

PUBLIC NOTICE
AGENDA
LOCKHART CITY COUNCIL

October 17, 2023

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 except to the extent specifically authorized under the Texas Open Meetings Act.

DISCUSSION ONLY

- A. Presentation of a Proclamation declaring October 2023 as National Domestic Violence Awareness Month. 5-5
- B. Discuss Resolution 2023-16 approving an economic development performance agreement with F3 Lockhart Owner LLC to authorize the Lockhart Economic Development Corporation to provide a rebate of up to \$1,000,000 for reimbursement of in-ground utilities to serve the project over a 10-year term. 6-20
- C. Discuss a Chapter 380 economic development agreement with F3 Lockhart Owner LLC providing a real and personal property tax rebate over a 10-year term. 21-32
- D. Discussion and a presentation from the Lower Colorado River Authority (LCRA) on the creation of a new emergency communication voice radio system for Caldwell County. 33-44
- E. Discuss Resolution 2023-15 designating the Chief of Police as the Authorized Official on the police department's Body Worn Camera Program grant through the Office of the Governor. 45-46
- F. Discussion regarding Amendment Number 3 to the Capital Area Council of Governments' (CAPCOG) Lease of Site For Air Quality Monitoring and appointing the City Manager to sign the amendment if approved. 47-54
- G. Receive and discuss the 4th Quarter Fiscal Year 2023 Investment Report. 55-64
- H. Discussion regarding engagement letter with the law firm of Messer Fort for legal services. 65-77

- I. Discuss an Interlocal Agreement with Caldwell County for Emergency Medical Services. 78-88
- J. Discuss the purchase of a 2023 Ford F-450 diesel ambulance chassis through Sterling McCall Ford utilizing the Houston Galveston Area Council (HGAC) Purchasing Cooperative and authorizing the City Manager to execute a Purchase Order for the ambulance chassis. 89-108
- K. Discuss Petition for Release of 389.249 acres from the City's ETJ filed by PHAU-Lockhart 450, LLC. 109-129

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. PUBLIC HEARING/COUNCIL ACTION

- A. Hold a PUBLIC HEARING and discussion and/or action regarding Ordinance 2023-21, proposing **Text Amendments** to Chapter 64, "Zoning," of the of the Lockhart Code of Ordinances, amending Article VII, "Zoning Districts and Standards," Section 64-197 "Regulations Common to all or Several Districts," amending Subsection (i) "Residential design," amending Subsection (1) "Single-family design," adding Subsection b., "Residential design options," adding a new subsection (2) "Multifamily Design," and amending Appendix I., "Specific Requirements for Residential Development Types," to revise parking requirements for multifamily land use types. 130-136

5. CONSENT AGENDA

- A. Approve Resolution 2023-15 designating the Chief of Police as the Authorized Official on the police department's Body Worn Camera Program grant through the Office of the Governor. 137-138
- B. Approve Amendment Number 3 to the Capital Area Council of Governments' (CAPCOG) Lease of Site For Air Quality Monitoring and appointing the City Manager to sign the amendment. 139-146
- C. Accept the 4th Quarter Fiscal Year 2023 Investment Report. 147-156

6. **DISCUSSION/ACTION ITEMS**

- A. Discussion and/or action regarding Resolution 2023-16 approving an economic development performance agreement with F3 Lockhart Owner LLC to authorize the Lockhart Economic Development Corporation to provide a rebate of up to \$1,000,000 for reimbursement of in-ground utilities to serve the project over a 10-year term. 157-171
- B. Discussion and/or action regarding approving a Chapter 380 economic development agreement with F3 Lockhart Owner LLC providing a real and personal property tax rebate over a 10-year term. 172-183
- C. Discussion and/or action regarding engagement letter with the law firm of Messer Fort for legal services. 184-196
- D. Discussion and/or action to adopt an Interlocal Agreement with Caldwell County for Emergency Medical Services. 197-207
- E. Discussion and/or action to consider the purchase of a 2023 Ford F-450 diesel ambulance chassis through Sterling McCall Ford utilizing the Houston Galveston Area Council (HGAC) Purchasing Cooperative and authorizing the City Manager to execute a Purchase Order for the ambulance chassis. 208-227
- F. Consideration and action on Petition for Release of 389.249 acres from the City's ETJ filed by PHAU-Lockhart 450, LLC. 228-248

