

PUBLIC NOTICE

AGENDA

LOCKHART CITY COUNCIL

April 19, 2022

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS
217 SOUTH MAIN STREET, 3RD FLOOR
LOCKHART, TEXAS

6:30 P.M. WORK SESSION (No Action)

Work session will be held to receive briefings and to initially discuss all items contained on the Agenda posted for 7:30 p.m. Generally, this work session is to simplify issues as it relates to the agenda items. No vote will be taken on any issues discussed or reviewed during the work session.

DISCUSSION ONLY

- A. Discuss the Downtown Revitalization Final Conceptual Design Report from TRC Engineers, Inc. and Rialto Studio. 5-41
- B. Discuss Resolution 2022-22 for an economic development performance agreement with Mill Scale, LLC. 42-54
- C. Discuss Chapter 380 agreement with Mill Scale, LLC. to provide incentives for economic development. 55-63
- D. Discuss Resolution 2022-23 for an economic development performance agreement with Revival Cycles, Inc. 64-76
- E. Discuss Chapter 380 agreement with Revival Cycles, Inc. to provide incentives for economic development. 77-85
- F. Discuss a Lower Colorado River Authority (LCRA) Community Development Partnership Program matching grant to purchase water rescue personal protective equipment for Lockhart Fire Rescue. 86-98
- G. Discuss a non-matching Firehouse Subs Public Safety Foundation grant for a battery-powered set of automobile extrication tools for Lockhart Fire Rescue. 99-104
- H. Discuss tabling application ZC-22-12 by Jim Meredith on behalf of Robert A. Schmidt for a **Zoning Change** from *CHB Commercial Heavy Business District* to *RHD Residential High Density District* for 14.57 acres in the Byrd Lockhart Survey, Abstract No. 17, located at 101 East China Street to the June 7, 2022 City Council meeting. 105-115
- I. Discuss the minutes of the April 5, 2022 Council meeting. 116-121
- J. Discuss a property sale agreement for 6.788 acres in 130 Industrial Park III with Ziegenfelder Company. 122-144

- K. Discuss an agreement with Kent Broussard Tower Rentals, Inc. to lease land owned by the City for the purposes of a radio tower located at 1517 Dale Road, Lockhart, TX, and execute a Tower Use License to continue the City's use of the tower for police, fire, EMS and other City related communications; and to authorize the Mayor to execute a Tower Use License with Clearview Tower Company III, LLC. to continue the City's use of a radio tower located near Luling, TX known as Iron Mountain for the same purposes as above. 145-176
- L. Discussion regarding a change to solid waste collection routes by Central Texas Refuse. 177-180
- M. Discussion regarding the proposed auto recycle and salvage yard located near SH 183/FM 1185, outside the city limits. 181-195
- N. Discussion regarding matters related to COVID-19. 196-215

7:30 P.M. REGULAR MEETING

1. CALL TO ORDER

Mayor Lew White

2. INVOCATION, PLEDGE OF ALLEGIANCE

Invocation. Pledge of Allegiance to the United States and Texas flags.

3. PUBLIC COMMENT

The purpose of this item is to allow the public an opportunity to address the City Council on issues that are or are not on the agenda. No discussion can be carried out on the citizen/visitor comment about items not on the agenda. Comments are limited to three minutes per speaker.

4. CONSENT AGENDA

- A. Approve Resolution 2022-22 for an economic development performance agreement with Mill Scale, LLC. 216-228
- B. Approve Chapter 380 agreement with Mill Scale, LLC. to provide incentives for economic development. 229-237
- C. Approve Resolution 2022-23 for an economic development performance agreement with Revival Cycles, Inc. 238-250
- D. Approve Chapter 380 agreement with Revival Cycles, Inc. to provide incentives for economic development. 251-259
- E. Approve a Lower Colorado River Authority (LCRA) Community Development Partnership Program matching grant to purchase water rescue personal protective equipment for Lockhart Fire Rescue. 260-272

- F. Approve a non-matching Firehouse Subs Public Safety Foundation grant for a battery-powered set of automobile extrication tools for Lockhart Fire Rescue. 273-278
- G. Table application ZC-22-12 by Jim Meredith on behalf of Robert A. Schmidt for a **Zoning Change** from *CHB Commercial Heavy Business District* to *RHD Residential High Density District* for 14.57 acres in the Byrd Lockhart Survey, Abstract No. 17, located at 101 East China Street to the June 7, 2022 City Council meeting. 279-289
- H. Approve the minutes of the April 5, 2022 Council meeting. 290-295

5. **DISCUSSION/ACTION ITEMS**

- A. Discussion and/or action to consider the Downtown Revitalization Final Conceptual Design Report from TRC Engineers, Inc. and Rialto Studio. 296-332
- B. Discussion and/or action regarding a property sale agreement for 6.788 acres in 130 Industrial Park III with Ziegenfelder Company. 333-355
- C. Consider and take action to authorize the Mayor to execute an agreement with Kent Broussard Tower Rentals, Inc. to lease land owned by the City for the purposes of a radio tower located at 1517 Dale Road, Lockhart, TX, and execute a Tower Use License to continue the City's use of the tower for police, fire, EMS and other City related communications; and to authorize the Mayor to execute a Tower Use License with Clearview Tower Company III, LLC. to continue the City's use of a radio tower located near Luling, TX known as Iron Mountain for the same purposes as above. 356-387
- D. Discussion regarding a change to solid waste collection routes by Central Texas Refuse. 388-391
- E. Discussion and/or action regarding the proposed auto recycle and salvage yard located near SH 183/FM 1185, outside the city limits. 392-406
- F. Discussion regarding matters related to COVID-19. 407-426

6. **CITY MANAGER'S REPORT, PRESENTATION AND POSSIBLE ACTION**

- Update regarding Firefighter Civil Service exams.
- Residential Citywide Spring Clean Up Program on Saturday, April 30.
- Splash pad opens on April 30.

7. **COUNCIL AND STAFF COMMENTS - ITEMS OF COMMUNITY INTEREST**

8. **ADJOURNMENT**

City Council shall have the right at anytime to seek legal advice in Executive Session from its Attorney on any agenda item, whether posted for Executive Session or not.

Posted on the bulletin board in the Municipal Building, 308 West San Antonio Street, Lockhart, Texas, on the 14th day of April, 2022 at 2:30 p.m.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss the Downtown Revitalization Final Conceptual Design Report from TRC Engineers, Inc. and Rialto Studio.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Direction

BACKGROUND/SUMMARY/DISCUSSION: Presentation of Downtown Revitalization Project, Final Conceptual Design Report and Open House Results.

On April 13, 2021 City Council directed the City Engineer to prepare a proposal for the Downtown Revitalization Project that would include public meetings, coordination with other governing entities, conceptual design alternatives for the nine block area of downtown, preliminary traffic route evaluation, cultural services, preliminary landscape designs and probable cost for the project.

The Final Conceptual Design Report for the Downtown Revitalization Project has been completed, taking into consideration the results from the two open houses held. Preliminary timelines and probable costs have also been produced as part of the final report.

PROJECT SCHEDULE (if applicable): Council Approval of Conceptual Design-April 19, 2022

Design Proposal Approved by Council-May 17, 2022

Design-June 1st , 2022, to June 1st, 2023

Permitting-June 1st to September 1st, 2023

Bidding-September 1st to December 1st, 2023

Construction-December 1st , 2023, to December 1st, 2025

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$8,505,000

Account Number: 416-5633-911-00

526-5750-911-00

546-5760-911-00

100-3402-00

Funds Available: \$2,051,947

\$4,087,909

City of Lockhart, Texas

Council Agenda Item Cover Sheet

\$215,740

\$3,606,772

Account Name: 2015 Certificate of Obligation - General Fund

2015 Certificate of Obligation - Water Fund

2015 Certificate of Obligation - Wastewater Fund

Unrestricted General Fund Balance

FISCAL NOTE (if applicable): The remaining balance from the 2015 Certificate of Obligations will pay for contingencies, design, storm sewer, water main, sanitary sewer, and street improvements. The remaining balance for landscape improvements can be paid out of the unrestricted general fund balance as designated by the City Council.

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Acceptance of Final Conceptual Design Report and authorizing staff to proceed with Downtown Revitalization Project's design phase.

LIST OF SUPPORTING DOCUMENTS: Presentation, Pages 1-11 from DRAFT Lockhart DT Concept Design Report , Pages 1484-1489 from DRAFT Lockhart DT Concept Design Report

DOWNTOWN REVITALIZATION PROJECT

CITY COUNCIL PRESENTATION

APRIL 2022



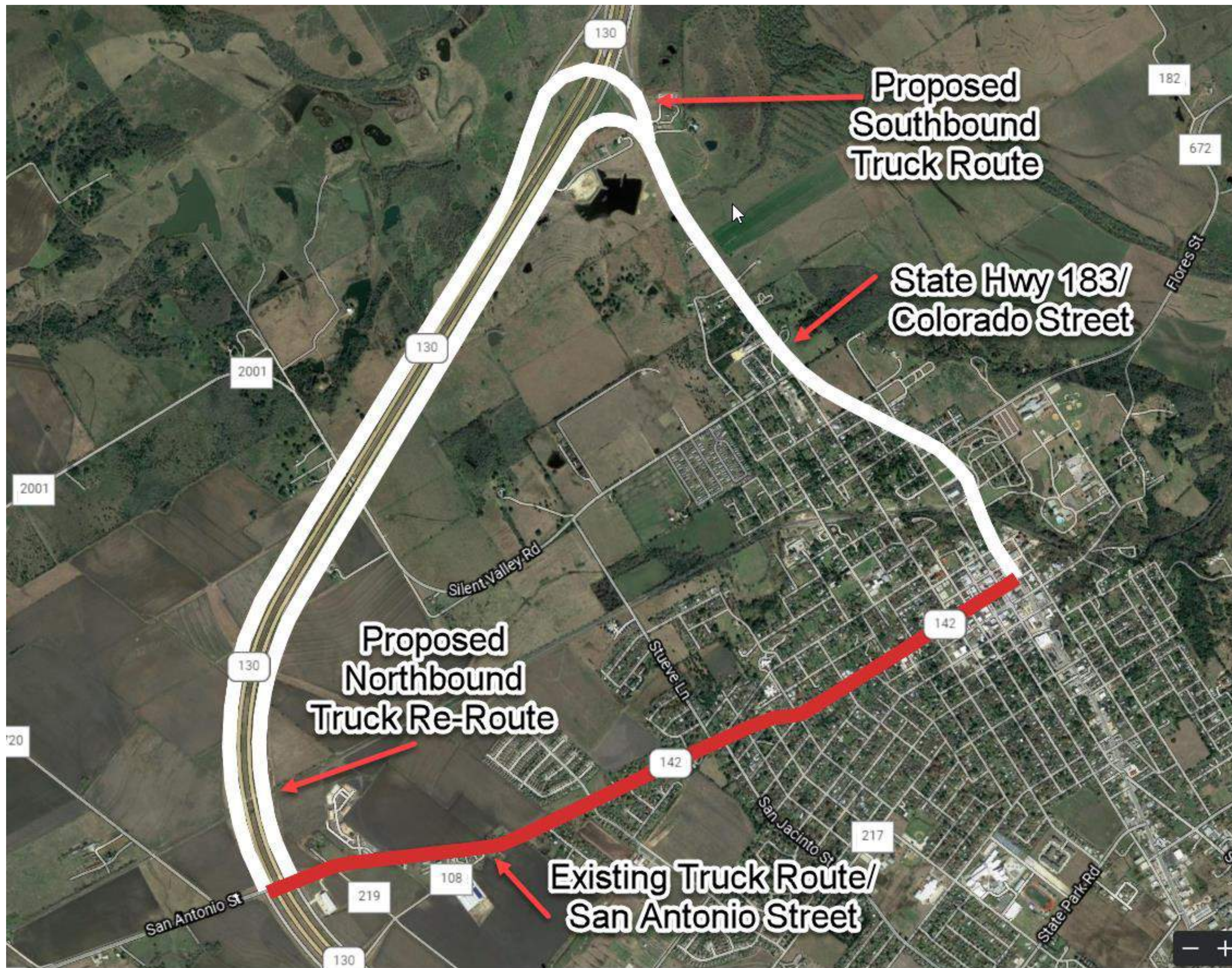
Project Goals and Overview

- Update Aging Water and Sewer Infrastructure
- Upgrade and Modernize Streetscape and Drainage
- Provide Pedestrian Friendly Space
- Improve Traffic Flow and Safety
- Preserve Number of Parking Spaces
- Enhance Overall Aesthetic of Downtown

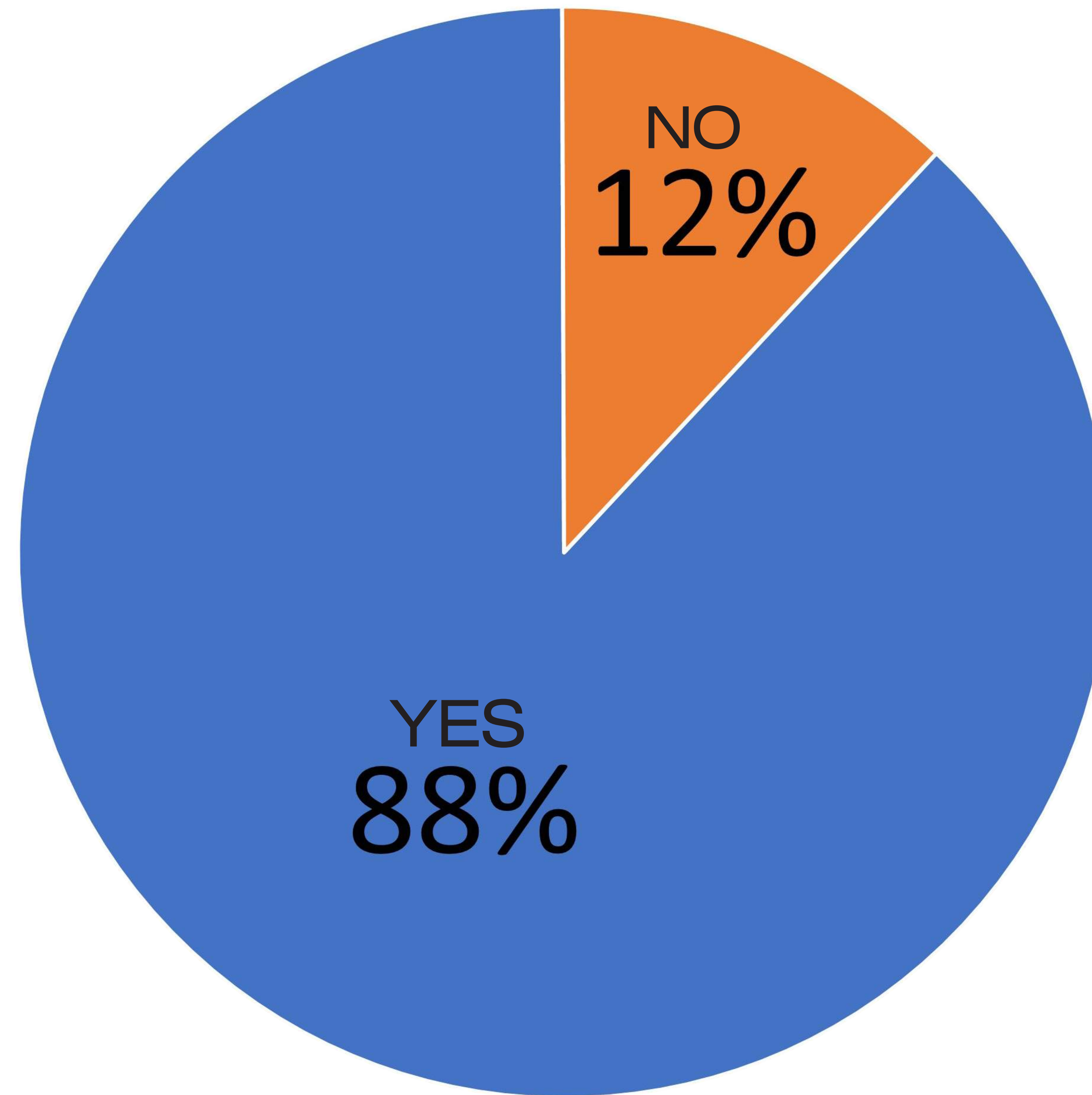


SURVEY RESULTS FROM SECOND PUBLIC MEETING

- MARCH 3, 2022
- 58 PEOPLE IN ATTENDANCE
- ALMOST 190 RESPONDENTS TO SURVEY
- PRESENTED 2 CONCEPTUAL DESIGNS FOR STREETScape
- REFERENCE CITY'S WEBSITE FOR LAST PRESENTATION

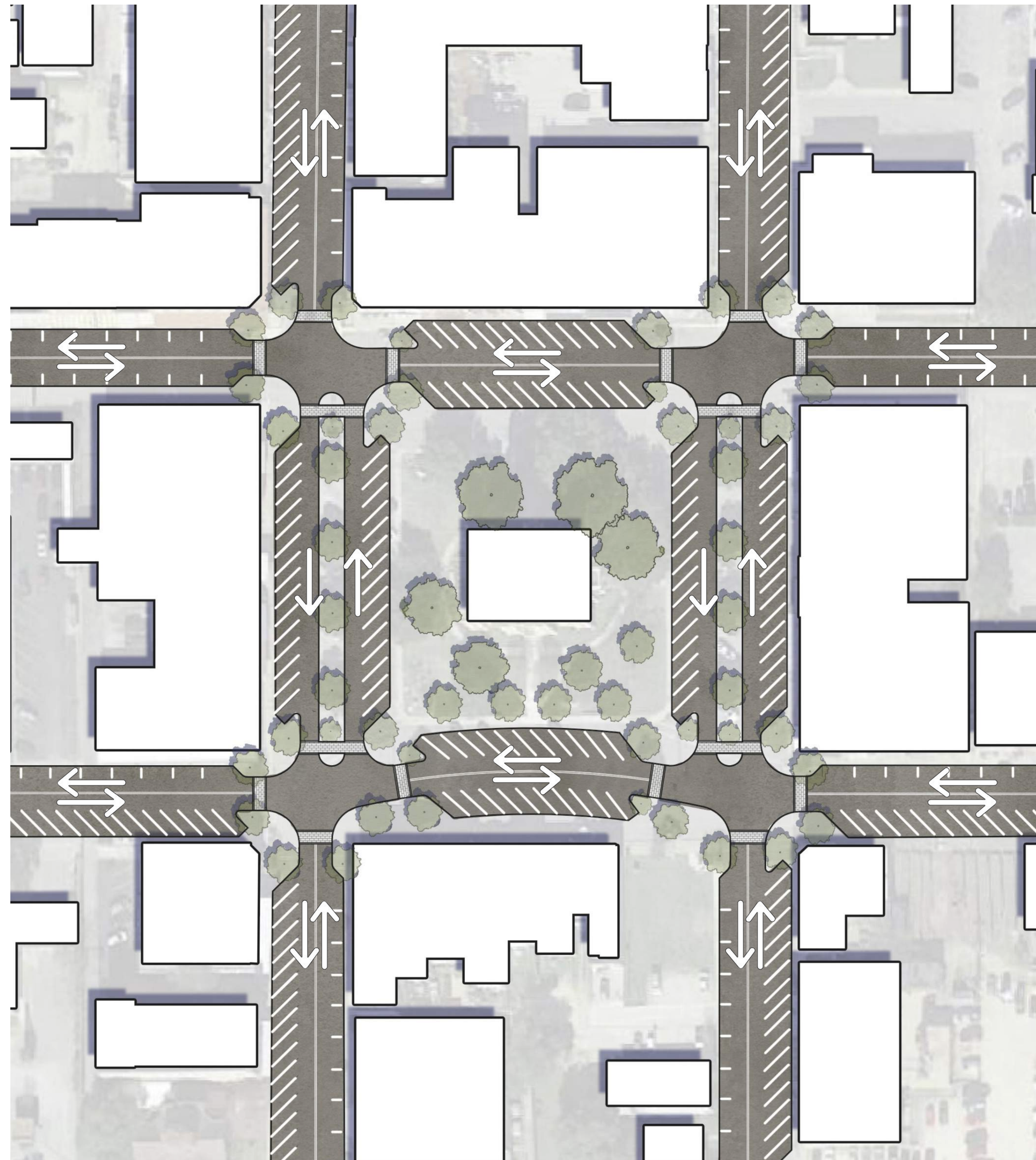


ARE YOU IN FAVOR OF REROUTING TRUCK TRAFFIC OFF OF SH 142?



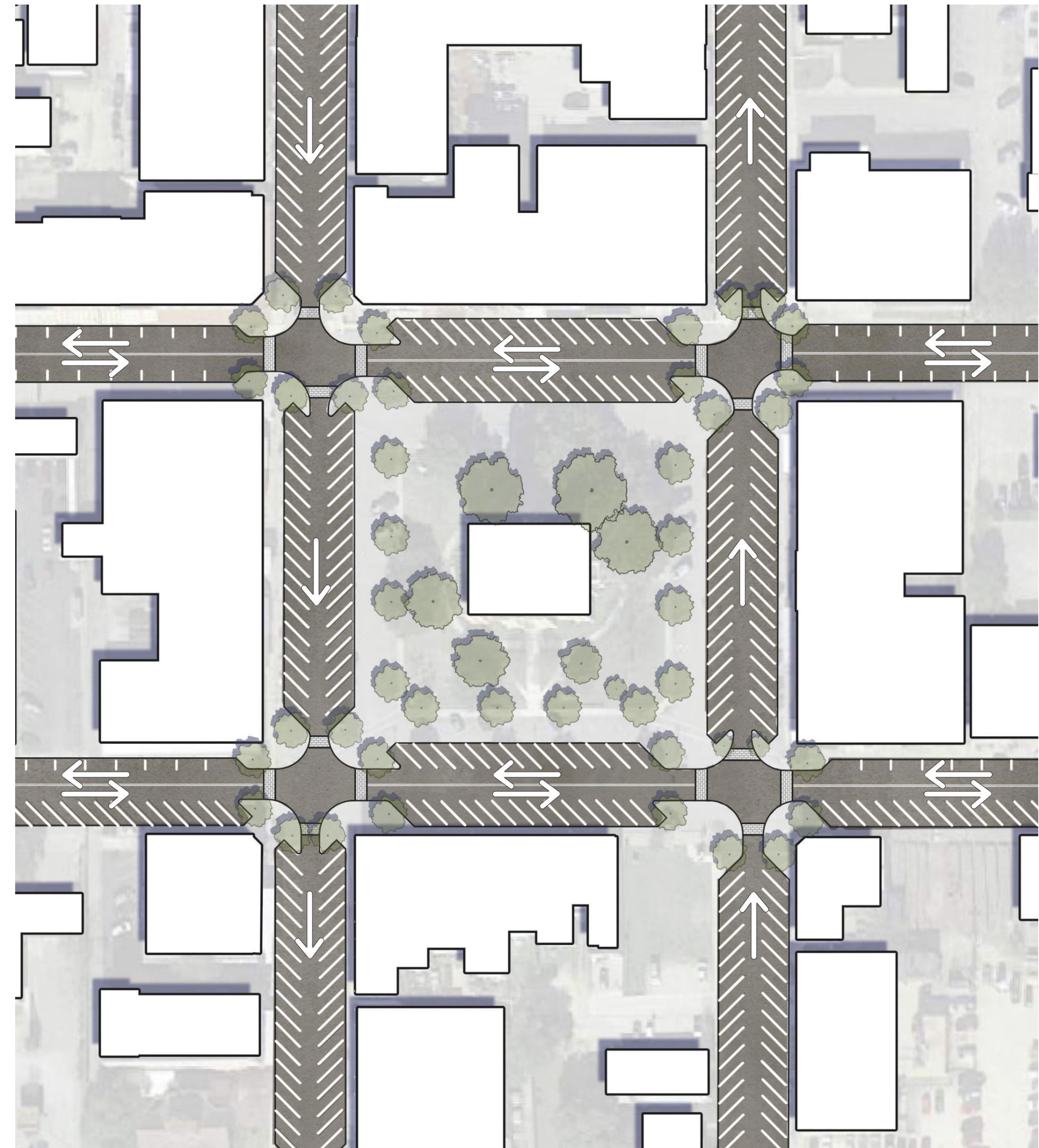
OPTION 1

MARKET STREET PLAZA CONCEPT

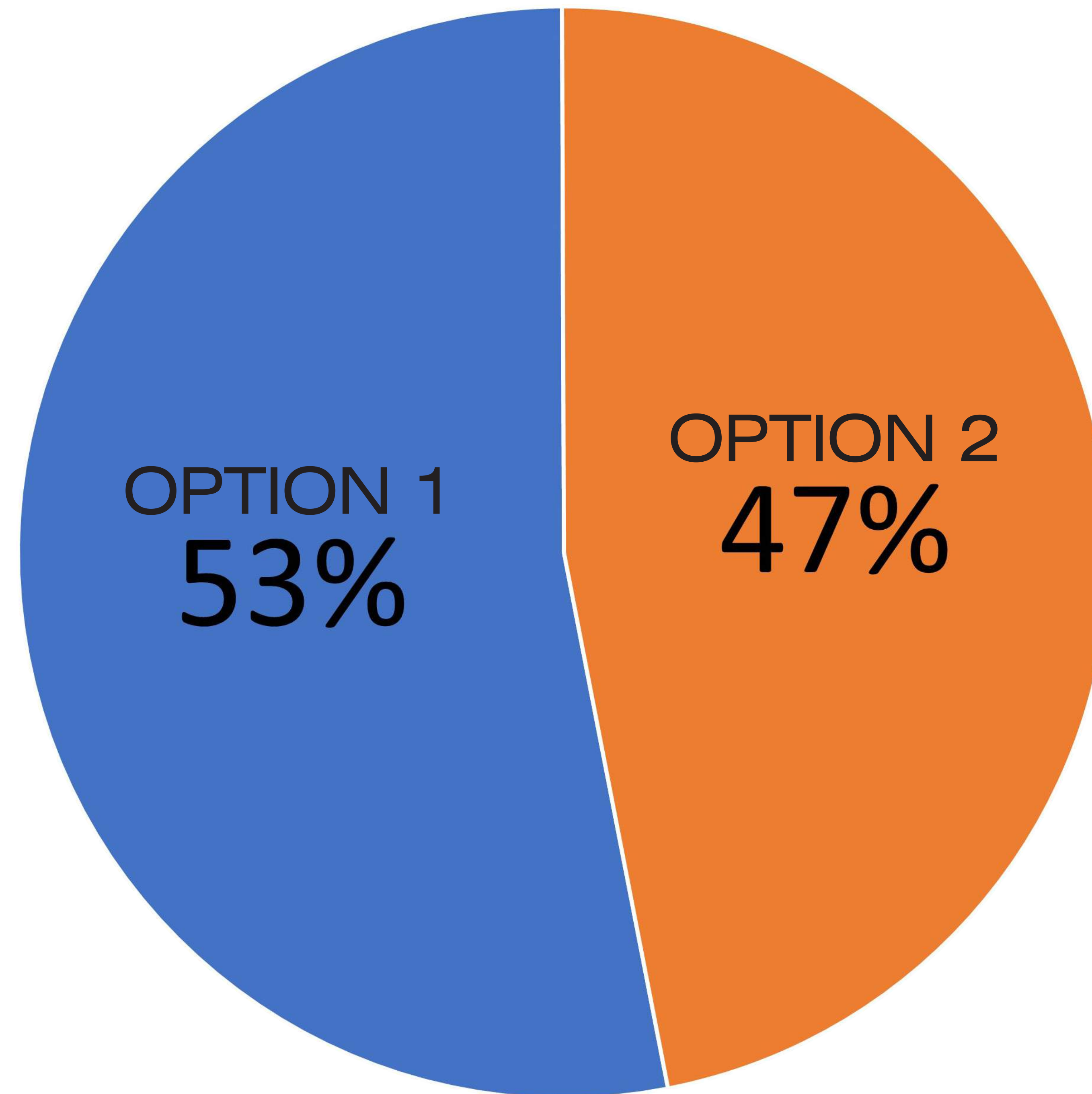


OPTION 2

ONE-WAY CONCEPT

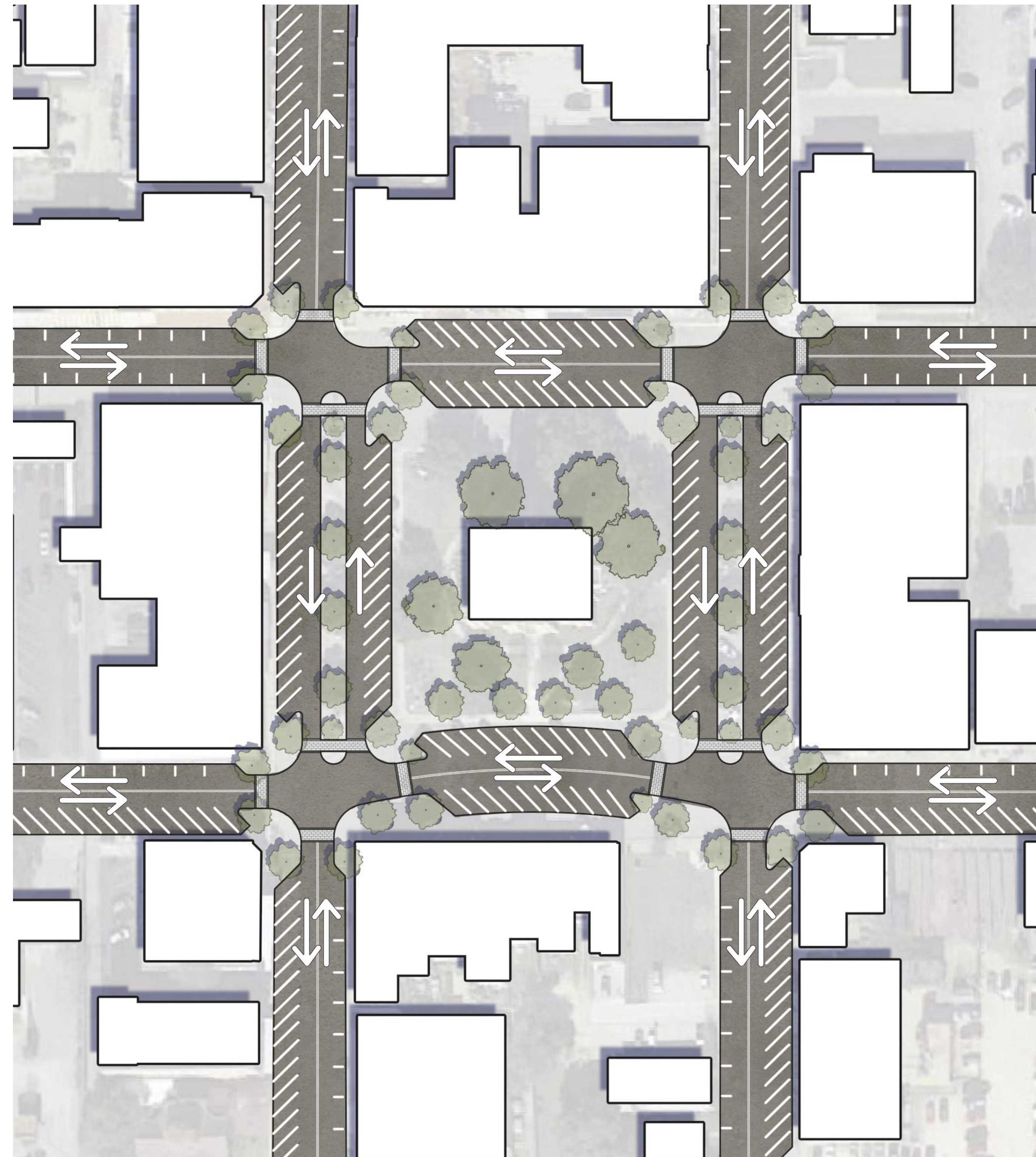


WHICH STREETSCAPE OPTION DO YOU PREFER?



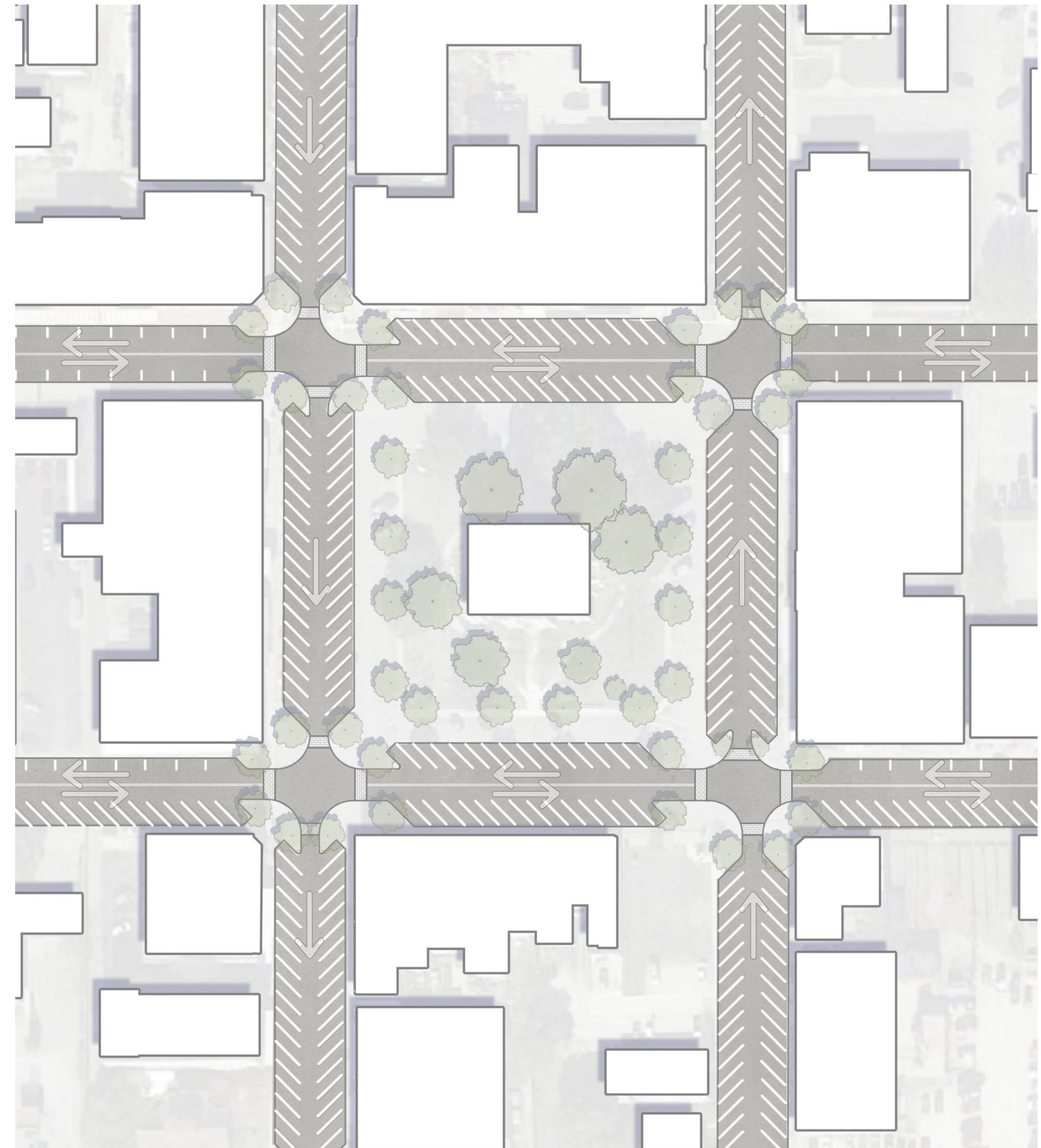
OPTION 1

MARKET STREET PLAZA CONCEPT

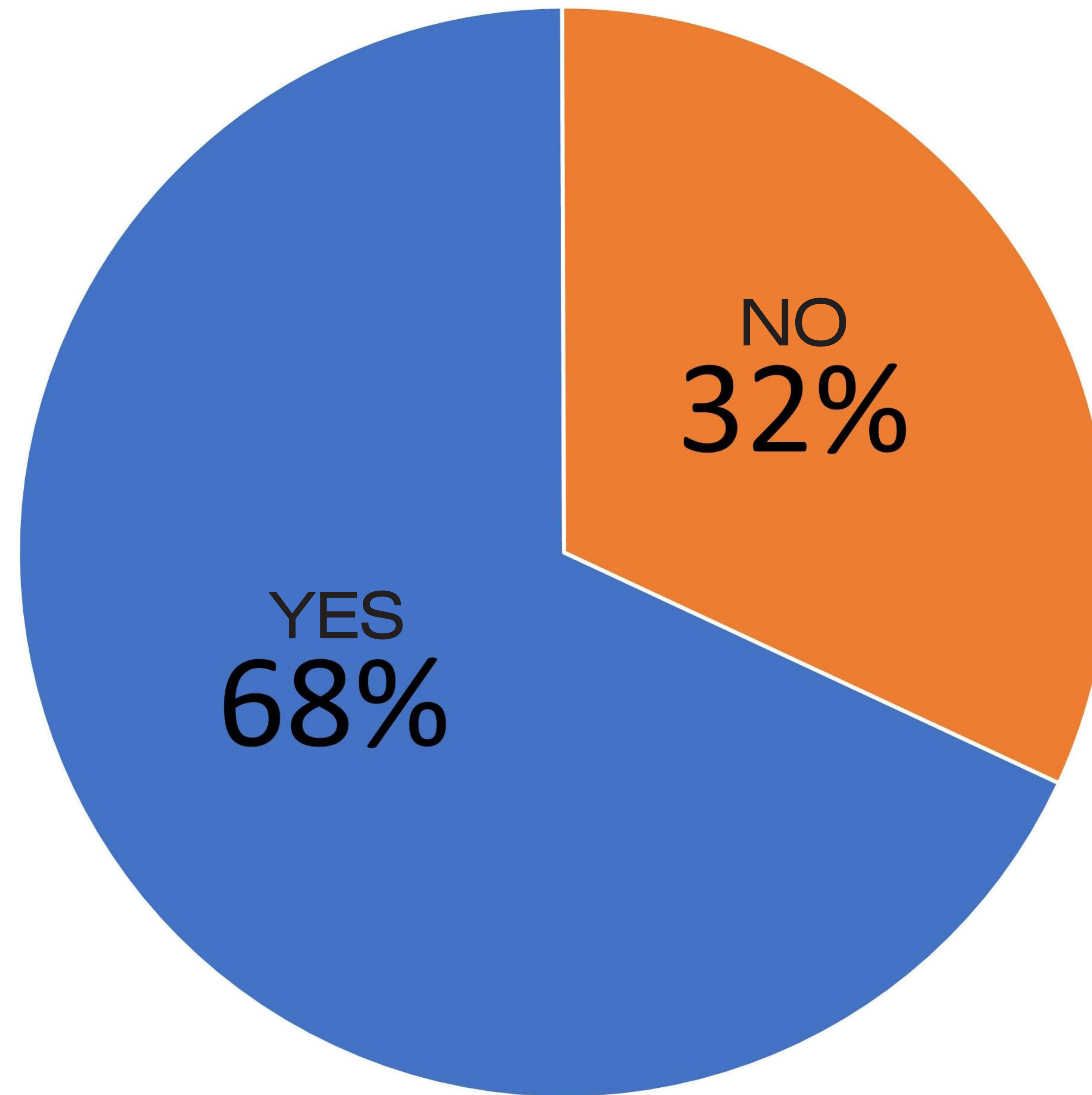


OPTION 2

ONE-WAY CONCEPT

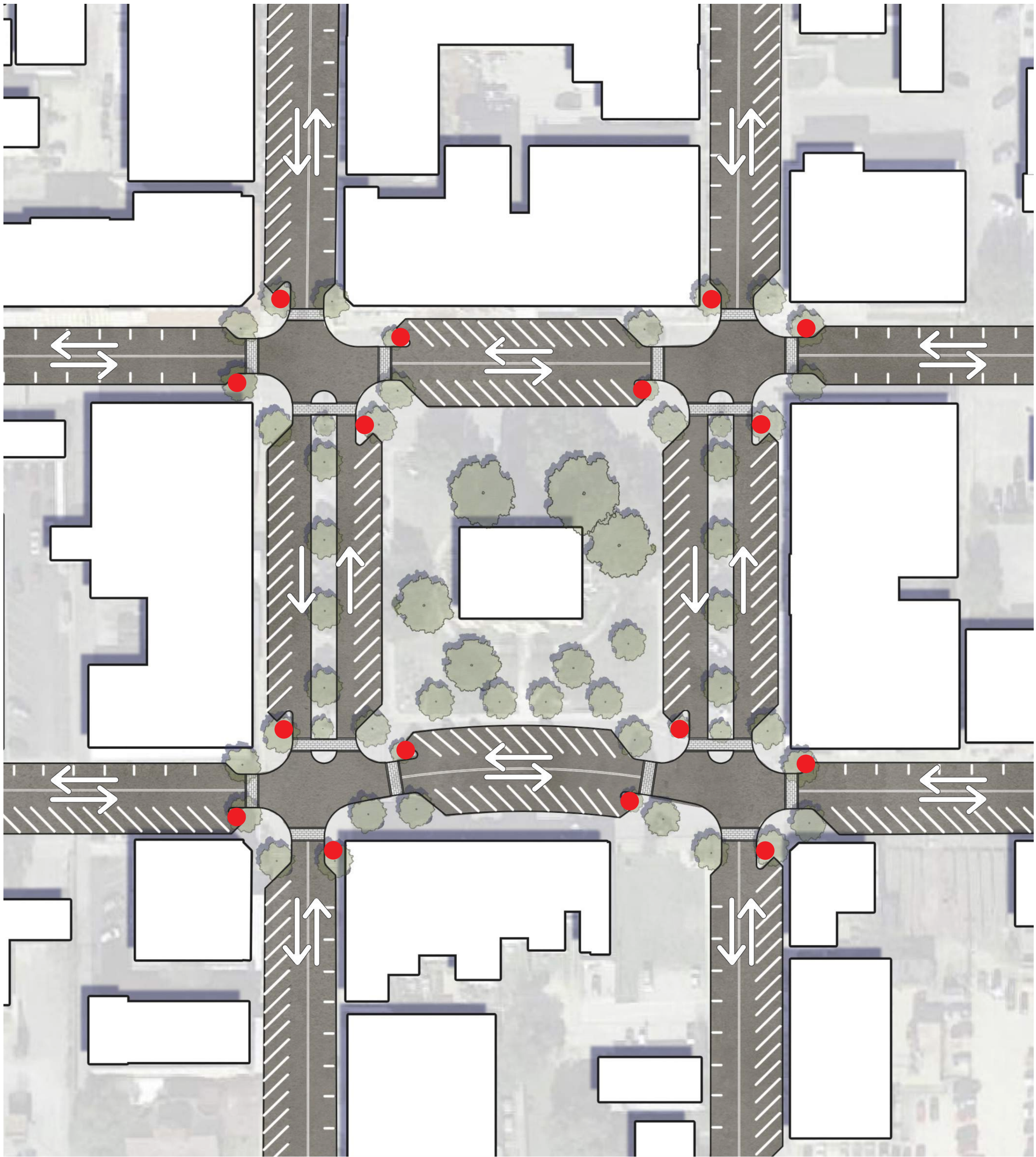


ARE YOU IN FAVOR OF ALL-WAY STOP CONTROL?



OPTION 1

MARKET STREET PLAZA CONCEPT

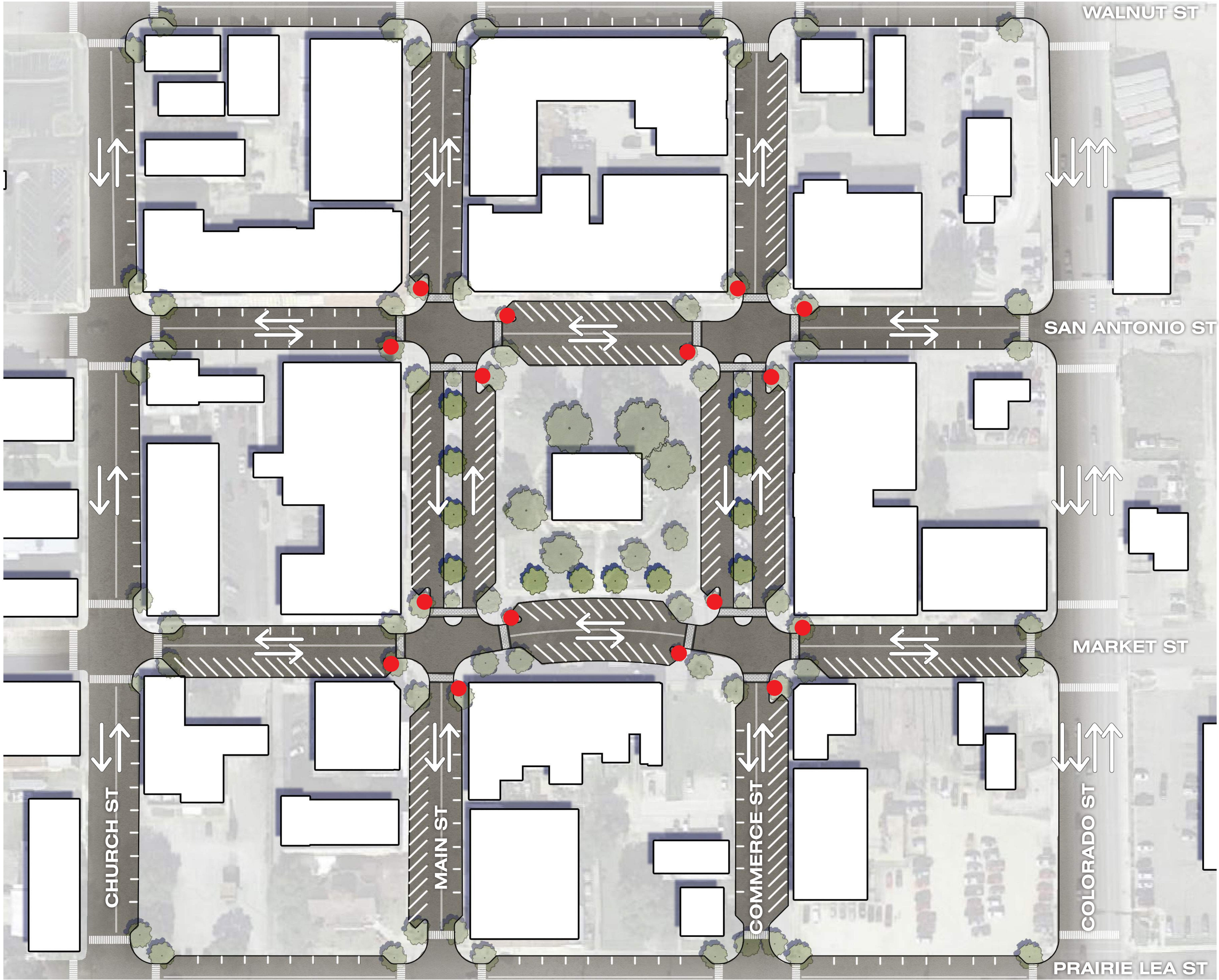


CONCEPTUAL
COURTHOUSE
STREETSCAPE
DESIGN



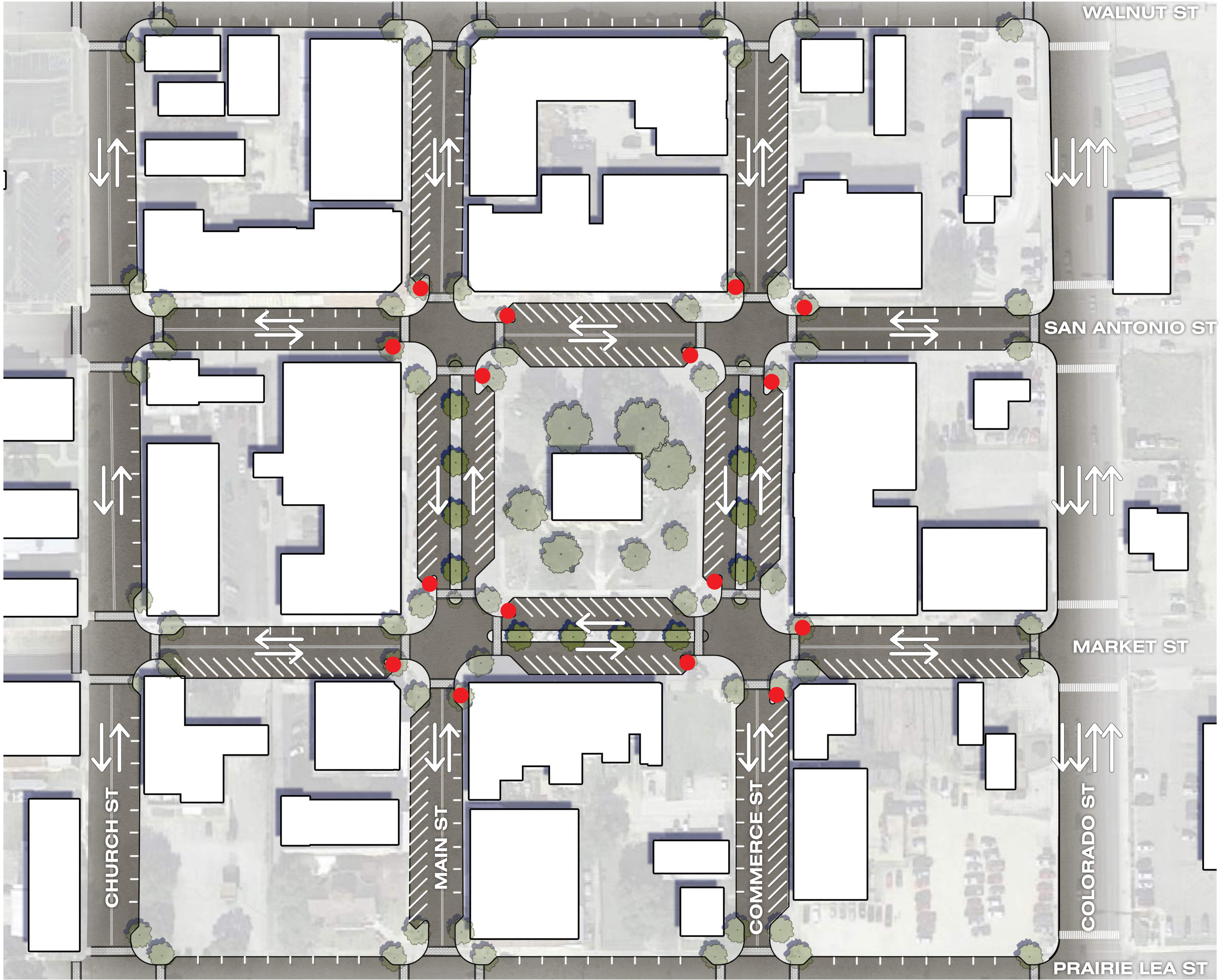
MAIN POINTS

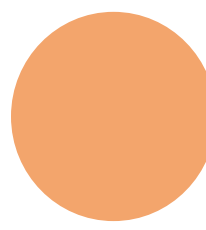
- TWO-WAY TRAFFIC THROUGHOUT
- FOUR-WAY STOPS
(● = STOP SIGN)
- PLAZA ON MARKET STREET
- **LOSE 12 PARKING SPACES**
- PRESERVE MEDIAN TREES ON COMMERCE AND MAIN
- RELOCATE MEDIAN TREES ON MARKET STREET
- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE

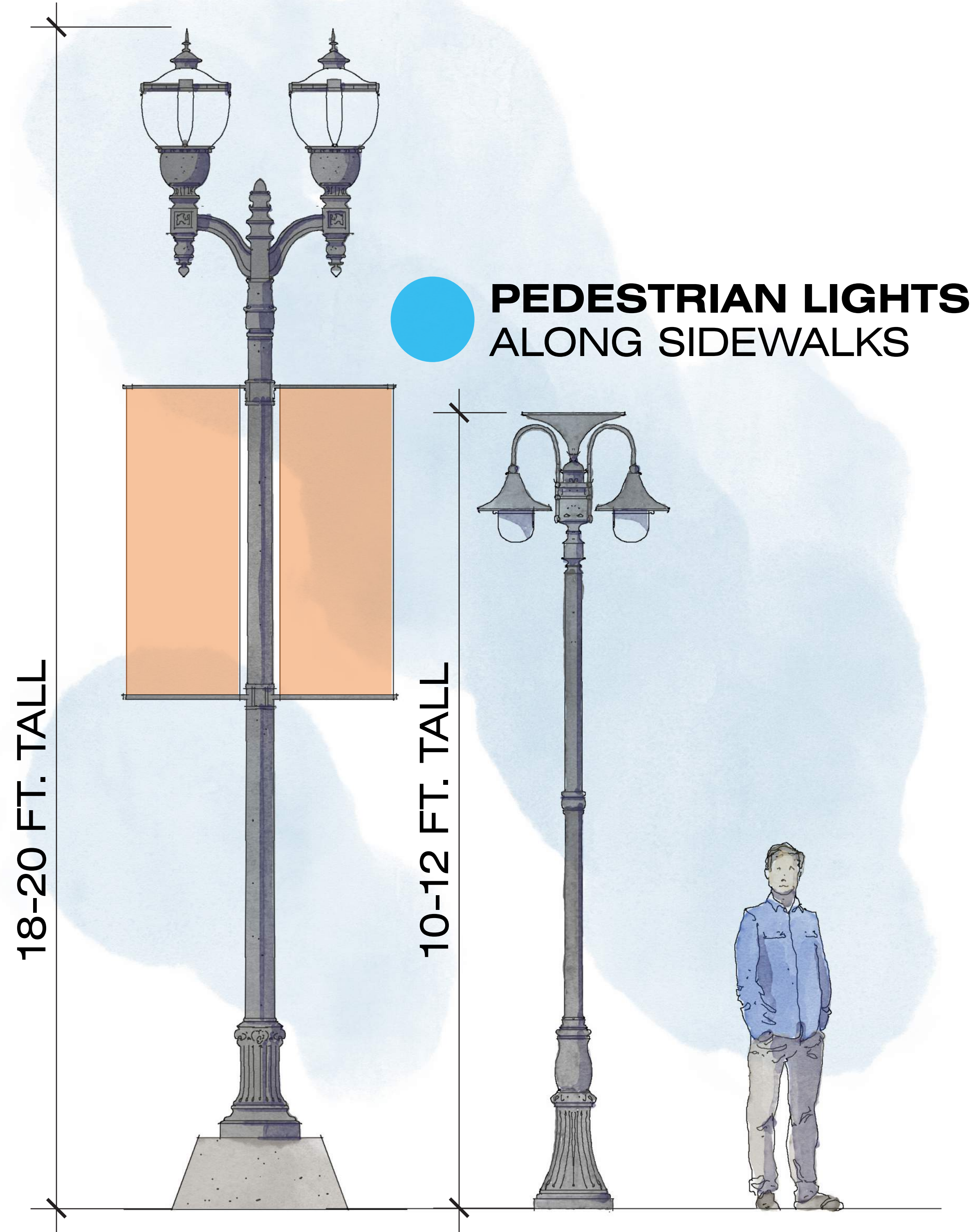


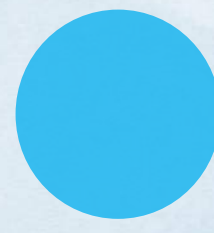
MAIN POINTS

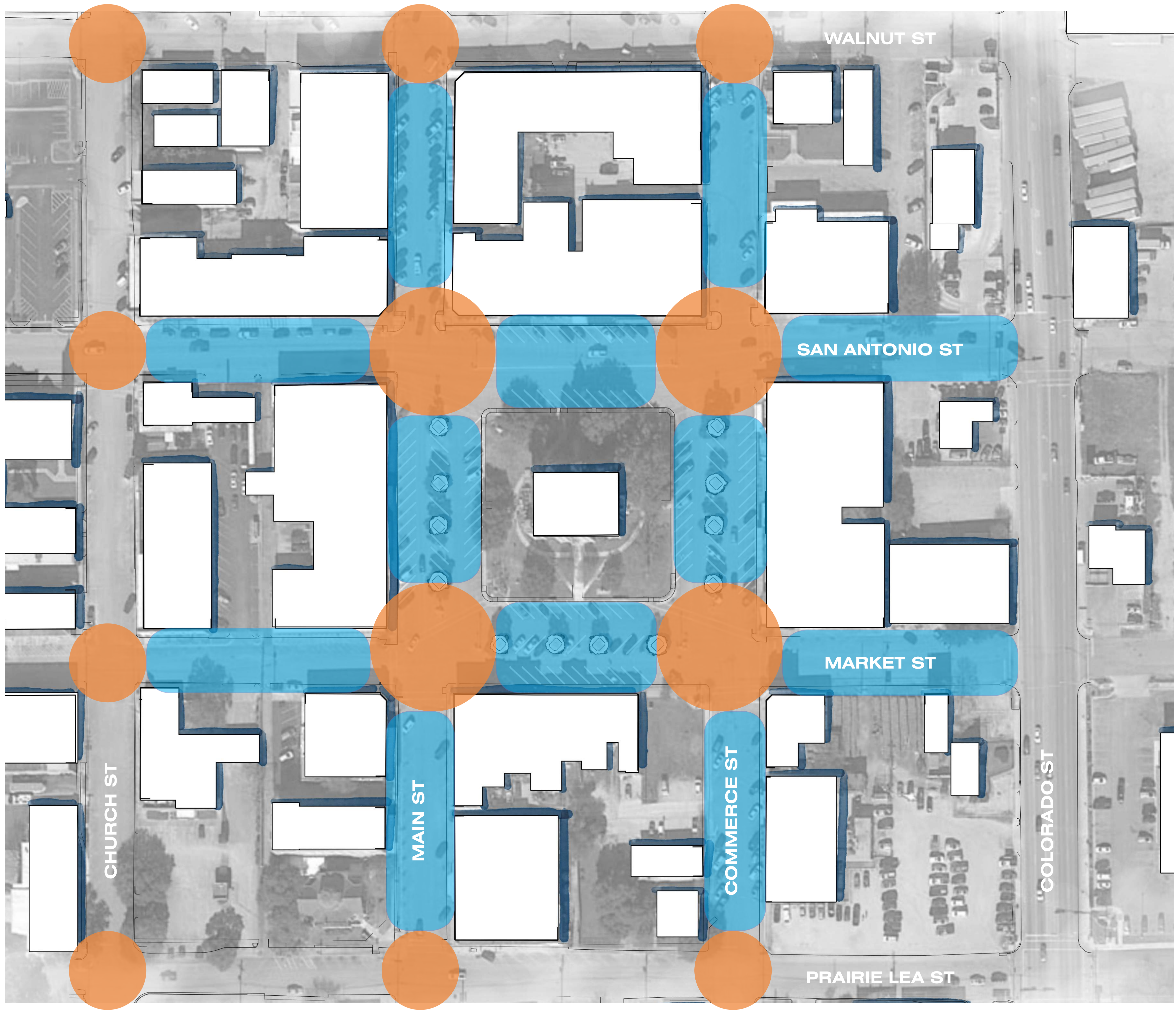
- TWO-WAY TRAFFIC THROUGHOUT
- FOUR-WAY STOPS
(● = STOP SIGN)
- **LOSE 15 PARKING SPACES**
- PRESERVE ALL MEDIAN TREES
- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE



 **ROADWAY LIGHTS**
AT INTERSECTIONS



 **PEDESTRIAN LIGHTS**
ALONG SIDEWALKS





DOWNTOWN REVITALIZATION

APRIL 2022

LOCKHART MASTER PLAN LIGHTING IMAGERY





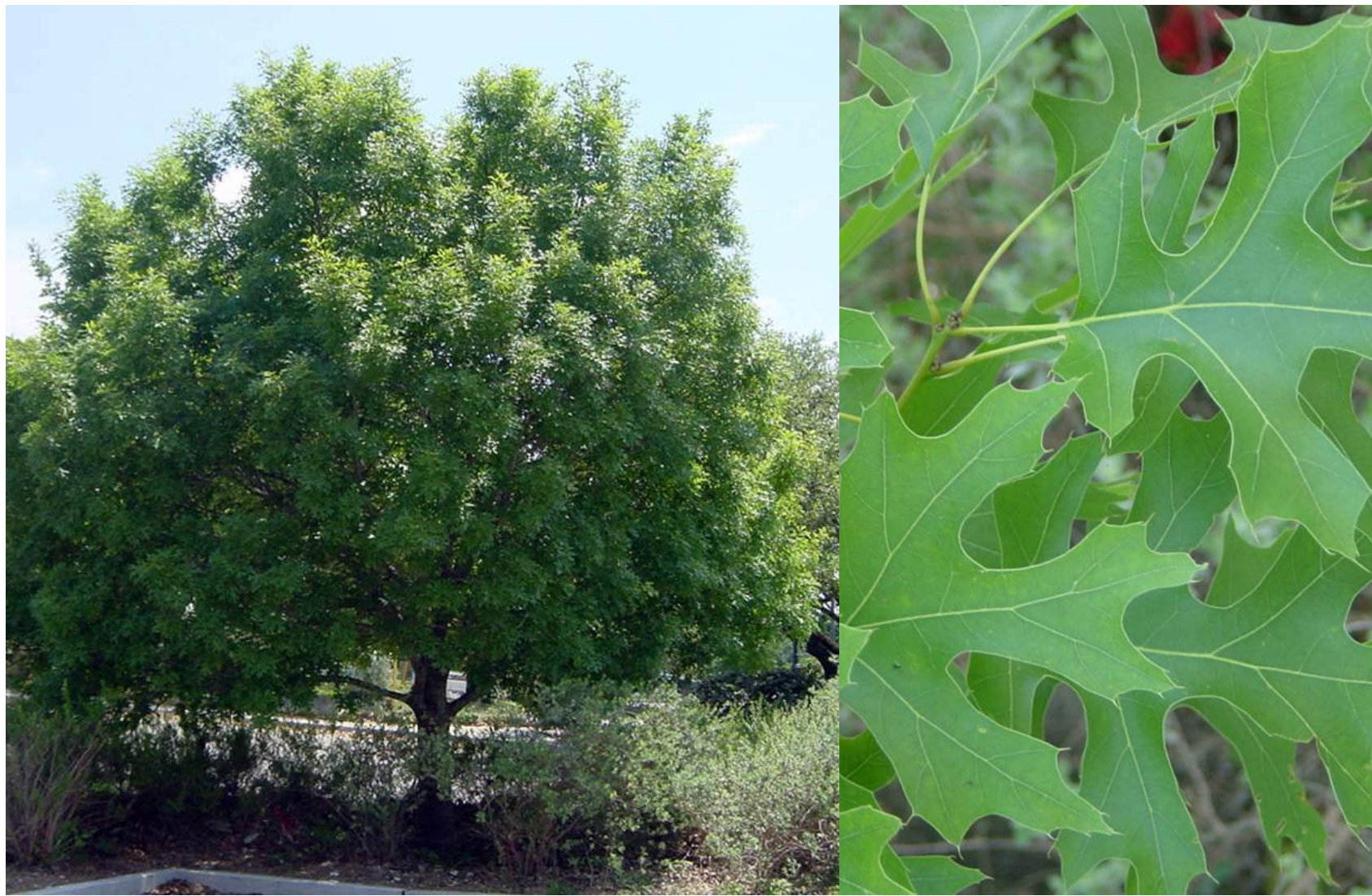
Cedar Elm
Ulmus crassifolia



Lacey Oak
Quercus glaucoides



Live Oak
Quercus virginiana



Texas Red Oak
Quercus texana



Texas Mountain Laurel
Sophora secundiflora



Yaupon Holly
Ilex vomitoria



Bicolor Iris
Dietes bicolor



Blue Plumbago
Ceratostigma plumbaginoides



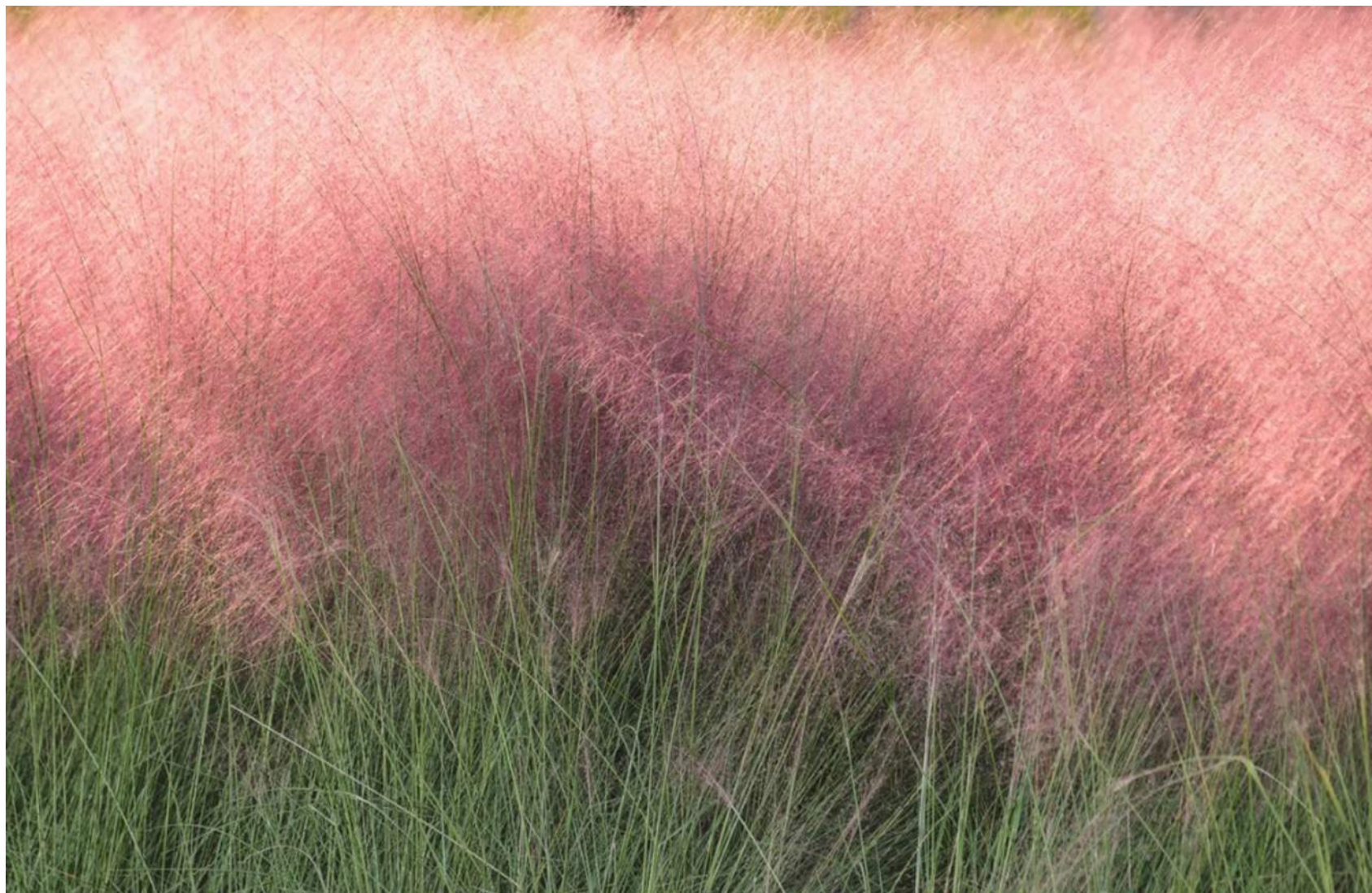
Dwarf Burford Holly
Ilex cornuta 'Burfordii nana'



Dwarf Yaupon Holly
Ilex vomitoria v. nana



Firecracker Fern
Russelia equisetiformis



Gulf Muhly Grass
Muhlenbergia capillaris



Giant Liriope
Liriope gigantea



Indigo Spires Salvia
Salvia farinacea 'Indigo Spires'



Lantana (Purple, White & Yellow)
Lantana montevidensis & L. x 'New Gold'



Lindheimer's Muhly
Muhlenbergia lindheimeri



Purple Heart
Setcreasea pallida



Red Yucca
Hesperaloe parviflora



Sandankwa Viburnum
Viburnum suspensum



Texas Sedge
Carex perdentata



Thryallis
Galphimia glauca



Turk's Cap
Malvaviscus drummondii



Variegated Flax Lily
Dianella tasmanica v. variegata



Zexmenia
Wedelia hispida

NEXT STEPS

PRELIMINARY AND FINAL DESIGN

PERMITTING

BIDDING

CONSTRUCTION



RIALTO STUDIO
LANDSCAPE ARCHITECTURE



LOCKHART DOWNTOWN REVITALIZATION PROJECT

FINAL CONCEPTUAL DESIGN REPORT - DRAFT

APRIL 12, 2022



RIALTO STUDIO
LANDSCAPE ARCHITECTURE



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APPENDICES

Appendix A – Project Maps

Appendix B – Sustainable Places Project

Appendix C – Lockhart Downtown Improvements Project Report (2020)

Appendix D – City Council Presentation (2021)

Appendix E – Traffic Study

Appendix F-1 – TRC Consultation Letter to THC

Appendix F-2 – THC Response

Appendix G – Open House #1 Presentation

Appendix H – Open House #2 Presentation

Appendix I – Option 1

Appendix J – Option 1 A

Appendix K – Opinion of Probable Construction Costs

1.0 INTRODUCTION

1.1 PURPOSE

The following report documents the decision-making process conducted during the conceptual design phase for the City of Lockhart (City) Downtown Revitalization Project. This report is prepared for the City of Lockhart and serves to summarize the project goals, background, work done to date, and overall recommendations for improvements in the downtown area.

1.2 PROJECT GOALS

The Downtown Revitalization Project focuses on improvements in a nine square block area centered around the Lockhart Courthouse, as shown in **APPENDIX A**. The project area is in downtown Lockhart between Walnut Street to Prairie Lea Street and from Church Street to Colorado Street. The overall project goals are as follows:

1. Update aging water and sewer infrastructure
2. Upgrade and modernize streetscape and drainage
3. Provide pedestrian friendly space
4. Improve traffic flow and safety
5. Preserve number of parking spaces
6. Enhance overall aesthetic of downtown
7. Minimize the overall project cost.

1.3 BACKGROUND / PREVIOUS WORK

Sustainable Places Project

In 2011, Lockhart was selected as one of five cities in Central Texas to participate in the Sustainable Places Project, described as “a regional planning initiative aimed at helping communities create the conditions for livable places consistent with local goals and values.” This project was a two-year planning process involving community outreach, development planning, economic and market research, and financial planning for the 1,311-acre area in Lockhart including Downtown and the US 183 corridor from SH 130 south to the southern City Limit. Specific to the downtown area, the project identified improvements that could enhance the Courthouse Square with pedestrian safety, accessibility improvements, and streetscape improvements. A variety of alternatives were developed for the Courthouse Square improvements, culminating in a recommended concept that included:

1. A new plaza on the north side of San Antonio Street
2. Realignment of San Antonio Street for safer more efficient channeling of traffic.

3. Coordination with TxDOT to reroute truck through traffic between SH 130 and US 183 on San Antonio Street (SH 142).
4. Addition of pedestrian bulb-outs and pedestrian refuges.
5. Limited loss of parking due to public feedback

The final report for the Lockhart Sustainable Places Project was issued and adopted by City Council in December of 2013. This report is included herein in as **APPENDIX B**.

Engineering Drainage Planning

In 2015, the City hired TRC Engineers, Inc. (TRC) to provide preliminary layouts and breakdown of probable construction and engineering service costs for addressing drainage issues at various locations around the City. One of the areas identified for drainage improvements was the downtown area and included water, sanitary sewer, storm sewer, and street improvements. Based on the cost estimates provided, the City Council ordered certificates of obligation for these downtown improvements.

In 2017, the City hired TRC to provide preliminary engineering and surveying services for the downtown drainage and street Improvements. TRC performed a topographic survey to gather information for the project design. Additionally, TRC prepared preliminary drainage calculations and design to include storm sewer sizing and a general layout. The findings from this engineering analysis are summarized in the Lockhart Downtown Improvements Project Report completed by TRC and dated January 2020 (**APPENDIX C**).

Additional Engineering Planning

In 2021, TRC presented additional scope items to consider during a council workshop. Additional scope items included landscaping, sidewalk and pedestrian safety improvements, parking and traffic reconfiguration, lighting, and electrical improvements, and incorporating recommendations from the Sustainable Places Project final report. This council presentation is shown in **APPENDIX D**. TRC was then authorized by Council to develop Conceptual Design Alternatives, in consultation with its landscape architect, Rialto Studios Inc. (Rialto), and in coordination with all stakeholders.

2.0 CONCEPTUAL DESIGN DEVELOPMENT

Coordination Meetings

Coordination meetings were held early on in the conceptual design process. Representatives from the design team attended an initial site visit and kickoff meeting with City staff. The purpose of the meeting and site visit was to seek input from City staff on desired improvements for incorporation into the design alternatives. Additionally, the design team attended a virtual coordination meeting with representatives from TxDOT for project notification, gathered input on potential improvements affecting SH 142 (a TxDOT roadway) to understand the process for

getting TxDOT approval of these proposed improvements. Lastly, TRC and City staff attended a coordination meeting with representatives from Caldwell County for project notification and to gather their input on potential improvements affecting the Caldwell County Courthouse, an active office for the County and nationally registered historic building.

Preliminary Traffic Study

As part of the revitalization to downtown, the City wanted to evaluate changes to traffic patterns on the streets around the courthouse, specially, North Main Street, North Commerce Street, and San Antonio Street (SH 142). In August 2021, the City Public Works Department obtained traffic counts on these three streets which was used as the basis for the traffic study. The results of the study recommended either converting Main and Commerce to one-way streets or provide all-way stop control at the intersections with San Antonio Street if kept as two-way streets. Additionally, the study found that an unusually high amount of truck traffic used SH 142 through the downtown area and that an alternative route should be found and implemented. The full traffic study report is attached as **APPENDIX D**.

Texas Historical Commission Consultation

TRC performed a cultural resource background review for the City's proposed Downtown Revitalization Project. The purpose of this review request consultation from the Texas Historical Commission (THC) to ensure the proposed improvements are in cultural resources compliance under the Antiquities Code of Texas (Section 191.0525) (ACT). TRC submitted a THC consultation letter on February 1, 2022 (**APPENDIX F-1**) and received a written comment response letter on March 3, 2022 (**APPENDIX F-2**).

In its response letter, the THC History Programs Division noted that much of the project area is located within the Caldwell County Courthouse Historic District, which was listed in the National Register of Historic Places in 1978. Additionally, the project area includes the Caldwell County Courthouse, which was designated as a State Antiquities Landmark in 1981, and the Emmanuel Episcopal Church, which was listed in the National Register in 1974 and was designated as a Recorded Texas Historic Landmark in 1962. The THC Archaeology Division confirmed there are no historic archeological properties present or that will be affected in the project area. It is recommended that the City and design team remain in consultation with THC throughout the final design and construction of the Project to continue ensuring compliance with the ACT.

Conceptual Design Master Plans

The design team (TRC and Rialto) was tasked with preparing three (3) concept-level design alternatives for enhancing the hardscape, landscape, pedestrian mobility, roads, and utilities within the nine-block project area. The concepts were to include the following improvements:

1. Hardscape pavement (sidewalk) enhancements

2. Revised parking configurations along North Main Street and around the Caldwell County Courthouse.
3. Planting plan identifying landscaped areas with suggested plants.
4. Accessibility / pedestrian access to include identification of curb ramp locations, curb bulb outs, and pedestrian refuge islands.
5. Suggested pedestrian scale lighting fixtures
6. Utility (water, sewer, drainage) and street improvements.

To start the conceptual design process, the design team performed a precedent study reviewing a number of historic downtown areas throughout Texas to review traffic patterns, parking, surrounding businesses, in comparison with Lockhart. Using information from this precedent study, the previous studies described earlier in this report, and in coordination with City staff, the design team developed three conceptual streetscape designs and three different typical intersection designs for consideration by the public.

Open Houses

The design team was tasked with presenting the project goals, proposed improvements, and the design alternatives to the public at an open house presentation.

Open House #1

The first open house was held on November 15, 2021, at the Connection's Center located in downtown Lockhart. Over 100 people were in attendance. The purpose of the first public forum was to present the three initial design concept alternatives (both streetscape and intersection designs). After the presentation, the design team entered into breakout sessions to receive comments directly from the public. The presentation and a ten-question survey were also made available for the public to provide feedback on-line on the City's website. The presentation is included in this report in **APPENDIX G**.

The ten-question survey addressed safety, traffic flow, on-street parking configuration, and parking around the courthouse. Based on the survey results and feedback received, the design team further refined the design alternatives.

Open House #2

The second open house was held on March 3, 2022, at the same location as the first open house. The purpose of this open house was to present the outcome of public feedback collected from the first open house and the updated streetscape concept designs that incorporated public comments. Potential lighting, vegetation, traffic pattern changes, and signage options were also discussed. The presentation is included in this report in **APPENDIX H**. Similar to the first open house, the design team held breakout sessions, after the presentation, to receive comments directly from the public. The

presentation and three-question survey were again made available for the public to provide feedback on-line on the City's website.

There were 182 total respondents to the Open House #2 survey collected on March 28, 2022. Results from the Open House survey are presented in the Table below.

Question	Total Count		Percent		Total Responses
	Yes	No	Yes	No	
1. Are you in favor of changing the 4 intersections around the courthouse to all-way stop control (i.e., stop signs would be placed at each corner in all directions of traffic)?	123	59	68%	32%	182
2. Are you in favor of rerouting truck traffic from the downtown area on San Antonio Street (SH 142) to an alternate route around town using SH 130 and Hwy 183? (Note: local deliveries would still be allowed to use SH 142)	160	22	88%	12%	182
Question	Option 1	Option 2	Option 1	Option 2	
3. Which Streetscape Design option do you prefer?	86	75	53%	47%	161

Additionally, during the breakout session and in the comments of the on-line survey, numerous people expressed concern over the preservation of the existing Live Oak trees located in the medians of Main, Commerce, and Market streets.

3.0 RECOMMENDED IMPROVEMENTS AND CONCEPTUAL DESIGN

The downtown revitalization project will consist of a variety of proposed improvements including water and wastewater utility replacement, installation of underground drainage, and street rehabilitation and resurfacing. These are briefly described below.

Water Main Improvements

The water lines to be replaced within the project area include 6" and 8" cast iron pipes that are between fifty to seventy years old. Approximately, 3,120 linear feet (LF) of 8-inch PVC water main including valves, hydrants, and other appurtenances will be installed as part of this project.

Wastewater Main Improvements

The existing wastewater mains in the downtown area consist mainly of aging 6" and 8" vitrified clay or cast-iron pipe. The proposed infrastructure improvements would replace

approximately 21 manholes, 79 service connections, and 3,300 linear feet of wastewater mains with new 8" SDR 26 PVC pipe.

Drainage Improvements

Most of the existing drainage infrastructure in the downtown area is comprised of at-grade culverts under pedestrian ramps. The proposed improvements would move much of the drainage below ground and allow for the hardscape improvements presented in the conceptual designs. Another benefit would be to remove potential trip and fall hazards caused by the existing culverts.

As part of TRC's previous engineering drainage planning projects, the downtown area was surveyed extensively by TRC and analyzed to determine the existing runoff and drainage patterns. The results of the survey were used to develop the preliminary design for the proposed storm drain system. First, the proposed storm drain alignments were laid out to provide an effective and cost-efficient system based on existing drainage patterns. Then the north and south drainage basins were delineated into smaller areas based on proposed inlets located throughout the system. This information was input into Autodesk Storm and Sanitary Analysis 2018 (SSA), a stormwater analysis software, to determine the sizing of the proposed drainage inlets and pipes based on a design capacity of a 25-year storm event, per City Code.

The proposed storm drains and the drainage areas are shown in **Map 7 of APPENDIX A**. Based on the preliminary analysis and design, the proposed storm drain system will consist of approximately 840 LF of 30-inch reinforced concrete pipe (RCP), 2,540 LF of 24-inch RCP, 1,180 LF of 18-inch RCP, and more than 20 curb inlets located throughout the downtown area. In general, everything north of the courthouse will drain north and discharge to Town Branch Creek at Colorado Street and everything south of the courthouse will drain south to the existing drainage channel north of Live Oak Street. The results of the modeling indicate that the proposed storm drain improvements are optimally sized to convey stormwater runoff to the north and south discharge locations.

Street Improvements

The streets in the downtown area are in need of repair due to normal wear and tear and trench repair from utility lines. Most of the streets in the downtown area will receive a 3" mill and be repaved to provide a smooth driving surface after all of the underground utilities have been installed. Portions of Main Street will be entirely reconstructed, as shown in **Map 8 of APPENDIX A**. The south section of Main Street will be raised to reduce the vertical distance between the top of curb and top of pavement. The north section of Main Street will be lowered such that the roadway is lower than the adjacent storefronts.

Traffic Improvements

The survey results from the 2nd open house indicated the public is largely in favor of the proposed traffic improvements around the courthouse, namely incorporating all-way

stop control at the main intersections, and rerouting truck traffic from SH 142 through downtown.

Currently, the intersections around the courthouse have a combination of stop signs, yield signs, or no stop control leading to difficulty for drivers navigating through the intersections. Additionally, oncoming traffic can be obscured by vehicles parked in the medians of Main Street, Market Street, and Commerce Street. Incorporating all-way stop control at the main intersections will lead to a safer downtown for both pedestrian and vehicular traffic.

As detailed in the Traffic Study, there is an unusual number of large trucks that pass through downtown on San Antonio Street (SH 142). Public support was overwhelmingly in favor of rerouting truck traffic from SH 142 through downtown. Reducing the number of trucks traveling through downtown will reduce noise and air pollution and enhance the overall ambience in the downtown area, as well as reduce traffic and increase pedestrian safety.

Final Conceptual Master Plan

Streetscape Design

Two options were presented at the public meeting on March 3, 2022, with post meeting survey results favoring Option One. Supplemental comments from the public were noted after the meeting and on the survey about saving the oak trees in all the medians, including Market Street. Option One incorporates the following design items as illustrated in **APPENDIX I**.

1. All way stop signs at the intersections around the courthouse
2. Retains the medians on Main and Commerce with trees
3. Retains the historic streetlights in the median except for San Antonio, where they will be relocated to the south side of the street
4. Improves crossings with pavers and the addition of bulb outs at intersections
5. Removes parking in the medians for better visibility for motorists at the intersections
6. Retains two-way traffic north of San Antonio Street and south of Market Street
7. Improved lighting at the intersections
8. Brings parking alignment and spaces up to standard dimensions

The design team will present to Council Option 1A that removes the wide plaza area on the south side of Market Street and retains the median trees, See **APPENDIX J**. All the remaining medians will be curbed and planted with turf or low plant material to preserve

visibility for motorists at the intersections. It will be the recommendation of the design team to Council to proceed with this concept.

Planting Design

The recommended drought tolerant, native, or adapted plants presented were accepted at the public meetings. Low plant material should be used at intersections for visibility and a mix of native trees and vegetation with seasonal color should be used for visual interest throughout the seasons.

Lighting Plan

The design team suggests keeping the tall streetlights in the median except San Antonio as noted above and re-lamping the fixtures with LED equivalent light sources to match the current lumen output and distribution. Supplemental pedestrian fixtures around the courthouse and public areas should be explored moving forward with a target of 1 foot candle (fc) between fixtures. Additional LED streetlights should be considered at the intersections in the study area with a goal of achieving a light level of 3 fc between fixtures at the intersections for better pedestrian visibility at night.

4.0 CONSTRUCTION CONCERNS

The City of Lockhart has expressed concerns about the effect this project could have on the downtown area and the disruptions it may cause to local businesses and events. Part of the scope of the design process will include public relations and engagement of the affected businesses whose input will be considered during design. Construction can be phased so that only one block is shut down at a time to limit interruptions to business and the disruption of traffic. It is anticipated that each block will take approximately one to two months, meaning construction could take up to two years to complete. Special attention will be given to traffic control and pedestrian safety due to the amount of vehicular and foot traffic in the downtown area. Existing utilities could potentially cause construction issues due to the historical nature of the downtown area and the possibility of unknown abandoned utilities.

5.0 TOTAL PROJECT COST

A Class 4 cost estimate as defined by the Association for the Advancement of Cost Engineering (AACE) is provided in **APPENDIX K**. A Class 4 estimate is for study or feasibility purposes and has an expected accuracy range of up to 50% more on the high side, and as low as 30% less on the low side. The total anticipated project cost is \$8,505,000.00 inclusive of survey, design, permitting, and construction.

6.0 PROJECT SCHEDULE

This report will serve as the basis for the final design of the downtown improvements. It is being presented to the City of Lockhart for adoption/approval by City Council. Once approved by Council, TRC (and Rialto) will submit a proposal detailing the project scope to include design, permitting, bidding, and construction. The anticipated project length

from beginning of design to end of construction is estimated to take between three to four years. A detailed schedule breakdown is shown below.

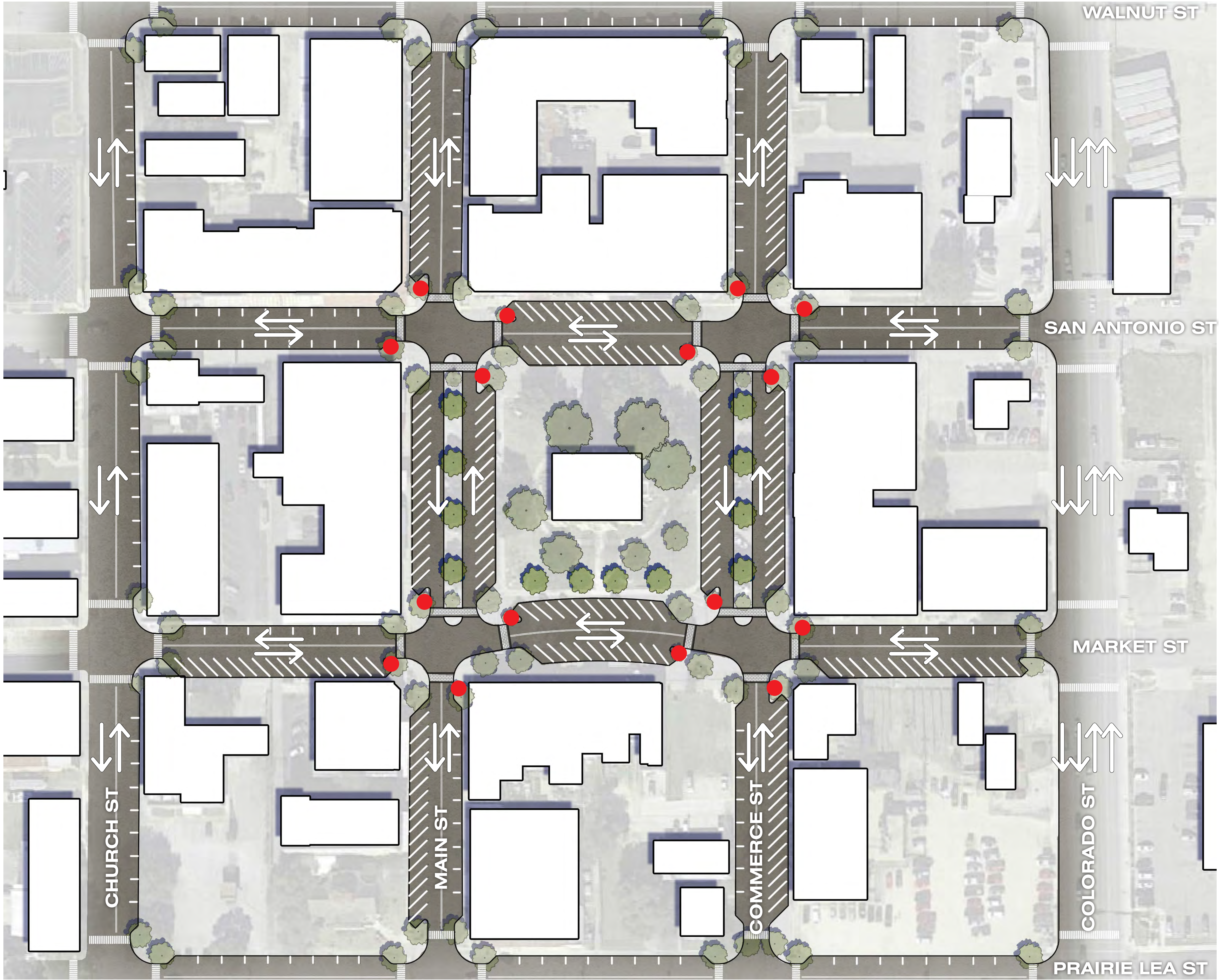
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|--|---|
| 1. Council Approval of Conceptual Design | April 19, 2022 |
| 2. Design Proposal Approved by Council | May 17, 2022 |
| 3. Design | June 1 st , 2022, to June 1 st , 2023 |
| 4. Permitting | June 1 st to September 1 st , 2023 |
| 5. Bidding | September 1 st to December 1 st , 2023 |
| 6. Construction | December 1 st , 2023, to December 1 st , 2025 |

APPENDIX I

OPTION 1

MAIN POINTS

- TWO-WAY TRAFFIC THROUGHOUT
- FOUR-WAY STOPS
(● = STOP SIGN)
- PLAZA ON MARKET STREET
- **LOSE 12 PARKING SPACES**
- PRESERVE MEDIAN TREES ON COMMERCE AND MAIN
- RELOCATE MEDIAN TREES ON MARKET STREET
- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE

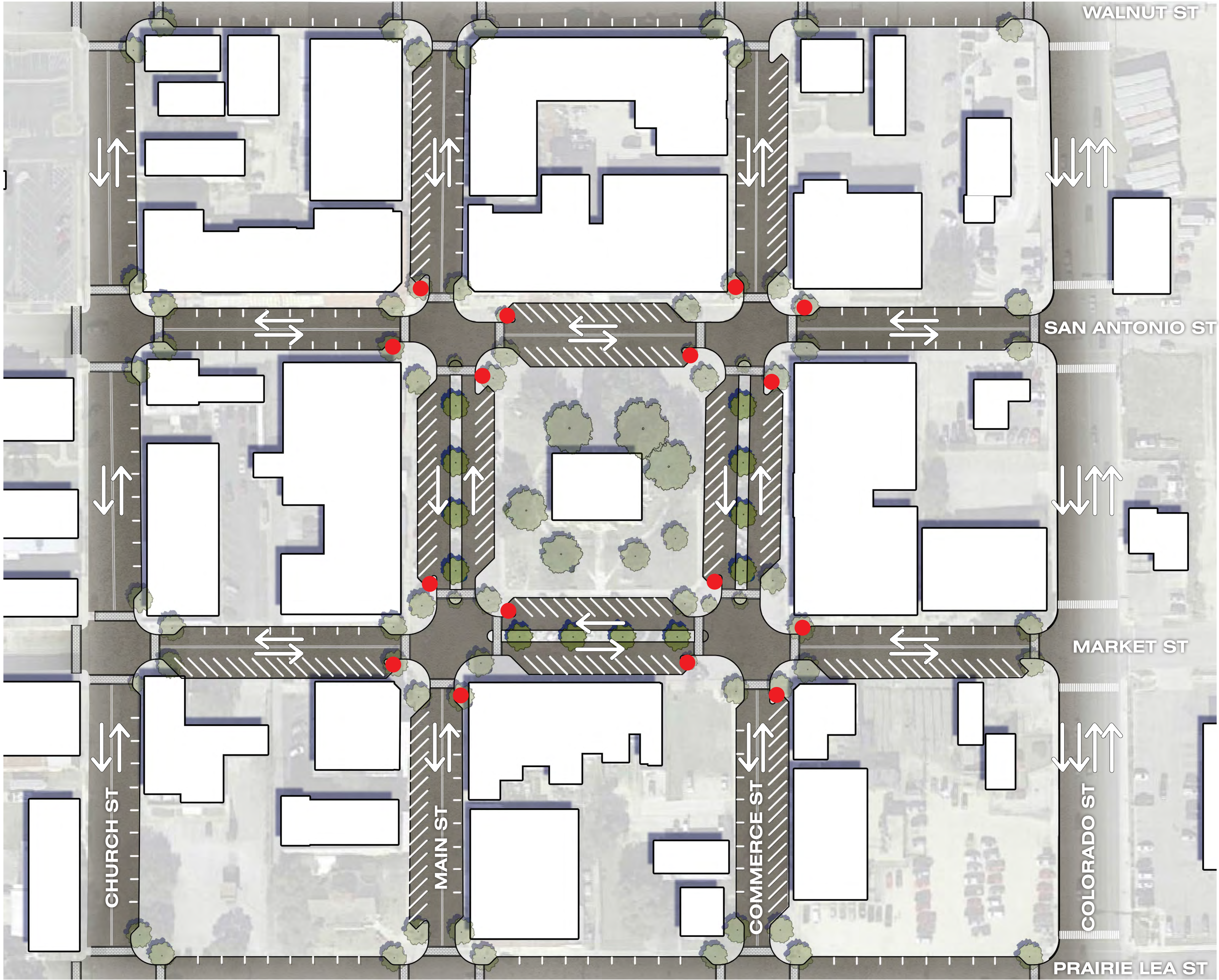


APPENDIX J

OPTION 1A

MAIN POINTS

- TWO-WAY TRAFFIC THROUGHOUT
- FOUR-WAY STOPS
(● = STOP SIGN)
- **LOSE 15 PARKING SPACES**
- PRESERVE ALL MEDIAN TREES
- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE



APPENDIX K

**OPINION OF PROBABLE
CONSTRUCTION COSTS**

Engineer's Opinion of Probable Construction Costs

	Description	UNITS	Total	Unit Price	Subtotal
Storm Sewer Improvements	Remove 36" CMP	LF	60	\$60.00	\$3,600.00
	Remove 24" RCP	LF	180	\$60.00	\$10,800.00
	Remove 12" CMP	LF	70	\$60.00	\$4,200.00
	Remove Grate Inlet	EA	1	\$60.00	\$60.00
	Install Standard 10' Curb Inlet	EA	16	\$5,200.00	\$83,200.00
	Install Standard 5' Curb Inlet	EA	7	\$4,650.00	\$32,550.00
	Gate Inlet	EA	3	\$4,000.00	\$12,000.00
	Junction Box	EA	6	\$4,650.00	\$27,900.00
	Install 30" RCP	LF	840	\$180.00	\$151,200.00
	Install 24" RCP	LF	2,540	\$175.00	\$444,500.00
	Install 18" RCP	LF	1,180	\$165.00	\$194,700.00
	OSHA Trench Protection	LF	4,550	\$2.50	\$11,375.00
	Street Repair	LF	4,550	\$35.00	\$159,250.00
Storm Sewer Improvements Total =					\$1,135,335.00
Water Main Improvements	Install 8" Water Main	LF	3,120	\$72.00	\$224,640.00
	Connect to Ex 8"	EA	7	\$4,000.00	\$28,000.00
	Connect to Ex 2"	EA	2	\$3,000.00	\$6,000.00
	Fire Hydrant	EA	13	\$5,365.00	\$69,745.00
	Install 8" Gate Valve	EA	8	\$3,300.00	\$26,400.00
	Fittings	TON	10	\$9,500.00	\$95,000.00
	2" Water Services	EA	81	\$2,500.00	\$202,500.00
	3/4" Water Services	EA	12	\$2,300.00	\$27,600.00
	Remove Fire Hydrant	EA	13	\$1,150.00	\$14,950.00
	OSHA Trench Protection	LF	3,120	\$2.50	\$7,800.00
	Street Repair	LF	2,834	\$35.00	\$99,190.00
Water Main Improvements Total =					\$801,825.00
Wastewater Improvements	8" Sanitary Sewer	LF	3,300	\$115.00	\$379,500.00
	Manhole	EA	21	\$5,610.00	\$117,810.00
	Connect to Existing 6"	EA	2	\$1,500.00	\$3,000.00
	Connect to Existing Manhole	EA	4	\$5,000.00	\$20,000.00
	Cleanout	EA	2	\$1,000.00	\$2,000.00
	4" Sewer Services	EA	79	\$2,950.00	\$233,050.00
	OSHA Trench Protection	LF	3,300	\$2.50	\$8,250.00
	Street Repair	LF	3,300	\$35.00	\$115,500.00
Sanitary Sewer Improvements Total =					\$879,110.00
Street Improvements	3" Mill and Overlay 90' wide (courthouse)	LF	833	\$320.00	\$266,560.00
	3" Mill and Overlay 50' wide	LF	4,855	\$180.00	\$873,900.00
	Main Street Reconstruction 55' wide	LF	498	\$500.00	\$249,000.00
	Cross walk Pavers	SF	4,479	\$30.00	\$134,370.00
	Adjust Manhole Tops	EA	19	\$1,800.00	\$34,200.00
	Adjust Water Valves	EA	40	\$1,170.00	\$46,800.00
	Storm Water Pollution Plan	LS	1	\$15,000.00	\$15,000.00
Street Improvements Total =					\$1,619,830.00
Landscape Improvements	Sidewalks	SF	35,000	\$8.00	\$280,000.00
	Pavers	SF	10,500	\$25.00	\$262,500.00
	Special Paving	SF	34,000	\$11.00	\$374,000.00
	Planting	SF	30,000	\$14.50	\$435,000.00
	Lighting (Intersection & Pedestrian)	LS	1	\$500,000.00	\$500,000.00
	Irrigation	LS	1	\$120,000.00	\$120,000.00
Landscape Improvements Total =					\$1,971,500.00

Construction Cost = \$6,407,600.00
 Contingencies (15%) = \$962,000.00
 Design (18%) = \$1,154,000.00
PROJECT COST = \$8,523,600.00
 Class 4 Low End (-30%) \$5,966,520.00
 Class 4 High End (+50%) \$12,785,400.00

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss Resolution 2022-22 for an economic development performance agreement with Mill Scale, LLC.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION:

Attached is the resolution and performance agreement offering incentives for Mill Scale, LLC to move its operations to the City of Lockhart.

Mill Scale creates custom smokers worthy of heirloom status. Co-owners and brothers Matt and Caleb Johnson are producing work so far beyond the smoker available at a retail big box store. Whether it's a 94-gallon backyard model, a smaller yakitori grill, or a thousand-gallon pit meant for the largest of commercial operations, the steel coming out of Mill Scale is the highest quality BBQ pit one can purchase.

Mill Scale intends to purchase 1.3 acres immediately north of Kreuz Market to establish a new manufacturing facility and retail store front. The move places the company within the city limits of Lockhart for the first time and will generate new property and sales taxes from the new operation.

The attached performance agreement would provide up to a \$50,000 rebate for an electric transformer and a 5-year LEDC sales tax rebate of 50%. The sales tax rebate is only applicable to LEDC's 0.5% sales tax on what Mill Scale remits to the City in annual sales taxes estimated to total \$25,000 over the 5-year term. The EDPA requires Mill Scale to invest at least \$1.5 million into the project and hire and maintain 15 jobs over the first 3 years for the duration of the term.

PROJECT SCHEDULE (if applicable): Company would begin the project within the next 60 days.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$50,000

Account Number: 800-5199-704-11

Funds Available: 0

Account Name: Economic Development - Mill Scale

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): A budget amendment will be required to add funds to cover costs associated with the reimbursement of an electrical transformer for the current fiscal year. Sales tax rebate will be budgeted over the next five years in the Lockhart Economic Development budget.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The LEDC Board will consider this item at its March 14, 2022 regular board meeting.

STAFF RECOMMENDATION/REQUESTED MOTION: Move to adopt Resolution 2022-22 approving an Economic Development Performance Agreement with Mill Scale, LLC as presented.

LIST OF SUPPORTING DOCUMENTS: City Resolution 2022-22 Mill Scale, Mill Scale LEDC Performance Agreement Final, LEDC Resolution 2022-05 Mill Scale EDPA, LEDC March 2022 Minutes

RESOLUTION NO. 2022-22

A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH MILL SCALE, LLC TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$50,000 TO MILL SCALE, LLC FOR REIMBURSEMENT OF ELECTRIC TRANSFORMER AND A 50% REBATE OF EDC SALES TAXES COLLECTED BY MILL SCALE, LLC OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart (“City”) is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Mill Scale, LLC (Mill Scale) will engage in a project whereby it will make a capital investment of \$1,500,000 to construct a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$50,000 to reimburse Mill Scale Metalworks, LLC for the cost of an electrical transformer; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Mill Scale an amount of money each year equal to a percentage of the amount of LEDC’s one half of one percent (1/2%) sales tax collected and remitted by Mill Scale during each year for a term of 5 years.

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

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and Mill Scale Metalworks, LLC, a copy of which Agreement is attached hereto as Exhibit “A,” which is incorporated herein for all purposes.

Approved and adopted on this, the 14th day of March 2022.

City of Lockhart, Texas

Lew White, Mayor

Attest:

Approved as to form:

Connie Constancio, City Secretary

Monte Akers, City Attorney

“Exhibit A”

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This Economic Development Performance Agreement (“Agreement”) is made and entered into by and between THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION OF LOCKHART, TEXAS (“LEDC”), a Type B Economic Development Corporation, and Mill Scale, LLC. (“MILL SCALE”) a Texas limited liability company.

RECITALS

WHEREAS, Mill Scale, LLC. desires to construct a facility and conduct business operations in the City of Lockhart, Texas (“City”) and to participate in the Economic Development Program established in this Agreement; and

WHEREAS, LEDC desires to establish this Economic Development Program and to offer incentives to Mill Scale to locate such business in the City; and

WHEREAS, the LEDC is authorized to promote state and local economic development and to stimulate business and commercial activity within the City, and LEDC has determined that substantial economic benefits, including the bringing of new primary jobs to the City, an increase in the City’s tax rolls, and the creation of new opportunities for local employment, will accrue to the City and the surrounding area, if such business is successfully developed on such property; and

WHEREAS, LEDC and Mill Scale desire to enter into this Agreement in order to comply with Sec. 501.158, Texas Local Government Code, which requires an economic development corporation, in order to offer incentives or make expenditures on behalf of a business enterprise under a project, to enter into a performance agreement that addresses a schedule of jobs created or retained, capital investment to be made, direct incentives provided, and the terms under which repayment shall be made in the event a business enterprise does not meet the requirements specified in the Agreement;

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LEDC and Mill Scale agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein by reference as if fully set forth in their entirety.

Section 2: Definitions

- (a) "Building" or "Facility" shall mean the building to be constructed by MILL SCALE on the Property and in which it will operate its business.
- (b) "Effective Date" shall mean the date that both parties have executed this Agreement.
- (c) "Full Time Equivalent Job" ("FTE Job") shall mean a permanent, full time equivalent employment position that meets the definition of a "Primary Job" pursuant to Sec. 501.002(12), Texas Local Government Code. Two part-time jobs, but no more than two, may be counted as one FTE Job for the purposes of this Agreement.
- (d) "Property" shall mean 1.3 acres, more or less, and described as BARCLAY ADDN, BLOCK 1, LOT 1-A, ACRES 1.363 (the address of which is 711 N. Colorado Street, Lockhart, Texas 78644) in Caldwell County, Texas.

Section 3: Term

The term of this Agreement shall be five (5) years, commencing on the effective date of this Agreement, and terminating at midnight on the day immediately preceding the fifth anniversary of the effective date.

Section 4. Mill Scale Requirements

In consideration of the financial incentives described and offered by LEDC pursuant to this Agreement, Mill Scale agrees:

- (a) To, directly and/or through one or more of its affiliates, make a capital investment of one million five-hundred thousand dollars (\$1,500,000.00) in the Project.
- (b) To cause the Facility to be constructed and to notify LEDC in writing when it has received a Certificate of Occupancy from the City of Lockhart for the Facility and specifying the date that MILL SCALE and/or one or more of its affiliates will move into the Facility and begin operation therein.
- (c) To move into the Facility and/or cause one or more of its affiliates to move into the Facility and commence operations by June 30, 2023.
- (d) Other than due to a Business Interruption Exception, to create and fill and/or cause the creation and filling of at least fifteen (15) Full Time Equivalent Jobs positions at the Facility at following rate:
 - By end of calendar year 2023: a total of 9 FTE jobs positions
 - By end of calendar year 2024: a total of 12 FTE jobs positions
 - By end of calendar year 2025: a total of 15 FTE jobs positions.
 (Such persons may work in shifts and shall not be required to all be at the Facility at the same time)

- (e) To continue business operations at the Facility (or at such other location in the City approved by the LEDC) throughout the term of this Agreement.
- (f) To maintain at least fifteen (15) Full Time Equivalent Jobs starting January 1, 2026 throughout the remainder of this Agreement.
- (g) To keep current (after notice and thirty (30) days' opportunity to cure) in the payment of taxes owed by MILL SCALE to any taxing jurisdiction having jurisdiction in connection with its operations in Lockhart.
- (h) To provide payroll records to LEDC annually showing compliance with Section 4(d) as well as Employment and Payroll Certification during the term of this Agreement.
- (i) To meet all requirements of this Agreement and to comply with all applicable City of Lockhart ordinances, state and federal law, and related requirements during the term of this Agreement.

