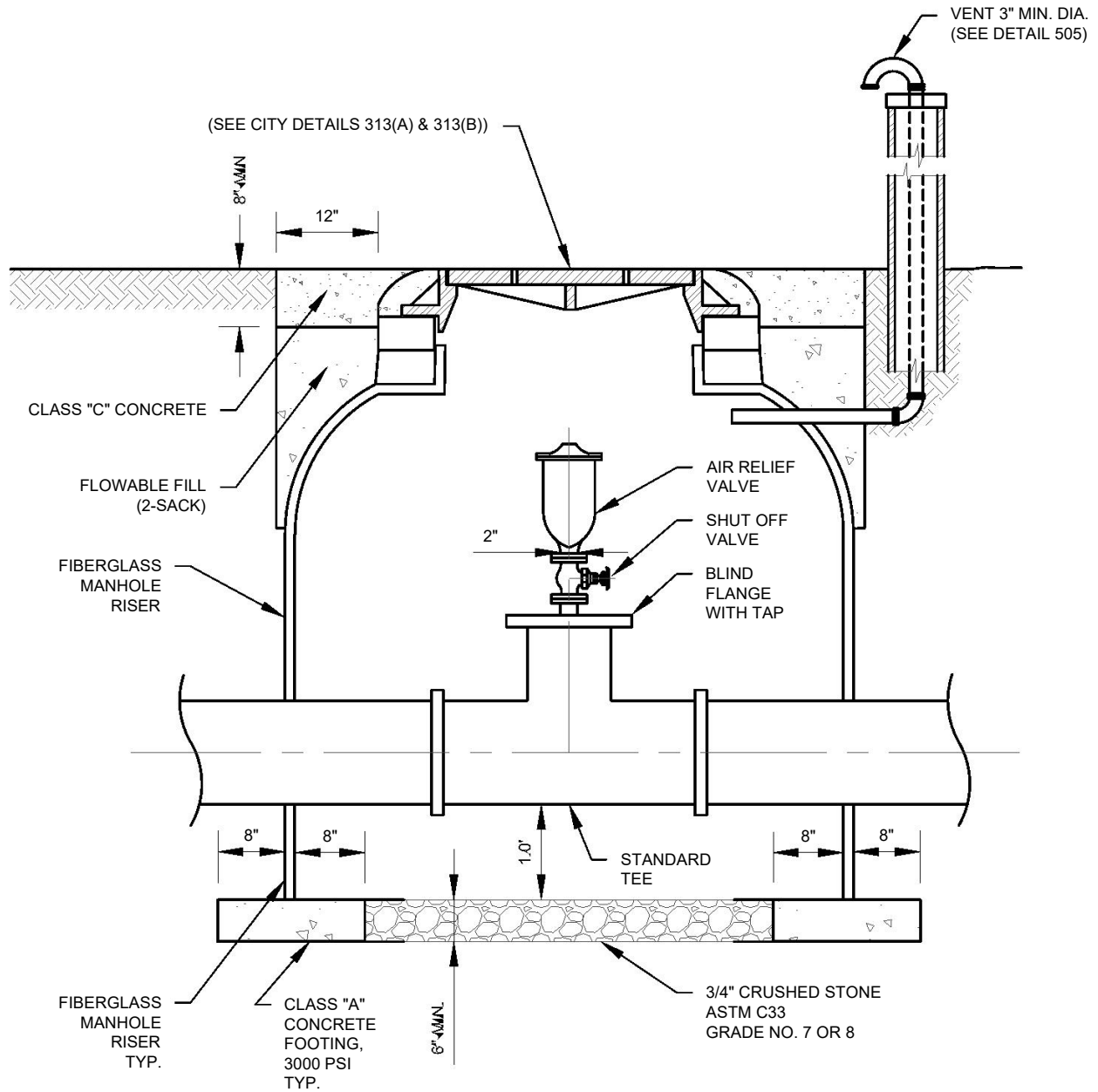


REMOTE VENT PIPE

7.265

August 8, 2023

505

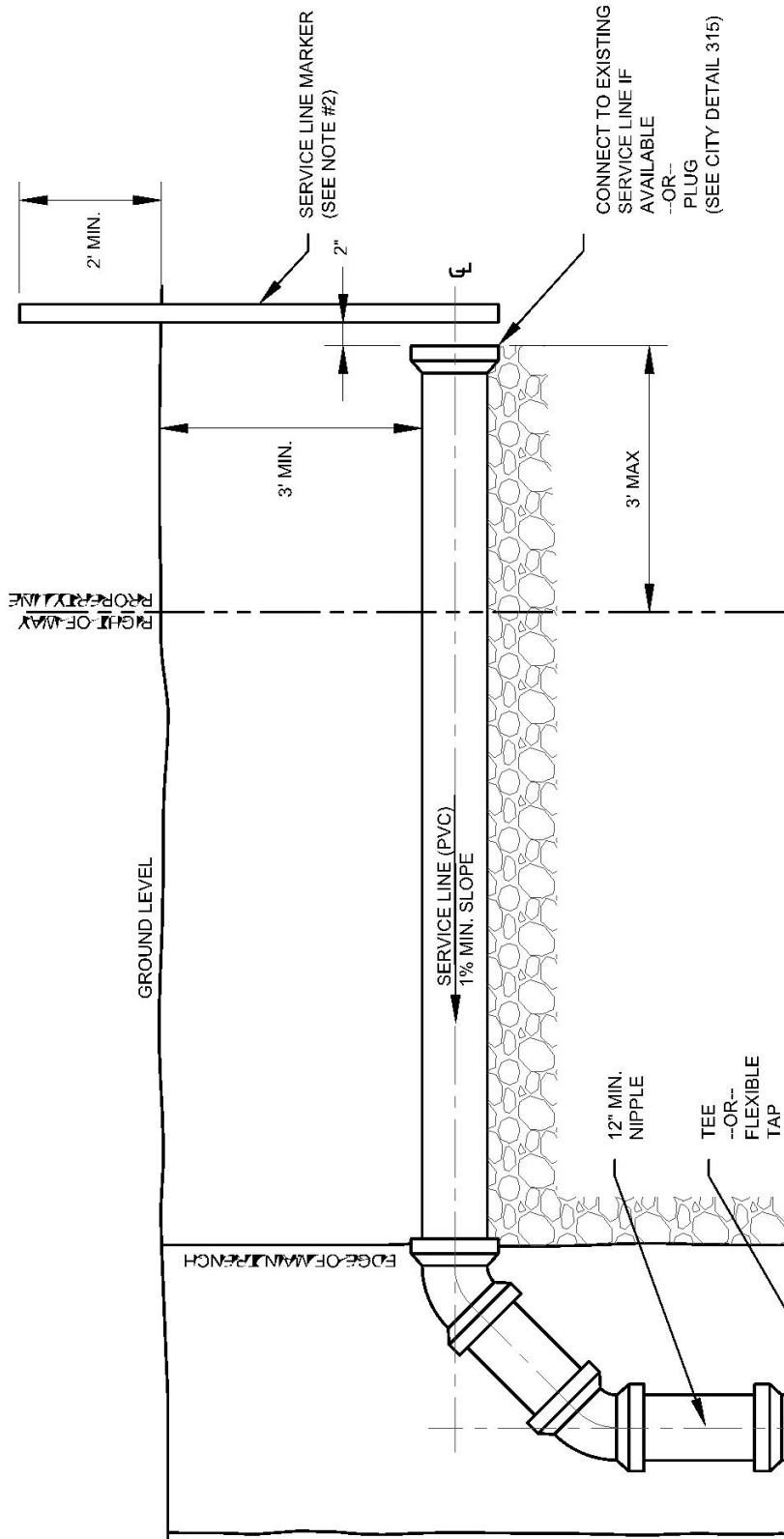


NOTES:

1. IF AIR RELIEF VALVE IS LOCATED IN PAVEMENT THE COVER IS TO BE A GRATE COVER AND NO VENT PIPES ARE TO BE UTILIZED.
2. ALL CONCRETE PAVEMENT TO BE CLASS "C" CONCRETE, 3600 PSI.
3. PLACE ALL FLOWABLE FILL 2-SACK (2 - SACK = 188 LBS/CY, PORTLAND CEMENT) AS A SINGLE CONTINUOUS POUR.
4. MATERIAL AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

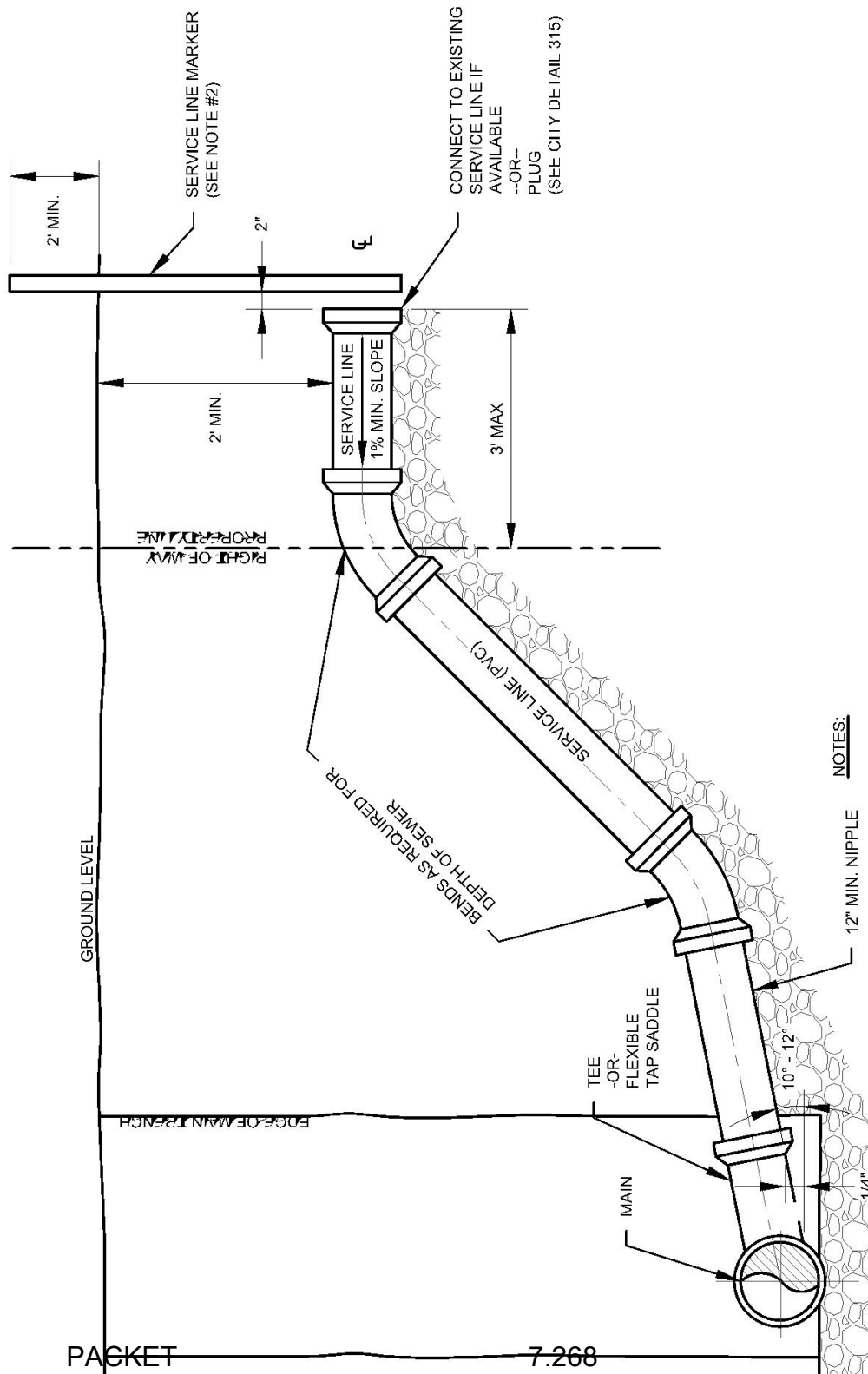
DRAWN: DPM	CHECKED: JCF	APPROVED: MCC
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
FORCE MAIN RELIEF VALVE 7.266 August 8, 2023		506





NOTES:

1. EMBEDMENT AND BACKFILL OF SERVICE LINE PIPE TO COMPLY WITH DETAILS 310(A) AND 310(B) WITHIN RIGHT-OF-WAY.
2. END OF SERVICE LINE MARKER TO BE PLACED AT OR 2" FROM END OF SERVICE LINE AND BE EITHER 2" DIAMETER OR LARGER PVC OR FLEXIBLE POLYETHYLENE PIPE.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



NOTES:

1. EMBEDMENT AND BACKFILL OF SERVICE LINE PIPE TO COMPLY WITH DETAILS 310(A) AND 310(B) WITHIN RIGHT-OF-WAY.
2. END OF SERVICE LINE MARKER TO BE PLACED 2" FROM END OF SERVICE LINE AND BE EITHER 2" DIAMETER OR LARGER PVC OR FLEXIBLE POLYETHYLENE PIPE.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

PACKET

7.268

August 8, 2023



DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

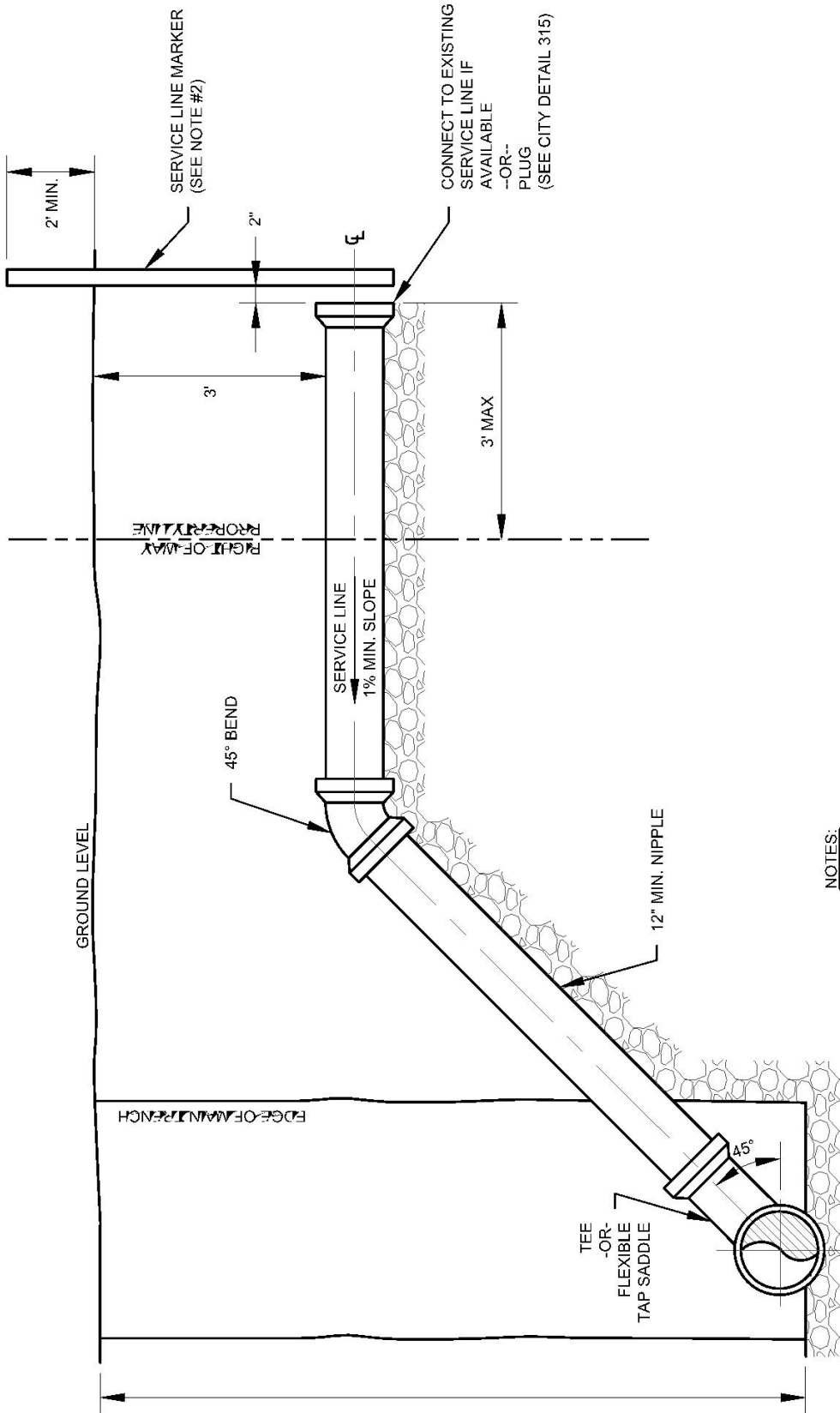
EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

4" AND 6" WASTEWATER SERVICE LATERAL TAP OPTION 2

508



NOTES:

1. EMBEDMENT AND BACKFILL OF SERVICE LINE PIPE TO COMPLY WITH DETAILS 310(A) AND 310(B) WITHIN RIGHT-OF-WAY.
2. END OF SERVICE LINE MARKER TO BE PLACED 2" FROM END OF SERVICE LINE AND BE EITHER 2" DIAMETER OR LARGER PVC OR FLEXIBLE POLYETHYLENE PIPE.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

PACKET

4' MIN.
5' MAX

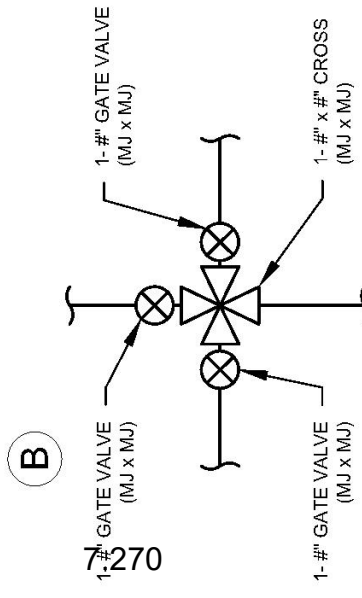
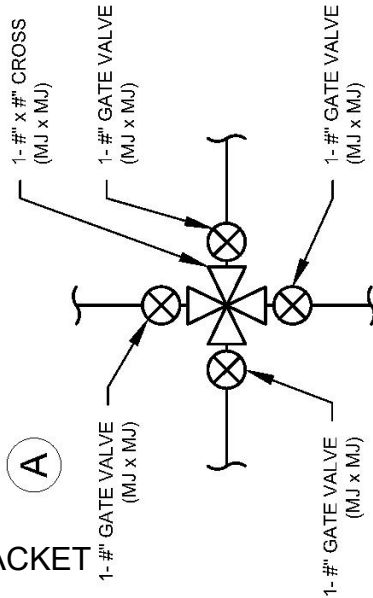
7.269

August 8, 2023

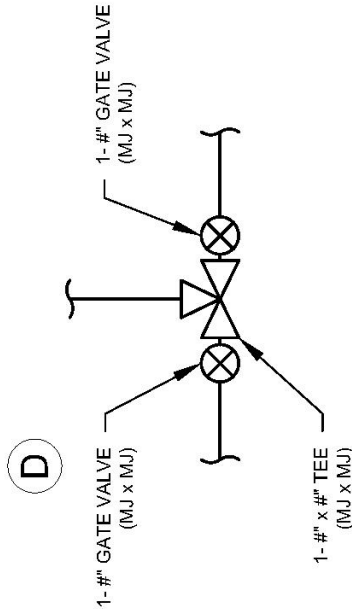
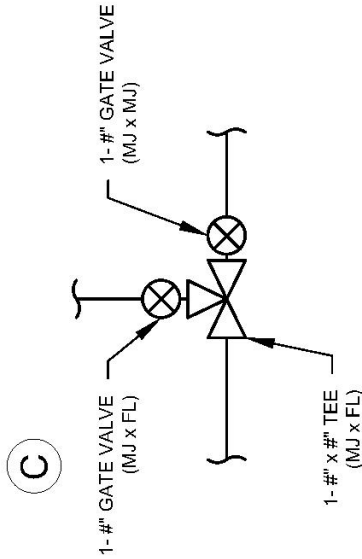
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4" AND 6" WASTEWATER SERVICE LATERAL TAP OPTION 3				

CROSS FITTING RESTRAINTS

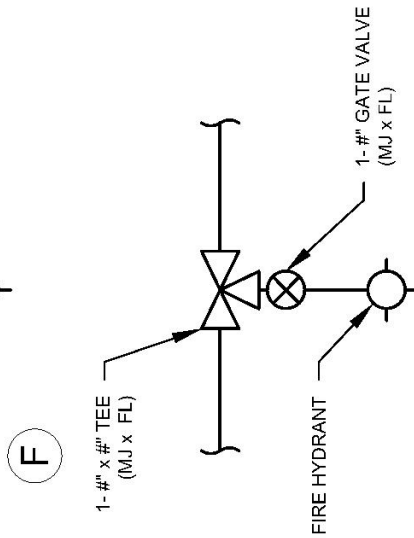
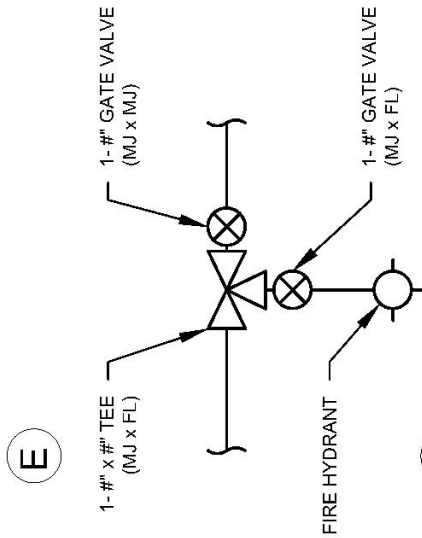
PACKET



TEE FITTING RESTRAINTS



FIRE HYDRANT RESTRAINTS



NOTES:

1. ALL MECHANICAL JOINT (MJ) FITTINGS TO BE RESTRAINED.
2. ALL FLANGES (FL) TO BE ON THE BRANCH SIDE OF TEE FITTINGS.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. INSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 2023



DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

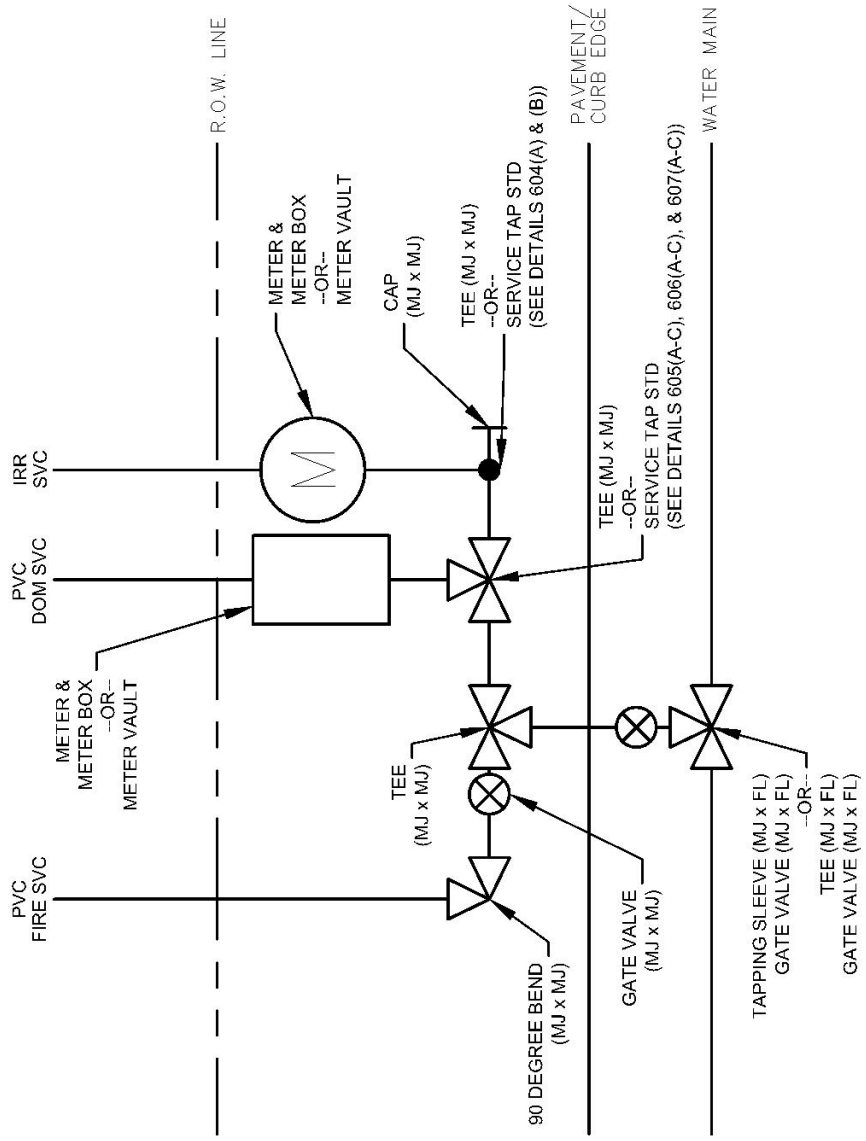
TYPICAL FITTING RESTRAINT CONFIGURATIONS

601

DETAIL:

NOTES:

- 1. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- 2. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

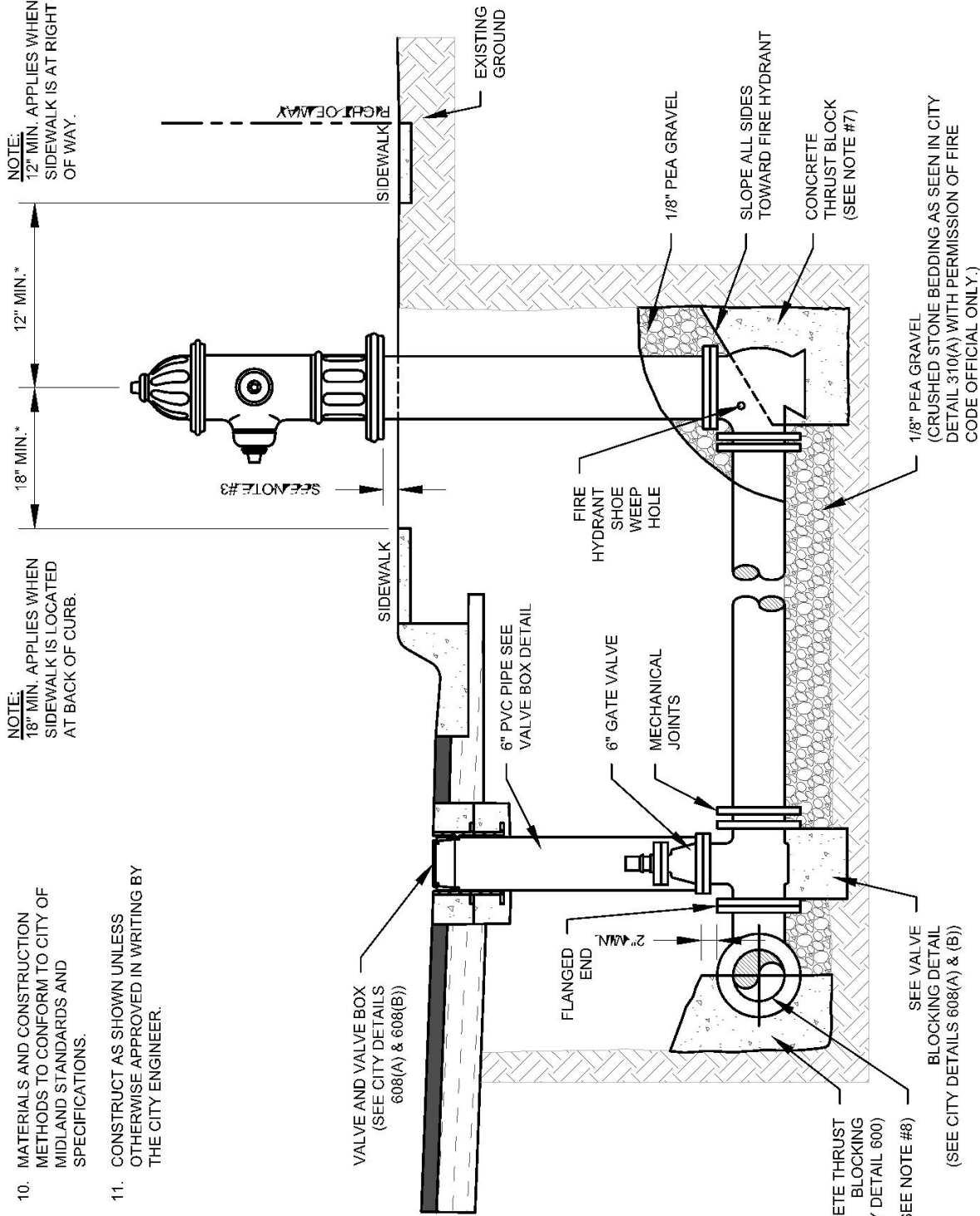


	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE:	DETAIL:
	CHECKED: JCF	STANDARD MULTI-FAMILY & COMMERCIAL		
	APPROVED: MCC	WATER SERVICE MANIFOLD		

NOTES:

1. SET ALL VALVE BOXES IN A CONCRETE COLLAR WHEN PLACED AT THEIR FINAL GRADE. (SEE CITY DETAILS 608(A) & (B))
2. ALL CONCRETE PAVEMENT TO BE CLASS "C" CONCRETE, 3600 PSI.
3. LEAVE VALVE BOX 6" TO 10" ABOVE GRADE FOR NEW DEVELOPMENT AND OTHER STREETS AND ALLEYS SCHEDULED FOR IMMEDIATE PAVING UNTIL STREET WORK IS DONE. PAVING CONTRACTOR TO ADJUST VALVE BOX TO FINISHED GRADE BEFORE PLACING LAST COURSE OF HMA SURFACE.
4. SET FRANGIBLE FLANGE OF FIRE HYDRANT A MINIMUM OF 2" AND A MAXIMUM OF 6" ABOVE SIDEWALK ELEVATION.
5. ON STREETS WHERE NO SIDEWALK IS TO BE CONSTRUCTED, SET CENTERLINE OF FIRE-HYDRANT AT 3' FROM PROPERTY LINE WITHIN RIGHT OF WAY.
6. PLACE FIRE HYDRANT CUT-OFF VALVE A MINIMUM OF 3' FROM THE CENTER LINE OF THE FIRE HYDRANT. THIS MAY REQUIRE THE USE OF A 90° BEND TO OFFSET THE FIRE HYDRANT.
7. SHAPE CONCRETE THRUST BLOCKS SO THAT NO WATER DRAINS ARE BLOCKED.
8. A TEE FITTING IS REQUIRED FOR A CONNECTION TO A NEW WATER MAIN, AND A TAPPING SLEEVE IS REQUIRED FOR A CONNECTION TO AN EXISTING WATER MAIN.
9. DO NOT WRAP FIRE HYDRANT SHOE IN PLASTIC.

10. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
11. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

FIRE HYDRANT NEW WATER MAIN

603

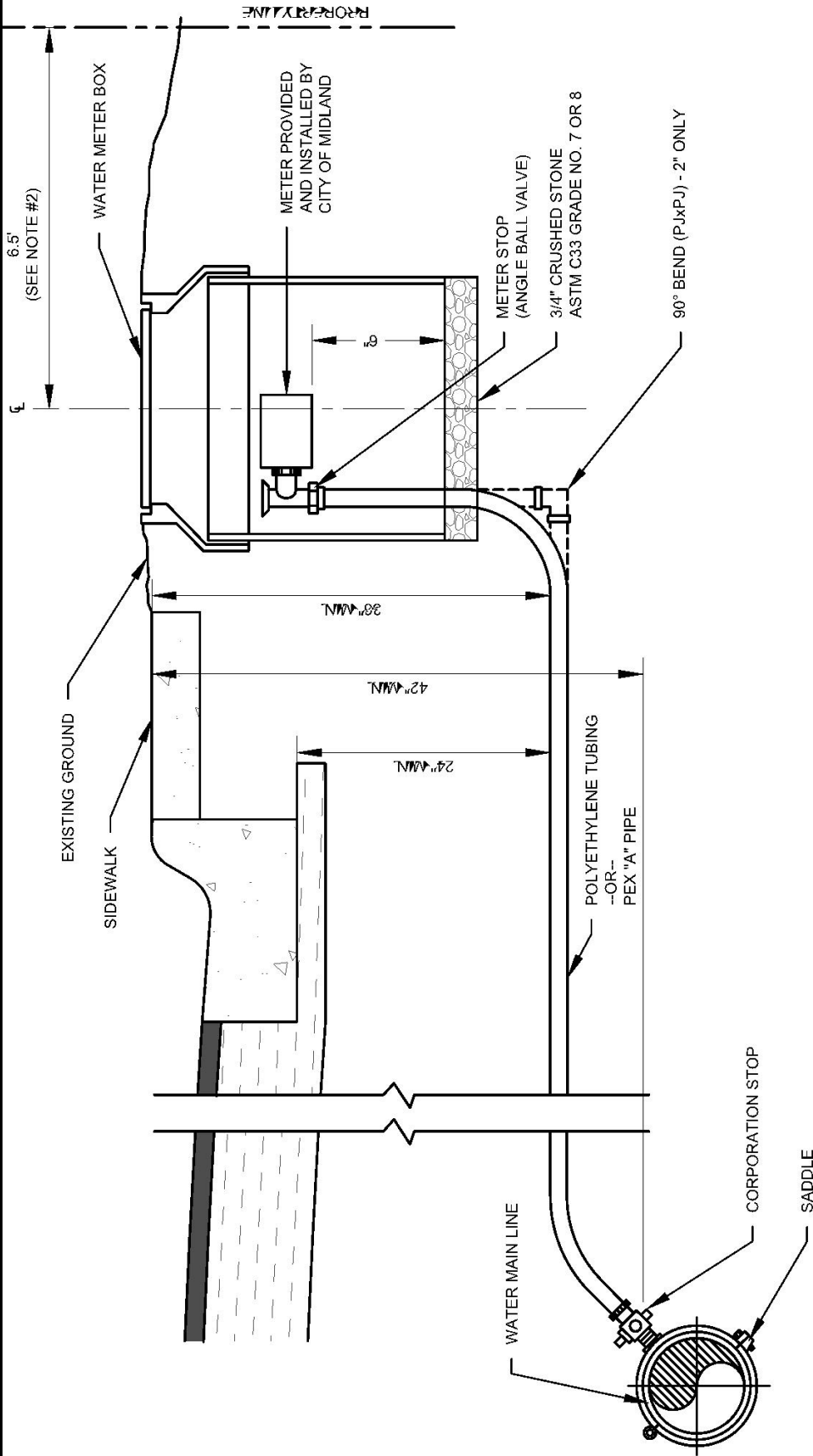
MIDLAND
Engineering Services

DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

August 8, 2023

NOTES:

1. ALL WATER SERVICES TO BE 1" OR 2" DIAMETER.
2. THE DISTANCE FROM PROPERTY LINE SHOWN IS FOR 5' SIDEWALK AT THE PROPERTY LINE. WHEN 5' SIDEWALK IS PLACED AT THE BACK OF CURB, PLACE METER BOXES A MINIMUM OF 6.5' FROM THE BACK OF CURB.
3. TWO ADJACENT SERVICE LATERALS MAY BE PLACED IN THE SAME TRENCH. EACH TAP MUST BE SEPARATE AND HAVE BOTH A CORPORATION STOP AND A METER STOP. ("BULLHEAD TAPS ARE NOT PERMITTED")
4. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
	CHECKED: JCF	1" AND 2" WATER METER AND SERVICE CONNECTION		
	APPROVED: MCC	604(A)		

Aug 9 8 2023

APPROVED COMPONENT LIST

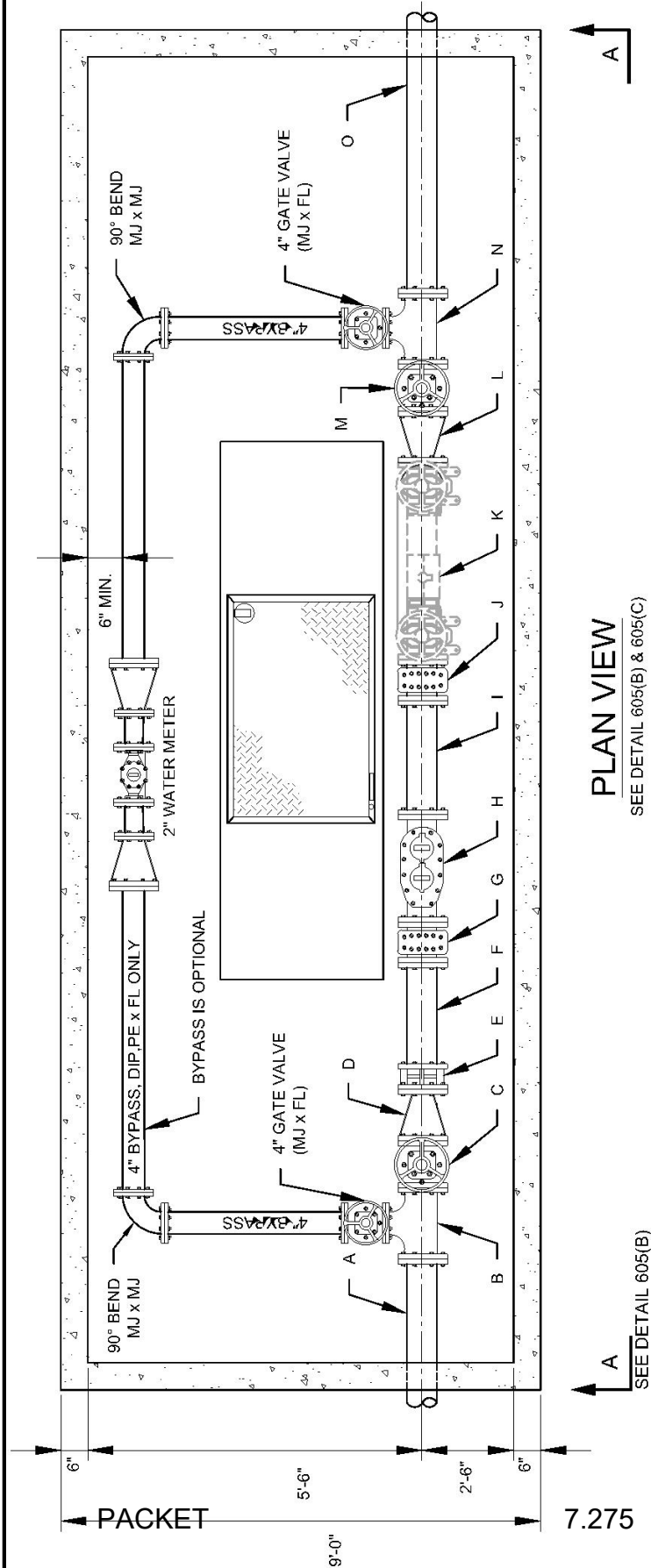
1" WATER METER SERVICE	2" WATER METER SERVICE
<u>SADDLE OPTION 1: DUCTILE IRON W/DUAL BAND CC THREAD STEEL STRAP</u> 1. FORD FCD202 SADDLE 2. MUELLER DR 2 S SERIES 3. A.Y. MCDONALD SERIES 4855A 4. OR APPROVED EQUAL <u>SADDLE OPTION 2: BRASS W/DUAL BAND CC THREAD STEEL STRAP</u> 1. FORD 202BSD SADDLE 2. MUELLER BR 2 S SERIES 3. A.Y. MCDONALD SERIES 3855 4. OR APPROVED EQUAL	<u>SADDLE OPTION 1: DUCTILE IRON W/DUAL BAND CC THREAD STEEL STRAP</u> 1. FORD FCD202 SADDLE 2. MUELLER DR 2 S SERIES 3. A.Y. MCDONALD SERIES 4855A 4. OR APPROVED EQUAL <u>SADDLE OPTION 2: BRASS W/DUAL BAND CC THREAD STEEL STRAP</u> 1. FORD 202BSD SADDLE 2. MUELLER BR 2 S SERIES 3. A.Y. MCDONALD SERIES 3855 4. OR APPROVED EQUAL
<u>CORPORATION STOP</u> 1. FORD FB1000-4-G-NL 2. MUELLER B-25008N 3. A.Y. MCDONALD SERIES 74701B-22 1 4. OR APPROVED EQUAL	<u>CORPORATION STOP</u> 1. FORD FB1000-7-G-NL 2. MUELLER B-25008N 3. A.Y. MCDONALD SERIES 74701B-22 2 4. OR APPROVED EQUAL
<u>CURB STOP METER VALVE</u> 1. FORD BA43-444W-G-NL 2. MUELLER B-25172N 3. A.Y. MCDONALD SERIES 74602B-22 1 4. OR APPROVED EQUAL	<u>CURB STOP METER VALVE</u> 1. FORD BFA43-777W-G-NL 2. MUELLER B-25172N 3. A.Y. MCDONALD SERIES 74602B-22 2 4. OR APPROVED EQUAL
<u>WATER METER BOX</u> 1. EAST JORDAN 32197099A02 2. OR APPROVED EQUAL	<u>WATER METER BOX</u> 1. EAST JORDAN 32244000A01 2. OR APPROVED EQUAL
<u>SERVICE LINE PIPE</u> 1. ASTM D-2737 POLYETHYLENE TUBING 2. MUNICI PEX 'A' PIPE 3. OR APPROVED EQUAL	<u>SERVICE LINE PIPE</u> 1. ASTM D-2737 POLYETHYLENE TUBING 2. MUNICI PEX 'A' PIPE 3. OR APPROVED EQUAL

NOTES:

1. ALL COMPONENTS OF ANY WATER METER SERVICE LINE MUST COME FROM THE SAME BRAND WHENEVER POSSIBLE.
2. PLASTIC WRAP ALL SADDLES.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
 1" AND 2" WATER METER AND SERVICE CONNECTION		604(B)

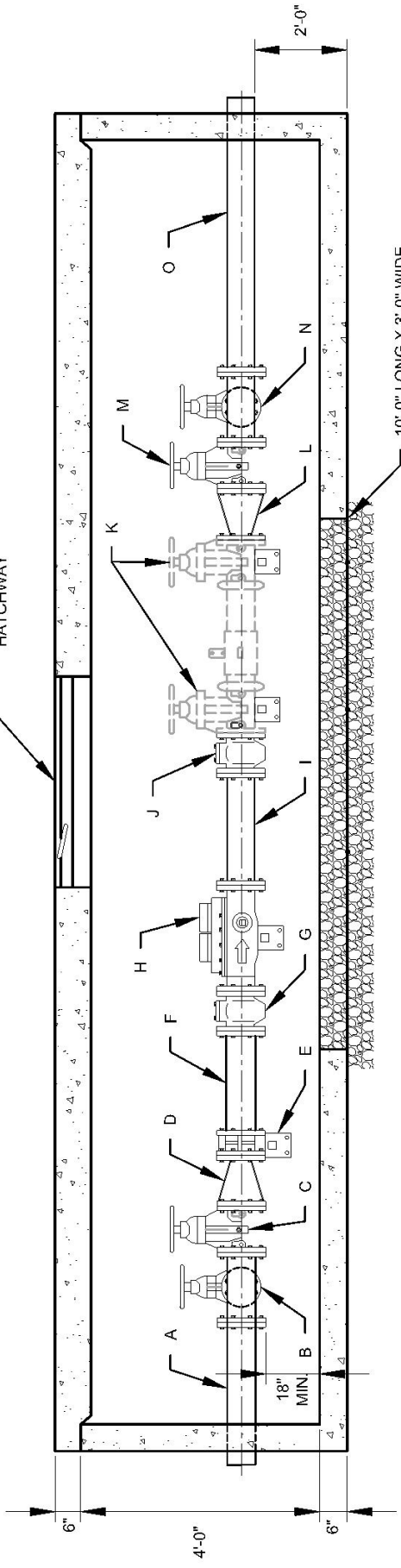
August 8, 2023



NOTES:

1. ALL FITTINGS COMPACT OR STD DUCTILE IRON.
2. ALL MJ FITTING TO BE RESTRAINED.
3. CLASS III CONCRETE WITH DESIGN STRENGTH OF 4500 PSI AT 28 DAYS . UNIT IS OF MONOLITHIC CONSTRUCTION AT FLOOR AND FIRST STAGE OF WALL WITH SECTIONAL RISER TO REQUIRED LENGTH.
4. GRADE 60 REINFORCED STEEL REBAR CONFORMING TO ASTM A615 ON REQUIRED CENTERS OR EQUAL.
5. ALUMINUM DIAMOND PLATE COVER WITH EXTRUDED ALUMINUM FRAME. HATCH TO BE FURNISHED WITH STAINLESS STEEL SLAM LOCK AND HINGES. (300 P S.F. LIVE LOAD)
6. UNISTRUT CHANNEL SUPPORT AND END BRACKET.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

	EFFECTIVE DATE: 10/01/2018		SCALE: NTS	DETAIL:
	DRAWN: DPM		3 INCH DOMESTIC COMPOUND WATER METER ASSEMBLIES	
	CHECKED: JHC		605(A)	
	APPROVED: MCC			



SECTION VIEW 'A-A'

SEE DETAIL 605(A) & 605(C)

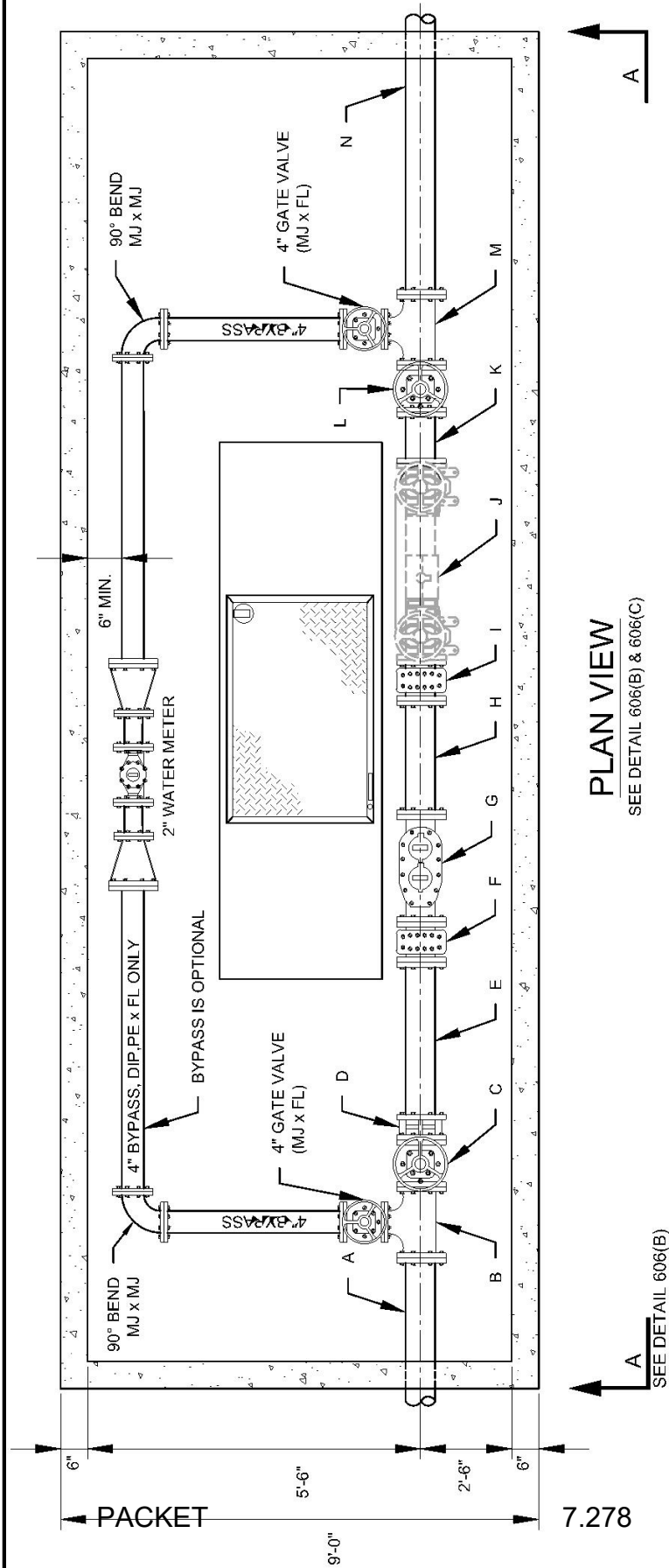
	EFFECTIVE DATE: 10/01/2018		SCALE: NTS	DETAIL:
	DRAWN: DPM		3 INCH DOMESTIC COMPOUND WATER METER ASSEMBLIES	
	CHECKED: JHC			
	APPROVED: MCC			
			605(B)	

NO	DESCRIPTION	LENGTH
..... VAULT WALL		
A	CLEARANCE SPACE	12"
B	TYLER UNION 4" x 4" TEE (MJ x FL)	8"
C	MUELLER 4" GATE VALVE (MJ x MJ)	8"
D	TYLER UNION 4" X 3" REDUCER (MJ X FL)	7"
E	JCM #304 3" DISMANTLING JOINT	12"
F	DUCTILE IRON PIPE SPOOL	12"
G	NEPTUNE 3" DIA. STRAINER	6"
H	NEPTUNE 3" TRU/FLO METER	17"
I	DUCTILE IRON PIPE SPOOL (FL x FL)	12"
J	WATTS #77F 3" DIA. STRAINER	10"
K	WATTS #757 3" DIA. DCVA	32"
L	TYLER UNION 4" X 3" REDUCER (MJ x FL)	7"
M	MUELLER 4" GATE VALVE (MJ x MJ)	8"
N	TYLER UNION 4" X 3" TEE (MJ x FL)	8"
O	CLEARANCE SPACE	12"
..... VAULT WALL		
* THESE COMPONENTS ARE SET BY THE CITY		
** DCVA - DOUBLE CHECK VALVE ASSEMBLY		
*** TOTAL INSIDE VAULT LENGTH WITH BACKFLOW PREVENTER = 171.0" - OR - 14.25'		
**** TOTAL INSIDE VAULT LENGTH WITHOUT BACKFLOW PREVENTER = 129.0" - OR 10.75'		

NOTES:

1. ALL PIPE WITHIN VAULT STRUCTURE TO BE DUCTILE IRON PIPE.
2. APPROVED EQUAL COMPONENTS MAY BE USED UNLESS OTHERWISE NOTED.
3. DOUBLE CHECK VALVE ASSEMBLY BACKFLOW PREVENTION ONLY REQUIRED FOR METER VAULTS ON LOOPED WATER MAIN/LINES.
4. BYPASS PIPE MAY BE LOCATED INSIDE VAULT STRUCTURE IF DESIRED. VAULT WALL TO BE LOCATED A MINIMUM 12" FROM INSIDE VAULT WALL EDGE TO OUTSIDE EDGE OF BYPASS PIPE, WITH NO CHANGE TO OTHER VAULT DETAIL DIMENSIONS.
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM		CHECKED: JCF		APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018		SCALE: NTS		DETAIL:	
		3 - INCH COMPOUND METER			
		7.27 & VAULT			
		August 8, 2023		605(C)	



PLAN VIEW

SEE DETAIL 606(B) & 606(C)

NOTES:

- ALL FITTINGS COMPACT OR STD DUCTILE IRON.
- ALL MJ FITTING TO BE RESTRAINED.
- CLASS I/II CONCRETE WITH DESIGN STRENGTH OF 4500 PSI AT 28 DAYS . UNIT IS OF MONOLITHIC CONSTRUCTION AT FLOOR AND FIRST STAGE OF WALL WITH SECTIONAL RISER TO REQUIRED LENGTH.
- GRADE 60 REINFORCED STEEL REBAR CONFORMING TO ASTM A615 ON REQUIRED CENTERS OR EQUAL.
- ALUMINUM DIAMOND PLATE COVER WITH EXTRUDED ALUMINUM FRAME. HATCH TO BE FURNISHED WITH STAINLESS STEEL SLAM LOCK AND HINGES. (300 P S.F. LIVE LOAD)
- UNISTRUT CHANNEL SUPPORT AND END BRACKET.
- MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



DRAWN: DPM
 CHECKED: JHC
 APPROVED: MCC

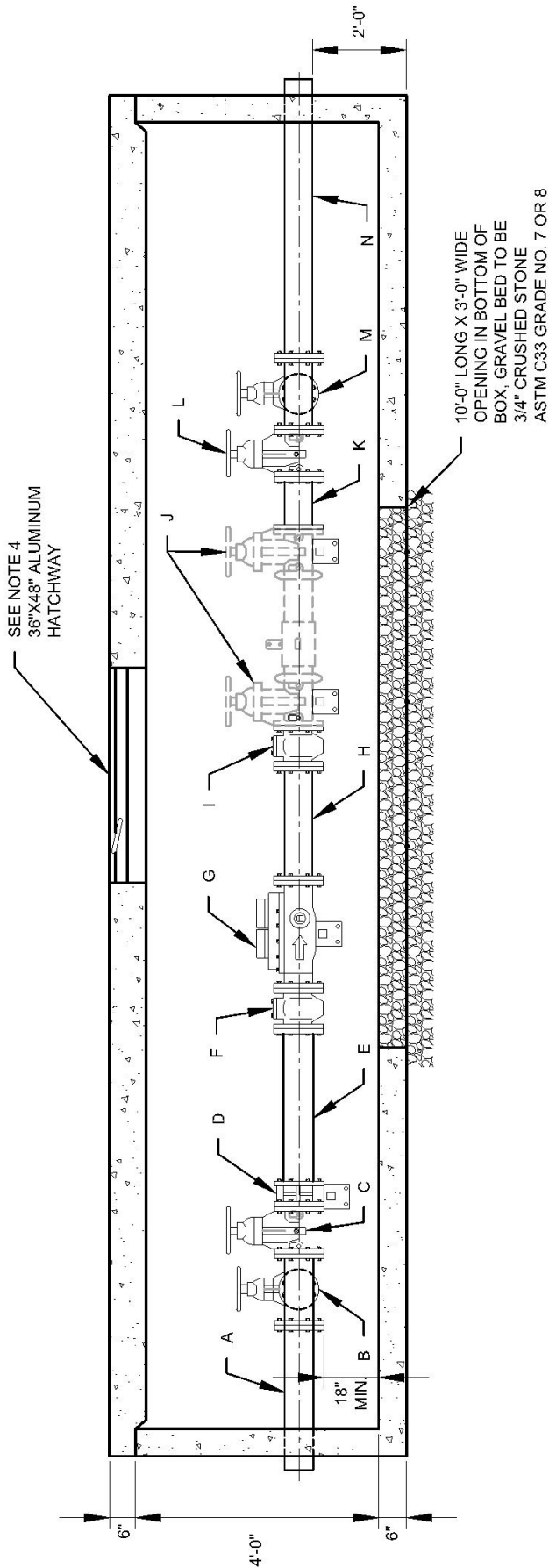
EFFECTIVE DATE: 10/01/2018

SCALE: NTS

4 INCH DOMESTIC COMPOUND WATER METER ASSEMBLIES

606(A)

August 5, 2023



SECTION VIEW 'A-A'

SEE DETAIL 606(A) & 606(C)

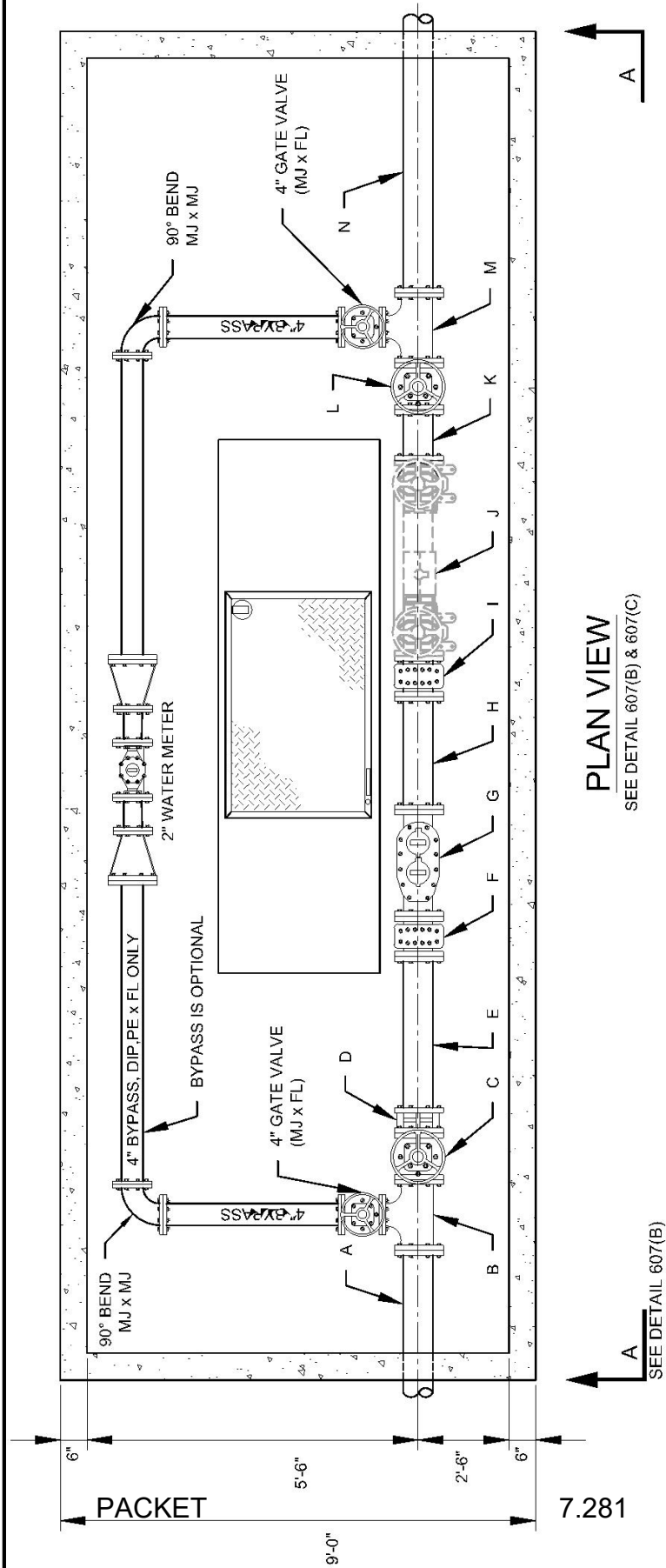
	DRAWN: DPM CHECKED: JHC APPROVED: MCC	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	4 INCH DOMESTIC COMPOUND WATER METER ASSEMBLIES 606(B) DETAIL:
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NO	DESCRIPTION	LENGTH
..... VAULT WALL		
A	CLEARANCE SPACE	12"
B	TYLER UNION 4" x 4" TEE (MJ x FL)	8"
C	MUELLER 4" GATE VALVE (MJ x MJ)	9"
D	JCM #304 4" DISMANTLING JOINT	12"
E	DUCTILE IRON PIPE SPOOL	16"
F	NEPTUNE 4" DIA. STRAINER	8"
G	NEPTUNE 4" TRU/FLO METER	20"
H	DUCTILE IRON PIPE SPOOL (FL X FL)	16"
I	WATTS #77F 4" DIA. STRAINER	12"
J	WATTS #757 4" DIA. DCVA	34"
K	DUCTILE IRON PIPE SPOOL	12"
L	MUELLER 4" GATE VALVE (MJ X MJ)	9"
M	TYLER UNION 4" X 4" TEE (MJ x FL)	8"
N	CLEARANCE SPACE	12"
..... VAULT WALL		
* THESE COMPONENTS ARE SET BY THE CITY ** DCVA - DOUBLE CHECK VALVE ASSEMBLY *** TOTAL INSIDE VAULT LENGTH WITH BACKFLOW PREVENTER = 188.0" - OR - 15.67' **** TOTAL INSIDE VAULT LENGTH WITHOUT BACKFLOW PREVENTER = 142.0" - OR - 11.83'		

NOTES:

1. ALL PIPE WITHIN VAULT STRUCTURE TO BE DUCTILE IRON PIPE.
2. APPROVED EQUAL COMPONENTS MAY BE USED UNLESS OTHERWISE NOTED.
3. DOUBLE CHECK VALVE ASSEMBLY BACKFLOW PREVENTION ONLY REQUIRED FOR METER VAULTS ON LOOPED WATER MAIN/LINES.
4. BYPASS PIPE MAY BE LOCATED INSIDE VAULT STRUCTURE IF DESIRED. VAULT WALL TO BE LOCATED A MINIMUM 12" FROM INSIDE VAULT WALL EDGE TO OUTSIDE EDGE OF BYPASS PIPE, WITH NO CHANGE TO OTHER VAULT DETAIL DIMENSIONS.
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM		CHECKED: JCF		APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018		SCALE: NTS		DETAIL:	
		4 - INCH COMPOUND METER			
		7.280 & VAULT August 8, 2023			
		606(C)			

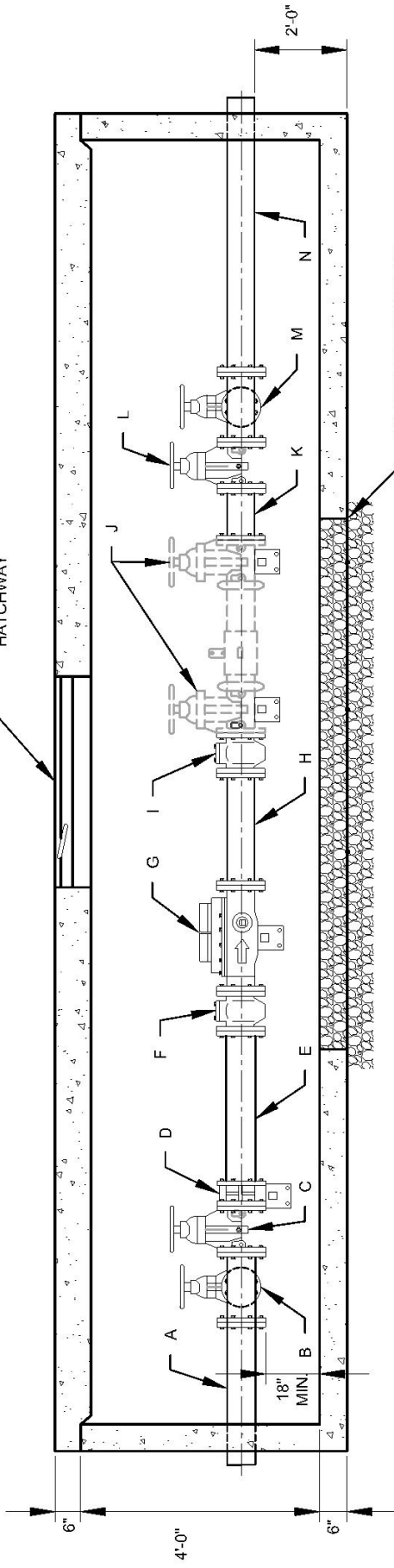


NOTES:

1. ALL FITTINGS COMPACT OR STD DUCTILE IRON.
2. ALL MJ FITTING TO BE RESTRAINED.
3. CLASS I/II CONCRETE WITH DESIGN STRENGTH OF 4500 PSI AT 28 DAYS . UNIT IS OF MONOLITHIC CONSTRUCTION AT FLOOR AND FIRST STAGE OF WALL WITH SECTIONAL RISER TO REQUIRED LENGTH.
4. GRADE 60 REINFORCED STEEL REBAR CONFORMING TO ASTM A615 ON REQUIRED CENTERS OR EQUAL.
5. ALUMINUM DIAMOND PLATE COVER WITH EXTRUDED ALUMINUM FRAME. HATCH TO BE FURNISHED WITH STAINLESS STEEL SLAM LOCK AND HINGES. (300 P S.F. LIVE LOAD)
6. UNISTRUT CHANNEL SUPPORT AND END BRACKET.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 5, 2023

	DRAWN: DPM CHECKED: JHC APPROVED: MCC	EFFECTIVE DATE: 10/01/2018 SCALE: NTS 6 INCH DOMESTIC COMPOUND WATER METER ASSEMBLIES DETAIL: 607(A)
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SECTION VIEW 'A-A'
SEE DETAIL 607(B) & 607(C)

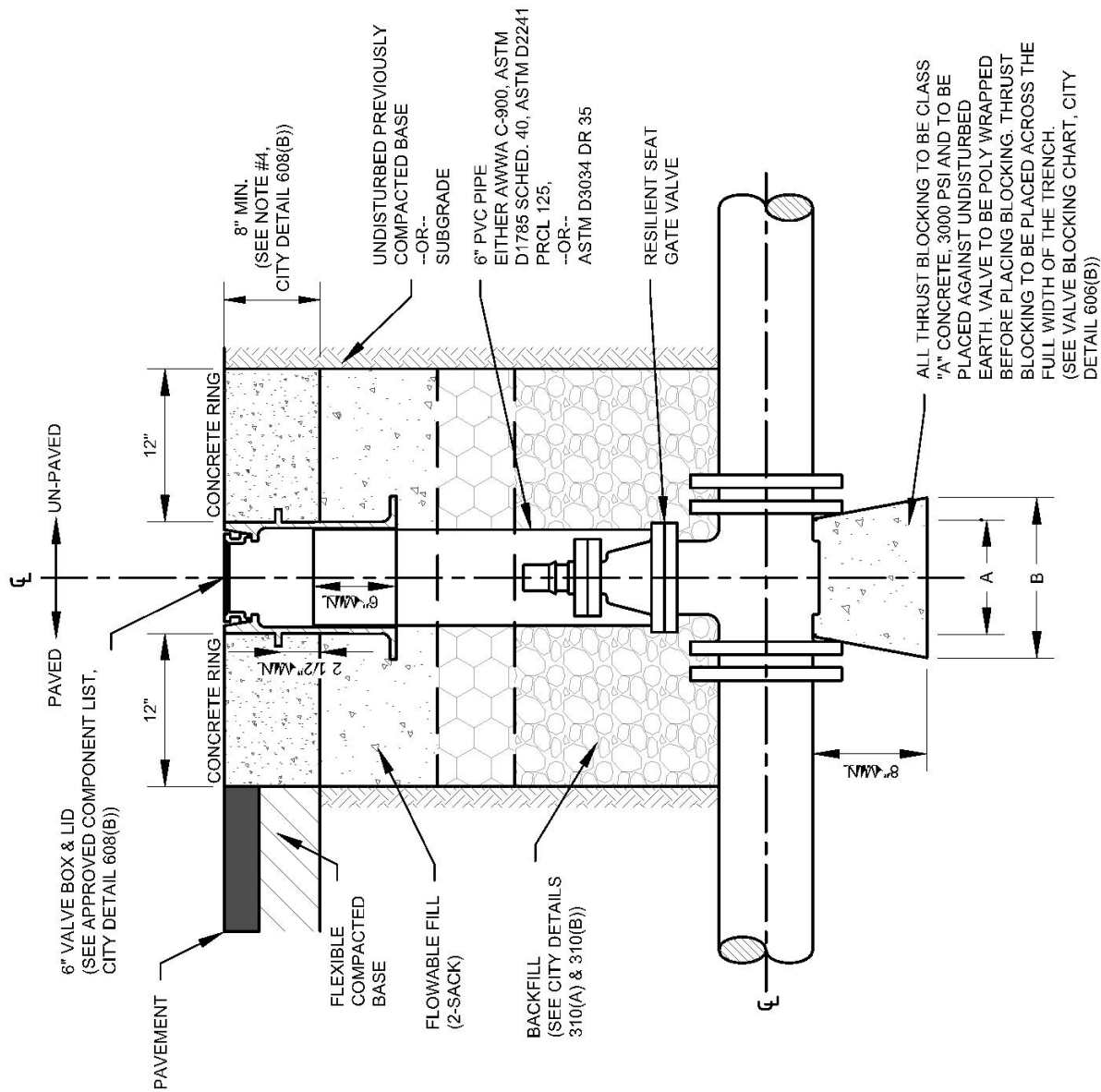
	DRAWN: DPM CHECKED: JHC APPROVED: MCC	EFFECTIVE DATE: 10/01/2018 6 INCH DOMESTIC COMPOUND WATER METER ASSEMBLIES	SCALE: NTS DETAIL: 607(B)
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NO	DESCRIPTION	LENGTH
..... VAULT WALL		
A	CLEARANCE SPACE	12"
B	TYLER UNION 6" x 4" TEE (MJ x FL)	8"
C	MUELLER 6" GATE VALVE (MJ x MJ)	10.5"
D	JCM #304 4" DISMANTLING JOINT	16"
E	DUCTILE IRON PIPE SPOOL	24"
F	NEPTUNE 6" DIA. STRAINER	9"
G	NEPTUNE 6" TRU/FLO METER	24"
H	DUCTILE IRON PIPE SPOOL (FL X FL)	24"
I	WATTS #77F 6" DIA. STRAINER	18.5"
J	WATTS #757 6" DIA. DCVA	44"
K	DUCTILE IRON PIPE SPOOL	12"
L	MUELLER 6" GATE VALVE (MJ X MJ)	10.5"
M	TYLER UNION 6" X 4" TEE (MJ x FL)	8"
N	CLEARANCE SPACE	12"
..... VAULT WALL		
* THESE COMPONENTS ARE SET BY THE CITY		
** DCVA - DOUBLE CHECK VALVE ASSEMBLY		
*** TOTAL INSIDE VAULT LENGTH WITH BACKFLOW PREVENTER = 232.5" - OR - 19.38'		
**** TOTAL INSIDE VAULT LENGTH WITHOUT BACKFLOW PREVENTER = 170.0" - OR - 14.17'		

NOTES:

1. ALL PIPE WITHIN VAULT STRUCTURE TO BE DUCTILE IRON PIPE.
2. APPROVED EQUAL COMPONENTS MAY BE USED UNLESS OTHERWISE NOTED.
3. DOUBLE CHECK VALVE ASSEMBLY BACKFLOW PREVENTION ONLY REQUIRED FOR METER VAULTS ON LOOPED WATER MAIN/LINES.
4. BYPASS PIPE MAY BE LOCATED INSIDE VAULT STRUCTURE IF DESIRED. VAULT WALL TO BE LOCATED A MINIMUM 12" FROM INSIDE VAULT WALL EDGE TO OUTSIDE EDGE OF BYPASS PIPE, WITH NO CHANGE TO OTHER VAULT DETAIL DIMENSIONS.
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM		CHECKED: JCF		APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018		SCALE: NTS		DETAIL:	
		6 - INCH COMPOUND METER			
		7.28 & VAULT			
		August 8, 2023		607(C)	



APPROVED COMPONENT LIST			
NO.	VALVES	VALVE COVERS	VALVE BOX
1	MUELLER 2360 M/J	MUELLER 2360 FL X FL	BASS & HAYS STANDARD 390-1 "SHORTY"
2	M & H 4067 M/J	M & H 4067-0	OR APPROVED EQUAL
3	CLOW 2838 M/J	CLOW 2840 FL X FL	
4	OR APPROVED EQUAL	OR APPROVED EQUAL	

VALVE BLOCKING CHART		
PIPE SIZE	A	B
4"	5.0"	10.5"
6"	6.5"	1'-0"
8"	6.5"	1'-0"
10"	8.0"	1'-1.0"
12"	8.5"	1'-2.0"

NOTES:

1. FOR VALVES ON WATER MAIN PIPES LARGER THAN 12" SEE CITY DETAIL 609.
2. SETTING VALVE BOX TO GRADE MAY REQUIRE ADDING PVC PIPE. IF ADDITIONAL PIPE IS REQUIRED, USE BELL SECTION WITH GASKET AND SET BELL DOWN OVER EXISTING PIPE RISER. A GASKETED SELF CENTERING COLLAR MAY BE USED IN LIEU OF THE BELL SECTION.
3. CONCRETE RING TO BE CITY OF MIDLAND CLASS "C", 3600 PSI, UNLESS OTHERWISE NOTED.
4. USE FIBER REINFORCEMENT FOR ALL CONCRETE , WHETHER PAVEMENT OR THRUST BLOCKING.
5. 12" MINIMUM FOR CONCRETE RING IN AN ARTERIAL ROADWAY.
6. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT.) REQUIRED BENEATH ALL CONCRETE RINGS.
7. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT.) REQUIRED FOR ALL OVER EXCAVATION BACKFILL.
8. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
9. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

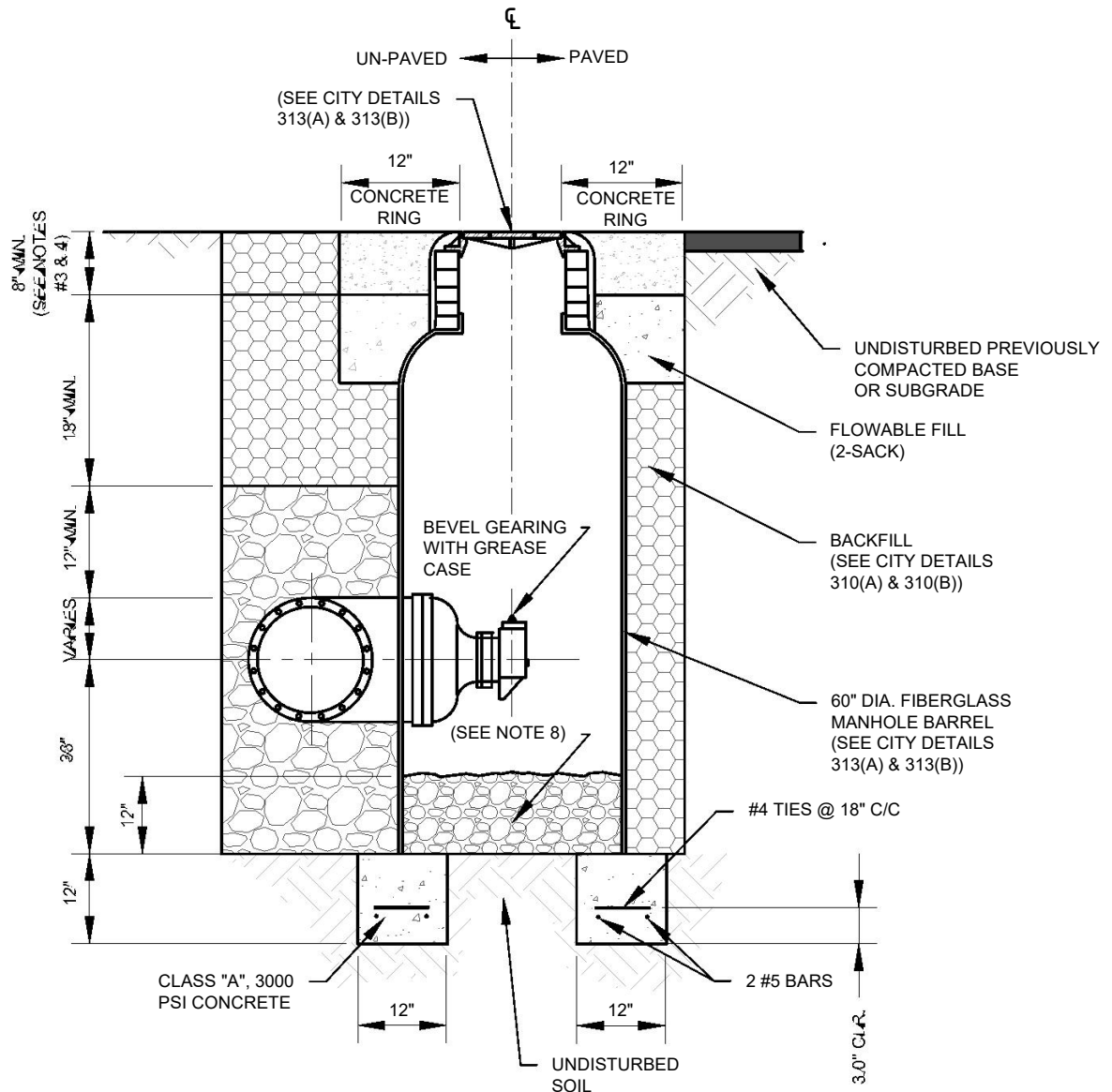
EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

TYPICAL VALVE AND
VALVE BOX DETAILS

608(B)



NOTES:

1. THIS DETAIL IS FOR 16" GATE VALVES AND LARGER. SEPARATE DESIGN FOR GATE VALVES LARGER THAN 16" MUST BE PROVIDED AT THE DISCRETION OF THE CITY ENGINEER.
2. ALL GATE VALVES ARE TO BE RESILIENT WEDGE TYPE, HORIZONTAL MOUNTED, MECHANICAL JOINT, BEVEL GEAR OPERATOR. ALL FITTINGS ARE TO BE RESTRAINED JOINTS.
3. CONCRETE RING TO BE CITY OF MIDLAND CLASS "C" CONCRETE, 3600 PSI.
4. 12" MINIMUM FOR CONCRETE RING IN AN ARTERIAL ROADWAY.
5. USE FIBER REINFORCEMENT FOR ALL CONCRETE, WHETHER PAVEMENT OR THRUST BLOCKING.
6. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT). REQUIRED BENEATH ALL CONCRETE RINGS.
7. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT). REQUIRED FOR ALL OVER EXCAVATION BACKFILL.
8. WASHED PEA GRAVEL OR WASHED 3/4" CRUSHED STONE ASTM C33 GRADE NO. 7 OR 8.
9. MATERIAL AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
10. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

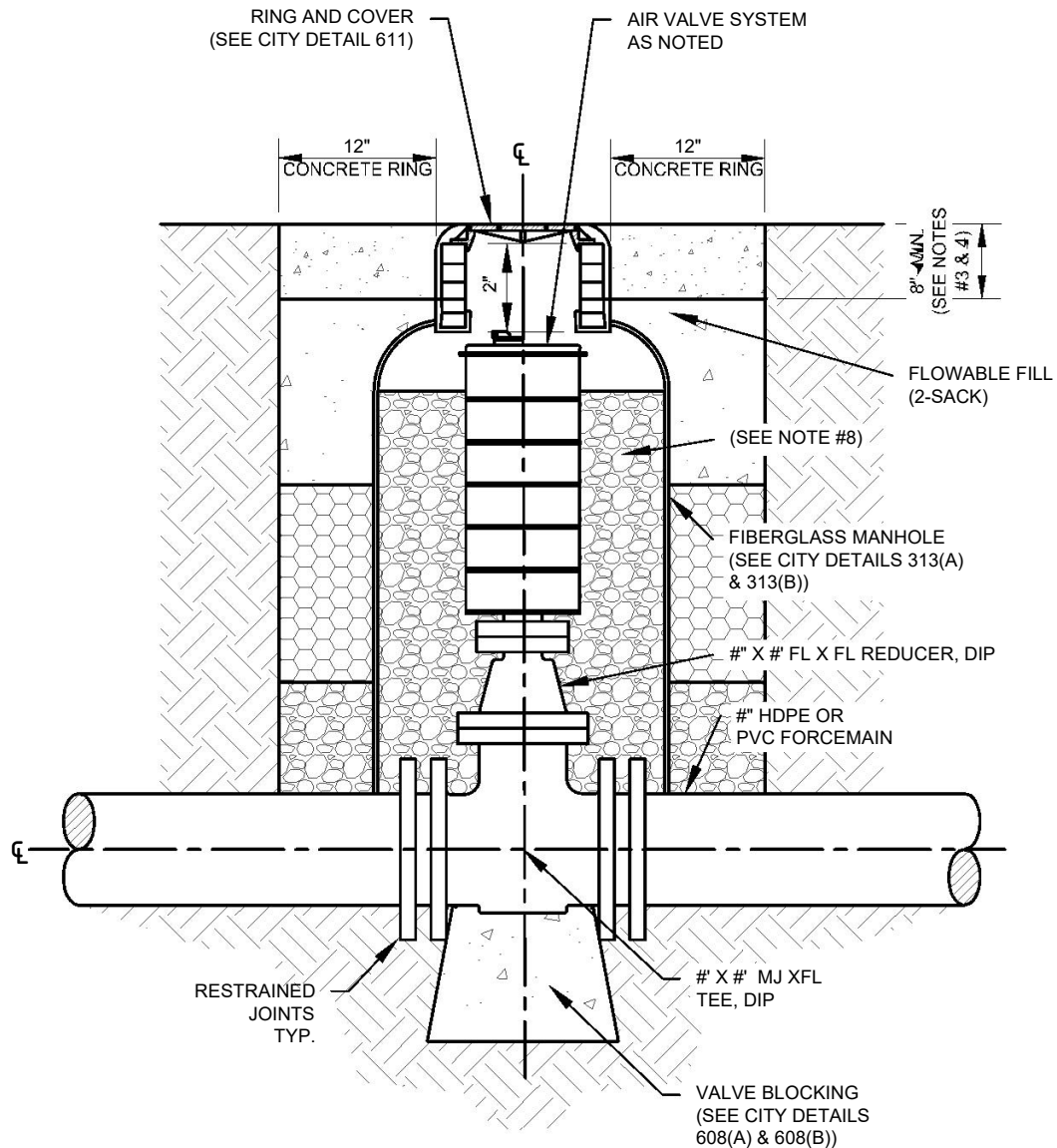
DETAIL:



HORIZONTAL GATE VALVE AND VAULT

August 8, 2023

609



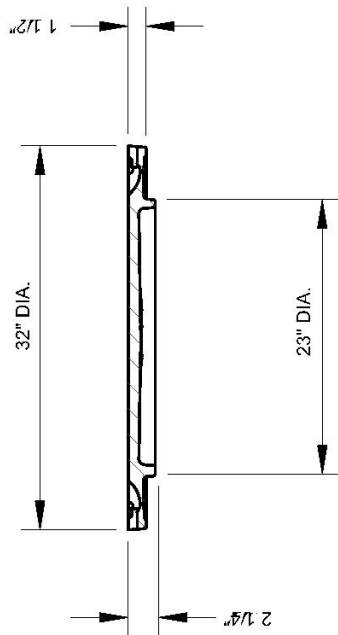
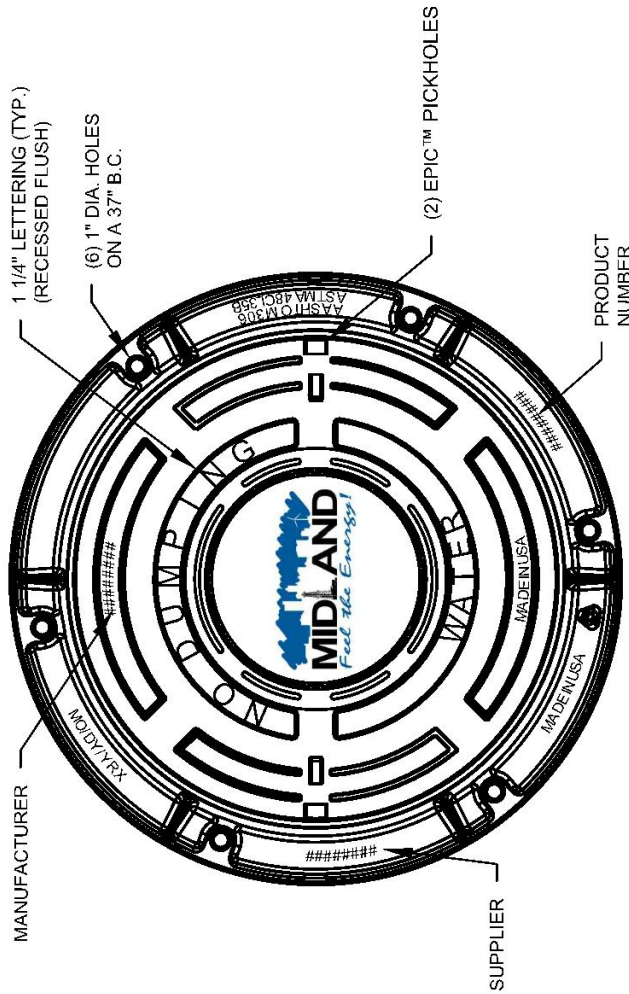
NOTES:

1. USE AN A.R.I. D060CHF03SB-32-SSF 3" CONBINATION AIR VALVE, SUB-SURFACE, FLANGED INLET, SHORT, STAINLESS STEEL KNIFE GATE HOUSING OR APPROVED EQUAL FOR ALL AIR VALVE INSTALLATIONS.
2. EQUIP EACH AIR VALVE SYSTEM WITH A NON-SLAM, DISCHARGE THROTTLING ATTACHMENT (SLOW RELEASE ONE WAY ATTACHMENT).
3. CONCRETE RING TO BE CITY OF MIDLAND CLASS "C" CONCRETE, 3600 PSI.
4. 12" MINIMUM FOR CONCRETE RING IN AN ARTERIAL ROADWAY.
5. USE FIBER REINFORCEMENT FOR ALL CONCRETE, WHETHER PAVEMENT OR THRUST BLOCKING.
6. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT). REQUIRED BENEATH ALL CONCRETE RINGS.
7. FLOWABLE FILL 2-SACK (2 SACK = 188 LBS/CY, PORTLAND CEMENT). REQUIRED FOR ALL OVER EXCAVATION BACKFILL.
8. MAY BE EITHER PEA GRAVEL OR 3/4" CRUSHED STONE ASTM C33 GRADE N. 7 OR 8
9. MATERIAL AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
10. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

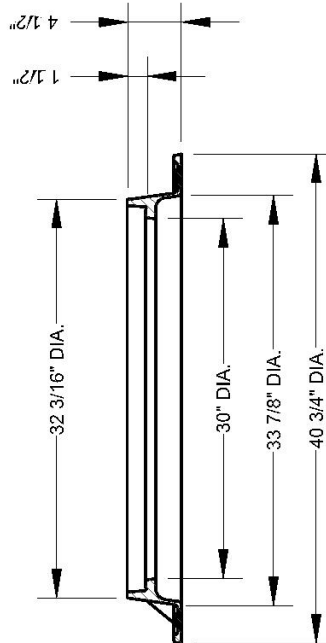
DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: UEP 04	SCALE: NTS	DETAIL:	
MIDLAND Engineering Services PACKET			WATER AIR RELIEF VALVE 610

7.287

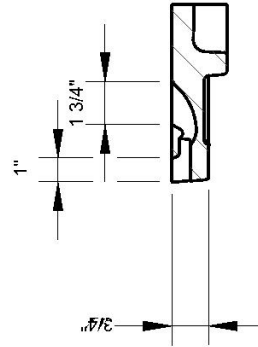
August 8, 2023



COVER SECTION



FRAME SECTION



PICKHOLE DETAIL

NOTES:

1. MANHOLE COVERS TO BE CAST WITH THE FOLLOWING:
"NO DUMPING"
CITY OF MIDLAND LOGO
"WATER"
2. MATERIAL AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
3. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

EAST JORDAN V1420Z1/V1430A ASSEMBLY OR APPROVED EQUAL

EFFECTIVE DATE: 10/01/2018

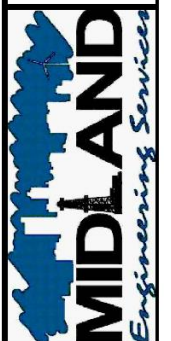
SCALE: NTS

DETAIL:

WATER HORIZONTAL
& AIR RELIEF VALVE COVER

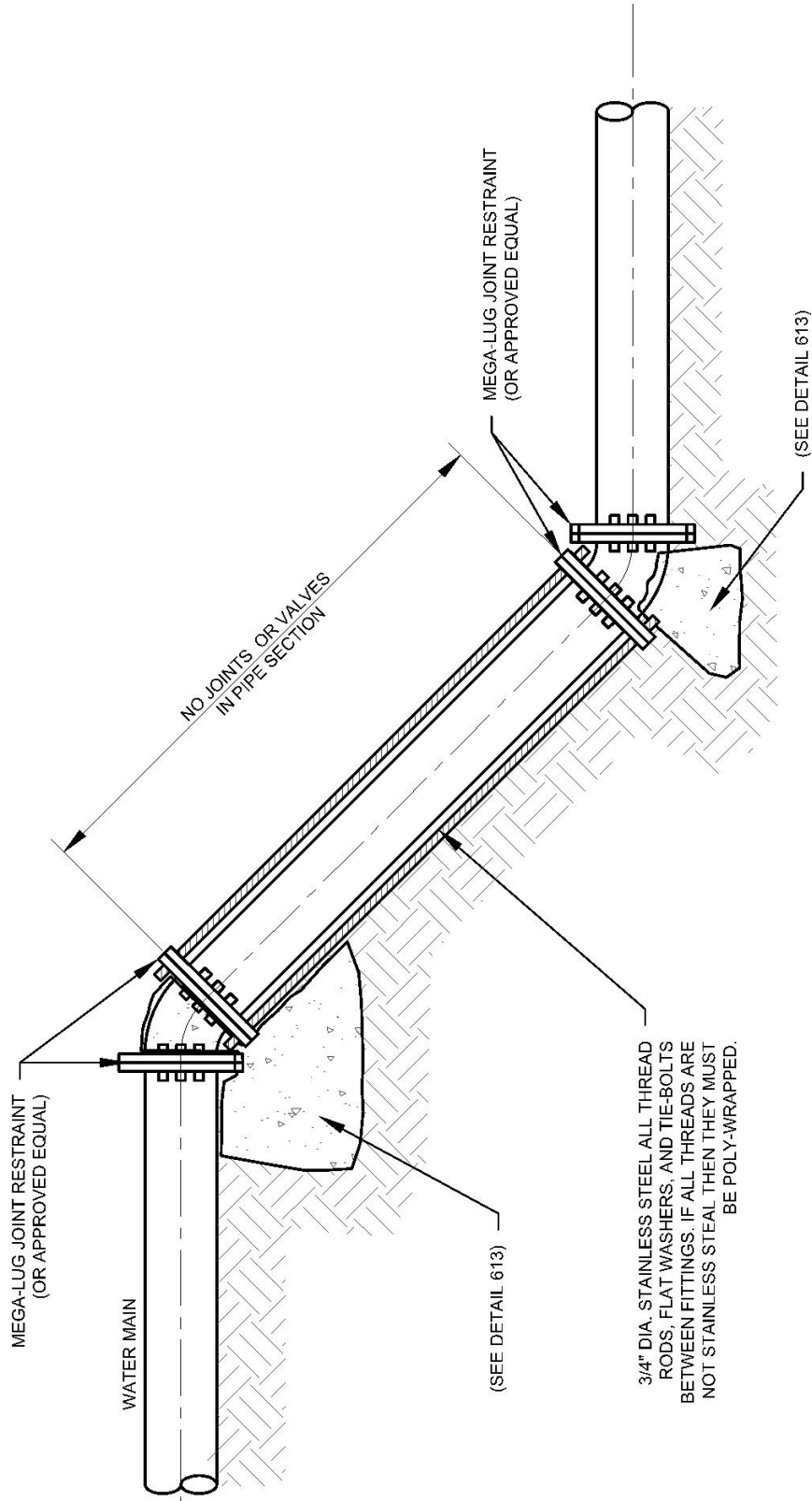
611

DRAWN: DPM
CHECKED: JCF
APPROVED: MCC



PACKET

7.289



NOTES:

1. FORM ALL CONCRETE THRUST BLOCKING. DO NOT PLACE UN-FORMED THRUST BLOCKING.
2. ALL THRUST BLOCKING TO BE CLASS "A" CONCRETE, 3000 PSI, AND TO BE PLACED AGAINST UNDISTURBED EARTH. USE FIBER REINFORCEMENT THROUGHOUT.
3. FITTINGS TO BE POLY WRAPPED BEFORE BLOCKING IS PLACED.
4. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 8, 2023



DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

WATER MAIN
VERTICAL OFFSET

SCALE: NTS

DETAIL:

612

NOTES:

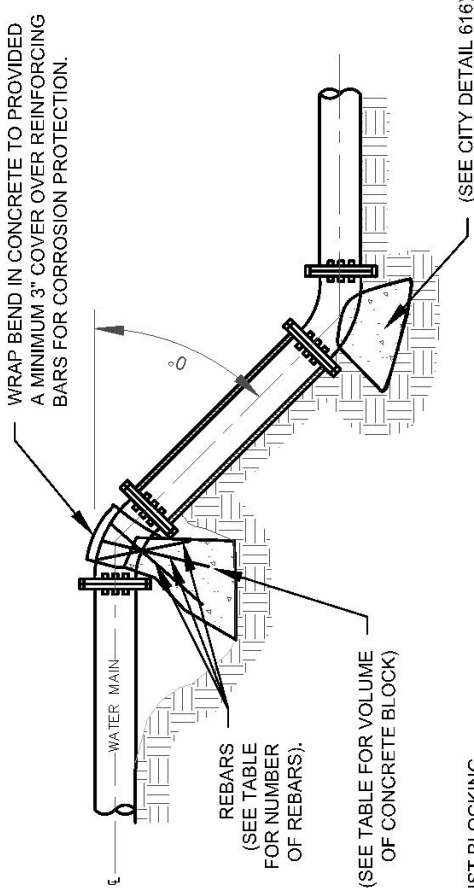
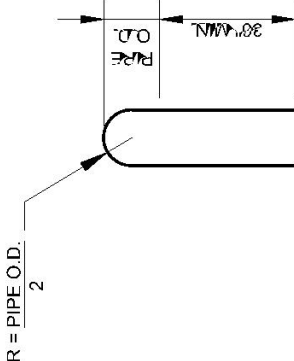
- 1. FORM ALL CONCRETE THRUST BLOCKING. DO NOT PLACE UN-FORMED THRUST BLOCKING.
- 2. ALL THRUST BLOCKING TO BE CLASS "A" CONCRETE, 3000 PSI, AND TO BE PLACED AGAINST UNDISTURBED EARTH. USE FIBER REINFORCEMENT THROUGHOUT.
- 3. FITTINGS TO BE POLY WRAPPED BEFORE BLOCKING IS PLACED.
- 4. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- 5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

August 9, 2023

DIA. OF PIPE	DEGREE OF BEND θ					
	11 1/4°		22 1/2°		45°	
	VOLUME BLOCK	REBAR NO. SIZE	VOLUME BLOCK	REBAR NO. SIZE	VOLUME BLOCK	REBAR NO. SIZE
4"	3 C.F.	2-#3	6 C.F.	2-#3	12 C.F.	2-#3
6"	7 C.F.	2-#3	13 C.F.	2-#3	26 C.F.	2-#3
8"	12 C.F.	2-#3	24 C.F.	2-#3	20 C.Y.	2-#4
10"	19 C.F.	2-#3	15 C.Y.	2-#4	30 C.Y.	2-#4
12"	10 C.Y.	2-#3	20 C.Y.	2-#4	40 C.Y.	2-#6
14"	15 C.Y.	2-#4	30 C.Y.	2-#4	55 C.Y.	2-#6
16"	20 C.Y.	2-#4	35 C.Y.	2-#4	70 C.Y.	2-#7

BLOCK FOR EXTERNAL VERTICAL BENDS
DESIGN PRESSURE 180 PSI

* BLOCKING FOR 14" AND 16" 90° BENDS AND FOR ALL BENDS LARGER THAN 16" WILL BE SHOWN ON THE PLANS.



DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

BLOCKING FOR VERTICAL BEND

613

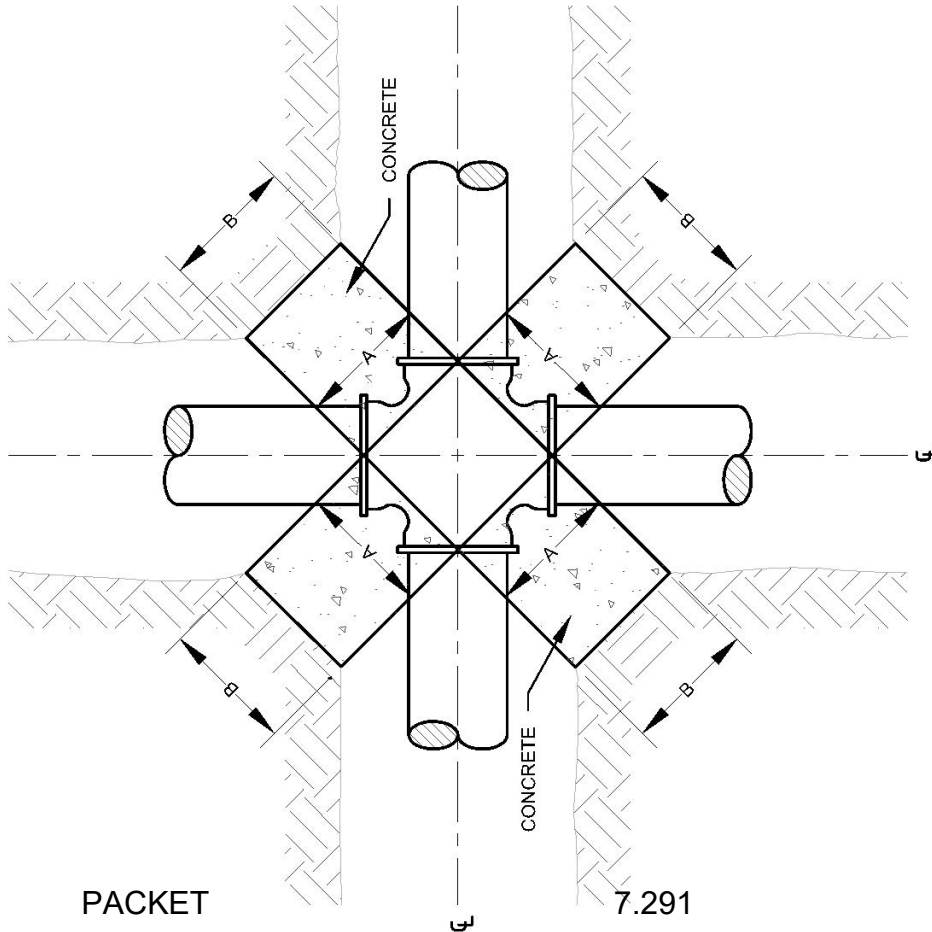
CROSS BLOCKING
DESIGN 180 PSI LINE PRESSURE
SOIL BEARING CAP 2K/SF

CROSS DIA.	BLOCKING DIMENSIONS		
	A	B	*C
4"x 4"	0'-11"	1'-0"	1'-0"
6"x 6"	1'-2"	1'-7"	1'-0"
8"x 8"	1'-4"	2'-2"	2'-2"
10"x 10"	1'-8"	2'-8"	2'-8"
12"x 12"	1'-10"	3'-2"	3'-2"
14"x 14"	2'-2"	3'-8"	3'-8"
16"x 16"	2'-4"	4'-3"	4'-3"

*C - VERTICAL DEPTH OF CONCRETE
BEARING ON UNDISTURBED EARTH

NOTES:

1. FORM ALL CONCRETE THRUST BLOCKING. DO NOT PLACE UN-FORMED THRUST BLOCKING
2. BLOCK CROSSES WITH DIFFERENT SIZE RUNS FOR THE LARGER RUN IN ALL DIRECTIONS.
3. BLOCKING FOR CROSSES LARGER THAN 16" WILL BE AS SHOWN ON THE PLANS.
4. ALL THRUST BLOCKING TO BE CLASS "A" CONCRETE, 3000 PSI, AND TO BE PLACED AGAINST UNDISTURBED EARTH. USE FIBER REINFORCEMENT THROUGHOUT.
5. FITTINGS TO BE POLY WRAPPED BEFORE BLOCKING IS PLACED.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



CROSS BLOCKING

PACKET

7.291

August 8, 2023

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

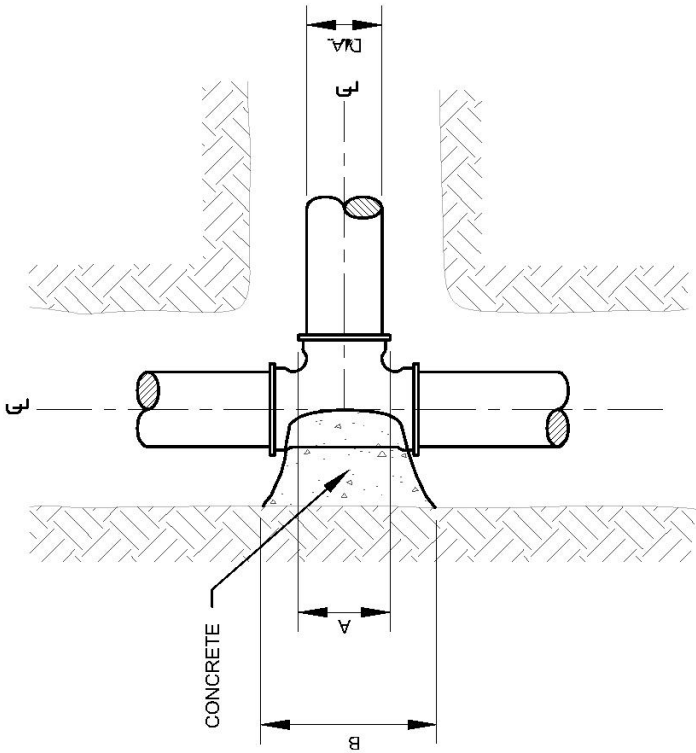
DETAIL:

BLOCKING FOR CROSS

614

MIDLAND
Engineering Services

DRAWN: DPM
CHECKED: JCF
APPROVED: MCC



TEE

"T" BLOCKING
DESIGN 180 PSI LINE PRESSURE
SOIL BEARING CAP 2K/SF

"T" RUN DIA.	STEM DIA.	BLOCKING DIMENSIONS		
		A	B	*C
TEE				
4"	ALL	11"	1'-0"	1'-0"
6"	ALL	1'-2"	1'-7"	1'-0"
8"	ALL	1'-4"	2'-2"	2'-2"
10"	ALL	1'-8"	2'-8"	2'-8"
1'-0"	THRU 6"	1'-10"	1'-10"	1'-8"
1'-0"	OVER 6"	1'-10"	3'-2"	3'-2"
1'-2"	THRU 8"	2'-2"	2'-2"	1'-11"
1'-2"	OVER 8"	2'-2"	3'-8"	3'-8"
1'-4"	THRU 8"	2'-4"	2'-4"	2'-2"
1'-4"	OVER 8"	2'-4"	4'-3"	4'-3"

*C - VERTICAL DEPTH OF CONCRETE
BEARING ON UNDISTURBED EARTH

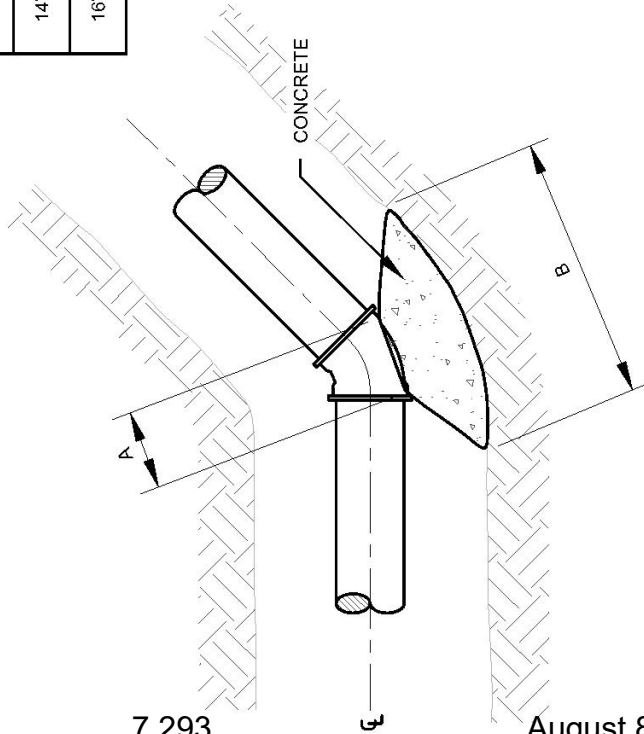
NOTE:

1. FORM ALL CONCRETE THRUST BLOCKING. DO NO PLACE UN-FORMED THRUST BLOCKING.
2. BLOCKING FOR TEES LARGER THAN 16" RUN TO BE SHOWN ON THE PLANS.
3. ALL THRUST BLOCKING TO BE CLASS "A" CONCRETE, 3000 PSI, AND TO BE PLACED AGAINST UNDISTURBED EARTH. USE FIBER REINFORCEMENT THROUGHOUT.
4. FITTING TO BE POLY WRAPPED BEFORE BLOCKING IS PLACED.
5. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
6. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

BLOCKING FOR HORIZONTAL BENDS
DESIGN 180 PSI LINE PRESSURE
SOIL BEARING CAP 2K/SF

DIA. OF PIPE	DEGREE OF BEND											
	11 1/4°			22 1/2°			45°			90°		
	A	B	*C	A	B	*C	A	B	*C	A	B	*C
4"	0'-4"	1'-0"	1'-0"	0'-5"	1'-0"	1'-0"	0'-6"	1'-0"	1'-0"	0'-11"	1'-3"	1'-3"
6"	0'-7"	1'-0"	1'-0"	0'-7"	1'-0"	1'-0"	0'-8"	1'-5"	1'-5"	1'-3"	1'-11"	1'-11"
8"	0'-8"	0'-10"	1'-2"	0'-9"	1'-4"	1'-4"	0'-10"	1'-10"	1'-10"	1'-6"	2'-6"	2'-6"
10"	0'-10"	1'-0"	1'-5"	0'-11"	1'-8"	1'-8"	1'-1"	2'-4"	2'-4"	1'-11"	3'-2"	3'-2"
12"	1'-0"	1'-3"	1'-8"	1'-1"	2'-0"	2'-0"	1'-3"	2'-10"	2'-10"	2'-2"	3'-10"	3'-10"
14"	0'-11"	1'-5"	1'-11"	1'-1"	2'-4"	2'-4"	1'-3"	3'-3"	3'-3"			
16"	1'-1"	1'-8"	2'-2"	1'-2"	2'-8"	2'-8"	1'-5"	3'-9"	3'-9"			

*C - VERTICAL DEPTH OF CONCRETE
BEARING ON UNDISTURBED EARTH



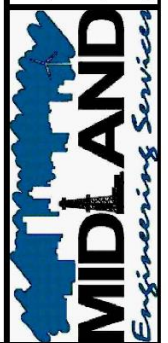
NOTES:

1. FORM ALL CONCRETE THRUST BLOCKING. DO NOT PLACE UN-FORMED THRUST BLOCKING.
2. ALL THRUST BLOCKING TO BE CLASS "A" CONCRETE, 3000 PSI, AND TO BE PLACED AGAINST UNDISTURBED EARTH. USE FIBER REINFORCEMENT THROUGHOUT.
3. FITTING TO BE POLY WRAPPED BEFORE BLOCKING IS PLACED.
4. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

PACKET

7.293

August 8, 2023



DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

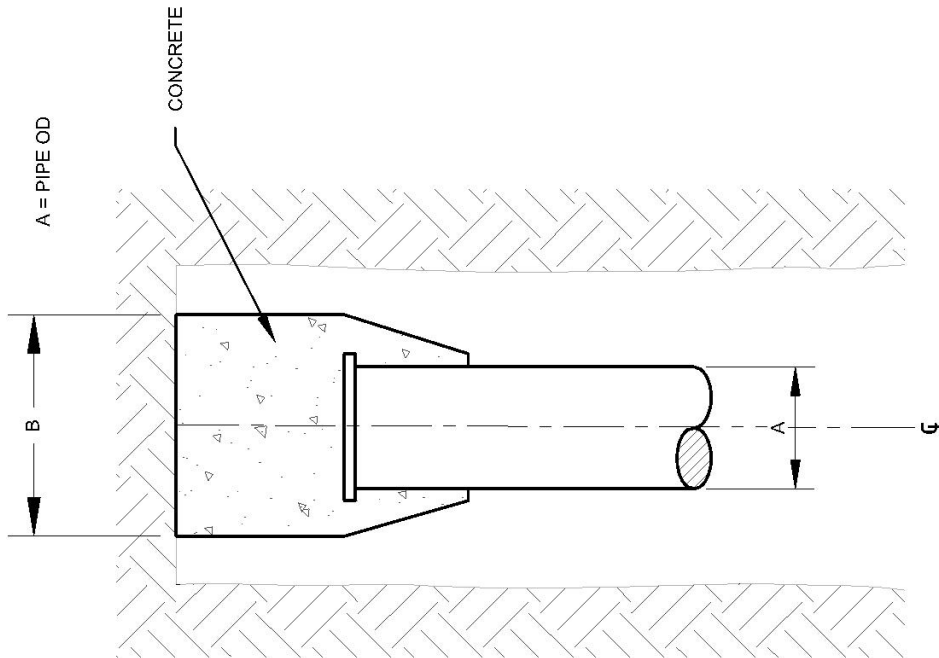
EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

**BLOCKING FOR
HORIZONTAL BENDS**

616



PIPE OD A	BLOCKING DIMENSIONS	
	B	*C
4"	1'-0"	1'-0"
6"	1'-7"	1'-0"
8"	2'-2"	2'-2"
10"	2'-8"	2'-8"
12"	3'-2"	3'-2"
14"	3'-8"	3'-8"
16"	4'-3"	4'-3"

*C - VERTICAL DEPTH OF CONCRETE
BEARING ON UNDISTURBED EARTH

NOTES:

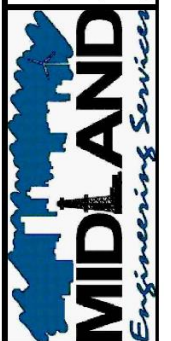
1. CAP ALL WATER MAIN STUB OUTS.
2. FORM ALL CONCRETE THRUST BLOCKING . DO NOT PLACE UN-FORMED THRUST BLOCKING.
3. ALL THRUST BLOCKING TO BE CLASS "A" CONCRETE, 3000 PSI, AND TO BE PLACED AGAINST UNDISTURBED EARTH. USE FIBER REINFORCEMENT THROUGHOUT.
4. FITTINGS TO BE POLY WRAPPED BEFORE BLOCKING IS PLACED.
5. THRUST BLOCKING DESIGN TO BE PROVIDED IN CONSTRUCTION DRAWINGS FOR PIPES LARGER THAN 16" DIAMETER.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

EFFECTIVE DATE: 10/01/2018

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

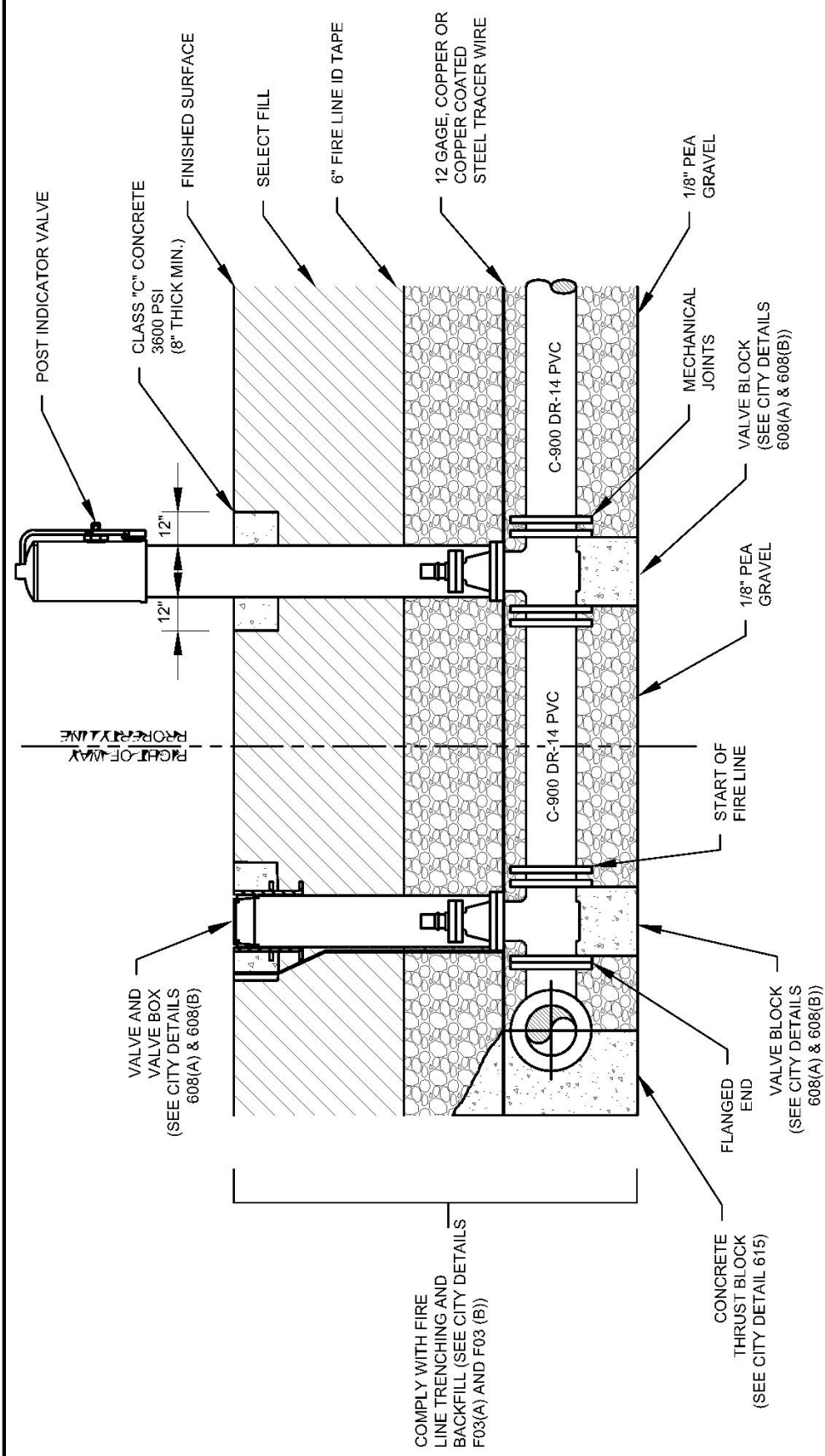


SCALE: NTS

DETAIL:

BLOCKING FOR CAP

617

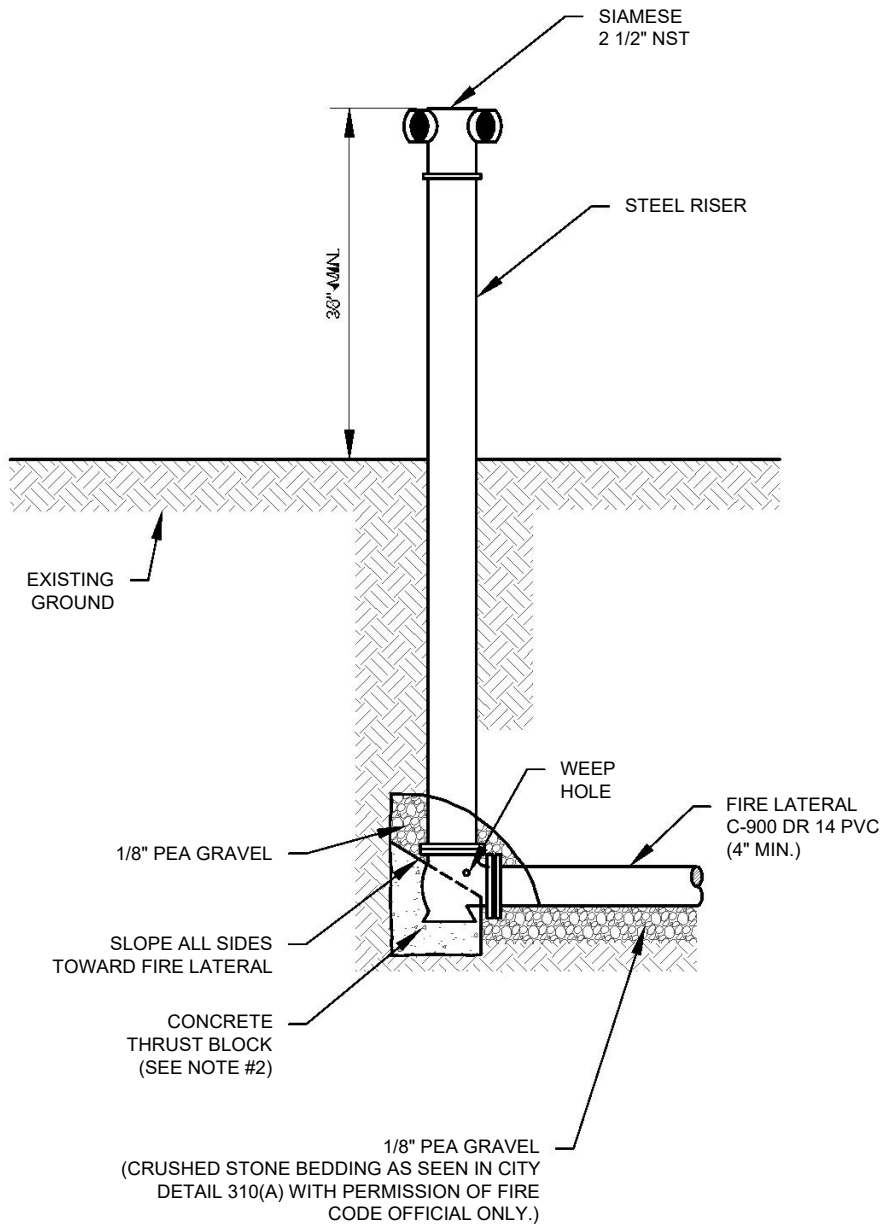


NOTES:

- 1. ALL VALVE BOXES TO BE SET IN CONCRETE COLLARS AND BE FLUSH WITH THE FINAL SURFACE GRADE.
- 2. A TEE FITTING IS REQUIRED FOR A CONNECTION TO A NEW WATER MAIN, AND A TAPPING SLEEVE IS REQUIRED FOR A CONNECTION TO AN EXISTING WATER MAIN.
- 3. ALL MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
- 4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE FIRE CODE OFFICIAL.

August 6, 2023

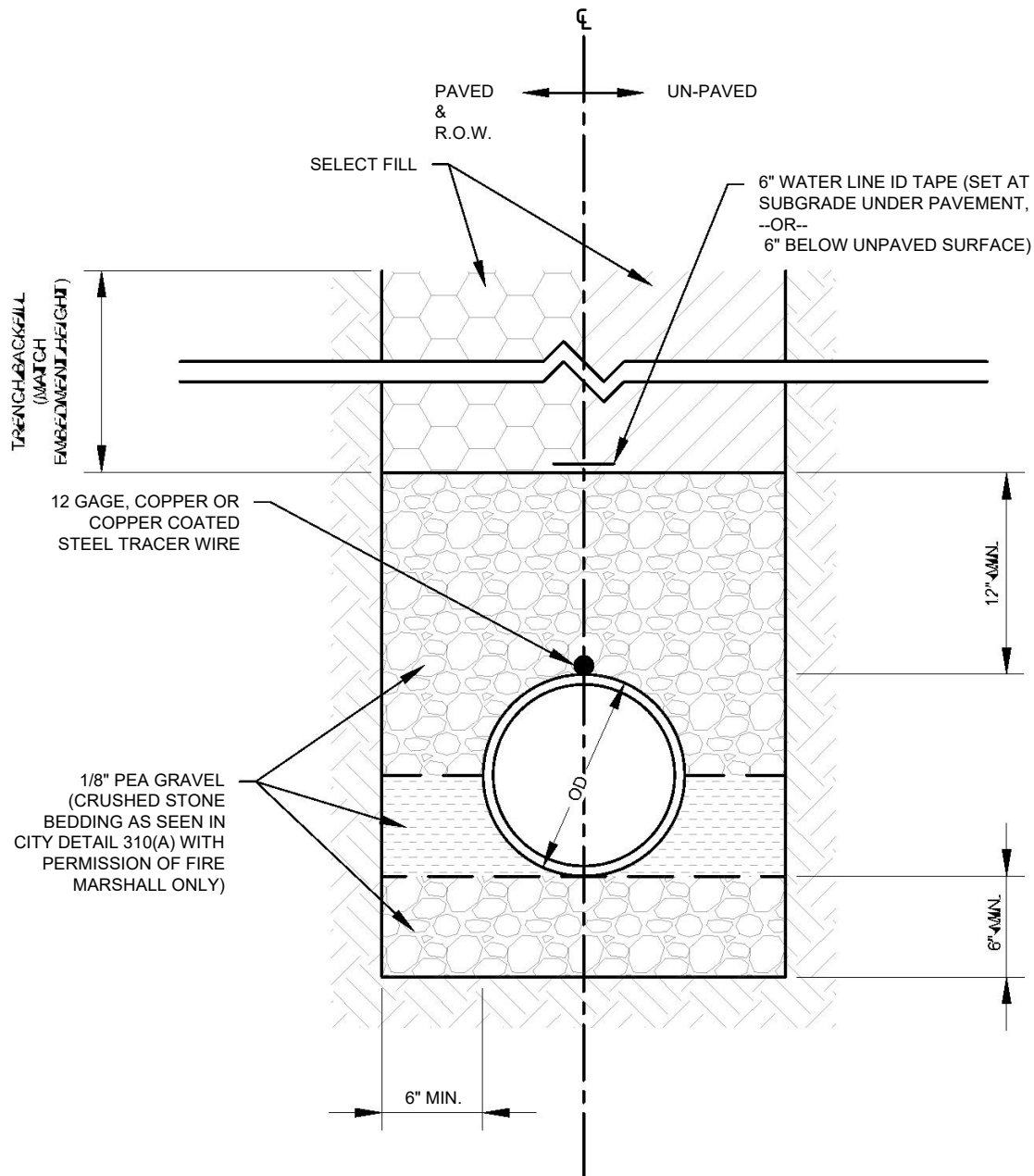
	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
	CHECKED: JCF	FIRE SERVICE LINE		
	APPROVED: MCC			
F01				



NOTES:

1. FDC SHOE TO BE SAME AS TYPICAL FIRE HYDRANT SHOE. DO NOT WRAP SHOE IN PLASTIC.
2. SHAPE CONCRETE THRUST BLOCKS SO THAT NO WATER DRAINS ARE BLOCKED.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE FIRE CODE OFFICIAL.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
		REMOTE FDC 7.296 August 8, 2023
PACKET		F02

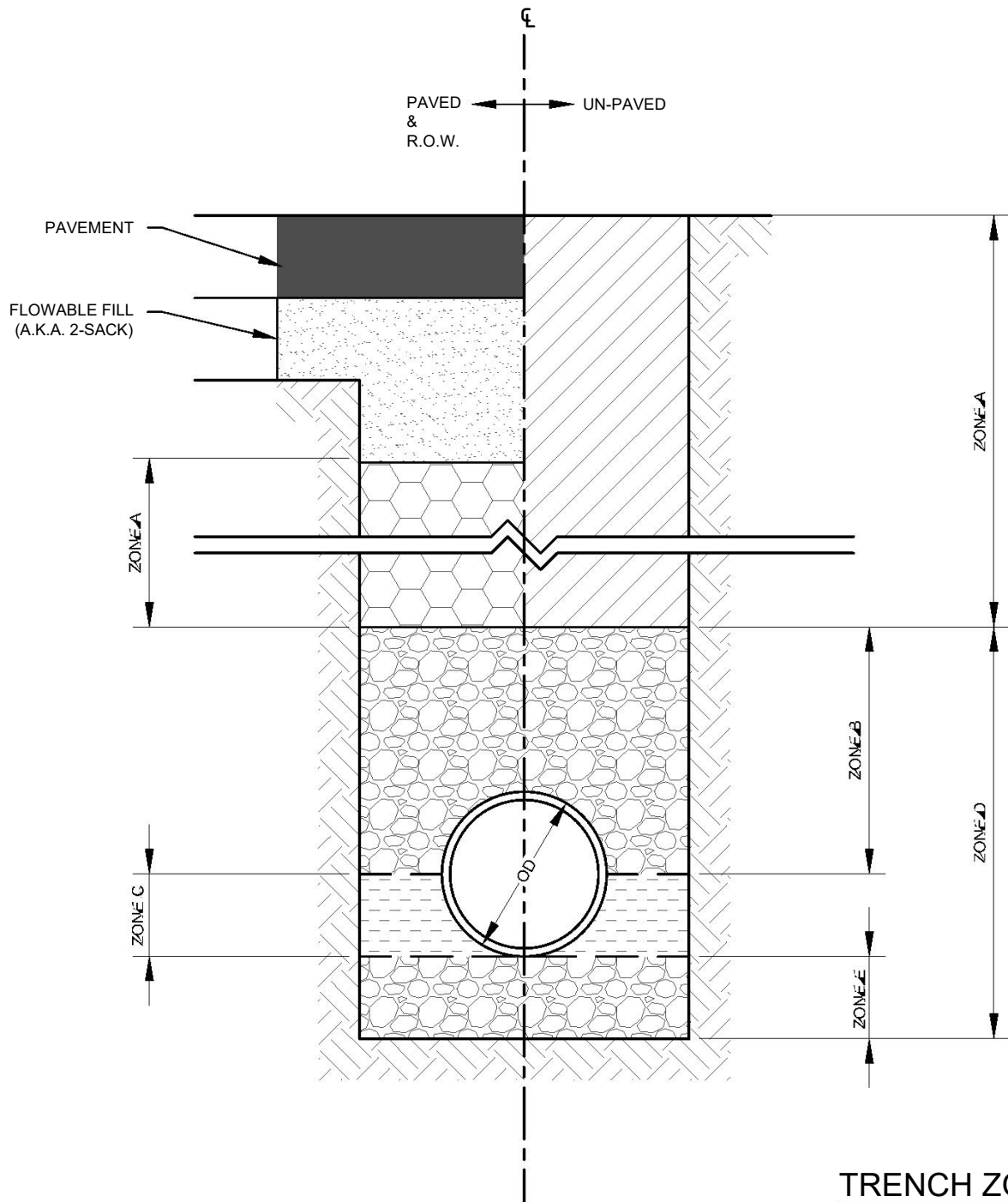


NOTES:

1. APPLIES TO ALL PIPE TYPES. (DUCTILE IRON, PVC, ETC.)
2. USE SELECT FILL FOR ALL BACKFILL MATERIAL.
3. MOISTURE CONDITION ALL BACKFILL MATERIAL PRIOR TO PLACING IN TRENCH.
4. PLACE BACKFILL MATERIAL IN MAXIMUM 12" LOOSE LIFTS AND COMPACT TO MAXIMUM 8" COMPACTED LIFTS.
5. REFER TO CITY DETAILS 311 AND 312 FOR TRENCH PAVEMENT REPLACEMENT REQUIREMENTS
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE FIRE CODE OFFICIAL.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
FIRE LINE TRENCHING AND BEDDING 1297 August 8, 2023			F03(A)





TRENCH ZONES:

ZONE A: TRENCH BACKFILL

ZONE B: PIPE BACKFILL

ZONE C: HAUNCHING

ZONE D: PIPE EMBEDMENT

ZONE E: BEDDING

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

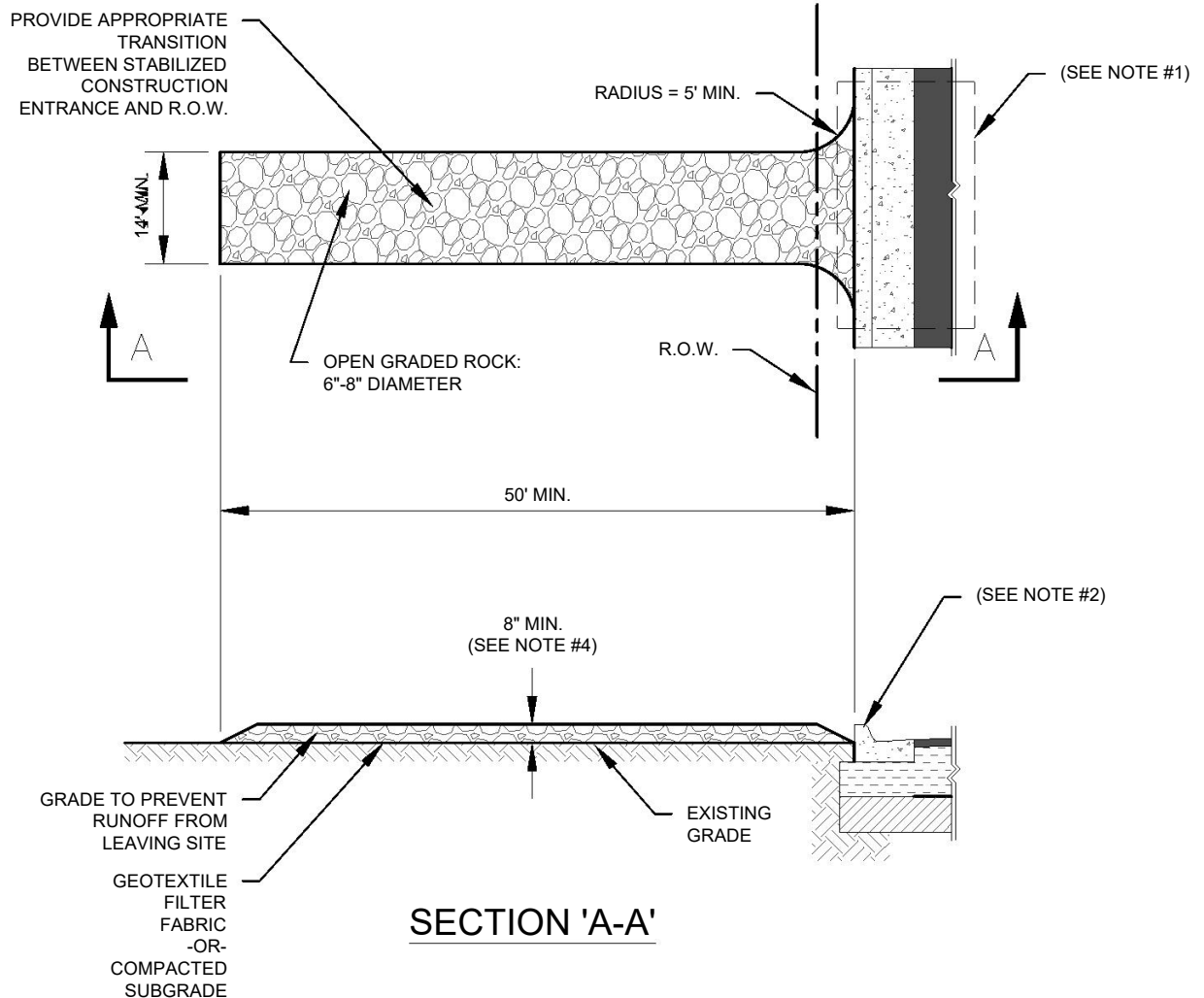
DETAIL:



**FIRE LINE
TRENCHING AND BEDDING**

August 8, 2023

F03(B)



NOTES:

1. IF CURB DOES NOT EXIST OR IF EXISTING CURB IS REMOVED DURING CONSTRUCTION THEN STABILIZED CONSTRUCTION ENTRANCE IS TO EXTEND TO THE EDGE OF PAVEMENT.
2. IF CURB IS LEFT IN PLACE DURING CONSTRUCTION THEN INSTALL TEMPORARY CURB PROTECTION AS PER CITY DETAIL 713.
3. LENGTH SHALL BE AS SHOWN ON THE CONSTRUCTION DRAWINGS, BUT NOT LESS THAN FIFTY (50) FEET.
4. THICKNESS OF OPEN GRADED ROCK TO BE NO LESS THAN EIGHT (8) INCHES.
5. WIDTH SHALL BE NO LESS THAN FOURTEEN (14) FEET OR THE FULL WIDTH OF ALL POINTS OF INGRESS OR EGRESS, WHICHEVER IS WIDER.
6. STABILIZED CONSTRUCTION ENTRANCE TO BE REMOVED UPON COMPLETION OF CONSTRUCTION.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

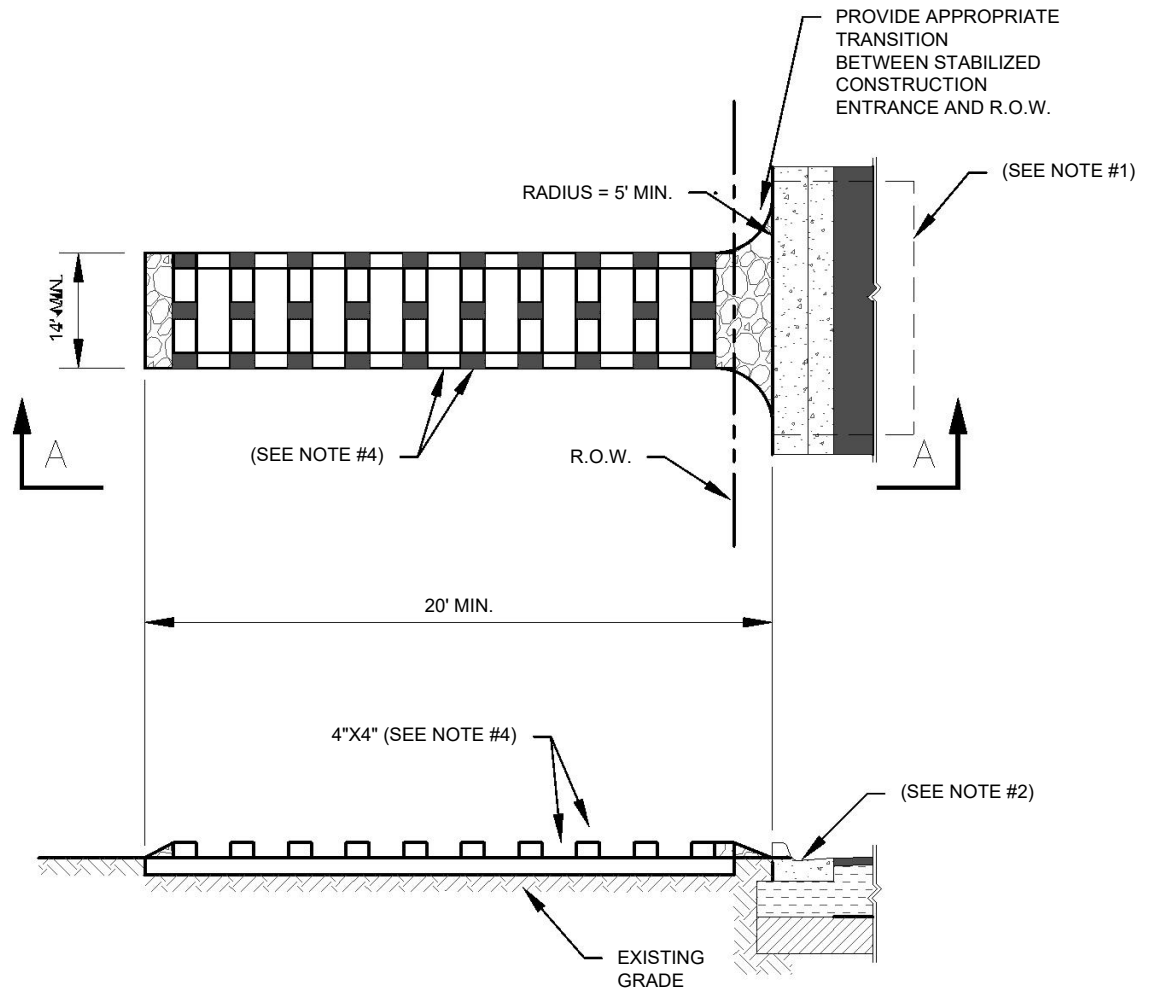
DETAIL:



**STABILIZED CONSTRUCTION
ENTRANCE OPTION 1**

August 8, 2023

701



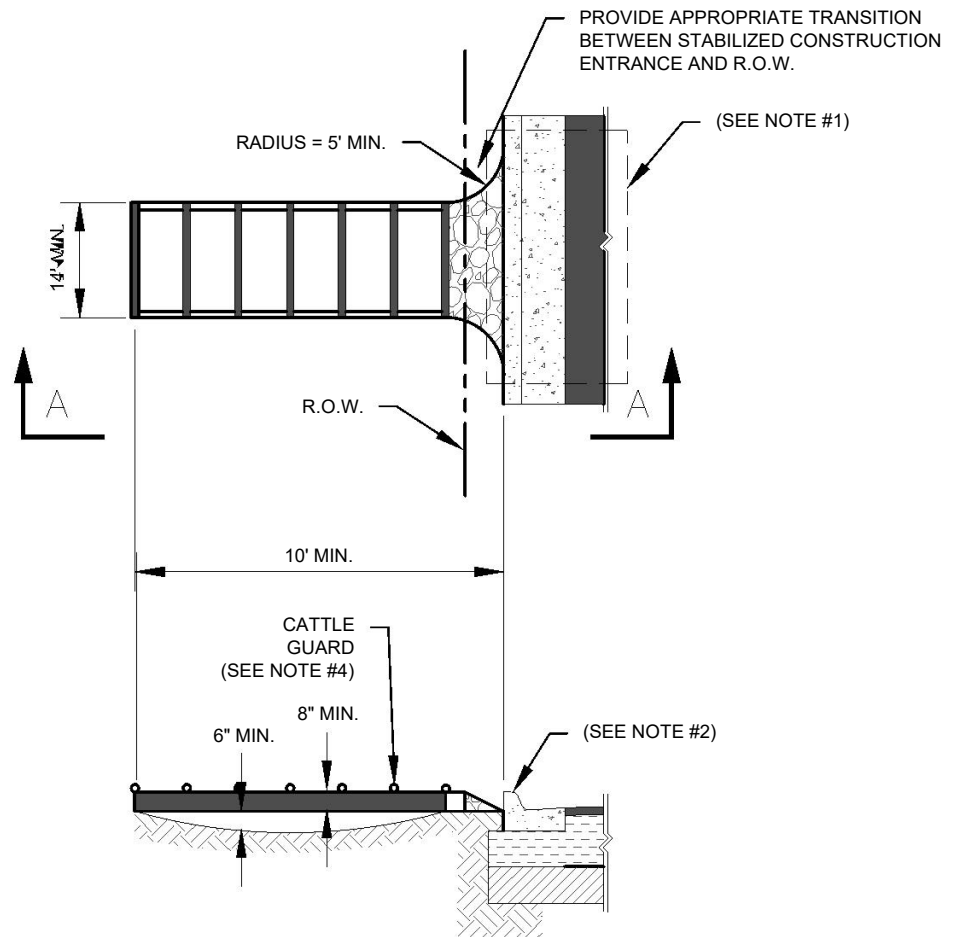
SECTION 'A-A'

NOTES:

1. IF CURB DOES NOT EXIST OR IF EXISTING CURB IS REMOVED DURING CONSTRUCTION THEN STABILIZED CONSTRUCTION ENTRANCE IS TO EXTEND TO THE EDGE OF PAVEMENT.
2. IF CURB IS LEFT IN PLACE DURING CONSTRUCTION THEN INSTALL TEMPORARY CURB PROTECTION AS PER CITY DETAIL 713.
3. LENGTH SHALL BE AS SHOWN ON THE CONSTRUCTION DRAWINGS, BUT NOT LESS THAN TWENTY (20) FEET.
4. BOARDS TO ALL BE 4\"X4\" WOOD BOARDS IN GOOD CONDITION. PLACE BOARDS ON BOTTOM LAYER TO RUN ALONG ENTRYWAY WITH 2.0' SPACING BETWEEN BOARDS. PLACE BOARDS ON TOP LAYER TO RUN ACROSS ENTRYWAY WITH 4.0\" SPACING BETWEEN BOARDS. BOLT BOARDS ON TOP LAYER TO BOARDS ON BOTTOM LAYER.
5. WIDTH SHALL BE NO LESS THAN FOURTEEN (14) FEET OR THE FULL WIDTH OF ALL POINTS OF INGRESS OR EGRESS, WHICHEVER IS WIDER.
6. STABILIZED CONSTRUCTION ENTRANCE TO BE REMOVED UPON COMPLETION OF CONSTRUCTION.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
STABILIZED CONSTRUCTION ENTRANCE OPTION 2 August 8, 2023			702





SECTION 'A-A'

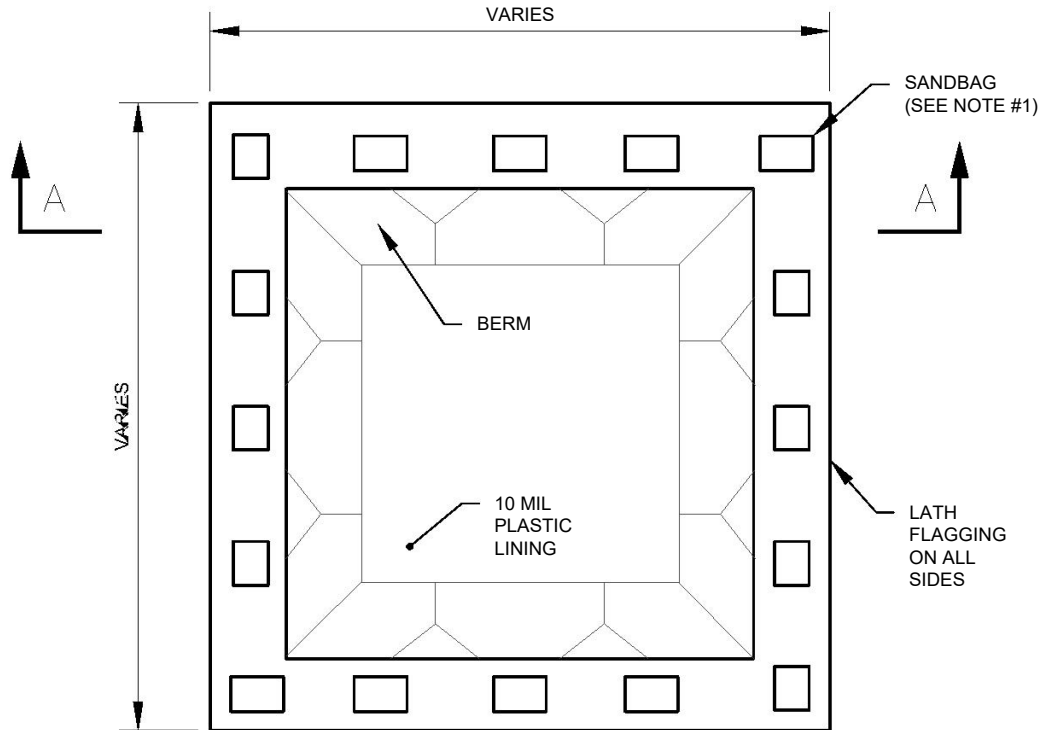
NOTES:

1. IF CURB DOES NOT EXIST OR IF EXISTING CURB IS REMOVED DURING CONSTRUCTION THEN STABILIZED CONSTRUCTION ENTRANCE IS TO EXTEND TO THE EDGE OF PAVEMENT.
2. IF CURB IS LEFT IN PLACE DURING CONSTRUCTION THEN INSTALL TEMPORARY CURB PROTECTION AS PER CITY DETAIL 713.
3. LENGTH SHALL BE AS SHOWN ON THE CONSTRUCTION DRAWINGS, BUT NOT LESS THAN TEN (10) FEET.
4. CATTLE GUARD TO BE STEEL, HEAVY VEHICLE LOAD RATED, AND UTILIZE TOP LEVEL BEAM OR PIPE CROSSINGS OF 4"-6" DIAMETER SPACED NO MORE THAN 8.0" APART. STRUCTURE MAY BE PRE-FABRICATED.
5. WIDTH SHALL BE NO LESS THAN FOURTEEN (14) FEET OR THE FULL WIDTH OF ALL POINTS OF INGRESS OR EGRESS, WHICHEVER IS WIDER.
6. STABILIZED CONSTRUCTION ENTRANCE TO BE REMOVED UPON COMPLETION OF CONSTRUCTION.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

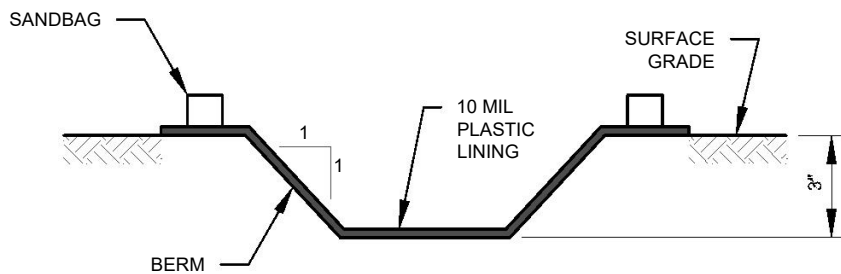
DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
STABILIZED CONSTRUCTION ENTRANCE OPTION 3			703



August 8, 2023



DEPRESSED WASHOUT

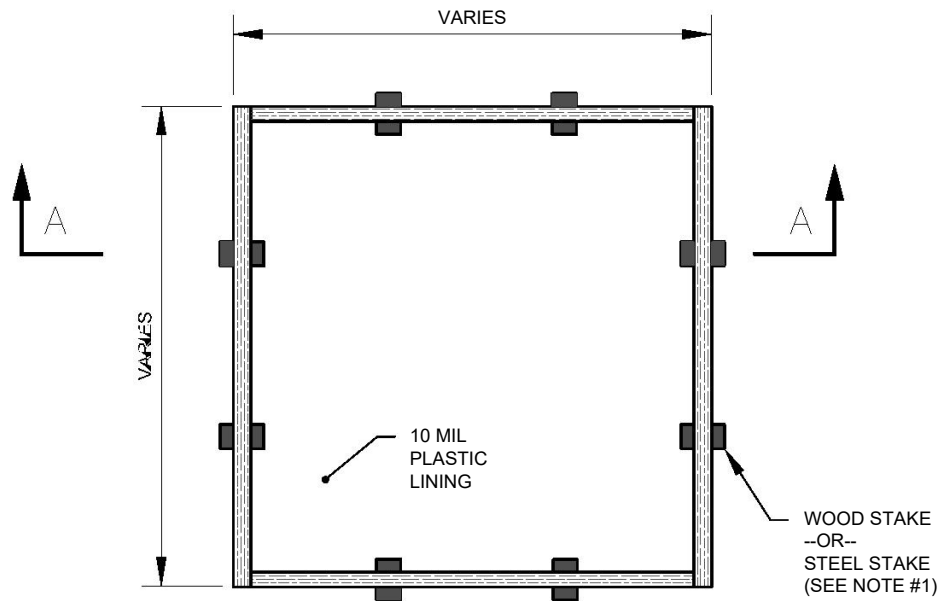


SECTION 'A-A'

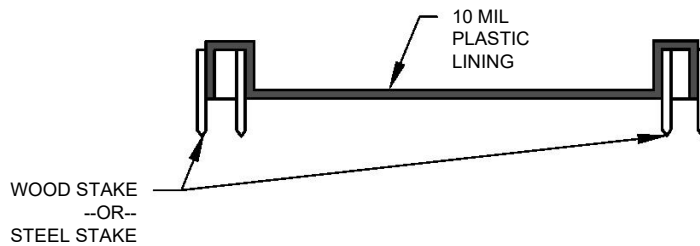
NOTES:

1. SECURE WASHOUT STRUCTURES AND LININGS WITH SANDBAGS OR TWO SECURELY FASTENED STAKES AROUND ENTIRE WASHOUT PERIMETER.
2. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
3. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
MIDLAND Engineering Services PACKET		CONCRETE WASHOUT OPTION 1 7.302 August 8, 2023
		704



ELEVATED WASHOUT

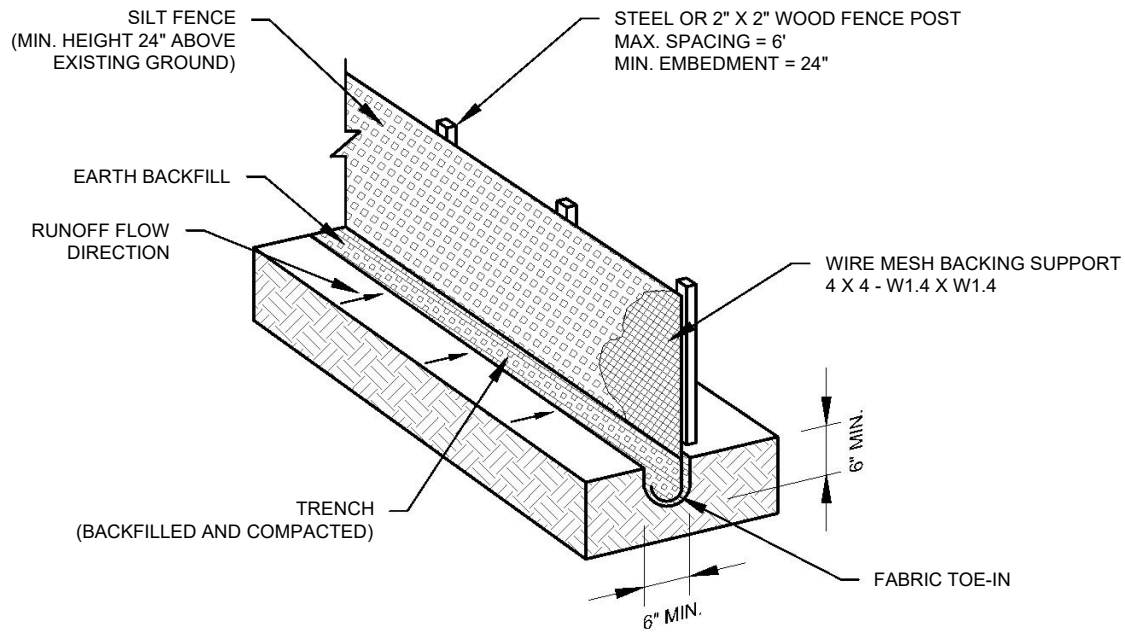


SECTION 'A-A'

NOTES:

1. THIS WASHOUT CONFIGURATION MAY NOT BE USED IN PAVED AREAS.
2. WOOD FRAME IS TO BE EQUAL TO OR BETTER THAN TWO-STACKED 2X12 ROUGH WOOD FRAME.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEERING.

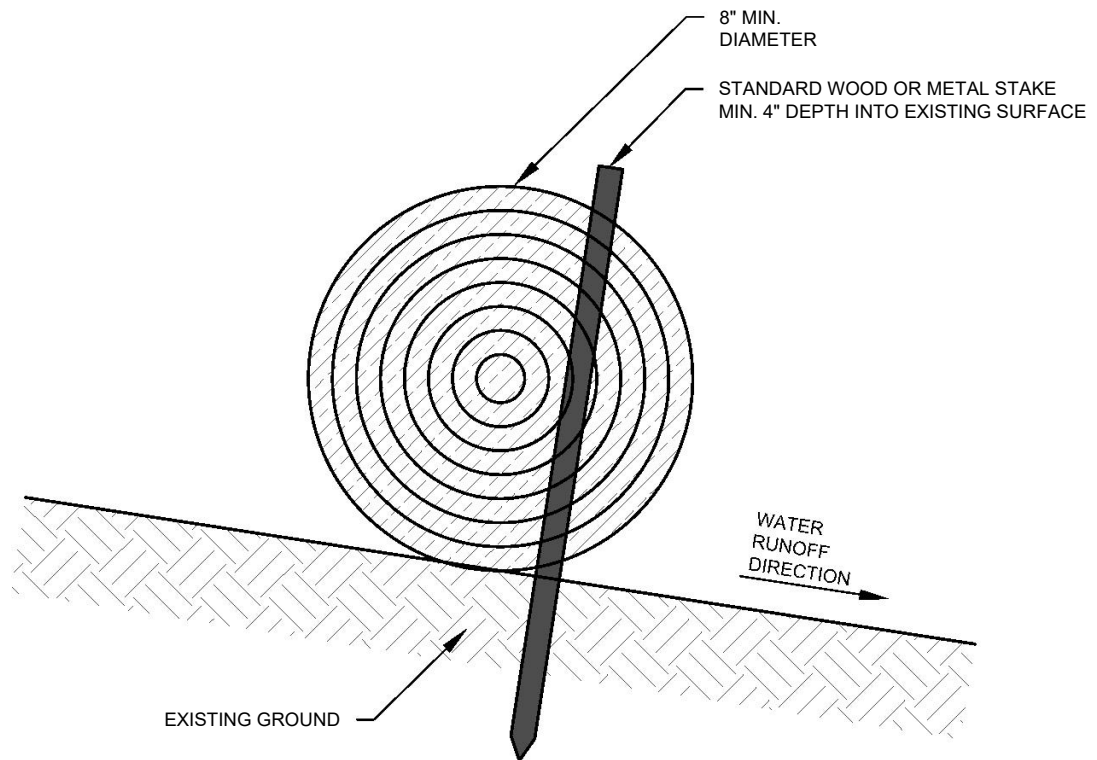
DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018		SCALE: NTS	DETAIL:
		CONCRETE WASHOUT OPTION 2	705
7.303		August 8, 2023	



NOTES:

1. THIS DETAIL IS TO BE USED FOR SHEET FLOW CONDITIONS ONLY. DO NOT USE SILT FENCE FOR POINT FLOW OR CONCENTRATED FLOW CONDITIONS.
2. INSTALL STEEL OR WOOD POSTS, WHICH SUPPORT THE SILT FENCE, WITH A SLIGHT ANGLE TOWARD THE ANTICIPATED RUNOFF SOURCE. POSTS MUST BE EMBEDDED A MINIMUM OF ONE (1) FOOT.
3. TRENCH THE TOE OF THE SILT FENCE IN WITH A SPADE OR MECHANICAL TRENCHER, SO THAT THE DOWNSLOPE FACE OF THE TRENCH IS FLAT AND PERPENDICULAR TO THE LINE OF FLOW. WHERE THE FENCE CANNOT BE TRENCHED IN (E.G. PAVEMENT), WEIGHT DOWN FABRIC FLAP WITH WASHED GRAVEL ON UPHILL SIDE TO PREVENT FLOW UNDER FENCE.
4. THE TRENCH MUST BE A MINIMUM OF SIX (6) INCHES DEEP AND SIX (6) INCHES WIDE TO ALLOW FOR THE SILT FENCE FABRIC TO BE LAID IN THE GROUND AND BACKFILLED WITH COMPACTED MATERIAL.
5. SECURELY FASTEN SILT FENCE TO EACH STEEL SUPPORT POST OR TO WOVEN WIRE, WHICH IN TURN IS TO BE ATTACHED TO THE STEEL OR WOOD FENCE POST. INCLUDE A SIX (6) INCH DOUBLE OVERLAP, SECURELY FASTENED, WHERE ENDS OF FABRIC MEET.
6. REMOVE SILT FENCE WHEN THE SITE IS COMPLETELY STABILIZED SO AS NOT TO BLOCK OR IMPEDE STORM FLOW OR DRAINAGE.
7. REMOVE ACCUMULATED SILT WHEN IT REACHES A DEPTH OF SIX (6) INCHES. DISPOSE OF THE SILT ONSITE IN AN APPROVED LOCATION AND IN SUCH A MANNER AS TO NOT CONTRIBUTE TO ADDITIONAL SILTATION.
8. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
9. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
MIDLAND Engineering Services PACKET			SILT FENCE 7:304 August 8, 2023
			706



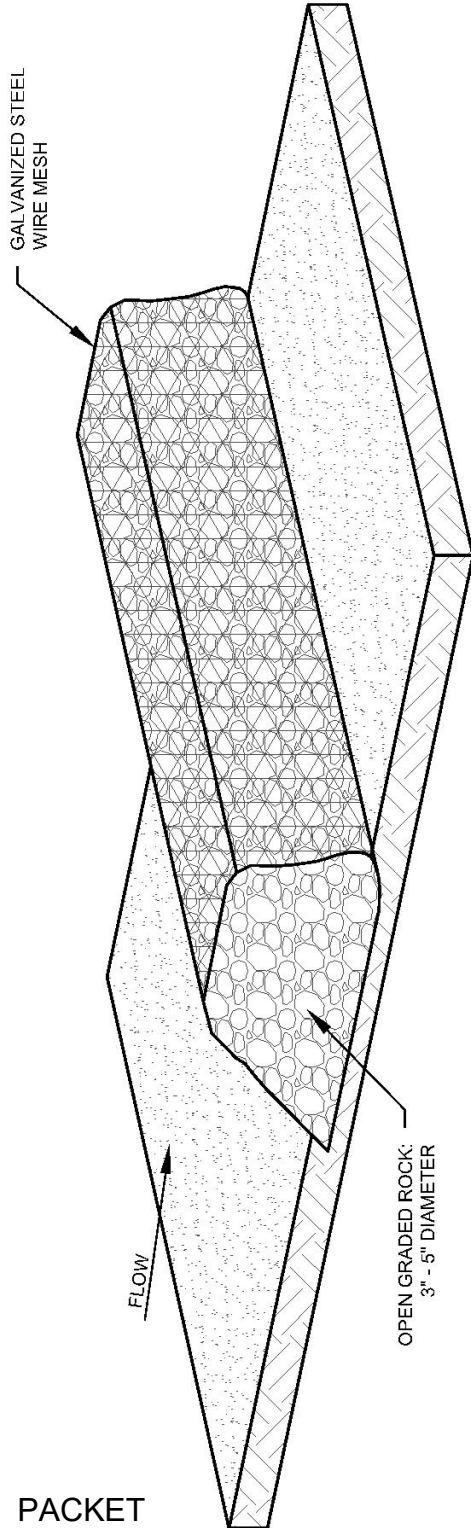
NOTES:

1. THIS DETAIL IS TO USED FOR SHEET FLOW CONDITIONS ONLY. DO NOT USE FILTER SOCK FOR POINT FLOW OR CONCENTRATED FLOW CONDITIONS.
2. DO NOT USE FILTER SOCK FOR SHEET FLOW WATERSHEDS LARGER THAN ONE (1) ACRE.
3. USE POLYPROPYLENE NETTING, BURLAP, OR JUTE FABRIC TO CONSTRUCT THE FILTER SOCK.
4. FILL FILTER SOCK WITH STRAW, HAY, COCONUT FIBER, OR COMPOSITE MATERIAL.
5. PLACE STAKING EVERY THREE (3) TO FOUR (4) FEET AT A MINIMUM.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
MIDLAND Engineering Services PACKET			707 August 8, 2023

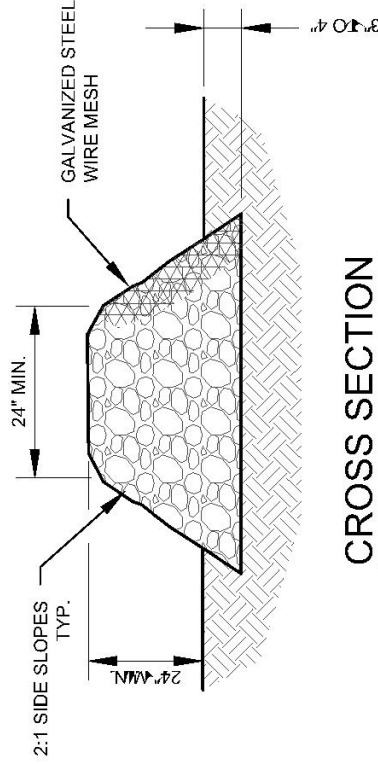
FILTER SOCK
7.305

PACKET



ISOMETRIC VIEW

7.306

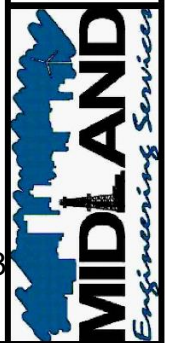


CROSS SECTION

August 8, 2023

NOTES:

1. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
2. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

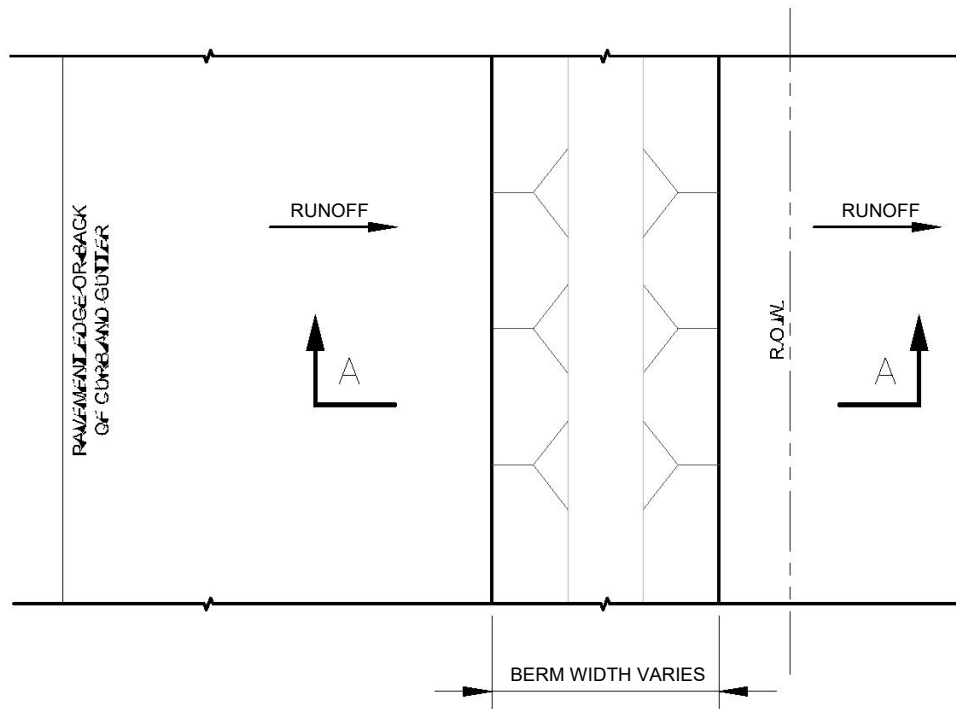
EFFECTIVE DATE: 10/01/2018

SCALE: NTS

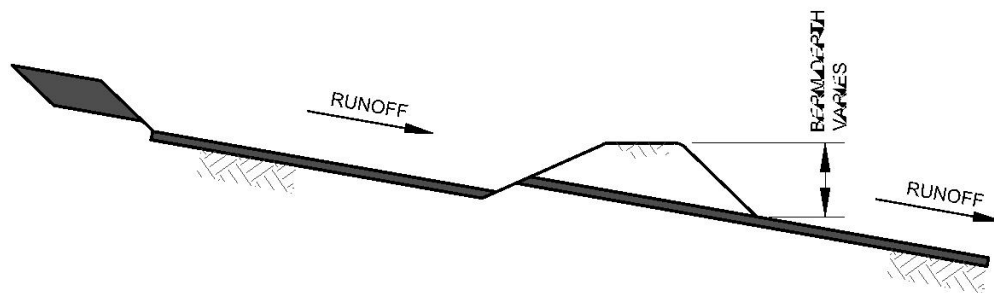
DETAIL:

ROCK FILTER DAM

708



PLAN



SECTION 'A-A'

NOTES:

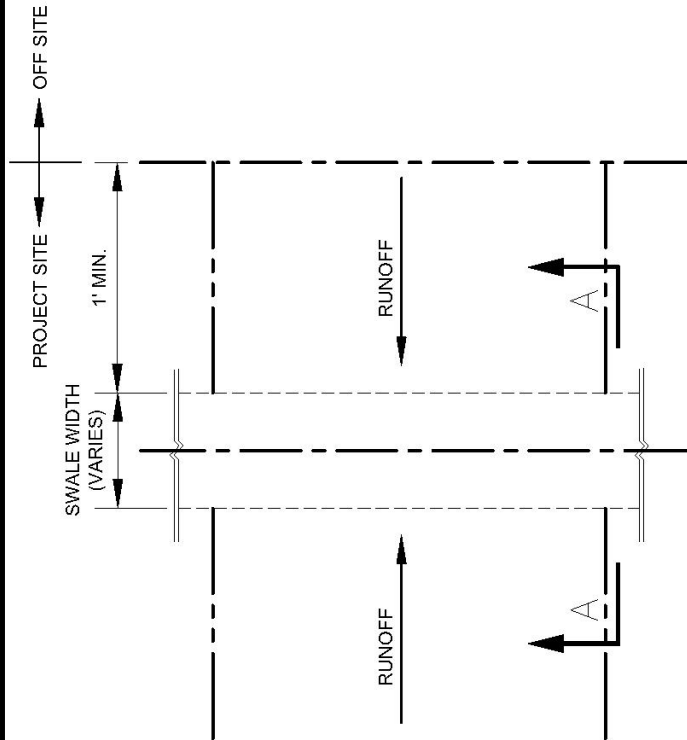
1. CONSTRUCT WIND ROW BERM FROM EXISTING TOPSOIL (4" TO 6" USUAL) TO INTERCEPT RUNOFF.
2. WHERE OVERTOPPING OF BERM OCCURS, PLACE ADDITIONAL EROSION CONTROL DEVICES AS REQUIRED BY THE ENGINEER.
3. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
4. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018		SCALE: NTS	DETAIL:
			709

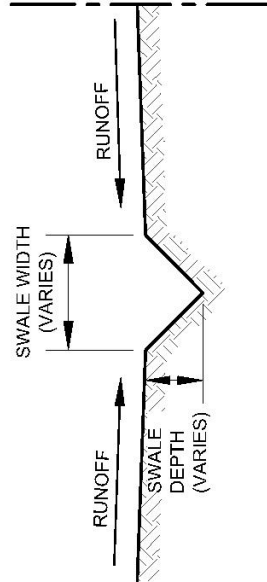
WIND ROW BERM

7.307

August 8, 2023



DRAINAGE SWALE BUFFER



SECTION 'A-A'

NOTES:

1. SIZE DRAINAGE SWALE BUFFER TO CONTAIN ALL RUNOFF DIRECTED TOWARDS IT SO THAT NO OVERTOPPING OF SWALE OCCURS.
2. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS
3. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



DRAWN: DPM
CHECKED: JCF
APPROVED: MCC

EFFECTIVE DATE: 10/01/2018

SCALE: NTS

DETAIL:

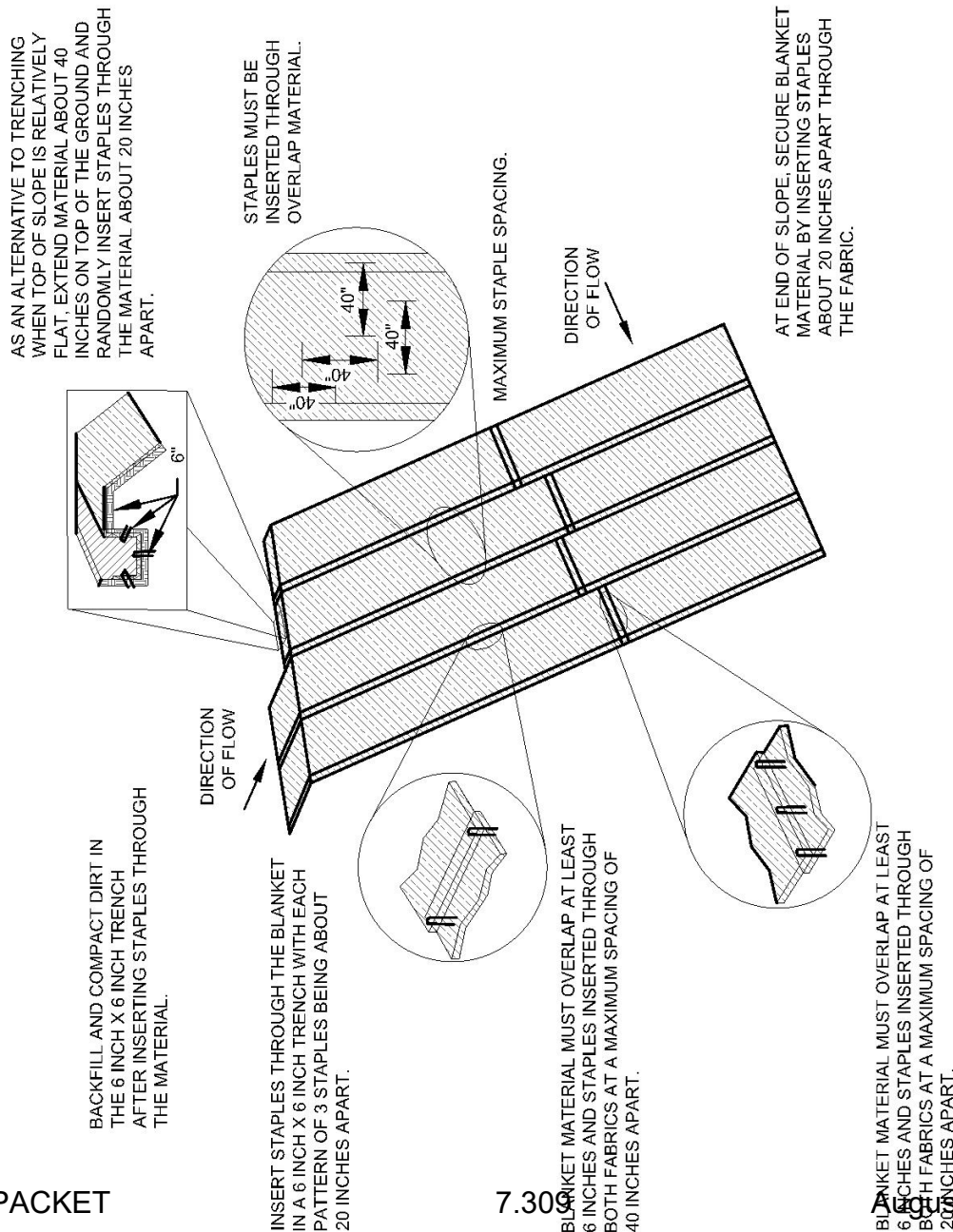
DRAINAGE SWALE BUFFER

710

PACKET

7.309

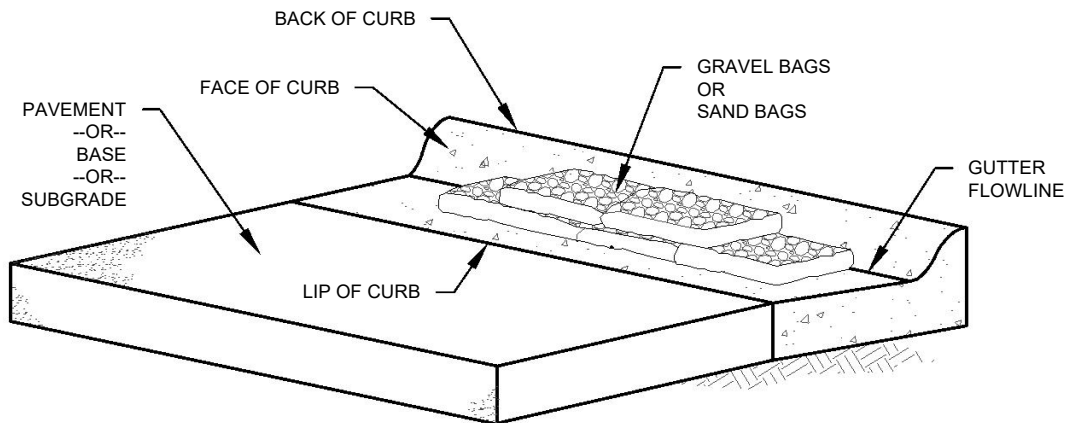
August 8, 2023



NOTES:

1. THE FOLLOWING PRODUCTS, OR AN EQUAL APPROVED BY THE ENGINEERING SERVICES REPRESENTATIVE MAY BE USED:
ECS S-1 STANDARD STRAW
ECS HIGH VELOCITY STRAW
LANDLOK BON-TERRA S2, ENS2 OR ENCS2
NORTH AMERICAN GREEN S75, S75BN, S150, S150BN, OR SC150
2. APPLY SEED AS RECOMMENDED BY MANUFACTURER'S SPECIFICATIONS.
3. LAY BLANKETS PARALLEL TO THE DIRECTION OF WATER FLOW. SPREAD BLANKETS EVENLY WITHOUT STRETCHING SO FIBERS ARE IN DIRECT CONTACT WITH THE SOIL.
4. BURY THE UPSLOPE END OF EACH BLANKET AT LEAST 6 INCHES IN A VERTICAL TRENCH WITH THE SOIL PRESSED FIRMLY AGAINST THE EMBEDDED MAT. ADDITIONAL CHECK TRENCHES AT 50 FEET INTERVALS MAY BE DESIRABLE ON STEEP GRADES OR LONG FLOW AREAS.
5. STAPLE STRIP ENDS AND END OVERLAPS WITH NOT MORE THAN 20 INCHES BETWEEN STAPLES. STAPLE ALL OTHER JOINTS AND EDGES AT 40 INCH INTERVALS.
6. USE U-SHAPED STAPLES TO ANCHOR BLANKETS THAT ARE 11 GAUGE OR HEAVIER STEEL WIRE HAVING A SPAN WIDTH OF 1 INCH AND A LENGTH OF 6 INCHES OR MORE FROM TOP TO BOTTOM AFTER BENDING.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

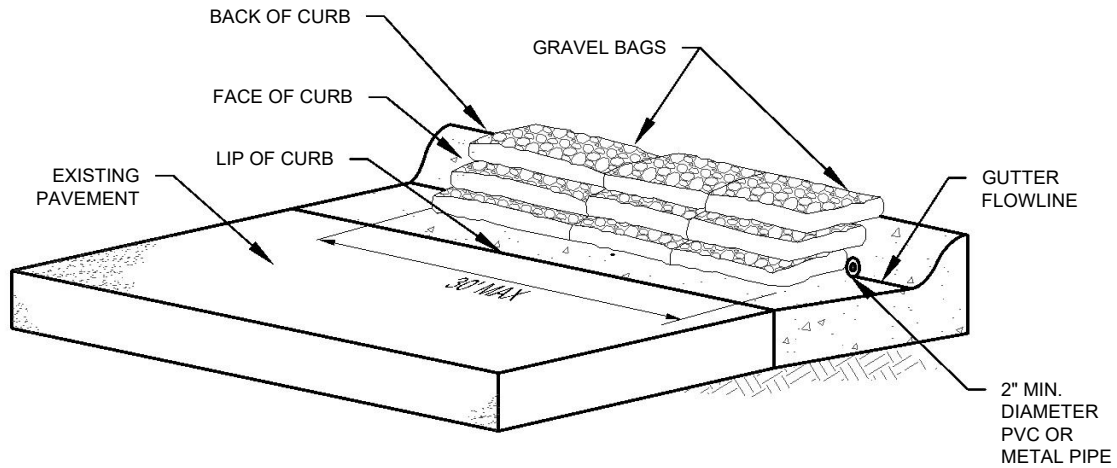
	DRAWN: DPM	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
	CHECKED: JCF APPROVED: MCC	EROSION CONTROL BLANKET AND VEGETATION		
				711



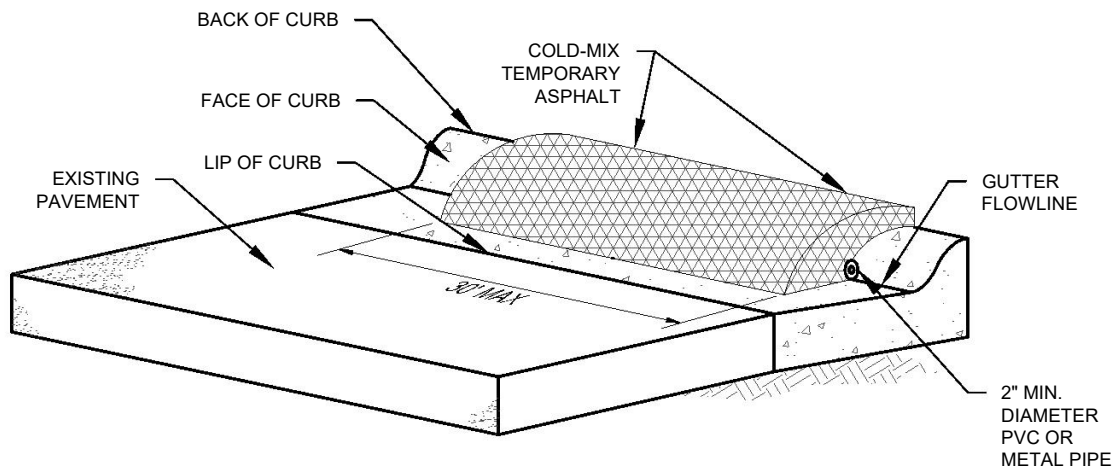
NOTES:

1. FILL BAGS TO 60% CAPACITY WITH EITHER CLEAN GRAVEL OR CLEAN SAND.
2. GRAVEL TO BE NO LESS THAN 1" DIAMETER OR GREATER THAN 2" DIAMETER.
3. PLACE BAGS WITH BAG OPENINGS SECURED AND FACE UP, AND SO THAT EACH BAG IS FLAT AND HAS THE GREATEST POSSIBLE SURFACE AREA CONTACT WITH THE CURB.
4. PLACE BAGS AGAINST THE FACE-OF-CURB AND DO NOT PLACE BAGS BEYOND THE LIP-OF-CURB.
5. DO NOT BLOCK ADA RAMPS OR WALKWAYS WITH BAGS.
6. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
7. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
 MIDLAND Engineering Services			CURB GRAVEL OR SAND BAGS 7.310 August 8, 2023
PACKET			712



CURB GRAVEL BAG

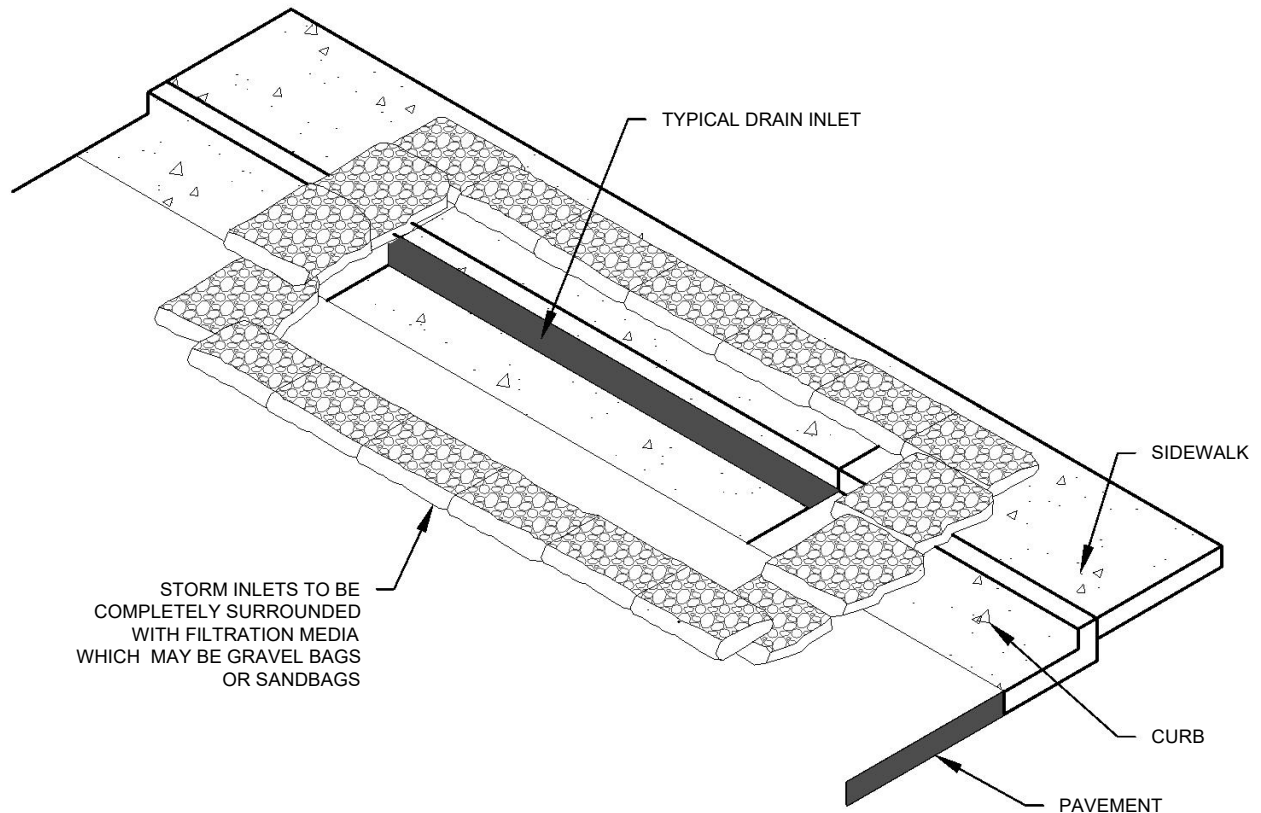


**CURB COLD-MIX
TEMPORARY ASPHALT**

NOTES:

1. UTILIZE THIS DETAIL WHEN ACCESSING PROJECT SITE OVER EXISTING CURB ONLY IF NO USABLE CURB OPENING EXISTS.
2. FILL BAGS TO 60% CAPACITY WITH CLEAN GRAVEL NO LESS THAN 1" DIAMETER AND NO GREATER THAN 2" DIAMETER.
3. PLACE BAGS WITH BAG OPENINGS SECURED AND FACE UP, AND SO THAT EACH BAG IS FLAT AND HAS THE GREATEST POSSIBLE SURFACE AREA CONTACT WITH THE CURB.
4. PLACE BAGS AGAINST THE PIPE AND FACE-OF-CURB . DO NOT PLACE BAGS BEYOND THE LIP-OF-CURB.
5. DO NOT BLOCK ADA RAMPS OR WALKWAYS WITH BAGS.
6. DO NOT PLACE TEMPORARY ASPHALT BEYOND LIP-OF-CURB.
7. PIPE MUST EXTEND ACROSS FULL LENGTH OF TEMPORARY CURB PROTECTION AND BE COMPLETELY EXPOSED AT BOTH ENDS.
8. MINIMUM 4" THICK LAYER OF GRAVEL OR ASPHALT REQUIRED OVER ALL PARTS OF AFFECTED CURB.
9. MAXIMUM WIDTH OF CURB PROTECTION IS 30'.
10. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
11. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:	
TEMPORARY CURB PROTECTION 7.311 August 8, 2023			713



GRAVEL BAGS OR SANDBAGS

NOTES:

1. FILL BAGS TO 60% CAPACITY WITH CLEAN GRAVEL OR CLEAN SAND.
2. PLACE BAGS WITH BAG OPENINGS SECURED AND FACE UP, AND SO THAT EACH BAG IS FLAT AND HAS THE GREATEST POSSIBLE SURFACE AREA CONTACT WITH THE SURFACE.
3. GRAVEL TO BE NO LESS THAN 1" DIAMETER OR GREATER THAN 2" DIAMETER.
4. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS
5. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.

DRAWN: DPM	CHECKED: JCF	APPROVED: MCC	
	EFFECTIVE DATE: 10/01/2018	SCALE: NTS	DETAIL:
CURB INLET PROTECTION			714
August 8, 2023			

NEAREST BELL JOINT

2'-4"

2'

5' MAX.

2'

2'

5' MAX.

2'

5' MAX.

2'

2'

5' MAX.

2'

1" MAX. CLR.

MIN. SEPARATION (SEE NOTE 1)

8" TYP.

WATERTIGHT END SEAL (SEE NOTE #3)

CARRIER PIPE (SEE NOTE #2)

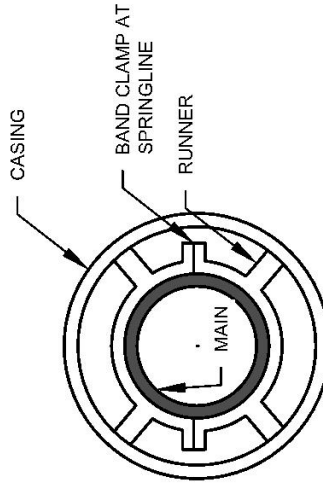
CASING SPACER (SEE NOTE #4)

CASING PIPE (SEE NOTE #2)

(THIS DWG.)

731
NOTES

1. CASING PIPE TO BE MINIMUM TWO (2) NOMINAL SIZES LARGER IN DIAMETER THAN CARRIER PIPE.
2. CASING PIPE TO BE NO LESS THAN 12" DIAMETER PIPE. 12"-16" DIAMETER CASING PIPE MAY BE STEEL OR PVC PIPE. CASING PIPE LARGER THAN 16" DIAMETER MUST BE STEEL PIPE. STEEL CASING PIPE TO BE MINIMUM 1/4" WALL THICKNESS. PVC CASING PIPE TO BE SDR-26 D2241 OR C-900.
3. CASING PIPE TO BE STEEL OR PVC.
4. WATER TIGHT END SEAL TO BE GROUT OR APPROVED MANUFACTURED SEAL.
5. CASING SPACERS TO BE HDPE OR APPROVED EQUAL. MINIMUM FOUR (4) EQUALLY SPACED RUNNERS, WITH BAND CLAMP JOINT LOCATED AT SPRINGLINE. SPACERS FOR CASING PIPE LARGER THAN 24" DIAMETER REQUIRE MINIMUM SIX (6) EQUALLY SPACED RUNNERS.
6. CASING INSTALLED IN OPEN TRENCH IS TO BE BACKFILLED PER CURRENT CITY STANDARDS FOR AN UN-ENCASED MAIN.
7. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
8. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY THE CITY ENGINEER.



SECTION 'A-A'

August 8, 2023

EFFECTIVE DATE:	10/01/2018
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DETAIL:

TYPICAL PIPE CASING DETAIL

805



PACKET

7.314

NOTES

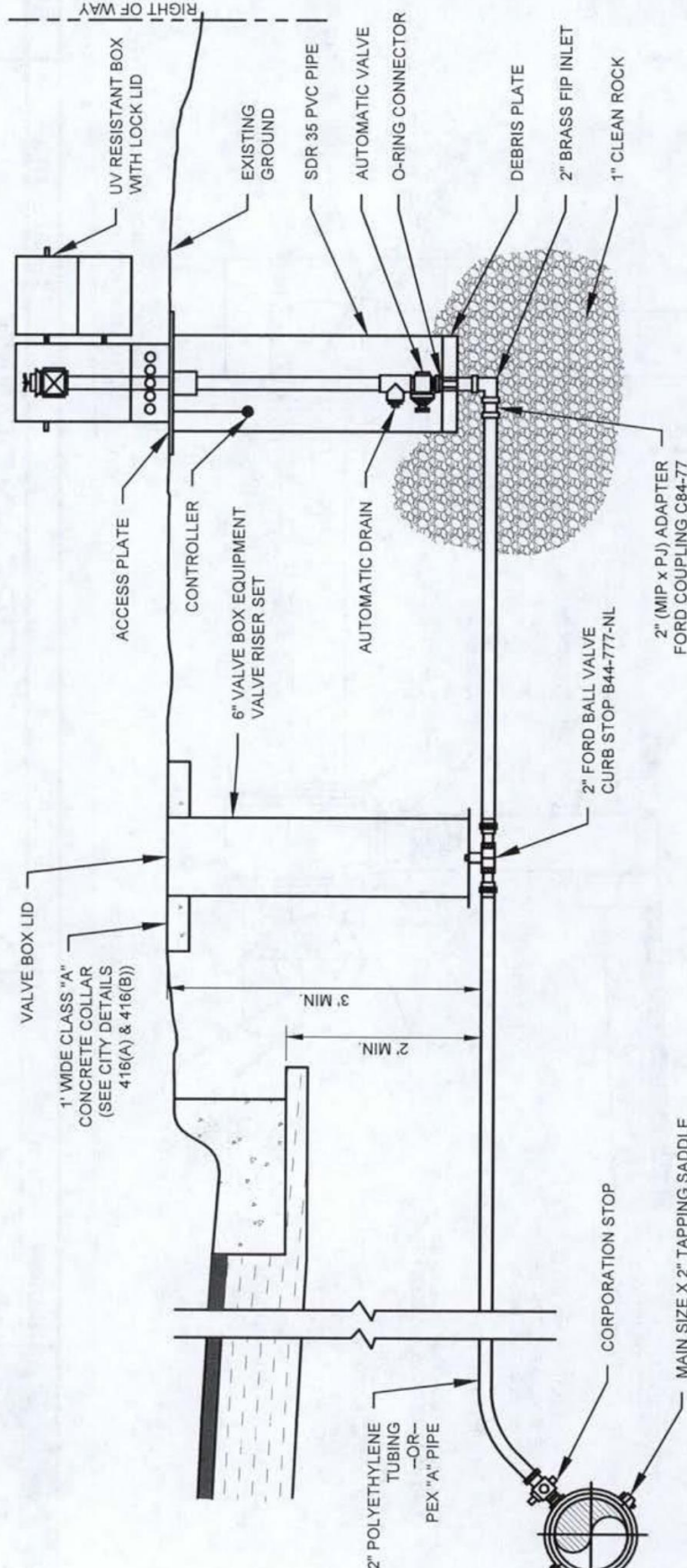
1. AUTOMATIC FLUSHING DEVICE TO HAVE A 2" BRASS FIP INLET, LEADING VERTICALLY INTO A 2" AUTOMATIC SOLENOID VALVE. AUTOMATIC SOLENOID VALVE SHALL HAVE A 150 PSI RATING. EACH UNIT SHALL BE FURNISHED WITH A STAND-ALONE VALVE CONTROLLER. VALVE CONTROLLER WILL NOT REQUIRE A SECOND HAND-HELD DEVICE FOR PROGRAMMING. MUST HAVE A MINIMUM OF 12 POSSIBLE FLUSHING CYCLES PER DAY AT UP TO 6 HOURS OF FLUSH TIME PER CYCLE. SHALL BE SUBMERSIBLE TO 12'. OPERATE WITH A 9 VOLT BATTERY (COMPARTMENT HOLDS TWO BATTERIES) AND HAVE A DOUBLE VALVE. ALL BRASS SAMPLING POINT. REMOVAL OF THE 2" SOLENOID VALVE SHALL BE POSSIBLE VIA AN O-RING CONNECTOR LOCATED UNDER THE VALVE AFTER REMOVAL OF THE STAINLESS STEEL ACCESS PLATE, UNDERGROUND PARTS SHALL BE HOUSED IN A PVC ENCLOSURE AND EACH UNIT SHALL BE SELF-DRAINING, NON-FREEZING. ALL ABOVE-GROUND COMPONENTS SHALL BE CONTAINED WITHIN A UV-RESISTANT LOCKING DOMED COVER.

ALL CONNECTION COMPONENTS (NOT INCLUDING THE STATION) MUST BE THE COMPONENTS LISTED OR APPROVED EQUALS. ALL COMPONENTS USED MUST BE FROM THE SAME MANUFACTURER.

ONLY TO BE INSTALLED IF APPROVED BY CITY ENGINEER/UTILITIES DIRECTOR.

MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.

CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY BOTH THE ENGINEERING SERVICES REPRESENTATIVE AND THE UTILITY DEPARTMENT REPRESENTATIVE.



DRAWN: DPM

CHECKED: JCF

APPROVED: MCC

EFFECTIVE DATE:

SCALE: NTS

DETAIL:

WATER FLUSHING STATION

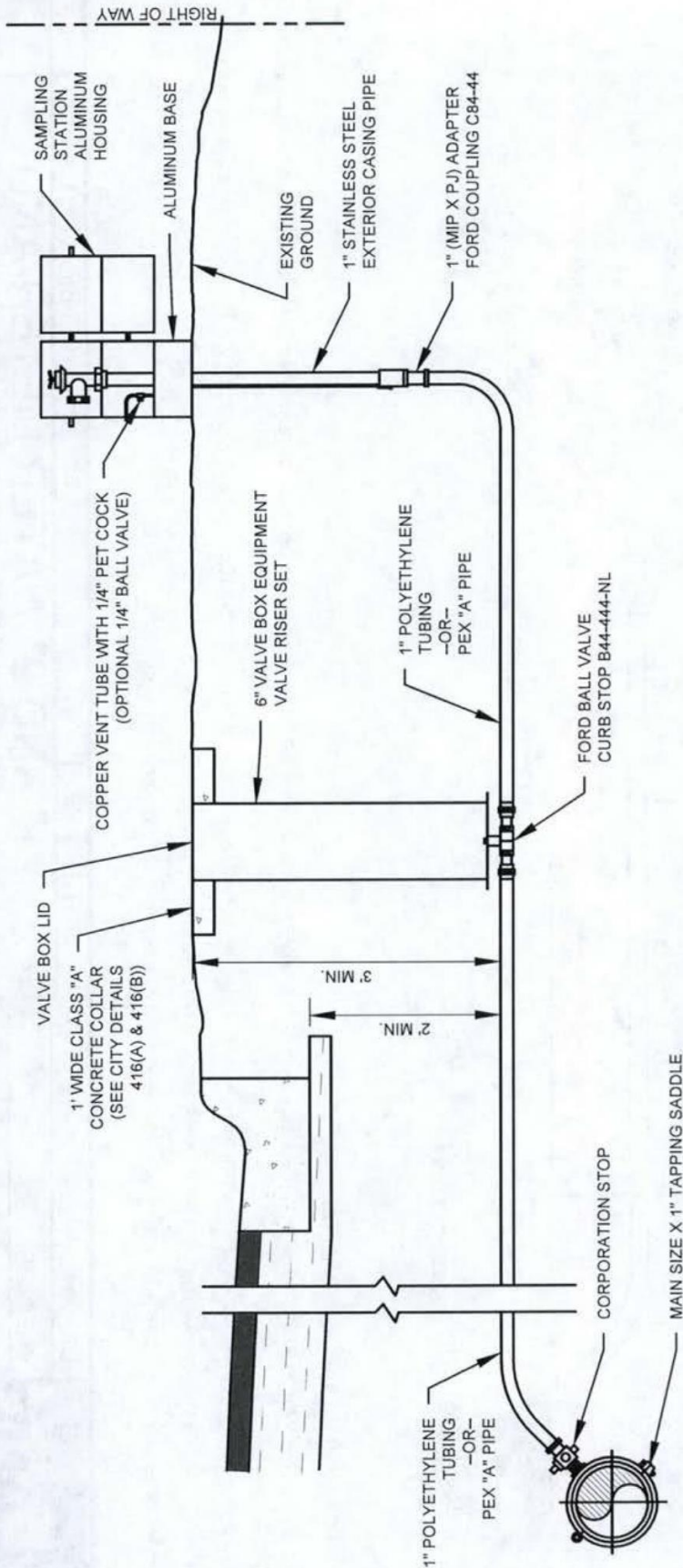
4##



August 8, 2023

PACKET

7.315



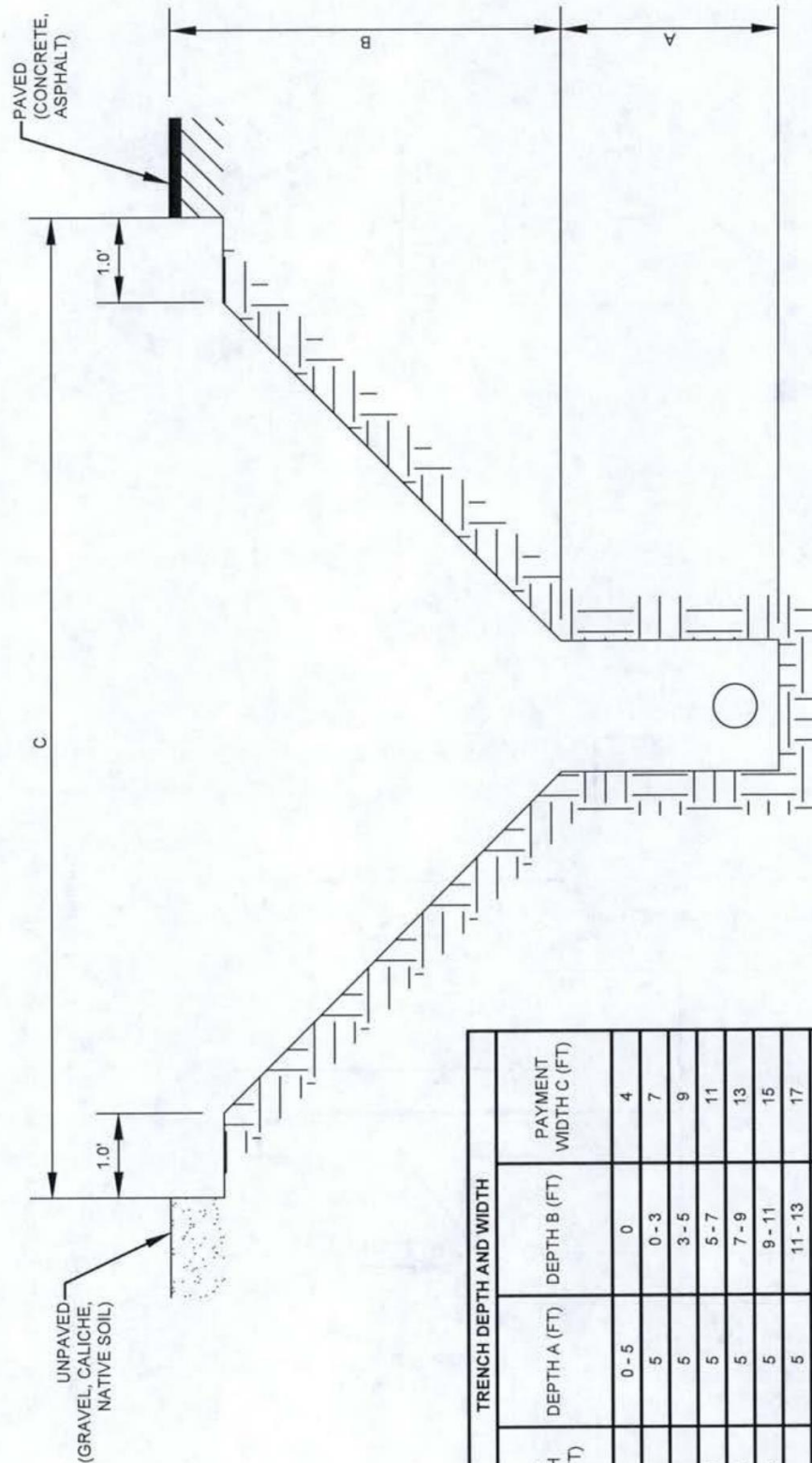
NOTES

1. SAMPLING STATION TO BE BURIED, WITH A 3/4" FIP INLET, AND A (3/4" HOSE OR UNTHREADED) NOZZLE.
2. ALL STATIONS TO BE ENCLOSED IN A LOCKABLE, NONREMOVABLE, ALUMINUM-CAST HOUSING.
3. WHEN OPENED, THE STATION WILL REQUIRE NO KEY FOR OPERATION, AND THE WATER WILL FLOW IN AN ALL BRASS WATERWAY.
4. ALL WORKING PARTS WILL ALSO BE OF BRASS AND BE REMOVABLE FROM ABOVE GROUND WITH NO DIGGING. EXTERIOR PIPING TO BE BRASS OR GALVANIZED.
5. A COPPER VENT TUBE WILL ENABLE EACH STATION TO BE PUMPED FREE OF STANDING WATER TO PREVENT FREEZING AND TO MINIMIZE BACTERIA GROWTH.
6. ALL CONNECTION COMPONENTS (NOT INCLUDING THE STATION) MUST BE THE COMPONENTS LISTED OR APPROVED EQUALS. ALL COMPONENTS USED MUST BE FROM THE SAME MANUFACTURER.
7. ONLY TO BE INSTALLED IF APPROVED BY CITY ENGINEER/ UTILITIES DIRECTOR.
8. MATERIALS AND CONSTRUCTION METHODS TO CONFORM TO CITY OF MIDLAND STANDARDS AND SPECIFICATIONS.
9. CONSTRUCT AS SHOWN UNLESS OTHERWISE APPROVED IN WRITING BY BOTH THE ENGINEERING SERVICES REPRESENTATIVE AND THE UTILITY DEPARTMENT REPRESENTATIVE.

	DRAWN: DPM	EFFECTIVE DATE:	SCALE: NTS	DETAIL:
	CHECKED: JCF			4##
	APPROVED: MCC	WATER SAMPLING STATION		

PACKET

7.316



TRENCH DEPTH AND WIDTH			
TOTAL TRENCH DEPTH (FT)	DEPTH A (FT)	DEPTH B (FT)	PAYMENT WIDTH C (FT)
0 - 5	0 - 5	0	4
5 - 8	5	0 - 3	7
8 - 10	5	3 - 5	9
10 - 12	5	5 - 7	11
12 - 14	5	7 - 9	13
14 - 16	5	9 - 11	15
16	5	11 - 13	17
18	5	13 - 15	19
20	5	15 - 17	21
22	5	17 - 19	23

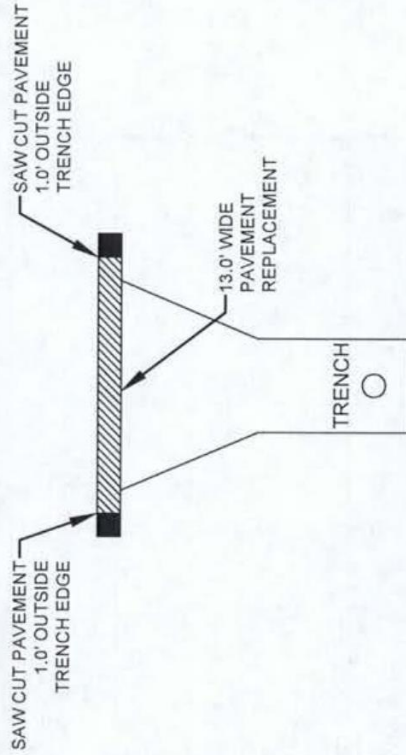
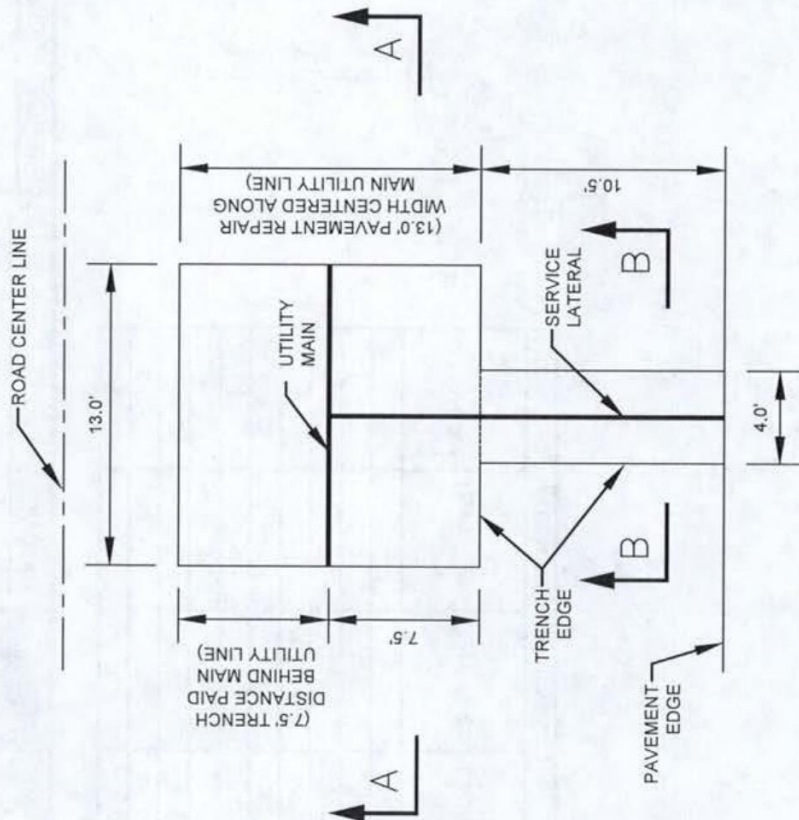
August 8, 2023

	DRAWN: DPM CHECKED: JCF APPROVED: MCC	EFFECTIVE DATE:	DETAIL:
	TRENCH DEPTH, WIDTH, & EXAMPLE CALCULATIONS PART(A)		

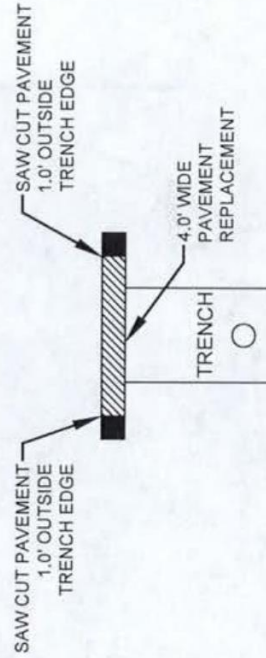
PACKET

7.317

August 8, 2023



SECTION 'A-A'



SECTION 'B-B'

EXAMPLE CALCULATION: 14.0' DEEP TAP, 18.0' LONG, UNDER ASPHALT PAVED ROAD.

PAYMENT WIDTH FOR 14.0' DEEP TAP IS 13.0' AND PAVEMENT WIDTH FOR 5.0' DEEP TRENCH IS 4.0'.

PAVEMENT REPLACEMENT QUANTITY IS:

$$(10.5' \times 4.0') + (13.0' \times 13.0') = 211.0 \text{ SF} = 23.4 \text{ SY}$$

CONTRACTOR WILL BE PAID FOR 23.5 SY OF PAVEMENT REPLACEMENT ON THIS TAP.

	DRAWN: DPM CHECKED: JCF APPROVED: MCC	EFFECTIVE DATE: _____ TRENCH DEPTH, WIDTH, & EXAMPLE CALCULATIONS	DETAIL: PART(B)
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ADDENDUM #01
Project Number U23-02

TO ALL BIDDERS ON THE SUBJECT BID: Water Rehab Program 01

ADDENDUM #01

DATE: June 30, 2023

1. Q/A and Clarification
2. Non-Mandatory Pre-Bid Meeting Agenda
3. Non-Mandatory Pre-Bid Meeting Attendance

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

All other terms and conditions shall remain the same.

Entrench, Inc

Company Name

Bidder Authorized Signature

Alberto Caballero

Please Print Above Name

7/3/2023

Date

575-492-1914

Phone

www.MidlandTexas.gov

**Water Rehab Program 01
Project Number U23-02**

Q/A and Clarification

During the Pre-Bid Meeting, the following questions were raised by one or more bidders. Below is a list of the questions along with the answers and clarifications.

Clarification: The Bid Opening deadline for this program is being pushed back by one (1) week to July 12, 2023. There are no other changes to the bid process as described in the Bid Packet, and all other deadlines, including for addendum questions, remain unchanged.

The deadline time and location for bid submittals are still 2:00 PM in the City Secretary office at Midland's City Hall as per the Bid Packet's Notice To Bidders. If bid packets are delivered in person, then per the Bid Packet's Notice To Bidders the bidders must still drop the bid packets off at the first-floor front desk of City Hall before the bid opening deadline.

Clarification: All addendum acknowledgement forms must be included with the bid for the bid to be considered complete. Bidders have sole responsibility for making sure they have and acknowledge all addendums provided for this project bid.

Clarification: Contractor must be willing to sign contract as is.

Clarification: Check that all insurance forms are in order when submitting bids.

Clarification: Check that all conflict of interest forms are completed if applicable.

Clarification: Contractor must fill out all bid items in the Proposal for the bid to be considered complete.

The quantities listed in the Proposal are representative of the type of work that has occurred in past versions of City programs similar to this one in order to establish the bid item unit prices, but the quantities are not based on known future projects for this program as the nature of this program does not make that possible. This program is intended to be flexible enough to be used for whatever the City of Midland's highest priority task is at the time that falls within the program's scope.

Clarification: Contractor must include 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 an active Class 1 Collections license, and the Contractor must maintain both of these active licenses for the entirety of the project. Any bid submittal that does not include this required documentation 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 immediately and the City of Midland will have sole discretion to either allow the

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Contractor to renew their active licenses before resuming work or to end the project immediately. If the Contractor is allowed to renew the required licenses then the City of Midland will have sole discretion on whether or not to grant a stay of contract time while the required licenses are renewed or to hold the Contractor to the original contract time. There will be no additional payments for traffic controls, erosion controls, site safety measures, material storage, equipment storage, mobilization or remobilization, or similar items during any pause in construction if it is a result of the Contractor's failure to maintain the required licenses for this project.

Clarification: Contractor is responsible for all construction staking.

Clarification: Traffic control in arterials will be the responsibility of the City of Midland, and the Contractor will be required to coordinate with the barricade company under contract with the City of Midland in such cases. Contractor is responsible for all other traffic control during this program. For all traffic control, arterial or otherwise, the Contractor is required to coordinate with the City's Construction Manager.

Clarification: Contractor is responsible for notifying all adjacent properties of any planned service interruptions no less than two (2) business days in advance of any such interruptions. Service interruptions are to be kept as short as is reasonably possible. This requirement does not apply in emergency situations.

Clarification: Contractor is responsible for maintaining access to all adjacent properties at all times, barring those times when actual construction activity necessary to complete the work is taking place in front of driveway approaches or similar points of access. Contractor is responsible for notifying all adjacent properties of any planned access interruptions no less than two (2) business days in advance of any such interruptions. When such work is not occurring then access must be restored by means of traffic rated steel plates or other equivalent means until such time as the work is completed.

Clarification: Utility covers matching City Details are now available. All utility covers and cover patterns are to match the City standard details.

Clarification: Contractor is to return all existing fire hydrants removed during this project to the City of Midland Utilities. Fire hydrant removal is considered subsidiary to the bid items listed in the Proposal.

Clarification: Contractor is to return all existing water meters removed during this project to the City of Midland Utilities. Water meter removal is considered subsidiary to the bid items listed in the Proposal.

Clarification: Contractor is responsible for all material protection and storage, and any material delivered that becomes weathered or damaged prior to installation must be replaced with new material prior to installation at the Contractor's sole expense as per the Bid Packet's Special Provisions, 4. Payment.

Clarification: Saw-cutting is considered subsidiary to the bid items listed in the Proposal.

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Clarification: Contractor is required to have at least one (1) construction crew dedicated to this program at all times. Contractor may also assign more than one crew to this program if they wish to do so.

Clarification: All invoice submittals are to be itemized and are to match the approved Work Orders Proposal line items listed.

Clarification: The detail drawings attached to the Bid Packet will be the details used throughout the entire duration of the Water Rehab Program 01. If the City's standard detail drawings change between the date the program is awarded and the date this program ends, the program will still only be held to the standards of the attached detail drawings and will not be held to the new City detail drawing standards.

Clarification: The scope of this program is as described in the Bid Packet and the Pre-Bid Meeting Agenda, and including both utility projects that may extend for several blocks or smaller utility projects that may only replace a single valve. It is the expectation of the City that the larger utility projects extending for one or more blocks will make up the bulk of the work assigned under this program, but Bidders are reminded that smaller utility project tasks also fall within the scope of this program.

Clarification: It is recommended that Bidders use the USPS mailing address rather than the physical City Hall address for bid submittals that are mailed in as the physical address has experienced issues on occasion in the past. The USPS mailing address is unchanged from what is listed in the original bid packet and the pre-bid teleconference meeting agenda.

Clarification: Bidders have sold responsibility for making sure that their bid submittals are received by the City of Midland before the deadline stated in the Bid Packet. Bidders should be aware that just because a mail carrier says a submittal was delivered does not mean that the City actually received it. Bidders choosing to mail their submittals should do so early enough to ensure that the City will receive the submittal before the deadline stated in the Bid Packet. It is recommended that bidders who mail their submittals in do so by certified mail.

Question: After the contract is awarded to a contractor and they fail to submit a performance/payment bond within the 15 days given to do so, does the city keep or return the cashiers check to contractor who submitted with their bid? Is there a penalty if the contractor fails to supply the bond after its been awarded to them?

Answer: Bid Packet, Notice To Bidders, Page 3 (sheet NB 2) states that the bid bond or proposal guaranty is to guarantee the good faith of the bidder and that the bidder will enter into a written contract, and that the City has the right to retain any certified checks or to execute the bond conditions if the bidder fails to enter into the contract and furnish satisfactory performance and payment bonds.

Bid Guaranty is also covered in the Bid Packet, Instruction And Information For Bidders, 12. Bid Guarantee, Page 7 (sheet IIB 3).

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Bid Packet, Notice To Bidders, Page 10 states that any vendor (Bidder) who fails to comply with the terms of the award may be declared an irresponsible vendor (Bidder), and that bids they submit may not be considered again for a minimum period of six (6) months as determined by the City Manager.

Question: Would it be possible to extend the bid date on this one?

Answer: See first "Clarification" in this Addendum 01.

Question: On Bid item # 42 "Stand-alone gate valve and vault" what size are the gate valve and vaults? Should there be a line item for 4", 6", 8", etc. on these valves and vaults?

Answer: For the Water Bid Items 42, 43, and 44 the key part in the bid item descriptions is the part that says "Add-On". For all three of these bid items, these are additional payments being added to the typical payment for a valve and vault, valve and box, or water service connection installation to account for the additional time, labor, and material needed to make one of these installations as a stand-alone installation versus making one as part of a larger utility project. So, for example, where installing a 6" gate valve and box as part of a new water main extension would just be paid using Water Bid Item #30 for the valve, if that same 6" gate valve were a stand-alone installation that wasn't connected to a larger utility project, then it would be paid using the total of both the Water Bid Item #30 and Water Bid Item #43. And because these are additional payments that are added to more typical bid items that already account for the different sizes of the valves, etc., that is why Water Bid Items 42, 43, and 44 don't include a size description.

Question: On Bid item # 43, a similar question as 42 regarding the size of the gate valves?

Answer: See answer provided for previous question.

Question: Will the City consider adding a line item for Rock Excavation? In some cases, there is no rock excavation and it can save the city some money.

Answer: There will be no bid item added for rock excavation. All excavation will be covered by the bid items currently provided in the Proposal regardless of the existing soil conditions that may be encountered over the course of this program, and Bidders are to account for this in their bid submittals.



**Water Rehab Program 01
Non-Mandatory Pre-Bid Meeting Agenda
Project No. U23-02
June 28, 2023**

Discussion Items

1. Sign-In Sheet
2. Personnel Overview
 - Jose Ortiz – Director Engineering Services
 - Gabe McClelland – Senior Engineering Manager
 - Josh Ferguson – Assistant City Engineer
 - Bobby Wojciechowski – Capital Improvement Project Manager
 - Carl Craig – Utilities Director
 - Kerry Koehler – Assistant Utilities Director
 - Rex Swearinger – Water & Wastewater Operations Superintendent, utility coordination
 - Taha Sakrani – Associate Traffic Engineer
 - Troy Clabaugh – Traffic Operations Superintendent
 - Jesse Trejo – Construction Manager, construction management & inspections
 - Andy Navarro – Franchise Utility Coordinator
 - Michael Williams – Stormwater Manager
 - Natalie Burgard – Administrative Assistant, document processing
 - Erika Martinez – Purchasing Manager, conduct bid process & bid opening
3. Project Overview and Scope
 - This program will include the removal, replacement, relocation, placement, and installation of existing and proposed water improvements and other assorted utilities, structures, and appurtenances as well as all equipment, labor, materials, etc. necessary to complete the work outlined in the Bid Packet, Construction Drawings, and Specifications, and to satisfactorily complete the work.
 - In general, this project is intended to replace or extend water improvements throughout Midland, Texas.
4. Bid Process
 - Pre-Bid meeting attendance is non-mandatory to bid on this program.
 - ATTENTION: All questions submitted before or after the Non-Mandatory Pre-Bid Meeting must be submitted via email to the following email address:

jferguson@midlandtexas.gov
 - Purpose of bids is to establish unit prices.
 - The amount to be awarded for the Water Rehab Program 01 is set at an amount not to exceed \$2,000,000.00.
 - Quantities listed in the Proposal are not indicative of or guarantees of the actual project work quantities that may be assigned under this program.
 - Addendum distributed by email the Friday afternoon following the Pre-Bid Meeting.
 - The deadline to ask or send questions for the addendum is this Friday, June 30, 2023 at Noon.

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- Questions asked after the Noon deadline will be directed to the information already provided in the bid documents or included in the Addendum.
- ATTENTION: Bidders are to submit bids either by mail or in person. If bidders choose to mail their bid packets in, then they are to mail the bid packet to one of the addresses listed below:

USPS Mailing Address:

City of Midland, Texas
Attn: City Secretary's Office
P.O. Box 1152
Midland, TX 79702

– OR –

Physical Address for mail carriers other than USPS:

City of Midland, Texas
Attn: City Secretary's Office
300 North Loraine St., Suite 330
Midland, TX 79701

If bid packets are delivered in person then bidders must drop the bid packets off at the first-floor front desk of City Hall before the bid opening deadline.

- **Bid Opening is Wednesday, July 5, 2023 at 2:00 PM** in the City Hall Council Chamber located on the 1st Floor of Midland's City Hall.
 - The Bid Opening will be open to the public.
 - No late bids will be accepted.
 - Bidders must be willing to sign the contract as is.
 - Bidders must complete the conflict of interest forms if applicable.
 - Bidders must fill out all bid items in the Proposal. If bid items are left blank then the bid will be considered non-responsive.
 - Bidders have sole responsibility for making sure they have and acknowledge all addendums provided. If all acknowledgement forms are not included with the bid packet submittal then the bid will be considered non-responsive.
 - Bidders must provide proof that they possess active licenses equal to or a higher class than a Water Operator D license and either a Wastewater D license or a Class 1 Collections license as outlined in the last paragraph of the Special Provisions section of the bid packet.

5. Notice to Proceed

- Date of Notice to Proceed to be determined at the Pre-Construction Meeting.
- Pre-Construction Meeting date will be set after the project bid is awarded.

6. Payment

- Payment will be as described in the Bid Packet's Special Provisions, 4. Payment.
- Payment to be made for material delivered only for bid items specifically indicated in Special Provisions, 4. Payment. All other payments to be made after 100% work completion, with no other material delivery payments, partial payments, or payments for mobilization.
- Work is considered 100% complete when the project Work Order is completed and signed by both the City Inspector and the Contractor.
 - When a project has items paid upon material delivery, there are to be two Work Orders. The first Work Order will include all items to be paid upon material delivery, and the second will include all other items applicable to the project in question.
-
- Work Orders and invoices are to be itemized and match the bid items listed in the bid packet Proposal.
- Recommended that invoices state "Invoice Due Upon Receipt", or have a due date that is two (2) weeks after the date the invoice is submitted.

7. Program Schedule
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- City Inspector must be notified of all work occurring and be able to perform inspections on any construction or installation that occurs.
- Typically work times are Monday – Friday from 8:00 AM – 5:00 PM. No work earlier than 7:00 AM or later than 8:00 PM without City permission unless for emergency conditions.
- Work is not to occur on Sundays or legal holidays unless required for emergency situations.
- Work is not to occur on Saturdays unless requested by Contractor in writing at least 48-hours in advance and approved by the City Engineer.

8. Program Specifics

- Bidders must provide documentation as part of the bid packet submittal proving that they possess both an active license equal to or a higher class than a Water Operator D license and an active license equal to or a higher class than either a Wastewater D license or Class 1 Collections license, and the Contractor must maintain both of these active licenses for the entirety of the project. Bids without this proof of active licensure will be deemed non-responsive and will not be accepted.
- Comply with all OSHA and other applicable safety requirements and regulations at all times. The City reserves the right to require additional safety measures if it deems them necessary to ensure the safety of the work crews and/or public.
- Construction staking is solely the responsibility of the Contractor.
- Construction testing is solely the responsibility of the Contractor.
- Contractor is responsible for all Erosion Control for this program.
 - Contractor is required to place erosion control BMPs as needed and to regularly maintain any BMPs placed. Project site is to be kept reasonably clean, and any piles of spoils, backfill material, etc. are to include sand bag BMPs or similar temporary erosion protection emplacements at all times.
 - Contractor is required to remove all temporary BMPs placed at the end of each project. This is considered subsidiary to the overall program.
- Traffic Control – Traffic control for work performed in arterial streets under this program will be City of Midland's responsibility. Contractor is responsible for all other Traffic Control for this program. If at any time traffic control in arterial Right-of-Ways is to be handled by the Contractor rather than by the City, then Contractor is to adhere to all requirements outlined in Special Provisions, 7. Traffic Control of the program's bid packet.
 - Contractor is responsible for coordinating with the City on all projects, as well as with the City's barricade company on arterial roadway projects.
 - Contractor is responsible for coordinating with TxDOT if needed.
 - Contractor is responsible for maintaining access to all adjacent properties during this program.
 - ❖ Contractor is responsible for notifying affected property owners at least two (2) business days in advance of any planned access interruptions.
 - ❖ Contractor is directed to use steel plates or other means to enable access to adjacent properties when work is not actively occurring at an otherwise blocked point of access so long as this does not conflict with the approved traffic control plan.
 - Contractor is responsible for coordinating with City Transportation to have any traffic control signs removed or relocated as needed by the City.
- Contractor is responsible for maintaining service to adjacent lots during this program.
 - Contractor must notify affected properties at least two (2) business days prior to any planned service interruption.
- Material stored on the project site must be properly stored and protected from damage and weathering.
- Personnel
- Weekly Progress Meetings – Mandatory attendance.
- Program Duration & Renewals
- There is no warranty period on this program as all work is to be subject to City inspection prior to acceptance. All underground installations must be inspected by the City Inspectors before backfilling occurs.
- Example Projects & Work Orders

9. Additional Information, Clarifications, and Corrections

- If a potential bidder lacks the bonding authority to cover this entire program then they will not be allowed to make up the difference with other additional means. Any bidder for this

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program must have a performance bond that covers the full contract amount, and any bid submitted that fails to meet this requirement will be deemed a non-responsive bid and will not be accepted.

- Bidders are directed to bid the item quantities listed in the Bid Packet's Proposal.
- Contractor is reminded that this project is located in an urban environment. Structures, trees, and overhead lines are common, and contractor is to provide proper equipment to complete all work required for this project in an urban environment.
- The intent of this program is to focus specifically on improvements to the City's public water system. However, the City's public water infrastructure is an underground utility that crosses or runs alongside other public utilities like wastewater and storm drain. In the event that a water improvement project assigned under this program is close enough to existing public wastewater or storm drain infrastructure that improvements or alterations to those other systems is required, this program will follow one of two policies depending on the scale and scope of impact to the public wastewater or storm drain system.
 - Significant Impact – If accommodating a project assigned under this program would significantly impact an existing public wastewater or storm drain system and require the Contractor to perform work outside the intended scope of this program, then the original project under this program would be rescinded and, if possible, a new project will be assigned to the Contractor in its place. Where construction on the original project has already begun before this issue is discovered, the Contractor along with the City's Inspector and Engineer will determine an acceptable location and method of ending the work that falls within the scope of this program without compromising the City's public infrastructure.
 - Minor Impact – If accommodating a project assigned under this program would have only a minor impact to an existing public wastewater or storm drain system, then any work of this nature not covered under the typical bid items for this program will be paid for by utilizing the Miscellaneous Bid Items 13, 14, and 15 in the bid packet's Proposal section, which cover additional material, labor, and equipment rental not covered by other bid items listed in the Proposal for this program.
- Contractor is responsible for all material storage and protection, and any material delivered that becomes weathered or damaged prior to installation must be replaced with new material prior to installation at the Contractor's sole expense as per the Bid Packet's Special Provisions, 4. Payment.
- The projects assigned to the Water Rehab Program 01 are not chosen at random, but rather are a direct response to issues that the City needs to resolve in its utility systems and services. Issues of this type may include, but are not limited to, replacing old infrastructure that is past its life expectancy, replacing infrastructure that has a history of repeating failures or breaks, looping parts of the existing water system that previously ended in dead-ends to improve water pressure and circulation, small project improvements that lay the groundwork for larger follow-up projects, etc.
- If an emergency occurs that the City feels it needs help with, it will likely first request help from Contractors who are already under contract with the City as this is the easiest option for City Staff to justify. However, if the Contractor who is awarded this program cannot perform or is not willing to perform the emergency work requested by the City there is no obligation for them to do so, nor will this decision have any bearing on the operation or execution of this program. Emergency projects of this nature will not be paid from the Water Rehab Program 01 funds, so the original program funds will still be used only Water Rehab Program 01 projects regardless of whether or not the Contractor also chooses to assist with any emergency projects.

10. Any Additional Questions

Please direct all questions or comments following the Pre-Bid Meeting to Josh Ferguson with the City of Midland.

Engineering Services

Josh Ferguson

Phone: (432) 685-7290

Email: jferguson@midlandtexas.gov

Bobby Wojciechowski

Phone: (432) 685-7519

Email: bwojciechowski@midlandtexas.gov

U23-02

Water Rehab Program 01

Date: 06-26-2023 - 3:00 PM

[illegible]

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Be it known that

ADALBERTO CABALLERO

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

CLASS D WASTEWATER TREATMENT OPERATOR

License Number: **WW0066372**

Issue Date: **01/19/2021**

Expiration Date: **01/19/2024**



*Executive Director
Texas Commission on Environmental Quality*

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Be it known that

ADALBERTO CABALLERO

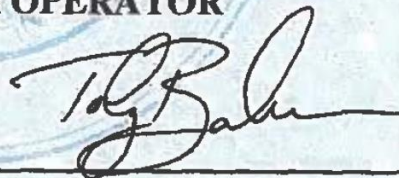
*has fulfilled the requirements in accordance with the
laws of the State of Texas for*

CLASS D WATER OPERATOR

License Number: WO0047069

Issue Date: 04/26/2021

Expiration Date: 04/26/2024



Executive Director

Texas Commission on Environmental Quality

WATER REHAB PROGRAM 01

Project Number: U23-02
City of Midland - Engineering Services
August 9, 2023

BID TAB					Boler Equipment Service, Inc.			Entrench, Inc.			TEC Excavation, Inc.		
Bid Item	Pay Note	Description	Quantity	Units	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total
1	M1	20" Steel Pipe Casing (1/4" Wall Thickness)	80	LF	\$220.00	\$17,600.00	\$ 17,600.00	\$265.00	\$21,200.00	\$ 21,200.00	\$225.00	\$18,000.00	\$ 18,000.00
2	M1	16" Steel Pipe Casing (1/4" Wall Thickness)	80	LF	\$190.00	\$15,200.00	\$ 15,200.00	\$195.00	\$15,600.00	\$ 15,600.00	\$160.00	\$12,800.00	\$ 12,800.00
3	M1	12" Steel Pipe Casing (1/4" Wall Thickness)	40	LF	\$135.00	\$5,400.00	\$ 5,400.00	\$145.00	\$5,800.00	\$ 5,800.00	\$130.00	\$5,200.00	\$ 5,200.00
4	M1	16" PVC Pipe Casing, SDR 26 ASTM D2241	40	LF	\$230.00	\$9,200.00	\$ 9,200.00	\$170.00	\$6,800.00	\$ 6,800.00	\$205.00	\$8,200.00	\$ 8,200.00
5	M1	12" PVC Pipe Casing, SDR 26 ASTM D2241	20	LF	\$160.00	\$3,200.00	\$ 3,200.00	\$95.00	\$1,900.00	\$ 1,900.00	\$120.00	\$2,400.00	\$ 2,400.00
6	M2	Cement Stabilizing Bedding (2.5-Sack)	20	LF	\$50.00	\$1,000.00	\$ 1,000.00	\$135.00	\$2,700.00	\$ 2,700.00	\$20.00	\$400.00	\$ 400.00
7	M3	Erosion/Sediment Control	40	EA	\$800.00	\$32,000.00	\$ 32,000.00	\$500.00	\$20,000.00	\$ 20,000.00	\$700.00	\$28,000.00	\$ 28,000.00
8	M4	Traffic Control for Collector/Local Road Conditions	15	EA	\$4,200.00	\$63,000.00	\$ 63,000.00	\$2,000.00	\$30,000.00	\$ 30,000.00	\$2,000.00	\$80,000.00	\$ 30,000.00
9	M5	Traffic Control for Alley/Easement Conditions	25	EA	\$500.00	\$12,500.00	\$ 12,500.00	\$1,000.00	\$25,000.00	\$ 25,000.00	\$1,000.00	\$25,000.00	\$ 25,000.00
10	M6	Job Site Safety	40	EA	\$800.00	\$32,000.00	\$ 32,000.00	\$750.00	\$30,000.00	\$ 30,000.00	\$500.00	\$20,000.00	\$ 20,000.00
11	M7	Additional Labor, Downtown Area, Water Improvements	300	LF	\$60.00	\$18,000.00	\$ 18,000.00	\$40.00	\$12,000.00	\$ 12,000.00	\$40.00	\$12,000.00	\$ 12,000.00
12	M8	Additional Labor, Downtown Area, Wastewater Improvements	300	LF	\$65.00	\$19,500.00	\$ 19,500.00	\$40.00	\$12,000.00	\$ 12,000.00	\$40.00	\$12,000.00	\$ 12,000.00
13	M9	Material Mark-up	N / A	%	20	N / A	N / A	15	N / A	N / A	15	N / A	N / A
14	M10	Labor Mark-up (Regular Work Hours)	N / A	%	20	N / A	N / A	15	N / A	N / A	15	N / A	N / A
15	M11	Equipment Rental Mark-up (Non-Standard Equipment Only)	N / A	%	20	N / A	N / A	15	N / A	N / A	15	N / A	N / A
1	D1	Removal & Disposal of Existing Utility Mains	1650	LF	\$25.00	\$41,250.00	\$ 41,250.00	\$15.00	\$24,750.00	\$ 24,750.00	\$15.00	\$24,750.00	\$ 24,750.00
2	D2	Flowable Fill for Existing Pipes Abandoned In Place	150	CY	\$110.00	\$16,500.00	\$ 16,500.00	\$130.00	\$19,500.00	\$ 19,500.00	\$170.00	\$25,500.00	\$ 25,500.00
1	W1	16" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$195.00	\$11,700.00	\$ 11,700.00	\$195.00	\$11,700.00	\$ 11,700.00	\$195.00	\$11,700.00	\$ 11,700.00
2	W1	12" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$158.00	\$9,480.00	\$ 9,480.00	\$145.00	\$8,700.00	\$ 8,700.00	\$150.00	\$9,000.00	\$ 9,000.00
3	W1	10" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$110.00	\$6,600.00	\$ 6,600.00	\$115.00	\$6,900.00	\$ 6,900.00	\$130.00	\$7,800.00	\$ 7,800.00
4	W1	8" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$120.00	\$7,200.00	\$ 7,200.00	\$95.00	\$5,700.00	\$ 5,700.00	\$120.00	\$7,200.00	\$ 7,200.00
5	W1	6" Ductilr Iron Pipe Pressure Class 150, Water Main	60	LF	\$105.00	\$6,300.00	\$ 6,300.00	\$75.00	\$4,500.00	\$ 4,500.00	\$105.00	\$6,300.00	\$ 6,300.00
6	W1	16" AWWA C-900 DR18, PVC, Water Main	200	LF	\$210.00	\$42,000.00	\$ 42,000.00	\$200.00	\$40,000.00	\$ 40,000.00	\$175.00	\$35,000.00	\$ 35,000.00
7	W1	12" AWWA C-900 DR18, PVC, Water Main	1500	LF	\$130.00	\$195,000.00	\$ 195,000.00	\$125.00	\$187,500.00	\$ 187,500.00	\$127.00	\$190,500.00	\$ 190,500.00
8	W1	10" AWWA C-900 DR18, PVC, Water Main	10	LF	\$105.00	\$1,050.00	\$ 1,050.00	\$95.00	\$950.00	\$ 950.00	\$130.00	\$1,300.00	\$ 1,300.00
9	W1	8" AWWA C-900 DR18, PVC, Water Main	1500	LF	\$95.00	\$142,500.00	\$ 142,500.00	\$70.00	\$105,000.00	\$ 105,000.00	\$99.00	\$148,500.00	\$ 148,500.00
10	W1	6" AWWA C-900 DR18, PVC, Water Main	3000	LF	\$85.00	\$255,000.00	\$ 255,000.00	\$60.00	\$180,000.00	\$ 180,000.00	\$85.00	\$255,000.00	\$ 255,000.00
11	W2	16" Tapping Sleeve	5	EA	\$7,490.00	\$37,450.00	\$ 37,450.00	\$7,100.00	\$35,500.00	\$ 35,500.00	\$7,200.00	\$36,000.00	\$ 36,000.00
12	W2	12" Tapping Sleeve	5	EA	\$6,275.00	\$31,375.00	\$ 31,375.00	\$5,500.00	\$27,500.00	\$ 27,500.00	\$5,800.00	\$29,000.00	\$ 29,000.00
13	W2	10" Tapping Sleeve	5	EA	\$4,338.00	\$21,690.00	\$ 21,690.00	\$4,800.00	\$24,000.00	\$ 24,000.00	\$4,900.00	\$24,500.00	\$ 24,500.00
14	W2	8" Tapping Sleeve	5	EA	\$3,435.00	\$17,175.00	\$ 17,175.00	\$3,500.00	\$17,500.00	\$ 17,500.00	\$3,500.00	\$17,500.00	\$ 17,500.00
15	W2	6" Tapping Sleeve	5	EA	\$3,010.00	\$15,050.00	\$ 15,050.00	\$2,700.00	\$13,500.00	\$ 13,500.00	\$3,200.00	\$16,000.00	\$ 16,000.00
16	W3	16" Gate Valve & Vault (MJxMJ/FL)	5	EA	\$29,800.00	\$149,000.00	\$ 149,000.00	\$32,500.00	\$162,500.00	\$ 162,500.00	\$28,000.00	\$140,000.00	\$ 140,000.00
17	W4	12" Gate Valve & Box (MJxMJ/FL)	10	EA	\$6,380.00	\$63,800.00	\$ 63,800.00	\$5,900.00	\$59,000.00	\$ 59,000.00	\$5,100.00	\$51,000.00	\$ 51,000.00
18	W4	10" Gate Valve & Box (MJxMJ/FL)	5	EA	\$4,345.00	\$21,725.00	\$ 21,725.00	\$4,800.00	\$24,000.00	\$ 24,000.00	\$4,100.00	\$20,500.00	\$ 20,500.00
19	W4	8" Gate Valve & Box (MJxMJ/FL)	20	EA	\$3,885.00	\$77,700.00	\$ 77,700.00	\$3,100.00	\$62,000.00	\$ 62,000.00	\$2,700.00	\$54,000.00	\$ 54,000.00
20	W4	6" Gate Valve & Box (MJxMJ/FL)	30	EA	\$3,105.00	\$93,150.00	\$ 93,150.00	\$2,100.00	\$63,000.00	\$ 63,000.00	\$2,000.00	\$60,000.00	\$ 60,000.00
21	W5	Air Relief Valve & Vault (Water Main)	5	EA	\$24,800.00	\$124,000.00	\$ 124,000.00	\$18,900.00	\$94,500.00	\$ 94,500.00	\$22,200.00	\$111,000.00	\$ 111,000.00
22	W6	Fire Hydrant Assembly (< 5' Water Main Bury Depth)	20	EA	\$6,315.00	\$126,300.00	\$ 126,300.00	\$5,200.00	\$104,000.00	\$ 104,000.00	\$5,500.00	\$110,000.00	\$ 110,000.00
23	W7	Fire Hydrant Riser (> 5' Water Main Bury Depth)	40	VF	\$1,385.00	\$55,400.00	\$ 55,400.00	\$950.00	\$38,000.00	\$ 38,000.00	\$825.00	\$33,000.00	\$ 33,000.00
24	W8	Ductil Iron Fittings	4600	LBS	\$10.00	\$46,000.00	\$ 46,000.00	\$9.00	\$41,400.00	\$ 41,400.00	\$11.00	\$50,600.00	\$ 50,600.00
25	W9	Dresser Coupling	5	EA	\$1,825.00	\$9,125.00	\$ 9,125.00	\$1,500.00	\$7,500.00	\$ 7,500.00	\$1,800.00	\$9,000.00	\$ 9,000.00
26	W10	16" Tapping Saddle (2" or 1")	10	EA	\$1,900.00	\$19,000.00	\$ 19,000.00	\$1,500.00	\$15,000.00	\$ 15,000.00	\$730.00	\$7,300.00	\$ 7,300.00
27	W10	12" Tapping Saddle (2" or 1")	20	EA	\$1,725.00	\$34,500.00	\$ 34,500.00	\$975.00	\$19,500.00	\$ 19,500.00	\$670.00	\$13,400.00	\$ 13,400.00
28	W10	10" Tapping Saddle (2" or 1")	10	EA	\$1,205.00	\$12,050.00	\$ 12,050.00	\$800.00	\$8,000.00	\$ 8,000.00	\$650.00	\$6,500.00	\$ 6,500.00
29	W10	8" Tapping Saddle (2" or 1")	40	EA	\$1,170.00	\$46,800.00	\$ 46,800.00	\$575.00	\$23,000.00	\$ 23,000.00	\$610.00	\$24,400.00	\$ 24,400.00
30	W10	6" Tapping Saddle (2" or 1")	130	EA	\$1,150.00	\$149,500.00	\$ 149,500.00	\$490.00	\$63,700.00	\$ 63,700.00	\$590.00	\$76,700.00	\$ 76,700.00
31	W11	2" Water Service Connection, Long (> 20')	10	EA	\$3,500.00	\$35,000.00	\$ 35,000.00	\$2,100.00	\$21,000.00	\$ 21,000.00	\$2,700.00	\$27,000.00	\$ 27,000.00
32	W11	2" Water Service Connection, Short (< 20')	20	EA	\$3,500.00	\$70,000.00	\$ 70,000.00	\$1,550.00	\$31,000.00	\$ 31,000.00	\$2,500.00	\$50,000.00	\$ 50,000.00
33	W11	1" Water Service Connection, Long (> 20')	50	EA	\$2,500.00	\$125,000.00	\$ 125,000.00	\$1,300.00	\$65,000.00	\$ 65,000.00	\$1,500.00	\$75,000.00	\$ 75,000.00
34	W11	1" Water Service Connection, Short (< 20')	130	EA	\$2,500.00	\$325,000.00	\$ 325,000.00	\$1,050.00	\$136,500.00	\$ 136,500.00	\$1,500.00	\$195,000.00	\$ 195,000.00
35	W12	Flushing Station Installation, Long (> 20')	4	EA	\$12,440.00	\$49,760.00	\$ 49,760.00	\$4,500.00	\$18,000.00	\$ 18,000.00	\$11,700.00	\$46,800.00	\$ 46,800.00
36	W12	Flushing Station Installation, Short (< 20')	4	EA	\$12,440.00	\$49,760.00	\$ 49,760.00	\$3,200.00	\$12,800.00	\$ 12,800.00	\$11,400.00	\$45,600.00	\$ 45,600.00
37	W13	Sample Point Installation, Long (> 20')	4	EA	\$4,200.00	\$16,800.00	\$ 16,800.00	\$2,800.00	\$11,200.00	\$ 11,200.00	\$3,200.00	\$12,800.00	\$ 12,800.00

PACKET

7.331

August 8, 2023

BID TAB					Boler Equipment Service, Inc.			Entrench, Inc.			TEC Excavation, Inc.		
Bid Item	Pay Note	Description	Quantity	Units	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total	Unit Price	Bid Total	Actual Bid Total
38	W13	Sampling Station Installation, Short (≤ 20')	4	EA	\$4,200.00	\$16,800.00	\$ 16,800.00	\$2,000.00	\$8,000.00	\$ 8,000.00	\$3,100.00	\$12,400.00	\$ 12,400.00
39	W14	Water Meter Installation (New Service Lateral)	210	EA	\$700.00	\$147,000.00	\$ 147,000.00	\$550.00	\$115,500.00	\$ 115,500.00	\$460.00	\$96,600.00	\$ 96,600.00
40	W15	Water Meter & Meter Box installation (Existing Service Lateral)	5	EA	\$2,000.00	\$10,000.00	\$ 10,000.00	\$750.00	\$3,750.00	\$ 3,750.00	\$630.00	\$3,150.00	\$ 3,150.00
41	W16	Replace Water Meter In Existing Vault	5	EA	\$2,000.00	\$10,000.00	\$ 10,000.00	\$1,000.00	\$5,000.00	\$ 5,000.00	\$1,000.00	\$5,000.00	\$ 5,000.00
42	W17	Stand-Alone Gate Valve & Vault Replacement / Installation A	5	EA	\$34,900.00	\$174,500.00	\$ 174,500.00	\$39,000.00	\$195,000.00	\$ 195,000.00	\$28,000.00	\$140,000.00	\$ 140,000.00
43	W18	Stand-Alone Gate Valve & Box Replacement / Installation Ad	5	EA	\$10,000.00	\$50,000.00	\$ 50,000.00	\$7,500.00	\$37,500.00	\$ 37,500.00	\$8,200.00	\$41,000.00	\$ 41,000.00
44	W19	Stand-Alone Water Service Connection Add-On	5	EA	\$7,150.00	\$35,750.00	\$ 35,750.00	\$4,200.00	\$21,000.00	\$ 21,000.00	\$5,200.00	\$26,000.00	\$ 26,000.00
45	W20	Open Trenching of Waters Main (0' - 5' Deep)	6000	LF	\$20.00	\$120,000.00	\$ 120,000.00	\$20.00	\$120,000.00	\$ 120,000.00	\$10.00	\$60,000.00	\$ 60,000.00
46	W20	Open Trenching of Waters Main (5' - 8' Deep)	330	LF	\$25.00	\$8,250.00	\$ 8,250.00	\$30.00	\$9,900.00	\$ 9,900.00	\$15.00	\$4,950.00	\$ 4,950.00
47	W20	Open Trenching of Waters Main (8' - 10' Deep)	130	LF	\$30.00	\$3,900.00	\$ 3,900.00	\$40.00	\$5,200.00	\$ 5,200.00	\$21.00	\$2,730.00	\$ 2,730.00
48	W20	Open Trenching of Waters Main (10' - 12' Deep)	130	LF	\$35.00	\$4,550.00	\$ 4,550.00	\$50.00	\$6,500.00	\$ 6,500.00	\$25.00	\$3,250.00	\$ 3,250.00
1	P1	6" Concrete Pavement Repair	100	SY	\$165.00	\$16,500.00	\$ 16,500.00	\$95.00	\$9,500.00	\$ 9,500.00	\$135.00	\$13,500.00	\$ 13,500.00
2	P2	4" Concrete Pavement Repair	100	SY	\$165.00	\$16,500.00	\$ 16,500.00	\$80.00	\$8,000.00	\$ 8,000.00	\$110.00	\$11,000.00	\$ 11,000.00
3	P3	2" Asphalt Pavement Repair	750	SY	\$60.00	\$45,000.00	\$ 45,000.00	\$49.00	\$36,750.00	\$ 36,750.00	\$65.00	\$48,750.00	\$ 48,750.00
4	P4	6" Base Rock Pavement Repair	2100	SY	\$20.00	\$42,000.00	\$ 42,000.00	\$21.00	\$44,100.00	\$ 44,100.00	\$20.00	\$42,000.00	\$ 42,000.00
5	P5	20" Flowable Fill - 2-Sack Backfill	850	SY	\$150.00	\$127,500.00	\$ 127,500.00	\$130.00	\$110,500.00	\$ 110,500.00	\$103.00	\$87,550.00	\$ 87,550.00
					Base Bid Total =	\$3,613,540.00	\$ 3,613,540.00	Base Bid Total =	\$2,713,000.00	\$ 2,713,000.00	Base Bid Total =	\$2,887,030.00	\$ 2,837,030.00
						\$	-		\$0.00				(\$50,000.00)

PACKET

7.332

August 8, 2023



City Council Meeting

Item Number: 8
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION RATIFYING AND APPROVING THE PAYMENT FOR EMERGENCY PUMP AND MOTOR REPAIRS AT THE T-BAR WELL FIELD BY ADVANCED WATER WELL TECHNOLOGIES, LLC, FOR A TOTAL COST OF \$139,915.00 (DISTRICT: NONE) (GENERAL SERVICES)

Purpose:

Resolution approving an emergency purchase and authorizing payment for emergency pump and motor replacement for pump number two (2) at the Midland T-Bar Well field with Advanced Water Well Technologies, LLC for a total cost of \$139,915.00.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds are available in the FY23 Water & Sewer Fund Operating Budget.

Discussion:

Advanced Water Well Technologies, LLC was called to inspect pump number two (2) at the Midland T-Bar Well field. After dismantling the pump and motor for inspection, it was determined that the pump and motor need to be replaced. Due to iron eating constituents in the water, the pump and motor will be replaced with a stainless steel pump and a stainless steel motor and the casing with a new product called borderline. Immediate replacement of the pump and motor is recommended on an emergency basis pursuant to Texas Local Government Code 252, Section 252.022.(2) General Exemptions, "A procurement necessary to preserve or protect the public health or safety of the municipality's residents". Please see the attached memo from Carl Craig, Utilities Director, for additional information.

Therefore, please consider a resolution approving an emergency purchase and authorizing payment for the emergency pump and motor replacement for pump number two (2) at the Midland T-Bar Well field with Advanced Water Well Technologies, LLC of Odessa, Texas for a total cost of \$139,915.00.