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

- Update on annual street paving projects.
- Update on the Texas Historical Commission grant to restore the Carver High School Building.
- Texas Monthly BBQ Fest on November 4 and 5.
- A Christmas to Remember in Lockhart will be held on December 1st and 2nd. The Lighted Parade will be held on Saturday, December 2, 2023.
- ESD No. 5 election will be held November 7th.
- ESD No. 5 public informational townhall event will be held October 19th at 7:00 p.m. in the City Council Chambers.

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

9. **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 LEGAL MATTERS SUBJECT TO ATTORNEY/CLIENT PRIVILEGE.**

- A. Discussion with City Attorney regarding a petition for release of property from the extraterritorial jurisdiction of the City of Lockhart.

10. **EXECUTIVE SESSION IN ACCORDANCE WITH THE PROVISIONS OF THE GOVERNMENT CODE, TITLE 5, SUBCHAPTER D, SECTION 551.074, TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER OR EMPLOYEE.**

- A. Conduct annual City Manager's evaluation.

11. **OPEN SESSION**

- A. Discussion and/or action regarding a petition for release of property from the extraterritorial jurisdiction of the City of Lockhart.
- B. Discussion and/or action to consider Resolution 2023-17 authorizing a salary adjustment for City Manager Steven Lewis and addendum to the City Manager Agreement dated effective August 18, 2018 by and between the City of Lockhart and Steven Lewis. 249-251

12. **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 13th of October, 2023 at 2:20 p.m.



PROCLAMATION

WHEREAS, the crime of domestic violence violates the basic human rights of safety and dignity, and 204 Texans were killed in an intimate partner homicide including 169 women and 35 men; and

WHEREAS, the problem of domestic violence is not confined to any group of people, but cut across all economic, racial, gender and societal barriers; and

WHEREAS, the impact of domestic violence and teen dating violence directly affects individuals and communities when society ignores or tolerates violence in relationships; and

WHEREAS, last year HCWC provided face-to-face services to over 978 local victims of domestic violence and provided 8,093 days of shelter; and

WHEREAS, last year HCWC provided these direct services to 33 victims from the City of Lockhart.

NOW, THEREFORE, I, Lew White, by virtue of the authority vested in me as Mayor of the City of Lockhart, Texas do hereby proclaim the month of

October 2023

as

“National Domestic Violence Awareness Month”

and call upon the people of Lockhart to work together with HCWC and local partners to bring an end to domestic violence.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the City of Lockhart, Texas to be affixed this 17th day of October 2023.



CITY OF LOCKHART

Lew White
Mayor

ATTEST:

Julie Bowermon
City Secretary

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discuss Resolution 2023-16 approving an economic development performance agreement with F3 Lockhart Owner LLC to authorize the Lockhart Economic Development Corporation to provide a rebate of up to \$1,000,000 for reimbursement of in-ground utilities to serve the project over a 10-year term.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: Project Apple Pie is a refrigerated warehouse and cold chain logistics operator, sponsored by Related Fund Management (RFM). Founded in 2009, RFM has established itself over more than a decade as a highly skilled and differentiated real estate investment manager with approximately \$10.9 billion of assets under management. RFM has demonstrated a successful track record of investing across all portions of the real estate capital stack and in all major sectors.

The project plans to acquire and develop a ground-up, Class A, energy-efficient public refrigerated warehouse to support the Austin-San Antonio corridor, as well as the greater Central Texas market, with a focus on the rapidly growing subsector of direct-to-consumer ("D2C") grocery deliveries. The initial facility would be approximately 310,000 SF. The facility plans to store frozen and refrigerated foods. As a full-service cold chain provider, the company serves food producers and manufacturers, grocery retailers, and food service companies.

The company plans to have a Lockhart-based staff of 100+ employees in year 4 with an average annual wage of \$38,480. All jobs included in the 380 agreement and economic development performance agreement require benefits.