Section 5. LEDC Requirements

In consideration of MILL SCALE's agreement to locate its business within the City and to perform the other acts described herein, LEDC agrees it will:

- i) Reimburse MILL SCALE not to exceed fifty thousand dollars (\$50,000.00) for an electric transformer, to be paid to MILL SCALE no later than thirty (30) days following LEDC's receipt of satisfactory written documentation of MILL SCALE's satisfactory purchase and installation of electrical infrastructure.
- ii) Rebate to Mill Scale an amount of money each year equal to a percentage of the amount of LEDC's one half of one percent (1/2%) sales tax collected and remitted by MILL SCALE during that year, to be paid to MILL SCALE no later than thirty (30) days after the end of each calendar year, according to the following schedule:
 - (1) Year 1: 50%
 - (2) Year 2: 50%
 - (3) Year 3: 50%
 - (4) Year 4: 50%
 - (5) Year 5: 50%

Section 6. Recapture/Termination

- (a) In the event that MILL SCALE and/or one or more of its affiliates begins operating its business, but subsequently discontinues operating its business in Lockhart for any reason except as a result of fire, explosion, or other casualty or accident, force majeure or other natural disaster, war or civil unrest, a taking under eminent domain, regulatory restrictions of any applicable governmental entity which makes conduct of the MILL SCALE illegal or economically untenable, or other event beyond the reasonable control of MILL SCALE (the "Business Interruption Exceptions") for a period of more

than one hundred eighty (180) days during the term of this Agreement, then in such event MILL SCALE shall be required to repay to LEDC any and all monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of such period. The burden shall be upon MILL SCALE to prove to the satisfaction of the LEDC that the discontinuance of operating its business was a result of one of the Business Interruption Exceptions. In the event that following the occurrence of a Business Interruption Exception which may reasonably be cured within one (1) year of the cessation of business operations, then should MILL SCALE fail to resume business operations within one (1) year of the date of discontinuance of operations, MILL SCALE shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of the one (1) year period.

- (b) In the event that MILL SCALE allows ad valorem taxes owed to the City of Lockhart, Texas on the Property, or its business personal property or inventory to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest (after notice and thirty (30) days' opportunity to cure), MILL SCALE shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following such event.

Section 7. Dispute Resolution, Applicable Law, Venue, and Attorney's Fees

(a) In the event of any controversy or claim arising out of or relating to this Agreement or the breach of this Agreement, the parties shall attempt in good faith to resolve the same by good faith mediation before a mediator mutually agreed to by the parties. LEDC and MILL SCALE expressly waive any statutory or other legal requirements that may exist for serving notices or engaging in alternative dispute resolution prior to doing so.

(b) In the event that the claim or controversy is not settled by mediation or any other alternative dispute resolution method agreed to by the parties, either party may file suit in a court of competent jurisdiction sitting in the State of Texas. Venue shall lie in Caldwell County, Texas. The prevailing party in any litigation arising out of this Agreement shall be entitled to recover its reasonable and necessary costs and attorney's fees from the non-prevailing party pursuant to applicable law.

Section 8. Entire Agreement

This Agreement, when executed, contains the entire agreement between the LEDC and Mill Scale with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the LEDC and Mill Scale.

Section 9. Successors and Assigns

This Agreement may not be assigned to any third party by MILL SCALE without the written consent of LEDC. In the event of such assignment or in the event of legal

succession of MILL SCALE's interest in this Agreement by operation of law, this Agreement shall be binding on and inure to the benefit of such assign or successor.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

Mill Scale,LLC:

Mill Scale, LLC.
Attn: Matthew Johnson
P.O. Box 1064
Lockhart, TX 78644

With a copy to:

Stibbs & Co., P.C.
819 Crossbridge Drive
Spring, TX 77373
Attn: Stuart W. Lapp

Lockhart Economic Development Corporation:

Lockhart Economic Development Corporation
Attn: Executive Director
308 W. San Antonio
P.O. Box 239
Lockhart, TX 78644

Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 13. Mutual Assistance

LEDC and Mill Scale agree to do all things reasonably necessary and appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION:

Steve Lewis, President

ATTEST:

Michael Kamerlander, LEDC Secretary

Mill Scale, LLC. :

Matthew Johnson, Manager

RESOLUTION NO. 2022-05

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH MILL SCALE, LLC TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$50,000 TO MILL SCALE, LLC FOR REIMBURSEMENT OF ELECTRIC TRANSFORMER AND A 50% REBATE OF EDC SALES TAXES COLLECTED BY MILL SCALE, LLC OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart ("City") is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Mill Scale, LLC (Mill Scale) will engage in a project whereby it will make a capital investment of \$1,500,000 to construct a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$50,000 to reimburse Mill Scale Metalworks, LLC for the cost of an electrical transformer; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Mill Scale an amount of money each year equal to a percentage of the amount of LEDC's one half of one percent (1/2%) sales tax collected and remitted by Mill Scale during each year for a term of 5 years.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION, that:

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and Mill Scale Metalworks, LLC, a copy of which Agreement is attached hereto as Exhibit "A," which is incorporated herein for all purposes.

Approved and adopted on this, the 14th day of March 2022.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION



Alan Fielder, Chairman

Attest:



Michael Kamerlander, Board Secretary

Approved as to form:



Monte Akers, Board Attorney

MINUTES
LOCKHART ECONOMIC DEVELOPMENT CORPORATION

MONDAY, MARCH 14, 2022
6:00 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS
217 SOUTH MAIN STREET, 3RD FLOOR
LOCKHART, TEXAS

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Sally Daniel; Doug Foster; Frank Estrada; Juan Alvarez (6:31 pm); David Bryant (6:29 pm)

Board Members Absent: None

Staff Present: Mike Kamerlander; Pam Larison, Treasurer; Nicole Warren, LEDC Attorney

1. CALL TO ORDER

The meeting was called to order by Alan Fielder, Chairman at 6:01 pm

2. PUBLIC HEARING - 6:00 PM

2.1 Hold a public hearing regarding a performance agreement with Mill Scale, LLC pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:01 PM
No public present.

Closed: 6:02 PM

2.2 Hold a public hearing regarding a performance agreement with Good Things Lockhart, LLC for a Big Grant pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:02 PM
No public present.

Closed: 6:03 PM

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the February 14, 2022 meeting.

No Discussion.

Motion to approve the minutes from the February 14, 2022 meeting.

Motion: Alfredo Muñoz Second: Sally Daniel

Vote: 6 of 6

4.2 Discussion and/or action regarding sales tax and financial statements for February 2022.

Ms. Larison provided an overview of the financials from the month with no significant issues to report. Sales tax revenues continue to grow, albeit at a slower rate. Revenues continue to trend higher than budget and expenses are on track. Ms. Larison also provided the balance for the Southside Bank loan and the board discussed paying that loan off.

Motion to pay off the remaining balance of the Southside Bank Loan with fund balance.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

Motion to approve the February 2022 financial statements.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION (LEDC)
MINUTES
Monday, March 14, 2022 - 6:00 P.M.
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Motion: Doug Foster

Second: Sally Daniel

Vote: 6 of 6

4.3 Discussion and/or action regarding LEDC Resolution 2022-05 for an economic development performance agreement with Mill Scale, LLC.

Directors an economic development performance agreement to offer incentives to Mill Scale, LLC to establish a new manufacturing facility and storefront in Lockhart. The agreement provides a 5-year sales tax rebate and a \$50,000 reimbursement to the company for electrical transformer.

Motion to approve LEDC Resolution 2022-05 for an economic development performance agreement with Mill Scale, LLC.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

4.4 Discussion and/or action regarding LEDC Resolution 2022-06 for an economic development performance agreement with Good Things Lockhart, LLC for a BIG Grant.

Motion to approve LEDC Resolution 2022-06 for an economic development performance agreement with Good Things Lockhart, LLC for a BIG Grant.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 6 of 6

4.5 Discussion and/or action regarding a property sale agreement for 11.82 acres in Lockhart Industrial Park III with Titan Development.

Due to the right of first refusal with Titan Development, the company has exercised its right to purchase this tract in Industrial Park III. Terms were discussed as part of the agenda packet.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

4.6 Discussion and/or action regarding Resolution 2022-07 to accept a \$1.86 million grant from the U.S. Economic Development Administration for wastewater improvements within the City of Lockhart; providing \$420,000 in matching funds; and providing an effective date.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 6 of 6

5. Executive Session – In: 6:27 PM Out: 7:01 PM

5.1 Close Open Session and Convene Executive Session pursuant to Secs. 551.071 (consultation with attorney), 551.072 (real estate) and 551.087 (Economic Development) of the Texas Open Meetings Act. Gov't Code Ch. 551, to discuss the following:

BBQ
Harrison
Summertime
Rose
Revive

6. Board Action from Executive Session

6.1 Motion to extend an offer of incentives to Project Summertime as discussed in executive session.

Motion: Doug Foster

Second: Juan Alvarez

Vote: 7 of 7

6.2 Motion to accept the LOI terms for Project Rose and direct staff to negotiate a purchase sale agreement as discussed in executive session.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION (LEDC)

MINUTES

Monday, March 14, 2022 - 6:00 P.M.

Page 2 of 3

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 7 of 7

6.3 Motion to extend an offer of incentives to Project Revive as discussed in executive session.

Motion: Doug Foster

Second: Sally Daniel

Vote: 7 of 7

7. DISCUSSION ONLY

7.1 Activity Updates

Mr. Kamerlander gave an update on the LEDC Staff activities for February 2022.

ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 7 of 7

LEDC Board of Directors Adjourned at 7:16 PM.

Minutes approved this the 11th day of April, 2022.


Alan Fielder, Chairman LEDC


Michael Kamerlander, Secretary LEDC

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss Chapter 380 agreement with Mill Scale, LLC. to provide incentives for economic development.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

Attached is the Chapter 380 agreement offering incentives for Mill Scale, LLC to move its operations to the City of Lockhart.

Mill Scale creates custom smokers worthy of heirloom status. Co-owners and brothers Matt and Caleb Johnson are producing work so far beyond the smoker available at a retail big box store. Whether it's a 94-gallon backyard model, a smaller yakitori grill, or a thousand-gallon pit meant for the largest of commercial operations, the steel coming out of Mill Scale is the highest quality BBQ pit one can purchase.

Mill Scale intends to purchase 1.3 acres immediately north of Kreuz Market to establish a new manufacturing facility and retail store front. The move places the company within the city limits of Lockhart for the first time and will generate new property and sales taxes from the new operation.

The attached 380 agreement would provide a 3-year real and personal property tax rebate that starts at 100% in year 1 and drops to 50% in year 3. The agreement requires Mill Scale to invest at least \$1.5 million into the project and hire and maintain 15 jobs over the first 3 years for the duration of the term.

PROJECT SCHEDULE (if applicable): Construction to begin in 2022.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): This 380 Agreement with Mill Scale, LLC. will not affect the current budget. However, in 2023-2024, the City will need to budget expenses from this agreement in the City's General Fund for a 100% rebate on real and personal property.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: I move to approve the Chapter 380 Agreement with Mill Scale, LLC.

LIST OF SUPPORTING DOCUMENTS: Mill Scale 380 agreement Final

CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This Chapter 380 Economic Development Program Agreement (“Agreement”) is made and entered into by and between THE CITY OF LOCKHART, TEXAS (“City”), a Texas home-rule municipal corporation, and MILL SCALE, LLC (“Company”).

RECITALS

Pursuant to Chapter 380, Texas Local Government Code, City is authorized to establish a program, including the making of loans and grants of public money, to promote state or local economic development and to stimulate business and commercial activity within the City.

Company desires to purchase land, construct a 10,000 square foot facility in the City, bring jobs to the City, and participate in the Economic Development Program established in this Agreement.

Company intends to make a total investment of one-million, five-hundred thousand dollars (\$1,500,000.00) in equipment, personal property, inventory, real property, and improvements to real property over the period of this Agreement.

City has determined that a substantial economic benefit and the creation of new opportunities of employment will accrue to the City and the surrounding area if a facility is successfully developed on the Property.

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Company agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein for all purposes

Section 2. Chapter 380 Program and Consideration

The City finds and the parties hereto agree that the program established by this Agreement will promote state and local economic development and will stimulate business and commercial activity in the City of Lockhart. City and Company enter into this Agreement in consideration of such economic development and stimulation of business and commercial activity as well as the mutual covenants contained herein.

Section 3. Term

This Agreement shall have a term of three (3) years, commencing on January 1 of the calendar year following Company's completion of construction and securing of a Certificate of Occupancy from the City and terminating at midnight on the third anniversary of that date unless sooner terminated as provided herein. For example, if construction is completed and a Certificate of Occupancy obtained in 2023, Year One of this agreement will commence on January 1, 2024.

Section 4. COMPANY Requirements

Company agrees:

- (a) To acquire sufficient land in the City of Lockhart, estimated to be 1 and three hundred-sixty-three thousandths (1.363) acres, ("the Property") that will be suitable for the construction of a facility for the manufacture of frozen dessert manufacturing, and for the operation of Company activities thereon ("the Facility").
- (b) Construct the Facility on the Property of at least 10,000 square feet and with other improvements, including equipment, with a project budget of approximately one-million, five-hundred thousand dollars (\$1,500,000.00) in capital investment, provided that Company shall be entitled to revise the budget as a result of, among other things, savings realized by value engineering, reduction of costs in building materials, equipment, labor and other components of the Facility, and substitution of individual facility components.
- (c) Submit schematic drawings for the Facility to the City of Lockhart within one hundred twenty (120) days of execution of closing on the Property, and to and thereafter commence construction of the Facility within one hundred twenty (120) days after the City's approval of the construction plans and issuance of a building permit for the Facility.
- (d) Complete construction of the Facility and obtain a Certificate of Occupancy from the City within eighteen (18) months after the issuance of the aforesaid building permit.
- (e) Employ a minimum of fifteen (15) Full Time Equivalent ("FTE") employees within the first three (3) years from the commencement of the term of this Agreement.
- (f) Company shall provide the City with proof of employment of employees by submitting copies of payroll records and federal employment tax forms or other documentation satisfactory to the City, which shall be provided within thirty (30) days of the end of each year of the term of this Agreement.

Retain at least that number of FTE employees until the end of the term of this Agreement.

The term "Full Time Equivalent," as used in this Agreement, shall mean employment during a calendar year that is equal to a total of at least 1,820 hours including hours associated with holidays, vacation, sick and personal time, and overtime. No more than two employees whose annual hours of employment are less than 1,820 hours, but whose combined time equals or exceeds that number of hours, may be counted as one FTE employee.

- (g) Keep current in the payment of taxes owed for the Facility to any taxing jurisdiction in which the Facility is located unless such taxes are being legally contested by Company.

Section 5. City Requirements

- (a) In consideration of Company's agreement to perform the acts described above, City agrees to provide an annual grant to Company in an amount of money equal to a percentage of the annual City of Lockhart ad valorem taxes paid by Company on real and personal property based solely on any improvements to the real property ("increment") for that year and actually collected by the City.

- (b)) The amount of each annual grant to be paid to Company by the City shall be calculated as follows:

For Year one: one-hundred percent (100%) of the increment attributable to that year and paid to the City;

For Year two: seventy-five percent (75%) of the increment attributable to that year and paid to the City;

For Year three: fifty percent (50%) of the increment attributable to that year and paid to the City;

After such three-year period, all tax reimbursement grants by the City shall cease.

- (c) City shall pay Company the applicable amount of each annual grant, following Company's payment of ad valorem taxes for that year, on or before March 31 of the calendar year following such payment.

Section 6. Recapture/Termination

In the event that Company begins operating the Facility on the Property, but subsequently discontinues operating such facility for any reason, excepting fire,

explosion or other casualty or accident or natural disaster or other event beyond the reasonable control of Company for a period of 180 days during the term of this Agreement, then in such event the City will no longer be obligated to expend any further funds for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this Agreement within 30 days of the expiration of the 180 days. The burden shall be upon Company to prove to the satisfaction of the City that the discontinuance of operating the distribution facility was as a result of fire, explosion, or other casualty or accident or natural disaster or other event beyond the control of Company. In the event Company meets this burden and the City is satisfied that the discontinuance of the operation of the distribution facility was the result of events beyond the control of Company, then Company shall have a period of one (1) year in which to resume the operation of the distribution facility. In the event that Company fails to resume the operation of a distribution facility within one (1) year, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the expiration of the one year period.

In the event that Company allows ad valorem taxes on property, or business personal property, or inventory not subject to tax waiver owed to the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of such event.

In the event that Company relocates the business to a location outside of the City of Lockhart, then in such event, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the relocation.

In the event that the City determines that Company is in default of any of the terms or conditions contained in this Agreement, then in such event the City shall give Company thirty (30) days written notice to cure such default. Except as provided in Section 4(b) herein, in the event such default is not cured to the satisfaction of the City within the thirty (30) days notice period, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 3 of this agreement within 30 days of the default.

In the event that Company shall fail to repay the City within 30 days of the date such repayment is due under any provision of this Section 6, Company hereby agrees that the City may place a lien on Property belonging to Company and located in Caldwell County, Texas for full payment of such monies.

Section 7. Certification of Compliance by Company

On or before March 1 of each year that this Agreement is in effect, Company shall certify in writing to the City its compliance with all provisions of this Agreement. Such certification shall include any and all documentation required by the City establishing that Company has met the annual employment requirement for the previous year and that all taxes related to the Property have been paid in full as required by law. The City, at any reasonable time, shall have the right to review any and all records of Company related to the provisions of this Agreement.

Section 8. Entire Agreement

This Agreement contains the entire agreement between the City and Company with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the City and Company.

Section 9. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. Company may assign its rights and obligations under this agreement only upon prior written approval of the City, which approval shall not be unreasonably withheld or delayed.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

COMPANY:	Matthew Johnson Mill Scale, LLC P.O. Box 1064 Lockhart, TX 78644
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City:	City Manager, City of Lockhart P.O. Box 239 Lockhart, Texas 78644
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Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Applicable Law

This Agreement is made and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Caldwell County, Texas.

Section 13. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 14. Mutual Assistance

City and Company agree to do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE CITY OF LOCKHART

ATTEST:

Lew White, Mayor

Connie Constancio, City Secretary

MILL SCALE, LLC

Matthew Johnson, Manager

State of Texas)(

)(

County of Caldwell)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Lew White, known to me to be the Mayor of the City of Lockhart, Texas.

Notary Public

My Commission expires:

State of _____)(

)(

County of _____)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Brice Mills known to me to be the Manager of Mill Scale, LLC

Notary Public

My Commission expires:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss Resolution 2022-23 for an economic development performance agreement with Revival Cycles, Inc.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION:

Revival Cycles is an Austin-based custom motorcycle manufacturing company and retailer of motorcycle apparel, accessories, and art. The company has been in Austin for over 15 years and has been on numerous TV shows and works with some of the top motorcycle manufacturers in the world like BMW, Harley Davidson, and Ducati.

Revival is considering moving its entire operations from Austin to Lockhart with the purchase of the Masur building at the corner of Church Street and W. San Antonio. The company would occupy the entire space as its corporate headquarters and upgrade the building. The company would create up to 50 jobs in Lockhart in addition to the added value to the building. Additionally, the company would generate a large amount of sales taxes since the space would encompass a retail component and serve as the nexus of sale for all online sales. Some building improvements of note:

1. 3-phase power added to the rear of the building (amperage TBD)
2. Bringing fire escape up to a working standard.
3. Remove the two power poles from the side and front of the building
4. Upgrade energy efficiency through HVAC and window replacement

The performance agreement before the board provides the following incentives in exchange for the investment and job creation.

1. \$250,000 rebate grant to assist with upgrades throughout the building. The deal points are to close on the building, with an investment to upgrade components and install fire suppression, elevator, new windows, etc., effectively using BIG Grant qualified expenses, but larger since this is a job creator and sales tax generator.

2.LEDC portion of sales tax rebate of 5 years at the following schedule:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

1. Year 1: 75%
2. Year 2: 75%
3. Year 3: 50%
4. Year 4: 50%
5. Year 5: 50%

PROJECT SCHEDULE (if applicable): The company will begin renovations as soon as they can get them permitted by the City and plan to finish the construction quickly.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$250,000

Account Number: 800-5199-704-10

Funds Available: 0

Account Name: Economic Development - Revival Cycles

FISCAL NOTE (if applicable): A budget amendment will need to be approved if rebate for expenses is to occur in the current fiscal year. Sales tax rebates will be budgeted in the Lockhart Economic Development budget over the next four years.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The Board of Directors for the LEDC passed LEDC Resolution 2022-08 unanimously at its April 11, 2022 regular board meeting.

STAFF RECOMMENDATION/REQUESTED MOTION: Approve Resolution 2022-23 with Revival Cycles, Inc.

LIST OF SUPPORTING DOCUMENTS: City Resolution 2022-23, Revival Cycle LEDC Performance Agreement, LEDC Draft Minutes 4.11.22, LEDC Resolution 2022-08

RESOLUTION NO. 2022-23

A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH REVIVAL CYCLES, INC. TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$250,000 TO REVIVAL CYCLES INC. FOR REIMBURSEMENT BUILDING RENOVATIONS INCLUDING BUT NOT LIMITED TO WINDOW REPLACEMENTS, LIFE SAFETY EQUIPMENT, AND ELECTRICAL WORK AND UPGRADES AND A REBATE OF EDC SALES TAXES COLLECTED BY REVIVAL CYCLES INC. OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart (“City”) is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Revival Cycle (Revival) will engage in a project whereby it will make a capital investment of \$3,000,000 to renovate a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$250,000 to reimburse Revival for the cost of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Revival an amount of money each year equal to a percentage of the amount of LEDC’s one half of one percent (1/2%) sales tax collected and remitted by Revival during each year for a term of 5 years.

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

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The City Council of Lockhart, Texas hereby approves the EDPA between the LEDC and Revival Cycles, a copy of which Agreement is attached hereto as Exhibit “A,” which is incorporated herein for all purposes.

Approved and adopted on this, the ____ day of April 2022.

City of Lockhart, Texas

Lew White, Mayor

Attest:

Approved as to form:

Connie Constancio, City Secretary

Monte Akers, City Attorney

“Exhibit A”

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This Economic Development Performance Agreement (“Agreement”) is made and entered into by and between THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION OF LOCKHART, TEXAS (“LEDC”), a Type B Economic Development Corporation, and Revival Cycles Inc. (“REVIVAL”).

RECITALS

WHEREAS, Revival Cycles desires to construct a facility and conduct business operations in the City of Lockhart, Texas (“City”) and to participate in the Economic Development Program established in this Agreement; and

WHEREAS, LEDC desires to establish this Economic Development Program and to offer incentives to Revival to locate such business in the City; and

WHEREAS, the LEDC is authorized to promote state and local economic development and to stimulate business and commercial activity within the City, and LEDC has determined that substantial economic benefits, including the bringing of new primary jobs to the City, an increase in the City’s tax rolls, and the creation of new opportunities for local employment, will accrue to the City and the surrounding area, if such business is successfully developed on such property; and

WHEREAS, LEDC and Revival desire to enter into this Agreement in order to comply with Sec. 501.158, Texas Local Government Code, which requires an economic development corporation, in order to offer incentives or make expenditures on behalf of a business enterprise under a project, to enter into a performance agreement that addresses a schedule of jobs created or retained, capital investment to be made, direct incentives provided, and the terms under which repayment shall be made in the event a business enterprise does not meet the requirements specified in the Agreement;

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LEDC and Revival agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein by reference as if fully set forth in their entirety.

Section 2: Definitions

- (a) "Building" or "Facility" shall mean the building to be occupied by REVIVAL on the Property and in which it will operate its business.
- (b) "Effective Date" shall mean the date that both parties have executed this Agreement.
- (c) "Full Time Equivalent Job" ("FTE Job") shall mean a permanent, full time equivalent employment position that meets the definition of a "Primary Job" pursuant to Sec. 501.002(12), Texas Local Government Code. Two part-time jobs, but no more than two, may be counted as one FTE Job for the purposes of this Agreement.
- (d) "Property" shall mean 0.115 acres, more or less, and described as O.T. LOCKHART, BLOCK 22, LOT PT 1 (the address of which is 119 W. San Antonio Street, Lockhart, Texas 78644) in Caldwell County, Texas.

Section 3: Term

The term of this Agreement shall be five (5) years, commencing on the effective date of this Agreement, and terminating at midnight on the day immediately preceding the fifth anniversary of the effective date.

Section 4. Revival Requirements

In consideration of the financial incentives described and offered by LEDC pursuant to this Agreement, Revival agrees:

- (a) To, directly and/or through one or more of its affiliates, make a capital investment of three-million dollars (\$3,000,000.00) in the Project.
- (b) To cause the Facility to be renovated and to notify LEDC in writing when it has received a Certificate of Occupancy from the City of Lockhart for the Facility and specifying the date that REVIVAL and/or one or more of its affiliates will move into the Facility and begin operation therein.
- (c) To move into the Facility and/or cause one or more of its affiliates to move into the Facility and commence operations by June 30, 2023.
- (d) Other than due to a Business Interruption Exception, to create and fill and/or cause the creation and filling of at least thirty-five (35) Full Time Equivalent Jobs positions at the Facility at following rate:
 - By end of calendar year 2023: a total of 15 FTE jobs positions
 - By end of calendar year 2024: a total of 20 FTE jobs positions
 - By end of calendar year 2025: a total of 25 FTE jobs positions.
 - By end of calendar year 2026: a total of 25 FTE jobs

positions.

By end of calendar year 2027: a total of 35 FTE jobs positions.

(Such persons may work in shifts and shall not be required to all be at the Facility at the same time)

- (e) To continue business operations at the Facility (or at such other location in the City approved by the LEDC) throughout the term of this Agreement.
- (f) To keep current (after notice and thirty (30) days' opportunity to cure) in the payment of taxes owed by REVIVAL to any taxing jurisdiction having jurisdiction in connection with its operations in Lockhart.
- (g) To provide payroll records to LEDC annually showing compliance with Section 4(d) as well as Employment and Payroll Certification during the term of this Agreement.
- (h) To meet all requirements of this Agreement and to comply with all applicable City of Lockhart ordinances, state and federal law, and related requirements during the term of this Agreement.

Section 5. LEDC Requirements

In consideration of REVIVAL's agreement to locate its business within the City and to perform the other acts described herein, LEDC agrees it will:

- i) Reimburse REVIVAL not to exceed two-hundred fifty thousand dollars (\$250,000.00) for building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades, to be paid to REVIVAL no later than thirty (30) days following LEDC's receipt of satisfactory written documentation of REVIVAL's satisfactory purchase and installation of such improvements
- ii) Rebate to Revival an amount of money each year equal to a percentage of the amount of LEDC's one half of one percent (1/2%) sales tax collected and remitted by REVIVAL during that year, to be paid to REVIVAL no later than thirty (30) days after the end of each calendar year, according to the following schedule:
 - (1) Year 1: 75%
 - (2) Year 2: 75%
 - (3) Year 3: 50%
 - (4) Year 4: 50%
 - (5) Year 5: 50%

Section 6. Recapture/Termination

- (a) In the event that REVIVAL and/or one or more of its affiliates begins operating its business, but subsequently discontinues operating its business in Lockhart for any reason except as a result of fire, explosion, or other casualty or accident, force majeure or other natural disaster, war or civil unrest, a

taking under eminent domain, regulatory restrictions of any applicable governmental entity which makes conduct of the REVIVAL illegal or economically untenable, or other event beyond the reasonable control of REVIVAL (the "Business Interruption Exceptions") for a period of more than one hundred eighty (180) days during the term of this Agreement, then in such event REVIVAL shall be required to repay to LEDC any and all monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of such period. The burden shall be upon REVIVAL to prove to the satisfaction of the LEDC that the discontinuance of operating its business was a result of one of the Business Interruption Exceptions. In the event that following the occurrence of a Business Interruption Exception which may reasonably be cured within one (1) year of the cessation of business operations, then should REVIVAL fail to resume business operations within one (1) year of the date of discontinuance of operations, REVIVAL shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of the one (1) year period.

- (b) In the event that REVIVAL allows ad valorem taxes owed to the City of Lockhart, Texas on the Property, or its business personal property or inventory to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest (after notice and thirty (30) days' opportunity to cure), REVIVAL shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following such event.

Section 7. Dispute Resolution, Applicable Law, Venue, and Attorney's Fees

(a) In the event of any controversy or claim arising out of or relating to this Agreement or the breach of this Agreement, the parties shall attempt in good faith to resolve the same by good faith mediation before a mediator mutually agreed to by the parties. LEDC and REVIVAL expressly waive any statutory or other legal requirements that may exist for serving notices or engaging in alternative dispute resolution prior to doing so.

(b) In the event that the claim or controversy is not settled by mediation or any other alternative dispute resolution method agreed to by the parties, either party may file suit in a court of competent jurisdiction sitting in the State of Texas. Venue shall lie in Caldwell County, Texas. The prevailing party in any litigation arising out of this Agreement shall be entitled to recover its reasonable and necessary costs and attorney's fees from the non- prevailing party pursuant to applicable law.

Section 8. Entire Agreement

This Agreement, when executed, contains the entire agreement between the LEDC and Revival with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the LEDC and Revival.

Section 9. Successors and Assigns

This Agreement may not be assigned to any third party by REVIVAL without the written consent of LEDC. In the event of such assignment or in the event of legal succession of REVIVAL's interest in this Agreement by operation of law, this Agreement shall be binding on and inure to the benefit of such assign or successor.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

Revival Cycles Inc.:

Revival Cycles
Attn: Martin Alan Stulberg
P.O. Box 1064
Lockhart, TX 78644

Lockhart Economic Development Corporation:

Lockhart Economic Development Corporation
Attn: Executive Director
308 W. San Antonio
P.O. Box 239
Lockhart, TX 78644

Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 13. Mutual Assistance

LEDC and Revival agree to do all things reasonably necessary and appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION:

Steve Lewis, President

ATTEST:

Michael Kamerlander, LEDC Secretary

Revival Cycles Inc.:

Martin Alan Stulberg, Founder

DRAFT MINUTES
LOCKHART ECONOMIC DEVELOPMENT CORPORATION

MONDAY, APRIL 11, 2022
6:00 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS
217 SOUTH MAIN STREET, 3RD FLOOR
LOCKHART, TEXAS

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Sally Daniel; Doug Foster; Frank Estrada; Juan Alvarez; David Bryant

Board Members Absent: None

Staff Present: Mike Kamerlander; Pam Larison, Treasurer; Nicole Warren, LEDC Attorney

1. CALL TO ORDER

The meeting was called to order by Alan Fielder, Chairman at 6:00 pm

2. PUBLIC HEARING – 6:00 PM

2.1 Hold a public hearing regarding a performance agreement with Revival Cycles, Inc. pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:00 PM

Closed: 6:01 PM

No public present.

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the March 14, 2022 meeting.

No Discussion.

Motion to approve the minutes from the March 14, 2022 meeting.

Motion: Sally Daniel

Second: Alfredo Muñoz

Vote: 7 of 7

4.2 Discussion and/or action regarding sales tax and financial statements for March 2022.

- Audit discussion and suggestions

Ms. Larison provided an overview of the financials from the month with no significant issues to report. Sales tax revenues continue to outpace last year's. Ms. Larison went over the auditor's report which contained nothing unusual in the LEDC's accounting. The accounting firm did suggest LEDC funds be placed in its own bank account separate from the City's funds. The board discussed this at length and provided consensus to move forward with the auditor's recommendation.

Motion to approve the March 2022 financial statements.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 7 of 7

4.3 Discussion and/or action regarding LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

The Economic Development Performance Agreement is to provide a rebate of up to \$250,000 to Revival Cycles, Inc. for reimbursement of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades, and a rebate of EDC sales taxes collected by Revival Cycles, Inc. over a 5-year term.

Motion to approve LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.4 Discussion and/or action regarding a property sale agreement for 19.665 acres in Lockhart Industrial Park III with Titan Development.

Due to the right of first refusal with Titan Development, the company has exercised its right to purchase this tract in Industrial Park III. Terms were discussed as part of the agenda packet.

Motion to to Authorize the LEDC President to execute a purchase sale agreement for 19.665 acres in Lockhart Industrial Park III.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.5 Discussion and/or action regarding a property sale agreement for 6.788 acres in Lockhart Industrial Park III with Ziegenfelder Company.

Motion: Doug Foster Second: Alfredo Muñoz Vote: 7 of 7

4.6 Discussion and/or action regarding phase 2 of Lockhart Industrial Park III.

Staff reviewed the current state of Lockhart Industrial Park III and went over the need to begin phase II of the park due to contracting with business entities for land in phase II. Staff went over the possibility of cash flow lagging sales and that the EDC would need to cover those costs until the land sales closed which are all expected by the end of the year.

Motion: Doug Foster Second: Sally Daniel Vote: 7 of 7

4.7 Discussion and/or action regarding authorization of a Memorandum of Understanding between LEDC and the Greater San Marcos Partnership for the Fiscal Year 2021-22.

Staff reviewed the proposed MOU with the Greater San Marcos Partnership for the 2021-22 Fiscal Year. After deliberations, the board decided to remove on provision in the MOU and reduce the investment in GSMP from \$20,000 to \$15,000 for the current fiscal year.

Motion: Doug Foster Second: Juan Alvarez Vote: 7 of 7

5. Executive Session – In: 7:16 PM Out: 7:37 PM

5.1 Close Open Session and Convene Executive Session pursuant to Secs. 551.071 (consultation with attorney), 551.072 (real estate) and 551.087 (Economic Development) of the Texas Open Meetings Act. Gov't Code Ch. 551, to discuss the following:

- Summertime
- Revive
- Recycle
- Specs 2
- Rose

6. Board Action from Executive Session

6.1 Motion to accept the LOI terms for Project Specs 2 and direct staff to negotiate a purchase sale agreement as discussed in executive session.

Motion: Doug Foster

Second: Sally Daniel

Vote: 7 of 7

6.2 Motion to authorize the LEDC President to negotiate and execute a Purchase Sale Agreement with Project Rose.

Motion: Alfredo Muñoz

Second: David Bryant

Vote: 7 of 7

7. DISCUSSION ONLY

7.1 Activity Updates

Mr. Kamerlander gave an update on the LEDC Staff activities for March 2022.

ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 7 of 7

LEDC Board of Directors Adjourned at 7:44 PM.

Minutes approved this the 9th day of May, 2022.

Alan Fielder, Chairman LEDC

Michael Kamerlander, Secretary LEDC

RESOLUTION NO. 2022-08

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH REVIVAL CYCLES INC. TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$250,000 TO REVIVAL CYLCES INC. FOR REIMBURSEMENT BUILDING RENOVATIONS INCLUDING BUT NOT LIMITED TO WINDOW REPLACEMENTS, LIFE SAFETY EQUIPMENT, AND ELECTRICAL WORK AND UPGRADES AND A REBATE OF EDC SALES TAXES COLLECTED BY REVIVAL CYLCES INC. OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart (“City”) is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Revival Cycle (Revival) will engage in a project whereby it will make a capital investment of \$3,000,000 to renovate a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$250,000 to reimburse Revival for the cost of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Revival an amount of money each year equal to a percentage of the amount of LEDC’s one half of one percent (1/2%) sales tax collected and remitted by Revival during each year for a term of 5 years.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION, that:

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and Revival Cycles, a copy of which Agreement is attached hereto as Exhibit “A,” which is incorporated herein for all purposes.

Approved and adopted on this, the 11th day of April 2022.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION

Alan Fielder, Chairman

Attest:

Approved as to form:

Michael Kamerlander, Board Secretary

Monte Akers, Board Attorney

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss Chapter 380 agreement with Revival Cycles, Inc. to provide incentives for economic development.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: Attached is a Chapter 380 offering incentives for Revival Cycles, inc. to move its corporate operations to the City of Lockhart from Austin.

Revival Cycles is custom motorcycle manufacturing company and retailer of motorcycle apparel, accessories, and art. The company has been in Austin for over 15 years and has been on numerous tv shows and works with some of the top motorcycle manufacturers in the world like BMW, Harley Davidson, and Ducati.

Revival is considering moving its entire operations from Austin to Lockhart with the purchase of the Masur building at the corner of Church Street and W. San Antonio. The company would occupy the entire space as its corporate headquarters and upgrade the building. The company would create up to 50 jobs in Lockhart in addition to the added value to the building. Additionally, the company would generate a large amount of sales taxes since the space would encompass a retail component and serve as the nexus of sale for all online sales. Some building improvements of note:

1. 3-phase power added to the rear of the building (amperage TBD)
2. Bringing fire escape up to a working standard.
3. Remove the two power poles from the side and front of the building
4. Upgrade energy efficiency through HVAC and window replacement

The performance agreement before the board provides the following incentives in exchange for the investment and job creation.

The Chapter 380 agreement under consideration would be a five-year term for real and personal property tax increment at the following schedule:

1. Property Tax Rebate on Real and Personal Property:

- 1: 75%
- 2: 66%
- 3: 50%
- 4: 33%
- 5: 25%

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PROJECT SCHEDULE (if applicable): Company plans to begin renovations as soon as they can be permitted.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): This 380 Agreement with Revival Cycles, Inc. will not affect the current budget. However, in 2024-2025, the City will need to budget expenses from this agreement in the City's General Fund for a 75% rebate on real and personal property.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approve the Chapter 380 agreement with Revival Cycles, Inc.

LIST OF SUPPORTING DOCUMENTS: Revival Cycles 380 agreement

CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This Chapter 380 Economic Development Program Agreement (“Agreement”) is made and entered into by and between THE CITY OF LOCKHART, TEXAS (“City”), a Texas home-rule municipal corporation, and REVIVAL CYCLES INC. (“Company”).

RECITALS

Pursuant to Chapter 380, Texas Local Government Code, City is authorized to establish a program, including the making of loans and grants of public money, to promote state or local economic development and to stimulate business and commercial activity within the City.

Company desires to purchase an approximately 30,000 square foot facility located at 119 W. San Antonio Street, Lockhart, TX 78644, bring jobs to the City, and participate in the Economic Development Program established in this Agreement.

Company intends to make a total investment of three million dollars (\$3,000,000.00) in equipment, personal property, inventory, real property, and improvements to real property over the period of this Agreement.

City has determined that a substantial economic benefit and the creation of new opportunities of employment will accrue to the City and the surrounding area if a facility is successfully developed on the Property.

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Company agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein for all purposes

Section 2. Chapter 380 Program and Consideration

The City finds and the parties hereto agree that the program established by this Agreement will promote state and local economic development and will stimulate business and commercial activity in the City of Lockhart. City and Company enter into this Agreement in consideration of such economic development and stimulation of business and commercial activity as well as the mutual covenants contained herein.

Section 3. Term

This Agreement shall have a term of five (5) years, commencing on January 1 of the calendar year following Company's completion of renovations and securing of a Certificate of Occupancy from the City and terminating at midnight on the fifth anniversary of that date unless sooner terminated as provided herein. For example, if construction is completed and a Certificate of Occupancy obtained in 2023, Year One of this agreement will commence on January 1, 2024.

Section 4. Company Requirements

Company agrees:

- (a) Purchase the building at 119 W. San Antonio Street Lockhart, TX 78644 ("Facility") with other improvements, including equipment, with a project budget of at least three million dollars (\$3,000,000.00) in capital investment, provided that Company shall be entitled to revise the budget as a result of, among other things, savings realized by value engineering, reduction of costs in building materials, equipment, labor and other components of the Facility, and substitution of individual facility components.
- (b) Submit schematic drawings for the Facility to the City of Lockhart within one hundred twenty (120) days of execution of closing on the Property, and to and thereafter commence construction of the Facility within one hundred twenty (120) days after the City's approval of the construction plans and issuance of a building permit for the Facility.
- (c) Complete renovation of the Facility and obtain a Certificate of Occupancy from the City within eighteen (18) months after the issuance of the aforesaid building permit.
- (d) Employ a minimum of thirty-five (35) Full Time Equivalent ("FTE") employees within the first five (5) years from the commencement of the term of this Agreement, each of whom shall receive an average annual compensation of forty-thousand dollars (\$40,000.00) plus benefits, including healthcare.
- (e) Company shall provide the City with proof of employment of employees by submitting copies of payroll records and federal employment tax forms or other documentation satisfactory to the City, which shall be provided within thirty (30) days of the end of each year of the term of this Agreement.

Retain at least that number of FTE employees until the end of the term of this Agreement.

The term “Full Time Equivalent,” as used in this Agreement, shall mean employment during a calendar year that is equal to a total of at least 1,820 hours including hours associated with holidays, vacation, sick and personal time, and overtime. No more than two employees whose annual hours of employment are less than 1,820 hours, but whose combined time equals or exceeds that number of hours, may be counted as one FTE employee.

- (f) Keep current in the payment of taxes owed for the Facility to any taxing jurisdiction in which the Facility is located unless such taxes are being legally contested by Company.

Section 5. City Requirements

- (a) In consideration of Company’s agreement to perform the acts described above, City agrees to provide an annual grant to Company in an amount of money equal to a percentage of the annual City of Lockhart ad valorem taxes paid by Company on real and personal property based solely on any improvements to the real property (“increment”) for that year and actually collected by the City.

- (b)) The amount of each annual grant to be paid to Company by the City shall be calculated as follows:

For Year one: seventy-five percent (75%) of the increment attributable to that year and paid to the City;

For Year two: sixty-six percent (66%) of the increment attributable to that year and paid to the City;

For Year three: fifty percent (50%) of the increment attributable to that year and paid to the City;

For Year four: thirty-three percent (33%) of the increment attributable to that year and paid to the City;

For Year five: twenty-five percent (25%) of the increment attributable to that year and paid to the City;

After such five-year period, all tax reimbursement grants by the City shall cease.

- (c) City shall pay Company the applicable amount of each annual grant, following Company’s payment of ad valorem taxes for that year, on or before March 31 of the calendar year following such payment.

Section 6. Recapture/Termination

In the event that Company begins operating the Facility on the Property, but subsequently discontinues operating such facility for any reason, excepting fire, explosion or other casualty or accident or natural disaster or other event beyond the reasonable control of Company for a period of 180 days during the term of this Agreement, then in such event the City will no longer be obligated to expend any further funds for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this Agreement within 30 days of the expiration of the 180 days. The burden shall be upon Company to prove to the satisfaction of the City that the discontinuance of operating the distribution facility was as a result of fire, explosion, or other casualty or accident or natural disaster or other event beyond the control of Company. In the event Company meets this burden and the City is satisfied that the discontinuance of the operation of the distribution facility was the result of events beyond the control of Company, then Company shall have a period of one (1) year in which to resume the operation of the distribution facility. In the event that Company fails to resume the operation of a distribution facility within one (1) year, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the expiration of the one year period.

In the event that Company allows ad valorem taxes on property, or business personal property, or inventory not subject to tax waiver owed to the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of such event

In the event that Company relocates the business to a location outside of the City of Lockhart, then in such event, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the relocation.

In the event that the City determines that Company is in default of any of the terms or conditions contained in this Agreement, then in such event the City shall give Company thirty (30) days written notice to cure such default. Except as provided herein, in the event such default is not cured to the satisfaction of the City within the thirty (30) days notice period, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the default.

In the event that Company shall fail to repay the City within 30 days of the date such repayment is due under any provision of this Section 6, Company hereby agrees that the City may place a lien on Property belonging to Company and located in Caldwell County, Texas for full payment of such monies.

Section 7. Certification of Compliance by Company

On or before March 1 of each year that this Agreement is in effect, Company shall certify in writing to the City its compliance with all provisions of this Agreement. Such certification shall include any and all documentation required by the City establishing that Company has met the annual employment requirement for the previous year and that all taxes related to the Property have been paid in full as required by law. The City, at any reasonable time, shall have the right to review any and all records of Company related to the provisions of this Agreement.

Section 8. Entire Agreement

This Agreement contains the entire agreement between the City and Company with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the City and Company.

Section 9. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. Company may assign its rights and obligations under this agreement only upon prior written approval of the City, which approval shall not be unreasonably withheld or delayed.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

COMPANY: Martin Alan Stulberg
 Revival Cycles Inc.

City: City Manager, City of Lockhart
 P.O. Box 239
 Lockhart, Texas 78644

Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Applicable Law

This Agreement is made and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Caldwell County, Texas.

Section 13. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 14. Mutual Assistance

City and COMPANY agree to do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE CITY OF LOCKHART

ATTEST:

Lew White, Mayor

Connie Constancio, City Secretary

Revival Cycles Inc.

Martin Alan Stulberg, Founder

State of Texas)(

)(

County of Caldwell)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Lew White, known to me to be the Mayor of the City of Lockhart, Texas.

Notary Public

My Commission expires:

State of _____)(

)(

County of _____)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Alan Stulberg known to me to be the Founder of Revival Cycles

Notary Public

My Commission expires:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss a Lower Colorado River Authority (LCRA) Community Development Partnership Program matching grant to purchase water rescue personal protective equipment for Lockhart Fire Rescue.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION:

The purpose of the LCRA Community Development Partnership Program matching grant is to enhance Lockhart Fire Rescue's response to incidents involving rising or fast moving water. Local firefighters as first responders will be the first to respond to a water incident which requires the appropriate personal protective equipment to respond safely. The use of a personal flotation device is vital for the safety of all personnel operating around rising or moving water. First responders may also be able to support swiftwater rescue teams operating in the area. Climate change, extreme weather, and/or urban development may cause future flash flooding in areas typically not prone to flooding.

The equipment includes four (4) personal flotation devices (pfd), wetsuits, harnesses, helmets, gloves, boots, and related equipment such as ropes, pulleys, throwbags, carabiners, and rope grab devices, etc., used in swiftwater or low angle rescue.

The total project cost is approximately \$8,314. The 20% city match is approximately \$1,665. The grant amount is \$6,649.

Existing budgeted funds in FY 21/22 will be used as the 20% matching portion of the grant. Once the city has signed and returned the letter of agreement, the grant funds will be transferred to the City of Lockhart to begin the procurement process.

PROJECT SCHEDULE (if applicable): Once the grant is approved, procurement of the equipment will begin. The estimated time to order and receive all equipment is 3 months.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$1,665

Account Number: 100-5318-312

Funds Available: \$1,877

Account Name: Machinery & Equipment

FISCAL NOTE (if applicable): These matching funds were approved by City Council upon approval of the Fiscal Year 2021-2022 Annual Operating Budget.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approving the LCRA Community Development Partnership Program grant, as presented.

LIST OF SUPPORTING DOCUMENTS: Budget Summary, LCRA Grant Application, LCRA Letter Agreement, Finance Forms



Please enter a description for each line item of your project and the dollar amount of the CDPP grant requested and matching contribution, if any, for that item.

Land acquisition; debt-reduction campaigns; capital campaigns; program operating costs; administrative and/or indirect costs, such as personnel and overhead expenses, as well as grant writing and/or consulting fees; computer and/or video equipment or software; furniture; office equipment; or batteries are not eligible for CDPP funding and should not be included in the grant request budget summary.

Community Development Partnership Program Grant Request Budget Summary

Line Item Description	CDPP Grant Request Amount (intended allocation of funding request towards the project)	Matching Contribution (must be at least 20 percent of total project cost for grants over \$5,000)		Project Cost
		Dollars	In Kind (value of contributed labor, materials, equipment, etc.)	
	whole dollars only			
4 - Swiftwater Helmets, PFD's, Gloves, Wetsuits, Boots,	\$2,480	\$620		\$3,100
4 - Throw Bags, Strobes, Duffle Bags	\$482	\$121		\$603
1 - Traverse 540 Belay Device, and 1 - MPD Lowering Device	\$1,062	\$266		\$1,328
2 - Type III Safety Harnesses	\$763	\$191		\$954
2 - Rescue Ropes (200'), 2 - Rope Bags, 1 - Rope Cutter	\$629	\$158		\$787
10 - General Carabiners, 2 - Anchor Straps	\$457	\$115		\$572
3 - Prusik Minding Pulleys, 2 - Double Prusik Minding Pulleys	\$373	\$93		\$466
2 - Rope Grab Devices, 1 Flat Webbing (60'), 6 - Prusik Cords	\$276	\$69		\$345
1 - Hardware Bag	\$127	\$32		\$159
(Lockhart Fire FY 21-22 budget line item 100-5318-312 will be used for the matching funds.)				\$0
TOTAL DOLLARS (MUST match the Grant Request Information section of the application)	\$6,649	\$1,665	\$0	\$8,314
TOTAL PERCENTAGE OF PROJECT COST	80%	20%		100%



REQUIRED if in kind is included in the project budget.
Please enter a description for each line item of in kind included in the project. Please be specific about type, quantities and value of in-kind contributions.

Community Development Partnership Program
In-Kind Matching Contribution Description

Line Item Description	In Kind (value of contributed labor, materials, equipment, etc.)	Description of In Kind
TOTAL IN KIND	\$0	

EXHIBIT A

Community Development Partnership Program

Grant Application

Fiscal Year 2022, Cycle II

January 2022

Application: 16587713 - 74-6001634

Linked Profile

16587713 - 74-6001634

Name of organization

City of Lockhart – Fire Rescue

Tax ID number

74-6001634

Scoring information

Please disclose any relationship, whether business, personal or financial, with any member of the Community Development Partnership Program Review Committee. The existence of a relationship neither enhances or disqualifies an application from being approved and funded. Click the link below to see a list of CDPP Review Committee members.

N/A

CDPP Review Committee

Eligibility Questions

Does your project fall under one of these program areas: Community Planning, Education, Employment, Health Care, Public Safety, Recreation, Transportation, Fire Department?

Yes

Please select your program area?

Public Safety

Is the project located in LCRA's service area (see map below)?

Yes

LCRA Maps

Has your organization received a CDPP grant from LCRA in the past 24 months?

No

Are you applying for fundraising or program operating costs?

No

Is your organization a tax-exempt nonprofit, a governmental body such as a city or county, or a special tax district such as a school or hospital?

Yes

Organization and Project Information

Organization website

<https://www.lockhart-tx.org/>

Organization Facebook page

<https://www.facebook.com/LockhartFireRescue>

Year founded

1888

Organization mission statement

The mission of Lockhart Fire Rescue is to serve and protect citizens of our community by providing the highest quality emergency response, community risk reduction, health care, and public safety education

Is the organization a Volunteer Fire Department registered with the Internal Revenue Service?

Lockhart Fire / Rescue is a combination fire department (paid and volunteer) and a department of the City of Lockhart.

If this project is for a new building or facility improvements, please explain how often other individuals or groups within your community will be able to use the building. Please provide details on how much of the building will be used by others and how often.

How often will the project be open or accessible to the public?

The swift water rescue equipment will be used at all water rescue or flooding events.

Who is the property owner of the project location?

City of Lockhart

Will the requested CDDP grant funds enable the completion of the project?

Yes, the purchasing of the requested swift water PPE will enable Lockhart Fire Rescue to respond to any swift water incident at the first responder level while wearing the appropriate PPE.

Identify each community, city, county or region impacted by this project.

The City of Lockhart, and the unincorporated areas of Caldwell County surrounding Lockhart. Lockhart Fire Rescue responds to request for mutual aid from the surrounding volunteer fire departments.

What is the population of the area served by this project?

What is the population of the community, city, county or region impacted by this project?

14,000

Select your electric service provider.

City of Lockhart

Does the requesting organization have a reserve/operating fund?

The City of Lockhart has an annual operating budget and maintains reserve funds. Lockhart Fire Rescue is a department of the City of Lockhart and has an annual operating budget.

Is the fund being used for this project?

Yes

If the fund is being used, explain how. If it is not being used, explain why.

The FY 21/22 operating budget for Lockhart Fire Rescue is being used for the matching funds for the project. The budgeted funds are not enough to complete the project, the LCRA grant will allow the project to be completed.

Additional Detail

Does the project have a water conservation component such as a rainwater catchment system, low-flow toilets or xeriscaping strategies?

No

Does the project have an energy-efficient component such as solar energy, energy-efficient lighting, windows or insulation?

No

Is there anything else you want the Review Committee to know about this grant proposal?

Your consideration is appreciated.

Attachments

Required documentation

IRS determination letter (required for nonprofit organizations only as proof of their tax-exempt status)

IRS determination letter (required for nonprofit organizations only as proof of their tax-exempt status)

Tax Exempt Form.pdf

Budget summary

Picture prior to 2022

Picture

Swiftwater Quote 1-31-22.pdf

Picture prior to 2022

Picture

Key Staff and Board of Directors

Provide a list of key staff and members of the organization's governing body, such as a board of directors:

City Council

Lew White – Mayor

Angie Gonzales-Sanchez - Council Member At-Large

Juan Mendoza - Council Member District 1

David Bryant - Council Member District 2

Kara McGregor - Council Member District 3

Jeffry Michelson - Council Member District 4

Brad Westmoreland - Council Member At-Large

Steven Lewis – City Manager

Randy Jenkins – Fire Chief

Signature

Application must be signed by the chief executive administrator or officer of the entity requesting the grant, such as city manager, executive director, general manager, board president or school superintendent.

By checking this box, I certify to the best of my knowledge and belief that all documentation in this application is true and correct.

True

Name of authorized representative

Steven Lewis

Title

City Manager

Email

slewis@lockhart-tx.org

Phone number

512-398-3461

STOP HERE - the below Census data will be completed by the CDPD Review Committee

Population

14,379

Percentage of persons below poverty

14.6%

Is the area's percentage of persons below poverty level higher than the state level?

Yes

Per capita income level

\$23,346

COMMUNITY DEVELOPMENT PARTNERSHIP PROGRAM LETTER AGREEMENT

This Letter Agreement ("Agreement") is between the Lower Colorado River Authority ("LCRA") and the City of Lockhart Fire Rescue ("Recipient"). In consideration of the Recipient's commitments made in a grant application dated January 2022 ("Grant Application"), LCRA agrees to grant to Recipient \$6,649 ("Grant Money").

1. Use of Grant Money. This is a grant of funds solely for the purchase of swiftwater personal protective equipment and other rescue gear for firefighters, further described in the Grant Application attached hereto as Exhibit A and incorporated herein for all purposes ("Project"). Nothing herein contained requires LCRA to select, procure, install, maintain or repair any equipment or improvements purchased or funded with the Grant Money, or to supervise or train the Recipient's personnel with respect to such activities. Recipient is solely responsible for the selection, procurement, installation, construction, repair and maintenance of all equipment and improvements purchased or funded with the Grant Money, as well as for the training and supervision of the Recipient's personnel with respect to such activities. Recipient agrees to use the Grant Money solely for Project purposes, and Recipient shall not use equipment or improvements purchased or funded with the Grant Money for any purpose other than that stated in the Grant Application, except as provided for herein.
2. Project Completion Date. Recipient agrees to complete the Project within twelve (12) months of the date the Grant Money is received. If the Project is not completed within twelve months, Recipient shall return all Grant Money to LCRA immediately upon demand. Upon completion of the Project, Recipient agrees to provide LCRA with a photograph of the completed project, a photograph of the required signage (see Article 8), and a completed final report form provided to Recipient by LCRA within thirty (30) days of project completion.
3. Interest on Grant Money. Any interest earned by Recipient on the Grant Money prior to its expenditure shall be considered grant funds and applied exclusively to the Project, or included with any Grant Money returned or refunded to LCRA under the terms of this Agreement, as applicable.
4. Breach and Remedy. If Recipient breaches this Agreement, LCRA shall notify Recipient in writing. Recipient shall have thirty (30) days in which to cure any identified breach. If any breach is not cured within thirty (30) days, Recipient shall refund to LCRA all Grant Money received for the applicable Project within seven (7) days.
5. Public Use. The equipment and improvements purchased or funded with Grant Money must remain open and accessible to the general public, or be used for a public purpose for the useful life of the equipment or improvement, or for at least ten (10) years, whichever is longer.
6. Record Keeping. Recipient shall maintain accurate records of all costs, payments, and related data to document proper use of the Grant Money. Recipient shall maintain such records for at least three (3) years after completion of the Project, and shall make the records available to LCRA for inspection upon reasonable notice during normal business hours.
7. Compliance with Laws. Recipient shall comply with all applicable federal, state and local laws, ordinances, and regulations in connection with the Project. Recipient shall also be responsible for obtaining all necessary permits, licenses, and any other such approvals required for the Project.
8. Acknowledgment. Recipient shall install clear and conspicuous public and permanent identification at the Project site acknowledging that LCRA is a sponsor of the Project.
9. Right to Inspect. LCRA shall have the right to enter upon and photograph the Project site at any reasonable time for the purpose of inspecting the Project, determining Project progress, and evaluating the Project for compliance with this Agreement.
10. Indemnification. *TO THE FULL EXTENT PERMISSIBLE BY LAW, RECIPIENT AGREES TO INDEMNIFY AND HOLD LCRA AND ITS DIRECTORS, OFFICERS, EMPLOYEES, WHOLESALE CUSTOMERS, AND*

AGENTS HARMLESS FROM DAMAGES, CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, JUDGMENTS, COSTS AND EXPENSES INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES RESULTING FROM 1) DAMAGE TO PROPERTY OF ANY PERSON, FIRM, CORPORATION OR GOVERNMENTAL AGENCY, INCLUDING PROPERTY OF LCRA, AND/OR 2) DEATH OF, OR INJURY TO, ANY PERSON OR PERSONS, INCLUDING EMPLOYEES OF LCRA, ARISING OUT OF, AND TO THE EXTENT CAUSED BY, A NEGLIGENT ACT OR OMISSION OR WILLFUL MISCONDUCT OF RECIPIENT, ITS AGENTS, SERVANTS, EMPLOYEES, VOLUNTEERS, AND ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER, THEIR AGENTS, SERVANTS AND EMPLOYEES.

IN THE EVENT THAT LCRA IS FOUND TO BE CONCURRENTLY NEGLIGENT, RECIPIENT SHALL NOT INDEMNIFY FOR THE PROPORTIONATE NEGLIGENCE ATTRIBUTABLE TO LCRA BUT SHALL INDEMNIFY FOR THE PORTION OF NEGLIGENCE ATTRIBUTABLE TO RECIPIENT, ITS AGENTS, SERVANTS, EMPLOYEES, AND ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER, THEIR AGENTS, SERVANTS, AND EMPLOYEES.

11. Insurance. Recipient shall obtain and maintain a policy of insurance for the equipment or improvements purchased or funded with the Grant Money which is sufficient to provide for replacement of any equipment or improvement which is lost, stolen, damaged, or destroyed. Any insurance proceeds received by or on behalf of Recipient under an insurance policy must be utilized to acquire equivalent or better equipment, to repair or replace the equipment or improvement, or be paid to LCRA as a refund of the Grant Money. If otherwise permissible under applicable law, governmental entities may use an established self-insurance program to satisfy this requirement.

12. Disposition of Equipment and Improvements. When equipment or improvements purchased or funded with the Grant Money are no longer needed for the original Project purposes and the equipment/improvements have not yet met the Public Use timeframe outlined in Article 5, Recipient shall contact LCRA to determine another eligible use or purpose. LCRA will document the new use or purpose or, if the equipment/improvements have met the Public Use requirements, LCRA shall provide disposition instructions to the Recipient.

13. Additional Provisions

A. Survival. Termination or expiration of this Agreement shall not relieve, reduce, or impair any rights or obligations of a Party which survive termination or expiration of this Agreement.

B. Integration. This Agreement contains the entire and integrated Agreement between the Recipient and LCRA and supersedes all prior negotiations, correspondence, understandings, and representations.

C. Interpretation and Reliance. While this Agreement form was initiated by LCRA, Recipient had the opportunity to take exception to and seek clarification of it. Thus, this Agreement is the product of negotiations between the Parties. No presumption will apply in favor of any Party in the interpretation of this Agreement or in resolution of any ambiguity of any provision.

D. Laws. This Agreement shall be governed, interpreted, and enforced under the laws of the State of Texas, without regard to its conflict of law principles. In the event of litigation between the Parties arising out of or related to this Agreement, venue for such litigation shall be in a court of competent jurisdiction in Travis County, Texas.

E. Notice. All notices required under this Agreement must be made in writing and sent by registered or certified United States mail, return receipt requested or by nationally recognized courier service to the address below. Parties may change their address or other contact information by notifying the other Party pursuant to this Article. Nothing contained in this Article shall be construed to apply to routine communications between the Parties for execution of the Project or completion of the grant process.

Recipient:
Contact information contained in attached Grant Application.

LCRA:
Lower Colorado River Authority
Attn: Sheila Slagel, CDPP Grants
3700 Lake Austin Blvd.
Austin, TX 78703
Email: grants@lcra.org

With a copy to:
Lower Colorado River Authority
Attn: Office of the General Counsel
3700 Lake Austin Blvd.
Austin, TX 78703
Email: legalreview@lcra.org

The duly authorized representatives of the Parties have read all of this Agreement and associated documents, and execute this Agreement by their signatures below:

Lower Colorado River Authority



Thomas E. Oney
Executive Vice President, Public and Regulatory Affairs
Lower Colorado River Authority

Recipient:

By: _____
SIGNATURE

Printed Name: _____

Title: _____

Signature Date ("Effective Date"): _____



Date: _____

Dear Grant Recipient:

In an effort to streamline the Community Development Partnership Program (CDPP) process, we will disburse grant funds via direct deposit. This means we would transmit the funds electronically to your designated bank account upon LCRA receiving all of this cycle's 36 signed Letter Agreements.

Please complete the information requested below and return it along with the W-9 form and a copy of the signed Letter Agreement within ten business days of your receipt of the packet.

ORGANIZATION INFORMATION *(please print legibly)*

Federal Tax ID #: _____

Organization Name: _____

Address: _____

City/State/Zip: _____

Contact Name: _____

Phone Number: _____

DEPOSIT INFORMATION

Important: Your direct deposit account information may be different from the account information printed on your checks. It is recommended that you contact your financial institution to confirm your direct deposit account information.

Bank Account Number: _____

Checking ☐ or Savings ☐

Bank Account Name: _____

Bank Routing Number: _____

Bank Name: _____

Bank Address: _____

Bank City/State/Zip: _____

Bank Phone Number: _____

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-			-		
or									
Employer identification number									
				-					

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss a non-matching Firehouse Subs Public Safety Foundation grant for a battery-powered set of automobile extrication tools for Lockhart Fire Rescue.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION:

The Firehouse Subs Public Safety Foundation Grant is to obtain a set of battery-powered automobile extrication tools that includes the spreaders, cutters, and telescoping ram. Lockhart Fire has responded to over 200 vehicle accidents in the last three years. As the population increases and the roadways become more congested, the need for extrication equipment will grow.

The extrication tools will increase the safety, reliability, and efficiency of the service we provide to the citizens of Lockhart when we respond to motor vehicle accidents. With limited staffing, the state-of-the-art battery extrication tools will increase our efficiency by not requiring a firefighter to move and operate the power unit and supply hose. Each tool can be operated by one firefighter and moved as needed. The citizens of Lockhart benefit when we respond to the scene and quickly remove the occupants from the damaged vehicle and transfer the patient to EMS for advanced treatment and transport to hospital.

The non-matching Firehouse Subs Public Safety Foundation Grant is for a total of \$33,615. The Board of Directors of the Firehouse Subs Public Safety Foundation will determine the method of procurement either by direct purchase by the foundation, or memo of understanding where funds are transferred via Automated Clearing House (ACH). The procurement will begin no later than May 23, 2022.

PROJECT SCHEDULE (if applicable): Procurement will begin by May 23, 2022. The expected time to receive equipment and provide training to firefighters is 3 months.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): Non matching grant.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval.

LIST OF SUPPORTING DOCUMENTS: Extrication Tools Quote 12-14-21, Hurst Tools
Description-Pictures



3789 62nd Avenue North
Pinellas Park, FL 33781

Quote

Date 12/14/2021
Quote # QT1534754
Expires 03/31/2022
Sales Rep Robinson, Jamie S
PO #
Shipping Method FedEx Ground

Bill To

Firehouse Subs Public Safety Fdn, Inc
12735 Gran Bay Parkway, #150
Jacksonville FL 32258
United States

Ship To

Randy Jenkins
Lockhart Fire Department
201 West Market
Lockhart TX 78644
United States

Item	Alt. Item #	Units	Description	QTY	Unit Sales Pri...	Amount
272889000-1E			Engraved S789E3 (Tool Only) Hurst cutter; battery-operated, saltwater submersible rescue tool with Turbo. NFPA cut rating A8 B9 C8 D9 E9 F5	1	10,295.00	10,295.00
271855000-1E			Engraved SP555E3 (Tool Only) Hurst spreader; battery-operated, saltwater submersible rescue tool with Turbo; 28 inch	1	11,440.00	11,440.00
274885000-1E			Engraved R521E3 (Tool Only) Hurst ram; battery-operated, saltwater submersible rescue tool with Turbo; 53 inch	1	7,550.00	7,550.00
90-53-15			EWXT 9 Ah battery Hurst - freshwater	5	680.00	3,400.00
90-53-21			EWXT Charger (110V) Hurst	2	465.00	930.00

Firehouse Subs Public Safety Foundation Grant Request

Department Name: LOCKHART FIRE DEPARTMENT, 201 WEST MARKET, LOCKHART,
TX. 78644

Department POC: Randy Jenkins - Fire Chief; 512-376-1885; rjenkins@lockhart-tx.org

MES POC: Tom Winkler; 727-808-5344; twinkler@mesfire.com

Subtotal 33,615.00
Shipping Cost (FedEx Ground) 0.00
Total \$33,615.00

This Quotation is subject to any applicable sales tax and shipping & handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current local tax information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1534754

SP 555 E3 SPREADER

PART #: 271855000-1 (TOOL ONLY)
271855000-9 (9AH PACKAGE)

A SPREADER THAT STOPS AT NOTHING.

Our new E3 spreader is more efficient than ever. Its light weight and small size make this tool a great option when you need to act fast. Combine these features with its smart dashboard, and this spreader is unstoppable. When lives are on the line, you need enhanced performance. Rescues can't wait. And neither can you.

TECHNICAL SPECIFICATIONS

- Length: 36.3 in / 923 mm
- Width: 10.4 in / 265 mm
- Height: 9.96 in / 253 mm
- Weight: 43.9 lbs / 19.9 kg
- Spreading Distance: 28.7 in / 730 mm
- Max Spreading Force: 147,924 lbs / 658 kN
- Max Pulling Force: 13,039 lbs / 58 kN
- NFPA HSF: 16,186 lbs / 72 kN
- NFPA LSF: 11,016 lbs / 49 kN
- NFPA HPF: 10,341 lbs / 46 kN
- NFPA LPF: 6,295 lbs / 28 kN
- NFPA 1936 2020 Compliant: Yes
- IP Rating: IP58

ACCESSORIES

[See pg 16 for a full accessory listing]

Rescue Batteries:

Part number:
9Ah EWXT/E3 rescue battery – 90-53-15
9Ah E3 Saltwater battery – 90-53-18

Chain Set:

Part number: 81-67-20

Peeling Tips:

Part number: 81-67-22

FEATURES AND BENEFITS

- Watertight design durable in fresh and salt water
- Smart dashboard displays live visual tool feedback
- Power levels and battery charge status at a glance
- Detects and reveals when a saltwater-capable battery has been installed
- New turbo function allows for a faster rescue
- Single integrated cylinder body design
- Squeezing plates built into the arms
- "Shark Tooth" removable tips offer multifunctional design, with four rows of shark-like teeth for maximum performance and gripping
- Package comes with two li-ion rechargeable batteries and one charger
- If needed, you can plug it in for unstoppable power with a 110V adapter

A large, blue and silver hydraulic cutter tool, the Hurst S 789 E3, is shown against a dark, textured background. The tool has a large, curved cutting head with two sharp, silver-colored blades. A blue handle with a silver grip is attached to the side. A black control panel with a digital display and several buttons is located on the top of the handle. The brand name 'HURST' and 'JAWS OF LIFE' are visible on the handle.

S 789 E3 CUTTER

PART #: 272889000-1 (TOOL ONLY)
272889000-9 (9AH PACKAGE)

TAKE A BITE WITH THESE MASSIVE JAWS.

With its monstrous bite, the S 789 E3 cutter can tackle anything in its path. Its new smart dashboard displays live visual tool feedback, providing you with more control over your rescues. And it doesn't stop there. This cutter works harder and smarter ... even under water.

TECHNICAL SPECIFICATIONS

- Length (w/o battery): 35.9 in / 912 mm
- Width: 10.5 in / 266 mm
- Height: 9.96 in / 253 mm
- Weight (w/o battery): 49.4 lbs / 22.4kg
- Cutter Opening: 8.06 in / 205 mm
- NFPA Cutter Rating: A8/B9/C8/D9/E9/F5
- NFPA 1936 2020 Compliant: Yes
- IP Rating: IP58

ACCESSORIES

Rescue Batteries:

Part number:
9Ah EWXT/E3 rescue battery – 90-53-15
9Ah E3 Saltwater battery – 90-53-18

FEATURES AND BENEFITS

- Durable in fresh and salt water with its watertight design
- Smart dashboard displays live visual tool feedback
- Roll warnings, power levels and battery charge status at a glance
- Detects and reveals when a saltwater-capable battery has been installed
- New turbo function allows for a faster rescue
- Large cutter opening at 8.06 inches
- Brushless DC electrical motor runs efficiently with a high performance for a long battery life
- Two LED lights illuminate the front of the tool
- Large waterproof battery (9Ah) with IP68 protection class

R 521 E3 RAM

PART #: 274885000-1 (TOOL ONLY)
274885000-9 (9AH PACKAGE)



THIS NEW RAM HITS HARD.

Land. Salt water. Fresh water. Doesn't matter. The new R 521 E3 ram creates wide rescue openings in all kinds of environments without the need for lengthy hoses or power units. Its smart dashboard and dual sharp claws enable you to power through the toughest of situations — in the toughest locations.

TECHNICAL SPECIFICATIONS

- Length Retracted: 22.8 in / 579 mm
- Length Extended: 53.5 in / 1,359 mm
- Width: 5.5 in / 140 mm
- Height: 12.9 in / 327 mm
- Weight (w/o battery): 41.9 lbs / 19 kg
- Stroke (Piston 1): 15.6 in / 403 mm
- Stroke (Piston 2): 14.8 in / 377 mm
- Stroke Overall: 30.7 in / 780 mm
- HSF (Piston 1): 28,600 lbs / 127 kN
- HSF (Piston 2): 13,500 lbs / 60 kN
- NFPA 1936 2020 Compliant: Yes
- IP Rating: IP58 (Protected from freshwater immersion at a depth up to 3m for 1 hour)

ACCESSORIES

Rescue Batteries:

Part number:
9Ah EWXT/E3 rescue battery – 90-53-15
9Ah E3 Saltwater battery – 90-53-18

Quick Kick Ram Support:

Part number: 247R028

FEATURES AND BENEFITS

- Watertight design durable in fresh and salt water
- Smart dashboard displays live visual tool feedback
- Power levels and battery charge status at a glance
- Detects and reveals when a saltwater capable battery has been installed
- New turbo function allows for a faster rescue
- Brushless DC electrical motor that runs efficiently with high performance for a long battery life
- Quieter
- Four LED lights illuminate the front and back of the tool
- Ergonomically designed star-grip permits tool actuation from almost any gripping position
- Weighs only 41.9 pounds, making it easy to maneuver
- Extended length of 53.5 inches gives you a wide rescue opening
- Large waterproof battery option (9Ah) with IP68 protection class
- Sharp claws that rotate 360 degrees

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss tabling application ZC-22-12 by Jim Meredith on behalf of Robert A. Schmidt for a **Zoning Change** from *CHB Commercial Heavy Business District* to *RHD Residential High Density District* for 14.57 acres in the Byrd Lockhart Survey, Abstract No. 17, located at 101 East China Street to the June 7, 2022 City Council meeting.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Consensus

BACKGROUND/SUMMARY/DISCUSSION: The purpose of the zoning change is to allow future residential development of 14.57 acres at the northeast corner of the intersection of East China Street and North Colorado Street. If vehicular access is to be obtained from Colorado Street, TxDOT will likely require that the developer do a Traffic Impact Analysis (TIA), and if TxDOT requires safety improvements they will be the responsibility of the developer to construct. There is a 12" water main along China Street that is adequate to serve the property. However, the closest wastewater mains are only six inches in size and may not have adequate capacity to handle higher density residential development. The wastewater impact fee CIP does propose a system of wastewater mains extending northward from an existing main at the railroad track where it would serve the North Colorado Street area, including the subject property. There currently is no time-line or source of funding identified other than impact fees. Impact fees can be used to pay for up to half of the cost, but the remainder would have to come from other sources. A study is underway to determine whether or not the proposed wastewater infrastructure will be adequate for higher land use intensities on the subject property and others along North Colorado Street. Such a study would confirm the size and cost of the new wastewater mains and associated lift station. The main issue is timing of development, and not necessarily the type of development proposed. Generally, a zoning change is considered premature if there is not adequate infrastructure available to support the development that the proposed zoning classification would allow. Three recent requests for a zoning change to RHD in the northwest quadrant of the city and the North Colorado Street areas were tabled to the May 25th Planning and Zoning Commission meeting and the June 7th City Council meeting due to inadequate wastewater infrastructure to serve the higher land use intensities proposed for those areas. The Council should take the same action by tabling this application because the Planning and Zoning Commission tabled further consideration of this application until their May 25th meeting. The proposed RHD zoning classification is not entirely consistent with the *Mixed Use* future land use designation shown on the Land Use Plan map. The only zoning classification that would be consistent with the Land Use Plan map for a true mixed use development would be the *PDD Planned Unit Development District*. Thus far, there have been no citizen comments expressed either for or against this application. An ordinance is not attached at this time because no action could be taken on it. ***Additional information is contained in the attached staff report.***

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PROJECT SCHEDULE (if applicable): Not applicable.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

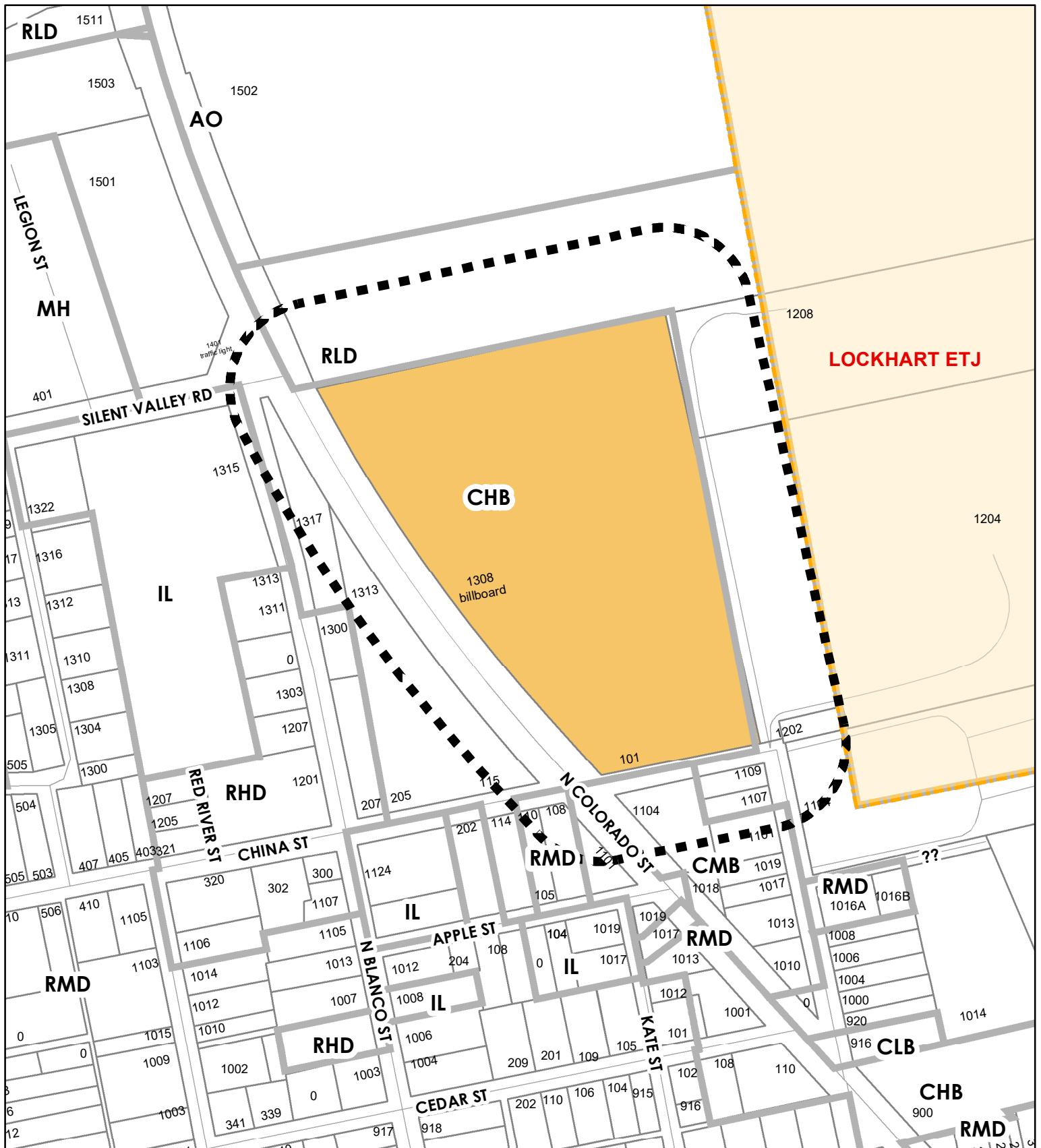
FISCAL NOTE (if applicable): Not applicable.

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: The Planning and Zoning Commission voted unanimously to Table further consideration of this application until their May 25th meeting for the reasons stated in the staff report.

STAFF RECOMMENDATION/REQUESTED MOTION: Section 211.007 of the Texas Local Government Code prohibits the governing body (City Council) from holding a public hearing or taking action on a zoning map change until a final recommendation is received from the zoning commission (Planning and Zoning Commission). Therefore, the suggested motion is to TABLE further consideration of Zoning Change ZC-22-12 from CHB to RHD until the June 7th Council meeting.

LIST OF SUPPORTING DOCUMENTS: ZC2212 case map, ZC2212 zoning, ZC2212 future landuse, ZC2212 aerial, zc2212 staff report, zc2212 application form and owner's letter



ZC-22-12

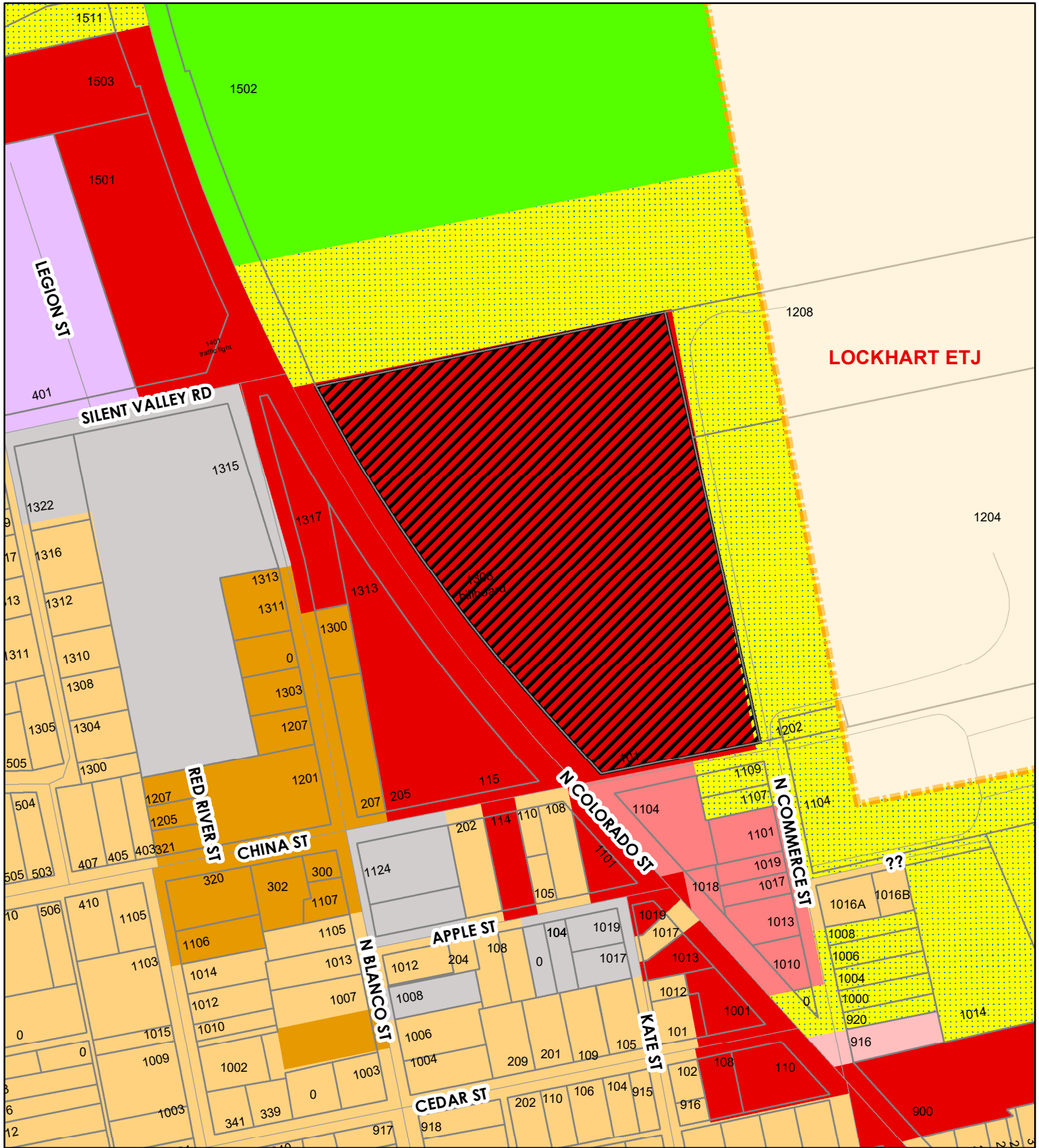
CHB TO RHD

101 EAST CHINA STREET



scale 1" = 300'

- SUBJECT PROPERTY
- ZONING BOUNDARY
- CITY LIMITS
- 200 FT BUFFER



ZC-22-12

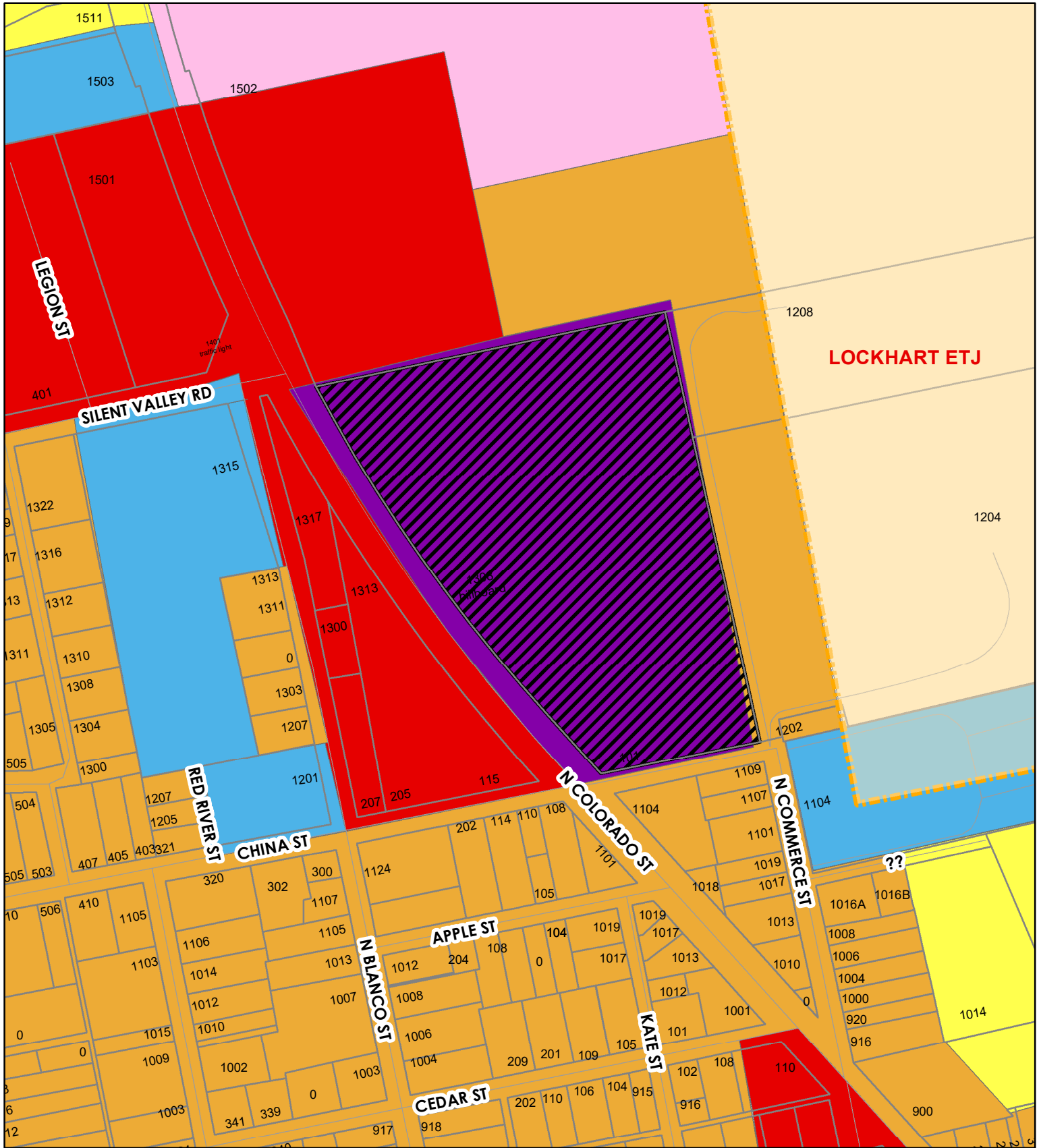
CHB TO RHD

101 EAST CHINA STREET



scale 1" = 300'

- ZONING DISTRICTS**
- AGRICULTURAL-OPEN SPACE
 - COMMERCIAL HEAVY BUSINESS
 - COMMERCIAL LIGHT BUSINESS
 - COMMERCIAL MEDIUM BUSINESS
 - INDUSTRIAL LIGHT
 - MANUFACTURED HOME
 - RESIDENTIAL HIGH DENSITY
 - RESIDENTIAL LOW DENSITY
 - RESIDENTIAL MEDIUM DENSITY



FUTURE LANDUSE

CHB TO RHD

101 EAST CHINA STREET



scale 1" = 300'

- AGRICULTURE/RURAL DEVELOPMENT
- GENERAL-HEAVY COMMERCIAL
- LIGHT-MEDIUM COMMERCIAL
- MIXED RETAIL, OFFICE, RESIDENTIAL
- PUBLIC AND INSTITUTIONAL
- RESIDENTIAL, LOW DENSITY
- RESIDENTIAL, MEDIUM DENSITY



CASE SUMMARY

STAFF: David Fowler, Senior Planner

CASE NUMBER: ZC-22-12

REPORT DATE: April 8, 2022 [Updated 4-14-22]

PLANNING AND ZONING COMMISSION HEARING DATE: April 13, 2022

CITY COUNCIL HEARING DATE: April 19, 2022

REQUESTED CHANGE: CHB to RHD

STAFF RECOMMENDATION: **Table**PLANNING AND ZONING COMMISSION RECOMMENDATION: **Table**

BACKGROUND DATA

APPLICANT: Jim Meredith

OWNER: Bobby Schmidt

SITE LOCATION: 101 E. China Street

LEGAL DESCRIPTION: Metes and Bounds

SIZE OF PROPERTY: 14.57 acres

EXISTING USE OF PROPERTY: Vacant land

LAND USE PLAN DESIGNATION: *Mixed Retail, Office, Residential.*

ANALYSIS OF ISSUES

REASON FOR REQUESTED ZONING CHANGE: The owner wishes to construct a residential development on the site that may be of a type or density that requires the RHD zoning classification. As this use is not permitted in the CHB zoning district, a rezoning has been requested.

AREA CHARACTERISTICS:

	Existing Use	Zoning	Future Land Use Plan
North	Vacant	RLD, AO	<i>General-Heavy Commercial, Light-Medium Commercial</i>
East	Vacant, Large lot residential in ETJ	RLD	<i>Agricultural Development, Light-Medium Commercial</i>
South	Single-family residential, commercial,	RMD, RLD, CHB, CMB	<i>Residential Medium Density, Public and Institutional</i>
West	Commercial, TxDOT maintenance, Single-family residential, church	CHB, RHD, IL	<i>General-Heavy Commercial, Medium Density Residential</i>

TRANSITION OF ZONING DISTRICTS: This zoning change will create an area of RHD that is not contiguous to other areas with the same zoning. The nearest RHD-zoned area is north of the intersection of West China Street and North Blanco Street, across North Colorado Street from the subject parcel.

ADEQUACY OF INFRASTRUCTURE: Vehicular access is available from East China Street and North Colorado Street. Additionally, extension of the Silent Valley Road arterial is planned along the north and east sides of the subject property, as shown on the Thoroughfare Plan map. Any new driveway onto North Colorado Street will require approval from TxDOT. Water is available and adequate, with the site being served by

a 12" line along East China and North Colorado Streets. Wastewater service is not adequate as the nearest connection points to the site are a 6" wastewater line at the northern end of Commerce St. and potentially a 6" wastewater line at the southwest corner of West China and North Colorado Streets. The closest wastewater main of sufficient size is located approximately 2,000 feet south of the site near the railroad track and Town Branch Creek. The wastewater impact fee CIP does propose a system of wastewater mains extending from that point northward, along with a lift-station, where it would serve the North Colorado Street area, including the subject property. There currently is no timeline or source of funding identified other than impact fees. Impact fees can be used to pay for up to half of the cost, but the remainder would have to come from other sources, such as developer participation.

POTENTIAL NEIGHBORHOOD IMPACT: The surrounding area is a mixture of commercial, church and residential development, with some vacant lots. Higher intensity zoning is appropriate when located along an arterial street such as Colorado Street and the future Silent Valley Road extension. There are single-family lots in the RMD and RLD zoning districts south of East China Street. As the existing CHB district allows several high intensity uses, the proposed RHD zoning should not have an adverse impact compared to existing zoning.

CONSISTENCY WITH COMPREHENSIVE PLAN: The proposed RHD zoning classification is not entirely consistent with the *Mixed Retail, Office, Residential* future land use that is designated for the subject lot, as the proposed development concept only includes residential uses. Mixed use buildings containing commercial and residential are allowed by right in the existing CHB zoning district. However, high density development allowed in the proposed RHD zoning classification could contribute to the overall mixed-use development of the US 183 corridor.

ALTERNATIVE CLASSIFICATIONS: Either CHB or PDD involving mixed use development would be consistent with the Land Use Plan map.

RESPONSE TO NOTIFICATION: None to date.

STAFF RECOMMENDATION: The requested zoning change, while not consistent with the Comprehensive Plan, would typically be recommended for approval due to the requested RHD zoning having similar intensity as the existing zoning. However, the existing wastewater capacity is insufficient for multifamily and other higher-density residential types permitted in RHD zoning. On the other hand, the wastewater capacity would be sufficient for many of the land uses permitted in the current CHB zoning district. The wastewater CIP is based on the land use types and intensities shown on the Land Use Plan map, which is mixed use for the subject property. A wastewater project is proposed that would serve the area but, as with the northwest quadrant of the city, a study is needed to determine whether or not the proposed wastewater infrastructure will be adequate for higher land use intensities. Such a study would confirm the size and cost of the new wastewater mains and associated lift station. So, the main issue is timing of development, and not necessarily the type of development proposed. Generally, a zoning change is considered premature if there is not adequate infrastructure available to support the development that the proposed zoning classification would allow. Three previous requests were received for zoning changes to RHD to allow high density apartments where the land use plan shows lower intensities. A precedent was set when the zoning changes were tabled to the May 25th Planning and Zoning Commission meeting and the June 7th City Council meeting due to inadequate wastewater infrastructure to serve the higher land use intensities proposed for those areas. The Council should take the same action and **Table** this application because the Planning and Zoning Commission tabled further consideration of this application until their May 25th meeting. Section 211.007 of the Texas Local Government Code prohibits the governing body (City Council) from holding a public hearing or taking action on a zoning map change until a final recommendation is received from the zoning commission (Planning and Zoning Commission).

CITY OF
Lockhart
TEXAS

ZONING CHANGE APPLICATION

(512) 398-3461 • FAX (512) 398-3833
P.O. Box 239 • Lockhart, Texas 78644
308 West San Antonio Street

APPLICANT/OWNER

APPLICANT NAME Jim Meredith
DAY-TIME TELEPHONE (512)306-8300
E-MAIL jim@masonwoodtx.com

ADDRESS 4301 Westbank Dr.
Bldg A, Suite 110
Austin, TX 78746

OWNER NAME Bobby Schmidt
DAY-TIME TELEPHONE (512)924-0387
E-MAIL bobby@schmidttranch.net & aanton@antonauctions-service.com

ADDRESS 3595 Schuelke Rd.
Niederwald, TX 78640

PROPERTY

ADDRESS OR GENERAL LOCATION 101 E. China St.
LEGAL DESCRIPTION (IF PLATTED) N/A - Metes & Bounds
SIZE 14.57 ACRE(S) LAND USE PLAN DESIGNATION Mixed Retail, Office, Residential
EXISTING USE OF LAND AND/OR BUILDING(S) N/A
PROPOSED NEW USE, IF ANY Residential High Density

REQUESTED CHANGE

FROM CURRENT ZONING CLASSIFICATION Commercial Heavy Business
TO PROPOSED ZONING CLASSIFICATION Residential High Density
REASON FOR REQUEST To gain the desired density for multifamily and
/or single family condominium style development

SUBMITTAL REQUIREMENTS

IF THE APPLICANT IS NOT THE OWNER, A LETTER SIGNED AND DATED BY THE OWNER CERTIFYING THEIR OWNERSHIP OF THE PROPERTY AND AUTHORIZING THE APPLICANT TO REPRESENT THE PERSON, ORGANIZATION, OR BUSINESS THAT OWNS THE PROPERTY.

NAME(S) AND ADDRESS(ES) OF PROPERTY LIEN-HOLDER(S), IF ANY.

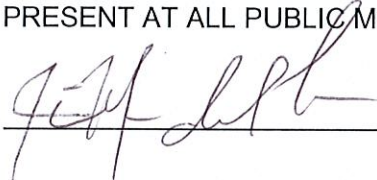
IF NOT PLATTED, A METES AND BOUNDS LEGAL DESCRIPTION OF THE PROPERTY.

APPLICATION FEE OF \$ 441.40 PAYABLE TO THE CITY OF LOCKHART AS FOLLOWS:

1/4 acre or less	\$125
Between 1/4 and one acre	\$150
One acre or greater	\$170 plus \$20.00 per each acre over one acre

TO THE BEST OF MY KNOWLEDGE, THIS APPLICATION AND ASSOCIATED DOCUMENTS ARE COMPLETE AND CORRECT, AND IT IS UNDERSTOOD THAT I OR ANOTHER REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC MEETINGS CONCERNING THIS APPLICATION.

SIGNATURE



DATE

3/16/2022

OFFICE USE ONLY

ACCEPTED BY

Kevin Waller

RECEIPT NUMBER

0143300
R-0443132

DATE SUBMITTED

3/16/22

CASE NUMBER ZC -

22 - 12

DATE NOTICES MAILED

3-29-2022

DATE NOTICE PUBLISHED

3-31-2022

PLANNING AND ZONING COMMISSION MEETING DATE

4/13/22

PLANNING AND ZONING COMMISSION RECOMMENDATION

Tabled 4-13-22

CITY COUNCIL MEETING DATE

4-19-22

DECISION

Robert A. Schmidt
3595 Schuelke Rd
Niederwald, Tx 78640
(512) 924-0387
bobby@schmidtranch.net

March 16, 2022

Mr. Dan Gibson
City of Lockhart, Developmental Services
308 W. San Antonio Street
Lockhart, Texas 78644

RE: Property known as 102 East China St. Lockhart, Tx 78644; 14.65 Acres PID # 18458

Dear Mr. Gibson,

I authorize Mr. Jim Meredith/Moody Engineering to apply with the City of Lockhart for purposes of changing the zoning, submitting and processing a final plat, construction plans, site plans and any other required plan/documents to include corrections and revisions needed to proceed with their development of the subject property. The processes will all be at the applicant's expense.

You may reach me at the above phone number if there are any questions.

Sincerely,


Robert A. Schmidt

CC: Amy Anton

**REGULAR MEETING
LOCKHART CITY COUNCIL**

APRIL 5, 2022

6:30 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS, 217 SOUTH MAIN STREET, 3RD FLOOR, LOCKHART, TEXAS

Council present:

Mayor Pro-Tem Angie Gonzales-Sanchez
Councilmember Juan Mendoza
Councilmember Jeffry Michelson

Mayor Lew White
Councilmember Derrick David Bryant
Councilmember Kara McGregor
Councilmember Brad Westmoreland

Staff present:

Steven Lewis, City Manager
Monte Akers, City Attorney
Dan Gibson, City Planner
Pam Larison, Finance Director

Connie Constancio, City Secretary
Victoria Maranan, Public Information Officer
Sean Kelley, Public Works Director

Citizens/Visitors Addressing the Council: Representatives of Hays-Caldwell Women's Center; Library, staff; and Citizens: Shirley Williams, John Castillo, Philip Ruiz, and David Gratz.

Work Session 6:30 p.m.

Mayor White opened the work session and advised the Council, staff and the audience that staff would provide information and explanations about the following items:

A. PRESENTATION OF PROCLAMATIONS DECLARING APRIL 2022 AS CHILD ABUSE AND SEXUAL ASSAULT AWARENESS & PREVENTION MONTH.

Mayor White presented the proclamations to Representatives of the Hays-Caldwell Women's Center.

Mayor White presented a proclamation to members of the Library Advisory Board and Library staff declaring April 3-9, 2022 as National Library Week.

EXECUTIVE SESSIONS: Mayor White announced that the Council would enter Executive Session at 6:41 p.m. regarding items B and C as listed below.

B. EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF THE GOVERNMENT CODE, TITLE 5, SUBCHAPTER D, SECTION 551.086 PUBLIC POWER UTILITIES, COMPETITIVE MATTERS, TO DELIBERATE OR TAKE FINAL ACTION ON A COMPETITIVE MATTER RELATED TO ASSIGNMENT OF A RIGHT OF FIRST REFUSAL.

C. EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF THE GOVERNMENT CODE, TITLE 5, SUBCHAPTER D, SECTION 551.071, PRIVATE CONSULTATION WITH ITS ATTORNEY TO SEEK ADVICE ABOUT PENDING OR CONTEMPLATED LITIGATION; SETTLEMENT OFFER; OR LEGAL MATTERS SUBJECT TO ATTORNEY/CLIENT PRIVILEGE. CONSULTATION WITH CITY ATTORNEY REGARDING CODE OF ETHICS.

Mayor White announced that the Council would reconvene in Open Session at 7:33 p.m. There was no action taken.

D. DISCUSS MINUTES OF THE MARCH 3, 2022 AND MARCH 15, 2022 CITY COUNCIL MEETINGS.

Mayor White requested corrections to the minutes. There were none.

E. DISCUSS RESOLUTION 2022-20 APPROVING THE CITY OF LOCKHART'S SPENDING PLAN FOR AMERICAN RESCUE PLAN ACT OF 2021 RELIEF FUNDS ASSOCIATED WITH THE IMPLEMENTATION OF THE AMERICA RESCUE PLAN ACT (ARPA) - CORONAVIRUS LOCAL AND STATE FISCAL RECOVERY FUNDS (SLFRF) ALLOCATION.

Ms. Larison stated that on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARPA), which launched the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to provide \$350 billion in emergency funding for state and local governments. The emergency economic stimulus bill provides fiscal aid to address the ongoing COVID-19 public health crisis. The SLFRF provides funding to meet local needs, including COVID-19 response, replacing public sector revenue loss, premium pay for essential workers, improving facilities to ensure health and safety, increase usage of outdoor spaces, as well as investing in public infrastructure and broadband. Of the \$350 billion economic stimulus bill, the City of Lockhart will receive a total of \$3,501,959.00 in direct one-time funding.

Ms. Larison stated that the expenditure categories under the US Treasury's Final Rule on April 1, 2022 are as follows:

1. Public health
2. Negative economic impact
3. Services to disproportionately impacted communities
4. Premium pay
5. Infrastructure
6. Revenue replacement
7. Administrative

Ms. Larison stated that on September 7, 2021, the City Council approved the FY 2021-2022 City of Lockhart budget which included the appropriations for capital expenditures in the Water Fund (\$1,193,000.00) with ARPA/SLFRF funds. This capital expenditure falls under Final Rule 5. Between the close of the CARES fund and the opening of the ARPA fund, the City of Lockhart has continued to expend funds for personal protective equipment and medical supplies associated with COVID-19 (\$300,000). This expenditure falls under the Final Rule 1. In 2021, the City Council provided financial relief to its utility customers by removing late fees, penalties, and placing a moratorium on disconnections for six months. At the end of the deferral period, utility customers were allowed to set up payment plans for any outstanding balances leading to a revenue loss for the electric and water funds. Due to the Final Rule, the City of Lockhart will be able to replace the lost revenue with ARPA funds up to a standard deduction of \$10 million. The use of these funds can be used for any governmental service provided by the City (\$2,008,959). This expenditure falls under Final Rule 6. Ms. Larison recommended approval. There was discussion.

F. DISCUSS APPLICATION ZC-22-09 BY CHRIS BANCROFT ON BEHALF OF ALMA EWALD FOR A ZONING CHANGE FROM 23.064 ACRES *AO AGRICULTURAL--OPEN SPACE DISTRICT* TO 18.535 ACRES *RHD RESIDENTIAL HIGH DENSITY DISTRICT* AND 4.529 ACRES *CMB COMMERCIAL MEDIUM BUSINESS DISTRICT* IN THE BYRD LOCKHART LEAGUE, ABSTRACT NO. 17, LOCATED AT 1650 NORTH COLORADO STREET (US 183). *PROPOSED TO BE TABLED TO THE JUNE 7TH MEETING DUE TO NOT YET HAVING A FINAL RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION.*

Mayor White stated that consideration of the zoning change application will be tabled to the June 7, 2022 Council meeting.

G. DISCUSS APPLICATION ZC-22-10 BY CHRIS BANCROFT ON BEHALF OF ERNEST EWALD, JR., FOR A ZONING CHANGE FROM 15.906 ACRES *AO AGRICULTURAL--OPEN SPACE DISTRICT* TO 12.262 ACRES *RHD RESIDENTIAL HIGH DENSITY DISTRICT* AND 3.644 ACRES *CMB COMMERCIAL MEDIUM BUSINESS DISTRICT* IN THE BYRD LOCKHART LEAGUE, ABSTRACT NO. 17, LOCATED AT 1724 NORTH COLORADO STREET (US 183). *PROPOSED TO BE TABLED TO THE JUNE 7TH MEETING DUE TO NOT YET HAVING A FINAL RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION.*

Mayor White stated that the zoning change application will be tabled to the June 7, 2022 Council meeting.

RECESS: Mayor White announced that the Council would recess for a break at 7:43 p.m.

ITEM 1. CALL TO ORDER.

Mayor Lew White called the meeting to order at 8:05 p.m.

ITEM 2. INVOCATION, PLEDGE OF ALLEGIANCE.

Mayor White gave the Invocation and led the Pledge of Allegiance to the United States and Texas flags.

ITEM 3. PUBLIC COMMENT.

Mayor White requested citizens to address the Council regarding issues that are not on the agenda. There were none.

ITEM 4-A. HOLD SECOND PUBLIC HEARING TO RECEIVE COMMENTS ON THE PROPOSED ILLUSTRATIVE PLAN FOR REDISTRICTING THE CITY COUNCIL DISTRICTS. THE CITY COUNCIL MAY GO INTO EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.071 TO RECEIVE ADVICE FROM LEGAL COUNSEL REGARDING THE CITY'S REDISTRICTING OBLIGATIONS.

Mayor White opened the public hearing at 8:02 p.m.

Mayor White requested the following to address the Council:

John Castillo, 1106 Red River, expressed opposition to the proposed Plan A redistricting plan. He stated that he believes that Plan A removes voters from the voting district that they are accustomed to.

Philip Ruiz, 102 Stueve Lane, of LULAC expressed opposition of the proposed Plan A. He stated that they are proposing two different redistricting plans. He stated that proposed Plan 1 eliminates including the prison inmates in the population count and Plan 2 keeps the prison in the population. LULAC's proposed plan is similar to the plan created by MALDIF back in the 1980's. They are trying to maintain the community's history and to maintain minimal changes to adhere to the MALDIF.

David Gratz, Live Oak Street, stated that the City Council's proposed Plan A would divide blocks that would require the Elections Administrator to create specific ballots for a very few voters. He suggested that the city attempt to align the new district boundaries to be similar to that of Caldwell County.

Mayor White announced that the Council would enter Executive Session at 8:20 p.m. to discuss the redistricting process.

Mayor White reconvened the meeting in Open Session at 8:50 p.m.

ITEM 4-B. DISCUSSION AND CONSIDERATION BY THE CITY COUNCIL OF COMMENTS RECEIVED FROM THE PUBLIC REGARDING THE PROPOSED REDISTRICTING PLAN FOR CITY COUNCIL DISTRICTS, AND POSSIBLE AMENDMENTS TO THE PROPOSED PLAN, INCLUDING A PLAN DRAWING SESSION.

Mayor White stated that the item is being referred to the redistricting Attorney to review the additional material to place on a future agenda.

ITEM 4-C. DISCUSSION OF, AND POSSIBLE ACTION TO ADOPT RESOLUTION 2022-21 APPROVING THE REDISTRICTING OF THE CITY'S SINGLE-MEMBER COUNCIL DISTRICTS AND ESTABLISHING NEW DISTRICT BOUNDARY LINES FOR THE CITY OF LOCKHART'S CITY COUNCIL ELECTION BASED ON 2020 CENSUS DATA AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor White announced that there would be no action on the item.