Jina Gang

City Manager's Office



INTEROFFICE MEMORANDUM

TO: Erika Munoz, Purchasing Manager

FROM: Carl Craig, PE, Utilities Director

SUBJECT: Consider a resolution to approve the emergency replacement of Tbar pump and motor number 2 to be performed by Advanced Water Well Technologies.

DATE: August 8, 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 approve the emergency replacement of Tbar motor and pump 2. The repair cost is \$139,915.

RESOLUTION NO. _____

**RESOLUTION RATIFYING AND APPROVING THE
PAYMENT FOR EMERGENCY PUMP AND MOTOR
REPAIRS AT THE T-BAR WELL FIELD BY ADVANCED
WATER WELL TECHNOLOGIES, LLC, FOR A TOTAL
COST OF \$139,915.00**

WHEREAS, there were several failures in the existing pumps and motors at the T-Bar Well Field; and

WHEREAS, Advanced Water Well Technologies, LLC, was an emergency utility contractor called on to repair the pumps and motors; and

WHEREAS, Advance Water Well Technologies, LLC, agreed to provide the emergency services for a total cost of \$139,915.00 as shown on the quote attached hereto as Exhibit “A” and incorporated herein for all purposes; and

WHEREAS, the City Council finds and determines that said unforeseen failures of said pumps and motors 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 Advanced Water Well Services, LLC, for a total cost of \$139,915.00;

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

SECTION ONE. That the payment for emergency services by Advanced Water Well Technologies, LLC, at a total cost of \$139,915.00, is hereby ratified and approved.

SECTION TWO. That funding shall be available in the FY23 Water & Sewer Fund Operating Budget.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Advanced Well Technologies, LLC, an amount not to exceed \$139,915.00 from available funds upon proper receipt of 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:

Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Carl Craig, Utilities Director

APPROVED ONLY AS TO FORM:

John Ohnemiller City Attorney



14394 E INTERSTATE HWY 10
CONVERSE, TX 78109
OFFICE: (830) 865-2362

QUOTATION

PROJECT NAME / NUMBER: **BAR PUMP # 2 PUMP AND MOTOR REPAIRS**
QUOTATION NUMBER: **20230712-DA1**
DATE: **7/12/23**
CUSTOMER P.O. NUMBER: _____
CUSTOMER NAME: _____
ADDRESS (LINE 1): _____
ADDRESS (LINE 2): _____
PHONE NUMBER: _____
EMAIL ADDRESS: _____

PRIMARY SCOPE OF WORK:		SALES REP: Chris Richey		
No.	DESCRIPTION	Unit	Price	Line Total
1	HP:-900; FRAME:501ZVP; R.P.M.:1800/1780; ENCL.:DP; VOLTS:-4160; MFGR:U.S.; S/N:T1220120899-0001R0002; HZ:-60; TYPE:RV1E14; S.F:-1.15; AMPS:-109; PHASE:3; CONN. BOX:FULL; EYE BOLT:YES; COUPLING:YES; PULLEY:NO; BRGS.:6219IC3/7230BCBQ2ROTOR MEG TEST AS RECEIVED DISMANTLE/INSPECT&TEST BAKER TEST WINDINGS REMOVE BEARINGS INSPECT ALL BEARING/MACHINE FITS WASH, BLAST, CLEAN & PRIME PARTS WASH, BAKE & VARNISH WINDINGS RECORD NUMBER OF STATOR SLOTS:(TEST WINDING RTD'S TEST HEATERS BAKER TEST WINDINGS RESISTANCE TEST MEG TEST D.C. HI-POT TEST SURGE TEST WASH, BAKE & SEAL ROTOR CHECK SHAFT FOR STRAIGHT CORE TEST ROTOR RECORD NUMBER OF ROTOR BARS: (49) DYNAMIC BALANCE ROTOR ASSEMBLY INSTALL NEW BALL BEARING (1) INSTALL NEW THRUST BEARINGS (2) ASSEMBLE TEST RUN @ RATED VOLTAGE MEASURE & RECORD VIBRATION LEVELS TRIM BALANCE AFTER ASSEMBLY PAINT EQUIPMENT RECONDITION & BEARINGS	1	\$ 29,862.00	\$ 28,962.00
2	REPLACEMENT PARTS FOR MODEL 18MK4/N5 STAGE TO INCLUDE QTY 1 TOP BOWL STAGE EXTERIOR TO BE COATED WHITE/BOWL INTERIOR WILL BE COATED WITH SCOTCH COAT, QTY 1: INTERMEDIATE BOWL W/WEAR RING EXTERIOR COATED WHITE, BOWL INTERIOR WILL BE COATED WITH SCOTCH COAT, QTY 5: BOWL BEARINGS, QTY 5: STAINLESS STEEL COLLETS, QTY 1 NEW BOWL SHAFT, QTY 1 - SAND COLLAR AND SET SCREWS, NEW BOWL O-RINGS, QTY 1 - DISCHARGE HEAD O-RING, QTY 1 - STUFFING BOX BUSHING AND PACKING AND MISC BOLTING	1	\$ 59,978.00	\$ 59,978.00
3	REDUCING COLUMN PIPE FLANGED X FLANGE 10" X 16"	1	\$ 15,950.00	\$ 15,950.00
4	SAND BLAST AND COAT INTERIOR AND EXTERIOR SURFACES OF DISCHARGE HEAD AND COLUMN PIPE,	1	\$ 6,950.00	\$ 6,950.00
5	TRUCKING FROM ALL LOCAL AND NON LOCAL SUPPLIERS REQUIRED ON ITEMS TO BE BLASTED AND COATED, PICK UP AND HAUL MOTOR TO OUR FACILITY ONCE COMPLETE, TRUCKING OF FLANGED COLUMN PIPE AND PUMP PARTS	1	\$ 5,400.00	\$ 5,400.00
6	CREW LABOR FOR FIED SERVICE REQUIRED TO MOBILIZE PERSONNEL TO SITE, INSTALL PUMP, SET MOTOR, WAIT ON ELECTRICIAN TO MAKE ELECTRICAL CONNECTIONS AT MOTOR, CHECK ROTATION, ADVANCED WATER WELL TECHNOLOGIES TO THEN ADJUST PUMP AND SET LATERAL IN BOWLS, DEMOBILIZE	29	\$ 300.00	\$ 8,700.00
7	SHOP LABOR TO REMOVE STUFFING BOX BUSHING, CLEAN AND POLISH STUFFING BOX BORE, INSTALLATION OF NEW STUFFING BOX BUSHING AND PACKING	3	\$ 225.00	\$ 675.00
8	SHOP LABOR TO ASSEMBLE EXISTING COLUMN PIPE TO REPLACEMENT PUMP BOWL ASSEMBLE DISCHARGE HEAD AND STUFFING BOX COMPLETE, APPLY TOUCH UP COATINGS TO EXTERIOR SURFACES OF PUMP, LOAD OUT AND STRAP DOWN FOR TRANSPORT	15	\$ 225.00	\$ 3,375.00
9	MOBILIZATION AND DEMOBILIZATION OF CRANE AND CRANE SERVICE ONSITE TO REMOVE PUMP AND MOTOR, SET ON TRAILER, RIG DOWN AND DEMOBILIZATION OF CRANE	19	\$ 300.00	\$ 5,700.00
10	PERDIEM FOR CREW	3	\$ 550.00	\$ 1,650.00
11	PERDIEM FOR SUPERVISOR	3	\$ 185.00	\$ 555.00
12	PROJECT SUPERVISOR DAY RATE	2	\$ 650.00	\$ 1,300.00
13	FUEL SURCHARGE TO COMPLETE	1	\$ 720.00	\$ 720.00
14	PLEASE NOTE: DUE TO THE EXISTING WINDINGS (PASS) TESTING, THIS REPAIR OFFERED DOES NOT INCLUDE NEW MOTOR WINDINGS. IN THE EVENT EXISTING MOTOR WINDING FAILURE OCCURS DURING ANY AND ALL ASSOCIATED WARRANTY PERIODS OR TERMS INCLUDED, NO WARRANTY OR COVERAGE OF ANY KIND IS INCLUDE IN THIS PROPOSAL FOR MOTOR WINDING REPAIR AND WILL NOT COVER ANY ASSOCIATED MOTOR REPAIRS REQUIRED IF WINDING FAILURE HAPPENS TO OCCUR DURING ANY SUCH WARRANTY PERIOD. ALL ASSOCIATED WARRANTY ONLY PROVIDES COVERAGE AGAINST MANUFACTURE DEFECT OF MATERIALS REPLACED IN THIS REPAIR, AND DOES NOT PROVIDE ANY WARRANTY COVERAGE FOR MATERIALS REPLACED IF ANY SUCH FAILURES ARE CAUSED BY NORMAL WEAR AND TEAR, SYSTEM CONDITIONS OF ANY KIND, ELECTRICAL POWER SURGES, ELECTRICAL CONTROL ISSUES, ELECTRICAL WIRING FAILURE, FAULTY INCOMING ELECTRICAL POWER SUPPLY OF ANY KIND, OR ANY OTHER CONDITIONS OUTSIDE CONTRACTOR CONTROL, NO WARRANTY COVERAGE WILL BE PROVIDED FOR ANY ASSOCIATED CLAIMS THERE OF.	1	\$	-
15	PLEASE NOTE : ALL ASSOCIATED WARRANTY PROVIDED FOR PUMP REPAIR INCLUDE COVERAGE FOR MANUFACTURE DEFECT OF MATERIALS BEING REPLACED IN THIS REPAIR, AND DOES NOT INCLUDE ANY WARRANTY COVERAGE FOR ALL EXISTING COMPONENTS THAT ARE NOT BEING REPLACED. IF ANY SUCH FAILURES OCCUR TO ANY OF THE MATERIALS REPLACED IN THIS REPAIR AND IT IS DETERMINED BY ADVANCED WATER WELL TECHNOLOGIES THAT FAILURE DID NOT OCCUR DUE TO A MANUFACTURE DEFECT OF MATERIALS PROVIDED AND REPLACED, BUT WAS CAUSED BY SYSTEM CONDITIONS OF ANY KIND, WATER QUALITY, CORROSION, WATER HAMMER, CAVITATION OR ANY OTHER CONDITIONS THAT OCCUR OUTSIDE CONTRACTOR CONTROL, NO WARRANTY WILL BE PROVIDED FOR ANY ASSOCIATED CLAIMS THERE OF.	1	\$	-
16	ALL LABOR, CRANE SERVICE AN PERDIEM IS ESTIMATED, FINAL INVOICE WILL INCLUDE ALL NECESSARY LABOR AND CRANE SERVICE REQUIRED TO COMPLETE			

Taxable (Yes/No): **TBD** Tax Rate: **TBD** % *Applicable sales tax will be charged when invoiced.*

Subtotal: **\$ 139,915.00**
Sales Tax: **\$ -**
Total: **\$ 139,915.00**

ALTERNATES:

Alt. 1	\$ -	\$ -
Alt. 2	\$ -	\$ -
		Subtotal with Alternate: \$ 139,915.00
		Sales Tax with Alternate: \$ -
		Total with Alternate: \$ 139,915.00

Regulated by:

Texas Department of Licensing and Regulation

PO Box 12157 Austin, TX 78157 1-800-803-9202

SHIPMENT:

SHIPPING DETAILS:

Proposed Start Date:

All prices above are subject to Federal, State and Local Sales Taxes.

This quotation will automatically expire if Purchaser does not deliver

a written acceptance to this contract by: **30 DAYS**

Advanced Water Well Technologies
14394 E INTERSTATE HIGHWAY 10
CONVERSE, TX 78109
(Contractor)

ACCEPTANCE OF THIS CONTRACT: The above prices, specifications, and conditions are satisfactory to the purchaser and are hereby accepted with signature below, Fax, Email, or verbal confirmation. Purchaser authorizes Advanced Water Well Technologies ("AWWT") and its subcontractors to do the work as specified. All work is to be completed as specified and according to standard industry practices. Any additional work or materials required due to unknown well conditions will result in an extra charge over and above the estimate. Our workers are fully covered by Workman's Compensation Insurance. We warrant our craftsmanship against craftsmanship defects for one year, defects to be determined on a case by case basis by AWWT. There is a manufacturers warranty on equipment for one year. The manufacturer determines if the equipment will be warranted or not on a case by case basis. Payment is due upon receipt of invoice and balances past due after 30 days are subject to 15% interest per annum.

PURCHASER: _____

ADDRESS (LINE 1): _____

PACKET

SIGNATURE: _____

8.6

ADDRESS (LINE 2): _____

August 8, 2023

DATE: _____

PHONE NUMBER: _____



City Council Meeting

Item Number: 9
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Erika Martinez, Manager, Purchasing
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH LEVEL 5 ARCHITECTURE, PLLC, FOR ARCHITECTURAL, DESIGN AND ENGINEERING SERVICES RELATED TO THE DOUG RUSSELL BATH HOUSE PROJECT FOR A TOTAL COST OF \$175,000.00; AND TRANSFERRING AND APPROPRIATING FUNDS FOR SAID PROJECT (DISTRICT 3) (GENERAL SERVICES)

Purpose:

Resolution awarding a professional services agreement for the Doug Russell Bath House Project to Level 5 Architecture, PLLC of Mansfield, Texas for a cost of \$175,000.00; and authorizing payment.

Recommended City Council Action:

Approve

Fiscal Impact:

\$3,125,000.00 will be transferred from the Parks Donation and Special Purpose fund and will be appropriated to a project for said purpose. Upon transfer, \$200,000 will be available for said purchase.

Discussion:

Motion 046-2023 approved the specifications and authorized advertisement for requests for qualifications for the Doug Russell Bath House Project. The qualifications were sent to two hundred forty-three (243) vendors. We received two (2) statements of qualifications. Staff recommends awarding a professional service agreement to Level 5 Architecture, PLLC. The project timeline is projected at 90-105 calendar days. Please see the attached memo from Cristina Burns, Community Services Director, for additional information.

Therefore, please consider a resolution awarding a professional services agreement for the Doug Russell Bath House Project to Level 5 Architecture, PLLC of Mansfield, Texas for a cost of \$175,000.00; and authorizing payment.

Jina Gang

City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
LEVEL 5 ARCHITECTURE, PLLC, FOR
ARCHITECTURAL, DESIGN AND ENGINEERING
SERVICES RELATED TO THE DOUG RUSSELL BATH
HOUSE PROJECT FOR A TOTAL COST OF \$175,000.00;
AND TRANSFERRING AND APPROPRIATING FUNDS
FOR SAID PROJECT**

WHEREAS, Motion 046-2023 approved the issuance of a request for qualifications for architectural, design, and engineering services related to the Doug Russell Bath House Project; and

WHEREAS, two (2) statements of qualifications were received, with the most qualified submittal belonging to Level 5 Architecture, PLLC, for a total cost of \$175,000.00; and

WHEREAS, the City Council finds that Level 5 Architecture, PLLC, is qualified to perform said professional services; and

WHEREAS, the City Council finds that the professional fees proposed by Level 5 Architecture, PLLC are consistent with and not higher than the recommended practices and fees published by the applicable professional associations and do not exceed any maximum provided by law; and

WHEREAS, the City Council finds that Level 5 Architecture, PLLC, provides professional services for a fair and reasonable price; and

WHEREAS, the City Council finds it to be in the public interest to execute a professional services agreement for architectural, design, and engineering services related to the Doug Russell Bath House Project with Level 5 Architecture, PLLC, as the most highly qualified provider of said professional services based on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized
PACKET 9.3 August 8, 2023

and directed to execute and attest, respectively, on behalf of the City of Midland, a professional services agreement with Level 5 Architecture, PLLC, for architectural, design, and engineering services related to the Doug Russell Bath House Project. A copy of said agreement is attached hereto as Exhibit A and incorporated herein for all purposes.

SECTION TWO. That funds in the amount of \$3,125,000.00 will be transferred from the Parks Donation and Special Purpose Fund and appropriated to a project established by the City of Midland Finance Department.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Level 5 Architecture, PLLC, in accordance with the terms and conditions of the professional services agreement, from funds available in the project established by the City of Midland Finance Department upon receipt of proper invoices or statements approved by the City Manager.

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:

Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Regina Stephenson, General Services Director

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney



**Parks and Recreation Divisions
Interoffice Memorandum**

Date: July 28, 2023
To: Morris Williams, Deputy City Manager
From: Cristina Burns, Community Services Director
Subject: Professional Services Agreement – Doug Russell Pool Bath House Project and Appropriate Funds

The City of Midland closed a Request for Qualifications for Professional Design Services for the Doug Russell Pool Bath House Renovation project on July 12, 2023. A committee reviewed the RFQ submittals and Level 5 Architecture, PLLC was selected as the consultant to provide professional design services for the project.

Level 5 Architecture will address the following tasks in the scope of their work:

- 1) Analyze the existing Bath House Conceptual Plan
- 2) Prepare design plans and associated costs
 - a. Present options for renovations
 - b. Recommend priorities with budget
- 3) Prepare construction documents
- 4) Work with City to prepare bid documents
- 5) Provide construction oversight

Level 5 will provide all basic architectural and engineering services necessary for a full set of plans for the proposed facility as well as construction administration during the construction of the facility. Site work shall be limited to the area of the new pool house only as well as use of existing site utilities for the new facility. All landscaping and civil engineering design shall be limited to area of site work. Level 5 will provide a topographic survey for the limits of the scope of work. Costs for the Basic Services is \$96,750.00

Additional services that will be provided by Level 5 include the site survey, Civil Engineering, estimating services, permitting services to include ADA, and construction administration. The total for the additional services is \$78,250.00.

Total funding for the Professional Services Agreement with Level 5 Architecture, PLLC is \$175,000. An additional contingency in the amount of \$25,000 is requested for work that may arise. Staff recommends entering into a Professional Services Agreement with Level 5 Architects, LLC in the amount of \$175,000 with a \$25,000 contingency.

The sum of \$3,125,000 for the Doug Russell Bath House Project was allocated in the FY 2023 Budget, in the Parks Donation and Special Purpose account 077094 57002 Capital Improvements. Staff requests that those funds be moved into a project for this work.

\$3,125,000 will be transferred and appropriated to a project for said purpose. Upon transfer, \$200,000 will be available for said purchase.

PROFESSIONAL SERVICES AGREEMENT
23003692R
Doug Russell Pool Bath House Project

THIS AGREEMENT is made and effective the 9th day of August 2023, by and between the CITY OF MIDLAND, TEXAS (“*CITY*”), a home-rule municipal corporation, and Level 5 Architecture, PLLC (“*COMPANY*”). CITY and COMPANY are at times individually referred to as a “*Party*” and collectively referred to as the “*Parties*.”

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which COMPANY shall design, develop, and manage the Doug Russell Pool Bath House Project (the “*Services*”) for CITY. The Services are more specifically set forth in **Exhibit A**, which is attached hereto and incorporated herein for all purposes.

ARTICLE II. SERVICES TO BE PERFORMED

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

ARTICLE III. FINANCIAL CONSIDERATIONS

CITY agrees to pay COMPANY an amount not to exceed \$175,000.00 for the performance of the Services. CITY agrees to pay COMPANY according to the schedule set forth in **Exhibit A** upon presentation of a monthly invoice. The monthly invoice shall set forth all service fees for the month and those expenses described in **Exhibit A** that COMPANY incurs during the previous month for which COMPANY receives advanced written approval from the City Manager. All additional and/or reimbursable expenses must be approved by the City Manager prior to incurring such expenses.

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

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

ARTICLE IV. TERM

The term of this Agreement shall be from August 9, 2023 until May 1, 2024, unless the Services are completed sooner or the Agreement is terminated as provided below.

ARTICLE V. TERMINATION AT WILL

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

ARTICLE VI. ASSIGNMENT

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

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

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

ARTICLE VIII. INDEPENDENT CONTRACTOR

COMPANY shall perform the Services as an independent contractor and not as an officer, agent, servant or employee of CITY. COMPANY shall have exclusive control of and the exclusive

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

ARTICLE IX. INSURANCE

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

Commercial General Liability (including Contractual liability):

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

-Property Damage: \$500,000.00 per occurrence

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

Workers’ Compensation: Statutory limits

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

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

The Business Automobile Liability policy shall cover any vehicle for bodily injury and

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

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

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

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

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

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

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

ARTICLE X. ATTORNEY FEES

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

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

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

ARTICLE XI. GOVERNMENTAL IMMUNITY

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

ARTICLE XII. NO THIRD-PARTY BENEFICIARY

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

ARTICLE XIII. RELEASE

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

ARTICLE XIV. GENERAL PROVISIONS

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

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

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

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

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

If to COMPANY: Level 5 Architecture, PLLC
 104 S Main St
 Mansfield, Texas 76063

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

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

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

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

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

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

I. Notice of Alleged Breach; Statutory Prerequisites. As a condition precedent to filing suit

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

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

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

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

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

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

this Agreement;

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

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

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

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

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

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

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

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

[Signature Page(s) Follows]

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

Tommy Gonzalez, City Manager

ATTEST:

Marcia Bentley-German, City Governance Officer/City Secretary

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney

COMPANY:

By: _____

Name: _____

Title: _____

STATE OF _____ §

§

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2023 personally appeared, _____, an officer of Level 5 Architecture, PLLC, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

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

Notary Public, State of Texas



LEVEL 5 ARCHITECTURE, PLLC
PROPOSAL FOR DESIGN SERVICES

RFQ 23003692 - DOUG RUSSELL BATH HOUSE

EXHIBIT A

AGREEMENT made as of the Monday, July 24, 2023
(In words, indicate day, month, and year.)

BETWEEN the Architect's client identified as the Owner:

City of Midland, TX
P.O. BOX 1152
Midland, TX 79702

and the Architect:

Level 5 Architecture, PLLC
104 S. Main Street
Mansfield, Texas 76063

for the following Project:
(Name, location, and detailed description)

A New Bathhouse building for the Doug Russell Pool at Alamo Park in Midland, TX located at 900 Midland Dr., Midland, Texas 79703. The new bathhouse shall be approximately 5,000 s.f. and shall replace the existing bathhouse currently located on site. The new facility shall include the following spaces in the program for design:

- Men's Locker Rooms
- Women's Locker Room
- Family Bathroom
- Concession Stand
- Management Offices
- Employee Break Area
- Ticket Booth

The City of Midland has provided a conceptual plan for the proposed facility and Level 5 shall evaluate the conceptual design for operational metrics and optional growth areas. The concept plans allow for an optional party room which would not be included in the proposed scope of work at this time. The scope and program shall include ancillary spaces for the proper function of the proposed facility.

Under this agreement, Level 5 will provide all basic architectural and engineering services necessary for a full permitting set of plans for the proposed facility as well as construction administration during the construction of the facility. Site work shall be limited to area of the new pool house only as well as use of existing site utilities for the new facility. All landscaping and civil engineering design shall be limited to area of site work. Level 5 will provide a topographic survey for the limits of the scope of work.

Basic Services Included in Proposal – See Exhibit B for a detailed description

Basic Service	Provided by	Estimated Time for Completion
Planning and Analysis	Architect	2 Weeks
Schematic Design	Architect	3 Weeks
Design Development	Architect	3 Weeks
Permitting Documents	Architect	6 Weeks
Structural Engineering Services	Architect	Included in Permitting Documents
Mechanical Engineering	Architect	Included in Permitting Documents
Electrical Engineering	Architect	Included in Permitting Documents
Final Construction Observation and Punch List	Architect	At the completion of Construction

Total Cost for Basic Services \$96,750.00

PACKET

104 S. Main Street | PO Box 1012 | Mansfield, TX 76063 | 817.842.0212 office

9.18

August 8, 2023



LEVEL 5 ARCHITECTURE, PLLC
PROPOSAL FOR DESIGN SERVICES

RFQ 23003692 - DOUG RUSSELL BATH HOUSE

EXHIBIT A

Additional Services- See Exhibit B for a detailed description

Additional Service	Provided By	Proposed Fee	Additional Notes
Existing Site Surveying	Architect	\$6,200.00	Minimal topo for work limits
Geotechnical Engineering	Owner		Previous Construction Report
Facility needs Analysis	Not Provided		
Civil Engineering	Architect	\$31,000.00	Includes Landscape Architect
Interior Design Services	Not Provided		
Fire Protection Engineering	Not Provided		
Construction Estimating Services	Architect	\$1,250.00	2 Preliminary Cost Estimates
Permitting Services	Architect	\$3,500	Not including permitting fees
Bidding and Negotiation Services	Owner		
Handicapped Accessibility Permitting	Architect	\$1,300.00	
Construction Administration	Architect	\$35,000.00	Includes Up to 12 site visits
As Built Documentation	Architect	\$0.00	Included in Final Observation

§ When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

Employee or Category	Rate
Principal	\$275.00 per hour
Director	\$185.00 per hour
Project Manager	\$155.00 per hour
Project Architect	\$135.00 per hour
Technical Support and Drafting	\$125.00 per hour
Interior Designer	\$110.00 per hour
Administrative Support	\$90.00 per hour

The attached standards and provisions shall accompany this proposal and shall be the basis for a contractual agreement between both parties.

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)



LEVEL 5 ARCHITECTURE, PLLC

EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

PLANNING AND ANALYSIS

§ 1.1 The Architect's Pre-Design Services consist of those services described in this section 3 for the purpose of assisting the Owner in determining the jurisdictional viability of the Project and developing Pre-Design options for configuration of the Project.

EXISTING BUILDING DOCUMENTATION

§ 1.2 As-built Drawings: Drawings based on field measurements for an existing building. Generally, these drawings record only visible building elements. The level and detail of measurements included in the drawings will depend on how the drawings will be used. These can be construction drawings revised to show significant changes made during the construction process, usually based on marked-up prints, drawings, and other data furnished by the architect to the owner.

FACILITY NEEDS ANALYSIS

§ 1.3 Based on the information gathered, the Architect shall develop performance and design criteria for the proposed facility. Architect shall review programming items and incorporate them for use into proposed facility. Architect shall prepare an estimate of probable cost for construction or renovation.

§ 1.4 Investigate, analyze, and measure the existing facilities to the extent necessary to determine the information necessary for project work. Measure and verify floor plans and equipment locations in the existing building. Review existing system replacement studies (if applicable), analyze building components, heating/cooling load requirements, floor plans and drawings (as available) and make system recommendations. Prepare drawings and a report summarizing existing facilities, their condition, and their effect on the Project or the Project's effect on them. Prepare probable construction cost estimates to assist the Division in the preparation of Capital Improvement Program requests for internal use. As part of the investigation, identify and document issues pertaining to a future project (accessibility, operations impact, etc.) to inform the project schedule.

CIVIL ENGINEERING

§ 1.5 Civil Engineer will provide all Engineering necessary for the preliminary site plan review process, limited to preliminary drainage plan, preliminary grading plan, preliminary utility plans.

§ 1.6 Upon approval of Site Plan Review by City of Midland, civil engineer will complete all site engineering including dimension control plans, drainage plans, grading plans, utility plans, erosion control plans and construction details. Engineer will provide city meetings and coordination meetings with municipalities and development team.

§ 1.7 Civil Engineer will also provide all landscape architecture requirements to Meet permitting standards as well as all irrigation layout design.

PROPERTY SURVEYS

§ 1.8 Show boundary lines, giving length and bearing (including reference or basis) on each straight line, interior angles, radius, point of tangency, and length of curved lines. Show all existing structures and provide contours at 1 foot intervals. All known utilities shall be marked and located. Platting service may be required and will be outside of these services.

SCHEMATIC DESIGN PHASE SERVICES

§ 1.9 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, and budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project.

§ 1.10 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 1.11 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

DESIGN DEVELOPMENT PHASE SERVICES

§ 1.12 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural,



LEVEL 5 ARCHITECTURE, PLLC

EXIHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

mechanical, and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 1.13 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

INTERIOR DESIGN SERVICES

§ 1.14 The Architect shall manage and administer the Architectural Interior Design Services. The Architect shall consult with the Owner, research applicable criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

§ 1.15 Design Development Phase Services

- .1 The Architect shall prepare the design concept for the Project, indicating the types and quality of finishes and materials and furniture, furnishings, and equipment.
- .2 The Architect shall illustrate the architectural and decorative character of the Project. Such illustrations may include drawings, plans, elevations, sections, renderings, photographs, and samples of actual materials, colors, and finishes.

§ 1.16 Permit Documents Phase Services

- .1 Based on the approved Design Development Documents and other documents including schedule and estimate of the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings, Specifications and other documents required to describe the interior construction necessary for the Project.
- .2 The Contract Documents shall include plans, elevations, sections, schedules, details and specifications required to describe the interior construction work.
- .3 The Architect shall assist the Owner in the preparation of the necessary Quotation and Bidding Documents.

§ 1.17 Evaluations of the Work

- .1 The Architect shall visit the site at intervals appropriate to the stage of construction, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

PERMITTING DOCUMENTS PHASE SERVICES

§ 1.18 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review.

§ 1.19 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action, and request the Owner's approval.



LEVEL 5 ARCHITECTURE, PLLC

EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

STRUCTURAL ENGINEERING SERVICES

§ 1.20 If the Scope of Work requires structural engineering services, the Architect shall select a qualified structural engineer to perform those services as part of the Basic Services. The structural engineer shall produce drawings and specifications per the Project Schedule provided by the Architect. Structural engineering services shall include design of the foundation, design of roof framing and supporting structure, and preparation of As-Built drawings. Upon completion of the Construction Documents, if the Owner elects to re-design the structural systems for any reason, including Value Engineering, the structural engineer will complete the Work and be compensated as an Addition Service. Construction Administration services by the structural engineer are not included in the Basic Services. If the Scope of Work requires structural engineering services during the construction phase, the structural engineer can complete this work as an additional service. Any additional service required by the Owner of the structural engineer shall be submitted in writing for approval by the Owner prior to execution of the Work by the structural engineer.

MECHANICAL ENGINEERING SERVICES

§ 1.21 If the Scope of Work requires mechanical engineering services, the Architect shall select a qualified mechanical/plumbing engineer to perform those services as part of the Basic Services. The mechanical/plumbing engineer shall produce drawings and specifications per the Project Schedule provided by the Architect. Mechanical/Plumbing engineering services shall include design of HVAC system for temperatures as required by the Owner, design of building envelopes to control moisture mitigation, drain, waste, water, and gas piping systems, preparation of Record Drawings and Energy Compliance reports as required by the local authority having jurisdiction for permitting. Upon completion of the Construction Documents, if the Owner elects to re-design the mechanical/plumbing systems for any reason, including Value Engineering, the mechanical/plumbing engineer will complete the Work and be compensated as an Addition Service. Construction Administration services by the mechanical/plumbing engineer are not included in the Basic Services. If the Scope of Work requires mechanical/plumbing engineering services during the construction phase, the mechanical/plumbing engineer can complete this work as an additional service. Any additional service required by the Owner of the mechanical/plumbing engineer shall be submitted in writing for approval by the Owner prior to execution of the Work by the mechanical/plumbing engineer.

ELECTRICAL ENGINEERING SERVICES

§ 1.22 If the Scope of Work requires electrical engineering services, the Architect shall select a qualified electrical engineer to perform those services as part of the Basic Services. The electrical engineer shall produce drawings and specifications per the Project Schedule provided by the Architect. Electrical engineering services shall include design power and lighting systems, documentation of communications and data systems, performance requirements of the fire sprinkler system, if required by the Scope of Work, preparation of As-Built drawings and Energy Compliance reports as required by the local authority having jurisdiction for permitting. Upon completion of the Construction Documents, if the Owner elects to re-design the electrical systems for any reason, including Value Engineering, the electrical engineer will complete the Work and be compensated as an Addition Service. Construction Administration services by the electrical engineer are not included in the Basic Services. If the Scope of Work requires electrical engineering services during the construction phase, the electrical engineer can complete this work as an additional service. Any additional service required by the Owner of the electrical engineer shall be submitted in writing for approval by the Owner prior to execution of the Work by the electrical engineer.

FIRE PROTECTION ENGINEERING

§ 1.23 Obtain water flow test data from the CLIENT for our use in designing the automatic sprinkler systems.

§ 1.24 Prepare design drawings for the automatic sprinkler systems for the building.

§ 1.25 Perform preliminary hydraulic calculations of each building design to determine pipe sizes.

§ 1.26 Prepare design drawings for the fire alarm system for the building.

REVISED CONSTRUCTION BUDGET ESTIMATING

§ 1.27 In preparing revised construction budget estimating after the design development phase services, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated construction budget to meet the Owner's budget. The Architect's construction budget shall be based on current area, volume, or similar conceptual estimating techniques.



BIDDING OR NEGOTIATION PHASE SERVICES

§ 1.28 The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

CONSTRUCTION ADMINISTRATION

§ 1.29 The Architect shall visit the site at intervals appropriate to the stage of construction, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 1.30 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 1.31 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided and, on the data, comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

HANDICAP ACCESSIBILITY REVIEW AND INSPECTION

§ 1.32 Third party review of construction documentation for handicap code compliance. Inspections shall be made upon construction completion for installed accessibility items and functions.

SUBMITTALS

§ 1.33 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 1.34 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

PERMITTING SERVICES

§ 1.35 The Architect shall engage a qualified third party permit expeditor to assess the permitting documents and suggest any proposed changes to assist the permitting process. The third party permit expeditor shall be the responsible party for handling all communication and coordination with authority having jurisdiction for the anticipated project.

FINAL CONSTRUCTION OBSERVATION AND PUNCH LIST

§ 1.36 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. This scope of work shall be limited to «Two» («2») final inspections.

§ 1.37 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

RECORD DOCUMENTATION

§ 1.38 Upon completion of the work, the Architect shall compile for and deliver to the Owner a set of record documents conforming to information furnished to the Architect by construction contractors. This set of documents shall consist of record specifications and record drawings showing the reported location of work. Since record drawings are based on information provided by others, the Architect shall have no responsibility for the accuracy of the information contained in such record documents.



LEVEL 5 ARCHITECTURE, PLLC

EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

GEOTECHNICAL TESTING AND ENGINEERING

§ 1.39 The Geotechnical Engineer shall perform field explorations, including soils sampling and field testing, necessary for the planning and design of the Project and for preparation of the Geotechnical Report. The Geotechnical Engineer's explorations shall be consistent with the scope of the Project as determined through consultation with the Owner and Architect, and review of the Initial Information and any attached exhibits.

§ 1.40 The Geotechnical Engineer shall analyze the information gathered from the field explorations and lab tests and consult with the Owner and Architect regarding the design and engineering requirements of the Project. Based on such analysis, the Geotechnical Engineer shall provide a written Geotechnical Report to the Owner. The Geotechnical Engineer shall provide the Geotechnical Report and any related documents to the Owner in a medium and format determined by the Owner and as required by the jurisdiction in which the Project is located. The Geotechnical Engineer shall sign and seal the Geotechnical Report as required by the jurisdiction in which the Project is located. The Geotechnical Engineer shall consult with the Owner and Architect regarding the information presented in the Geotechnical Report.

§ 1.41 Owner releases Architect from any and all liability based upon alleged problems with soil samples or report.

ACOUSTICAL ENGINEERING AND CONSULTING

§ 1.42 Schematic Design

- .1 Meet with the design team to establish the project vision and common project understanding. Discuss key issues and goals.
- .2 Review plans and establish criteria for sound control and provide acoustic program & design guidelines including standard details for walls, floors, ceilings, and structure based on criteria.
- .3 Prepare reports of findings and acoustical program document to be used as a guide of design during the project duration.

§ 1.43 Design Development

- .1 Develop specific recommendations for mechanical room acoustic treatment.
- .2 Review noise impact of environmental sources and provide façade and window recommendations to meet interior noise goals.
- .3 Prepare reports of findings, comments and recommendations as required to meet acoustical goals.
- .4 Prepare guide specifications and preliminary concepts for vibration isolation.

§ 1.44 Permit Documents

- .1 Review all construction document progress sets for inclusion/ incorporation of relevant acoustical requirements, such as partition types, end conditions, material types, door jambs, door seals, ceiling selections, etc.
- .2 Evaluate HVAC equipment – Plans and Specs recommend adjustments based on equipment sound from level provided by MEP inquiries.
- .3 Review vibration isolation as drawn and specified by the mechanical engineer.
- .4 Review performance specifications for the following: ceiling air/light fixtures, pressure reducing devices (discharge and radiated noise), and/or grilles, registers and diffusers.
- .5 Prepare reports of findings, comments and recommendations as required to meet acoustical goals.

AUDIO/ VISUAL EQUIPMENT CONSULTING

§ 1.45 Programming & Initial Cost Estimating – Review the Owner's existing AV design standards (if available). Meet with the design team to discuss and establish basic functional requirements, quality expectations and layout concepts for this project. Provide an "AV Design Brief" and initial cost estimate for review by the Owner. Upon acceptance by the Owner or Client, these items will establish design basis for AV systems on this project.

§ 1.46 Design the systems in accordance with the approved program and budget, providing appropriate coordination with other design disciplines as follows:

- .1 Locate system equipment/devices for review on architectural backgrounds.

§ 1.47 Prepare construction documents suitable for obtaining competitive bids from system contractors who are qualified for this work. Specifications and associated drawings will be ready for inclusion in appropriate Divisions of the architect's Construction Document package.

§ 1.48 Telecommunication (Voice/Data) Systems

§ 1.48.1 Programming – Review the Owner's existing IT standards (if available). Meet with the design team to discuss and establish the IT criteria for this project. Provide an "Information Technology Design Brief" and initial cost estimate for review by the Owner. Upon acceptance by the Owner or Client, these items will establish the design basis for the IT systems and related infrastructure on this project.

§ 1.48.2 Design the building-wide IT / Structured Cabling System supporting telephones, personal computers, printers, POS, WiFi,



LEVEL 5 ARCHITECTURE, PLLC

EXIHIBIT B – DETAILED SCOPE OF SERVICES

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horizontal MATV/CATV cabling, etc. based on the Telecommunications Industries Association/ Electronic Industries Alliance (TIA/EIA) standards as well as the Building Industry Consulting Service International (BICSI) best practices and the programmed IT requirements for this project. The system will integrate with other building systems as required.

§ 1.48.3 Prepare construction documents suitable for obtaining competitive bids from qualified system contractors. Specifications and associated drawings will be ready for inclusion in appropriate Divisions of the project Construction Documents package.

§ 1.48.4 Construction Administration Phase – Review the Contractor's product data and shop drawings. Respond to requests for information (RFIs) related to the system design. Submittal reviews and RFI responses normally require five business days after our receipt of the documents. Provide site visits in accordance with the Out-of-Office Work section of this proposal. Provide a field report after each site visit. Review the Contractor's Closeout submittals including "as-built" Record Drawings.

SECURITY

§ 1.49 Security Consulting

§ 1.50 Security Assessment

- .1** Asset Analysis: The Architect shall assist the Owner in identifying and prioritizing the assets to be protected, which may include people, operations, information, and tangible and real property. The analysis will address the nature of the asset needing protection, the value of the asset, including current and replacement value, where the asset is located, and how, when, and by whom the asset is accessed and utilized.
- .2** Vulnerability Analysis: The Architect shall identify and analyze the vulnerability of the assets relative to design and construction, technological systems, and operations. The analysis may include surrounding terrain and adjacent structures, site layout and elements, location and access to utilities, degree of resistance to explosive blast, building circulation patterns and spatial arrangements, and location of higher risk assets within the facility. The Architect shall provide the Vulnerability Analysis for the concurrence of the Owner.
- .3** Threat Analysis: The Architect shall assist the Owner in identifying the sources and types of potential threats that could interrupt, damage or otherwise compromise the stability, function, physical condition or operation of the facility. The Architect shall provide an analysis of the identified threats for the concurrence of the Owner, which may include factors that invite potential hostility, building visibility, symbolic value, political influences, and threat experience.

§ 1.51 Facility Analysis

§ 1.51.1 Based on the Security Assessment and the Facility Survey, the Architect shall evaluate the existing or proposed building structure and asset locations to determine the detrimental effects of the specific threats designated in the Threat Analysis.

§ 1.52 Risk Assessment

§ 1.52.1 The Architect shall provide an assessment of the potential effects of identified threats and provide recommendations for the type of security protection required for mitigation. The assessment will include identification of the costs and benefits of potential security measures. The Architect shall provide a Risk Assessment Report for review and approval of the Owner.

PROFESSIONAL SERVICES AGREEMENT
23003692R
Doug Russell Pool Bath House Project

THIS AGREEMENT is made and effective the 9th day of August 2023, by and between the CITY OF MIDLAND, TEXAS (“*CITY*”), a home-rule municipal corporation, and Level 5 Architecture, PLLC (“*COMPANY*”). CITY and COMPANY are at times individually referred to as a “*Party*” and collectively referred to as the “*Parties*.”

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which COMPANY shall design, develop, and manage the Doug Russell Pool Bath House Project (the “*Services*”) for CITY. The Services are more specifically set forth in **Exhibit A**, which is attached hereto and incorporated herein for all purposes.

ARTICLE II. SERVICES TO BE PERFORMED

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

ARTICLE III. FINANCIAL CONSIDERATIONS

CITY agrees to pay COMPANY an amount not to exceed \$175,000.00 for the performance of the Services. CITY agrees to pay COMPANY according to the schedule set forth in **Exhibit A** upon presentation of a monthly invoice. The monthly invoice shall set forth all service fees for the month and those expenses described in **Exhibit A** that COMPANY incurs during the previous month for which COMPANY receives advanced written approval from the City Manager. All additional and/or reimbursable expenses must be approved by the City Manager prior to incurring such expenses.

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

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

ARTICLE IV. TERM

The term of this Agreement shall be from August 9, 2023 until May 1, 2024, unless the Services are completed sooner or the Agreement is terminated as provided below.

ARTICLE V. TERMINATION AT WILL

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

ARTICLE VI. ASSIGNMENT

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

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

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

ARTICLE VIII. INDEPENDENT CONTRACTOR

COMPANY shall perform the Services as an independent contractor and not as an officer, agent, servant or employee of CITY. COMPANY shall have exclusive control of and the exclusive

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

ARTICLE IX. INSURANCE

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

Commercial General Liability (including Contractual liability):

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

-Property Damage: \$500,000.00 per occurrence

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

Workers’ Compensation: Statutory limits

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

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

The Business Automobile Liability policy shall cover any vehicle for bodily injury and

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

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

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

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

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

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

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

ARTICLE X. ATTORNEY FEES

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

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

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

ARTICLE XI. GOVERNMENTAL IMMUNITY

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

ARTICLE XII. NO THIRD-PARTY BENEFICIARY

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

ARTICLE XIII. RELEASE

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

ARTICLE XIV. GENERAL PROVISIONS

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

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

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

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

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

If to COMPANY: Level 5 Architecture, PLLC
 104 S Main St
 Mansfield, Texas 76063

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

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

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

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

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

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

I. Notice of Alleged Breach; Statutory Prerequisites. As a condition precedent to filing suit

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

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

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

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

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

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

this Agreement;

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

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

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

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

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

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

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

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

[Signature Page(s) Follows]

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

Tommy Gonzalez, City Manager

ATTEST:

Marcia Bentley-German, City Governance Officer/City Secretary

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney

COMPANY:

By: _____

Name: _____

Title: _____

STATE OF _____ §

§

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2023 personally appeared, _____, an officer of Level 5 Architecture, PLLC, known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

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

Notary Public, State of Texas



LEVEL 5 ARCHITECTURE, PLLC

PROPOSAL FOR DESIGN SERVICES

RFQ 23003692 - DOUG RUSSELL BATH HOUSE

EXHIBIT A

AGREEMENT made as of the Monday, July 24, 2023
(In words, indicate day, month, and year.)

BETWEEN the Architect's client identified as the Owner:

City of Midland, TX
P.O. BOX 1152
Midland, TX 79702

and the Architect:

Level 5 Architecture, PLLC
104 S. Main Street
Mansfield, Texas 76063

for the following Project:
(Name, location, and detailed description)

A New Bathhouse building for the Doug Russell Pool at Alamo Park in Midland, TX located at 900 Midland Dr., Midland, Texas 79703. The new bathhouse shall be approximately 5,000 s.f. and shall replace the existing bathhouse currently located on site. The new facility shall include the following spaces in the program for design:

- Men's Locker Rooms
- Women's Locker Room
- Family Bathroom
- Concession Stand
- Management Offices
- Employee Break Area
- Ticket Booth

The City of Midland has provided a conceptual plan for the proposed facility and Level 5 shall evaluate the conceptual design for operational metrics and optional growth areas. The concept plans allow for an optional party room which would not be included in the proposed scope of work at this time. The scope and program shall include ancillary spaces for the proper function of the proposed facility.

Under this agreement, Level 5 will provide all basic architectural and engineering services necessary for a full permitting set of plans for the proposed facility as well as construction administration during the construction of the facility. Site work shall be limited to area of the new pool house only as well as use of existing site utilities for the new facility. All landscaping and civil engineering design shall be limited to area of site work. Level 5 will provide a topographic survey for the limits of the scope of work.

Basic Services Included in Proposal – See Exhibit B for a detailed description

Basic Service	Provided by	Estimated Time for Completion
Planning and Analysis	Architect	2 Weeks
Schematic Design	Architect	3 Weeks
Design Development	Architect	3 Weeks
Permitting Documents	Architect	6 Weeks
Structural Engineering Services	Architect	Included in Permitting Documents
Mechanical Engineering	Architect	Included in Permitting Documents
Electrical Engineering	Architect	Included in Permitting Documents
Final Construction Observation and Punch List	Architect	At the completion of Construction

Total Cost for Basic Services \$96,750.00



LEVEL 5 ARCHITECTURE, PLLC
PROPOSAL FOR DESIGN SERVICES

RFQ 23003692 - DOUG RUSSELL BATH HOUSE

EXHIBIT A

Additional Services- See Exhibit B for a detailed description

Additional Service	Provided By	Proposed Fee	Additional Notes
Existing Site Surveying	Architect	\$6,200.00	Minimal topo for work limits
Geotechnical Engineering	Owner		Previous Construction Report
Facility needs Analysis	Not Provided		
Civil Engineering	Architect	\$31,000.00	Includes Landscape Architect
Interior Design Services	Not Provided		
Fire Protection Engineering	Not Provided		
Construction Estimating Services	Architect	\$1,250.00	2 Preliminary Cost Estimates
Permitting Services	Architect	\$3,500	Not including permitting fees
Bidding and Negotiation Services	Owner		
Handicapped Accessibility Permitting	Architect	\$1,300.00	
Construction Administration	Architect	\$35,000.00	Includes Up to 12 site visits
As Built Documentation	Architect	\$0.00	Included in Final Observation

§ When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

Employee or Category	Rate
Principal	\$275.00 per hour
Director	\$185.00 per hour
Project Manager	\$155.00 per hour
Project Architect	\$135.00 per hour
Technical Support and Drafting	\$125.00 per hour
Interior Designer	\$110.00 per hour
Administrative Support	\$90.00 per hour

The attached standards and provisions shall accompany this proposal and shall be the basis for a contractual agreement between both parties.

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)



LEVEL 5 ARCHITECTURE, PLLC

EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

PLANNING AND ANALYSIS

§ 1.1 The Architect's Pre-Design Services consist of those services described in this section 3 for the purpose of assisting the Owner in determining the jurisdictional viability of the Project and developing Pre-Design options for configuration of the Project.

EXISTING BUILDING DOCUMENTATION

§ 1.2 As-built Drawings: Drawings based on field measurements for an existing building. Generally, these drawings record only visible building elements. The level and detail of measurements included in the drawings will depend on how the drawings will be used. These can be construction drawings revised to show significant changes made during the construction process, usually based on marked-up prints, drawings, and other data furnished by the architect to the owner.

FACILITY NEEDS ANALYSIS

§ 1.3 Based on the information gathered, the Architect shall develop performance and design criteria for the proposed facility. Architect shall review programming items and incorporate them for use into proposed facility. Architect shall prepare an estimate of probable cost for construction or renovation.

§ 1.4 Investigate, analyze, and measure the existing facilities to the extent necessary to determine the information necessary for project work. Measure and verify floor plans and equipment locations in the existing building. Review existing system replacement studies (if applicable), analyze building components, heating/cooling load requirements, floor plans and drawings (as available) and make system recommendations. Prepare drawings and a report summarizing existing facilities, their condition, and their effect on the Project or the Project's effect on them. Prepare probable construction cost estimates to assist the Division in the preparation of Capital Improvement Program requests for internal use. As part of the investigation, identify and document issues pertaining to a future project (accessibility, operations impact, etc.) to inform the project schedule.

CIVIL ENGINEERING

§ 1.5 Civil Engineer will provide all Engineering necessary for the preliminary site plan review process, limited to preliminary drainage plan, preliminary grading plan, preliminary utility plans.

§ 1.6 Upon approval of Site Plan Review by City of Midland, civil engineer will complete all site engineering including dimension control plans, drainage plans, grading plans, utility plans, erosion control plans and construction details. Engineer will provide city meetings and coordination meetings with municipalities and development team.

§ 1.7 Civil Engineer will also provide all landscape architecture requirements to Meet permitting standards as well as all irrigation layout design.

PROPERTY SURVEYS

§ 1.8 Show boundary lines, giving length and bearing (including reference or basis) on each straight line, interior angles, radius, point of tangency, and length of curved lines. Show all existing structures and provide contours at 1 foot intervals. All known utilities shall be marked and located. Platting service may be required and will be outside of these services.

SCHEMATIC DESIGN PHASE SERVICES

§ 1.9 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, and budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project.

§ 1.10 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 1.11 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

DESIGN DEVELOPMENT PHASE SERVICES

§ 1.12 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural,



LEVEL 5 ARCHITECTURE, PLLC

EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

mechanical, and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 1.13 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

INTERIOR DESIGN SERVICES

§ 1.14 The Architect shall manage and administer the Architectural Interior Design Services. The Architect shall consult with the Owner, research applicable criteria, attend Project meetings, communicate with members of the Project team and issue progress reports. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner and the Owner's consultants.

§ 1.15 Design Development Phase Services

- .1 The Architect shall prepare the design concept for the Project, indicating the types and quality of finishes and materials and furniture, furnishings, and equipment.
- .2 The Architect shall illustrate the architectural and decorative character of the Project. Such illustrations may include drawings, plans, elevations, sections, renderings, photographs, and samples of actual materials, colors, and finishes.

§ 1.16 Permit Documents Phase Services

- .1 Based on the approved Design Development Documents and other documents including schedule and estimate of the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings, Specifications and other documents required to describe the interior construction necessary for the Project.
- .2 The Contract Documents shall include plans, elevations, sections, schedules, details and specifications required to describe the interior construction work.
- .3 The Architect shall assist the Owner in the preparation of the necessary Quotation and Bidding Documents.

§ 1.17 Evaluations of the Work

- .1 The Architect shall visit the site at intervals appropriate to the stage of construction, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

PERMITTING DOCUMENTS PHASE SERVICES

§ 1.18 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review.

§ 1.19 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action, and request the Owner's approval.



LEVEL 5 ARCHITECTURE, PLLC

EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

STRUCTURAL ENGINEERING SERVICES

§ 1.20 If the Scope of Work requires structural engineering services, the Architect shall select a qualified structural engineer to perform those services as part of the Basic Services. The structural engineer shall produce drawings and specifications per the Project Schedule provided by the Architect. Structural engineering services shall include design of the foundation, design of roof framing and supporting structure, and preparation of As-Built drawings. Upon completion of the Construction Documents, if the Owner elects to re-design the structural systems for any reason, including Value Engineering, the structural engineer will complete the Work and be compensated as an Addition Service. Construction Administration services by the structural engineer are not included in the Basic Services. If the Scope of Work requires structural engineering services during the construction phase, the structural engineer can complete this work as an additional service. Any additional service required by the Owner of the structural engineer shall be submitted in writing for approval by the Owner prior to execution of the Work by the structural engineer.

MECHANICAL ENGINEERING SERVICES

§ 1.21 If the Scope of Work requires mechanical engineering services, the Architect shall select a qualified mechanical/plumbing engineer to perform those services as part of the Basic Services. The mechanical/plumbing engineer shall produce drawings and specifications per the Project Schedule provided by the Architect. Mechanical/Plumbing engineering services shall include design of HVAC system for temperatures as required by the Owner, design of building envelopes to control moisture mitigation, drain, waste, water, and gas piping systems, preparation of Record Drawings and Energy Compliance reports as required by the local authority having jurisdiction for permitting. Upon completion of the Construction Documents, if the Owner elects to re-design the mechanical/plumbing systems for any reason, including Value Engineering, the mechanical/plumbing engineer will complete the Work and be compensated as an Addition Service. Construction Administration services by the mechanical/plumbing engineer are not included in the Basic Services. If the Scope of Work requires mechanical/plumbing engineering services during the construction phase, the mechanical/plumbing engineer can complete this work as an additional service. Any additional service required by the Owner of the mechanical/plumbing engineer shall be submitted in writing for approval by the Owner prior to execution of the Work by the mechanical/plumbing engineer.

ELECTRICAL ENGINEERING SERVICES

§ 1.22 If the Scope of Work requires electrical engineering services, the Architect shall select a qualified electrical engineer to perform those services as part of the Basic Services. The electrical engineer shall produce drawings and specifications per the Project Schedule provided by the Architect. Electrical engineering services shall include design power and lighting systems, documentation of communications and data systems, performance requirements of the fire sprinkler system, if required by the Scope of Work, preparation of As-Built drawings and Energy Compliance reports as required by the local authority having jurisdiction for permitting. Upon completion of the Construction Documents, if the Owner elects to re-design the electrical systems for any reason, including Value Engineering, the electrical engineer will complete the Work and be compensated as an Addition Service. Construction Administration services by the electrical engineer are not included in the Basic Services. If the Scope of Work requires electrical engineering services during the construction phase, the electrical engineer can complete this work as an additional service. Any additional service required by the Owner of the electrical engineer shall be submitted in writing for approval by the Owner prior to execution of the Work by the electrical engineer.

FIRE PROTECTION ENGINEERING

§ 1.23 Obtain water flow test data from the CLIENT for our use in designing the automatic sprinkler systems.

§ 1.24 Prepare design drawings for the automatic sprinkler systems for the building.

§ 1.25 Perform preliminary hydraulic calculations of each building design to determine pipe sizes.

§ 1.26 Prepare design drawings for the fire alarm system for the building.

REVISED CONSTRUCTION BUDGET ESTIMATING

§ 1.27 In preparing revised construction budget estimating after the design development phase services, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated construction budget to meet the Owner's budget. The Architect's construction budget shall be based on current area, volume, or similar conceptual estimating techniques.



BIDDING OR NEGOTIATION PHASE SERVICES

§ 1.28 The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

CONSTRUCTION ADMINISTRATION

§ 1.29 The Architect shall visit the site at intervals appropriate to the stage of construction, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 1.30 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 1.31 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided and, on the data, comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

HANDICAP ACCESSIBILITY REVIEW AND INSPECTION

§ 1.32 Third party review of construction documentation for handicap code compliance. Inspections shall be made upon construction completion for installed accessibility items and functions.

SUBMITTALS

§ 1.33 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 1.34 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

PERMITTING SERVICES

§ 1.35 The Architect shall engage a qualified third party permit expeditor to assess the permitting documents and suggest any proposed changes to assist the permitting process. The third party permit expeditor shall be the responsible party for handling all communication and coordination with authority having jurisdiction for the anticipated project.

FINAL CONSTRUCTION OBSERVATION AND PUNCH LIST

§ 1.36 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. This scope of work shall be limited to «Two» («2») final inspections.

§ 1.37 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

RECORD DOCUMENTATION

§ 1.38 Upon completion of the work, the Architect shall compile for and deliver to the Owner a set of record documents conforming to information furnished to the Architect by construction contractors. This set of documents shall consist of record specifications and record drawings showing the reported location of work. Since record drawings are based on information provided by others, the Architect shall have no responsibility for the accuracy of the information contained in such record documents.



LEVEL 5 ARCHITECTURE, PLLC

EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

GEOTECHNICAL TESTING AND ENGINEERING

§ 1.39 The Geotechnical Engineer shall perform field explorations, including soils sampling and field testing, necessary for the planning and design of the Project and for preparation of the Geotechnical Report. The Geotechnical Engineer's explorations shall be consistent with the scope of the Project as determined through consultation with the Owner and Architect, and review of the Initial Information and any attached exhibits.

§ 1.40 The Geotechnical Engineer shall analyze the information gathered from the field explorations and lab tests and consult with the Owner and Architect regarding the design and engineering requirements of the Project. Based on such analysis, the Geotechnical Engineer shall provide a written Geotechnical Report to the Owner. The Geotechnical Engineer shall provide the Geotechnical Report and any related documents to the Owner in a medium and format determined by the Owner and as required by the jurisdiction in which the Project is located. The Geotechnical Engineer shall sign and seal the Geotechnical Report as required by the jurisdiction in which the Project is located. The Geotechnical Engineer shall consult with the Owner and Architect regarding the information presented in the Geotechnical Report.

§ 1.41 Owner releases Architect from any and all liability based upon alleged problems with soil samples or report.

ACOUSTICAL ENGINEERING AND CONSULTING

§ 1.42 Schematic Design

- .1 Meet with the design team to establish the project vision and common project understanding. Discuss key issues and goals.
- .2 Review plans and establish criteria for sound control and provide acoustic program & design guidelines including standard details for walls, floors, ceilings, and structure based on criteria.
- .3 Prepare reports of findings and acoustical program document to be used as a guide of design during the project duration.

§ 1.43 Design Development

- .1 Develop specific recommendations for mechanical room acoustic treatment.
- .2 Review noise impact of environmental sources and provide façade and window recommendations to meet interior noise goals.
- .3 Prepare reports of findings, comments and recommendations as required to meet acoustical goals.
- .4 Prepare guide specifications and preliminary concepts for vibration isolation.

§ 1.44 Permit Documents

- .1 Review all construction document progress sets for inclusion/ incorporation of relevant acoustical requirements, such as partition types, end conditions, material types, door jambs, door seals, ceiling selections, etc.
- .2 Evaluate HVAC equipment – Plans and Specs recommend adjustments based on equipment sound from level provided by MEP inquiries.
- .3 Review vibration isolation as drawn and specified by the mechanical engineer.
- .4 Review performance specifications for the following: ceiling air/light fixtures, pressure reducing devices (discharge and radiated noise), and/or grilles, registers and diffusers.
- .5 Prepare reports of findings, comments and recommendations as required to meet acoustical goals.

AUDIO/ VISUAL EQUIPMENT CONSULTING

§ 1.45 Programming & Initial Cost Estimating – Review the Owner's existing AV design standards (if available). Meet with the design team to discuss and establish basic functional requirements, quality expectations and layout concepts for this project. Provide an "AV Design Brief" and initial cost estimate for review by the Owner. Upon acceptance by the Owner or Client, these items will establish design basis for AV systems on this project.

§ 1.46 Design the systems in accordance with the approved program and budget, providing appropriate coordination with other design disciplines as follows:

- .1 Locate system equipment/devices for review on architectural backgrounds.

§ 1.47 Prepare construction documents suitable for obtaining competitive bids from system contractors who are qualified for this work. Specifications and associated drawings will be ready for inclusion in appropriate Divisions of the architect's Construction Document package.

§ 1.48 Telecommunication (Voice/Data) Systems

§ 1.48.1 Programming – Review the Owner's existing IT standards (if available). Meet with the design team to discuss and establish the IT criteria for this project. Provide an "Information Technology Design Brief" and initial cost estimate for review by the Owner. Upon acceptance by the Owner or Client, these items will establish the design basis for the IT systems and related infrastructure on this project.

§ 1.48.2 Design the building-wide IT / Structured Cabling System supporting telephones, personal computers, printers, POS, WiFi,



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EXHIBIT B – DETAILED SCOPE OF SERVICES

RFQ 23003692 – DOUG RUSSELL BATH HOUSE

horizontal MATV/CATV cabling, etc. based on the Telecommunications Industries Association/ Electronic Industries Alliance (TIA/EIA) standards as well as the Building Industry Consulting Service International (BICSI) best practices and the programmed IT requirements for this project. The system will integrate with other building systems as required.

§ 1.48.3 Prepare construction documents suitable for obtaining competitive bids from qualified system contractors. Specifications and associated drawings will be ready for inclusion in appropriate Divisions of the project Construction Documents package.

§ 1.48.4 Construction Administration Phase – Review the Contractor's product data and shop drawings. Respond to requests for information (RFIs) related to the system design. Submittal reviews and RFI responses normally require five business days after our receipt of the documents. Provide site visits in accordance with the Out-of-Office Work section of this proposal. Provide a field report after each site visit. Review the Contractor's Closeout submittals including "as-built" Record Drawings.

SECURITY

§ 1.49 Security Consulting

§ 1.50 Security Assessment

- .1** Asset Analysis: The Architect shall assist the Owner in identifying and prioritizing the assets to be protected, which may include people, operations, information, and tangible and real property. The analysis will address the nature of the asset needing protection, the value of the asset, including current and replacement value, where the asset is located, and how, when, and by whom the asset is accessed and utilized.
- .2** Vulnerability Analysis: The Architect shall identify and analyze the vulnerability of the assets relative to design and construction, technological systems, and operations. The analysis may include surrounding terrain and adjacent structures, site layout and elements, location and access to utilities, degree of resistance to explosive blast, building circulation patterns and spatial arrangements, and location of higher risk assets within the facility. The Architect shall provide the Vulnerability Analysis for the concurrence of the Owner.
- .3** Threat Analysis: The Architect shall assist the Owner in identifying the sources and types of potential threats that could interrupt, damage or otherwise compromise the stability, function, physical condition or operation of the facility. The Architect shall provide an analysis of the identified threats for the concurrence of the Owner, which may include factors that invite potential hostility, building visibility, symbolic value, political influences, and threat experience.

§ 1.51 Facility Analysis

§ 1.51.1 Based on the Security Assessment and the Facility Survey, the Architect shall evaluate the existing or proposed building structure and asset locations to determine the detrimental effects of the specific threats designated in the Threat Analysis.

§ 1.52 Risk Assessment

§ 1.52.1 The Architect shall provide an assessment of the potential effects of identified threats and provide recommendations for the type of security protection required for mitigation. The assessment will include identification of the costs and benefits of potential security measures. The Architect shall provide a Risk Assessment Report for review and approval of the Owner.



City Council Meeting

Item Number: 10
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Mark Widmann, Director
Subject: RESOLUTION AMENDING THE CITY OF MIDLAND PERSONNEL POLICIES; AMENDING AND CLARIFYING CERTAIN ATTENDANCE AND LEAVE POLICIES; AND PROVIDING AN EFFECTIVE DATE OF AUGUST 9, 2023 (DISTRICT: NONE) (ADMINISTRATIVE SERVICES)

Purpose:

The proposed leave plan changes aim to continue attracting and retaining highly effective qualified staff. Clarifications that Paid Time Off (PTO) hours count as hours worked for the purpose of overtime for all staff.

Recommended City Council Action:

Approve

Fiscal Impact:

The fiscal impact for the PTO payout is estimated based on the current turnover rate of 18% and additional costs incurred for on-duty staff for holidays. The additional cost is estimated at \$1,015,600 across general and enterprise funds. Please refer to the cost breakdown listed below.

Discussion:

In October 2022, Administrative Services Talent Acquisition conducted an employee survey on employee attraction and retention. Employees were asked about current leave policies, and the results showed that sick and vacation leaves and additional time off were important to them. Listed below are some comments received:

- PTO Leave. Many employees prefer a single leave bank replacing vacation and sick leave.
- Increased accrual rates, employees would like to see the amount of leave accrues increased and at a quicker rate.
- Leave payout. Employees think the payout of leave upon retirement or separation is unfair.
- Personal/Mental Health Days. Many employees, especially our first responders, would like mental health days to be available.
- Matching Holidays Employees would like to see the holiday calendar match up with the county, school districts, and state-level government.

November of 2022, Administrative Services Talent Acquisition held a briefing with the Council outlining the concerns and priorities of our employees. As a result, we are recommending the following Chapter V. Personnel Policy changes for Council consideration.

Create PTO:

Creating a single Paid Time Off (PTO) bank that would combine the current vacation and sick leaves, effective October 1, 2023, the following tables indicate the difference between the current policy and the proposed policy:

- Please See Tables 1 & 2

Tables 3, 4, & 5 indicate the difference between the current and recommended PTO payout policies.

- Please See Tables 3, 4, & 5

Personal/Mental Health Days

Eligible full-time employees shall receive two (2) Mental Health Days per calendar year. This benefit shall not carry over into the following year and shall not be paid out at termination of employment.

Community Service Leave

Full-time employees are eligible to request one (1) day per calendar year to participate in organizations and activities that benefit the local community. Community Service Leave is noncumulative, nontransferable, and not paid out at termination.

Holidays

Additionally, recognized the following holidays as City holidays: 1) Juneteenth National Independence Day (currently provided), and 2) Veterans Day.

Birthday Leave

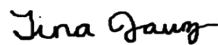
A currently provided benefit added to the Personnel Policy's full-time employees are eligible for one (1) day of paid birthday leave annually. Birthday leave is taken during the employees' birthday month. Unused birthday leave will not carry over to the next year and is not paid out at termination.

Costing

The chart below illustrates the estimated additional budgeted cost.

Proposed Leave		Amount
Paid Time Off	Estimated additional payout cost based on the current turnover rate	\$715,600
Personal/Mental Health Days (2 Days)	Based on the OT cost of mandated positions, 100% participation	\$150,000
Community Service Leave (1 Day)	Based on the OT cost of mandated positions, 100% participation	\$75,000
Additional Holiday (Veterans Day)	Based on the OT cost of mandated positions, 100% participation	\$75,000
	Total	\$1,015,600

Clarifying Paid Time Off (PTO) hours count as hours worked for the purpose of overtime for all staff. In addition to Chapter V, Leave Plans changes, multiple formatting and grammar adjustments were made.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AMENDING THE CITY OF MIDLAND
PERSONNEL POLICIES; AMENDING AND
CLARIFYING CERTAIN ATTENDANCE AND LEAVE
POLICIES; AND PROVIDING AN EFFECTIVE DATE OF
AUGUST 9, 2023**

WHEREAS, the City Council finds it to be in the public interest to approve and adopt certain amendments to the City of Midland Personnel Policies;

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

SECTION ONE. That the City of Midland Personnel Policies are hereby amended to read in their entirety as shown in Exhibit “A”, which is attached hereto and incorporated herein (the “Amended Personnel Policies”).

SECTION TWO. That the Amended Personnel Policies shall become effective August 9, 2023; provided, however, that the provisions of the City of Midland Personnel Policies that existed on July 11, 2023, concerning vacation leave and sick leave shall continue to be effective until the Paid Time Off program established in the Amended Personnel Policies becomes effective on October 1, 2023.

SECTION THREE. That the Administrative Services Director is hereby authorized to make non-substantive ministerial revisions to the Amended Personnel Policies, such as correcting misspellings, grammatical errors, and cross-references and making formatting changes.

SECTION FOUR. That should any section, clause, or provision of this resolution or the Amended Personnel Policies be declared by a court of competent jurisdiction to be invalid, same shall not affect the validity of this resolution or any other resolution of the City as a whole, or any part thereof, or the Amended Personnel Policies other than the part so declared to be invalid.

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:

Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Mark Widmann, Administrative Services Director

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney

EXHIBIT "A"



City of Midland, Texas Personnel Policies

Certificates

This certificate shall be placed at the beginning of the City's Personnel Policies. Resolution Number 2009-341, adopted by the Midland City Council on December 8, 2009, amends the City of Midland Personnel Policies. The City of Midland Personnel Policies are amended as if Resolution Number 2009-341 was entirely incorporated and written verbatim into the City of Midland Personnel Policies. I am authorized to execute this certification on behalf of the City of Midland, Texas, by the City Charter, Ordinances of the City of Midland, Sections 271.151 to Section 271.160 of the Texas Local Government Code, as amended, and Resolution Number 2009-341.

W. Wesley Perry, Mayor

This certificate shall be placed at the beginning of the City of Midland Personnel Policies. Resolution No. 2011-067, adopted by the Midland City Council on April 12, 2011, amends the City of Midland Personnel Policies. The City of Midland Personnel Policies are amended as if Resolution No. 2011-067 was entirely incorporated and written verbatim into the City of Midland Personnel Policies. I am authorized to execute this certification on behalf of the City of Midland, Texas, by the City Charter, Ordinances of the City of Midland, Sections 271.151-.160 of the Texas Local Government Code, as amended, and Resolution No. 2011-067.

W. Wesley Perry, Mayor

This certificate shall be placed at the beginning of the City of Midland Personnel Policies. The City shall be bound by this execution and it is not necessary for the employee to execute any instrument to be bound. All employees accept these policies by actual performance.

Resolution No. 2011-185, adopted by the Midland City Council on August 9, 2011, amends the City of Midland Personnel Policies. The City of Midland Personnel Policies are amended as if Resolution No. 2011-185 was entirely incorporated and written verbatim into the City of Midland Personnel Policies. I am authorized to execute this certification on behalf of the City of Midland, Texas, by the City Charter, Ordinances of the City of Midland, Sections 271.151-.160 of the Texas Local Government Code, as amended, and Resolution No. 2011-185.

W. Wesley Perry, Mayor

This certificate shall be placed at the beginning of the City of Midland Personnel Policies. The City shall be bound by this execution and it is not necessary for the employee to execute any instrument to be bound. All employees accept these policies by actual performance.

Resolution No. 2018-225, adopted by the Midland City Council on June 27, 2018, amends the City of Midland Personnel Policies. The City of Midland Personnel Policies are amended as if Resolution No. 2018-225 was entirely incorporated and written verbatim into the City of Midland Personnel Policies. I am authorized to execute this certification on behalf of the City of Midland, Texas, by the City Charter, Ordinances of the City of Midland, Sections 271.151-.160 of the Texas Local Government Code, as amended, and Resolution No. 2018-225.

Jerry F. Morales, Mayor

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This certificate shall be placed at the beginning of the City of Midland Personnel Policies. The City shall be bound by this execution and it is not necessary for the employee to execute any instrument to be bound. All employees accept these policies by actual performance.

Resolution No. 2021-065, adopted by the Midland City Council on May 25, 2021, amends the City of Midland Personnel Policies. The City of Midland Personnel Policies are amended as if Resolution No. 2021-065 was entirely incorporated and written verbatim into the City of Midland Personnel Policies. I am authorized to execute this certification on behalf of the City of Midland, Texas, by the City Charter, Ordinances of the City of Midland, Sections 271.151-.160 of the Texas Local Government Code, as amended, and Resolution No. 2021-065.

Patrick Payton, Mayor

This certificate shall be placed at the beginning of the City of Midland Personnel Policies. The City shall be bound by this execution and it is not necessary for the employee to execute any instrument to be bound. All employees accept these policies by actual performance.

Resolution No. 2023-088, adopted by the Midland City Council on July 11, 2023, amends the City of Midland Personnel Policies. The City of Midland Personnel Policies are amended as if Resolution No. 2023-088 was entirely incorporated and written verbatim into the City of Midland Personnel Policies. I am authorized to execute this certification on behalf of the City of Midland, Texas, by the City Charter, Ordinances of the City of Midland, Sections 271.151-.160 of the Texas Local Government Code, as amended, and Resolution No. 2023-088.

Lori Blong, Mayor

This certificate shall be placed at the beginning of the City of Midland Personnel Policies. The City shall be bound by this execution and it is not necessary for the employee to execute any instrument to be bound. All employees accept these policies by actual performance.

Resolution No. 2023-XXX, adopted by the Midland City Council on August 8, 2023, amends the City of Midland Personnel Policies. The City of Midland Personnel Policies are amended as if Resolution No. 2023-XXX was entirely incorporated and written verbatim into the City of Midland Personnel Policies. I am authorized to execute this certification on behalf of the City of Midland, Texas, by the City Charter, Ordinances of the City of Midland, Sections 271.151-.160 of the Texas Local Government Code, as amended, and Resolution No. 2023-XXX.

Lori Blong, Mayor

Personnel Policies With Explanations

Foreword

The intent of this document is to provide helpful personnel information to every employee of the City of Midland. It is compiled after much consideration by many members of the City staff. It is designed as a device for better understanding and communication among the employees.

This manual is to be used as a reference, and knowledge of its contents is essential.

Policy changes may occur often, and the information in this handbook will change. As an employee, your input is important and appreciated.

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City of Midland Personnel Policies

Chapter I

Purpose

Section 1 Objectives

The objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management for the City. While these rules constitute a precise statement of policies and procedures, they are not intended to cover every conceivable personnel situation that may arise. As with any ordinance or regulation, these rules must be supplemented with administrative regulations in addition to the principles and policies set forth. For this reason, considerable latitude shall be given to the City Manager and the Administrative Services Director for administration of these policies within the framework set forth in these rules. It is expected that amendments and revisions affecting personnel policies will be made from time to time when they are necessary to meet changing conditions.

Section 2 Applicability

These rules, policies and procedures shall apply to and govern all employees of the City of Midland, except when these rules are inconsistent with State legislation. Words used in the singular shall be construed to read in the plural and words used in the masculine gender shall be construed to read in the feminine. Failure to comply with these policies may result in disciplinary action being taken against an employee. Nothing in these rules, policies and procedures, except [Chapter XII](#), shall be considered or construed to establish an employment agreement or contractor right of employment with the City of Midland. Nothing in these policies, rules and procedures, except [Chapter XII](#), should be construed as an employment agreement, guarantee of or contract for continued benefits from or employment by the City of Midland. Severance as defined in these rules and policies shall mean salary and all other compensation. Severance is to be paid in a lump sum upon involuntary separation. The Mayor shall have the authority to execute and approve amendments and modifications to employment agreements entered into under Chapter XII. The standard for compliance by the City with these personnel policies, rules or procedures shall be substantial compliance. A violation of or failure to follow any rule or procedure shall not form a basis for any civil or criminal action against the City or any employee or official of the City who is acting on behalf of the City except as authorized by Sections 271.151 through 271.160 of the Texas Local Government Code, as amended. The administrative remedy set out in these rules and procedures is the exclusive remedy. There shall be no appeal to or action in any court except on constitutional or statutory grounds. These personnel rules, policies and procedures shall be implemented, administered and construed to comply with applicable local, state and federal laws. That the term Other Employees as used in these policies shall only mean the Deputy City Manager, Assistant City Manager and First Assistant City Attorney. That Chapter XII and its related definitions are a contract for providing services as authorized by Sections 271.151 through 271.160 of the Texas Local Government Code, as amended. The testing of employees conducted in conjunction with the administration and enforcement of the City's drug and alcohol testing policy shall be conducted in accordance with the United States Constitution, the Texas Constitution, federal and state laws, and regulations and judicial precedent. Except as outlined in Chapter XII, an employee's at-will employment status is not modified by these policies and the Midland City Council reserves the right to amend these personnel policies in accordance with applicable statutes. As used in these rules and policies, council appointees shall mean the City Manager, City Attorney, City Secretary, the Presiding Municipal Court Judge and the Associate Municipal Court Judge.

Section 3 Nondiscrimination

Equal employment opportunities shall be afforded to all qualified persons seeking employment with the City of Midland, Texas, and no person shall be refused employment because of race, age, color, creed, sex, national origin, disability, or genetic information, nor shall any person be promoted, demoted, transferred or discharged for reasons other than merit. Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, compensation or any other aspect of

personnel administration because of race, age, color, creed, sex, national origin, disability, or genetic information is prohibited.

Section 4 Mission

We, the employees of the City of Midland, are passionate and energetic about the service we provide to each other and our community.

Section 5 Vision

Midland is a growing urban center in Texas, with a healthy economy and a vibrant downtown.

We enjoy great living, abundant leisure opportunities, and effective transportation-easy movement through our City.

Our diverse Midland community works together for a bright sustainable future; our City is recognized as a leader.

Section 6 Guiding Principles

1. Demonstrate integrity, respect and value everyone.
2. Exhibit professionalism by being accountable and dependable.
3. Exercise cooperation through a dedication to serve others.

Chapter II

General Provisions

Section 1 Political Activity

While in uniform or on active duty, an employee of the City of Midland may not engage in a political activity relating to a campaign for an elective office.

For the purposes of this section, a person engages in a political activity if the person:

- a. Makes a public political speech supporting or opposing a candidate;
- b. Distributes a card or other political literature relating to the campaign of a candidate;
- c. Wears a campaign button;
- d. Circulates or signs a petition for a candidate;
- e. Solicits votes for a candidate;
- f. Solicits campaign contributions for a candidate.

While out of uniform and not on active duty, an employee of the City of Midland may engage in a political activity relating to a campaign for an elective office, including each activity listed, except that the person may not solicit campaign contributions for a candidate other than from members of an employee organization to which that person belongs. See Texas Local Government Code 150.002.

Section 2 Disclosure of Religious Affiliations

No question in any text, in any application form or in any personnel proceeding, or of any appointing authority, shall be so framed as to attempt to elicit information concerning religious opinions or affiliations of any applicant or employee. No appointment to, or removal from, a position with the City of Midland shall be affected or influenced in any manner by any religious opinion or affiliation.

Section 3 Nepotism

- a. No person related, within the second degree of affinity (marriage) or within the third degree of consanguinity (blood), to the Mayor, member of the City Council, or the City Manager shall be appointed to any office, position or clerkship or other service to the City.
- b. In addition to the above stipulation, it is hereby provided that relatives or family members related within the second degree of affinity or the second degree of consanguinity (as defined in section "d" of this regulation) shall not be appointed to serve in positions in the same division (except for Police and Fire Departments, where the term "on the same shift assignment" shall be substituted for the term "in the same division") or in a position where one relative is to supervise or have influence over the other's employment. Any Department Manager who feels that such appointments are justified and necessary must present to the Administrative Services Director the reason and needs which are the basis for requesting the appointment. The City Manager's approval will be needed to make the appointment official.
- c. In the event of reorganization, promotion, or marriage between two City employees, the following shall apply:
 - 1) If the affected employees are employed in different departments or different divisions of a department and neither is in a position to supervise or have influence over the other's employment, no change in employment status will be required,

- 2) If the affected employees are employed in the same division of a department (or one is in a position to supervise or have influence over the other's employment), one of them must seek a transfer to another division of that department or to another department. Said employee may apply for any position for which they meet the minimum qualifications, but cannot remain in the same division for more than 90 days. At the end of the 90-day period one of the two must either terminate employment or accept reassignment to a position selected by the City Manager. Such reassignment shall be at the City Manager's sole discretion with due regard for the individual's skills and qualifications and the organization's needs. The City Manager may extend the 90 day limit an additional 90 days if the City Manager finds an extension to be in the best interest of the City of Midland.

d. For the purpose of this policy, the following shall constitute familial relationships:

- 1) Consanguinity (Blood): 1st degree includes Mother, Father, Son and Daughter; 2nd degree includes Brother, Sister, Grandfather, Grandmother, Grandson, Granddaughter; 3rd degree includes Uncle, Aunt, Nephew, Niece, Great Grandson, Great Granddaughter, Great Grandfather, Great Grandmother.
- 2) Affinity (Marriage): 1st degree includes Spouse, Mother-in-law, Father-in-law, Son-in-law, and Daughter-in-law (for the purposes of this policy 1st degree relationship will also apply to Stepmother, Stepfather, Stepson, and Stepdaughter); 2nd degree includes Brother-in-law, Sister-in-law (for the purpose of this policy 2nd degree relationship will also apply to Stepbrother and Stepsister), Grandfather-in-law, Grandmother-in-law, Grandson-in-law, Granddaughter-in-law.

Relatives who are currently employed in situations that would be a violation of this policy on the date it becomes effective shall not have their current employment status affected.

Section 4 Oath of Office

"All officers of the City, whether elective or appointive, shall qualify by taking the oath prescribed by the constitution of this state and by executing such bond as may be required under the provisions of this Charter and the ordinances and resolutions of the City". (Charter of the City of Midland, Article IV, Section 8)

Section 5 Solicitations

No solicitation of funds of any character or for any purpose whatsoever shall be permitted among city employees on the job without the express approval of the City Manager.

Section 6 Financial Responsibility of Employees

Employees of the City of Midland are expected to maintain a good credit standing in the community and to pay their obligations promptly. The City shall in no way serve as a collecting agency or arbitrator. Failure of an employee to pay or make reasonable provisions for future payment of his debts to such an extent that such failure shall be detrimental to the City services may be just cause for dismissal.

Section 7 Outside Employment

Full-time City employees are not encouraged to accept additional employment from another source. However, in certain situations, occasional and part-time work will be allowed if approved by the Department Manager and the City Manager and if the work does not constitute a conflict of interest, does not interfere with the employee efficiently carrying out his normal duties with the City, and does not involve the use of City time or City equipment. If an employee shall become unable to perform the duties of his City job because of any injury or other incapacitating cause while in the employment of an employer other than the City, the City may, at its sole option, reduce the benefits otherwise granted by these policies to whatever amount or degree the City deems to be justified.

Section 8 City-Owned Vehicles

All employees who drive City-owned vehicles in the performance of their duties are responsible for their proper operation. No City vehicle or piece of equipment used in normal operation or an emergency vehicle housed at an employee's home is to be used for personal business, except police. No City employee may drive a City vehicle if he does not have a valid driver's license.

Section 9 Employment Conditions

These rules shall become a part of the employment conditions of each employee and employment or continued employment with the City shall be contingent upon the employee's compliance with the provisions of these rules. Within ninety (90) days after the adoption of these rules and at the time of employment of each new employee, a copy of these rules in handbook form incorporating pertinent phrases of these rules shall be furnished to each employee.

Section 10 Amendment and Revision of Rules

The Director of Administrative Services may make recommendations for amendment and revision of these rules to the City Manager. If the City Manager shall approve such changes, he in turn shall submit them to the City Council for their approval. All rules and amendments thereto shall become effective upon the date of their approval by the City Council.