While the total proposed site is approximately 53 acres, the company will operate on approximately 25 acres with the opportunity to expand by 50%. The excess land allows for additional buildable SF on which they may develop into another cold storage facility or traditional "dry" industrial warehouses totaling 877,900 SF. The land owner and company have initiated the voluntary annexation process with the City which is a requirement in this performance agreement.

Investment:

> \$65 million in real property. The application does not include the value of the inventory since it is not currently known. Inventory is taxed at the same rate as real and personal property based on the value of the inventory at the end of each year.

Incentives:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

The Economic Development Performance Agreement up for consideration is for rebate for the construction of in-ground utilities (water and wastewater lines) not to exceed \$1,000,000.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The LEDC Board of Directors unanimously approved the performance agreement at a special called meeting on October 11, 2023.

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends adoption of Resolution 2023-16

LIST OF SUPPORTING DOCUMENTS: City Resolution 2023-16 Apple Pie, LEDC Resolution 2023-03 Signed, LEDC Draft Minutes 10.11.23

RESOLUTION NO. 2023-16

**A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS
APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE
AGREEMENT WITH F3 LOCKHART OWNER LLC TO AUTHORIZE THE
LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A
REBATE OF UP TO \$1,000,000 TO F3 LOCKHART OWNER, LLC FOR
REIMBURSEMENT OF IN-GROUND UTILITIES.**

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, F3 Lockhart Owner LLC (F3) will engage in a project whereby it will make a capital investment of \$65,000,000 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 \$1,000,000 to reimburse F3 for the cost of in-ground utilities; and

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 F3, a copy of which Agreement is attached hereto as Exhibit “A,” which is incorporated herein for all purposes.

Approved and adopted on this, the ____th day of _____ 2023.

CITY OF LOCKHART, TEXAS

Lew White, Mayor

Attest:

Approved as to form:

Julie Bowermon, 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 F3 Lockhart Owner, LLC. (“**F3**”) a limited liability company.

RECITALS

WHEREAS, F3 desires to construct a facility and to 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 F3 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 F3 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 F3 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 F3 on the

Property and in which the will operate their business.

(b) “**Effective Date**” shall mean the date that all parties have executed this Agreement.

(c) “**Full Time Equivalent Job**” (“**FTE Job**”) shall mean the sum of annual hours of employees who work at least 30 hours in any week, including accrued or used hours associated with holidays, vacation, sick and personal time, and overtime, divided by 1,560.

(d) “**Property**” shall mean 53 acres, more or less, of and described as A068 CRENSHAW, CORNELIUS, ACRES 172.718 in Caldwell County, Texas.

Section 3: Term

The “**Term**” of this Agreement shall be ten (10) years, commencing on the Effective Date of this Agreement, and terminating at midnight on the day immediately preceding the tenth anniversary of the Effective Date.

Section 4. F3 Requirements

In consideration of the financial incentives described and offered by LEDC pursuant to this Agreement, F3 agrees:

- (a) To, directly and/or through one or more of its affiliates, make a capital investment of sixty-five million dollars (\$65,000,000.00) 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 F3 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 December 31, 2025.
- (d) Other than due to a Business Interruption Exception, to create and fill and/or cause the creation and filling of at least one hundred (100) Full Time Equivalent Jobs positions at the Facility at following rate:
 - By Year Ending 2025: a total of 33 FTE jobs positions
 - By Year Ending 2026: a total of 75 FTE jobs positions
 - By Year Ending 2027: a total of 83 FTE jobs positions.
 - By Year Ending 2028: a total of 92 FTE jobs positions.
 - By Year Ending 2029: a total of 100 FTE jobs positions.(Such persons may work in shifts and may not 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; provided that Business Interruption Exceptions shall not be a violation of this provision.
- (f) To maintain at least one hundred (100) Full Time Equivalent Jobs starting January 1, 2030 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 F3 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(e) as well as Employment and Payroll Certification during the Term of this Agreement (which may include partial redactions of social security or other employee information to protect employee privacy).
- (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.
- (j) Attached to this Agreement as Exhibit B and incorporated herein by reference is the concept plan for the site which will evolve and change over time.
- (k) F3 shall consent to annexation of the property into the corporate limits of the city and shall waive all objections and protests to such annexation, such annexation shall be in full. This Agreement constitutes a voluntary, irrevocable petition for annexation of the Property to the City and shall run with the land and bind all future owners of any part of the property and shall survive the Term or termination of this Agreement. Any act or omission of F3 which prevents or unduly delays the annexation of the Property shall constitute a breach of F3's obligations under this Agreement. No provision of this Agreement shall be interpreted to conflict with or reduce the City's authority to levy and collect sales & use taxes in accordance with applicable law once and to the extent that commercial operations commence on the Property.