ITEM 5. CONSENT AGENDA.

Councilmember Michelson made a motion to approve consent agenda items 5A, 5B, 5C and 5D. Councilmember Westmoreland seconded. The motion passed by a vote of 7-0.

The following are the consent agenda items that were approved:

- 5A: Approve minutes of the March 3, 2022 and March 15, 2022 City Council meetings.
- 5B: Approve Resolution 2022-20 approving the City of Lockhart's Spending Plan for American Rescue Plan Act of 2021 relief funds associated with the implementation of the America Rescue Plan Act (ARPA) - Coronavirus Local and State Fiscal Recovery Funds (SLFRF) allocation.
- 5C: Table application ZC-22-09 by Chris Bancroft on behalf of Alma Ewald for a Zoning Change from 23.064 acres *AO Agricultural--Open Space District* to 18.535 acres *RHD Residential High Density District* and 4.529 acres *CMB Commercial Medium Business District* in the Byrd Lockhart League, Abstract No. 17, located at 1650 North Colorado Street (US 183) to the June 7, 2022 City Council meeting.
- 5D: Table application ZC-22-10 by Chris Bancroft on behalf of Ernest Ewald, Jr., for a Zoning Change from 15.906 acres *AO Agricultural--Open Space District* to 12.262 acres *RHD Residential High Density District* and 3.644 acres *CMB Commercial Medium Business District* in the Byrd Lockhart League, Abstract No. 17, located at 1724 North Colorado Street (US 183) to the June 7, 2022 City Council meeting.

ITEM 6-A. DISCUSSION REGARDING REVISIONS TO AMENDMENT OF SECTION 50-3 OF CHAPTER 50 OF THE LOCKHART CODE OF ORDINANCES TO ESTABLISH MAINTENANCE RESPONSIBILITIES FOR PUBLIC SIDEWALKS AND COST SHARING PROGRAM FOR SIDEWALK RECONSTRUCTION AND REPAIRS.

Mr. Kelley stated that staff recently presented a draft Ordinance regarding a proposed sidewalk cost sharing program to the City Council on January 4, 2022. The draft ordinance was created to clarify sidewalk replacement and maintenance responsibilities and proposed a 50/50 cost sharing policy to repair deficient sidewalks. The consensus of the Council was to direct staff to prepare another draft ordinance which includes recommendations expressed by Council. The recommendations included making sure that the program is fair and includes downtown businesses and schools as part of city-maintained public sidewalks. There was discussion.

After discussion, the consensus of the Council was not to adopt a sidewalk cost sharing program ordinance at this time. The Council will revisit the sidewalk cost sharing program after goals and budget workshops.

Councilmember McGregor made a motion to table the item until after the budget process. Councilmember Mendoza seconded. The motion passed by a vote of 7-0.

ITEM 6-B. DISCUSSION AND/OR ACTION TO CONSIDER ORDINANCE 2022-14 ADOPTING A CODE OF ETHICS AND ANTI-DISCRIMINATION POLICY FOR CITY COUNCIL MEMBERS, CITY BOARD/COMMISSION MEMBERS, AND EMPLOYEES.

Councilmember Michelson made a motion to postpone consideration of the Ethics policy indefinitely. Mayor Pro-Tem Sanchez seconded. The motion passed by a vote of 7-0.

ITEM 6-C. CONSIDER THE NOMINATION OF DANIEL KOEHLER TO THE AIRPORT ADVISORY BOARD BY COUNCILMEMBER DERRICK DAVID BRYANT FOR A TERM TO EXPIRE IN NOVEMBER 2022.

Councilmember Bryant made a motion to appoint Daniel Koehler to the Airport Advisory Board. Councilmember Mendoza seconded. The motion passed by a vote of 7-0.

ITEM 6-D. DISCUSSION REGARDING MATTERS RELATED TO COVID-19.

Mayor White shared information about COVID testing sites in the community.

ITEM 7. CITY MANAGER'S REPORT, PRESENTATION AND POSSIBLE ACTION.

- City offices will be closed on Friday, April 15 in observance of the Good Friday Holiday. No change in the garbage pickup schedule.
- Update regarding Civil Service Examinations for Public Safety positions.
- Council Goals Workshop on Saturday, April 9 at 8:00 a.m.
- Update regarding Household Hazardous Waste Collection event held on March 26.
- Update regarding roof repairs at 901 Bois D'arc-Senior Citizen Center.
- CARTS Now services begin in Lockhart on May 2.

ITEM 8. COUNCIL AND STAFF COMMENTS - ITEMS OF COMMUNITY INTEREST.

Councilmember Mendoza thanked the Friends of the City Cemetery for being able to identify a few unmarked graves.

Mayor Pro-Tem Sanchez expressed condolences to the family of Marvin Sandler for their loss. She congratulated the Hispanic Chamber for a successful annual banquet and the LISD Education Foundation for a successful “50 Lions Who Can Cook” fundraiser.

Councilmember McGregor congratulated all involved in a successful First Friday.

Councilmember Bryant also congratulated organizations that held successful events.

Councilmember Michelson thanked those involved in the recent flyer-over at the Lockhart Airport. He thanked all that attended and participated in the LISD Education Foundation “50 Lions That Can Cook” fundraiser.

Mayor White thanked the Hispanic Chamber for a successful banquet and he congratulated those that were recognized. He thanked LISD Education Foundation for the successful event. He stated that the Lockhart Airport will host a fly-in event the 1st Saturday of each month from 9am to 12pm. He congratulated the Downtown Business Association for successful Sip-n-Stroll event.

ITEM 9. OPEN SESSION. Discussion and/or action regarding matters discussed in Executive Session.

There was no action.

ITEM 10. ADJOURNMENT.

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 9:55 p.m.

PASSED and APPROVED this the 19th day of April 2022.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Connie Constancio, TRMC
City Secretary

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss a property sale agreement for 6.788 acres in 130 Industrial Park III with Ziegenfelder Company.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

Attached is a land purchase agreement with the Ziegenfelder Company.

Based in Wheeling, WV, the Ziegenfelder Company is a private, family-owned frozen novelty manufacturer that focuses on producing the highest quality frozen ice treats. Its signature item, Budget Saver Assorted Twin Pops, is commonly referred to as the "Rainbow Array™". They are a significant manufacturer of twin pops with production facilities in Wheeling, WV; Chino, CA; and Denver, CO.

The Ziegenfelder Company has produced steady and significant double digit growth year over year for the past 15 years while growing its tribe from 60 employees in one facility with three production lines to over 300 employees across three facilities and 12 production lines. Core to its success has always been making the highest quality, best tasting products in the market and selling them to valued customers at the best possible price. The Ziegenfelder Company owns and produces the brand Budget Saver, as well as licensed and private labeled products for premiere retailers. 24/7 operations in our three facilities, generates over 2.5 million pops per day.

The potential Lockhart facility is estimated to be a \$30 million investment and create up to 100 jobs in a 42,000 SF facility.

Ziegenfelder has presented the LEDC with a purchase sale agreement for land in the new industrial park with the details below:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

Information of note:

Site under the contract: Block B, Lot 1 (6.788 acres) (See Map)

1. Purchase Price: \$2.75/SF or \$813,134.52
2. Earnest Money: \$75,000
3. Feasibility Period: 90 days to complete its Due Diligence related to the site with an additional 45 days beyond the feasibility period to obtain all necessary permits for buyer's intended use.
4. State of Texas incentives (the Texas Enterprise Fund) is a condition of closing.

The LEDC Board took unanimous action to accept the contract with edits which are being presented tonight at its April 11, 2022 regular board meeting

PROJECT SCHEDULE (if applicable): Company would begin construction in 2022 should all conditions of the contract be met.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): Not applicable

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The LEDC Board of Directors unanimously approved the contract presented this evening at its april 11, 2022 regular board meeting

STAFF RECOMMENDATION/REQUESTED MOTION: Approve the property sale agreement for 6.788 acres in Lockhart Industrial Park III with Ziegenfelder Company as presented.

LIST OF SUPPORTING DOCUMENTS: LEDC Draft Minutes 4.11.22, PSA v3 Lockhart Industrial Park Ziegenfelder (4-13-22)

DRAFT MINUTES

LOCKHART ECONOMIC DEVELOPMENT CORPORATION

MONDAY, APRIL 11, 2022
6:00 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS
217 SOUTH MAIN STREET, 3RD FLOOR
LOCKHART, TEXAS

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Sally Daniel; Doug Foster; Frank Estrada; Juan Alvarez; David Bryant

Board Members Absent: None

Staff Present: Mike Kamerlander; Pam Larison, Treasurer; Nicole Warren, LEDC Attorney

1. CALL TO ORDER

The meeting was called to order by Alan Fielder, Chairman at 6:00 pm

2. PUBLIC HEARING - 6:00 PM

2.1 Hold a public hearing regarding a performance agreement with Revival Cycles, Inc. pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:00 PM

Closed: 6:01 PM

No public present.

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the March 14, 2022 meeting.

No Discussion.

Motion to approve the minutes from the March 14, 2022 meeting.

Motion: Sally Daniel

Second: Alfredo Muñoz

Vote: 7 of 7

4.2 Discussion and/or action regarding sales tax and financial statements for March 2022.

- Audit discussion and suggestions

Ms. Larison provided an overview of the financials from the month with no significant issues to report. Sales tax revenues continue to outpace last year's. Ms. Larison went over the auditor's report which contained nothing unusual in the LEDC's accounting. The accounting firm did suggest LEDC funds be placed in its own bank account separate from the City's funds. The board discussed this at length and provided consensus to move forward with the auditor's recommendation.

Motion to approve the March 2022 financial statements.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 7 of 7

4.3 Discussion and/or action regarding LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

The Economic Development Performance Agreement is to provide a rebate of up to \$250,000 to Revival Cycles, Inc. for reimbursement of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades, and a rebate of EDC sales taxes collected by Revival Cycles, Inc. over a 5-year term.

Motion to approve LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.4 Discussion and/or action regarding a property sale agreement for 19.665 acres in Lockhart Industrial Park III with Titan Development.

Due to the right of first refusal with Titan Development, the company has exercised its right to purchase this tract in Industrial Park III. Terms were discussed as part of the agenda packet.

Motion to to Authorize the LEDC President to execute a purchase sale agreement for 19.665 acres in Lockhart Industrial Park III.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.5 Discussion and/or action regarding a property sale agreement for 6.788 acres in Lockhart Industrial Park III with Ziegenfelder Company.

Motion: Doug Foster Second: Alfredo Muñoz Vote: 7 of 7

4.6 Discussion and/or action regarding phase 2 of Lockhart Industrial Park III.

Staff reviewed the current state of Lockhart Industrial Park III and went over the need to begin phase II of the park due to contracting with business entities for land in phase II. Staff went over the possibility of cash flow lagging sales and that the EDC would need to cover those costs until the land sales closed which are all expected by the end of the year.

Motion: Doug Foster Second: Sally Daniel Vote: 7 of 7

4.7 Discussion and/or action regarding authorization of a Memorandum of Understanding between LEDC and the Greater San Marcos Partnership for the Fiscal Year 2021-22.

Staff reviewed the proposed MOU with the Greater San Marcos Partnership for the 2021-22 Fiscal Year. After deliberations, the board decided to remove on provision in the MOU and reduce the investment in GSMP from \$20,000 to \$15,000 for the current fiscal year.

Motion: Doug Foster Second: Juan Alvarez Vote: 7 of 7

5. Executive Session – In: 7:16 PM Out: 7:37 PM

5.1 Close Open Session and Convene Executive Session pursuant to Secs. 551.071 (consultation with attorney), 551.072 (real estate) and 551.087 (Economic Development) of the Texas Open Meetings Act. Gov't Code Ch. 551, to discuss the following:

- Summertime
- Revive
- Recycle
- Specs 2
- Rose

6. Board Action from Executive Session

6.1 Motion to accept the LOI terms for Project Specs 2 and direct staff to negotiate a purchase sale agreement as discussed in executive session.

Motion: Doug Foster Second: Sally Daniel Vote: 7 of 7

6.2 Motion to authorize the LEDC President to negotiate and execute a Purchase Sale Agreement with Project Rose.

Motion: Alfredo Muñoz Second: David Bryant Vote: 7 of 7

7. DISCUSSION ONLY

7.1 Activity Updates

Mr. Kamerlander gave an update on the LEDC Staff activities for March 2022.

ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz Second: Sally Daniel Vote: 7 of 7

LEDC Board of Directors Adjourned at 7:44 PM.

Minutes approved this the 9th day of May, 2022.

Alan Fielder, Chairman LEDC

Michael Kamerlander, Secretary LEDC

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (the "Agreement"), is entered into by and between **LOCKHART ECONOMIC DEVELOPMENT CORPORATION**, a Texas corporation ("Seller") and **THE ZIEGENFELDER COMPANY**, a West Virginia corporation, or its assigns (collectively, "Buyer"), regarding the Property (as defined in this Agreement). Buyer and Seller are hereinafter referred to each, individually, as a "Party" and, collectively, as the "Parties".

ARTICLE 1 - PROPERTY

1.1 Property. In consideration of the mutual covenants and agreements herein, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties intend to be bound by this Agreement and hereby agree to the terms of this Agreement. Buyer agrees to buy and Seller hereby agrees to sell and convey all of Seller's rights, title and interest in and to the property described in Section 1.2 hereof (the "Property") pursuant to the terms and conditions set forth herein.

1.2 Description of Property. The "Property" consists of: (a) the lot(s) or parcel(s) of real property consisting of approximately 6.788 acres known as Block B, Lot 1 of the Lockhart Industrial Park III, being located near the intersection of W. San Antonio Street and State Highway 130 in Lockhart, Caldwell County, Texas (the "Land"), being all or a portion of the tax parcel with Property ID # 79142, as described and/or depicted in **Exhibit A** to this Agreement, and being all or a portion of the tax parcel with Property ID # 79142; (b) all rights, privileges, easements, buildings, fixtures, and improvements appurtenant to the Land and owned by Seller (collectively the "Appurtenances"); (c) all rights of prescription or adverse possession, if any, associated with the Land (collectively, the "Prescriptive Rights"); (d) all of Seller's right and title in and to water, timber, oil, gas, sulfur, shale, coal, metals and all other minerals of every kind or character in, on, under and that may be produced from the Land at the surface or any greater depth, to the extent they are owned or controlled by Seller (but without any warranty of title) (collectively, the "Water and Mineral Rights") and, together with the Land, the Appurtenances and the Prescriptive Rights, collectively, the "Real Estate"; (e) all permits, licenses, certificates of occupancy, approvals, authorizations and orders obtained from any governmental authority and relating to the Real Estate or the business of owning, maintaining and/or managing the Real Estate (collectively, the "Entitlements"); (f) all of Seller's rights under any leases, profits, licenses and agreements related to the Real Estate accepted and assumed by Buyer, in Buyer's sole discretion pursuant to this Agreement (collectively, the "Leases"); (g) all private rights under any development agreement or recorded declaration, agreement or other document affecting the Real Estate, including rights to any payment, credit, escrow or bond in connection with the same (the "Private Rights"); and (h) all of Seller's personal property and intangible property, if any, located at the Real Estate and used solely in connection with Seller's ownership and operation of the Real Estate (the "Personal Property").

1.3 Subdivision. As of the Effective Date, the Land is a portion of a larger parcel of real property, designated as Tax Parcel # 79142 (the "Seller's Parcel"), as depicted in **Exhibit A-1** to this Agreement. Within the first **10 business days** after the Effective Date (as defined in this Agreement), Seller shall, at Seller's sole cost and expense, provide for Buyer's review and approval (which approval will not be unreasonably delayed, conditioned or withheld) a proposed subdivision plan and any required ancillary documents that subdivides the Land from the Seller's Parcel that substantially matches **Exhibit A** to this Agreement and provides the Land with the access, utility and other easements required for Buyer's proposed development (the "Buyer-Approved Subdivision Plan"). Within the first **business 90 days** after the Effective Date (the "Subdivision Deadline"), Seller shall, at Seller's sole cost and expense: (a) obtain the approval of the Buyer-Approved Subdivision Plan from all necessary governmental authorities and the Escrow Agent; (b) record the Buyer-Approved Subdivision Plan with the applicable recorder's office and take such other steps as may be required to make the Buyer-Approved Subdivision Plan final and legally binding; and (c) provide a copy of the recorded Buyer-Approved Subdivision Plan to Buyer and Escrow Agent. For every day after the Subdivision Deadline that Seller is late in satisfying any of the requirements in this Section, the Feasibility Period shall be extended by one day, along with all deadlines tied to the Feasibility Period. Seller shall be responsible, at its own expense, for getting any amendments to prior approvals or permits and any approvals under recorded documents that become necessary because of the approval or recording of the Buyer-Approved Subdivision Plan.

ARTICLE 2 - PURCHASE PRICE

2.1 Payment of Purchase Price. The "Purchase Price" for the Property shall be **\$813,134.52**, subject to Buyer's confirmation of the acreage and square footage of the Property.

2.2 Earnest Money. Within **5 business days** after the Effective Date, Buyer shall deposit with Escrow Agent the sum of **\$75,000.00** (the "Initial Deposit"). The Initial Deposit (as defined in this Agreement) and all other monetary deposits and extension fees tendered pursuant to this Agreement (and all amendments hereto), and all interest earned on any such deposits or fees (collectively, the "Earnest Money") shall be held in trust and applied in accordance with the terms of this Agreement. Escrow Agent shall deposit all Earnest Money in an account with a federally insured financial institution and, at Buyer's request, such account shall be interest-bearing; any interest accruing on the Earnest Money while in Escrow Agent's custody shall accrue to and be the property of Buyer, who shall be the named recipient for tax purposes, including on any Form 1099s issued by Escrow Agent. All Earnest Money shall be applicable to the Purchase Price at Closing. Furthermore, upon the full execution of this Agreement and Deposit of the Initial Deposit, Escrow Agent shall immediately deliver to Seller **\$100.00** of the Initial Deposit (the "Independent Consideration") in consideration for Seller's entering into this Agreement and granting Buyer each of the Contingency Periods (as defined in this Agreement). The **\$100.00** shall not be considered part of the Earnest Money and will not be refundable to Buyer under any circumstances, but will be applied to the Purchase Price at Closing.

2.3 Escrow and Title Agent. The "Escrow Agent" is the company (through its agent) listed along with its contact information in the signature pages of this Agreement, who shall serve as the escrow agent and title agent for the transaction contemplated by this Agreement (this "Transaction").

ARTICLE 3 - REPRESENTATIONS, WARRANTIES AND COVENANTS. In addition to others in this Agreement, Seller hereby makes the following representations, warranties and covenants, each of which is material and is relied upon by Buyer, and each of which shall survive closing and delivery of the Deed:

3.1 Seller's Representations and Warranties.

3.1.1 Title. Seller alone holds fee simple title to the Real Estate and, at the Closing, Seller will have and will convey to Buyer good, marketable and indefeasible title to the Real Estate, subject only to general real estate taxes not yet due and payable and to the Permitted Exceptions (as defined in this Agreement).

3.1.2 Subdivision. At the time of Closing, and at the sole cost of Seller, the Land shall be one or more separately deeded parcels and separately assessed tax parcels that can be conveyed to Buyer independently from all other land in accordance with applicable law.

3.1.3 Lawsuits, Violations, Condemnations. To Seller's current, actual knowledge, there are no: (a) lawsuits, arbitrations, mediations or claims pending or threatened with respect to or affecting the Property and there are not presently circumstances that could reasonably form the basis for the same; (b) outstanding notices of any uncorrected violations of any laws, statutes, ordinances, rules or regulations with regard to the Property, its condition, or use; (c) voluntary or involuntary bankruptcy proceedings pending or threatened which involve Seller or the Property; or (d) condemnation or eminent domain proceedings pending, planned, or threatened against any portion of the Property.

3.1.4 Existing Leases. There are no leases, profits or licenses currently in effect, or scheduled to be in effect, with respect to all or any part of the Property and there are no other parties in possession of any portion of the Property.

3.1.5 Third-Party Rights. No options, rights of first refusal, rights of first offer, or other contracts have been granted or entered into which give any other party a present or future right to purchase or acquire any interest in the Property or any part thereof.

3.1.6 Seller's Deliverables. To Seller's knowledge, the materials delivered to Buyer pursuant to Article 4 of this Agreement contain no material untrue or misleading information.

3.1.7 Agreements. There are no maintenance, management, service, brokerage or similar agreements related to the Property that can be asserted against Buyer or the Property after the Closing or, to the extent that such agreements do exist as of the Effective Date, they will be terminated prior to Closing;

3.1.8 Mechanics' Liens. No payments for work, materials or improvements furnished to the Real Estate will be due or owing at Closing, and no mechanic's lien, materialman's lien, or similar lien (or right to file such liens) shall exist against the Real Estate at the time of Closing, other than those for which Buyer is responsible under Section 5 of this Agreement (regarding Access).

3.1.9 Seller's Status. Seller: (a) is a corporation, formed and in good standing in Texas; (b) is authorized to do business in the state where the Land is located; (c) is not a "foreign person" within the meaning of the Internal Revenue Code, as amended, Sections 1445 and 7701; (d) has no owner, officer, director, or managing member who is a person with whom others are restricted from doing business under the governing statutes or regulations of the Office of Foreign Asset Control of the U.S. Department of the Treasury (including those named on its Specially Designated and Blocked Persons List) or under any statute, executive order, or other governmental action; and (e) is not engaged in activities that violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or related regulations or orders.

3.1.10 Seller's Authority. Seller, through its representative signing below, has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms and conditions hereof. This Agreement, when executed and delivered by Seller, will be a valid and binding obligation of Seller in accordance with its terms. Neither the execution of this Agreement nor the consummation of this Transaction will: (a) conflict with, or result in a breach, default, or violation of the terms, conditions, or provisions of any law, order, restriction, agreement or instrument to which Seller or any predecessor of Seller is subject or a party; or (b) result in the creation of any lien, charge or encumbrance upon any of the properties or assets to be sold or assigned to Buyer pursuant to the provisions of this Agreement.

3.1.11 Environmental Hazards: To Seller's current, actual knowledge, and except as disclosed in any environmental report provided to Buyer by Seller (collectively, "Environmental Reports"): (a) the Real Estate is not in violation of any Environmental Laws (as defined in this Agreement); (b) no party has used or stored any hazardous or toxic substance or material which is regulated or controlled by any applicable Environmental Law (collectively, "Hazardous Substances") on or about the Real Estate, except in amounts and ways that are in full compliance with all Environmental Laws; (c) the Real Estate does not now contain and has not contained any underground storage tanks, landfills, or hazardous waste management facilities or any Hazardous Substances; and (d) no claim, action, suit or proceeding is pending or threatened against Seller or any third party arising, either directly or indirectly, out of the presence or discharge (whether intentional or unintentional) of any Hazardous Substances in, on, under, at, or about the Real Estate, the violation of any Environmental Laws, or the presence of any tank, underground or otherwise.

For purposes of this Agreement, "Environmental Laws" means, individually and collectively, any law, statute, ordinance, rule, regulation or legal requirement in effect at the Effective Date and/or the date of the Closing, applicable to the Real Estate or ownership of or activities at the Real Estate, and pertaining to (i) the protection of health, safety, or the environment; (ii) the conservation, management, protection, or use of natural resources and wildlife; (iii) the protection or use of source water and groundwater; (iv) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of, or exposure to, any Hazardous Substances; or (v) pollution (including any release to air, land, surface water and groundwater).

3.1.12 Special Districts. Except as shown on the Commitment, the Real Estate is not a part of (and Seller has not committed the party to be part of) any special districts, utility districts or other quasi-governmental entity.

3.1.13 Renewal. From and after the Effective Date, until the date of Closing Seller: (a) will not cause nor (to the best of Seller's ability) permit any act or omission which would cause any of Seller's representations or warranties in this Agreement to be false as of Closing. Prior to Closing, Seller agrees to notify Buyer in writing within **3 business days** after Seller becomes aware of any event, fact or condition that causes a material change to the truth of any of Seller's warranties and representations (a "Representation Notice"). Seller shall have **10 business days** after the discovery in order to cure the event, fact or condition listed in the Representation Notice (the "Representation Cure"). If Seller does not cure the item within those **10 business days**, Buyer shall have **10 additional business days** to elect in writing (the "Representation Notice Response") to: (a) continue with this Transaction; or (b) terminate this Agreement by written notice to the Seller. If Buyer terminates this Agreement under this Section, all of the Earnest Money will be immediately

returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination). If Buyer elects not to terminate this Agreement under this Section, or if Buyer fails to provide timely written notice of its election under this Section, then Buyer will be deemed to have elected to continue with this Transaction. If necessary, the Closing shall be extended to allow for the time periods regarding the Representation Notice, Representation Cure and Representation Notice Response to occur prior to Closing. At Closing, Seller shall, by written certification, renew and affirm each of the warranties and representations set forth in this Agreement, subject to any revisions pursuant to any Representation Notice (the "Renewal Certification").

3.2 Condition of Property.

3.2.1 No Agreements. Seller shall not, without first obtaining Buyer's prior written consent (which may be withheld in Buyer's sole and absolute discretion): (i) extend, terminate, amend, enter into, or allow any new occupancy or use of any portion of the Property under, any license, profit, lease, easement or other agreement; (ii) subject the Property to any new (or extend any existing) covenant, obligation, lien or other encumbrance or burden on the Property that may be binding on Buyer or the Property following Closing; or (iii) enter into any agreements, oral or written, with any architect, contractor, subcontractor or materialman or other party who would be entitled by law to file a mechanics' lien against the Real Estate.

3.2.2 Preservation. From and after the Effective Date, until the date of Closing Seller will keep the Property in the same order and condition as it is as of the Effective Date, except for normal wear and tear, and changes, if any, agreed to in writing (including this Agreement) by Buyer and Seller. Seller will be responsible for all operating costs, bills, charges and liabilities for services rendered prior to the date of Closing and Seller will indemnify and hold harmless Buyer against any such bills, charges and liabilities (including associated reasonable attorneys' fees and costs). At Closing, Seller shall deliver the Real Estate to Buyer with all trash and rubbish removed from the Real Estate and all structures in broom-clean condition.

3.3 Standstill. So long as this Agreement is in force and effect, Seller shall not actively market the Property for sale or other transfer, entertain or make offers to sell or otherwise transfer the Property or engage in negotiations to sell or otherwise transfer the Property with any party other than Buyer; provided, however, Seller or Seller's broker may respond to unsolicited inquiries from third parties by instructing them to inquire again at a later date.

3.4 Incentives. Seller agrees to work with Buyer in good faith, including but not limited to the execution of necessary documents (but without incurring out-of-pocket expenses), to maximize the economic development incentives available to Buyer and the Property, including but not limited to funding from the Texas Enterprise Fund (the "Enterprise Fund"), in a way that is mutually acceptable to both Parties.

3.5 Buyer's Representations and Warranties. Buyer hereby represents and warrants to the Seller as follows:

3.5.1 Buyer's Standing. Buyer is: (a) is a corporation, formed and in good standing in West Virginia; (b) is authorized to do business in the state where the Land is located; (c) is not a "foreign person" within the meaning of the Internal Revenue Code, as amended, Sections 1445 and 7701; (d) has no owner, officer, director, or managing member who is a person with whom others are restricted from doing business under the governing statutes or regulations of the Office of Foreign Asset Control of the U.S. Department of the Treasury (including those named on its Specially Designated and Blocked Persons List) or under any statute, executive order, or other governmental action; and (e) is not engaged in activities that violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or related regulations or orders.

3.5.2 Authority. Buyer has the right, power and authority to enter into this Agreement and to purchase the Property in accordance with the terms and conditions hereof. This Agreement, when executed and delivered by Buyer, will be a valid and binding obligation of Buyer in accordance with its terms. The person signing this Agreement and all documents delivered in connection with the transaction contemplated by this Agreement has full authority to execute and deliver such documents on behalf of Buyer.

3.5.3 No Litigation. To Buyer's knowledge, there are no: (a) lawsuits, arbitrations, mediations or claims pending or threatened with respect to or in any manner affecting the Buyer which would impair or adversely affect Buyer's ability to perform its obligations under this Agreement or any other instrument or document

related hereto; or (b) voluntary or involuntary bankruptcy proceedings pending or threatened which involve Buyer as debtor.

ARTICLE 4 - BUYER'S DUE DILIGENCE

4.1 Buyer's Inspection. Buyer and Buyer's employees, agents and contractors shall have the right to conduct an inspection of the Property, including, but not limited to, such studies, analyses, searches and surveys that may include, but need not be limited to, environmental studies, title review, wetlands delineations, traffic studies, market and feasibility studies, geotechnical studies, utility availability surveys, permit approvals, water studies and other analyses that Buyer shall determine to be necessary or prudent (collectively, the "Inspections").

4.2 Seller's Deliverables. Within **5 business days** after the Effective Date, Seller shall deliver to Buyer, without charge to Buyer, copies of all notices, correspondence, instruments, studies, reports, insurance policies, drawings, specifications, surveys, leases, agreements and other documents related to the Property that may assist Buyer with its inspection of the Property, which are then existing and in Seller's possession or control (collectively, "Seller's Deliverables").

4.3 Title Commitment. Within **5 days** after the Effective Date, Seller, at Seller's sole expense, shall cause the Escrow Agent to order a standard form ALTA owner's title policy commitment covering the Real Estate to the extent of the Purchase Price, issued through Escrow Agent, together with copies of all instruments, if any, referred to in the commitment as exceptions to title (collectively, the "Commitment").

4.4 Survey. Within **5 days** after the Effective Date, Seller, at Seller's sole expense, shall deliver to Buyer a survey of the Land (the "Survey") that: (a) is dated within **30 days** of the Effective Date; (b) is prepared by a Surveyor who is licensed in the State where the Real Estate is located; (c) is certified to Buyer (and its successors and assigns under this Agreement) and Escrow Agent and/or Escrow Agent's underwriter (as required by Title Agent); (d) conforms to all ALTA standards and requirements; (e) showing all easements and improvements on the Land, whether or not of record; (f) specifies all flood hazard areas; and (g) otherwise conforms to Buyer's standards.

4.5 Access. Seller hereby agrees that Buyer is granted access to the Property as required to perform the Inspections, and Buyer shall have the right to disturb the soil and drill borings thereon. In the event the Real Estate is disturbed or damaged in any way as a result of Buyer's inspection activities and the Closing does not occur due to Buyer's fault, Buyer shall at its cost immediately restore the physical condition of the Real Estate as near as reasonably possible to that existing prior to entry by Buyer, which obligation shall survive the termination of this Agreement. Buyer shall indemnify Seller against any claims, liens, liabilities or lawsuits arising from the Inspections and Buyer's inspection activities, excluding, however, from such indemnification any item or matter of any type or nature arising from or in connection with any condition or status of the Property or any portion thereof which may then exist or is discovered or determined as a result of such inspection activities. Any lien placed on the Property by Buyer's contractors or subcontractors shall be removed by Buyer, at Buyer's sole expense, within **21 days** of Buyer's receipt of written notice from Seller. However, in no event will such a lien postpone or prevent the Closing. Buyer will maintain: a Commercial General Liability insurance policy with limits of not less than \$1,000,000.00 per occurrence covering bodily injury and property damage and workers' compensation and employer's liability insurance coverage as required by applicable statute.

4.6 Zoning Approval. Buyer shall use commercially reasonable efforts to obtain, at its own expense, any zoning changes, variances, special exceptions or conditional use approvals (through final and non-appealable determinations) as may be required to permit the Real Estate to be used for Buyer's intended use (the "Zoning Approval"). No changes to the zoning district of the Land shall be effective prior to Closing without Seller's express written consent.

4.7 Permits. Buyer shall use commercially reasonable efforts to obtain, at its own cost and expense, any Zoning Approval and any governmental or private-rights approvals and permits (through any appeals) necessary for Buyer's intended development and operation of the Real Estate (collectively, the "Permits"), pursuant to Buyer's specifications and criteria. Seller hereby covenants and agrees to cooperate with Buyer, without additional compensation (but with no outlay of funds), in Buyer's securing of all Permits. Seller agrees to execute and return to Buyer all applications, maps, plans, or other related documents, and any amendments, returns or renewals thereof, as soon as reasonably practicable, but no later than **15 days** following Seller's receipt of such documents.

4.8 Legal Subdivision. As part of its due diligence, Buyer, with the cooperation of Seller, shall have the right, at its sole option and expense to initiate the consolidation and/or subdivision of the Land, including with land not owned

by Seller, in order to accommodate Buyer's intended use of the Real Estate. SELLER AGREES TO PAY CURRENT YEAR TAXES PRIOR TO CLOSING IF REQUIRED AS A CONDITION FOR PLAT RECORDATION.

4.9 Objection Notices. Prior to the end of the Feasibility Period (as defined in this Agreement), including any extensions, Buyer may provide Seller with one or more written notices (each an "Objection Notice" and, collectively, the "Objection Notices") regarding any matters reflected in the Survey or the Commitment which Buyer requires to be removed, corrected, cured, insured over or otherwise addressed prior to Closing (collectively, the "Objections").

4.9.1 Seller will have **15 days** after receipt of an Objection Notice in which to advise Buyer in writing (an "Objection Response"): (a) which of the Objections, if any, Seller will, at Seller's sole cost and expense and to Buyer's satisfaction, cause to be addressed according to Buyer's request at or prior to Closing (collectively, the "Cured Objections"); and (b) which Objections, if any, Seller will not cause to be addressed according to Buyer's request. Any Objections for which Seller fails to provide an Objection Response within the required time period, Seller shall be deemed to have elected not to cause the same to be addressed according to Buyer's request.

4.9.2 If Seller advises, or is deemed to advise, Buyer that it will not or cannot cause one or more of the Objections to be addressed according to Buyer's request, Buyer will have **15 days** in which, as its sole remedy, to advise Seller in writing (an "Objection Reply") that Buyer's will either: (a) continue with this Transaction, in which case, all matters reflected in the Survey or Commitment and not objected to by Buyer and all Objections (other than the Cured Objections) shall be deemed approved by Buyer (collectively, the "Permitted Exception"); or (b) terminate this Agreement by written notice to Seller and Escrow Agent, in which event, all of the Earnest Money will be immediately returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination). If Buyer fails to provide Seller with a timely Objection Reply within the permitted time period, Buyer will be deemed to have elected to continue with this Transaction in accordance with this Paragraph. Seller shall have no obligation to address one of the standard, "pre-printed" exceptions in the Commitment, except as explicitly provided in this Agreement, nor shall such exceptions constitute Permitted Exceptions.

4.10 New Matters. For purposes of this Agreement, "New Matters" means, collectively: (a) any matters that did not appear on the most recent version of the Commitment or on the Survey; (b) a document related to any leases, profits, licenses or possession rights affecting the Property, that is provided to Buyer in full for the first time after the Feasibility Period has expired; or (c) a title exception document that is provided to Buyer in full and legible form for the first time after the Feasibility Period has expired.

4.10.1 If any New Matter was first recorded, present or binding on the Property prior to the Effective Date, then Buyer may object to the same by written notice ("Updated Objections") delivered to Seller within **7 business days** of Buyer's receipt of the document evidencing the relevant New Matter(s). Within **5 business days** after Seller's receipt of Updated Objections, Seller may provide an Objection Response, similar to one provided in response to Objections. If Seller advises Buyer, or is deemed to advise Buyer (by failing to provide an Objection Response) that it will not or cannot cause one or more of the Updated Objections to be addressed according to Buyer's request, Buyer will have **3 business days** in which, as its sole remedy, to provide an Objection Reply electing to continue with this Transaction or terminate this Agreement and receive a full refund of the entire Earnest Money (regardless of whether it would otherwise be non-refundable under this Agreement). If necessary, the Closing shall be extended to allow for reviews, objections, responses and replies with respect to New Matter(s).

4.10.2 If any New Matter is first created, recorded, present on the Property after the Effective Date, and Buyer did not cause or consent to the same in writing, such New Matter shall be deemed a Cured Objection.

4.11 Automatic Objections. Notwithstanding anything to the contrary in this Agreement, the following items shall be deemed to be objected to by Buyer, regardless of whether raised in an Objection Notice, and shall be Cured Objections: (a) any deeds of trust and/or mortgages and any ancillary encumbrances, including but not limited to, assignments of leases and rents and financing statements; (b) any judgment, UCC, mechanics', environmental, tax, utility, assessment and other liens (and notices that could mature into any such liens), notices of lis pendens,

attachments and any other matters evidencing monetary encumbrances (other than liens for non-delinquent property taxes or assessments); and (c) any options, rights of first offer, rights of first refusal or other rights of purchase.

4.12 Seller Cure. Buyer shall not be liable to Seller for any cost or expense incurred by Seller in curing any Objections, regardless of whether this Transaction closes. If Seller fails to remove, correct, cure, or insure around (as applicable) any Cured Objections prior to Closing, without the prior written approval of Buyer, Seller will be in default under this Agreement, subject to the cure period set forth in this Agreement.

ARTICLE 5 - FEASIBILITY / PERMIT PERIODS

5.1 Feasibility Period. Buyer, in Buyer's sole discretion, shall have **90 days** following the Effective Date, subject to any extensions herein, (the "Feasibility Period") to inspect and review the Property.

5.1.1 Feasibility Period Extension. [Intentionally Omitted]

5.1.2 Feasibility Period Termination. On or before the expiration of the then-applicable Feasibility Period (including any exercised extension thereof), Buyer may, for any reason and in its sole discretion, deliver a written notice to Seller ("Feasibility Notice"), electing to either terminate the Agreement or waive its right to terminate this Agreement under this Section.

- (a) If Buyer delivers a Feasibility Notice terminating this Agreement, or fails to deliver a timely Feasibility Notice: (i) this Agreement will be terminated; (ii) the Earnest Money shall be returned to Buyer immediately without any right of Seller to consent; and (iii) the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).
- (b) If Buyer delivers a Feasibility Notice electing to waive its right to terminate this Agreement, Buyer shall thereafter be precluded from terminating this Agreement pursuant to this Section.

5.2 Permit Period. Buyer, in Buyer's sole discretion, shall have **45 days**, subject to any extensions herein, beyond the expiration of the Feasibility Period (the "Permit Period") to obtain all necessary Permits for Buyer's intended development and use of the Real Estate. Buyer agrees to diligently pursue all Permits.

5.2.1 Permit Period Extensions. [Intentionally Omitted]

5.2.2 Permit Period Termination. If Buyer is unable or (in Buyer's reasonable discretion) will be unable (without incurring undue expense) to obtain all Permits during the Permit Period (and any exercised extensions thereof), Buyer may, in its sole discretion, terminate this Agreement by written notice delivered to Seller prior to the end of the then-applicable Permit Period.

- (a) In the event Buyer delivers a timely notice of termination under this Section: (i) the Agreement shall be terminated, (ii) the Earnest Money will be immediately returned to Buyer, without any right of Seller to consent, and (iii) the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).
- (b) If Buyer does not deliver a written termination notice under this Section prior to the end of the Permit Period (as it may be extended), then (a) the Earnest Money shall become non-refundable to Buyer, except as explicitly set forth in this Agreement; (b) the Earnest Money shall remain applicable to the Purchase Price; and (c) Buyer shall be precluded from terminating this Agreement pursuant to this Section.

ARTICLE 6 - PRIOR TO CLOSING

6.1 Site Improvements. Prior to Closing, Seller, at Seller's sole cost and expense, shall complete the following site improvements (collectively, the "Site Improvements"): (i) complete construction of the roads known as Cahill Street and Dewitt Street (including all associated grading, sidewalks, curbs, curbcuts, aprons, gutters, signage, storm water facilities, and other site improvements) shown on **Exhibit A** to this Agreement; and (ii) running and stubbing within the outer boundaries of the Land all wet and dry utilities (water, storm and sanitary sewer, electric power, gas, cable/data); (iii) all improvements that are off-site of the Property and that will be required for Buyer to obtain a Certificate of

Occupancy for Buyer's building on the Property, and (iv) rough grading of the Land, such that construction of the items in (i), (ii), and (iii) and Buyer's intended building and other improvements on the Land may commence. All of the Site Improvements shall be constructed in a workmanlike manner, in substantial conformance with the site plan shown on **Exhibit A**, and in accordance with all applicable governmental approvals, laws, rules, regulations and private covenants. Before and after Closing, Seller agrees to enforce its similar warranty rights against parties constructing the Site Improvements.

6.2 Conditions to Closing. The following are conditions precedent to the obligations of Buyer to perform under this Agreement (collectively, the "Conditions to Closing"):

- 6.2.1 No Litigation.** On the date of Closing, there shall be no litigation pending or threatened seeking to enjoin the performance of this Agreement by a party other than Buyer, a parent or subsidiary of Buyer, or an entity under common control or ownership with Buyer.
- 6.2.2 Seller's Authority.** Seller has delivered to Buyer and to Escrow Agent such documentary and other evidence as Escrow Agent may reasonably require evidencing the authority of the person or persons who are executing the various documents on behalf of Seller in connection with this Agreement.
- 6.2.3 Seller's Representations and Warranties.** The representations and warranties of Seller contained in this Agreement shall be true at Closing as though such representations and warranties were made at such time, subject to any Representation Notices.
- 6.2.4 Seller's Obligations.** All of the obligations of Seller under this Agreement to be performed from and after the Effective Date through the Closing shall have been performed by Seller.
- 6.2.5 Legal Subdivision.** The Land shall be one or more separately deeded and subdivided parcels (in accordance with the Buyer-Approved Subdivision Plan) and separately assessed tax parcels that can be conveyed to Buyer independently from all other land in accordance with applicable law.
- 6.2.6 Title Policy.** Buyer being able to obtain a standard ALTA policy of title insurance (the "Title Policy") in an amount equal to the Purchase Price insuring that Buyer has fee title to the Real Estate, subject only to: (a) real estate taxes not yet due and payable; and (b) the Permitted Exceptions.
- 6.2.7 Site Improvements.** The Site Improvements shall be complete in accordance with this Agreement.
- 6.2.8 Enterprise Fund.** Buyer shall have received funding or a commitment for funding from the Enterprise Fund under such terms and in such an amount as Buyer finds acceptable in Buyer's sole discretion.

If any of the Conditions to Closing and any other conditions precedent to Closing in this Agreement (e.g., completion of the Objection, Objection Response and Objection Reply process regarding any New Matters) are not met by the date set for Closing (subject to any applicable cure period), in addition to any other rights that Buyer may have under this Agreement (including but not limited to asserting a default where applicable), Buyer may extend Closing until **5 days** after all such conditions are met or terminate this Agreement. Upon such termination, all of the Earnest Money will be immediately returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).

ARTICLE 7 - CLOSING

7.1 Time of Closing. The consummation of the purchase and sale of the Property (the "Closing") shall be held and completed at the offices of Escrow Agent (with Buyer and Seller participating through the prior submissions to Escrow Agent where elected and practicable). Buyer may schedule the Closing by providing written notice of the date of Closing to Seller and, with such date not occurring later than **July 15, 2022**, subject to Section 6.2 of this Agreement.

7.2 Closing Costs and Adjustments. The following costs will be paid at or prior to Closing by the Party indicated in the table below, at the listed Party's sole expense, without reimbursement:

SELLER	BUYER	COST
100%	---	All costs (including without limitation, all prepayment penalties, costs, fees and recording expenses, if any, assessed by holders or beneficiaries) related to the termination or release of all Cured Objections or other encumbrances on the Property which Seller is obligated by this Agreement to release;
100%	---	All deed preparation costs, including all costs related to any required affidavit or statement/certification of value;
---	100%	The recording costs for the Deed;
50%	50%	Transfer, deed, conveyance, recordation, grantee/grantor, excise, transaction, or documentary stamp taxes or fees charged because of the transfer of the Property (excluding rollback taxes, gross receipts tax, transaction privilege tax, speculative builder tax, and supplemental assessments);
100%	---	The premium for the Title Policy (including all customary endorsements);
---	100%	Any additional endorsements to the Title Policy required by Buyer;
50%	50%	Settlement, escrow or closing fee;
---	100%	Buyer's legal fees, except as explicitly set forth in this Agreement;
100%	---	Seller's legal fees, except as explicitly set forth in this Agreement;
---	100%	The cost of all the studies, surveys, reports and inspections desired and ordered by Buyer and not explicitly the responsibility of Seller under this Agreement.

Any Closing costs which are not mentioned above, shall be paid as is customary in similar transactions in the County in which the Land is located.

7.3 Prorations and Payments.

7.3.1 Ad Valorem Taxes. Ad valorem taxes shall be prorated at the Closing effective as of the date of Closing. If the Closing should occur before the ad valorem taxes are fixed for the then current year, the proration of current ad valorem taxes shall be made upon the basis of the taxes assessed for the previous tax year. If taxes are prorated based on such an estimate at the Closing, then Buyer and Seller agree to readjust such proration at the request of either party upon the establishment of the actual amount. If the Land is part of one or more other tax parcels, the land value of such parcels shall be uniformly allocated to the Land on a per-square foot basis and the taxes will be prorated based upon such allocation. The Buyer and Seller shall cooperate fully, prior to and after Closing, to ensure that the Property is separately assessed from any property retained by Seller or its affiliates. Any special assessments imposed by any governmental agency or authority which are noticed and existing as of the date hereof shall be satisfied by Seller at or prior to the Closing.

7.3.2 Additional Taxes. Seller will be responsible for any taxes, assessments, penalties, and/or interest resulting from the recapture of an exemption or deferment of taxes on the Real Estate (often referred to as "rollback taxes"), gross receipts or transaction privilege taxes, speculative builder's tax, or supplemental assessments that are assessed for or covering the period of time prior to and including the Closing or assessed because of Closing.

7.3.3 Utilities. If any utility services are presently being provided to the Real Estate, Seller will pay for such services through the day of Closing, but thereafter any such services in the name of Seller shall be terminated.

7.3.4 Operating Expenses. All costs, fees and expenses (other than taxes and administrative or management fees) relating to the operation, management and repair of the Property (collectively, the "Operating Expenses"), shall be prorated between Seller and Buyer at the Closing as of the date of Closing. Notwithstanding any of the terms and conditions to the contrary contained in this Section, in the event any such expenses are paid for directly by a tenant of the Property, if any, to the applicable vendor or payee according to the terms and conditions of such tenant's lease, such expenses shall be not prorated between Seller or Buyer.

7.3.5 Other Items. If there are items affecting the Property which are not mentioned above, but which would normally be prorated in similar transactions in the county where the Real Estate is located, such items shall be prorated at the Closing effective as of the date of Closing in the manner that is customary in similar transactions in that County.

7.3.6 This Section 7.3 shall survive Closing and the delivery of the Deed.

7.4 Closing Deliveries.

7.4.1 Seller Deliveries. At Closing, Seller shall deliver:

- (a) A General Warranty Deed (the "Deed") satisfactory in form and substance to Buyer's counsel and Escrow Agent, conveying indefeasible fee simple title to the Real Estate, free and clear of all liens, encumbrances, easements, and restrictions including any removal rights, surface rights, mining or drilling rights for timber, coal, oil, gas or other minerals, except for the Permitted Exceptions;
- (b) If the metes and bounds of the Land, as set forth on the Survey, differ from the legal description contained in Seller's vesting deed, Seller shall additionally deliver a quitclaim deed (or deed without warranty of title) to Buyer at Closing containing a legal description based on the Survey;
- (c) A standard form owner's/seller's affidavit or lien waiver satisfactory for the purpose of removing the mechanics lien exception, gap exception, parties-in-possession exception, unrecorded easements exceptions, and any other customarily-removed standard exceptions from Buyer's owner's title insurance policy for the Real Estate (the "Owner's Affidavit");
- (d) Releases of any liens or other instruments or agreements to be cancelled pursuant to the terms of this Agreement, in form appropriate for recording;
- (e) Full and exclusive possession of the Property to Buyer, subject only to the Permitted Exceptions, and together with evidence of the termination of any leases, licenses, tenants or other occupancy rights affecting the Real Estate that Seller is required to terminate;
- (f) IRC Section 1445 Non-Foreign Affidavit indicating that Seller is not a foreign person, corporation, partnership, trust, or estate (as those terms are defined under federal tax law);
- (g) The Renewal Certification, executed by Seller;
- (h) A resolution and incumbency certificate executed by the duly authorized secretary/members/partners of Seller authorizing and approving the consummation of the Closing;
- (i) Original copies of a general assignment of rights and/or bill of sale, if required, (and all required consents, if any), executed by Seller, whereby Seller shall transfer to Buyer all of its rights to Personal Property identified by Buyer and Seller prior to Closing; and
- (j) Any additional agreements, affidavits or instruments required to be provided by Seller under the terms of this Agreement, the Commitment or any other agreement entered into by Buyer, Seller and/or Escrow Agent subsequent to this Agreement and any documents reasonably required by Buyer or Escrow Agent to consummate the Transaction.

7.4.2 Buyer Deliveries. At Closing, Buyer shall deliver to Escrow Agent:

- (a) The Purchase Price (less the Earnest Money already deposited or paid and applicable to the Purchase Price and any other credits due to Buyer pursuant to this Agreement) in cash or certified funds; and
;
- (b) Any documents reasonably required by Seller or Escrow Agent to consummate the Transaction.

ARTICLE 8 - CONDEMNATION OR CASUALTY LOSS

8.1 Condemnation. If, prior to Closing, all or any portion of the Property or access thereto shall become subject to condemnation through eminent domain by governmental or other lawful authority, Buyer shall have the option of either (a) completing the purchase, in which event all condemnation proceeds or claims thereof shall be provided to or assigned to Buyer, or (b) terminating this Agreement, in which event, all of the Earnest Money will be immediately

returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).

8.2 Casualty. Except as explicitly set forth above in this Agreement (regarding Buyer's access and inspection of the Property), Seller assumes all risks and liability for damage or injury occurring to or on the Property, and bears all responsibility for maintaining any insurance against the same, until the Closing has been consummated. If the Property, or any material portion thereof, suffers any damage prior to Closing, then Buyer may terminate this Agreement by delivering written notice to Seller of such termination within **10 business days** after Buyer's receipt of written notice of the same, in which event, all of the Earnest Money will be immediately returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent and the Parties shall have no further obligations to each other under this Agreement (except under those provisions that explicitly survive termination). If Buyer is entitled to, but elects or fails to, terminate this Agreement under this Section, the Parties shall proceed to Closing and Seller shall deliver to Buyer, at Closing, any insurance proceeds or other payments actually received by Seller in respect to such casualty and, to the extent applicable, assign to Buyer at Closing all of Seller's right, title and interest in any future claim to proceeds of any insurance or other payments covering such damage. For purposes of this Section, "damage" to the Property shall include: (a) the inclusion of the Land, after the Feasibility Period (as it may be extended) has expired, in a Special Flood Hazard Area; (b) the inclusion of the Land, after the Feasibility Period (as it may be extended) has expired, in a Fire Hazard Severity Zone or similar fire-danger designation; and (c) contamination or threatened contamination by one or more Hazardous Substances, regardless of when the such contamination or threatened contamination may have occurred, so long as the contamination or threatened contamination is not caused by Buyer or its agents, employees or contractors and Buyer receives a Phase 1 environmental report during the Feasibility Period that does not include the subject contamination or threatened contamination as an REC or CREC.

ARTICLE 9 - BROKERS

9.1 Broker Commission. Seller and Buyer represent and warrant to each other that no brokerage fees or real estate commissions are or shall be due or owing in connection with this Transaction or in any way with respect to the Real Estate. Seller agrees to defend, indemnify, and hold harmless Buyer from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage or similar fees through Seller in violation of the representation and warranty in this Section, to the extent allowed by law. Buyer agrees to defend, indemnify and hold harmless Seller from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage or similar fees through Buyer in violation of the representation and warranty in this Section. The obligations set forth in this Section shall survive Closing (and the delivery of the Deed) or earlier termination of this Agreement.

ARTICLE 10 - DEFAULT

10.1 Buyer Default. If Buyer is obligated, but fails or refuses, to proceed with Closing or otherwise fails to discharge Buyer's obligations under this Agreement (except as permitted by failure of any condition or contingency), Buyer shall be in default. If Buyer fails to cure such default within **5 business days** after Buyer's receipt of written notice from Seller of the same, then Seller, as its sole and exclusive remedy, shall be entitled to terminate this Agreement by delivery of written notice thereof to Buyer. Upon the Buyer's receipt of such termination notice, Seller shall be entitled to receive all of the Earnest Money then paid or deposited by Buyer. The Parties agree that the Earnest Money is a reasonable liquidated measure of Seller's damages and not a penalty and shall be Seller's sole and exclusive remedy because of the difficulty in ascertaining the exact amount of damages sustained by Seller.

10.2 Seller Default. If Seller is obligated, but fails or refuses, to proceed with Closing or otherwise fails to discharge Seller's obligations under this Agreement (except as permitted by failure of any condition or contingency), Seller shall be in default. If Seller fails to cure such default within **5 business days** after Seller's receipt of written notice from Buyer of the same, Buyer may: (a) terminate this Agreement upon written notice to Seller, upon which event all Earnest Money and any other refundable and non-refundable deposits paid by Buyer shall be immediately refunded to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement or whether any or all of the aforementioned has previously been released to Seller); (b) cure Seller's breach and deduct the cost of said cure from the Purchase Price; or (c) exercise all of its available remedies at law or in equity, including, but not limited to, the right

to seek a judgment compelling the specific performance of this Agreement and return of all Earnest Money deposited or paid by Buyer, including any portion thereof previously paid or released to Seller.

10.3 No Formal Tender. The Parties hereby waive any requirements regarding formal tender of performance prior to asserting a default by the other Party.

ARTICLE 11 - GENERAL PROVISIONS

Notices. Any notice and consent given pursuant to this Agreement (the “Notices”) must be in writing and will be effective as of the earlier of: (i) the day it is delivered or refused, if delivered in person; (ii) the next business day after deposit with a reputable overnight delivery service, similar to UPS and/or Federal Express, for next-day delivery with a tracking number; and (iii) the day it is sent, if sent by email correspondence (with delivery receipt requested), so long as a copy is sent the same day by way of the overnight delivery service described in (ii) of this Section. Notices must be delivered to each of the addresses set forth on the signature pages of this Agreement for the receiving party and may come from a Party’s legal counsel. A party may revise its notice addresses by delivering a Notice as described with this Section.

11.1 Effective Date and Timing. The “Effective Date” of this Agreement is the date the Escrow Agent signs and dates the signature page of an otherwise fully-executed copy of this Agreement. Unless specifically stated otherwise in this Agreement: (a) “days” means calendar days; (b) any deadline that falls on a particular day shall occur at 11:59 p.m. Eastern Time on that day; and (c) any deadline that falls on a Saturday, Sunday, or federal bank holiday (a “Holiday”), will automatically be extended to the next day that is not a Saturday, Sunday, or Holiday. The deadlines under this Agreement are intended to be strict deadlines (i.e., time is of the essence).

11.2 Integration; Reformation. This Agreement, including the attached exhibits, schedules and attachments (the “Exhibits”), constitutes the entire agreement between the Parties with respect to this Transaction and it overrides all prior discussions or agreements between the Parties regarding this Transaction. Any conflict between the Exhibits and the main body of this Agreement (that precedes the signature pages), shall be resolved in favor of the main body of this Agreement. If any of the provisions in this Agreement is, for any reason, held invalid or unenforceable in any respect, that shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such had never been included in the Agreement.

11.3 Binding Effect. This Agreement may be modified only by a written agreement executed by all Parties. This Agreement is binding upon and benefits the Parties and their respective successors and assigns. This Agreement is not intended to benefit, and may not be enforced by, any party other than Seller, Buyer and their permitted successors and assigns.

11.4 Governing Law. This Agreement shall be governed by and construed under the laws of the State where the majority of the Land is located, irrespective of the choice or conflict of law rules of any jurisdiction. The provisions of this Section shall survive Closing (and the delivery of the Deed) or earlier termination of this Agreement.

11.5 Independent Counsel; Interpretation. Buyer and Seller have been represented by independent counsel in connection with the negotiation of this Agreement or had the opportunity to engage such counsel and declined to do so. Therefore, no uncertainty or ambiguity in this Agreement shall be construed against either Party as the drafter. The headings and labels in this Agreement are for convenience or reference only and shall not be used in interpreting the terms of this Agreement. All pronouns are to be read to refer to masculine, feminine, neuter, singular or plural, as the context may require.

11.6 Counterparts. To facilitate execution, this Agreement may be executed in multiple, separate copies which, taken together, shall make up a single agreement. Electronic signatures and copies of the executed Agreement shall be fully effective and enforceable.

11.7 Not an Offer. Presentation of an unexecuted copy of this Agreement by Buyer or Seller shall not be considered an offer. No agreement regarding the matters in this Agreement shall be enforceable unless and until this Agreement is executed on the signature page(s) below by both Seller and Buyer.

11.8 Assignment. Buyer shall be entitled, without Seller's consent, to assign all of Buyer's rights and obligations, title and interest in and to this Agreement; however, following any such assignment, Buyer shall remain liable for all obligations that arose prior to such assignment.

11.9 No Disclosure. [Intentionally Omitted]

11.10 Return of Deposit. If this Agreement is terminated, Buyer and Seller shall, within **5 business days** after receipt of a written request (the "**Earnest Money Request**"): (a) sign any and all documents required to accomplish the release of the Earnest Money; or (b) provide a written, specific and reasonable explanation as to why the Earnest Money Request is improper. Failure to sign the documents or provide the required reason shall be deemed an agreement to the documentation and the requested release of the Earnest Money. The prevailing party in any dispute over an Earnest Money Request, shall be entitled to receive from the other Party (beginning on the day the Earnest Money Request was first delivered, through and including any judgment in any state or federal court on the matter), simple interest on the amount due at the lower of (i) 18% per annum and (ii) the highest interest rate permitted by applicable law.

11.11 Independent Consideration. In addition to the Independent Consideration provided under Section 2.2 of this Agreement, Seller is providing the Feasibility Period, the Permit Period and any other review or contingency periods (including all extensions of any of them) provided under this Agreement (collectively, the "Contingency Periods") to Buyer in order to induce Buyer's efforts and expenditures in connection with Buyer's inspections and other reviews of the Property. Such efforts and expenditures, the benefit to Seller associated with the prospect of selling the Property, receiving additional information regarding the Property and receiving all or a portion of the Earnest Money at the time(s) set forth in this Agreement, together with other promises, obligations and benefits under this Agreement and other good and valuable consideration are all intended to serve as independent consideration (the receipt and sufficiency of which are hereby mutually acknowledged by the Parties) for the Contingency Periods, and all extensions thereof, regardless of whether Buyer terminates this Agreement and receives all of the Earnest Money.

11.12 Further Assurances. Before and after Closing, Seller and Buyer will do, make, execute and deliver all such additional and further acts, deeds, instruments and documents as may be consistent with this Agreement and customarily and reasonably required by the other and/or Escrow Agent to complete the Transaction.

11.13 Attorneys' Fees. The prevailing party in any legal proceeding brought in connection with this Agreement or this Transaction will be entitled to recover from the non-prevailing party court costs, reasonable attorney's fees and all other reasonable litigation expenses, including those incurred on appeals and in enforcement of this provision. The provisions of this Section shall survive Closing (and the delivery of the Deed) or earlier termination of this Agreement.

11.14 Signage. Following the Effective Date, Buyer shall have the right, at its own expense, to install general marketing signs on the Real Estate, provided that such signs shall not violate any government or municipality regulations and such signs shall not damage or materially alter the Real Estate in any way.

11.15 IRS Real Estate Sales Reporting. Buyer and Seller hereby appoint Escrow Agent as, and Escrow Agent agrees to act as, "the person responsible for closing" this Transaction pursuant to the Internal Revenue Code.

[SIGNATURE PAGE(S) AND EXHIBIT(S) FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this REAL ESTATE PURCHASE AND SALE AGREEMENT as of the day and year set forth next to their respective signatures below, to be effective as of the Effective Date..

BUYER: THE ZIEGENFELDER COMPANY, a West Virginia corporation

By (Signature): _____

Name: _____

Title: _____

Date of Execution: _____

BUYER'S NOTICE ADDRESSES:

The Ziegenfelder Company
Attn: Kevin Heller, President
87 Eighteenth Street
Wheeling, WV 26003
Email: KHeller@twinpops.com

With a copy to:
The Ziegenfelder Company
Attn: Legal Department
One Armstrong Place
Butler, Pennsylvania 16001
Email: legal@agoc.com

SELLER: LOCKHART ECONOMIC DEVELOPMENT CORPORATION, a Texas corporation

By (Signature): _____

Name: _____

Title: _____

Date of Execution: _____

SELLER'S NOTICE ADDRESS(ES):

Lockhart Economic Development Corporation
Attn: Mike Kamerlander, CEcD
215 E. Market Street
Lockhart, Texas 78644
Email: mkamerlander@lockhart-tx.org

With a copy to:
Attn: _____

Email: _____

JOINDER OF ESCROW AGENT

Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent for this Transaction and to handle the Earnest Money in accordance with the terms and conditions set forth in this Agreement.

ESCROW AGENT: TITLE RESOURCES GUARANTY COMPANY

By: _____

Name: _____

Title: _____

Date of Execution: _____

ESCROW AGENT'S NOTICE ADDRESS AND CONTACT INFORMATION:

Title Resources Guaranty Company

Attn: _____

Phone: _____

Email: _____

EXHIBIT A
(Depiction of the Land)

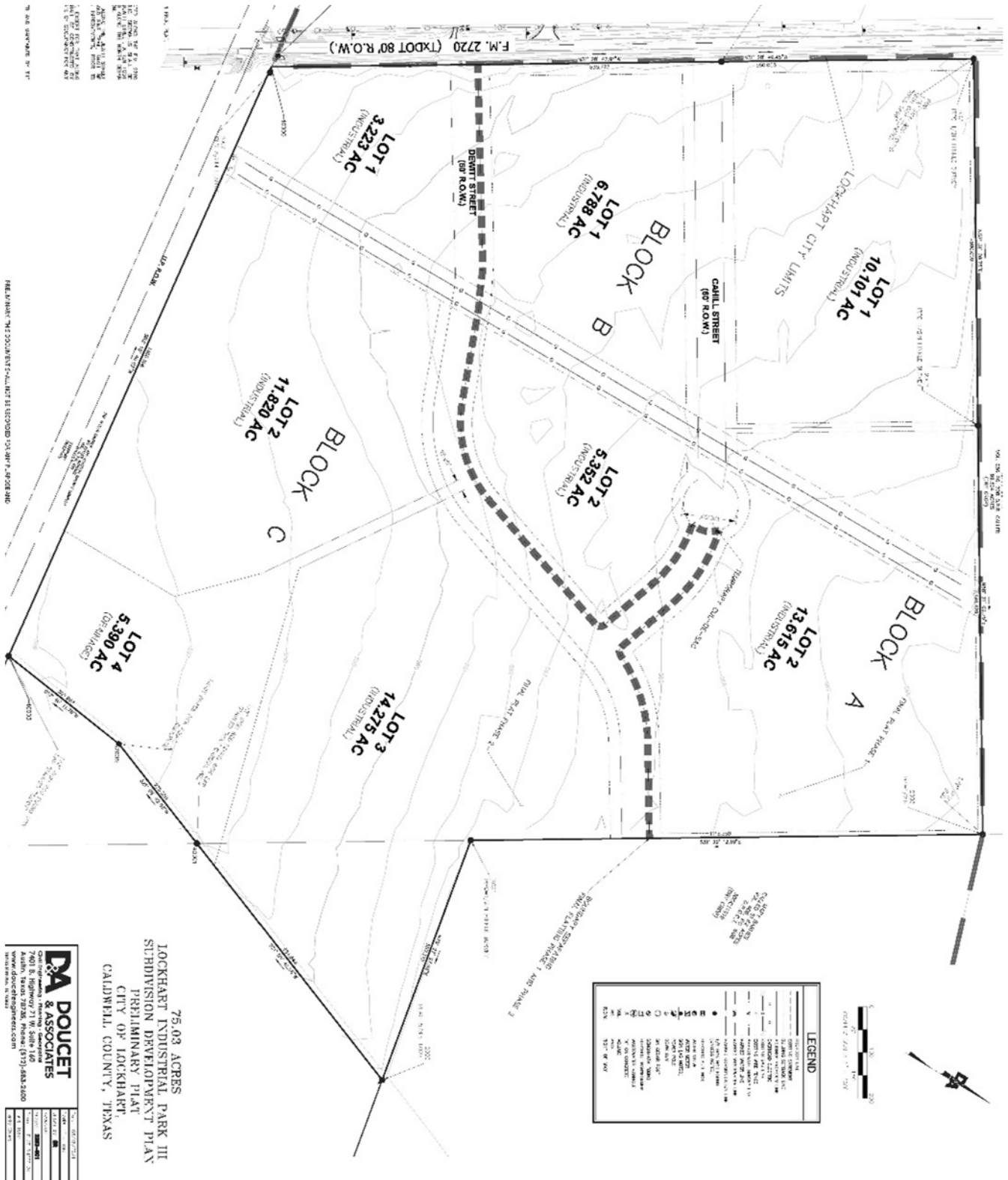
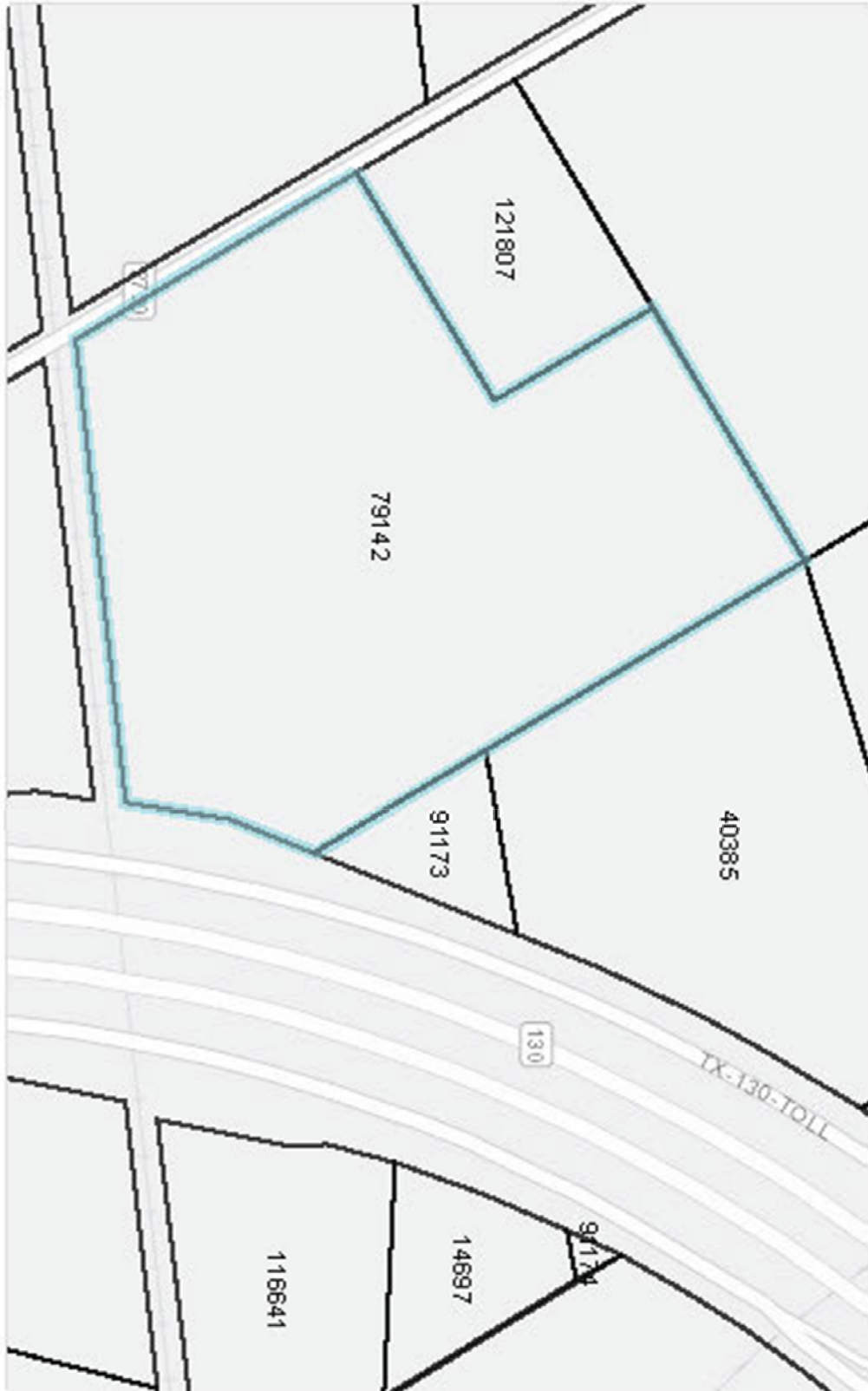


EXHIBIT A-1
(Seller's Parcel)



City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discuss an agreement with Kent Broussard Tower Rentals, Inc. to lease land owned by the City for the purposes of a radio tower located at 1517 Dale Road, Lockhart, TX, and execute a Tower Use License to continue the City's use of the tower for police, fire, EMS and other City related communications; and to authorize the Mayor to execute a Tower Use License with Clearview Tower Company III, LLC. to continue the City's use of a radio tower located near Luling, TX known as Iron Mountain for the same purposes as above.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Doug Montgomery

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

This is essentially a renewal of an existing agreement that has been in place since the early 1990s. Kent Broussard Tower Rentals, Inc. is in the process of selling all their assets to Clearview Tower Company III, LLC and has already sold the Iron Mountain (Luling) tower to them. The new agreements and lease will maintain the status quo, but they more clearly identify the price structure and lease terms.

PROJECT SCHEDULE (if applicable): Immediately for the land lease agreement with the new tower use license agreements beginning June 1, 2022.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): \$63,318 annually; increasing 4% on January 1, 2023 and every two years after that.

PREVIOUS COUNCIL ACTION: Approval of previous agreements and extensions going back to early 1990s.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approval.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

LIST OF SUPPORTING DOCUMENTS: Land Lease Agreement, Lockhart Tower Use License, Luling Tower Use License

LAND LEASE AGREEMENT

STATE OF TEXAS

COUNTY OF CALDWELL

KNOW ALL MEN BY THESE PRESENTS THAT:

This Land Lease Agreement, hereinafter referred to as "Lease", is made and entered into this _____ day of _____ 2022, by and between THE CITY OF LOCKHART, whose address is P.O. Box 239, Lockhart, Texas 78644, hereinafter referred to as "Landlord" and KENT BROUSSARD TOWER RENTALS, INC., whose address is P.O. Box 1883, Bay City, TX 77404-1883 hereinafter referred to as "Tenant". This lease supersedes and replaces the original Land Lease Agreement between Kent Broussard Tower Rentals, Inc. and Landlord dated December 14, 1990.

WITNESSETH:

Premises: Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the following described lands, hereinafter referred to as "Leased Premises" situated in Caldwell County, State of Texas, to wit:

SEE EXHIBIT "A"

1. Use: Tenant shall use the Leased Premises for the purpose of constructing, maintaining and operating a Communications Facility (as hereinafter defined) and any related improvements. Tenant shall have the right to use the Communications Facility for its business purposes, which shall include, but not be limited to, the subleasing or licensing to third parties of space upon and within the Communications Facility and the Leased Premises. Such licensees or sublessees of Tenant shall have full access to the Leased Premises for their business purposes. For the purposes of this Lease, "Communications Facility" shall be defined as one or more communications towers, poles, guy wires and anchors, equipment shelters, associated support buildings and any related improvements.
2. Term: The term of this Lease shall be for ten (10) years and shall commence on the date of the latter of the two signatures below, subject to extensions as set forth in Paragraph number 7 below.
3. Rent: Rent Payment for the Leased Premises will be paid "in-kind" by Tenant allowing the Landlord to place up to four (4) transmission lines at the position of their choice at the 250-foot

level or below on the tenant's 360-foot tower at no charge.

4. Access: Tenant and Tenant's sub-lessees, assigns, successors, or appointees, are hereby given and granted the Right-of-Way of ingress and egress over and across the Leased Premises and other lands owned by Landlord as may be required for the purpose of erection, installation, maintenance and removal of such Communications Facility and other necessary appurtenances and for access for telephone lines and power lines in connection with its cellular, radio and microwave communications center. Such Right-of-Way of ingress and egress shall be over existing roads, parking lots or over other roads that may be established by Tenant hereafter. A legally described exclusive Access Easement not less than 15 feet or more than 30 feet wide is defined and attached hereto as Exhibit "B".

5. Utilities at Landlords Cost: Landlord shall be solely responsible for and promptly pay all charges for electricity, telephone service, or another utility used or consumed in the 10' x 24' equipment building in which the Landlord has installed its radio equipment. Future buildings that will house rental customer's equipment will require that Tenant or Tenant's customers install an electrical current meter at the Leased Premises, and the cost of such meter and of installation, maintenance and repair thereof shall be paid for by the Tenant or Tenant's customers.

6. Extensions: This Lease will be automatically renewed for three (3) additional five (5) year terms (each a "Renewal Term" or collectively "Renewal Terms"). Each Renewal Term option shall be deemed exercised and automatically takes effect unless Tenant advises Landlord prior to the expiration of the Initial Term (or any of the Renewal Terms, if applicable) that Tenant does not desire to renew this Lease. The Initial Term and Renewal Term(s) are collectively referred to herein as the "Term." In the event Tenant exercises his options to extend this Lease, rent will continue to be "in-kind", as long as the Landlord and/or County utilize the tower. In the event that the tower is no longer needed and therefore not utilized by Landlord, then a rental amount for the premises shall be determined through good faith negotiations between the Landlord and Tenant based on comparable land rentals for similar towers.

7. Holding Over: If Tenant should remain in possession of the Leased Premises after the expiration of the primary term or any extension of this Lease, without the exercise of an option or the execution by Landlord and Tenant of a new Lease, then Tenant shall be deemed to be occupying the Leased Premises as a tenant-at-sufferance on a day-to-day basis, subject to all the covenants and obligations of this Lease and at rental calculated by the following formula: $1/365 \times \text{current prime rate} \times \text{Caldwell County Appraisal District taxable market value} = \text{the per diem rental}$.

8. Notice: Any notice shall be in writing and shall be delivered by hand or sent by United States Registered or Certified Mail, postage prepaid addressed as follows:

Landlord:

City of Lockhart
P.O. Box 239
Lockhart, Texas 78644
Attn: City Manager
Phone: (512) 398-3461

Tenant:

Kent Broussard Tower Rentals, Inc.
P.O. Box 1883
Bay City, TX 77404-1883
Phone: (979) 245-5184

Either party hereto may change its address to which said notice shall be delivered or mailed by giving notice of such change as provided above. Notice shall be deemed given when delivered (if delivered by hand) or when postmarked (if sent properly by mail).

9. Liability and Indemnity: Tenant agrees to indemnify and save the Landlord harmless from all claims (including costs to arise from any negligence or willful misconduct of Tenant or Tenant's agents, employees or contractors occurring during the term of this lease in or about the Leased Premises). Tenant agrees to use and occupy the Leased Premises at its own risk and hereby releases Landlord, its agents, and employees, from all claims for any damage or injury brought on by Tenant to the full extent permitted by law.

10. Defaults and Remedies: Notwithstanding anything in the Lease to the contrary, Tenant shall not be in default under this lease until thirty days after receipt of written notice thereof from Landlord; provided, however, where any such default cannot reasonably be cured within thirty (30) days, Tenant shall not be deemed to be in default under the Lease if Tenant commences to cure such default within said thirty (30) day period and thereafter diligently pursues such cure to completion.

11. Insurance: Tenant shall, at its' expense, maintain in force during the term of this Lease, a combined single limit policy of bodily injury and property damage insurance, with a limit of not less than \$1,000,000.00, insuring Landlord and Tenant against all liability arising out of the use, occupancy, or maintenance of the Leased Premises and appurtenant areas, which policy shall be endorsed as primary insurance to Landlord,

12. Fixtures: Landlord covenants and agrees that no part of the improvements constructed, erected or placed by Tenant on the Leased Premises or other real property owned by Landlord shall be or become, or be considered as being, affixed to or a part of Landlord's real property and any and all provisions and principles of law to the contrary notwithstanding, it being the specific intention of Landlord to covenant and agree that all improvements of every kind and nature constructed, erected or placed by Tenant on the Leased Premises or other real property owned by Landlord shall be and remain the property of the Tenant.

13. Assignment and Subletting: Tenant shall have the right, at any time, and from time to time, during the term of this Lease (or any renewal or extension hereof) to assign this Lease or sublet the Leased Premises, in whole or in part, to any entity or third party, without Landlord's consent, provided that any such assignee agrees to assume Tenant's obligations hereunder. In the event of such assignment to such entity or third party, Tenant shall be released from all obligations under this Agreement as of the date of such assignment. Prior to a sale of the Communications Facility by Lessee, Landlord's consent of the assignment of this Lease shall be required, not to be unreasonably, withheld, conditioned or delayed.

14. Fencing: During the continuance of this Lease, and in exercising the rights, powers, privileges, and immunities provided hereunder, Tenant shall fence in only that portion of the Lease Premises as is reasonably needed for its improvement and for the proper and efficient operation of said Communications Facility. Tenant will only fence reasonable areas around Tenant's building, transmission tower and each individual guy post.

15. Taxes: In addition to the monthly rent payments specified in paragraph 4, Tenant shall pay the full amount of all real property taxes, special assessments, and governmental charges of every character imposed upon the Leased Premises during the term of this Agreement, including any special assessments imposed on, or against, the premises for the construction or improvement of public works. These amounts shall be payable directly to the entity imposing the tax, assessment, or charge. Tenant shall maintain receipts or other evidence of payment for each such tax, assessment, or charge paid. Copy of said receipts shall be furnished to Landlord on an annual basis. Tenant may, at its own expense, contest any tax or assessment for which Tenant is responsible. Landlord may pay, or require Tenant to pay, any tax, assessment, or charge for which Tenant is responsible pending resolution of Tenant's contest of the tax, assessment, or charge, if failure to pay will subject all or part of the Leased Premises to forfeiture or loss.

16. Severability and Substitution of Valid Provisions: In the event that any provision of this agreement shall be found to be void or unenforceable, such finding shall not be construed to render any other provision of this Lease either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are invalid or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

17. Memorandum of Lease: Following the execution of this Lease, either party, at its sole expense, shall be entitled to file the Memorandum of Lease (attached as Exhibit "C") of record in the Caldwell County.

18. Entire Agreement and Binding Effect: This Lease and any attached exhibits signed or initiated by the parties constitute the entire agreement between Landlord and Tenant; no prior written nor prior, contemporaneous, or subsequent oral promises or representations shall be

binding. This Lease shall not be amended or changed except by written instrument signed by both parties hereto. Paragraph captions herein are for convenience only, and neither limit nor amplify the provisions of this instrument. The provisions of this Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

MISCELLANEOUS.

(a) This Lease contains the entire agreement between Landlord and Tenant with respect to the subject matter hereof. There are merged herein all prior and collateral representations, promises, and conditions in connection with the subject matter hereof. Any representation, promise, or condition not incorporated herein shall not be binding upon either party. This Lease supersedes and is in lieu of all existing agreements or arrangements between the parties.

(b) The unenforceability of any provision hereof shall not affect the remaining provisions of this Lease, but rather such provision shall be severed and the remainder of this Lease shall remain in full force and effect.

(c) This Lease shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by Landlord and Tenant.

(d) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease Agreement as of the date and year first above written.

Landlord:

City of Lockhart
P.O. Box 239
Lockhart, Texas 78644
Attn: City Manager
Phone: (512) 398-3461

Tenant:

Kent Broussard Tower Rentals Inc.
P.O. Box 1883
Bay City, Texas 74404-1883
Phone: (409) 245-5184

BY: _____
Lew White, Mayor

BY: _____
Kent Broussard, President

BEFORE ME, the undersigned authority, on this day personally appeared Lew White known to me to be whose name is subscribed to the foregoing instrument and acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

STATE OF TEXAS)

) SS.

ACKNOWLEDGMENT

COUNTY OF _____)

BEFORE ME, the undersigned authority, on this day personally appeared Kent Broussard, and he acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

EXHIBIT "A"

FIELD NOTES

**FIELD NOTES FOR LEASED PREMISES OF 2.1247
ACRES OUT OF THE CITY OF LOCKAHRT 19.65
ACRE TRACT AS RECORDED IN VOLUME 343,
PAGE 519 OF THE CALDWELL COUNTY DEED
RECORDS. SAID LEASED PREMISES BEING
MORE PARTICULARLY DESCRIBED AS
FOLLOWS:**

**BEGINNING for reference at the southeast corner of the above referenced
19.65 acre tract;**

**THENCE along the east line of said tract N 10° 00' 00" W, 383.49 feet to the POINT
OF BEGINNING of the herein described leased premises.**

THENCE, S 65° 47' 18" W, 446.09 feet;

THENCE, N 54° 05' 42" W, 20.00 feet;

THENCE, N 05° 59' 14" E, 413.29 feet;

THENCE, N 66° 08' 12" E, 20.00 feet;

**THENCE, S 55° 34' 11" E, 438.47 feet to the POINT OF BEGINNING
containing 2.1347 acres.**

N

N66° 08' 12"E
20.00'

SCALE: 1" = 100'

S55° 34' 11"E

RADIO TOWER

N5° 29' 14"E 413.29'

S65° 47' 18"W

446.09'

N54° 05' 42"W
20.00'

CITY OF LOCKHART
19.65 ACRES
343/519

ACCESS EASEMENT

N10° 00' W

383.49'

DALE RD.

PLAT SHOWING LEASED PREMISES OF
2.1347 ACRES OUT OF THE CITY OF
LOCKHART 19.65 ACRE TRACT AS
RECORDED IN VOLUME 343, PAGE 519
OF THE CALDWEL COUNTY DEED
RECORD.



HUNTER ASSOCIATES, INC.
ENGINEERS/PLANNERS/SURVEYORS

DAILLAS
214-369-9171

AUSTIN
512-454-8716

EXHIBIT "B"

FIELD NOTES

FIELD NOTES DESCRIBING THE CENTERLINE OF A 40' WIDE EASEMENT UPON AND ACROSS THE CITY OF LOCKHART 19.65 ACRE TRACT RECORDED IN VOLUME 343, PAGE 519 OF THE CALDWELL COUNTY DEED RECORDS. SAID EASEMENT CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING for reference at the southeast corner of the foresaid 19.65-acre tract;

THENCE, S 51° 02' 15" W, 22.86 feet to the POINT OF BEGINNING of the herein described easement centerline;

THENCE, N 10° 00' 00" W, 389.49 feet along the centerline of the herein described easement 10.00 feet west of and parallel to the east line of the foresaid 19.65 acre tract to the POINT OF TERMINATION of the herein described easement.

N.

LEASED
PREMISES

SCALE : 1" = 100'

CITY OF LOCKHART
.19.65 ACRES
343/519.

40'

S51° 02' 15" W
22.86'

DALE RD.

**PLAT SHOWING 40' ACCESS EASEMENT
OUT OF THE CITY OF LOCKHART 19.65
ACRE TRACT AS RECORDED IN
VOLUME 343, PAGE 519 OF THE
CALDWEL COUNTY DEED RECORD.**



HUNTER ASSOCIATES, INC.
ENGINEERS/PLANNERS/SURVEYORS

DAI.I.A.S
214-369-9171

AUSTIN
512-454-8716

EXHIBIT "C"

MEMORANDUM OF LEASE

STATE OF TEXAS

COUNTY OF CALDWELL

KNOW ALL MEN BY THESE PRESENTS, THAT:

THIS MEMORANDUM OF LEASE is made and entered into this _____ day of _____, 2022 by and between CITY OF LOCKHART, (Landlord") whose address is P.O. Box 239, Lockhart, Texas 78644 and KENT BROUSSARD TOWER RENTALS, INC., ("Tenant") whose address is P.O. Box 1883, Bay City, TX 77404-1883.

WITNESSETH:

WHEREAS, Landlord has leased to Tenant, and Tenant has leased from Landlord, upon and subject to the terms, covenants, conditions, limitations, and restrictions contained in that certain lease dated _____ ("Lease") between the parties hereto, that certain real property situated in the County of Caldwell, State of Texas, more particularly described on "Exhibit A" attached hereto and made a part hereof ("Leased Premises").

The term of the lease is for ten (10) years, commencing on _____, subject to Tenant's option to extend the term for three (3) additional periods of five (5) years upon the terms and conditions set forth in the Lease.

The rent and other obligations of Landlord and Tenant are set forth in the Lease, to which reference is made for further particulars. In the event of any conflict between the terms and provisions of the Lease and those contained in this Memorandum, those contained in the Lease shall govern and be controlling.

Landlord:

City of Lockhart
P.O. Box 239
Lockhart, Texas 78644
Attn: City Manager
Phone: (512) 398-3461

Tenant:

Kent Broussard Tower Rentals, Inc.
P.O. Box 1883
Bay City, TX 77404-1883
Phone: (979) 245-5184

BY: _____
Lew White, Mayor

BY: _____
Kent Broussard, President

BEFORE ME, the undersigned authority, on this day personally appeared Lew White known to me to be whose name is subscribed to the foregoing instrument and acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

STATE OF TEXAS)

) SS.

ACKNOWLEDGMENT

COUNTY OF _____)

BEFORE ME, the undersigned authority, on this day personally appeared Kent Broussard, and he acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

TOWER USE LICENSE

THIS AGREEMENT is made as of this ____ day of _____, 2022, by and between **Kent Broussard Tower Rentals, Inc.** (“Owner”) and **City of Lockhart Texas** (“User”).

OWNER AND USER AGREE AS FOLLOWS:

1. **Scope of License.** Subject to the terms and conditions of this Tower Use License (“Agreement”) and of the Master Lease (as hereinafter defined), Owner hereby grants to User the non-exclusive right to install, maintain and operate the radio communications equipment described in **EXHIBIT A** annexed hereto and made a part hereof (“Equipment”) at Owner’s communications site described in **EXHIBIT B** annexed hereto and made a part hereof (“Site”).
2. **Term.** The term of this Agreement shall commence on June 1, 2022; and shall continue for a period of five (5) years (“Initial Term”), with three (3) additional five (5) year renewal periods (each a “Renewal Term”). Each Renewal Term shall commence automatically without further action on the part of Owner or User; provided, however, that User may terminate this Agreement at the expiration of the Initial Term by giving the Owner written notice not less than ninety (90) days’ prior to the expiration of that Term, or upon one (1) year prior written notice during any Renewal Term.
3. **Fees.**
 - (a) User shall pay to Owner a monthly fee of Three Thousand Two Hundred Forty-Seven Dollars and Fifty Cents (\$3,247.50) (“Base Fee”) during the Initial Term and any Renewal Term(s), subject to the increases set forth in Paragraph 3(f) below, which shall be payable on the first day of every month.
 - (b) User shall pay to Owner a yearly fee of Seven Thousand Eight Dollars and No Cents (\$7,008.00) (“Police Fee”) during the Initial Term and any Renewal Term(s), subject to the increases set forth in Paragraph 3(f) below, which shall be payable within 30 days after the anniversary of this Agreement.
 - (c) The Base Fee and Police Fee are **exclusive** of charges for the furnishing of electricity to User. **User shall not be responsible for furnishing electricity used by other tenants at Owner’s Site.** User shall furnish and install an electrical meter at the Site for the measurement of its electrical power used, and pay directly to the local utility for any electricity it uses. Base Fee and Police Fee payments shall be deemed the sole and exclusive property of Owner and shall not be subject to delay, offset, refund or placement in escrow for any reason or purpose.
 - (d) User may place up to four (4) transmission lines at the position of their choice at the 250-foot level or below on the tenant’s 360-foot tower at no charge (“in-kind”) to satisfy Owner’s rent obligation to the City of Lockhart pursuant to the Land Lease Agreement executed by the User and Owner in a separate instrument.
 - (e) All items in use by User and the associated fees are as follows:

i. The Base Fee includes the following items:

	Item	Quantity	Fee
1.	Trunk Transmission Line from 250’ to 360’ (110’)	4	\$880.00
2.	Coaxial Transmission Line of 1125’	1	\$1,687.50
3.	Dish antenna	4	\$600.00
4.	PTP600 ODU	4	\$80.00
	Total (paid monthly)		\$3,247.50

ii. The Police Fee includes the following items:

	Item	Quantity	Fee
1.	RFS BMR12-O-B1 Antennas 12dB Omni-Directional with TxRx 428-83H-01T Tower-top Amplifier for Lockhart Police at 360'	2	\$7,008.00
	Total (paid yearly)		\$7,008.00

iii. The "in-kind" items include the following:

	Item	Quantity	Fee
1.	Trunk Transmission line from ground to 250'	4	\$2,000.00
	Total (accounted for monthly)		\$2,000.00

(f) Effective on January 1, 2023, and each second anniversary of that date during the Initial Term and any Renewal Term of this Agreement, the then current Base Fee and Police Fee payable by User to Owner shall be increased by an amount equal to four (4.0%) percent.

(g) User agrees that payment of the monthly Base Fee, yearly Police Fee, and the Electric Fee shall be due and paid without the necessity of a demand or invoice from the Owner. Any additional fees or other payments set forth herein shall be payable upon User's receipt of an invoice from Owner. User shall pay an additional charge of two (2.0%) percent of the monthly fee for each payment made more than fifteen business days after its due date.

4. **Inspection of Site.** The Site shall be provided in "AS IS" condition by Owner. User has visited and inspected the Site and accepts the physical condition thereof and acknowledges that no representations or warranties have been made to User by Owner as to the condition of the Site, including the tower or towers, as the case may be, and/or the storage facilities, or as to any engineering data. User is responsible for determining all aspects as to the acceptability, accuracy and adequacy of the Site for User's use. Owner shall have no obligation to obtain licenses for User, or to maintain, insure, operate or safeguard User's Equipment.

5. **Installation, Maintenance and Operating Procedures.**

(a) User shall install, maintain and operate its Equipment during the term hereof in compliance with all present and future rules and regulations of any local, State, or Federal authority having jurisdiction with respect thereto (including, without limitation, the rules and regulations of the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA") and the Occupational Safety and Health Administration ("OSHA"). Prior to the installation of its Equipment, or any modification or changes to the Equipment, if any (but excluding repairs, minor modifications and/or replacement with substantially similar equipment), User shall comply with the following:

(i) User shall submit in writing all plans for such installations, modifications or changes for Owner's written approval, such approval not to be unreasonably withheld or delayed.

(ii) All work performed at the Site in connection with the installation, maintenance, operation, modification and removal of User's Equipment shall be performed at User's sole cost and expense either by User's employees or by contractors approved by Owner, such approval not to be unreasonably withheld or delayed. User shall only allow fully trained technicians and authorized personnel to work on its Equipment located at the Site who will undertake such work only in compliance with applicable FCC, OSHA and other applicable governmental laws, rules and regulations, including all laws, rules and regulations involving radio frequency (RF) radiation emissions and/or safety and work standards for work performed on or near communication towers and antenna sites. At Owner's request, User shall provide written evidence of compliance with this Paragraph 5(a)(ii) in the form of copies of any applicable training certifications, licenses and/or permits of its employees and contractors. User shall require all contractors,

as a condition to their engagement, to agree to be bound by provisions materially similar to those included in this Agreement, specifically those relating to the indemnification of Owner and insurance requirements. The engagement of a contractor by User shall not relieve User of any of its obligations under this Agreement.

(iii) No work performed by User, its contractors, subcontractors or materialsmen pursuant to this Agreement, whether in the nature of construction, installation, alteration or repair to the Site or to User's Equipment, will be deemed to be for the immediate use and benefit of Owner so that no mechanic's or other lien will be allowed against the property and estate of Owner by reason of any consent given by Owner to User to improve the Site. If any mechanic's or other liens will at any time be filed against the Site or the property of which the Site is a part by reason of work, labor, services, or materials performed or furnished, or alleged to have been performed or furnished, to User or to anyone using the Site through or under User, User will forthwith cause the same to be discharged of record or bonded to the satisfaction of Owner. If User fails to cause such lien to be so discharged or bonded within ten (10) days after it has actual notice of the filing thereof, then, in addition to any other right or remedy of Owner, Owner may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by Owner, including reasonable attorneys' fees incurred by Owner either in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the statutory rate, will be due and payable by User to Owner as an additional fee hereunder.

(b) Subject to Paragraph 5(a)(ii) above, Owner agrees that, during the term of this Agreement, User's employees and contractors shall have access to the Site for the purpose of maintenance and repair of User's Equipment twenty-four (24) hours per day, seven (7) days per week. Owner shall provide User with a key and/or combination to the lock(s) at the Site in order to facilitate such access. All access to the Site shall be subject to the continuing control of, as well as the reasonable security and safety procedures established from time to time by, Owner.

6. Interference.

(a) Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that if the installation or operation of User's Equipment shall interfere:

(i) with other radio communications systems and equipment installed prior to the Commencement Date of this Agreement, User shall upon request (verbal or otherwise) suspend its operations (except for intermittent testing) and do whatever Owner deems necessary to eliminate or remedy such interference. If it is determined that such interference cannot be rectified, then Owner may, at its option, terminate this Agreement upon written notice to User, whereupon User shall remove the Equipment at its sole cost and expense and in accordance with Section 8 herein; or

(ii) with any other radio communications systems and equipment installed at the Site after the Commencement Date of this Agreement, User shall cooperate fully with Owner and any future tenant or licensee injured by User's interference ("Future Party") to remedy the interference. User shall do whatever Owner deems reasonably necessary to cure such interference, provided, however, that all costs related to remedying such interference shall be the responsibility of the Future Party, unless such interference is due to failure, defects or deficiencies in User's system, Equipment, or installation.

(b) User hereby acknowledges that Owner has licensed and/or leased, and will continue to license and/or lease, space at and upon the Site to third parties for the installation and operation of radio communication facilities. Owner agrees for itself, and its successors and assigns, not to construct or permit, approve, cause or otherwise allow to be constructed any improvements, structure or other facility that would interfere with User's use of the Site under this Agreement. Specifically, Owner shall be prohibited from installing, or authorizing the installation of, broadcast equipment that would cause the tower to exceed its designed structural capacity and shall be prohibited from interfering with User's utilization of the Site pursuant to this Agreement.

(c) Owner agrees to include provisions which are substantially similar to Paragraph 6(a) in all future licenses, leases or other agreements relating to the use of the Site for telecommunications purposes.

7. **Removal of User's Equipment.** Provided that User is not in default in the performance of its obligations hereunder, at the expiration of this Agreement or earlier termination thereof, User shall remove any and all of the Equipment and the Site shall be restored to a condition reasonably matching the condition existing prior to the Commencement Date of this Agreement, normal wear and tear excepted. Such removal and restoration shall be performed pursuant to the guidelines set forth in Section 5 of this Agreement, without any interference, damage or destruction to any other equipment, structures or operations at the Site or any equipment of other licensee or tenants thereon. Any and all interference or damage caused to the Site or equipment of other licensees or tenants by such removal shall be immediately repaired or eliminated by User. If User fails to make such repairs, at User's sole cost and expense, within three (3) days after the occurrence of such damage, injury or interference, Owner may perform all the necessary repairs at User's cost and expense and such sum shall be immediately due upon the rendering of an invoice as an additional fee hereunder. If User fails to remove the Equipment within thirty (30) days following any termination of this Agreement, Owner may, at its option, either (i) remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (ii) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine.

8. **Indemnification.**

(a) User shall indemnify and hold Owner harmless from (i) all costs of any damage done to Owner's or other licensees' or tenants' facilities or equipment located at the Site, that occur as a result of the installation, operation or maintenance of User's Equipment or other improvements; and (ii) any claims, demands, or causes of action for personal injuries, including any payments made under any workers' compensation law or any plan of employee's disability and death benefits, arising out of User's occupancy of the Site or the installation, maintenance and operation or removal of User's Equipment, except only such damages, costs, claims, causes of action or demands caused solely by the negligence or willful misconduct of Owner.

(b) User shall also indemnify and hold Owner harmless from any losses, liabilities, claims, demands or causes of action for property damage or personal injuries, including any payment made under any worker's compensation law or any plan of employees' disability and death benefits, arising out of or resulting from any claims, damages, losses, liabilities or causes of action resulting in any way from RF radiation emissions from User's Equipment or any other harmful effect of User's Equipment.

(c) Owner shall not be responsible or liable to User for any loss, damage or expense that may be occasioned by, through, or in connection with any acts or omissions of other licensees or tenants occupying the Site. User hereby assumes the risk of the inability to operate as a result of any structural or power failures at the Site or failure of User's Equipment and agrees Owner shall not under any circumstances be liable for any incidental or consequential damages, or for any lost profits due to business interruption, suffered or incurred by User for any reason.

9. **Damage or Destruction.** Owner and User agree that Owner shall in no way be liable for loss of use or other damage of any nature arising out of the loss, destruction or damage to the Site or to User's Equipment located thereon, by fire, explosion, windstorms, water or any other casualty or acts of third parties. In the event the Site or any part thereof is damaged or destroyed by elements or any other cause, Owner may elect to repair, rebuild, or restore the Site or any part thereof, to the same condition as it was immediately prior to such casualty. In such event, the payments required herein shall cease as of the date of such casualty until the Site, in Owner's opinion, is restored to a usable condition for User's operation. If Owner chooses not to repair, restore or rebuild the Site, Owner shall send to User a notice of cancellation of this Agreement within thirty (30) days of such casualty. If this Agreement is canceled, the payments required herein shall terminate as of the date of such casualty.

10. **Insurance.** User shall keep in full force and effect during the term of this Agreement Commercial General Liability and Automobile Liability insurance on a “per claims made” basis, with the following minimum limits:

<u>Commercial General Liability:</u>	\$2,000,000 General Aggregate
(Limits apply per location)	\$2,000,000 Products/Completed Operations Aggregate
	\$1,000,000 Personal & Advertising Injury
	\$1,000,000 Each Occurrence
<u>Automobile Liability:</u>	\$1,000,000 Combined Single Limit
<u>Workers’ Compensation:</u>	Statutory
	\$100,000 Each Accident
	\$500,000 Disease Limit
	\$100,000 Disease – Each Employee
<u>Umbrella Liability:</u>	\$5,000,000
<u>User’s Equipment Coverage:</u>	All Risk Coverage (Equipment Limit Applicable to each Tower)

The insurance policy shall be endorsed to include Owner as an additional insured and shall provide that Owner will receive at least thirty (30) days’ prior written notice of any cancellation or material change in such insurance policy. User shall furnish to Owner, prior to the installation of the Equipment, and for the duration of this Agreement thereafter, current certificates of insurance confirming that the insurance coverage as specified herein is in full force and effect.

11. **Taxes.** User hereby acknowledges that the existence of User’s Equipment and other improvements at the Site may result in an increase in the assessed valuation of the Site. User agrees to reimburse Owner upon receipt of documentation showing that User’s Equipment or other improvements caused an increase in the assessed value of the Site, for User’s proportionate share of any increases in the real estate taxes payable by Owner as a consequence of the increase in assessed valuation. Owner hereby agrees to cooperate with User, at User’s sole cost and expense, to obtain an abatement of any such increased assessment. In the event any sales, use or other tax shall be payable by Owner in connection with this Agreement, User shall reimburse Owner on demand for such payments or shall furnish necessary documentation to the appropriate government authorities to show that fee payments hereunder shall be exempt from such sales, use or other tax.

12. **Notices.** All notices, demands, requests, or other communications which are required to be given, served or sent by one party to the other pursuant to this Agreement shall be in writing, and shall be mailed, postage prepaid, by certified mail or by a reliable overnight courier service with delivery verification, to the following addresses or at such other address as may be designated in writing by either party:

<u>If to Owner:</u>	<u>If to User:</u>
Kent Broussard Tower Rentals, Inc.	City of Lockhart, Texas
P.O. Box 1883	PO Box 239
Bay City, TX	Lockhart, TX 78644

Notice given by certified mail or by reliable overnight courier shall be deemed delivered on the date of receipt (or on the date receipt is refused) as shown on the certification of receipt or on the records or manifest of the U.S. Postal Service or such courier service.

13. **Default.**

(a) Any one or more of the following events shall constitute a default (“Default”) by User under this

Agreement:

(i) the failure of payment of fees, additional fees or other payments set forth herein and such failure continues for ten (10) days after Owner provides written notice thereof to User;

(ii) abandonment of either the User Equipment or that portion of the Site upon which the User Equipment was installed;

(iii) User's failure to perform any other of its obligations under this Agreement and such failure continues for thirty (30) days after Owner gives written notice thereof to User.

(b) In the event of a Default, notwithstanding all other remedies available at law or equity or contained herein, Owner shall have the right to accelerate all rents and other charges due to Owner from User for the remainder of the then current term of this Agreement and User shall pay the same upon demand. Additionally, Owner may at its option: (i) terminate this Agreement upon written notice to User; and (ii) either (A) disconnect, remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (B) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine. In the event that Owner should, as a result of the Default in the performance by User of its obligations hereunder, incur any costs or expenses on behalf of User or in connection with User's obligations hereunder, such sums shall be immediately due to Owner upon rendering of an invoice to User as an additional fee hereunder.

(c) At any time or from time to time after the removal of the User's property from the Site pursuant to Paragraph 14(b) above, whether or not the current term of this Agreement shall have been terminated, Owner may (but shall be under no obligation to) re-license User's former space at the Site, or any part thereof, for the account of the Owner, for such term or terms (which may be greater than or less than the period which would otherwise have constituted the balance of the current term) and on such conditions (which may include concessions or free rent) and for such uses as Owner, in Owner's absolute discretion, may determine, and may collect and receive payments therefrom. Owner shall not be responsible or liable for any failure to re-license User's former space at the Site or any part thereof or for any failure to collect any payments due upon any such re-licensing.

(d) No Default pursuant to this Section 14, by operation of law or otherwise (except as expressly provided herein), no removal of User's property from the Site pursuant to the terms of this Agreement, and/or no re-licensing of User's former space at the Site shall relieve User of User's obligations or liabilities hereunder, all of which shall survive such Default, removal and/or re-licensing. Without limiting the foregoing, upon User's removal from the Site pursuant to this Section 14, User shall nonetheless remain liable for all monthly fees and other payments hereunder for the remainder of the then-current term.

(e) All of the rights, powers, and remedies of Owner provided for in this Agreement or now or hereafter existing at law or in equity, or by statute or otherwise, shall be deemed to be separate, distinct, cumulative, and concurrent. No one or more of such rights, powers, or remedies, nor any mention or reference to any one or more of them in this Agreement, shall be deemed to be in the exclusion of, or a waiver of, any other rights, powers, or remedies provided for in this Agreement, or now or hereafter existing at law or in equity, or by statute or otherwise. The exercise or enforcement by Owner of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise or enforcement by Owner of any or all of such other rights, powers, or remedies.

14. **Assignment.** Owner reserves the right to assign, transfer, mortgage or otherwise encumber the Site and/or its interest in this Agreement. User shall upon demand execute and deliver to Owner such further instruments subordinating this Agreement, as may be required by Owner in connection with Owner's contemplated transaction. If a third party acquires title to the Site or to Owner's interest therein, including by foreclosure or by acceptance of a conveyance in lieu of foreclosure of a lien, then User will automatically become the licensee of

such successor-in-interest without change in the terms or other provisions of this Agreement; provided, however, that such successor-in-interest shall not be bound (a) by any payment of the Base Fee for more than one month in advance or (b) by any amendment or modification of this Agreement made without the written consent of such successor-in-interest. Upon request by User or such successor-in-interest, User and such successor-in-interest shall execute and deliver an instrument or instruments confirming the nondisturbance and attornment herein provided.

15. **Estoppel Certificate.** From time to time, upon not less than twenty (20) days' prior written notice by either party, the other party shall execute, acknowledge and deliver to the requesting party a statement in writing certifying that this Agreement (together with any non-disturbance agreement) is unmodified and in full force and effect (or identifying any modification or modifications) and that the requesting party is not in default, except as specified in such statement, in regard to any of its obligations under this Agreement and further setting forth the dates to which all sums payable as rent hereunder have been paid in advance, if any, and such other statements relating to delivery and acceptance of the Site as the requesting party's lender, purchaser, or permitted assignee may require. Said statement shall be accurate and binding on the other party and may be relied upon by the party requesting such statement and such lender, purchaser or assignee.

16. **Miscellaneous.**

(a) This Agreement shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by Owner and User. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Agreement.

(b) This Agreement embodies the entire agreement between the parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement.

(c) This Agreement may be executed in counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument. All section headings and captions used herein are for the convenience of the parties only and shall not be considered a substantive part of the Agreement.

(d) This Agreement shall be governed by and construed in accordance with the laws in which the Site is located.

(e) Neither this Agreement nor any memorandum hereof shall be recorded in the land records of any county or city or otherwise without the prior written consent of Owner.

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

Owner: Kent Broussard Tower Rentals, Inc.