A copy of the Personnel Policies, Rules and Procedures, and all amendments or changes shall be filed in the office of the City Secretary and shall be available for inspection by all City employees and the public. Such filing shall constitute notice to all employees of the personnel policies, rules and procedures and of all amendments and changes. The Personnel Policies, Rules and Procedures manual, as amended or changed from time to time, shall supersede any conflicting provisions previously adopted. The rules, policies and procedures described herein may be amended, changed or terminated in whole or in part, at any time by the City of Midland. If an employee continues to work for the City of Midland for thirty (30) days after the effective date of any such amendment, change or termination, the employee will be deemed to have accepted such amendment, change or termination.

Section 11 Possession of Weapons

No employee, other than a peace officer, shall carry on or about his/her person, at a City work site, any instrument or weapon that is specifically designed, made, or adapted for the purpose of inflicting serious bodily injury or death, including, but not limited to, clubs, firearms, handguns, illegal knives, explosives, crossbows, bow and arrows, throwing stars and knuckles. No employee, other than a peace officer, shall carry a concealed weapon in any City building, regardless of whether or not the person is duly licensed by the State of Texas to carry a concealed handgun. No employee, other than a peace officer, may carry a weapon on or about his/her person at any time while conducting City business. The term "City work site" includes not only City buildings and property, but also other assigned work locations, City vehicles and City equipment. The term "City building" means any and all buildings or portions of buildings owned, leased, or otherwise controlled by the City of Midland.

Chapter III

Organization and Administration

Section 1 Organization of Personnel

a. The City Council. "The compensation of all appointive officers and employees shall be fixed by the City Council, who may increase or diminish compensation at will or abolish any appointive office entirely at any time." (Charter of the City of Midland, Article IV, Section 14c)

b. The City Manager. The City Manager will advise the City Council on personnel matters and recommend to them changes in personnel policies, changes in personnel rules and regulations, the compensation rates of appointive officers and other City employees, and any other changes that he may deem necessary or expedient. The City Manager is responsible for the administration of the personnel program of the City of Midland and to assist him in this function he may appoint a Director of Administrative Services.

c. Director of Administrative Services. The Director of Administrative Services and the Administrative Services Department, acting under his supervision, will represent the City Manager with regard to routine administration of all phases of these rules and policies.

d. Department Managers. Department managers are expected to effectively supervise their employees and to maintain proper working relationships. They may adopt and enforce departmental regulations not inconsistent with these rules and regulations. Department Managers will report on the efficiency of their subordinates and notify the Director of Administrative Services of changes in duties of their employees, in order that the City of Midland classification plan may be maintained. The Department Managers will recommend to the City Manager merit increases for their employees. Department Managers will have the power of appointment and removal in their departments, including the power to appoint division managers. The appointment of new employees by department managers will be made only from eligible applicants referred to them by the Director of Administrative Services with exceptions as noted under [Chapter IV, Section 2](#). Transfers and reclassification should be consummated only after a study of information contained in the individual's file and after consultation with the Director of Administrative Services.

Chapter IV

Applications, Applicants, and Conditions of Employment

Section 1 Basis of Employment

All initial employment with the City of Midland shall be based on merit, ability, and physical and moral fitness, and may include any or all of the following:

- a. Training and experience as reflected by the application form, plus other documentary evidence as to certification, registration, etc., if requested;
- b. Job related written and/or performance tests as required;
- c. A job related physical examination and/or functional capacity screening;
- d. Background check for conviction of crimes involving moral turpitude and (in connection with jobs involving the operation of motor vehicles) moving traffic violations;
- e. Character investigations made by the Administrative Services Department and/or the manager of the department concerned.

Exceptions to the procedures in this chapter may apply to: (1) Police officers, (2) Firefighters, (3) Seasonal recreation employees, (4) Department managers, (5) Council appointees and their assistants.

Section 2 Recruitment

This function is one of the services performed by the Administrative Services Department, for permanent, part-time, and seasonal employees paid by the City. The central office will maintain files of applications. These are to be obtained through personal contacts from individuals applying to the City, through contacts with established employment agencies, and/or by way of advertising. The Director of Administrative Services or those designated by him will conduct the initial recruiting, and screening. Suitable and eligible applicants will be referred to Department Managers or those designated by them for additional interview and employment.

Section 3 Requests for Personnel

When departments submit requests to the Administrative Services Department for persons to fill vacancies, such requests shall include the title of the position to be filled, contemplated initial salary or wages, desired training and/or experience qualifications and such other pertinent information as may be needed to enable the Administrative Services Department to most satisfactorily find the personnel being sought by the department. When circumstances permit, requests for personnel should be made a reasonable period of time in advance of the actual need.

Section 4 Applicant Preference

Other qualifications being equal, departments will be expected to extend hiring preference to persons currently employed by the City of Midland.

Section 5 Residence

Other qualifications being equal, applicants who live inside the corporate limits of the City of Midland should be given preference over those living outside the City limits when appointments to positions with the City are being made.

Section 6 Announcements

All positions will be opened to applicants outside the city organization, at the department's discretion, and shall be posted for at least five (5) working days. If a shorter publication period is required due to an emergency, written justification should be included with the requisition and must be approved by the City Manager or the City Manager's designee.

Section 7 Application and Selection Procedures

All persons seeking initial employment or re-employment will be required to complete an application with the Administrative Services Department. Applications will be maintained by the City of Midland's Administrative Services Office, City Hall, 300 N. Loraine. Referrals will be made from the City of Midland's applicant database. Suitable and eligible candidates will be selected according to the requirements the department places on the requisition; which will include education, skills, experience and any affirmative action requirements, etc. Candidates will be required to complete typing, data entry, aptitude and/or psychological testing when necessary.

Recruiting departments shall only interview those persons who have completed a City of Midland Application Form. No formal job offers are to be made at the time of the interview. If the interviewer determines that a candidate is acceptable, the Administrative Services office will extend an offer of employment, contingent upon the successful completion of background investigations, physical examinations and/or functional capacity screening, and drug/alcohol screening.

Section 8 Appointments

As indicated above, no person shall be employed prior to completion of the application and selection process described above. The recruiting department shall notify the Administrative Services office of the preferred candidate and the date they would like to have the candidate begin employment. The department shall schedule an appointment with the Administrative Services Department for the enrollment/orientation of all new employees.

If no candidate possessing the minimum qualifications is located or approved by the recruiting department, a lesser-qualified person in a lesser classification may fill the budgeted position.

Section 9 Physical Standards

a. Medical Examination Requirements. All new and former employees will undergo a prescribed medical and/or functional capacity examination, to be made by some officially designated medical authority. The purpose of the examination will be the determination and certification of physical fitness and ability to perform duties of the position to which appointment is being considered. Such examinations are to be made as near the effective date of employment as possible.

The Administrative Services Department has the responsibility of making appointments and arrangements for obtaining the examinations, and matters concerning the initiation and completion of the requirements should be taken up with the Administrative Services Department.

b. Exceptions. Physical standards and requirements may vary somewhat in accordance with the duties and working conditions as generally set forth in the specifications for various positions and also as to anticipated length of employment.

The Administrative Services Department will advise the examining medical officer regarding any special or unusual requirements of this nature. The opinion and recommendation of the examining medical officer will govern and determine the acceptability of any person for employment, and particular attention will be given to the present or future capacity of the prospective employee to perform the required duties of the position, with or without a reasonable accommodation.

The examining medical officer will complete and forward to the Administrative Services Department a complete report on the prescribed form indicating his specific recommendations as to the suitability of the person for employment in the position indicated.

Section 10 Age Requirements

Age limits are indicated in some specifications for various classes of positions, upon the basis of a bona fide occupational qualification or statutory requirement.

Within statutory limits and restrictions, minors may be considered for employment in positions of a non-hazardous nature. In all instances, the parents of such minors shall be required to execute a waiver and release form, which will be provided by the Administrative Services Department. Any questions relative to matters of this nature, which cannot be satisfactorily solved by the Administrative Services department, will be referred to the City Attorney, whose ruling shall be final and governing.

Section 11 Standards of Conduct

To an unusual extent, and in a peculiar sense, employees of a municipal organization are the "Good Will Ambassadors" of the City, and such status involves a degree of duty and obligation regarding public and private conduct which is not common to many other classes of employment. The attitude and deportment of City employees should at all times be such as to promote the good will and favorable attitude of the public toward City Administration and its program and policies.

Section 12 Types of Positions

a. Full-Time. Full-time employees are employees who have a required workweek equaling or exceeding the full-time, established workweek.

b. Part-Time. Part-time employees are hourly paid employees working less than 30 hours each week. Part-time employees who are not temporary employees and who work at least 1,000 hours each year shall participate in the Texas Municipal Retirement System.

Part-Time employees shall not be eligible for Paid Time Off, holidays, or participation in any benefit program, including group insurance programs and other special benefit programs, unless specifically provided for in these policies, or required by State or Federal Law.

c. Temporary. Temporary employees are employees (whether full-time or part-time) who are anticipated to be working for the City for a comparatively short or definitely limited duration, not exceeding 960 working hours within a 12 month period. If a temporary employee who has had no break of time in his service and who works a full eight-hour day and a full normal work week is transferred to permanent status, he will be eligible for all the benefits of a permanent employee retroactive to the employment date of his uninterrupted service.

Section 13 Disqualification for Employment

The Director of Administrative Services may reject any application that indicates on its face that the applicant does not possess the minimum qualifications required for the position, and he may exclude or deny certification to any application for, but not limited to, the following reasons:

- a. He does not possess the bona fide occupational qualifications necessary for the performance of the duties of the position to which he seeks appointment.
- b. He has intentionally made false statements in his application or in the examination or has practiced or attempted to practice deception or fraud in connection with such application.
- c. He is receiving pension benefits under a retirement plan of the City.
- d. He refuses to participate in a retirement system, insurance program or social security program as required in these rules under [Chapter X](#).
- e. Any other grounds set forth in [Chapter VIII](#) of these rules.

Section 14 Probation Periods

a. Every employee, including part-time, seasonal, and temporary employees, shall be on probation for a period of one (1) year (twelve (12) months), unless the City Manager otherwise specifies a shorter period. In no case shall a probation period be less than six (6) months.

b. When the employee first reports for work, he shall be notified of the fact that he will be on probation for the required number of months. During that time, the supervisor shall observe his work with particular care, train, and advise the employee in the performance of his duties and let him know whether he is progressing satisfactorily.

c. At the close of the probationary period, the Department Manager shall do one of the following:

- 1) End the employee's probationary status and process any pay increase that may be allowed under the pay plan structure;
- 2) extend the probationary period for a period not to exceed six (6) months as described in Subsection d below; or
- 3) dismiss the employee.

d. Prior to the close of an employee's probationary period, an employee's Department Manager may notify the Director of Administrative Services of the Department Manager determination that the employee's probationary period should be extended. The Department Manager and the Director of Administrative Services may subsequently recommend to the City Manager or the City Manager's designee that the employee's probationary period be extended, and the City Manager or the City Manager's designee shall decide whether to grant the extension. The City Manager or the City Manager's designee may grant one (1) extension of the probationary period for a period not to exceed six (6) months. For the avoidance of doubt, any such extension must be granted prior to the expiration of the initial probationary period and shall become effective at the close of the employee's initial probationary period.

At the close of any extension of the probationary period, the Department Manager shall do one of the following:

- 1) End the employee's probationary status and process any pay increase that may be allowed under the pay plan structure; or
- 2) dismiss the employee.

e. Probationary employees are entitled to all benefits as set out in these rules, however, probationary employees may be discharged with or without specific reason and shall not be entitled to the appeal procedure set out in these rules for any adverse action to or termination during the probation period. Probationary employees shall be entitled to a "name clearing hearing" as outlined in [Chapter VIII](#) of these rules.

f. Employees promoted or transferred within the City service shall be on probation for their first twelve months. During that time the Department Manager may cancel the promotion or transfer and assign the employee to his former or a similar position. If the former position is no longer available, nor a similar position available, the employee may be discharged under this policy.

Section 15 City of Midland Drug and Alcohol Testing Policy

a. Introduction

The City of Midland recognizes that drug and alcohol abuse ranks as one of the major health problems in the world and adversely affects an employee's performance and safety on the job.

Therefore, it is necessary and required by law for the City to provide a drug free working environment for its employees.

It is the City of Midland's intention to comply fully with the DOT's (Department of Transportation) regulations governing drug and alcohol use and testing, and these requirements have been incorporated into this Policy. In the event federal and state regulations are amended, this Policy and the applicable terms, conditions and/or requirements of this Policy shall be deemed to have been amended automatically at that time in order to reflect and be consistent with said regulations.

b. Definitions and Terms Used in This Policy

- 1) **Safety-sensitive function** - for the purpose of this Policy, means any of the following:
 - a) Driving or operating any City- owned motor driven equipment on a full time, part time or temporary basis;
 - b) Inspecting, servicing, repairing, or conditioning motor equipment; or
 - c) Loading or unloading, giving or receiving shipments being loaded or unloaded.
- 2) **DOT driver** - means any current or prospective employee who may be required to operate a motor vehicle having a gross vehicle weight rating in excess of 26,000 pounds in interstate or intrastate commerce, or driver of a motor vehicle used to transport hazardous materials in quantity that requires the vehicle to be placarded regardless of the vehicle's size.
- 3) **Safety sensitive worker** - means any current and/or prospective employee who falls into the category of:
 - a) Performers of safety-sensitive functions as described in Section 1 above;
 - b) Operators of personal vehicles which are used for city business;
 - c) Public safety personnel (Police, Fire, etc.); or
 - d) Public safety communications personnel.
- 4) **City business** - includes, but is not limited to, work performed on or in City property including a City vehicle, and work performed on or in a non-City vehicle being used for conducting City business.
- 5) **Refusing to be tested - means:**
 - a) Failing to provide adequate urine specimen for a drug test without a valid medical explanation;
 - b) Failing to provide adequate breath for an alcohol test without a valid medical explanation;
 - c) Failing to submit to a test as directed or engaging in any conduct, which clearly obstructs the testing process.

Examples of obstructing the testing process would include leaving the scene of an accident without a valid medical or safety reason; not showing up for a test at the time directed without a valid excuse; tampering with a urine specimen; tampering with an alcohol testing device; failing to provide required identification; failing to cooperate with federal, state or local law enforcement officers at the scene.

- 6) **Positive alcohol breath test** - is when the alcohol concentration level registers 0.02 or greater.

c. Prohibited Drug and Alcohol Use and Activities

- 1) The City of Midland prohibits its employees from:
 - a) Using or being under the influence of or possessing illegal drugs
 - b) Using or being under the influence of legal drugs that are being used illegally;
 - c) Using or being under the influence of legal drugs whose use can adversely affect the ability of the driver to perform his or her job safely.
 - d) Selling, buying, soliciting to buy or sell, transporting, or possessing illegal drugs while on City time or property (except for approved law enforcement activities.)
- 2) Employees are prohibited from:

- a) Using alcohol intoxicants within 4 hours of reporting for work;
- b) Being under the influence of alcohol at any time while at work;
- c) Possessing any amount of alcohol intoxicants on City property or in City vehicles (except for approved law enforcement activities.);
- d) Testing positive for alcohol;
- e) Refusing to be tested for drugs and alcohol as defined in [Section b.5](#) of this Policy;
- f) Violating any applicable federal and/or state requirement governing the use of drugs or alcohol (See [Chapter VIII](#)).

d. Required Tests

1) Pre-employment/Transfer Testing

Once a job offer has been made, the applicant will be required to submit to a drug and alcohol test as part of his post-job offer physical. This is to be completed before the applicant is allowed to

report for work. This also applies to an employee who transfers from a non-covered position into a position that is covered by this policy on or after January 1, 1995.

Prior to taking a pre-employment drug and alcohol test, the applicant will be asked to execute a general consent and release form to be tested for drugs and alcohol.

All employment offers made by the City of Midland to hire an applicant, or transfer an employee are conditioned upon the applicant:

- a) Completing all of the "consent to be tested" forms;
- b) Taking and passing the drug and alcohol test as described by this policy;
- c) Signing the authorization form for the City of Midland to obtain all of the applicant's past drug and alcohol test results, including any refusals to test, for the previous two years if required by DOT regulations.

Any applicant who refuses or fails to comply with this policy will not be considered qualified for the position for which they have applied and will also be subject to adverse action, up to and including termination.

2) Post-accident Drug and Alcohol Testing

Any employee who is involved in an accident while operating a City vehicle or a personal vehicle for City business must submit to a post-accident drug and alcohol test when:

- a) It involves the death of a human being;
- b) The employee receives a citation for a moving violation (or the employee's actions are cited in the official Peace Officer's report as a contributing factor) and either a person requires immediate medical attention away from the scene or one or more of the vehicles must be towed away from the scene because of disabling damage. The drug and alcohol test is to be conducted within 2 hours post-accident, or 8 hours in unusual circumstances.

An employee who is required to take a post-accident drug and alcohol test will be assigned to a non safety-sensitive function while awaiting the results of the tests.

An employee who refuses or fails to submit to a post-accident drug and alcohol test, who tests positive for drugs and/or alcohol, who unnecessarily delays reporting to the test site following an accident, or who fails to comply with the City's post accident testing procedures, will be subject to adverse action, up to and including termination.

3) Reasonable Suspicion Testing

An employee will be required to submit to a drug and alcohol test whenever the City has a reasonable

suspicion to believe that an employee has used drugs and/or alcohol in violation of these policies. Reasonable suspicion shall be based on specific, objective facts and reasonable inferences drawn from those facts in light of the experience that the employee has engaged in Prohibited Conduct with regard to the use of drugs and/or alcohol, as described in Chapter VIII of the City of Midland Personnel Policies.

Reasonable suspicion exists when an employee's behavior, appearance, speech or body odor indicates drug and/or alcohol use; such must be personally observed and documented by City of Midland supervisory personnel who have received training regarding the physical, behavioral, speech, and performance indicators of probably drug and/or alcohol use.

If an employee is required to submit to a drug and alcohol test based on a reasonable suspicion regarding his/her use of drugs and/or alcohol ("Reasonable Suspicion Test"), the employee shall be informed that he/she may:

- a) Submit to a Reasonable Suspicion Test;
- b) Appeal the matter to another supervisor (to begin at the Division Manager level) authorized to act as an Appeals Officer; or
- c) Refuse the Reasonable Suspicion Test and be subject to Adverse Action (as defined in Chapter VIII) up to and including termination.

If the employee requests an appeal, a hearing shall be conducted immediately with the supervisor requesting the Reasonable Suspicion Test, the Appeals Officer, and the employee present.

The Appeals Officer shall determine whether there is a reasonable suspicion to believe that the employee engaged in Prohibited Conduct with regard to the use of drugs and/or alcohol. The Appeals Officer shall have the authority to either:

- a) Order the employee to submit to a Reasonable Suspicion Test; or
- b) Order that the allegations against the employee be dismissed.

An employee who is required or ordered to submit to a Reasonable Suspicion Test shall be escorted by supervisory personnel to a testing site.

An employee who is required or ordered to submit to a Reasonable Suspicion Test is prohibited from performing safety-sensitive functions while awaiting the results of the Reasonable Suspicion Test.

An employee who receives a positive Reasonable Suspicion Test, or fails to timely submit to a Reasonable Suspicion Test, shall be subject to Adverse Action up to and including termination.

4) Random Testing

DOT drivers and safety sensitive workers are subject to random drug and alcohol testing.

The City of Midland will conduct drug and alcohol testing on a random, unannounced basis at the beginning, during or at the end of a regularly scheduled work shift. The testing dates and times are unannounced and are with unpredictable frequency throughout the year. The number of random tests conducted will (at a minimum) equal the amount required by federal and/or state regulations for employees who possess a commercial driver's license and perform in that capacity. Non-DOT employee random testing amounts will be at the discretion of the City Manager or designee.

The City of Midland shall maintain two separate pools for random testing, one for DOT drivers and one for safety-sensitive workers as defined in this policy. Every employee in the selected job classes or organizational divisions will have an equal chance of being selected each and every time the selection is conducted. Appropriate safeguards will be present to ensure that the identity of individuals cannot be determined prior to or at the time of their selection.

Whenever an employee is randomly selected to be tested, he or she will be instructed to report to the collection site immediately and will be given written notice of the testing procedures.

Any employee who tests positive or who refuses to submit to a test is subject to adverse action up to and including termination.

5) Return to Duty Testing

Should the City of Midland elect to consider reinstating or rehiring an employee who violates this policy, he or she will be required to submit to and pass a drug and alcohol test before he or she will be permitted to return to duty. For a return to duty alcohol test, the alcohol level must be less than 0.02.

Before being permitted to return to work, the employee must execute a "last chance agreement" and submit to at least six unannounced follow-up tests during the next 12 months.

Any employee who refuses to comply with the return-to-duty requirements, or who tests positive will be considered medically unqualified to perform his or her job and subject to adverse action up to and including termination.

6) Follow up Testing

An employee who is returned to duty after a positive drug or alcohol test is required to submit to unannounced follow-up testing as one condition of continued employment.

At a minimum, the employee will be required to submit to at least six tests during the next 12 months following the employees' return to duty. The date and time of such tests will be at the discretion of a substance abuse professional or the Division and/or Department Manager and conducted at random, without prior notice being given to the employee.

An employee who tests positive or who refuses to submit to a test, will be considered unqualified to perform his or her job and subject to adverse action up to and including termination.

e. Testing Methodology and Integrity

- 1) To insure the integrity of each test, all specimen collection, analysis, and laboratory procedures for personnel subject to 49CFR Part 40 and § 552.001, Texas Commercial Driver's License Act shall be conducted in accordance with DOT procedural protocols and safeguards. This includes, among other things:
 - a) Procedures to ensure the correct identity of each employee at the time of testing;
 - b) Strict chain of custody procedure to ensure that the specimen is not tampered with by the collection agency;
 - c) The use of a trained breath alcohol technician (BAT) and DOT approved testing devices for conducting alcohol tests;
 - d) The use of a laboratory which has been certified by the Substance Abuse and Mental Health Services Administration, a division of the U.S. Department of Health and Human Services (DHHS/SAMSHA);
 - e) The confirmation of an initial positive drug screen by a second analysis using gas chromatography/mass spectrometry (GCMS);
 - f) The confirmation of an initial positive alcohol screen by a second analysis;
 - g) The City's appointment of a qualified Medical Review Officer (MRO) to review positive drug test results before they are reported to the City of Midland's designated representative.

- 2) The City of Midland will provide employees with written and/or oral instructions regarding the conduct of the specific test before each testing event,
- 3) Drug Testing Procedures
 - a) Drug testing will require the employee to provide a specimen of his or her urine.
 - b) At a minimum, urine specimens will be analyzed for the presence of the following drugs: marijuana, cocaine, opiates, amphetamines, and/or phencyclidine (PCP).
 - c) Personnel not subject to 49 CFR Part 40 and § 522.001, Texas Commercial Driver's License Act, may be subject to the pre-employment drug test via the rapid drug test method conducted by a trained technician. Positive test results will be confirmed with City's Department of Health and Human Services approved testing facility. All other drug tests will be administered using the split sample methodology required by DOT. Under this methodology, the employee must provide at least 45 ml (milliliters) in a specimen container. The specimen will then be divided, into two specimens. The bottle containing 30 ml will be analyzed as the employee's primary specimen. The second bottle will be held by the laboratory, to be sent to another lab at the employees' request in the event that the primary specimen is verified as positive. In the event the primary specimen is verified as positive, the employee will be notified by the City's MRO or by the City's designated representative of the positive test and given the option to have the second bottle sent to a different laboratory for analysis. To exercise this option, the employee must advise the city's MRO or designated representative within 72 hours of being informed of the primary positive result. The employee will be responsible for the cost of having the second sample analyzed.
 - d) Except for the use of methadone and medications containing alcohol, nothing in this Policy prohibits the employee's use of a medication legally prescribed by a licensed physician who is familiar with the employee's medical history and specific job duties and who has advised the employee that the prescribed medications will not adversely affect the employee's ability to perform his job safely. Medications prescribed for someone other than the employee, however will not be considered lawfully used when taken by the employee under any circumstances.
 - e) A "positive" drug test may be declared "negative" by the MRO, if the employee can prove with clear and convincing evidence that the drug which was used was prescribed by a licensed physician who is familiar with the employee's medical history and specific job duties. The determination of this will be made by the MRO.
 - f) In the event that the test result of an employee's primary specimen is positive, the employee will be notified by the MRO. If the MRO is unable to reach the employee after making reasonable efforts, then the employee may be notified by the City's designated representative. The MRO or the City's designated representative shall advise the employee that he or she has 72 hours to request that the MRO send the secondary specimen to a second NIDA approved laboratory for analysis. The employee will be responsible for the cost of the second test.
 - g) Before an employee's test result will be confirmed positive for drugs, the employee will be given the opportunity to speak with the City's MRO and demonstrate that there was a legitimate medical explanation for the positive test result. If the MRO determines that a legitimate medical reason does exist, the test result will be reported to the City as a "negative," If the MRO determines that a legitimate medical reason does not exist, the test result will be reported to the City as a "confirmed positive."
- 4) Alcohol Testing Procedures
 - a) Alcohol testing under this Policy requires that an employee must provide a breath specimen for any test conducted by, or for the City of Midland.
 - b) In addition to this policy, an employee could be subject to alcohol testing conducted by a federal, state or local law enforcement officer following an accident. The employee must provide either a breath or blood specimen, as directed by the law enforcement officer.
 - c) Alcohol tests will be administered using a breath specimen, taken by a breath alcohol technician (BAT) using an approved breath-testing device (EBT).
 - d) Before being tested by the City, each employee will be positively identified through

presentation of a photo-identification or by other means approved by the City of Midland and will be required to execute a "Breath Alcohol Test" form provided by the BAT. An employee who refuses to provide proper identification, provides false identification, refuses to execute the forms, or who otherwise refuses or fails to cooperate will be treated as though he or she had tested positive and will be subject to adverse action, up to and including termination.

- e) Prior to each alcohol breath test, the BAT will instruct the employee on how the test will be performed.
- f) To protect each employee, the BAT will open and attach to the testing device an individually sealed mouthpiece in the employee's view. The employee will then be directed to blow forcefully into the breath-testing device until an adequate amount of breath has been maintained.
- g) In the event that the employee is unable to provide an adequate amount of breath for the initial or confirmatory test after several attempts to do so, the employee will be required to submit to an evaluation by a licensed medical physician to determine whether a valid medical condition does exist. If the physician determines that a valid medical condition does exist, the test result will be considered as "negative". If the physician determines that a valid medical condition does not exist, the test result will be considered a "confirmed positive".
- h) In the event that an employee provides an adequate breath specimen and the initial test registers an alcohol concentration level that is less than .02, the test results will be reported, as "negative" and no additional testing will be required at that time.
- i) In the event that an employee provides an adequate breath specimen and the initial test registers an alcohol concentration of .02 or greater, a second confirmatory will be performed. If the confirmatory breath test registers less than .02, the test results will be reported as a "negative." The confirmation breath test will be administered no sooner than 15 minutes from the initial breath test and no longer than 20 minutes from the initial breath test. During the wait period for the confirmation test, the employee is not allowed to put anything into his mouth and should be discouraged from belching or burping.

f. Test Results - Adverse Action

- 1) An employee who violates these prohibitions will be subject to restrictions mandated by the DOT as described in [part d, item 6](#) of this Section and subject to adverse action as described in [Chapter VIII](#) of the City of Midland's Personnel Policies Manual, up to and including termination.
- 2) Any employee whose test result is confirmed positive for drugs will be considered unqualified to perform or continue to perform his or her functions safely and subject to adverse action up to and including termination. The employee could also be subject to civil and criminal penalties imposed by DOT.
- 3) An employee whose confirmatory test registers .02 or more but less than .04 will be removed from service and placed on leave for a minimum of 24 hours. The employee will be subject to return to duty testing and follow up testing and may be subject to adverse action up to and including termination.

An employee whose confirmatory test registers .04 or greater will be removed from service and placed on leave for a minimum of 24 hours and referred to a Substance Abuse Professional (SAP). The employee may be subject to adverse action up to and including termination.

Before consideration can be given to returning an employee to duty who has had a BAC (breath alcohol concentration) of .04 or greater, the employee must complete the rehabilitation program as prescribed by the SAP and be subject to return to duty and follow up testing.

g. Confidentiality

The results of all individual drug and alcohol tests will be kept in a secure location with controlled access.

All individual test results will be considered confidential. The release of an individual employee's results will only be given with an individual employee's written authorization, or as is otherwise required by DOT regulations, or by other applicable federal or state law.

Section 16 Harassment Policy and Procedures

a. Prohibited Conduct

The City of Midland prohibits harassment based on race, color, religion, sex, age, national origin, disability or any other basis protected by federal, state or local law. It is the policy of the City of Midland that all employees shall be able to enjoy a work environment free from all forms of discrimination and harassment, including sexual harassment. In general, harassment may be defined as unsolicited words or conduct which tend to annoy, alarm or abuse another person, or a course of vexatious comment or conduct that is known or ought reasonable to be known to be unwelcome. Additionally, sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. No employee, either male or female, should be subjected to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. Such actions will not be tolerated.

Each employee has the responsibility to maintain the workplace free of all types of harassment. In keeping with such, the City of Midland has the responsibility of providing this policy to all employees and assuring them that they are not to endure insulting, degrading, or exploitative sexual treatment.

Specifically, no person shall threaten or insinuate, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, wages, advancement, assigned duties, shifts, or any other condition of employment or career development. In addition, while on duty or while acting in an official capacity, no employee shall knowingly or intentionally engage in conduct which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidated, hostile, or offensive work environment; or conduct which subjects a member of the public to sexual harassment.

b. Examples of Prohibited Activity

Examples of unlawful harassment based on race, color, religion, sex, age, national origin, disability, or other protected basis includes, but is not limited to the following:

- 1) Verbal actions such as slurs, derogatory comments or jokes, epithets or unwanted sexual invitations, advances, or comments;
- 2) Physical actions such as unwanted touching, assault, blocking another's way, or interference with work;
- 3) Visual conduct such as sexually-oriented, pornographic and/or derogatory photographs, posters, drawings, cartoons, gestures, e-mail, or Internet sites;
- 4) Threats or demands to submit to sexual advances or requests as a condition of continued employment, offers of employment benefits in return for sexual favors, or to avoid some other negative employment action; and
- 5) Retaliation against any employee for making an allegation of harassment or for participating in such an investigation.

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that affects an employee in any one of the following ways:

- 1) Submission to such conduct is made explicitly or implicitly a term or condition of a person's employment;
- 2) Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that individual; or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

c. Procedures

Any employee who believes that he or she has been subjected to general harassment as defined above should avail themselves of the grievance procedures outlined in Chapter IX of these policies. Any employee (or member of the public) who believes that he or she is or has been subject to sexual harassment by a City employee should report the alleged charge immediately, in accordance with the following procedures. (All information will be held in strictest confidence and will be disclosed only on a need to know basis to investigate and resolve the matter).

- 1) The individual alleging harassment may report the incident to their immediate supervisor, their Department Manager, the City Manager's Office or the Administrative Services Department. If an employee's immediate supervisor is involved in the alleged harassment, it is unnecessary to make a report to that individual. If accusations are made to any other person or if supervisory personnel otherwise become aware of suspected acts of harassment, the matter should be directed immediately to the Administrative Services Department. The supervisor or administrator contacted will offer the individual alleging harassment the opportunity to complete a written statement specifically outlining the complaint. If the complainant does not put the complaint in writing, the person contacted still must notify the Administrative Services Department. Employees are encouraged to promptly report the alleged harassment within three (3) calendar days of the offense. The City of Midland takes all complaints seriously and handles them as promptly, thoroughly, and confidentially as possible.
- 2) Once a written complaint is filed, the Administrative Services Department will conduct an investigation within 48 hours of their receipt of the complaint (excluding weekends and holidays).
- 3) If corrective action (other than adverse action as outlined in [Chapter VIII](#) of these policies) is deemed appropriate as a result of the investigation, the City Manager's Office may authorize the Administrative Services Department or the Department Manager to enforce said action as needed. Any adverse action recommended as a result of the investigation will be subject to approval by the Department Manager and will be subject to the appeals procedure outlined in [Chapter VIII](#) of these policies. If allegations prove not to constitute harassment, or the evidence provided does not substantiate the claim, the accused employee will not be subject to any adverse action. Employees who register complaints in good faith will not be subject to any retaliation. Employees who willfully register false accusations will face adverse action, up to and including termination.

Section 17 Workplace Violence Policy

The City of Midland is committed to maintaining a safe work environment, and has a zero tolerance policy for violence in the workplace. "Workplace violence" is defined to include:

- a. Physically aggressive, violent, or threatening behavior, such as attempts to instill fear in others or intimidation;
- b. Verbal or physical threats of any sort;
- c. Any other conduct that suggests a tendency toward violent behavior. Such behavior includes but is not limited to, excessive arguing, profanity, threats of sabotage of City property, belligerent speech or demonstrated pattern of insubordination, and refusal to follow City policies and procedures;
- d. Causing physical damage to City facilities or defacing property; or
- e. With the exception of authorized City personnel as described in Chapter II, carrying firearms or weapons of any type or kind while conducting City business in or on City buildings and property, other assigned work locations, and City vehicles and equipment.

If any employee becomes aware of or observes any of the above-referenced behavior or actions by a co-worker, consultant, customer, third party vendor, visitor, or any other party, he or she should notify his/her supervisor, any member of management, and/or the Administrative Services Department immediately.

All reports of workplace violence will be taken seriously. To the extent possible, the identity of the reporting individual(s) will be kept confidential. The City will not tolerate retaliation in any form against an employee who makes a report of workplace violence.

Any employee found to be in violation of this policy will be subject to adverse action up to and including termination.

Chapter V

Attendance and Leaves

Section 1 Hours of Work

All offices of the City, except those for which special regulations are required, shall be kept open continuously from 8:00 a.m., until 12:00 p.m. (noon) and from 1:00 p.m. until 5:00 p.m., Monday through Friday.

Section 2 Regular Working Day

For the purpose of these policies and all the following sections which deal with attendance and leave, a "regular working day" or an "accrued day" of leave shall be 8 hours for all full-time employees; provided, however, that for the Fire Department's 56-hour shift personnel ("Fire Department Shift Personnel"), a "regular working day" or "accrued day" shall be 12 hours. No employee may receive additional compensation by working during his or her leave without the express approval of the City Manager. Temporary employees will earn no Paid Time Off or other leaves except as otherwise expressly stated in these policies.

Section 3 Work Week

The work week will be determined by the needs of the City and set by the City Manager with due regard for certain State statutes.

Section 4 Overtime

Employees may be required to work overtime when necessary in order to maintain the proper City services. To the extent that an employee's supervisor has not expressly required the employee to work overtime, the employee shall, prior to working overtime, obtain the employee's supervisor's approval to work overtime. Non-exempt employees who work overtime shall be compensated at rates set pursuant to law. Except as expressly provided in these Personnel Policies, no employee leave shall be considered hours worked for purposes of overtime. Many employee classifications are eligible for compensatory time off rather than paid overtime. No more than forty (40) hours of compensatory time may be accumulated.

Section 5 Attendance

An employee shall be in attendance at his or her worksite in accordance with the rules regarding hours of work, holidays, and leaves as determined by the employee's department. Excessive tardiness, neglect of duties, or unauthorized absences will be grounds for dismissal. All departments shall keep daily attendance records of employees. Any employee absent from work without notice for three (3) consecutive days will be considered as having abandoned the job. Such abandonment shall be considered a voluntary resignation from employment, and the City will process such separation of employment as a voluntary resignation.

Section 6 Inclement Weather / Emergency Closure

The City of Midland offices and activities will remain open and in operation, during established working hours unless the City Manager declares the offices, excluding emergency services, officially closed due to inclement weather or emergency closure due to unusual circumstances.

- a. **Non-Sworn Employees.** For purposes of this Section, "non-sworn employees" are all City employees except peace officers and fire protection personnel.

- b. **Reporting to Work.** If the City has not been officially closed, employees shall make a reasonable effort to report to work. An employee who is unable to report to work due to inclement weather shall notify the employee's supervisor in accordance with these policies and applicable departmental rules and procedures. An employee who fails to so notify the employee's supervisor may be subject to adverse action, up to and including dismissal.

c. **Compensation for Inclement Weather / Emergency Closing Absences.**

Compensation for absences will be as follows:

- 1) **Official Closing.** If the City Manager closes a facility, a non-exempt non-sworn employee designated by the employee's Department Manager may work remotely to ensure department operations continue during the closure period. An employee who works remotely shall be paid for hours worked in addition to receiving the "City Closed" accrual for their scheduled shift. Hours worked remotely count as hours worked in determining overtime in accordance with the Fair Labor Standards Act. An employee who does not work remotely shall be paid for the employee's scheduled shift. Such "City Closed" hours shall not count as hours worked for the purpose of overtime. If an employee is on Paid Time Off or any other leave during the declared times of closing, the appropriate leave compensation will apply.
- 2) **No Official Closing.** If the City Manager does not close a facility and an employee is unable to report to work due to inclement weather, compensation will be handled in the following manner:
 - a) **Non-exempt Employees.** A non-exempt employee who misses work hours due to inclement weather may use accrued Paid Time Off or compensatory leave. If an employee has no paid leave available, the employee may be granted authorized leave without pay.
 - b) **Exempt Employees.** An exempt employee who misses work hours due to inclement weather or other emergencies may use accrued Paid Time Off if the absence is for a full workday.
- 3) **Delay Start / Early Closing.** If the City Manager delays the opening of a facility or closes a facility early due to inclement weather, an employee who reported for work will be paid "City Closed" for the remainder of the employee's normal shift. Employees who remain as part of a skeleton crew will be compensated for all hours worked in addition to receiving the "City Closed" accrual for hours the City was closed due to the delayed opening or early closure.
- 4) **Critical Service Personnel.** Employees designated by their Department Manager to provide critical services shall report to work on-site as provided by their department rules during an official closing. Non-exempt non-sworn employees who are required to report to work hereunder shall be paid for all hours worked in addition to receiving the "City Closed" accrual for their scheduled shift. Such personnel may include, but are not limited to, from the following:
 - a) Airport Operations Personnel;
 - b) Utilities Personnel;
 - c) Transportation Personnel;
 - d) Traffic Operations Personnel; and
 - e) Solid Waste Personnel.

Section 7 Holidays

Municipal offices with the exception of those in emergency categories, shall be closed on the following legal holidays: New Year's Day, Martin Luther King Day, Presidents Day, Good Friday, Memorial Day, Juneteenth

National Independence Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, Christmas Eve Day, and Christmas Day. Firefighters shall be granted one (1) floating holiday designated as the "September 11th Floating Holiday." Non-exempt employees' holiday time will be considered actual hours worked to determine eligibility for overtime.

Holidays falling on Sunday or Saturday. If a holiday falls on Sunday, the following Monday shall be observed, and if a holiday falls on Saturday, the preceding Friday shall be observed. The City Manager may designate any additional holidays which he feels may be justified in particular situations after giving due regard to the need for City services.

Eligibility for Pay for Holidays. An employee shall be eligible for holiday pay provided that the employee worked the last scheduled working day before and the next scheduled working day following the holiday or is otherwise on approved leave (either paid or unpaid) for those same days. In approving leave around a holiday, directors and division managers must ensure that adequate personnel are on duty to conduct departmental business.

Section 8 Vacation / Sick Leaves

- a. Vacation
Effective October 1, 2023, vacation leave accruals shall be discontinued. The final accrual of vacation leave will be through the pay period ending September 30, 2023 (pay date of October 13, 2023). All vacation leave balances shall be converted to Paid Time Off on a one-to-one basis.
- b. Sick Leave
Effective October 1, 2023, sick leave accruals will be discontinued. The final accrual of sick leave will be through the pay period ending September 30, 2023 (pay date of October 13, 2023). All sick leave balances shall be converted to Paid Time Off on a one-to-one basis.
- c. Council Appointees, Other Employees, and Department Managers
Vacation and sick leave provided in any Council Appointee's, Other Employee's, or Department Manager's employment agreement shall be replaced with Paid Time Off.

Section 9 Paid Time Off ("PTO")

Effective October 1, 2023, the City will convert its Vacation and Sick Leave programs into a single Paid Time Off ("PTO") program. PTO is a comprehensive paid time off program that can be used for any type of time off from work that previously would have been covered under the Vacation and Sick Leave policies but does not include time taken under any of the City's other paid leave policies. In accordance with Texas Local Government Code 142.0013, PTO is equivalent to vacation time for fire protection and peace officer personnel.

Employees may not receive additional compensation by working during their PTO leave without the express approval of the City Manager. Temporary employees are not eligible for PTO.

a. PTO Accrual

All full-time employees are eligible to accrue PTO effective October 1, 2023 (Pay Date October 27, 2023) at the accrual rates listed below:

Full-Time Employees (based on a 40-hour work week)				
Years of Service	Accrue Annual (Days)	Accrue/Paycheck 26 pays (Hours)	Maximum Days	Maximum Hours
Upon hire	5			
Less than 1 year	20	6.1539		
At least 1 but less than 4 years	27	8.3077	118	944

At least 4 but less than 9 years	29	8.9231	128	1024
At least 9 but less than 15 years	31	9.5385	133	1064
At least 15 years, but not hired prior to June 1, 1990	33	10.1539	139	1112
Hired prior to June 1, 1990	44	13.5385	145	1160
Fire Department Shift Personnel (based on a 56-hour workweek)				
Years of Service	Accrue Annual (Days)	Accrue/Paycheck 26 pays (Hours)	Maximum Days	Maximum Hours
Upon hire	5			
Less than 1 year	20	9.2308		
At least 1 but less than 4 years	27	12.4616	118	1416
At least 4 but less than 9 years	29	13.3847	128	1536
At least 9 but less than 15 years	31	14.3077	133	1596
At least 15 years, but not hired prior to June 1, 1990	33	15.2308	139	1668
Hired prior to June 1, 1990	44	20.3077	145	1740

b. Requesting PTO

PTO may be used for various reasons, including personal days, vacations, and illness or injury (non-work related). PTO will be paid at the employee's regular rate of pay earned at the time the PTO is used. The City will count PTO as hours worked for the purpose of overtime.

An employee shall schedule PTO in advance with the employee's supervisor or Department Manager for approval unless the employee uses it for an unexpected illness or injury. In the event of an unexpected illness or injury, the employee shall notify the employee's immediate supervisor prior to the time set for the employee to begin the employee's shift. If an employee takes PTO without prior approval for medical or emergency reasons, the City reserves the right to require medical documentation or other documentation of the reasons given for the unapproved PTO. If the employee is unable to contact the employee's supervisor, the employee may notify the Office of Administrative Services. In general, employees should seek approval for planned absences at least five (5) days in advance. Employees may not use more than ten (10) days of PTO days at one time without approval from the employee's Department Manager. Depending on staffing and departmental needs, PTO requests will be granted to the extent feasible.

c. Payment of PTO for Terminating Employees

A regular employee, Department Manager, Other Employee, or Council Appointee (unless the employee's employment agreement states otherwise) who terminates employment with the City, or whose employment is terminated by the City, shall be paid in a lump sum for unused PTO as listed below:

Years of Service	Payout % of Accrual
Upon hire	0.00%
Less than 1 year	0.00%
At least 1 but less than 4 years	70.00%
At least 4 but less than 9 years	73.00%
At least 9 but less than 15 years	76.00%
At least 15 years, but not hired prior to June 1, 1990	79.00%
Hired prior to June 1, 1990	82.00%

d. Payment of PTO for Retiring Employees

Retiring employees may request a maximum of 250 hours of the PTO payment listed in Subsection c above to be deposited into a Retiree Medical Reimbursement Account, which may be used to reimburse out-of-pocket medical expenses on a tax-free basis as authorized by the United States Internal Revenue Code. This provision shall not apply to any employee who is not eligible to retire at the time of separation of employment or whose employment is terminated under the provisions of Chapter VIII, "Adverse Action," or Chapter XII, "Employment At Will" of the City of Midland Personnel Policies.

For the avoidance of doubt, this Subsection applies only to the following employees:

- i. An active employee who has completed a minimum of twenty (20) consecutive years of service prior to retirement;
- ii. An active employee who is at least sixty (60) years of age and has completed a minimum of five (5) consecutive years of service with the City prior to retirement; or
- iii. An active employee who is eligible for retirement through the Texas Municipal Retirement System or through the Midland Fireman's Relief and Retirement Fund.

Section 10 PTO Bank for Sick Leave

Beginning October 1, 2023, a Paid Time Off Bank ("PTO Bank") for sick leave shall be established and maintained by the City.

a. Membership

Membership in the PTO Bank shall be voluntary on the part of employees.

b. Eligibility

Any full-time employee with one full year of continuous service with the City of Midland is eligible to join.

c. Enrollment

Any eligible employee, within thirty (30) days following the completion of his or her first year of employment, may enroll in the PTO Bank by completing a membership application and donating two (2) days of the employee's accumulated PTO leave to the PTO Bank. In addition, any eligible employee may enroll during the open enrollment period. Open enrollment shall occur annually during the month of September, with the PTO donation being deducted from the 2nd paycheck of October. For the purposes of this policy, a PTO Bank Day is defined as 8 hours for regular employees and 12 hours for Fire Department Shift Personnel.

Any employee who was previously enrolled in the City's Sick Leave Bank shall be enrolled in the PTO Bank with no further donation or other action on the employee's part being necessary.

d. Procedures

1) The Administrative Services Department shall govern the operations of the PTO Bank.

2) A new employee must enroll within thirty (30) calendar days following the first-anniversary of his or her date of employment. Otherwise, participant enrollment will be held annually during the open enrollment period during the month of September.

3) An employee shall exhaust all of the employee's accrued PTO before the employee may utilize the PTO Bank.

4) An employee must be suffering from a serious health condition that makes the employee unable to perform the functions of the employee's job. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either inpatient care or continuing

treatment by a health care provider, including but not limited to a stroke, a heart attack, cancer, or injuries sustained in an automobile accident.

5) A physician's statement diagnosing the condition in detail and indicating the duration of treatment is required with the Request for PTO Bank Days.

6) Employees covered under a workers' compensation program may not utilize the PTO Bank for those conditions covered under workers' compensation.

7) Additional accrual donations may be required in the event the current PTO Bank balance falls below an acceptable level.

8) The total lifetime benefit under the PTO Bank program shall not exceed ninety (90) working days per individual.

e. **Application Process**

1) Should a member of the PTO Bank incur a long-term, serious illness or injury necessitating additional days after all of the member's accumulated PTO leave days have been used, the member may submit a Request for PTO Bank Days.

2) A member who requests days from the PTO Bank shall submit to the Office of Administrative Services Employee Benefits Division the following information within thirty (30) calendar days of the date that they have exhausted their accrued PTO leave days:

- (i) A completed Request for PTO Bank Days form, which is available in the Employee Benefits Office; or
- (ii) A detailed statement from a physician verifying the illness or injury.

3) Forms for the above purpose have been prepared and are available from the Employee Benefits Office.

4) The Employee Benefits Division will not consider a request for days from the PTO that does not conform to the requirements of this subsection.

5) If a member is unable to file a Request for PTO Bank Days, the immediate supervisor or Department Manager may initiate the request at the request of the member's family.

6) An applicant may be required to undergo a medical review by a second-opinion physician of the City's choice at any time at the expense of the City.

f. **Regulations**

1) Additional accrual donations may be assessed in the event the current PTO Bank balances falls below an acceptable level.

2) The Employee Benefits Division will review and act on all requests within thirty (30) working days of receipt of a Request for PTO Bank Days and necessary documents.

3) If a member is not satisfied with the Employee Benefits Division's decision regarding a Request for PTO Bank Days, the member may request a conference with the City Manager or the City Manager's designee by filing a written Request for Review with the Administrative Services Director within ten (10) business days of the member's receipt of the Employee Benefits Division's decision. The written Request for Review shall set forth contain all the relevant facts as well as the specific grounds for the review of the decision.

- (i) Upon receipt of a Request for Review, the City Manager or the City Manager's designee shall:
 - 1. schedule a conference to discuss the request; or

2. take action that addresses the matter described in the Request for Review to the reasonable satisfaction of the member.
- (ii) Following a conference to discuss the request, the City Manager or the City Manager's designee shall provide the member a written decision regarding the request within ten (10) business days.
- (iii) The decision or action taken by the City Manager or the City Manager's designee shall be the final decision of the City regarding the Request for Review.

Section 11 PTO Buy-Back

An eligible employee may elect to participate in the Paid Time Off Buy-Back ("PTO Buy-Back") program under which the City may buy back a portion of the employee's unused PTO leave as described in this Section.

- a. For purposes of this Section, an eligible employee is a full-time employee who has completed at least one (1) year of continuous service before the beginning of the fiscal year (October 1st) during which the employee elects to participate in the PTO Buy-Back Program.
- b. An eligible employee who elects to participate in the PTO Buy-Back program shall be subject to the following limits:
 - 1) If the employee is not Fire Department Shift Personnel, the employee may elect for the City to buy back 40 hours of unused PTO leave per buy-back, with a maximum of two (2) buy-backs (80 hours) per fiscal year.
 - 2) If the employee is Fire Department Shift Personnel, the employee may elect for the City to buy back 56 hours of unused PTO leave per buy-back, with a maximum of two (2) buy-backs (112) hours) per fiscal year.
 - 3) The employee must have a minimum of three (3) days of PTO leave remaining after a buy-back. There will be no incremental buy-back.
- c. An employee who elects to participate in the PTO Buy-Back program must complete and return the PTO Buy-Back form to the Administrative Services Department no less than 30 days prior to the scheduled buy-back.
- d. An employee who elected to participate in the PTO Buy-Back and whose employment was terminated prior to receiving the PTO Buy-Back payment shall be subject to Section 9.c above and shall not receive the PTO Buy-Back payment.
- e. A PTO Buy-Back payment will be an additional amount added to the employee's regular paycheck scheduled for the date(s) selected. Upon a PTO Buy-Back payment being made, the number of hours that were bought back will be deducted from the employee's accrued PTO leave. PTO buy-back is subject to deductions for retirement plan contributions under the Federal Insurance Contributions Act and all other applicable deductions.
- f. The PTO Buy-Back program shall be subject to the availability of funds.

Section 12 Birthday Leave

Full time employees are eligible for one (1) day of paid birthday leave annually. Birthday leave shall be taken during the employee's birthday month unless the employee's Department Manager makes an exception. Exceptions may be made only after the employee's birthday and prior to December 31st.

An employee must request birthday leave from the employee's supervisor or Department Manager at least one (1) week prior to taking birthday leave.

An employee's unused birthday leave will not carry over to the next year, and an employee will not receive payment for unused birthday leave upon separation of employment.

Section 13 Bereavement Leave

All employees may be granted bereavement leave with pay for a period not to exceed three (3) days unless a longer period of time (not to exceed an additional two (2) days) is approved by the City Manager in case of death of a grandparent, grandchild or other member of their immediate family, which shall consist of the father, mother, son or daughter, husband, wife, brother or sister of the employee's spouse or the employee. Bereavement leave with pay for a period of up to ½ day may be granted to an employee by his immediate supervisor to attend funerals for other than immediate family members. This leave shall not be charged against PTO or other accrued leave.

Part-time, seasonal, and temporary employees may be granted leave of absence without pay in such cases.

Section 14 Family/Medical Leave Act (FMLA)

The City of Midland complies with the Family and Medical Leave Act (FMLA) and will grant up to 12 weeks of leave during a 12-month period to eligible employees or up to 26 weeks of military caregiver leave.

The purpose of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law. If you have any questions, concerns, or disputes with this policy, please contact the manager of employee benefits.

a. Definitions

As used in this Section:

- 1) **Covered active duty** means (1) with respect to a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country, or (2) with respect to a member of the Reserve components of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation in accordance with 29 CFR 825.102.
- 2) **Covered service member** is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation, or therapy or is in outpatient status or on the temporary disability retired list for a serious injury or illness.
- 3) **Next of kin of a covered service member** is the nearest blood relative, other than the covered service member's spouse, parent, or child, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.
- 4) **Parent** means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a child. This term does not include parents "in law."
- 5) **Qualifying exigency** includes short-notice deployment, military events and activities, childcare, and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities that arise out of active duty, provided that the employer and employee agree, including the agreement on timing and duration of the leave.
- 6) **Serious health condition** means an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. This can include conditions with short-term, chronic, long-term or permanent periods of incapacity.
- 7) **Serious injury or illness** is one that is incurred by a current member of the Armed Forces in the line of duty on active duty that may cause the member to be medically unfit to perform the duties of his or her office, grade, rank, or rating. A serious injury or illness also includes injuries or illnesses that existed before the member's active duty and that were aggravated by service in the line of duty on active duty.

- 8) **Spouse** means (1) a husband or wife as defined or recognized in the state where the individual was married or (2) a husband or wife in a marriage that was validly entered into outside of the United States if the marriage could have been entered into in at least one state.

b. **Eligibility**

To be eligible for leave under this policy, employees must meet **all** of the following requirements:

- 1) Have worked at least twelve (12) months for the City of Midland.
- 2) Have worked at least 1,250 hours for the City of Midland over the twelve (12) months preceding the date when the leave would commence.

The 12 months of employment do not have to be consecutive. All periods of absence from work due to or necessitated by service in the Armed Forces are counted as hours worked in determining eligibility.

c. **Reasons for Leave**

To qualify as FMLA leave under this policy, the leave must be for one of the following reasons:

- 1) The birth of a child or placement of a child with the employee for adoption or foster care.
- 2) To care for a spouse, child or parent who has a serious health condition.
- 3) For a serious health condition that makes the employee unable to perform the essential functions of his or her job.
- 4) For any qualifying exigency arising out of the fact that a spouse, child or parent is a member of the Armed Forces on covered active duty or on call to covered active duty status.
- 5) To care for a covered service member with a serious injury or illness.

d. **Amount of Leave**

An eligible employee may take up to 12 weeks of FMLA leave during any 12-month period. The City will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks of available FMLA leave, and the balance remaining is the amount the employee is entitled to take at that time.

An eligible employee may take up to 26 weeks of FMLA military caregiver leave during a single 12-month period. The City will measure the 12-month period as a rolling 12-month period measured forward. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.

Eligible spouses who both work for the City may only take a combined total of 12 weeks of FMLA leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition. Both may only take a combined total of 26 weeks of leave to care for a covered service member (if each spouse is a parent, spouse, child or next of kin of the covered service member).

e. **Intermittent Leave or a Reduced Work Schedule**

Employees may take FMLA leave in one consecutive block of time, may take FMLA leave intermittently (e.g., take a day periodically when needed over the year) or, under certain circumstances, may take FMLA leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 workweeks (or 26 workweeks to care for a covered service member) in a 12-month period.

The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule in instances when leave for the employee or employee's family member is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth or placement for adoption or foster care.

For the birth, adoption, or foster care of a child, the City and the employee shall mutually agree to the schedule before the employee may take the leave intermittently or work a reduced-hour schedule. Leave for birth, adoption, or foster care of a child must be taken within one year of the birth or placement of the child.

When leave is needed for planned medical treatment, the employee shall make a reasonable effort to schedule treatment so as not to unduly disrupt the City's operations.

f. **Employee Notice Requirement**

An employee who takes FMLA leave must provide verbal or written notice of the need for FMLA leave to the employee's Department Manager or the manager of employee benefits.

When the need for FMLA leave is foreseeable, the employee shall provide the City with at least 30 days' notice. When an employee becomes aware of a need for FMLA leave fewer than 30 days in advance, the employee shall provide notice of the need for the leave either the same day the need for leave is discovered or the next business day. When the need for FMLA leave is not foreseeable, the employee shall comply with the City's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.

Within five business days after an employee has provided this notice, the manager of employee benefits, or the manager's designee, will complete and provide the employee with a Notice of Eligibility and Rights and request a medical certification or other supporting documentation as necessary.

g. **Designation of FMLA Leave**

Within five business days after an employee has submitted the required medical certification or other documentation, the manager of employee benefits, or the manager's designee, will complete and provide the employee with a written response to the employee's request for FMLA leave using the FMLA Designation Notice.

h. **Employee Status and Benefits During Leave**

The City will continue an employee's health benefits during the FMLA leave period at the same level and under the same conditions as if the employee was continuously at work.

While on paid leave, the City will continue to make payroll deductions to collect the employee's share of insurance premiums. While on unpaid leave, the employee shall continue to make this payment, either in person, by mail, or by prearranged payment agreement. The payment must be received by the 15th day of each month. If the payment is more than 30 days late, the employee's healthcare coverage may be dropped for the duration of the leave.

The City will provide 15 days' notification prior to the employee's loss of coverage.

If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the FMLA leave period.

If the employee contributes to a life insurance or disability plan, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request the continuation of such benefits and pay his or her portion of the premiums, or the City may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments and the City does not elect to maintain such coverage, the City will discontinue coverage during the leave. If

the City maintains coverage, the City may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

i. **Employee Status After Leave**

An employee who takes leave under this policy may be asked to provide a fitness for duty clearance from a health care provider. This requirement will be included in the City's response to the FMLA request. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits, and other employment terms. The position will be the same or one that is virtually identical in terms of pay, benefits, and working conditions. The City may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

j. **Use of Paid and Unpaid Leave**

An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all PTO and any other accrued leaves prior to being eligible for unpaid leave. PTO shall be exhausted prior to other accrued leave. Paid leaves run concurrently with FMLA leave if the reason for the FMLA leave is covered by the established policies.

Workers' compensation leave (to the extent that it qualifies) and injury leave will be designated as FMLA leave and will run concurrently with FMLA.

An employee who is taking leave for the adoption or foster care of a child must use all PTO and other accrued leaves prior to being eligible for unpaid leave.

An employee who is using FMLA leave for a qualifying exigency must use all PTO and other accrued leaves prior to being eligible for unpaid leave. An employee using FMLA leave to care for a covered service member must also use all PTO and other accrued leaves prior to being eligible for unpaid leave.

k. **Intent to Return to Work from FMLA Leave**

On a basis that does not discriminate against employees on FMLA leave, the City may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

l. **Coordination of FMLA Leave with Other Leave Policies**

The FMLA leave policies do not affect any federal, state, or local law prohibiting discrimination or supersede any state or local law that provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult the City's other leave policies or contact the manager of employee benefits.

Section 15 Military Leave

In time of war or national emergency, those employees of the City of Midland who are members of a retirement system or participating in a retirement system sanctioned by the City, or who are holding permanent positions shall be entitled to military leave or absence without pay if called to duty with the Armed Forces through the process of selective service or membership in reserve components of the Armed Forces. The City also acknowledges that time spent by employees on military leave often is relevant or complementary to their workplace responsibilities and that the skills, leadership, discipline, and teamwork experience that employees acquire during military service can prove valuable on the job.

- a. **Accrual Leave Credit.** Credit for PTO or other accrual leaves shall accrue only during military leave allowance described below. However, employees may be allowed to draw pay from their PTO, or other accrued leaves during an approved military leave.

b. Military Leave Allowance. In accordance with Section 437.202, Texas Government Code:

- 1) A person who is an officer or employee of the City and who is a member of the Texas military forces, a reserve component of the Armed Forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the person's duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a fiscal year. During a leave of absence, the person may not be subjected to loss of time, efficiency rating, personal time, or PTO.
- 2) An employee of the City who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

c. Retirement System Credits. Employees who leave their deposits with the retirement system while on military leave shall retain their membership in the retirement system. The period spent by such employees on military leave shall count toward membership service but shall not increase the retirement benefits due to the employee unless he makes retirement deposits to cover all or a portion of the time spent on military leave. If the employee does make such retirement contributions after returning from military leave, the City shall match such deposits of the employee. Employees desiring to withdraw their retirement deposits from the system when they enter upon military leave may do so. However, such action means that these employees will lose retirement credit for the years they belonged to the retirement system prior to beginning military leave. Notwithstanding the foregoing, current rules of a particular system shall control.

d. Reinstatement upon Return from Military Leave. All employees who have been granted a military leave of absence, and who apply for reinstatement with the City not later than thirty (30) days after being discharged or separated from the Armed Forces, will be re-employed in the same position or a position of like seniority and status at the then current rate of pay, provided such employees are physically and mentally qualified for reinstatement. If upon termination of such leaves of absence, employees are physically or mentally incapacitated and not qualified to perform the duties of the positions held at the time of commencement of such absences, employees shall be eligible for placement in such other positions for which they may qualify. In the event two or more employees have occupied the same position and have been called into service, the first employee occupying and leaving such position after the effective date of this policy shall have first priority on reinstatement; the second person occupying and leaving such position shall have second consideration, etc. An attempt will be made to re-employ every employee who enters the Armed Forces and upon his release desires to re-enter employment with the City of Midland.

e. Credit for Service Time. For the purpose of computing longevity pay, a military leave shall not be counted as a break in service and upon return of an employee to duty with the City his service time shall be increased by an amount equivalent to the time spent on military leave.

f. Accrued Balances of Paid Time Off and Other Accrued Leaves. Any classified full-time employee who is a member of a military reserve organization which requires participation in a training program, will be granted a leave of absence from their respective duties without loss of time or efficiency rating or Paid Time Off or salary on all days during which they shall be engaged in authorized training or duty ordered or authorized by proper authority, not to exceed fifteen (15) days in any one calendar year. For the purposes of this policy, a military leave day shall be defined as any consecutive 24-hour period. The employee must provide the City with a copy of the written orders prior to taking leave.

Any full-time employee who is a member of a military reserve organization that is called to active duty may use their accrued time to supplement their military pay. If the employee desires to return to his/her position at the City upon completion of military service, a request for "Military Leave of Absence" must be approved by the Director of Administrative Services prior to the leave. A copy of the written orders should be attached to this request. If the written order is not available upon departure, it must be provided as soon as possible thereafter.

The accrued balances of PTO, or any other leaves may be used to supplement the military pay up to a maximum of 80 hours per pay period.

Fire Department Shift Personnel will be allowed to supplement the military pay up to a maximum of 112 hours per pay period.

An employee who intends to use this benefit must notify the employee's supervisor of such intent by completing the "Military Leave of Absence" form available in the Administrative Services office. A supervisor may not designate the time without the employee's consent.

Section 16 Lactation Break

City of Midland will provide a reasonable amount of break time to accommodate employees desiring to express breast milk for their infant child, in accordance with and to the extent required by applicable law. The break time, if possible, should run concurrently with rest and meal periods already provided.

The employee's supervisor will coordinate with Employee Benefits Manager or designee to make reasonable efforts to provide employees with the use of a room or location other than a restroom to express milk in private.

The designated space:

- a) may be the place where the employee normally works if there is adequate privacy (for example, the employee's private office or a lockable conference room or another identified space);
- b) should have an electrical outlet, table and chair, lock or signage on door prohibiting entry when in use; and
- c) should be within reasonable proximity to the employee's work area.

Employees should make requests for break time in writing to their supervisor or manager as soon as practicable after an employee learns of the need for lactation break time or the need for a change in previously approved lactation break times.

Section 17 Injuries

a. On the Job Injury Leave

An employee injured in the line of duty shall receive workers' compensation or injury leave benefits under the terms and conditions prescribed in the applicable programs and as required by law.

- 1) Leave and Compensation: Injury leave is defined as fully compensable absence from work arising from an on-the-job accidental injury. An employee injured on the job, in the line of duty, may be granted injury leave, which shall not be charged against his accumulated PTO or other accrued leave, for the period of time he is disabled and unable to perform his duties but said injury leave shall not exceed one hundred eighty (180) work days. Injury leave runs concurrently with FMLA. Healthcare provider's statement is required indicating that the employee is unable to return to work and shall be required for an employee to receive injury leave. Any injury leave so granted is deemed to be purely discretionary on the part of the City and may be terminated at any time by change of these policies. The total amount of injury leave granted in conjunction with any given injury shall never exceed one hundred eighty (180) work days.

(i) An employee shall forfeit all rights to injury leave if the employee:

- 1. Is found to be working, either part-time or full-time for pay;
- 2. Resigns for any reason;
- 3. Is discharged for any reason;
- 4. Retirement or death;
- 5. Fails or refuses to comply with or follow, or disregards or violates the treating physician's instructions regarding treatment and/or rehabilitation of the injury;

6. Refuses to perform light, partial or part-time duty when offered by the Department Manager or designee, which does not require him to perform activities, which are restricted by the treating physician;
7. Falsifies or misrepresents his physical condition or capacity;
8. Refuses to return to duty on the working day he has been released to duty by the treating physician;
9. Fails to submit an acceptable physician's statement when requested by his supervisor or designee; or
10. Has been injured as a result of his failure to observe safety policies, procedures, or instructions as determined by the Employee's Department Manager or designee.

(ii) Injury Leave ends when:

1. The injured worker reached one hundred and eighty (180) work days of leave; or
2. The injured worker returns to work with or without restrictions; or
3. A healthcare provider determines that no further healing or recovery from the injury can be expected (maximum medical improvement); or
4. The injured worker reaches the end of the Temporary Income Benefits period, which is 104 weeks after the eighth day of work-related disability (statutory maximum medical improvement).

If the injury is controverted, the employee exhausts all leave as defined above, or the employee experiences sporadic absence from work, the employee may be eligible to begin drawing weekly benefits payable under the Workers Compensation Act. If so, the employee may use accrued leaves to supplement their workers' compensation income and retain their active status with the City of Midland

2) Procedure:

- (i) If an employee's injury meets the criteria for a serious health condition, the employee's injury leave shall run concurrently with FMLA leave, as provided in Section 14 of this Chapter.
- (ii) An employee who sustains an injury or illness in the performance of the employee's duties shall fully and promptly report the injury or illness, however minor, to the employee's supervisor as soon as possible, but no later than the end of the business day. Written notification of the injury or illness must be received by the Workers' Compensation / Leave Coordinator within 24 hours of the incident in order for the employee to be granted injury leave.
- (iii) Injury leave taken by an employee because of a substantiated and documented work-related injury sustained during the course of employment shall not be charged against the employee's PTO or other accrued leaves
- (iv) During the approved injury leave, PTO shall continue to accrue.
- (v) The Workers' Compensation / Leave Coordinator will coordinate with the employee's healthcare provider to determine whether the injury would allow an employee to perform modified temporary work or other duties.
- (vi) An employee who is on injury leave shall update the employee's supervisor or the Workers' Compensation / Leave Coordinator of the employee's status at regular intervals.
- (vii) An employee who is unable to perform the essential functions of the employee's position due to a disability, injury, illness, or medical condition (and reasonable accommodation is not possible) is not guaranteed a return to the employee's position at the conclusion of the disability, injury, illness, or medical condition.

b. **Off the Job Injury**

Injuries, Off the Job (Leave and Compensation). An employee injured off the job shall have the resulting absence from work, if any, charged against the employee's accumulated PTO leave.

Any employee so injured who has no accrued PTO leave or has exhausted the employee's PTO leave may receive compensation during his absence from work by using other accrued leave time, if any.

If an employee's injury meets the criteria for a serious health condition, the employee's time off shall run concurrently with FMLA leave, as provided in Section 14 of this Chapter.

All absence reporting requirements as outlined in Section 9, b. of this Chapter must be followed.

c. **First Responder Illness/Injury Leave**

1) Definitions. For purposes of this subsection:

- (i) "Emergency medical services personnel" means a person described by Section 773.003, Health and Safety Code, who is a paid employee of the City of Midland.
- (ii) "Firefighter" means a firefighter who is a permanent, paid employee of the City of Midland's Fire Department. The term includes the chief of the Fire Department.
- (iii) "Line of duty illness or injury" means an illness or injury that occurs during the course and scope of employment.
- (iv) "Police officer" means a paid employee who is full-time, holds an officer license issued under Chapter 1701, Occupations Code, and regularly serves in a professional law enforcement capacity in the Police Department, the Municipal Court, or other department of the City of Midland. The term includes the chief of the Police Department.

2) Illness / Injury Leave:

A firefighter, police officer, or emergency medical services personnel shall be provided a leave of absence for a line of duty illness or injury. This leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for up to one year. The City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee was continuously at work. Workers' compensation benefits shall be offset to the extent applicable by any amount for incapacity received as provided by this subsection. Leave under this subsection shall run concurrently with FMLA leave.

3) Use of PTO; Temporary Leave:

If a firefighter, police officer, or emergency medical services personnel is temporarily disabled by a line of duty injury or illness and the paid leave of absence granted under this subsection has expired, the employee may use accumulated PTO or other accumulated leaves for a period commensurate with the nature of the temporary disability. A firefighter, police officer, or emergency medical services personnel who requires additional leave shall be placed on unpaid temporary leave.

4) Medical Certification:

When requested by the Workers' Compensation / Leave Coordinator, a firefighter, police officer, or emergency medical services personnel who receives leave under this subsection shall provide medical certification and recertification documents from a health care provider to support the need for the leave.

5) Return to Duty:

If able, a firefighter, police officer, or emergency medical services personnel may return to modified duty as outlined in Section 18.a of this chapter, while recovering from a temporary disability. If medically necessary, the modified duty assignment may continue for up to one year.

A firefighter, police officer, or emergency medical services personnel who takes leave under this subsection may be required to provide a fitness for duty clearance from a health care provider upon return. After recovery from a temporary disability, a firefighter, police officer, or emergency medical

services personnel shall be reinstated at the same rank and with the same seniority the person had before going on leave.

Section 18 Return to Work / Inability to Return to Work

a. Modified Duty

"Modified Duty" is a temporary assignment which is for a specified and limited period and fulfills a necessary job function, appropriate to the employee's skills and level of experience as determined by the City, and which the employee can perform without violating any medical restriction imposed as a result of a temporary disability, illness or injury, for which the employee is compensated at the employee's normal rate of pay and benefits.

The number, availability and duration of such assignments are limited by departmental needs as determined by the Department Manager or the Department Manager's designee.

If restrictions as noted on the Physician's Release to Return to Work form are determined to be permanent, the employee shall not be eligible for a Modified Duty assignment.

1) Limitation of Modified Duty Assignment:

The Modified Duty assignment shall end on the earliest of:

- (i) The date when the employee is released to the employee's regular schedule with no restrictions as evidenced on the Physician's Release to Return to Work form;
- (ii) The date when a physician determines the employee's has permanent restrictions;
- (iii) The date the Maximum Modified Duty Assignment Period ends; and
- (iv) The date the Employee fails to take a required medical examination, without good cause.

2) Maximum Modified Duty Assignment Period:

A Modified Duty assignment may be intermittent or continuous, but in no event shall such an assignment continue for more than 180 work days after the date when the employee was initially unable to perform each and every essential function of the employee's job (the "Maximum Modified Duty Assignment Period"). At the end of the Modified Duty assignment, if an employee is unable to return to work without restrictions, the employee may be placed on the appropriate leave.

Once an employee has been unable to perform each and every essential function of the employee's position that the employee held when the disability, illness or injury arose for 90 calendar days during a 12 month period or has exhausted all leave granted under previous sections of this Chapter (whichever comes first), the employee may request a meeting with the employee's Department Manager, the Director of Administrative Services, or the City Manager or the City Manager's designee in order to determine if the City has any current vacancies for which the Employee is qualified and is currently able to physically perform.

3) Procedure:

A "Physician's Release to Return to Work" form shall be completed by a physician (for injury leave, such physician shall be one of the designated providers selected for the City's workers' compensation insurance) and shall include the probable length of the restrictions and the nature of the restrictions. An additional statement confirming the ability to perform the Modified Duty assignment may also be required.

Once an employee has seen a physician and the physician has completed the Physician's Release to Return to Work form indicating that the employee can return to work, the applicable procedures below shall be followed:

(i) Return to work with Regular Hours and No Restrictions:

The employee obtains the completed Physician's Release to Return to Work form from the physician indicating that there are no restrictions and that the employee has the

ability to work during the employee's regularly scheduled hours. This form must be submitted to the employee's supervisor and the Office of Administrative Services' Workers' Compensation / Leave Coordinator upon the employee's return to work.

(ii) **Return to Work with Restrictions:**

The employee obtains the completed Physician's Release to Return to Work form from the physician indicating that the employee needs (i) restricted duties (for example, limitations on lifting, walking, stooping, bending, etc.) and/or (ii) restricted number of hours worked per day or per week, with or without limitations on the duties performed.

1. If the physician releases the employee to return to work with restrictions, as evidenced by completion of the Physician's Release to Return to Work form, the form must be submitted to the employee's supervisor and the office of Administrative Services' Workers' Compensation / Leave Coordinator prior to or immediately upon return to work for consideration of a Modified Duty assignment. The supervisor and a representative from Administrative Services will review the restrictions and determine if the employee is eligible for a Modified Duty assignment. The employee must report for work at the time designated by the employee's supervisor.
2. If the employee is approved for a Modified Duty assignment, the employee shall comply with the restrictions indicated in the Physician's Release to Return to Work form. If the employee's restrictions change at any time, the employee shall notify the employee's supervisor immediately and submit to the supervisor and the office of Administrative Services Worker's Compensation / Leave Plan Coordinator a copy of the revised Physician's Release to Return to Work form.
While working a Modified Duty assignment, the employee may be required to provide periodic updates from the physician up to every 30 days. Additionally, the employee may be required to submit to a periodic physical examination as a condition of continued Modified Duty status.
3. If a Modified Duty assignment is not available, a representative from Administrative Services will determine what remaining leave benefits are available to the Employee, if any.

If the employee is unable to perform the Modified Duty assignment, the employee shall contact the physician to review and potentially revise the Physician's Release to Return to Work form.

b. **Inability to Return to Work.**

When a treating physician determines that an employee is permanently incapable of returning to work in the employee's full duty capacity, the City will accommodate such disability to extent it is required under the Americans with Disabilities Act, or the employee may apply for available positions within the City for which the employee is qualified. The Department Manager or his designee, based on the assessment of a licensed medical doctor that an employee is not able to perform the required physical duties or tasks of employee's present position (regardless of whether the incapacity is due to on the job injuries, off the job injuries, or illness), then the employee will not be returned to the employee's full duty with the City until a medical doctor states in writing that the employee is able to perform all the required physical tasks or duties of the position. Wherever possible, it is the policy of the City to provide Modified Duty to employees who have been released by a physician to return to work in a limited capacity.

Once an employee has exhausted all leave granted to the employee under previous sections of this Chapter or has been unable to perform each and every essential function of the position which he held at the time of injury with the City for 90 calendar days during a 12 month period (whichever comes first), the employee may request a meeting with the employee's Department Manager, the

City's Director of Administrative Services, or the City Manager in order to determine if the City has any current vacancies for which the employee is qualified and is currently able to physically perform.

If a job vacancy exists that the employee is qualified for and can physically perform, the employee may apply for that position. The employee has the choice to either accept or decline any offered position:

- 1) If the offer is accepted, it is recognized and understood by the employee that the employee may have to take a reduction in salary.
- 2) Any employee so reassigned will be compensated at a pay rate in the pay range of the position to which the employee has been reassigned. However, the affected employee shall be entitled to start in the new band/zone equal to his previous salary if that band/zone is equal to or below the midpoint of the new pay range.
- 3) If the employee does not seek another position, or if the offer of a new position is declined, or if no job vacancy exists that the employee is qualified for and can physically perform, then the employee shall be allowed to exhaust any leave granted to the employee under previous sections of this Chapter

Under no circumstances will the City continue an employee's active status once the employee exhausts the leave granted under previous sections of this Chapter.

Once an employee is placed on inactive status, the City shall no longer pay the employee a salary, and the employee shall no longer accumulate PTO leave or other accrued leaves. The employee may continue to receive the employee's worker' compensation benefits, and the employee will also be able to retain the City's health insurance if the employee pays the rate as established by the City as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA). Such coverage shall be limited to the minimum length of time established by the Act.

An employee who has been placed on inactive status under this policy may apply for positions with the City of Midland for which the employee is qualified and physically able to perform. Should an employee who has accepted another position with the City or been placed on inactive status due to an on the job injury recover and be able and qualified to perform all the tasks required of the employee's previous position within 12 consecutive calendar months from the date of the employee's acceptance of the new position with the City or placement on inactive status, then the employee will be offered reinstatement to the previous position should said position become vacant. The employee's recovery must be confirmed by a written statement from a licensed medical doctor. The City shall have the right to request a second medical opinion, but that second opinion shall be paid for by the City. Under this policy, no employee's inactive status will continue for more than 12 consecutive months, unless required by federal, state or local law.

Section 19 Paid Quarantine Leave

a. Purpose.

The purpose of this policy is to provide for and maintain employment benefits for certain employees who are ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

b. Applicability

This policy applies to the following employees of the City:

- 1) Fire protection personnel; and
- 2) Peace officers of the Police Department and the Municipal Court.

c. Conditions

The paid leave and benefits provided by this policy are only available to an employee who is ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty by the employee's supervisor or the City's health authority. An employee may be required to provide proof of an order to quarantine and may be denied paid leave or benefits if the employee fails to provide proof within a reasonable time.

d. Benefits

If an employee is ordered to quarantine under the conditions in Subsection c above, the employee will receive all employment benefits and compensation for the duration of the leave, including paid leave accrual, pension benefits, and health benefit plan benefits that the employee would customarily be provided on paid leave.

e. Reimbursement for Expenses

If an employee is ordered to quarantine under the conditions in Subsection c above, the employee may request reimbursement for reasonable costs related to the quarantine, including lodging, medical treatment and transportation by submitting a reimbursement request via the Employee Self Service portal of the Human Resources Information System within five (5) days after returning from the leave ordered under this policy. An employee may be required to provide receipts or proof of payment with the request and reserves and may be denied reimbursement that the City deems unreasonable or unrelated to quarantine.

f. Effect on Paid Leave Balances

The City will not reduce an eligible employee's PTO or other paid leave balance for quarantine leave ordered under this policy.

Section 20 Peace Officer and Telecommunicator Mental Health Leave

a. Purpose

The purpose of this Section is to allow the use of mental health leave by peace officers and full-time telecommunicators employed by the City who experience a traumatic event while on duty.

b. Applicability

This Section applies to licensed peace officers and full-time telecommunicators employed by the City. For purposes of this Section, "telecommunicator" means a person authorized to act as a telecommunicator under Section 1701.405, Occupations Code.

c. Conditions

An employee to whom this Section applies shall be allowed up to three (3) days or (30) hours of paid mental health leave per calendar year, provided that:

- 1) the leave is:
 - (i) approved by the employee's supervisor, the Chief of Police (for Police Department peace officers and full-time telecommunicators) or the Presiding Judge (for Municipal Court peace officers); or
 - (ii) ordered by a mental health professional; and
- 2) the leave is taken as a result of a traumatic event that occurred while on duty.

d. Anonymity

The City will keep requests to take mental health leave and any medical information related to mental health leave under this policy confidential to the extent allowed by law and separate from the employee's general personnel file held by the Administrative Services Department. The City cannot guarantee the anonymity of information that is otherwise public or necessary to carry out the City's duties under applicable laws.

e. Effect on Paid Leave Balances

The City will not reduce an eligible employee's PTO, or other paid leave balance for mental health leave taken under this policy.

Section 21 Special Leave with Pay

Department Managers may grant employees special leave with pay and actual expenses to attend professional conferences, conventions or short courses or to visit other cities in the interest of the City, as authorized by the City Manager.

Section 22 Mental Health Leave

The City is committed to protecting our employees' health, safety, and well-being. Employees may access confidential free counseling through the City's Employee Assistance Program (EAP).

Each full-time employee shall receive two (2) work days of Mental Health Leave per calendar year. An employee who wishes to take Mental Health Leave shall notify the employee's immediate supervisor prior to the start of the employee's scheduled shift, if practical. Documentation of the absence shall not be required. The reason for such absence (i.e., use of Mental Health Leave) shall be held confidential as reasonably practicable. Unused Mental Health Leave shall not be carried over into the following year, and employees will not be provided with payment in lieu of taking Mental Health Leave. In addition, upon an employee's termination of employment or retirement, no payment shall be provided for unused Mental Health Leave.

Section 23 Community Service Leave

The City encourages employees to be active citizens and provides this leave to participate in organizations and activities that benefit the local community.

A full-time employee who is not Fire Department Shift Personnel is eligible to request eight (8) hours of Community Service Leave per calendar year. A full-time employee who is Fire Department Shift Personnel is eligible to request twelve (12) hours of Community Service Leave per calendar year. Community Service Leave may be taken in one (1) hour increments. An employee who wishes to take Community Service Leave shall notify the employee's supervisor thereof and obtain approval prior to taking Community Service Leave. An employee, upon request, shall provide documentation to support the taking of Community Service Leave, and a failure to provide sufficient documentation thereof may result in the City's refusal to provide Community Service Leave. Community Service Leave may not be used for events with a political or religious purpose. Community Service Leave is noncumulative and nontransferable.

Section 24 Civic Duties Leave

All employees will be allowed time off with pay to attend the civic duties of voting in elections, serving as members of jury panels, or appearing before any tribunal by virtue of subpoena or summons.

Section 25 Leave of Absence

Department Managers may grant an employee one day of paid administrative leave in regard to disciplinary or safety issues. Any additional paid administrative leave in regard to discipline, safety, or investigations

must be approved by the City Manager. Department Managers may grant leaves of absence without pay to regular employees, not to exceed thirty (30) days in duration. Requests for such leave shall be in writing and submitted well in advance of the date the Employee will commence such leave. In granting such leaves, the Department Manager shall give primary consideration to the City's need for the Employee's services. Leaves of absence without pay may be granted for any legitimate purpose; however, employees will be obligated to show that the granting of such leave is to the interest of the City. Leaves of absence without pay in excess of thirty (30) days may be granted only with the approval of the City Manager and in no case shall exceed six (6) months.