Section 5. LEDC Requirements

In consideration of F3's agreement to locate its business within the City and to perform the other acts described herein, LEDC agrees it will:

- i) Reimburse F3 not to exceed one million dollars (\$1,000,000.00) for completed in-ground infrastructure serving the Facility as approved in writing by the City of Lockhart (not to be unreasonably denied or delayed), and to be paid to F3 no later than thirty (30) days following LEDC's receipt of satisfactory written documentation of F3's purchase and installation of infrastructure.

Section 6. Recapture/Termination

- (a) In the event that F3 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 (i) temporary suspensions of operations due to interruptions in utilities, supply chain shortages, labor shortages, pandemics, safety issues, or similar or (ii) 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 F3 illegal or economically untenable, or other event beyond the reasonable control of F3 (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 F3 shall not be

entitled to any grants from the City for the year of such breach. The burden shall be upon F3 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 F3 fail to resume business operations within one (1) year of the date of discontinuance of operations, F3 shall not be entitled to any grants from the City of Lockhart for the year of such breach or prospectively.

- (b) In the event that F3 allow 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), F3 shall not be entitled to any grants from the City of Lockhart for the year of such breach or prospectively.

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 agreed to by the parties. LEDC and F3 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 of the parties 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 F3 with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the LEDC and F3.

Section 9. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. F3 may assign its rights and obligations under this agreement only upon prior written approval of the LEDC, which approval shall not be unreasonably withheld or delayed; provided that F3 may collaterally assign this agreement to purchasers of the F3, affiliates, lenders, existing or prospective partners in the Facility with notice to, but not consent from, LEDC.

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:

F3: F3 Lockhart Owner, LLC
Attn:

Cc: Plant Manager _____

Lockhart, Texas _____

Lockhart Economic Development Corporation:
Lockhart Economic Development Corporation
Attn: President
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 F3 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.

Section 14. Undocumented Workers.

F3 have executed the certification attached hereto as **Exhibit "A."** During the Term of this Agreement, the F3 agree not to knowingly employ any undocumented workers and, if

convicted of a violation under 8 U.S.C. Section 1324a (f), F3 shall repay the taxes abated herein, and any other funds received by the F3 from the LEDC as of the date of such violation within 120 days after the date the F3 is notified by the LEDC of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid. F3 are not liable for a violation of this Section by a subsidiary, affiliate (F3 Affiliate), or franchisee of F3 or by a person with whom F3 contracts. F3 hereby verifies in accordance with the requirements of Chapters 2271, 2274, and 2274 of the Government Code and subject to applicable law that F3 will not Boycott Israel, does not and will not Boycott Energy Companies, and does not and will not Discriminate Against Firearm Entities or Firearm Trade Associations, as such capitalized terms are defined in such chapters of the Government Code and subject to the provisions of such chapters of the Government Code.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2023.

THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION:

Steve Lewis, President

ATTEST:

Michael Kamerlander, LEDC Secretary

F3 Lockhart Owner, LLC :

By : _____

Name : _____

Title : _____

EXHIBIT “A”

Certification Regarding Employment of Undocumented Aliens

F3 Lockhart Owner, LLC, a Delaware limited liability company (the “**Company**”) and _____ (the “**Lessee**”) hereby certify to the LEDC, Texas that Company and Lessee and any branches, divisions, or departments of Company and Lessee do not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code.

F3 Lockhart Owner, LLC

By: _____

Name: _____

Title: _____

Date: _____

[Lessee]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT “B”

RESOLUTION NO. 2023-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH F3 LOCKHART OWNER LLC TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$1,000,000 TO F3 LOCKHART OWNER, LLC FOR REIMBURSEMENT OF IN-GROUND UTILITIES.