User: City of Lockhart, Texas

By: _____

By: _____

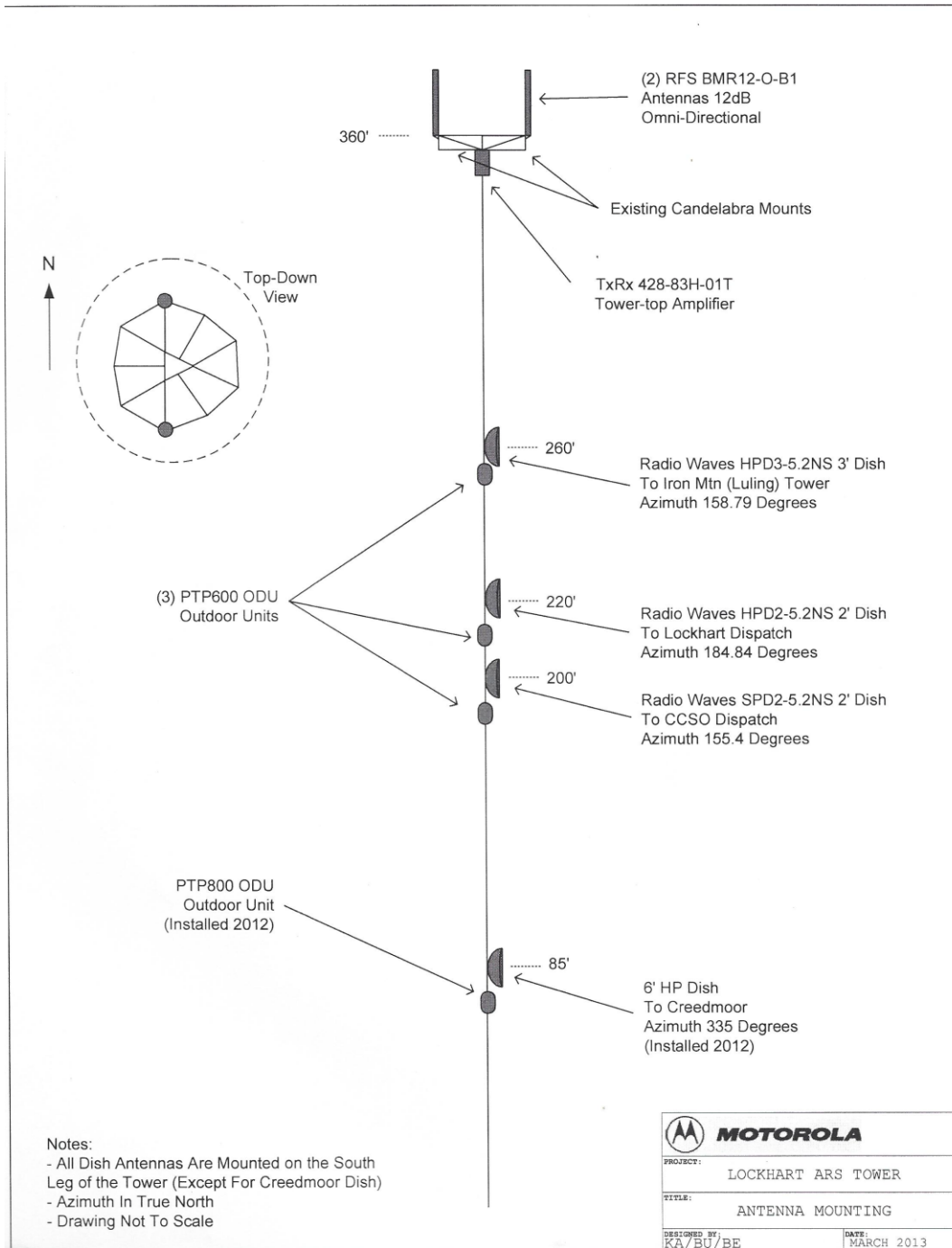
Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A



Also, ground space measuring approximately 10' x 12' for User's private equipment shelter.

EXHIBIT B

Site

Site Name:

The Site consists of the telecommunications tower and equipment shelter located at:

1517 Dale Road
Lockhart, Caldwell County, Texas

The geodetic coordinates of the Site are:

North Latitude: 29 – 53 – 29
West Longitude: 97 – 39 – 45

TOWER USE LICENSE

THIS AGREEMENT, is made as of this ____ day of _____, 2022, by and between **Clearview Tower Company III, LLC** (“Owner”) and **City of Lockhart Texas** (“User”).

OWNER AND USER AGREE AS FOLLOWS:

1. **Scope of License.** Subject to the terms and conditions of this Tower Use License (“Agreement”) and of the Master Lease (as hereinafter defined), Owner hereby grants to User the non-exclusive right to install, maintain and operate the radio communications equipment described in **EXHIBIT A** annexed hereto and made a part hereof (“Equipment”) at Owner’s communications site described in **EXHIBIT B** annexed hereto and made a part hereof (“Site”).

2. **Term.** The term of this Agreement shall commence on June 1, 2022; and shall continue for a period of five (5) years (“Initial Term”), with three (3) additional five (5) year renewal periods (each a “Renewal Term”). Each Renewal Term shall commence automatically without further action on the part of Owner or User; provided, however, that User may terminate this Agreement at the expiration of the Initial Term by giving the Owner written notice not less than ninety (90) days’ prior to the expiration of that Term, or upon one (1) year prior written notice during any Renewal Term.

3. **Fees.**

(a) User shall pay to Owner a monthly fee of One Thousand Four Hundred Forty-Five (\$1,445.00) Dollars (“Base Fee”) during the Initial Term and any Renewal Term(s), subject to the increases set forth in Paragraph 3(c) below, which shall be payable on the first day of every month. The Base Fee is **exclusive** of charges for the furnishing of electricity to User. **User shall not be responsible for furnishing electricity used by other tenants at Owner’s Site.** User shall furnish and install an electrical meter at the Site for the measurement of its electrical power used, and pay directly to the local utility for any electricity it uses. Base Fee payments shall be deemed the sole and exclusive property of Owner and shall not be subject to delay, offset, refund or placement in escrow for any reason or purpose.

(b) Effective on January 1, 2023, and each second anniversary of that date during the Initial Term and any Renewal Term of this Agreement, the then current Base Fee payable by User to Owner shall be increased by an amount equal to four (4.0%) percent.

(c) User agrees that payment of the monthly Base Fee shall be due and paid without the necessity of a demand or invoice from the Owner. Any additional fees or other payments set forth herein shall be payable upon User’s receipt of an invoice from Owner. User shall pay an additional charge of two (2.0%) percent of the monthly fee for each payment made more than fifteen business days after its due date.

4. **Inspection of Site.** The Site shall be provided in “**AS IS**” condition by Owner. User has visited and inspected the Site and accepts the physical condition thereof and acknowledges that no representations or warranties have been made to User by Owner as to the condition of the Site, including the tower or towers, as the case may be, and/or the storage facilities, or as to any engineering data. User is responsible for determining all aspects as to the acceptability, accuracy and adequacy of the Site for User’s use. Owner shall have no obligation to obtain licenses for User, or to maintain, insure, operate or safeguard User’s Equipment.

5. **Installation, Maintenance and Operating Procedures.**

(a) User shall install, maintain and operate its Equipment during the term hereof in compliance with all present

and future rules and regulations of any local, State, or Federal authority having jurisdiction with respect thereto (including, without limitation, the rules and regulations of the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA") and the Occupational Safety and Health Administration ("OSHA"). Prior to the installation of its Equipment, or any modification or changes to the Equipment, if any (but excluding repairs, minor modifications and/or replacement with substantially similar equipment), User shall comply with the following:

(i) User shall submit in writing all plans for such installations, modifications or changes for Owner's written approval, such approval not to be unreasonably withheld or delayed.

(ii) All work performed at the Site in connection with the installation, maintenance, operation, modification and removal of User's Equipment shall be performed at User's sole cost and expense either by User's employees or by contractors approved by Owner, such approval not to be unreasonably withheld or delayed. User shall only allow fully trained technicians and authorized personnel to work on its Equipment located at the Site who will undertake such work only in compliance with applicable FCC, OSHA and other applicable governmental laws, rules and regulations, including all laws, rules and regulations involving radio frequency (RF) radiation emissions and/or safety and work standards for work performed on or near communication towers and antenna sites. At Owner's request, User shall provide written evidence of compliance with this Paragraph 5(a)(ii) in the form of copies of any applicable training certifications, licenses and/or permits of its employees and contractors. User shall require all contractors, as a condition to their engagement, to agree to be bound by provisions materially similar to those included in this Agreement, specifically those relating to the indemnification of Owner and insurance requirements. The engagement of a contractor by User shall not relieve User of any of its obligations under this Agreement.

(iii) No work performed by User, its contractors, subcontractors or materialsmen pursuant to this Agreement, whether in the nature of construction, installation, alteration or repair to the Site or to User's Equipment, will be deemed to be for the immediate use and benefit of Owner so that no mechanic's or other lien will be allowed against the property and estate of Owner by reason of any consent given by Owner to User to improve the Site. If any mechanic's or other liens will at any time be filed against the Site or the property of which the Site is a part by reason of work, labor, services, or materials performed or furnished, or alleged to have been performed or furnished, to User or to anyone using the Site through or under User, User will forthwith cause the same to be discharged of record or bonded to the satisfaction of Owner. If User fails to cause such lien to be so discharged or bonded within ten (10) days after it has actual notice of the filing thereof, then, in addition to any other right or remedy of Owner, Owner may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by Owner, including reasonable attorneys' fees incurred by Owner either in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the statutory rate, will be due and payable by User to Owner as an additional fee hereunder.

(b) Subject to Paragraph 5(a)(ii) above, Owner agrees that, during the term of this Agreement, User's employees and contractors shall have access to the Site for the purpose of maintenance and repair of User's Equipment twenty-four (24) hours per day, seven (7) days per week. Owner shall provide User with a key and/or combination to the lock(s) at the Site in order to facilitate such access. All access to the Site shall be subject to the continuing control of, as well as the reasonable security and safety procedures established from time to time by, Owner.

6. Interference.

(a) Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that if the installation or operation of User's Equipment shall interfere:

(i) with other radio communications systems and equipment installed prior to the Commencement Date of this Agreement, User shall upon request (verbal or otherwise) suspend its operations (except for

intermittent testing) and do whatever Owner deems necessary to eliminate or remedy such interference. If it is determined that such interference cannot be rectified, then Owner may, at its option, terminate this Agreement upon written notice to User, whereupon User shall remove the Equipment at its sole cost and expense and in accordance with Section 8 herein; or

(ii) with any other radio communications systems and equipment installed at the Site after the Commencement Date of this Agreement, User shall cooperate fully with Owner and any future tenant or licensee injured by User's interference ("Future Party") to remedy the interference. User shall do whatever Owner deems reasonably necessary to cure such interference, provided, however, that all costs related to remedying such interference shall be the responsibility of the Future Party, unless such interference is due to failure, defects or deficiencies in User's system, Equipment, or installation.

(b) User hereby acknowledges that Owner has licensed and/or leased, and will continue to license and/or lease, space at and upon the Site to third parties for the installation and operation of radio communication facilities. Owner agrees for itself, and its successors and assigns, not to construct or permit, approve, cause or otherwise allow to be constructed any improvements, structure or other facility that would interfere with User's use of the Site under this Agreement. Specifically, Owner shall be prohibited from installing, or authorizing the installation of, broadcast equipment that would cause the tower to exceed its designed structural capacity and shall be prohibited from interfering with User's utilization of the Site pursuant to this Agreement.

(c) Owner agrees to include provisions which are substantially similar to Paragraph 6(a) in all future licenses, leases or other agreements relating to the use of the Site for telecommunications purposes.

7. **Removal of User's Equipment.** Provided that User is not in default in the performance of its obligations hereunder, at the expiration of this Agreement or earlier termination thereof, User shall remove any and all of the Equipment and the Site shall be restored to a condition reasonably matching the condition existing prior to the Commencement Date of this Agreement, normal wear and tear excepted. Such removal and restoration shall be performed pursuant to the guidelines set forth in Section 5 of this Agreement, without any interference, damage or destruction to any other equipment, structures or operations at the Site or any equipment of other licensee or tenants thereon. Any and all interference or damage caused to the Site or equipment of other licensees or tenants by such removal shall be immediately repaired or eliminated by User. If User fails to make such repairs, at User's sole cost and expense, within three (3) days after the occurrence of such damage, injury or interference, Owner may perform all the necessary repairs at User's cost and expense and such sum shall be immediately due upon the rendering of an invoice as an additional fee hereunder. If User fails to remove the Equipment within thirty (30) days following any termination of this Agreement, Owner may, at its option, either (i) remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (ii) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine.

8. **Indemnification.**

(a) User shall indemnify and hold Owner harmless from (i) all costs of any damage done to Owner's or other licensees' or tenants' facilities or equipment located at the Site, that occur as a result of the installation, operation or maintenance of User's Equipment or other improvements; and (ii) any claims, demands, or causes of action for personal injuries, including any payments made under any workers' compensation law or any plan of employee's disability and death benefits, arising out of User's occupancy of the Site or the installation, maintenance and operation or removal of User's Equipment, except only such damages, costs, claims, causes of action or demands caused solely by the negligence or willful misconduct of Owner.

(b) User shall also indemnify and hold Owner harmless from any losses, liabilities, claims, demands or causes of action for property damage or personal injuries, including any payment made under any worker's compensation law or any plan of employees' disability and death benefits, arising out of or resulting from any claims, damages,

losses, liabilities or causes of action resulting in any way from RF radiation emissions from User's Equipment or any other harmful effect of User's Equipment.

(c) Owner shall not be responsible or liable to User for any loss, damage or expense that may be occasioned by, through, or in connection with any acts or omissions of other licensees or tenants occupying the Site. User hereby assumes the risk of the inability to operate as a result of any structural or power failures at the Site or failure of User's Equipment and agrees Owner shall not under any circumstances be liable for any incidental or consequential damages, or for any lost profits due to business interruption, suffered or incurred by User for any reason.

9. **Damage or Destruction.** Owner and User agree that Owner shall in no way be liable for loss of use or other damage of any nature arising out of the loss, destruction or damage to the Site or to User's Equipment located thereon, by fire, explosion, windstorms, water or any other casualty or acts of third parties. In the event the Site or any part thereof is damaged or destroyed by elements or any other cause, Owner may elect to repair, rebuild, or restore the Site or any part thereof, to the same condition as it was immediately prior to such casualty. In such event, the payments required herein shall cease as of the date of such casualty until the Site, in Owner's opinion, is restored to a usable condition for User's operation. If Owner chooses not to repair, restore or rebuild the Site, Owner shall send to User a notice of cancellation of this Agreement within thirty (30) days of such casualty. If this Agreement is canceled, the payments required herein shall terminate as of the date of such casualty.

10. **Insurance.** User shall keep in full force and effect during the term of this Agreement Commercial General Liability and Automobile Liability insurance on a "per claims made" basis, with the following minimum limits:

<u>Commercial General Liability:</u>	\$2,000,000 General Aggregate
(Limits apply per location)	\$2,000,000 Products/Completed Operations Aggregate
	\$1,000,000 Personal & Advertising Injury
	\$1,000,000 Each Occurrence
<u>Automobile Liability:</u>	\$1,000,000 Combined Single Limit
<u>Workers' Compensation:</u>	Statutory
	\$100,000 Each Accident
	\$500,000 Disease Limit
	\$100,000 Disease – Each Employee
<u>Umbrella Liability:</u>	\$5,000,000
<u>User's Equipment Coverage:</u>	All Risk Coverage (Equipment Limit Applicable to each Tower)

The insurance policy shall be endorsed to include Owner as an additional insured and shall provide that Owner will receive at least thirty (30) days' prior written notice of any cancellation or material change in such insurance policy. User shall furnish to Owner, prior to the installation of the Equipment, and for the duration of this Agreement thereafter, current certificates of insurance confirming that the insurance coverage as specified herein is in full force and effect.

11. **Taxes.** User hereby acknowledges that the existence of User's Equipment and other improvements at the Site may result in an increase in the assessed valuation of the Site. User agrees to reimburse Owner upon receipt of documentation showing that User's Equipment or other improvements caused an increase in the assessed value of the Site, for User's proportionate share of any increases in the real estate taxes payable by Owner as a consequence of the increase in assessed valuation. Owner hereby agrees to cooperate with User, at User's sole cost and expense, to obtain an abatement of any such increased assessment. In the event any sales, use or other tax shall be payable by Owner in connection with this Agreement, User shall reimburse Owner on demand for such payments or shall furnish necessary documentation to the appropriate government authorities to show that fee payments hereunder shall be exempt from such sales, use or other tax.

12. **Notices.** All notices, demands, requests, or other communications which are required to be given, served or sent by one party to the other pursuant to this Agreement shall be in writing, and shall be mailed, postage prepaid, by certified mail or by a reliable overnight courier service with delivery verification, to the following addresses or at such other address as may be designated in writing by either party:

If to Owner:

Clearview Tower Company III, LLC
26 Yolanda Drive
Edison, NJ 08817
Attn: Legal Department

If to User:

City of Lockhart, Texas
PO Box 239
Lockhart, TX 78644

Notice given by certified mail or by reliable overnight courier shall be deemed delivered on the date of receipt (or on the date receipt is refused) as shown on the certification of receipt or on the records or manifest of the U.S. Postal Service or such courier service.

13. **Default.**

(a) Any one or more of the following events shall constitute a default ("Default") by User under this Agreement:

(i) the failure of payment of fees, additional fees or other payments set forth herein and such failure continues for ten (10) days after Owner provides written notice thereof to User;

(ii) abandonment of either the User Equipment or that portion of the Site upon which the User Equipment was installed;

(iii) User's failure to perform any other of its obligations under this Agreement and such failure continues for thirty (30) days after Owner gives written notice thereof to User.

(b) In the event of a Default, notwithstanding all other remedies available at law or equity or contained herein, Owner shall have the right to accelerate all rents and other charges due to Owner from User for the remainder of the then current term of this Agreement and User shall pay the same upon demand. Additionally, Owner may at its option: (i) terminate this Agreement upon written notice to User; and (ii) either (A) disconnect, remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (B) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine. In the event that Owner should, as a result of the Default in the performance by User of its obligations hereunder, incur any costs or expenses on behalf of User or in connection with User's obligations hereunder, such sums shall be immediately due to Owner upon rendering of an invoice to User as an additional fee hereunder.

(c) At any time or from time to time after the removal of the User's property from the Site pursuant to Paragraph 14(b) above, whether or not the current term of this Agreement shall have been terminated, Owner may (but shall be under no obligation to) re-license User's former space at the Site, or any part thereof, for the account of the Owner, for such term or terms (which may be greater than or less than the period which would otherwise have constituted the balance of the current term) and on such conditions (which may include concessions or free rent) and for such uses as Owner, in Owner's absolute discretion, may determine, and may collect and receive payments therefrom. Owner shall not be responsible or liable for any failure to re-license User's former space at the Site or any part thereof or for any failure to collect any payments due upon any such re-licensing.

(d) No Default pursuant to this Section 14, by operation of law or otherwise (except as expressly provided herein), no removal of User's property from the Site pursuant to the terms of this Agreement, and/or no re-licensing

of User's former space at the Site shall relieve User of User's obligations or liabilities hereunder, all of which shall survive such Default, removal and/or re-licensing. Without limiting the foregoing, upon User's removal from the Site pursuant to this Section 14, User shall nonetheless remain liable for all monthly fees and other payments hereunder for the remainder of the then-current term.

(e) All of the rights, powers, and remedies of Owner provided for in this Agreement or now or hereafter existing at law or in equity, or by statute or otherwise, shall be deemed to be separate, distinct, cumulative, and concurrent. No one or more of such rights, powers, or remedies, nor any mention or reference to any one or more of them in this Agreement, shall be deemed to be in the exclusion of, or a waiver of, any other rights, powers, or remedies provided for in this Agreement, or now or hereafter existing at law or in equity, or by statute or otherwise. The exercise or enforcement by Owner of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise or enforcement by Owner of any or all of such other rights, powers, or remedies.

14. **Assignment.** Owner reserves the right to assign, transfer, mortgage or otherwise encumber the Site and/or its interest in this Agreement. User shall upon demand execute and deliver to Owner such further instruments subordinating this Agreement, as may be required by Owner in connection with Owner's contemplated transaction. If a third party acquires title to the Site or to Owner's interest therein, including by foreclosure or by acceptance of a conveyance in lieu of foreclosure of a lien, then User will automatically become the licensee of such successor-in-interest without change in the terms or other provisions of this Agreement; provided, however, that such successor-in-interest shall not be bound (a) by any payment of the Base Fee for more than one month in advance or (b) by any amendment or modification of this Agreement made without the written consent of such successor-in-interest. Upon request by User or such successor-in-interest, User and such successor-in-interest shall execute and deliver an instrument or instruments confirming the nondisturbance and attornment herein provided.

15. **Estoppel Certificate.** From time to time, upon not less than twenty (20) days' prior written notice by either party, the other party shall execute, acknowledge and deliver to the requesting party a statement in writing certifying that this Agreement (together with any non-disturbance agreement) is unmodified and in full force and effect (or identifying any modification or modifications) and that the requesting party is not in default, except as specified in such statement, in regard to any of its obligations under this Agreement and further setting forth the dates to which all sums payable as rent hereunder have been paid in advance, if any, and such other statements relating to delivery and acceptance of the Site as the requesting party's lender, purchaser, or permitted assignee may require. Said statement shall be accurate and binding on the other party and may be relied upon by the party requesting such statement and such lender, purchaser or assignee.

16. **Miscellaneous.**

(a) This Agreement shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by Owner and User. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Agreement.

(b) This Agreement embodies the entire agreement between the parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement.

(c) This Agreement may be executed in counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument. All section headings and captions used herein are for the convenience of the parties only and shall not be considered a substantive part of the Agreement.

(d) This Agreement shall be governed by and construed in accordance with the laws in which the Site is located.

(e) Neither this Agreement nor any memorandum hereof shall be recorded in the land records of any county or city or otherwise without the prior written consent of Owner.

(f) This Agreement creates a license only and User acknowledges that User does not and shall not claim at any time, any real property interest or estate of any kind or extent whatsoever in the Site by virtue of this Agreement or User’s use of the Site pursuant hereto. Nothing herein contained shall be construed as constituting a partnership, joint venture or agency between Owner and User.

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

Owner: Clearview Tower Company III, LLC

User: City of Lockhart, Texas

By: _____

By: _____

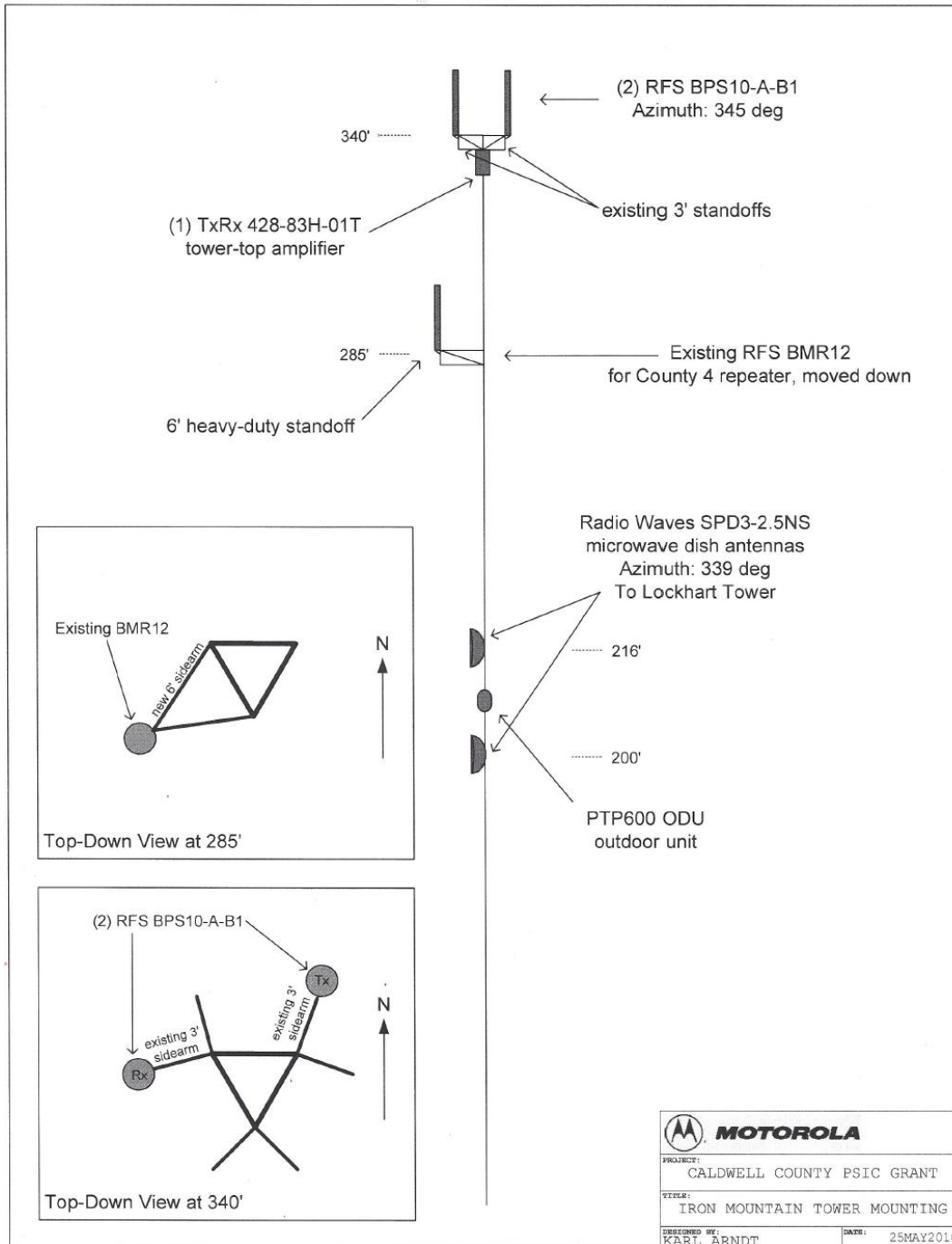
Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A



Also, ground space measuring approximately 10' x 20' for User's private equipment shelter.

EXHIBIT B

Site

Site Name:

The Site consists of the telecommunications tower and equipment shelter located at:

Iron Mountain
Near Luling, in Gonzales County, Texas

The geodetic coordinates of the Site are:

North Latitude: 29 – 39 – 03
West Longitude: 97 – 33 – 20

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion regarding a change to solid waste collection routes by Central Texas Refuse.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

Central Texas Refuse (CTR) notified staff on upcoming changes in its waste collection in an effort to improve timely service for each route. CTR plans to convert the residential waste collection from four days per week of rear-load (RLT) to three days per week and convert the commercial cart customers from two times a week to once per week and supply existing commercial cart customers with an extra cart if needed, starting June 13, 2022. Those three residential collections would be Monday, Tuesday, and Thursday. The residential recycling service will remain unchanged and will be done every other week on Wednesdays. There will be an additional rear-load vehicle to help with the routes. CTR explained that three days of service are better balanced than the previous service days, with Thursdays having the heavier burden. They said it would also help to have an extra day, Friday, available for any carry-overs due to breakdowns or other unforeseen issues. The planned routes also take into consideration when CTR is ready to phase in an automatic service loading vehicle into service. CTR is currently training drivers for the automatic service loading vehicle and hopes to have a timeline available soon as the transition is scheduled.

There are about 1873 customers out of 5255 that will experience a day of service change. There are 125 commercial cart customers that would be affected starting June 13, 2022.

PROJECT SCHEDULE (if applicable): CTR has established a Communication Plan with timelines to assure proper notification of affected customers starting May 1st.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PREVIOUS COUNCIL ACTION: Council approved contract with CTR on May 25, 2021-
Contract duration June 1, 2021 to June 1, 2026

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None.

LIST OF SUPPORTING DOCUMENTS: Lockhart Service Day Map , Communications Plan
for Route Optimization June 13 2022

April 5, 2022

RE: PROPOSED COMMUNICATIONS PLAN FOR RESIDENTIAL ROUTES
CHANGES FROM 4 DAYS (M, T, W, TH, F) TO 3 DAYS (M, T, TH),
INCLUDING COMMERCIAL CART CUSTOMERS FROM 2X WEEK
SERVICE TO 1X WEEK (EXISTING PROVIDED EXTRA CART IF NEEDED)
BEGINNING JUNE 13, 2021

Communications Plan to Start May 1, 2022

CTR:

- Individual mailouts explaining route & service changes with city map (with link to city website)
- Posting in Lockhart Post Register for entire month and days up to June 13
- Provide COL maps of proposed route & service changes to post on City website and other communications
- Put flyers on carts the week before the service change
- If allowed, print large maps of individual routes to post in Utilities Dept. lobby

COL:

- Insert proposed route & service changes with map in customer utility bills (CTR expense)
- Post on City website and other communications

Sincerely,

Alfonso Sifuentes

Alfonso Sifuentes
Director of Public Sector Services & Community Relations



P.O. Box 18685
Austin, TX 78760
www.centraltexasrefuse.com

office 512-243-2833
fax 512-243-2283

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion regarding the proposed auto recycle and salvage yard located near SH 183/FM 1185, outside the city limits.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Direction

BACKGROUND/SUMMARY/DISCUSSION: The Caldwell County Commissioners Court conducted a public hearing regarding a proposed auto recycle and salvage yard during their meeting on April 12, 2022. Background information from city staff is attached.

This item is being presented to the Council for discussion and direction.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None.

LIST OF SUPPORTING DOCUMENTS: Memorandum from David Fowler, Senior Planner (with attachments),

TO: City Council

THROUGH: Steve Lewis, City Manager

FROM: David Fowler, Senior Planner

SUBJECT: Proposed US 183 Auto Salvage Facility

DATE: April 13, 2022

City staff recently became aware of an application to the Caldwell County Commissioners Court for approval of an Auto Salvage Yard proposed to be located on a 19-acre site at 5133 and 5199 US 183, on the west side of US 183/SH 130, north of the Lockhart City Limits. The property is located in an area that is outside the City's 1-mile ETJ and also not within the voluntary ETJ north of the city. Therefore, the city has no jurisdiction over the site. The Commissioners Court held a public hearing regarding the application at its April 12, 2022 meeting. No action was taken, as only a discussion item was scheduled.

The proposed facility, UPI Auto Parts, is an automobile salvage yard, which would offer customers the opportunity to pull parts from the vehicles on the lot. The facility as presented would be surrounded by an 8-foot opaque fence, behind which the salvage vehicles would be kept. The vehicles are described as being "end of life," meaning generally not drivable. These vehicles are drained of all fluids before being placed on the lot. After the vehicles are offered for part pulling, they would be crushed in an enclosed crusher that is proposed to be located on-site. There would not be a shredder on site. The business may also offer some cars to be sold as used vehicles rather than for part pulling. The proposed use is subject to regulation under Caldwell County's Junkyard and Auto Salvage ordinance, Chapter 396 of the Texas Transportation Code, and Chapter 234 of the Texas Local Government Code, entitled County Regulation of Businesses and Occupations. Texas Commission on Environmental Quality regulations would also apply.

At the Commissioners Court hearing, members of the public and County Commissioners asked several questions and generally expressed concern regarding the proposed salvage yard's visual and environmental impact on surrounding properties and the possible negative effects of the facility being located on a major gateway corridor into Lockhart. As the Commissioners Court has 60 days to respond to the application, City Staff recommends that the Commissioners Court exercise all applicable authority, including the County's Junkyard and Auto Salvage ordinance, and all applicable TCEQ, Local Government Code, and Texas Transportation Code standards in evaluating the suitability of the application and proposing any conditions of approval, if applicable. Direct correspondence from the Mayor to the Commissioners Court should be helpful in highlighting the importance of careful evaluation of the application in terms of the potential environmental, aesthetic, and economic effects of the salvage yard being located along such an important entrance into the city.



Gary Johnson

Owner

Typical Junkyard



What is UPI Auto Parts

- ▶ We are a family owned and operated vehicle recycling company
- ▶ 30 years of experience
- ▶ Operated 10 yards in total

What do we do ?

- ▶ We buy end of life vehicles
- ▶ We help our customers get quality used parts at a fraction of the cost
- ▶ We help the environment and economy



UPI AUTO PARTS Rogers
600 W Price Lane, Rogers AR

Environment and economic impact

- ▶ Over 12 million vehicles recycled every year
- ▶ 85 million barrels of oil saved in making new and replacement parts
- ▶ More than 14 million tons of recycled steel is derived from recycled vehicles
- ▶ Approximately 90 percent of aluminum of a vehicle is recovered and recycled
- ▶ Automotive recycling industry supplies around 37 percent of all ferrous metal to blast furnaces and smelters across the United States of America
- ▶ Automobile recycling industry in United States provides sufficient steel to produce roughly 9 million new vehicles
- ▶ Twenty-five million tons of materials comes from recycling old vehicles plus the quantity of hazardous fluids and oils reclaimed safely by auto recyclers would be equal to 8 Exxon Valdez disasters.



Business model and our customers



UPI AUTO PARTS Rogers
600 W Price Lane, Rogers AR

- ▶ 4000+ customers per month
- ▶ Diverse customer base
- ▶ 50% to 80% off used parts
- ▶ Buying recycled parts helps our customers save money while helping the environment

Our recycling process



- ▶ Our yards are designed to keep our recycling areas non accessible to customer
- ▶ We follow all EPA regulations and safety standards
- ▶ We strive to provide a safe and clean environment for customers and employees
- ▶ All our cars and trucks are drained of all fluids before they are placed on the yard
- ▶ Average time on yard is 3 months per vehicle

We buy end of life vehicles



- ▶ We buy and recycle upwards of 400 cars and trucks per month running or not. Average 5000 vehicles per year.
- ▶ We offer our customer free towing and hassle-free transactions
- ▶ Helps keep the community clean of end-of-life vehicles
- ▶ By buying used OEM parts not only do customers save money but also sometimes get parts which might be impossible to find elsewhere.

Recycling Industry Overview



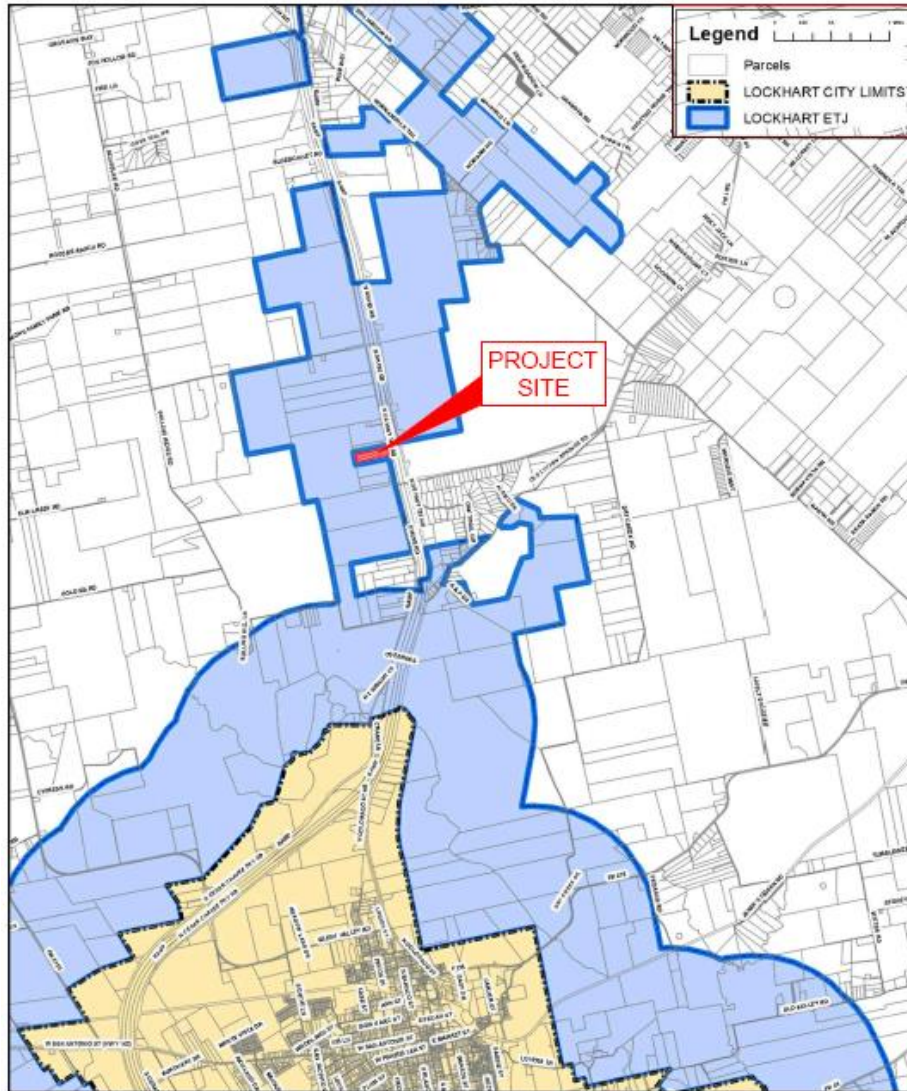
UPI AUTO PARTS Rogers
600 W Price Lane, Rogers AR

- ▶ 16th Largest industry in United States
- ▶ Contributing \$25 billion per year to the national GDP
- ▶ Automobiles are the most recycled consumer product in the world today
- ▶ Automotive recyclers spent approximately \$50 million on environmental compliance
- ▶ Every year, over 25 million tons of materials are recycled from end-of-life vehicles

Projected benefits for Caldwell county and cities located within the county

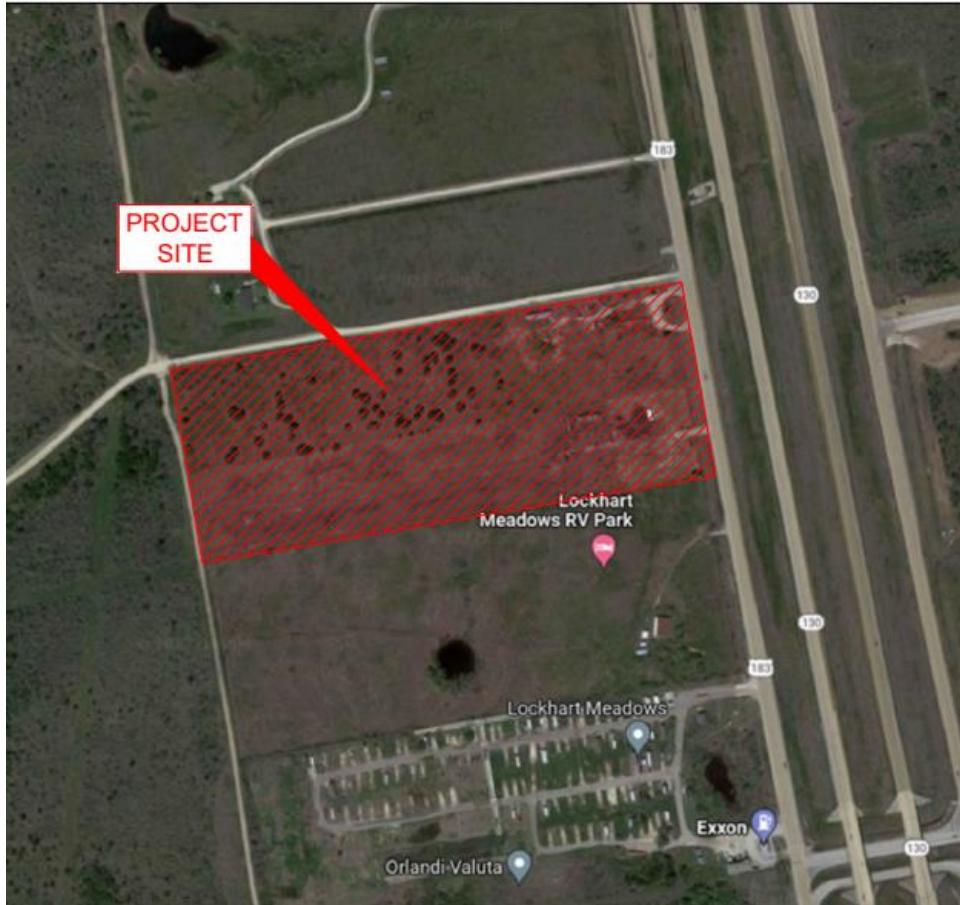
- ▶ Collection of property taxes
- ▶ Collection of sales taxes (Project annual gross income 2.5 million)
- ▶ Creation of 20+ local jobs
- ▶ We purchase our inventory locally and from the surrounding areas helping simulate the local economy
- ▶ Helps clean up the city of old end of life vehicles
- ▶ UPI creates numerous opportunities for local individuals and business to generate income, whether it be pulling parts for friends and family or providing a cheaper alternative to customers at a mechanic shop
- ▶ UPI great lifesaver in these hard economic times for the DYI community and families trying to get their car back on the road.
- ▶ Helping the county to encourage recycling and improve the environment.

Project Site



- ▶ 5133 US Hwy 183 and 5199 US Hwy 183, Lockhart, TX 78644
- ▶ Property ID #: 15285, 15283, 15282 and 15284

Project Site



- ▶ 5133 US Hwy 183 and 5199 US Hwy 183, Lockhart, TX 78644
- ▶ Property ID #: 15285, 15283, 15282 and 15284

Lockhart U Pull It



Rendering of proposed UPI Auto Parts Lockhart location



Thank you!

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion regarding matters related to COVID-19.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis, Monte Akers

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: On May 18, 2021, Governor Abbot issued GA-36 that prohibited governmental entities from mandating face coverings or restricting activities in response to the COVID-19 disaster. As a result, the Lockhart City Council rescinded the Mayor's Declaration to require face coverings and encouraged citizens to continue to follow the CDC guidelines in regard to COVID-19.

Also, as a result of the Governor opening Texas on March 2, 2021 (GA-34), community events are back on schedule such as the Chisholm Trail Roundup, Fireworks show, and City venues such as the city splash pad are open to the public. Face coverings are not required during the events or at city facilities.

An update of COVID-19 orders and Council actions is attached.

Open Meetings Act Suspensions Terminate effective September 1, 2021

In March 2020, Governor Abbott's office granted the Attorney General's request to suspend certain open meetings statutes. The temporary suspension allows for telephonic or videoconference meetings of governmental bodies that are accessible to the public in an effort to reduce in-person meetings, thereby allowing governmental bodies and/or board commissions to hold a meeting virtually without a quorum being present at the meeting location.

On June 30, 2021, the Governor's office approved a request by the Attorney General to lift the open meetings suspensions effective at 12:01 a.m. on September 1, 2021. All Texas governmental bodies subject to the OMA must thereafter conduct their meetings in full compliance with the OMA as written in state law.

The following are provisions in the OMA suspension that will no longer be allowed effective September 1, 2021:

- 1) Video conferencing capability will change in that a member of the governing body or board can meet virtually but there must be a quorum physically present at the meeting location.
- 2) Telephone conference meetings will not be allowed to continue and are only allowed in an emergency.

On August 29, 2021, Governor Abbott issued a Declaration renewing the declaration of disaster stating that COVID-19 poses an imminent threat of disaster for all counties in Texas.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

On October 11, 2021, Governor Abbott issued GA-40 prohibiting vaccine mandates, subject to legislative action.

On February 25, 2022, the CDC updated its framework on monitoring the level of COVID-19 in communities. The new framework moves beyond just looking at cases and testing positivity to evaluation factors that also include hospitalizations and hospital capacity. These factors combined are used to determine whether COVID-19 and severe disease are low, medium or high in a community. The CDC also updated its recommendations for wearing face coverings and respirators. Recommendations are now connected to the community's current level of COVID-19 and severe disease.

This item is returned to the Council for consideration, if necessary.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

FISCAL NOTE (if applicable): None.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None.

LIST OF SUPPORTING DOCUMENTS: Update of COVID-19 orders and Council actions, GA-39, GA-38, Governor Abbott proclamation renewing the Declaration of Disaster, GA 40

HISTORY OF COVID-19 ORDERS/COUNCIL ACTIONS

On **September 1, 2020**, the City Council adopted Resolution 2020-20 renewing and adopting a requirement that commercial establishments in the City post a notice that facial coverings are a requirement of employees and persons entering such establishments. The requirement that such notice be posted shall remain in effect until terminated or amended by the City Council.

On **October 7, 2020**, Governor Greg Abbott issued Executive Order GA-32 to allow certain bars and similar establishments to operate at 50% capacity with permission from the County Judge. GA-32 increased the occupancy levels for all business establishments other than bars to 75%. GA-32 also provides that outdoor gatherings in excess of 10 people is prohibited unless the Mayor of the City in which the gathering is held, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with GA-32.

Mayor's statement on reduced business capacity in Caldwell County. At 12:01 a.m. on Wednesday, January 13, 2021 the provisions of Governor Greg Abbott's Executive Order GA-32 that suspend elective surgeries, close bars and reduce business capacity to 50 percent went into effect in Lockhart and Caldwell County. This was occurring because under GA-32, these specific provisions took effect when a Trauma Service Area had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of total capacity exceeded 15 percent. This was the case in Trauma Service Area O, which included Caldwell County.

COVID Relief Fund update. On January 19, 2021, the Council voted to offer a six-month forbearance to businesses that received a COVID-19 Recovery Loan in 2020. Council re-opened the COVID Relief Grants to small businesses for \$5,000 per business that qualifies. Restaurants and bars that were affected by the Governor's order earned higher points on the application process.

During the February 23, 2021 meeting, Chief Jenkins provided an update of COVID compliance for local businesses.

On **March 2, 2021**, Governor Abbot issued GA-34 that was effective March 10, 2021. It provides that the State no longer requires face covering and it does not allow local jurisdictions to require face coverings. GA-34 supercedes all orders issued by local officials that conflict with regard to services or local orders and provides that businesses and other establishments may require customers and employees to wear face coverings. The consensus of the Council was to leave the Mayor's Declaration in effect and to encourage citizens to continue to wear face coverings and to maintain a six foot distance.

On **May 13, 2021**, the CDC announced that fully vaccinated individuals no longer need to mask up or social distance indoors and outdoors, including crowds. Attached is information from the CDC about how to stay safe around individuals that are or are not fully vaccinated.

On **June 15, 2021**, the consensus of the Council was to continue virtual attendance at meetings.

On **June 30, 2021**, the Governor's office approved a request by the Attorney General to lift the temporary Open Meetings Act suspensions, effective at 12:01 a.m. on September 1, 2021. The change in virtual meetings is that a member of the governing body or board member may attend a meeting virtually but there must be a quorum physically present at the meeting location.

On **July 29, 2021**, Governor Abbott issued Executive Order 38, that combined several existing COVID-19 executive orders to promote statewide uniformity and certainty in the state's COVID-19 response. Governor Abbott stated that "The new Executive Order emphasizes that the path forward relies on personal responsibility rather than government mandates".

On **August 13, 2021**, TML provided the following information regarding actions taken by governmental entities and the Attorney General in regards to face coverings:

- **Mask Mandate Update:** Tuesday afternoon, two state district court judges in Dallas and Bexar counties granted local authorities in those jurisdictions temporary restraining orders blocking Governor Abbott's ban on mask mandates. In response to the rulings, the City of San Antonio issued a requirement for face coverings inside city facilities, and the Dallas County Judge issued an emergency order on Wednesday related to face coverings. Temporary restraining orders are by definition temporary and require further court proceedings to become permanent. TML will continue to monitor these developments. In related news, Houston's Mayor Sylvester Turner is requiring masks in city facilities when physical distancing is not doable.

Additionally, a number of large school districts ("ISDs") across the state, including Dallas ISD, Houston ISD, Austin ISD, Fort Worth ISD, and San Antonio ISD, are requiring masks on school property.

- **Attorney General Issues Two COVID-related opinions:** On August 11, the Attorney General released two opinions related to mask mandates and vaccines.
 1. In Opinion KP-0379, the Attorney General was asked whether COVID-19 vaccines could be required as a condition to enter a government building. Citing the Governor's Executive Order No. 38 as well as the recently passed S.B. 968, the Attorney General opined that government entities may not require COVID-19 vaccines as a condition to enter a government facility.
 2. In Opinion No. KP-0380, the Attorney General was asked to opine on the effect of the Governor's executive orders on federal requirements related to face coverings on public transit. The AG ultimately opined that he is unconvinced that CDC and TSA rules as well as federal law preempt the Governor's orders prohibiting mask mandates.

Please remember that Attorney General opinion are just that: opinions. They are legal guidance but do not carry the force of law or court order.

- **Counties Across Texas Seeing Rise in COVID-19 Threat Levels:** Over the last few weeks, we have reported on the rise in COVID-19 threat levels in counties and cities across the state. That rise continues, with Travis, Harris, Dallas, and Williamson counties, among others, back at the highest threat levels as the Delta variant spreads across the state and ICU bed availability drops.

On **August 29, 2021**, Governor Abbott issued a proclamation renewing the declaration stating that COVID-19 poses an imminent threat of disease for all counties in Texas.

On **August 25, 2021**, Governor Abbott issued GA-39 (attached), prohibiting governmental entities from compelling an individual to receive a COVID-19 vaccine regardless of full FDA approval, among other things.

The Governor also issued the following call to the Special Session of the Legislature:

Legislation regarding whether any State or Local Governmental entities in Texas can mandate that an individual receive a COVID-19 vaccine and, if so, what exemption should apply to such mandate.

On **October 11, 2021**, Governor Abbott issued GA-40 relating to prohibiting all entities of compelling receipt of a COVID-19 vaccine until the issue has been considered through legislation.

On **February 25, 2022**, the CDC updated its framework on monitoring the level of COVID-19 in communities. The new framework moves beyond just looking at cases and testing positivity to evaluation factors that also include hospitalizations and hospital capacity. These factors combined are used to determine whether COVID-19 and severe disease are low, medium or high in a community. The CDC also updated its recommendations for wearing face coverings and respirators. Recommendations are now connected to the community's current level of COVID-19 and severe disease.



GOVERNOR GREG ABBOTT

August 25, 2021

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

AUG 25 2021

Secretary of State

Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-39 relating to prohibiting vaccine mandates and vaccine passports subject to legislative action.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
August 25, 2021

EXECUTIVE ORDER GA 39

*Relating to prohibiting vaccine mandates and vaccine passports
subject to legislative action.*

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, I have issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health; and

WHEREAS, COVID-19 vaccines are strongly encouraged for those eligible to receive one, but have always been voluntary for Texans; and

WHEREAS, I issued Executive Orders GA-35 and GA-38, addressing COVID-19 vaccines administered under an "emergency use authorization" by prohibiting vaccine mandates from governmental entities and by prohibiting "vaccine passports" from governmental entities and certain others; and

WHEREAS, subsequently, on August 23, 2021, while the legislature was already convened in a special session, the U.S. Food and Drug Administration (FDA) approved one of the COVID-19 vaccines for certain age groups, such that this vaccine is no longer administered under an emergency use authorization for those age groups; and

WHEREAS, while this COVID-19 vaccine is now FDA-approved for certain age groups, others are not yet approved and still are administered under an emergency use authorization; and

WHEREAS, through Chapter 161 of the Texas Health and Safety Code, as well as other laws including Chapters 38 and 51 of the Texas Education Code, the legislature has established its primary role over immunizations, and all immunization laws and regulations in Texas stem from the laws established by the legislature; and

WHEREAS, in other contexts where the legislature has imposed immunization requirements, it has also taken care to provide exemptions that allow people to opt out of being forced to take a vaccine; and

WHEREAS, given the legislature's primacy and the need to avoid a patchwork of regulations with respect to vaccinations, it is appropriate to maintain the status quo of

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SECRETARY OF STATE
2 PM O'CLOCK

AUG 25 2021

prohibiting vaccine mandates through executive order while allowing the legislature to consider this issue while in session; and

WHEREAS, in this instance, given the legislature's prior actions, maintaining the status quo of prohibiting vaccine mandates and ensuring uniformity pending the legislature's consideration means extending the voluntariness of COVID-19 vaccinations to all COVID-19 vaccinations, regardless of regulatory status; and

WHEREAS, I am also adding this issue to the agenda for the Second Called Session of the legislature that is currently convened so that the legislature has the opportunity to consider this issue through legislation; and

WHEREAS, I will rescind this executive order upon the effective date of such legislation;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No governmental entity can compel any individual to receive a COVID-19 vaccine. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine.
2. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
3. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine. No consumer may be denied entry to a facility financed in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine.
4. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
5. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any

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SECRETARY OF STATE
2:24 PM O'CLOCK

AUG 25 2021

other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.

This executive order supersedes only paragraph No. 2 of Executive Order GA-38, and does not supersede or otherwise affect the remaining paragraphs of Executive Order GA-38. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 25th
day of August, 2021.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in black ink that reads "Joe A. Esparza".
JOE A. ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2PM O'CLOCK

AUG 25 2021



GOVERNOR GREG ABBOTT

July 29, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:15 PM O'CLOCK

JUL 29 2021

Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

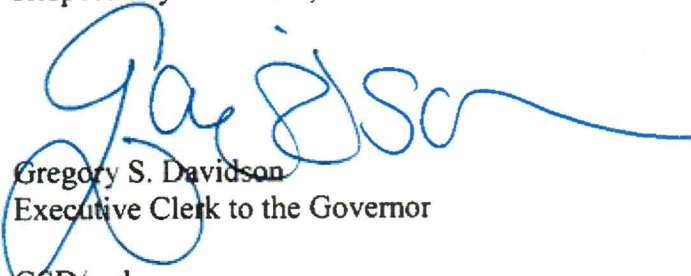
Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-38 relating to the continued response to the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
July 29, 2021

EXECUTIVE ORDER
GA 38

Relating to the continued response to the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, from March 2020 through May 2021, I issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health by adjusting social-distancing and other mitigation strategies; and

WHEREAS, combining into one executive order the requirements of several existing COVID-19 executive orders will further promote statewide uniformity and certainty; and

WHEREAS, as the COVID-19 pandemic continues, Texans are strongly encouraged as a matter of personal responsibility to consistently follow good hygiene, social-distancing, and other mitigation practices; and

WHEREAS, receiving a COVID-19 vaccine under an emergency use authorization is always voluntary in Texas and will never be mandated by the government, but it is strongly encouraged for those eligible to receive one; and

WHEREAS, state and local officials should continue to use every reasonable means to make the COVID-19 vaccine available for any eligible person who chooses to receive one; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility "for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders ... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to

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SECRETARY OF STATE
3:15pm O'CLOCK

JUL 29 2021

and from a disaster area and the movement of persons and the occupancy of premises in the area;" and

WHEREAS, under Section 418.173, the legislature authorized as "an offense," punishable by a fine up to \$1,000, any "failure to comply with the [state emergency management plan] or with a rule, order, or ordinance adopted under the plan;"

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. To ensure the continued availability of timely information about COVID-19 testing and hospital bed capacity that is crucial to efforts to cope with the COVID-19 disaster, the following requirements apply:
 - a. All hospitals licensed under Chapter 241 of the Texas Health and Safety Code, and all Texas state-run hospitals, except for psychiatric hospitals, shall submit to the Texas Department of State Health Services (DSHS) daily reports of hospital bed capacity, in the manner prescribed by DSHS. DSHS shall promptly share this information with the Centers for Disease Control and Prevention (CDC).
 - b. Every public or private entity that is utilizing an FDA-approved test, including an emergency use authorization test, for human diagnostic purposes of COVID-19, shall submit to DSHS, as well as to the local health department, daily reports of all test results, both positive and negative. DSHS shall promptly share this information with the CDC.
2. To ensure that vaccines continue to be voluntary for all Texans and that Texans' private COVID-19-related health information continues to enjoy protection against compelled disclosure, in addition to new laws enacted by the legislature against so-called "vaccine passports," the following requirements apply:
 - a. No governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization.
 - b. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
 - c. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. No consumer may be denied entry to a facility financed

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SECRETARY OF STATE
3:15 PM O'CLOCK

JUL 29 2021

- in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization.
- d. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
 - e. This paragraph number 2 shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.
3. To ensure the ability of Texans to preserve livelihoods while protecting lives, the following requirements apply:
- a. There are no COVID-19-related operating limits for any business or other establishment.
 - b. In areas where the COVID-19 transmission rate is high, individuals are encouraged to follow the safe practices they have already mastered, such as wearing face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household, but no person may be required by any jurisdiction to wear or to mandate the wearing of a face covering.
 - c. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) is strongly encouraged to use good-faith efforts and available resources to follow the Texas Department of State Health Services (DSHS) health recommendations, found at www.dshs.texas.gov/coronavirus.
 - d. Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow guidance from the Texas Health and Human Services Commission (HHSC) regarding visitations, and should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible.
 - e. Public schools may operate as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency. Private schools and institutions of higher education are encouraged to establish similar standards.
 - f. County and municipal jails should follow guidance from the Texas Commission on Jail Standards regarding visitations.
 - g. As stated above, business activities and legal proceedings are free to proceed without COVID-19-related limitations imposed by local governmental entities or officials. This paragraph number 3 supersedes any conflicting local order in response to the COVID-19 disaster, and all relevant laws are suspended to the extent necessary to preclude any such inconsistent local orders. Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any conflicting or inconsistent limitation by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.

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JUL 29 2021

4. To further ensure that no governmental entity can mandate masks, the following requirements shall continue to apply:
 - a. No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering; provided, however, that:
 - i. state supported living centers, government-owned hospitals, and government-operated hospitals may continue to use appropriate policies regarding the wearing of face coverings; and
 - ii. the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, and any county and municipal jails acting consistent with guidance by the Texas Commission on Jail Standards may continue to use appropriate policies regarding the wearing of face coverings.
 - b. This paragraph number 4 shall supersede any face-covering requirement imposed by any local governmental entity or official, except as explicitly provided in subparagraph number 4.a. To the extent necessary to ensure that local governmental entities or officials do not impose any such face-covering requirements, I hereby suspend the following:
 - i. Sections 418.1015(b) and 418.108 of the Texas Government Code;
 - ii. Chapter 81, Subchapter E of the Texas Health and Safety Code;
 - iii. Chapters 121, 122, and 341 of the Texas Health and Safety Code;
 - iv. Chapter 54 of the Texas Local Government Code; and
 - v. Any other statute invoked by any local governmental entity or official in support of a face-covering requirement.

Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any such face-covering requirement by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.

- c. Even though face coverings cannot be mandated by any governmental entity, that does not prevent individuals from wearing one if they choose.
5. To further ensure uniformity statewide:
 - a. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order or allows gatherings restricted by this executive order. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the

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COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

- b. Confinement in jail is not an available penalty for violating this executive order. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.

This executive order supersedes all pre-existing COVID-19-related executive orders and rescinds them in their entirety, except that it does not supersede or rescind Executive Orders GA-13 or GA-37. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 29th
day of July, 2021.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in black ink that reads "Joe A. Esparza".
JOE A. ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:15 PM O'CLOCK

JUL 29 2021

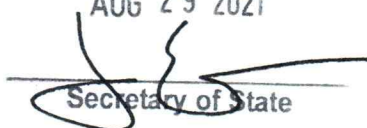


GOVERNOR GREG ABBOTT

August 29, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30 PM O'CLOCK

AUG 29 2021


Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Mr. Deputy Secretary:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation renewing the declaration stating the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in Texas.

The original proclamation is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

PROCLAMATION

BY THE

Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have issued proclamations renewing the disaster declaration for all Texas counties; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, a state of disaster continues to exist in all counties due to COVID-19;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation for all counties in Texas.

Pursuant to Section 418.017, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 29th day of August, 2021.

A handwritten signature in black ink, reading "Greg Abbott", is written over a horizontal line.

GREG ABBOTT
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30pm O'CLOCK

AUG 29 2021

Governor Greg Abbott
August 29, 2021

Proclamation
Page 2

ATTESTED BY:



JOE ESPARZA
Deputy Secretary of State

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SECRETARY OF STATE
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AUG 29 2021



GOVERNOR GREG ABBOTT

October 11, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:30 PM 'CLOCK

OCT 11 2021

Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-40 relating to prohibiting vaccine mandates, subject to legislative action.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

A blue ink handwritten signature, appearing to read "G. Davidson", with a long horizontal flourish extending to the right.

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
October 11, 2021

EXECUTIVE ORDER GA 40

*Relating to prohibiting vaccine mandates,
subject to legislative action.*

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, I have issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health; and

WHEREAS, COVID-19 vaccines are strongly encouraged for those eligible to receive one, but must always be voluntary for Texans; and

WHEREAS, I issued Executive Orders GA-35, GA-38, and GA-39 to prohibit governmental entities and certain others from imposing COVID-19 vaccine mandates or requiring vaccine passports; and

WHEREAS, in yet another instance of federal overreach, the Biden Administration is now bullying many private entities into imposing COVID-19 vaccine mandates, causing workforce disruptions that threaten Texas's continued recovery from the COVID-19 disaster; and

WHEREAS, countless Texans fear losing their livelihoods because they object to receiving a COVID-19 vaccination for reasons of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19; and

WHEREAS, through Chapter 161 of the Texas Health and Safety Code, as well as other laws including Chapters 38 and 51 of the Texas Education Code, the legislature has established its primary role over immunizations, and all immunization laws and regulations in Texas stem from the laws established by the legislature; and

WHEREAS, the legislature has taken care to provide exemptions that allow people to opt out of being forced to take a vaccine for reasons of conscience or medical reasons; and

WHEREAS, I am adding this issue to the agenda for the Third Called Session of the legislature that is currently convened so that the legislature has the opportunity to consider this issue through legislation; and

WHEREAS, I will rescind this executive order upon the effective date of such legislation;

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SECRETARY OF STATE
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OCT 11 2021

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No entity in Texas can compel receipt of a COVID-19 vaccine by any individual, including an employee or a consumer, who objects to such vaccination for any reason of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19. I hereby suspend all relevant statutes to the extent necessary to enforce this prohibition.
2. The maximum fine allowed under Section 418.173 of the Texas Government Code and the State's emergency management plan shall apply to any "failure to comply with" this executive order. Confinement in jail is not an available penalty for violating this executive order.
3. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.

This executive order does not supersede Executive Orders GA-13, GA-37, GA-38, or GA-39. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.

Given under my hand this the 11th
day of October, 2021.



GREG ABBOTT
Governor

ATTESTED BY:


JOE A. ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4:30 PM O'CLOCK

OCT 11 2021

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Approve Resolution 2022-22 for an economic development performance agreement with Mill Scale, LLC.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION:

Attached is the resolution and performance agreement offering incentives for Mill Scale, LLC to move its operations to the City of Lockhart.

Mill Scale creates custom smokers worthy of heirloom status. Co-owners and brothers Matt and Caleb Johnson are producing work so far beyond the smoker available at a retail big box store. Whether it's a 94-gallon backyard model, a smaller yakitori grill, or a thousand-gallon pit meant for the largest of commercial operations, the steel coming out of Mill Scale is the highest quality BBQ pit one can purchase.

Mill Scale intends to purchase 1.3 acres immediately north of Kreuz Market to establish a new manufacturing facility and retail store front. The move places the company within the city limits of Lockhart for the first time and will generate new property and sales taxes from the new operation.

The attached performance agreement would provide up to a \$50,000 rebate for an electric transformer and a 5-year LEDC sales tax rebate of 50%. The sales tax rebate is only applicable to LEDC's 0.5% sales tax on what Mill Scale remits to the City in annual sales taxes estimated to total \$25,000 over the 5-year term. The EDPA requires Mill Scale to invest at least \$1.5 million into the project and hire and maintain 15 jobs over the first 3 years for the duration of the term.

PROJECT SCHEDULE (if applicable): Company would begin the project within the next 60 days.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$50,000

Account Number: 800-5199-704-11

Funds Available: 0

Account Name: Economic Development - Mill Scale

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): A budget amendment will be required to add funds to cover costs associated with the reimbursement of an electrical transformer for the current fiscal year. Sales tax rebate will be budgeted over the next five years in the Lockhart Economic Development budget.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The LEDC Board will consider this item at its March 14, 2022 regular board meeting.

STAFF RECOMMENDATION/REQUESTED MOTION: Move to adopt Resolution 2022-22 approving an Economic Development Performance Agreement with Mill Scale, LLC as presented.

LIST OF SUPPORTING DOCUMENTS: City Resolution 2022-22 Mill Scale, Mill Scale LEDC Performance Agreement Final, LEDC Resolution 2022-05 Mill Scale EDPA, LEDC March 2022 Minutes

RESOLUTION NO. 2022-22

A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH MILL SCALE, LLC TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$50,000 TO MILL SCALE, LLC FOR REIMBURSEMENT OF ELECTRIC TRANSFORMER AND A 50% REBATE OF EDC SALES TAXES COLLECTED BY MILL SCALE, LLC OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart ("City") is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Mill Scale, LLC (Mill Scale) will engage in a project whereby it will make a capital investment of \$1,500,000 to construct a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$50,000 to reimburse Mill Scale Metalworks, LLC for the cost of an electrical transformer; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Mill Scale an amount of money each year equal to a percentage of the amount of LEDC's one half of one percent (1/2%) sales tax collected and remitted by Mill Scale during each year for a term of 5 years.

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

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and Mill Scale Metalworks, LLC, a copy of which Agreement is attached hereto as Exhibit "A," which is incorporated herein for all purposes.

Approved and adopted on this, the 14th day of March 2022.

City of Lockhart, Texas

Lew White, Mayor

Attest:

Approved as to form:

Connie Constancio, City Secretary

Monte Akers, City Attorney

“Exhibit A”

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This Economic Development Performance Agreement (“Agreement”) is made and entered into by and between THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION OF LOCKHART, TEXAS (“LEDC”), a Type B Economic Development Corporation, and Mill Scale, LLC. (“MILL SCALE”) a Texas limited liability company.

RECITALS

WHEREAS, Mill Scale, LLC. desires to construct a facility and conduct business operations in the City of Lockhart, Texas (“City”) and to participate in the Economic Development Program established in this Agreement; and

WHEREAS, LEDC desires to establish this Economic Development Program and to offer incentives to Mill Scale to locate such business in the City; and

WHEREAS, the LEDC is authorized to promote state and local economic development and to stimulate business and commercial activity within the City, and LEDC has determined that substantial economic benefits, including the bringing of new primary jobs to the City, an increase in the City’s tax rolls, and the creation of new opportunities for local employment, will accrue to the City and the surrounding area, if such business is successfully developed on such property; and

WHEREAS, LEDC and Mill Scale desire to enter into this Agreement in order to comply with Sec. 501.158, Texas Local Government Code, which requires an economic development corporation, in order to offer incentives or make expenditures on behalf of a business enterprise under a project, to enter into a performance agreement that addresses a schedule of jobs created or retained, capital investment to be made, direct incentives provided, and the terms under which repayment shall be made in the event a business enterprise does not meet the requirements specified in the Agreement;

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LEDC and Mill Scale agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein by reference as if fully set forth in their entirety.

Section 2: Definitions

- (a) "Building" or "Facility" shall mean the building to be constructed by MILL SCALE on the Property and in which it will operate its business.
- (b) "Effective Date" shall mean the date that both parties have executed this Agreement.
- (c) "Full Time Equivalent Job" ("FTE Job") shall mean a permanent, full time equivalent employment position that meets the definition of a "Primary Job" pursuant to Sec. 501.002(12), Texas Local Government Code. Two part-time jobs, but no more than two, may be counted as one FTE Job for the purposes of this Agreement.
- (d) "Property" shall mean 1.3 acres, more or less, and described as BARCLAY ADDN, BLOCK 1, LOT 1-A, ACRES 1.363 (the address of which is 711 N. Colorado Street, Lockhart, Texas 78644) in Caldwell County, Texas.

Section 3: Term

The term of this Agreement shall be five (5) years, commencing on the effective date of this Agreement, and terminating at midnight on the day immediately preceding the fifth anniversary of the effective date.

Section 4. Mill Scale Requirements

In consideration of the financial incentives described and offered by LEDC pursuant to this Agreement, Mill Scale agrees:

- (a) To, directly and/or through one or more of its affiliates, make a capital investment of one million five-hundred thousand dollars (\$1,500,000.00) in the Project.
- (b) To cause the Facility to be constructed and to notify LEDC in writing when it has received a Certificate of Occupancy from the City of Lockhart for the Facility and specifying the date that MILL SCALE and/or one or more of its affiliates will move into the Facility and begin operation therein.
- (c) To move into the Facility and/or cause one or more of its affiliates to move into the Facility and commence operations by June 30, 2023.
- (d) Other than due to a Business Interruption Exception, to create and fill and/or cause the creation and filling of at least fifteen (15) Full Time Equivalent Jobs positions at the Facility at following rate:
 - By end of calendar year 2023: a total of 9 FTE jobs positions
 - By end of calendar year 2024: a total of 12 FTE jobs positions
 - By end of calendar year 2025: a total of 15 FTE jobs positions.
 (Such persons may work in shifts and shall not be required to all be at the Facility at the same time)

- (e) To continue business operations at the Facility (or at such other location in the City approved by the LEDC) throughout the term of this Agreement.
- (f) To maintain at least fifteen (15) Full Time Equivalent Jobs starting January 1, 2026 throughout the remainder of this Agreement.
- (g) To keep current (after notice and thirty (30) days' opportunity to cure) in the payment of taxes owed by MILL SCALE to any taxing jurisdiction having jurisdiction in connection with its operations in Lockhart.
- (h) To provide payroll records to LEDC annually showing compliance with Section 4(d) as well as Employment and Payroll Certification during the term of this Agreement.
- (i) To meet all requirements of this Agreement and to comply with all applicable City of Lockhart ordinances, state and federal law, and related requirements during the term of this Agreement.

Section 5. LEDC Requirements

In consideration of MILL SCALE's agreement to locate its business within the City and to perform the other acts described herein, LEDC agrees it will:

- i) Reimburse MILL SCALE not to exceed fifty thousand dollars (\$50,000.00) for an electric transformer, to be paid to MILL SCALE no later than thirty (30) days following LEDC's receipt of satisfactory written documentation of MILL SCALE's satisfactory purchase and installation of electrical infrastructure.
- ii) Rebate to Mill Scale an amount of money each year equal to a percentage of the amount of LEDC's one half of one percent (1/2%) sales tax collected and remitted by MILL SCALE during that year, to be paid to MILL SCALE no later than thirty (30) days after the end of each calendar year, according to the following schedule:
 - (1) Year 1: 50%
 - (2) Year 2: 50%
 - (3) Year 3: 50%
 - (4) Year 4: 50%
 - (5) Year 5: 50%

Section 6. Recapture/Termination

- (a) In the event that MILL SCALE and/or one or more of its affiliates begins operating its business, but subsequently discontinues operating its business in Lockhart for any reason except as a result of fire, explosion, or other casualty or accident, force majeure or other natural disaster, war or civil unrest, a taking under eminent domain, regulatory restrictions of any applicable governmental entity which makes conduct of the MILL SCALE illegal or economically untenable, or other event beyond the reasonable control of MILL SCALE (the "Business Interruption Exceptions") for a period of more

than one hundred eighty (180) days during the term of this Agreement, then in such event MILL SCALE shall be required to repay to LEDC any and all monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of such period. The burden shall be upon MILL SCALE to prove to the satisfaction of the LEDC that the discontinuance of operating its business was a result of one of the Business Interruption Exceptions. In the event that following the occurrence of a Business Interruption Exception which may reasonably be cured within one (1) year of the cessation of business operations, then should MILL SCALE fail to resume business operations within one (1) year of the date of discontinuance of operations, MILL SCALE shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of the one (1) year period.

- (b) In the event that MILL SCALE allows ad valorem taxes owed to the City of Lockhart, Texas on the Property, or its business personal property or inventory to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest (after notice and thirty (30) days' opportunity to cure), MILL SCALE shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following such event.

Section 7. Dispute Resolution, Applicable Law, Venue, and Attorney's Fees

(a) In the event of any controversy or claim arising out of or relating to this Agreement or the breach of this Agreement, the parties shall attempt in good faith to resolve the same by good faith mediation before a mediator mutually agreed to by the parties. LEDC and MILL SCALE expressly waive any statutory or other legal requirements that may exist for serving notices or engaging in alternative dispute resolution prior to doing so.

(b) In the event that the claim or controversy is not settled by mediation or any other alternative dispute resolution method agreed to by the parties, either party may file suit in a court of competent jurisdiction sitting in the State of Texas. Venue shall lie in Caldwell County, Texas. The prevailing party in any litigation arising out of this Agreement shall be entitled to recover its reasonable and necessary costs and attorney's fees from the non-prevailing party pursuant to applicable law.

Section 8. Entire Agreement

This Agreement, when executed, contains the entire agreement between the LEDC and Mill Scale with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the LEDC and Mill Scale.

Section 9. Successors and Assigns

This Agreement may not be assigned to any third party by MILL SCALE without the written consent of LEDC. In the event of such assignment or in the event of legal

succession of MILL SCALE's interest in this Agreement by operation of law, this Agreement shall be binding on and inure to the benefit of such assign or successor.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

Mill Scale,LLC:

Mill Scale, LLC.
Attn: Matthew Johnson
P.O. Box 1064
Lockhart, TX 78644

With a copy to:

Stibbs & Co., P.C.
819 Crossbridge Drive
Spring, TX 77373
Attn: Stuart W. Lapp

Lockhart Economic Development Corporation:

Lockhart Economic Development Corporation
Attn: Executive Director
308 W. San Antonio
P.O. Box 239
Lockhart, TX 78644

Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 13. Mutual Assistance

LEDC and Mill Scale agree to do all things reasonably necessary and appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION:

Steve Lewis, President

ATTEST:

Michael Kamerlander, LEDC Secretary

Mill Scale, LLC. :

Matthew Johnson, Manager

RESOLUTION NO. 2022-05

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH MILL SCALE, LLC TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$50,000 TO MILL SCALE, LLC FOR REIMBURSEMENT OF ELECTRIC TRANSFORMER AND A 50% REBATE OF EDC SALES TAXES COLLECTED BY MILL SCALE, LLC OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart ("City") is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Mill Scale, LLC (Mill Scale) will engage in a project whereby it will make a capital investment of \$1,500,000 to construct a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$50,000 to reimburse Mill Scale Metalworks, LLC for the cost of an electrical transformer; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Mill Scale an amount of money each year equal to a percentage of the amount of LEDC's one half of one percent (1/2%) sales tax collected and remitted by Mill Scale during each year for a term of 5 years.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION, that:

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and Mill Scale Metalworks, LLC, a copy of which Agreement is attached hereto as Exhibit "A," which is incorporated herein for all purposes.

Approved and adopted on this, the 14th day of March 2022.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION



Alan Fielder, Chairman

Attest:



Michael Kamerlander, Board Secretary

Approved as to form:



Monte Akers, Board Attorney

MINUTES
LOCKHART ECONOMIC DEVELOPMENT CORPORATION

MONDAY, MARCH 14, 2022
6:00 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS
217 SOUTH MAIN STREET, 3RD FLOOR
LOCKHART, TEXAS

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Sally Daniel; Doug Foster; Frank Estrada; Juan Alvarez (6:31 pm); David Bryant (6:29 pm)

Board Members Absent: None

Staff Present: Mike Kamerlander; Pam Larison, Treasurer; Nicole Warren, LEDC Attorney

1. CALL TO ORDER

The meeting was called to order by Alan Fielder, Chairman at 6:01 pm

2. PUBLIC HEARING - 6:00 PM

2.1 Hold a public hearing regarding a performance agreement with Mill Scale, LLC pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:01 PM

Closed: 6:02 PM

No public present.

2.2 Hold a public hearing regarding a performance agreement with Good Things Lockhart, LLC for a Big Grant pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:02 PM

Closed: 6:03 PM

No public present.

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the February 14, 2022 meeting.

No Discussion.

Motion to approve the minutes from the February 14, 2022 meeting.

Motion: Alfredo Muñoz Second: Sally Daniel

Vote: 6 of 6

4.2 Discussion and/or action regarding sales tax and financial statements for February 2022.

Ms. Larison provided an overview of the financials from the month with no significant issues to report. Sales tax revenues continue to grow, albeit at a slower rate. Revenues continue to trend higher than budget and expenses are on track. Ms. Larison also provided the balance for the Southside Bank loan and the board discussed paying that loan off.

Motion to pay off the remaining balance of the Southside Bank Loan with fund balance.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

Motion to approve the February 2022 financial statements.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION (LEDC)
MINUTES

Monday, March 14, 2022 - 6:00 P.M.

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Motion: Doug Foster

Second: Sally Daniel

Vote: 6 of 6

4.3 Discussion and/or action regarding LEDC Resolution 2022-05 for an economic development performance agreement with Mill Scale, LLC.

Directors an economic development performance agreement to offer incentives to Mill Scale, LLC to establish a new manufacturing facility and storefront in Lockhart. The agreement provides a 5-year sales tax rebate and a \$50,000 reimbursement to the company for electrical transformer.

Motion to approve LEDC Resolution 2022-05 for an economic development performance agreement with Mill Scale, LLC.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

4.4 Discussion and/or action regarding LEDC Resolution 2022-06 for an economic development performance agreement with Good Things Lockhart, LLC for a BIG Grant.

Motion to approve LEDC Resolution 2022-06 for an economic development performance agreement with Good Things Lockhart, LLC for a BIG Grant.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 6 of 6

4.5 Discussion and/or action regarding a property sale agreement for 11.82 acres in Lockhart Industrial Park III with Titan Development.

Due to the right of first refusal with Titan Development, the company has exercised its right to purchase this tract in Industrial Park III. Terms were discussed as part of the agenda packet.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

4.6 Discussion and/or action regarding Resolution 2022-07 to accept a \$1.86 million grant from the U.S. Economic Development Administration for wastewater improvements within the City of Lockhart; providing \$420,000 in matching funds; and providing an effective date.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 6 of 6

5. Executive Session – In: 6:27 PM Out: 7:01 PM

5.1 Close Open Session and Convene Executive Session pursuant to Secs. 551.071 (consultation with attorney), 551.072 (real estate) and 551.087 (Economic Development) of the Texas Open Meetings Act. Gov't Code Ch. 551, to discuss the following:

BBQ
Harrison
Summertime
Rose
Revive

6. Board Action from Executive Session

6.1 Motion to extend an offer of incentives to Project Summertime as discussed in executive session.

Motion: Doug Foster

Second: Juan Alvarez

Vote: 7 of 7

6.2 Motion to accept the LOI terms for Project Rose and direct staff to negotiate a purchase sale agreement as discussed in executive session.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION (LEDC)

MINUTES

Monday, March 14, 2022 - 6:00 P.M.

Page 2 of 3

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 7 of 7

6.3 Motion to extend an offer of incentives to Project Revive as discussed in executive session.

Motion: Doug Foster

Second: Sally Daniel

Vote: 7 of 7

7. DISCUSSION ONLY

7.1 Activity Updates

Mr. Kamerlander gave an update on the LEDC Staff activities for February 2022.

ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 7 of 7

LEDC Board of Directors Adjourned at 7:16 PM.

Minutes approved this the 11th day of April, 2022.


Alan Fielder, Chairman LEDC


Michael Kamerlander, Secretary LEDC

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Approve Chapter 380 agreement with Mill Scale, LLC. to provide incentives for economic development.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

Attached is the Chapter 380 agreement offering incentives for Mill Scale, LLC to move its operations to the City of Lockhart.

Mill Scale creates custom smokers worthy of heirloom status. Co-owners and brothers Matt and Caleb Johnson are producing work so far beyond the smoker available at a retail big box store. Whether it's a 94-gallon backyard model, a smaller yakitori grill, or a thousand-gallon pit meant for the largest of commercial operations, the steel coming out of Mill Scale is the highest quality BBQ pit one can purchase.

Mill Scale intends to purchase 1.3 acres immediately north of Kreuz Market to establish a new manufacturing facility and retail store front. The move places the company within the city limits of Lockhart for the first time and will generate new property and sales taxes from the new operation.

The attached 380 agreement would provide a 3-year real and personal property tax rebate that starts at 100% in year 1 and drops to 50% in year 3. The agreement requires Mill Scale to invest at least \$1.5 million into the project and hire and maintain 15 jobs over the first 3 years for the duration of the term.

PROJECT SCHEDULE (if applicable): Construction to begin in 2022.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): This 380 Agreement with Mill Scale, LLC. will not affect the current budget. However, in 2023-2024, the City will need to budget expenses from this agreement in the City's General Fund for a 100% rebate on real and personal property.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: I move to approve the Chapter 380 Agreement with Mill Scale, LLC.

LIST OF SUPPORTING DOCUMENTS: Mill Scale 380 agreement Final

CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This Chapter 380 Economic Development Program Agreement (“Agreement”) is made and entered into by and between THE CITY OF LOCKHART, TEXAS (“City”), a Texas home-rule municipal corporation, and MILL SCALE, LLC (“Company”).

RECITALS

Pursuant to Chapter 380, Texas Local Government Code, City is authorized to establish a program, including the making of loans and grants of public money, to promote state or local economic development and to stimulate business and commercial activity within the City.

Company desires to purchase land, construct a 10,000 square foot facility in the City, bring jobs to the City, and participate in the Economic Development Program established in this Agreement.

Company intends to make a total investment of one-million, five-hundred thousand dollars (\$1,500,000.00) in equipment, personal property, inventory, real property, and improvements to real property over the period of this Agreement.

City has determined that a substantial economic benefit and the creation of new opportunities of employment will accrue to the City and the surrounding area if a facility is successfully developed on the Property.

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Company agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein for all purposes

Section 2. Chapter 380 Program and Consideration

The City finds and the parties hereto agree that the program established by this Agreement will promote state and local economic development and will stimulate business and commercial activity in the City of Lockhart. City and Company enter into this Agreement in consideration of such economic development and stimulation of business and commercial activity as well as the mutual covenants contained herein.

Section 3. Term

This Agreement shall have a term of three (3) years, commencing on January 1 of the calendar year following Company's completion of construction and securing of a Certificate of Occupancy from the City and terminating at midnight on the third anniversary of that date unless sooner terminated as provided herein. For example, if construction is completed and a Certificate of Occupancy obtained in 2023, Year One of this agreement will commence on January 1, 2024.

Section 4. COMPANY Requirements

Company agrees:

- (a) To acquire sufficient land in the City of Lockhart, estimated to be 1 and three hundred-sixty-three thousandths (1.363) acres, ("the Property") that will be suitable for the construction of a facility for the manufacture of frozen dessert manufacturing, and for the operation of Company activities thereon ("the Facility").
- (b) Construct the Facility on the Property of at least 10,000 square feet and with other improvements, including equipment, with a project budget of approximately one-million, five-hundred thousand dollars (\$1,500,000.00) in capital investment, provided that Company shall be entitled to revise the budget as a result of, among other things, savings realized by value engineering, reduction of costs in building materials, equipment, labor and other components of the Facility, and substitution of individual facility components.
- (c) Submit schematic drawings for the Facility to the City of Lockhart within one hundred twenty (120) days of execution of closing on the Property, and to and thereafter commence construction of the Facility within one hundred twenty (120) days after the City's approval of the construction plans and issuance of a building permit for the Facility.
- (d) Complete construction of the Facility and obtain a Certificate of Occupancy from the City within eighteen (18) months after the issuance of the aforesaid building permit.
- (e) Employ a minimum of fifteen (15) Full Time Equivalent ("FTE") employees within the first three (3) years from the commencement of the term of this Agreement.
- (f) Company shall provide the City with proof of employment of employees by submitting copies of payroll records and federal employment tax forms or other documentation satisfactory to the City, which shall be provided within thirty (30) days of the end of each year of the term of this Agreement.

Retain at least that number of FTE employees until the end of the term of this Agreement.

The term "Full Time Equivalent," as used in this Agreement, shall mean employment during a calendar year that is equal to a total of at least 1,820 hours including hours associated with holidays, vacation, sick and personal time, and overtime. No more than two employees whose annual hours of employment are less than 1,820 hours, but whose combined time equals or exceeds that number of hours, may be counted as one FTE employee.

- (g) Keep current in the payment of taxes owed for the Facility to any taxing jurisdiction in which the Facility is located unless such taxes are being legally contested by Company.

Section 5. City Requirements

- (a) In consideration of Company's agreement to perform the acts described above, City agrees to provide an annual grant to Company in an amount of money equal to a percentage of the annual City of Lockhart ad valorem taxes paid by Company on real and personal property based solely on any improvements to the real property ("increment") for that year and actually collected by the City.
- (b)) The amount of each annual grant to be paid to Company by the City shall be calculated as follows:

For Year one: one-hundred percent (100%) of the increment attributable to that year and paid to the City;

For Year two: seventy-five percent (75%) of the increment attributable to that year and paid to the City;

For Year three: fifty percent (50%) of the increment attributable to that year and paid to the City;

After such three-year period, all tax reimbursement grants by the City shall cease.

- (c) City shall pay Company the applicable amount of each annual grant, following Company's payment of ad valorem taxes for that year, on or before March 31 of the calendar year following such payment.

Section 6. Recapture/Termination

In the event that Company begins operating the Facility on the Property, but subsequently discontinues operating such facility for any reason, excepting fire,

explosion or other casualty or accident or natural disaster or other event beyond the reasonable control of Company for a period of 180 days during the term of this Agreement, then in such event the City will no longer be obligated to expend any further funds for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this Agreement within 30 days of the expiration of the 180 days. The burden shall be upon Company to prove to the satisfaction of the City that the discontinuance of operating the distribution facility was as a result of fire, explosion, or other casualty or accident or natural disaster or other event beyond the control of Company. In the event Company meets this burden and the City is satisfied that the discontinuance of the operation of the distribution facility was the result of events beyond the control of Company, then Company shall have a period of one (1) year in which to resume the operation of the distribution facility. In the event that Company fails to resume the operation of a distribution facility within one (1) year, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the expiration of the one year period.

In the event that Company allows ad valorem taxes on property, or business personal property, or inventory not subject to tax waiver owed to the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of such event.

In the event that Company relocates the business to a location outside of the City of Lockhart, then in such event, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the relocation.

In the event that the City determines that Company is in default of any of the terms or conditions contained in this Agreement, then in such event the City shall give Company thirty (30) days written notice to cure such default. Except as provided in Section 4(b) herein, in the event such default is not cured to the satisfaction of the City within the thirty (30) days notice period, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 3 of this agreement within 30 days of the default.

In the event that Company shall fail to repay the City within 30 days of the date such repayment is due under any provision of this Section 6, Company hereby agrees that the City may place a lien on Property belonging to Company and located in Caldwell County, Texas for full payment of such monies.

Section 7. Certification of Compliance by Company

On or before March 1 of each year that this Agreement is in effect, Company shall certify in writing to the City its compliance with all provisions of this Agreement. Such certification shall include any and all documentation required by the City establishing that Company has met the annual employment requirement for the previous year and that all taxes related to the Property have been paid in full as required by law. The City, at any reasonable time, shall have the right to review any and all records of Company related to the provisions of this Agreement.

Section 8. Entire Agreement

This Agreement contains the entire agreement between the City and Company with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the City and Company.

Section 9. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. Company may assign its rights and obligations under this agreement only upon prior written approval of the City, which approval shall not be unreasonably withheld or delayed.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

COMPANY: Matthew Johnson
Mill Scale, LLC
P.O. Box 1064
Lockhart, TX 78644

City: City Manager, City of Lockhart
P.O. Box 239
Lockhart, Texas 78644

Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Applicable Law

This Agreement is made and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Caldwell County, Texas.

Section 13. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 14. Mutual Assistance

City and Company agree to do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE CITY OF LOCKHART

ATTEST:

Lew White, Mayor

Connie Constancio, City Secretary

MILL SCALE, LLC

Matthew Johnson, Manager

State of Texas)(

)(

County of Caldwell)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Lew White, known to me to be the Mayor of the City of Lockhart, Texas.

Notary Public

My Commission expires:

State of _____)(

)(

County of _____)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Brice Mills known to me to be the Manager of Mill Scale, LLC

Notary Public

My Commission expires:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Approve Resolution 2022-23 for an economic development performance agreement with Revival Cycles, Inc.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION:

Revival Cycles is an Austin-based custom motorcycle manufacturing company and retailer of motorcycle apparel, accessories, and art. The company has been in Austin for over 15 years and has been on numerous TV shows and works with some of the top motorcycle manufacturers in the world like BMW, Harley Davidson, and Ducati.

Revival is considering moving its entire operations from Austin to Lockhart with the purchase of the Masur building at the corner of Church Street and W. San Antonio. The company would occupy the entire space as its corporate headquarters and upgrade the building. The company would create up to 50 jobs in Lockhart in addition to the added value to the building. Additionally, the company would generate a large amount of sales taxes since the space would encompass a retail component and serve as the nexus of sale for all online sales. Some building improvements of note:

1. 3-phase power added to the rear of the building (amperage TBD)
2. Bringing fire escape up to a working standard.
3. Remove the two power poles from the side and front of the building
4. Upgrade energy efficiency through HVAC and window replacement

The performance agreement before the board provides the following incentives in exchange for the investment and job creation.

1. \$250,000 rebate grant to assist with upgrades throughout the building. The deal points are to close on the building, with an investment to upgrade components and install fire suppression, elevator, new windows, etc., effectively using BIG Grant qualified expenses, but larger since this is a job creator and sales tax generator.

2.LEDC portion of sales tax rebate of 5 years at the following schedule:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

1. Year 1: 75%
2. Year 2: 75%
3. Year 3: 50%
4. Year 4: 50%
5. Year 5: 50%

PROJECT SCHEDULE (if applicable): The company will begin renovations as soon as they can get them permitted by the City and plan to finish the construction quickly.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$250,000

Account Number: 800-5199-704-10

Funds Available: 0

Account Name: Economic Development - Revival Cycles

FISCAL NOTE (if applicable): A budget amendment will need to be approved if rebate for expenses is to occur in the current fiscal year. Sales tax rebates will be budgeted in the Lockhart Economic Development budget over the next four years.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The Board of Directors for the LEDC passed LEDC Resolution 2022-08 unanimously at its April 11, 2022 regular board meeting.

STAFF RECOMMENDATION/REQUESTED MOTION: Approve Resolution 2022-23 with Revival Cycles, Inc.

LIST OF SUPPORTING DOCUMENTS: City Resolution 2022-23, Revival Cycle LEDC Performance Agreement, LEDC Draft Minutes 4.11.22, LEDC Resolution 2022-08

RESOLUTION NO. 2022-23

A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH REVIVAL CYCLES, INC. TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$250,000 TO REVIVAL CYCLES INC. FOR REIMBURSEMENT BUILDING RENOVATIONS INCLUDING BUT NOT LIMITED TO WINDOW REPLACEMENTS, LIFE SAFETY EQUIPMENT, AND ELECTRICAL WORK AND UPGRADES AND A REBATE OF EDC SALES TAXES COLLECTED BY REVIVAL CYCLES INC. OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart (“City”) is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Revival Cycle (Revival) will engage in a project whereby it will make a capital investment of \$3,000,000 to renovate a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$250,000 to reimburse Revival for the cost of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Revival an amount of money each year equal to a percentage of the amount of LEDC’s one half of one percent (1/2%) sales tax collected and remitted by Revival during each year for a term of 5 years.

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

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The City Council of Lockhart, Texas hereby approves the EDPA between the LEDC and Revival Cycles, a copy of which Agreement is attached hereto as Exhibit “A,” which is incorporated herein for all purposes.

Approved and adopted on this, the ____ day of April 2022.

City of Lockhart, Texas

Lew White, Mayor

Attest:

Approved as to form:

Connie Constancio, City Secretary

Monte Akers, City Attorney

“Exhibit A”

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This Economic Development Performance Agreement (“Agreement”) is made and entered into by and between THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION OF LOCKHART, TEXAS (“LEDC”), a Type B Economic Development Corporation, and Revival Cycles Inc. (“REVIVAL”).

RECITALS

WHEREAS, Revival Cycles desires to construct a facility and conduct business operations in the City of Lockhart, Texas (“City”) and to participate in the Economic Development Program established in this Agreement; and

WHEREAS, LEDC desires to establish this Economic Development Program and to offer incentives to Revival to locate such business in the City; and

WHEREAS, the LEDC is authorized to promote state and local economic development and to stimulate business and commercial activity within the City, and LEDC has determined that substantial economic benefits, including the bringing of new primary jobs to the City, an increase in the City’s tax rolls, and the creation of new opportunities for local employment, will accrue to the City and the surrounding area, if such business is successfully developed on such property; and

WHEREAS, LEDC and Revival desire to enter into this Agreement in order to comply with Sec. 501.158, Texas Local Government Code, which requires an economic development corporation, in order to offer incentives or make expenditures on behalf of a business enterprise under a project, to enter into a performance agreement that addresses a schedule of jobs created or retained, capital investment to be made, direct incentives provided, and the terms under which repayment shall be made in the event a business enterprise does not meet the requirements specified in the Agreement;

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LEDC and Revival agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein by reference as if fully set forth in their entirety.

Section 2: Definitions

- (a) "Building" or "Facility" shall mean the building to be occupied by REVIVAL on the Property and in which it will operate its business.
- (b) "Effective Date" shall mean the date that both parties have executed this Agreement.
- (c) "Full Time Equivalent Job" ("FTE Job") shall mean a permanent, full time equivalent employment position that meets the definition of a "Primary Job" pursuant to Sec. 501.002(12), Texas Local Government Code. Two part-time jobs, but no more than two, may be counted as one FTE Job for the purposes of this Agreement.
- (d) "Property" shall mean 0.115 acres, more or less, and described as O.T. LOCKHART, BLOCK 22, LOT PT 1 (the address of which is 119 W. San Antonio Street, Lockhart, Texas 78644) in Caldwell County, Texas.

Section 3: Term

The term of this Agreement shall be five (5) years, commencing on the effective date of this Agreement, and terminating at midnight on the day immediately preceding the fifth anniversary of the effective date.

Section 4. Revival Requirements

In consideration of the financial incentives described and offered by LEDC pursuant to this Agreement, Revival agrees:

- (a) To, directly and/or through one or more of its affiliates, make a capital investment of three-million dollars (\$3,000,000.00) in the Project.
- (b) To cause the Facility to be renovated and to notify LEDC in writing when it has received a Certificate of Occupancy from the City of Lockhart for the Facility and specifying the date that REVIVAL and/or one or more of its affiliates will move into the Facility and begin operation therein.
- (c) To move into the Facility and/or cause one or more of its affiliates to move into the Facility and commence operations by June 30, 2023.
- (d) Other than due to a Business Interruption Exception, to create and fill and/or cause the creation and filling of at least thirty-five (35) Full Time Equivalent Jobs positions at the Facility at following rate:
 - By end of calendar year 2023: a total of 15 FTE jobs positions
 - By end of calendar year 2024: a total of 20 FTE jobs positions
 - By end of calendar year 2025: a total of 25 FTE jobs positions.
 - By end of calendar year 2026: a total of 25 FTE jobs

positions.

By end of calendar year 2027: a total of 35 FTE jobs
positions.

(Such persons may work in shifts and shall not be required to all be at the
Facility at the same time)

- (e) To continue business operations at the Facility (or at such other location in the City approved by the LEDC) throughout the term of this Agreement.
- (f) To keep current (after notice and thirty (30) days' opportunity to cure) in the payment of taxes owed by REVIVAL to any taxing jurisdiction having jurisdiction in connection with its operations in Lockhart.
- (g) To provide payroll records to LEDC annually showing compliance with Section 4(d) as well as Employment and Payroll Certification during the term of this Agreement.
- (h) To meet all requirements of this Agreement and to comply with all applicable City of Lockhart ordinances, state and federal law, and related requirements during the term of this Agreement.

Section 5. LEDC Requirements

In consideration of REVIVAL's agreement to locate its business within the City and to perform the other acts described herein, LEDC agrees it will:

- i) Reimburse REVIVAL not to exceed two-hundred fifty thousand dollars (\$250,000.00) for building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades, to be paid to REVIVAL no later than thirty (30) days following LEDC's receipt of satisfactory written documentation of REVIVAL's satisfactory purchase and installation of such improvements
- ii) Rebate to Revival an amount of money each year equal to a percentage of the amount of LEDC's one half of one percent (1/2%) sales tax collected and remitted by REVIVAL during that year, to be paid to REVIVAL no later than thirty (30) days after the end of each calendar year, according to the following schedule:
 - (1) Year 1: 75%
 - (2) Year 2: 75%
 - (3) Year 3: 50%
 - (4) Year 4: 50%
 - (5) Year 5: 50%

Section 6. Recapture/Termination

- (a) In the event that REVIVAL and/or one or more of its affiliates begins operating its business, but subsequently discontinues operating its business in Lockhart for any reason except as a result of fire, explosion, or other casualty or accident, force majeure or other natural disaster, war or civil unrest, a

taking under eminent domain, regulatory restrictions of any applicable governmental entity which makes conduct of the REVIVAL illegal or economically untenable, or other event beyond the reasonable control of REVIVAL (the "Business Interruption Exceptions") for a period of more than one hundred eighty (180) days during the term of this Agreement, then in such event REVIVAL shall be required to repay to LEDC any and all monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of such period. The burden shall be upon REVIVAL to prove to the satisfaction of the LEDC that the discontinuance of operating its business was a result of one of the Business Interruption Exceptions. In the event that following the occurrence of a Business Interruption Exception which may reasonably be cured within one (1) year of the cessation of business operations, then should REVIVAL fail to resume business operations within one (1) year of the date of discontinuance of operations, REVIVAL shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following the expiration of the one (1) year period.

- (b) In the event that REVIVAL allows ad valorem taxes owed to the City of Lockhart, Texas on the Property, or its business personal property or inventory to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest (after notice and thirty (30) days' opportunity to cure), REVIVAL shall be required to repay LEDC any monies expended by the LEDC under Section 5 of this Agreement within thirty (30) days of written demand therefore following such event.

Section 7. Dispute Resolution, Applicable Law, Venue, and Attorney's Fees

(a) In the event of any controversy or claim arising out of or relating to this Agreement or the breach of this Agreement, the parties shall attempt in good faith to resolve the same by good faith mediation before a mediator mutually agreed to by the parties. LEDC and REVIVAL expressly waive any statutory or other legal requirements that may exist for serving notices or engaging in alternative dispute resolution prior to doing so.

(b) In the event that the claim or controversy is not settled by mediation or any other alternative dispute resolution method agreed to by the parties, either party may file suit in a court of competent jurisdiction sitting in the State of Texas. Venue shall lie in Caldwell County, Texas. The prevailing party in any litigation arising out of this Agreement shall be entitled to recover its reasonable and necessary costs and attorney's fees from the non- prevailing party pursuant to applicable law.

Section 8. Entire Agreement

This Agreement, when executed, contains the entire agreement between the LEDC and Revival with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the LEDC and Revival.

Section 9. Successors and Assigns

This Agreement may not be assigned to any third party by REVIVAL without the written consent of LEDC. In the event of such assignment or in the event of legal succession of REVIVAL's interest in this Agreement by operation of law, this Agreement shall be binding on and inure to the benefit of such assign or successor.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

Revival Cycles Inc.:

Revival Cycles
Attn: Martin Alan Stulberg
P.O. Box 1064
Lockhart, TX 78644

Lockhart Economic Development Corporation:

Lockhart Economic Development Corporation
Attn: Executive Director
308 W. San Antonio
P.O. Box 239
Lockhart, TX 78644

Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 13. Mutual Assistance

LEDC and Revival agree to do all things reasonably necessary and appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION:

Steve Lewis, President

ATTEST:

Michael Kamerlander, LEDC Secretary

Revival Cycles Inc.:

Martin Alan Stulberg, Founder

DRAFT MINUTES
LOCKHART ECONOMIC DEVELOPMENT CORPORATION

MONDAY, APRIL 11, 2022
6:00 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS
217 SOUTH MAIN STREET, 3RD FLOOR
LOCKHART, TEXAS

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Sally Daniel; Doug Foster; Frank Estrada; Juan Alvarez; David Bryant

Board Members Absent: None

Staff Present: Mike Kamerlander; Pam Larison, Treasurer; Nicole Warren, LEDC Attorney

1. CALL TO ORDER

The meeting was called to order by Alan Fielder, Chairman at 6:00 pm

2. PUBLIC HEARING – 6:00 PM

2.1 Hold a public hearing regarding a performance agreement with Revival Cycles, Inc. pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:00 PM

Closed: 6:01 PM

No public present.

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the March 14, 2022 meeting.

No Discussion.

Motion to approve the minutes from the March 14, 2022 meeting.

Motion: Sally Daniel

Second: Alfredo Muñoz

Vote: 7 of 7

4.2 Discussion and/or action regarding sales tax and financial statements for March 2022.

- Audit discussion and suggestions

Ms. Larison provided an overview of the financials from the month with no significant issues to report. Sales tax revenues continue to outpace last year's. Ms. Larison went over the auditor's report which contained nothing unusual in the LEDC's accounting. The accounting firm did suggest LEDC funds be placed in its own bank account separate from the City's funds. The board discussed this at length and provided consensus to move forward with the auditor's recommendation.

Motion to approve the March 2022 financial statements.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 7 of 7

4.3 Discussion and/or action regarding LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

The Economic Development Performance Agreement is to provide a rebate of up to \$250,000 to Revival Cycles, Inc. for reimbursement of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades, and a rebate of EDC sales taxes collected by Revival Cycles, Inc. over a 5-year term.

Motion to approve LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.4 Discussion and/or action regarding a property sale agreement for 19.665 acres in Lockhart Industrial Park III with Titan Development.

Due to the right of first refusal with Titan Development, the company has exercised its right to purchase this tract in Industrial Park III. Terms were discussed as part of the agenda packet.

Motion to to Authorize the LEDC President to execute a purchase sale agreement for 19.665 acres in Lockhart Industrial Park III.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.5 Discussion and/or action regarding a property sale agreement for 6.788 acres in Lockhart Industrial Park III with Ziegenfelder Company.

Motion: Doug Foster Second: Alfredo Muñoz Vote: 7 of 7

4.6 Discussion and/or action regarding phase 2 of Lockhart Industrial Park III.

Staff reviewed the current state of Lockhart Industrial Park III and went over the need to begin phase II of the park due to contracting with business entities for land in phase II. Staff went over the possibility of cash flow lagging sales and that the EDC would need to cover those costs until the land sales closed which are all expected by the end of the year.

Motion: Doug Foster Second: Sally Daniel Vote: 7 of 7

4.7 Discussion and/or action regarding authorization of a Memorandum of Understanding between LEDC and the Greater San Marcos Partnership for the Fiscal Year 2021-22.

Staff reviewed the proposed MOU with the Greater San Marcos Partnership for the 2021-22 Fiscal Year. After deliberations, the board decided to remove on provision in the MOU and reduce the investment in GSMP from \$20,000 to \$15,000 for the current fiscal year.

Motion: Doug Foster Second: Juan Alvarez Vote: 7 of 7

5. Executive Session – In: 7:16 PM Out: 7:37 PM

5.1 Close Open Session and Convene Executive Session pursuant to Secs. 551.071 (consultation with attorney), 551.072 (real estate) and 551.087 (Economic Development) of the Texas Open Meetings Act. Gov't Code Ch. 551, to discuss the following:

- Summertime
- Revive
- Recycle
- Specs 2
- Rose

6. Board Action from Executive Session

6.1 Motion to accept the LOI terms for Project Specs 2 and direct staff to negotiate a purchase sale agreement as discussed in executive session.

Motion: Doug Foster Second: Sally Daniel Vote: 7 of 7

6.2 Motion to authorize the LEDC President to negotiate and execute a Purchase Sale Agreement with Project Rose.

Motion: Alfredo Muñoz Second: David Bryant Vote: 7 of 7

7. DISCUSSION ONLY

7.1 Activity Updates

Mr. Kamerlander gave an update on the LEDC Staff activities for March 2022.

ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz Second: Sally Daniel Vote: 7 of 7

LEDC Board of Directors Adjourned at 7:44 PM.

Minutes approved this the 9th day of May, 2022.

Alan Fielder, Chairman LEDC

Michael Kamerlander, Secretary LEDC

RESOLUTION NO. 2022-08

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH REVIVAL CYCLES INC. TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$250,000 TO REVIVAL CYLCES INC. FOR REIMBURSEMENT BUILDING RENOVATIONS INCLUDING BUT NOT LIMITED TO WINDOW REPLACEMENTS, LIFE SAFETY EQUIPMENT, AND ELECTRICAL WORK AND UPGRADES AND A REBATE OF EDC SALES TAXES COLLECTED BY REVIVAL CYLCES INC. OVER A 5-YEAR TERM.

WHEREAS, the City of Lockhart (“City”) is a Type B corporation operating pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, Revival Cycle (Revival) will engage in a project whereby it will make a capital investment of \$3,000,000 to renovate a facility in the Lockhart area, including utility extensions, and to bring primary jobs to the City of Lockhart, all as more fully described in the EDPA; and

WHEREAS, the LEDC finds that the project will promote new or expanded business development in the City of Lockhart and the surrounding area and that it qualifies as a project pursuant to Chapters 501 and 505, Texas Local Government Code; and

WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$250,000 to reimburse Revival for the cost of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades; and

WHEREAS, pursuant to the EDPA, the LEDC will rebate to Revival an amount of money each year equal to a percentage of the amount of LEDC’s one half of one percent (1/2%) sales tax collected and remitted by Revival during each year for a term of 5 years.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION, that:

1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and Revival Cycles, a copy of which Agreement is attached hereto as Exhibit “A,” which is incorporated herein for all purposes.

Approved and adopted on this, the 11th day of April 2022.

LOCKHART ECONOMIC DEVELOPMENT CORPORATION

Alan Fielder, Chairman

Attest:

Approved as to form:

Michael Kamerlander, Board Secretary

Monte Akers, Board Attorney

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Approve Chapter 380 agreement with Revival Cycles, Inc. to provide incentives for economic development.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: Attached is a Chapter 380 offering incentives for Revival Cycles, inc. to move its corporate operations to the City of Lockhart from Austin.

Revival Cycles is custom motorcycle manufacturing company and retailer of motorcycle apparel, accessories, and art. The company has been in Austin for over 15 years and has been on numerous tv shows and works with some of the top motorcycle manufacturers in the world like BMW, Harley Davidson, and Ducati.