Section 26 Absence without Leave

No employee may absent himself from duty for a single day or any part of a day without permission of his Department Manager. Any such absence will be without pay and the employee may be subject to adverse action. Any employee absent from work without notice for three (3) consecutive days will be considered as having abandoned the job. Any employee absent from work without notice for three (3) consecutive days will be considered as having abandoned the job. Such abandonment shall be considered a voluntary resignation from employment, and the City will process such separation of employment as a voluntary resignation.

Chapter VI

Wage and Salary Administration

Section 1 Application of Rates

All employees occupying a position in the classified or unclassified service shall be paid a salary or wage within the range currently set for that position's class under the pay plan as approved by the City Council. If an employee begins service in the middle of a pay period, he will be paid by the calculated hourly rate for the total hours worked during that time.

Section 2 Pay Rates for New Employees

Pay rates for new or probationary employees will normally be at the minimum step in the salary range established for the position that the employee is occupying. Department Managers, with the approval of the Administrative Services Director, may pay a new employee a beginning rate 15% above the minimum established in that range. Appointments with a pay rate of more than 15% above the minimum for a particular salary range may be made only with the approval of the City Manager.

Section 3 Pay Progression

Pay progression for employees in classified positions will be based on documented criteria that may include performance, attendance, certifications, training, skills testing, length of service, or other job specific factors. Pay progression dates and the amounts of the progressions shall be recommended on an annual basis by the City Manager and approved by the City Council through the budget process and/or amendments to the City's annual budget.

Section 4 Total Rate of Pay

No employee shall be paid at, or no salary advancement shall be made which would compensate an employee at, a rate more than the maximum or highest step in the salary range to which that employee's position has been assigned. Exceptions may only be made when deemed by the City Manager to be advantageous to the City service. Any such pay increases shall not exceed the assigned pay range by more than 10%. Market adjustments which impact City of Midland pay plans or cost of living adjustments which impact municipal employee salaries must be approved by the City Council.

The City of Midland takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on scheduled paydays. In the unlikely event that there is an error in the amount of pay an employee receives, he should promptly bring the discrepancy to the attention of his immediate supervisor or the Payroll Manager. If the employee has been underpaid, the City will pay the employee the difference as soon as possible. If the employee has been overpaid, arrangements will be made to return the overpayment to the City as soon as possible. No employee is entitled to retain any pay in excess of the amount he has earned according to his established rate of pay.

Section 5 Part-time, Temporary and Seasonal Rates

An employee who works regularly at less than the established workday or workweek shall be paid by the hour or at a salary proportional to the amount of time worked. The hourly or monthly rates for part-time, temporary or seasonal employees shall be established by the Department Manager concerned and the Administrative Services Director after giving due consideration to the ranges and pay rates in effect for similar positions in the current pay plan.

Section 6 Pay Rates for New Positions

Whenever a new position is created the Administrative Services Director shall, with the department manager involved, study the duties and responsibilities of the new position and in light of the existing positions and pay rates in the "Position Classification and Pay Plan" submit to the City Manager a recommendation for the proper pay range for the new position.

Section 7 Termination Pay

All employees who leave the service of the City for any reason shall receive all pay that may be due them with the following qualifications:

- a. Regular employees shall be paid for unused PTO leave as set out in Subsection c of Section 9 of Chapter V.
- b. An employee whose employment is terminated before the end of a pay period shall be paid for the total hours actually worked through the employee's termination date.
- c. Effective October 1, 2023, any employee who is eligible to retire under either TMRS or FRRF at the time of the employee's termination of employment or retirement shall receive payments for accrued PTO as set out in Section 9 of Chapter V.

Section 8 Longevity Pay

All regular full-time employees shall be entitled to additional compensation at a rate of six dollars (\$6.00) per month for each full year of continuous service with the City. The beginning of the pay period nearest the anniversary date the employee began employment with the City shall be the effective date of longevity pay increases. The rate of longevity pay shall coincide with the rate established by Texas Local Government Code Section 142.

Section 9 Performance Appraisal System

The purpose of the system is to improve employee productivity, to provide better communications between supervisors and those they supervise, to identify needs for training or other remedial actions among the workers, to provide upward mobility and the cultivation of skills and abilities, and to further the City service as a good place to work.

Evaluations shall be used as guides to judgment in granting permanent status to probationary employees, in offering promotions to employees, in recommending employees for merit pay increases, in determining that dismissals or other disciplinary actions based on performance are in fact for just cause, in avoiding any possibilities of discrimination or prejudice, and in other personnel matters.

The immediate supervisor of the employees being evaluated shall perform evaluations, but the evaluations may be reviewed and revised by Division and Department Managers before becoming final.

Evaluations of supervisory employees shall take into account the skill and judgment shown by such supervisors in the rating of those responsible to them.

Evaluations shall be completed shortly before the end of probation and thereafter on an annual basis.

An evaluation of an employee may also be conducted at any other time at the option of his supervisor; such specific evaluations are appropriate if the employee is being considered for promotion, is in need of remedial action, or is to be warned of possible disciplinary action.

If any employee believes that the performance evaluation is erroneous, unfair, or prejudiced, he may appeal the evaluation in the same way as is provided for any other grievance in [Chapter IX](#) of the personnel rules.

Section 10 Compensation Policy Statement

It shall be the policy of the City of Midland to maintain a pay structure for all municipal employees that will allow said employees the opportunity to receive reasonable, comparable wages in relation to comparable jobs in the relevant labor markets. The City Council shall establish both regional and statewide comparative markets consisting of municipalities in the population range of 75,000 to 200,000 (or larger if they are in the regional market) that shall be used in obtaining comparative wage data.

The City of Midland will also strive to maintain internal equity in the municipal job classification and pay structure through the use of a sound job analysis process and continue to promote the development and refinement of pay structures which reward employee performance and development.

Toward these ends, administrative regulations and pay structures have been adopted and may be modified as needed to accomplish the objectives of this policy, to comply with federal or state regulations, or to promote the efficiency of the City Service. At least one general review of the classification and pay plans should take place in each succeeding two-year period. The City Manager may appoint an Advisory Committee to conduct this review.

It shall be the responsibility of the City Manager to maintain administrative position classification and pay plan regulations in compliance with these policies.

Chapter VII

Transfer, Promotion, Resignation and Retirement

Section 1 Transfer

After notice to the Administrative Services Director, an employee may be transferred by a department manager at any time from one position to another position in the same or comparable class. If the transfer involves a change from one department to another department, both Department Managers must consent to the transfer unless the City Manager orders the transfer for the purpose of economy or efficiency. No person shall be transferred to a position for which he does not possess the necessary minimum qualifications, according to the classification plan.

Section 2 Promotion

Insofar as practical and consistent with the best interest of the City, all vacancies in the classified and unclassified service shall be filled by promotion of persons already employed by the City. If, in the opinion of the Department Manager or other person responsible for filling the vacancy, a position can best be filled by hiring a new employee, such information shall be forwarded to the Administrative Services Director who shall take the necessary steps to assist in recruiting qualified applicants for the position.

Section 3 Resignation

An employee who wishes to leave the employment of the City shall give at least two (2) weeks' notice to the supervisor before the effective date of his resignation. Such notice, either oral or written, shall state the reasons for such resignation. The Department Manager shall immediately notify the Administrative Services Director of such resignation and indicate the reasons therefore and whether the employee's services have been satisfactory.

Section 4 Exit Survey

An employee's exit survey shall be sent electronically to the employee upon the City receiving notice of resignation. Upon request, the exit survey may be sent to the employee in paper form.

Section 5 No Recommendations or References

No person is authorized to act on behalf of the City in making recommendations or giving references with respect to former or current City employees. Any City employee who gives a recommendation or reference with respect to a current or former City employee shall be acting in his or her individual capacity and not as an agent, employee, or representative of the City of Midland, Texas, said act being beyond the scope of said employee's employment. Any employee who is sued or becomes involved in a claim or civil lawsuit due in any part to his or her giving a reference or recommendation shall not be entitled to a paid or other legal defense by the City of Midland.

Section 6 Requests for Employment Verification

Information regarding the employment of all current and former City employees shall be verified by Administrative Services only upon written request signed by the current or former employee. In absence of a written request signed by the current or former employee, Administrative Services shall be authorized to verify only the following information:

- a. The date the employee began his employment with the City of Midland,

- b. The date the employee ended his employment with the City of Midland,
- c. The positions held while employed by the City of Midland,
- d. The Department(s) to which the employee was assigned while employed by the City of Midland.

No person other than the Director of Administrative Services or the Director's designee shall be authorized to act on behalf of the City of Midland with respect to the verification of employment information.

Section 7 Personnel Files

The City of Midland retains employment records in a personnel file with the Administrative Services Department. The information contained in the file is the property of the City and must be maintained for government and record-keeping purposes. Therefore, all employees are required to notify the Administrative Services Department immediately if there is any change in relevant personal or employment information such as changes in address, phone numbers, marital status, emergency contact, insurance beneficiary, number of dependents, or legal name.

All files connected with an employee are considered strictly confidential, and access will be limited to those who have a job-related need to know the information, those who have been authorized to view the file, and as required by law. If an employee wishes to view his personnel file, he must submit written request with the Administrative Services Department. Upon receipt and approval of such request, an appointment will be scheduled for the employee to view his file. An employee may not remove or alter any information in the file in any way.

If an employee believes that information in his personnel file is incorrect, he may submit a written request to Administrative Services for change(s) to be made. If such a request is denied, the employee may request a statement of disagreement be placed in his file. This statement of disagreement will become a permanent part of the employee's file.

The City of Midland considers falsification of personnel records to be a serious offense, and upon discovery can lead to disciplinary action up to and including termination.

Chapter VIII

Adverse Action

Section 1 Adverse Action

a. Purpose of Chapter

The purpose of this Chapter is to establish policies and administrative procedures for addressing Prohibited Conduct (as defined herein) and employment separation of City of Midland employees. The policies and procedures established herein are authorized and adopted, and the same shall be construed according to the plain meaning of its language unless defined otherwise. No policy or procedure established by this Chapter shall be enforced or interpreted in a manner that limits or abrogates protections afforded by law. The remedies set forth in this Chapter are exclusive.

b. Definitions.

In this Chapter:

- 1) "Adverse Action" means an administrative action taken by a Department Manager against an Employee because of the Employee's Prohibited Conduct. Said administrative actions include the following:
 - a) Oral Reprimand;
 - b) Written Reprimand;
 - c) Suspension from employment without pay;
 - d) Demotion from a current position to a lower position with lesser responsibility or compensation; and
 - e) Termination of employment.
- 2) "Appeal Hearing" is the initial proceeding at which the Employee may contest an Adverse Action.
- 3) "Business Day" means a day on which the City of Midland is open for business.
- 4) "City" means the City of Midland.
- 5) "Department Manager" means the City department manager for the department that the Employee is assigned to. For the purpose of this Chapter, "Department Manager" also means an Assistant City Manager, Deputy City Manager, or the City Manager if a City department manager, Assistant City Manager, or Deputy City Manager is deemed to have engaged in Prohibited Conduct.
- 6) "Employee" means an employee of the City of Midland. For the purpose of this Chapter, "Employee" also means a Department Manager or Employee within the City Manager's Office if such person is deemed to have engaged in Prohibited Conduct.
- 7) "Hearing Officer" means the City official that presides over the Appeal Hearing.
- 8) "Lay-Off" means the employment separation between the Employee and the City that is not the result of an Adverse Action.
- 9) "Name-Clearing Hearing" means a proceeding before the City Manager at which the Employee may address allegations made by the City or its officials relating to the Employee's termination.
- 10) "Notice of Appeal" means the written notice submitted to the Administrative Services Department by the Employee seeking administrative review of an Adverse Action.
- 11) "Notice of Appeal to the Personnel Appeals Board" means the written notice submitted to the Administrative Services Department by the Employee seeking the Personnel Appeals Board's review of an Adverse Action.
- 12) "Notice of Hearing Officer Determination" means the written notice issued by the Hearing Officer containing the Hearing Officer's final determination resulting from the administrative review of an Adverse Action following an Appeal Hearing.

- 13) "Notice of Personnel Appeals Board Determination" means the written notice issued by the Personnel Appeals Board containing its final determination resulting from its review of an Adverse Action following a Personnel Appeals Board Hearing.
- 14) "Personnel Appeals Board" means the administrative body that presides over the Personnel Appeals Board Hearing.
- 15) "Personnel Appeals Board Hearing" means the final proceeding at which the Employee may contest an Adverse Action.
- 16) "Prohibited Conduct" means conduct of a character and nature that constitutes or is reasonably related to the following:
 - a) Consumption and/or possession of alcohol or narcotics while on duty or using City-owned property;
 - b) Consumption and/or possession of alcohol or narcotics in a manner that forms the basis of a crime;
 - c) Criminal conduct;
 - d) Delinquency;
 - e) Dishonesty, including forgery, falsification of documentation, or any other falsifying action;
 - f) Disruptive behavior that limits or restricts workplace efficiency;
 - g) Failure to maintain necessary professional certifications or authorizations;
 - h) Failure to perform employment duties;
 - i) Immoral behavior, including behavior that may adversely affect the City or its officers, officials, employees, or agents, or behavior that may reasonably undermine the confidence of the public;
 - j) Misappropriation or destruction of City property or information;
 - k) Subversive behavior, including fighting, intimidation, profanity, insubordination, negligent or reckless actions, discourteousness, safety rule violations, misuse of City property, or violation of any established procedure, order, directive, or protocol;
 - l) Unsatisfactory attendance;
 - m) Failure to reasonably cooperate during an investigation involving alleged misconduct; and
 - n) Violation of any policy, standard, or provision of the City of Midland, Texas Personnel Policies.
- 17) "Supervisor" means the person charged with the daily oversight and management of the Employee contesting an Adverse Action.
- 18) "Workday" means a day (including weekend days) on which the Employee is scheduled to report to work.

c. Notice Requirements

- 1) Any notice or communication required or permitted pursuant to this Chapter shall be in writing.
- 2) Subject to Section 1.c(3), a notice or communication required or permitted pursuant to this Chapter shall be deemed to be delivered and received on the date said notice or communication is:
 - a) Personally delivered to the respective party to whom it is directed;
 - b) Deposited by certified mail; or
 - c) Sent by electronic mail.
- 3) Notwithstanding Section 1.c(2), a notice or communication that is sent to the City, or its employees or officials, shall be deemed to be delivered and received on the date that Administrative Services Department is in actual or physical receipt of said notice or communication.
- 4) The delivery of a notice or communication to the Employee shall be directed to one of the following:
 - a) The City email address of the Employee;

- b) The email address of the Employee's authorized representative;
 - c) The Employee's physical address on file with the Administrative Services Department;
or
 - d) The physical address of the Employee's authorized representative.
- 5) The delivery of a notice or communication to the City or its officers, officials, or employees shall be directed to one of the following unless directed otherwise:
- a) The City email address of the current Administrative Services Director; or
 - b) City of Midland
300 N. Loraine Street
Midland, Texas 79701
Attn: Administrative Services Director.

d. Prohibited Conduct; Adverse Action

Employees shall refrain from engaging in Prohibited Conduct. An Employee that is deemed to have engaged in Prohibited Conduct may be subject to Adverse Action in accordance with the policies and procedures of this Chapter.

e. Discretionary Factors and Considerations Regarding Adverse Action Administration

If a Department Manager determines that the Employee engaged in Prohibited Conduct, the Department Manager may, in the Department Manager's sole and absolute discretion, incorporate the following factors and considerations in the Department Manager's decision regarding an Adverse Action to be administered to the Employee:

- 1) Nature of the Employee's duties;
- 2) Nature of the Prohibited Conduct;
- 3) Circumstances of the Prohibited Conduct;
- 4) The Employee's disciplinary history; and
- 5) Any other relevant facts or information.

f. Authorized Adverse Actions

Upon a Department Manager's determination that the Employee engaged in Prohibited Conduct, said Department Manager may administer (or cause to be administered) the following Adverse Actions:

- 1) Oral Reprimand – verbal discussion identifying the standard(s) of conduct that the Employee violated, and the corrective action required, if applicable. An Oral Reprimand may contain:
 - a) Additional facts and information as deemed appropriate by the Department Manager;
and
 - b) A warning that future violations may result in additional Adverse Action(s) in accordance with this Chapter.
- 2) Written Reprimand – memorandum to the Employee (with a copy to the Employee's personnel file) identifying the standard(s) of conduct that the Employee violated, and the corrective action required, if applicable. A Written Reprimand may contain:
 - a) Additional facts and information as deemed appropriate by the Department Manager;
and
 - b) A warning that future violations may result in additional Adverse Action(s) in accordance with this Chapter.
- 3) Suspension – temporary removal of the Employee from performing his/her duties and from receiving compensation. No Employee shall be suspended:
 - a) For a period exceeding thirty (30) workdays; or
 - b) More than thirty (30) workdays in any fiscal year.
- 4) Demotion – permanent reassignment of the Employee to a position with lesser responsibility or compensation.

- 5) Termination – permanent severance of the employment relationship between the Employee and the City.

g. Adverse Action Administration

Adverse Actions shall be administered in accordance with the following procedures:

- 1) Oral and Written Reprimands shall be issued as deemed appropriate by the Department Manager.
- 2) Suspension, Demotion, Termination
 - a) Prior to issuing a Notice of Adverse Action to the Employee, a Department Manager shall deliver a copy of the proposed Notice of Adverse Action to the Administrative Services Department.
 - b) Upon approval of the form of the Notice of Adverse Action by the Administrative Services Department, the Department Manager shall issue the Notice of Adverse Action to the Employee in accordance with the requirements of Section 1.c.

h. Notice of Appeal

- 1) If the Employee is issued a Notice of Adverse Action that results in a Suspension, a Demotion, or Termination, the Employee may seek administrative review of the Adverse Action by filing a Notice of Appeal.
- 2) A Notice of Appeal must be filed within two (2) Business Days of the affected Employee's receipt of a Notice of Adverse Action.
- 3) A Notice of Appeal shall consist of the following information:
 - a) Employee name;
 - b) Employee position;
 - c) Department Manager name;
 - d) Supervisor name; and
 - e) General description of the basis for appeal.
- 4) A proper and timely Notice of Appeal shall be perfected upon the Administrative Services Department's receipt of the Notice of Appeal. If a Notice of Appeal does not contain the information required by Section 1.h(3), but is otherwise proper and timely, the Administrative Services Director shall notify Employee of such defect within two (2) Business Days following the Administrative Services Department's receipt of the Notice of Appeal.
- 5) Upon receiving notification that a Notice of Appeal does not contain the information required by Section 1.h(3), the Employee shall correct the defect and supplement the missing information within two (2) Business Days of the Employee's receipt of the notice required by Section 1.h(4).

i. Designation of Hearing Officer

- 1) Upon the perfection of a Notice of Appeal, the Administrative Services Director shall notify the City Manager of said Notice of Appeal within a reasonable amount of time after its delivery to the Administrative Services Department.
- 2) Upon receipt of the notice prescribed by Section 1.i(1), the City Manager shall designate a person to serve as the Hearing Officer to preside over the Appeal Hearing, which shall be:
 - a) The City Manager;
 - b) The Deputy City Manager; or
 - c) An Assistant City Manager.
- 3) The City Manager shall notify the Administrative Services Director of the designation required by Section 1.i(2) following the same.
- 4) Upon request of the City Manager and agreement of the Presiding Judge of the Municipal Court, the Presiding Judge or Associate Judge of the Municipal Court may serve as the Hearing Officer.

- 5) If none of the foregoing individuals are available to serve as the Hearing Officer, the City Manager may designate another department manager with no knowledge of the facts that give rise to the Appeal Hearing to serve as the Hearing Officer.

j. Setting of Appeal Hearing

- 1) Following the designation of the Hearing Officer, the Hearing Officer shall provide the Administrative Services Director with dates and times of availability for the scheduling of the Appeal Hearing.
- 2) The Appeal Hearing shall occur no later than fifteen (15) Business Days following the perfection of the Notice of Appeal.
- 3) Notwithstanding Section 1.j(2), the Appeal Hearing may occur later than fifteen (15) Business Days following the perfection of the Notice of Appeal upon: (i) the mutual agreement of the Department Manager and the Employee; and (ii) the consent of the Hearing Officer.
- 4) Upon final setting of the Appeal Hearing, the Administrative Services Director shall send a Notice of Hearing to the Employee, the Hearing Officer, and the Department Manager. The Notice of Hearing shall consist of the following information:
 - a) The name and position of the Employee;
 - b) The name and position of the Employee's Supervisor;
 - c) The date, time, and location of Appeal Hearing; and
 - d) The reason/basis for appeal, as indicated by the Employee in the Notice of Appeal.

k. Appeal Hearing Procedure

- 1) The following persons shall be entitled to participate in an Appeal Hearing:
 - a) Hearing Officer;
 - b) Administrative Services Director;
 - c) The Employee;
 - d) A designated representative of the Employee (if any); and
 - e) Department Manager.
 - f) A representative of the City Attorney's Office may represent the Department Manager at the Appeal Hearing if the City Attorney receives and agrees to a request for representation from the Department Manager.
- 2) Minutes or Recording
 - a) The Administrative Services Director shall take minutes of the Appeal Hearing or cause a recording to be made of the Appeal Hearing.
 - b) The Administrative Services Department shall maintain the minutes or recording of an Appeal Hearing for at least three (3) years or as long as may be required by law.
 - c) The Employee may provide, at the Employee's sole cost and expense, for a court reporter to record the Appeal Hearing. If the Employee provides for a court reporter to record the Appeal Hearing, the Employee shall provide the City with a copy of said recording (at no cost to the City) upon receiving a written request for such from the Administrative Services Director.
 - d) The Employee may submit a written request for a transcript of an Appeal Hearing recording from the Administrative Services Department; provided, however, that the Employee shall pay all expenses associated with transcribing the Appeal Hearing recording, which shall be reasonably determined by the Administrative Services Director.
 - e) Upon the submission of a request for a transcript of an Appeal Hearing recording, the Employee shall submit a deposit to the Administrative Services Department in an amount equal to the cost associated with transcribing the Appeal Hearing recording.
- 3) Witnesses
 - a) The Employee, the Department Manager, and their respective witnesses shall be entitled to testify at the Appeal Hearing.

- b) The Employee and the Department Manager shall be responsible for securing the availability of their respective witnesses.
- c) The Employee and the Department Manager shall be entitled to call and question any witness who has knowledge of the incident(s) or alleged Prohibited Conduct that resulted in the Department Manager's administration of the Adverse Action.
- d) The Hearing Officer shall have the right to exclude the testimony of any witness who is shown to not possess knowledge of the incident(s) or alleged Prohibited Conduct that resulted in the Department Manager's administration of the Adverse Action.
- e) At the request of the Employee or the Department Manager, all witnesses shall be excluded from the Appeal Hearing; provided, however, that the Employee, the Department Manager, and their respective representatives may not be excluded (provided that a representative shall not testify). A request to exclude witnesses pursuant to this Section must be made prior to the commencement of any testimony.

4) Appeal Hearing Process

The Appeal Hearing shall proceed in the following manner:

a) Introduction; Swearing in of Witnesses

The Administrative Services Director shall make a formal introduction to the Appeal Hearing, which shall consist of the factual circumstances that form the basis for the Appeal Hearing. Said factual circumstances shall consist of, but not be limited to, the following:

1. Basis for Adverse Action as described in the Notice of Adverse Action;
2. Notice of Adverse Action administration date;
3. Notice of Appeal perfection date;
4. Identification of the Appeal Hearing participants; and
5. Identification of the representatives of the Employee and the Department Manager.

The Employee and the Department Manager shall notify the Administrative Services Director of their respective witnesses expected to testify during the Appeal Hearing. The Administrative Services Director shall swear in such witnesses prior to the elicitation of witness testimony.

b) Opening Statements

1. The Employee and the Department Manager (or their respective representatives) are entitled to give an opening statement prior to the commencement of any testimony. The Hearing Officer shall consider the opening statements of the Employee and the Department Manager in the following order:
 - a. Department Manager
 - b. Employee
2. The Employee and the Department Manager may waive the right to give an opening statement.

c) Case-in-Chief; Department Manager

1. The Department Manager's case-in-chief may consist of witness testimony, the submission of exhibits, and the Department Manager's testimony. The Hearing Officer shall have the sole discretion to determine the relevance of evidence presented during the Department Manager's case-in-chief.
2. Following the direct examination of a witness by the Department Manager, the Employee shall be afforded the opportunity to cross-examine said witness.
3. Following the cross-examination of a witness, the Department Manager shall be afforded the opportunity to re-examine said witness.
4. Following the re-examination of a witness, the Employee shall be afforded the opportunity to cross-examine said witness.

5. The Hearing Officer may examine a witness, the Department Manager, the Employee, or a representative of the Department Manager or Employee at any time.
- d) Case-in-Chief; Employee
1. The Employee's case-in-chief may consist of witness testimony, the submission of exhibits, and the Employee's testimony. The Hearing Officer shall have the sole discretion to determine the relevance of evidence presented during the Employee's case-in-chief.
 2. Following the direct examination of a witness, the Department Manager shall be afforded the opportunity to cross-examine said witness.
 3. Following the cross-examination of a witness, the Employee or the Employee's representative shall be afforded the opportunity to re-examine said witness.
 4. Following the re-examination of a witness, the Department Manager shall be afforded the opportunity to cross-examine said witness.
 5. The Hearing Officer may examine a witness, the Department Manager, the Employee, or a representative of the Department Manager or Employee at any time.
- e) Closing Statements
1. Following the cases-in-chief of the Department Manager and the Employee, the Department Manager and the Employee are entitled to give closing statements prior to the conclusion of the Appeal Hearing. The Hearing Officer shall consider the closing statements in the following order:
 - a. Department Manager
 - b. Employee
 - c. Department Manager's rebuttal
- f) Conclusion
- The Administrative Services Director shall conclude the Appeal Hearing and notify the parties of the date and time by which the Hearing Officer shall make a final determination.
- g) The Rules of Evidence are not applicable to the Appeal Hearing; the Hearing Officer may consider all evidence submitted by the parties that the Hearing Officer deems relevant and consistent with the provisions of this Chapter.
- h) The standard of compliance for observation of the rules and procedures contained in this Chapter shall be substantial compliance. The failure to observe any rule or procedure contained in this Chapter shall not form the basis of or give rise to any claims, damages, demands, suits, proceedings, or causes of action of any kind or character whatsoever against the City or its employees, agents, representatives, officials, Council or board members, including, but not limited to, claims for declaratory relief, claims under the state or federal constitutions, contract, tort, or other statutory or common law claims.
- i) The Hearing Officer may adopt additional rules and procedures as may be deemed necessary for the orderly conduct of the Appeal Hearing. The Hearing Officer shall have the sole discretion to implement additional rules and procedures necessary for the orderly conduct of the Appeal Hearing.
- 5) Determination of Hearing Officer
- a) The Hearing Officer shall consider the evidence presented at the Appeal Hearing and determine the following issues:
1. Whether reasonable grounds exist to support the allegation(s) that the Employee engaged in Prohibited Conduct; and
 2. Whether a reasonable basis exists for the Department Manager's administration of the Adverse Action.

- b) The Hearing Officer shall make his/her final determination within two (2) Business Days of the conclusion of the Appeal Hearing and issue a Notice of Appeal Hearing Determination.
- c) Notice of Appeal Hearing Determination
 - 1. The Hearing Officer's final determination shall uphold, modify, or reverse the Adverse Action.
 - 2. The Hearing Officer shall issue a Notice of Appeal Hearing Determination to the Employee detailing said final determination, and issue a copy of the same to the Department Manager and the Administrative Services Director.
 - 3. If the Hearing Officer's final determination results in a suspension of five (5) Workdays or less, the Employee shall have no right to seek administrative review of the Adverse Action by the Personnel Appeals Board and the Hearing Officer's final determination shall be final.
 - 4. If the Hearing Officer's final determination results in a Suspension of more than five (5) Workdays, a Demotion, or Termination, the Employee shall have the right to seek administrative review of the Adverse Action by the Personnel Appeals Board. The Notice of Appeal Hearing Determination shall contain a statement indicating that the Employee has the right to seek administrative review of the Adverse Action by the Personnel Appeals Board in accordance with the requirements and procedures of this Chapter.
 - 5. A final determination resulting in the Employee's Suspension, Demotion, or Termination shall be stayed upon the filing of a Notice of Appeal to the Personnel Appeals Board in accordance with the requirements and procedures of this Chapter.

I. Notice of Appeal to the Personnel Appeals Board

- 1) If the Hearing Officer's final determination results in a Suspension of more than five (5) Workdays, a Demotion, or Termination, the Employee may seek administrative review of the Adverse Action by the Personnel Appeals Board by filing a Notice of Appeal to the Personnel Appeals Board.
- 2) A Notice of Appeal to the Personnel Appeals Board must be filed within two (2) Business Days of the Employee's receipt of a Notice of Appeal Hearing Determination.
- 3) A Notice of Appeal to the Personnel Appeals Board shall contain the information required by Section 1.h(3).
- 4) A proper and timely Notice of Appeal to the Personnel Appeals Board shall be perfected upon the Administrative Services Department's receipt of the Notice of Appeal. If a Notice of Appeal to the Personnel Appeals Board does not contain the information required by Section 1.h(3), but is otherwise proper and timely, the Administrative Services Director shall notify the Employee of such defect within two (2) Business Days following the Administrative Services Department's receipt of the Notice of Appeal to the Personnel Appeals Board.
- 5) Upon receiving notification that a Notice of Appeal to the Personnel Appeals Board does not contain the information required by Section 1.h(3), the Employee shall correct the defect and supplement the missing information within two (2) Business Days of the Employee's receipt of the notice required by Section 1.l(4).

m. Personnel Appeals Board; Composition

- 1) The Personnel Appeals Board shall consist of three (3) members, to include: (i) two (2) City Council members; and one (1) resident of the City who is not employed by the City.
- 2) All appointments to the Personnel Appeals Board shall be made by the Mayor.
- 3) The Mayor shall designate a Board member to serve as Chairman of the Personnel Appeals Board.

n. Setting of Personnel Appeals Board Hearing

- 1) Following the perfection of a Notice of Appeal to the Personnel Appeals Board, the Administrative Services Director shall notify the Personnel Appeals Board members of said notice and the Board members shall provide the Administrative Services Director with dates and times of availability for the scheduling of the Appeal Hearing.
- 2) The Personnel Appeals Board hearing shall occur no later than fifteen (15) Business Days following the perfection of the Notice of Appeal to the Personnel Appeals Board.
- 3) Notwithstanding Section 1.n(2), the Personnel Appeals Board hearing may occur later than fifteen (15) Business Days following the perfection of the Notice of Appeal upon mutual agreement of the Department Manager and the Employee.
- 4) Upon final setting of the Personnel Appeals Board Hearing, the Administrative Services Director shall send the Notice of Appeals Board Hearing to the Employee, Board members, and Department Manager. Upon final setting of the Personnel Appeals Board Hearing, the Administrative Services Director shall send a Notice of Personnel Appeals Board Hearing to the Employee, the Personnel Appeals Board members, and the Department Manager. The Notice of Personnel Appeals Board Hearing shall consist of the following information:
 - a) The name and position of the Employee;
 - b) The name and position of the Employee's Supervisor;
 - c) The date, time, and location of Personnel Appeals Board Hearing; and
 - d) The reason/basis for appeal, as indicated by the Employee in the Notice of Appeal.

o. Personnel Appeals Board Hearing Procedure

- 1) For purposes of the Personnel Appeals Board Hearing, the Personnel Appeals Board shall observe the rules and procedures prescribed by Section 1.k unless otherwise stated herein.
- 2) The Personnel Appeals Board shall serve as the final arbiter of all matters appealed pursuant to Section 1.l and shall have all rights, privileges, and obligations delegated to the Hearing Officer by Section 1.k for the purpose of this Section.
- 3) Open Meetings Act; Compliance
 - a) The Personnel Appeals Board shall observe all applicable requirements of Chapter 551 of the Texas Government Code, as amended, with respect to any Personnel Appeals Board Hearing conducted pursuant to this Chapter.
 - b) A Personnel Appeals Board Hearing shall commence and conclude in open session, and all final decisions of the Personnel Appeals Board shall be voted on in open session. For the purpose of this Chapter, "open session" means the portion of the Personnel Appeals Board Hearing that is conducted in a manner that is open to the public.
 - c) The Personnel Appeals Board may conduct a hearing and deliberation in a closed session.
 - d) At commencement of a Personnel Appeals Board Hearing, the Employee shall notify the Personnel Appeals Board of the Employee's election to have the hearing conducted in open session.
 - e) If the Employee wishes for the Personnel Appeals Board's deliberation of the evidence presented at the hearing to occur in open session, the Employee shall object to the Personnel Appeals Board recessing to closed session following the announcement that the Board will recess to closed session.
 - f) Upon receiving the Employee's objection pursuant to Section 1.o(3)(e), the Personnel Appeals Board shall not recess to closed session and said deliberation shall occur in open session.
 - g) Notwithstanding the Employee's objection pursuant to Section 1.o(3)(e), the Personnel Appeals Board shall have the sole and absolute discretion to include any person in a closed session whose participation necessary to the matter under consideration.

- 4) Closed Session; Certified Agenda or Recording
 - a) The Administrative Services Director shall keep a certified agenda or make a recording of a closed session held by the Personnel Appeals Board.
 - b) A certified agenda of a closed session shall include the following:
 1. A statement of deliberation subject matter;
 2. A record of any action taken; and
 3. The date and time of the beginning and end of the closed session.
- 5) Determination of the Personnel Appeals Board
 - a) The Personnel Appeals Board shall consider the evidence presented at the Personnel Appeal Board Hearing and make a determination as set forth in Section 1.k.5(a)i.
 - b) The Personnel Appeals Board shall make its final determination by majority vote in open session following its deliberation of the evidence presented at the hearing. The decision of the Personnel Appeals Board shall be the final and cumulative determination of an Adverse Action matter.
- 6) Notice of Personnel Appeals Board Determination
 - a) The Personnel Appeals Board's final determination shall uphold, modify, or reverse the Adverse Action.
 - b) The Personnel Appeals Board shall issue a Notice of Personnel Appeals Board Determination to the Employee detailing said final determination, and issue a copy of the same to the Department Manager and the Administrative Services Director.
 - c) The Notice of Personnel Appeals Board Determination shall be issued within three (3) Business Days following the adjournment of the Personnel Appeals Board Hearing.

p. Litigation; Judicial Review

The Employee who has exhausted all administrative remedies and appeals pursuant to this Chapter may file suit in a Midland County state district court.

- 1) A suit filed pursuant to this Section shall be by verified petition specifying the grounds of illegality regarding the final administrative decision. The verified petition shall be filed no later than the thirtieth (30th) day following the date on which the Employee has exhausted all administrative remedies and appeals pursuant to this Chapter.
- 2) A state district court shall confine its review of an action made pursuant to this Chapter to the City's record and any evidence of procedural errors alleged to have occurred by the Employee. In performing such review, a state district court shall apply the substantial evidence standard.
- 3) A state district court that reviews a final determination made pursuant to this Chapter shall not award any costs or attorney fees against the City.

Section 2 Lay-Off

- a. Notwithstanding any contrary provision contained in this Chapter, a Department Manager is authorized to lay-off an Employee for reasons that include, but are not limited to, the following:
 - 1) Change in the Employee's job duties and/or functions;
 - 2) Change in the organizational structure of the City's administration; and
 - 3) Lack of funding for the Employee's position or other budgetary constraint.
- b. If a Department Manager seeks to lay-off an Employee pursuant to Section 2.a, the Department Manager shall use reasonable efforts to give said Employee at least two (2) weeks' written notice when feasible; provided, however, that no such notice shall be due for the lay-off of a temporary or part-time worker.
- c. An Employee that was previously laid off pursuant to Section 2.a and had satisfactory service while employed with the City shall be eligible for rehire upon the subsequent vacancy of a position for which such former employee is eligible.

Section 3 Exit Interview

Upon the request of a Department Manager or an Employee who is due to be laid off or terminated, an exit interview between the Department Manager or his/her designee and the Employee shall occur in the Administrative Services Office.

Section 4 Name-Clearing Hearing

Upon the finalization of any Termination and an Employee's exhaustion of all appeal procedures pursuant to this Chapter, the Employee shall be entitled to a Name-Clearing Hearing before the City Manager.

- a. An Employee seeking a Name-Clearing Hearing shall submit a written request for such hearing to the Administrative Services Director.
- b. Upon receipt of an Employee's request for a Name-Clearing Hearing, the Administrative Services Director shall deliver said written request to the City Manager within two (2) Business Days.
- c. A Name-Clearing Hearing shall occur within ten (10) Business Days of the City Manager's receipt of the Employee's written request.
- d. At the Name-Clearing Hearing, an Employee may address any allegation made by the City or its employees, agents, officials, Council or board members relating to said Employee's discharge.
- e. Following the Name-Clearing Hearing, the City Manager may issue an exculpatory statement deemed to be just or necessary. If the City Manager issues an exculpatory statement, he/she shall cause said statement to be mailed to the Employee's address on file with the Administrative Services Department and place a copy in the Employee's personnel file. It shall be in the City Manager's sole and absolute discretion whether to issue an exculpatory statement.

Chapter IX

Grievance Procedure

Section 1 Policy

It is the policy of the City to treat all employees fairly and equitably. Any employee who feels aggrieved in his/her employment with the City has a right to present a grievance to appropriate management officials for prompt consideration. The filing of a grievance by an employee shall not reflect unfavorably on the employee's standing, and the employee should not fear reprisal or retaliation for utilizing the procedures below. For the purposes of this Chapter, capitalized terms used herein without definition shall have the meanings assigned in Chapter VIII.

Section 2 Definitions

- a. "Grievance" means a formal complaint (and any relevant supporting documentation) raised by an Employee regarding an employment matter.
- b. "Immediate Supervisor" means the person charged with the daily oversight and management of the Employee claiming a grievance.

Section 3 General Provisions

- a. The City shall attempt to resolve a Grievance using reasonable efforts and due diligence with regard to the procedures prescribed by this Chapter. The time limits prescribed by Section 4 may be extended by mutual written agreement between the Employee and pertinent City representative.
- b. The Supervisor's or Department Manager's failure to address a written Grievance in accordance with the procedures prescribed by Section 4 shall permit the Employee to proceed to the following Step and file the written Grievance with the Department Manager or City Manager, as applicable.
- c. An Employee's failure to respond to a decision within the time limits specified in Section 4 shall be deemed to be an acceptance of said decision.
- d. A Grievance shall be initiated within ten (10) Business Days of: (i) the date on which the matter that is the subject of the Grievance occurred, or (ii) the date on which the matter that is the subject of the Grievance became known to the Employee.

Section 4 Procedure

- a. Informal Step: The Employee may discuss a Grievance with his/her Immediate Supervisor in an effort to resolve the matter informally.
- b. Step 1:
 - 1) The Employee may file a written Grievance with his/her Immediate Supervisor and request a conference to occur within five (5) Business Days to discuss a formal resolution of the matter.
 - 2) Upon receipt of a written Grievance, the Immediate Supervisor shall either: (i) schedule a conference to discuss a formal resolution of the matter in accordance with Section 4.b(1); or (ii) take action that addresses the matter described in the written Grievance to the reasonable satisfaction of the Employee.

- 3) Following a conference to discuss a formal resolution of a Grievance, the Immediate Supervisor shall render a written decision regarding the Grievance within ten (10) Business Days.
- 4) Following an action taken by the Immediate Supervisor to address the matter described in the written Grievance, the Immediate Supervisor shall issue a memorandum that details the Immediate Supervisor's action.

c. Step 2:

- 1) If the Employee is not satisfied with the Immediate Supervisor's decision pursuant Section 4.b, the Employee may file the written Grievance with the Department Manager and request a conference to occur within five (5) Business Days to discuss a formal resolution of the matter. The Employee shall file the written Grievance within five (5) Business Days of the Employee's receipt of the Immediate Supervisor's decision.
- 2) Upon receipt of a written Grievance, the Department Manager shall either: (i) schedule a conference to discuss a formal resolution of the matter in accordance with Section 4.c(1); or (ii) take action that addresses the matter described in the written Grievance to the reasonable satisfaction of the Employee.
- 3) Following a conference to discuss a formal resolution of a Grievance, the Department Manager shall render a written decision regarding the Grievance within ten (10) Business Days.
- 4) Following an action taken by the Department Manager to address the matter described in the written Grievance, the Department Manager shall issue a memorandum that details the nature of the Department Manager's action.

d. Step 3:

- 1) If the Employee is not satisfied with the Department Manager's decision pursuant to Section 4.c, the Employee may file the written Grievance with the City Manager (through the Administrative Services Director) and request a conference to occur within ten (10) Business Days. The Employee shall file the written Grievance within five (5) Business Days of the Employee's receipt of the Department Manager's decision. The written Grievance shall contain all complaints and relevant facts that pertain to the matter described in the written Grievance.
- 2) Upon receipt of a written Grievance, the City Manager or his/her designee shall either: (i) schedule a conference to discuss a formal resolution of the matter in accordance with Section 4.d(1); or (ii) take action that addresses the matter described in the written Grievance to the reasonable satisfaction of the Employee.
- 3) Following a conference to discuss a formal resolution of a Grievance, the City Manager or his/her designee shall render a written decision regarding the Grievance within ten (10) Business Days.
- 4) Following an action taken by the City Manager or his/her designee to address the matter described in the written Grievance, the City Manager or his/her designee shall issue a memorandum that details the nature of the City Manager's or his/her designee's action.
- 5) A decision or action taken by the City Manager or his/her designee shall be final and satisfy the City's obligations regarding the consideration of the Grievance.

Section 5 Written Decisions and Memorandums

A written decision or memorandum issued pursuant to Section 4 shall be sent to the Employee, the Department Manager, and the Immediate Supervisor, as applicable. A copy of a written decision or memorandum issued pursuant to Section 4 shall be attached to a copy of the written Grievance and kept in the Employee's personnel file in the Administrative Services office.

Chapter X

Retirement System and Other Benefits

Section 1 Texas Municipal Retirement System

All regular employees are required as a condition of their continued employment to enroll in the Texas Municipal Retirement System. Seasonal, part-time, temporary, Fire Department employees and others exempt by State law, are not eligible to enroll in the retirement system, unless otherwise provided for herein or by State law.

- a. Deposits.** Each member of the retirement system shall, by payroll deduction, be required to contribute a percentage not to exceed seven percent (7%) of his monthly salary. The City shall also deposit a certain percentage for the benefit of each member employee as required by law.
- b. Withdrawal of Deposits.** If an employee leaves the service of the City for any reason, he may withdraw the deposits he has made plus any interest earned on such deposits.
- c. Retirement Benefits and Restrictions.** Benefits payable upon the death or retirement of an employee and any restrictions or limitations upon participation in the retirement system shall be in accordance with the provisions of the Texas Municipal Retirement System Act, Subtitle G of Title 8, Government Code.

Section 2 Firemen's Relief and Retirement

All employees of the regular City of Midland Fire Department shall be required as a condition of employment to participate in and make contributions to the Firemen's Relief and Retirement Fund. Contributions to and participation in the Firemen's Relief and Retirement Fund shall be in accordance with the provisions of Article 6243e, V.A.T.S.

Section 3 Federal Insurance Contributions Act

- a. Old-Age, Survivors, and Disability Insurance Tax (Social Security)**
All employees, except those who contribute to and participate in the Midland Firemen's Relief and Retirement Fund and others excluded by law, shall make contributions by payroll deductions to the Old-Age, Survivors, and Disability Insurance Tax (Social Security). All employees, upon commencement of employment with the City, must possess a Social Security Card.
- b. Medicare Tax**
All employees shall make contributions by payroll deductions to the Medicare Tax except those who are excluded by law.

Chapter XI

Safety

Section 1 General

These personnel rules are subject to modification when same are required to protect the safety or health of any employee. They are also subject to modification if same are necessary to comply with any state, federal, or local safety laws and regulations.

Section 2 Accident Review Board

The City Manager appoints the members of this Board with the Safety and Risk Manager as chairman. The primary function of the Board is to review all motor vehicle accidents and personal injuries occurring on the job. The Board shall consult with the administrative body of the City as well as Department/Division Managers, supervisory personnel, and other employees concerning the removal of hazardous conditions, disciplinary actions, and other improvements of the overall safety program. The Board shall not review any accident or personal injuries where a potential or existing claim or potential or existing lawsuit is pending against the City or a City employee.

Chapter XII

Employment at Will

Section 1 Council Appointees, Other Employees and Department Managers

- a. When used in this Chapter, the following capitalized terms shall have the meanings set forth below:

“Council Appointees” shall mean City Manager, City Attorney, City Secretary, Municipal Court Presiding Judge, and Municipal Court Associate Judge.

“Department Managers” shall mean Director of Administrative Services, Director of Airports, Chief Information Officer, Director of Community Services, Director of Development Services, Director of Engineering Services, Director of Finance, Fire Chief, Director of General Services, Internal Auditor, Police Chief, Director of Solid Waste Management, and Director of Utilities, and any other department manager approved by the City Council.

“Other Employees” shall mean Deputy City Manager, Assistant City Manager, and First Assistant City Attorney.

- b. All Council Appointees, Other Employees, and Department Managers shall be **EMPLOYEES AT WILL** and may be terminated at any time by the City of Midland with or without cause, subject to the City's personnel policies and procedures, and the terms and conditions of any applicable employment agreement.
- c. In the event of an Involuntary Separation (as defined in this Chapter), a Council Appointee shall be entitled to receive a lump sum payment equal to six (6) months of his or her annual base salary as well as any other severance or separation compensation payment(s) set forth in his or her employment agreement. An Other Employee or a Department Manager shall be entitled to receive a lump sum payment equal to six (6) months of his or her annual base salary.

Notwithstanding any contrary provision of this Chapter, the City shall have no obligation to pay the severance sum(s) set forth herein if a Council Appointee, Other Employee or Department Manager is terminated for one of the following reasons: (i) conviction of a felony; (ii) conviction of a misdemeanor involving moral turpitude (which shall mean a misdemeanor involving dishonesty, fraud or deceit); or (iii) misconduct or violation of a City policy, rule, or regulation that by its nature has an adverse effect on the City, the confidence of the public in the integrity of the City, or the relationship of the employee and other employees (a *“Policy Violation”*). The determination of whether conduct constitutes a Policy Violation shall be in the sole discretion of the City Council for Council Appointees, the City Manager for a Deputy City Manager, an Assistant City Manager, or a Department Manager, and the City Attorney for the First Assistant City Attorney.

“Involuntary Separation” as used in this Chapter shall have the following meaning:

- 1) Resignation of a Department Manager or Other Employee within sixty (60) days following a reduction in salary in a greater percentage than an applicable across-the-board reduction for all City employees;

- 2) Termination of a Department Manager, a Deputy City Manager, or an Assistant City Manager by the City Manager;
 - 3) Termination of the First Assistant City Attorney by the City Attorney; or
 - 4) Termination of a Council Appointee by a vote of at least four (4) City Council members at a regular City Council meeting; or
 - 5) Termination of a Department Manager, Other Employee or Council Appointee for a reason set forth in such employee's employment agreement with the City in accordance with the terms and conditions of such employment agreement.
- d. A Council Appointee shall enter into an employment agreement to be approved by the City Council. A Deputy City Manager shall enter into an employment agreement to be approved by the City Manager. An Assistant City Manager shall enter into an employment agreement to be approved by the City Manager. The First Assistant City Attorney shall enter into an employment agreement to be approved by the City Attorney. A Department Manager shall enter into an employment agreement to be approved by the City Manager. In the event that any conflict exists between a provision of this Chapter and a provision of any such employment agreement, then the provision of the employment agreement shall apply and take precedence over the conflicting provision contained in this Chapter.
- e. A City employee deemed to be an exempt employee under the Fair Labor Standards Act shall only be suspended for period of at least one (1) week; provided, however, that a suspension of an exempt employee in good faith for an infraction(s) of a safety rule(s) of major significance may be for a period of less than one (1) week. This subsection shall be construed, interpreted, and administered in accordance with the Fair Labor Standards Act, as amended.

Section 2 Applicability

These rules, policies and procedures shall apply to and govern all employees of the City of Midland, except when these rules affecting firefighters and police officers are inconsistent with State legislation. Words used in the singular shall be construed to read in the plural and words used in the masculine gender shall be construed to read in the feminine. Failure to comply with these policies may result in disciplinary action being taken against an employee. Nothing in these rules, policies and procedures, except Chapter XII, should be construed as an employment agreement, guarantee of or contract for continued benefits from or employment by the City of Midland. Severance as defined in these rules and policies shall mean salary and all other compensation and benefits. Severance shall be paid in a lump sum upon involuntary separation. The Mayor shall have the authority to execute and approve amendments and modifications to employment agreements entered into under Chapter XII. The standard for compliance by the City with these personnel policies, rules or procedures shall be substantial compliance. A violation of or failure to follow any rule or procedure shall not form a basis for any civil or criminal action against the City or any employee or official of the City who is acting on behalf of the City except as authorized by Sections 271.151 through 271.160 of the Texas Local Government Code, as amended. The administrative remedy set out in these rules and procedures is the exclusive remedy. There shall be no appeal to or action in any court except on constitutional or statutory grounds. These personnel rules, policies and procedures shall be implemented, administered and construed to comply with applicable local, state and federal laws. That the term Other Employees or Other Employee as used in these policies shall only mean the Deputy City Manager, Assistant City Manager and First Assistant City Attorney. That Chapter XII and its related definitions, and its related essential terms and benefits are a contract for providing services as authorized by Sections 271.151 through 271.160 of the Texas Local Government Code, as amended. The testing of employees conducted in conjunction with the administration and enforcement of the City's drug and alcohol testing policy shall be conducted in accordance with the United States Constitution, the Texas Constitution, federal and state laws, and regulations and judicial precedent. Except as outlined in Chapter XII, an

employee's at-will employment status is not modified by these policies and the Midland City Council reserves the right to amend these personnel policies in accordance with applicable statutes. As used in these rules and policies, Council Appointees shall mean the City Manager, City Attorney, City Secretary, the Presiding Municipal Court Judge and the Associate Municipal Court Judge. It is not required that employee sign these rules, policies and procedures, or any other document, in order to be bound by said rules, policies and procedures. Each employee shall be bound by these rules, policies and procedures by accepting employment with the City of Midland and performance of his or her job duties.



City Council Meeting

Item Number: 11
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Justine Ruff, Director
Subject: MOTION RATIFYING AND APPROVING AN AMENDMENT TO THAT CERTAIN NON-EXCLUSIVE COMMERCIAL FIXED BASE OPERATOR LEASE AGREEMENT DATED MARCH 29, 2023, BETWEEN THE CITY OF MIDLAND, TEXAS, AND FRANKLIN MOUNTAIN AVIATION MAF, LLC; SAID AMENDMENT PROVIDING FOR AN EXTENSION OF THE DUE DILIGENCE EXPIRATION DATE FROM JULY 27, 2023, TO NOVEMBER 24, 2023 (DISTRICT 4) (AIRPORTS)

Purpose:

Motion ratifying Amendment #1 to the Non-Exclusive Commercial Fixed Base Operator Lease Agreement Between the City of Midland, Texas and Franklin Mountain Aviation MAF, LLC dated March 29, 2023.

Recommended City Council Action:

Approve

Fiscal Impact:

n/a

Discussion:

On March 29, 2023, the City of Midland entered into a Non-Exclusive Commercial Fixed Base Operator Lease agreement with Franklin Mountain Aviation MAF, LLC for leased premises at MAF for the operation of a second FBO. The original agreement allowed for a 120-day due diligence period which was to expire July 27, 2023. On July 21st, Franklin Mountain Aviation MAF reached out to the Airport to request an extension to the due diligence period to address problems with surveying the site. An amendment was generated by Franklin Mountain Aviation MAF LLC and executed by the City on July 25, 2023, extending the due diligence period to 240

days. This motion ratifies said amendment.

Jina Gang
City Manager's Office

**FIRST AMENDMENT TO NON-EXCLUSIVE COMMERCIAL FIXED BASE OPERATOR
LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND FRANKLIN
MOUNTAIN AVIATION MAF, LLC**

This First Amendment to Non-Exclusive Commercial Fixed Base Operator Lease Agreement ("**First Amendment**") is made to be effective the 26th day of July, 2023 (the "**First Amendment Effective Date**") between City of Midland, Texas, a home rule municipal corporation, (hereinafter "**City**" or "**Lessor**") and Franklin Mountain Aviation MAF, LLC, a Texas limited liability company (hereinafter "**Lessee**"), and does hereby amend the Non-Exclusive Commercial Fixed Base Operator Lease Agreement with an "**Effective Date**" of March 29, 2023 (the "**Original Lease**").

RECITALS

- A. The Original Lease and any amendments are collectively the "**Lease**".
- B. The Due Diligence Period is currently set to expire on July 27, 2023 (the "**Due Diligence Expiration Date**"), which is 120 days after the Effective Date.
- C. Lessor and Lessee wish to amend the Lease in order to extend the Due Diligence Period to 240 days after the Effective Date.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee agree as follows:

- 1. **Amendment Sections.**
 - A. **Due Diligence Period.** The first sentence under Section 1.04 shall be deleted in its entirety and replaced with the following:

“The “**Due Diligence Period**” shall mean and refer to the period of time commencing on the Effective Date and ending 240 days after the Effective Date.”
- 2. **Other Time Periods.** All other time periods contained in the Lease which are tied to or related to the Due Diligence Period will be calculated based upon the new Due Diligence Period referenced in this First Amendment.
- 3. **Recitals.** The recitals set forth above are not mere recitals of fact but are incorporated into this First Amendment by reference, except in the event of a conflict between the incorporated recitals and the numbered sections of this First Amendment.
- 4. **Successors and Assigns.** The terms of this First Amendment will be binding upon and inure to the benefit of the successors and assigns of Lessor and Lessee.
- 5. **Capitalized Terms.** All initial capitalized terms used in this First Amendment are intended to have the same meaning as such initial capitalized terms used in the Lease and vice versa.
- 6. **Remainder of Lease Unaffected.** Except as expressly amended hereby, the remainder of the Lease shall be unaffected, and the obligations and rights of the Lessor and Lessee under the Lease will remain as provided therein.

7. **Approval and Ratification by City.** This First Amendment will be subject to any required approval and/or ratification by the City, to give effect to this First Amendment ("**City Approval**"). Execution of this First Amendment by Lessee, with or without the joinder of the City and without receiving any City Approval is delivery of the Due Diligence Termination Notice by Lessee as of July 26, 2023; subject to receiving any required City Approval giving effect to this First Amendment. If the City executes this First Amendment and obtains any City Approval within thirty (30) days after the First Amendment Effective Date, the Due Diligence Termination Notice will be deemed retroactively withdrawn by Lessee without further action from Lessee. Once the City receives City Approval, City will notify Lessee in writing.

8. **ESIGN.** This First Amendment may be executed in counterparts, and it is not necessary that signatures of each party appear on the same counterpart, but such counterparts together will constitute a single binding agreement by and between the parties. Counterparts may be executed by hand or by any electronic signature complying the U.S. federal ESIGN Act of 2000, as amended (the "**ESIGN Act**"). Executed counterparts may be delivered via facsimile, electronic mail or other similar transmission method, and any executed counterpart so delivered shall be valid and effective for all purposes. No party shall raise the use of any electronic signature that complies with the ESIGN Act (including www.docusign.com), or the use of a facsimile machine, electronic mail or other similar transmission method as a means to deliver a signature to this First Amendment or any amendment hereto as a defense to the formation or enforceability of a contract and each party forever waives any such defense.

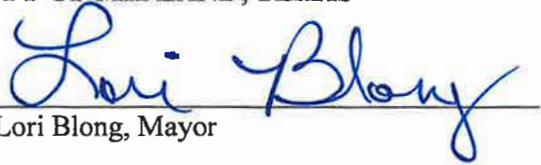
[Signature pages to follow]

IN WITNESS WHEREOF, Lessor and Lessee have signed this First Amendment to be effective as of the day and year first above written.

LESSOR:

THE CITY OF MIDLAND, TEXAS

By:


Lori Blong, Mayor

ATTEST:

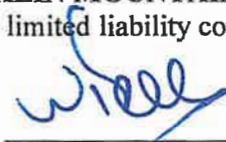

Marcia Bentley-German, City Secretary

[Lessee signature on following page]

LESSEE:

FRANKLIN MOUNTAIN AVIATION MAF, LLC,
a Texas limited liability company

By:



William Kell, Chief Operating Officer

Gordon Davis Johnson & Shane P.C.

ATTORNEYS AND COUNSELORS AT LAW

J. Morgan Broaddus III
Carla Canales
Cynthia Canales
Andrew Cartmell**
Harrel L. Davis III*
John M. Dickey*
Rob Edwards*
Robert V. Gibson

C. Michael Ginnings
Patrick R. Gordon
Timothy D. Johnson*
Michael G. McLean*
Miguel Munoz***
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*Licensed in Texas and New Mexico
**Licensed in Texas, Oklahoma and Oregon
***Licensed in Texas and Arizona

July 21, 2023

HAND DELIVERY

Director of Airports
P.O. Box 60305
9506 LaForce Boulevard
Midland, Texas 79711

City Manager
P.O. Box 1152
300 North Loraine
Midland, Texas 79702

Re: First Amendment to Non-Exclusive Commercial Fixed Base Operator Lease Agreement Between the City of Midland, Texas (as "**Lessor**" or "**City**") and Franklin Mountain Aviation MAF, LLC (as "**Lessee**") (the "**Lease**") for Leased Premises located at the Airport

Ladies and Gentlemen:

As discussed in our meeting with Nicholas Toulet-Crump and Justine Ruff, enclosed is a First Amendment to the Lease executed by Lessee (the "**First Amendment**").

The First Amendment contains an extension of the Due Diligence Period along with a Due Diligence Termination Notice which is retroactively withdrawn if the City executes and ratifies the First Amendment within 30 days.

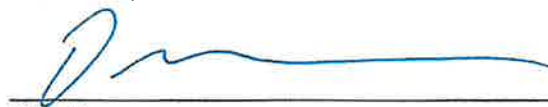
It is our understanding that the City is going to execute the First Amendment and follow up with ratification by the City Council. Once the City executes the First Amendment, please provide an executed copy.

Thank you for your attention to this matter.

Respectfully,

GORDON DAVIS JOHNSON & SHANE PC

By:


Timothy D. Johnson

TJOH/dlr

Enclosure

cc: Yolanda Giner
Ana De Alba
Kirk Clifton
Nichola Toulet-Crump
Justine Ruff

July 24, 2023

The following original Transmittal Letter and Lessee executed First Amendment to FBO Lease between the City of Midland, Texas and Franklin Mountain MAF Aviation, LLC were delivered to the City of Midland, TX

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENTS:

The City of Midland, Texas

By: Maria Bentley-German
Printed Name: Marcia Bentley-German
Title: City Governance Officer / City Secretary

Date: July 24, 2023



City Council Meeting

Item Number: 12
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Seth Herman, Police Chief
Subject: RESOLUTION AUTHORIZING THE ISSUANCE OF AN OPERATING CERTIFICATE FOR B & B PLATINUM LIMO, LLC; SETTING FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING THE TERMS OF THE CERTIFICATE (DISTRICT: ALL) (POLICE)

Purpose:

RESOLUTION AUTHORIZING RENEWAL OF AN OPERATING CERTIFICATE FOR B&B PLATINUM LIMO, LLC; SETTING FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING TERMS OF THE CERTIFICATE.

Recommended City Council Action:

Approve

Fiscal Impact:

NONE.

Discussion:

Bryan and Rebecca Baty, owners and operators of B&B Platinum Limo Service, have filed an application with the City Secretary's Office for renewal of their operating certificate. The applicants have passed requisite background investigations related to criminal and driving records conducted by the Midland Police Department. Mr. And Mrs. Baty have furnished all necessary documents related to proof of financial responsibility as well as signed a copy of the operating certificate indicating acceptance of provisions.

Morris Williams Jr.

City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE ISSUANCE OF AN
OPERATING CERTIFICATE FOR B & B PLATINUM
LIMO, LLC; SETTING FORTH CONDITIONS
ACCOMPANYING THE CERTIFICATE; AND
ESTABLISHING THE TERMS OF THE CERTIFICATE**

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

SECTION ONE. That the City Secretary is hereby authorized and directed to act on behalf of the City of Midland to grant to B & B Platinum Limo, LLC, an Operating Certificate for a limousine business pursuant to Title V, Chapter 6 of the Midland City Code, the provisions of said certificate to be as set forth in Exhibit A, attached hereto and incorporated herein by reference.

SECTION TWO. Notwithstanding Section One, the City Secretary shall not issue the Operating Certificate set forth above unless and until:

- A. B & B Platinum Limo, LLC, has delivered to the City Secretary a current certificate of insurance indicating compliance with the insurance requirements set forth in Section 5-6-2(F) of the Midland City Code for all motor vehicles to be used as limousines under the Operating Certificate; and
- B. B & B Platinum Limo, LLC, has paid to the City the amount of the annual fee required under Section 5-6-2(G) of the City Code; and
- C. B & B Platinum Limo, LLC, has signed a copy of the Operating Certificate indicating acceptance of the provisions set forth therein.

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:

Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Seth Herman, Police Chief

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney

**CITY OF MIDLAND OPERATING CERTIFICATE FOR
LIMOUSINE BUSINESS**

THIS OPERATING CERTIFICATE is issued to B & B Platinum Limo, LLC ("Operator") whose address is 3710 Oakmont Drive, Midland, Texas 79707, pursuant to Title V, Chapter 6 of the Midland City Code, for the purpose of granting to Operator the privilege of operating a limousine business along, across, and over the public streets of the City of Midland, Texas, now laid out or dedicated, and all extensions thereof, subject to the following provisions and conditions:

1. Business Name: The name of the limousine business operated pursuant to this certificate shall be B & B Platinum Limo, LLC.
2. Term: This certificate shall be valid and in effect for five (5) years from the date of issuance indicated below, subject to earlier termination as set forth in the Midland City Code.
3. Suspension of Certificate for Non-Payment: This certificate shall be automatically suspended on March 1 of any year during the term of this certificate if Operator has not paid the annual fee required by Section 5-6-2(G) of the Midland City Code when due, and shall remain suspended until the annual fee is paid.
4. Compliance With All Laws: Operator must at all times operate the above-named limousine business in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including, but not limited to, Title V, Chapter 6 and Title XIII, Chapter 2 of the Midland City Code, as amended from time to time, and this certificate may be revoked by the Midland City Council at any time for Operator's non-compliance with said laws, regulations, or ordinances.
5. Assignability and Transferability: This certificate is personal to the Operator named above and may not be assigned by sale or otherwise to any other person or entity. Any attempt to assign this certificate or any interest in this certificate shall be void and will serve as grounds for termination of this certificate by the City.
6. Airport Privileges: This certificate grants to the Operator the privilege of operating at Midland International Airport, provided that such operations shall not be permitted until Operator has complied with Section 5-6-8 of the Midland City Code.

ISSUED THIS ____ DAY OF _____, 2023.

Marcia Bentley-German, City Secretary
City of Midland, Texas

ACCEPTANCE

The Operator herein named accepts this Operating Certificate and agrees to abide by all its provisions and all applicable federal, state, and local laws, ordinances, and regulations, including, but not limited to, applicable provisions of the Midland City Code, as amended, and the regulations governing the charging of fares between the City of Midland and the City of Odessa.

Name: _____

Date: _____

TAXI/LIMO OPERATING CERTIFICATE

APPLICATION CHECKLIST

Date Submitted	June 23 2023	
Name of Applicant	B & B Platinum Limo LLC	
Application Complete?	Yes	NO
Attachments Complete?	Yes	NO
Copy of current lease or affidavit to ownership & occupancy	Yes	NO
Application verified by City Secretary's Office:	Jamie L	
Certificate of Insurance Included? *(5-6-2 (F)3)	Yes	NO
Certificate of Insurance reviewed by Legal?	Approved: 	Disapproved:
Original Application sent to Chief of Police by the City Secretary's Office?	Date Sent: 7/17/23	
Reviewed by Chief of Police?	Approved:	Disapproved:
On file with City Secretary Office 15 days prior to Council Meeting * (5-6-2(B))	Yes	NO
Date Application went to Council		
Results	Approved:	Rejected:

References from Ordinance NO. 9577

Following review Please return to:

For questions please call:

Jamie R. Lopez

City Secretary's Office

City Hall Room 330

432-685-7559

CITY OF MIDLAND

APPLICATION FOR OPERATING CERTIFICATE
FOR LIMOUSINE BUSINESS

The City of Midland reserves the right to deny this application and to require additional information as needed.

Please print in **black ink or type**:

1. Applicant Information:

a. Name (complete): Bryan James Baty
Permanent Address: 3710 Dakmont Drive
Mailing Address: 3710 Dakmont Drive
City Midland State Texas Zip 79707
Phone: 432-528-5999

b. Is this application filed by a partnership? Yes ☒ No ☐
If Yes, list all partners' names, addresses and phone numbers:

Name	Address	Phone
Bryan James Baty	3710 Dakmont Drive	432-528-5999
Rebecca Rene' Baty	3710 Dakmont Drive	432-296-1389

c. Is this application filed by a corporation? Yes ☐ No ☒
If Yes, list the name and location of its principal place of business:

Attach a list of the names and addresses of all officers, directors and stockholders in the corporation. See Attachment

d. List all persons with an interest in this limousine business:

Name	Address	Occupation
Bryan James Baty	3710 Dakmont Drive	Owner
Rebecca Rene' Baty	3710 Dakmont Drive	Owner

2. Limousine Business Information:

a. Headquarters Address: 3710 Dakmont Drive - Midland, Tx 79707
Headquarters Phone: 432-528-5999

b. Location and Description of Additional Limousine Stands:

c. Trade Name: B+B Platinum Limo, LLC

d. Color Scheme: Platinum

e. Description of each limousine:

Year	Make	Model	Cab #	Owner	Leased?
2005	Hummer H2 Limo Stretch	H2		B+B Platinum Limo	Owned
2005	Hummer H2 Limo Stretch	H2		B+B Platinum Limo	Owned
2007	Hummer H2 Limo Stretch	H2		B+B Platinum Limo	Owned
2006	Hummer H2 Limo Stretch	H2		B+B Platinum Limo	Owned
2007	Lincoln	Town Car		B+B Platinum Limo	Owned
2008	International	Bus		B+B Platinum Limo	Owned
2008	International	Bus		B+B Platinum Limo	Owned

3. Do you currently operate or have an interest in any limousine business other than Midland? If yes, provide complete information concerning same. No, we do not.

4. Please outline below your program and requirements to test employees to determine use of illegal drugs? (Minimum requirement: Test 50% of employees and 50% of contract drivers at least once a year.)

- B+B Platinum Limo LLC has no employees. We are an owner operated business.
- B+B Platinum Limo LLC has only contract drivers. We do test 50% of contract drivers at least once a year.

5. The following should be attached and made a part of this application:

Attachment A: financial statement of applicant and for all partners or corporation.

Attachment B: statement of assets and liabilities dedicated to limousine business.

Attachment C: liability insurance certificate to be approved by City Attorney's office.

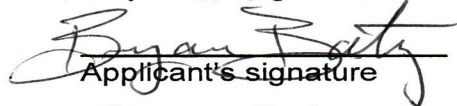
Attachment D: applicants must supply a copy of their corporate charter or a copy of the corporation's certificate from the Texas Secretary of State indicating authority to conduct business in the State of Texas.

Attachment E: applicant's experience record.

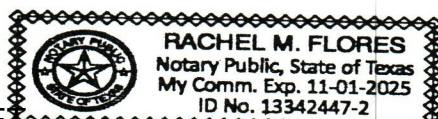
Attachment F: City chauffeur's license application information.

6. Affidavit

I hereby swear or affirm that the information on this application and the attachments to same are true and correct to the best of my knowledge.


Applicant's signature

Subscribed and sworn to before me by the said Bryan Baty
this the 22nd day of June, 2023 to certify which
witness my hand and seal of office.




Notary Public

Attachment A

FINANCIAL STATEMENT

The following is a financial statement for Bryan and Rebecca Baty
B&B Platinum Limo, LLC, an applicant for a limousine operating certificate in the application attached. This constitutes a full disclosure of my financial status. (Attach additional pages if necessary.)

ASSETS	LIABILITIES
REAL ESTATE	
See Attachment #1 BB	
AUTOMOBILES	
See Attachment #2 BB	
PERSONAL AND HOUSEHOLD GOODS	
See Attachment #3 BB	
CASH	
See Attachment #4 BB	
SECURITIES, STOCKS, OTHER INVESTMENTS	
See Attachment #5 BB	
OTHER	


 Applicant


Attachment B - See Attachment B: Handout *BB*

ASSETS AND LIABILITIES DEDICATED TO LIMOUSINE BUSINESS

I, *Bryan and Rebecca Baby*
B+B Platinum Limo, LLC, the applicant for an operating certificate in the attached application hereby designate the following of my assets and liabilities as being dedicated to the limousine business for which I seek an operating certificate. The following represents a full disclosure of my financial commitment to that limousine business.

ASSETS	LIABILITIES
REAL ESTATE	
AUTOMOBILES	
PERSONAL AND HOUSEHOLD GOODS	
CASH	
SECURITIES, STOCKS, OTHER INVESTMENTS	
OTHER	

Bryan James Baby
Applicant
Rebecca Rene' Baby

Attachment C - See Attachment C: handout
BB

INSURANCE COVERAGE

A Certificate of Insurance listing coverage and each vehicle covered shall be filed with this application as set forth in City Code 5-6-2(F).

Coverage shall be:

- (a) not less than twenty thousand dollars (\$20,000.00) for bodily injury or death in any one accident;
- (b) not less than forty thousand dollars (\$40,000.00) because of injury or death of two (2) or more persons in any one accident;
- (c) not less than fifteen thousand dollars (\$15,000.00) for property damage;
- (d) not less than two thousand dollars (\$2,000.00) for personal injury protection for passengers; and
- (e) include uninsured motorists coverage in the same amounts as required for liability coverage.

Attachment D - See Attachment D: handout
BB

CORPORATE CHARTER OR CERTIFICATE

Corporate applicants must supply a copy of their Corporate Charter or a copy of the corporation's certificate from the Texas Secretary of State indicating the corporation's authority to conduct business in the State of Texas. Please attach as Attachment D.

Other Comments:

Bryan James Daly
Applicant
Rebecca Keri Daly



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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

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

PRODUCER Finest Insurance Agency, Inc. 4736 Mission Bell Lane La Mesa, CA 91941-5452		CONTACT NAME: PHONE (A/C, No, Ext): 619-303-3209 FAX (A/C, No): 619-303-6902 E-MAIL ADDRESS:	
INSURED B & B Platinum Limo, LLC 3710 Oakmont Drive Midland, TX 79707		INSURER(S) AFFORDING COVERAGE INSURER A: Redwood Fire & Casualty Insurance Company INSURER B: N/A INSURER C: N/A INSURER D: N/A INSURER E: N/A INSURER F: N/A	
CA TCP#		NAIC # 11673	

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	ADDL SUBR INSD 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 ☐ ALL OWNED AUTOS ☒ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS		01APM012116-07	02/28/23	02/28/24	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N ☒ N/A If yes, describe under DESCRIPTION OF OPERATIONS below					PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	AUTO PHYSICAL DAMAGE (Comprehensive & Collision)					DEDUCTIBLES

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

EVIDENCE OF INSURANCE ONLY

CERTIFICATE HOLDER

EVIDENCE OF INSURANCE

PACKET

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

1215 Marlyna Marquez

August 8, 2023

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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	AUTO PHYSICAL DAMAGE (Comprehensive & Collision)						DEDUCTIBLES

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

CERTIFICATE HOLDER City of Midland PO Box 1152 Midland, TX 79702 PACKET	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 12.1 Marlyna Marquez August 8, 2023
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

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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 ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☒ SCHEDULED AUTOS ☐ NON-OWNED AUTOS	☒	01APM012116-07	02/28/23	02/28/24	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
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	AUTO PHYSICAL DAMAGE (Comprehensive & Collision)					DEDUCTIBLES

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

CERTIFICATE HOLDER

Price4Limo
4791 Blue Ridge Dr. Suite 1
Blue Ridge, GA 30513

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

Marlyna Marquez

August 8, 2023

PACKET

1218

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CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YY)
06/12/2023 1:57 PM

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.

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PRODUCER

Finest Insurance Agency, Inc.
4736 Mission Bell Ln
La Mesa, CA 91941

CONTACT

NAME: Berkshire Hathaway Homestate Companies

PHONE

(A/C. No. Ext):

FAX

(A/C. No.):

E-MAIL

ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC

INSURER A: REDWOOD FIRE AND CASUALTY INS. CO.

11673

INSURER B:

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED

B & B PLATINUM LIMO LLC
3710 OAKMONT DRIVE
MIDLAND, TX 79707

COVERAGES

CERTIFICATE NUMBER:

560,044

REVISION NUMBER:

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	COMMERCIAL GENERAL LIABILITY						
	☐ CLAIMS-MADE ☐ OCCUR						EACH OCCURRENCE \$
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
							PRODUCTS - COM/OP AGG \$
							\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	☐ POLICY ☐ PROJECT ☐ LOC						
	OTHER:						
A	AUTOMOBILE LIABILITY	Y		01APM012116-07	02/28/2023 12:01 AM	02/28/2024 12:01 AM	
	ANY AUTO						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	ALL OWNED AUTOS	☒					BODILY INJURY (Per person) \$ N/A
	HIRED AUTOS	☐					BODILY INJURY (Per accident) \$ N/A
		☐					PROPERTY DAMAGE (Per accident) \$ N/A
		☐					
	UMBRELLA LIAB	OCCUR					EACH OCCURRENCE \$
	EXCESS LIAB	CLAIMS-MADE					AGGREGATE \$
	DED	RETENTION \$					\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				PER STATUTE ☐ OTH-ER ☐
	If yes, describe under DESCRIPTION OF OPERATIONS below						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)

When this policy is cancelled, the Company agrees to provide 10 days advance notice to the Certificate Holder.

Certificate Holder is named as Designated Insured on this policy.

Vehicle Schedule: see attached

CERTIFICATE HOLDER

HI-CRUSH INC.
2777 ALLEN PKWY, SUITE 600
HOUSTON, TX 77019

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

PACKET

12.19

August 8, 2023

B&B PLATINUM LIMO LLC

Vehicle Schedule

2007 LINCOLN TOWN CAR 1L1FM88W07Y638912

Covered C 10,000 1000/1000

2005 HUMMER HUMMER H2 5GRGN23U45H123706

Covered C 15,000 1000/1000

2005 HUMMER HUMMER H2 5GRGN23U45H105691

Covered C 15,000 1000/1000

2007 HUMMER HUMMER H2 5GRGN23U27H111847

Covered C 15,000 1000/1000

2006 HUMMER HUMMER H2 5GRGN23UX6H111500

Covered C 15,000 1000/1000

2008 INTERNATIONAL 3000 1HVBTAAN98H677930

Covered C 30,000 1000/1000

2008 INTERNATIONAL 3000 1HVBTAAN68H635599

Covered C 20,000 1000/1000

Vehicle Schedule

Year, Make, Model, VIN	Collision	Comp or Spec. Caus.	Stated Amount	Phys. Dam. Deductible	In-Tow Limit	Cargo Limit
2007 LINCOLN TOWN CAR 1L1FM88W07Y638912	Covered	C	10,000	1000/1000		
2005 HUMMER HUMMER H2 5GRGN23U45H123706	Covered	C	15,000	1000/1000		
2005 HUMMER HUMMER H2 5GRGN23U45H105691	Covered	C	15,000	1000/1000		
2007 HUMMER HUMMER H2 5GRGN23U27H111847	Covered	C	15,000	1000/1000		
2006 HUMMER HUMMER H2 5GRGN23UX6H111500	Covered	C	15,000	1000/1000		
2008 INTERNATIONAL 3000 1HVBTAAN98H677930	Covered	C	30,000	1000/1000		
2008 INTERNATIONAL 3000 1HVBTAAN68H635599	Covered	C	20,000	1000/1000		

CERTIFICATE HOLDER

HI-CRUSH INC.
2777 ALLEN PKWY, SUITE 600
HOUSTON, TX 77019

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AUTHORIZED REPRESENTATIVE

PACKET

12.21

August 8, 2023

ACORD 25 (2014/01)

M-5652 (07/2015)

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B&B PLATINUM LIMO LLC

3710 OAKMONT

MIDLAND, TEXAS 79707

432-528-5999

INSURANCE CARDS

TEXAS LIABILITY INSURANCE CARD

COMPANY PHONE NO 800-356-5750
 POLICY NUMBER 01A5M012116-07
 YEAR 2007
 MAKE Lincoln
 MODEL Towncar
 AGENCY Finest Insurance Agency Inc.
 4736 Mission Bell Lane
 La Mesa, CA 91941

COMPANY ☒ COMM ☐ PERSONAL ☐ NAMED DRIVER POLICY
 Redwood Fire and Casualty Insurance Co
 EFFECTIVE DATE 02/28/23
 EXPIRATION DATE 02/28/24
 VEHICLE IDENTIFICATION NUMBER 1L1FM88W07Y638912
 AGENCY PHONE NO. 619-303-3209

NAME AND ADDRESS OF INSURED
 B & B Platinum Limo, LLC
 3710 Oakmont Drive
 Midland, TX 79707

This policy provides at least the minimum amounts of liability insurance required by the Texas Motor Vehicle Safety Responsibility Act for the specified vehicles and named insureds and may provide coverage for other persons and vehicles as provided by the insurance policy.

WARNING:
 A NAMED DRIVER POLICY DOES NOT PROVIDE COVERAGE FOR INDIVIDUALS
 RESIDING IN THE INSURED'S HOUSEHOLD THAT ARE NOT NAMED ON THE POLICY.

SPANISH TRANSLATION
 TRADUCCION DE ESPANOL

Targeta de Seguro de Responsabilidad Civil de Texas Guarde esta tarjeta

IMPORTANTE: Usted debe mostrar esta tarjeta o una copia de su poliza de seguro cuando solicite o renueve su:

- (A) Registro del vehiculo motorizado
- (B) Licencia de conducir
- (C) Etiqueta de inspeccion de seguridad para su vehiculo

Tambien se puede pedir que usted muestre esta tarjeta o su poliza si tiene un accidente o si se la pide un oficial de policia

Todos los conductores en Texas deben tener un seguro de Responsabilidad civil para sus vehiculos o de lo contrario deben cumplir con los requisitos legales de responsabilidad financier. Si usted no cumple con los requisitos responsabilidad financier, Podria estar sujeto a pagar una multa de hasta \$1,000, mas la suspension de su licencia de conducir y la suspension del registro del vehiculo y ademas su vehiculo podria ser confiscado por hasta 180 dias(a un costo de \$15 por dia)

Texas Liability Insurance Card Keep this card

IMPORTANT: You must show this card or a copy of your insurance policy when you apply for or renew your:

- (A) Motor vehicle registration
- (B) Driver's License
- (C) Motor vehicle safety inspection sticker

You also may be asked to show this card or your insurance policy if you have an accident or if a peace officer asks to see it.

All drivers in Texas must carry liability insurance on their vehicles or otherwise meet legal requirements for financial responsibility. If you do not meet your financial responsibility requirements, you could be fined up to \$1,000, your driver's license and motor vehicle registration could be suspended and your vehicle could be impounded for up to 180 days (at a cost of \$15 per day)

TEXAS LIABILITY INSURANCE CARD

COMPANY PHONE NO 800-356-5750
 POLICY NUMBER 01APM012116-07
 YEAR 2005
 MAKE Hummer
 MODEL H-2
 COMPANY Redwood Fire and Casualty Insurance Co
 EFFECTIVE DATE 02/28/23
 EXPIRATION DATE 02/28/24
 VEHICLE IDENTIFICATION NUMBER 5GRGN23U45H105691
 AGENCY PHONE NO. 619-303-3209

AGENCY
 Finest Insurance Agency Inc.
 4736 Mission Bell Lane
 La Mesa, CA 91941

NAME AND ADDRESS OF INSURED
 B & B Platinum Limo, LLC
 3710 Oakmont Drive
 Midland, TX 79707

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Targeta de Seguro de Responsabilidad Civil de Texas Guarde esta tarjeta

IMPORTANTE: Usted debe mostrar esta tarjeta o una copia de su póliza de seguro cuando solicite o renueve su:
 (A) Registro del vehículo motorizado
 (B) Licencia de conducir
 (C) Etiqueta de inspección de seguridad para su vehículo

También se puede pedir que usted muestre esta tarjeta o su póliza Si tiene un accidente o si se la pide un oficial de policía

Todos los conductores en Texas deben tener un seguro de Responsabilidad civil para sus vehículos o de lo contrario deben cumplir con los requisitos legales de responsabilidad financiera. Si Usted no cumple con los requisitos responsabilidad financier, Podria estar sujeto a pagar una multa de hasta \$1,000, mas la suspension de su licencia de conducir y la suspension del registro del vehiculo y ademas su vehiculo podria ser confiscado por hasta 180 dias(a un costo de \$15 por dia)

Texas Liability Insurance Card Keep this card

IMPORTANT: You must show this card or a copy of your insurance policy when you apply for or renew your:

- (A) Motor vehicle registration
- (B) Driver's License
- (C) Motor vehicle safety inspection sticker

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All drivers in Texas must carry liability insurance on their vehicles or otherwise meet legal requirements for financial responsibility. If you do not meet your financial responsibility requirements, you could be fined up to \$1,000, your driver's license and motor vehicle registration could be suspended and your vehicle could be impounded for up to 180 days (at a cost of \$15 per day)

TEXAS LIABILITY INSURANCE CARD

COMPANY PHONE NO 800-356-5750
 POLICY NUMBER 013PM012116-07
 YEAR MAKE 2008 International
 MODEL 3000
 AGENCY Finest Insurance Agency Inc.
 4736 Mission Bell Lane
 La Mesa, CA 91941

COMPANY ☒ COMM'L ☐ PERSONAL ☐ NAMED DRIVER POLICY
 Redwood Fire and Casualty Insurance Co
 EFFECTIVE DATE 02/28/23
 EXPIRATION DATE 02/28/24
 VEHICLE IDENTIFICATION NUMBER 1HVBTAAN68H635599
 AGENCY PHONE NO. 619-303-3209

NAME AND ADDRESS OF INSURED
 B & B Platinum Limo, LLC
 3710 Oakmont Drive
 Midland, TX 79707

This policy provides at least the minimum amounts of liability insurance required by the Texas Motor Vehicle Safety Responsibility Act for the specified vehicles and named insureds and may provide coverage for other persons and vehicles as provided by the insurance policy.