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, F3 Lockhart Owner LLC (F3) will engage in a project whereby it will make a capital investment of \$65,000,000 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

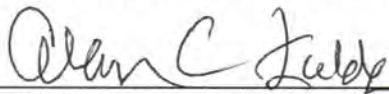
WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$1,000,000 to reimburse F3 for the cost of in-ground utilities; and

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

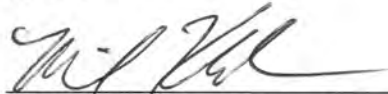
1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and F3, a copy of which Agreement is attached hereto as Exhibit "A," which is incorporated herein for all purposes.

Approved and adopted on this, the 11 th day of October 2023.

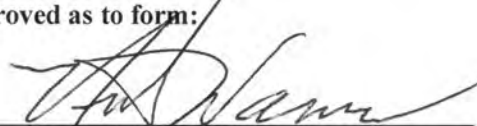
LOCKHART ECONOMIC DEVELOPMENT CORPORATION


Alan Felder, Chairman

Attest:


Michael Kamerlander, Board Secretary

Approved as to form:


Nicole Warren, Board Attorney

DRAFT MINUTES

LOCKHART ECONOMIC DEVELOPMENT CORPORATION

**WEDNESDAY, OCTOBER 11, 2023
6:00 P.M.**

**LEDC OFFICE
215 E. MARKET STREET
LOCKHART, TEXAS**

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Doug Foster; Yolanda Strey; Juan Alvarez (6:04 pm); Sally Daniel (6:06 pm)

Board Members Absent: Frank Estrada

Staff Present: Steve Lewis; Mike Kamerlander; 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

2.1 Hold a public hearing regarding a performance agreement with F3 Lockhart Owner, LLC pursuant to Sec. 505.159, Local Government Code.

Chairman opened public hearing at 6:00 PM and closed the hearing at 6:01 PM with no one from the public in attendance.

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the September 11, 2023 meeting.

Mike Kamerlander suggested edit to address a typo that the “a” in Ms. Strey’s name was left off in Section 4. That will be fixed in final minutes.

Motion to approve the minutes from the September 11, 2023 meeting.

Motion: Alfredo Muñoz

Second: Yolanda Strey

Vote: 4 of 4

4.2 Discussion and/or action regarding LEDC Resolution 2023-03 approving an economic development performance agreement with F3 Lockhart Owner, LLC to authorize the Lockhart Economic Development Corporation to provide a rebate of up to \$1,000,000 for reimbursement of in-ground utilities to serve the project over a 10-year term.

Mike Kamerlander reviewed the project and explained the proposed site plan to the board. He went over the economic development performance agreement and answered questions the board had.

Two amendments were offered up by staff:

1. Requiring annexation of the property.
2. Attach the proposed site plan as “Exhibit B” and insert language, “Attached is the concept plan for the site which will evolve and change over time.”

LOCKHART ECONOMIC DEVELOPMENT CORPORATION (LEDC)

DRAFT MINUTES

Wednesday, October 11, 2023 - 6:00 P.M.

Page 1 of 2

Motion to adopt Resolution 2023-03 with proposed amendments.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

5. DISCUSSION ONLY

5.1 Activity Updates

Mike Kamerlander provided an update on the Industrial Park and that accounting of the project is ongoing. He reminded the board of the Ziegenfelder Groundbreaking ceremony on Tuesday, October 17th at 10 AM and encouraged all of the board to attend.

6. ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz

Second: Yolanda Strey

Vote: 6 of 6

LEDC Board of Directors Adjourned at 6:26 PM.

Minutes approved this the 13th day of November, 2023.

Alan Fielder, Chairman LEDC

Michael Kamerlander, Secretary LEDC

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discuss a Chapter 380 economic development agreement with F3 Lockhart Owner LLC providing a real and personal property tax rebate over a 10-year term.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: Project Apple Pie is a refrigerated warehouse and cold chain logistics operator, sponsored by Related Fund Management (RFM). Founded in 2009, RFM has established itself over more than a decade as a highly skilled and differentiated real estate investment manager with approximately \$10.9 billion of assets under management. RFM has demonstrated a successful track record of investing across all portions of the real estate capital stack and in all major sectors.