Revival is considering moving its entire operations from Austin to Lockhart with the purchase of the Masur building at the corner of Church Street and W. San Antonio. The company would occupy the entire space as its corporate headquarters and upgrade the building. The company would create up to 50 jobs in Lockhart in addition to the added value to the building. Additionally, the company would generate a large amount of sales taxes since the space would encompass a retail component and serve as the nexus of sale for all online sales. Some building improvements of note:

1. 3-phase power added to the rear of the building (amperage TBD)
2. Bringing fire escape up to a working standard.
3. Remove the two power poles from the side and front of the building
4. Upgrade energy efficiency through HVAC and window replacement

The performance agreement before the board provides the following incentives in exchange for the investment and job creation.

The Chapter 380 agreement under consideration would be a five-year term for real and personal property tax increment at the following schedule:

1. Property Tax Rebate on Real and Personal Property:

- 1: 75%
- 2: 66%
- 3: 50%
- 4: 33%
- 5: 25%

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PROJECT SCHEDULE (if applicable): Company plans to begin renovations as soon as they can be permitted.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): This 380 Agreement with Revival Cycles, Inc. will not affect the current budget. However, in 2024-2025, the City will need to budget expenses from this agreement in the City's General Fund for a 75% rebate on real and personal property.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approve the Chapter 380 agreement with Revival Cycles, Inc.

LIST OF SUPPORTING DOCUMENTS: Revival Cycles 380 agreement

CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT

This Chapter 380 Economic Development Program Agreement (“Agreement”) is made and entered into by and between THE CITY OF LOCKHART, TEXAS (“City”), a Texas home-rule municipal corporation, and REVIVAL CYCLES INC. (“Company”).

RECITALS

Pursuant to Chapter 380, Texas Local Government Code, City is authorized to establish a program, including the making of loans and grants of public money, to promote state or local economic development and to stimulate business and commercial activity within the City.

Company desires to purchase an approximately 30,000 square foot facility located at 119 W. San Antonio Street, Lockhart, TX 78644, bring jobs to the City, and participate in the Economic Development Program established in this Agreement.

Company intends to make a total investment of three million dollars (\$3,000,000.00) in equipment, personal property, inventory, real property, and improvements to real property over the period of this Agreement.

City has determined that a substantial economic benefit and the creation of new opportunities of employment will accrue to the City and the surrounding area if a facility is successfully developed on the Property.

NOW THEREFORE, in consideration of the foregoing and the covenants, agreements, representations, and warranties hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Company agree as follows:

AGREEMENTS

Section 1. Recitals

The recitals set forth above are incorporated herein for all purposes

Section 2. Chapter 380 Program and Consideration

The City finds and the parties hereto agree that the program established by this Agreement will promote state and local economic development and will stimulate business and commercial activity in the City of Lockhart. City and Company enter into this Agreement in consideration of such economic development and stimulation of business and commercial activity as well as the mutual covenants contained herein.

Section 3. Term

This Agreement shall have a term of five (5) years, commencing on January 1 of the calendar year following Company's completion of renovations and securing of a Certificate of Occupancy from the City and terminating at midnight on the fifth anniversary of that date unless sooner terminated as provided herein. For example, if construction is completed and a Certificate of Occupancy obtained in 2023, Year One of this agreement will commence on January 1, 2024.

Section 4. Company Requirements

Company agrees:

- (a) Purchase the building at 119 W. San Antonio Street Lockhart, TX 78644 ("Facility") with other improvements, including equipment, with a project budget of at least three million dollars (\$3,000,000.00) in capital investment, provided that Company shall be entitled to revise the budget as a result of, among other things, savings realized by value engineering, reduction of costs in building materials, equipment, labor and other components of the Facility, and substitution of individual facility components.
- (b) Submit schematic drawings for the Facility to the City of Lockhart within one hundred twenty (120) days of execution of closing on the Property, and to and thereafter commence construction of the Facility within one hundred twenty (120) days after the City's approval of the construction plans and issuance of a building permit for the Facility.
- (c) Complete renovation of the Facility and obtain a Certificate of Occupancy from the City within eighteen (18) months after the issuance of the aforesaid building permit.
- (d) Employ a minimum of thirty-five (35) Full Time Equivalent ("FTE") employees within the first five (5) years from the commencement of the term of this Agreement, each of whom shall receive an average annual compensation of forty-thousand dollars (\$40,000.00) plus benefits, including healthcare.
- (e) Company shall provide the City with proof of employment of employees by submitting copies of payroll records and federal employment tax forms or other documentation satisfactory to the City, which shall be provided within thirty (30) days of the end of each year of the term of this Agreement.

Retain at least that number of FTE employees until the end of the term of this Agreement.

The term “Full Time Equivalent,” as used in this Agreement, shall mean employment during a calendar year that is equal to a total of at least 1,820 hours including hours associated with holidays, vacation, sick and personal time, and overtime. No more than two employees whose annual hours of employment are less than 1,820 hours, but whose combined time equals or exceeds that number of hours, may be counted as one FTE employee.

- (f) Keep current in the payment of taxes owed for the Facility to any taxing jurisdiction in which the Facility is located unless such taxes are being legally contested by Company.

Section 5. City Requirements

- (a) In consideration of Company’s agreement to perform the acts described above, City agrees to provide an annual grant to Company in an amount of money equal to a percentage of the annual City of Lockhart ad valorem taxes paid by Company on real and personal property based solely on any improvements to the real property (“increment”) for that year and actually collected by the City.

- (b)) The amount of each annual grant to be paid to Company by the City shall be calculated as follows:

For Year one: seventy-five percent (75%) of the increment attributable to that year and paid to the City;

For Year two: sixty-six percent (66%) of the increment attributable to that year and paid to the City;

For Year three: fifty percent (50%) of the increment attributable to that year and paid to the City;

For Year four: thirty-three percent (33%) of the increment attributable to that year and paid to the City;

For Year five: twenty-five percent (25%) of the increment attributable to that year and paid to the City;

After such five-year period, all tax reimbursement grants by the City shall cease.

- (c) City shall pay Company the applicable amount of each annual grant, following Company’s payment of ad valorem taxes for that year, on or before March 31 of the calendar year following such payment.

Section 6. Recapture/Termination

In the event that Company begins operating the Facility on the Property, but subsequently discontinues operating such facility for any reason, excepting fire, explosion or other casualty or accident or natural disaster or other event beyond the reasonable control of Company for a period of 180 days during the term of this Agreement, then in such event the City will no longer be obligated to expend any further funds for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this Agreement within 30 days of the expiration of the 180 days. The burden shall be upon Company to prove to the satisfaction of the City that the discontinuance of operating the distribution facility was as a result of fire, explosion, or other casualty or accident or natural disaster or other event beyond the control of Company. In the event Company meets this burden and the City is satisfied that the discontinuance of the operation of the distribution facility was the result of events beyond the control of Company, then Company shall have a period of one (1) year in which to resume the operation of the distribution facility. In the event that Company fails to resume the operation of a distribution facility within one (1) year, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the expiration of the one year period.

In the event that Company allows ad valorem taxes on property, or business personal property, or inventory not subject to tax waiver owed to the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of such event

In the event that Company relocates the business to a location outside of the City of Lockhart, then in such event, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the relocation.

In the event that the City determines that Company is in default of any of the terms or conditions contained in this Agreement, then in such event the City shall give Company thirty (30) days written notice to cure such default. Except as provided herein, in the event such default is not cured to the satisfaction of the City within the thirty (30) days notice period, then in such event the City will no longer be obligated to expend any further monies for tax reimbursement, and Company shall be required to repay the City for any and all monies expended by the City under Section 5 of this agreement within 30 days of the default.

In the event that Company shall fail to repay the City within 30 days of the date such repayment is due under any provision of this Section 6, Company hereby agrees that the City may place a lien on Property belonging to Company and located in Caldwell County, Texas for full payment of such monies.

Section 7. Certification of Compliance by Company

On or before March 1 of each year that this Agreement is in effect, Company shall certify in writing to the City its compliance with all provisions of this Agreement. Such certification shall include any and all documentation required by the City establishing that Company has met the annual employment requirement for the previous year and that all taxes related to the Property have been paid in full as required by law. The City, at any reasonable time, shall have the right to review any and all records of Company related to the provisions of this Agreement.

Section 8. Entire Agreement

This Agreement contains the entire agreement between the City and Company with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the City and Company.

Section 9. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. Company may assign its rights and obligations under this agreement only upon prior written approval of the City, which approval shall not be unreasonably withheld or delayed.

Section 10. Notices

Any notice and/or statement required and permitted to be delivered shall be deemed delivered by depositing same in the United States mail, certified with return receipt requested, postage prepaid, addressed to the appropriate party at the following addresses or at such addresses provided by the parties in writing hereafter:

COMPANY: Martin Alan Stulberg
 Revival Cycles Inc.

City: City Manager, City of Lockhart
 P.O. Box 239
 Lockhart, Texas 78644

Section 11. Interpretation

Regardless of the actual drafter of this Agreement, this Agreement shall in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.

Section 12. Applicable Law

This Agreement is made and shall be construed and interpreted under the laws of the State of Texas and venue shall lie in Caldwell County, Texas.

Section 13. Severability

In the event that any provision of this Agreement is illegal, invalid, or unenforceable under present or future laws, then and in that event it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Section 14. Mutual Assistance

City and COMPANY agree to do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2022.

THE CITY OF LOCKHART

ATTEST:

Lew White, Mayor

Connie Constancio, City Secretary

Revival Cycles Inc.

Martin Alan Stulberg, Founder

State of Texas)(

)(

County of Caldwell)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Lew White, known to me to be the Mayor of the City of Lockhart, Texas.

Notary Public

My Commission expires:

State of _____)(

)(

County of _____)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Alan Stulberg known to me to be the Founder of Revival Cycles

Notary Public

My Commission expires:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Approve a Lower Colorado River Authority (LCRA) Community Development Partnership Program matching grant to purchase water rescue personal protective equipment for Lockhart Fire Rescue.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION:

The purpose of the LCRA Community Development Partnership Program matching grant is to enhance Lockhart Fire Rescue's response to incidents involving rising or fast moving water. Local firefighters as first responders will be the first to respond to a water incident which requires the appropriate personal protective equipment to respond safely. The use of a personal flotation device is vital for the safety of all personnel operating around rising or moving water. First responders may also be able to support swiftwater rescue teams operating in the area. Climate change, extreme weather, and/or urban development may cause future flash flooding in areas typically not prone to flooding.

The equipment includes four (4) personal flotation devices (pfd), wetsuits, harnesses, helmets, gloves, boots, and related equipment such as ropes, pulleys, throwbags, carabiners, and rope grab devices, etc., used in swiftwater or low angle rescue.

The total project cost is approximately \$8,314. The 20% city match is approximately \$1,665. The grant amount is \$6,649.

Existing budgeted funds in FY 21/22 will be used as the 20% matching portion of the grant. Once the city has signed and returned the letter of agreement, the grant funds will be transferred to the City of Lockhart to begin the procurement process.

PROJECT SCHEDULE (if applicable): Once the grant is approved, procurement of the equipment will begin. The estimated time to order and receive all equipment is 3 months.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$1,665

Account Number: 100-5318-312

Funds Available: \$1,877

Account Name: Machinery & Equipment

FISCAL NOTE (if applicable): These matching funds were approved by City Council upon approval of the Fiscal Year 2021-2022 Annual Operating Budget.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approving the LCRA Community Development Partnership Program grant, as presented.

LIST OF SUPPORTING DOCUMENTS: Budget Summary, LCRA Grant Application, LCRA Letter Agreement, Finance Forms



Please enter a description for each line item of your project and the dollar amount of the CDPP grant requested and matching contribution, if any, for that item.

Land acquisition; debt-reduction campaigns; capital campaigns; program operating costs; administrative and/or indirect costs, such as personnel and overhead expenses, as well as grant writing and/or consulting fees; computer and/or video equipment or software; furniture; office equipment; or batteries are not eligible for CDPP funding and should not be included in the grant request budget summary.

Community Development Partnership Program Grant Request Budget Summary

Line Item Description	CDPP Grant Request Amount (intended allocation of funding request towards the project)	Matching Contribution (must be at least 20 percent of total project cost for grants over \$5,000)		Project Cost
		Dollars	In Kind (value of contributed labor, materials, equipment, etc.)	
	whole dollars only			
4 - Swiftwater Helmets, PFD's, Gloves, Wetsuits, Boots,	\$2,480	\$620		\$3,100
4 - Throw Bags, Strobes, Duffle Bags	\$482	\$121		\$603
1 - Traverse 540 Belay Device, and 1 - MPD Lowering Device	\$1,062	\$266		\$1,328
2 - Type III Safety Harnesses	\$763	\$191		\$954
2 - Rescue Ropes (200'), 2 - Rope Bags, 1 - Rope Cutter	\$629	\$158		\$787
10 - General Carabiners, 2 - Anchor Straps	\$457	\$115		\$572
3 - Prusik Minding Pulleys, 2 - Double Prusik Minding Pulleys	\$373	\$93		\$466
2 - Rope Grab Devices, 1 Flat Webbing (60'), 6 - Prusik Cords	\$276	\$69		\$345
1 - Hardware Bag	\$127	\$32		\$159
(Lockhart Fire FY 21-22 budget line item 100-5318-312 will be used for the matching funds.)				\$0
TOTAL DOLLARS (MUST match the Grant Request Information section of the application)	\$6,649	\$1,665	\$0	\$8,314
TOTAL PERCENTAGE OF PROJECT COST	80%	20%		100%



REQUIRED if in kind is included in the project budget.
 Please enter a description for each line item of in kind included in the project. Please be specific about type, quantities and value of in-kind contributions.

**Community Development Partnership Program
 In-Kind Matching Contribution Description**

Line Item Description	In Kind (value of contributed labor, materials, equipment, etc.)	Description of In Kind
TOTAL IN KIND	\$0	

EXHIBIT A

Community Development Partnership Program

Grant Application

Fiscal Year 2022, Cycle II

January 2022

Application: 16587713 - 74-6001634

Linked Profile

16587713 - 74-6001634

Name of organization

City of Lockhart – Fire Rescue

Tax ID number

74-6001634

Scoring information

Please disclose any relationship, whether business, personal or financial, with any member of the Community Development Partnership Program Review Committee. The existence of a relationship neither enhances or disqualifies an application from being approved and funded. Click the link below to see a list of CDPP Review Committee members.

N/A

CDPP Review Committee

Eligibility Questions

Does your project fall under one of these program areas: Community Planning, Education, Employment, Health Care, Public Safety, Recreation, Transportation, Fire Department?

Yes

Please select your program area?

Public Safety

Is the project located in LCRA's service area (see map below)?

Yes

LCRA Maps

Has your organization received a CDPP grant from LCRA in the past 24 months?

No

Are you applying for fundraising or program operating costs?

No

Is your organization a tax-exempt nonprofit, a governmental body such as a city or county, or a special tax district such as a school or hospital?

Yes

Organization and Project Information

Organization website

<https://www.lockhart-tx.org/>

Organization Facebook page

<https://www.facebook.com/LockhartFireRescue>

Year founded

1888

Organization mission statement

The mission of Lockhart Fire Rescue is to serve and protect citizens of our community by providing the highest quality emergency response, community risk reduction, health care, and public safety education

Is the organization a Volunteer Fire Department registered with the Internal Revenue Service?

Lockhart Fire / Rescue is a combination fire department (paid and volunteer) and a department of the City of Lockhart.

If this project is for a new building or facility improvements, please explain how often other individuals or groups within your community will be able to use the building. Please provide details on how much of the building will be used by others and how often.

How often will the project be open or accessible to the public?

The swift water rescue equipment will be used at all water rescue or flooding events.

Who is the property owner of the project location?

City of Lockhart

Will the requested CDDP grant funds enable the completion of the project?

Yes, the purchasing of the requested swift water PPE will enable Lockhart Fire Rescue to respond to any swift water incident at the first responder level while wearing the appropriate PPE.

Identify each community, city, county or region impacted by this project.

The City of Lockhart, and the unincorporated areas of Caldwell County surrounding Lockhart. Lockhart Fire Rescue responds to request for mutual aid from the surrounding volunteer fire departments.

What is the population of the area served by this project?

What is the population of the community, city, county or region impacted by this project?

14,000

Select your electric service provider.

City of Lockhart

Does the requesting organization have a reserve/operating fund?

The City of Lockhart has an annual operating budget and maintains reserve funds. Lockhart Fire Rescue is a department of the City of Lockhart and has an annual operating budget.

Is the fund being used for this project?

Yes

If the fund is being used, explain how. If it is not being used, explain why.

The FY 21/22 operating budget for Lockhart Fire Rescue is being used for the matching funds for the project. The budgeted funds are not enough to complete the project, the LCRA grant will allow the project to be completed.

Additional Detail

Does the project have a water conservation component such as a rainwater catchment system, low-flow toilets or xeriscaping strategies?

No

Does the project have an energy-efficient component such as solar energy, energy-efficient lighting, windows or insulation?

No

Is there anything else you want the Review Committee to know about this grant proposal?

Your consideration is appreciated.

Attachments

Required documentation

IRS determination letter (required for nonprofit organizations only as proof of their tax-exempt status)

IRS determination letter (required for nonprofit organizations only as proof of their tax-exempt status)

Tax Exempt Form.pdf

Budget summary

Picture prior to 2022

Picture

Swiftwater Quote 1-31-22.pdf

Picture prior to 2022

Picture

Key Staff and Board of Directors

Provide a list of key staff and members of the organization's governing body, such as a board of directors:

City Council

Lew White – Mayor

Angie Gonzales-Sanchez - Council Member At-Large

Juan Mendoza - Council Member District 1

David Bryant - Council Member District 2

Kara McGregor - Council Member District 3

Jeffrey Michelson - Council Member District 4

Brad Westmoreland - Council Member At-Large

Steven Lewis – City Manager

Randy Jenkins – Fire Chief

Signature

Application must be signed by the chief executive administrator or officer of the entity requesting the grant, such as city manager, executive director, general manager, board president or school superintendent.

By checking this box, I certify to the best of my knowledge and belief that all documentation in this application is true and correct.

True

Name of authorized representative

Steven Lewis

Title

City Manager

Email

slewis@lockhart-tx.org

Phone number

512-398-3461

STOP HERE - the below Census data will be completed by the CDPD Review Committee

Population

14,379

Percentage of persons below poverty

14.6%

Is the area's percentage of persons below poverty level higher than the state level?

Yes

Per capita income level

\$23,346

COMMUNITY DEVELOPMENT PARTNERSHIP PROGRAM LETTER AGREEMENT

This Letter Agreement ("Agreement") is between the Lower Colorado River Authority ("LCRA") and the City of Lockhart Fire Rescue ("Recipient"). In consideration of the Recipient's commitments made in a grant application dated January 2022 ("Grant Application"), LCRA agrees to grant to Recipient \$6,649 ("Grant Money").

1. Use of Grant Money. This is a grant of funds solely for the purchase of swiftwater personal protective equipment and other rescue gear for firefighters, further described in the Grant Application attached hereto as Exhibit A and incorporated herein for all purposes ("Project"). Nothing herein contained requires LCRA to select, procure, install, maintain or repair any equipment or improvements purchased or funded with the Grant Money, or to supervise or train the Recipient's personnel with respect to such activities. Recipient is solely responsible for the selection, procurement, installation, construction, repair and maintenance of all equipment and improvements purchased or funded with the Grant Money, as well as for the training and supervision of the Recipient's personnel with respect to such activities. Recipient agrees to use the Grant Money solely for Project purposes, and Recipient shall not use equipment or improvements purchased or funded with the Grant Money for any purpose other than that stated in the Grant Application, except as provided for herein.
2. Project Completion Date. Recipient agrees to complete the Project within twelve (12) months of the date the Grant Money is received. If the Project is not completed within twelve months, Recipient shall return all Grant Money to LCRA immediately upon demand. Upon completion of the Project, Recipient agrees to provide LCRA with a photograph of the completed project, a photograph of the required signage (see Article 8), and a completed final report form provided to Recipient by LCRA within thirty (30) days of project completion.
3. Interest on Grant Money. Any interest earned by Recipient on the Grant Money prior to its expenditure shall be considered grant funds and applied exclusively to the Project, or included with any Grant Money returned or refunded to LCRA under the terms of this Agreement, as applicable.
4. Breach and Remedy. If Recipient breaches this Agreement, LCRA shall notify Recipient in writing. Recipient shall have thirty (30) days in which to cure any identified breach. If any breach is not cured within thirty (30) days, Recipient shall refund to LCRA all Grant Money received for the applicable Project within seven (7) days.
5. Public Use. The equipment and improvements purchased or funded with Grant Money must remain open and accessible to the general public, or be used for a public purpose for the useful life of the equipment or improvement, or for at least ten (10) years, whichever is longer.
6. Record Keeping. Recipient shall maintain accurate records of all costs, payments, and related data to document proper use of the Grant Money. Recipient shall maintain such records for at least three (3) years after completion of the Project, and shall make the records available to LCRA for inspection upon reasonable notice during normal business hours.
7. Compliance with Laws. Recipient shall comply with all applicable federal, state and local laws, ordinances, and regulations in connection with the Project. Recipient shall also be responsible for obtaining all necessary permits, licenses, and any other such approvals required for the Project.
8. Acknowledgment. Recipient shall install clear and conspicuous public and permanent identification at the Project site acknowledging that LCRA is a sponsor of the Project.
9. Right to Inspect. LCRA shall have the right to enter upon and photograph the Project site at any reasonable time for the purpose of inspecting the Project, determining Project progress, and evaluating the Project for compliance with this Agreement.
10. Indemnification. *TO THE FULL EXTENT PERMISSIBLE BY LAW, RECIPIENT AGREES TO INDEMNIFY AND HOLD LCRA AND ITS DIRECTORS, OFFICERS, EMPLOYEES, WHOLESALE CUSTOMERS, AND*

AGENTS HARMLESS FROM DAMAGES, CLAIMS, DEMANDS, SUITS, CAUSES OF ACTION, JUDGMENTS, COSTS AND EXPENSES INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES RESULTING FROM 1) DAMAGE TO PROPERTY OF ANY PERSON, FIRM, CORPORATION OR GOVERNMENTAL AGENCY, INCLUDING PROPERTY OF LCRA, AND/OR 2) DEATH OF, OR INJURY TO, ANY PERSON OR PERSONS, INCLUDING EMPLOYEES OF LCRA, ARISING OUT OF, AND TO THE EXTENT CAUSED BY, A NEGLIGENT ACT OR OMISSION OR WILLFUL MISCONDUCT OF RECIPIENT, ITS AGENTS, SERVANTS, EMPLOYEES, VOLUNTEERS, AND ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER, THEIR AGENTS, SERVANTS AND EMPLOYEES.

IN THE EVENT THAT LCRA IS FOUND TO BE CONCURRENTLY NEGLIGENT, RECIPIENT SHALL NOT INDEMNIFY FOR THE PROPORTIONATE NEGLIGENCE ATTRIBUTABLE TO LCRA BUT SHALL INDEMNIFY FOR THE PORTION OF NEGLIGENCE ATTRIBUTABLE TO RECIPIENT, ITS AGENTS, SERVANTS, EMPLOYEES, AND ITS SUPPLIERS AND SUBCONTRACTORS OF ANY TIER, THEIR AGENTS, SERVANTS, AND EMPLOYEES.

11. Insurance. Recipient shall obtain and maintain a policy of insurance for the equipment or improvements purchased or funded with the Grant Money which is sufficient to provide for replacement of any equipment or improvement which is lost, stolen, damaged, or destroyed. Any insurance proceeds received by or on behalf of Recipient under an insurance policy must be utilized to acquire equivalent or better equipment, to repair or replace the equipment or improvement, or be paid to LCRA as a refund of the Grant Money. If otherwise permissible under applicable law, governmental entities may use an established self-insurance program to satisfy this requirement.

12. Disposition of Equipment and Improvements. When equipment or improvements purchased or funded with the Grant Money are no longer needed for the original Project purposes and the equipment/improvements have not yet met the Public Use timeframe outlined in Article 5, Recipient shall contact LCRA to determine another eligible use or purpose. LCRA will document the new use or purpose or, if the equipment/improvements have met the Public Use requirements, LCRA shall provide disposition instructions to the Recipient.

13. Additional Provisions

A. Survival. Termination or expiration of this Agreement shall not relieve, reduce, or impair any rights or obligations of a Party which survive termination or expiration of this Agreement.

B. Integration. This Agreement contains the entire and integrated Agreement between the Recipient and LCRA and supersedes all prior negotiations, correspondence, understandings, and representations.

C. Interpretation and Reliance. While this Agreement form was initiated by LCRA, Recipient had the opportunity to take exception to and seek clarification of it. Thus, this Agreement is the product of negotiations between the Parties. No presumption will apply in favor of any Party in the interpretation of this Agreement or in resolution of any ambiguity of any provision.

D. Laws. This Agreement shall be governed, interpreted, and enforced under the laws of the State of Texas, without regard to its conflict of law principles. In the event of litigation between the Parties arising out of or related to this Agreement, venue for such litigation shall be in a court of competent jurisdiction in Travis County, Texas.

E. Notice. All notices required under this Agreement must be made in writing and sent by registered or certified United States mail, return receipt requested or by nationally recognized courier service to the address below. Parties may change their address or other contact information by notifying the other Party pursuant to this Article. Nothing contained in this Article shall be construed to apply to routine communications between the Parties for execution of the Project or completion of the grant process.

Recipient:
Contact information contained in attached Grant Application.

LCRA:
Lower Colorado River Authority
Attn: Sheila Slagel, CDPP Grants
3700 Lake Austin Blvd.
Austin, TX 78703
Email: grants@lcra.org

With a copy to:
Lower Colorado River Authority
Attn: Office of the General Counsel
3700 Lake Austin Blvd.
Austin, TX 78703
Email: legalreview@lcra.org

The duly authorized representatives of the Parties have read all of this Agreement and associated documents, and execute this Agreement by their signatures below:

Lower Colorado River Authority



Thomas E. Oney
Executive Vice President, Public and Regulatory Affairs
Lower Colorado River Authority

Recipient:

By: _____
SIGNATURE

Printed Name: _____

Title: _____

Signature Date ("Effective Date"): _____



Date: _____

Dear Grant Recipient:

In an effort to streamline the Community Development Partnership Program (CDPP) process, we will disburse grant funds via direct deposit. This means we would transmit the funds electronically to your designated bank account upon LCRA receiving all of this cycle's 36 signed Letter Agreements.

Please complete the information requested below and return it along with the W-9 form and a copy of the signed Letter Agreement within ten business days of your receipt of the packet.

ORGANIZATION INFORMATION *(please print legibly)*

Federal Tax ID #: _____

Organization Name: _____

Address: _____

City/State/Zip: _____

Contact Name: _____

Phone Number: _____

DEPOSIT INFORMATION

Important: Your direct deposit account information may be different from the account information printed on your checks. It is recommended that you contact your financial institution to confirm your direct deposit account information.

Bank Account Number: _____

Checking ☐ or Savings ☐

Bank Account Name: _____

Bank Routing Number: _____

Bank Name: _____

Bank Address: _____

Bank City/State/Zip: _____

Bank Phone Number: _____

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-			-		
or									
Employer identification number									
				-					

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Approve a non-matching Firehouse Subs Public Safety Foundation grant for a battery-powered set of automobile extrication tools for Lockhart Fire Rescue.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION:

The Firehouse Subs Public Safety Foundation Grant is to obtain a set of battery-powered automobile extrication tools that includes the spreaders, cutters, and telescoping ram. Lockhart Fire has responded to over 200 vehicle accidents in the last three years. As the population increases and the roadways become more congested, the need for extrication equipment will grow.

The extrication tools will increase the safety, reliability, and efficiency of the service we provide to the citizens of Lockhart when we respond to motor vehicle accidents. With limited staffing, the state-of-the-art battery extrication tools will increase our efficiency by not requiring a firefighter to move and operate the power unit and supply hose. Each tool can be operated by one firefighter and moved as needed. The citizens of Lockhart benefit when we respond to the scene and quickly remove the occupants from the damaged vehicle and transfer the patient to EMS for advanced treatment and transport to hospital.

The non-matching Firehouse Subs Public Safety Foundation Grant is for a total of \$33,615. The Board of Directors of the Firehouse Subs Public Safety Foundation will determine the method of procurement either by direct purchase by the foundation, or memo of understanding where funds are transferred via Automated Clearing House (ACH). The procurement will begin no later than May 23, 2022.

PROJECT SCHEDULE (if applicable): Procurement will begin by May 23, 2022. The expected time to receive equipment and provide training to firefighters is 3 months.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): Non matching grant.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval.

LIST OF SUPPORTING DOCUMENTS: Extrication Tools Quote 12-14-21, Hurst Tools
Description-Pictures



3789 62nd Avenue North
Pinellas Park, FL 33781

Quote

Date	12/14/2021
Quote #	QT1534754
Expires	03/31/2022
Sales Rep	Robinson, Jamie S
PO #	
Shipping Method	FedEx Ground

Bill To

Firehouse Subs Public Safety Fdn, Inc
12735 Gran Bay Parkway, #150
Jacksonville FL 32258
United States

Ship To

Randy Jenkins
Lockhart Fire Department
201 West Market
Lockhart TX 78644
United States

Item	Alt. Item #	Units	Description	QTY	Unit Sales Pri...	Amount
272889000-1E			Engraved S789E3 (Tool Only) Hurst cutter; battery-operated, saltwater submersible rescue tool with Turbo. NFPA cut rating A8 B9 C8 D9 E9 F5	1	10,295.00	10,295.00
271855000-1E			Engraved SP555E3 (Tool Only) Hurst spreader; battery-operated, saltwater submersible rescue tool with Turbo; 28 inch	1	11,440.00	11,440.00
274885000-1E			Engraved R521E3 (Tool Only) Hurst ram; battery-operated, saltwater submersible rescue tool with Turbo; 53 inch	1	7,550.00	7,550.00
90-53-15			EWXT 9 Ah battery Hurst - freshwater	5	680.00	3,400.00
90-53-21			EWXT Charger (110V) Hurst	2	465.00	930.00

Firehouse Subs Public Safety Foundation Grant Request

Department Name: LOCKHART FIRE DEPARTMENT, 201 WEST MARKET, LOCKHART,
TX. 78644

Department POC: Randy Jenkins - Fire Chief; 512-376-1885; rjenkins@lockhart-tx.org

MES POC: Tom Winkler; 727-808-5344; twinkler@mesfire.com

Subtotal	33,615.00
Shipping Cost (FedEx Ground)	0.00
Total	\$33,615.00

This Quotation is subject to any applicable sales tax and shipping & handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current local tax information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1534754

SP 555 E3 SPREADER

PART #: 271855000-1 (TOOL ONLY)
271855000-9 (9AH PACKAGE)

A SPREADER THAT STOPS AT NOTHING.

Our new E3 spreader is more efficient than ever. Its light weight and small size make this tool a great option when you need to act fast. Combine these features with its smart dashboard, and this spreader is unstoppable. When lives are on the line, you need enhanced performance. Rescues can't wait. And neither can you.

TECHNICAL SPECIFICATIONS

- Length: 36.3 in / 923 mm
- Width: 10.4 in / 265 mm
- Height: 9.96 in / 253 mm
- Weight: 43.9 lbs / 19.9 kg
- Spreading Distance: 28.7 in / 730 mm
- Max Spreading Force: 147,924 lbs / 658 kN
- Max Pulling Force: 13,039 lbs / 58 kN
- NFPA HSF: 16,186 lbs / 72 kN
- NFPA LSF: 11,016 lbs / 49 kN
- NFPA HPF: 10,341 lbs / 46 kN
- NFPA LPF: 6,295 lbs / 28 kN
- NFPA 1936 2020 Compliant: Yes
- IP Rating: IP58

ACCESSORIES

[See pg 16 for a full accessory listing]

Rescue Batteries:

Part number:
9Ah EWXT/E3 rescue battery – 90-53-15
9Ah E3 Saltwater battery – 90-53-18

Chain Set:

Part number: 81-67-20

Peeling Tips:

Part number: 81-67-22

FEATURES AND BENEFITS

- Watertight design durable in fresh and salt water
- Smart dashboard displays live visual tool feedback
- Power levels and battery charge status at a glance
- Detects and reveals when a saltwater-capable battery has been installed
- New turbo function allows for a faster rescue
- Single integrated cylinder body design
- Squeezing plates built into the arms
- "Shark Tooth" removable tips offer multifunctional design, with four rows of shark-like teeth for maximum performance and gripping
- Package comes with two li-ion rechargeable batteries and one charger
- If needed, you can plug it in for unstoppable power with a 110V adapter

A large, blue and silver hydraulic cutter tool, the Hurst S 789 E3, is shown against a dark, textured background. The tool has a large, curved cutting head with two sharp, curved blades. A handle with a blue grip is visible. A digital display on the handle shows various icons and numbers. The brand name 'HURST JAWS OF LIFE' is printed on the side of the tool.

S 789 E3 CUTTER

PART #: 272889000-1 (TOOL ONLY)
272889000-9 (9AH PACKAGE)

TAKE A BITE WITH THESE MASSIVE JAWS.

With its monstrous bite, the S 789 E3 cutter can tackle anything in its path. Its new smart dashboard displays live visual tool feedback, providing you with more control over your rescues. And it doesn't stop there. This cutter works harder and smarter ... even under water.

TECHNICAL SPECIFICATIONS

- Length (w/o battery): 35.9 in / 912 mm
- Width: 10.5 in / 266 mm
- Height: 9.96 in / 253 mm
- Weight (w/o battery): 49.4 lbs / 22.4kg
- Cutter Opening: 8.06 in / 205 mm
- NFPA Cutter Rating: A8/B9/C8/D9/E9/F5
- NFPA 1936 2020 Compliant: Yes
- IP Rating: IP58

ACCESSORIES

Rescue Batteries:

Part number:
9Ah EWXT/E3 rescue battery – 90-53-15
9Ah E3 Saltwater battery – 90-53-18

FEATURES AND BENEFITS

- Durable in fresh and salt water with its watertight design
- Smart dashboard displays live visual tool feedback
- Roll warnings, power levels and battery charge status at a glance
- Detects and reveals when a saltwater-capable battery has been installed
- New turbo function allows for a faster rescue
- Large cutter opening at 8.06 inches
- Brushless DC electrical motor runs efficiently with a high performance for a long battery life
- Two LED lights illuminate the front of the tool
- Large waterproof battery (9Ah) with IP68 protection class

R 521 E3 RAM

PART #: 274885000-1 (TOOL ONLY)
274885000-9 (9AH PACKAGE)



THIS NEW RAM HITS HARD.

Land. Salt water. Fresh water. Doesn't matter. The new R 521 E3 ram creates wide rescue openings in all kinds of environments without the need for lengthy hoses or power units. Its smart dashboard and dual sharp claws enable you to power through the toughest of situations — in the toughest locations.

TECHNICAL SPECIFICATIONS

- Length Retracted: 22.8 in / 579 mm
- Length Extended: 53.5 in / 1,359 mm
- Width: 5.5 in / 140 mm
- Height: 12.9 in / 327 mm
- Weight (w/o battery): 41.9 lbs / 19 kg
- Stroke (Piston 1): 15.6 in / 403 mm
- Stroke (Piston 2): 14.8 in / 377 mm
- Stroke Overall: 30.7 in / 780 mm
- HSF (Piston 1): 28,600 lbs / 127 kN
- HSF (Piston 2): 13,500 lbs / 60 kN
- NFPA 1936 2020 Compliant: Yes
- IP Rating: IP58 (Protected from freshwater immersion at a depth up to 3m for 1 hour)

ACCESSORIES

Rescue Batteries:

Part number:
9Ah EWXT/E3 rescue battery – 90-53-15
9Ah E3 Saltwater battery – 90-53-18

Quick Kick Ram Support:

Part number: 247R028

FEATURES AND BENEFITS

- Watertight design durable in fresh and salt water
- Smart dashboard displays live visual tool feedback
- Power levels and battery charge status at a glance
- Detects and reveals when a saltwater capable battery has been installed
- New turbo function allows for a faster rescue
- Brushless DC electrical motor that runs efficiently with high performance for a long battery life
- Quieter
- Four LED lights illuminate the front and back of the tool
- Ergonomically designed star-grip permits tool actuation from almost any gripping position
- Weighs only 41.9 pounds, making it easy to maneuver
- Extended length of 53.5 inches gives you a wide rescue opening
- Large waterproof battery option (9Ah) with IP68 protection class
- Sharp claws that rotate 360 degrees

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Table application ZC-22-12 by Jim Meredith on behalf of Robert A. Schmidt for a **Zoning Change** from *CHB Commercial Heavy Business District* to *RHD Residential High Density District* for 14.57 acres in the Byrd Lockhart Survey, Abstract No. 17, located at 101 East China Street to the June 7, 2022 City Council meeting.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Consensus

BACKGROUND/SUMMARY/DISCUSSION: The purpose of the zoning change is to allow future residential development of 14.57 acres at the northeast corner of the intersection of East China Street and North Colorado Street. If vehicular access is to be obtained from Colorado Street, TxDOT will likely require that the developer do a Traffic Impact Analysis (TIA), and if TxDOT requires safety improvements they will be the responsibility of the developer to construct. There is a 12" water main along China Street that is adequate to serve the property. However, the closest wastewater mains are only six inches in size and may not have adequate capacity to handle higher density residential development. The wastewater impact fee CIP does propose a system of wastewater mains extending northward from an existing main at the railroad track where it would serve the North Colorado Street area, including the subject property. There currently is no time-line or source of funding identified other than impact fees. Impact fees can be used to pay for up to half of the cost, but the remainder would have to come from other sources. A study is underway to determine whether or not the proposed wastewater infrastructure will be adequate for higher land use intensities on the subject property and others along North Colorado Street. Such a study would confirm the size and cost of the new wastewater mains and associated lift station. The main issue is timing of development, and not necessarily the type of development proposed. Generally, a zoning change is considered premature if there is not adequate infrastructure available to support the development that the proposed zoning classification would allow. Three recent requests for a zoning change to RHD in the northwest quadrant of the city and the North Colorado Street areas were tabled to the May 25th Planning and Zoning Commission meeting and the June 7th City Council meeting due to inadequate wastewater infrastructure to serve the higher land use intensities proposed for those areas. The Council should take the same action by tabling this application because the Planning and Zoning Commission tabled further consideration of this application until their May 25th meeting. The proposed RHD zoning classification is not entirely consistent with the *Mixed Use* future land use designation shown on the Land Use Plan map. The only zoning classification that would be consistent with the Land Use Plan map for a true mixed use development would be the *PDD Planned Unit Development District*. Thus far, there have been no citizen comments expressed either for or against this application. An ordinance is not attached at this time because no action could be taken on it. ***Additional information is contained in the attached staff report.***

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PROJECT SCHEDULE (if applicable): Not applicable.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

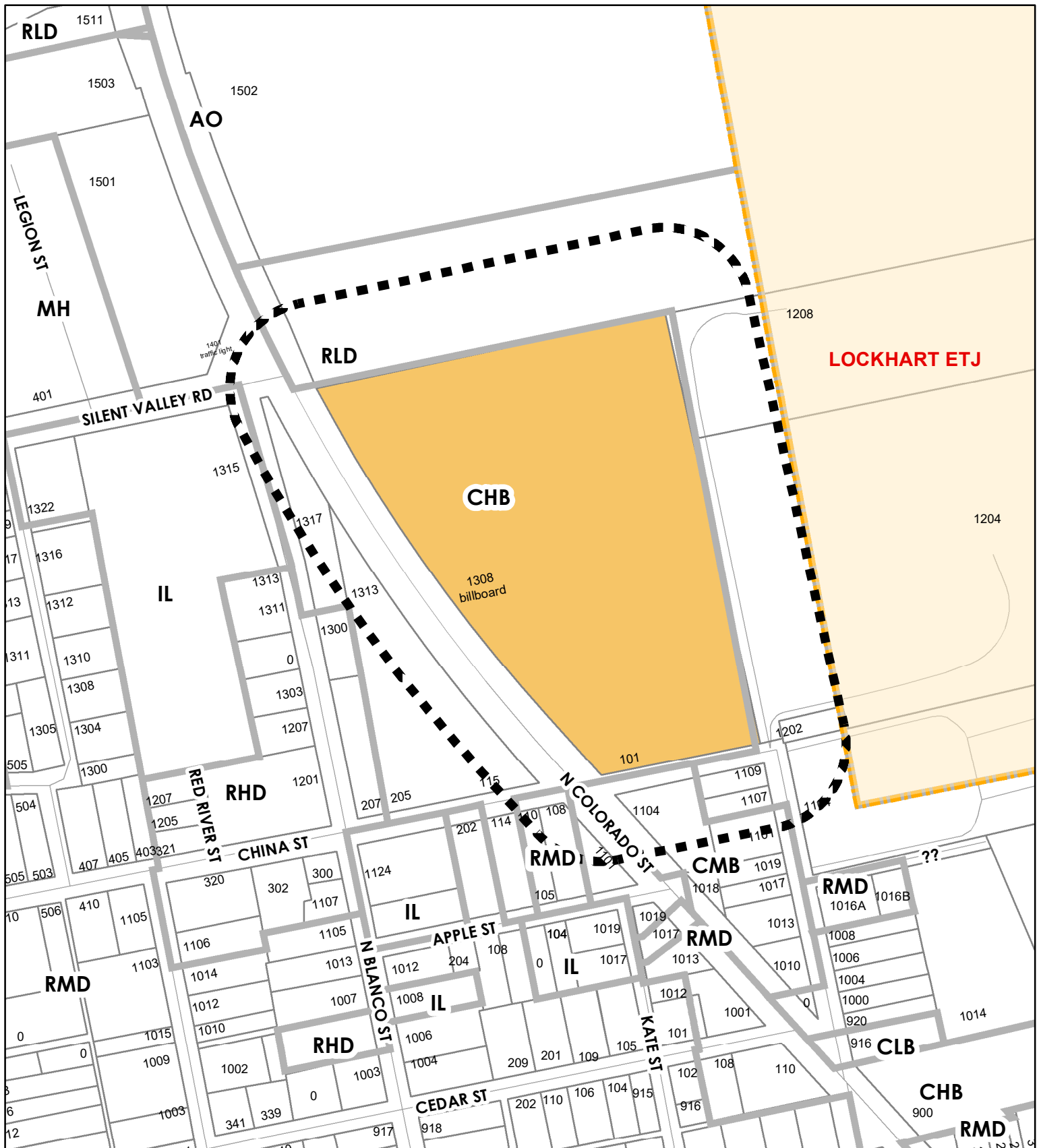
FISCAL NOTE (if applicable): Not applicable.

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: The Planning and Zoning Commission voted unanimously to Table further consideration of this application until their May 25th meeting for the reasons stated in the staff report.

STAFF RECOMMENDATION/REQUESTED MOTION: Section 211.007 of the Texas Local Government Code prohibits the governing body (City Council) from holding a public hearing or taking action on a zoning map change until a final recommendation is received from the zoning commission (Planning and Zoning Commission). Therefore, the suggested motion is to TABLE further consideration of Zoning Change ZC-22-12 from CHB to RHD until the June 7th Council meeting.

LIST OF SUPPORTING DOCUMENTS: ZC2212 case map, ZC2212 zoning, ZC2212 future landuse, ZC2212 aerial, zc2212 staff report, zc2212 application form and owner's letter



ZC-22-12

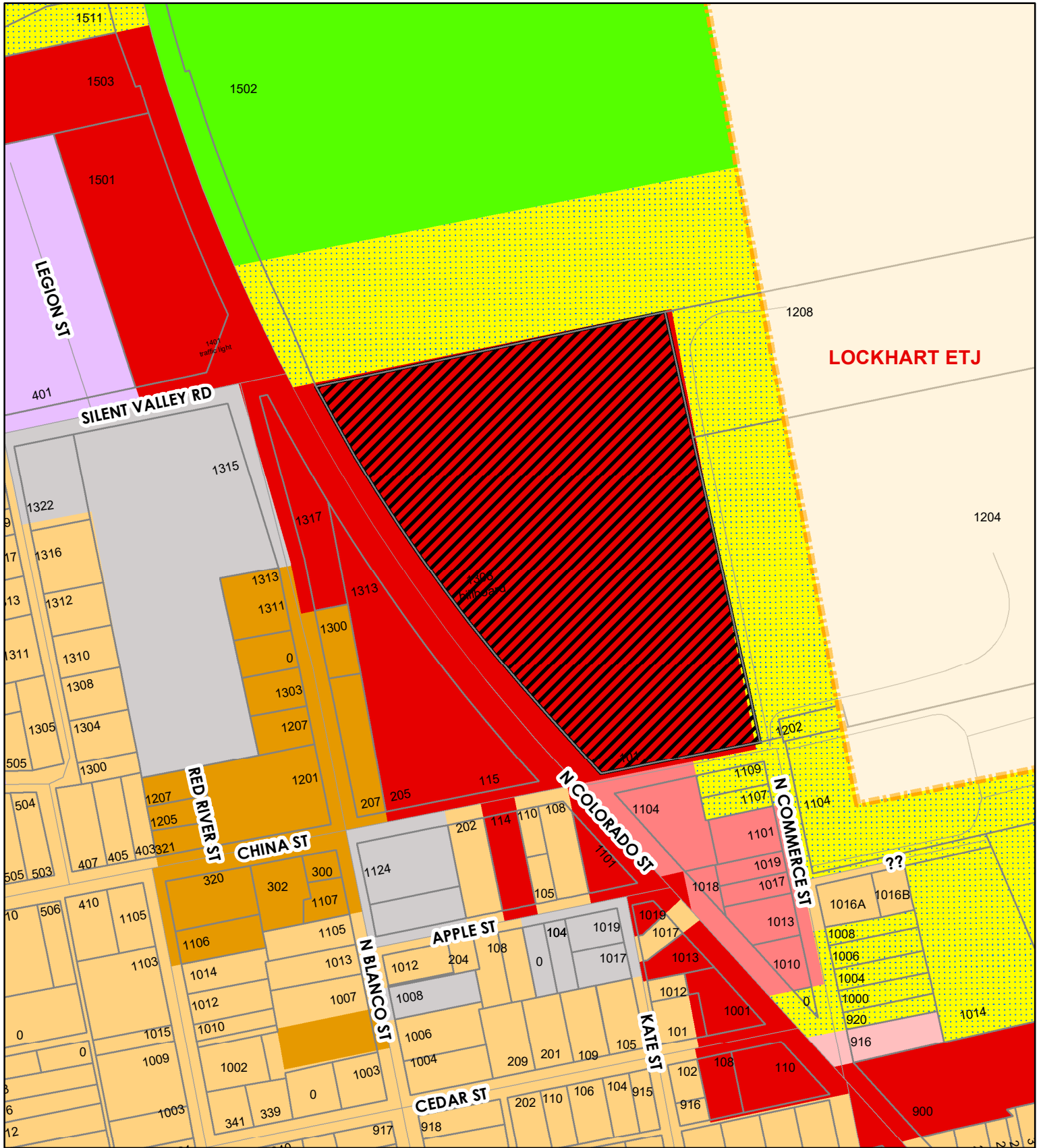
CHB TO RHD

101 EAST CHINA STREET



scale 1" = 300'

- SUBJECT PROPERTY
- ZONING BOUNDARY
- CITY LIMITS
- 200 FT BUFFER



ZC-22-12

CHB TO RHD

101 EAST CHINA STREET



scale 1" = 300'

- ZONING DISTRICTS**
- AGRICULTURAL-OPEN SPACE
 - COMMERCIAL HEAVY BUSINESS
 - COMMERCIAL LIGHT BUSINESS
 - COMMERCIAL MEDIUM BUSINESS
 - INDUSTRIAL LIGHT
 - MANUFACTURED HOME
 - RESIDENTIAL HIGH DENSITY
 - RESIDENTIAL LOW DENSITY
 - RESIDENTIAL MEDIUM DENSITY



CASE SUMMARY

STAFF: David Fowler, Senior Planner

CASE NUMBER: ZC-22-12

REPORT DATE: April 8, 2022 [Updated 4-14-22]

PLANNING AND ZONING COMMISSION HEARING DATE: April 13, 2022

CITY COUNCIL HEARING DATE: April 19, 2022

REQUESTED CHANGE: CHB to RHD

STAFF RECOMMENDATION: **Table**PLANNING AND ZONING COMMISSION RECOMMENDATION: **Table**

BACKGROUND DATA

APPLICANT: Jim Meredith

OWNER: Bobby Schmidt

SITE LOCATION: 101 E. China Street

LEGAL DESCRIPTION: Metes and Bounds

SIZE OF PROPERTY: 14.57 acres

EXISTING USE OF PROPERTY: Vacant land

LAND USE PLAN DESIGNATION: *Mixed Retail, Office, Residential.*

ANALYSIS OF ISSUES

REASON FOR REQUESTED ZONING CHANGE: The owner wishes to construct a residential development on the site that may be of a type or density that requires the RHD zoning classification. As this use is not permitted in the CHB zoning district, a rezoning has been requested.

AREA CHARACTERISTICS:

	Existing Use	Zoning	Future Land Use Plan
North	Vacant	RLD, AO	<i>General-Heavy Commercial, Light-Medium Commercial</i>
East	Vacant, Large lot residential in ETJ	RLD	<i>Agricultural Development, Light-Medium Commercial</i>
South	Single-family residential, commercial,	RMD, RLD, CHB, CMB	<i>Residential Medium Density, Public and Institutional</i>
West	Commercial, TxDOT maintenance, Single-family residential, church	CHB, RHD, IL	<i>General-Heavy Commercial, Medium Density Residential</i>

TRANSITION OF ZONING DISTRICTS: This zoning change will create an area of RHD that is not contiguous to other areas with the same zoning. The nearest RHD-zoned area is north of the intersection of West China Street and North Blanco Street, across North Colorado Street from the subject parcel.

ADEQUACY OF INFRASTRUCTURE: Vehicular access is available from East China Street and North Colorado Street. Additionally, extension of the Silent Valley Road arterial is planned along the north and east sides of the subject property, as shown on the Thoroughfare Plan map. Any new driveway onto North Colorado Street will require approval from TxDOT. Water is available and adequate, with the site being served by

a 12" line along East China and North Colorado Streets. Wastewater service is not adequate as the nearest connection points to the site are a 6" wastewater line at the northern end of Commerce St. and potentially a 6" wastewater line at the southwest corner of West China and North Colorado Streets. The closest wastewater main of sufficient size is located approximately 2,000 feet south of the site near the railroad track and Town Branch Creek. The wastewater impact fee CIP does propose a system of wastewater mains extending from that point northward, along with a lift-station, where it would serve the North Colorado Street area, including the subject property. There currently is no timeline or source of funding identified other than impact fees. Impact fees can be used to pay for up to half of the cost, but the remainder would have to come from other sources, such as developer participation.

POTENTIAL NEIGHBORHOOD IMPACT: The surrounding area is a mixture of commercial, church and residential development, with some vacant lots. Higher intensity zoning is appropriate when located along an arterial street such as Colorado Street and the future Silent Valley Road extension. There are single-family lots in the RMD and RLD zoning districts south of East China Street. As the existing CHB district allows several high intensity uses, the proposed RHD zoning should not have an adverse impact compared to existing zoning.

CONSISTENCY WITH COMPREHENSIVE PLAN: The proposed RHD zoning classification is not entirely consistent with the *Mixed Retail, Office, Residential* future land use that is designated for the subject lot, as the proposed development concept only includes residential uses. Mixed use buildings containing commercial and residential are allowed by right in the existing CHB zoning district. However, high density development allowed in the proposed RHD zoning classification could contribute to the overall mixed-use development of the US 183 corridor.

ALTERNATIVE CLASSIFICATIONS: Either CHB or PDD involving mixed use development would be consistent with the Land Use Plan map.

RESPONSE TO NOTIFICATION: None to date.

STAFF RECOMMENDATION: The requested zoning change, while not consistent with the Comprehensive Plan, would typically be recommended for approval due to the requested RHD zoning having similar intensity as the existing zoning. However, the existing wastewater capacity is insufficient for multifamily and other higher-density residential types permitted in RHD zoning. On the other hand, the wastewater capacity would be sufficient for many of the land uses permitted in the current CHB zoning district. The wastewater CIP is based on the land use types and intensities shown on the Land Use Plan map, which is mixed use for the subject property. A wastewater project is proposed that would serve the area but, as with the northwest quadrant of the city, a study is needed to determine whether or not the proposed wastewater infrastructure will be adequate for higher land use intensities. Such a study would confirm the size and cost of the new wastewater mains and associated lift station. So, the main issue is timing of development, and not necessarily the type of development proposed. Generally, a zoning change is considered premature if there is not adequate infrastructure available to support the development that the proposed zoning classification would allow. Three previous requests were received for zoning changes to RHD to allow high density apartments where the land use plan shows lower intensities. A precedent was set when the zoning changes were tabled to the May 25th Planning and Zoning Commission meeting and the June 7th City Council meeting due to inadequate wastewater infrastructure to serve the higher land use intensities proposed for those areas. The Council should take the same action and **Table** this application because the Planning and Zoning Commission tabled further consideration of this application until their May 25th meeting. Section 211.007 of the Texas Local Government Code prohibits the governing body (City Council) from holding a public hearing or taking action on a zoning map change until a final recommendation is received from the zoning commission (Planning and Zoning Commission).

CITY OF
Lockhart
TEXAS

ZONING CHANGE APPLICATION

(512) 398-3461 • FAX (512) 398-3833
P.O. Box 239 • Lockhart, Texas 78644
308 West San Antonio Street

APPLICANT/OWNER

APPLICANT NAME Jim Meredith
DAY-TIME TELEPHONE (512)306-8300
E-MAIL jim@masonwoodtx.com

ADDRESS 4301 Westbank Dr.
Bldg A, Suite 110
Austin, TX 78746

OWNER NAME Bobby Schmidt
DAY-TIME TELEPHONE (512)924-0387
E-MAIL bobby@schmidttranch.net & aanton@antonauctions-service.com

ADDRESS 3595 Schuelke Rd.
Niederwald, TX 78640

PROPERTY

ADDRESS OR GENERAL LOCATION 101 E. China St.
LEGAL DESCRIPTION (IF PLATTED) N/A - Metes & Bounds
SIZE 14.57 ACRE(S) LAND USE PLAN DESIGNATION Mixed Retail, Office, Residential
EXISTING USE OF LAND AND/OR BUILDING(S) N/A
PROPOSED NEW USE, IF ANY Residential High Density

REQUESTED CHANGE

FROM CURRENT ZONING CLASSIFICATION Commercial Heavy Business
TO PROPOSED ZONING CLASSIFICATION Residential High Density
REASON FOR REQUEST To gain the desired density for multifamily and
/or single family condominium style development

SUBMITTAL REQUIREMENTS

IF THE APPLICANT IS NOT THE OWNER, A LETTER SIGNED AND DATED BY THE OWNER CERTIFYING THEIR OWNERSHIP OF THE PROPERTY AND AUTHORIZING THE APPLICANT TO REPRESENT THE PERSON, ORGANIZATION, OR BUSINESS THAT OWNS THE PROPERTY.

NAME(S) AND ADDRESS(ES) OF PROPERTY LIEN-HOLDER(S), IF ANY.

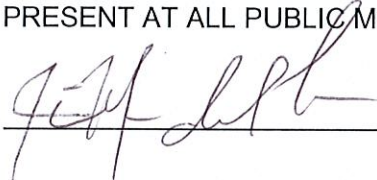
IF NOT PLATTED, A METES AND BOUNDS LEGAL DESCRIPTION OF THE PROPERTY.

APPLICATION FEE OF \$ 441.40 PAYABLE TO THE CITY OF LOCKHART AS FOLLOWS:

1/4 acre or less	\$125
Between 1/4 and one acre	\$150
One acre or greater	\$170 plus \$20.00 per each acre over one acre

TO THE BEST OF MY KNOWLEDGE, THIS APPLICATION AND ASSOCIATED DOCUMENTS ARE COMPLETE AND CORRECT, AND IT IS UNDERSTOOD THAT I OR ANOTHER REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC MEETINGS CONCERNING THIS APPLICATION.

SIGNATURE



DATE

3/16/2022

OFFICE USE ONLY

ACCEPTED BY

Kevin Waller

RECEIPT NUMBER

0143300
R-0443132

DATE SUBMITTED

3/16/22

CASE NUMBER ZC -

22 - 12

DATE NOTICES MAILED

3-29-2022

DATE NOTICE PUBLISHED

3-31-2022

PLANNING AND ZONING COMMISSION MEETING DATE

4/13/22

PLANNING AND ZONING COMMISSION RECOMMENDATION

Tabled 4-13-22

CITY COUNCIL MEETING DATE

4-19-22

DECISION

Robert A. Schmidt
3595 Schuelke Rd
Niederwald, Tx 78640
(512) 924-0387
bobby@schmidtranch.net

March 16, 2022

Mr. Dan Gibson
City of Lockhart, Developmental Services
308 W. San Antonio Street
Lockhart, Texas 78644

RE: Property known as 102 East China St. Lockhart, Tx 78644; 14.65 Acres PID # 18458

Dear Mr. Gibson,

I authorize Mr. Jim Meredith/Moody Engineering to apply with the City of Lockhart for purposes of changing the zoning, submitting and processing a final plat, construction plans, site plans and any other required plan/documents to include corrections and revisions needed to proceed with their development of the subject property. The processes will all be at the applicant's expense.

You may reach me at the above phone number if there are any questions.

Sincerely,


Robert A. Schmidt

CC: Amy Anton

**REGULAR MEETING
LOCKHART CITY COUNCIL**

APRIL 5, 2022

6:30 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS, 217 SOUTH MAIN STREET, 3RD FLOOR, LOCKHART, TEXAS

Council present:

Mayor Pro-Tem Angie Gonzales-Sanchez
Councilmember Juan Mendoza
Councilmember Jeffry Michelson

Mayor Lew White
Councilmember Derrick David Bryant
Councilmember Kara McGregor
Councilmember Brad Westmoreland

Staff present:

Steven Lewis, City Manager
Monte Akers, City Attorney
Dan Gibson, City Planner
Pam Larison, Finance Director

Connie Constancio, City Secretary
Victoria Maranan, Public Information Officer
Sean Kelley, Public Works Director

Citizens/Visitors Addressing the Council: Representatives of Hays-Caldwell Women's Center; Library, staff; and Citizens: Shirley Williams, John Castillo, Philip Ruiz, and David Gratz.

Work Session 6:30 p.m.

Mayor White opened the work session and advised the Council, staff and the audience that staff would provide information and explanations about the following items:

A. PRESENTATION OF PROCLAMATIONS DECLARING APRIL 2022 AS CHILD ABUSE AND SEXUAL ASSAULT AWARENESS & PREVENTION MONTH.

Mayor White presented the proclamations to Representatives of the Hays-Caldwell Women's Center.

Mayor White presented a proclamation to members of the Library Advisory Board and Library staff declaring April 3-9, 2022 as National Library Week.

EXECUTIVE SESSIONS: Mayor White announced that the Council would enter Executive Session at 6:41 p.m. regarding items B and C as listed below.

B. EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF THE GOVERNMENT CODE, TITLE 5, SUBCHAPTER D, SECTION 551.086 PUBLIC POWER UTILITIES, COMPETITIVE MATTERS, TO DELIBERATE OR TAKE FINAL ACTION ON A COMPETITIVE MATTER RELATED TO ASSIGNMENT OF A RIGHT OF FIRST REFUSAL.

C. EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF THE GOVERNMENT CODE, TITLE 5, SUBCHAPTER D, SECTION 551.071, PRIVATE CONSULTATION WITH ITS ATTORNEY TO SEEK ADVICE ABOUT PENDING OR CONTEMPLATED LITIGATION; SETTLEMENT OFFER; OR LEGAL MATTERS SUBJECT TO ATTORNEY/CLIENT PRIVILEGE. CONSULTATION WITH CITY ATTORNEY REGARDING CODE OF ETHICS.

Mayor White announced that the Council would reconvene in Open Session at 7:33 p.m. There was no action taken.

D. DISCUSS MINUTES OF THE MARCH 3, 2022 AND MARCH 15, 2022 CITY COUNCIL MEETINGS.

Mayor White requested corrections to the minutes. There were none.

E. DISCUSS RESOLUTION 2022-20 APPROVING THE CITY OF LOCKHART'S SPENDING PLAN FOR AMERICAN RESCUE PLAN ACT OF 2021 RELIEF FUNDS ASSOCIATED WITH THE IMPLEMENTATION OF THE AMERICA RESCUE PLAN ACT (ARPA) - CORONAVIRUS LOCAL AND STATE FISCAL RECOVERY FUNDS (SLFRF) ALLOCATION.

Ms. Larison stated that on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARPA), which launched the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to provide \$350 billion in emergency funding for state and local governments. The emergency economic stimulus bill provides fiscal aid to address the ongoing COVID-19 public health crisis. The SLFRF provides funding to meet local needs, including COVID-19 response, replacing public sector revenue loss, premium pay for essential workers, improving facilities to ensure health and safety, increase usage of outdoor spaces, as well as investing in public infrastructure and broadband. Of the \$350 billion economic stimulus bill, the City of Lockhart will receive a total of \$3,501,959.00 in direct one-time funding.

Ms. Larison stated that the expenditure categories under the US Treasury's Final Rule on April 1, 2022 are as follows:

1. Public health
2. Negative economic impact
3. Services to disproportionately impacted communities
4. Premium pay
5. Infrastructure
6. Revenue replacement
7. Administrative

Ms. Larison stated that on September 7, 2021, the City Council approved the FY 2021-2022 City of Lockhart budget which included the appropriations for capital expenditures in the Water Fund (\$1,193,000.00) with ARPA/SLFRF funds. This capital expenditure falls under Final Rule 5. Between the close of the CARES fund and the opening of the ARPA fund, the City of Lockhart has continued to expend funds for personal protective equipment and medical supplies associated with COVID-19 (\$300,000). This expenditure falls under the Final Rule 1. In 2021, the City Council provided financial relief to its utility customers by removing late fees, penalties, and placing a moratorium on disconnections for six months. At the end of the deferral period, utility customers were allowed to set up payment plans for any outstanding balances leading to a revenue loss for the electric and water funds. Due to the Final Rule, the City of Lockhart will be able to replace the lost revenue with ARPA funds up to a standard deduction of \$10 million. The use of these funds can be used for any governmental service provided by the City (\$2,008,959). This expenditure falls under Final Rule 6. Ms. Larison recommended approval. There was discussion.

F. DISCUSS APPLICATION ZC-22-09 BY CHRIS BANCROFT ON BEHALF OF ALMA EWALD FOR A ZONING CHANGE FROM 23.064 ACRES *AO AGRICULTURAL--OPEN SPACE DISTRICT* TO 18.535 ACRES *RHD RESIDENTIAL HIGH DENSITY DISTRICT* AND 4.529 ACRES *CMB COMMERCIAL MEDIUM BUSINESS DISTRICT* IN THE BYRD LOCKHART LEAGUE, ABSTRACT NO. 17, LOCATED AT 1650 NORTH COLORADO STREET (US 183). *PROPOSED TO BE TABLED TO THE JUNE 7TH MEETING DUE TO NOT YET HAVING A FINAL RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION.*

Mayor White stated that consideration of the zoning change application will be tabled to the June 7, 2022 Council meeting.

G. DISCUSS APPLICATION ZC-22-10 BY CHRIS BANCROFT ON BEHALF OF ERNEST EWALD, JR., FOR A ZONING CHANGE FROM 15.906 ACRES *AO AGRICULTURAL--OPEN SPACE DISTRICT* TO 12.262 ACRES *RHD RESIDENTIAL HIGH DENSITY DISTRICT* AND 3.644 ACRES *CMB COMMERCIAL MEDIUM BUSINESS DISTRICT* IN THE BYRD LOCKHART LEAGUE, ABSTRACT NO. 17, LOCATED AT 1724 NORTH COLORADO STREET (US 183). *PROPOSED TO BE TABLED TO THE JUNE 7TH MEETING DUE TO NOT YET HAVING A FINAL RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION.*

Mayor White stated that the zoning change application will be tabled to the June 7, 2022 Council meeting.

RECESS: Mayor White announced that the Council would recess for a break at 7:43 p.m.

ITEM 1. CALL TO ORDER.

Mayor Lew White called the meeting to order at 8:05 p.m.

ITEM 2. INVOCATION, PLEDGE OF ALLEGIANCE.

Mayor White gave the Invocation and led the Pledge of Allegiance to the United States and Texas flags.

ITEM 3. PUBLIC COMMENT.

Mayor White requested citizens to address the Council regarding issues that are not on the agenda. There were none.

ITEM 4-A. HOLD SECOND PUBLIC HEARING TO RECEIVE COMMENTS ON THE PROPOSED ILLUSTRATIVE PLAN FOR REDISTRICTING THE CITY COUNCIL DISTRICTS. THE CITY COUNCIL MAY GO INTO EXECUTIVE SESSION PURSUANT TO TEXAS GOVERNMENT CODE, SECTION 551.071 TO RECEIVE ADVICE FROM LEGAL COUNSEL REGARDING THE CITY'S REDISTRICTING OBLIGATIONS.

Mayor White opened the public hearing at 8:02 p.m.

Mayor White requested the following to address the Council:

John Castillo, 1106 Red River, expressed opposition to the proposed Plan A redistricting plan. He stated that he believes that Plan A removes voters from the voting district that they are accustomed to.

Philip Ruiz, 102 Stueve Lane, of LULAC expressed opposition of the proposed Plan A. He stated that they are proposing two different redistricting plans. He stated that proposed Plan 1 eliminates including the prison inmates in the population count and Plan 2 keeps the prison in the population. LULAC's proposed plan is similar to the plan created by MALDIF back in the 1980's. They are trying to maintain the community's history and to maintain minimal changes to adhere to the MALDIF.

David Gratz, Live Oak Street, stated that the City Council's proposed Plan A would divide blocks that would require the Elections Administrator to create specific ballots for a very few voters. He suggested that the city attempt to align the new district boundaries to be similar to that of Caldwell County.

Mayor White announced that the Council would enter Executive Session at 8:20 p.m. to discuss the redistricting process.

Mayor White reconvened the meeting in Open Session at 8:50 p.m.

ITEM 4-B. DISCUSSION AND CONSIDERATION BY THE CITY COUNCIL OF COMMENTS RECEIVED FROM THE PUBLIC REGARDING THE PROPOSED REDISTRICTING PLAN FOR CITY COUNCIL DISTRICTS, AND POSSIBLE AMENDMENTS TO THE PROPOSED PLAN, INCLUDING A PLAN DRAWING SESSION.

Mayor White stated that the item is being referred to the redistricting Attorney to review the additional material to place on a future agenda.

ITEM 4-C. DISCUSSION OF, AND POSSIBLE ACTION TO ADOPT RESOLUTION 2022-21 APPROVING THE REDISTRICTING OF THE CITY'S SINGLE-MEMBER COUNCIL DISTRICTS AND ESTABLISHING NEW DISTRICT BOUNDARY LINES FOR THE CITY OF LOCKHART'S CITY COUNCIL ELECTION BASED ON 2020 CENSUS DATA AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor White announced that there would be no action on the item.

ITEM 5. CONSENT AGENDA.

Councilmember Michelson made a motion to approve consent agenda items 5A, 5B, 5C and 5D. Councilmember Westmoreland seconded. The motion passed by a vote of 7-0.

The following are the consent agenda items that were approved:

- 5A: Approve minutes of the March 3, 2022 and March 15, 2022 City Council meetings.
- 5B: Approve Resolution 2022-20 approving the City of Lockhart's Spending Plan for American Rescue Plan Act of 2021 relief funds associated with the implementation of the America Rescue Plan Act (ARPA) - Coronavirus Local and State Fiscal Recovery Funds (SLFRF) allocation.
- 5C: Table application ZC-22-09 by Chris Bancroft on behalf of Alma Ewald for a Zoning Change from 23.064 acres *AO Agricultural--Open Space District* to 18.535 acres *RHD Residential High Density District* and 4.529 acres *CMB Commercial Medium Business District* in the Byrd Lockhart League, Abstract No. 17, located at 1650 North Colorado Street (US 183) to the June 7, 2022 City Council meeting.
- 5D: Table application ZC-22-10 by Chris Bancroft on behalf of Ernest Ewald, Jr., for a Zoning Change from 15.906 acres *AO Agricultural--Open Space District* to 12.262 acres *RHD Residential High Density District* and 3.644 acres *CMB Commercial Medium Business District* in the Byrd Lockhart League, Abstract No. 17, located at 1724 North Colorado Street (US 183) to the June 7, 2022 City Council meeting.

ITEM 6-A. DISCUSSION REGARDING REVISIONS TO AMENDMENT OF SECTION 50-3 OF CHAPTER 50 OF THE LOCKHART CODE OF ORDINANCES TO ESTABLISH MAINTENANCE RESPONSIBILITIES FOR PUBLIC SIDEWALKS AND COST SHARING PROGRAM FOR SIDEWALK RECONSTRUCTION AND REPAIRS.

Mr. Kelley stated that staff recently presented a draft Ordinance regarding a proposed sidewalk cost sharing program to the City Council on January 4, 2022. The draft ordinance was created to clarify sidewalk replacement and maintenance responsibilities and proposed a 50/50 cost sharing policy to repair deficient sidewalks. The consensus of the Council was to direct staff to prepare another draft ordinance which includes recommendations expressed by Council. The recommendations included making sure that the program is fair and includes downtown businesses and schools as part of city-maintained public sidewalks. There was discussion.

After discussion, the consensus of the Council was not to adopt a sidewalk cost sharing program ordinance at this time. The Council will revisit the sidewalk cost sharing program after goals and budget workshops.

Councilmember McGregor made a motion to table the item until after the budget process. Councilmember Mendoza seconded. The motion passed by a vote of 7-0.

ITEM 6-B. DISCUSSION AND/OR ACTION TO CONSIDER ORDINANCE 2022-14 ADOPTING A CODE OF ETHICS AND ANTI-DISCRIMINATION POLICY FOR CITY COUNCIL MEMBERS, CITY BOARD/COMMISSION MEMBERS, AND EMPLOYEES.

Councilmember Michelson made a motion to postpone consideration of the Ethics policy indefinitely. Mayor Pro-Tem Sanchez seconded. The motion passed by a vote of 7-0.

ITEM 6-C. CONSIDER THE NOMINATION OF DANIEL KOEHLER TO THE AIRPORT ADVISORY BOARD BY COUNCILMEMBER DERRICK DAVID BRYANT FOR A TERM TO EXPIRE IN NOVEMBER 2022.

Councilmember Bryant made a motion to appoint Daniel Koehler to the Airport Advisory Board. Councilmember Mendoza seconded. The motion passed by a vote of 7-0.

ITEM 6-D. DISCUSSION REGARDING MATTERS RELATED TO COVID-19.

Mayor White shared information about COVID testing sites in the community.

ITEM 7. CITY MANAGER'S REPORT, PRESENTATION AND POSSIBLE ACTION.

- City offices will be closed on Friday, April 15 in observance of the Good Friday Holiday. No change in the garbage pickup schedule.
- Update regarding Civil Service Examinations for Public Safety positions.
- Council Goals Workshop on Saturday, April 9 at 8:00 a.m.
- Update regarding Household Hazardous Waste Collection event held on March 26.
- Update regarding roof repairs at 901 Bois D'arc-Senior Citizen Center.
- CARTS Now services begin in Lockhart on May 2.

ITEM 8. COUNCIL AND STAFF COMMENTS - ITEMS OF COMMUNITY INTEREST.

Councilmember Mendoza thanked the Friends of the City Cemetery for being able to identify a few unmarked graves.

Mayor Pro-Tem Sanchez expressed condolences to the family of Marvin Sandler for their loss. She congratulated the Hispanic Chamber for a successful annual banquet and the LISD Education Foundation for a successful “50 Lions Who Can Cook” fundraiser.

Councilmember McGregor congratulated all involved in a successful First Friday.

Councilmember Bryant also congratulated organizations that held successful events.

Councilmember Michelson thanked those involved in the recent flyer-over at the Lockhart Airport. He thanked all that attended and participated in the LISD Education Foundation “50 Lions That Can Cook” fundraiser.

Mayor White thanked the Hispanic Chamber for a successful banquet and he congratulated those that were recognized. He thanked LISD Education Foundation for the successful event. He stated that the Lockhart Airport will host a fly-in event the 1st Saturday of each month from 9am to 12pm. He congratulated the Downtown Business Association for successful Sip-n-Stroll event.

ITEM 9. OPEN SESSION. Discussion and/or action regarding matters discussed in Executive Session.

There was no action.

ITEM 10. ADJOURNMENT.

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 9:55 p.m.

PASSED and APPROVED this the 19th day of April 2022.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Connie Constancio, TRMC
City Secretary

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion and/or action to consider the Downtown Revitalization Final Conceptual Design Report from TRC Engineers, Inc. and Rialto Studio.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Direction

BACKGROUND/SUMMARY/DISCUSSION: Presentation of Downtown Revitalization Project, Final Conceptual Design Report and Open House Results.

On April 13, 2021 City Council directed the City Engineer to prepare a proposal for the Downtown Revitalization Project that would include public meetings, coordination with other governing entities, conceptual design alternatives for the nine block area of downtown, preliminary traffic route evaluation, cultural services, preliminary landscape designs and probable cost for the project.

The Final Conceptual Design Report for the Downtown Revitalization Project has been completed, taking into consideration the results from the two open houses held. Preliminary timelines and probable costs have also been produced as part of the final report.

PROJECT SCHEDULE (if applicable): Council Approval of Conceptual Design-April 19, 2022

Design Proposal Approved by Council-May 17, 2022

Design-June 1st , 2022, to June 1st, 2023

Permitting-June 1st to September 1st, 2023

Bidding-September 1st to December 1st, 2023

Construction-December 1st , 2023, to December 1st, 2025

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$8,505,000

Account Number: 416-5633-911-00

526-5750-911-00

546-5760-911-00

100-3402-00

Funds Available: \$2,051,947

\$4,087,909

City of Lockhart, Texas

Council Agenda Item Cover Sheet

\$215,740

\$3,606,772

Account Name: 2015 Certificate of Obligation - General Fund

2015 Certificate of Obligation - Water Fund

2015 Certificate of Obligation - Wastewater Fund

Unrestricted General Fund Balance

FISCAL NOTE (if applicable): The remaining balance from the 2015 Certificate of Obligations will pay for contingencies, design, storm sewer, water main, sanitary sewer, and street improvements. The remaining balance for landscape improvements can be paid out of the unrestricted general fund balance as designated by the City Council.

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Acceptance of Final Conceptual Design Report and authorizing staff to proceed with Downtown Revitalization Project's design phase.

LIST OF SUPPORTING DOCUMENTS: Presentation, Pages 1-11 from DRAFT Lockhart DT Concept Design Report , Pages 1484-1489 from DRAFT Lockhart DT Concept Design Report

DOWNTOWN REVITALIZATION PROJECT

CITY COUNCIL PRESENTATION

APRIL 2022



RIALTO STUDIO
LANDSCAPE ARCHITECTURE



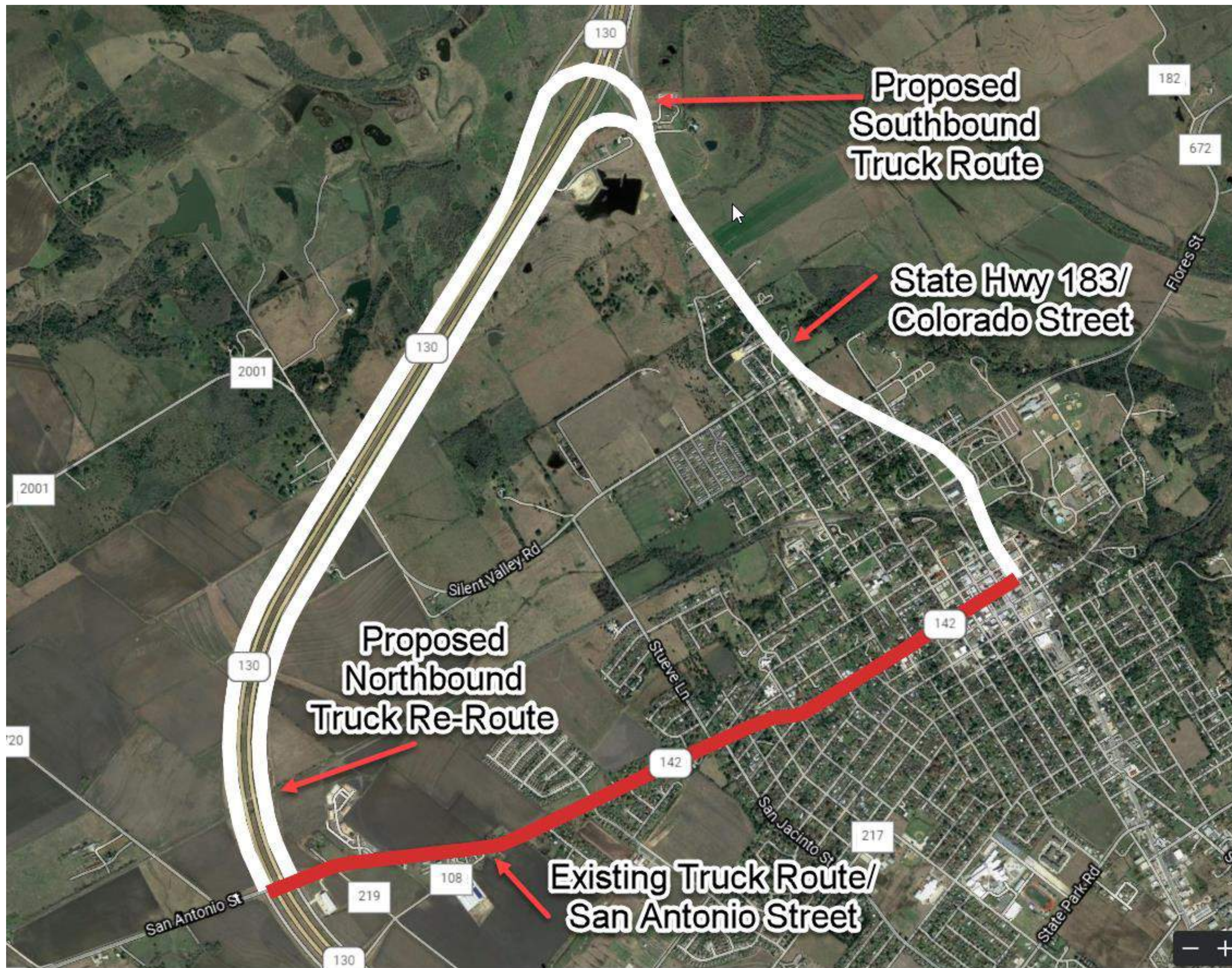
Project Goals and Overview

- Update Aging Water and Sewer Infrastructure
- Upgrade and Modernize Streetscape and Drainage
- Provide Pedestrian Friendly Space
- Improve Traffic Flow and Safety
- Preserve Number of Parking Spaces
- Enhance Overall Aesthetic of Downtown

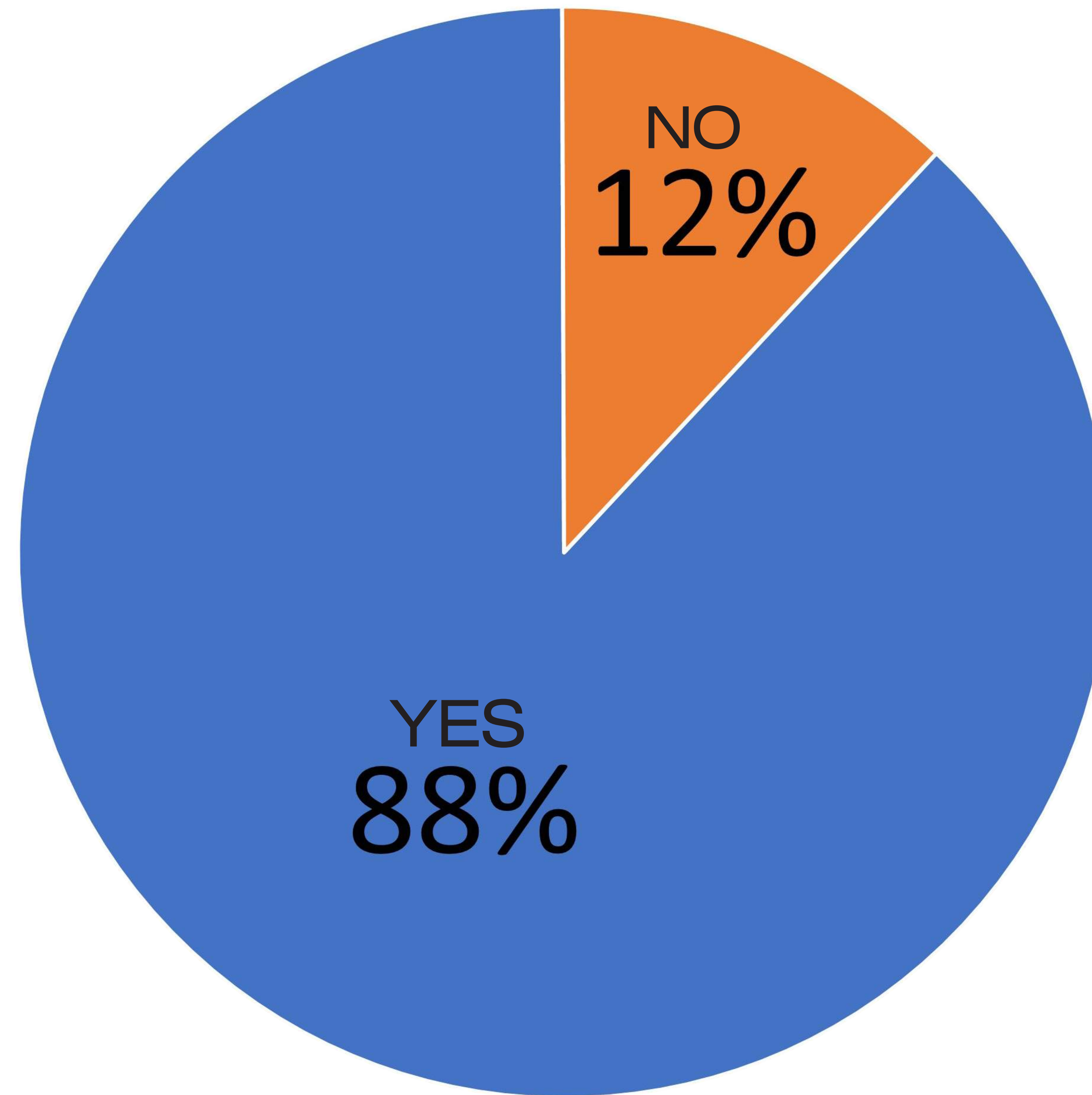


SURVEY RESULTS FROM SECOND PUBLIC MEETING

- MARCH 3, 2022**
- 58 PEOPLE IN ATTENDANCE**
- ALMOST 190 RESPONDENTS TO SURVEY**
- PRESENTED 2 CONCEPTUAL DESIGNS FOR STREETScape**
- REFERENCE CITY'S WEBSITE FOR LAST PRESENTATION**

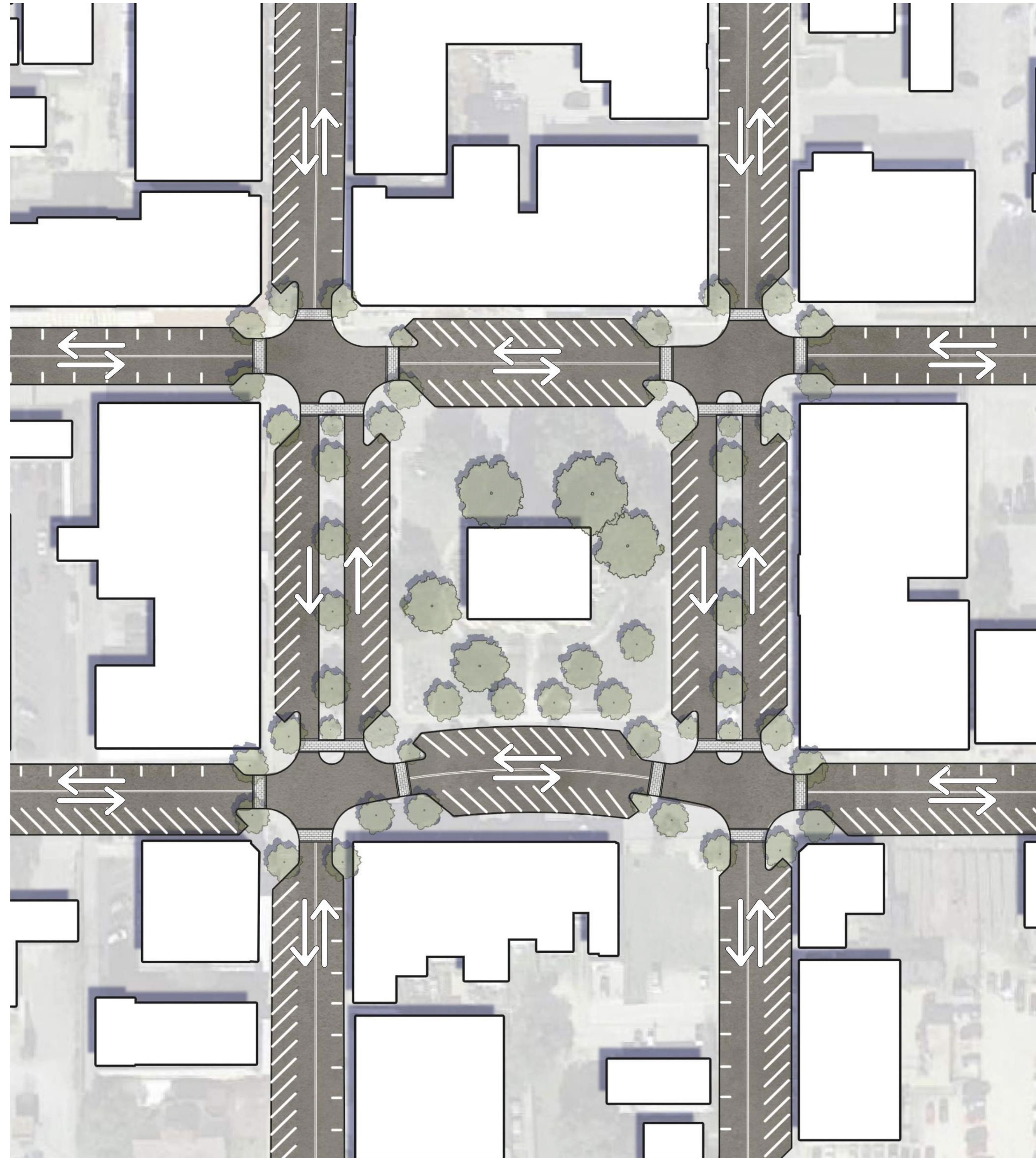


ARE YOU IN FAVOR OF REROUTING TRUCK TRAFFIC OFF OF SH 142?



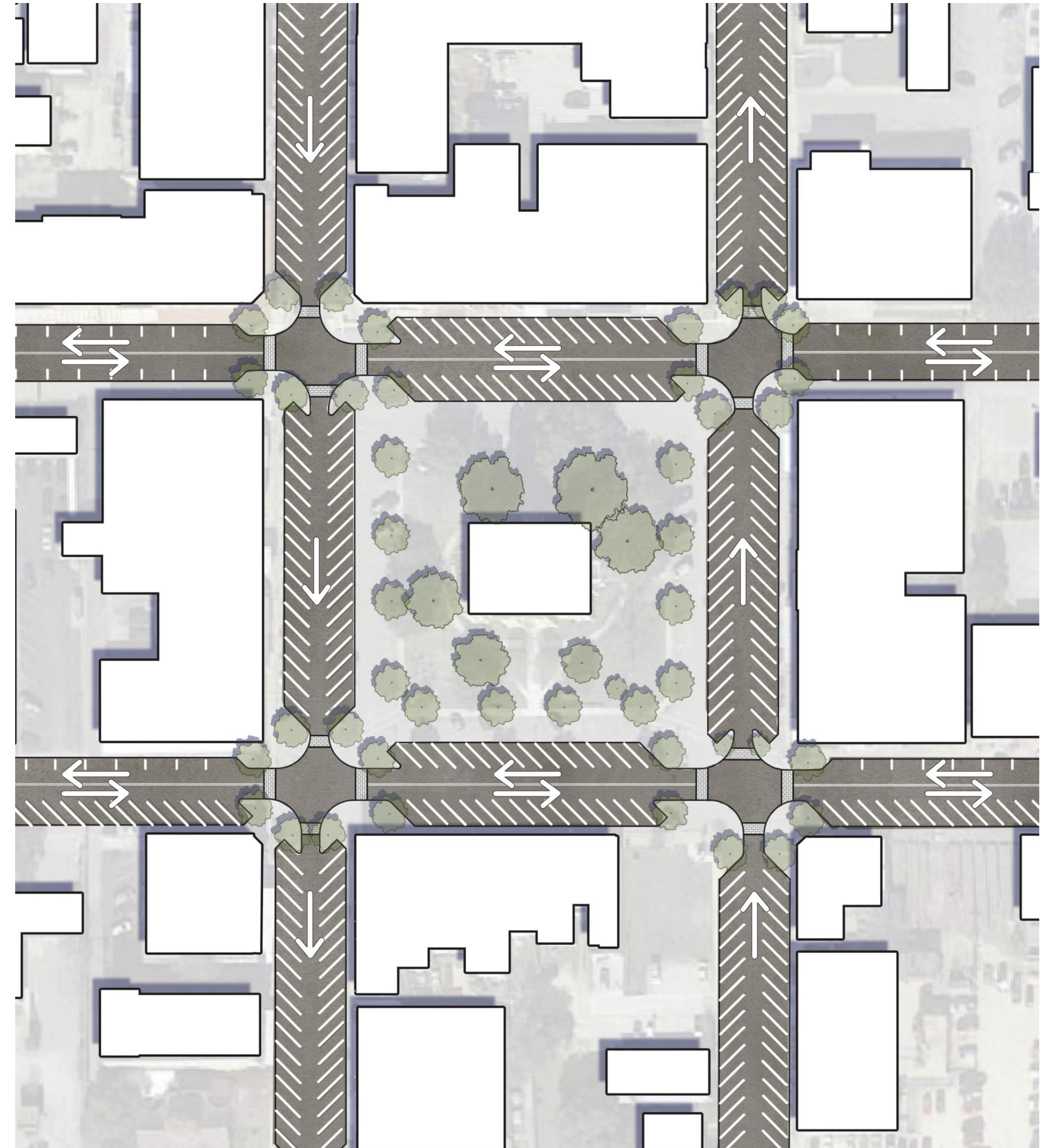
OPTION 1

MARKET STREET PLAZA CONCEPT

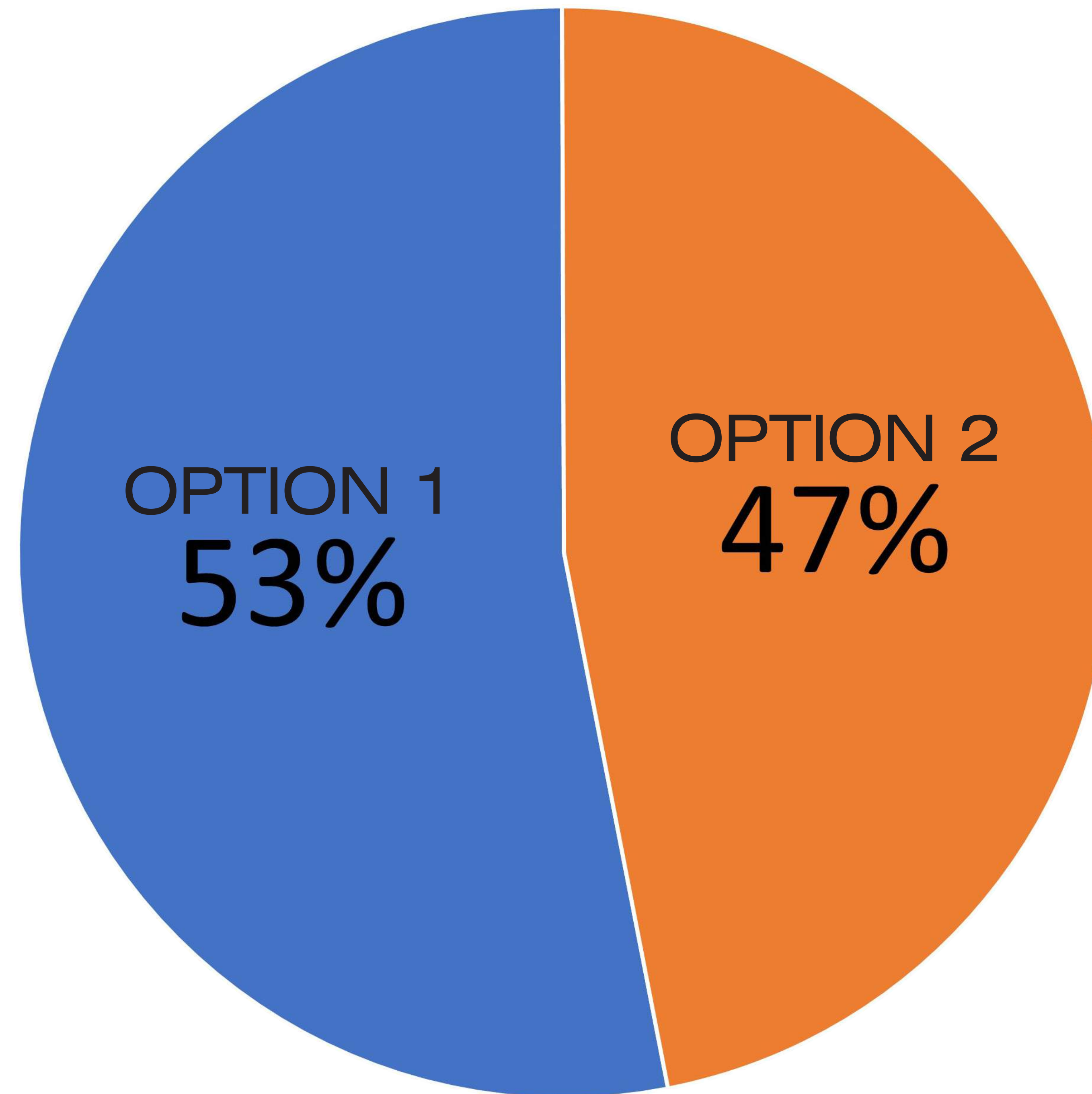


OPTION 2

ONE-WAY CONCEPT

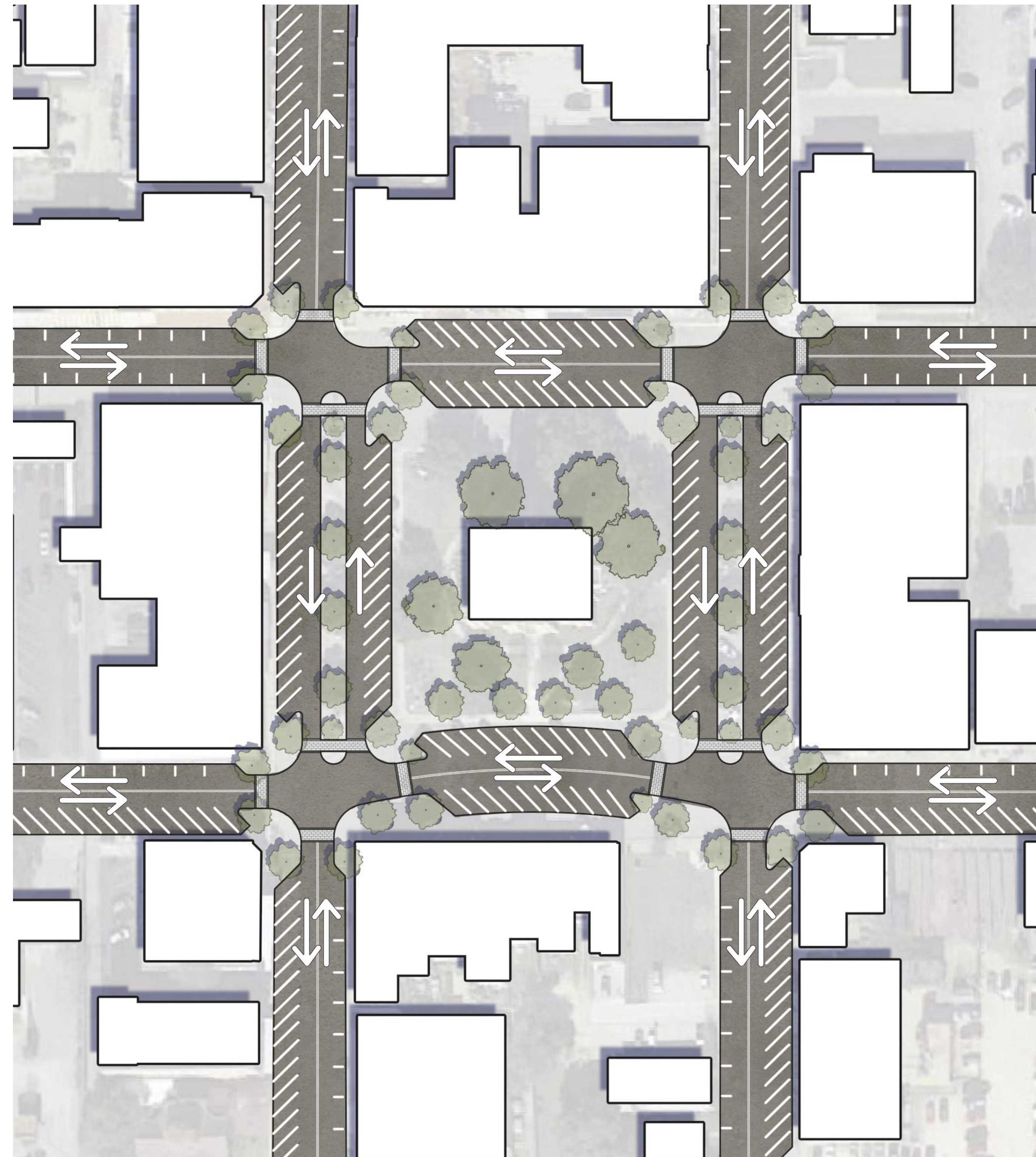


WHICH STREETSCAPE OPTION DO YOU PREFER?



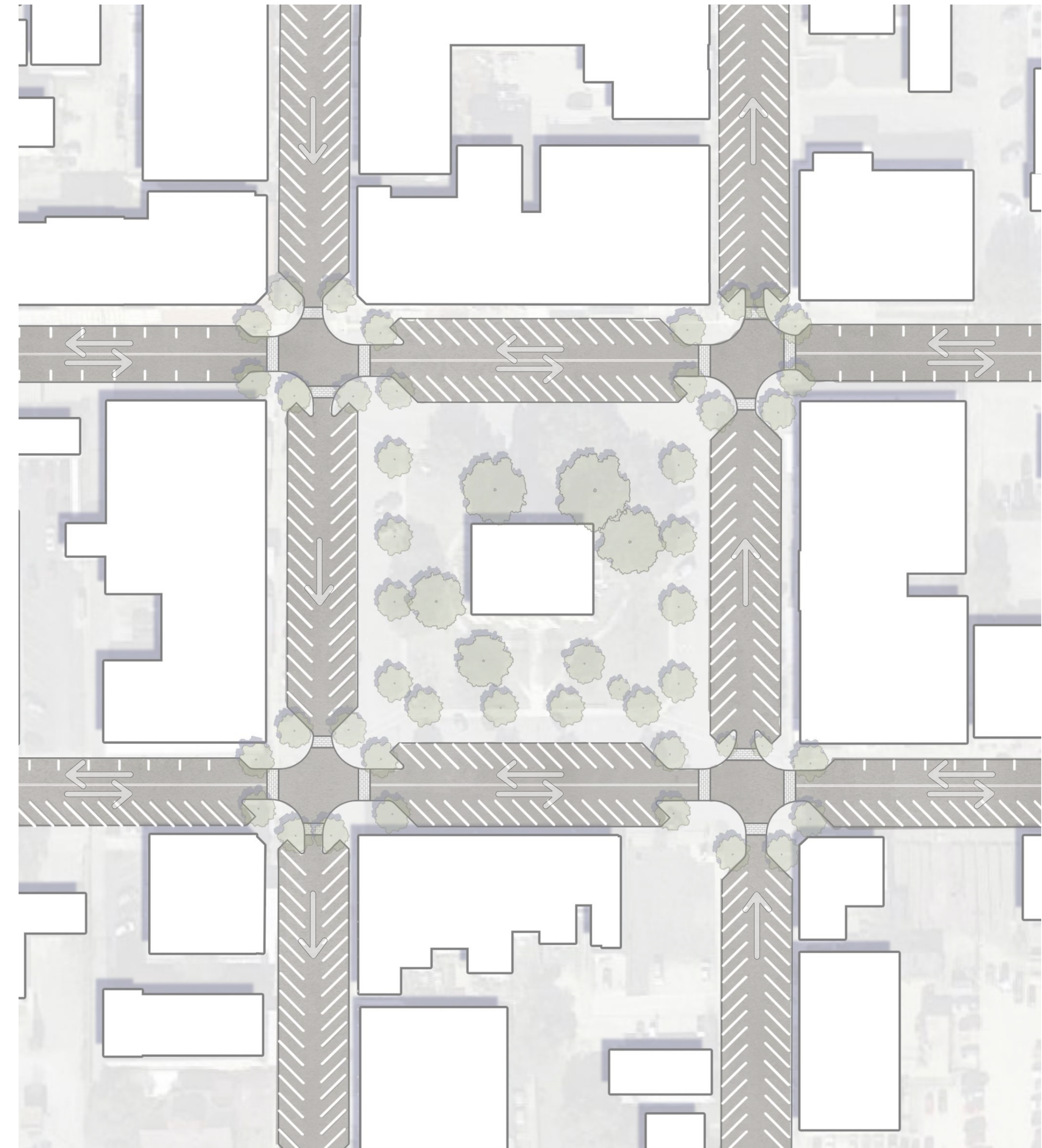
OPTION 1

MARKET STREET PLAZA CONCEPT

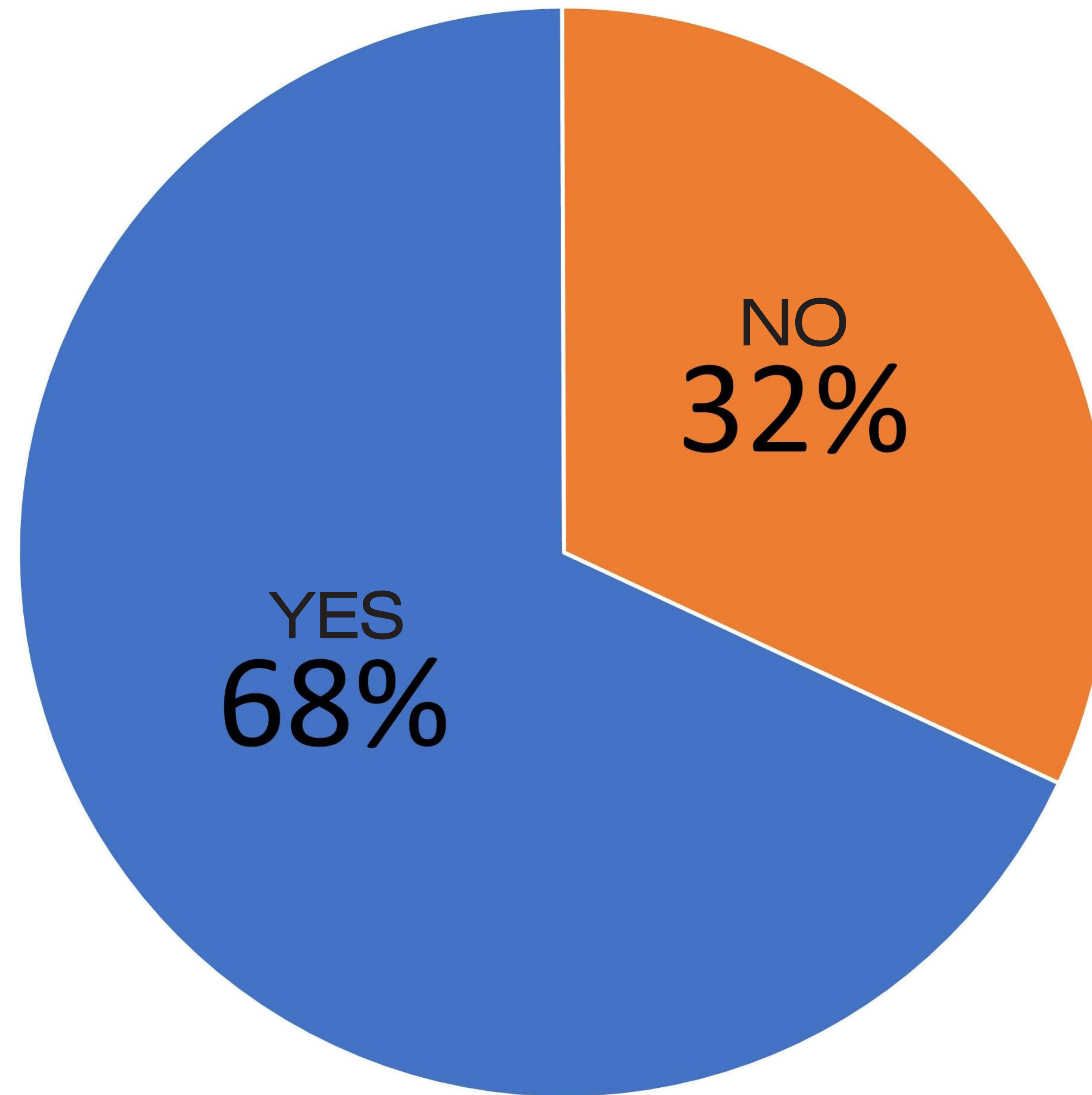


OPTION 2

ONE-WAY CONCEPT

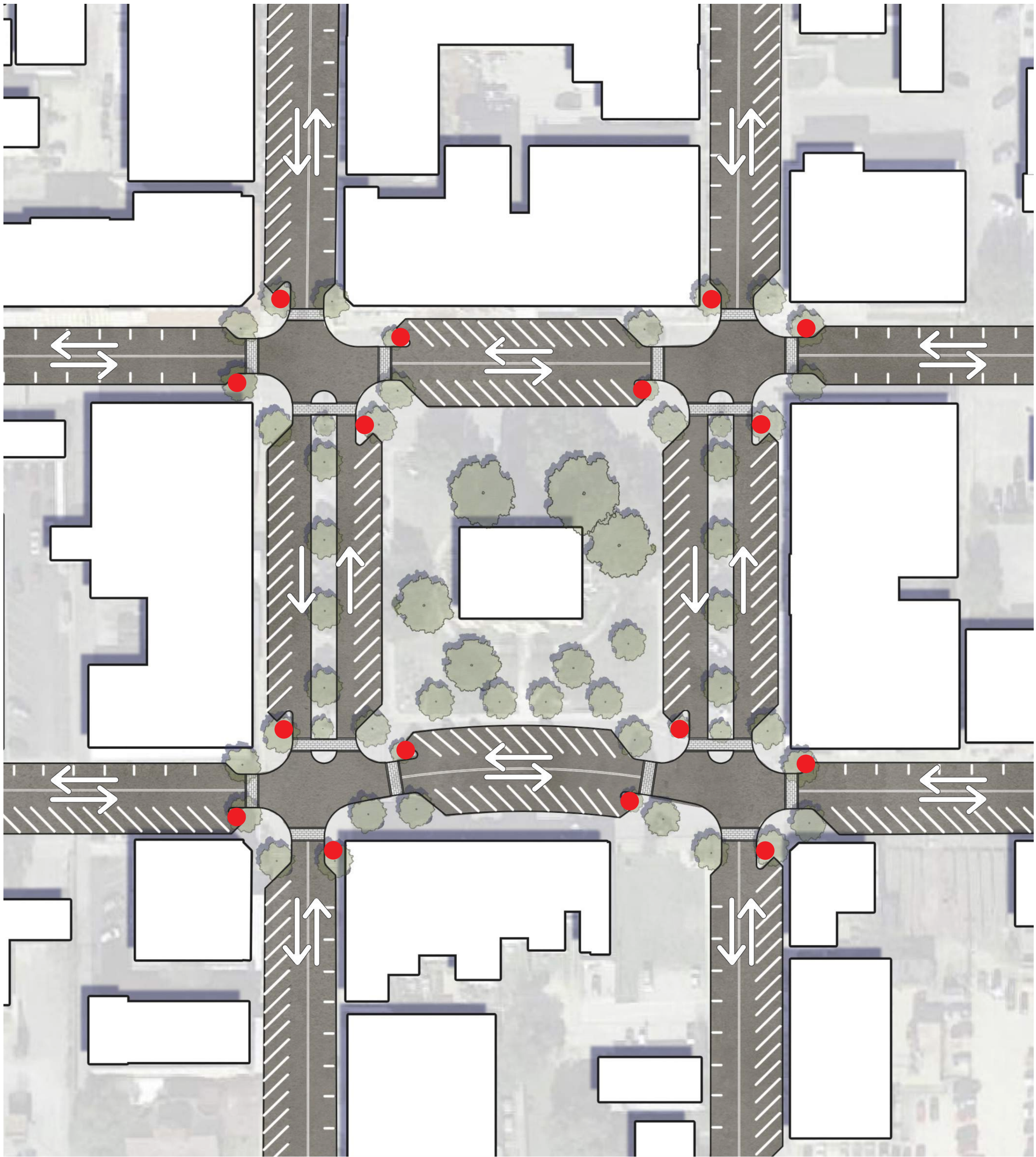


ARE YOU IN FAVOR OF
ALL-WAY STOP
CONTROL?