WARNING:
 A NAMED DRIVER POLICY DOES NOT PROVIDE COVERAGE FOR INDIVIDUALS
 RESIDING IN THE INSURED'S HOUSEHOLD THAT ARE NOT NAMED ON THE POLICY.

SPANISH TRANSLATION TRADUCCION DE ESPANOL

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TEXAS LIABILITY INSURANCE CARD

COMPANY PHONE NO 800-356-5750
 POLICY NUMBER 016PM012116-07
 YEAR MAKE 2004 Hummer
 AGENCY Finest Insurance Agency Inc.
 4736 Mission Bell Lane
 La Mesa, CA 91941

COMPANY ☒ COMM'L ☐ PERSONAL ☐ NAMED DRIVER POLICY
 Redwood Fire and Casualty Insurance Co
 EFFECTIVE DATE 02/28/23 EXPIRATION DATE 02/28/24
 MODEL H-2
 VEHICLE IDENTIFICATION NUMBER 5GRGN23U27H111847
 AGENCY PHONE NO. 619-303-3209

NAME AND ADDRESS OF INSURED
 B & B Platinum Limo, LLC
 3710 Oakmont Drive
 Midland, TX 79707

This policy provides at least the minimum amounts of liability insurance required by the Texas Motor Vehicle Safety Responsibility Act for the specified vehicles and named insureds and may provide coverage for other persons and vehicles as provided by the insurance policy.

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TEXAS LIABILITY INSURANCE CARD

COMPANY PHONE NO 800-356-5750
 POLICY NUMBER 01A6M012116-07
 YEAR 2008
 MAKE International
 AGENCY Finest Insurance Agency Inc.
 4736 Mission Bell Lane
 La Mesa, CA 91941

COMPANY Redwood Fire and Casualty Insurance Co
 EFFECTIVE DATE 02/28/23
 MODEL 3000
 EXPIRATION DATE 02/28/24

☒ COMM'L ☐ PERSONAL ☐ NAMED DRIVER POLICY

VEHICLE IDENTIFICATION NUMBER 1HVBTAAN98H677930
 AGENCY PHONE NO. 619-303-3209

NAME AND ADDRESS OF INSURED
 B & B Platinum Limo, LLC
 3710 Oakmont Drive
 Midland, TX 79707

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August 8, 2023

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TEXAS LIABILITY INSURANCE CARD

COMPANY PHONE NO 800-356-5750
 COMPANY ☒ COMM'L ☐ PERSONAL ☐ NAMED DRIVER POLICY
 Redwood Fire and Casualty Insurance Co
 POLICY NUMBER 01A6M012116-07
 EFFECTIVE DATE 02/28/23
 EXPIRATION DATE 02/28/24
 MODEL H-2
 VEHICLE IDENTIFICATION NUMBER 5GRGN23UX6H111500
 YEAR 2006
 MAKE Hummer
 AGENCY PHONE NO. 619-303-3209

Finest Insurance Agency Inc.
 4736 Mission Bell Lane
 La Mesa, CA 91941

NAME AND ADDRESS OF INSURED
 B & B Platinum Limo, LLC
 3710 Oakmont Drive
 Midland, TX 79707

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ACORD 50 TX (2015/05)

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TEXAS LIABILITY INSURANCE CARD

COMPANY PHONE NO 800-356-5750
 POLICY NUMBER 017APM012116-07
 YEAR 2008
 MAKE Hummer
 MODEL H-2
 EFFECTIVE DATE 02/28/23
 EXPIRATION DATE 02/28/24
 VEHICLE IDENTIFICATION NUMBER 5GRGN23U45H123706
 AGENCY PHONE NO. 619-303-3209

COMPANY ☒ COMM'L ☐ PERSONAL ☐ NAMED DRIVER POLICY
 Redwood Fire and Casualty Insurance Co

Finest Insurance Agency Inc.
 4736 Mission Bell Lane
 La Mesa, CA 91941

NAME AND ADDRESS OF INSURED
 B & B Platinum Limo, LLC
 3710 Oakmont Drive
 Midland, TX 79707

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ACORD 50 TX (2015/05)

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Office of the Secretary of State

CERTIFICATE OF FILING OF

B & B Platinum Limo, LLC
File Number: 801739584

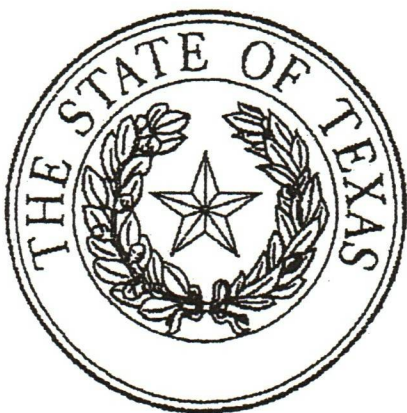
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Limited Liability Company (LLC) has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/22/2013

Effective: 02/22/2013



A handwritten signature of John Steen in black ink.

John Steen
Secretary of State

FILED
In the Office of the
Secretary of State of Texas
FEB 22 2013

CERTIFICATE OF FORMATION OF Corporations Section
B & B PLATINUM LIMO, LLC
A LIMITED LIABILITY COMPANY

This certificate of formation is submitted for filing pursuant to the applicable provisions of the Texas Business Organizations Code.

Article I - Entity Name and Type

The name and type of filing entity being formed are B & B Platinum Limo, LLC, a Texas limited liability company (hereinafter "Company").

Article II - Purpose

The purpose for which the Company is organized is any lawful purpose which may be undertaken by the company in accordance with the applicable provisions of the Texas Business Organizations Code.

Article III - Registered Office and Registered Agent

The initial registered agent is an individual resident of Texas whose name is Bryan J. Baty. The business address of the initial registered agent and the initial registered office are 3710 Oakmont Drive, Midland, Texas 79707.

Article IV - Organizer

The name and address of the organizer is:

<u>Name</u>	<u>Address</u>
Bryan J. Baty	3710 Oakmont Drive Midland, Texas 79707

Article V - Governing Authority

The company shall be managed by its Managers. The names and addresses of the persons who are to serve as Managers until the first annual meeting of the company's Members or until successors are elected and qualified are:

<u>Name</u>	<u>Address</u>
Bryan J. Baty	3710 Oakmont Drive Midland, Texas 79707
Rebecca R. Baty	3710 Oakmont Drive Midland, Texas 79707

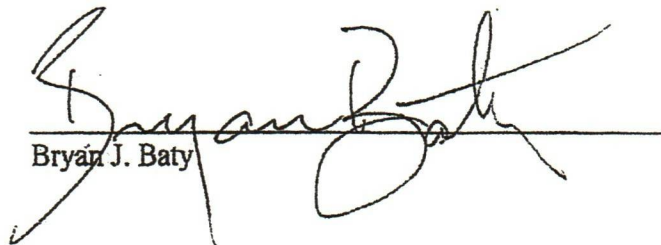
Article VI - Effective Date of Filing

This certificate of formation becomes effective when the document is filed by the secretary of state.

Article VII - Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: February 10, 2013


Bryan J. Baty



City Council Meeting

Item Number: 13
Meeting Date: August 8, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way License (23-329-026) with Environmental Disposal Systems, L.L.C., 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 right of way replaces the 2-year License 21-329-042 that allowed the applicant to place above-ground, 12" lay-flat water lines that allowed Environmental Disposal Systems to move fresh and produced water in support of parent company, Endeavor Energy's current mineral development operations under the current SUA. This parcel is located at the southern edge of the Spraberry Farm that is not used for current City operations.

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:

The following fees will be collected:

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

10-Year paid in advance

Above ground Pipelines (149,924.70 square feet * \$0.24): \$35,981.93

Surface Damages: collected under ROW License 21-329-042

Total Collected: \$36,981.93

Discussion:

Environmental Disposal Systems, LLC is a wholly owned subsidiary of Endeavor Energy, this above-ground pipeline ROW will support mineral recovery operations on this property and adjacent privately owned property. This right of way will include an additional 20' wide temporary construction area.

The current Certificate of Insurance is on file.

City Secretary will record all documents.



City Manager's Office



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/27/2022

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
McGriff Insurance Services, Inc.
10100 Katy Freeway, #400
Houston, TX 77043

CONTACT NAME:

PHONE (A/C, No, Ext): 713-877-8975

FAX (A/C, No): 713-877-8974

E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: Starr Indemnity & Liability Company

38318

INSURER B: Westchester Fire Insurance Company

10030

INSURER C: Liberty Insurance Corporation

42404

INSURER D: The First Liberty Insurance Corporation

33588

INSURER E:

INSURER F:

INSURED
Endeavor Energy Resources, L.P.
and Per Attached Named Insureds
110 N Marinfeld, Suite 200
Midland, TX 79701

COVERAGES

CERTIFICATE NUMBER: LD7CCNFH

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
D	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Self-Insured Retention \$250,000 ☒ Time Element Poll - Incl GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			EB6-641-443771-112	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
D	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY			AS6-641-443771-102	11/01/2022	11/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☐ UMBRELLA LIAB ☒ EXCESS LIAB DED RETENTION \$	☒ OCCUR ☐ CLAIMS-MADE		1000095483221	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
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/A		WA7-64D-443771-092	11/01/2022	11/01/2023	☒ 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
B	Excess Liability \$5m xs \$5m			G27918748008	11/01/2022	11/01/2023	Each Occurrence \$ 5,000,000 Aggregate \$ 5,000,000

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

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

CERTIFICATE HOLDER

CANCELLATION

City of Midland
300 N. Loraine
Midland, TX 79701

PACKET

AUTHORIZED REPRESENTATIVE

R. Michael Broadlove, Jr.
August 8, 2023

13.3

AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

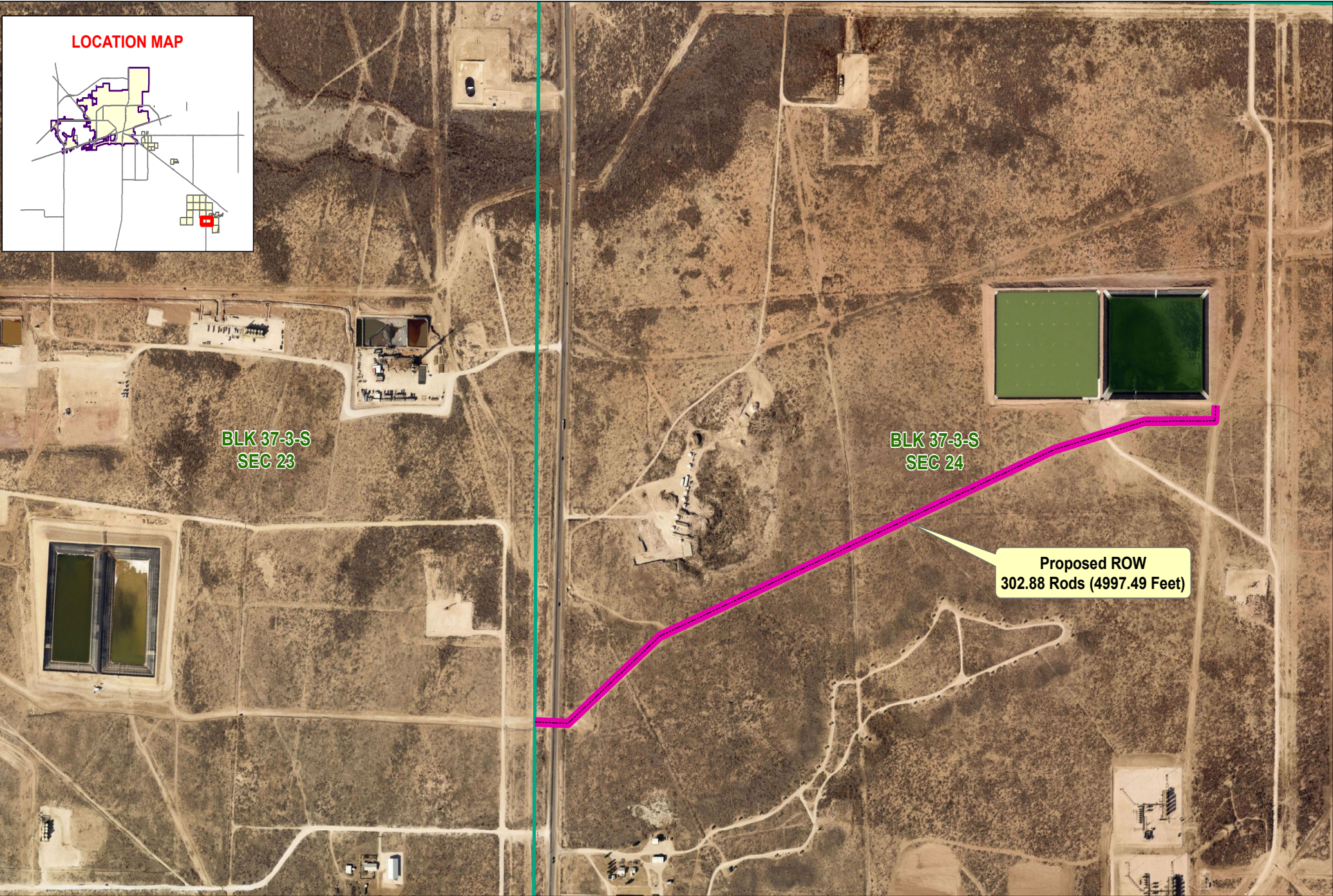
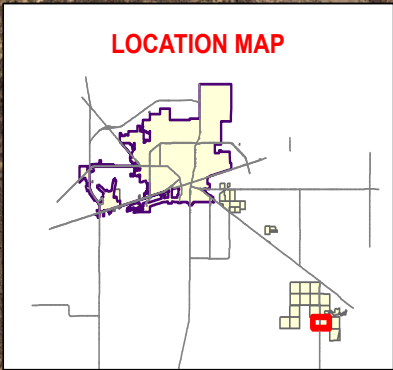
PRODUCER McGriff Insurance Services, Inc.		INSURED Endeavor Energy Resources, L.P. and Per Attached Named Insureds	
POLICY NUMBER		ISSUE DATE: 10/27/2022	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: _____ FORM TITLE: _____

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



- Proposed ROW
- Survey Section

PACKET

13.5
EDS Proposed ROW

August 8, 2023



0 250 500 Feet

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THIS DATA IS NOT A SUBSTITUTION FOR A
SURVEY PRODUCT NOR IS IT DESIGNED TO
BE USED AS A PRIMARY TOOL IN PERMITTING
OR OTHER DECISIONS BASED TOILET ON THE
INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR
ANY DECISIONS BASED UPON THE USE OF THIS DATA.

Date: 4/18/2023

RIGHT OF WAY LICENSE

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

Date: August 9, 2023

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

Licensor's Representative: Tommy Gonzalez, City Manager

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

Licensee: Environmental Disposal Systems, L.L.C.

Licensee's Representative: Robert Booth

Licensee's Mailing Address: 110 North Marienfeld Street, Midland, Texas 79701

Property: As described in Article III below

License Number: 23-329-026

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 THIRTY-FIVE THOUSAND NINE HUNDRED EIGHTY-ONE and 93/100 Dollars (\$35,981.93) ("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 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, five (5) twelve (12) inch lay-flat water pipelines for the transportation of produced water and fresh water 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 lay-flat pipelines are laid. **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein. The parties agree Licensee's failure to provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein may result in the termination of this License. The decision to accept a complete as-built survey after the sixty-day deadline prescribed herein, or, conversely, to terminate this License shall be in the sole and absolute discretion of Licensor.**

B. Road Repair. Licensee covenants and agrees that it will repair, 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 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 work day. If not on a work day, Licensee shall notify Licensor's Representative on the first work day after repairs have begun.

J. Gates and Fences. 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

■ Property Damage:	\$1,000,000.00 per occurrence \$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 PIPELINE OR OTHER PERMITTED FACILITIES OR STRUCTURES 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 OR STRUCTURES 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: _____
Tommy Gonzalez, 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:
ENVIRONMENTAL DISPOSAL SYSTEMS,
L.L.C.

By: [Signature]
Printed Name: Robert Booth amen
Title: Vice President – Energy Services

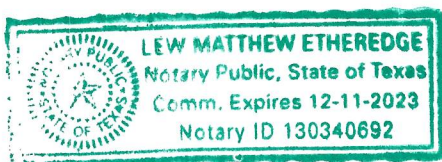
THE STATE OF TEXAS
COUNTY OF MIDLAND

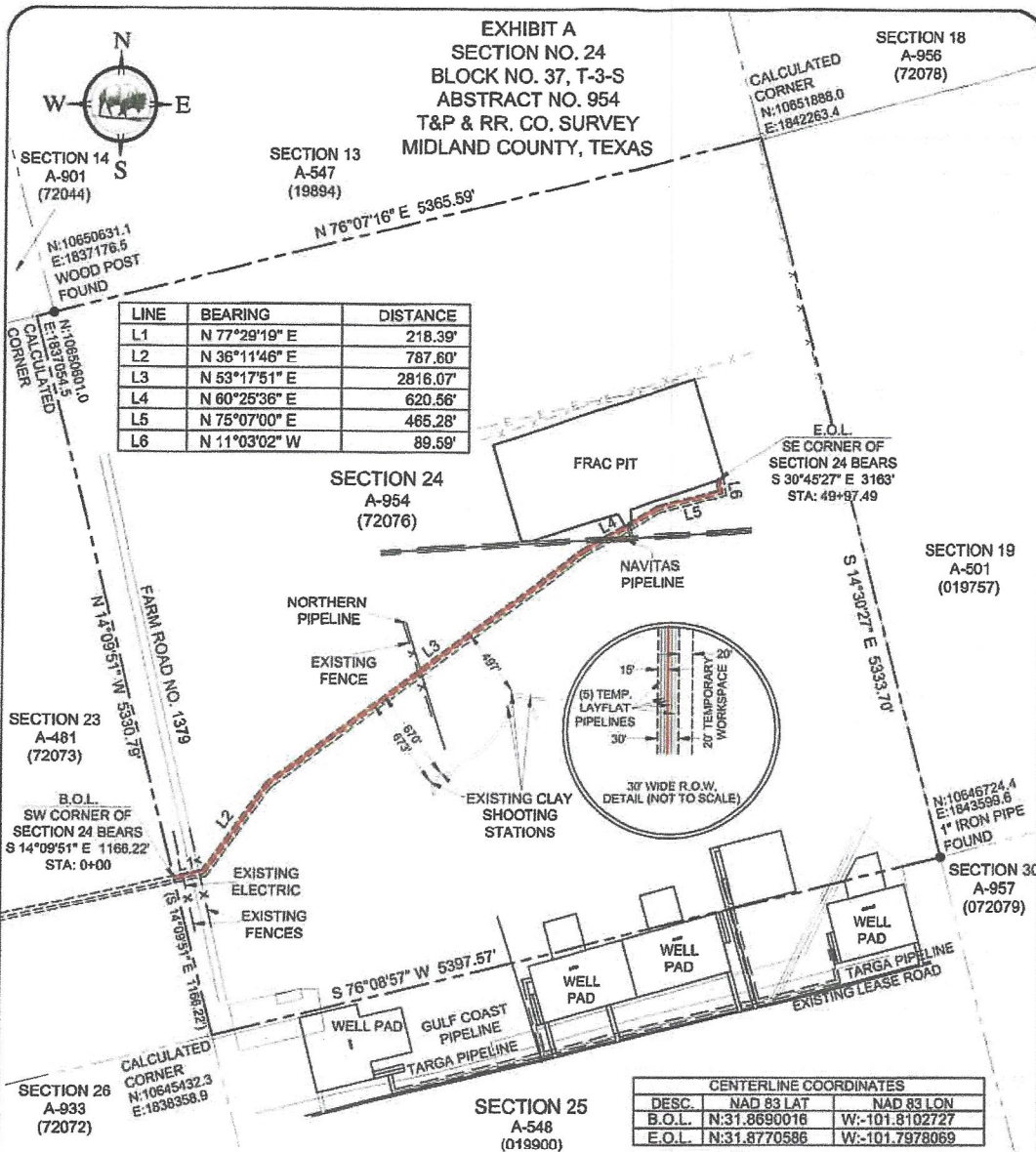
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§
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BEFORE ME, the undersigned authority, on this 11th day of July, 2023 personally appeared Robert Booth an officer of Environmental Disposal Systems, L.L.C., known to me to be the person and official 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 11th day of July, 2023.

[Signature]
Notary Public, State of TEXAS





I, James P. Keene, Registered Professional Land Surveyor No. 5100, do hereby state that the survey map hereon, depicts and describes the results of an actual on the ground survey made on the 14th day of February 2020, Under my direction and supervision. This survey substantially conforms to the Minimum Standards of Practice as approved by the Texas Board of Professional Engineers and Land Surveyors. This statement is not a representation of warranty of title or guarantee of ownership.

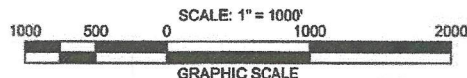
This survey was conducted without the benefit of a current title commitment, other easements and restrictions may apply.

Coordinates: NAD 83 Texas Central Zone.
 Basis of Bearing is the Texas State Plane Coordinate System Central Zone, NAD 83.
 -Distances must be multiplied by a combined scale factor of 1.0001288 to obtain surface distances.
 ANY USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE FOR ANY LOSS RESULTING THEREOF.



JK

LEGEND
 B.O.L. = BEGINNING OF LINE
 E.O.L. = END OF LINE
 P.I. = POINT OF INTERSECTION
 (CM) = CONTROLLING MONUMENT
 -X- = WIRE FENCE
 -E- = OVERHEAD ELECTRIC



REVISED: 10/06/21 LINE QUANTITIES AND SIZE
 REVISED: 02/15/23 LINE QUANTITIES
 FIELD DATE: 02/14/20
 SCALE: 1" = 1000' DATE: 01/06/21
 DRAWN: BEM APPVD: JPK CREW: DC
 PROJ. NO. 16-02450-S24837-PROPOSED 30' R.O.W. AND LEASE ROADS

ENVIRONMENTAL DISPOSAL SYSTEMS
 PROPOSED 30' R.O.W.
 (5 TEMPORARY LAYFLAT PIPELINES)
 LOCATED IN SECTION 24,
 BLOCK 37, T-3-S
 T&P RR. CO. SURVEY
 MIDLAND COUNTY, TEXAS

BISON CREEK LAND SERVICES, LLC
 WWW.BISON-CREEK.COM COPYRIGHT 2023



City Council Meeting

Item Number: 14
Meeting Date: August 8, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way License (23-329-039) between the City of Midland and Brazos Midstream Gas, LLC, regarding City-owned property described as sections 18 and 19, Block 36, 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 to place a Sixteen inch (16) Natural Gas, steel construction, pipeline on the City of Midland-owned Sprayberry Farm real property in Midland County. 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 with an annual throughput fee. Terms are consistent with the City's standard license for facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

The following fees will be collected:

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

Full ten-year term paid in advance (\$440.00 per rod x 203.17 rods) \$89,394.80

Total Collected: \$90,394.80

Discussion:

This common carrier, steel construction Gas line is Sixteen inches (16) in diameter and will be buried a minimum of Thirty-Six inches (36) deep is located in the southeast portion and does not interfere with the City Sprayberry Farm operations in this area.

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

City Secretary to record completed License Agreement



City Manager's Office

Brazos Midstream Operating III LLC

000321

CITY OF MIDLAND		VENDOR	CHECK DATE		
INVOICE NUMBER		INVOICE DATE		DISCOUNT TAKEN	AMOUNT PAID
CIT001072123		07/21/23	4685	\$0.00	\$89,394.80
			10 YR ROW - MGAS12		
			Total:	\$0.00	\$89,394.80

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

Brazos Midstream Operating III LLC

777 Main Street
Suite 3700
Fort Worth TX 76102
817-332-6800

Bank of Texas
801 Cherry St
Unit 27
Fort Worth, TX 76102

TAC (TM) ERICA 14754AED 287898-DMEC EF 7/24/2023 15:40:38 000321 *****\$89,394.80

32-1432-1110

000321

DATE 07/24/23

PAY *****89,394 Dollars and 80 Cents

\$ ****89,394.80

TO
THE
ORDER
OF
CITY OF MIDLAND
300 N. Loraine
Midland, TX 79701

PACKET

14.3

August 8, 2023



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/14/2023

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
McGriff Insurance Services, LLC
P.O. Box 10265
Birmingham, AL 35202

CONTACT NAME:
PHONE (A/C, No, Ext): 1-800-476-2211 **FAX (A/C, No):**
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A :Indian Harbor Insurance Company

36940

INSURER B :Liberty Mutual Fire Insurance Company

23035

INSURER C :Employers Insurance Company of Wausau

21458

INSURER D :United Specialty Insurance Company

12537

INSURER E :

INSURER F :

INSURED
Brazos Midstream Management III, LLC including Brazos Midland, LLC
777 Main Street
Suite 3700
Ft. Worth, TX 76102

COVERAGES

CERTIFICATE NUMBER: KR2679E9

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 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X	X	OLS32461123	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	X	X	AS2-691-473617-012	11/01/2022	11/01/2023	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 \$	X	X	OLXS21271123	11/01/2022	11/01/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	X	WCC-691-473617-022	11/01/2022	11/01/2023	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Excess Liability	X	X	BTM2211006	11/01/2022	11/01/2023	Limit of Liability \$ 5,000,000 Aggregate \$ 5,000,000 Excess of \$ 5,000,000

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

Re: Right of Way License. City of Midland is included as Additional Insured and Waiver of Subrogation applies except where not permissible by law if required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Midland
300 N Loraine
Midland, TX 79701

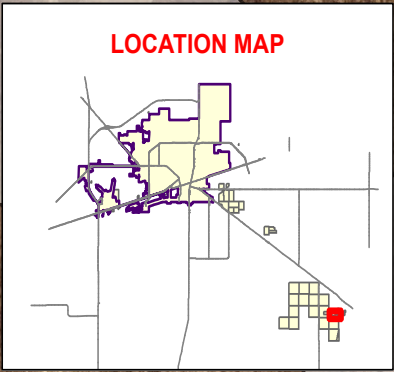
PACKET

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

14.4

August 8, 2023



BLK 36-3-S
SEC 18

BLK 36-3-S
SEC 17

Proposed ROW
203.17 Rods (3,352.28 Ft)

BLK 36-3-S
SEC 19

BLK 36-3-S
WRAGE, HC
SEC 20

Date: 6/30/2023

- Proposed ROW
- City Owned Property
- Survey Section

14.5
Brazos Midstream Proposed ROW

August 8, 2023

250 500 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.

RIGHT OF WAY LICENSE

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

Date: August 9, 2023

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

Licensor's Representative: Tommy Gonzalez, City Manager

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

Licensee: Brazos Midstream Gas, LLC

Licensee's Representative: Ryan Jaggi

Licensee's Mailing Address: 777 Main St. Ste. 3700
Fort Worth, Texas 76012

Property: As described in Article III below

License Number: 23-329-039

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 EIGHTY-NINE THOUSAND THREE HUNDRED NINETY-FOUR and 80/100 Dollars (\$89,394.80) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars (\$1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

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

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being sixty (60) feet in width of the locations as shown on Exhibit A attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a steel construction pipeline, not to exceed sixteen (16) inches in diameter, for the transportation of natural gas and 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 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 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 Licensors' express prior consent thereto in writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensors and shall be constructed as reasonably required by Licensors. Upon the termination of this License, at Licensors' election, gates in fences shall be left in place and shall thereafter be owned by Licensors 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. Licensors 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. Licensors 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. Licensors reserve 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 Licensors and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensors 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 Licensors, at Licensors' 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 Licensors pursuant to directions from Licensors without any claim for reimbursement for the cost of the alteration, change or relocation or damages against Licensors. 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 Licensors, 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, Licensors 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. Licensors expressly reserves the right to use and grant to third parties the right to use all or any

portion of the Property and the surface, subsurface or airspace on, below or above the Property for any purpose.

IV. Standard General Conditions

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

Commercial General Liability (including Contractual liability):

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

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

Workers' Compensation: Statutory limits

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

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

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

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

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

All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name Licensor as an additional insured. All insurance required pursuant to this License, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to Licensor. The parties agree that, prior to the execution of this License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. Licensor shall determine, in its sole discretion, whether such requirements have been satisfied.

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

provide any insurance whatsoever pursuant to this License.

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

B. Indemnity. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE, ITS SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S REPRESENTATIVES, AGENTS, ATTORNEYS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) THIS LICENSE, LICENSEE'S USE OF OR ACTIVITIES ON THE PROPERTY OR ANY OTHER PROPERTY OWNED BY LICENSOR, OR ANY ACT OR OMISSION OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "LIABILITIES"), EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF ANY INDEMNITEE. LICENSEE SHALL PROMPTLY ADVISE LICENSOR OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION TO WHICH THIS INDEMNIFICATION MAY APPLY, AND OF WHICH LICENSEE HAS RECEIVED NOTICE, AND LICENSEE, AT LICENSEE'S EXPENSE, SHALL ASSUME ON BEHALF OF LICENSOR (AND THE OTHER INDEMNITEES) AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE THEREOF WITH COUNSEL REASONABLY SATISFACTORY TO LICENSOR; PROVIDED, HOWEVER, THAT ANY INDEMNITEE SHALL HAVE THE RIGHT, AT ITS OPTION, TO BE REPRESENTED THEREIN BY COUNSEL OF ITS OWN SELECTION AND AT ITS OWN EXPENSE. IN THE EVENT OF FAILURE BY LICENSEE TO ASSUME THE DEFENSE OF LICENSOR IN ACCORDANCE WITH THIS INDEMNIFICATION, LICENSOR, AT ITS OPTION, AND WITHOUT RELIEVING LICENSEE OF ITS OBLIGATION HEREUNDER, MAY ASSUME SUCH DEFENSE, AFTER WRITTEN NOTICE THEREOF TO LICENSEE AND LICENSEE'S FAILURE TO RESPOND THERETO WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF SUCH NOTICE (SAID TEN (10) DAY PERIOD SHALL NOT APPLY IN

ANY CASE WHERE IMMEDIATE ANSWERS, RESPONSES, OR OTHER AFFIRMATIVE ACTION IS REQUIRED TO PRESERVE THE RIGHTS OF LICENSOR) BUT ALL REASONABLE COSTS AND EXPENSES SO INCURRED BY LICENSOR IN THAT EVENT SHALL BE REIMBURSED BY LICENSEE TO LICENSOR, TOGETHER WITH INTEREST ON THE SAME FROM THE DATE ANY SUCH EXPENSE WAS PAID BY LICENSOR UNTIL REIMBURSED BY LICENSEE, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS, BY THE LAWS OF THE STATE OF TEXAS.

WITHOUT LIMITING THE FOREGOING, LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY, PROTECT, DEFEND AND SAVE LICENSOR HARMLESS FROM ANY AND ALL CLAIMS, LIENS, JUDGMENTS, SUITS, CAUSES OF ACTION, AND DEMANDS OF ANY SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, OR FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, OR SUPPLIES, IN CONNECTION WITH THE CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE OR OTHER PERMITTED FACILITIES DESCRIBED HEREIN.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE SHALL INDEMNIFY, PROTECT AND HOLD HARMLESS AND DEFEND EACH INDEMNITEE FROM ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DAMAGES, CAUSES OF ACTION, CHARGES, JUDGMENTS, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF ANY INDEMNITEE, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', REPRESENTATIVES', AGENTS', CONTRACTORS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE, INCLUDING, WITHOUT LIMITATION, SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE OR PERMITTED FACILITIES ON LICENSOR'S PROPERTY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY INDEMNITEE, INCLUDING RELATED ATTORNEY'S FEES.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE, ITS SUCCESSORS AND ASSIGNS, SHALL INDEMNIFY, PROTECT, DEFEND AND HOLD INDEMNITEES HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL

INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, THE "INDEMNIFYING PARTIES"), TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY INDEMNIFYING PARTY'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR (ii) ANY INDEMNIFYING PARTY'S HANDLING, STORING, RELEASING OR TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE PROVISIONS OF THIS INDEMNIFICATION SHALL APPLY TO AND PROTECT EACH INDEMNITEE FROM THE CONSEQUENCES OF STRICT LIABILITY IMPOSED OR THREATENED TO BE IMPOSED ON SUCH INDEMNITEE, AS WELL AS FROM THE CONSEQUENCES OF THE NEGLIGENCE OF ANY INDEMNITEE, WHETHER OR NOT THAT NEGLIGENCE IS A CONTRIBUTING OR CONCURRING CAUSE OF ANY LIABILITY INDEMNIFIED AGAINST IN THIS ARTICLE IV.B.

THE TERMS, PROVISIONS, REQUIREMENTS AND OBLIGATIONS OF THIS ARTICLE IV.B. SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS LICENSE, AND SHALL NOT BE LIMITED BY OR TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

C. Assignment. The provisions of this License shall inure to the benefit of and be binding upon Licensor and Licensee and their respective successors and permitted assigns. The rights and privileges granted by Licensor under this License inure to the benefit of Licensee. No rights, privileges or obligations hereunder shall be assignable by Licensee without the express prior written consent of Licensor. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to

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

E. Attorney Fees. SHOULD LICENSOR BE REQUIRED TO RESORT TO EMPLOYMENT OF ATTORNEYS TO ENFORCE THIS LICENSE, OR ANY OF ITS RIGHTS UNDER THIS LICENSE, LICENSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM LICENSEE FOR LICENSOR'S ATTORNEYS' FEES. LICENSEE SHALL REIMBURSE LICENSOR FOR LICENSOR'S ATTORNEYS' FEES INCURRED IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS LICENSE. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LICENSE, OR THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE. WITHOUT LIMITING THE FOREGOING, LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, OR TO THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

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

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

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

I. Third Party Beneficiary. Except as provided in Article IV.B. above with respect to Indemnitees, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

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

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time

and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licenser within the time and manner provided herein shall exonerate, excuse and except Licenser from any liability whatsoever. Licenser is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licenser 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 Licenser 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 Licenser as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licenser 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. Licenser 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 Licenser's governmental immunity and the parties hereto expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licenser'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 Licenser'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 Licenser'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 Licenser. Licensee is paying Licenser 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 Licenser'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: _____
Tommy Gonzalez, 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:
BRAZOS MIDSTREAM GAS, LLC

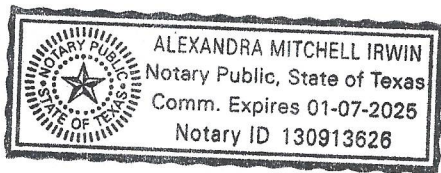
By: 
Printed Name: Ryan Jaggi
Title: Chief Operating Officer

THE STATE OF Texas
COUNTY OF Tarrant

§
§
§

BEFORE ME, the undersigned authority, on this 24 day of July, 2023 personally appeared Ryan Jaggi an officer of Brazos Midstream Gas, 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 24 day of July, 2023.



Alexandra McInnis
Notary Public, State of Texas



PIPELINE RIGHT-OF-WAY
SECTION 18, BLOCK 36, T. 3-S, T. & P. RR. CO. SURVEY, A-956
MIDLAND COUNTY, TEXAS

A pipeline right-of-way thirty feet in width with edges being fifteen feet right and left of the following described centerline across a tract owned by City of Midland, Instrument number 18831, Vol. 1508, Pg. 593, Official Public Records, Midland County, Texas located in Section 18, Block 36, T. 3-S, T. & P. RR. CO. Survey, A-956, Midland County, Texas:

BEGINNING on the South line of said City of Midland tract, whence a 1/2" iron rod w/ cap marked "1974" bears N 71°35'46" E, a distance of 277.68 feet;

① Thence S 76°45'06" W, a distance of 1348.29 feet to an angle point;

② Thence N 15°55'12" W, a distance of 974.54 feet to the North line of said City of Midland tract, the **END** of this description, whence a 1/2" iron rod w/ cap marked "1974" bears N 54°44'55" W, a distance of 365.28 feet.

This description contains 2322.83 feet or 140.78 rods.

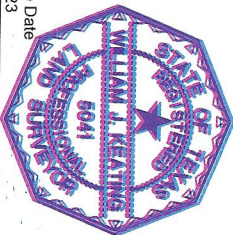
Temporary Workspace along right-of-way is 70225.20 square feet or 1.61 acres.

All bearings are relative to GRID NORTH and were determined by GPS observation.
Bearings and distances shown are relative to **NAD-27** Grid Texas Central Zone.

CERTIFICATION:

THE INFORMATION IN THIS DRAWING WAS DERIVED FROM FIELD NOTES OR ELECTRONIC DATA OF AN ACTUAL ON-THE-GROUND SURVEY MADE UNDER MY PERSONAL SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AM A LICENSED PROFESSIONAL SURVEYOR IN THE STATE OF TEXAS AND THIS SURVEY WAS PERFORMED FOR THE PURPOSES OF A COMPLETE AND ACCURATE SURVEY AS DEFINED BY THE T.B.P.L.S. PROFESSIONAL LAND SURVEYING PRACTICES ACT. ALL LANDOWNER INFORMATION, PROPERTY LINES, AND DESCRIPTIONS ARE SHOWN BASED ON DATA PROVIDED BY BRAZOS MIDSTREAM.

William J. Keating
Texas Reg. No. 5041
Signature Date 5/25/23

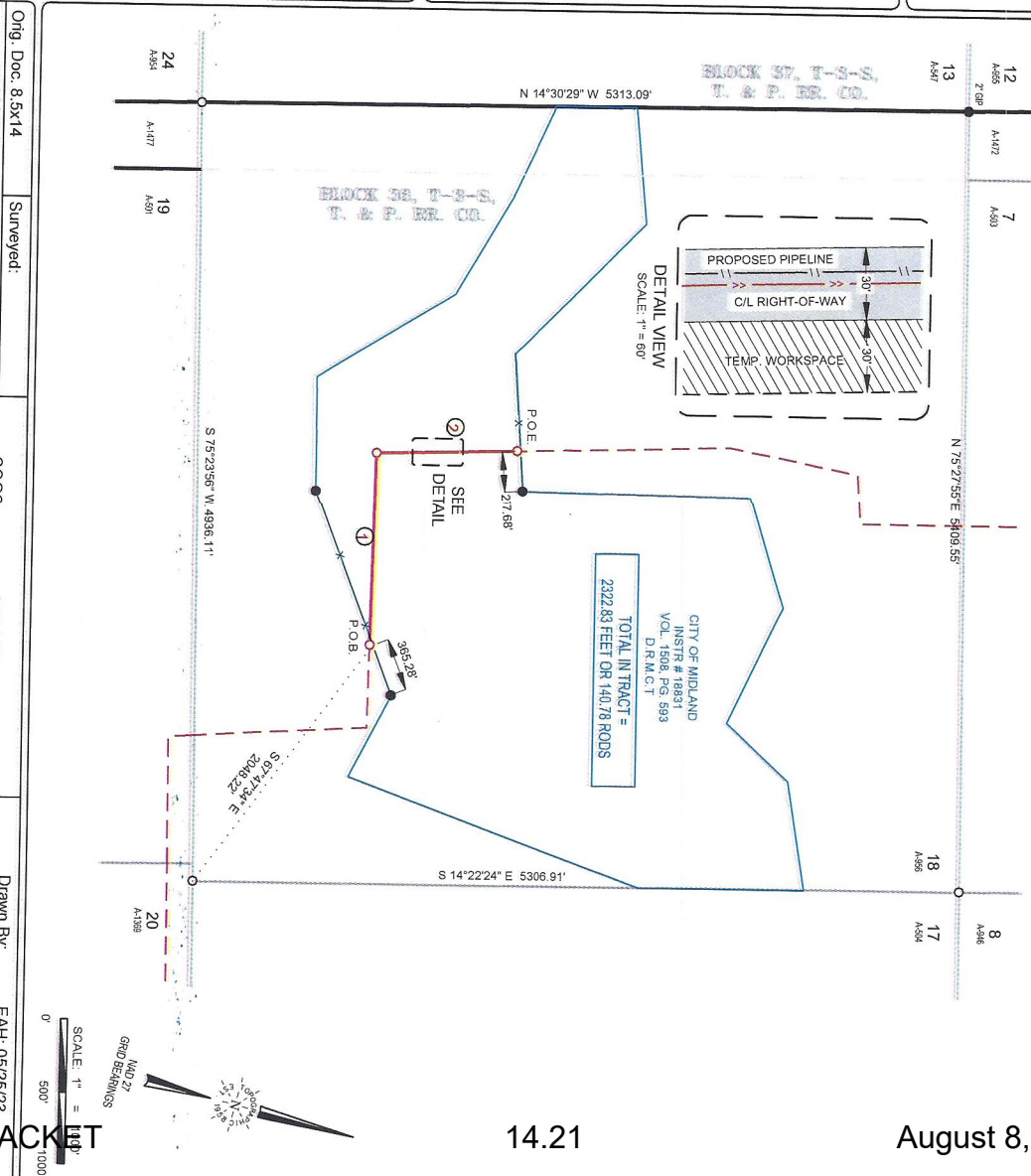


TOPOGRAPHIC
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FILE NAME: EP_CENTRAL_TRUNK_LINE_SEC18

LEGEND

- Section Line
- Block Line
- Fence
- Powerline
- Pipeline
- Lease Road
- Found Monument
- Calculated Corner
- Found IR W/ Cap



Orig. Doc. 8.5x14

Surveyed:

COGC:

723-119338

Drawn By:

EAH: 05/25/23

Revision:

()

Date Revised:

PACKET



PIPELINE RIGHT-OF-WAY
SECTION 19, BLOCK 36, T-3-S, T. & P. RR. CO. SURVEY, A-956
MIDLAND COUNTY, TEXAS

A pipeline right-of-way thirty feet in width with edges being fifteen feet right and left of the following described centerline across a tract owned by City of Midland, Vol. 1508, Pg 593 Official Public Records, Midland County, Texas located in Section 19, Block 36, T-3-S, T. & P. RR. CO. Survey, A-956, Midland County, Texas:

BEGINNING on the East line of said Section 19, whence the Northeast corner of said Section 19 bears N 14°49'58" W, a distance of 152.22 feet.

① Thence S 75°18'37" W, a distance of 875.64 feet to an angle point;

② Thence N 17°43'15" W, a distance of 153.80 feet to the North line of said Section 19, the **END** of this description, whence the Southwest corner of said Section 19 bears N 75°23'56" E, a distance of 883.40 feet.

This description contains 1029.45 feet or 62.39 rods.

Temporary Workspace along right-of-way is 32874.89 square feet or 0.75 acres.

All bearings are relative to GRID NORTH and were determined by GPS observation.
Bearings and distances shown are relative to NAD-27 Grid Texas Central Zone.

CERTIFICATION:

THE INFORMATION IN THIS DRAWING WAS DERIVED FROM FIELD NOTES OR ELECTRONIC DATA OF AN ACTUAL ON-THE-GROUND SURVEY MADE UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I AM A LICENSED SURVEYOR IN THE STATE OF TEXAS AND THIS SURVEY WAS PERFORMED FOR THE PURPOSES ONLY AND DOES NOT CONSTITUTE A COMPLETE BOUNDARY SURVEY AS DEFINED BY THE T.B.P.L.S. "PROFESSIONAL LAND SURVEYING PRACTICES ACT". ALL LANDOWNER INFORMATION, PROPERTY LINES, AND DESCRIPTIONS ARE SHOWN BASED ON DATA PROVIDED BY BRAZOS MIDSTREAM.

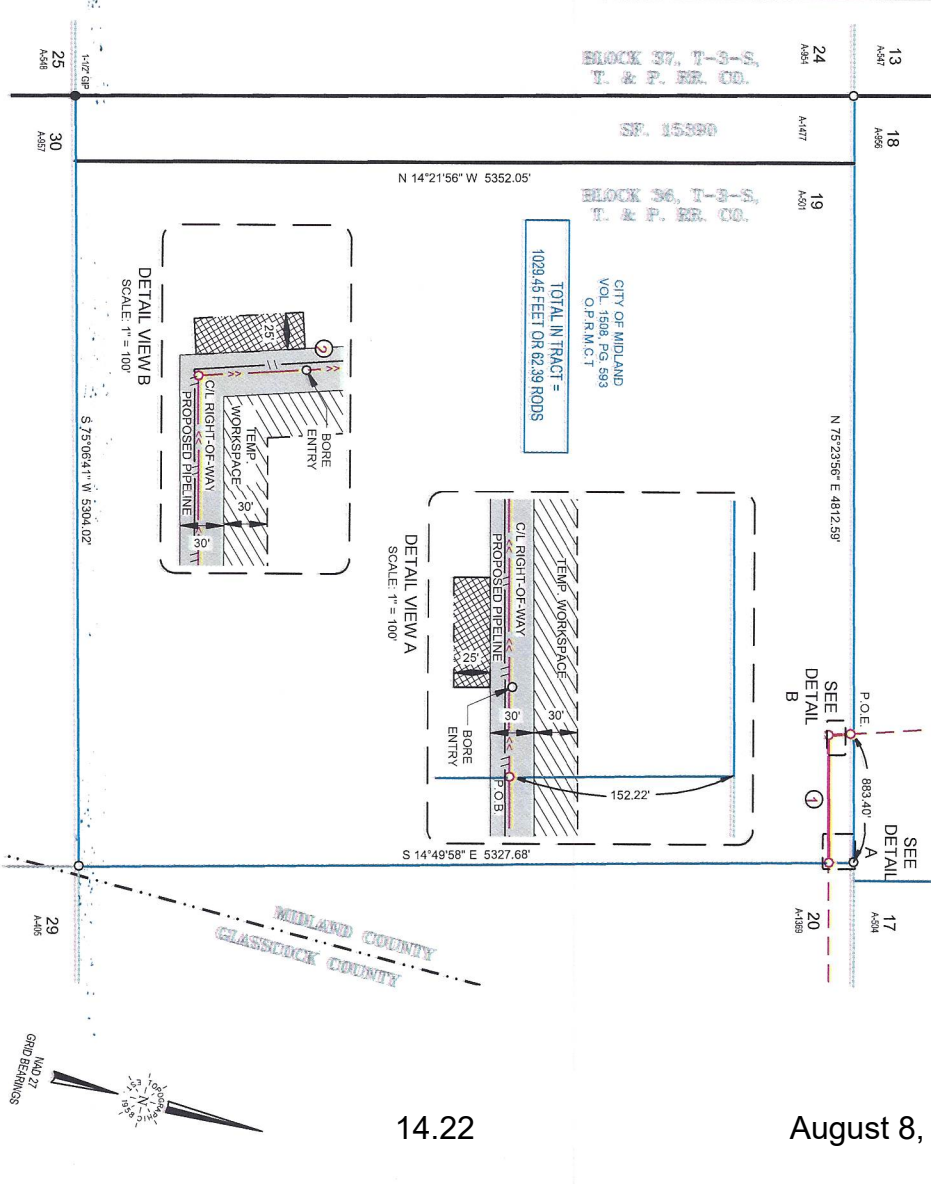
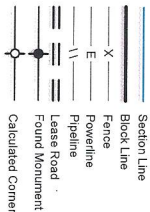
William J. Keating
Texas Reg. No. 5041
Signature Date 5/25/23



2803 NORTH BIG SPRING • MIDLAND, TEXAS 79705
TELEPHONE: (432) 682-1893 OR (800) 757-4693 • FAX: (432) 682-1743
TEXAS
WWW.TOPOGGRAPHIC.COM

FILE NAME: EP_CENTRAL_TRUNK_LINE_SEC19

LEGEND



Orig. Doc. 8.5x14

Surveyed:

COGO:

723-119338

Drawn By:

EAH: 05/25/23

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PACKET



City Council Meeting

Item Number: 15
Meeting Date: August 8, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way license (23-317-041) with WTG Gas Gathering Company, LLC, regarding City-owned property described as Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County (DISTRICT: NONE) (UTILITIES)

Purpose:

This motion will provide the applicant a 30' wide right of way to build a 16", steel construction, natural gas pipeline that runs South to the existing WTG compression facility. The pipeline will be placed beside existing WTG pipelines and overhead power lines.

This Right-of-Way License is for a 10-year period. Terms are consistent with the City's standard license for facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

The following fees will be collected:

Application fee: \$1,000.00

10-Year Lease Rate,

16" pipeline: 225.55 rods x \$440 per rod (\$99,242.00)

Total 10-year ROW License fees: \$99,242.00

Total Collected this date: \$100,242.00

Discussion:

This will be a private, steel-construction, natural gas pipeline for a connection to the existing gas compressor facility. The pipeline will be buried a minimum of 36" deep. The applicant will also have a 50' temporary construction right of way until project completion.

Certificates of Insurance are on file.

City Secretary is to record all documents.



City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

Date: August 9, 2023

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

Licensor's Representative: Tommy Gonzalez, City Manager

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

Licensee: **WTG Gas Gathering Company, LLC**

Licensee's Representative: **Billy Melton**

Licensee's Mailing Address: 303 Veterans Airpark Lane, Suite 5000
Midland, Texas 79705

Property: As described in Article III below

License Number: **23-317-041**

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

W I T N E S S E T H:

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

I. Term

A. Term. This License shall be for a term of ten (10) years commencing on the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

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

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

II. Financial Consideration

A. License Fee. A license fee in the amount of NINETY-NINE THOUSAND TWO HUNDRED FORTY-TWO and No/100 Dollars (\$99,242.00) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars (\$1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

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

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being eighty (80) feet in width of the locations as shown on Exhibit A attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a steel construction pipeline, not to exceed sixteen (16) inches in diameter, for the transportation of natural gas and 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 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 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 Licensors as an additional insured and all insurance shall waive subrogation in favor of Licensors.

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

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

All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name Licensors 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 Licensors. 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. Licensors 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 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 Licenser within the time and manner provided herein shall exonerate, excuse and except Licenser from any liability whatsoever. Licenser is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licenser 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 Licenser 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 Licenser as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licenser 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. Licenser 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 Licenser's governmental immunity and the parties hereto expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licenser'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 Licenser'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 Licenser'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 Licenser. Licensee is paying Licenser 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 Licenser'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: _____
Tommy Gonzalez, City Manager

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT AND
COMPLETENESS:

Carl Craigo, Director of Utilities

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

LICENSEE:

WTG GAS GATHERING COMPANY, LLC

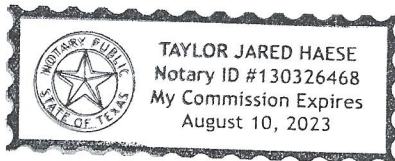
By: Billy Melton
Printed Name: Billy Melton
Title: VP of Land

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

BEFORE ME, the undersigned authority, on this 20 day of July, 2023 personally appeared Billy Melton an officer of WTG Gas Gathering Company, LLC known to me to be the person and official whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

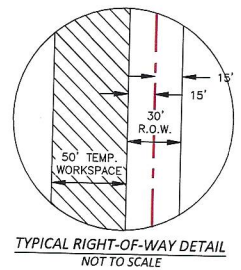
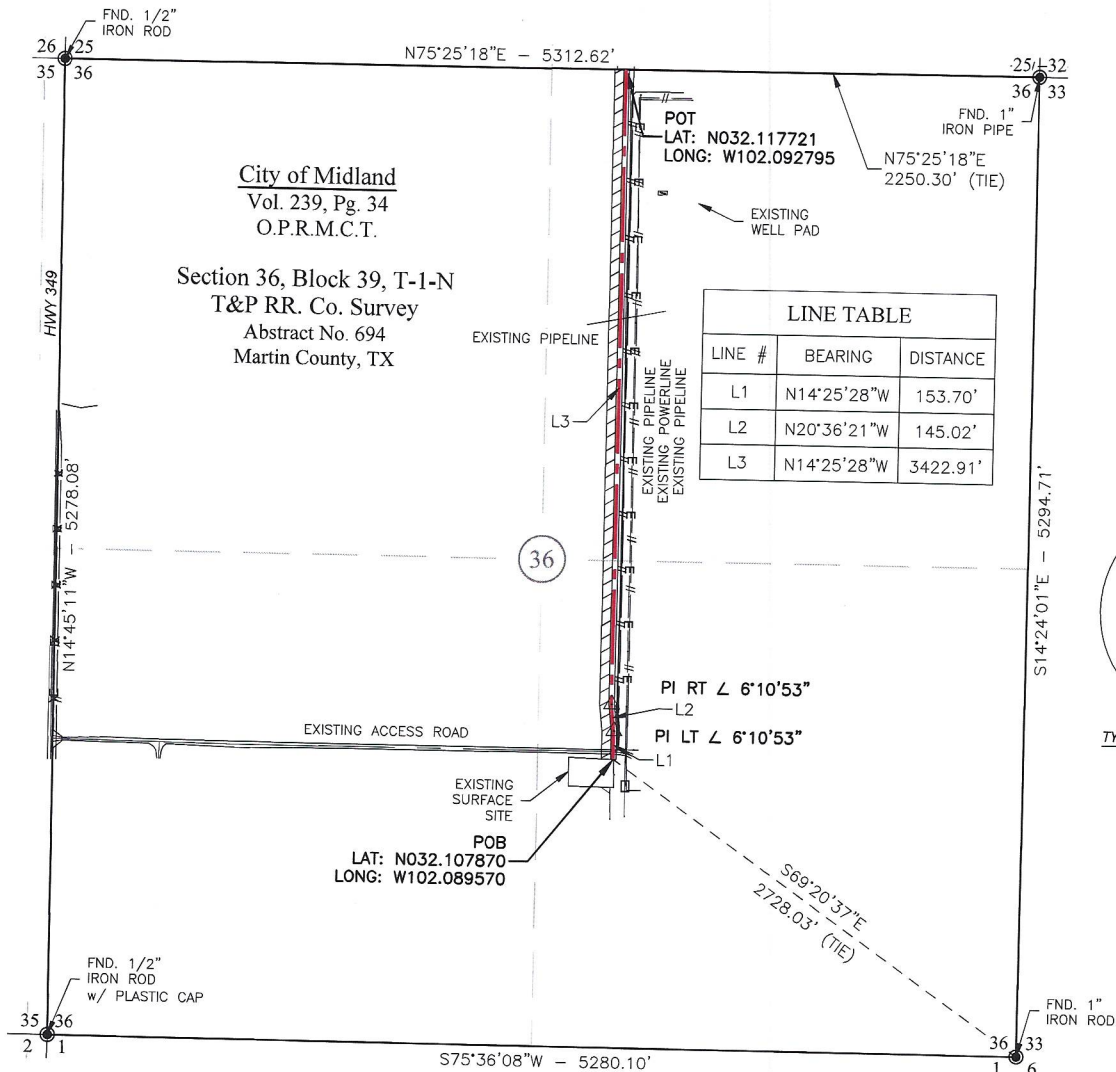
GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 20 day of July, 2023.



[Signature]
Notary Public, State of TEXAS

"EXHIBIT - A"

W.O. NUMBER:



PIPELINE RIGHT-OF-WAY TOTALS		
CENTERLINE	3721.63 FT.	225.55 RODS
RIGHT-OF-WAY	2.56 ACRES	
TEMP. WORKSPACE	4.27 ACRES	
TOTAL	6.83 ACRES	

LEGEND	
	- DENOTES CALCULATED CORNER BASED ON GLO
	- DENOTES FOUND MONUMENT AS NOTED
	- DENOTES POINT OF INTERSECTION
	- DENOTES PROPOSED CENTERLINE
	- DENOTES EXISTING PIPELINE
	- DENOTES EXISTING ELECTRIC LINE
	- DENOTES EXISTING FENCE LINE
	- DENOTES TRACT LINE
	- OFFICIAL PUBLIC RECORDS MARTIN COUNTY TEXAS
	- TEXAS & PACIFIC RAILROAD COMPANY SURVEY

- NOTES:
- COORDINATES, BEARINGS AND DISTANCES SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE STATE PLANE COORDINATE SYSTEM "TEXAS CENTRAL ZONE", NORTH AMERICAN DATUM OF 1983. DISTANCES, COORDINATES, AND BEARINGS SHOWN ARE GRID VALUES.
 - OWNERSHIP PROVIDED BY CLIENT'S AGENT.
 - THIS EXHIBIT IS NOT A LAND SURVEY PLAT, OR A BOUNDARY SURVEY PLAT. ALL OF THE POSITIONS SHOWN HEREON HAVE NOT BEEN VERIFIED AS BEING ACTUAL SECTION, QUARTER, OR PROPERTY CORNERS.



349SG-MAR-001.00	
349 to South Glass PROPOSED PIPELINE RIGHT-OF-WAY CITY OF MIDLAND SECTION 36, BLOCK 39, T-1-N MARTIN COUNTY, TEXAS	
Survey Date: May, 2023	August 8, 2023
Date: July 11, 2023	k'd By: SWD
SCALE: 1"=1000'	SHEET 1 OF 2
349SG-MAR-001.00-Sec 36.dwg - 7/11/23 - REV 3	

"EXHIBIT - A"

W.O. NUMBER:

PIPELINE RIGHT-OF-WAY DESCRIPTION

A 30-foot wide strip of land for right-of-way, together with a 50-foot wide temporary work space, situated in part of Section 36, Block 39, Township 1 North, T&P RR. Co. Survey, Martin County, Texas, and crossing that certain tract or parcel described in deed to City of Midland in Volume 239, Page 34, Official Public Records, Martin County, Texas the 30-foot wide right-of-way being 15.0 feet to the right and 15.0 feet to the left, of the following described centerline, and the 50-foot wide temporary work space being 15.0 feet to the left and conterminous with the left edge of the right-of-way, with all side lines extending and shortening to intersect boundary lines and points of intersection:

Beginning at a point, from which a found 1-inch iron rod marking the SE corner of said Section 36, same being the SW corner of Section 33, Block 38, Township 1 North, T&P RR. Co. Survey, Martin County Texas, bears South 69°20'37" East, 2728.03 feet;

Thence crossing said Section 36 in a northerly direction the following courses:

North 14°25'28" West, a distance of 153.70 feet;
North 20°36'21" West, a distance of 145.02 feet;

North 14°25'28" West for a distance of 3422.91 feet to the end of this centerline, from which a found 1-inch iron pipe marking the NE of said Section 36, bears North 75°25'18" East, 2250.30 feet, for reference, and containing 2.56 acres in the right-of-way, 4.27 acres in the temporary work space, and being a total length of 3721.63 feet (225.55 rods or 0.70 miles) more or less.

Note:

Coordinates, Bearings and Distances shown hereon are Lambert Grid and conform to the State Plane Coordinate System "Texas Central Zone", North American datum of 1983. Distances, Coordinates, and Bearings are grid values. Ownership provided by client's agent.

I hereby certify that this plat and description are a true and correct representation of a survey made on the ground under my direct supervision and all facts are as shown herein.



PIPELINE RIGHT-OF-WAY TOTALS		
CENTERLINE	3721.63 FT.	225.55 RODS
	RIGHT-OF-WAY	2.56 ACRES
	TEMP. WORKSPACE	4.27 ACRES
	TOTAL	6.83 ACRES

THIS DESCRIPTION ACCOMPANIES A PLAT OF EVEN DATE.

 7/11/2023

Stanley Drannon
Registered Professional Land Surveyor
Texas Registration No. 6507

Avery
LAND SERVICES



PACKET
Avery Land Services LLC
3323 N. Midland Drive Suite 133 PMB 1050 Midland, TX 79708
TX FIRM NO. 10194805

349SG-MAR-001.00



WTG

349 to South Glass

PROPOSED PIPELINE RIGHT-OF-WAY
CITY OF MIDLAND
SECTION 36, BLOCK 39, T-1-N
MARTIN COUNTY, TEXAS

Survey Date: May, 2023

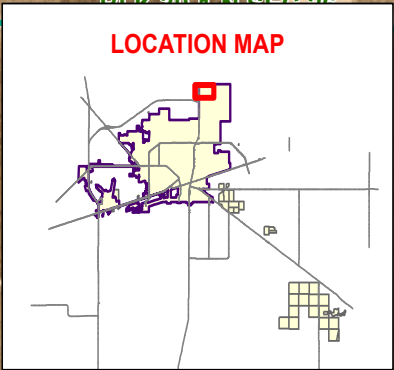
August 8, 2023
Drawn By: SWD

Date: July 11, 2023

SCALE: 1"=1000'

SHEET 2 OF 2

349SG-MAR-001.00-Sec 36.dwg - 7/11/23 - REV 3



BLK 39-1-N SEC 25

BLK 38-1-N SEC 32

LOCATION MAP

Proposed ROW
225.55 Rods (3721.63 Ft.)

BLK 39-1-N
SEC 35

BLK 39-1-N
SEC 36

BLK 38-1-N
SEC 33

BLK 39-1-S
SEC 2

BLK 39-1-S
SEC 1

BLK 38-1-S
SEC 6

Date: 7/12/2023

PACKET

Proposed ROW
Survey Section

WTG Proposed ROW
Sec36, Blk 39-1-N, Martin Co.

August 8, 2023



0 250 500 Feet

©THE CITY OF MIDLAND - 2023
THIS DATA IS NOT A SUBSTITUTE FOR A
SURVEY PRODUCT. NOW IS IT DESIGNED TO
BE USED AS A PRIMARY TOOL IN PERMITTING
OR OTHER DECISIONS BASED SOLELY ON THE
INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR
ANY DECISIONS BASED UPON THE USE OF THIS DATA.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/31/2024

5/31/2023

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

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

PRODUCER LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED 1509715 WTG Midstream LLC; WTG Downstream LLC WTG Fuels, LLC; WTG Hugoton; WTG Gas Processing 303 Veterans Airpark Lane, Suite 5000 Midland TX 79705	INSURER(S) AFFORDING COVERAGE INSURER A: Liberty Mutual Fire Insurance Company INSURER B: Liberty Insurance Corporation INSURER C: INSURER D: INSURER E: INSURER F:
	NAIC # 23035 42404

COVERAGES**CERTIFICATE NUMBER:** 18576092**REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS 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	Y	Y	EB2-641-444989-033	5/31/2023	5/31/2024	EACH OCCURRENCE \$ 2,000,000
A	☐ CLAIMS-MADE ☒ OCCUR			EB2-641-444989-053	5/31/2023	5/31/2024	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	☒ S&A Pollution						MED EXP (Any one person) \$ Excluded
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE \$ 5,000,000
	OTHER:						PRODUCTS - COMP/OP AGG \$ 5,000,000
							\$
A	AUTOMOBILE LIABILITY	Y	Y	AS2-641-444989-013	5/31/2023	5/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	☒ ANY AUTO						BODILY INJURY (Per person) \$ XXXXXXXX
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident) \$ XXXXXXXX
	☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
							\$ XXXXXXXX
B	☒ UMBRELLA LIAB ☒ OCCUR	Y	Y	TH7-641-444989-063	5/31/2023	5/31/2024	EACH OCCURRENCE \$ 3,000,000
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE \$ 3,000,000
	DED ☐ RETENTION \$ ☐						\$ XXXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y	Y	WA6-64D-444989-023	5/31/2023	5/31/2024	☒ 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	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)

CERTIFICATE HOLDER**CANCELLATION** See Attachment18576092
City of Midland
P.O. Box 60305
Midland TX 79711

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

AUTHORIZED REPRESENTATIVE

PACKET

15.21

August 8, 2023

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All policies (except Workers' Compensation/EL) include a blanket automatic additional insured [provision] that confers additional insured status to the certificate holder only if there is a written contract between the named insured and the certificate holder that requires the named insured to name the certificate holder as an additional insured. In the absence of such a contractual obligation on the part of the named insured, the certificate holder is not an additional insured under the policy.

All policies include a blanket automatic waiver of subrogation endorsement [provision] that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. In the absence of such a contractual obligation on the part of the named insured, the waiver of subrogation feature does not apply.

All policies (except Workers' Compensation/EL) contain a special endorsement with "primary and noncontributory" wording.

All policies include a blanket notice of cancellation to certificate holders endorsement, providing for 30 days' advance notice if the policy is canceled by the company other than for nonpayment of premium, 10 days' notice if the policy is canceled for nonpayment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company. The endorsement does not provide for notice of cancellation if the named insured requests cancellation.

The Workers Compensation policy includes Alternate Employer coverage.

The Automobile Liability policy includes an MCS-90 endorsement. The Automobile Liability policy includes a Pollution Liability - Broadened Coverage for Covered Autos endorsement per form CA9948 1013.

WTG GAS GATHERING COMPANY, LLC

303 VETERANS AIRPARK LANE, SUITE 5000
MIDLAND, TX 79705
(432) 682-4349

0002734

DESCRIPTION

INV DATE

INVOICE REF. #

AMOUNT

7/24/23

7723493

99,242.00

0002734

0002967 CITY OF MIDLAND

0002734

99,242.00

THIS CHECK IS VOID WITHOUT A BLUE AND RED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT AN ANGLE TO VIEW

WTG GAS GATHERING COMPANY, LLC

303 VETERANS AIRPARK LANE, MIDLAND, TEXAS 79705
(432) 682-4349

0002734

WELLS FARGO BANK TEXAS, N.A.
MIDLAND, TEXAS
37-65/1119

7/24/23

PAY *****99,242 DOLLARS AND 00 CENTS

\$99,242.00

TO
THE
ORDER
OF

CITY OF MIDLAND
300 NORTH LORAIN
MIDLAND, TX 79701

WTG GAS GATHERING COMPANY, LLC

PACKET

15.23


August 8, 2023

BORDER CONTAINS MICROPRINTING

Security Features
Included On Back

⑈ 2734⑈ ⑆ 111900659⑆ 3319396598⑈



City Council Meeting

Item Number: 16
Meeting Date: August 8, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way license (23-317-037) with WTG Gas Gathering Company, LLC, regarding City-owned property described as Section 23, Block 40, T-1-N, T&P RR Co. Survey, Midland County (DISTRICT 4) (UTILITIES)

Purpose:

This motion will provide the applicant a 10' wide right of way to bore under City owned Golden Gate Drive and place a privately owned DR-11 PE4710 HDPE natural gas pipeline in a 24", steel construction, casing from both edges of future ROW for the road. Casing will be vented and marked at both edges of existing ROW and will be buried a minimum of 96" under the existing road as required by city code.

This Right-of-Way License is for a 10-year period. Terms are consistent with the City's standard license for facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

The following fees will be collected:

Application fee: \$1,000.00

10-Year Lease Rate,

16" pipeline: 3.64 rods x \$750 per rod (\$2,730.00)

Total Collected this date: \$2,830.00

Discussion:

This will be a private, DR-11 PE4710 HDPE natural gas pipeline in a 24", steel construction, casing from edge to edge of future road ROW for Golden Gate Drive. Casing will be vented and marked at both edges of the existing ROW and will be buried a minimum of 96" under existing road as required by city code. Both bore pits are located on private property.

Certificates of Insurance are on file

City Secretary is to record all documents



City Manager's Office



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/31/2024

5/31/2023

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

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

PRODUCER LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED 1509715 WTG Midstream LLC; WTG Downstream LLC WTG Fuels, LLC; WTG Hugoton; WTG Gas Processing 303 Veterans Airpark Lane, Suite 5000 Midland TX 79705	INSURER(S) AFFORDING COVERAGE INSURER A: Liberty Mutual Fire Insurance Company INSURER B: Liberty Insurance Corporation INSURER C: INSURER D: INSURER E: INSURER F:
	NAIC # 23035 42404

COVERAGES**CERTIFICATE NUMBER:** 18576092**REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS 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	Y	Y	EB2-641-444989-033	5/31/2023	5/31/2024	EACH OCCURRENCE \$ 2,000,000
A	☐ CLAIMS-MADE ☒ OCCUR			EB2-641-444989-053	5/31/2023	5/31/2024	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	☒ S&A Pollution						MED EXP (Any one person) \$ Excluded
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE \$ 5,000,000
	OTHER:						PRODUCTS - COMP/OP AGG \$ 5,000,000
							\$
A	AUTOMOBILE LIABILITY	Y	Y	AS2-641-444989-013	5/31/2023	5/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	☒ ANY AUTO						BODILY INJURY (Per person) \$ XXXXXXXX
	☐ OWNED AUTOS ONLY						BODILY INJURY (Per accident) \$ XXXXXXXX
	☒ HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
	☐ SCHEDULED AUTOS						\$ XXXXXXXX
	☒ NON-OWNED AUTOS ONLY						
B	☒ UMBRELLA LIAB	Y	Y	TH7-641-444989-063	5/31/2023	5/31/2024	EACH OCCURRENCE \$ 3,000,000
	☐ EXCESS LIAB						AGGREGATE \$ 3,000,000
	DED RETENTION \$						\$ XXXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y	Y	WA6-64D-444989-023	5/31/2023	5/31/2024	☒ 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	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)

CERTIFICATE HOLDER**CANCELLATION** See Attachment

18576092
City of Midland
P.O. Box 60305
Midland TX 79711

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

AUTHORIZED REPRESENTATIVE

PACKET

10.3

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All policies (except Workers' Compensation/EL) include a blanket automatic additional insured [provision] that confers additional insured status to the certificate holder only if there is a written contract between the named insured and the certificate holder that requires the named insured to name the certificate holder as an additional insured. In the absence of such a contractual obligation on the part of the named insured, the certificate holder is not an additional insured under the policy.

All policies include a blanket automatic waiver of subrogation endorsement [provision] that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. In the absence of such a contractual obligation on the part of the named insured, the waiver of subrogation feature does not apply.

All policies (except Workers' Compensation/EL) contain a special endorsement with "primary and noncontributory" wording.

All policies include a blanket notice of cancellation to certificate holders endorsement, providing for 30 days' advance notice if the policy is canceled by the company other than for nonpayment of premium, 10 days' notice if the policy is canceled for nonpayment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company. The endorsement does not provide for notice of cancellation if the named insured requests cancellation.

The Workers Compensation policy includes Alternate Employer coverage.

The Automobile Liability policy includes an MCS-90 endorsement. The Automobile Liability policy includes a Pollution Liability - Broadened Coverage for Covered Autos endorsement per form CA9948 1013.

WTG GAS GATHERING COMPANY, LLC

303 VETERANS AIRPARK LANE, SUITE 5000
MIDLAND, TX 79705
(432) 682-4349

0002732

DESCRIPTION

INV DATE

INVOICE REF. #

AMOUNT

7/21/23

7723497

2,730.00

0002732

0002967 CITY OF MIDLAND

0002732

2,730.00

THIS CHECK IS VOID WITHOUT A BLUE AND RED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT AN ANGLE TO VIEW

WTG GAS GATHERING COMPANY, LLC

303 VETERANS AIRPARK LANE, MIDLAND, TEXAS 79705
(432) 682-4349

0002732

WELLS FARGO BANK TEXAS, N.A.
MIDLAND, TEXAS
37-65/1119

7/21/23

PAY *****2,730 DOLLARS AND 00 CENTS

\$2,730.00

WTG GAS GATHERING COMPANY, LLC

TO
THE
ORDER
OF

CITY OF MIDLAND
300 NORTH LORAIN
MIDLAND, TX 79701

PACKET

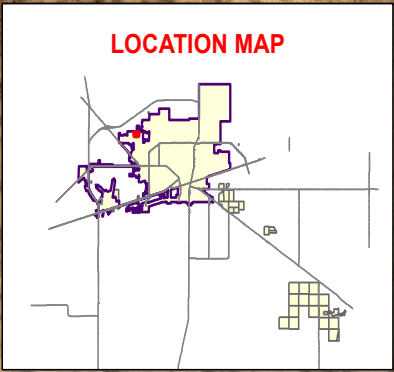
16.5


August 8, 2023

BORDER CONTAINS MICROPRINTING



⑈ 2732⑈ ⑆ 111900659⑆ 3319396598⑈



Proposed Golden Gate Dr. Road Bore 60' Casing ROW
14,711.6 SQ FT (0.34 Acres)

GOLDEN GATE DR

BLK 40-1-S
SEC 23



- Street
- Proposed ROW PACKET
- City Owned Property
- Survey Section

16.6
WTG Proposed ROW
60' Casing on Golden Gate Drive

Date: 7/7/2023

August 8, 2023

0 50 100 Feet

©THE CITY OF MIDLAND - 2023
THIS DATA IS NOT A SUBSTITUTE FOR A
SURVEY PROJECT. NOR IS IT DESIGNED TO
BE USED AS A PRIMARY TOOL IN PERMITTING
OR OTHER DECISIONS BASED SOLELY ON THE
INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR
ANY DECISIONS BASED UPON THE USE OF THIS DATA.

STGRN-MID-Golden Gate Dr

ParkHill Resources, LLC
Document No. 2019-8662
O.P.R.M.C.T
Acalled 455.45 Acres
Section 23, Block 40, T-1-S-
T4R RR. Co. Survey
abstract No. 252
Meliland County, TX



ENGINEERING DESIGN COVERS THE PIPELINE CROSSING DESIGN AND DOES

6.7



Scale: Horiz. 1" = 50'



 PLAN AND PROFILE FOR

 SPANISH TRAIL - GRIDIRON NORTH

 CROSSING GOLDEN GATE DRIVE

 LOCATED IN

 MOUNTAIN VIEW, CALIF.

 REV.

RIGHT OF WAY LICENSE

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

Date: August 9, 2023

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

Licensor's Representative: Tommy Gonzalez, City Manager

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

Licensee: **WTG Gas Gathering Company, LLC**

Licensee's Representative: **Billy Melton**

Licensee's Mailing Address: 303 Veterans Airpark Lane, Suite 5000
Midland, Texas 79705

Property: As described in Article III below

License Number: **23-329-037**

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

W I T N E S S E T H:

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

I. Term

A. Term. This License shall be for a term of ten (10) years commencing on the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

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

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

II. Financial Consideration

A. License Fee. A license fee in the amount of TWO THOUSAND SEVEN HUNDRED THIRTY and No/100 Dollars (\$2,730.00) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars (\$1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

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

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being ten (10) feet in width of the locations as shown on Exhibit A attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a DR-11 PE4710 steel construction pipeline, not to exceed twenty-four (24) inches in diameter with a vented and marked casing at both edges of the existing right-of-way, for the transportation of natural gas and to have the right of ingress and egress at convenient points for such purpose (the "Property"). **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline 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 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 ninety-six (96) 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.

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

provide any insurance whatsoever pursuant to this License.

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

B. Indemnity. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE, ITS SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S REPRESENTATIVES, AGENTS, ATTORNEYS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) THIS LICENSE, LICENSEE'S USE OF OR ACTIVITIES ON THE PROPERTY OR ANY OTHER PROPERTY OWNED BY LICENSOR, OR ANY ACT OR OMISSION OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "LIABILITIES"), EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF ANY INDEMNITEE. LICENSEE SHALL PROMPTLY ADVISE LICENSOR OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION TO WHICH THIS INDEMNIFICATION MAY APPLY, AND OF WHICH LICENSEE HAS RECEIVED NOTICE, AND LICENSEE, AT LICENSEE'S EXPENSE, SHALL ASSUME ON BEHALF OF LICENSOR (AND THE OTHER INDEMNITEES) AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE THEREOF WITH COUNSEL REASONABLY SATISFACTORY TO LICENSOR; PROVIDED, HOWEVER, THAT ANY INDEMNITEE SHALL HAVE THE RIGHT, AT ITS OPTION, TO BE REPRESENTED THEREIN BY COUNSEL OF ITS OWN SELECTION AND AT ITS OWN EXPENSE. IN THE EVENT OF FAILURE BY LICENSEE TO ASSUME THE DEFENSE OF LICENSOR IN ACCORDANCE WITH THIS INDEMNIFICATION, LICENSOR, AT ITS OPTION, AND WITHOUT RELIEVING LICENSEE OF ITS OBLIGATION HEREUNDER, MAY ASSUME SUCH DEFENSE, AFTER WRITTEN NOTICE THEREOF TO LICENSEE AND LICENSEE'S FAILURE TO RESPOND THERETO WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF SUCH NOTICE (SAID TEN (10) DAY PERIOD SHALL NOT APPLY IN

ANY CASE WHERE IMMEDIATE ANSWERS, RESPONSES, OR OTHER AFFIRMATIVE ACTION IS REQUIRED TO PRESERVE THE RIGHTS OF LICENSOR) BUT ALL REASONABLE COSTS AND EXPENSES SO INCURRED BY LICENSOR IN THAT EVENT SHALL BE REIMBURSED BY LICENSEE TO LICENSOR, TOGETHER WITH INTEREST ON THE SAME FROM THE DATE ANY SUCH EXPENSE WAS PAID BY LICENSOR UNTIL REIMBURSED BY LICENSEE, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS, BY THE LAWS OF THE STATE OF TEXAS.

WITHOUT LIMITING THE FOREGOING, LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY, PROTECT, DEFEND AND SAVE LICENSOR HARMLESS FROM ANY AND ALL CLAIMS, LIENS, JUDGMENTS, SUITS, CAUSES OF ACTION, AND DEMANDS OF ANY SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, OR FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, OR SUPPLIES, IN CONNECTION WITH THE CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE OR OTHER PERMITTED FACILITIES DESCRIBED HEREIN.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE SHALL INDEMNIFY, PROTECT AND HOLD HARMLESS AND DEFEND EACH INDEMNITEE FROM ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DAMAGES, CAUSES OF ACTION, CHARGES, JUDGMENTS, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF ANY INDEMNITEE, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', REPRESENTATIVES', AGENTS', CONTRACTORS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE, INCLUDING, WITHOUT LIMITATION, SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE OR PERMITTED FACILITIES ON LICENSOR'S PROPERTY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY INDEMNITEE, INCLUDING RELATED ATTORNEY'S FEES.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE, ITS SUCCESSORS AND ASSIGNS, SHALL INDEMNIFY, PROTECT, DEFEND AND HOLD INDEMNITEES HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL

INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, THE "INDEMNIFYING PARTIES"), TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY INDEMNIFYING PARTY'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR (ii) ANY INDEMNIFYING PARTY'S HANDLING, STORING, RELEASING OR TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE PROVISIONS OF THIS INDEMNIFICATION SHALL APPLY TO AND PROTECT EACH INDEMNITEE FROM THE CONSEQUENCES OF STRICT LIABILITY IMPOSED OR THREATENED TO BE IMPOSED ON SUCH INDEMNITEE, AS WELL AS FROM THE CONSEQUENCES OF THE NEGLIGENCE OF ANY INDEMNITEE, WHETHER OR NOT THAT NEGLIGENCE IS A CONTRIBUTING OR CONCURRING CAUSE OF ANY LIABILITY INDEMNIFIED AGAINST IN THIS ARTICLE IV.B.

THE TERMS, PROVISIONS, REQUIREMENTS AND OBLIGATIONS OF THIS ARTICLE IV.B. SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS LICENSE, AND SHALL NOT BE LIMITED BY OR TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

C. Assignment. The provisions of this License shall inure to the benefit of and be binding upon Licensor and Licensee and their respective successors and permitted assigns. The rights and privileges granted by Licensor under this License inure to the benefit of Licensee. No rights, privileges or obligations hereunder shall be assignable by Licensee without the express prior written consent of Licensor. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to

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

E. Attorney Fees. SHOULD LICENSOR BE REQUIRED TO RESORT TO EMPLOYMENT OF ATTORNEYS TO ENFORCE THIS LICENSE, OR ANY OF ITS RIGHTS UNDER THIS LICENSE, LICENSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM LICENSEE FOR LICENSOR'S ATTORNEYS' FEES. LICENSEE SHALL REIMBURSE LICENSOR FOR LICENSOR'S ATTORNEYS' FEES INCURRED IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS LICENSE. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LICENSE, OR THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE. WITHOUT LIMITING THE FOREGOING, LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, OR TO THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

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

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

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

I. Third Party Beneficiary. Except as provided in Article IV.B. above with respect to 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 Licenser within the time and manner provided herein shall exonerate, excuse and except Licenser from any liability whatsoever. Licenser is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licenser 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 Licenser 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 Licenser as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licenser 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. Licenser 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 Licenser's governmental immunity and the parties hereto expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licenser'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 Licenser'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 Licenser'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 Licenser. Licensee is paying Licenser 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 Licenser'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: _____
Tommy Gonzalez, City Manager

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT AND
COMPLETENESS:

Carl Craigo, Director of Utilities

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

LICENSEE:
WTG GAS GATHERING COMPANY, LLC

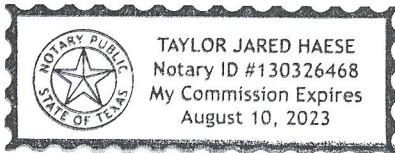
By: Billy Melton
Printed Name: Billy Melton
Title: VP of Land

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

BEFORE ME, the undersigned authority, on this 20 day of July, 2023 personally appeared Billy Melton an officer of WTG Gas Gathering Company, LLC known to me to be the person and official whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 20 day of July, 2023.