The project plans to acquire and develop a ground-up, Class A, energy-efficient public refrigerated warehouse to support the Austin-San Antonio corridor, as well as the greater Central Texas market, with a focus on the rapidly growing subsector of direct-to-consumer ("D2C") grocery deliveries.

The initial facility would be approximately 310,000 SF. The facility plans to store frozen and refrigerated foods. As a full-service cold chain provider, the company serves food producers and manufacturers, grocery retailers, and food service companies.

The company plans to have a Lockhart-based staff of 100+ employees in year 4 with an average annual wage of \$38,480. All jobs included in the 380 agreement and economic development performance agreement require benefits.

While the total proposed site is approximately 53 acres, the company will operate on approximately 25 acres with the opportunity to expand by 50%. The excess land allows for additional buildable SF on which they may develop into another cold storage facility or traditional "dry" industrial warehouses totaling 877,900 SF. The land owner and company have initiated the voluntary annexation process with the City which is required in order to receive any tax incentives rebates.

Investment:

\$65 million in real property. The application does not include the value of the inventory since it is not currently known. Inventory is taxed at the same rate as real and personal property based on the value of the inventory at the end of each year.

Incentives:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

The Chapter 380 agreement provides a 5-year rebate of real and personal property taxes within a 10-year term. The rebate term will run for five sequential years and offer the following schedule:

Year 1: 85% Rebate

Year 2: 70%

Year 3: 55%

Year 4: 40%

Year 5: 25%

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of the Chapter 380 agreement.

LIST OF SUPPORTING DOCUMENTS: F3 Lockhart _ City of Lockhart 380 101023

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 F3 LOCKHART OWNER LLC (“**Company**”) and F3 ColdCo Lockhart LLC (“**Lessee**”), collectively (“**parties**”).

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 at least 300,000 square foot facility in the City, bring jobs to the City, and participate in the Economic Development Program established in this Agreement.

Company and Lessee intend to make a total investment of at least sixty-five million dollars (\$65,000,000.00) 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 and Lessee 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 and Lessee 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. Agreement Term

This Agreement shall have a term of ten (10) years (“**Agreement Term**”), 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 tenth anniversary of that date unless sooner terminated as provided herein. For example, if construction is completed and a Certificate of Occupancy obtained in 2024, Year One of this agreement will commence on January 1, 2025.

Section 4. Property Tax Rebate Term

The Property Tax Rebate Term (“**Rebate Term**”) shall be a term of five (5) years. The Rebate Term shall commence after the commencement of the Agreement Term and may commence and apply for any five consecutive years ending on or before the end of the Agreement Term. The Rebate Term shall commence on January 1 of the year following Company’s request to start the Rebate Term. For City budgeting purposes, Company must request term commencement by May 31 of the year prior to the start. Example: Company requests term start on May 15, 2025. Year 1 will be 2026 with the first rebate to company in 2027 per the terms in this Agreement. Notwithstanding the commencement of the Rebate Term, the Rebate Term shall not exceed the Agreement Term. At the end of the Agreement Term the City shall have no obligation under Section 6 (b) below.

Section 5. COMPANY and LESEE Requirements

Company and Lessee agree:

- (a) To acquire sufficient land in the City of Lockhart, estimated to be fifty-three (53) acres, (“the “**Property**”) that will be suitable for the construction of a cold storage facility, for the operation of Company activities thereon (“the “**Facility**”).
- (b) Construct the Facility on the Property of at least 300,000 square feet and with other improvements, including equipment, with a project budget of at least sixty-five million dollars (\$65,000,000.00) 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.
- (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 twenty four (24) months after the issuance of the aforesaid building permit.
- (e) Employ a minimum of one hundred (100) Full Time Equivalent (“FTE”) employees within the first five (5) years from the commencement of the Agreement Term.
- (f) Company and/or Lessee shall provide the City with proof of employment of employees by submitting copies of payroll records and federal employment tax forms (which may redact portions of social security numbers or addresses to protect employee privacy) or other documentation satisfactory to the City, which shall be provided within thirty (30) days of the end of each year of the Agreement Term.