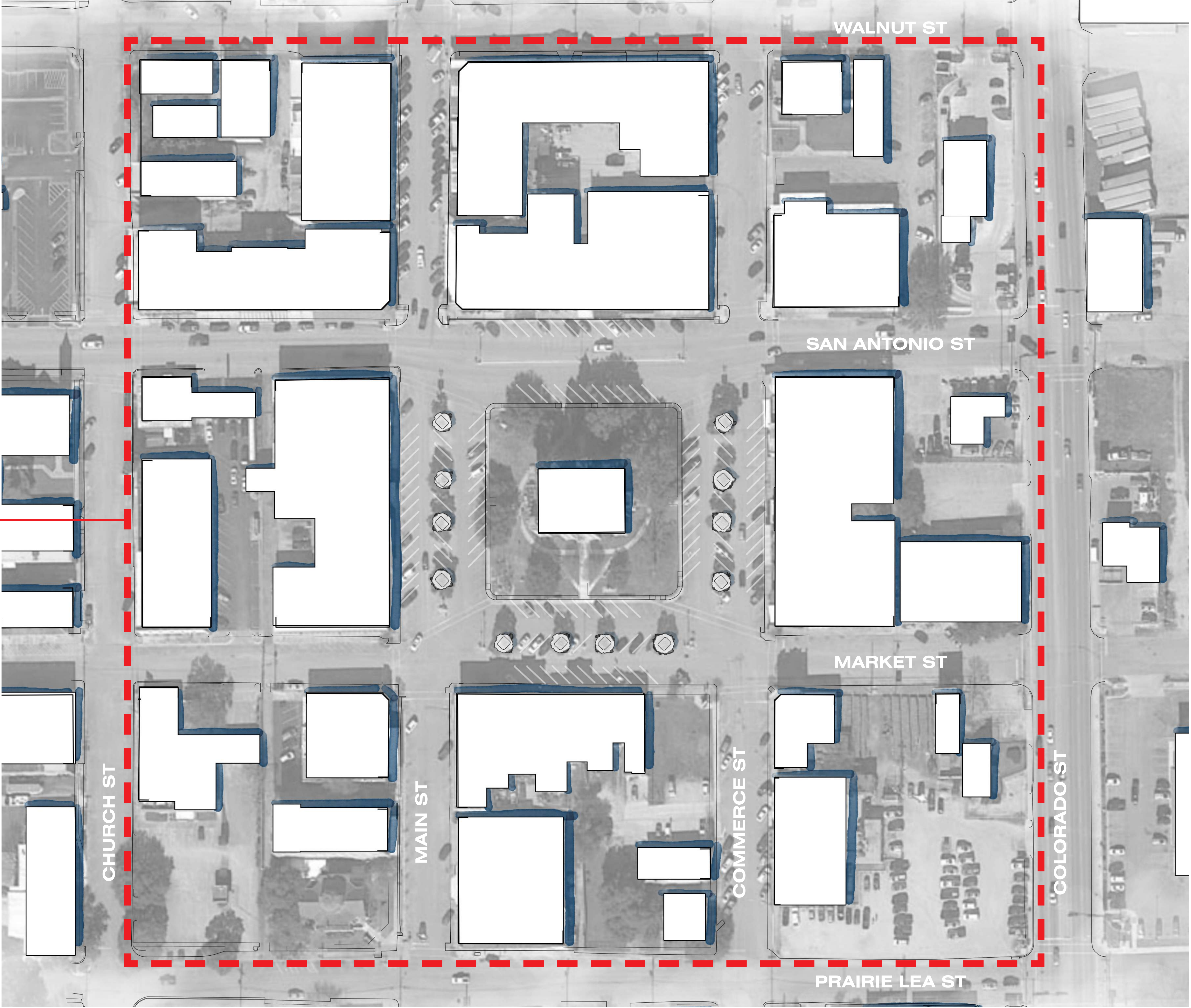


OPTION 1

MARKET STREET PLAZA CONCEPT

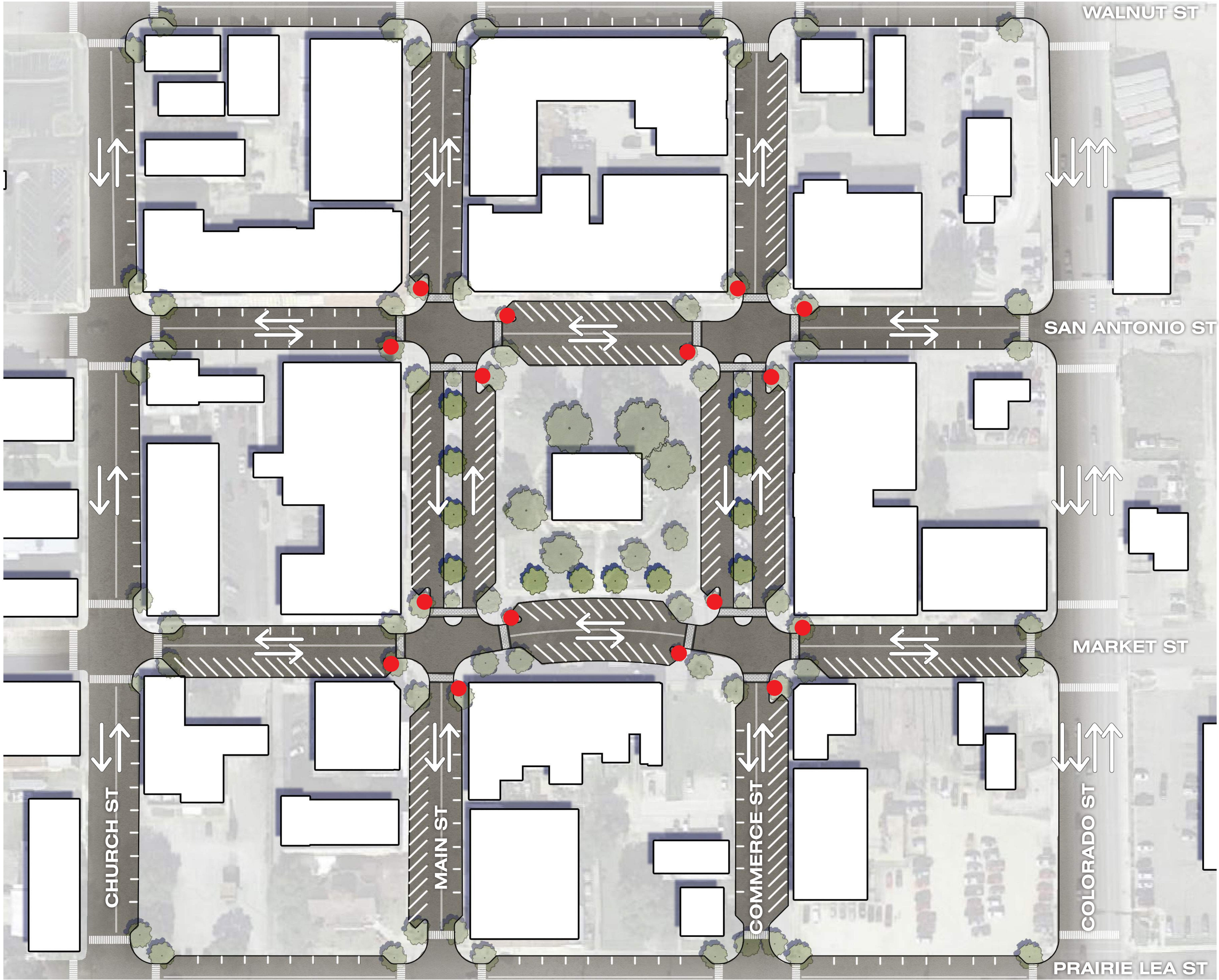


CONCEPTUAL
COURTHOUSE
STREETSCAPE
DESIGN



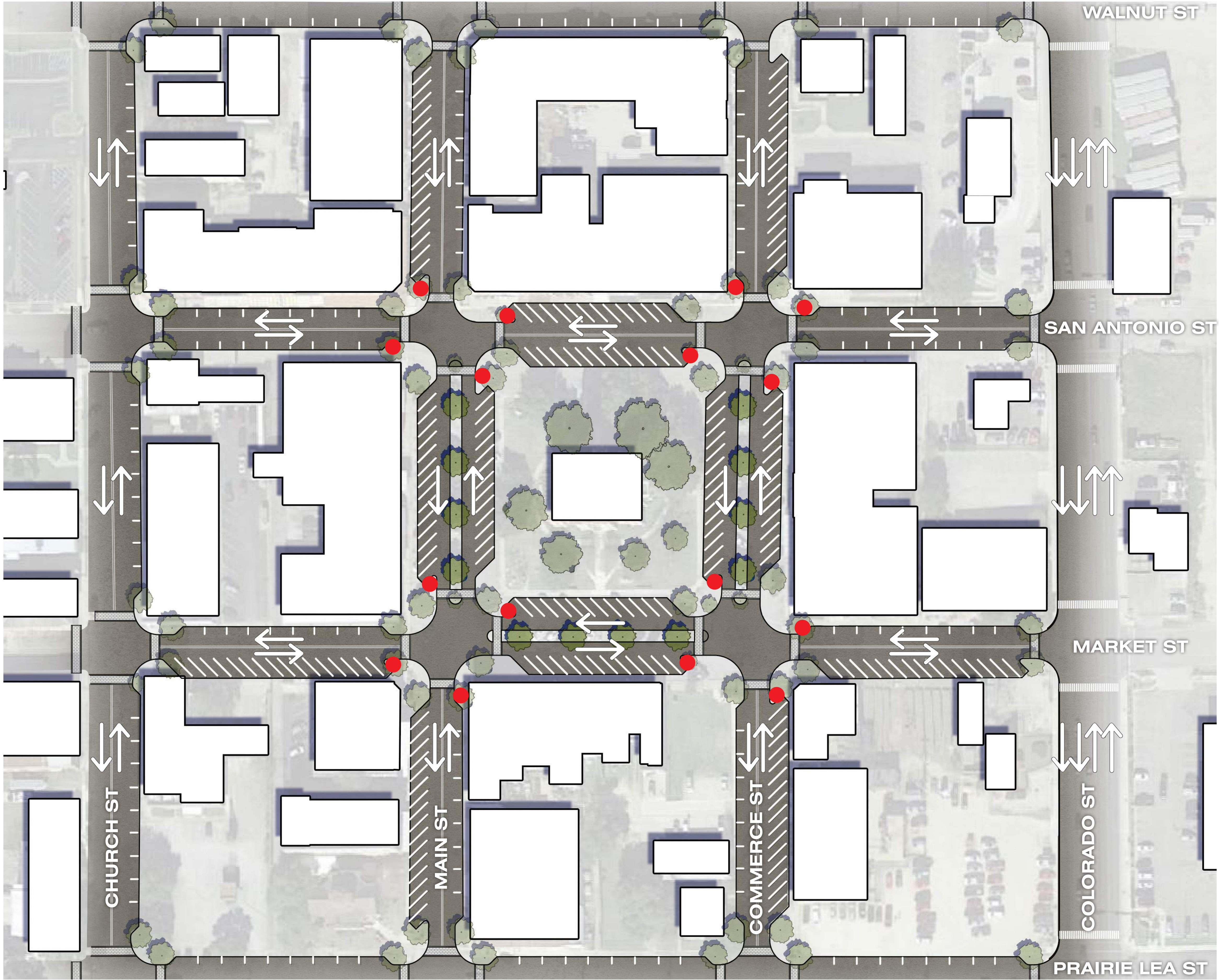
MAIN POINTS

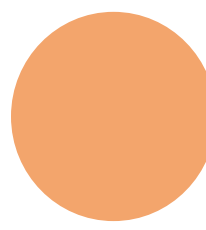
- TWO-WAY TRAFFIC THROUGHOUT
- FOUR-WAY STOPS
(● = STOP SIGN)
- PLAZA ON MARKET STREET
- **LOSE 12 PARKING SPACES**
- PRESERVE MEDIAN TREES ON COMMERCE AND MAIN
- RELOCATE MEDIAN TREES ON MARKET STREET
- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE

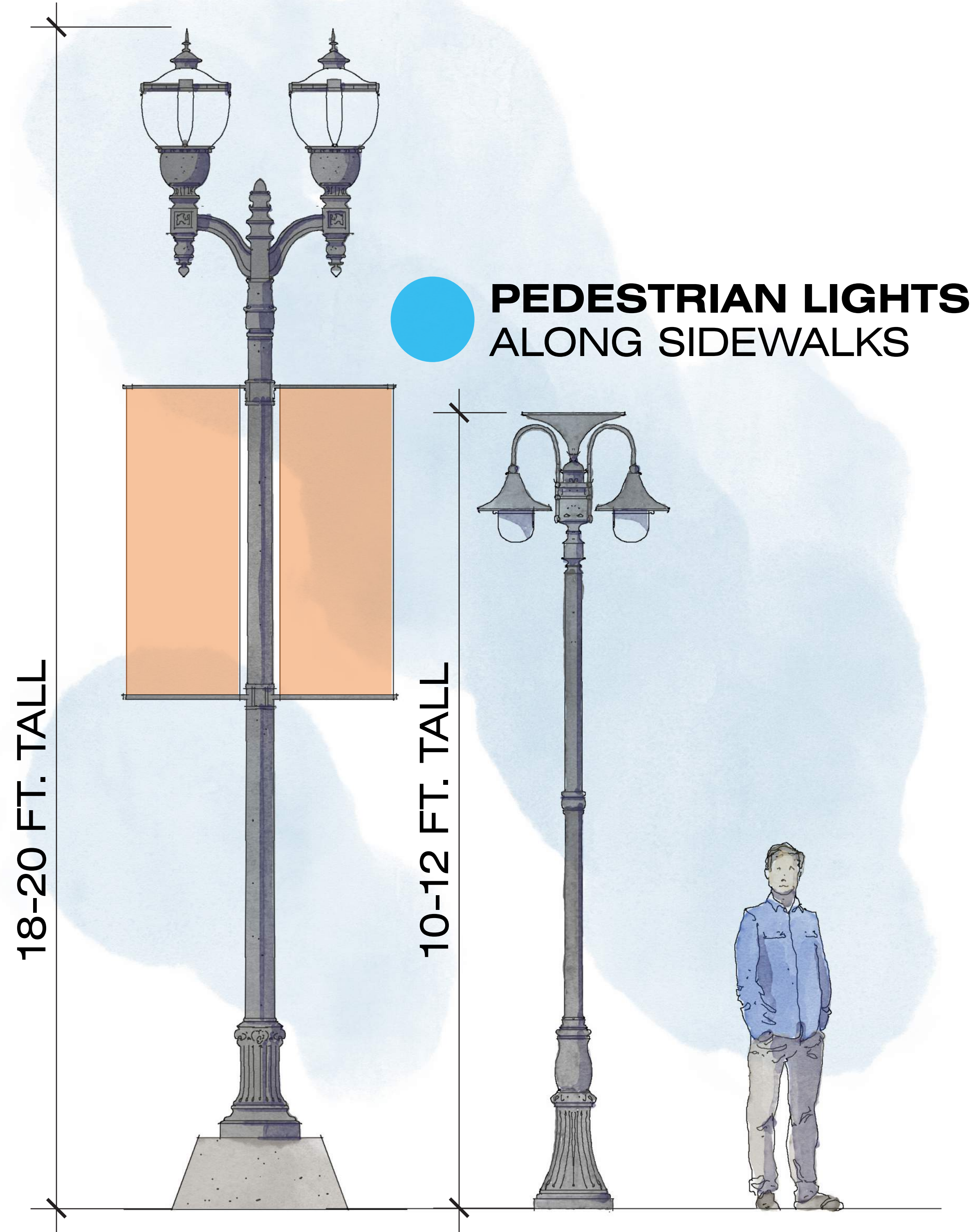


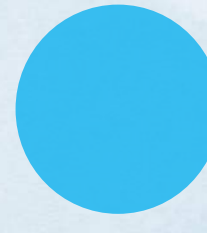
MAIN POINTS

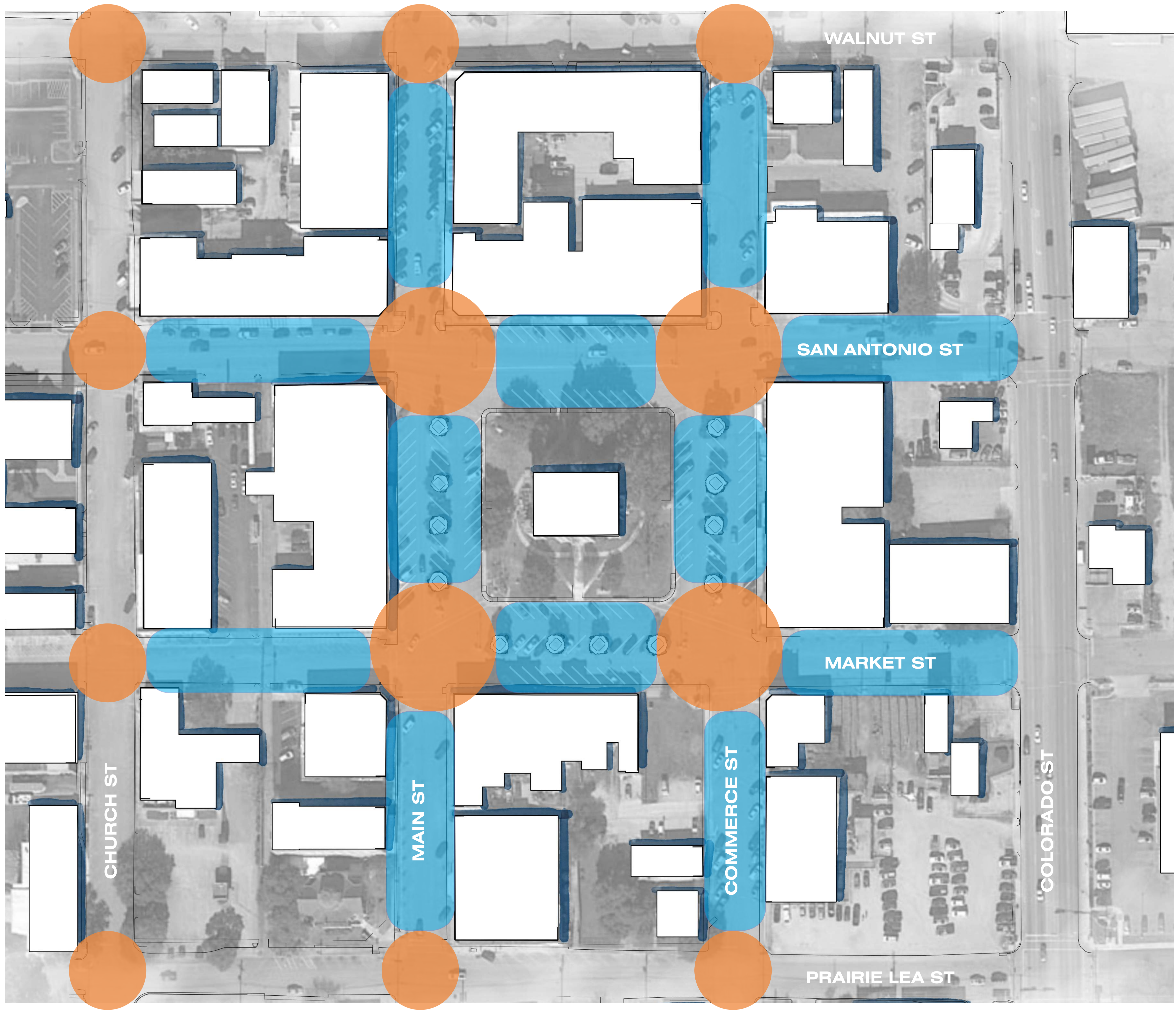
- TWO-WAY TRAFFIC THROUGHOUT
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- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE



 **ROADWAY LIGHTS**
AT INTERSECTIONS



 **PEDESTRIAN LIGHTS**
ALONG SIDEWALKS





DOWNTOWN REVITALIZATION

APRIL 2022

LOCKHART MASTER PLAN LIGHTING IMAGERY





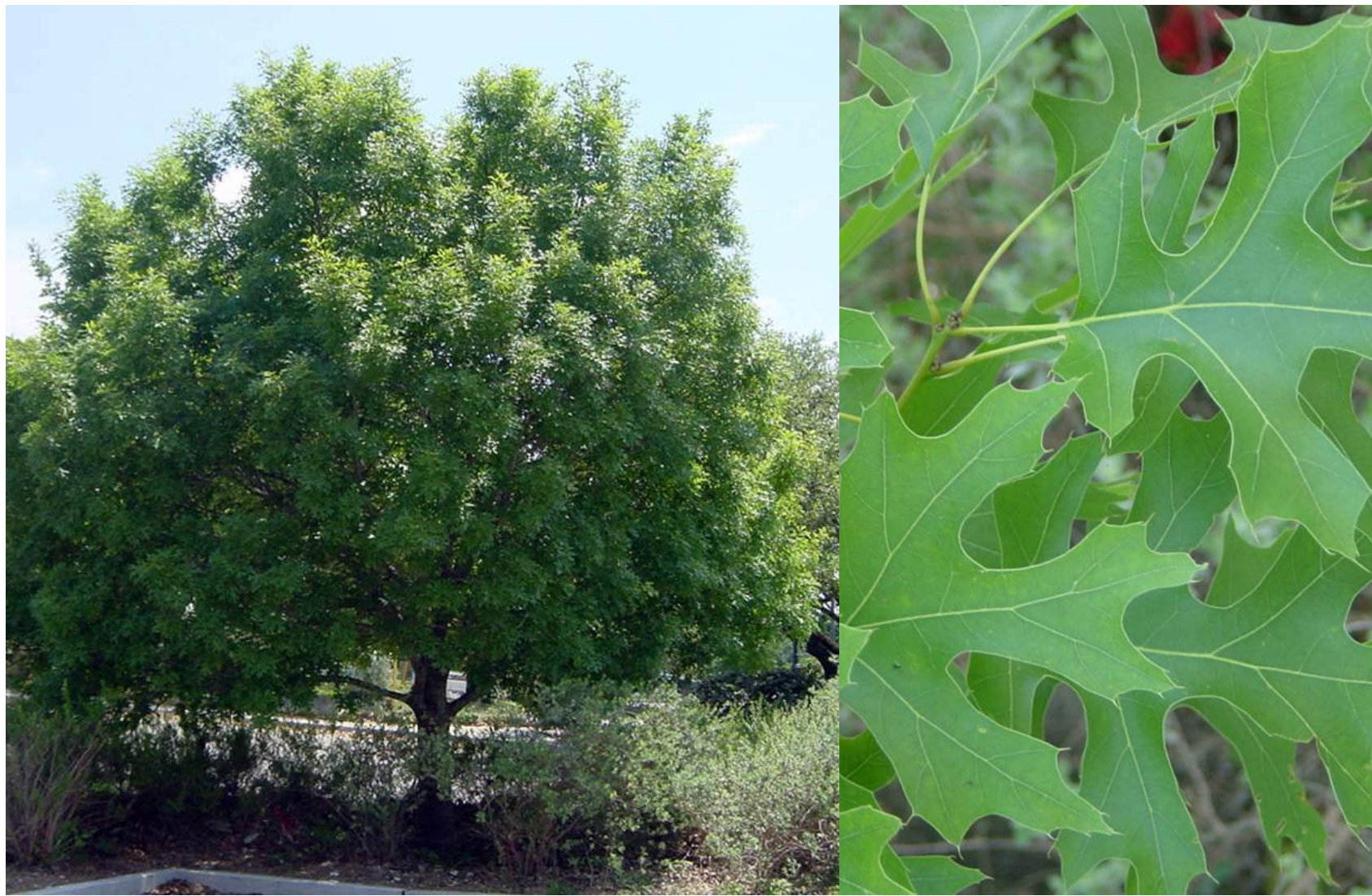
Cedar Elm
Ulmus crassifolia



Lacey Oak
Quercus glaucoides



Live Oak
Quercus virginiana



Texas Red Oak
Quercus texana



Texas Mountain Laurel
Sophora secundiflora



Yaupon Holly
Ilex vomitoria



Bicolor Iris
Dietes bicolor



Blue Plumbago
Ceratostigma plumbaginoides



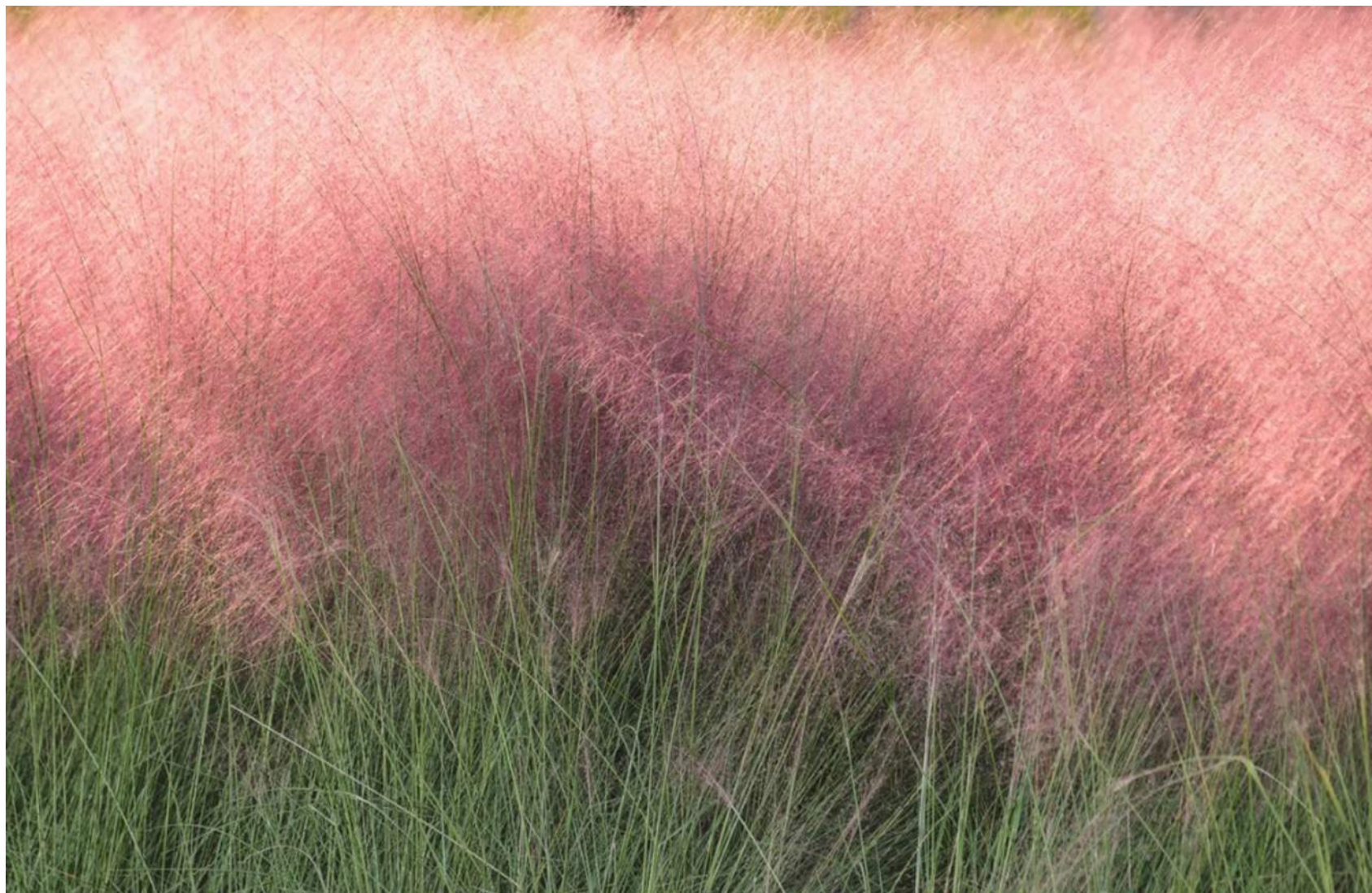
Dwarf Burford Holly
Ilex cornuta 'Burfordii nana'



Dwarf Yaupon Holly
Ilex vomitoria v. nana



Firecracker Fern
Russelia equisetiformis



Gulf Muhly Grass
Muhlenbergia capillaris



Giant Liriope
Liriope gigantea



Indigo Spires Salvia
Salvia farinacea 'Indigo Spires'



Lantana (Purple, White & Yellow)
Lantana montevidensis & L. x 'New Gold'



Lindheimer's Muhly
Muhlenbergia lindheimeri



Purple Heart
Setcreasea pallida



Red Yucca
Hesperaloe parviflora



Sandankwa Viburnum
Viburnum suspensum



Texas Sedge
Carex perdentata



Thryallis
Galphimia glauca



Turk's Cap
Malvaviscus drummondii



Variegated Flax Lily
Dianella tasmanica v. variegata



Zexmenia
Wedelia hispida

CONSTRUCTION



LOCKHART DOWNTOWN REVITALIZATION PROJECT

FINAL CONCEPTUAL DESIGN REPORT - DRAFT

APRIL 12, 2022



RIALTO STUDIO
LANDSCAPE ARCHITECTURE



TABLE OF CONTENTS

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6.0	Project Schedule	8

APPENDICES

Appendix A – Project Maps

Appendix B – Sustainable Places Project

Appendix C – Lockhart Downtown Improvements Project Report (2020)

Appendix D – City Council Presentation (2021)

Appendix E – Traffic Study

Appendix F-1 – TRC Consultation Letter to THC

Appendix F-2 – THC Response

Appendix G – Open House #1 Presentation

Appendix H – Open House #2 Presentation

Appendix I – Option 1

Appendix J – Option 1 A

Appendix K – Opinion of Probable Construction Costs

1.0 INTRODUCTION

1.1 PURPOSE

The following report documents the decision-making process conducted during the conceptual design phase for the City of Lockhart (City) Downtown Revitalization Project. This report is prepared for the City of Lockhart and serves to summarize the project goals, background, work done to date, and overall recommendations for improvements in the downtown area.

1.2 PROJECT GOALS

The Downtown Revitalization Project focuses on improvements in a nine square block area centered around the Lockhart Courthouse, as shown in **APPENDIX A**. The project area is in downtown Lockhart between Walnut Street to Prairie Lea Street and from Church Street to Colorado Street. The overall project goals are as follows:

1. Update aging water and sewer infrastructure
2. Upgrade and modernize streetscape and drainage
3. Provide pedestrian friendly space
4. Improve traffic flow and safety
5. Preserve number of parking spaces
6. Enhance overall aesthetic of downtown
7. Minimize the overall project cost.

1.3 BACKGROUND / PREVIOUS WORK

Sustainable Places Project

In 2011, Lockhart was selected as one of five cities in Central Texas to participate in the Sustainable Places Project, described as “a regional planning initiative aimed at helping communities create the conditions for livable places consistent with local goals and values.” This project was a two-year planning process involving community outreach, development planning, economic and market research, and financial planning for the 1,311-acre area in Lockhart including Downtown and the US 183 corridor from SH 130 south to the southern City Limit. Specific to the downtown area, the project identified improvements that could enhance the Courthouse Square with pedestrian safety, accessibility improvements, and streetscape improvements. A variety of alternatives were developed for the Courthouse Square improvements, culminating in a recommended concept that included:

1. A new plaza on the north side of San Antonio Street
2. Realignment of San Antonio Street for safer more efficient channeling of traffic.

3. Coordination with TxDOT to reroute truck through traffic between SH 130 and US 183 on San Antonio Street (SH 142).
4. Addition of pedestrian bulb-outs and pedestrian refuges.
5. Limited loss of parking due to public feedback

The final report for the Lockhart Sustainable Places Project was issued and adopted by City Council in December of 2013. This report is included herein in as **APPENDIX B**.

Engineering Drainage Planning

In 2015, the City hired TRC Engineers, Inc. (TRC) to provide preliminary layouts and breakdown of probable construction and engineering service costs for addressing drainage issues at various locations around the City. One of the areas identified for drainage improvements was the downtown area and included water, sanitary sewer, storm sewer, and street improvements. Based on the cost estimates provided, the City Council ordered certificates of obligation for these downtown improvements.

In 2017, the City hired TRC to provide preliminary engineering and surveying services for the downtown drainage and street Improvements. TRC performed a topographic survey to gather information for the project design. Additionally, TRC prepared preliminary drainage calculations and design to include storm sewer sizing and a general layout. The findings from this engineering analysis are summarized in the Lockhart Downtown Improvements Project Report completed by TRC and dated January 2020 (**APPENDIX C**).

Additional Engineering Planning

In 2021, TRC presented additional scope items to consider during a council workshop. Additional scope items included landscaping, sidewalk and pedestrian safety improvements, parking and traffic reconfiguration, lighting, and electrical improvements, and incorporating recommendations from the Sustainable Places Project final report. This council presentation is shown in **APPENDIX D**. TRC was then authorized by Council to develop Conceptual Design Alternatives, in consultation with its landscape architect, Rialto Studios Inc. (Rialto), and in coordination with all stakeholders.

2.0 CONCEPTUAL DESIGN DEVELOPMENT

Coordination Meetings

Coordination meetings were held early on in the conceptual design process. Representatives from the design team attended an initial site visit and kickoff meeting with City staff. The purpose of the meeting and site visit was to seek input from City staff on desired improvements for incorporation into the design alternatives. Additionally, the design team attended a virtual coordination meeting with representatives from TxDOT for project notification, gathered input on potential improvements affecting SH 142 (a TxDOT roadway) to understand the process for

getting TxDOT approval of these proposed improvements. Lastly, TRC and City staff attended a coordination meeting with representatives from Caldwell County for project notification and to gather their input on potential improvements affecting the Caldwell County Courthouse, an active office for the County and nationally registered historic building.

Preliminary Traffic Study

As part of the revitalization to downtown, the City wanted to evaluate changes to traffic patterns on the streets around the courthouse, specially, North Main Street, North Commerce Street, and San Antonio Street (SH 142). In August 2021, the City Public Works Department obtained traffic counts on these three streets which was used as the basis for the traffic study. The results of the study recommended either converting Main and Commerce to one-way streets or provide all-way stop control at the intersections with San Antonio Street if kept as two-way streets. Additionally, the study found that an unusually high amount of truck traffic used SH 142 through the downtown area and that an alternative route should be found and implemented. The full traffic study report is attached as **APPENDIX D**.

Texas Historical Commission Consultation

TRC performed a cultural resource background review for the City's proposed Downtown Revitalization Project. The purpose of this review request consultation from the Texas Historical Commission (THC) to ensure the proposed improvements are in cultural resources compliance under the Antiquities Code of Texas (Section 191.0525) (ACT). TRC submitted a THC consultation letter on February 1, 2022 (**APPENDIX F-1**) and received a written comment response letter on March 3, 2022 (**APPENDIX F-2**).

In its response letter, the THC History Programs Division noted that much of the project area is located within the Caldwell County Courthouse Historic District, which was listed in the National Register of Historic Places in 1978. Additionally, the project area includes the Caldwell County Courthouse, which was designated as a State Antiquities Landmark in 1981, and the Emmanuel Episcopal Church, which was listed in the National Register in 1974 and was designated as a Recorded Texas Historic Landmark in 1962. The THC Archaeology Division confirmed there are no historic archeological properties present or that will be affected in the project area. It is recommended that the City and design team remain in consultation with THC throughout the final design and construction of the Project to continue ensuring compliance with the ACT.

Conceptual Design Master Plans

The design team (TRC and Rialto) was tasked with preparing three (3) concept-level design alternatives for enhancing the hardscape, landscape, pedestrian mobility, roads, and utilities within the nine-block project area. The concepts were to include the following improvements:

1. Hardscape pavement (sidewalk) enhancements

2. Revised parking configurations along North Main Street and around the Caldwell County Courthouse.
3. Planting plan identifying landscaped areas with suggested plants.
4. Accessibility / pedestrian access to include identification of curb ramp locations, curb bulb outs, and pedestrian refuge islands.
5. Suggested pedestrian scale lighting fixtures
6. Utility (water, sewer, drainage) and street improvements.

To start the conceptual design process, the design team performed a precedent study reviewing a number of historic downtown areas throughout Texas to review traffic patterns, parking, surrounding businesses, in comparison with Lockhart. Using information from this precedent study, the previous studies described earlier in this report, and in coordination with City staff, the design team developed three conceptual streetscape designs and three different typical intersection designs for consideration by the public.

Open Houses

The design team was tasked with presenting the project goals, proposed improvements, and the design alternatives to the public at an open house presentation.

Open House #1

The first open house was held on November 15, 2021, at the Connection's Center located in downtown Lockhart. Over 100 people were in attendance. The purpose of the first public forum was to present the three initial design concept alternatives (both streetscape and intersection designs). After the presentation, the design team entered into breakout sessions to receive comments directly from the public. The presentation and a ten-question survey were also made available for the public to provide feedback on-line on the City's website. The presentation is included in this report in **APPENDIX G**.

The ten-question survey addressed safety, traffic flow, on-street parking configuration, and parking around the courthouse. Based on the survey results and feedback received, the design team further refined the design alternatives.

Open House #2

The second open house was held on March 3, 2022, at the same location as the first open house. The purpose of this open house was to present the outcome of public feedback collected from the first open house and the updated streetscape concept designs that incorporated public comments. Potential lighting, vegetation, traffic pattern changes, and signage options were also discussed. The presentation is included in this report in **APPENDIX H**. Similar to the first open house, the design team held breakout sessions, after the presentation, to receive comments directly from the public. The

presentation and three-question survey were again made available for the public to provide feedback on-line on the City's website.

There were 182 total respondents to the Open House #2 survey collected on March 28, 2022. Results from the Open House survey are presented in the Table below.

Question	Total Count		Percent		Total Responses
	Yes	No	Yes	No	
1. Are you in favor of changing the 4 intersections around the courthouse to all-way stop control (i.e., stop signs would be placed at each corner in all directions of traffic)?	123	59	68%	32%	182
2. Are you in favor of rerouting truck traffic from the downtown area on San Antonio Street (SH 142) to an alternate route around town using SH 130 and Hwy 183? (Note: local deliveries would still be allowed to use SH 142)	160	22	88%	12%	182
Question	Option 1	Option 2	Option 1	Option 2	
3. Which Streetscape Design option do you prefer?	86	75	53%	47%	161

Additionally, during the breakout session and in the comments of the on-line survey, numerous people expressed concern over the preservation of the existing Live Oak trees located in the medians of Main, Commerce, and Market streets.

3.0 RECOMMENDED IMPROVEMENTS AND CONCEPTUAL DESIGN

The downtown revitalization project will consist of a variety of proposed improvements including water and wastewater utility replacement, installation of underground drainage, and street rehabilitation and resurfacing. These are briefly described below.

Water Main Improvements

The water lines to be replaced within the project area include 6" and 8" cast iron pipes that are between fifty to seventy years old. Approximately, 3,120 linear feet (LF) of 8-inch PVC water main including valves, hydrants, and other appurtenances will be installed as part of this project.

Wastewater Main Improvements

The existing wastewater mains in the downtown area consist mainly of aging 6" and 8" vitrified clay or cast-iron pipe. The proposed infrastructure improvements would replace

approximately 21 manholes, 79 service connections, and 3,300 linear feet of wastewater mains with new 8" SDR 26 PVC pipe.

Drainage Improvements

Most of the existing drainage infrastructure in the downtown area is comprised of at-grade culverts under pedestrian ramps. The proposed improvements would move much of the drainage below ground and allow for the hardscape improvements presented in the conceptual designs. Another benefit would be to remove potential trip and fall hazards caused by the existing culverts.

As part of TRC's previous engineering drainage planning projects, the downtown area was surveyed extensively by TRC and analyzed to determine the existing runoff and drainage patterns. The results of the survey were used to develop the preliminary design for the proposed storm drain system. First, the proposed storm drain alignments were laid out to provide an effective and cost-efficient system based on existing drainage patterns. Then the north and south drainage basins were delineated into smaller areas based on proposed inlets located throughout the system. This information was input into Autodesk Storm and Sanitary Analysis 2018 (SSA), a stormwater analysis software, to determine the sizing of the proposed drainage inlets and pipes based on a design capacity of a 25-year storm event, per City Code.

The proposed storm drains and the drainage areas are shown in **Map 7 of APPENDIX A**. Based on the preliminary analysis and design, the proposed storm drain system will consist of approximately 840 LF of 30-inch reinforced concrete pipe (RCP), 2,540 LF of 24-inch RCP, 1,180 LF of 18-inch RCP, and more than 20 curb inlets located throughout the downtown area. In general, everything north of the courthouse will drain north and discharge to Town Branch Creek at Colorado Street and everything south of the courthouse will drain south to the existing drainage channel north of Live Oak Street. The results of the modeling indicate that the proposed storm drain improvements are optimally sized to convey stormwater runoff to the north and south discharge locations.

Street Improvements

The streets in the downtown area are in need of repair due to normal wear and tear and trench repair from utility lines. Most of the streets in the downtown area will receive a 3" mill and be repaved to provide a smooth driving surface after all of the underground utilities have been installed. Portions of Main Street will be entirely reconstructed, as shown in **Map 8 of APPENDIX A**. The south section of Main Street will be raised to reduce the vertical distance between the top of curb and top of pavement. The north section of Main Street will be lowered such that the roadway is lower than the adjacent storefronts.

Traffic Improvements

The survey results from the 2nd open house indicated the public is largely in favor of the proposed traffic improvements around the courthouse, namely incorporating all-way

stop control at the main intersections, and rerouting truck traffic from SH 142 through downtown.

Currently, the intersections around the courthouse have a combination of stop signs, yield signs, or no stop control leading to difficulty for drivers navigating through the intersections. Additionally, oncoming traffic can be obscured by vehicles parked in the medians of Main Street, Market Street, and Commerce Street. Incorporating all-way stop control at the main intersections will lead to a safer downtown for both pedestrian and vehicular traffic.

As detailed in the Traffic Study, there is an unusual number of large trucks that pass through downtown on San Antonio Street (SH 142). Public support was overwhelmingly in favor of rerouting truck traffic from SH 142 through downtown. Reducing the number of trucks traveling through downtown will reduce noise and air pollution and enhance the overall ambience in the downtown area, as well as reduce traffic and increase pedestrian safety.

Final Conceptual Master Plan

Streetscape Design

Two options were presented at the public meeting on March 3, 2022, with post meeting survey results favoring Option One. Supplemental comments from the public were noted after the meeting and on the survey about saving the oak trees in all the medians, including Market Street. Option One incorporates the following design items as illustrated in **APPENDIX I**.

1. All way stop signs at the intersections around the courthouse
2. Retains the medians on Main and Commerce with trees
3. Retains the historic streetlights in the median except for San Antonio, where they will be relocated to the south side of the street
4. Improves crossings with pavers and the addition of bulb outs at intersections
5. Removes parking in the medians for better visibility for motorists at the intersections
6. Retains two-way traffic north of San Antonio Street and south of Market Street
7. Improved lighting at the intersections
8. Brings parking alignment and spaces up to standard dimensions

The design team will present to Council Option 1A that removes the wide plaza area on the south side of Market Street and retains the median trees, See **APPENDIX J**. All the remaining medians will be curbed and planted with turf or low plant material to preserve

visibility for motorists at the intersections. It will be the recommendation of the design team to Council to proceed with this concept.

Planting Design

The recommended drought tolerant, native, or adapted plants presented were accepted at the public meetings. Low plant material should be used at intersections for visibility and a mix of native trees and vegetation with seasonal color should be used for visual interest throughout the seasons.

Lighting Plan

The design team suggests keeping the tall streetlights in the median except San Antonio as noted above and re-lamping the fixtures with LED equivalent light sources to match the current lumen output and distribution. Supplemental pedestrian fixtures around the courthouse and public areas should be explored moving forward with a target of 1 foot candle (fc) between fixtures. Additional LED streetlights should be considered at the intersections in the study area with a goal of achieving a light level of 3 fc between fixtures at the intersections for better pedestrian visibility at night.

4.0 CONSTRUCTION CONCERNS

The City of Lockhart has expressed concerns about the effect this project could have on the downtown area and the disruptions it may cause to local businesses and events. Part of the scope of the design process will include public relations and engagement of the affected businesses whose input will be considered during design. Construction can be phased so that only one block is shut down at a time to limit interruptions to business and the disruption of traffic. It is anticipated that each block will take approximately one to two months, meaning construction could take up to two years to complete. Special attention will be given to traffic control and pedestrian safety due to the amount of vehicular and foot traffic in the downtown area. Existing utilities could potentially cause construction issues due to the historical nature of the downtown area and the possibility of unknown abandoned utilities.

5.0 TOTAL PROJECT COST

A Class 4 cost estimate as defined by the Association for the Advancement of Cost Engineering (AACE) is provided in **APPENDIX K**. A Class 4 estimate is for study or feasibility purposes and has an expected accuracy range of up to 50% more on the high side, and as low as 30% less on the low side. The total anticipated project cost is \$8,505,000.00 inclusive of survey, design, permitting, and construction.

6.0 PROJECT SCHEDULE

This report will serve as the basis for the final design of the downtown improvements. It is being presented to the City of Lockhart for adoption/approval by City Council. Once approved by Council, TRC (and Rialto) will submit a proposal detailing the project scope to include design, permitting, bidding, and construction. The anticipated project length

from beginning of design to end of construction is estimated to take between three to four years. A detailed schedule breakdown is shown below.

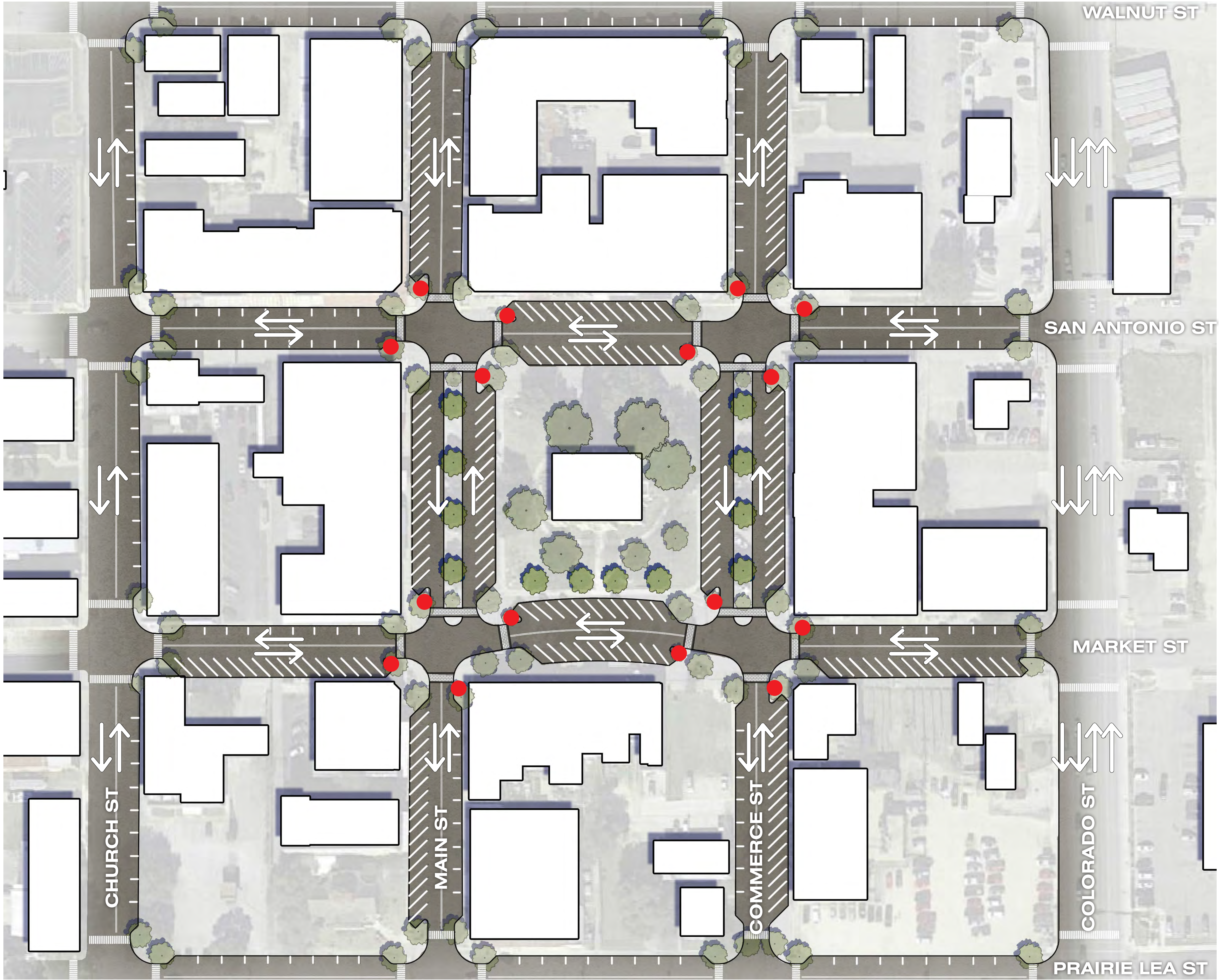
- | | |
|--|---|
| 1. Council Approval of Conceptual Design | April 19, 2022 |
| 2. Design Proposal Approved by Council | May 17, 2022 |
| 3. Design | June 1 st , 2022, to June 1 st , 2023 |
| 4. Permitting | June 1 st to September 1 st , 2023 |
| 5. Bidding | September 1 st to December 1 st , 2023 |
| 6. Construction | December 1 st , 2023, to December 1 st , 2025 |

APPENDIX I

OPTION 1

MAIN POINTS

- TWO-WAY TRAFFIC THROUGHOUT
- FOUR-WAY STOPS
(● = STOP SIGN)
- PLAZA ON MARKET STREET
- **LOSE 12 PARKING SPACES**
- PRESERVE MEDIAN TREES ON COMMERCE AND MAIN
- RELOCATE MEDIAN TREES ON MARKET STREET
- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE

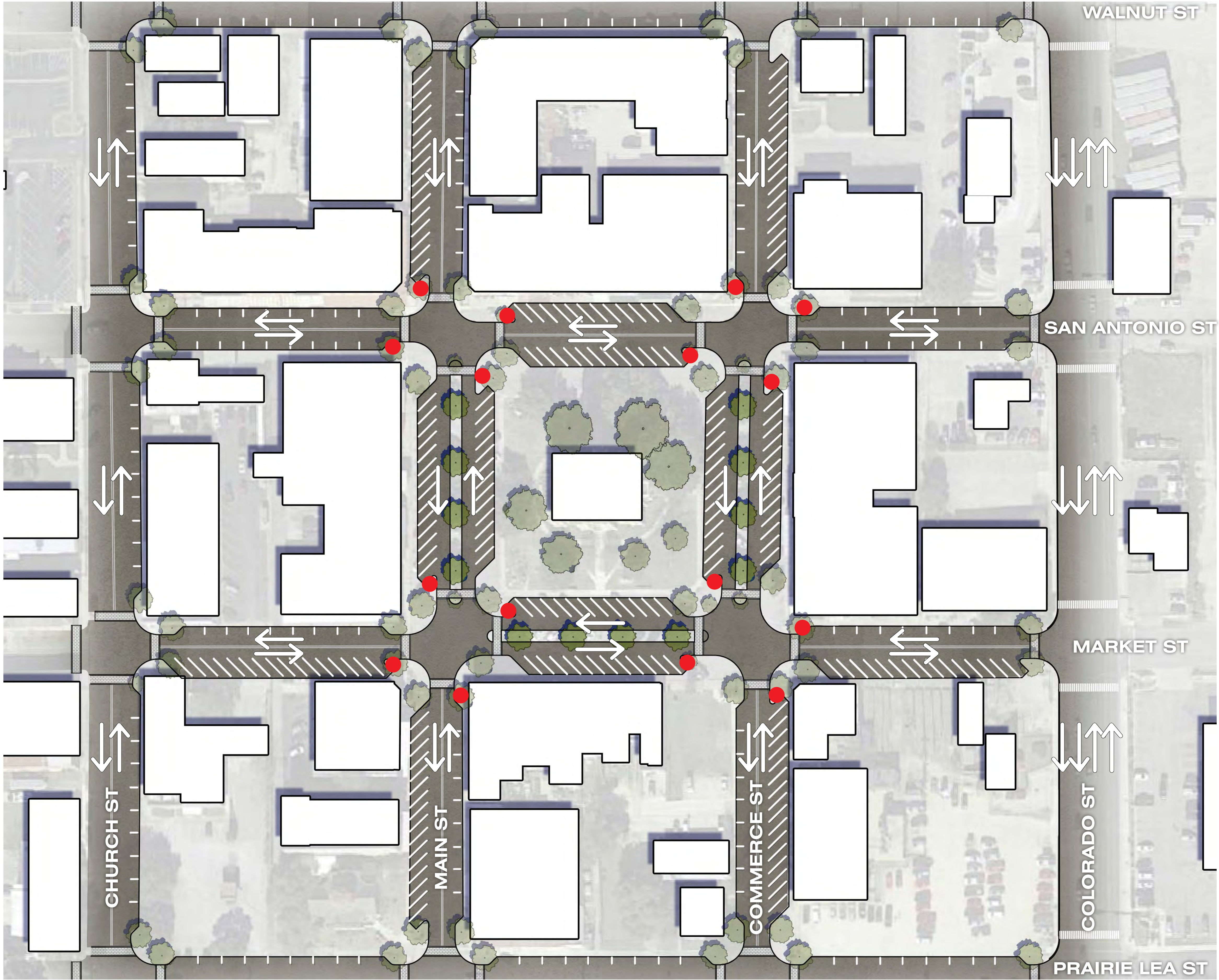


APPENDIX J

OPTION 1A

MAIN POINTS

- TWO-WAY TRAFFIC THROUGHOUT
- FOUR-WAY STOPS
(● = STOP SIGN)
- **LOSE 15 PARKING SPACES**
- PRESERVE ALL MEDIAN TREES
- CURB BUMP-OUTS AND PEDESTRIAN REFUGES SHORTEN CROSSWALKS
- EXPANDED SIDEWALKS AROUND COURTHOUSE AND RETAIL FRONTAGE



APPENDIX K

**OPINION OF PROBABLE
CONSTRUCTION COSTS**

Engineer's Opinion of Probable Construction Costs

	Description	UNITS	Total	Unit Price	Subtotal
Storm Sewer Improvements	Remove 36" CMP	LF	60	\$60.00	\$3,600.00
	Remove 24" RCP	LF	180	\$60.00	\$10,800.00
	Remove 12" CMP	LF	70	\$60.00	\$4,200.00
	Remove Grate Inlet	EA	1	\$60.00	\$60.00
	Install Standard 10' Curb Inlet	EA	16	\$5,200.00	\$83,200.00
	Install Standard 5' Curb Inlet	EA	7	\$4,650.00	\$32,550.00
	Gate Inlet	EA	3	\$4,000.00	\$12,000.00
	Junction Box	EA	6	\$4,650.00	\$27,900.00
	Install 30" RCP	LF	840	\$180.00	\$151,200.00
	Install 24" RCP	LF	2,540	\$175.00	\$444,500.00
	Install 18" RCP	LF	1,180	\$165.00	\$194,700.00
	OSHA Trench Protection	LF	4,550	\$2.50	\$11,375.00
	Street Repair	LF	4,550	\$35.00	\$159,250.00
Storm Sewer Improvements Total =					\$1,135,335.00
Water Main Improvements	Install 8" Water Main	LF	3,120	\$72.00	\$224,640.00
	Connect to Ex 8"	EA	7	\$4,000.00	\$28,000.00
	Connect to Ex 2"	EA	2	\$3,000.00	\$6,000.00
	Fire Hydrant	EA	13	\$5,365.00	\$69,745.00
	Install 8" Gate Valve	EA	8	\$3,300.00	\$26,400.00
	Fittings	TON	10	\$9,500.00	\$95,000.00
	2" Water Services	EA	81	\$2,500.00	\$202,500.00
	3/4" Water Services	EA	12	\$2,300.00	\$27,600.00
	Remove Fire Hydrant	EA	13	\$1,150.00	\$14,950.00
	OSHA Trench Protection	LF	3,120	\$2.50	\$7,800.00
	Street Repair	LF	2,834	\$35.00	\$99,190.00
Water Main Improvements Total =					\$801,825.00
Wastewater Improvements	8" Sanitary Sewer	LF	3,300	\$115.00	\$379,500.00
	Manhole	EA	21	\$5,610.00	\$117,810.00
	Connect to Existing 6"	EA	2	\$1,500.00	\$3,000.00
	Connect to Existing Manhole	EA	4	\$5,000.00	\$20,000.00
	Cleanout	EA	2	\$1,000.00	\$2,000.00
	4" Sewer Services	EA	79	\$2,950.00	\$233,050.00
	OSHA Trench Protection	LF	3,300	\$2.50	\$8,250.00
	Street Repair	LF	3,300	\$35.00	\$115,500.00
Sanitary Sewer Improvements Total =					\$879,110.00
Street Improvements	3" Mill and Overlay 90' wide (courthouse)	LF	833	\$320.00	\$266,560.00
	3" Mill and Overlay 50' wide	LF	4,855	\$180.00	\$873,900.00
	Main Street Reconstruction 55' wide	LF	498	\$500.00	\$249,000.00
	Cross walk Pavers	SF	4,479	\$30.00	\$134,370.00
	Adjust Manhole Tops	EA	19	\$1,800.00	\$34,200.00
	Adjust Water Valves	EA	40	\$1,170.00	\$46,800.00
	Storm Water Pollution Plan	LS	1	\$15,000.00	\$15,000.00
Street Improvements Total =					\$1,619,830.00
Landscape Improvements	Sidewalks	SF	35,000	\$8.00	\$280,000.00
	Pavers	SF	10,500	\$25.00	\$262,500.00
	Special Paving	SF	34,000	\$11.00	\$374,000.00
	Planting	SF	30,000	\$14.50	\$435,000.00
	Lighting (Intersection & Pedestrian)	LS	1	\$500,000.00	\$500,000.00
	Irrigation	LS	1	\$120,000.00	\$120,000.00
Landscape Improvements Total =					\$1,971,500.00

Construction Cost = \$6,407,600.00
 Contingencies (15%) = \$962,000.00
 Design (18%) = \$1,154,000.00
PROJECT COST = \$8,523,600.00
 Class 4 Low End (-30%) \$5,966,520.00
 Class 4 High End (+50%) \$12,785,400.00

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion and/or action regarding a property sale agreement for 6.788 acres in 130 Industrial Park III with Ziegenfelder Company.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

Attached is a land purchase agreement with the Ziegenfelder Company.

Based in Wheeling, WV, the Ziegenfelder Company is a private, family-owned frozen novelty manufacturer that focuses on producing the highest quality frozen ice treats. Its signature item, Budget Saver Assorted Twin Pops, is commonly referred to as the "Rainbow Array™". They are a significant manufacturer of twin pops with production facilities in Wheeling, WV; Chino, CA; and Denver, CO.

The Ziegenfelder Company has produced steady and significant double digit growth year over year for the past 15 years while growing its tribe from 60 employees in one facility with three production lines to over 300 employees across three facilities and 12 production lines. Core to its success has always been making the highest quality, best tasting products in the market and selling them to valued customers at the best possible price. The Ziegenfelder Company owns and produces the brand Budget Saver, as well as licensed and private labeled products for premiere retailers. 24/7 operations in our three facilities, generates over 2.5 million pops per day.

The potential Lockhart facility is estimated to be a \$30 million investment and create up to 100 jobs in a 42,000 SF facility.

Ziegenfelder has presented the LEDC with a purchase sale agreement for land in the new industrial park with the details below:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

Information of note:

Site under the contract: Block B, Lot 1 (6.788 acres) (See Map)

1. Purchase Price: \$2.75/SF or \$813,134.52
2. Earnest Money: \$75,000
3. Feasibility Period: 90 days to complete its Due Diligence related to the site with an additional 45 days beyond the feasibility period to obtain all necessary permits for buyer's intended use.
4. State of Texas incentives (the Texas Enterprise Fund) is a condition of closing.

The LEDC Board took unanimous action to accept the contract with edits which are being presented tonight at its April 11, 2022 regular board meeting

PROJECT SCHEDULE (if applicable): Company would begin construction in 2022 should all conditions of the contract be met.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): Not applicable

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The LEDC Board of Directors unanimously approved the contract presented this evening at its April 11, 2022 regular board meeting

STAFF RECOMMENDATION/REQUESTED MOTION: Approve the property sale agreement for 6.788 acres in Lockhart Industrial Park III with Ziegenfelder Company as presented.

LIST OF SUPPORTING DOCUMENTS: LEDC Draft Minutes 4.11.22, PSA v3 Lockhart Industrial Park Ziegenfelder (4-13-22)

DRAFT MINUTES
LOCKHART ECONOMIC DEVELOPMENT CORPORATION

MONDAY, APRIL 11, 2022
6:00 P.M.

CLARK LIBRARY ANNEX-COUNCIL CHAMBERS
217 SOUTH MAIN STREET, 3RD FLOOR
LOCKHART, TEXAS

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Sally Daniel; Doug Foster; Frank Estrada; Juan Alvarez; David Bryant

Board Members Absent: None

Staff Present: Mike Kamerlander; Pam Larison, Treasurer; Nicole Warren, LEDC Attorney

1. CALL TO ORDER

The meeting was called to order by Alan Fielder, Chairman at 6:00 pm

2. PUBLIC HEARING – 6:00 PM

2.1 Hold a public hearing regarding a performance agreement with Revival Cycles, Inc. pursuant to Sec. 505.159, Local Government Code.

Public hearing open: 6:00 PM

Closed: 6:01 PM

No public present.

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the March 14, 2022 meeting.

No Discussion.

Motion to approve the minutes from the March 14, 2022 meeting.

Motion: Sally Daniel

Second: Alfredo Muñoz

Vote: 7 of 7

4.2 Discussion and/or action regarding sales tax and financial statements for March 2022.

- Audit discussion and suggestions

Ms. Larison provided an overview of the financials from the month with no significant issues to report. Sales tax revenues continue to outpace last year's. Ms. Larison went over the auditor's report which contained nothing unusual in the LEDC's accounting. The accounting firm did suggest LEDC funds be placed in its own bank account separate from the City's funds. The board discussed this at length and provided consensus to move forward with the auditor's recommendation.

Motion to approve the March 2022 financial statements.

Motion: Alfredo Muñoz

Second: Sally Daniel

Vote: 7 of 7

4.3 Discussion and/or action regarding LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

The Economic Development Performance Agreement is to provide a rebate of up to \$250,000 to Revival Cycles, Inc. for reimbursement of building renovations including but not limited to window replacements, life safety equipment, and electrical work and upgrades, and a rebate of EDC sales taxes collected by Revival Cycles, Inc. over a 5-year term.

Motion to approve LEDC Resolution 2022-08 for an economic development performance agreement with Revival Cycles, Inc.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.4 Discussion and/or action regarding a property sale agreement for 19.665 acres in Lockhart Industrial Park III with Titan Development.

Due to the right of first refusal with Titan Development, the company has exercised its right to purchase this tract in Industrial Park III. Terms were discussed as part of the agenda packet.

Motion to to Authorize the LEDC President to execute a purchase sale agreement for 19.665 acres in Lockhart Industrial Park III.

Motion: Alfredo Muñoz Second: Doug Foster Vote: 7 of 7

4.5 Discussion and/or action regarding a property sale agreement for 6.788 acres in Lockhart Industrial Park III with Ziegenfelder Company.

Motion: Doug Foster Second: Alfredo Muñoz Vote: 7 of 7

4.6 Discussion and/or action regarding phase 2 of Lockhart Industrial Park III.

Staff reviewed the current state of Lockhart Industrial Park III and went over the need to begin phase II of the park due to contracting with business entities for land in phase II. Staff went over the possibility of cash flow lagging sales and that the EDC would need to cover those costs until the land sales closed which are all expected by the end of the year.

Motion: Doug Foster Second: Sally Daniel Vote: 7 of 7

4.7 Discussion and/or action regarding authorization of a Memorandum of Understanding between LEDC and the Greater San Marcos Partnership for the Fiscal Year 2021-22.

Staff reviewed the proposed MOU with the Greater San Marcos Partnership for the 2021-22 Fiscal Year. After deliberations, the board decided to remove on provision in the MOU and reduce the investment in GSMP from \$20,000 to \$15,000 for the current fiscal year.

Motion: Doug Foster Second: Juan Alvarez Vote: 7 of 7

5. Executive Session – In: 7:16 PM Out: 7:37 PM

5.1 Close Open Session and Convene Executive Session pursuant to Secs. 551.071 (consultation with attorney), 551.072 (real estate) and 551.087 (Economic Development) of the Texas Open Meetings Act. Gov't Code Ch. 551, to discuss the following:

- Summertime
- Revive
- Recycle
- Specs 2
- Rose

6. Board Action from Executive Session

6.1 Motion to accept the LOI terms for Project Specs 2 and direct staff to negotiate a purchase sale agreement as discussed in executive session.

Motion: Doug Foster Second: Sally Daniel Vote: 7 of 7

6.2 Motion to authorize the LEDC President to negotiate and execute a Purchase Sale Agreement with Project Rose.

Motion: Alfredo Muñoz Second: David Bryant Vote: 7 of 7

7. DISCUSSION ONLY

7.1 Activity Updates

Mr. Kamerlander gave an update on the LEDC Staff activities for March 2022.

ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz Second: Sally Daniel Vote: 7 of 7

LEDC Board of Directors Adjourned at 7:44 PM.

Minutes approved this the 9th day of May, 2022.

Alan Fielder, Chairman LEDC

Michael Kamerlander, Secretary LEDC

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (the "Agreement"), is entered into by and between **LOCKHART ECONOMIC DEVELOPMENT CORPORATION**, a Texas corporation ("Seller") and **THE ZIEGENFELDER COMPANY**, a West Virginia corporation, or its assigns (collectively, "Buyer"), regarding the Property (as defined in this Agreement). Buyer and Seller are hereinafter referred to each, individually, as a "Party" and, collectively, as the "Parties".

ARTICLE 1 - PROPERTY

1.1 Property. In consideration of the mutual covenants and agreements herein, and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties intend to be bound by this Agreement and hereby agree to the terms of this Agreement. Buyer agrees to buy and Seller hereby agrees to sell and convey all of Seller's rights, title and interest in and to the property described in Section 1.2 hereof (the "Property") pursuant to the terms and conditions set forth herein.

1.2 Description of Property. The "Property" consists of: (a) the lot(s) or parcel(s) of real property consisting of approximately 6.788 acres known as Block B, Lot 1 of the Lockhart Industrial Park III, being located near the intersection of W. San Antonio Street and State Highway 130 in Lockhart, Caldwell County, Texas (the "Land"), being all or a portion of the tax parcel with Property ID # 79142, as described and/or depicted in **Exhibit A** to this Agreement, and being all or a portion of the tax parcel with Property ID # 79142; (b) all rights, privileges, easements, buildings, fixtures, and improvements appurtenant to the Land and owned by Seller (collectively the "Appurtenances"); (c) all rights of prescription or adverse possession, if any, associated with the Land (collectively, the "Prescriptive Rights"); (d) all of Seller's right and title in and to water, timber, oil, gas, sulfur, shale, coal, metals and all other minerals of every kind or character in, on, under and that may be produced from the Land at the surface or any greater depth, to the extent they are owned or controlled by Seller (but without any warranty of title) (collectively, the "Water and Mineral Rights") and, together with the Land, the Appurtenances and the Prescriptive Rights, collectively, the "Real Estate"; (e) all permits, licenses, certificates of occupancy, approvals, authorizations and orders obtained from any governmental authority and relating to the Real Estate or the business of owning, maintaining and/or managing the Real Estate (collectively, the "Entitlements"); (f) all of Seller's rights under any leases, profits, licenses and agreements related to the Real Estate accepted and assumed by Buyer, in Buyer's sole discretion pursuant to this Agreement (collectively, the "Leases"); (g) all private rights under any development agreement or recorded declaration, agreement or other document affecting the Real Estate, including rights to any payment, credit, escrow or bond in connection with the same (the "Private Rights"); and (h) all of Seller's personal property and intangible property, if any, located at the Real Estate and used solely in connection with Seller's ownership and operation of the Real Estate (the "Personal Property").

1.3 Subdivision. As of the Effective Date, the Land is a portion of a larger parcel of real property, designated as Tax Parcel # 79142 (the "Seller's Parcel"), as depicted in **Exhibit A-1** to this Agreement. Within the first **10 business days** after the Effective Date (as defined in this Agreement), Seller shall, at Seller's sole cost and expense, provide for Buyer's review and approval (which approval will not be unreasonably delayed, conditioned or withheld) a proposed subdivision plan and any required ancillary documents that subdivides the Land from the Seller's Parcel that substantially matches **Exhibit A** to this Agreement and provides the Land with the access, utility and other easements required for Buyer's proposed development (the "Buyer-Approved Subdivision Plan"). Within the first **business 90 days** after the Effective Date (the "Subdivision Deadline"), Seller shall, at Seller's sole cost and expense: (a) obtain the approval of the Buyer-Approved Subdivision Plan from all necessary governmental authorities and the Escrow Agent; (b) record the Buyer-Approved Subdivision Plan with the applicable recorder's office and take such other steps as may be required to make the Buyer-Approved Subdivision Plan final and legally binding; and (c) provide a copy of the recorded Buyer-Approved Subdivision Plan to Buyer and Escrow Agent. For every day after the Subdivision Deadline that Seller is late in satisfying any of the requirements in this Section, the Feasibility Period shall be extended by one day, along with all deadlines tied to the Feasibility Period. Seller shall be responsible, at its own expense, for getting any amendments to prior approvals or permits and any approvals under recorded documents that become necessary because of the approval or recording of the Buyer-Approved Subdivision Plan.

ARTICLE 2 - PURCHASE PRICE

2.1 Payment of Purchase Price. The "Purchase Price" for the Property shall be **\$813,134.52**, subject to Buyer's confirmation of the acreage and square footage of the Property.

2.2 Earnest Money. Within **5 business days** after the Effective Date, Buyer shall deposit with Escrow Agent the sum of **\$75,000.00** (the "Initial Deposit"). The Initial Deposit (as defined in this Agreement) and all other monetary deposits and extension fees tendered pursuant to this Agreement (and all amendments hereto), and all interest earned on any such deposits or fees (collectively, the "Earnest Money") shall be held in trust and applied in accordance with the terms of this Agreement. Escrow Agent shall deposit all Earnest Money in an account with a federally insured financial institution and, at Buyer's request, such account shall be interest-bearing; any interest accruing on the Earnest Money while in Escrow Agent's custody shall accrue to and be the property of Buyer, who shall be the named recipient for tax purposes, including on any Form 1099s issued by Escrow Agent. All Earnest Money shall be applicable to the Purchase Price at Closing. Furthermore, upon the full execution of this Agreement and Deposit of the Initial Deposit, Escrow Agent shall immediately deliver to Seller **\$100.00** of the Initial Deposit (the "Independent Consideration") in consideration for Seller's entering into this Agreement and granting Buyer each of the Contingency Periods (as defined in this Agreement). The **\$100.00** shall not be considered part of the Earnest Money and will not be refundable to Buyer under any circumstances, but will be applied to the Purchase Price at Closing.

2.3 Escrow and Title Agent. The "Escrow Agent" is the company (through its agent) listed along with its contact information in the signature pages of this Agreement, who shall serve as the escrow agent and title agent for the transaction contemplated by this Agreement (this "Transaction").

ARTICLE 3 - REPRESENTATIONS, WARRANTIES AND COVENANTS. In addition to others in this Agreement, Seller hereby makes the following representations, warranties and covenants, each of which is material and is relied upon by Buyer, and each of which shall survive closing and delivery of the Deed:

3.1 Seller's Representations and Warranties.

3.1.1 Title. Seller alone holds fee simple title to the Real Estate and, at the Closing, Seller will have and will convey to Buyer good, marketable and indefeasible title to the Real Estate, subject only to general real estate taxes not yet due and payable and to the Permitted Exceptions (as defined in this Agreement).

3.1.2 Subdivision. At the time of Closing, and at the sole cost of Seller, the Land shall be one or more separately deeded parcels and separately assessed tax parcels that can be conveyed to Buyer independently from all other land in accordance with applicable law.

3.1.3 Lawsuits, Violations, Condemnations. To Seller's current, actual knowledge, there are no: (a) lawsuits, arbitrations, mediations or claims pending or threatened with respect to or affecting the Property and there are not presently circumstances that could reasonably form the basis for the same; (b) outstanding notices of any uncorrected violations of any laws, statutes, ordinances, rules or regulations with regard to the Property, its condition, or use; (c) voluntary or involuntary bankruptcy proceedings pending or threatened which involve Seller or the Property; or (d) condemnation or eminent domain proceedings pending, planned, or threatened against any portion of the Property.

3.1.4 Existing Leases. There are no leases, profits or licenses currently in effect, or scheduled to be in effect, with respect to all or any part of the Property and there are no other parties in possession of any portion of the Property.

3.1.5 Third-Party Rights. No options, rights of first refusal, rights of first offer, or other contracts have been granted or entered into which give any other party a present or future right to purchase or acquire any interest in the Property or any part thereof.

3.1.6 Seller's Deliverables. To Seller's knowledge, the materials delivered to Buyer pursuant to Article 4 of this Agreement contain no material untrue or misleading information.

3.1.7 Agreements. There are no maintenance, management, service, brokerage or similar agreements related to the Property that can be asserted against Buyer or the Property after the Closing or, to the extent that such agreements do exist as of the Effective Date, they will be terminated prior to Closing;

3.1.8 Mechanics' Liens. No payments for work, materials or improvements furnished to the Real Estate will be due or owing at Closing, and no mechanic's lien, materialman's lien, or similar lien (or right to file such liens) shall exist against the Real Estate at the time of Closing, other than those for which Buyer is responsible under Section 5 of this Agreement (regarding Access).

3.1.9 Seller's Status. Seller: (a) is a corporation, formed and in good standing in Texas; (b) is authorized to do business in the state where the Land is located; (c) is not a "foreign person" within the meaning of the Internal Revenue Code, as amended, Sections 1445 and 7701; (d) has no owner, officer, director, or managing member who is a person with whom others are restricted from doing business under the governing statutes or regulations of the Office of Foreign Asset Control of the U.S. Department of the Treasury (including those named on its Specially Designated and Blocked Persons List) or under any statute, executive order, or other governmental action; and (e) is not engaged in activities that violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or related regulations or orders.

3.1.10 Seller's Authority. Seller, through its representative signing below, has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms and conditions hereof. This Agreement, when executed and delivered by Seller, will be a valid and binding obligation of Seller in accordance with its terms. Neither the execution of this Agreement nor the consummation of this Transaction will: (a) conflict with, or result in a breach, default, or violation of the terms, conditions, or provisions of any law, order, restriction, agreement or instrument to which Seller or any predecessor of Seller is subject or a party; or (b) result in the creation of any lien, charge or encumbrance upon any of the properties or assets to be sold or assigned to Buyer pursuant to the provisions of this Agreement.

3.1.11 Environmental Hazards: To Seller's current, actual knowledge, and except as disclosed in any environmental report provided to Buyer by Seller (collectively, "Environmental Reports"): (a) the Real Estate is not in violation of any Environmental Laws (as defined in this Agreement); (b) no party has used or stored any hazardous or toxic substance or material which is regulated or controlled by any applicable Environmental Law (collectively, "Hazardous Substances") on or about the Real Estate, except in amounts and ways that are in full compliance with all Environmental Laws; (c) the Real Estate does not now contain and has not contained any underground storage tanks, landfills, or hazardous waste management facilities or any Hazardous Substances; and (d) no claim, action, suit or proceeding is pending or threatened against Seller or any third party arising, either directly or indirectly, out of the presence or discharge (whether intentional or unintentional) of any Hazardous Substances in, on, under, at, or about the Real Estate, the violation of any Environmental Laws, or the presence of any tank, underground or otherwise.

For purposes of this Agreement, "Environmental Laws" means, individually and collectively, any law, statute, ordinance, rule, regulation or legal requirement in effect at the Effective Date and/or the date of the Closing, applicable to the Real Estate or ownership of or activities at the Real Estate, and pertaining to (i) the protection of health, safety, or the environment; (ii) the conservation, management, protection, or use of natural resources and wildlife; (iii) the protection or use of source water and groundwater; (iv) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of, or exposure to, any Hazardous Substances; or (v) pollution (including any release to air, land, surface water and groundwater).

3.1.12 Special Districts. Except as shown on the Commitment, the Real Estate is not a part of (and Seller has not committed the party to be part of) any special districts, utility districts or other quasi-governmental entity.

3.1.13 Renewal. From and after the Effective Date, until the date of Closing Seller: (a) will not cause nor (to the best of Seller's ability) permit any act or omission which would cause any of Seller's representations or warranties in this Agreement to be false as of Closing. Prior to Closing, Seller agrees to notify Buyer in writing within **3 business days** after Seller becomes aware of any event, fact or condition that causes a material change to the truth of any of Seller's warranties and representations (a "Representation Notice"). Seller shall have **10 business days** after the discovery in order to cure the event, fact or condition listed in the Representation Notice (the "Representation Cure"). If Seller does not cure the item within those **10 business days**, Buyer shall have **10 additional business days** to elect in writing (the "Representation Notice Response") to: (a) continue with this Transaction; or (b) terminate this Agreement by written notice to the Seller. If Buyer terminates this Agreement under this Section, all of the Earnest Money will be immediately

returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination). If Buyer elects not to terminate this Agreement under this Section, or if Buyer fails to provide timely written notice of its election under this Section, then Buyer will be deemed to have elected to continue with this Transaction. If necessary, the Closing shall be extended to allow for the time periods regarding the Representation Notice, Representation Cure and Representation Notice Response to occur prior to Closing. At Closing, Seller shall, by written certification, renew and affirm each of the warranties and representations set forth in this Agreement, subject to any revisions pursuant to any Representation Notice (the "Renewal Certification").

3.2 Condition of Property.

3.2.1 No Agreements. Seller shall not, without first obtaining Buyer's prior written consent (which may be withheld in Buyer's sole and absolute discretion): (i) extend, terminate, amend, enter into, or allow any new occupancy or use of any portion of the Property under, any license, profit, lease, easement or other agreement; (ii) subject the Property to any new (or extend any existing) covenant, obligation, lien or other encumbrance or burden on the Property that may be binding on Buyer or the Property following Closing; or (iii) enter into any agreements, oral or written, with any architect, contractor, subcontractor or materialman or other party who would be entitled by law to file a mechanics' lien against the Real Estate.

3.2.2 Preservation. From and after the Effective Date, until the date of Closing Seller will keep the Property in the same order and condition as it is as of the Effective Date, except for normal wear and tear, and changes, if any, agreed to in writing (including this Agreement) by Buyer and Seller. Seller will be responsible for all operating costs, bills, charges and liabilities for services rendered prior to the date of Closing and Seller will indemnify and hold harmless Buyer against any such bills, charges and liabilities (including associated reasonable attorneys' fees and costs). At Closing, Seller shall deliver the Real Estate to Buyer with all trash and rubbish removed from the Real Estate and all structures in broom-clean condition.

3.3 Standstill. So long as this Agreement is in force and effect, Seller shall not actively market the Property for sale or other transfer, entertain or make offers to sell or otherwise transfer the Property or engage in negotiations to sell or otherwise transfer the Property with any party other than Buyer; provided, however, Seller or Seller's broker may respond to unsolicited inquiries from third parties by instructing them to inquire again at a later date.

3.4 Incentives. Seller agrees to work with Buyer in good faith, including but not limited to the execution of necessary documents (but without incurring out-of-pocket expenses), to maximize the economic development incentives available to Buyer and the Property, including but not limited to funding from the Texas Enterprise Fund (the "Enterprise Fund"), in a way that is mutually acceptable to both Parties.

3.5 Buyer's Representations and Warranties. Buyer hereby represents and warrants to the Seller as follows:

3.5.1 Buyer's Standing. Buyer is: (a) is a corporation, formed and in good standing in West Virginia; (b) is authorized to do business in the state where the Land is located; (c) is not a "foreign person" within the meaning of the Internal Revenue Code, as amended, Sections 1445 and 7701; (d) has no owner, officer, director, or managing member who is a person with whom others are restricted from doing business under the governing statutes or regulations of the Office of Foreign Asset Control of the U.S. Department of the Treasury (including those named on its Specially Designated and Blocked Persons List) or under any statute, executive order, or other governmental action; and (e) is not engaged in activities that violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or related regulations or orders.

3.5.2 Authority. Buyer has the right, power and authority to enter into this Agreement and to purchase the Property in accordance with the terms and conditions hereof. This Agreement, when executed and delivered by Buyer, will be a valid and binding obligation of Buyer in accordance with its terms. The person signing this Agreement and all documents delivered in connection with the transaction contemplated by this Agreement has full authority to execute and deliver such documents on behalf of Buyer.

3.5.3 No Litigation. To Buyer's knowledge, there are no: (a) lawsuits, arbitrations, mediations or claims pending or threatened with respect to or in any manner affecting the Buyer which would impair or adversely affect Buyer's ability to perform its obligations under this Agreement or any other instrument or document

related hereto; or (b) voluntary or involuntary bankruptcy proceedings pending or threatened which involve Buyer as debtor.

ARTICLE 4 - BUYER'S DUE DILIGENCE

4.1 Buyer's Inspection. Buyer and Buyer's employees, agents and contractors shall have the right to conduct an inspection of the Property, including, but not limited to, such studies, analyses, searches and surveys that may include, but need not be limited to, environmental studies, title review, wetlands delineations, traffic studies, market and feasibility studies, geotechnical studies, utility availability surveys, permit approvals, water studies and other analyses that Buyer shall determine to be necessary or prudent (collectively, the "Inspections").

4.2 Seller's Deliverables. Within **5 business days** after the Effective Date, Seller shall deliver to Buyer, without charge to Buyer, copies of all notices, correspondence, instruments, studies, reports, insurance policies, drawings, specifications, surveys, leases, agreements and other documents related to the Property that may assist Buyer with its inspection of the Property, which are then existing and in Seller's possession or control (collectively, "Seller's Deliverables").

4.3 Title Commitment. Within **5 days** after the Effective Date, Seller, at Seller's sole expense, shall cause the Escrow Agent to order a standard form ALTA owner's title policy commitment covering the Real Estate to the extent of the Purchase Price, issued through Escrow Agent, together with copies of all instruments, if any, referred to in the commitment as exceptions to title (collectively, the "Commitment").

4.4 Survey. Within **5 days** after the Effective Date, Seller, at Seller's sole expense, shall deliver to Buyer a survey of the Land (the "Survey") that: (a) is dated within **30 days** of the Effective Date; (b) is prepared by a Surveyor who is licensed in the State where the Real Estate is located; (c) is certified to Buyer (and its successors and assigns under this Agreement) and Escrow Agent and/or Escrow Agent's underwriter (as required by Title Agent); (d) conforms to all ALTA standards and requirements; (e) showing all easements and improvements on the Land, whether or not of record; (f) specifies all flood hazard areas; and (g) otherwise conforms to Buyer's standards.

4.5 Access. Seller hereby agrees that Buyer is granted access to the Property as required to perform the Inspections, and Buyer shall have the right to disturb the soil and drill borings thereon. In the event the Real Estate is disturbed or damaged in any way as a result of Buyer's inspection activities and the Closing does not occur due to Buyer's fault, Buyer shall at its cost immediately restore the physical condition of the Real Estate as near as reasonably possible to that existing prior to entry by Buyer, which obligation shall survive the termination of this Agreement. Buyer shall indemnify Seller against any claims, liens, liabilities or lawsuits arising from the Inspections and Buyer's inspection activities, excluding, however, from such indemnification any item or matter of any type or nature arising from or in connection with any condition or status of the Property or any portion thereof which may then exist or is discovered or determined as a result of such inspection activities. Any lien placed on the Property by Buyer's contractors or subcontractors shall be removed by Buyer, at Buyer's sole expense, within **21 days** of Buyer's receipt of written notice from Seller. However, in no event will such a lien postpone or prevent the Closing. Buyer will maintain: a Commercial General Liability insurance policy with limits of not less than \$1,000,000.00 per occurrence covering bodily injury and property damage and workers' compensation and employer's liability insurance coverage as required by applicable statute.

4.6 Zoning Approval. Buyer shall use commercially reasonable efforts to obtain, at its own expense, any zoning changes, variances, special exceptions or conditional use approvals (through final and non-appealable determinations) as may be required to permit the Real Estate to be used for Buyer's intended use (the "Zoning Approval"). No changes to the zoning district of the Land shall be effective prior to Closing without Seller's express written consent.

4.7 Permits. Buyer shall use commercially reasonable efforts to obtain, at its own cost and expense, any Zoning Approval and any governmental or private-rights approvals and permits (through any appeals) necessary for Buyer's intended development and operation of the Real Estate (collectively, the "Permits"), pursuant to Buyer's specifications and criteria. Seller hereby covenants and agrees to cooperate with Buyer, without additional compensation (but with no outlay of funds), in Buyer's securing of all Permits. Seller agrees to execute and return to Buyer all applications, maps, plans, or other related documents, and any amendments, returns or renewals thereof, as soon as reasonably practicable, but no later than **15 days** following Seller's receipt of such documents.

4.8 Legal Subdivision. As part of its due diligence, Buyer, with the cooperation of Seller, shall have the right, at its sole option and expense to initiate the consolidation and/or subdivision of the Land, including with land not owned

by Seller, in order to accommodate Buyer's intended use of the Real Estate. SELLER AGREES TO PAY CURRENT YEAR TAXES PRIOR TO CLOSING IF REQUIRED AS A CONDITION FOR PLAT RECORDATION.

4.9 Objection Notices. Prior to the end of the Feasibility Period (as defined in this Agreement), including any extensions, Buyer may provide Seller with one or more written notices (each an "Objection Notice" and, collectively, the "Objection Notices") regarding any matters reflected in the Survey or the Commitment which Buyer requires to be removed, corrected, cured, insured over or otherwise addressed prior to Closing (collectively, the "Objections").

4.9.1 Seller will have **15 days** after receipt of an Objection Notice in which to advise Buyer in writing (an "Objection Response"): (a) which of the Objections, if any, Seller will, at Seller's sole cost and expense and to Buyer's satisfaction, cause to be addressed according to Buyer's request at or prior to Closing (collectively, the "Cured Objections"); and (b) which Objections, if any, Seller will not cause to be addressed according to Buyer's request. Any Objections for which Seller fails to provide an Objection Response within the required time period, Seller shall be deemed to have elected not to cause the same to be addressed according to Buyer's request.

4.9.2 If Seller advises, or is deemed to advise, Buyer that it will not or cannot cause one or more of the Objections to be addressed according to Buyer's request, Buyer will have **15 days** in which, as its sole remedy, to advise Seller in writing (an "Objection Reply") that Buyer's will either: (a) continue with this Transaction, in which case, all matters reflected in the Survey or Commitment and not objected to by Buyer and all Objections (other than the Cured Objections) shall be deemed approved by Buyer (collectively, the "Permitted Exception"); or (b) terminate this Agreement by written notice to Seller and Escrow Agent, in which event, all of the Earnest Money will be immediately returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination). If Buyer fails to provide Seller with a timely Objection Reply within the permitted time period, Buyer will be deemed to have elected to continue with this Transaction in accordance with this Paragraph. Seller shall have no obligation to address one of the standard, "pre-printed" exceptions in the Commitment, except as explicitly provided in this Agreement, nor shall such exceptions constitute Permitted Exceptions.

4.10 New Matters. For purposes of this Agreement, "New Matters" means, collectively: (a) any matters that did not appear on the most recent version of the Commitment or on the Survey; (b) a document related to any leases, profits, licenses or possession rights affecting the Property, that is provided to Buyer in full for the first time after the Feasibility Period has expired; or (c) a title exception document that is provided to Buyer in full and legible form for the first time after the Feasibility Period has expired.

4.10.1 If any New Matter was first recorded, present or binding on the Property prior to the Effective Date, then Buyer may object to the same by written notice ("Updated Objections") delivered to Seller within **7 business days** of Buyer's receipt of the document evidencing the relevant New Matter(s). Within **5 business days** after Seller's receipt of Updated Objections, Seller may provide an Objection Response, similar to one provided in response to Objections. If Seller advises Buyer, or is deemed to advise Buyer (by failing to provide an Objection Response) that it will not or cannot cause one or more of the Updated Objections to be addressed according to Buyer's request, Buyer will have **3 business days** in which, as its sole remedy, to provide an Objection Reply electing to continue with this Transaction or terminate this Agreement and receive a full refund of the entire Earnest Money (regardless of whether it would otherwise be non-refundable under this Agreement). If necessary, the Closing shall be extended to allow for reviews, objections, responses and replies with respect to New Matter(s).

4.10.2 If any New Matter is first created, recorded, present on the Property after the Effective Date, and Buyer did not cause or consent to the same in writing, such New Matter shall be deemed a Cured Objection.

4.11 Automatic Objections. Notwithstanding anything to the contrary in this Agreement, the following items shall be deemed to be objected to by Buyer, regardless of whether raised in an Objection Notice, and shall be Cured Objections: (a) any deeds of trust and/or mortgages and any ancillary encumbrances, including but not limited to, assignments of leases and rents and financing statements; (b) any judgment, UCC, mechanics', environmental, tax, utility, assessment and other liens (and notices that could mature into any such liens), notices of lis pendens,

attachments and any other matters evidencing monetary encumbrances (other than liens for non-delinquent property taxes or assessments); and (c) any options, rights of first offer, rights of first refusal or other rights of purchase.

4.12 Seller Cure. Buyer shall not be liable to Seller for any cost or expense incurred by Seller in curing any Objections, regardless of whether this Transaction closes. If Seller fails to remove, correct, cure, or insure around (as applicable) any Cured Objections prior to Closing, without the prior written approval of Buyer, Seller will be in default under this Agreement, subject to the cure period set forth in this Agreement.

ARTICLE 5 - FEASIBILITY / PERMIT PERIODS

5.1 Feasibility Period. Buyer, in Buyer's sole discretion, shall have **90 days** following the Effective Date, subject to any extensions herein, (the "Feasibility Period") to inspect and review the Property.

5.1.1 Feasibility Period Extension. [Intentionally Omitted]

5.1.2 Feasibility Period Termination. On or before the expiration of the then-applicable Feasibility Period (including any exercised extension thereof), Buyer may, for any reason and in its sole discretion, deliver a written notice to Seller ("Feasibility Notice"), electing to either terminate the Agreement or waive its right to terminate this Agreement under this Section.

- (a) If Buyer delivers a Feasibility Notice terminating this Agreement, or fails to deliver a timely Feasibility Notice: (i) this Agreement will be terminated; (ii) the Earnest Money shall be returned to Buyer immediately without any right of Seller to consent; and (iii) the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).
- (b) If Buyer delivers a Feasibility Notice electing to waive its right to terminate this Agreement, Buyer shall thereafter be precluded from terminating this Agreement pursuant to this Section.

5.2 Permit Period. Buyer, in Buyer's sole discretion, shall have **45 days**, subject to any extensions herein, beyond the expiration of the Feasibility Period (the "Permit Period") to obtain all necessary Permits for Buyer's intended development and use of the Real Estate. Buyer agrees to diligently pursue all Permits.

5.2.1 Permit Period Extensions. [Intentionally Omitted]

5.2.2 Permit Period Termination. If Buyer is unable or (in Buyer's reasonable discretion) will be unable (without incurring undue expense) to obtain all Permits during the Permit Period (and any exercised extensions thereof), Buyer may, in its sole discretion, terminate this Agreement by written notice delivered to Seller prior to the end of the then-applicable Permit Period.

- (a) In the event Buyer delivers a timely notice of termination under this Section: (i) the Agreement shall be terminated, (ii) the Earnest Money will be immediately returned to Buyer, without any right of Seller to consent, and (iii) the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).
- (b) If Buyer does not deliver a written termination notice under this Section prior to the end of the Permit Period (as it may be extended), then (a) the Earnest Money shall become non-refundable to Buyer, except as explicitly set forth in this Agreement; (b) the Earnest Money shall remain applicable to the Purchase Price; and (c) Buyer shall be precluded from terminating this Agreement pursuant to this Section.

ARTICLE 6 - PRIOR TO CLOSING

6.1 Site Improvements. Prior to Closing, Seller, at Seller's sole cost and expense, shall complete the following site improvements (collectively, the "Site Improvements"): (i) complete construction of the roads known as Cahill Street and Dewitt Street (including all associated grading, sidewalks, curbs, curbcuts, aprons, gutters, signage, storm water facilities, and other site improvements) shown on **Exhibit A** to this Agreement; and (ii) running and stubbing within the outer boundaries of the Land all wet and dry utilities (water, storm and sanitary sewer, electric power, gas, cable/data); (iii) all improvements that are off-site of the Property and that will be required for Buyer to obtain a Certificate of

Occupancy for Buyer's building on the Property, and (iv) rough grading of the Land, such that construction of the items in (i), (ii), and (iii) and Buyer's intended building and other improvements on the Land may commence. All of the Site Improvements shall be constructed in a workmanlike manner, in substantial conformance with the site plan shown on **Exhibit A**, and in accordance with all applicable governmental approvals, laws, rules, regulations and private covenants. Before and after Closing, Seller agrees to enforce its similar warranty rights against parties constructing the Site Improvements.

6.2 Conditions to Closing. The following are conditions precedent to the obligations of Buyer to perform under this Agreement (collectively, the "Conditions to Closing"):

- 6.2.1 No Litigation.** On the date of Closing, there shall be no litigation pending or threatened seeking to enjoin the performance of this Agreement by a party other than Buyer, a parent or subsidiary of Buyer, or an entity under common control or ownership with Buyer.
- 6.2.2 Seller's Authority.** Seller has delivered to Buyer and to Escrow Agent such documentary and other evidence as Escrow Agent may reasonably require evidencing the authority of the person or persons who are executing the various documents on behalf of Seller in connection with this Agreement.
- 6.2.3 Seller's Representations and Warranties.** The representations and warranties of Seller contained in this Agreement shall be true at Closing as though such representations and warranties were made at such time, subject to any Representation Notices.
- 6.2.4 Seller's Obligations.** All of the obligations of Seller under this Agreement to be performed from and after the Effective Date through the Closing shall have been performed by Seller.
- 6.2.5 Legal Subdivision.** The Land shall be one or more separately deeded and subdivided parcels (in accordance with the Buyer-Approved Subdivision Plan) and separately assessed tax parcels that can be conveyed to Buyer independently from all other land in accordance with applicable law.
- 6.2.6 Title Policy.** Buyer being able to obtain a standard ALTA policy of title insurance (the "Title Policy") in an amount equal to the Purchase Price insuring that Buyer has fee title to the Real Estate, subject only to: (a) real estate taxes not yet due and payable; and (b) the Permitted Exceptions.
- 6.2.7 Site Improvements.** The Site Improvements shall be complete in accordance with this Agreement.
- 6.2.8 Enterprise Fund.** Buyer shall have received funding or a commitment for funding from the Enterprise Fund under such terms and in such an amount as Buyer finds acceptable in Buyer's sole discretion.

If any of the Conditions to Closing and any other conditions precedent to Closing in this Agreement (e.g., completion of the Objection, Objection Response and Objection Reply process regarding any New Matters) are not met by the date set for Closing (subject to any applicable cure period), in addition to any other rights that Buyer may have under this Agreement (including but not limited to asserting a default where applicable), Buyer may extend Closing until **5 days** after all such conditions are met or terminate this Agreement. Upon such termination, all of the Earnest Money will be immediately returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).

ARTICLE 7 - CLOSING

7.1 Time of Closing. The consummation of the purchase and sale of the Property (the "Closing") shall be held and completed at the offices of Escrow Agent (with Buyer and Seller participating through the prior submissions to Escrow Agent where elected and practicable). Buyer may schedule the Closing by providing written notice of the date of Closing to Seller and, with such date not occurring later than **July 15, 2022**, subject to Section 6.2 of this Agreement.

7.2 Closing Costs and Adjustments. The following costs will be paid at or prior to Closing by the Party indicated in the table below, at the listed Party's sole expense, without reimbursement:

SELLER	BUYER	COST
100%	---	All costs (including without limitation, all prepayment penalties, costs, fees and recording expenses, if any, assessed by holders or beneficiaries) related to the termination or release of all Cured Objections or other encumbrances on the Property which Seller is obligated by this Agreement to release;
100%	---	All deed preparation costs, including all costs related to any required affidavit or statement/certification of value;
---	100%	The recording costs for the Deed;
50%	50%	Transfer, deed, conveyance, recordation, grantee/grantor, excise, transaction, or documentary stamp taxes or fees charged because of the transfer of the Property (excluding rollback taxes, gross receipts tax, transaction privilege tax, speculative builder tax, and supplemental assessments);
100%	---	The premium for the Title Policy (including all customary endorsements);
---	100%	Any additional endorsements to the Title Policy required by Buyer;
50%	50%	Settlement, escrow or closing fee;
---	100%	Buyer's legal fees, except as explicitly set forth in this Agreement;
100%	---	Seller's legal fees, except as explicitly set forth in this Agreement;
---	100%	The cost of all the studies, surveys, reports and inspections desired and ordered by Buyer and not explicitly the responsibility of Seller under this Agreement.

Any Closing costs which are not mentioned above, shall be paid as is customary in similar transactions in the County in which the Land is located.

7.3 Prorations and Payments.

7.3.1 Ad Valorem Taxes. Ad valorem taxes shall be prorated at the Closing effective as of the date of Closing. If the Closing should occur before the ad valorem taxes are fixed for the then current year, the proration of current ad valorem taxes shall be made upon the basis of the taxes assessed for the previous tax year. If taxes are prorated based on such an estimate at the Closing, then Buyer and Seller agree to readjust such proration at the request of either party upon the establishment of the actual amount. If the Land is part of one or more other tax parcels, the land value of such parcels shall be uniformly allocated to the Land on a per-square foot basis and the taxes will be prorated based upon such allocation. The Buyer and Seller shall cooperate fully, prior to and after Closing, to ensure that the Property is separately assessed from any property retained by Seller or its affiliates. Any special assessments imposed by any governmental agency or authority which are noticed and existing as of the date hereof shall be satisfied by Seller at or prior to the Closing.

7.3.2 Additional Taxes. Seller will be responsible for any taxes, assessments, penalties, and/or interest resulting from the recapture of an exemption or deferment of taxes on the Real Estate (often referred to as "rollback taxes"), gross receipts or transaction privilege taxes, speculative builder's tax, or supplemental assessments that are assessed for or covering the period of time prior to and including the Closing or assessed because of Closing.

7.3.3 Utilities. If any utility services are presently being provided to the Real Estate, Seller will pay for such services through the day of Closing, but thereafter any such services in the name of Seller shall be terminated.

7.3.4 Operating Expenses. All costs, fees and expenses (other than taxes and administrative or management fees) relating to the operation, management and repair of the Property (collectively, the "Operating Expenses"), shall be prorated between Seller and Buyer at the Closing as of the date of Closing. Notwithstanding any of the terms and conditions to the contrary contained in this Section, in the event any such expenses are paid for directly by a tenant of the Property, if any, to the applicable vendor or payee according to the terms and conditions of such tenant's lease, such expenses shall be not prorated between Seller or Buyer.

7.3.5 Other Items. If there are items affecting the Property which are not mentioned above, but which would normally be prorated in similar transactions in the county where the Real Estate is located, such items shall be prorated at the Closing effective as of the date of Closing in the manner that is customary in similar transactions in that County.

7.3.6 This Section 7.3 shall survive Closing and the delivery of the Deed.

7.4 Closing Deliveries.

7.4.1 Seller Deliveries. At Closing, Seller shall deliver:

- (a) A General Warranty Deed (the "Deed") satisfactory in form and substance to Buyer's counsel and Escrow Agent, conveying indefeasible fee simple title to the Real Estate, free and clear of all liens, encumbrances, easements, and restrictions including any removal rights, surface rights, mining or drilling rights for timber, coal, oil, gas or other minerals, except for the Permitted Exceptions;
- (b) If the metes and bounds of the Land, as set forth on the Survey, differ from the legal description contained in Seller's vesting deed, Seller shall additionally deliver a quitclaim deed (or deed without warranty of title) to Buyer at Closing containing a legal description based on the Survey;
- (c) A standard form owner's/seller's affidavit or lien waiver satisfactory for the purpose of removing the mechanics lien exception, gap exception, parties-in-possession exception, unrecorded easements exceptions, and any other customarily-removed standard exceptions from Buyer's owner's title insurance policy for the Real Estate (the "Owner's Affidavit");
- (d) Releases of any liens or other instruments or agreements to be cancelled pursuant to the terms of this Agreement, in form appropriate for recording;
- (e) Full and exclusive possession of the Property to Buyer, subject only to the Permitted Exceptions, and together with evidence of the termination of any leases, licenses, tenants or other occupancy rights affecting the Real Estate that Seller is required to terminate;
- (f) IRC Section 1445 Non-Foreign Affidavit indicating that Seller is not a foreign person, corporation, partnership, trust, or estate (as those terms are defined under federal tax law);
- (g) The Renewal Certification, executed by Seller;
- (h) A resolution and incumbency certificate executed by the duly authorized secretary/members/partners of Seller authorizing and approving the consummation of the Closing;
- (i) Original copies of a general assignment of rights and/or bill of sale, if required, (and all required consents, if any), executed by Seller, whereby Seller shall transfer to Buyer all of its rights to Personal Property identified by Buyer and Seller prior to Closing; and
- (j) Any additional agreements, affidavits or instruments required to be provided by Seller under the terms of this Agreement, the Commitment or any other agreement entered into by Buyer, Seller and/or Escrow Agent subsequent to this Agreement and any documents reasonably required by Buyer or Escrow Agent to consummate the Transaction.