[Signature]
Notary Public, State of TEXAS



City Council Meeting

Item Number: 17
Meeting Date: August 8, 2023
To: City Council / City Manager
From: John Simmons, Manager, Right-of-Way
Subject: Motion authorizing the execution of a Right-of-Way license (23-317-038) with WTG Gas Gathering Company, LLC, regarding City-owned property described as Sections 23 and 24, Block 40, T-1-N, T&P RR Co. Survey, Midland County (DISTRICT 4) (UTILITIES)

Purpose:

This motion will provide the applicant a 10' wide right of way to bore under City owned Avalon Drive and place a privately owned DR-11 PE4710 HDPE natural gas pipeline in a 24", steel construction, casing from both edges of ROW for the road. Casing will be vented and marked at both edges of existing ROW and will be buried a minimum of 96" under existing road as required by city code.

This Right-of-Way License is for a 10-year period. Terms are consistent with the City's standard license for facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

The following fees will be collected:

Application fee: \$1,000.00

10-Year Lease Rate,

16" pipeline: 3.64 rods x \$750 per rod (\$2,730.00)

Total Collected this date: \$2,830.00

Discussion:

This will be a private, DR-11 PE4710 HDPE natural gas pipeline in a 24", steel construction, casing from edge to edge of existing road ROW for Golden Gate Drive. Casing will be vented and marked at both edges of ROW and will be buried a minimum of 96" under existing road as required by city code. Both bore pits are located on private property.

Certificates of Insurance are on file

City Secretary is to record all documents



City Manager's Office



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/31/2024

5/31/2023

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

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

PRODUCER LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Liberty Mutual Fire Insurance Company		23035
INSURER B: Liberty Insurance Corporation		42404
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES**CERTIFICATE NUMBER:** 18576092**REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS 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	Y	Y	EB2-641-444989-033	5/31/2023	5/31/2024	EACH OCCURRENCE \$ 2,000,000
A	☐ CLAIMS-MADE ☒ OCCUR			EB2-641-444989-053	5/31/2023	5/31/2024	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	☒ S&A Pollution						MED EXP (Any one person) \$ Excluded
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY \$ 1,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE \$ 5,000,000
	OTHER:						PRODUCTS - COMP/OP AGG \$ 5,000,000
							\$
A	AUTOMOBILE LIABILITY	Y	Y	AS2-641-444989-013	5/31/2023	5/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	☒ ANY AUTO						BODILY INJURY (Per person) \$ XXXXXXXX
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident) \$ XXXXXXXX
	☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
							\$ XXXXXXXX
B	☒ UMBRELLA LIAB	Y	Y	TH7-641-444989-063	5/31/2023	5/31/2024	EACH OCCURRENCE \$ 3,000,000
	☐ EXCESS LIAB						AGGREGATE \$ 3,000,000
	DED ☐ RETENTION \$ ☐						\$ XXXXXXXX
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y	Y	WA6-64D-444989-023	5/31/2023	5/31/2024	☒ 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	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)

CERTIFICATE HOLDER**CANCELLATION** See Attachment

18576092
City of Midland
P.O. Box 60305
Midland TX 79711

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

AUTHORIZED REPRESENTATIVE

PACKET

17.3

August 8, 2023

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All policies (except Workers' Compensation/EL) include a blanket automatic additional insured [provision] that confers additional insured status to the certificate holder only if there is a written contract between the named insured and the certificate holder that requires the named insured to name the certificate holder as an additional insured. In the absence of such a contractual obligation on the part of the named insured, the certificate holder is not an additional insured under the policy.

All policies include a blanket automatic waiver of subrogation endorsement [provision] that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. In the absence of such a contractual obligation on the part of the named insured, the waiver of subrogation feature does not apply.

All policies (except Workers' Compensation/EL) contain a special endorsement with "primary and noncontributory" wording.

All policies include a blanket notice of cancellation to certificate holders endorsement, providing for 30 days' advance notice if the policy is canceled by the company other than for nonpayment of premium, 10 days' notice if the policy is canceled for nonpayment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company. The endorsement does not provide for notice of cancellation if the named insured requests cancellation.

The Workers Compensation policy includes Alternate Employer coverage.

The Automobile Liability policy includes an MCS-90 endorsement. The Automobile Liability policy includes a Pollution Liability - Broadened Coverage for Covered Autos endorsement per form CA9948 1013.

WTG GAS GATHERING COMPANY, LLC

303 VETERANS AIRPARK LANE, SUITE 5000
MIDLAND, TX 79705
(432) 682-4349

0002729

DESCRIPTION

INV DATE

INVOICE REF. #

AMOUNT

7/20/23

7723496

2,730.00

0002729

0002967 CITY OF MIDLAND

0002729

2,730.00

THIS CHECK IS VOID WITHOUT A BLUE AND RED BACKGROUND AND AN ARTIFICIAL WATERMARK ON THE BACK - HOLD AT AN ANGLE TO VIEW

WTG GAS GATHERING COMPANY, LLC

303 VETERANS AIRPARK LANE, MIDLAND, TEXAS 79705
(432) 682-4349

0002729

WELLS FARGO BANK TEXAS, N.A.
MIDLAND, TEXAS
37-65/1119

7/21/23

PAY *****2,730 DOLLARS AND 00 CENTS

\$2,730.00

TO
THE
ORDER
OF

CITY OF MIDLAND
300 NORTH LORAIN
MIDLAND, TX 79701

WTG GAS GATHERING COMPANY, LLC

PACKET

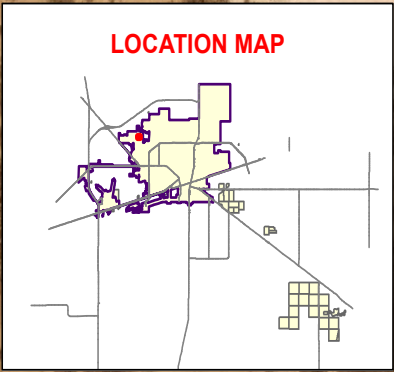
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August 8, 2023

BORDER CONTAINS MICROPRINTING

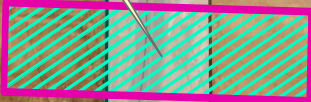


⑈ 2729⑈ ⑆111900659⑆ 3319396598⑈



Proposed Avalon Dr. Road Bore 60' Casing ROW
14,317.84 SQ FT (0.33 Acres)

BLK 40-1-S
SEC 23



BLK 40-1-S
SEC 24

AVALON DR

GLADIOLA AV

- Street
- Proposed ROW **PACKET**
- City Owned Property
- Survey Section

WTG Proposed ROW
60' Casing on Avalon Drive

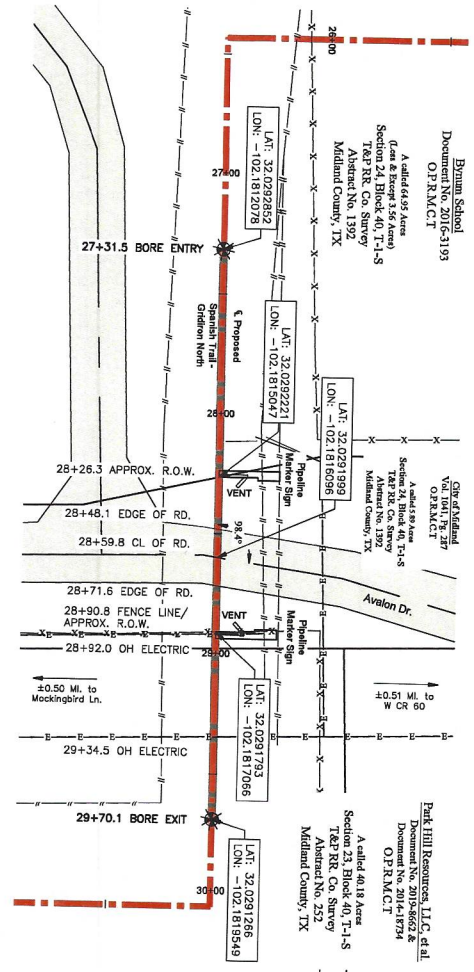
Date: 7/7/2023

August 8, 2023

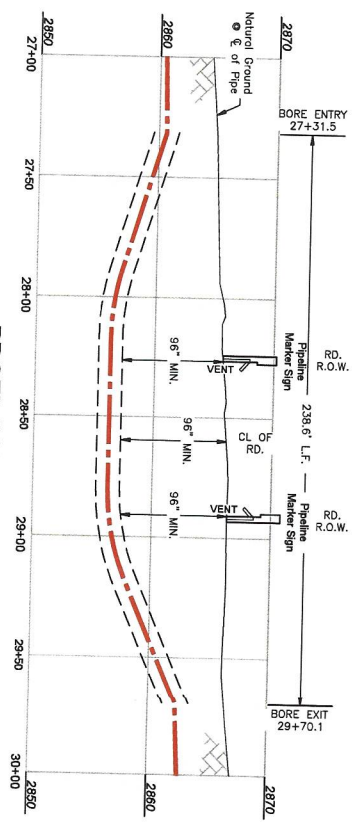


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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

SECTION 24 & SECTION 23, BLOCK 40, T-1-S
T&P RR. CO. SURVEY
MIDLAND COUNTY, TEXAS



PLAN VIEW
Scale: 1" = 50'



PROFILE VIEW
Scale: Horiz. 1" = 50'
Vert. 1" = 10'

- NOTES:
- 1) READING AND COMMENTS: SPANISH TRAIL, L&P, L&P, AND T&P RR. CO. SURVEY TO THE STATE PLATTE CORNER, SECTION 24, BLOCK 40, T-1-S, MIDLAND COUNTY, TEXAS.
 - 2) CONSTRUCTION: THE PIPELINE SHALL BE INSTALLED IN ACCORDANCE WITH THE EXISTING LOCATION, SIZE, & DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
 - 3) THE PIPELINE SHALL BE INSTALLED IN ACCORDANCE WITH THE EXISTING LOCATION, SIZE, & DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
 - 4) THE PIPELINE SHALL BE INSTALLED IN ACCORDANCE WITH THE EXISTING LOCATION, SIZE, & DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
 - 5) THE PIPELINE SHALL BE INSTALLED IN ACCORDANCE WITH THE EXISTING LOCATION, SIZE, & DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
 - 6) THE PIPELINE SHALL BE INSTALLED IN ACCORDANCE WITH THE EXISTING LOCATION, SIZE, & DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
 - 7) THE PIPELINE SHALL BE INSTALLED IN ACCORDANCE WITH THE EXISTING LOCATION, SIZE, & DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.

REV. NO.	DESCRIPTION	BY	CHKD	DATE
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2				
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5				
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Avery
LAND SERVICES
3223 N. Walnut Street, Suite 200, Midland, TX 79701
Tel: 409.533.1111
Fax: 409.533.1112

WTG
PLAN AND PROFILE FOR
SPANISH TRAIL - GRADIRON NORTH
CROSSING AVALON DRIVE
LOCATED IN
MIDLAND COUNTY, TEXAS

August 8, 2023

ENGINEERING DESIGN SERVICES, INC.
NOT COMMENT ON THE SURVEY DESIGN

RIGHT OF WAY LICENSE

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

Date: August 9, 2023

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

Licensor's Representative: Tommy Gonzalez, City Manager

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

Licensee: **WTG Gas Gathering Company, LLC**

Licensee's Representative: **Billy Melton**

Licensee's Mailing Address: 303 Veterans Airpark Lane, Suite 5000
Midland, Texas 79705

Property: As described in Article III below

License Number: **23-329-038**

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

W I T N E S S E T H:

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

I. Term

A. Term. This License shall be for a term of ten (10) years commencing on the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

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

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

II. Financial Consideration

A. License Fee. A license fee in the amount of TWO THOUSAND SEVEN HUNDRED THIRTY and No/100 Dollars (\$2,730.00) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars (\$1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

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

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being ten (10) feet in width of the locations as shown on Exhibit A attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a DR-11 PE4710 steel construction pipeline, not to exceed twenty-four (24) inches in diameter with a vented and marked casing at both edges of the existing right-of-way, for the transportation of natural gas and to have the right of ingress and egress at convenient points for such purpose (the "Property"). **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline 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 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 ninety-six (96) 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 Licensors as an additional insured and all insurance shall waive subrogation in favor of Licensors.

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

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

All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name Licensors 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 Licensors. 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. Licensors 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: _____
Tommy Gonzalez, 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:
WTG GAS GATHERING COMPANY, LLC

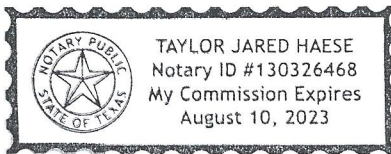
By: Billy Melton
Printed Name: Billy Melton
Title: VP of Land

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

BEFORE ME, the undersigned authority, on this 20 day of July, 2023 personally appeared Billy Melton an officer of WTG Gas Gathering Company, LLC known to me to be the person and official whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 20 day of July, 2023.



[Signature]
Notary Public, State of TEXAS



City Council Meeting

Item Number: 18
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>
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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>
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Food Services Establishments

<i>Late Fee (When not paid by specified date)</i>	<i>25% of permit fee</i>
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Retail Food Store

<i>Late Fee (When not paid by specified date)</i>	<i>25% of permit fee</i>
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Child Care Programs

<i>Late Fee (When not paid by specified date)</i>	<i>25% of permit fee</i>
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Swimming Pool, Spa, or Water Feature Permit
Late Fee (When not paid by specified date) *25% of permit fee*

Proposed changes

<i>Kinrix (DTaP & Polio)</i>	<i>\$40 decrease</i>
<i>Pentacel (DTaP & Polio & Flu Type B)</i>	<i>\$25 decrease</i>
<i>HIB (Flu Type B)</i>	<i>\$15 decrease</i>
<i>Proquad (MMR & Varicella)</i>	<i>\$10 increase</i>
<i>PPSV23 (Pneumococcal Conjugate)</i>	<i>\$25 decrease</i>
<i>Varicella</i>	<i>\$10 increase</i>
<i>TD (Tetanus & Diphtheria)</i>	<i>\$5 decrease</i>
<i>HPV 9</i>	<i>\$15 increase</i>
<i>Trumenba (Meningococcal Group B)</i>	<i>\$25 increase</i>
<i>Bexsero (Meningococcal Group B)</i>	<i>\$15 increase</i>
<i>Adult Hep A</i>	<i>\$10 increase</i>
<i>Shingrix (Shingles)</i>	<i>\$10 increase</i>
<i>Flublok</i>	<i>\$5 increase</i>
<i>Pregnancy Test-Urine</i>	<i>\$5 increase</i>
<i>Administration Fees – Insured</i>	<i>\$35 increase</i>
<i>Administration Fees – Medicaid/CHIP</i>	<i>\$1.10 decrease</i>
<i>Administration Fees – Medicare Flu or Pneumonia</i>	<i>\$35 increase</i>

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

<i>Showmobile</i>	
<i>Deposit for Show Lights</i>	<i>\$500</i>
<i>Baseball/Softball Field Rentals</i>	
<i>Deposit for Artificial Turf Field Rental</i>	<i>\$100</i>
<i>Tournament Cleaning Fee</i>	<i>\$150/field</i>
<i>Tournament Deposit</i>	<i>\$100/field</i>
<i>Football/Soccer Field Rentals</i>	
<i>Deposit for Artificial Turf Field Rental</i>	<i>\$100</i>

<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>
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<i>Baseball/Softball Field Rentals Artificial Turf Fields Rental Fee</i>	<i>\$15 increase</i>
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<i>Football/Soccer Field Rentals Artificial Turf Fields Rental Fee</i>	<i>\$15 increase</i>
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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>
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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:

Tommy Gonzalez, 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
Rototeq/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 & Diptheria)	\$45.00
TDAP (Tetanus Diptheria and Pertussis)	\$60.00
HPV 9	\$270.00
MCV4 (Meningitis)	\$150.00
Menqaudfi (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	18.29			August 8, 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
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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., 2022³; 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

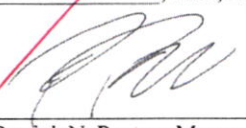
Council members voting "NAY": None

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., 2022³, at a regular meeting of the City Council:

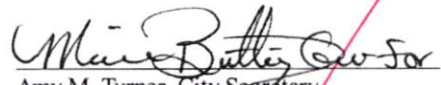
Council members voting "AYE": Corrales, Poole, Blong, Payton, Dufford, Norman

Council members voting "NAY": None

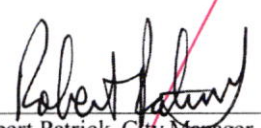
PASSED AND APPROVED THIS 25th day of October, A.D., 2022.


Patrick N. Payton, Mayor

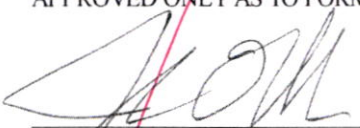
ATTEST:


Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:


Robert Patrick, City Manager

APPROVED ONLY AS TO FORM:


John Ohnemiller, City Attorney



City Council Meeting

Item Number: 19
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Alexandra Walling, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 10, 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 ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 1,335 FEET SOUTH OF WEST LOOP 250 FRONTAGE ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 1) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Justin Becker, is requesting a Zone Change from PD, Planned Development District for a Shopping Center to an amended PD, Planned Development District for a Shopping Center to amend their site plan for an expansion to the east and northeast of the existing building, new signage, and a new drive-up service area and canopy in the parking lot.

Recommended City Council Action:

Approve.

Fiscal Impact:

This request has no significant impact on the City's Budget.

Current Zoning:

PD, Planned Development District for a Shopping Center with a base zoning RR, Regional Retail District (Ordinance 8538).

Surrounding Zoning and Land Use:

The property to the north is zoned PD, Planned District for a Shopping Center, and the location of a bank (Ordinance 8538). The properties to the east are zoned SF-3, Single-Family Dwelling District, and the location of single-family houses. The property to the south is zoned SF-1, Single-Family Dwelling District, and the location of a church. The property to the west is zoned PD, Planned District for a Shopping Center, and the location of a retail store.

Analysis:

The property is located at 4001 North Midland Drive and is currently the location of a Target store with an overall total of 116,500 square feet. The applicant intends to add 19,151 square feet along the east and northeast sides of the store for additional sales and storage, and 480 square feet at the front entrance, for a total of 136,131 square feet. The applicant also intends to erect a covered drive-up pickup and canopy for customers along with updated signage. The current PD (Ordinance 8538) restricted the total square footage of the building to 134,579 square feet and the new PD would allow the increased square footage along with the other site improvements.

This proposed Zone Change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objections to zone change. [For Applicant's Information Only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant's Information Only.]

Code: (Approved)

No Oil and Gas issues.

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.]

Planning:

The request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 3-Land Use Vision. The land use map indicates that this area shall be used for Urban-Medium Neighborhood Center (U-M NC). This land use includes a mix of residential, businesses, and offices.

The Planning and Zoning Commission recommended approval for this request at the July 10, 2023, regular meeting.

Staff recommends approval of this Zone Change from PD, Planned Development District for a Shopping Center, to Amended PD, Planned Development District for a Shopping Center, subject to condition A.

Conditions:

- A. That the property shall significantly conform to the site plan and elevation drawings attached hereto as Exhibit "A".**

Letters of Objection:

As of July 28, 2023, staff has received no letters of objection for this request.

Attachments:

Exhibit A
Application
Maps



City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 10, 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 ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 1,335 FEET SOUTH OF WEST LOOP 250 FRONTAGE ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lot 1, Block 45, Fairmont Park Addition, Section 10, City and County of Midland, Texas (the “Property”) to an amended PD, Planned Development District for a Shopping Center and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned Development District for a Shopping Center to an amended PD, Planned Development District for a Shopping Center.

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

SECTION THREE. That a site plan and elevation drawings, which are attached

hereto as Exhibit “A” and incorporated herein for all purposes, are hereby adopted, and the use and development of the Property shall be subject to the following conditions and restrictions:

That the Property shall significantly conform to the site plan and elevation drawings attached hereto as Exhibit “A”.

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

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

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

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

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 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:

Rolandrea Russell, Interim Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT "A"

FIRE CODE COMPLIANCE

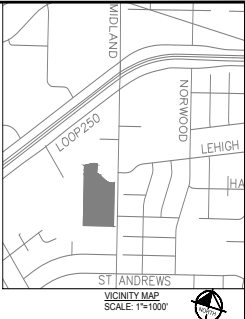
FIRE FLOW (PER 2021 IFC APPENDIX B)

REQUIRED FIRE FLOW (PER TABLE B105.1(2))
TYPE IB BUILDINGS
BUILDING SIZE = 129,601-138,300 SF
REQUIRED FIRE FLOW = 7,750 GPM
REQUIRED FLOW DURATION = 4 HOURS

REDUCTION FOR AUTOMATIC SPRINKLER SYSTEM (PER TABLE B105.2)
REQUIRED FLOW IS EQUAL TO 25% OF VALUE IN TABLE B105.1(2)
REQUIRED FIRE FLOW = 1,938 GPM
REQUIRED FLOW DURATION = 4 HOURS

FIRE HYDRANTS (PER 2021 IFC APPENDIX C)

REQUIRED QUANTITY, SPACING, AND MAXIMUM DISTANCE OF HYDRANTS (PER TABLE C102.1)
REQUIRED FIRE FLOW = 1,938 GPM
MINIMUM FIRE HYDRANTS = 2
AVERAGE SPACING BETWEEN HYDRANTS = 450'
MAXIMUM DISTANCE FROM ANY POINT ON STREET OR ROAD FRONTAGE TO A HYDRANT = 225'



LEGEND

- PROPERTY LINE
PROPOSED BUILDING EXPANSION
PROPOSED CONCRETE SIDEWALK
PROPOSED LANDSCAPING
PARKING COUNT

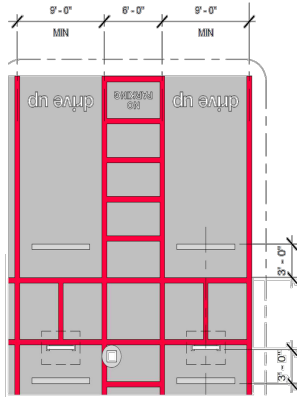
ZONING

- EXISTING PD-PLANNED DEVELOPMENT DISTRICT
PROPOSED PD-PLANNED DEVELOPMENT DISTRICT

SITE ANALYSIS

TARGET LOT AREA: 410,335 SF
EXISTING BUILDING AREA: 116,500 SF
EXISTING TARGET STORE: 116,500 SF

PROPOSED BUILDING AREA:
TARGET STORE: 116,500 SF
BUILDING ADDITION: 19,631 SF
TOTAL BUILDING AREA: 136,131 SF
PARKING RATIO REQUIRED: 1:300 SF
TOTAL PARKING REQUIRED: 454
PARKING PROVIDED: STANDARD = 483
ACCESSIBLE = 8
VAN ACCESSIBLE = 2
TOTAL PARKING PROVIDED: 493



PACKET

PRELIMINARY SITE PLAN
SCALE: 1"=60'

19.8



GRAPHIC SCALE IN FEET
0 25 50 100

August 8, 2023

DRIVE UP STRIPING DETAIL
SCALE: N.T.S.

Kimley»Horn
4001 N MIDLAND, SUITE 400
SAN DIEGO, CA 92108
(619) 234-9411
© 2023 KIMLEY-HORN AND ASSOCIATES, INC.

KHA PROJECT	DATE	SCALE	DESIGNED BY	DRAWN BY	CHECKED BY
	2023/04/03	AS SHOWN	KFE	KFE	JB

PRELIMINARY
SITE PLAN

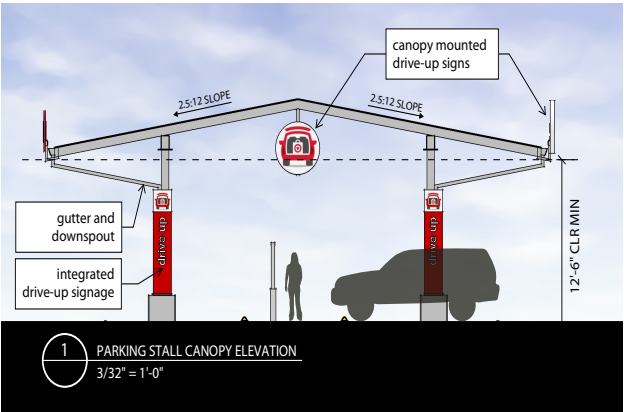
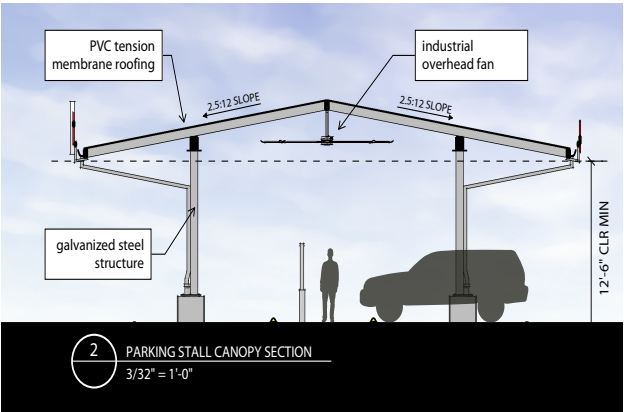
T0770 MIDLAND, TX
4001 N MIDLAND DR
MIDLAND, TX 79707

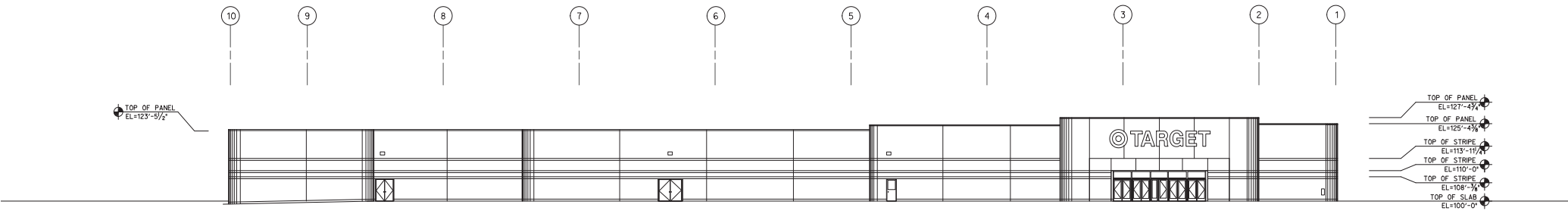
SHEET NUMBER

This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Review of and incorporation of this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

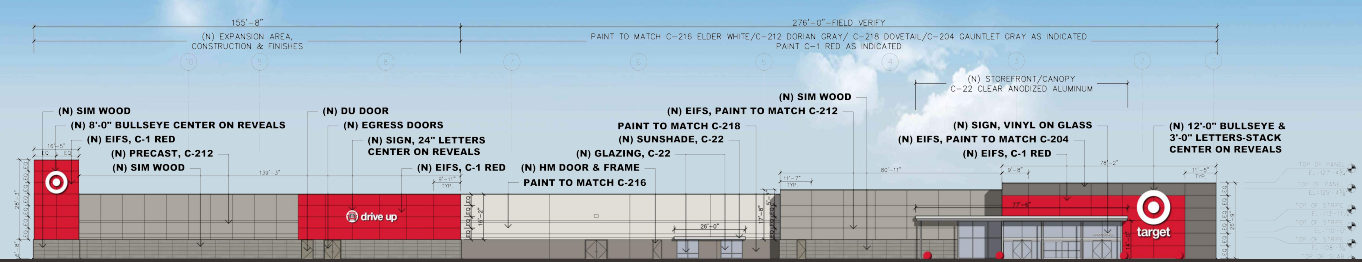


*3-dimensional perspectives are not site specific and are intended to convey proposed canopy design



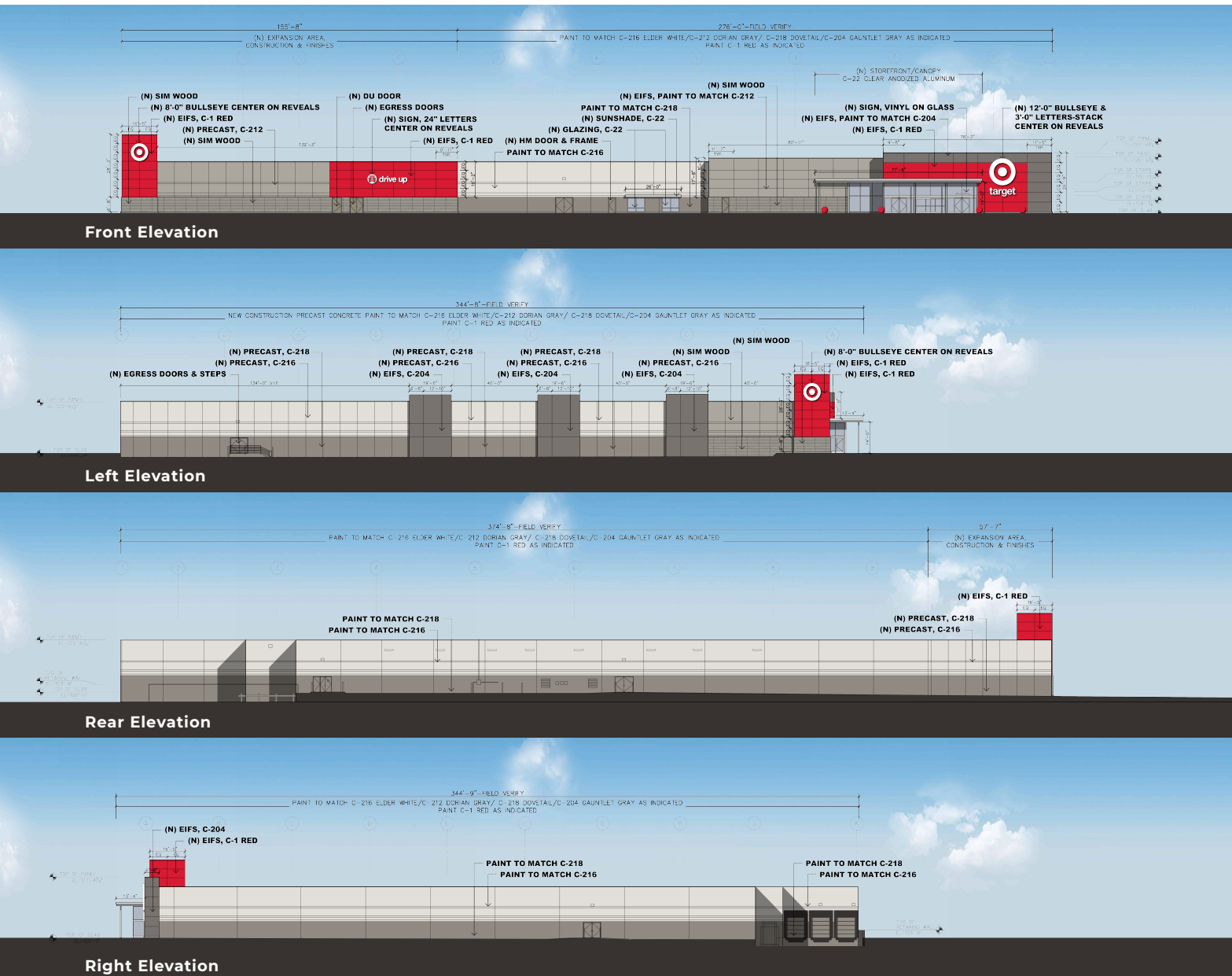


Existing Condition



Front Elevation





COLOR KEY:

	C-216 (SW#7014) EIDER WHITE
	C-212 (SW#7017) DORIAN GRAY
	C-218 (SW#7018) DOVETAIL GRAY
	C-204 (SW#7019) GAUNTLET GRAY
	C-1 RED
	C-22 CLEAR ANODIZED
	SIM WOOD: NICHIIHA (ROUGHSAWN) PANELS, "SMOKE" COLOR

NOTE:

- *NEW STOREFRONT & CANOPY C-22 FINISH AS SHOWN.
- *PAINT HM DOOR AND FRAME TO MATCH ADJ. WALL, TYP.
- *NEW CONSTRUCTION EIFS & PRECAST AS SHOWN.
- *STORE EXTERIOR WALLS ARE PRIMARILY CONCRETE TILT WALL
- *NEW SPHERICAL BOLLARDS C-1 RED U.N.O.
- *BEN-2: MODERN, COLOR.....SILVER

GENERAL NOTE

- * AREA TO BE PAINTED STARTS AT TOP OF CURB OR REVEAL AND CONTINUES TO TOP OF PARAPET/FLASHING OR REVEAL. PAINT COLOR AND FINISH TRANSITIONS OCCUR AT EXISTING VERTICAL CONTROL JOINTS OR AT INSIDE BUILDING CORNERS, U.N.O.
- * ALL EXISTING WALL-MOUNTED ITEMS TO BE PAINTED TO MATCH ADJ. WALL SURFACE, U.N.O.
- * PATCH ALL VISIBLE HOLES FROM MOUNTING OF REMOVED SIGNS WITH LIKE MATERIALS. RESTORE WALL SURFACE TO 'LIKE NEW' APPEARANCE.



T-0770 Midland, TX: Expansion - Exterior Design

19.11

August 8, 2023

RSP Architects Ltd.

March 06, 2023

EXHIBIT "A"

FIRE CODE COMPLIANCE

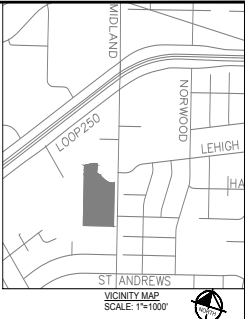
FIRE FLOW (PER 2021 IFC APPENDIX B)

REQUIRED FIRE FLOW (PER TABLE B105.1(2))
TYPE IB BUILDINGS
BUILDING SIZE = 129,601-138,300 SF
REQUIRED FIRE FLOW = 7,750 GPM
REQUIRED FLOW DURATION = 4 HOURS

REDUCTION FOR AUTOMATIC SPRINKLER SYSTEM (PER TABLE B105.2)
REQUIRED FLOW IS EQUAL TO 25% OF VALUE IN TABLE B105.1(2)
REQUIRED FIRE FLOW = 1,938 GPM
REQUIRED FLOW DURATION = 4 HOURS

FIRE HYDRANTS (PER 2021 IFC APPENDIX C)

REQUIRED QUANTITY, SPACING, AND MAXIMUM DISTANCE OF HYDRANTS (PER TABLE C102.1)
REQUIRED FIRE FLOW = 1,938 GPM
MINIMUM FIRE HYDRANTS = 2
AVERAGE SPACING BETWEEN HYDRANTS = 450'
MAXIMUM DISTANCE FROM ANY POINT ON STREET OR ROAD FRONTAGE TO A HYDRANT = 225'



LEGEND

- PROPERTY LINE
PROPOSED BUILDING EXPANSION
PROPOSED CONCRETE SIDEWALK
PROPOSED LANDSCAPING
PARKING COUNT

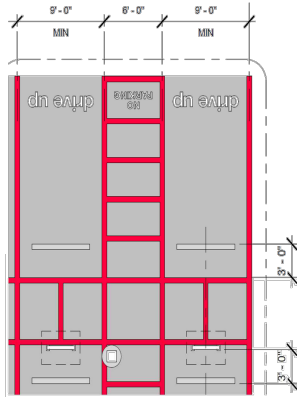
ZONING

- EXISTING PD-PLANNED DEVELOPMENT DISTRICT
PROPOSED PD-PLANNED DEVELOPMENT DISTRICT

SITE ANALYSIS

TARGET LOT AREA: 410,335 SF
EXISTING BUILDING AREA: 116,500 SF
EXISTING TARGET STORE: 116,500 SF

PROPOSED BUILDING AREA:
TARGET STORE: 116,500 SF
BUILDING ADDITION: 19,631 SF
TOTAL BUILDING AREA: 136,131 SF
PARKING RATIO REQUIRED: 1:300 SF
TOTAL PARKING REQUIRED: 454
PARKING PROVIDED: STANDARD = 483
ACCESSIBLE = 8
VAN ACCESSIBLE = 2
TOTAL PARKING PROVIDED: 493



PACKET

PRELIMINARY SITE PLAN
SCALE: 1"=60'

19.12



GRAPHIC SCALE IN FEET
0 25 50 100

August 8, 2023

DRIVE UP STRIPING DETAIL
SCALE: N.T.S.

Kimley»Horn
4001 N MIDLAND, SUITE 400
SAN DIEGO, CA 92108
(619) 234-9411
© 2023 KIMLEY-HORN AND ASSOCIATES, INC.

KHA PROJECT	DATE	SCALE	AS SHOWN	KFE	KFE
	2023/04/03				

PRELIMINARY
SITE PLAN

T0770 MIDLAND, TX
4001 N MIDLAND DR
MIDLAND, TX 79707

SHEET NUMBER

This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Review of and approval of this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



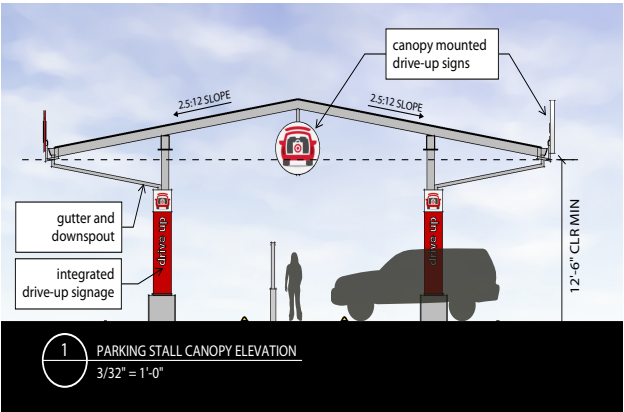
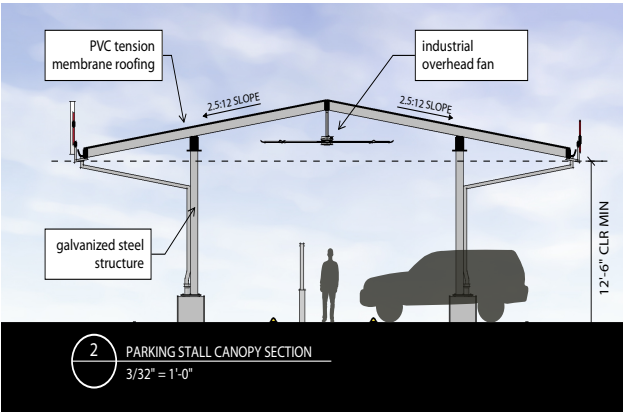
*3-dimensional perspectives are not site specific and are intended to convey proposed canopy design

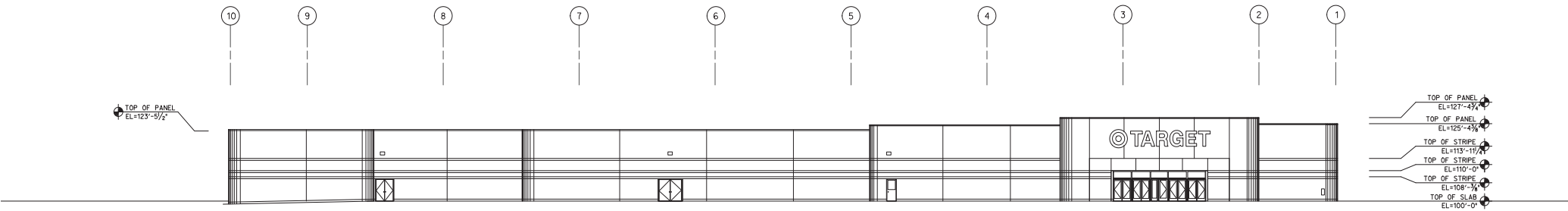
12 Stall Parking Canopy
No Drive Aisle Canopy
Drive-Up Canopy

PACKET

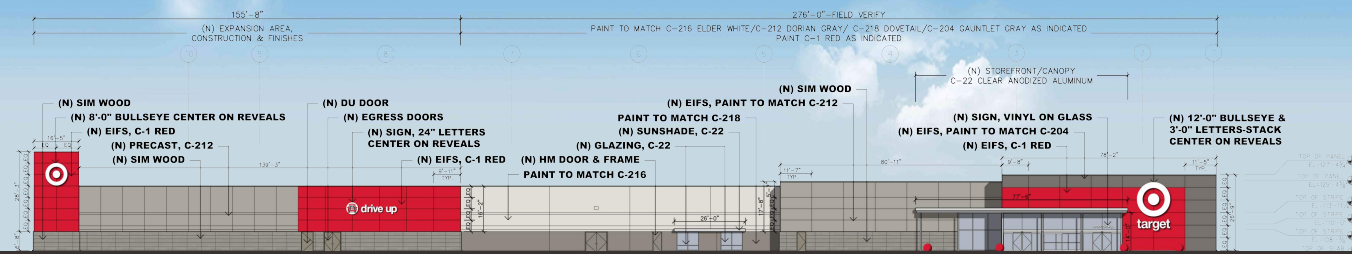
19.13

August 8, 2023



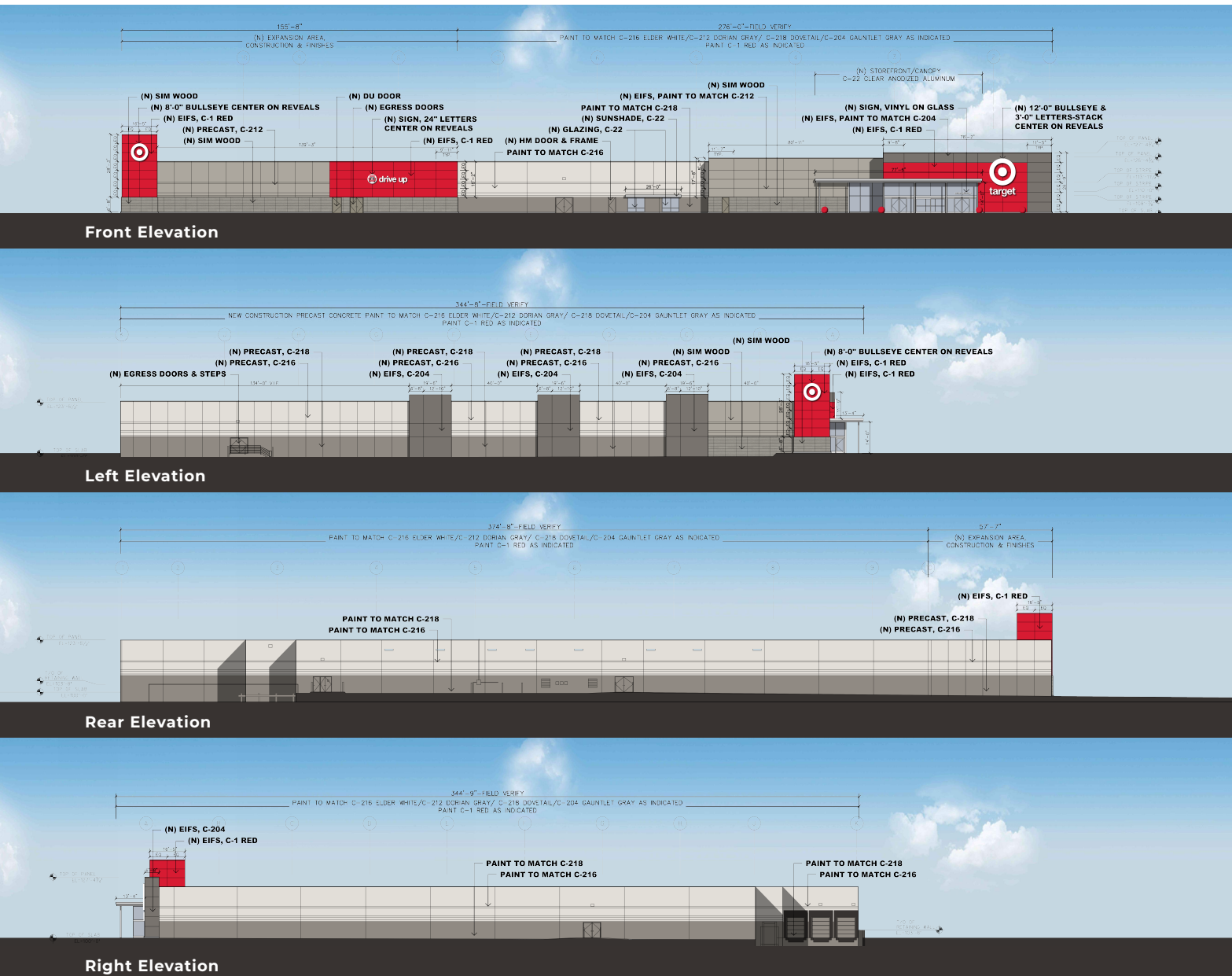


Existing Condition



Front Elevation





COLOR KEY:

	C-216 (SW#7014) EIDER WHITE
	C-212 (SW#7017) DORIAN GRAY
	C-218 (SW#7018) DOVETAIL GRAY
	C-204 (SW#7019) GAUNTLET GRAY
	C-1 RED
	C-22 CLEAR ANODIZED
	SIM WOOD: NICHIIHA (ROUGHSAWN) PANELS, "SMOKE" COLOR

NOTE:

- *NEW STOREFRONT & CANOPY C-22 FINISH AS SHOWN.
- *PAINT HM DOOR AND FRAME TO MATCH ADJ. WALL, TYP.
- *NEW CONSTRUCTION EIFS & PRECAST AS SHOWN.
- *STORE EXTERIOR WALLS ARE PRIMARILY CONCRETE TILT WALL
- *NEW SPHERICAL BOLLARDS C-1 RED U.N.O.
- *BEN-2: MODERN, COLOR.....SILVER

GENERAL NOTE

- * AREA TO BE PAINTED STARTS AT TOP OF CURB OR REVEAL AND CONTINUES TO TOP OF PARAPET/FLASHING OR REVEAL. PAINT COLOR AND FINISH TRANSITIONS OCCUR AT EXISTING VERTICAL CONTROL JOINTS OR AT INSIDE BUILDING CORNERS, U.N.O.
- * ALL EXISTING WALL-MOUNTED ITEMS TO BE PAINTED TO MATCH ADJ. WALL SURFACE, U.N.O.
- * PATCH ALL VISIBLE HOLES FROM MOUNTING OF REMOVED SIGNS WITH LIKE MATERIALS. RESTORE WALL SURFACE TO 'LIKE NEW' APPEARANCE.



T-0770 Midland, TX: Expansion - Exterior Design

19.15

August 8, 2023

RSP Architects Ltd.

March 06, 2023



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

Project Number: 2-23-0333

Case Number: _____

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

Printed Name: Justin Becker

Phone (619) 744-0169

Email
justin.becker@kimley-horn.com

Address
401 B Street, Suite 600

City
San Diego

State
CA

Zip
92101

Property Owner

Printed Name: Target Corporation (contact: Allison Mathern)

Phone (612) 696-0270

Email
allison.mathern@target.com

Address
1000 Nicollet Mall

City
Minneapolis

State
MN

Zip
55403

Representative (if different from Applicant or Property Owner)

Firm: _____

Printed Name: _____

Phone ()

Email

Address

City

State

Zip

Street Address: 4001 N Midland Drive

Legal Description

Lot: _____ Block: _____ Subdivision: _____

Current Zoning:

Planned District Ordinance 8538

Proposed Zone: Planned District Ordinance 8538

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

Reason for Zone Change Request: (See attached supplement) Amending the prior planned expansion from Ordinance 8538 (never completed) to reflect the updated

expansion for Target sales floor and stockroom needs. Building signage will be updated to current Target brand standards. Additional site scope includes a proposed 24 stall drive up area, 12 stall shade canopy structure and drive aisle canopy structure, drive up wayfinding signage for each stall, and upgraded site lighting within the drive up area. The site will be updated to current landscape code requirements for shade tree coverage.

Present Use of Property: Retail

Proposed Use of Property: Retail

How would this zone change affect the public health, safety and welfare? _____

This PD Amendment will substantially conform with the prior approved Ordinance 8538 for the building expansion, and the increase in landscaping onsite will bring this property into current City code standards for providing shade tree coverage throughout the parking lot.

Describe how conditions affecting the property have changed since present zoning

designation: N/A. The project is not requesting a zone change and will be upgrading to meet current City landscape regulations.

Submittal and Fees

Items to be submitted with this application form:

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

PACKET

19.16

August 8, 2023

Signature (by property owner only – authorized agent must sign affidavit below)	
Applicant (signature):	Date:
Applicant (printed):	
Property Owner (signature): <i>Allison Mathern</i>	Date: <i>3/7/23</i>
Property Owner (printed) : Target Corporation (Allison Mathern)	
<i>The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office <u>only</u> when it has been submitted in <u>full compliance</u> with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.</i> <i>All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.</i>	

STATE OF TEXAS
COUNTY OF MIDLAND

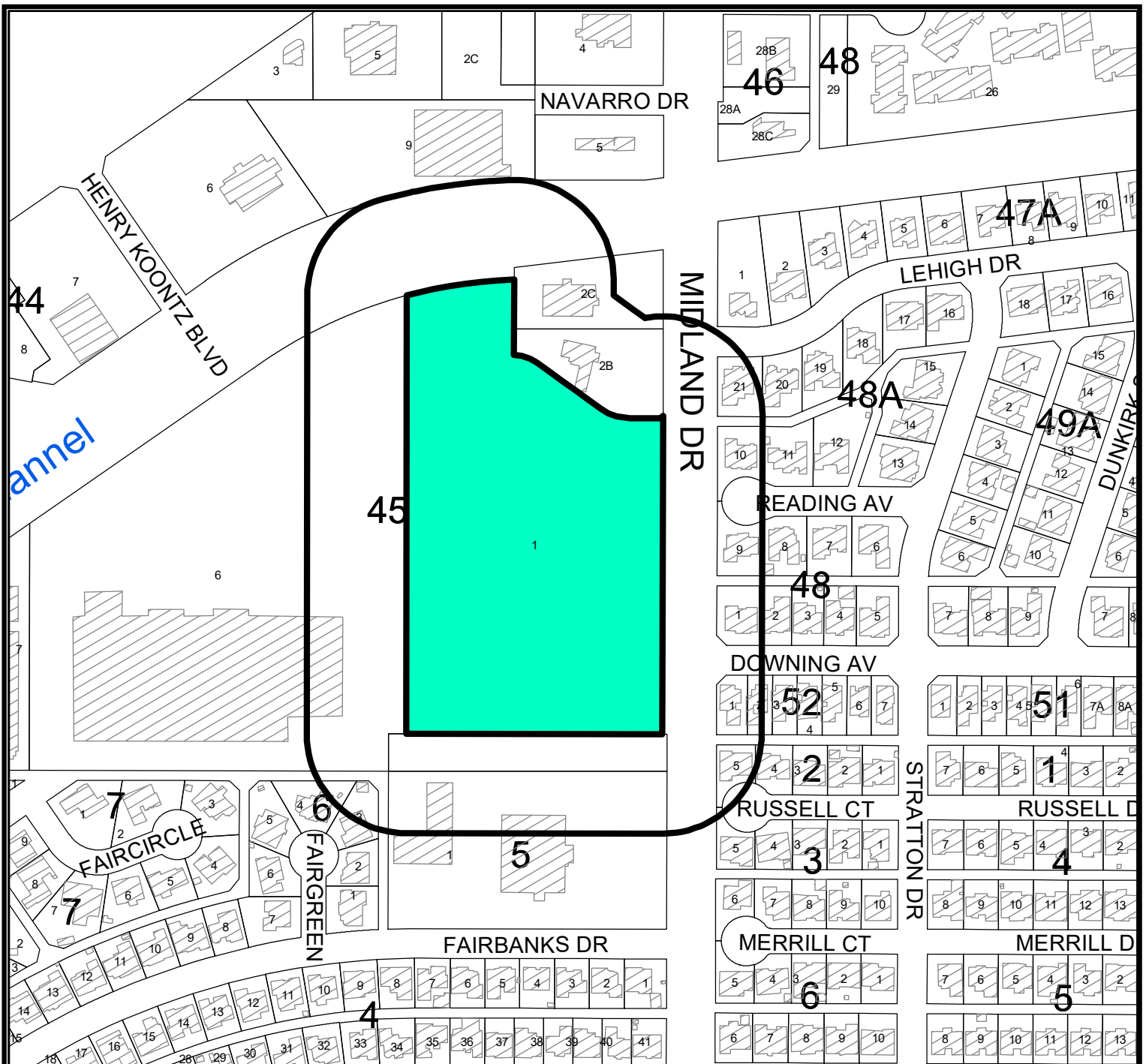
Before me, the undersigned authority, on this day personally appear _____ who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (signature)

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

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☒ Property Owner Authorization ☒ Application Fee Check # _____	☒ Dimensioned Site Plan ☒ Plans in Digital Format (PDF/JPEG)
Received By: <i>JEFF FISHER</i>	
Date: <i>5/16/2023</i>	



LOCATION MAP

Z-23-0333

Scale: 1"= 200'

A zone change from PD, Planned Development District for a Shopping Center to an Amended PD, Planned Development District for a Shopping Center, on Lot 1, Block 45, Fairmont Park Addition, Section 10, City and County of Midland, Texas.

Generally located on the west side of North Midland Drive, approximately 1,335-feet south of W Loop 250 Frontage Road (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

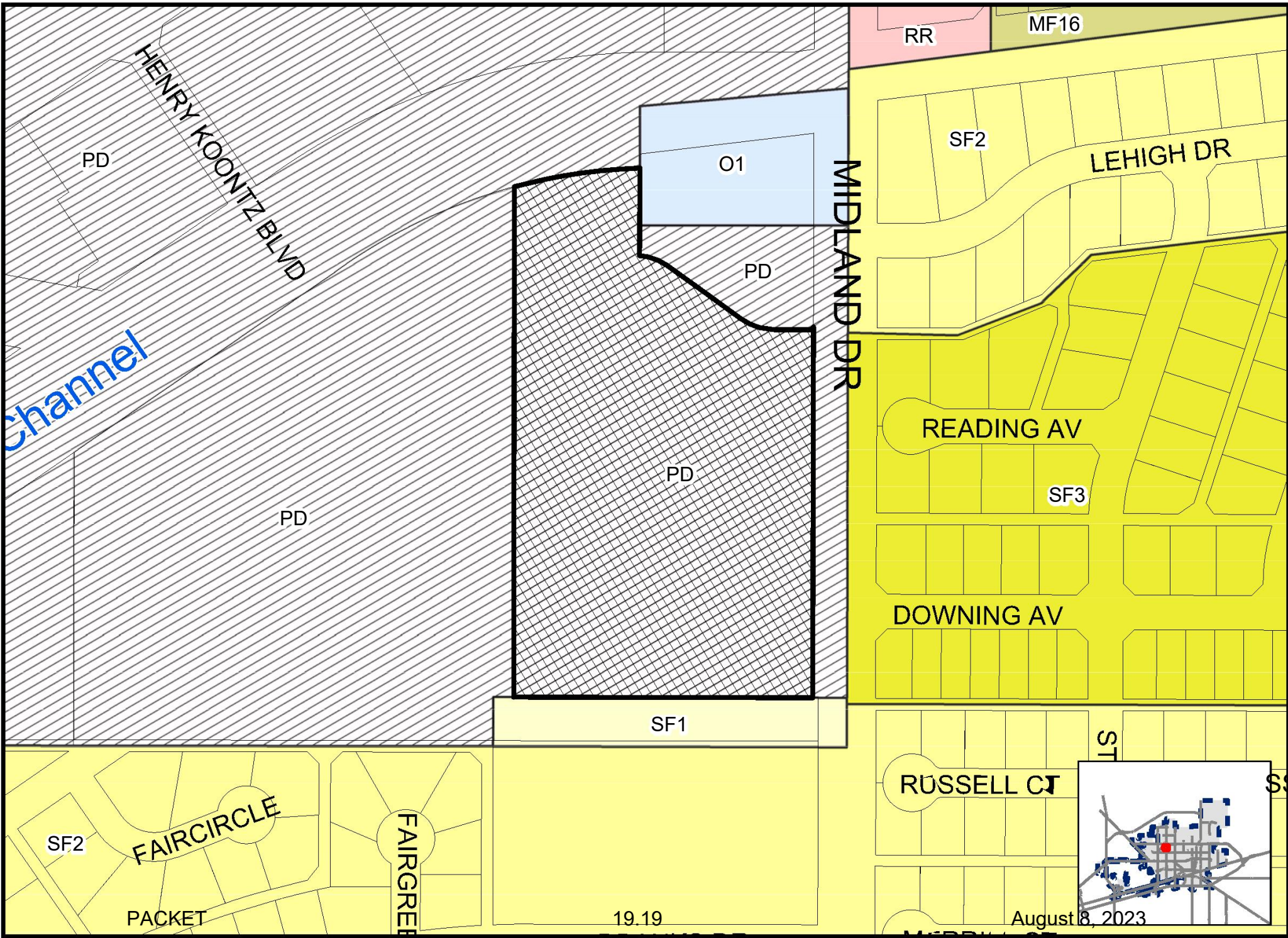


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August 8, 2023

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY OR IS IT DESIGNED TO BE USED AS A TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.













City Council Meeting

Item Number: 20
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Alexandra Walling, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 2, WEST 191 INDUSTRIAL PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 685 FEET EAST OF FARM TO MARKET ROAD 1788); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DISTRICT 4) (DEVELOPMENT SERVICES)

Purpose:

The applicant, Triangle Engineering, LLC, is requesting a Zone Change from RR, Regional Retail District to LI, Light Industrial District at 11120 Highway 191 to allow for the intended use of the property.

Recommended City Council Action:

Approve.

Fiscal Impact:

This request has no significant impact on the City's Budget.

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The properties to the north and east are zoned RR, Regional Retail District, and the location of vacant land. The property to the south is zoned RR, Regional Retail District, and the location of a university. The property to the west is zoned RR, Regional Retail District, and the location of a business.

Analysis:

The property is located at 11120 Highway 191 and is currently vacant. The applicant intends to construct a 16,100-square-foot building for the future development of a Caliber Collision. The land use for this business is classified as Automobile Service Garage (Major Repair) by the Zoning Ordinance.

A large portion of the State Highway 191 corridor is within the Airport Overlay District (AOZ-4) and several of the uses permitted by RR, Regional Retail District are prohibited within the AOZ-4. Retail uses usually attract higher densities of people which increases the risk of injury. The AOZ-4 prohibits new retail uses and many residential uses, public uses, and outdoor recreational uses, restricting appropriate uses to certain industrial and heavy commercial uses only.

This request has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objection to zone change.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2020 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Code versions are subject to change depending on time of new code edition adoption in the City of Midland and date of permit application.

Engineering: (Approved)

No objections to zone change. [For Applicant's Information Only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant's Information Only.]

Code: (Approved)

No Oil and Gas issues.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

Planning:

The Tall City Tomorrow Future Land Use map does not currently include this property. However, the AOZ-4 regulations prohibit numerous retail uses as they are considered incompatible with the location of the Midland International Air and Space Port, due to the increased population and density of people generated by the uses, increasing the risk of injury.

The proposed Automobile Service Garage (Major Repair) land use is compatible with the allowances of the AOZ-4 due to the density of people generated by this use being lower than the average retail use. Therefore, the rezoning of this property to LI, Light Industrial for the proposed development appropriately aligns with the regulations of the AOZ-4 regulations.

The Planning and Zoning Commission recommended approval for this request at the July 10, 2023, regular meeting.

Staff recommends approval of this zone change from RR, Regional Retail District, to LI, Light Industrial District, subject to condition A.

Condition:

- A. That the use and development of the property shall conform to the regulations of the LI, Light Industrial District.**

Letters of Objection:

As of July 28, 2023, staff has received no letters of objection for this request.

Attachments:

Site Plan (Exhibit A)
Application
Maps

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 2, WEST 191 INDUSTRIAL PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 685 FEET EAST OF FARM TO MARKET ROAD 1788); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lot 2, Block 2, West 191 Industrial Park, Section 3, City and County of Midland, Texas (the "Property") to LI, Light Industrial District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from RR, Regional Retail District to LI, Light Industrial District.

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

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances

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

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

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

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 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:

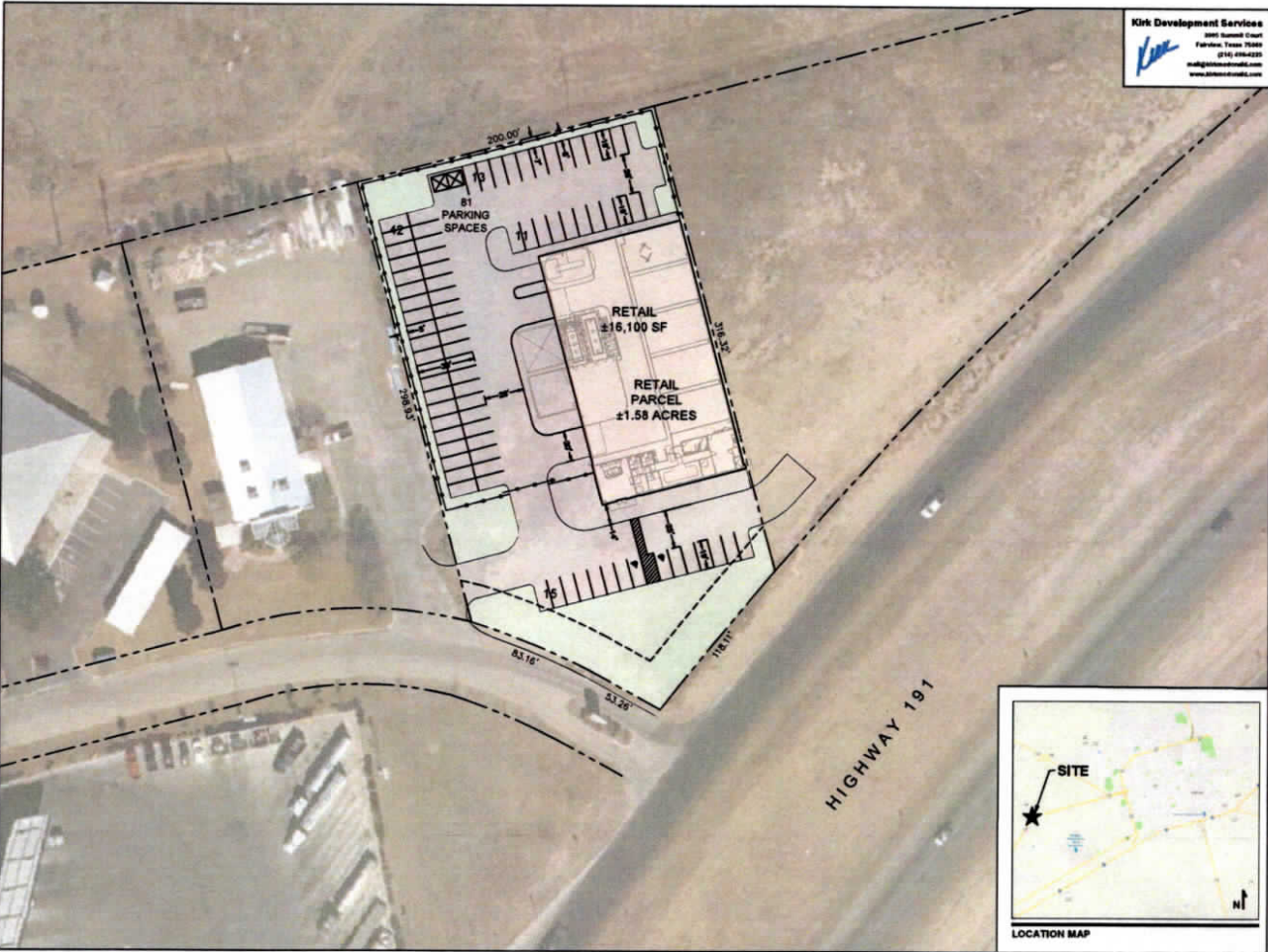
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rolandrea Russell, Interim Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



Kirk Development Services
3000 Sunset Court
Fritch, Texas 79036
(817) 409-4230
mk@kirkdevelopment.net
www.kirkdevelopment.net

CROSS
development
4324 Marsh Ridge
Carrollton, TX 75010
214-614-6252
www.crossdevelopment.net

PROJECT INFORMATION

SITE AREA
RETAIL PARCEL ±1.58 ACRES

BUILDING AREA
RETAIL 16,100 SF

PARKING SUMMARY

USER	RATIO	SPACES REQUIRED	SPACES PROVIDED
RETAIL	1/200 SF	81	81

BUILDING COVERAGE RATIO
TOTAL BUILDING AREA = 16,100 SF
TOTAL SITE AREA = 88,811.7 SF (±1.58 AC)
RATIO = 23.4%

ZONING CLASSIFICATION
JURISDICTION CITY OF MIDLAND
EXISTING ZONING TBV
REQUIRED ZONING TBV

PROJECT NOTES
1. THIS DEVELOPMENT SITE PLAN IS FOR PLANNING PURPOSES ONLY. THE EXISTING INFORMATION SHOWN AS EXISTING CONDITIONS, INCLUDING EXISTING UTILITIES, SHALL BE VERIFIED.
2. THIS SITE PLAN IS BASED ON AERIAL PHOTO DATA.
3. ALL CURVE DATA AND TRAFFIC SIGNALS SHOWN, EXISTING AND PROPOSED, MUST BE VERIFIED.
DRAWN BY: J. HARRIS
DATE: 1/25/23
SCALE: AS SHOWN

MIDLAND TX
SH 250 LOOP

SCALE: 1"=100'

SCHEME 1


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

Project Number: _____

Case Number: Z-23-0336**Applicant** (if acting as Agent, see affidavit on page 2)

Printed Name: Jack Zanger Triangle Engineering LLC

Phone () 469-331-8566

Email jzanger@triangle-engr.com

Address 1782 W. McDermott Drive

City Allen

State OK

Zip 75013

Property Owner

Printed Name: Tommy R. Vascocu One Ninety-One Properties, LLC

Phone (432) 894-1186

Email tommy@vascocu.com

Address P.O. Box 5311

City Austin

State TX

Zip 78763

Representative (if different from Applicant or Property Owner)

Firm: Cross Development

Printed Name: Joe Dell

Phone () 214-614-8252

Email joe@crossdevelopment.net

Address 4336 Marsh Road

City Carrollton

State TX

Zip 75010

Street Address: 11120 HWY 191 Midland, TX**Legal Description**

Lot: 2 Block: 2 Subdivision: West 191 Industrial Park

Current Zoning: RR - Regional Retail District**Proposed Zone:** LI - Light Industrial District
(List by tracts if more than one district is requested)**Reason for Zone Change Request:** The use is not allowed by current zoning.**Present Use of Property:** Vacant**Proposed Use of Property:** Automobile Service Garage Major Repair**How would this zone change affect the public health, safety and welfare?** It will not affect the public health, safety and welfare.**Describe how conditions affecting the property have changed since present zoning****designation:** A large number of industrial businesses have been developed on the adjacent property to the north**Submittal and Fees****Items to be submitted with this application form:**

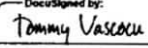
- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
 JUN 06 2023
BY:

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

Date: 5-30-23

Applicant (printed): Jack Zanger

Property Owner (signature): 

Date: 5/31/2023

Property Owner (printed): Tommy R. Vascocu

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

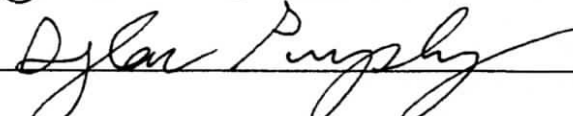
STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear Jack Zanger who, being by me duly sworn, upon oath says: That (s)he is the owner of 11120 HWY 191 or authorized by Tommy R. Vascocu, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.


Authorized Agent (signature)

Subscribed and sworn to before me, this 1st day of June, 2023, to certify which witness my hand and seal of office.




NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY☒ Property Owner Authorization☒ Dimensioned Site Plan☒ Application Fee☐ Plans in Digital Format (PDF/JPEG)Check # 48353

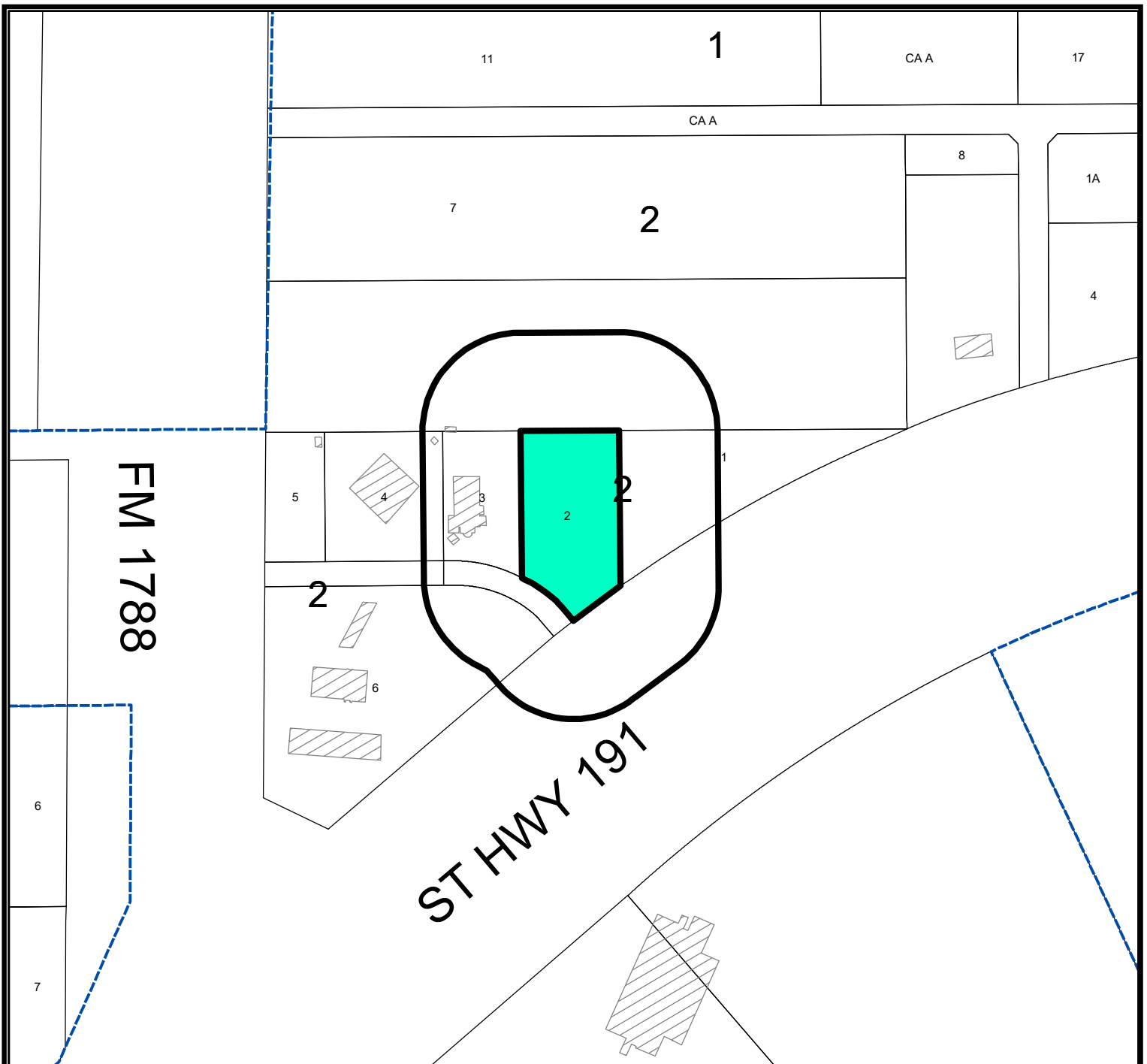
Received By: _____

Date: _____

RECEIVED
JUN 06 2023

BY:

*Application will not be considered for scheduling until reviewed by August 8, 2023



LOCATION MAP

Z-23-0336

Scale: 1" = 200'

A Zone Change from RR, Regional Retail District to LI, Light Industrial District, on Lot 2, Block 2, West 191 Industrial Park, Section 3, City and County of Midland, Texas.

Generally located on the north side of Highway 191, approximately 685-feet east of Highway 349.

(Council District 4)
PACKET

20.11

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS

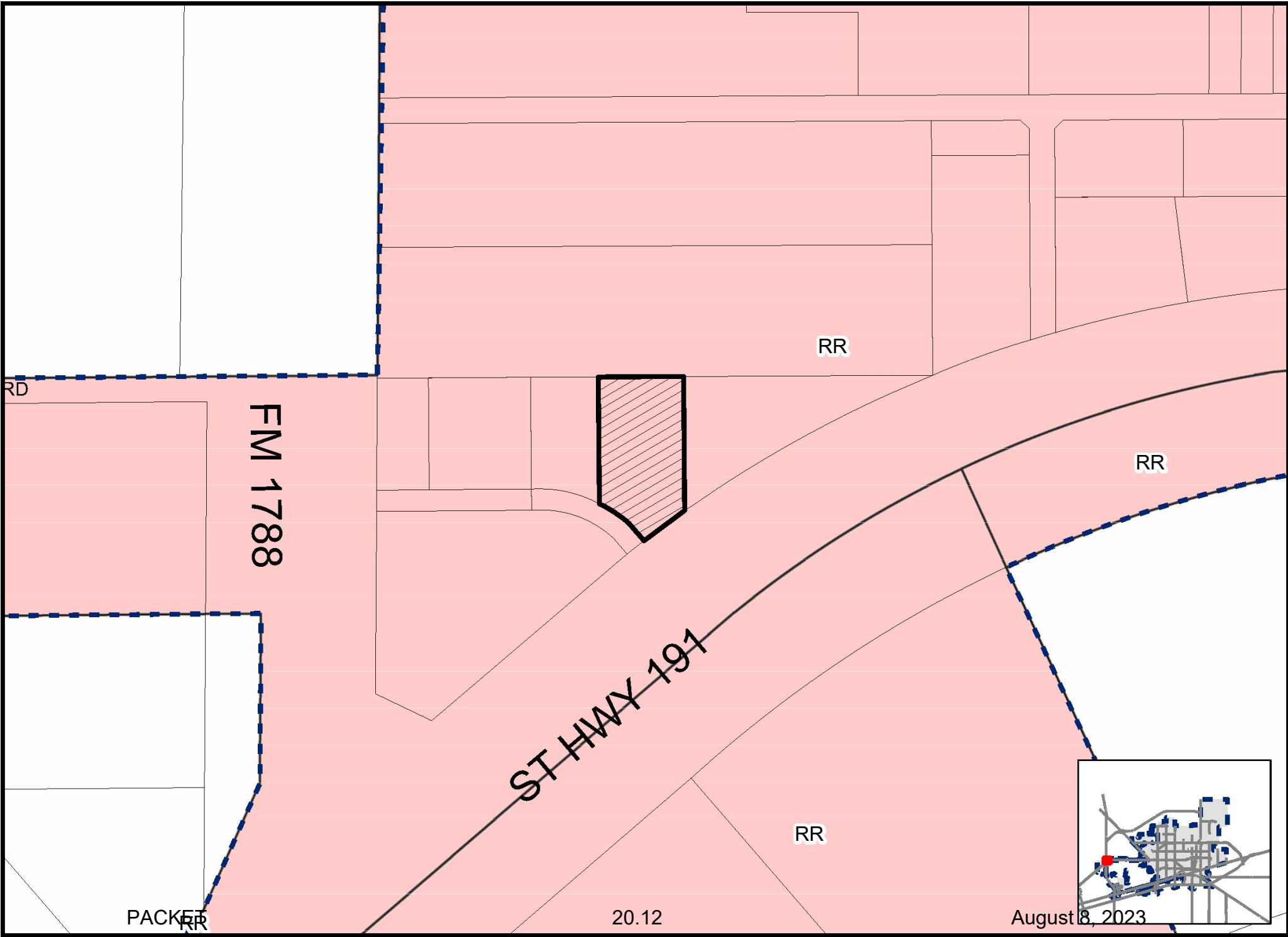


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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

August 8, 2023













City Council Meeting

Item Number: 21
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Marcia Bentley-German, City Governance Officer/City Secretary
Subject: AN ORDINANCE AMENDING TITLE I, "ADMINISTRATIVE", CHAPTER 12, "RECORDS MANAGEMENT POLICY", SECTION 4, "RECORDS MANAGEMENT OFFICER" OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DESIGNATE THE CITY'S RECORDS MANAGER AS THE CITY'S RECORDS MANAGEMENT OFFICER; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (DISTRICT: NONE) (CITY SECRETARY'S OFFICE)

Purpose:

To adopt the State Records Retention Schedules

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

None



ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE I, “ADMINISTRATIVE”, CHAPTER 12, “RECORDS MANAGEMENT POLICY”, SECTION 4, “RECORDS MANAGEMENT OFFICER” OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DESIGNATE THE CITY’S RECORDS MANAGER AS THE CITY’S RECORDS MANAGEMENT OFFICER; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, Title 6, Subtitle C, Local Government Code (the “Texas Local Government Records Act”), provides that each local government must designate a Records Management Officer; and

WHEREAS, the City Council finds it to be in the public interest to amend Title I, “Administrative”, Chapter 12, “Records Management Policy”, Section 4, “Records Management Officer” of the City Code of Midland, Texas, so as to designate the City’s Records Manager as the City’s Records Management Officer;

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

SECTION ONE. That Title I, “Administrative”, Chapter 12, “Records Management Policy”, Section 4, “Records Management Officer” of the City Code of Midland, Texas, is hereby amended to read in its entirety as follows:

1-12-4. Records Management Officer. The City of Midland’s Records Manager will serve as Records Management Officer for the City of Midland as provided by law and will develop policies and procedures to ensure that the maintenance, preservation, security, destruction, electronic storage, and other disposition of the records of the City of Midland are carried out in accordance with the requirements of the Local Government Records Act.

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

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

SECTION FOUR. That this ordinance shall become effective immediately upon final adoption.

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

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2023; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2023, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2023.

Lori Merritt Blong, Mayor

ATTEST:

Marcia Bentley-German, City Secretary

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 22
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Rolandrea Russell, Assistant Director
Subject: AN ORDINANCE RELEASING THE CITY OF MIDLAND'S EXTRATERRITORIAL JURISDICTION THAT WAS ACQUIRED FROM AN ANNEXATION COMMENCED AFTER JANUARY 1, 2023; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE OF SEPTEMBER 1, 2023; AND ORDERING PUBLICATION (DISTRICT: NONE) (DEVELOPMENT SERVICES)

Purpose:

The ordinance carries out the requirement of Senate Bill No. 2038 that the City release from its Extraterritorial Jurisdiction (ETJ) land that was acquired from an annexation commenced after January 1, 2023.

This ordinance does not release any land that was in the ETJ as of January 1, 2023, nor does it affect annexations of land into the boundaries of the City.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds would be required for this project.

Discussion:

NONE

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE RELEASING THE CITY OF MIDLAND'S EXTRATERRITORIAL JURISDICTION THAT WAS ACQUIRED FROM AN ANNEXATION COMMENCED AFTER JANUARY 1, 2023; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE OF SEPTEMBER 1, 2023; AND ORDERING PUBLICATION

WHEREAS, Senate Bill No. 2038, which becomes effective September 1, 2023, adds Section 42.021(e) to the Local Government Code, which states, "An annexation commenced after January 1, 2023, does not expand the extraterritorial jurisdiction of a municipality unless contemporaneously with the annexation the owner or owners of the area that would be included in the municipality's extraterritorial jurisdiction as a result of the annexation request that the area be included in the municipality's extraterritorial jurisdiction"; and

WHEREAS, Senate Bill No. 2038 further states, "A municipality shall release extraterritorial jurisdiction acquired from an annexation commenced after January 1, 2023, as necessary to comply with Section 42.021(e), Local Government Code, as added by this Act"; and

WHEREAS, the City Council finds that the City of Midland's extraterritorial jurisdiction (the "ETJ") acquired from an annexation commenced after January 1, 2023, should be released in accordance with Senate Bill No. 2038;

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

SECTION ONE. That the ETJ that was acquired from an annexation commenced after January 1, 2023, is hereby released. For the avoidance of doubt, this Section does not apply to the ETJ that existed on January 1, 2023.

SECTION TWO. That this ordinance shall become effective September 1, 2023.

SECTION THREE. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of

Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. That 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:

Rolandrea Russell, Interim Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 23
Meeting Date: August 8, 2023
To: City Council / City Manager
From: Tina Jauz, Assistant City Manager
Subject: Motion authorizing the City Manager and the Midland Development Corporation Chairman to negotiate an amendment to the Master Development Agreement between the City of Midland, the Midland Development Corporation, and C. Hodges Development Services, L.P.; authorizing the City Manager to negotiate an amendment to the Chapter 312 Tax Abatement Agreement between the City of Midland and C. Hodges Development Services, L.P.; and providing that any such amendments shall not become effective until approved by the Midland City Council (DISTRICT 4) (CITY MANAGER)

Purpose:

Motion authorizing the City Manager and the Midland Development Corporation Chairman to negotiate an amendment to the Master Development Agreement between the City of Midland, the Midland Development Corporation, and C. Hodges Development Services, L.P.; authorizing the City Manager to negotiate an amendment to the Chapter 312 Tax Abatement Agreement between the City of Midland and C. Hodges Development Services, L.P.; and providing that any such amendments shall not become effective until approved by the Midland City Council.

Recommended City Council Action:

Approve

Fiscal Impact:

To be determined in negotiations.

Discussion:

As the City of Midland, the Midland Development Corporation, Midland County, and the Midland County Hospital District work together to incentivize the development of Bass Pro Shops and potential surrounding businesses, the overall project is evolving. The potential of a

new project scope will require the City to amend the current agreement. This item allows staff to gather the needed details to be incorporated into the amendment and will involve the possibility of increased incentives based on the size of the development.



City Manager's Office