7.4.2 Buyer Deliveries. At Closing, Buyer shall deliver to Escrow Agent:

- (a) The Purchase Price (less the Earnest Money already deposited or paid and applicable to the Purchase Price and any other credits due to Buyer pursuant to this Agreement) in cash or certified funds; and
;
- (b) Any documents reasonably required by Seller or Escrow Agent to consummate the Transaction.

ARTICLE 8 - CONDEMNATION OR CASUALTY LOSS

8.1 Condemnation. If, prior to Closing, all or any portion of the Property or access thereto shall become subject to condemnation through eminent domain by governmental or other lawful authority, Buyer shall have the option of either (a) completing the purchase, in which event all condemnation proceeds or claims thereof shall be provided to or assigned to Buyer, or (b) terminating this Agreement, in which event, all of the Earnest Money will be immediately

returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent, and the Parties shall have no further rights or obligations under this Agreement (except under those provisions that explicitly survive termination).

8.2 Casualty. Except as explicitly set forth above in this Agreement (regarding Buyer's access and inspection of the Property), Seller assumes all risks and liability for damage or injury occurring to or on the Property, and bears all responsibility for maintaining any insurance against the same, until the Closing has been consummated. If the Property, or any material portion thereof, suffers any damage prior to Closing, then Buyer may terminate this Agreement by delivering written notice to Seller of such termination within **10 business days** after Buyer's receipt of written notice of the same, in which event, all of the Earnest Money will be immediately returned to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement) without any right of Seller to consent and the Parties shall have no further obligations to each other under this Agreement (except under those provisions that explicitly survive termination). If Buyer is entitled to, but elects or fails to, terminate this Agreement under this Section, the Parties shall proceed to Closing and Seller shall deliver to Buyer, at Closing, any insurance proceeds or other payments actually received by Seller in respect to such casualty and, to the extent applicable, assign to Buyer at Closing all of Seller's right, title and interest in any future claim to proceeds of any insurance or other payments covering such damage. For purposes of this Section, "damage" to the Property shall include: (a) the inclusion of the Land, after the Feasibility Period (as it may be extended) has expired, in a Special Flood Hazard Area; (b) the inclusion of the Land, after the Feasibility Period (as it may be extended) has expired, in a Fire Hazard Severity Zone or similar fire-danger designation; and (c) contamination or threatened contamination by one or more Hazardous Substances, regardless of when the such contamination or threatened contamination may have occurred, so long as the contamination or threatened contamination is not caused by Buyer or its agents, employees or contractors and Buyer receives a Phase 1 environmental report during the Feasibility Period that does not include the subject contamination or threatened contamination as an REC or CREC.

ARTICLE 9 - BROKERS

9.1 Broker Commission. Seller and Buyer represent and warrant to each other that no brokerage fees or real estate commissions are or shall be due or owing in connection with this Transaction or in any way with respect to the Real Estate. Seller agrees to defend, indemnify, and hold harmless Buyer from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage or similar fees through Seller in violation of the representation and warranty in this Section, to the extent allowed by law. Buyer agrees to defend, indemnify and hold harmless Seller from any claims, costs, judgments, or liabilities of any kind advanced by persons claiming real estate brokerage or similar fees through Buyer in violation of the representation and warranty in this Section. The obligations set forth in this Section shall survive Closing (and the delivery of the Deed) or earlier termination of this Agreement.

ARTICLE 10 - DEFAULT

10.1 Buyer Default. If Buyer is obligated, but fails or refuses, to proceed with Closing or otherwise fails to discharge Buyer's obligations under this Agreement (except as permitted by failure of any condition or contingency), Buyer shall be in default. If Buyer fails to cure such default within **5 business days** after Buyer's receipt of written notice from Seller of the same, then Seller, as its sole and exclusive remedy, shall be entitled to terminate this Agreement by delivery of written notice thereof to Buyer. Upon the Buyer's receipt of such termination notice, Seller shall be entitled to receive all of the Earnest Money then paid or deposited by Buyer. The Parties agree that the Earnest Money is a reasonable liquidated measure of Seller's damages and not a penalty and shall be Seller's sole and exclusive remedy because of the difficulty in ascertaining the exact amount of damages sustained by Seller.

10.2 Seller Default. If Seller is obligated, but fails or refuses, to proceed with Closing or otherwise fails to discharge Seller's obligations under this Agreement (except as permitted by failure of any condition or contingency), Seller shall be in default. If Seller fails to cure such default within **5 business days** after Seller's receipt of written notice from Buyer of the same, Buyer may: (a) terminate this Agreement upon written notice to Seller, upon which event all Earnest Money and any other refundable and non-refundable deposits paid by Buyer shall be immediately refunded to Buyer (regardless of whether it would otherwise be non-refundable under this Agreement or whether any or all of the aforementioned has previously been released to Seller); (b) cure Seller's breach and deduct the cost of said cure from the Purchase Price; or (c) exercise all of its available remedies at law or in equity, including, but not limited to, the right

to seek a judgment compelling the specific performance of this Agreement and return of all Earnest Money deposited or paid by Buyer, including any portion thereof previously paid or released to Seller.

10.3 No Formal Tender. The Parties hereby waive any requirements regarding formal tender of performance prior to asserting a default by the other Party.

ARTICLE 11 - GENERAL PROVISIONS

Notices. Any notice and consent given pursuant to this Agreement (the “Notices”) must be in writing and will be effective as of the earlier of: (i) the day it is delivered or refused, if delivered in person; (ii) the next business day after deposit with a reputable overnight delivery service, similar to UPS and/or Federal Express, for next-day delivery with a tracking number; and (iii) the day it is sent, if sent by email correspondence (with delivery receipt requested), so long as a copy is sent the same day by way of the overnight delivery service described in (ii) of this Section. Notices must be delivered to each of the addresses set forth on the signature pages of this Agreement for the receiving party and may come from a Party’s legal counsel. A party may revise its notice addresses by delivering a Notice as described with this Section.

11.1 Effective Date and Timing. The “Effective Date” of this Agreement is the date the Escrow Agent signs and dates the signature page of an otherwise fully-executed copy of this Agreement. Unless specifically stated otherwise in this Agreement: (a) “days” means calendar days; (b) any deadline that falls on a particular day shall occur at 11:59 p.m. Eastern Time on that day; and (c) any deadline that falls on a Saturday, Sunday, or federal bank holiday (a “Holiday”), will automatically be extended to the next day that is not a Saturday, Sunday, or Holiday. The deadlines under this Agreement are intended to be strict deadlines (i.e., time is of the essence).

11.2 Integration; Reformation. This Agreement, including the attached exhibits, schedules and attachments (the “Exhibits”), constitutes the entire agreement between the Parties with respect to this Transaction and it overrides all prior discussions or agreements between the Parties regarding this Transaction. Any conflict between the Exhibits and the main body of this Agreement (that precedes the signature pages), shall be resolved in favor of the main body of this Agreement. If any of the provisions in this Agreement is, for any reason, held invalid or unenforceable in any respect, that shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such had never been included in the Agreement.

11.3 Binding Effect. This Agreement may be modified only by a written agreement executed by all Parties. This Agreement is binding upon and benefits the Parties and their respective successors and assigns. This Agreement is not intended to benefit, and may not be enforced by, any party other than Seller, Buyer and their permitted successors and assigns.

11.4 Governing Law. This Agreement shall be governed by and construed under the laws of the State where the majority of the Land is located, irrespective of the choice or conflict of law rules of any jurisdiction. The provisions of this Section shall survive Closing (and the delivery of the Deed) or earlier termination of this Agreement.

11.5 Independent Counsel; Interpretation. Buyer and Seller have been represented by independent counsel in connection with the negotiation of this Agreement or had the opportunity to engage such counsel and declined to do so. Therefore, no uncertainty or ambiguity in this Agreement shall be construed against either Party as the drafter. The headings and labels in this Agreement are for convenience or reference only and shall not be used in interpreting the terms of this Agreement. All pronouns are to be read to refer to masculine, feminine, neuter, singular or plural, as the context may require.

11.6 Counterparts. To facilitate execution, this Agreement may be executed in multiple, separate copies which, taken together, shall make up a single agreement. Electronic signatures and copies of the executed Agreement shall be fully effective and enforceable.

11.7 Not an Offer. Presentation of an unexecuted copy of this Agreement by Buyer or Seller shall not be considered an offer. No agreement regarding the matters in this Agreement shall be enforceable unless and until this Agreement is executed on the signature page(s) below by both Seller and Buyer.

11.8 Assignment. Buyer shall be entitled, without Seller's consent, to assign all of Buyer's rights and obligations, title and interest in and to this Agreement; however, following any such assignment, Buyer shall remain liable for all obligations that arose prior to such assignment.

11.9 No Disclosure. [Intentionally Omitted]

11.10 Return of Deposit. If this Agreement is terminated, Buyer and Seller shall, within **5 business days** after receipt of a written request (the "**Earnest Money Request**"): (a) sign any and all documents required to accomplish the release of the Earnest Money; or (b) provide a written, specific and reasonable explanation as to why the Earnest Money Request is improper. Failure to sign the documents or provide the required reason shall be deemed an agreement to the documentation and the requested release of the Earnest Money. The prevailing party in any dispute over an Earnest Money Request, shall be entitled to receive from the other Party (beginning on the day the Earnest Money Request was first delivered, through and including any judgment in any state or federal court on the matter), simple interest on the amount due at the lower of (i) 18% per annum and (ii) the highest interest rate permitted by applicable law.

11.11 Independent Consideration. In addition to the Independent Consideration provided under Section 2.2 of this Agreement, Seller is providing the Feasibility Period, the Permit Period and any other review or contingency periods (including all extensions of any of them) provided under this Agreement (collectively, the "Contingency Periods") to Buyer in order to induce Buyer's efforts and expenditures in connection with Buyer's inspections and other reviews of the Property. Such efforts and expenditures, the benefit to Seller associated with the prospect of selling the Property, receiving additional information regarding the Property and receiving all or a portion of the Earnest Money at the time(s) set forth in this Agreement, together with other promises, obligations and benefits under this Agreement and other good and valuable consideration are all intended to serve as independent consideration (the receipt and sufficiency of which are hereby mutually acknowledged by the Parties) for the Contingency Periods, and all extensions thereof, regardless of whether Buyer terminates this Agreement and receives all of the Earnest Money.

11.12 Further Assurances. Before and after Closing, Seller and Buyer will do, make, execute and deliver all such additional and further acts, deeds, instruments and documents as may be consistent with this Agreement and customarily and reasonably required by the other and/or Escrow Agent to complete the Transaction.

11.13 Attorneys' Fees. The prevailing party in any legal proceeding brought in connection with this Agreement or this Transaction will be entitled to recover from the non-prevailing party court costs, reasonable attorney's fees and all other reasonable litigation expenses, including those incurred on appeals and in enforcement of this provision. The provisions of this Section shall survive Closing (and the delivery of the Deed) or earlier termination of this Agreement.

11.14 Signage. Following the Effective Date, Buyer shall have the right, at its own expense, to install general marketing signs on the Real Estate, provided that such signs shall not violate any government or municipality regulations and such signs shall not damage or materially alter the Real Estate in any way.

11.15 IRS Real Estate Sales Reporting. Buyer and Seller hereby appoint Escrow Agent as, and Escrow Agent agrees to act as, "the person responsible for closing" this Transaction pursuant to the Internal Revenue Code.

[SIGNATURE PAGE(S) AND EXHIBIT(S) FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this REAL ESTATE PURCHASE AND SALE AGREEMENT as of the day and year set forth next to their respective signatures below, to be effective as of the Effective Date..

BUYER: THE ZIEGENFELDER COMPANY, a West Virginia corporation

By (Signature): _____

Name: _____

Title: _____

Date of Execution: _____

BUYER'S NOTICE ADDRESSES:

The Ziegenfelder Company
Attn: Kevin Heller, President
87 Eighteenth Street
Wheeling, WV 26003
Email: KHeller@twinpops.com

With a copy to:
The Ziegenfelder Company
Attn: Legal Department
One Armstrong Place
Butler, Pennsylvania 16001
Email: legal@agoc.com

SELLER: LOCKHART ECONOMIC DEVELOPMENT CORPORATION, a Texas corporation

By (Signature): _____

Name: _____

Title: _____

Date of Execution: _____

SELLER'S NOTICE ADDRESS(ES):

Lockhart Economic Development Corporation
Attn: Mike Kamerlander, CEcD
215 E. Market Street
Lockhart, Texas 78644
Email: mkamerlander@lockhart-tx.org

With a copy to:
Attn: _____

Email: _____

JOINDER OF ESCROW AGENT

Escrow Agent joins in the execution of this Agreement to acknowledge its agreement to act as escrow agent for this Transaction and to handle the Earnest Money in accordance with the terms and conditions set forth in this Agreement.

ESCROW AGENT: TITLE RESOURCES GUARANTY COMPANY

By: _____

Name: _____

Title: _____

Date of Execution: _____

ESCROW AGENT'S NOTICE ADDRESS AND CONTACT INFORMATION:

Title Resources Guaranty Company

Attn: _____

Phone: _____

Email: _____

(Depiction of the Land)

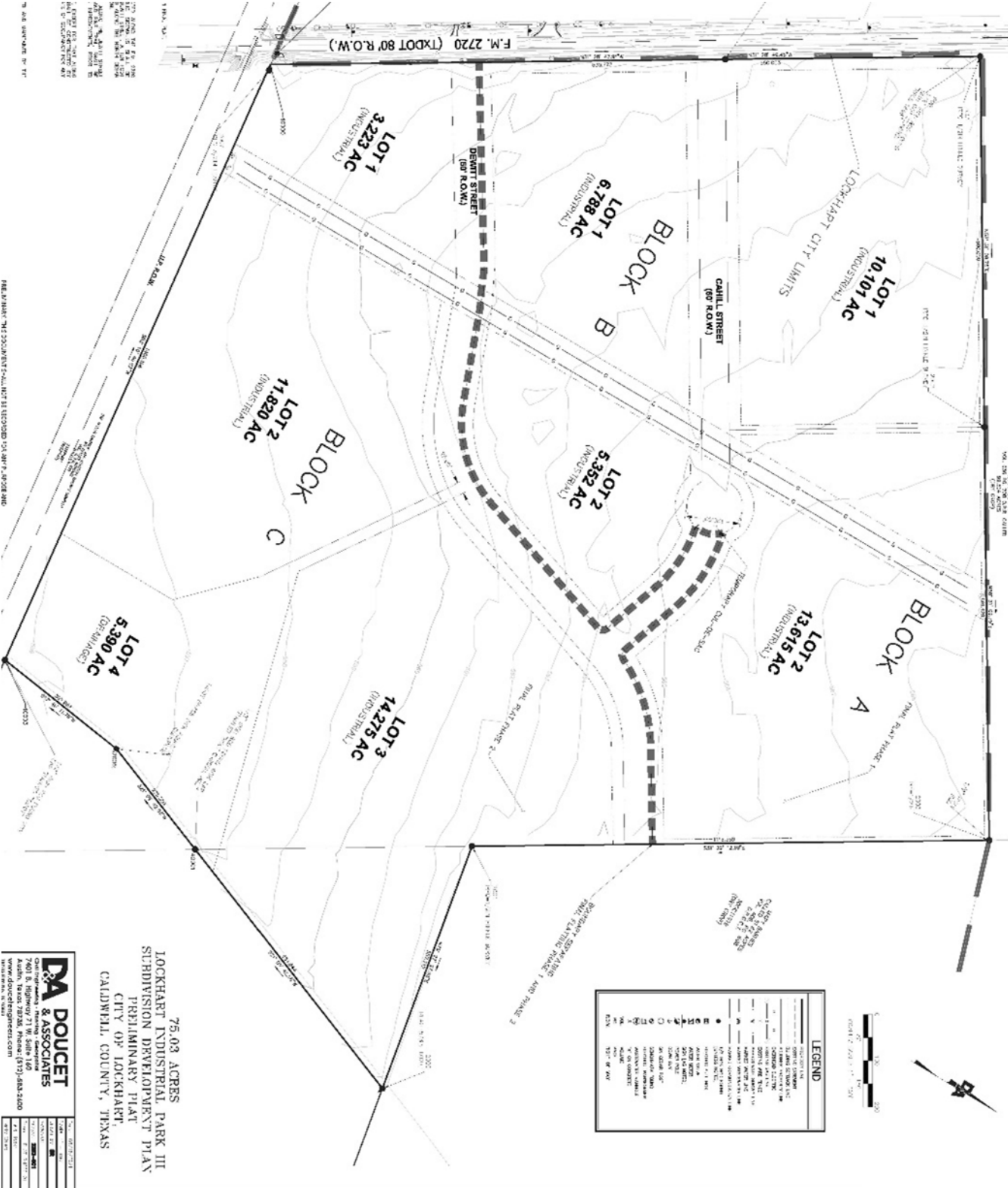
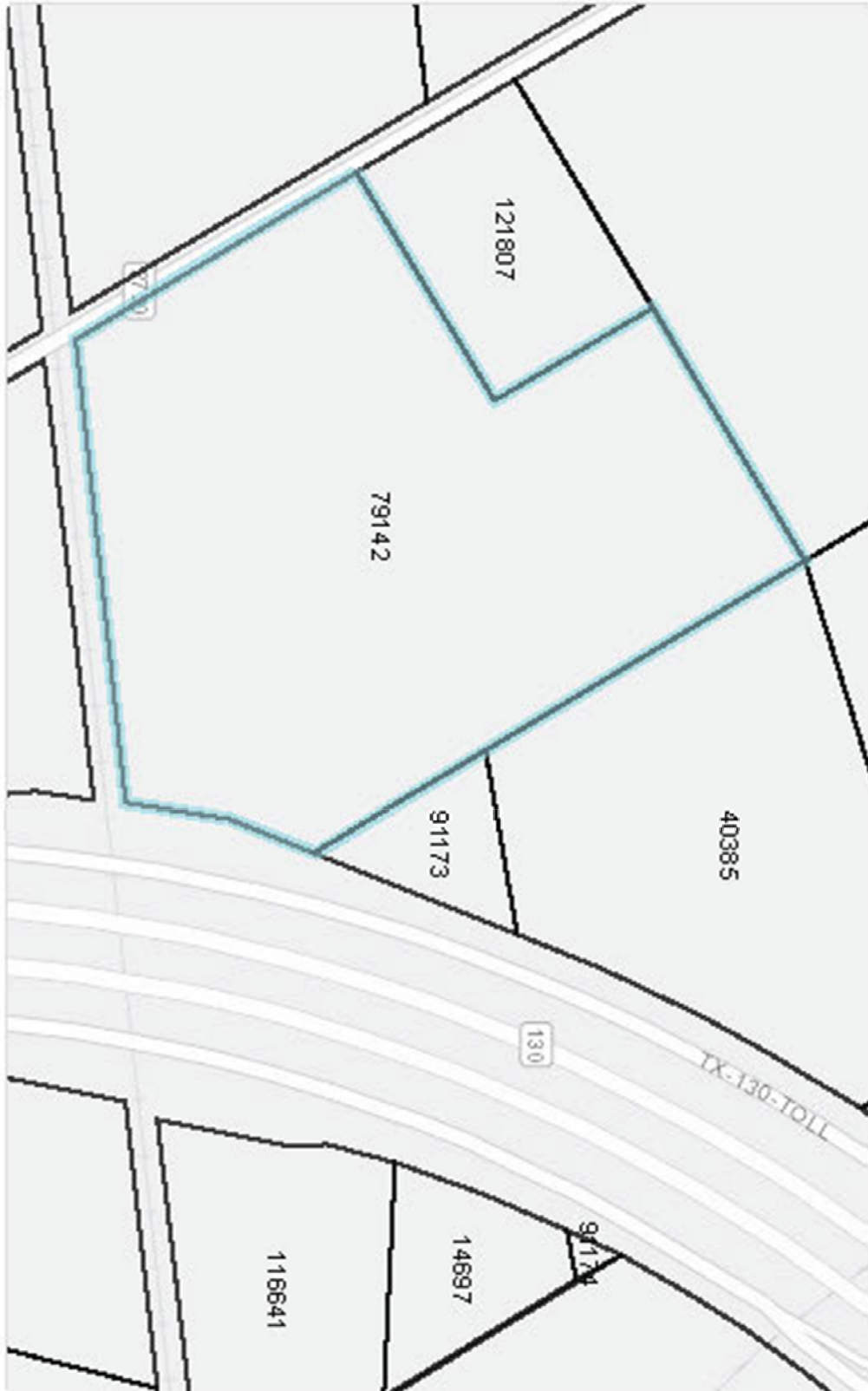


EXHIBIT A-1
(Seller's Parcel)



City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Consider and take action to authorize the Mayor to execute an agreement with Kent Broussard Tower Rentals, Inc. to lease land owned by the City for the purposes of a radio tower located at 1517 Dale Road, Lockhart, TX, and execute a Tower Use License to continue the City's use of the tower for police, fire, EMS and other City related communications; and to authorize the Mayor to execute a Tower Use License with Clearview Tower Company III, LLC. to continue the City's use of a radio tower located near Luling, TX known as Iron Mountain for the same purposes as above.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Doug Montgomery

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

This is essentially a renewal of an existing agreement that has been in place since the early 1990s. Kent Broussard Tower Rentals, Inc. is in the process of selling all their assets to Clearview Tower Company III, LLC and has already sold the Iron Mountain (Luling) tower to them. The new agreements and lease will maintain the status quo, but they more clearly identify the price structure and lease terms.

PROJECT SCHEDULE (if applicable): Immediately for the land lease agreement with the new tower use license agreements beginning June 1, 2022.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): \$63,318 annually; increasing 4% on January 1, 2023 and every two years after that.

PREVIOUS COUNCIL ACTION: Approval of previous agreements and extensions going back to early 1990s.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approval.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

LIST OF SUPPORTING DOCUMENTS: Land Lease Agreement, Lockhart Tower Use License, Luling Tower Use License

LAND LEASE AGREEMENT

STATE OF TEXAS

COUNTY OF CALDWELL

KNOW ALL MEN BY THESE PRESENTS THAT:

This Land Lease Agreement, hereinafter referred to as "Lease", is made and entered into this _____ day of _____ 2022, by and between THE CITY OF LOCKHART, whose address is P.O. Box 239, Lockhart, Texas 78644, hereinafter referred to as "Landlord" and KENT BROUSSARD TOWER RENTALS, INC., whose address is P.O. Box 1883, Bay City, TX 77404-1883 hereinafter referred to as "Tenant". This lease supersedes and replaces the original Land Lease Agreement between Kent Broussard Tower Rentals, Inc. and Landlord dated December 14, 1990.

WITNESSETH:

Premises: Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, the following described lands, hereinafter referred to as "Leased Premises" situated in Caldwell County, State of Texas, to wit:

SEE EXHIBIT "A"

1. Use: Tenant shall use the Leased Premises for the purpose of constructing, maintaining and operating a Communications Facility (as hereinafter defined) and any related improvements. Tenant shall have the right to use the Communications Facility for its business purposes, which shall include, but not be limited to, the subleasing or licensing to third parties of space upon and within the Communications Facility and the Leased Premises. Such licensees or sublessees of Tenant shall have full access to the Leased Premises for their business purposes. For the purposes of this Lease, "Communications Facility" shall be defined as one or more communications towers, poles, guy wires and anchors, equipment shelters, associated support buildings and any related improvements.
2. Term: The term of this Lease shall be for ten (10) years and shall commence on the date of the latter of the two signatures below, subject to extensions as set forth in Paragraph number 7 below.
3. Rent: Rent Payment for the Leased Premises will be paid "in-kind" by Tenant allowing the Landlord to place up to four (4) transmission lines at the position of their choice at the 250-foot

level or below on the tenant's 360-foot tower at no charge.

4. Access: Tenant and Tenant's sub-lessees, assigns, successors, or appointees, are hereby given and granted the Right-of-Way of ingress and egress over and across the Leased Premises and other lands owned by Landlord as may be required for the purpose of erection, installation, maintenance and removal of such Communications Facility and other necessary appurtenances and for access for telephone lines and power lines in connection with its cellular, radio and microwave communications center. Such Right-of-Way of ingress and egress shall be over existing roads, parking lots or over other roads that may be established by Tenant hereafter. A legally described exclusive Access Easement not less than 15 feet or more than 30 feet wide is defined and attached hereto as Exhibit "B".

5. Utilities at Landlords Cost: Landlord shall be solely responsible for and promptly pay all charges for electricity, telephone service, or another utility used or consumed in the 10' x 24' equipment building in which the Landlord has installed its radio equipment. Future buildings that will house rental customer's equipment will require that Tenant or Tenant's customers install an electrical current meter at the Leased Premises, and the cost of such meter and of installation, maintenance and repair thereof shall be paid for by the Tenant or Tenant's customers.

6. Extensions: This Lease will be automatically renewed for three (3) additional five (5) year terms (each a "Renewal Term" or collectively "Renewal Terms"). Each Renewal Term option shall be deemed exercised and automatically takes effect unless Tenant advises Landlord prior to the expiration of the Initial Term (or any of the Renewal Terms, if applicable) that Tenant does not desire to renew this Lease. The Initial Term and Renewal Term(s) are collectively referred to herein as the "Term." In the event Tenant exercises his options to extend this Lease, rent will continue to be "in-kind", as long as the Landlord and/or County utilize the tower. In the event that the tower is no longer needed and therefore not utilized by Landlord, then a rental amount for the premises shall be determined through good faith negotiations between the Landlord and Tenant based on comparable land rentals for similar towers.

7. Holding Over: If Tenant should remain in possession of the Leased Premises after the expiration of the primary term or any extension of this Lease, without the exercise of an option or the execution by Landlord and Tenant of a new Lease, then Tenant shall be deemed to be occupying the Leased Premises as a tenant-at-sufferance on a day-to-day basis, subject to all the covenants and obligations of this Lease and at rental calculated by the following formula: $1/365 \times \text{current prime rate} \times \text{Caldwell County Appraisal District taxable market value} = \text{the per diem rental}$.

8. Notice: Any notice shall be in writing and shall be delivered by hand or sent by United States Registered or Certified Mail, postage prepaid addressed as follows:

Landlord:

City of Lockhart
P.O. Box 239
Lockhart, Texas 78644
Attn: City Manager
Phone: (512) 398-3461

Tenant:

Kent Broussard Tower Rentals, Inc.
P.O. Box 1883
Bay City, TX 77404-1883
Phone: (979) 245-5184

Either party hereto may change its address to which said notice shall be delivered or mailed by giving notice of such change as provided above. Notice shall be deemed given when delivered (if delivered by hand) or when postmarked (if sent properly by mail).

9. Liability and Indemnity: Tenant agrees to indemnify and save the Landlord harmless from all claims (including costs to arise from any negligence or willful misconduct of Tenant or Tenant's agents, employees or contractors occurring during the term of this lease in or about the Leased Premises). Tenant agrees to use and occupy the Leased Premises at its own risk and hereby releases Landlord, its agents, and employees, from all claims for any damage or injury brought on by Tenant to the full extent permitted by law.

10. Defaults and Remedies: Notwithstanding anything in the Lease to the contrary, Tenant shall not be in default under this lease until thirty days after receipt of written notice thereof from Landlord; provided, however, where any such default cannot reasonably be cured within thirty (30) days, Tenant shall not be deemed to be in default under the Lease if Tenant commences to cure such default within said thirty (30) day period and thereafter diligently pursues such cure to completion.

11. Insurance: Tenant shall, at its' expense, maintain in force during the term of this Lease, a combined single limit policy of bodily injury and property damage insurance, with a limit of not less than \$1,000,000.00, insuring Landlord and Tenant against all liability arising out of the use, occupancy, or maintenance of the Leased Premises and appurtenant areas, which policy shall be endorsed as primary insurance to Landlord,

12. Fixtures: Landlord covenants and agrees that no part of the improvements constructed, erected or placed by Tenant on the Leased Premises or other real property owned by Landlord shall be or become, or be considered as being, affixed to or a part of Landlord's real property and any and all provisions and principles of law to the contrary notwithstanding, it being the specific intention of Landlord to covenant and agree that all improvements of every kind and nature constructed, erected or placed by Tenant on the Leased Premises or other real property owned by Landlord shall be and remain the property of the Tenant.

13. Assignment and Subletting: Tenant shall have the right, at any time, and from time to time, during the term of this Lease (or any renewal or extension hereof) to assign this Lease or sublet the Leased Premises, in whole or in part, to any entity or third party, without Landlord's consent, provided that any such assignee agrees to assume Tenant's obligations hereunder. In the event of such assignment to such entity or third party, Tenant shall be released from all obligations under this Agreement as of the date of such assignment. Prior to a sale of the Communications Facility by Lessee, Landlord's consent of the assignment of this Lease shall be required, not to be unreasonably, withheld, conditioned or delayed.

14. Fencing: During the continuance of this Lease, and in exercising the rights, powers, privileges, and immunities provided hereunder, Tenant shall fence in only that portion of the Lease Premises as is reasonably needed for its improvement and for the proper and efficient operation of said Communications Facility. Tenant will only fence reasonable areas around Tenant's building, transmission tower and each individual guy post.

15. Taxes: In addition to the monthly rent payments specified in paragraph 4, Tenant shall pay the full amount of all real property taxes, special assessments, and governmental charges of every character imposed upon the Leased Premises during the term of this Agreement, including any special assessments imposed on, or against, the premises for the construction or improvement of public works. These amounts shall be payable directly to the entity imposing the tax, assessment, or charge. Tenant shall maintain receipts or other evidence of payment for each such tax, assessment, or charge paid. Copy of said receipts shall be furnished to Landlord on an annual basis. Tenant may, at its own expense, contest any tax or assessment for which Tenant is responsible. Landlord may pay, or require Tenant to pay, any tax, assessment, or charge for which Tenant is responsible pending resolution of Tenant's contest of the tax, assessment, or charge, if failure to pay will subject all or part of the Leased Premises to forfeiture or loss.

16. Severability and Substitution of Valid Provisions: In the event that any provision of this agreement shall be found to be void or unenforceable, such finding shall not be construed to render any other provision of this Lease either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are invalid or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.

17. Memorandum of Lease: Following the execution of this Lease, either party, at its sole expense, shall be entitled to file the Memorandum of Lease (attached as Exhibit "C") of record in the Caldwell County.

18. Entire Agreement and Binding Effect: This Lease and any attached exhibits signed or initiated by the parties constitute the entire agreement between Landlord and Tenant; no prior written nor prior, contemporaneous, or subsequent oral promises or representations shall be

binding. This Lease shall not be amended or changed except by written instrument signed by both parties hereto. Paragraph captions herein are for convenience only, and neither limit nor amplify the provisions of this instrument. The provisions of this Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties.

MISCELLANEOUS.

(a) This Lease contains the entire agreement between Landlord and Tenant with respect to the subject matter hereof. There are merged herein all prior and collateral representations, promises, and conditions in connection with the subject matter hereof. Any representation, promise, or condition not incorporated herein shall not be binding upon either party. This Lease supersedes and is in lieu of all existing agreements or arrangements between the parties.

(b) The unenforceability of any provision hereof shall not affect the remaining provisions of this Lease, but rather such provision shall be severed and the remainder of this Lease shall remain in full force and effect.

(c) This Lease shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by Landlord and Tenant.

(d) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease Agreement as of the date and year first above written.

Landlord:

City of Lockhart
P.O. Box 239
Lockhart, Texas 78644
Attn: City Manager
Phone: (512) 398-3461

Tenant:

Kent Broussard Tower Rentals Inc.
P.O. Box 1883
Bay City, Texas 74404-1883
Phone: (409) 245-5184

BY: _____
Lew White, Mayor

BY: _____
Kent Broussard, President

BEFORE ME, the undersigned authority, on this day personally appeared Lew White known to me to be whose name is subscribed to the foregoing instrument and acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

STATE OF TEXAS)

) SS.

ACKNOWLEDGMENT

COUNTY OF _____)

BEFORE ME, the undersigned authority, on this day personally appeared Kent Broussard, and he acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

EXHIBIT "A"

FIELD NOTES

**FIELD NOTES FOR LEASED PREMISES OF 2.1247
ACRES OUT OF THE CITY OF LOCKAHRT 19.65
ACRE TRACT AS RECORDED IN VOLUME 343,
PAGE 519 OF THE CALDWELL COUNTY DEED
RECORDS. SAID LEASED PREMISES BEING
MORE PARTICULARLY DESCRIBED AS
FOLLOWS:**

**BEGINNING for reference at the southeast corner of the above referenced
19.65 acre tract;**

**THENCE along the east line of said tract N 10° 00' 00" W, 383.49 feet to the POINT
OF BEGINNING of the herein described leased premises.**

THENCE, S 65° 47' 18" W, 446.09 feet;

THENCE, N 54° 05' 42" W, 20.00 feet;

THENCE, N 05° 59' 14" E, 413.29 feet;

THENCE, N 66° 08' 12" E, 20.00 feet;

**THENCE, S 55° 34' 11" E, 438.47 feet to the POINT OF BEGINNING
containing 2.1347 acres.**

N

N66° 08' 12"E
20.00'

SCALE: 1" = 100'

S55° 34' 11"E

RADIO TOWER

N5° 29' 14"E 413.29'

S65° 47' 18"W 446.09'

N54° 05' 42"W
20.00'

CITY OF LOCKHART
19.65 ACRES
343/519

ACCESS EASEMENT
N10° 00' W 383.49'
DALE RD.

PLAT SHOWING LEASED PREMISES OF
2.1347 ACRES OUT OF THE CITY OF
LOCKHART 19.65 ACRE TRACT AS
RECORDED IN VOLUME 343, PAGE 519
OF THE CALDWEL COUNTY DEED
RECORD.



HUNTER ASSOCIATES, INC.
ENGINEERS/PLANNERS/SURVEYORS

DAILLAS
214-369-9171

AUSTIN
512-454-8716

EXHIBIT "B"

FIELD NOTES

FIELD NOTES DESCRIBING THE CENTERLINE OF A 40' WIDE EASEMENT UPON AND ACROSS THE CITY OF LOCKHART 19.65 ACRE TRACT RECORDED IN VOLUME 343, PAGE 519 OF THE CALDWELL COUNTY DEED RECORDS. SAID EASEMENT CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING for reference at the southeast corner of the foresaid 19.65-acre tract;

THENCE, S 51° 02' 15" W, 22.86 feet to the POINT OF BEGINNING of the herein described easement centerline;

THENCE, N 10° 00' 00" W, 389.49 feet along the centerline of the herein described easement 10.00 feet west of and parallel to the east line of the foresaid 19.65 acre tract to the POINT OF TERMINATION of the herein described easement.

N.

LEASED
PREMISES

SCALE : 1" = 100'

CITY OF LOCKHART
.19.65 ACRES
343/519.

40'

S51° 02' 15"W
22.86'

DALE RD.

**PLAT SHOWING 40' ACCESS EASEMENT
OUT OF THE CITY OF LOCKHART 19.65
ACRE TRACT AS RECORDED IN
VOLUME 343, PAGE 519 OF THE
CALDWEL COUNTY DEED RECORD.**



HUNTER ASSOCIATES, INC.
ENGINEERS/PLANNERS/SURVEYORS

DAI.I.A.S
214-369-9171

AUSTIN
512-454-8716

EXHIBIT "C"

MEMORANDUM OF LEASE

STATE OF TEXAS

COUNTY OF CALDWELL

KNOW ALL MEN BY THESE PRESENTS, THAT:

THIS MEMORANDUM OF LEASE is made and entered into this _____ day of _____, 2022 by and between CITY OF LOCKHART, (Landlord") whose address is P.O. Box 239, Lockhart, Texas 78644 and KENT BROUSSARD TOWER RENTALS, INC., ("Tenant") whose address is P.O. Box 1883, Bay City, TX 77404-1883.

WITNESSETH:

WHEREAS, Landlord has leased to Tenant, and Tenant has leased from Landlord, upon and subject to the terms, covenants, conditions, limitations, and restrictions contained in that certain lease dated _____ ("Lease") between the parties hereto, that certain real property situated in the County of Caldwell, State of Texas, more particularly described on "Exhibit A" attached hereto and made a part hereof ("Leased Premises").

The term of the lease is for ten (10) years, commencing on _____, subject to Tenant's option to extend the term for three (3) additional periods of five (5) years upon the terms and conditions set forth in the Lease.

The rent and other obligations of Landlord and Tenant are set forth in the Lease, to which reference is made for further particulars. In the event of any conflict between the terms and provisions of the Lease and those contained in this Memorandum, those contained in the Lease shall govern and be controlling.

Landlord:

City of Lockhart
P.O. Box 239
Lockhart, Texas 78644
Attn: City Manager
Phone: (512) 398-3461

Tenant:

Kent Broussard Tower Rentals, Inc.
P.O. Box 1883
Bay City, TX 77404-1883
Phone: (979) 245-5184

BY: _____
Lew White, Mayor

BY: _____
Kent Broussard, President

BEFORE ME, the undersigned authority, on this day personally appeared Lew White known to me to be whose name is subscribed to the foregoing instrument and acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

STATE OF TEXAS)

) SS.

ACKNOWLEDGMENT

COUNTY OF _____)

BEFORE ME, the undersigned authority, on this day personally appeared Kent Broussard, and he acknowledged to me that he is being duly authorized to execute said instrument, executed the same for the purposes and considerations therein expressed, and in the capacity therein stated.

Given my hand and seal of office this _____ day of _____ 2022.

(Seal)

Notary Public in and for the State of Texas

(Printed or typed name)

My Commission Expires: _____

TOWER USE LICENSE

THIS AGREEMENT is made as of this ____ day of _____, 2022, by and between **Kent Broussard Tower Rentals, Inc.** (“Owner”) and **City of Lockhart Texas** (“User”).

OWNER AND USER AGREE AS FOLLOWS:

1. **Scope of License.** Subject to the terms and conditions of this Tower Use License (“Agreement”) and of the Master Lease (as hereinafter defined), Owner hereby grants to User the non-exclusive right to install, maintain and operate the radio communications equipment described in **EXHIBIT A** annexed hereto and made a part hereof (“Equipment”) at Owner’s communications site described in **EXHIBIT B** annexed hereto and made a part hereof (“Site”).
2. **Term.** The term of this Agreement shall commence on June 1, 2022; and shall continue for a period of five (5) years (“Initial Term”), with three (3) additional five (5) year renewal periods (each a “Renewal Term”). Each Renewal Term shall commence automatically without further action on the part of Owner or User; provided, however, that User may terminate this Agreement at the expiration of the Initial Term by giving the Owner written notice not less than ninety (90) days’ prior to the expiration of that Term, or upon one (1) year prior written notice during any Renewal Term.
3. **Fees.**
 - (a) User shall pay to Owner a monthly fee of Three Thousand Two Hundred Forty-Seven Dollars and Fifty Cents (\$3,247.50) (“Base Fee”) during the Initial Term and any Renewal Term(s), subject to the increases set forth in Paragraph 3(f) below, which shall be payable on the first day of every month.
 - (b) User shall pay to Owner a yearly fee of Seven Thousand Eight Dollars and No Cents (\$7,008.00) (“Police Fee”) during the Initial Term and any Renewal Term(s), subject to the increases set forth in Paragraph 3(f) below, which shall be payable within 30 days after the anniversary of this Agreement.
 - (c) The Base Fee and Police Fee are **exclusive** of charges for the furnishing of electricity to User. **User shall not be responsible for furnishing electricity used by other tenants at Owner’s Site.** User shall furnish and install an electrical meter at the Site for the measurement of its electrical power used, and pay directly to the local utility for any electricity it uses. Base Fee and Police Fee payments shall be deemed the sole and exclusive property of Owner and shall not be subject to delay, offset, refund or placement in escrow for any reason or purpose.
 - (d) User may place up to four (4) transmission lines at the position of their choice at the 250-foot level or below on the tenant’s 360-foot tower at no charge (“in-kind”) to satisfy Owner’s rent obligation to the City of Lockhart pursuant to the Land Lease Agreement executed by the User and Owner in a separate instrument.
 - (e) All items in use by User and the associated fees are as follows:

i. The Base Fee includes the following items:

	Item	Quantity	Fee
1.	Trunk Transmission Line from 250’ to 360’ (110’)	4	\$880.00
2.	Coaxial Transmission Line of 1125’	1	\$1,687.50
3.	Dish antenna	4	\$600.00
4.	PTP600 ODU	4	\$80.00
	Total (paid monthly)		\$3,247.50

ii. The Police Fee includes the following items:

	Item	Quantity	Fee
1.	RFS BMR12-O-B1 Antennas 12dB Omni-Directional with TxRx 428-83H-01T Tower-top Amplifier for Lockhart Police at 360'	2	\$7,008.00
	Total (paid yearly)		\$7,008.00

iii. The "in-kind" items include the following:

	Item	Quantity	Fee
1.	Trunk Transmission line from ground to 250'	4	\$2,000.00
	Total (accounted for monthly)		\$2,000.00

(f) Effective on January 1, 2023, and each second anniversary of that date during the Initial Term and any Renewal Term of this Agreement, the then current Base Fee and Police Fee payable by User to Owner shall be increased by an amount equal to four (4.0%) percent.

(g) User agrees that payment of the monthly Base Fee, yearly Police Fee, and the Electric Fee shall be due and paid without the necessity of a demand or invoice from the Owner. Any additional fees or other payments set forth herein shall be payable upon User's receipt of an invoice from Owner. User shall pay an additional charge of two (2.0%) percent of the monthly fee for each payment made more than fifteen business days after its due date.

4. **Inspection of Site.** The Site shall be provided in "AS IS" condition by Owner. User has visited and inspected the Site and accepts the physical condition thereof and acknowledges that no representations or warranties have been made to User by Owner as to the condition of the Site, including the tower or towers, as the case may be, and/or the storage facilities, or as to any engineering data. User is responsible for determining all aspects as to the acceptability, accuracy and adequacy of the Site for User's use. Owner shall have no obligation to obtain licenses for User, or to maintain, insure, operate or safeguard User's Equipment.

5. **Installation, Maintenance and Operating Procedures.**

(a) User shall install, maintain and operate its Equipment during the term hereof in compliance with all present and future rules and regulations of any local, State, or Federal authority having jurisdiction with respect thereto (including, without limitation, the rules and regulations of the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA") and the Occupational Safety and Health Administration ("OSHA"). Prior to the installation of its Equipment, or any modification or changes to the Equipment, if any (but excluding repairs, minor modifications and/or replacement with substantially similar equipment), User shall comply with the following:

(i) User shall submit in writing all plans for such installations, modifications or changes for Owner's written approval, such approval not to be unreasonably withheld or delayed.

(ii) All work performed at the Site in connection with the installation, maintenance, operation, modification and removal of User's Equipment shall be performed at User's sole cost and expense either by User's employees or by contractors approved by Owner, such approval not to be unreasonably withheld or delayed. User shall only allow fully trained technicians and authorized personnel to work on its Equipment located at the Site who will undertake such work only in compliance with applicable FCC, OSHA and other applicable governmental laws, rules and regulations, including all laws, rules and regulations involving radio frequency (RF) radiation emissions and/or safety and work standards for work performed on or near communication towers and antenna sites. At Owner's request, User shall provide written evidence of compliance with this Paragraph 5(a)(ii) in the form of copies of any applicable training certifications, licenses and/or permits of its employees and contractors. User shall require all contractors,

as a condition to their engagement, to agree to be bound by provisions materially similar to those included in this Agreement, specifically those relating to the indemnification of Owner and insurance requirements. The engagement of a contractor by User shall not relieve User of any of its obligations under this Agreement.

(iii) No work performed by User, its contractors, subcontractors or materialsmen pursuant to this Agreement, whether in the nature of construction, installation, alteration or repair to the Site or to User's Equipment, will be deemed to be for the immediate use and benefit of Owner so that no mechanic's or other lien will be allowed against the property and estate of Owner by reason of any consent given by Owner to User to improve the Site. If any mechanic's or other liens will at any time be filed against the Site or the property of which the Site is a part by reason of work, labor, services, or materials performed or furnished, or alleged to have been performed or furnished, to User or to anyone using the Site through or under User, User will forthwith cause the same to be discharged of record or bonded to the satisfaction of Owner. If User fails to cause such lien to be so discharged or bonded within ten (10) days after it has actual notice of the filing thereof, then, in addition to any other right or remedy of Owner, Owner may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by Owner, including reasonable attorneys' fees incurred by Owner either in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the statutory rate, will be due and payable by User to Owner as an additional fee hereunder.

(b) Subject to Paragraph 5(a)(ii) above, Owner agrees that, during the term of this Agreement, User's employees and contractors shall have access to the Site for the purpose of maintenance and repair of User's Equipment twenty-four (24) hours per day, seven (7) days per week. Owner shall provide User with a key and/or combination to the lock(s) at the Site in order to facilitate such access. All access to the Site shall be subject to the continuing control of, as well as the reasonable security and safety procedures established from time to time by, Owner.

6. Interference.

(a) Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that if the installation or operation of User's Equipment shall interfere:

(i) with other radio communications systems and equipment installed prior to the Commencement Date of this Agreement, User shall upon request (verbal or otherwise) suspend its operations (except for intermittent testing) and do whatever Owner deems necessary to eliminate or remedy such interference. If it is determined that such interference cannot be rectified, then Owner may, at its option, terminate this Agreement upon written notice to User, whereupon User shall remove the Equipment at its sole cost and expense and in accordance with Section 8 herein; or

(ii) with any other radio communications systems and equipment installed at the Site after the Commencement Date of this Agreement, User shall cooperate fully with Owner and any future tenant or licensee injured by User's interference ("Future Party") to remedy the interference. User shall do whatever Owner deems reasonably necessary to cure such interference, provided, however, that all costs related to remedying such interference shall be the responsibility of the Future Party, unless such interference is due to failure, defects or deficiencies in User's system, Equipment, or installation.

(b) User hereby acknowledges that Owner has licensed and/or leased, and will continue to license and/or lease, space at and upon the Site to third parties for the installation and operation of radio communication facilities. Owner agrees for itself, and its successors and assigns, not to construct or permit, approve, cause or otherwise allow to be constructed any improvements, structure or other facility that would interfere with User's use of the Site under this Agreement. Specifically, Owner shall be prohibited from installing, or authorizing the installation of, broadcast equipment that would cause the tower to exceed its designed structural capacity and shall be prohibited from interfering with User's utilization of the Site pursuant to this Agreement.

(c) Owner agrees to include provisions which are substantially similar to Paragraph 6(a) in all future licenses, leases or other agreements relating to the use of the Site for telecommunications purposes.

7. **Removal of User's Equipment.** Provided that User is not in default in the performance of its obligations hereunder, at the expiration of this Agreement or earlier termination thereof, User shall remove any and all of the Equipment and the Site shall be restored to a condition reasonably matching the condition existing prior to the Commencement Date of this Agreement, normal wear and tear excepted. Such removal and restoration shall be performed pursuant to the guidelines set forth in Section 5 of this Agreement, without any interference, damage or destruction to any other equipment, structures or operations at the Site or any equipment of other licensee or tenants thereon. Any and all interference or damage caused to the Site or equipment of other licensees or tenants by such removal shall be immediately repaired or eliminated by User. If User fails to make such repairs, at User's sole cost and expense, within three (3) days after the occurrence of such damage, injury or interference, Owner may perform all the necessary repairs at User's cost and expense and such sum shall be immediately due upon the rendering of an invoice as an additional fee hereunder. If User fails to remove the Equipment within thirty (30) days following any termination of this Agreement, Owner may, at its option, either (i) remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (ii) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine.

8. **Indemnification.**

(a) User shall indemnify and hold Owner harmless from (i) all costs of any damage done to Owner's or other licensees' or tenants' facilities or equipment located at the Site, that occur as a result of the installation, operation or maintenance of User's Equipment or other improvements; and (ii) any claims, demands, or causes of action for personal injuries, including any payments made under any workers' compensation law or any plan of employee's disability and death benefits, arising out of User's occupancy of the Site or the installation, maintenance and operation or removal of User's Equipment, except only such damages, costs, claims, causes of action or demands caused solely by the negligence or willful misconduct of Owner.

(b) User shall also indemnify and hold Owner harmless from any losses, liabilities, claims, demands or causes of action for property damage or personal injuries, including any payment made under any worker's compensation law or any plan of employees' disability and death benefits, arising out of or resulting from any claims, damages, losses, liabilities or causes of action resulting in any way from RF radiation emissions from User's Equipment or any other harmful effect of User's Equipment.

(c) Owner shall not be responsible or liable to User for any loss, damage or expense that may be occasioned by, through, or in connection with any acts or omissions of other licensees or tenants occupying the Site. User hereby assumes the risk of the inability to operate as a result of any structural or power failures at the Site or failure of User's Equipment and agrees Owner shall not under any circumstances be liable for any incidental or consequential damages, or for any lost profits due to business interruption, suffered or incurred by User for any reason.

9. **Damage or Destruction.** Owner and User agree that Owner shall in no way be liable for loss of use or other damage of any nature arising out of the loss, destruction or damage to the Site or to User's Equipment located thereon, by fire, explosion, windstorms, water or any other casualty or acts of third parties. In the event the Site or any part thereof is damaged or destroyed by elements or any other cause, Owner may elect to repair, rebuild, or restore the Site or any part thereof, to the same condition as it was immediately prior to such casualty. In such event, the payments required herein shall cease as of the date of such casualty until the Site, in Owner's opinion, is restored to a usable condition for User's operation. If Owner chooses not to repair, restore or rebuild the Site, Owner shall send to User a notice of cancellation of this Agreement within thirty (30) days of such casualty. If this Agreement is canceled, the payments required herein shall terminate as of the date of such casualty.

10. **Insurance.** User shall keep in full force and effect during the term of this Agreement Commercial General Liability and Automobile Liability insurance on a “per claims made” basis, with the following minimum limits:

<u>Commercial General Liability:</u>	\$2,000,000 General Aggregate
(Limits apply per location)	\$2,000,000 Products/Completed Operations Aggregate
	\$1,000,000 Personal & Advertising Injury
	\$1,000,000 Each Occurrence
<u>Automobile Liability:</u>	\$1,000,000 Combined Single Limit
<u>Workers’ Compensation:</u>	Statutory
	\$100,000 Each Accident
	\$500,000 Disease Limit
	\$100,000 Disease – Each Employee
<u>Umbrella Liability:</u>	\$5,000,000
<u>User’s Equipment Coverage:</u>	All Risk Coverage (Equipment Limit Applicable to each Tower)

The insurance policy shall be endorsed to include Owner as an additional insured and shall provide that Owner will receive at least thirty (30) days’ prior written notice of any cancellation or material change in such insurance policy. User shall furnish to Owner, prior to the installation of the Equipment, and for the duration of this Agreement thereafter, current certificates of insurance confirming that the insurance coverage as specified herein is in full force and effect.

11. **Taxes.** User hereby acknowledges that the existence of User’s Equipment and other improvements at the Site may result in an increase in the assessed valuation of the Site. User agrees to reimburse Owner upon receipt of documentation showing that User’s Equipment or other improvements caused an increase in the assessed value of the Site, for User’s proportionate share of any increases in the real estate taxes payable by Owner as a consequence of the increase in assessed valuation. Owner hereby agrees to cooperate with User, at User’s sole cost and expense, to obtain an abatement of any such increased assessment. In the event any sales, use or other tax shall be payable by Owner in connection with this Agreement, User shall reimburse Owner on demand for such payments or shall furnish necessary documentation to the appropriate government authorities to show that fee payments hereunder shall be exempt from such sales, use or other tax.

12. **Notices.** All notices, demands, requests, or other communications which are required to be given, served or sent by one party to the other pursuant to this Agreement shall be in writing, and shall be mailed, postage prepaid, by certified mail or by a reliable overnight courier service with delivery verification, to the following addresses or at such other address as may be designated in writing by either party:

If to Owner:

Kent Broussard Tower Rentals, Inc.
P.O. Box 1883
Bay City, TX

If to User:

City of Lockhart, Texas
PO Box 239
Lockhart, TX 78644

Notice given by certified mail or by reliable overnight courier shall be deemed delivered on the date of receipt (or on the date receipt is refused) as shown on the certification of receipt or on the records or manifest of the U.S. Postal Service or such courier service.

13. **Default.**

(a) Any one or more of the following events shall constitute a default (“Default”) by User under this

Agreement:

(i) the failure of payment of fees, additional fees or other payments set forth herein and such failure continues for ten (10) days after Owner provides written notice thereof to User;

(ii) abandonment of either the User Equipment or that portion of the Site upon which the User Equipment was installed;

(iii) User's failure to perform any other of its obligations under this Agreement and such failure continues for thirty (30) days after Owner gives written notice thereof to User.

(b) In the event of a Default, notwithstanding all other remedies available at law or equity or contained herein, Owner shall have the right to accelerate all rents and other charges due to Owner from User for the remainder of the then current term of this Agreement and User shall pay the same upon demand. Additionally, Owner may at its option: (i) terminate this Agreement upon written notice to User; and (ii) either (A) disconnect, remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (B) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine. In the event that Owner should, as a result of the Default in the performance by User of its obligations hereunder, incur any costs or expenses on behalf of User or in connection with User's obligations hereunder, such sums shall be immediately due to Owner upon rendering of an invoice to User as an additional fee hereunder.

(c) At any time or from time to time after the removal of the User's property from the Site pursuant to Paragraph 14(b) above, whether or not the current term of this Agreement shall have been terminated, Owner may (but shall be under no obligation to) re-license User's former space at the Site, or any part thereof, for the account of the Owner, for such term or terms (which may be greater than or less than the period which would otherwise have constituted the balance of the current term) and on such conditions (which may include concessions or free rent) and for such uses as Owner, in Owner's absolute discretion, may determine, and may collect and receive payments therefrom. Owner shall not be responsible or liable for any failure to re-license User's former space at the Site or any part thereof or for any failure to collect any payments due upon any such re-licensing.

(d) No Default pursuant to this Section 14, by operation of law or otherwise (except as expressly provided herein), no removal of User's property from the Site pursuant to the terms of this Agreement, and/or no re-licensing of User's former space at the Site shall relieve User of User's obligations or liabilities hereunder, all of which shall survive such Default, removal and/or re-licensing. Without limiting the foregoing, upon User's removal from the Site pursuant to this Section 14, User shall nonetheless remain liable for all monthly fees and other payments hereunder for the remainder of the then-current term.

(e) All of the rights, powers, and remedies of Owner provided for in this Agreement or now or hereafter existing at law or in equity, or by statute or otherwise, shall be deemed to be separate, distinct, cumulative, and concurrent. No one or more of such rights, powers, or remedies, nor any mention or reference to any one or more of them in this Agreement, shall be deemed to be in the exclusion of, or a waiver of, any other rights, powers, or remedies provided for in this Agreement, or now or hereafter existing at law or in equity, or by statute or otherwise. The exercise or enforcement by Owner of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise or enforcement by Owner of any or all of such other rights, powers, or remedies.

14. **Assignment.** Owner reserves the right to assign, transfer, mortgage or otherwise encumber the Site and/or its interest in this Agreement. User shall upon demand execute and deliver to Owner such further instruments subordinating this Agreement, as may be required by Owner in connection with Owner's contemplated transaction. If a third party acquires title to the Site or to Owner's interest therein, including by foreclosure or by acceptance of a conveyance in lieu of foreclosure of a lien, then User will automatically become the licensee of

such successor-in-interest without change in the terms or other provisions of this Agreement; provided, however, that such successor-in-interest shall not be bound (a) by any payment of the Base Fee for more than one month in advance or (b) by any amendment or modification of this Agreement made without the written consent of such successor-in-interest. Upon request by User or such successor-in-interest, User and such successor-in-interest shall execute and deliver an instrument or instruments confirming the nondisturbance and attornment herein provided.

15. **Estoppel Certificate.** From time to time, upon not less than twenty (20) days' prior written notice by either party, the other party shall execute, acknowledge and deliver to the requesting party a statement in writing certifying that this Agreement (together with any non-disturbance agreement) is unmodified and in full force and effect (or identifying any modification or modifications) and that the requesting party is not in default, except as specified in such statement, in regard to any of its obligations under this Agreement and further setting forth the dates to which all sums payable as rent hereunder have been paid in advance, if any, and such other statements relating to delivery and acceptance of the Site as the requesting party's lender, purchaser, or permitted assignee may require. Said statement shall be accurate and binding on the other party and may be relied upon by the party requesting such statement and such lender, purchaser or assignee.

16. **Miscellaneous.**

(a) This Agreement shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by Owner and User. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Agreement.

(b) This Agreement embodies the entire agreement between the parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement.

(c) This Agreement may be executed in counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument. All section headings and captions used herein are for the convenience of the parties only and shall not be considered a substantive part of the Agreement.

(d) This Agreement shall be governed by and construed in accordance with the laws in which the Site is located.

(e) Neither this Agreement nor any memorandum hereof shall be recorded in the land records of any county or city or otherwise without the prior written consent of Owner.

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

Owner: Kent Broussard Tower Rentals, Inc.

User: City of Lockhart, Texas

By: _____

By: _____

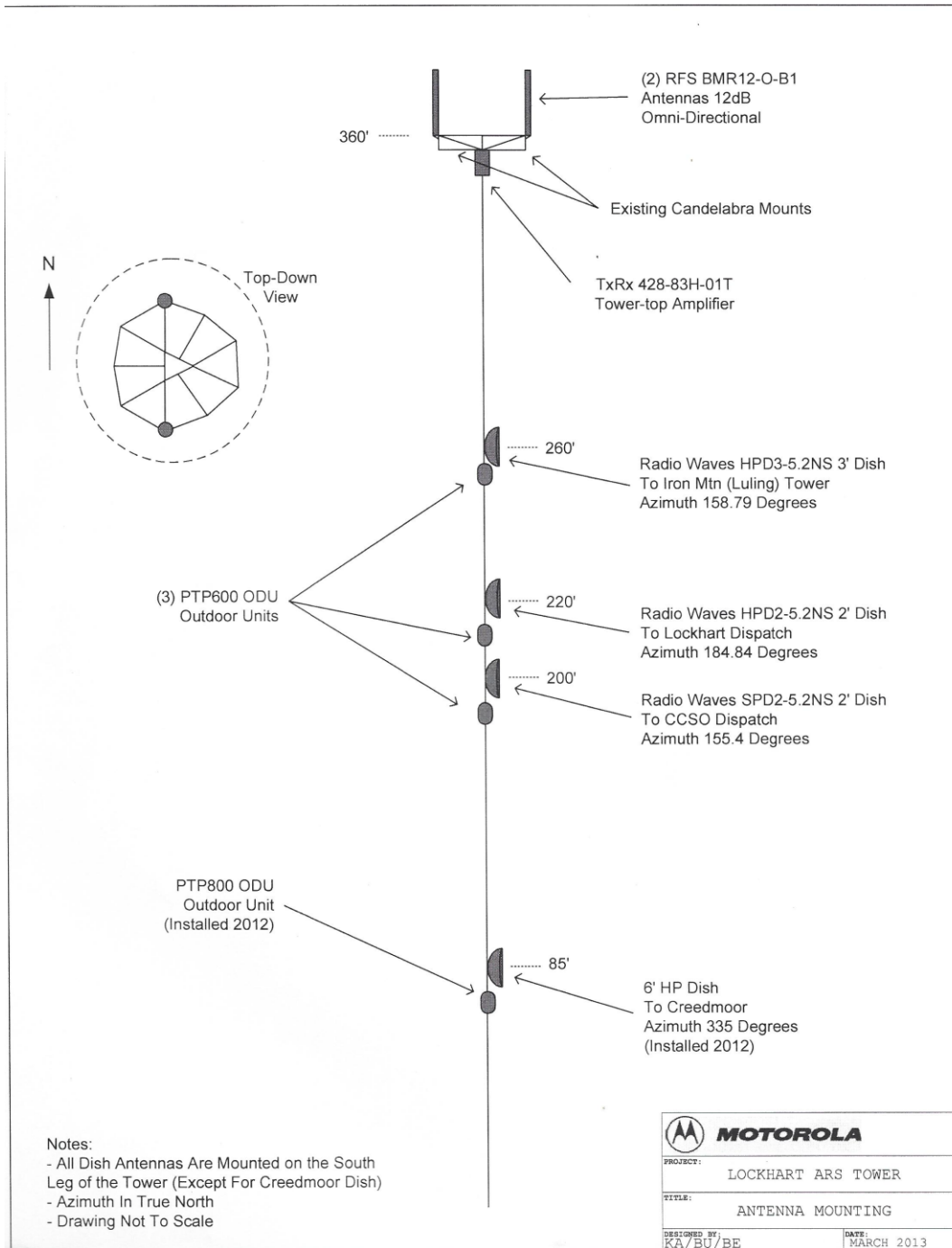
Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A



Also, ground space measuring approximately 10' x 12' for User's private equipment shelter.

EXHIBIT B

Site

Site Name:

The Site consists of the telecommunications tower and equipment shelter located at:

1517 Dale Road
Lockhart, Caldwell County, Texas

The geodetic coordinates of the Site are:

North Latitude: 29 – 53 – 29
West Longitude: 97 – 39 – 45

TOWER USE LICENSE

THIS AGREEMENT, is made as of this ____ day of _____, 2022, by and between **Clearview Tower Company III, LLC** (“Owner”) and **City of Lockhart Texas** (“User”).

OWNER AND USER AGREE AS FOLLOWS:

1. **Scope of License.** Subject to the terms and conditions of this Tower Use License (“Agreement”) and of the Master Lease (as hereinafter defined), Owner hereby grants to User the non-exclusive right to install, maintain and operate the radio communications equipment described in **EXHIBIT A** annexed hereto and made a part hereof (“Equipment”) at Owner’s communications site described in **EXHIBIT B** annexed hereto and made a part hereof (“Site”).

2. **Term.** The term of this Agreement shall commence on June 1, 2022; and shall continue for a period of five (5) years (“Initial Term”), with three (3) additional five (5) year renewal periods (each a “Renewal Term”). Each Renewal Term shall commence automatically without further action on the part of Owner or User; provided, however, that User may terminate this Agreement at the expiration of the Initial Term by giving the Owner written notice not less than ninety (90) days’ prior to the expiration of that Term, or upon one (1) year prior written notice during any Renewal Term.

3. **Fees.**

(a) User shall pay to Owner a monthly fee of One Thousand Four Hundred Forty-Five (\$1,445.00) Dollars (“Base Fee”) during the Initial Term and any Renewal Term(s), subject to the increases set forth in Paragraph 3(c) below, which shall be payable on the first day of every month. The Base Fee is **exclusive** of charges for the furnishing of electricity to User. **User shall not be responsible for furnishing electricity used by other tenants at Owner’s Site.** User shall furnish and install an electrical meter at the Site for the measurement of its electrical power used, and pay directly to the local utility for any electricity it uses. Base Fee payments shall be deemed the sole and exclusive property of Owner and shall not be subject to delay, offset, refund or placement in escrow for any reason or purpose.

(b) Effective on January 1, 2023, and each second anniversary of that date during the Initial Term and any Renewal Term of this Agreement, the then current Base Fee payable by User to Owner shall be increased by an amount equal to four (4.0%) percent.

(c) User agrees that payment of the monthly Base Fee shall be due and paid without the necessity of a demand or invoice from the Owner. Any additional fees or other payments set forth herein shall be payable upon User’s receipt of an invoice from Owner. User shall pay an additional charge of two (2.0%) percent of the monthly fee for each payment made more than fifteen business days after its due date.

4. **Inspection of Site.** The Site shall be provided in “**AS IS**” condition by Owner. User has visited and inspected the Site and accepts the physical condition thereof and acknowledges that no representations or warranties have been made to User by Owner as to the condition of the Site, including the tower or towers, as the case may be, and/or the storage facilities, or as to any engineering data. User is responsible for determining all aspects as to the acceptability, accuracy and adequacy of the Site for User’s use. Owner shall have no obligation to obtain licenses for User, or to maintain, insure, operate or safeguard User’s Equipment.

5. **Installation, Maintenance and Operating Procedures.**

(a) User shall install, maintain and operate its Equipment during the term hereof in compliance with all present

and future rules and regulations of any local, State, or Federal authority having jurisdiction with respect thereto (including, without limitation, the rules and regulations of the Federal Communications Commission ("FCC"), the Federal Aviation Administration ("FAA") and the Occupational Safety and Health Administration ("OSHA"). Prior to the installation of its Equipment, or any modification or changes to the Equipment, if any (but excluding repairs, minor modifications and/or replacement with substantially similar equipment), User shall comply with the following:

(i) User shall submit in writing all plans for such installations, modifications or changes for Owner's written approval, such approval not to be unreasonably withheld or delayed.

(ii) All work performed at the Site in connection with the installation, maintenance, operation, modification and removal of User's Equipment shall be performed at User's sole cost and expense either by User's employees or by contractors approved by Owner, such approval not to be unreasonably withheld or delayed. User shall only allow fully trained technicians and authorized personnel to work on its Equipment located at the Site who will undertake such work only in compliance with applicable FCC, OSHA and other applicable governmental laws, rules and regulations, including all laws, rules and regulations involving radio frequency (RF) radiation emissions and/or safety and work standards for work performed on or near communication towers and antenna sites. At Owner's request, User shall provide written evidence of compliance with this Paragraph 5(a)(ii) in the form of copies of any applicable training certifications, licenses and/or permits of its employees and contractors. User shall require all contractors, as a condition to their engagement, to agree to be bound by provisions materially similar to those included in this Agreement, specifically those relating to the indemnification of Owner and insurance requirements. The engagement of a contractor by User shall not relieve User of any of its obligations under this Agreement.

(iii) No work performed by User, its contractors, subcontractors or materialsmen pursuant to this Agreement, whether in the nature of construction, installation, alteration or repair to the Site or to User's Equipment, will be deemed to be for the immediate use and benefit of Owner so that no mechanic's or other lien will be allowed against the property and estate of Owner by reason of any consent given by Owner to User to improve the Site. If any mechanic's or other liens will at any time be filed against the Site or the property of which the Site is a part by reason of work, labor, services, or materials performed or furnished, or alleged to have been performed or furnished, to User or to anyone using the Site through or under User, User will forthwith cause the same to be discharged of record or bonded to the satisfaction of Owner. If User fails to cause such lien to be so discharged or bonded within ten (10) days after it has actual notice of the filing thereof, then, in addition to any other right or remedy of Owner, Owner may bond or discharge the same by paying the amount claimed to be due, and the amount so paid by Owner, including reasonable attorneys' fees incurred by Owner either in defending against such lien or in procuring the bonding or discharge of such lien, together with interest thereon at the statutory rate, will be due and payable by User to Owner as an additional fee hereunder.

(b) Subject to Paragraph 5(a)(ii) above, Owner agrees that, during the term of this Agreement, User's employees and contractors shall have access to the Site for the purpose of maintenance and repair of User's Equipment twenty-four (24) hours per day, seven (7) days per week. Owner shall provide User with a key and/or combination to the lock(s) at the Site in order to facilitate such access. All access to the Site shall be subject to the continuing control of, as well as the reasonable security and safety procedures established from time to time by, Owner.

6. Interference.

(a) Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that if the installation or operation of User's Equipment shall interfere:

(i) with other radio communications systems and equipment installed prior to the Commencement Date of this Agreement, User shall upon request (verbal or otherwise) suspend its operations (except for

intermittent testing) and do whatever Owner deems necessary to eliminate or remedy such interference. If it is determined that such interference cannot be rectified, then Owner may, at its option, terminate this Agreement upon written notice to User, whereupon User shall remove the Equipment at its sole cost and expense and in accordance with Section 8 herein; or

(ii) with any other radio communications systems and equipment installed at the Site after the Commencement Date of this Agreement, User shall cooperate fully with Owner and any future tenant or licensee injured by User's interference ("Future Party") to remedy the interference. User shall do whatever Owner deems reasonably necessary to cure such interference, provided, however, that all costs related to remedying such interference shall be the responsibility of the Future Party, unless such interference is due to failure, defects or deficiencies in User's system, Equipment, or installation.

(b) User hereby acknowledges that Owner has licensed and/or leased, and will continue to license and/or lease, space at and upon the Site to third parties for the installation and operation of radio communication facilities. Owner agrees for itself, and its successors and assigns, not to construct or permit, approve, cause or otherwise allow to be constructed any improvements, structure or other facility that would interfere with User's use of the Site under this Agreement. Specifically, Owner shall be prohibited from installing, or authorizing the installation of, broadcast equipment that would cause the tower to exceed its designed structural capacity and shall be prohibited from interfering with User's utilization of the Site pursuant to this Agreement.

(c) Owner agrees to include provisions which are substantially similar to Paragraph 6(a) in all future licenses, leases or other agreements relating to the use of the Site for telecommunications purposes.

7. **Removal of User's Equipment.** Provided that User is not in default in the performance of its obligations hereunder, at the expiration of this Agreement or earlier termination thereof, User shall remove any and all of the Equipment and the Site shall be restored to a condition reasonably matching the condition existing prior to the Commencement Date of this Agreement, normal wear and tear excepted. Such removal and restoration shall be performed pursuant to the guidelines set forth in Section 5 of this Agreement, without any interference, damage or destruction to any other equipment, structures or operations at the Site or any equipment of other licensee or tenants thereon. Any and all interference or damage caused to the Site or equipment of other licensees or tenants by such removal shall be immediately repaired or eliminated by User. If User fails to make such repairs, at User's sole cost and expense, within three (3) days after the occurrence of such damage, injury or interference, Owner may perform all the necessary repairs at User's cost and expense and such sum shall be immediately due upon the rendering of an invoice as an additional fee hereunder. If User fails to remove the Equipment within thirty (30) days following any termination of this Agreement, Owner may, at its option, either (i) remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (ii) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine.

8. **Indemnification.**

(a) User shall indemnify and hold Owner harmless from (i) all costs of any damage done to Owner's or other licensees' or tenants' facilities or equipment located at the Site, that occur as a result of the installation, operation or maintenance of User's Equipment or other improvements; and (ii) any claims, demands, or causes of action for personal injuries, including any payments made under any workers' compensation law or any plan of employee's disability and death benefits, arising out of User's occupancy of the Site or the installation, maintenance and operation or removal of User's Equipment, except only such damages, costs, claims, causes of action or demands caused solely by the negligence or willful misconduct of Owner.

(b) User shall also indemnify and hold Owner harmless from any losses, liabilities, claims, demands or causes of action for property damage or personal injuries, including any payment made under any worker's compensation law or any plan of employees' disability and death benefits, arising out of or resulting from any claims, damages,

losses, liabilities or causes of action resulting in any way from RF radiation emissions from User's Equipment or any other harmful effect of User's Equipment.

(c) Owner shall not be responsible or liable to User for any loss, damage or expense that may be occasioned by, through, or in connection with any acts or omissions of other licensees or tenants occupying the Site. User hereby assumes the risk of the inability to operate as a result of any structural or power failures at the Site or failure of User's Equipment and agrees Owner shall not under any circumstances be liable for any incidental or consequential damages, or for any lost profits due to business interruption, suffered or incurred by User for any reason.

9. **Damage or Destruction.** Owner and User agree that Owner shall in no way be liable for loss of use or other damage of any nature arising out of the loss, destruction or damage to the Site or to User's Equipment located thereon, by fire, explosion, windstorms, water or any other casualty or acts of third parties. In the event the Site or any part thereof is damaged or destroyed by elements or any other cause, Owner may elect to repair, rebuild, or restore the Site or any part thereof, to the same condition as it was immediately prior to such casualty. In such event, the payments required herein shall cease as of the date of such casualty until the Site, in Owner's opinion, is restored to a usable condition for User's operation. If Owner chooses not to repair, restore or rebuild the Site, Owner shall send to User a notice of cancellation of this Agreement within thirty (30) days of such casualty. If this Agreement is canceled, the payments required herein shall terminate as of the date of such casualty.

10. **Insurance.** User shall keep in full force and effect during the term of this Agreement Commercial General Liability and Automobile Liability insurance on a "per claims made" basis, with the following minimum limits:

<u>Commercial General Liability:</u>	\$2,000,000 General Aggregate
(Limits apply per location)	\$2,000,000 Products/Completed Operations Aggregate
	\$1,000,000 Personal & Advertising Injury
	\$1,000,000 Each Occurrence
<u>Automobile Liability:</u>	\$1,000,000 Combined Single Limit
<u>Workers' Compensation:</u>	Statutory
	\$100,000 Each Accident
	\$500,000 Disease Limit
	\$100,000 Disease – Each Employee
<u>Umbrella Liability:</u>	\$5,000,000
<u>User's Equipment Coverage:</u>	All Risk Coverage (Equipment Limit Applicable to each Tower)

The insurance policy shall be endorsed to include Owner as an additional insured and shall provide that Owner will receive at least thirty (30) days' prior written notice of any cancellation or material change in such insurance policy. User shall furnish to Owner, prior to the installation of the Equipment, and for the duration of this Agreement thereafter, current certificates of insurance confirming that the insurance coverage as specified herein is in full force and effect.

11. **Taxes.** User hereby acknowledges that the existence of User's Equipment and other improvements at the Site may result in an increase in the assessed valuation of the Site. User agrees to reimburse Owner upon receipt of documentation showing that User's Equipment or other improvements caused an increase in the assessed value of the Site, for User's proportionate share of any increases in the real estate taxes payable by Owner as a consequence of the increase in assessed valuation. Owner hereby agrees to cooperate with User, at User's sole cost and expense, to obtain an abatement of any such increased assessment. In the event any sales, use or other tax shall be payable by Owner in connection with this Agreement, User shall reimburse Owner on demand for such payments or shall furnish necessary documentation to the appropriate government authorities to show that fee payments hereunder shall be exempt from such sales, use or other tax.

12. **Notices.** All notices, demands, requests, or other communications which are required to be given, served or sent by one party to the other pursuant to this Agreement shall be in writing, and shall be mailed, postage prepaid, by certified mail or by a reliable overnight courier service with delivery verification, to the following addresses or at such other address as may be designated in writing by either party:

If to Owner:

Clearview Tower Company III, LLC
26 Yolanda Drive
Edison, NJ 08817
Attn: Legal Department

If to User:

City of Lockhart, Texas
PO Box 239
Lockhart, TX 78644

Notice given by certified mail or by reliable overnight courier shall be deemed delivered on the date of receipt (or on the date receipt is refused) as shown on the certification of receipt or on the records or manifest of the U.S. Postal Service or such courier service.

13. **Default.**

(a) Any one or more of the following events shall constitute a default ("Default") by User under this Agreement:

(i) the failure of payment of fees, additional fees or other payments set forth herein and such failure continues for ten (10) days after Owner provides written notice thereof to User;

(ii) abandonment of either the User Equipment or that portion of the Site upon which the User Equipment was installed;

(iii) User's failure to perform any other of its obligations under this Agreement and such failure continues for thirty (30) days after Owner gives written notice thereof to User.

(b) In the event of a Default, notwithstanding all other remedies available at law or equity or contained herein, Owner shall have the right to accelerate all rents and other charges due to Owner from User for the remainder of the then current term of this Agreement and User shall pay the same upon demand. Additionally, Owner may at its option: (i) terminate this Agreement upon written notice to User; and (ii) either (A) disconnect, remove and store the Equipment at User's sole cost and expense, without being liable for any damage therefore; or (B) deem ownership of the Equipment to have been conveyed to Owner and Owner may dispose of the Equipment in such lawful manner as it shall determine. In the event that Owner should, as a result of the Default in the performance by User of its obligations hereunder, incur any costs or expenses on behalf of User or in connection with User's obligations hereunder, such sums shall be immediately due to Owner upon rendering of an invoice to User as an additional fee hereunder.

(c) At any time or from time to time after the removal of the User's property from the Site pursuant to Paragraph 14(b) above, whether or not the current term of this Agreement shall have been terminated, Owner may (but shall be under no obligation to) re-license User's former space at the Site, or any part thereof, for the account of the Owner, for such term or terms (which may be greater than or less than the period which would otherwise have constituted the balance of the current term) and on such conditions (which may include concessions or free rent) and for such uses as Owner, in Owner's absolute discretion, may determine, and may collect and receive payments therefrom. Owner shall not be responsible or liable for any failure to re-license User's former space at the Site or any part thereof or for any failure to collect any payments due upon any such re-licensing.

(d) No Default pursuant to this Section 14, by operation of law or otherwise (except as expressly provided herein), no removal of User's property from the Site pursuant to the terms of this Agreement, and/or no re-licensing

of User's former space at the Site shall relieve User of User's obligations or liabilities hereunder, all of which shall survive such Default, removal and/or re-licensing. Without limiting the foregoing, upon User's removal from the Site pursuant to this Section 14, User shall nonetheless remain liable for all monthly fees and other payments hereunder for the remainder of the then-current term.

(e) All of the rights, powers, and remedies of Owner provided for in this Agreement or now or hereafter existing at law or in equity, or by statute or otherwise, shall be deemed to be separate, distinct, cumulative, and concurrent. No one or more of such rights, powers, or remedies, nor any mention or reference to any one or more of them in this Agreement, shall be deemed to be in the exclusion of, or a waiver of, any other rights, powers, or remedies provided for in this Agreement, or now or hereafter existing at law or in equity, or by statute or otherwise. The exercise or enforcement by Owner of any one or more of such rights, powers, or remedies shall not preclude the simultaneous or later exercise or enforcement by Owner of any or all of such other rights, powers, or remedies.

14. **Assignment.** Owner reserves the right to assign, transfer, mortgage or otherwise encumber the Site and/or its interest in this Agreement. User shall upon demand execute and deliver to Owner such further instruments subordinating this Agreement, as may be required by Owner in connection with Owner's contemplated transaction. If a third party acquires title to the Site or to Owner's interest therein, including by foreclosure or by acceptance of a conveyance in lieu of foreclosure of a lien, then User will automatically become the licensee of such successor-in-interest without change in the terms or other provisions of this Agreement; provided, however, that such successor-in-interest shall not be bound (a) by any payment of the Base Fee for more than one month in advance or (b) by any amendment or modification of this Agreement made without the written consent of such successor-in-interest. Upon request by User or such successor-in-interest, User and such successor-in-interest shall execute and deliver an instrument or instruments confirming the nondisturbance and attornment herein provided.

15. **Estoppel Certificate.** From time to time, upon not less than twenty (20) days' prior written notice by either party, the other party shall execute, acknowledge and deliver to the requesting party a statement in writing certifying that this Agreement (together with any non-disturbance agreement) is unmodified and in full force and effect (or identifying any modification or modifications) and that the requesting party is not in default, except as specified in such statement, in regard to any of its obligations under this Agreement and further setting forth the dates to which all sums payable as rent hereunder have been paid in advance, if any, and such other statements relating to delivery and acceptance of the Site as the requesting party's lender, purchaser, or permitted assignee may require. Said statement shall be accurate and binding on the other party and may be relied upon by the party requesting such statement and such lender, purchaser or assignee.

16. **Miscellaneous.**

(a) This Agreement shall not be modified, extended or terminated (other than as set forth herein) except by an instrument duly signed by Owner and User. Waiver of a breach of any provision hereof under any circumstances will not constitute a waiver of any subsequent breach of such provision, or of a breach of any other provision of this Agreement.

(b) This Agreement embodies the entire agreement between the parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement.

(c) This Agreement may be executed in counterpart copies, each of which shall be deemed an original, but which together shall constitute a single instrument. All section headings and captions used herein are for the convenience of the parties only and shall not be considered a substantive part of the Agreement.

(d) This Agreement shall be governed by and construed in accordance with the laws in which the Site is located.

(e) Neither this Agreement nor any memorandum hereof shall be recorded in the land records of any county or city or otherwise without the prior written consent of Owner.

(f) This Agreement creates a license only and User acknowledges that User does not and shall not claim at any time, any real property interest or estate of any kind or extent whatsoever in the Site by virtue of this Agreement or User’s use of the Site pursuant hereto. Nothing herein contained shall be construed as constituting a partnership, joint venture or agency between Owner and User.

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

Owner: Clearview Tower Company III, LLC

User: City of Lockhart, Texas

By: _____

By: _____

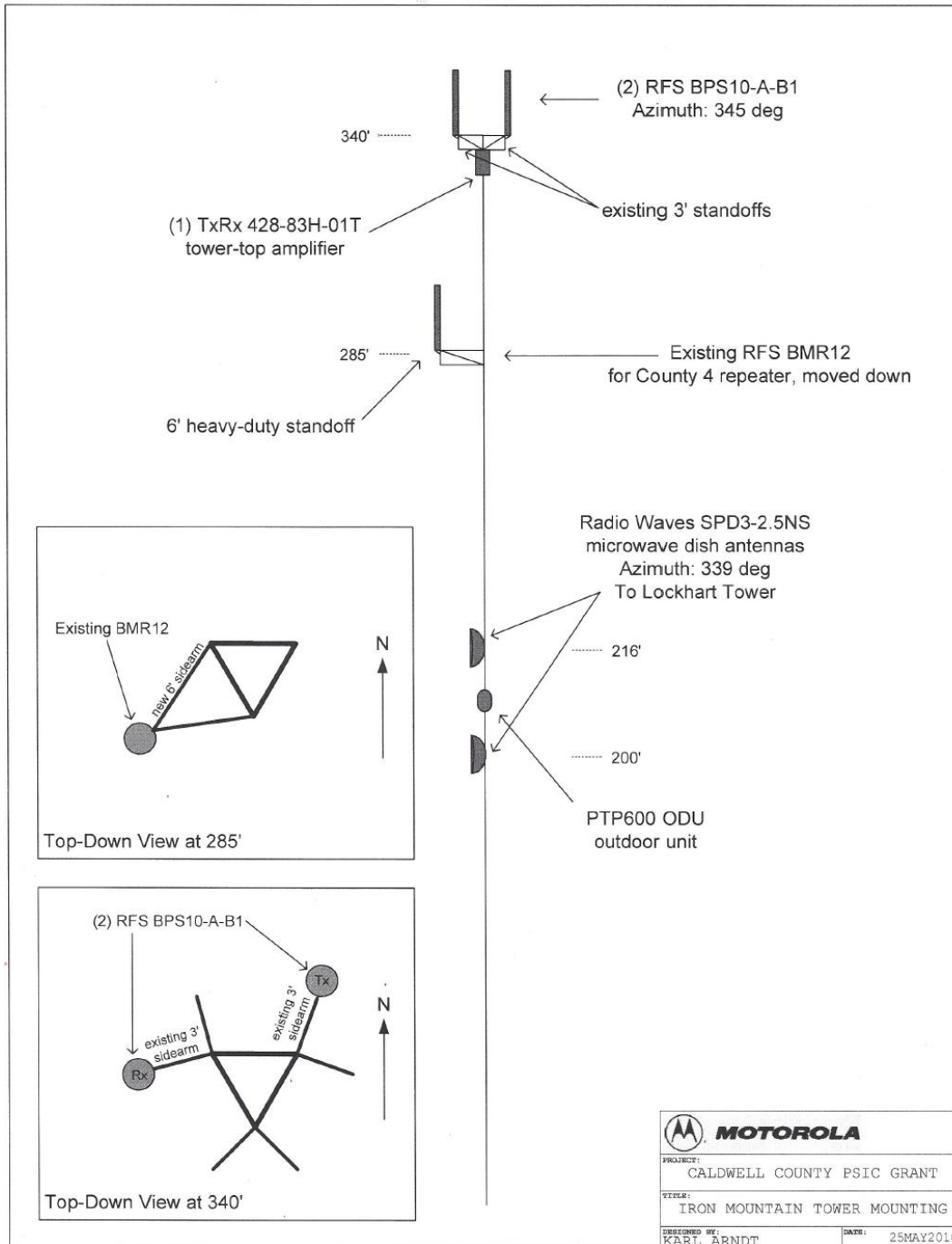
Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT A



Also, ground space measuring approximately 10' x 20' for User's private equipment shelter.

EXHIBIT B

Site

Site Name:

The Site consists of the telecommunications tower and equipment shelter located at:

Iron Mountain
Near Luling, in Gonzales County, Texas

The geodetic coordinates of the Site are:

North Latitude: 29 – 39 – 03
West Longitude: 97 – 33 – 20

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion regarding a change to solid waste collection routes by Central Texas Refuse.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

Central Texas Refuse (CTR) notified staff on upcoming changes in its waste collection in an effort to improve timely service for each route. CTR plans to convert the residential waste collection from four days per week of rear-load (RLT) to three days per week and convert the commercial cart customers from two times a week to once per week and supply existing commercial cart customers with an extra cart if needed, starting June 13, 2022. Those three residential collections would be Monday, Tuesday, and Thursday. The residential recycling service will remain unchanged and will be done every other week on Wednesdays. There will be an additional rear-load vehicle to help with the routes. CTR explained that three days of service are better balanced than the previous service days, with Thursdays having the heavier burden. They said it would also help to have an extra day, Friday, available for any carry-overs due to breakdowns or other unforeseen issues. The planned routes also take into consideration when CTR is ready to phase in an automatic service loading vehicle into service. CTR is currently training drivers for the automatic service loading vehicle and hopes to have a timeline available soon as the transition is scheduled.

There are about 1873 customers out of 5255 that will experience a day of service change. There are 125 commercial cart customers that would be affected starting June 13, 2022.

PROJECT SCHEDULE (if applicable): CTR has established a Communication Plan with timelines to assure proper notification of affected customers starting May 1st.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

City of Lockhart, Texas

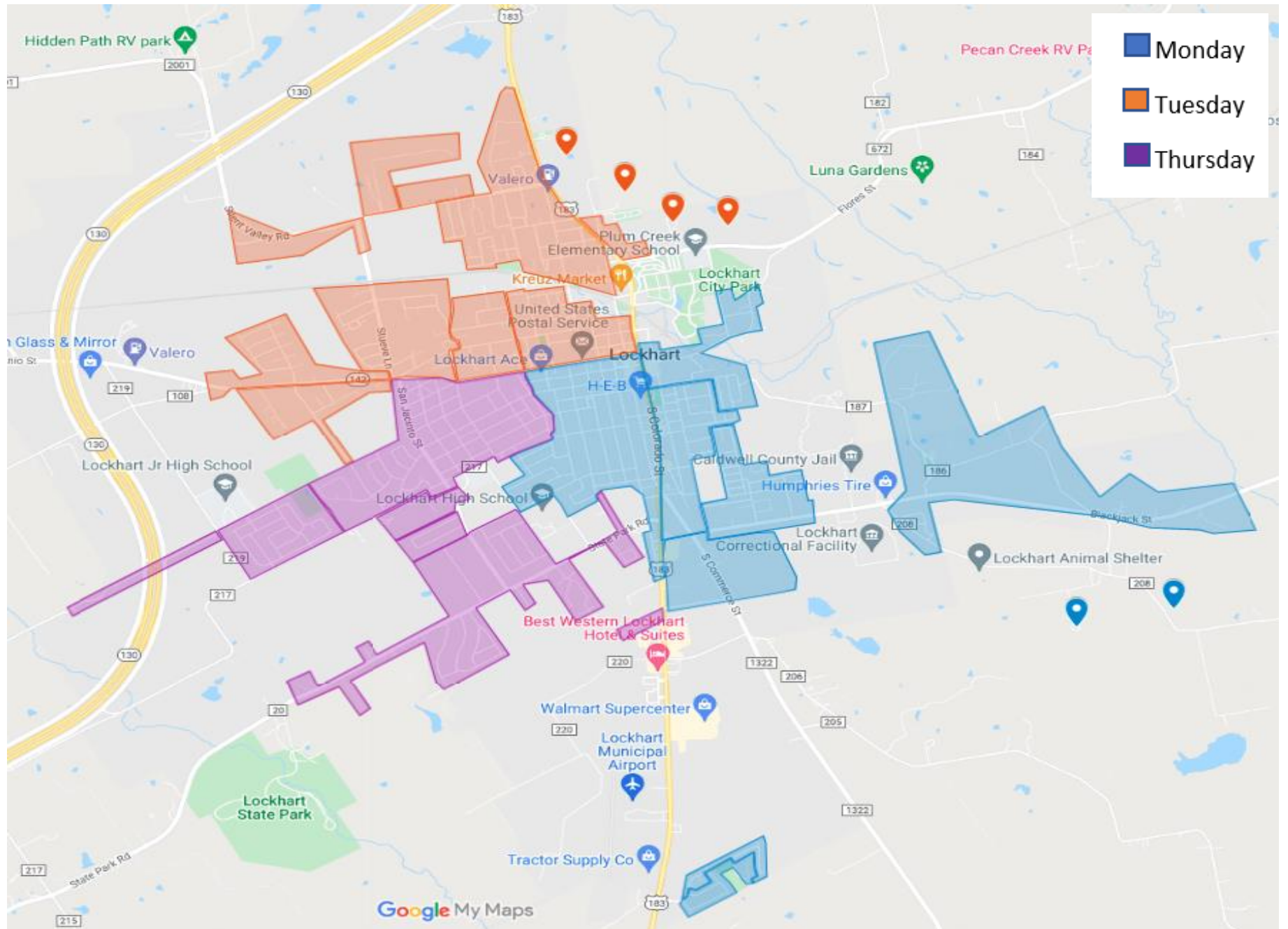
Council Agenda Item Cover Sheet

PREVIOUS COUNCIL ACTION: Council approved contract with CTR on May 25, 2021-
Contract duration June 1, 2021 to June 1, 2026

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None.

LIST OF SUPPORTING DOCUMENTS: Lockhart Service Day Map , Communications Plan
for Route Optimization June 13 2022



April 5, 2022

RE: PROPOSED COMMUNICATIONS PLAN FOR RESIDENTIAL ROUTES
CHANGES FROM 4 DAYS (M, T, W, TH, F) TO 3 DAYS (M, T, TH),
INCLUDING COMMERCIAL CART CUSTOMERS FROM 2X WEEK
SERVICE TO 1X WEEK (EXISTING PROVIDED EXTRA CART IF NEEDED)
BEGINNING JUNE 13, 2021

Communications Plan to Start May 1, 2022

CTR:

- Individual mailouts explaining route & service changes with city map (with link to city website)
- Posting in Lockhart Post Register for entire month and days up to June 13
- Provide COL maps of proposed route & service changes to post on City website and other communications
- Put flyers on carts the week before the service change
- If allowed, print large maps of individual routes to post in Utilities Dept. lobby

COL:

- Insert proposed route & service changes with map in customer utility bills (CTR expense)
- Post on City website and other communications

Sincerely,

Alfonso Sifuentes

Alfonso Sifuentes
Director of Public Sector Services & Community Relations



P.O. Box 18685
Austin, TX 78760
www.centraltexasrefuse.com

office 512-243-2833
fax 512-243-2283

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion and/or action regarding the proposed auto recycle and salvage yard located near SH 183/FM 1185, outside the city limits.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Direction

BACKGROUND/SUMMARY/DISCUSSION: The Caldwell County Commissioners Court conducted a public hearing regarding a proposed auto recycle and salvage yard during their meeting on April 12, 2022. Background information from city staff is attached.

This item is being presented to the Council for discussion and direction.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None.

LIST OF SUPPORTING DOCUMENTS: Memorandum from David Fowler, Senior Planner (with attachments),

TO: City Council
THROUGH: Steve Lewis, City Manager
FROM: David Fowler, Senior Planner
SUBJECT: Proposed US 183 Auto Salvage Facility
DATE: April 13, 2022

City staff recently became aware of an application to the Caldwell County Commissioners Court for approval of an Auto Salvage Yard proposed to be located on a 19-acre site at 5133 and 5199 US 183, on the west side of US 183/SH 130, north of the Lockhart City Limits. The property is located in an area that is outside the City's 1-mile ETJ and also not within the voluntary ETJ north of the city. Therefore, the city has no jurisdiction over the site. The Commissioners Court held a public hearing regarding the application at its April 12, 2022 meeting. No action was taken, as only a discussion item was scheduled.

The proposed facility, UPI Auto Parts, is an automobile salvage yard, which would offer customers the opportunity to pull parts from the vehicles on the lot. The facility as presented would be surrounded by an 8-foot opaque fence, behind which the salvage vehicles would be kept. The vehicles are described as being "end of life," meaning generally not drivable. These vehicles are drained of all fluids before being placed on the lot. After the vehicles are offered for part pulling, they would be crushed in an enclosed crusher that is proposed to be located on-site. There would not be a shredder on site. The business may also offer some cars to be sold as used vehicles rather than for part pulling. The proposed use is subject to regulation under Caldwell County's Junkyard and Auto Salvage ordinance, Chapter 396 of the Texas Transportation Code, and Chapter 234 of the Texas Local Government Code, entitled County Regulation of Businesses and Occupations. Texas Commission on Environmental Quality regulations would also apply.

At the Commissioners Court hearing, members of the public and County Commissioners asked several questions and generally expressed concern regarding the proposed salvage yard's visual and environmental impact on surrounding properties and the possible negative effects of the facility being located on a major gateway corridor into Lockhart. As the Commissioners Court has 60 days to respond to the application, City Staff recommends that the Commissioners Court exercise all applicable authority, including the County's Junkyard and Auto Salvage ordinance, and all applicable TCEQ, Local Government Code, and Texas Transportation Code standards in evaluating the suitability of the application and proposing any conditions of approval, if applicable. Direct correspondence from the Mayor to the Commissioners Court should be helpful in highlighting the importance of careful evaluation of the application in terms of the potential environmental, aesthetic, and economic effects of the salvage yard being located along such an important entrance into the city.



Gary Johnson

Owner

Typical Junkyard



What is UPI Auto Parts

- ▶ We are a family owned and operated vehicle recycling company
- ▶ 30 years of experience
- ▶ Operated 10 yards in total

What do we do ?

- ▶ We buy end of life vehicles
- ▶ We help our customers get quality used parts at a fraction of the cost
- ▶ We help the environment and economy



UPI AUTO PARTS Rogers
600 W Price Lane, Rogers AR

Environment and economic impact

- ▶ Over 12 million vehicles recycled every year
- ▶ 85 million barrels of oil saved in making new and replacement parts
- ▶ More than 14 million tons of recycled steel is derived from recycled vehicles
- ▶ Approximately 90 percent of aluminum of a vehicle is recovered and recycled
- ▶ Automotive recycling industry supplies around 37 percent of all ferrous metal to blast furnaces and smelters across the United States of America
- ▶ Automobile recycling industry in United States provides sufficient steel to produce roughly 9 million new vehicles
- ▶ Twenty-five million tons of materials comes from recycling old vehicles plus the quantity of hazardous fluids and oils reclaimed safely by auto recyclers would be equal to 8 Exxon Valdez disasters.



Business model and our customers



UPI AUTO PARTS Rogers
600 W Price Lane, Rogers AR

- ▶ 4000+ customers per month
- ▶ Diverse customer base
- ▶ 50% to 80% off used parts
- ▶ Buying recycled parts helps our customers save money while helping the environment

Our recycling process



- ▶ Our yards are designed to keep our recycling areas non accessible to customer
- ▶ We follow all EPA regulations and safety standards
- ▶ We strive to provide a safe and clean environment for customers and employees
- ▶ All our cars and trucks are drained of all fluids before they are placed on the yard
- ▶ Average time on yard is 3 months per vehicle

We buy end of life vehicles



- ▶ We buy and recycle upwards of 400 cars and trucks per month running or not. Average 5000 vehicles per year.
- ▶ We offer our customer free towing and hassle-free transactions
- ▶ Helps keep the community clean of end-of-life vehicles
- ▶ By buying used OEM parts not only do customers save money but also sometimes get parts which might be impossible to find elsewhere.

Recycling Industry Overview



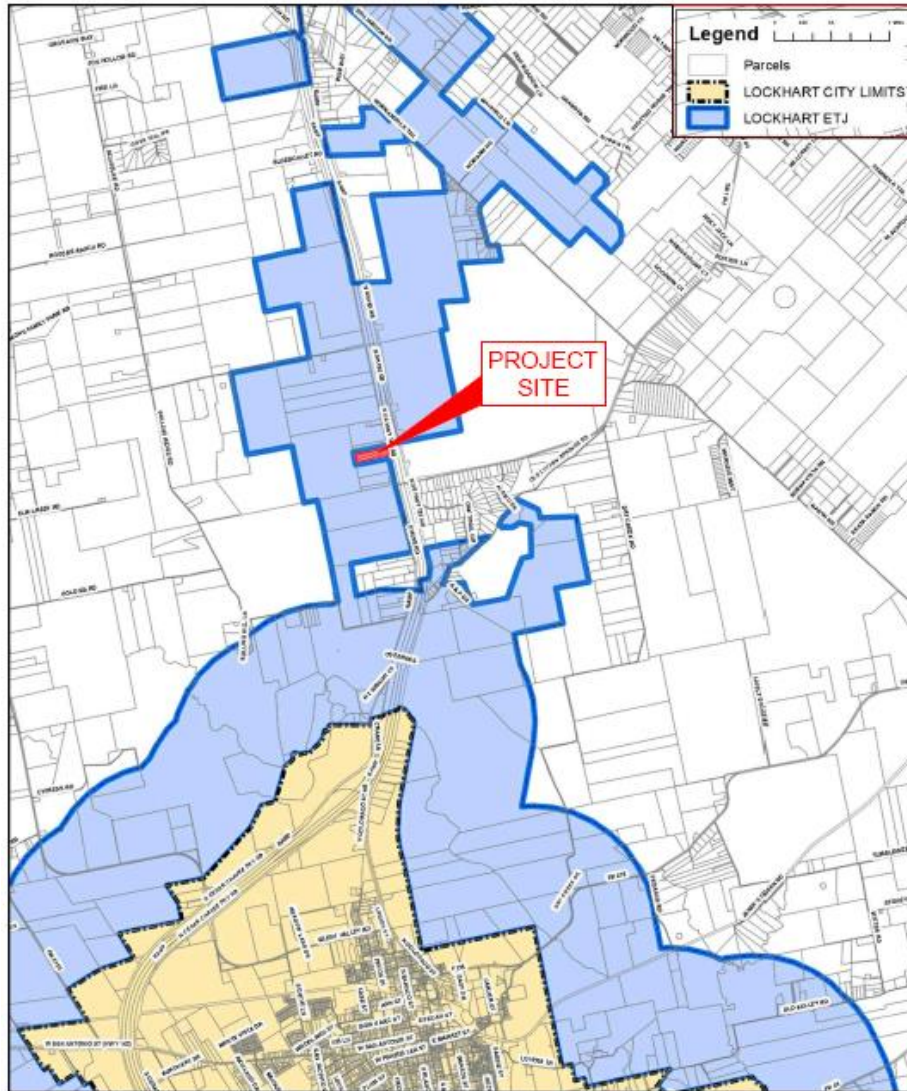
UPI AUTO PARTS Rogers
600 W Price Lane, Rogers AR

- ▶ 16th Largest industry in United States
- ▶ Contributing \$25 billion per year to the national GDP
- ▶ Automobiles are the most recycled consumer product in the world today
- ▶ Automotive recyclers spent approximately \$50 million on environmental compliance
- ▶ Every year, over 25 million tons of materials are recycled from end-of-life vehicles

Projected benefits for Caldwell county and cities located within the county

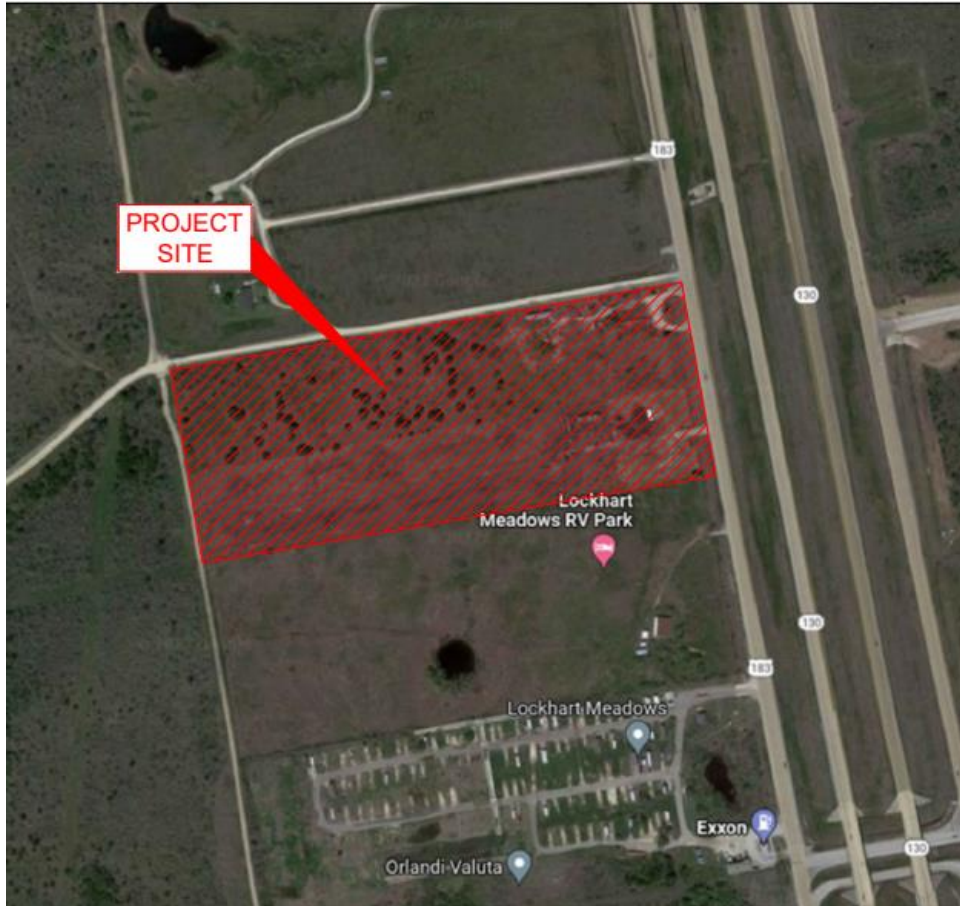
- ▶ Collection of property taxes
- ▶ Collection of sales taxes (Project annual gross income 2.5 million)
- ▶ Creation of 20+ local jobs
- ▶ We purchase our inventory locally and from the surrounding areas helping simulate the local economy
- ▶ Helps clean up the city of old end of life vehicles
- ▶ UPI creates numerous opportunities for local individuals and business to generate income, whether it be pulling parts for friends and family or providing a cheaper alternative to customers at a mechanic shop
- ▶ UPI great lifesaver in these hard economic times for the DYI community and families trying to get their car back on the road.
- ▶ Helping the county to encourage recycling and improve the environment.

Project Site



- ▶ 5133 US Hwy 183 and 5199 US Hwy 183, Lockhart, TX 78644
- ▶ Property ID #: 15285, 15283, 15282 and 15284

Project Site



- ▶ 5133 US Hwy 183 and 5199 US Hwy 183, Lockhart, TX 78644
- ▶ Property ID #: 15285, 15283, 15282 and 15284

Lockhart U Pull It



Rendering of proposed UPI Auto Parts Lockhart location



Thank you!

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: April 19, 2022

AGENDA ITEM CAPTION: Discussion regarding matters related to COVID-19.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis, Monte Akers

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: On May 18, 2021, Governor Abbot issued GA-36 that prohibited governmental entities from mandating face coverings or restricting activities in response to the COVID-19 disaster. As a result, the Lockhart City Council rescinded the Mayor's Declaration to require face coverings and encouraged citizens to continue to follow the CDC guidelines in regard to COVID-19.

Also, as a result of the Governor opening Texas on March 2, 2021 (GA-34), community events are back on schedule such as the Chisholm Trail Roundup, Fireworks show, and City venues such as the city splash pad are open to the public. Face coverings are not required during the events or at city facilities.

An update of COVID-19 orders and Council actions is attached.

Open Meetings Act Suspensions Terminate effective September 1, 2021

In March 2020, Governor Abbott's office granted the Attorney General's request to suspend certain open meetings statutes. The temporary suspension allows for telephonic or videoconference meetings of governmental bodies that are accessible to the public in an effort to reduce in-person meetings, thereby allowing governmental bodies and/or board commissions to hold a meeting virtually without a quorum being present at the meeting location.

On June 30, 2021, the Governor's office approved a request by the Attorney General to lift the open meetings suspensions effective at 12:01 a.m. on September 1, 2021. All Texas governmental bodies subject to the OMA must thereafter conduct their meetings in full compliance with the OMA as written in state law.

The following are provisions in the OMA suspension that will no longer be allowed effective September 1, 2021:

- 1) Video conferencing capability will change in that a member of the governing body or board can meet virtually but there must be a quorum physically present at the meeting location.
- 2) Telephone conference meetings will not be allowed to continue and are only allowed in an emergency.

On August 29, 2021, Governor Abbott issued a Declaration renewing the declaration of disaster stating that COVID-19 poses an imminent threat of disaster for all counties in Texas.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

On October 11, 2021, Governor Abbott issued GA-40 prohibiting vaccine mandates, subject to legislative action.

On February 25, 2022, the CDC updated its framework on monitoring the level of COVID-19 in communities. The new framework moves beyond just looking at cases and testing positivity to evaluation factors that also include hospitalizations and hospital capacity. These factors combined are used to determine whether COVID-19 and severe disease are low, medium or high in a community. The CDC also updated its recommendations for wearing face coverings and respirators. Recommendations are now connected to the community's current level of COVID-19 and severe disease.

This item is returned to the Council for consideration, if necessary.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

FISCAL NOTE (if applicable): None.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None.

LIST OF SUPPORTING DOCUMENTS: Update of COVID-19 orders and Council actions, GA-39, GA-38, Governor Abbott proclamation renewing the Declaration of Disaster, GA 40,

HISTORY OF COVID-19 ORDERS/COUNCIL ACTIONS

On **September 1, 2020**, the City Council adopted Resolution 2020-20 renewing and adopting a requirement that commercial establishments in the City post a notice that facial coverings are a requirement of employees and persons entering such establishments. The requirement that such notice be posted shall remain in effect until terminated or amended by the City Council.

On **October 7, 2020**, Governor Greg Abbott issued Executive Order GA-32 to allow certain bars and similar establishments to operate at 50% capacity with permission from the County Judge. GA-32 increased the occupancy levels for all business establishments other than bars to 75%. GA-32 also provides that outdoor gatherings in excess of 10 people is prohibited unless the Mayor of the City in which the gathering is held, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with GA-32.

Mayor's statement on reduced business capacity in Caldwell County. At 12:01 a.m. on Wednesday, January 13, 2021 the provisions of Governor Greg Abbott's Executive Order GA-32 that suspend elective surgeries, close bars and reduce business capacity to 50 percent went into effect in Lockhart and Caldwell County. This was occurring because under GA-32, these specific provisions took effect when a Trauma Service Area had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of total capacity exceeded 15 percent. This was the case in Trauma Service Area O, which included Caldwell County.

COVID Relief Fund update. On January 19, 2021, the Council voted to offer a six-month forbearance to businesses that received a COVID-19 Recovery Loan in 2020. Council re-opened the COVID Relief Grants to small businesses for \$5,000 per business that qualifies. Restaurants and bars that were affected by the Governor's order earned higher points on the application process.

During the February 23, 2021 meeting, Chief Jenkins provided an update of COVID compliance for local businesses.

On **March 2, 2021**, Governor Abbot issued GA-34 that was effective March 10, 2021. It provides that the State no longer requires face covering and it does not allow local jurisdictions to require face coverings. GA-34 supercedes all orders issued by local officials that conflict with regard to services or local orders and provides that businesses and other establishments may require customers and employees to wear face coverings. The consensus of the Council was to leave the Mayor's Declaration in effect and to encourage citizens to continue to wear face coverings and to maintain a six foot distance.

On **May 13, 2021**, the CDC announced that fully vaccinated individuals no longer need to mask up or social distance indoors and outdoors, including crowds. Attached is information from the CDC about how to stay safe around individuals that are or are not fully vaccinated.

On **June 15, 2021**, the consensus of the Council was to continue virtual attendance at meetings.

On **June 30, 2021**, the Governor's office approved a request by the Attorney General to lift the temporary Open Meetings Act suspensions, effective at 12:01 a.m. on September 1, 2021. The change in virtual meetings is that a member of the governing body or board member may attend a meeting virtually but there must be a quorum physically present at the meeting location.

On **July 29, 2021**, Governor Abbott issued Executive Order 38, that combined several existing COVID-19 executive orders to promote statewide uniformity and certainty in the state's COVID-19 response. Governor Abbott stated that "The new Executive Order emphasizes that the path forward relies on personal responsibility rather than government mandates".

On **August 13, 2021**, TML provided the following information regarding actions taken by governmental entities and the Attorney General in regards to face coverings:

- **Mask Mandate Update:** Tuesday afternoon, two state district court judges in Dallas and Bexar counties granted local authorities in those jurisdictions temporary restraining orders blocking Governor Abbott's ban on mask mandates. In response to the rulings, the City of San Antonio issued a requirement for face coverings inside city facilities, and the Dallas County Judge issued an emergency order on Wednesday related to face coverings. Temporary restraining orders are by definition temporary and require further court proceedings to become permanent. TML will continue to monitor these developments. In related news, Houston's Mayor Sylvester Turner is requiring masks in city facilities when physical distancing is not doable.

Additionally, a number of large school districts ("ISDs") across the state, including Dallas ISD, Houston ISD, Austin ISD, Fort Worth ISD, and San Antonio ISD, are requiring masks on school property.

- **Attorney General Issues Two COVID-related opinions:** On August 11, the Attorney General released two opinions related to mask mandates and vaccines.
 1. In Opinion KP-0379, the Attorney General was asked whether COVID-19 vaccines could be required as a condition to enter a government building. Citing the Governor's Executive Order No. 38 as well as the recently passed S.B. 968, the Attorney General opined that government entities may not require COVID-19 vaccines as a condition to enter a government facility.
 2. In Opinion No. KP-0380, the Attorney General was asked to opine on the effect of the Governor's executive orders on federal requirements related to face coverings on public transit. The AG ultimately opined that he is unconvinced that CDC and TSA rules as well as federal law preempt the Governor's orders prohibiting mask mandates.

Please remember that Attorney General opinion are just that: opinions. They are legal guidance but do not carry the force of law or court order.

- **Counties Across Texas Seeing Rise in COVID-19 Threat Levels:** Over the last few weeks, we have reported on the rise in COVID-19 threat levels in counties and cities across the state. That rise continues, with Travis, Harris, Dallas, and Williamson counties, among others, back at the highest threat levels as the Delta variant spreads across the state and ICU bed availability drops.

On **August 29, 2021**, Governor Abbott issued a proclamation renewing the declaration stating that COVID-19 poses an imminent threat of disease for all counties in Texas.

On **August 25, 2021**, Governor Abbott issued GA-39 (attached), prohibiting governmental entities from compelling an individual to receive a COVID-19 vaccine regardless of full FDA approval, among other things.

The Governor also issued the following call to the Special Session of the Legislature:

Legislation regarding whether any State or Local Governmental entities in Texas can mandate that an individual receive a COVID-19 vaccine and, if so, what exemption should apply to such mandate.

On **October 11, 2021**, Governor Abbott issued GA-40 relating to prohibiting all entities of compelling receipt of a COVID-19 vaccine until the issue has been considered through legislation.

On **February 25, 2022**, the CDC updated its framework on monitoring the level of COVID-19 in communities. The new framework moves beyond just looking at cases and testing positivity to evaluation factors that also include hospitalizations and hospital capacity. These factors combined are used to determine whether COVID-19 and severe disease are low, medium or high in a community. The CDC also updated its recommendations for wearing face coverings and respirators. Recommendations are now connected to the community's current level of COVID-19 and severe disease.



GOVERNOR GREG ABBOTT

August 25, 2021

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2 PM O'CLOCK

AUG 25 2021

Secretary of State

Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-39 relating to prohibiting vaccine mandates and vaccine
passports subject to legislative action.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "G. Davidson", with a long horizontal flourish extending to the right.

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
August 25, 2021

EXECUTIVE ORDER GA 39

*Relating to prohibiting vaccine mandates and vaccine passports
subject to legislative action.*

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, I have issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health; and

WHEREAS, COVID-19 vaccines are strongly encouraged for those eligible to receive one, but have always been voluntary for Texans; and

WHEREAS, I issued Executive Orders GA-35 and GA-38, addressing COVID-19 vaccines administered under an "emergency use authorization" by prohibiting vaccine mandates from governmental entities and by prohibiting "vaccine passports" from governmental entities and certain others; and

WHEREAS, subsequently, on August 23, 2021, while the legislature was already convened in a special session, the U.S. Food and Drug Administration (FDA) approved one of the COVID-19 vaccines for certain age groups, such that this vaccine is no longer administered under an emergency use authorization for those age groups; and

WHEREAS, while this COVID-19 vaccine is now FDA-approved for certain age groups, others are not yet approved and still are administered under an emergency use authorization; and

WHEREAS, through Chapter 161 of the Texas Health and Safety Code, as well as other laws including Chapters 38 and 51 of the Texas Education Code, the legislature has established its primary role over immunizations, and all immunization laws and regulations in Texas stem from the laws established by the legislature; and

WHEREAS, in other contexts where the legislature has imposed immunization requirements, it has also taken care to provide exemptions that allow people to opt out of being forced to take a vaccine; and

WHEREAS, given the legislature's primacy and the need to avoid a patchwork of regulations with respect to vaccinations, it is appropriate to maintain the status quo of

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2 PM O'CLOCK

AUG 25 2021

prohibiting vaccine mandates through executive order while allowing the legislature to consider this issue while in session; and

WHEREAS, in this instance, given the legislature's prior actions, maintaining the status quo of prohibiting vaccine mandates and ensuring uniformity pending the legislature's consideration means extending the voluntariness of COVID-19 vaccinations to all COVID-19 vaccinations, regardless of regulatory status; and

WHEREAS, I am also adding this issue to the agenda for the Second Called Session of the legislature that is currently convened so that the legislature has the opportunity to consider this issue through legislation; and

WHEREAS, I will rescind this executive order upon the effective date of such legislation;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No governmental entity can compel any individual to receive a COVID-19 vaccine. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine.
2. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
3. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine. No consumer may be denied entry to a facility financed in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine.
4. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
5. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any

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other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.

This executive order supersedes only paragraph No. 2 of Executive Order GA-38, and does not supersede or otherwise affect the remaining paragraphs of Executive Order GA-38. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 25th
day of August, 2021.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in black ink that reads "Joe A. Esparza".
JOE A. ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
2PM O'CLOCK

AUG 25 2021



GOVERNOR GREG ABBOTT

July 29, 2021

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SECRETARY OF STATE
3:15 PM O'CLOCK

JUL 29 2021

Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-38 relating to the continued response to the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor
GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
July 29, 2021

EXECUTIVE ORDER GA 38

Relating to the continued response to the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, from March 2020 through May 2021, I issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health by adjusting social-distancing and other mitigation strategies; and

WHEREAS, combining into one executive order the requirements of several existing COVID-19 executive orders will further promote statewide uniformity and certainty; and

WHEREAS, as the COVID-19 pandemic continues, Texans are strongly encouraged as a matter of personal responsibility to consistently follow good hygiene, social-distancing, and other mitigation practices; and

WHEREAS, receiving a COVID-19 vaccine under an emergency use authorization is always voluntary in Texas and will never be mandated by the government, but it is strongly encouraged for those eligible to receive one; and

WHEREAS, state and local officials should continue to use every reasonable means to make the COVID-19 vaccine available for any eligible person who chooses to receive one; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility "for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders ... hav[ing] the force and effect of law;" and

WHEREAS, under Section 418.016(a), the "governor may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business ... if strict compliance with the provisions ... would in any way prevent, hinder, or delay necessary action in coping with a disaster;" and

WHEREAS, under Section 418.018(c), the "governor may control ingress and egress to

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3:15pm O'CLOCK

JUL 29 2021

and from a disaster area and the movement of persons and the occupancy of premises in the area;" and

WHEREAS, under Section 418.173, the legislature authorized as "an offense," punishable by a fine up to \$1,000, any "failure to comply with the [state emergency management plan] or with a rule, order, or ordinance adopted under the plan;"

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. To ensure the continued availability of timely information about COVID-19 testing and hospital bed capacity that is crucial to efforts to cope with the COVID-19 disaster, the following requirements apply:
 - a. All hospitals licensed under Chapter 241 of the Texas Health and Safety Code, and all Texas state-run hospitals, except for psychiatric hospitals, shall submit to the Texas Department of State Health Services (DSHS) daily reports of hospital bed capacity, in the manner prescribed by DSHS. DSHS shall promptly share this information with the Centers for Disease Control and Prevention (CDC).
 - b. Every public or private entity that is utilizing an FDA-approved test, including an emergency use authorization test, for human diagnostic purposes of COVID-19, shall submit to DSHS, as well as to the local health department, daily reports of all test results, both positive and negative. DSHS shall promptly share this information with the CDC.
2. To ensure that vaccines continue to be voluntary for all Texans and that Texans' private COVID-19-related health information continues to enjoy protection against compelled disclosure, in addition to new laws enacted by the legislature against so-called "vaccine passports," the following requirements apply:
 - a. No governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.082(f)(1) of the Texas Health and Safety Code to the extent necessary to ensure that no governmental entity can compel any individual to receive a COVID-19 vaccine administered under an emergency use authorization.
 - b. State agencies and political subdivisions shall not adopt or enforce any order, ordinance, policy, regulation, rule, or similar measure that requires an individual to provide, as a condition of receiving any service or entering any place, documentation regarding the individual's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. I hereby suspend Section 81.085(i) of the Texas Health and Safety Code to the extent necessary to enforce this prohibition. This paragraph does not apply to any documentation requirements necessary for the administration of a COVID-19 vaccine.
 - c. Any public or private entity that is receiving or will receive public funds through any means, including grants, contracts, loans, or other disbursements of taxpayer money, shall not require a consumer to provide, as a condition of receiving any service or entering any place, documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization. No consumer may be denied entry to a facility financed

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3:15 PM O'CLOCK

JUL 29 2021

- in whole or in part by public funds for failure to provide documentation regarding the consumer's vaccination status for any COVID-19 vaccine administered under an emergency use authorization.
- d. Nothing in this executive order shall be construed to limit the ability of a nursing home, state supported living center, assisted living facility, or long-term care facility to require documentation of a resident's vaccination status for any COVID-19 vaccine.
 - e. This paragraph number 2 shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.
3. To ensure the ability of Texans to preserve livelihoods while protecting lives, the following requirements apply:
- a. There are no COVID-19-related operating limits for any business or other establishment.
 - b. In areas where the COVID-19 transmission rate is high, individuals are encouraged to follow the safe practices they have already mastered, such as wearing face coverings over the nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household, but no person may be required by any jurisdiction to wear or to mandate the wearing of a face covering.
 - c. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) is strongly encouraged to use good-faith efforts and available resources to follow the Texas Department of State Health Services (DSHS) health recommendations, found at www.dshs.texas.gov/coronavirus.
 - d. Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow guidance from the Texas Health and Human Services Commission (HHSC) regarding visitations, and should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible.
 - e. Public schools may operate as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency. Private schools and institutions of higher education are encouraged to establish similar standards.
 - f. County and municipal jails should follow guidance from the Texas Commission on Jail Standards regarding visitations.
 - g. As stated above, business activities and legal proceedings are free to proceed without COVID-19-related limitations imposed by local governmental entities or officials. This paragraph number 3 supersedes any conflicting local order in response to the COVID-19 disaster, and all relevant laws are suspended to the extent necessary to preclude any such inconsistent local orders. Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any conflicting or inconsistent limitation by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.

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JUL 29 2021

4. To further ensure that no governmental entity can mandate masks, the following requirements shall continue to apply:
- a. No governmental entity, including a county, city, school district, and public health authority, and no governmental official may require any person to wear a face covering or to mandate that another person wear a face covering; provided, however, that:
 - i. state supported living centers, government-owned hospitals, and government-operated hospitals may continue to use appropriate policies regarding the wearing of face coverings; and
 - ii. the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, and any county and municipal jails acting consistent with guidance by the Texas Commission on Jail Standards may continue to use appropriate policies regarding the wearing of face coverings.
 - b. This paragraph number 4 shall supersede any face-covering requirement imposed by any local governmental entity or official, except as explicitly provided in subparagraph number 4.a. To the extent necessary to ensure that local governmental entities or officials do not impose any such face-covering requirements, I hereby suspend the following:
 - i. Sections 418.1015(b) and 418.108 of the Texas Government Code;
 - ii. Chapter 81, Subchapter E of the Texas Health and Safety Code;
 - iii. Chapters 121, 122, and 341 of the Texas Health and Safety Code;
 - iv. Chapter 54 of the Texas Local Government Code; and
 - v. Any other statute invoked by any local governmental entity or official in support of a face-covering requirement.

Pursuant to the legislature's command in Section 418.173 of the Texas Government Code and the State's emergency management plan, the imposition of any such face-covering requirement by a local governmental entity or official constitutes a "failure to comply with" this executive order that is subject to a fine up to \$1,000.

- c. Even though face coverings cannot be mandated by any governmental entity, that does not prevent individuals from wearing one if they choose.
5. To further ensure uniformity statewide:
- a. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order or allows gatherings restricted by this executive order. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the

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COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

- b. Confinement in jail is not an available penalty for violating this executive order. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.

This executive order supersedes all pre-existing COVID-19-related executive orders and rescinds them in their entirety, except that it does not supersede or rescind Executive Orders GA-13 or GA-37. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 29th
day of July, 2021.

A handwritten signature in black ink, reading "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in black ink, reading "Joe A. Esparza".
JOE A. ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:15 PM O'CLOCK

JUL 29 2021

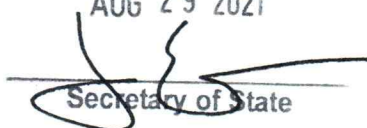


GOVERNOR GREG ABBOTT

August 29, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30 PM O'CLOCK

AUG 29 2021


Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Mr. Deputy Secretary:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation renewing the declaration stating the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in Texas.

The original proclamation is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

PROCLAMATION

BY THE

Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have issued proclamations renewing the disaster declaration for all Texas counties; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, a state of disaster continues to exist in all counties due to COVID-19;

NOW, THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby renew the disaster proclamation for all counties in Texas.

Pursuant to Section 418.017, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

Pursuant to Section 418.016, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 29th day of August, 2021.

A handwritten signature in black ink, reading "Greg Abbott", is written over a horizontal line.

GREG ABBOTT
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30pm O'CLOCK

AUG 29 2021

Governor Greg Abbott
August 29, 2021

Proclamation
Page 2

ATTESTED BY:



JOE ESPARZA
Deputy Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30pm O'CLOCK
AUG 29 2021



GOVERNOR GREG ABBOTT

October 11, 2021

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
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OCT 11 2021

Secretary of State

Mr. Joe A. Esparza
Deputy Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

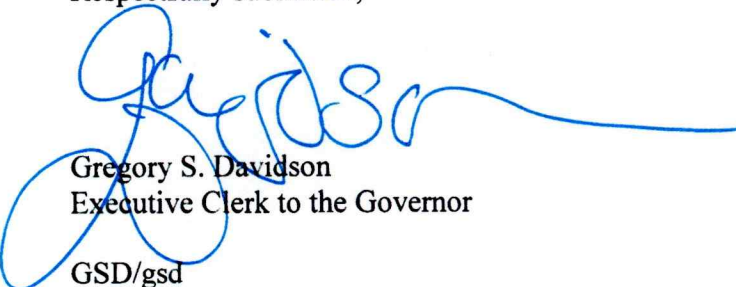
Dear Deputy Secretary Esparza:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-40 relating to prohibiting vaccine mandates, subject to legislative action.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
October 11, 2021

EXECUTIVE ORDER GA 40

*Relating to prohibiting vaccine mandates,
subject to legislative action.*

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all Texas counties; and

WHEREAS, in each subsequent month effective through today, I have renewed the COVID-19 disaster declaration for all Texas counties; and

WHEREAS, I have issued a series of executive orders aimed at protecting the health and safety of Texans, ensuring uniformity throughout Texas, and achieving the least restrictive means of combatting the evolving threat to public health; and

WHEREAS, COVID-19 vaccines are strongly encouraged for those eligible to receive one, but must always be voluntary for Texans; and

WHEREAS, I issued Executive Orders GA-35, GA-38, and GA-39 to prohibit governmental entities and certain others from imposing COVID-19 vaccine mandates or requiring vaccine passports; and

WHEREAS, in yet another instance of federal overreach, the Biden Administration is now bullying many private entities into imposing COVID-19 vaccine mandates, causing workforce disruptions that threaten Texas's continued recovery from the COVID-19 disaster; and

WHEREAS, countless Texans fear losing their livelihoods because they object to receiving a COVID-19 vaccination for reasons of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19; and

WHEREAS, through Chapter 161 of the Texas Health and Safety Code, as well as other laws including Chapters 38 and 51 of the Texas Education Code, the legislature has established its primary role over immunizations, and all immunization laws and regulations in Texas stem from the laws established by the legislature; and

WHEREAS, the legislature has taken care to provide exemptions that allow people to opt out of being forced to take a vaccine for reasons of conscience or medical reasons; and

WHEREAS, I am adding this issue to the agenda for the Third Called Session of the legislature that is currently convened so that the legislature has the opportunity to consider this issue through legislation; and

WHEREAS, I will rescind this executive order upon the effective date of such legislation;

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SECRETARY OF STATE
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OCT 11 2021

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

1. No entity in Texas can compel receipt of a COVID-19 vaccine by any individual, including an employee or a consumer, who objects to such vaccination for any reason of personal conscience, based on a religious belief, or for medical reasons, including prior recovery from COVID-19. I hereby suspend all relevant statutes to the extent necessary to enforce this prohibition.
2. The maximum fine allowed under Section 418.173 of the Texas Government Code and the State's emergency management plan shall apply to any "failure to comply with" this executive order. Confinement in jail is not an available penalty for violating this executive order.
3. This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order.

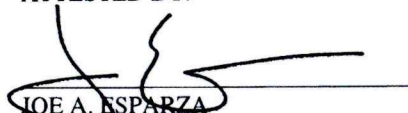
This executive order does not supersede Executive Orders GA-13, GA-37, GA-38, or GA-39. This executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.

Given under my hand this the 11th
day of October, 2021.



GREG ABBOTT
Governor

ATTESTED BY:


JOE A. ESPARZA
Deputy Secretary of State

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SECRETARY OF STATE
4:30 PM O'CLOCK

OCT 11 2021



City of Lockhart

2020-2021 Strategic Priorities

Prepared by:



City of Lockhart

Summary

On January 17 & 18, 2020 the City of Lockhart hosted two half-day planning sessions to develop goals and strategies for the next 2 years. Some of these goal areas were internal, whereas others were external. The following is the process used to reach the conclusions for the plan.

The process began with a preliminary phone meeting between the facilitator and Steve Lewis, City Manager, to go over key issues facing the City, understand the programs and projects underway through the community, and to prepare the agenda and format for the planning retreat.

The first portion of the strategic planning process began on Friday, January 17, 2020 with the City Manager and the City of Lockhart Management Team. The facilitator began by asking the Management Team participants what their expectations for discussion for the day were. She then conducted a group brainstorm exercise called Start/Stop/Continue that lists the things that need to begin happening, stop happening, and are mission-critical and must continue regardless of circumstances.

The facilitator then guided the Management Team through 2020-2021 goal and strategy development to recommend to the City Council the following day.

On Saturday, January 18, 2020, the City Council and City Manager convened to review, revise, and establish priorities related to the recommendations generated the day before by the Management Team. Prior to the review, the facilitator asked the City Council to list their expectations for discussion for the day.

The following are the results.

Management Team Expectations for the Day's Discussion Topics

- Holistic view of the City
- Understanding other departments better
- Council to continue to be open to new ideas
- As the city grows, facilities and staff must keep up
- Next comprehensive master plan
- Establish an IT 3-5-year plan to keep current
- Replace phone systems and phone equipment
- Discuss records storage
- What is there for teens and tweens to do?
- Need administrative assistance
- Public Information Officer – keep information on point, factual, and streamlining voice: sharing voice vs. many voices
- Law enforcement: recruitment and administrative assistance
- Stick to implementing plan
- Fire equipment replacement plan and funding
- Achieve “needs” so we can work on “wants” for the future
- Customer service needs additional staff – same staffing level as 1000 accounts ago
- Technology training needed in Library (provide for public)
- Additional Library storage needed
- Electric services study needed and replace needed items
- Salary and compensation study to begin soon – want council to support and fund the results of the study

City Council Expectations for the Day's Discussion Topics

- Improve work environment for staff
- Accomplish unfinished business from last strategic plan
- 142 & I-130 development
- Low-hanging fruit and larger longer-term goals
- Eliminate the red tape
- Look ahead to see what's next
- Balance citizen needs and staff needs
- Keep on track
- Prepare for quality growth
- Neighborhood beautification
- City Hall facilities
- Discuss hospital/after-hours clinic
- Hear staff recommendations

Start/Stop/Continue

The facilitator guided the Management Team through an exercise that challenged them to brainstorm things that the City really needed to begin doing, what they should stop doing that could be a waste of resources, and what must they continue doing, regardless of circumstances. Below are their responses. Note that there are no right or wrong items; these are merely individuals' opinions about the things that should and shouldn't change in Lockhart. Just because one person has a certain opinion on a topic, that does not imply anyone else shared that opinion.

Start

- Long-term street paving plan (paving/resurfacing)
- Electrical system study
- Formal grantsmanship program
- Records storage facility
- Digitize public works and utility records/maps
- Establish fee schedule for fire plan reviews and inspections
- Review development related fees
- Improve customer service at Police Department and Utilities Department by increasing administrative staff
- Start a Main Street Program
- New City facilities (abolish sewer smell)
- Consider a 4-day/10-hour work week option
- Annual review of facility maintenance, i.e. HVAC systems, etc.
- Make Parks Department into Parks and Recreation Department (start recreation program)
- Review and fund vehicle replacement fund
- Expand/improve airport facilities
- Figuring out how to generate more general fund revenues to pay for items on this “start” list

Stop

- Printing reports – use digital reports when we can
- The waste in Archives
- Excessive paperwork related to personnel (consider paper reduction techniques instead)
- Making new employees wait 6 months to take time off/sick days/etc (other cities do 3 months)
- Excessive engine idling of city vehicles
- Worrying about other departments and focus on making your own team better
- Picking up commercial recycling for free
- Hanging highway banners for free
- Circulating city council department head reports monthly (do quarterly instead)
- Workshop portion of council meetings unless needed (they run too long)
- Referencing the past as “we have always done it that way” (we can be more innovative)

Continue

- Effective communication with customers/website
- Planning for the future
- Maintaining hiring standards
- Improving community amenities finding external funding sources
- Succession planning and cross-training
- Staff meetings
- Learning new ways of doing things
- Employee longevity and retention efforts
- Good customer service
- Acknowledging staff accomplishments
- Great teamwork
- Parks improvements/parks master plan
- Efforts on wayfinding program
- Replacing aged power lines
- Planning and engineering for downtown paving and drainage improvements
- Providing utilities to areas of anticipated future growth and development
- Planning for future industrial parks
- Accreditation for Police and Fire Departments

Recommendations from Staff:

The following items were recommendations from staff to city council. Items that have a checkbox (R) had agreement of city council the following day. The one item with no checkbox was rolled to consideration for 2022.

- ☒ Create and adopt 5-7-year paving/resurfacing plan (roads and sidewalks)
- ☒ Lockhart Police Department to conduct Active Shooter training for all City staff and elected officials and review official safety procedures for council meetings
- ☒ Explore asking the county for grant writer assistance
- ☒ Establish fee schedule for fire plan reviews and inspections
- ☒ Considering increasing existing fees for applications and development fees
- ☒ Develop an Airport Business Plan
- ☒ Research options for additional records storage
- ☒ Transition staff department reports from monthly to quarterly
- ☒ Pursue agenda management process and software
- ☐ Streamline paper processes where possible/evaluate software options
 - Utility billing
 - Applications
 - Council, boards, commissions:
 - Packets
 - Minutes

Goal Development from City Council:

The following items were items identified by council to move forward on for 2020-2021:

- Establish a Hospital with an Emergency Room in town
- Sell church property
- Create resources via Lockhart EDC for proactive outreach to quality builders for additional housing
- Create a Youth Advisory Board to explore options around youth programs/activities
- Adopt a TIF (tax increment financing) policy prior to project being submitted
- Implement downtown drainage improvements
- Develop fiber down 142, 183, and the Central Business District
- Traffic safety improvements: turn lanes and traffic lights
- Consider submitting a multi-year street bond program to voters
- Begin TXDOT safety projects
- Promote a Neighborhood Watch Program
- Promote beautification projects through teamwork
- Clean up trash/enforcement
- Enhance lower income districts/beautification efforts

Progress Reporting

The following icons are used to document progress of the following goals and strategies:

	= Completed
	= On Target or In Progress
	= Not on Target

Goal 1: Economic Development / Planning

Strategies	2019-2020 Progress	2020-2021 Progress
1. Continue to partner with LISD and local youth organizations to encourage careers in local emergency services (Fire and Police)	 Partner with Boy Scouts to develop Police Explorer Program. Fire personnel attend and participate in LISD career days.	
2. Better collaborate with downtown stakeholders and both Chambers of Commerce		
3. Complete updating our development ordinances	 Revised Engineering Standards – presented to Council January 2020. Subdivision Regulations to follow.	

4. Consider development tools to facilitate attraction / recruitment to SH 130 corridor	 IEDC business park development study completed. Future consideration by LEDC.	
5. Bring utilities, assist assembling parcels, rezoning tracts along SH 130/142 and become shovel-ready	 Mostly done. Site development will facilitate the remainder.	
6. Pursue prospects and developers and create a BRE (business retention and expansion) program	 Hiring a second Economic Development practitioner.	
7. Start investing in more property for growth	 IEDC study.	
8. Explore next industrial park	 IEDC study.	
9. HOT (Hotel Occupancy Tax) Funds – board to develop and adopt new process to collect payments from B&Bs	 HOT Advisory Board created. Board training and funding processes under review.	
10. Adopt and implement the Economic Development Strategic Plan (currently underway by Garner Economics) by Q4 2020	 LEDC Board hired Garner Economics January 2020	
11. Robust LEDC website	 Underway with EDsuite contract.	
12. Create resources via Lockhart EDC for proactive outreach to quality builders for additional housing	<i>N/A Brand new/created in 2020</i>	

Strategies	2019-2020 Progress	2020-2021 Progress
13. Adopt a TIF (tax increment financing) policy prior to project being submitted	<i>N/A Brand new/created in 2020</i>	
14. Develop fiber down 142, 183, and the Central Business District	<i>N/A Brand new/created in 2020</i>	

Goal #1 KPIs / Metrics:

- ☒ Did we partner with LISD & other youth organizations to encourage emergency services careers?
- ☐ Did we collaborate with downtown stakeholders and both Chambers of Commerce?
- ☐ Did we completely update our development ordinances?
- ☐ Did we brainstorm development tools for SH-130 development?
- ☐ Did we bring utilities and assemble parcels along SH-130?
- ☐ Did we develop shovel-ready development sites?
- ☐ Did we market those sites to prospective investors?
- ☐ Did we develop plans for our next industrial park?
- ☐ Did we revamp the way HOT funds are structured?
- ☐ Did we develop and implement an Economic Development Strategic Plan?
- ☐ Did the Lockhart EDC revamp their website to better attract investment?
- # of quality home builders the Lockhart EDC proactively reached out to in 2020-2021? _____
- ☐ Did we adopt a new TIF policy?

of miles of new fiber optics laid in Lockhart in 2020-2021? _____

Goal 2: Quality of Life / Quality of Facilities

Strategies	2019-2020 Progress	2020-2021 Progress
1. Invest money to improve the appearance of our town (streets, parks, entry signs)	 Doubled street resurfacing funds in FY 20; Parks Master Plan projects.	
2. Conduct and implement a Space Study of City Buildings and facilities including City Hall	 Budget established for FY 20 Space Study. RFP under development.	
3. Improve the image of City facilities as needed and conduct cosmetic improvements in the meantime	 See No. 2 above.	
4. Update, renovate, and construct City facilities as needed, based on the space study. Realize that remodel of Central Fire Station is likely next.	 Electrical panel upgrade at the Water Treatment Plant; Budget established for FY 20 Space Study; Fire Station No. 2 completed.	
5. Implement the Parks Master Plan, improving the quality of life for the community. What is in Phase 2: splash pad, restroom renovations, dog park, picnic shelter upgrades, and tree planting initiatives	 Multiple Phase I projects underway.	
6. Conduct a citywide quality of life citizen survey and ask council to fund.	 Allocate funds in FY 20-21; assign project to PIO.	
7. Establish a Hospital with an Emergency Room in town	<i>N/A Brand new/created in 2020</i>	
8. Sell church property	<i>N/A Brand new/created in 2020</i>	
9. Create a Youth Advisory Board to explore options around youth programs/activities	<i>N/A Brand new/created in 2020</i>	
10. Implement downtown drainage improvements	<i>N/A Brand new/created in 2020</i>	

Strategies	2019-2020 Progress	2020-2021 Progress
11. Consider submitting a multi-year street bond program to voters	<i>N/A Brand new/created in 2020</i>	
12. Promote beautification projects through teamwork	<i>N/A Brand new/created in 2020</i>	
13. Clean up trash/enforcement citywide	<i>N/A Brand new/created in 2020</i>	
14. Enhance lower income districts with beautification efforts	<i>N/A Brand new/created in 2020</i>	

Goal #2 KPIs / Metrics:

\$ amount invested in streets in 2019? \$ _____

\$ amount invested in parks in 2019? \$ _____

\$ amount invested in gateway entry signs in 2019? \$ _____

\$ amount invested in streets in 2020? \$ _____

\$ amount invested in parks in 2020? \$ _____

\$ amount invested in gateway entry signs in 2020? \$ _____

Which facilities did we improve the image of? _____

☐ Did we implement elements of the Parks Master Plan?

☐ Did we secure quotes on a Space Study of City buildings including City Hall?

of City-owned buildings we renovated or retrofitted? _____

☐ Did we conduct a citywide quality of life citizen survey?

☐ Did we address levels of service based on the citizen responses we received?

☐ Did we address levels of satisfaction based on the citizen responses we received?

☐ Did we address areas for improvement based on the citizen responses we received?

☐ Did we court hospital providers?

☐ Did we sell the church property?

☐ Did we create a Youth Advisory Board?

☐ Did we implement downtown drainage improvements?

☐ Did we fully investigate issuing a street bond?

☐ Did we fully enforce trash clean up around town?

☐ Did we specifically target lower income neighborhoods for new beautification projects?

Goal 3: Staffing / Personnel

Strategies	2019-2020 Progress	2020-2021 Progress
1. Consider hiring additional personnel (engineer, IT, etc.)	 In FY 20, staffing levels were increased by 2 full-time and 1 part-time positions.	
2. Conduct a staffing study that includes evaluating efficiencies and compensation	 Classification and Compensation Study underway.	
3. Right size staffing levels city-wide based on study results	 No funding was allocated for such a study; discuss need/timing of study during FY 20-21 budget process.	
4. Consider starting salaries that compete with surrounding communities	 Classification and Compensation Study underway.	
5. Be consistent with staff development / policies / purchasing procedures	 Comprehensive Purchasing Policy under development (anticipated to be complete 1 st quarter of 2020). Revision of City Personnel Policy underway.	
6. Implement a staff development program (be consistent)	 House Bill 3834 mandated cybersecurity training for all employees with computer access and elected officials – cybersecurity training program underway.	

Strategies	2019-2020 Progress	2020-2021 Progress
7. Start developing / preparing current staff to take on leadership roles within the organization in the future. Work on succession planning: add Fire, add Electric, add Streets, and add Animal Control.	 Emphasis on leadership training for police personnel, cross training of job duties underway in Finance Department.	
8. Recruit and attract more bi-lingual staff	 No funding was allocated to recruit bi-lingual staff; explore possible options during FY 20-21 budget process and the classification and compensation study.	
9. Customer service / experience excellence training for the Utility and Planning Development teams	 Training budgeted item in FY 20 for Utility Customer Services staff.	

Goal #3 KPIs / Metrics:

of new positions in 2019? _____

☐ # of new positions in 2020 and 2021? _____☐ Did we perform a staffing efficiency/compensation study?☐ Did we right-size our salaries based on that study by the end of 2020?☐ Did we develop new consistent policies and procedures regarding professional development of staff?☐ Did we develop new consistent policies and procedures regarding purchasing/procurement?☐ Did we create and implement a new staff development program to ensure everyone has training opportunities?☐ Did we begin grooming current staff for future leadership roles?☐ How many staff do we have on a leadership track by the end of 2020?

of new employees added in 2019 through 2021 who are bilingual? _____

☐ Did we deliver Customer Experience Excellence training to every City employee?

Goal 4: Procedures / IT Management and Services

Strategies	2019-2020 Progress	2020-2021 Progress
1. Improve technology / create specific strategies to have better IT support based on Assessment results	 New outside IT management team hired; Strategic plan for current and emerging issues (cyber) near completion.	
2. Upgrade all technology-related issues as recommended – desktops, servers, software, equipment, and peripherals. \$100K will pay for equipment, \$20K is licensing agreement costs.	 City-wide replacement of desktops with current operating systems complete; new servers in current fiscal year.	
3. Create a 5-year rolling IT equipment replacement plan	 See above notes 1 and 2.	
4. Provide superior service by keeping technology up to date and being able to communicate with the public (keep an open line of communication through website.) Purchase next modules: INCODE	 New PIO hired. Increased social media updates. INCODE permits and inspections software module implemented to track permit and inspections progress; online access to permit applications and tracking underway.	
5. Upgrade the server system	 Desktop operating systems upgrade 100% complete. Server upgrades in progress.	
6. Streamline technology hardware, software processes within the City, based on Assessment recommendations	 Ongoing and FY 20-21.	

Strategies	2019-2020 Progress	2020-2021 Progress
7. Upgrade all equipment and software and be trained on specific software to be used to maximum potential and determine which staff will require which trainings.	 Current year 2020 departmental goal.	
8. Explore implementing downtown Wi-Fi	 To be addressed in 2020 or 2021. Explore options with the Downtown Business Association and both Chambers of Commerce.	

Goal #4 KPIs / Metrics:

- ☐ Did we secure top quality technology support across all departments by the end of 2020?
- ☐ Did we upgrade our desktop computers?
- % of employees who received upgraded computers by the end of 2020 (from 2018 numbers)? _____
- ☐ Did we upgrade our servers?
- ☐ Did we upgrade our computer software, subscriptions, and licenses?
- ☐ Did we upgrade our peripherals?
- ☐ Did we upgrade our other technology equipment?
- ☐ Did we establish an IT policy for updates and replacements that will keep us up-to-date from now through the future?
- ☐ Did we upgrade our City server system?
- ☐ Did we streamline our City technology processes?
- ☐ Did we secure training for staff to use all new equipment properly and efficiently?
- ☐ Did we investigate implementing WiFi throughout Downtown Lockhart?

Goal 5: Public Safety

Strategies	2019-2020 Progress	2020-2021 Progress
1. Provide quality public safety to all citizens of Lockhart		
a. Develop a specific Retention Strategy first	 City-wide classification and compensation study underway. Fire: Council approved 7% salary adjustment in FY 19-20. Police: all officers to attend leadership training, host ceremonial recognition events, retention strategy under development.	
b. Continue to implement hiring strategies we developed such as Fire and Police.	 Fire: Use of recruitment video; developing recruitment flyer for use with LISD and the public; career day with Lockhart High School students; Fire Chief to serve on LISD Career and Technical Education Advisory Committee. Police: In 2019, Lockhart Police Officers visited with police cadets attending the AACOG Academy and made presentations to 2 classes of prospective candidates. In 1 st quarter of 2020, LPD will make presentations to the CAPCOG Academy currently in progress.	

Strategies	2019-2020 Progress	2020-2021 Progress
c. Long-term public safety facility planning for Station #1.	 Completed Fire Station No. 2. Analysis and cost estimate to remodel and upgrade Fire Station No. 1 underway.	
d. Develop an equipment replacement schedule. Seek funding for existing equipment (fire apparatus and patrol cars) replacements.	 Developed an ambulance replacement schedule with Caldwell County and Seton. Upgrades to two-way radios (portables and mobiles) underway.	
e. Continue to ensure use of best practices / standards (research best practices, then implement)	 Fire: Fire Department is preparing an emergency management tabletop exercise for City staff. Police: Upgraded Police Officer body-worn cameras to 3 rd generation models.	
f. Evaluate Accreditation opportunities	 Fire: Reviewing the Texas Fire Chief's Association (TFCA) accreditation process before formal enrollment. Police: Currently reviewing the 166 Texas Law Enforcement Best Practices. Will submit for recognition in the 3 rd quarter of 2020.	

Strategies	2019-2020 Progress	2020-2021 Progress
g. Traffic safety improvements: turn lanes and traffic lights	<i>N/A Brand new/created in 2020</i>	
h. Begin TXDOT safety projects	<i>N/A Brand new/created in 2020</i>	
i. Promote a Neighborhood Watch Program	<i>N/A Brand new/created in 2020</i>	

Goal #5 KPIs / Metrics:

of new law enforcement officers hired in 2019? _____

of new law enforcement officers hired in 2020? _____

of new law enforcement officers hired in 2021? _____

% law enforcement officers retained? _____ %

of new firefighters hired in 2019? _____

of new firefighters hired in 2020? _____

of new firefighters hired in 2021? _____

% firefighters retained? _____ %

☐ Did we develop a long-term public safety facilities plan?☐ Did we develop a public safety equipment replacement schedule?☐ Did we implement that new replacement schedule?☐ Did we research and record best practices across the country regarding public safety policy?☐ Did we make any modifications to our public safety policies based on that research?☐ Did we explore and evaluate Accreditation opportunities?☐ Did we implement new turn lane and traffic light improvements in 2020-2021?☐ Did we begin the TXDOT safety projects?☐ Did we proactively promote a Neighborhood Watch Program for Lockhart?

Conclusion

At the end of the planning retreat, the facilitator reminded all the participants that these goals would only be achieved if they held true to their commitments today to implement these specific strategies and tactics.

She reminded them that they are one team working toward one vision. The city council and management team agreed to use this document regularly throughout 2020 and 2021 to track progress and measure accomplishments.



City of Lockhart

2019-2020 Strategic Priorities

Prepared by:



City of Lockhart

Summary

On February 1 & 2, 2019 the City of Lockhart hosted two half-day planning sessions to develop goals and strategies for the next 2 years. Some of these goal areas were internal, whereas others were external. The following is the process used to reach the conclusions for the plan.

The process began with a preliminary phone meeting between the facilitator and Steve Lewis, City Manager, to go over key issues facing the City, understand the programs and projects underway through the community, and to prepare the agenda and format for the planning retreat.

The first portion of the strategic planning process began on Friday, February 1, 2019 with the City Manager and the City of Lockhart Management Team. The facilitator began by asking the Management Team participants what their expectations for discussion for the day were. She then took the team through a SWOT (Strengths, Weaknesses, Opportunities, & Threats) Analysis. The next group exercise was a brainstorm called Start/Stop/Continue that lists the things that need to begin happening, stop happening, and are mission-critical and must continue regardless of circumstances.

The facilitator then guided the Management Team through 2019-2020 goal and strategy development to recommend to the City Council the following day.

On Saturday, February 2, 2019, the City Council and City Manager convened to review, revise, and establish priorities related to the recommendations generated the day before by the Management Team. Prior to the review, the facilitator asked the City Council to list their expectations for discussion for the day.

The following are the results.

Management Team Expectations for the Day's Discussion Topics

- That City Council will take what we say seriously
- Consider all staff in decisions
- Hear each other's goals
- Live by the plans we create / develop
- That Council develop goals / priorities based on sound data / research
- Focus
- Consider quality of life as over-arching goal
- Discuss business attraction vs. recruitment
- Being prepared for growth
- Facilities improvements
- Facilities maintenance
- How do we give back to those who need extra help?
- Smart land use practices
- Discuss Tourists/Tourism – what is there for kids to do while in town visiting family?

City Council Expectations for the Day's Discussion Topics

- Capitalize on Tourism
- Discuss Wi-Fi
- Capitalize on BBQ Capital of Texas
- Cleaning up of unsightly properties (residential)
- Work in unity today
- Serve our community
- Focus
- To discuss Economic Development targeting technology jobs
- Industrial Park is full – now what?
- Cleaning up of City properties / facilities
- Actually implement our goals
- Discuss the direction of Economic Development
- Think bigger / think change / embrace change
- Develop our identity
- Attractive gateway signage
- Employee wages
- Technology infrastructure

SWOT Analysis

The facilitator guided the participants through an analysis of their current Strengths, the current Weaknesses or Challenges they are facing, Opportunities that may come their way in the future, and Threats that are possible to occur in the future. Note that there are no right or wrong answers here and no implication of likelihood. This is simply a brainstorm of the opinions of the participants to get them thinking about goals in the next portion. The Management Team listed their responses first, then the City Council added additional items the following day.

Strengths

- Historic district
- County seat
- BBQ Capital of Texas
- Location to highways
- Tourism
- Small town (family-oriented)
- Growing – room for more
- Desire to manage growth
- Good development process
- Proximity to Austin
- Comparable housing prices
- Existing capacity of utilities
- Easy mobility
- Economic Development Sales tax
- Clark Library
- Baker Theatre
- Ease of developing land (flat)
- Employees who experience long tenure
- Volunteers
- CTR (Chisholm Trail Roundup) & other local events
- Community support
- Recognizable court house
- Movies / film production (TFC)
- Long-term water planning
- High-level financial planning
- Competitive building / development fees
- “Real” city with well-managed growth
- New energy
- Proximity to large cities / airport
- New residents – new ideas – changing priorities
- Diversity
- First Friday Downtown Event

Weaknesses / Challenges

- Incentives – Economic Development lack of use
- Technology – aging equipment and software
- Infrastructure
- Facilities – condition / maintenance
- Competitive salaries within region
- Training opportunities
 - Professional development
 - Budget
- Closed minds – have always done it this way
- Tourism
- Managing growth
- Need for succession planning
- Public perception influencing job applicant pool
- Weak tax base
- Limited in-town post-secondary educational opportunities
- Lack of retail
- Lack of entertainment (kids)
- Limited grocery options
- City-owned property
- College
- Venue / convention center
- Lack of hotels
- Entryways to community
- Not using TIF financing
- Emerging downtown organization
- How to effectively support increasing, ever-growing number of festivals
 - Create packages for vendors and festivals
- No city recreation programs
- In-kind services
- Very limited public transportation services
- Outdated web information
- Poor communication with citizens

Opportunities

- Expand airport (hangars)
 - Install AWOS (Automated Weather Observing System)
- Improve working conditions of employees
- Proximity to Austin
- Implement first phase of parks master plan
- SH-130 has great properties but not city-owned property
- Undeveloped lots on Square and north / northwest of Square
- Long-tenured elected leadership
- Increase community involvement
- To develop positive relationship with County, School, and organizations
- Quality economic growth
- Franchise recreational or entertainment venues (theaters, bowling, outlets, concerts, water parks)
- Community college campus
- Increased communication needed with ISD for school planning, infrastructure, etc.
- Expand walking / biking opportunities for exercise and community involvement
- Lockhart Springs (natural spring)
- Lockhart State Park transfer to City
- Potential residential development around golf course
- Development within historic district
- School district growth
- Housing growth
- Business growth
- St. Paul Church and other redevelopment opportunities
- Hospital / medical facilities
- Public bathrooms downtown
- Develop Industrial Park
- More involvement with San Marcos Greater Partnership
- Partnership with Austin Chamber
- EDC \$ will go further today than in 2 years (spec buildings, parking)

Threats

- Economic recession
- Voter turnout
- Government shutdown
- Citizen input
- Natural disaster
- Leadership in government
- Lack of economic development direction
- Competition from other cities
- Lack of resources
- Building maintenance
- Technology – cyber security
- Surging population
- Infrastructure improvement
- Maintaining reputation
- Planning without follow through
- Lack of educated workforce – skilled labor
- Crime
- Lack of workforce – people
- Retention and hiring
- Youth retention
- School quality
- Lack of industry
- Lack of racial unity
- Micro-managing
- Other utilities providers
- Homeless services – transportation
- Types of future growth

Start/Stop/Continue

The facilitator guided the Management Team through an exercise that challenged them to brainstorm things that the City really needed to begin doing, what they should stop doing that could be a waste of resources, and what must they continue doing, regardless of circumstances. Below are their responses. Note that there are no right or wrong items; these are merely individuals' opinions about the things that should and shouldn't change in Lockhart. Just because one person has a certain opinion on a topic, that does not imply anyone else shared that opinion.

Start

- Space allocation study
- Renovate City buildings – construct
- Downtown bathrooms
- Improve salaries – salary survey
- Staff development program / policies / procedures
- Consistency in purchasing
 - Revamp purchasing policy
- Replacing capital equipment / vehicles – vehicle fund
- Mandatory single stream recycling
- IT department, in-house City Engineer
- New technology in terms of equipment, network, server, software
- Re-assess who is in charge of downtown redevelopment
 - Name which entity (or entities) funds downtown redevelopment initiatives
 - Name which entity (or entities) manages downtown redevelopment initiatives
- 2020 Comprehensive Master Plan Update that includes a future land use plan and map

Stop

- In-house utility billing (consider outsourcing)
- Outsourcing IT (consider bringing in-house)
- Repetitive useless paperwork (paperwork/policies must be updated and streamlined)
- Increasing overtime in fire and police (hire more to fix this issue)
- Using outdated equipment
- Hand -picking collections of recycled goods (business pick up)
- Laying asphalt driveway approaches for “free”
- Demolition of condemned houses – stop doing in-house (needs to be outsourced)

Continue

- Meeting with County, City, School, Chamber, EDC
- Implementing 2020 Plan and Updates
- Attracting businesses – growth
- Providing superior service
- Redeveloping Downtown
- Implement Parks Master Plan
- Being a great place to work
- Public investments along SH-130
- Supporting festivals / movie projects
- Financial planning
- Embracing tourism

Goal 1: Economic Development / Planning

Strategies
1. Partner with LISD and local youth organizations to encourage careers in local emergency services (Fire and Police)
2. Reassess who is in charge of managing and funding downtown development and tourism
3. Attract a post-secondary education campus / facility
4. Complete updating our development ordinances
5. Consider development tools to facilitate attraction / recruitment to SH 130 corridor
6. Bring utilities, assist assembling parcels, rezoning tracts along SH 130
a) Shovel ready
b) Pursue prospects
7. Start investing in more property for growth
8. Explore next industrial park
9. HOT (Hotel Occupancy Tax) Funds – revamp structure
10. Economic Development Strategic Plan
11. Robust LEDC website

Goal #1 KPIs / Metrics:

- ☐ Did we partner with LISD & other youth organizations to encourage emergency services careers?
- ☐ Did we reassess downtown development and tourism initiatives and who leads each?
- ☐ Did we initiate efforts to attract a post-secondary educational institution or facility to Lockhart?
- ☐ Did we completely update our development ordinances?
- ☐ Did we brainstorm development tools for SH-130 development?
- ☐ Did we bring utilities and assemble parcels along SH-130?
- ☐ Did we develop shovel-ready development sites?
- ☐ Did we market those sites to prospective investors?
- ☐ Did we develop plans for our next industrial park?
- ☐ Did we revamp the way HOT funds are structured?
- ☐ Did we develop and implement an Economic Development Strategic Plan?
- ☐ Did the Lockhart EDC revamp their website to better attract investment?

Goal 2: Quality of Life / Quality of Facilities

Strategies
1. Invest money to improve the appearance of our town (streets, parks, entry signs)
2. Conduct a Space Study of City Buildings and facilities including City Hall
3. Improve the image of City facilities as needed
4. Update, renovate, and construct City facilities as needed
5. Implement the Parks Master Plan, improving the quality of life for community
6. Conduct a citywide quality of life citizen survey

Goal #2 KPIs / Metrics:

\$ amount invested in streets in 2019 and 2020? \$ _____

\$ amount invested in parks in 2019 and 2020? \$ _____

\$ amount invested in gateway entry signs in 2019 and 2020? \$ _____

of City facilities we improved the appearance of? _____

☐ Which facilities did we improve the image of?

☐ Did we implement elements of the Parks Master Plan?

☐ Did we secure quotes on a Space Study of City buildings including City Hall?

☐ How many City-owned buildings did we renovate or retrofit?

☐ Did we conduct a citywide quality of life citizen survey?

☐ Did we address levels of service based on the citizen responses we received?

☐ Did we address levels of satisfaction based on the citizen responses we received?

☐ Did we address areas for improvement based on the citizen responses we received?

Goal 3: Staffing / Personnel

Strategies
1. Consider hiring additional personnel (engineer, IT, etc.)
2. Conduct a staffing study that includes evaluating efficiencies and compensations
3. Right size staffing levels city-wide based on study results
3. Consider starting salaries that compete with surrounding communities
4. Be consistent with staff development / policies / purchasing procedures
5. Implement a staff development program (be consistent)
6. Start developing / preparing current staff to take on leadership roles within the organization in the future
7. Bi-lingual staff
8. Customer service / experience excellence training

Goal #3 KPIs / Metrics:

of new positions in 2019 and 2020? _____

- ☐ Did we perform a staffing efficiency/compensation study?
- ☐ Did we right-size our salaries based on that study by the end of 2020?
- ☐ Did we develop new consistent policies and procedures regarding professional development of staff?
- ☐ Did we develop new consistent policies and procedures regarding purchasing/procurement?
- ☐ Did we create and implement a new staff development program to ensure everyone has training opportunities?
- ☐ Did we begin grooming current staff for future leadership roles?
- ☐ How many staff do we have on a leadership track by the end of 2020?

of new employees added in 2019 and 2020 who are bilingual? _____

- ☐ Did we deliver Customer Experience Excellence training to every City employee?

Goal 4: Procedures / IT / Software and Hardware

Strategies
1. Conduct a Technology Assessment that yields specific recommendations
2. Improve technology / create specific strategies to have better IT support based on Assessment results
3. Upgrade all technology-related issues as recommended – desktops, servers, software, equipment, and peripherals
4. Start replacing old equipment
5. Provide superior service by keeping technology up to date and being able to communicate with the public (keep an open line of communication through website)
6. Carefully weigh all the pros and cons of considering bringing IT in-house
7. Upgrade the operating system
8. Streamline technology hardware, software processes within the City, based on Assessment recommendations
9. Upgrade all equipment and software and be trained on specific software to be used to maximum potential
10. Explore implementing downtown Wi-Fi

Goal #4 KPIs / Metrics:

- ☐ Did we conduct a Technology Assessment?
- ☐ Did we secure top quality technology support across all departments by the end of 2020?
- ☐ Did we upgrade our desktop computers?
- % of employees who received upgraded computers by the end of 2020 (from 2018 numbers)? _____
- ☐ Did we upgrade our servers?
- ☐ Did we upgrade our computer software, subscriptions, and licenses?
- ☐ Did we upgrade our peripherals?
- ☐ Did we upgrade our other technology equipment?
- ☐ Did we establish an IT policy for updates and replacements that will keep us up-to-date from now through the future?
- ☐ Did we carefully weigh all the pros and cons of keeping IT outsourced vs. bringing it in-house?
- ☐ Did we upgrade our City operating system?
- ☐ Did we streamline our City technology processes?
- ☐ Did we secure training for staff to use all new equipment properly and efficiently?
- ☐ Did we investigate implementing WiFi throughout Downtown Lockhart?

Goal 5: Public Safety

Strategies
1. Provide quality public safety to all citizens of Lockhart
a) Develop a specific Retention Strategy first
b) Develop a specific Hiring Strategy
c) Long-term public safety facility planning
d) Develop an equipment replacement schedule
e) Ensure use of best practices / standards (research best practices, then implement)
f) Evaluate Accreditation opportunities

Goal #5 KPIs / Metrics:

of new law enforcement officers hired in 2019?

of new law enforcement officers hired in 2020?

% law enforcement officers retained?

of new firefighters hired in 2019?

of new firefighters hired in 2020?

% firefighters retained?

☐ Did we develop a long-term public safety facilities plan?

☐ Did we develop a public safety equipment replacement schedule?

☐ Did we implement that new replacement schedule?

☐ Did we research and record best practices across the country regarding public safety policy?

☐ Did we make any modifications to our public safety policies based on that research?

☐ Did we explore and evaluate Accreditation opportunities?

Conclusion

At the end of the planning retreat, the facilitator reminded all the participants that these goals would only be achieved if they held true to their commitments today to implement these specific strategies and tactics.

She reminded them that they are one team working toward one vision. The participants agreed to use this document regularly throughout 2019 and 2020 to track progress and measure accomplishments.

CITY COUNCIL FY 18-19 GOALS (FINAL COMBINED)

PRIORITY ORDER

COUNCILMEMBER	PRIORITY	FY 18-19 GOALS
CASTILLO	1	Infrastructure Improvements: streets
GONZALES-SANCHEZ	1	Hire A City Manager
MCGREGOR	1	Economic development, creating and retaining jobs, grocery campaign.
MENDOZA	1	Pay Raise City Employees.
MICHELSON	1	Public relations position/ get the word out about Lockhart (promoting)
WESTMORELAND	1	Infrastructure Improvements: streets
WHITE	1	Economic development, creating and retaining jobs, grocery campaign.
CASTILLO	2	Economic development, creating and retaining jobs, grocery campaign.
GONZALES-SANCHEZ	2	All Department Heads to Budget Salary Increases for all City Employees.
MCGREGOR	2	Work with LISD to establish a community recreation center at the Adams Gym, per under Parks
MENDOZA	2	Economic development, creating and retaining jobs, grocery campaign.
MICHELSON	2	Signage in Lockhart (highway, downtown, and toll) / Wayfinding, branding,,,))
WESTMORELAND	2	Signage in Lockhart (highway, downtown, and toll) / Wayfinding, branding,,,))
WHITE	2	Public relations position
CASTILLO	3	Continued police community committee involvement, neighborhood watch, gang awareness
GONZALES-SANCHEZ	3	Infrastructure: Continue City Infrastructure: Drainage, Street Repairs, Completion of Curbing, Brighter Lighting in Neighborhoods
MCGREGOR	3	Prepare Fire Station #3 (so we can have existing station remodeled)
MENDOZA	3	Continued police community committee involvement, neighborhood watch, gang awareness
MICHELSON	3	Prepare Fire Station #3 (so we can have existing station remodeled)
WESTMORELAND	3	More enforcement of codes directed at unsightly properties
WHITE	3	Wayfinding, branding, develop new entry sign and city markers
CASTILLO	4	City Facilities: Maintenance and repairs Economic Development: Recruit more businesses especially retail and continue efforts; contact existing and vacant building owners to see if they are willing to work with the City of Lockhart to bring retail businesses and specialty shops, as well as industrial. Purchase buildings and land when on the market for possible new businesses for the city.
GONZALES-SANCHEZ	4	Public relations position work with social media/ get the word out about Lockhart
MCGREGOR	4	City Facilities: Maintenance and repairs
MENDOZA	4	City Facilities: Maintenance and repairs

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CITY COUNCIL FY 18-19 GOALS (FINAL COMBINED)

PRIORITY ORDER

COUNCILMEMBER	PRIORITY	FY 18-19 GOALS
MICHELSON	4	Refurbish City Hall inside (making it more inviting)
WESTMORELAND	4	Move forward with St Paul property project
WHITE	4	Park improvements- consider medium to long range plan for Town Branch development
CASTILLO	5	Affordable housing
		Police Task Force: Budget extra funds for a Police Task Force, a Narcotics Officer and a Mental Health Officer to address any drug and gang related problems and mental issues our city is being faced not only on the East side of our city but citywide. Budget for updated training for our police officers. There is a lot of training that is free but a lot additional money for registration fees and course material.
GONZALES-SANCHEZ	5	
MCGREGOR	5	Free public wifi on the square
MENDOZA	5	Parks improvements
MICHELSON	5	Continued police community committee involvement, neighborhood watch, gang awareness
WESTMORELAND	5	Angled parking downtown: N Main and N Commerce Sts(change during downtown drainage project)
WHITE	5	Continued police community committee involvement, neighborhood watch, gang awareness
CASTILLO	6	Wellness for employees

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CITY COUNCIL FY 18-19 GOALS

Category Order and Comments by City Manager

Council agreed at February 13 meeting that each Councilmember will submit at least 5 category goals in priority order to the City Manager to be considered by Council at first meeting in March, 2018

CM INITIALS	PRIORITY #	GOALS IDENTIFIED BY COUNCIL FOR FY 18-19: SORTED BY CATEGORY FINAL LIST BY COUNCIL PRIORITIZED BY CATEGORY: SUBMIT TO CITY MGR BY MARCH 1 PLEASE	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	SORTED BY CATEGORY
		Improve communication between City and Chamber of Commerce	In-House	Chamber
		City Facilities	GF	City Bldgs
		Refurbish City Hall inside (making it more inviting)	Gen Fund	City Bldgs
		Prepare Fire Station 3 (so we can have main station remodeled)	Gen Fund	City Bldgs
		Hire A City Manager. Hire a City Manager that is Well Rounded and Experienced and Will Help our City to Continue to Grow for the right and positive reasons. To hire a City Manager that will allow our Department Heads to Grow and Improve Our Departments with their recommended suggestions not only from our department heads but from our employees. Working Smarter not Harder.	GF	City Manager
		More code enforcement of codes directed at unsightly properties	In-House	Code Enforc
		Continue demo of unsafe structures and pursue liens aggressively	GF	Code Enforc
		Convention Center. Our city is growing and there are too many events, programs and conferences that are going to other surrounding areas to have these events and those surrounding area businesses are benefitting and money is being spent in those areas instead on money being spent in our city. Granted, we do have meeting facilities in our city but these meeting facilities do not accomodate the number of people for the above events that have been mentioned.	GF	Convention Center
		Downtown improvements-lighting, pedestrian safety, south plaza idea? Sculpture? Sidewalk mosaics?	GF	Downtown
		Economic development, creating and retaining jobs, grocery campaign	general fund, LEDC	Econo Devl
		Economic Development	GF	Econo Devl
		Expand economic development (by helping to spread the word & being more involved)	Gen Fund	Econo Devl
		Economic Development: Recruit more businesses especailly retail and continue efforts; contact existing and vacant building owners to see if they are willing to work with the City of Lockhart to bring retail businesses and speciality shops, as well as industrial. Purchase buildings and land when on the market for possible new businesses for the city. Art Galleries and Music Venues have increased within our downtown area and though many many not appreciate these type of business and or venues, it is good for our downtown and its livelihood. Let's work on getting more of the speciality shops and boutiques in or around the sqare.	GF	Econo Devl
		Pay raise across the board	GF	Employees
		All Department Heads to Budget Salary Increases for all City Employees.	GF	Employees
		Wellness for employees	GF	Employees
		Employee: Possible additional Employee Holiday Time Off-Alternating System. Even though this has been discussed and the reasons for why it cannot be done, I would like to see a time off altenating system, especailly during the holidays. I did appreciate that the city employees were allowed to stay home during our icy, sleet and snow days. The safety of our employees is very important.	GF	Employees
		Subdivision developemnt to attract more businesses to Lockhart. Increase the number of homes, apartments, housing. Our city is growing with new citizens wanting to make Lockhart their home but due to the number of housing available, they wait and or possibly lose interest.	GF	Housing
		Infrastructure	GF	Infrastructure
		Infrastructure improvement- uncurbed streets, street rehab	GF	Infrastructure
		Improve Streets (repairs)	In-House	Infrastructure

CM INITIALS	PRIORITY #	GOALS IDENTIFIED BY COUNCIL FOR FY 18-19: SORTED BY CATEGORY FINAL LIST BY COUNCIL PRIORITIZED BY CATEGORY: SUBMIT TO CITY MGR BY MARCH 1 PLEASE	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	SORTED BY CATEGORY
		Infrastructure: Continue City Infrastructure: Drainage, Street Repairs, Completion of Curbing, Brighter Lighting in Neighborhoods	GF	Infrastructure
		Angled parking for N Main and N Commerce Streets (change during downtown project)	In-House	Parking Downtown
		Parking around and surrounding the square. Issues with larger vehicles parked in areas that are narrow and that make it hard to see oncoming traffic. Our city is growing and we have been very fortunate with our parking however, it is a concern especially when you have the bigger and wider trucks that are parked in an area that is for a moderate size car. It becomes a hazard and a blind spot when trying to reverse out of the parking space and a blind spot for any and all pedestrians.	GF	Parking Downtown
		Continue to work on City Park improvements	Gen Fund	Parks
		Revive all City parks	Grants	Parks
		Work with USD to establish a community recreation center at Adams Gym, perhaps under Parks (PUBLIC HEALTH/PARKS)	General Fund/Parks & Rec	Parks
		Add 3 positions to the Parks Department, to help facilitate other improvements (PARKS)	General Fund/Parks & Rec	Parks
		Park improvements - consider medium to long range Town branch development	GF	Parks
		Develop a dog park as part of the Stueve Lane Monte Vista Tract (PARKS/ANIMAL SHELTER/PUBLIC HEALTH)	General Fund/Parks & Rec	Parks
		Parks Improvements: Purchase and update the park equipment to provide safe and fun filled parks for all to use.	GF	Parks
		Start Planning for 2040 plan	GF	Planning
		Police	GF	Police
		Continued Police Community committee involvement, neighborhood watch, gang awareness	GF	Police
		Work with Police Department to bring back drug enforcement program	Gen Fund	Police
		Get back to Neighborhood Townhall Meetings	GF	Police
		Police Task Force: Budget extra funds for a Police Task Force, a Narcotics Officer and a Mental Health Officer to address any drug and gang related problems and mental issues our city is being faced not only on the East side of our city but citywide. Budget for updated training for our police officers. There is a lot of training that is free but a lot of additional money for registration fees and course material. I am grateful that the Police Department did invest in our Drug Dog and is being utilized by the school as well.	GF	Police
		High School cadet programs for police, fire, EMS	GF	Police/Fire
		Public relations position to deal with social media	GF	Public Relations
		Get the word out about Lockhart (promoting, hiring a Public Relations person)	Gen Fund	Public Relations
		Sidewalk repair and expansion	GF	Sidewalks
		Signage in Lockhart (highway, downtown, and toll road)	Gen Fund	Signage
		Wayfinding, branding - develop new entry sign and city property markers	GF	Signage
		Move Forward with St Paul property project	In-House	St Paul Gift
		Develop an oral history project to support a future "Walking Tour" app for Lockhart (ECONOMIC DEV/DOWNTOWN)	General Fund/Fundraising	Tourism
		More Events to Attract Tourism in Lockhart and Include Way Finding Signage (Hotels and Restaurants). Added events, especially the events that are free to the public do very well for the city as well as for the businesses and tourism. I welcome new events to the city but need to be selective in the events that we do host.	GF	Tourism
		Create a Good Neighbor program (Lockhart Utility Customers can add an additional amount to utility bill to help others)	GF	Utility Customers

CM INITIALS	PRIORITY #	GOALS IDENTIFIED BY COUNCIL FOR FY 18-19: SORTED BY CATEGORY	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	SORTED BY CATEGORY
		FINAL LIST BY COUNCIL PRIORITIZED BY CATEGORY: SUBMIT TO CITY MGR BY MARCH 1 PLEASE		
		Access to Municipal Court for Utility Payments	In-House	Utility Customers
		Free public wifi on the square as part of the redevelopment on the North side (ECONOMIC DEV/DOWNTOWN)	CAPCOG Grant?	Wifi
		Free public wifi on the square as part of the redevelopment on the North side	GF	Wifi

CM INITIALS	PRIORITY #	GOALS IDENTIFIED BY COUNCIL FOR FY 18-19: SORTED BY CATEGORY	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	SORTED BY CATEGORY	CITY MANAGER COMMENTS
BW	7	Improve communication between City and Chamber of Commerce	In-House	Chamber	City Staff works together with Chambers on all their events by being a co-sponsor with many in-kind services. Robert Tobias attends their meetings and periodically makes presentations about Economic Development issues.
JC	4	City Facilities	GF	City Bldgs	Budget for roofs and major repairs
JEFF M	5	Refurbish City Hall inside (making it more inviting)	Gen Fund	City Bldgs	Working on it; repairs to ceiling in progress, restrooms to be refurbished and replace signage with more informative directions.
JEFF M	7	Prepare Fire Station 3 (so we can have main station remodeled)	Gen Fund	City Bldgs	New plans will be prepared working with new Chief who has different ideas than the previous Chief
AGS	1	Hire A City Manager. Hire a City Manager that is Well Rounded and Experienced and Will Help our City to Continue to Grow for the right and positive reasons. To hire a City Manager that will allow our Department Heads to Grow and Improve Our Departments with their recommended suggestions not only from our department heads but from our employees. Working Smarter not Harder.	GF	City Manager	I concur. The current City Mgr has rode back of garbage trucks, climbed electrical poles, worked water/sewer/asphalt/concrete projects, and has been a utility collections clerk, and during these experiences learned the value of suggestions for change that comes from employees in such positions. All department heads/supervisors are encouraged to listen to employees who have constructive ideas that would benefit in performing assigned tasks. City Mgr has also learned there are employees who keep there hands in their pockets and talk while everyone else is working and these are the same ones who are often found to be dishonest in their paperwork, sleep on the job, and have a poor attendance record.
BW	1	More code enforcement of codes directed at unsightly properties	In-House	Code Enforc	Will continue to address as complaints come in and as found during investigation outings.
LW	8	Continue demo of unsafe structures and pursue liens aggressively	GF	Code Enforc	Will continue to address and City Attorney exploring process to recover demolition costs
AGS	11	Convention Center. Our city is growing and there are too many events, programs and conferences that are going to other surrounding areas to have these events and those surrounding area businesses are benefitting and money is being spent in those areas instead on money being spent in our city. Granted, we do have meeting facilities in our city but these meeting facilities do not accommodate the number of people for the above events that have been mentioned.	GF	Convention Center	HOT funds and/or Bond Issue. Maintenance funds will be a minimum of \$150,000 annually not including director's salary, utilities, and insurance.
LW	9	Downtown improvements-lighting, pedestrian safety, south plaza idea? Sculpture? Sidewalk mosaics?	GF	Downtown	CAPCOG/CO project will address
LW	1	Economic development, creating and retaining jobs, grocery campaign	general fund, LEDC	Econo Devl	Robert Tobias working with several companies now
JC	2	Economic Development	GF	Econo Devl	See above

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CM INITIALS	PRIORITY #	GOALS IDENTIFIED BY COUNCIL FOR FY 18-19: SORTED BY CATEGORY	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	SORTED BY CATEGORY	CITY MANAGER COMMENTS
JEFF M	3	Expand economic development (by helping to spread the word & being more involved)	Gen Fund	Econo Devl	Robert Tobias is involved with the San Marcos Partnership, local chambers, and with downtown businesses on a regular basis. Leads from the Governor's office and the Austin Chamber are also pursued as applicable.
AGS	4	Economic Development: Recruit more businesses especially retail and continue efforts; contact existing and vacant building owners to see if they are willing to work with the City of Lockhart to bring retail businesses and specialty shops, as well as industrial. Purchase buildings and land when on the market for possible new businesses for the city. Art Galleries and Music Venues have increased within our downtown area and though many not appreciate these type of business and or venues, it is good for our downtown and its livelihood. Let's work on getting more of the specialty shops and boutiques in or around the square.	GF	Econo Devl	The problem is that many of the property owners downtown do not have the funds to customize their buildings to support specialty shops which most the time are not willing to spend money on a building. Rob Tobias is exploring ways to address this issue.
JUAN M	1	Pay raise across the board	GF	Employees	Estimated Costs Including Benefits: For each 1% for non-civil service= \$52,000 For each 1% for civil service = \$28,000
AGS	2	All Department Heads to Budget Salary Increases for all City Employees.	GF	Employees	See above
JC	5	Wellness for employees	GF	Employees	City provides good health insurance (\$586 per month each) with wellness plans for employees; many Cities have stopped this benefit and only provide a stipend for insurance.
AGS	9	Employee: Possible additional Employee Holiday Time Off-Alternating System. Even though this has been discussed and the reasons for why it cannot be done, I would like to see a time off alternating system, especially during the holidays. I did appreciate that the city employees were allowed to stay home during our icy, sleet and snow days. The safety of our employees is very important.	GF	Employees	City employees with vacation leave and holiday time are off 23 days a year with pay which is more than a month of work days. The only holidays not given that we found are Columbus Day and Texas Independence Day. Employee safety is very important, however, some employees must come in to make conditions safe for residents and to respond to emergency conditions and that responsibility belongs to each department head who determines based on staff levels and skills time off during holiday times.
AGS	6	Subdivision development to attract more businesses to Lockhart. Increase the number of homes, apartments, housing. Our city is growing with new citizens wanting to make Lockhart their home but due to the number of housing available, they wait and or possibly lose interest.	GF	Housing	6 housing projects in place at different phases. City Manager recommended incentives to builders three years ago which Council approved and during the time it was in place it produced more housing. As a result, more engineering of subdivisions has begun.
JC	1	Infrastructure	GF	Infrastructure	\$400,000 or more yearly needed for streets
LW	2	Infrastructure improvement- uncurbed streets, street rehab	GF	Infrastructure	See above. It will take a major bond issue to address all streets that do not have curbs.
BW	3	Improve Streets (repairs)	In-House	Infrastructure	See above.

CM INITIALS	PRIORITY #	GOALS IDENTIFIED BY COUNCIL FOR FY 18-19: SORTED BY CATEGORY	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	SORTED BY CATEGORY	CITY MANAGER COMMENTS
AGS	3	Infrastructure: Continue City Infrastructure: Drainage, Street Repairs, Completion of Curbing, Brighter Lighting in Neighborhoods	GF	Infrastructure	For streets please see above. Brighter lighting is always a challenge in a city with so many trees. Lockhart still must comply with Senate Bill 5 which regulates power usage. Several cities have passed an ordinance that does not allow for the planting of trees within 15' of the right of way to improve lighting of streets and reduce tree trimming around power lines.
BW	4	Angled parking for N Main and N Commerce Streets (change during downtown project)	Ja-House	Parking Downtown	Scheduled with downtown improvements. Should also consider making 100 Blocks of N Main and N Commerce one-way and possibly consider other blocks downtown especially north/south streets.
AGS	10	Parking around and surrounding the square. Issues with larger vehicles parked in areas that are narrow and that make it hard to see oncoming traffic. Our city is growing and we have been very fortunate with our parking however, it is a concern especially when you have the bigger and wider trucks that are parked in an area that is for a moderate size car. It becomes a hazard and a blind spot when trying to reverse out of the parking space and a blind spot for any and all pedestrians.	GF	Parking Downtown	Scheduled with downtown improvements
JEFF M	2	Continue to work on City Park improvements	Gen Fund	Parks	Master Plan near complete
BW	2	Revive all City parks	Grants	Parks	Master Plan near complete
KM	2	Work with LISD to establish a community recreation center at Adams Gym, perhaps under Parks (PUBLIC HEALTH/PARKS)	General Fund/Parks & Rec	Parks	Mayor is visiting with LISD about this
KM	3	Add 3 positions to the Parks Department, to help facilitate other improvements (PARKS)	General Fund/Parks & Rec	Parks	Approx. \$100,000 to budget not including equipment and vehicles
LW	3	Park improvements - consider medium to long range Town branch development	GF	Parks	Bond issue needed
KM	4	Develop a dog park as part of the Stueve Lane Monte Vista Tract (PARKS/ANIMAL SHELTER/PUBLIC HEALTH)	General Fund/Parks & Rec	Parks	Estimate on this property is \$ 25000 using used fencing. Maintenance and insurance are also cost factors
AGS	8	Parks Improvements: Purchase and update the park equipment to provide safe and fun filled parks for all to use.	GF	Parks	Master Plan near complete
JUAN M	3	Start Planning for 2040 plan	GF	Planning	Needs to be done
JC	3	Police	GF	Police	Chief Pedraza is working on these issues. Recently issued update that was sent to Council.
LW	4	Continued Police Community committee involvement, neighborhood watch, gang awareness	GF	Police	See above
JEFF M	4	Work with Police Department to bring back drug enforcement program	Gen Fund	Police	See above
JUAN M	5	Get back to Neighborhood Townhall Meetings	GF	Police	Will get with Chief about this

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CM INITIALS	PRIORITY #	GOALS IDENTIFIED BY COUNCIL FOR FY 18-19: SORTED BY CATEGORY	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	SORTED BY CATEGORY	CITY MANAGER COMMENTS
AGS	5	Police Task Force: Budget extra funds for a Police Task Force, a Narcotics Officer and a Mental Health Officer to address any drug and gang related problems and mental issues our city is being faced not only on the East side of our city but citywide. Budget for updated training for our police officers. There is a lot of training that is free but a lot additional money for registration fees and course material. I am grateful that the Police Department did invest in our Drug Dog and is being utilized by the school as well.	GF	Police	Chief Pedraza reports that Lockhart has two certified mental health officers, and he feels there is sufficient funding for training. He also reports that a new Narcotics Officer would cost about \$90,000 for salary/benefits, training, a vehicle, and all required equipment.
LW	10	High School cadet programs for police, fire, EMS	GF	Police/Fire	Will visit with department heads again about this
LW	6	Public relations position to deal with social media	GF	Public Relations	Position would cost with benefits about \$45,000 annually and would need more tasks to perform.
JEFF M	6	Public relations position to deal with social media	GF	Public Relations	See above
LW	7	Sidewalk repair and expansion	GF	Sidewalks	Costs average about \$25 per linear foot
JEFF M	1	Signage in Lockhart (highway, downtown, and toll road)	Gen Fund	Signage	Wayfinding and Branding Committee in place
LW	5	Wayfinding, branding - develop new entry sign and city property markers	GF	Signage	See above
BW	5	Move Forward with St Paul property project	In-House	St Paul Gift	Working on costs associated with this projects which involve asbestos/lead paint survey and possible abatement, ADA restrooms, ADA entry ramp, kitchen changes, and other repairs.
KM	5	Develop an oral history project to support a future "Walking Tour" app for Lockhart	General Fund/Fundraising	Tourism	Could be part of the Wayfinding and Branding Committee tasks
AGS	7	More Events to Attract Tourism in Lockhart and Include Way Finding Signage (Hotels and Restaurants). Added events, especially the events that are free to the public do very well for the city as well as for the businesses and tourism. I welcome new events to the city but need to be selective in the events that we do host.	GF	Tourism	Chambers receive HOT funds for tourism and City co-sponsors events that contribute to tourism.
JUAN M	4	Create a Good Neighbor program (Lockhart Utility Customers can add an additional amount to utility bill to help others)	GF	Utility Customers	Have pursued this in the past. Requires a Board or Committee that is willing to take on the tasks of selecting who and how much help can be provided to customers. Some Cities allocate the funds to existing organization that is willing to take on the project.
BW	6	Access to Municipal Court for Utility Payments	In-House	Utility Customers	Working to this; advertisements and office training needed.
KM	1	Free public Wi-Fi on the square as part of the redevelopment on the North side (ECONOMIC DEV/DOWNTOWN)	CAPCOG Grant?	Wi-Fi	County Judge had indicated to Mayor that the County could do this.
JUAN M	2	Free public wifi on the square as part of the redevelopment on the North side	GF	Wifi	See Above

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LOCKHART CITY COUNCIL FY 17-18 GOALS				
Category and Priority Order				
COUNCIL MEMBER	PRIORITY	GOALS IDENTIFIED BY COUNCIL FOR FY 17-18 (as submitted by Councilmembers)	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	CATEGORY
BH	3	Continue Improving City Cemetery	with GF Expiring debt saving and/or Cemetery Tax	CEMETERY
Jeff M	2	Refurbish City Hall in the inside (to make more inviting to the public) as well as doing some landscaping outside	General Fund	CITY BLDGS
BW	3	Spruce up and clean up City properies		CITY BLDGS
BH	4	Improve City Facilities Appearance		CITY BLDGS
JC	4	City Facilities		CITY BLDGS
AGS	10	Convention Center		CONVENTION CTR
JC	2	Crime		CRIME
AGS	4	Police Task Force: Budget extra funds for a Police Task Force, a Narcotics Officer and a Mental Health Officer to address any drug and gang related problems and mental issues our city is being faced not only on the East side of our city but citywide. Budget for updated training for our police officers. There is alot of training that is free but alot additonal money for registration fees and course material.		CRIME
Jeff M	4	Work with Police Department to bring back drug enforcement program		CRIME
LW	8	Fund for helping utility customers in need	???	CUSTOMER SERV
BW	2	Continue to change angle parking downtown: 200 Blk S Main, 100 Blk N Main, 100 Blk N Commerce, 200 Blk E Market; little time and expense invovled	??	DOWNTOWN
LW	2	Downtown improvements,bathrooms, electric, pedestrian safety, beautification, wifi, lighting		DOWNTOWN
AGS	9	Parking around and surrounding the square. Issues with larger vehicles parked in areas that are narrow and that make it hard to see oncoming traffic		DOWNTOWN
LW	1	Expanding economic development department, budget, office, staff?, marketing	General fund, LEDC	ECCONOMIC DEV
AGS	3	Economic Development: Recurit more businesses especailly retail and continue efforts; contact existing and vacant building owners to see if they are willing to work with the City of Lockhart to bring retail businesses and speciality shops, as well as industrial. Purchase buildings and land when on the market for possible new businesses for the city.		ECCONOMIC DEV
JC	3	Economic Development		ECCONOMIC DEV
AGS	5	Subdivision development to attract more businesses to Lockhart.		ECCONOMIC DEV
JM	5	Set up meetings with developers for more retail space shopping centers along US 183		ECCONOMIC DEV

LOCKHART CITY COUNCIL FY 17-18 GOALS				
Category and Priority Order				
COUNCIL MEMBER	PRIORITY	GOALS IDENTIFIED BY COUNCIL FOR FY 17-18 (as submitted by Councilmembers)	SUGGESTED FUNDING SOURCE BY COUNCILMEMBER	CATEGORY
AGS	6	More Events to Attract Tourism in Lockhart and Include Way Finding Signage (Hotels and Restaurants)		ECONOMIC DEV
AGS	1	All Department Heads to Budget Salary Increases for all City Employees.		EMPLOYEES
JM	1	City Employee Raises		EMPLOYEES
JM	2	House or fund gym membership/space (weight rm) in Senior Center area (cardio machine) for City employees		EMPLOYEES
AGS	8	Employee: Possible additional Employee Holiday Time Off-Alternating System. Even though this has been discussed and the reasons for why it cannot be done, I would like to see a time off alternating system, especailly during the holidays.		EMPLOYEES
BW	1	ENFORCE ordinances that pertain to unsightly properties all over town		ENFORCEMENT
Jeff M	1	Enforce city ordinance regarding residential property		ENFORCEMENT
Jeff M	3	Continue to work on City Park improvements		PARKS
JM	3	Do inventory of City properties to idenify areas for pocket parks	LEDC funds	PARKS
LW	3	Park improvements	General fund	PARKS
BH	5	Parks Improvements	General Fund	PARKS
JC	5	Parks		PARKS
AGS	7	Parks Improvemens: Purchase and update the park equipment to provide safe and fun filled parks for all to use.		PARKS
LW	7	Town branch cleanup and beautification	???	PARKS
JM	4	Start process of Funding Sidewalks east of 183 connecting to the US 183 sidewalks		SIDEWALKS
LW	6	sidewalk repair and expansion	general fund bond	SIDEWALKS
BH	1	IMPLEMENT SIGNAGE IN LOCKHART	General Fund (LEDC) and/or Hotel Tax	SIGNAGE
LW	4	wayfinding, branding	general fund	SIGNAGE
LW	5	Entry signs	general fund	SIGNAGE
Jeff M	6	Signage on Highway 183 and SH130 = directing people to Lockhart		SIGNAGE
BW	4	Pursue opportunity to move Senior Citizens' Center to St Paul United Church of Christ Property		SR CITIZENS CTR
JC	1	Roads	Grants or impact fees	STREETS/INFRAS
AGS	2	Infrastructure: Continue City Infrastructure: Drainage, Street Repairs, Completion of Curbing, Brighter Lighting in Neighborhoods		STREETS/INFRAS
BH	2	Continue improving City Streets	Increase Transportation Fund	STREETS/INFRAS
Jeff M	5	Continue to make improvements and redoing our city streets		STREETS/INFRAS

Lockhart City Council
FY 16-17 Goals
Revised 3-10-2016, 8:30 pm

Priority	Council Person	Goals Submitted	City Manager Comments
1	Castillo	Infrastructure	Complete 2015 CO projects and need budget of \$250,000 per year for streets, continue water and sewer main replacements; continue electric distribution maintenance plan-get new substation on line. Replace bad water raw water mains and find additional water for the future.
1	Gonzales-Sanchez	Department Heads to Budget Salary Increases for city employees so that we can keep our current city employees.	Est Cost Per % Increase Annually: Gen Fund (Not Civil Serv) \$ 29,000; Gen Fund Civil Serv \$ 24,000; Other/Utilities: \$ 15,000- Add'l
1	Hilburn	Improve City Cemetery with GF Expiring debt saving and/or Cemetery Tax	Cemetery Tax up to 5 cents allowed by State Law. Expiring GF debt committed to Police and Fire increased pay rates. (\$132,000)
1	Mendoza	Find ways to use activity center for multi-purpose use. (basketball, volleyball). Funding source: Different companies in town	If approved by Council staff would approach local businesses
1	Michelson	Continue to improve infrastructure (drainage, street repairs) throughout the city	Complete 2015 CO and budget \$250,000 per year for street materials
1	Westmoreland	Enforce ordinances that pertain to unsightly properties all over town. Make homeowners/residents (because some may be renters) take pride in their environment. It is an eyesore to drive around town and see overgrown properties, junked cars, and stacks of trash on porches, in yards and driveways. All levels of socio-economic residents in this town have shown evidence of being disrespectful to their environment.	City has no esthetics ordinance currently. The term "unsightly" is subjective and is difficult to prove in court.
1	White	Economic Development-expanding budget to get staff qualified to help Sandra with recruitment, working with LEDC to either build Spec building or invest in more property, Main St program to relieve Sandra of a lot of those duties	Main Street Program would require another person and funding to work with local businesses while Economic Development would conscentrate on new businesses and new jobs
2	Castillo	Economic Development	Need 12-15,000 sf of retail spaces with reasonable lease per sf and buildings that are 20 to 50,000 sf for industrial and maunufacturing
2	Gonzales-Sanchez	Infrastructure: Continue City Infrastructure: Drainage, Street Repairs, Completion of Curbing, Brighter Lighting in Neighborhoods	Complete 2015 CO projects and need budget of \$250,000 per year for streets, continue water and sewer main replacements; continue electric distribution maintenance plan-get new substation on line. Replace bad water raw water mains and find additional water for the future. Most streets that lack curbing will need to be totally reconstructed. Brighter LED lights being experimented with since costs have come down.
2	Hilburn	Implement City Signage	Initial required funds up to \$40,000 if City Crew does the work; total cost could be more than \$70,000
2	Mendoza	New Park equipment. Funding Source: Each Councilmember responsible for a park and finding funding sources	Estimate: \$ 400,000 annually over next 4 years based on input from Parks Board Advisory Board
2	Michelson	Continue to improve ways to attract businesses to Lockhart	Need more 12-15,000 sf of retail spaces with reasonable lease per sf and buildings that are 20 to 50,000 sf for industrial and maunufacturing
2	Westmoreland	Create a policy for the residency of future admininstrative positions to live within the Lockhart city limits. If an administrator wants to be employed by the City of Lockhart, they need to reside here. Sharing in the daily lives of our citizens seems crucial to making decisions about Lockhart. They are paid by city taxes.	It is not legal to require all department heads to live in the City limits; only the City Manager is required to do so. All non-24 emergency response employees must live within 25 mintues of City Limis
2	White	Continue street rehab	Need \$ 250,000 annually minimum for street work materials
3	Castillo	City Facilites	Not sure what this includes; can asses all departments for physical needs
3	Gonzales-Sanchez	Economic Development: Recurit more businesses especailly retail and continue efforts ; contact existing and vacant bldg owners to see if they are willing to work with City to bring these small retail businesses, as well as industrial; possibly purchasing two downtown county buildings when on the market for possible new businesses in the downtown area. Stronger platform with LEDC with methods to sell Lockhart and attract businesses.	LEDC could fund another report but the company says our numbers still should be good. Costs estimated \$22,500 for updating data and recruitment. Prime softgood companies constantly want to be on Highway 183 in 12-15,000 sf and at a reasonalbe cost per sf plus higher traffic counts.

Lockhart City Council
FY 16-17 Goals
Revised 3-10-2016, 8:30 pm

Priority	Council Person	Goals Submitted	City Manager Comments
3	Hilburn	Continue improving city streets: Increase Transportation Fund	Current transportation monthly rate is \$ 4 for residential and others; \$260,000 annual which helps fund labor and equipment, but is not sufficient for materials. Another \$250,000 for materials is needed annually.
3	Mendoza	Wi-Fi Free Zones Downtown Square. Funding source City Budget, School District, Downtown sponsors	Rough estimate is about \$12,000
3	Michelson	Refurbish City Hall	If atrium removed, add more offices estimated at \$45,000 and more outside landscaping estimated at \$ 5,000; elevator going in with improvements to restrooms and offices
3	Westmoreland	Approach interested and future businesses cordially. Stringent ordinances (and the way they are approached), scare off some businesses. Let's be friendly in a positive way.	City Mgr respectfully requests names of such businesses. He has met with 18 business representatives over past 15 months that were looking at Lockhart but did not come. Except for the non-residential exterior building esthetics ordinance, none of them indicated a problem with the current ordinances or with staff. The main problems were high land prices and the lack of "ready built retail and industrial buildings", and traffic counts were not high enough. Most thought the impact fee schedules were very reasonable compared to other cities. Will continue to work toward friendlier customer service with simplified ordinances.
3	White	Park master plan to consider park bond issue, recreation dept and staff issues	Master Plan estimate: \$ 45,000, recreation dept est at least \$ 60,000 for a recreational professional with another \$30,000 for equipment and materials
4	Castillo	Employees Wages	Est Cost Per % Increase Annually: Gen Fund (Not Civil Serv) \$ 29,000; Gen Fund Civil Serv \$ 24,000; Other/Utilities: \$ 15,000- Add'l Cost FY 16-17 due to Civil Serv Pay Plan Expansions already approved: \$ 132,000
4	Gonzales-Sanchez	Police Task Force: Budget extra funds to bring back a much needed Police Task Force to address any drug and gang related problems this city is being faced with especially on the East side of our city. Possibly ask the County to assist with funding.	Initial required funds up to \$40,000 if City Crew does the work; total cost could be more than \$70,000
4	Hilburn	Continue working on bringing industry to Lockhart: Continue supporting Ms. Mauldin	LEDC is will have sufficient funding to be more aggressive starting FY 16-17
4	Mendoza	Training Start up: Neighborhood Watch Training and Program: Police Budget	Have tried Neighborhood Watch Program in past but was not sustained because of lack of participation. Willing to try again.
4	Michelson	Improve signage on HWY 183 as well as SH130 = directing people to Lockhart	Possibly use of some of the KTB grant money
4	Westmoreland	Evaluate and/or change the degree of the angled parking along the 4 blocks off of the square. This would be: Main Street from Market to Prairie Lea Street; Main Street from San Antonio Street to Walnut Street; Commerce Street from Market Street to Prairie Lea Street, and Commerce Street from San Antonio Street to Walnut Street. These parking spaces were made before long vehicles were made! If there are cars parked on both sides of the streets, only one car can pass through at a time. Then it becomes a one lane street. I have witnessed a different angled parking arrangement, and it provides more room and is much safer for the drivers and pedestrians.	Estimate to black out existing thermoplastic markings, redefine layout, and apply new thermoplastic markings with angle parking = \$ 12,000; will probably lose 4 spaces per block. 2 on each side
4	White	Branding and wayfinding—may be included in #1	Initial required funds up to \$40,000 if City Crew does the work; total cost could be more than \$70,000
5	Castillo	Parks	Estimate: \$ 400,000 annually over next 4 years based on input from Parks Board Advisory Board
5	Gonzales-Sanchez	Subdivision development to attract more businesses to Lockhart	Working with 6 more subdivisions, either new or expanding, and possibly one more very large one northwest.
5	Hilburn	Improve tourism in Lockhart - City Council continue to work with and encourage Chambers of Commerce to be more involved	Council can make this directive to Chambers when dividing out HOT funds
5	Mendoza	Finding more funding for Retail Market Study. Zip code demographics with reports. Funding LEDC	LEDC could fund another report but the company says our numbers still should be good. Costs estimated \$22,500 for updating data and recruitment.

Lockhart City Council
FY 16-17 Goals
Revised 3-10-2016, 8:30 pm

Priority	Council Person	Goals Submitted	City Manager Comments
5	Michelson	Work with LEDC or someone equivalent to build a building to help attract business	Need more 12-15,000 sf of retail spaces with reasonable lease per sf. Most softgood retailers want 12-15,000 on Hwy 183 at a reasonable price and increased traffic volumes
5	White	Sidewalks to include lighting	Funding required; for example San Jacinto to Jr High estimate is \$130,000 just for materials along Maple walkway
6	Gonzales-Sanchez	More Events to Attract Tourism in Lockhart and Include Way Finding Signage (Hotels and Restaurants)	Initial required funds up to \$40,000 if City Crew does the work; total cost could be more than \$70,000. Chambers could use HOT for more tourism.
6	Michelson	Continue to work on City Park improvements	Estimate: \$ 400,000 annually over next 4 years based on input from Parks Board Advisory Board
6	White	Pursue possible ESD-EMS district	Legal issue with participation by County and City of Luling preferable
7	Gonzales-Sanchez	Parks Improvemens: Purchase more park equipment to provide safe and fun filled parks for all to use.	Estimate: \$ 400,000 annually over next 4 years based on input from Parks Board Advisory Board
7	Mendoza	Start Talks With YMCA Austin again. Seek sponsors funding if necessary	Our population hurt in previous discussions, Will pursue again. They usually want commitment for a minimum number of individuals and families depending on population of not only City but its metro area
7	Michelson	Work on building a civic center/ recreation center	\$ 9 million plus land \$ 2.5 million for about 20,000 sf plus about \$240,000 annual maintenance costs and minimum of \$60,000 for utilities; estimated revenues offset is about \$60,000; take out recreation center and cost go down about 20%. It has been reported that Bastrop is spending over \$500,000 per year to operate its civic center. Revenues not covering costs.
7	White	Cemetery maintenance	Cemetery Tax up to 5 cents allowed by State Law
8	Gonzales-Sanchez	City Hall: Refurbish with Improvements and/or Upgrades	Elevator and improvements to restrooms planned; better offices for Connie and Sandra planned also.
9	Gonzales-Sanchez	Convention Center	\$ 9 million plus land \$ 2.5 million for about 20,000 sf plus about \$240,000 annual maintenance costs and minimum of \$60,000 for utilities; estimated revenues offset is about \$60,000; take out recreation center and cost go down about 20%. It has been reported that Bastrop is spending over \$500,000 per year to operate its civic center. Revenues not covering costs.
10	Gonzales-Sanchez	Employee: Possible additional Employee Holiday Time off-Alternating system	City employees now have 12 holidays and 1 personal holiday; time off is granted by seniority with department head responsible for keeping sufficient personnel to serve the public needs. Employees also receive at least 2 weeks of vacation time. Those employees required to work on holidays receive their normal pay plus holiday pay.

City of Lockhart																					
Future Debt Payments as of 9/30/18																					
Description		Paid Debt	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	TOTAL DEBT
General Government																					
Hotel Tax Fund																					
2016 GO Refunding				40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000								400,000
Total Hotel Tax Fund P & I			-	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000	-	-	-	-	-	-	-	400,000
LEDC																					
2015 Tax & Revenue	100.00%		48,093	48,044	48,103	48,152	63,645	63,670	63,513	63,543	63,555	63,643	63,687	65,647	65,544	65,575	65,482	65,579	65,538	65,676	1,048,596
Total LEDC Fund P & I			48,093	48,044	48,103	48,152	63,645	63,670	63,513	63,543	63,555	63,643	63,687	65,647	65,544	65,575	65,482	65,579	65,538	65,676	1,048,596
2015 Capital Projects Fund																					
2015 Tax & Revenue																					-
Total 2015 Capital Projects Fund Fund P & I			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Drainage																					
2015 Tax & Revenue			100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	1,700,000
Total Drainage Fund P & I			100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	1,700,000
General Fund																					
2015 Tax & Revenue																					-
Total General Fund P & I			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Debt Service Fund																					
2006 Tax & Rev CO's	100.00%		47,175	50,535	48,690	46,845															146,070
2006-A Tax & Rev CO's	93.00%		267,890	267,803	267,332	271,128															806,264
2015 Tax & Revenue	TRNSF		186,594	186,302	186,653	186,945	279,275	279,421	278,487	278,662	278,735	279,261	279,523	291,203	290,590	290,773	290,222	290,798	290,554	291,374	4,548,778
2015 Tax & Revenue	12.00%		117,779	117,659	117,803	117,923	155,867	155,927	155,543	155,615	155,645	155,861	155,969	160,769	160,517	160,592	160,365	160,602	160,502	160,831	2,567,990
2016 GO Refunding	74.84%		171,056	346,930	361,150	353,161	656,899	666,927	661,698	666,974	673,111	670,566	678,350	-	-	-	-	-	-	-	5,735,766
Total Debt Service Fund P & I			790,494	969,229	981,628	976,002	1,092,041	1,102,275	1,095,728	1,101,251	1,107,491	1,105,688	1,113,842	451,972	451,107	451,365	450,587	451,400	451,056	452,205	13,804,868
Total General Government			938,587	1,157,273	1,169,731	1,164,154	1,295,686	1,305,945	1,299,241	1,304,794	1,311,046	1,309,331	1,317,529	617,619	616,651	616,940	616,069	616,979	616,594	617,881	16,953,464

Future Debt Payments as of 9/30/18																					
Description		Paid Debt	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	TOTAL DEBT
Proprietary																					
Electric Fund																					
2013 SIB Loan	30.81%		71,151	71,152	71,151	71,151	71,151	71,151	71,151	71,152	71,151	71,151	71,151	71,151	71,151	71,151	71,151	71,152			1,067,268
																					-
																					-
Total Electric Fund P & I		-	71,151	71,152	71,151	71,151	71,151	71,151	71,151	71,152	71,151	71,151	71,151	71,151	71,151	71,151	71,151	71,152	-	-	1,067,268
Water Fund																					
2006A Tax & Rev CO's	7.00%		20,164	20,157	20,122	20,408															60,687
2015 Tax & Revenue	49.60%		486,818	486,322	486,917	487,413	644,248	644,496	642,909	643,207	643,331	644,223	644,670	664,510	663,468	663,778	662,842	663,822	663,406	664,800	10,614,362
2016 GO Refunding	21.81%		49,849	101,103	105,247	102,919	191,435	194,357	192,833	194,371	196,159	195,418	197,686	-	-	-	-	-	-	-	1,671,528
2013 SIB Loan	35.80%		82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676	82,676			1,240,140
Total Water Fund P & I		-	639,507	690,258	694,962	693,416	918,359	921,529	918,418	920,254	922,166	922,317	925,032	747,186	746,144	746,454	745,518	746,498	663,406	664,800	13,586,717
Sewer Fund																					
2015 Tax & Revenue	4.30%		42,204	42,161	42,213	42,256	55,852	55,874	55,736	55,752	55,773	55,850	55,889	57,609	57,518	57,545	57,464	57,549	57,513	57,643	920,197
																					-
2016 GO Refunding	3.35%		7,657	15,529	16,166	15,808	29,404	29,853	29,619	29,855	30,130	30,016	30,364	-	-	-	-	-	-	-	256,744
																					-
2013 SIB Loan	33.39%		77,102	77,103	77,102	77,102	77,103	77,102	77,102	77,103	77,102	77,102	77,103	77,102	77,102	77,103	77,102	77,102			1,156,537
																					-
Total Sewer Fund P & I			126,963	134,793	135,481	135,166	162,359	162,829	162,457	162,710	163,005	162,968	163,356	134,711	134,620	134,648	134,566	134,651	57,513	57,643	2,333,478
Total Proprietary Fund P & I		-	837,621	896,203	901,594	899,733	1,151,869	1,155,510	1,152,026	1,154,116	1,156,323	1,156,436	1,159,539	953,049	951,915	952,253	951,236	952,301	720,919	722,443	16,987,463
Grand Total			1,776,208	2,053,476	2,071,326	2,063,887	2,447,555	2,461,455	2,451,267	2,458,910	2,467,369	2,465,767	2,477,068	1,570,668	1,568,566	1,569,193	1,567,305	1,569,280	1,337,513	1,340,324	33,940,927

City of Lockhart
2015 BOND PROGRAM

Cost	Notes	Task Name	Duration	Start	Finish	2015	2016	2017
						FebMarAprMayJunJulAugSepOctNovDecJanFebMarAprMayJunJulAugSepOctNovDecJanFebMarAprMayJunJulAugSepOctNovDecJan		
\$14,124,890.00		TOTAL PROJECT COST						
\$2,068,024.00	1	DRAINAGE IMPROVEMENTS CONTRACT 1 - Mesquite/Wichita Street & Richland Drive						
		Surveying Proposal	17 days	Fri 3/6/15	Sun 3/22/15			
		Survey	30 days	Mon 3/23/15	Tue 4/21/15			
		Acquisition	120 days	Wed 4/22/15	Wed 8/19/15			
		Engineering Design	90 days	Wed 4/22/15	Mon 7/20/15			
		Bid Ad/NTP	60 days	Tue 7/21/15	Fri 9/18/15			
		Construction	180 days	Sat 9/19/15	Wed 3/16/16			
\$1,999,200.00	2	DRAINAGE IMPROVEMENTS CONTRACT 2 - Century Oaks/Market Street, & Ash/Comal Streets						
		Surveying Proposal	17 days	Fri 3/6/15	Sun 3/22/15			
		Survey	30 days	Sat 4/25/15	Sun 5/24/15			
		Acquisition	150 days	Mon 5/25/15	Wed 10/21/15			
		Engineering Design	120 days	Mon 5/25/15	Mon 9/21/15			
		Bid Ad/NTP	60 days	Tue 9/22/15	Fri 11/20/15			
		Construction	180 days	Sat 11/21/15	Wed 5/18/16			
\$3,394,038.00	3	DRAINAGE IMPROVEMENTS CONTRACT 3 - Downtown Improvements Project						
		Surveying Proposal	15 days	Sun 8/2/15	Sun 8/16/15			
		Survey	45 days	Mon 8/17/15	Wed 9/30/15			
		Engineering Design	180 days	Thu 10/1/15	Mon 3/28/16			
		Bid Ad/NTP	60 days	Tue 3/29/16	Fri 5/27/16			
		Construction	365 days	Sat 5/28/16	Sat 5/27/17			
\$323,400.00	4	DRAINAGE IMPROVEMENTS CONTRACT 4 - Medina & US183 Project						
		Surveying Proposal	15 days	Sun 11/1/15	Sun 11/15/15			
		Survey	7 days	Mon 11/16/15	Sun 11/22/15			
		Acquisition	90 days	Mon 11/23/15	Sat 2/20/16			
		Engineering Design	60 days	Mon 11/23/15	Thu 1/21/16			
		Bid Ad/NTP	60 days	Fri 1/22/16	Mon 3/21/16			
		Construction	90 days	Tue 3/22/16	Sun 6/19/16			
\$1,764,000.00	5	FM 2001 ELEVATED TANK PROJECT						
		Surveying Proposal	15 days	Sat 1/2/16	Sat 1/16/16			
		Survey	15 days	Sun 1/17/16	Sun 1/31/16			
		Acquisition	120 days	Mon 2/1/16	Mon 5/30/16			
		Engineering Design	90 days	Mon 2/1/16	Sat 4/30/16			
		Bid Ad/NTP	60 days	Sun 5/1/16	Wed 6/29/16			

City of Lockhart
2015 BOND PROGRAM

Cost	Notes Task Name	Duration	Start	Finish	2015	2016	2017
					FebMarAprMayJun Jul AugSepOctNovDecJanFebMarAprMayJun Jul AugSepOctNovDecJanFebMarAprMayJun Jul AugSepOctNovDecJan		
\$1,355,516.00	6 SH130 WATER MAIN PROJECT - City Line Rd. to Existing Tank, SH 130 @ Hwy. 142, Borchert/Mockingbird, Control Valves, FM 2001	365 days	Thu 6/30/16	Thu 6/29/17			
	Surveying Proposal	15 days	Mon 1/18/16	Mon 2/1/16			
	Survey	30 days	Tue 2/2/16	Wed 3/2/16			
	Acquisition	150 days	Thu 3/3/16	Sat 7/30/16			
	Engineering Design	120 days	Thu 3/3/16	Thu 6/30/16			
	Bid Ad/NTP	60 days	Fri 7/1/16	Mon 8/29/16			
	Construction	300 days	Fri 9/2/16	Wed 6/28/17			
\$470,400.00	7 SH130 PUMP STATION PROJECT						
	Survey	7 days	Mon 4/25/16	Sun 5/1/16			
	Engineering Design	90 days	Mon 5/2/16	Sat 7/30/16			
	Bid Ad/NTP	60 days	Sun 7/31/16	Wed 9/28/16			
	Construction	270 days	Sun 10/2/16	Wed 6/28/17			
\$859,186.00	8 SH130/TOWN BRANCH SEWER PROJECT						
	Surveying Proposal	15 days	Fri 5/20/16	Fri 6/3/16			
	Survey	30 days	Sat 6/4/16	Sun 7/3/16			
	Acquisition	120 days	Mon 7/4/16	Mon 10/31/16			
	Engineering Design	90 days	Mon 7/4/16	Sat 10/1/16			
	Bid Ad/NTP	60 days	Sun 10/2/16	Wed 11/30/16			
	Construction	240 days	Mon 12/5/16	Tue 8/1/17			
\$1,891,126.00	9 WATER TRANSMISSION MAIN PROJECT - Water Plant Transmission Main, MLK to FM 20 West Transmission Main						
	Surveying Proposal	17 days	Wed 11/16/16	Fri 12/2/16			
	Survey	30 days	Sat 12/3/16	Sun 1/1/17			
	Acquisition	120 days	Mon 1/2/17	Mon 5/1/17			
	Engineering Design	90 days	Mon 1/2/17	Sat 4/1/17			
	Bid Ad/NTP	60 days	Sun 4/2/17	Wed 5/31/17			
	Construction	180 days	Mon 6/5/17	Fri 12/1/17			