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

The term “**Full Time Equivalent**,” as used in this Agreement, shall mean the sum of annual hours of employees who work at least 30 hours in any week, including accrued or used hours associated with holidays, vacation, sick and personal time, and overtime, divided by 1,560. FTEs shall be required to be eligible for benefits such as medical, dental, and vision insurance.

- (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 or Lessee.
- (h) Notify City by May 31st of the year prior to Company’s requested 1st year of property tax rebates as described in Section 6 (b) below. Failure to request commencement of property tax Rebate Term by this date will result in a delay of 1 year. For instance: For Rebate Term to begin January 1, 2026, company must request the Rebate Term begin by May 31, 2025. Should company request June 30, 2025, Rebate Term shall begin on January 1, 2027.

Section 6. City Requirements

- (a) In consideration of Company’s and/or Lessee’s agreement to perform the acts described above, City agrees to provide an annual grant to Lessee in an amount of money equal to a percentage of the annual City of Lockhart ad valorem taxes paid by Company and the Lessee on the Real Property and all improvements and personal property located in or on or being a part of or supporting the operation of the Facility (“**Increment**”) for that year and actually collected by the City.

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

For Year one: eighty-five percent (85%) of the Increment attributable to that year and paid to the City;

For Year two: seventy percent (70%) of the Increment attributable to that year and paid to the City;

For Year three: fifty-five percent (55%) of the Increment attributable to that year and paid to the City;

For Year four: forty percent (40%) 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 Lessee the applicable amount of each annual grant, following Company's payment of ad valorem taxes for that year, on or before May 1 of the calendar year following such payment.
- (d) Any payment by the City to the Lessee or Company shall satisfy the City's obligation to both the Lessee and Company pursuant to the grant under this Agreement.

Section 7. Termination

In the event that Company and/or Lessee 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, temporary suspensions of operations due to interruptions in utilities, supply chain shortages, labor shortages, pandemics, health and safety requirements or other event beyond the reasonable control of Company and/or Lessee for a period of 365 consecutive days during the Agreement Term, then in such event the City will no longer be obligated to expend any further funds for tax reimbursement, and Lessee shall be not be entitled to any grant by the City under Section 6 of this Agreement for the calendar year in which such breach occurred. The burden shall be upon Company and/or Lessee 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, temporary suspensions of operations due to interruptions in utilities, supply chain shortages, labor shortages, pandemics, health and safety requirements or other event beyond the control of Company and/or Lessee. In the event Company and/or Lessee meet 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 and/or Lessee, then Company and Lessee shall have a period of one (1) year in which to resume the operation of the distribution facility. In the event that Company and Lessee fail 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 Lessee shall not be entitled to any grant by the City under Section 6 of this agreement for the calendar year in which the breach occurred.

Subject to the notice and cure periods described in this Agreement, in the event that Company or Lessee allow 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 or Lessee shall not be entitled to any grant by the City under Section 6 of this agreement for the calendar year in which such breach occurred.

In the event that Company or Lessee 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 not be entitled to any grant by the City under Section 6 of this agreement for the calendar year in which such breach occurred.

In the event that the City determines that Company and/or Lessee is in default of any of the terms or conditions contained in this Agreement, then in such event the City shall give the party sixty (60) days written notice and opportunity to cure such default. Except as provided in Section 5(b) herein, in the event such default is not cured to the satisfaction of the City within the sixty (60) days notice period, then in such event the City will not pay any grants under Section 6 for the year in which such breach occurred and it will not be obligated to expend any further monies for tax reimbursement.

Section 8. Certification of Compliance

On or before April 15 of each year that this Agreement is in effect, Company and/or Lessee 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 and/or Lessee 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 and/or Lessee related to the provisions of this Agreement.

Section 9. Entire Agreement

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

Section 10. 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; provided that Company may collaterally assign this agreement to purchasers of the Company, affiliates, lenders, existing or prospective partners in the Facility with notice to, but not consent from, the City.

Section 11. 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:

F3 Lockhart Owner LLC
C/O Ivan Karpov
30 Hudson Yards, 83rd Floor
New York, NY 10001

Cc: Plant Manager

Lockhart, Texas 78644

LESSEE:

C/O Ivan Karpov
30 Hudson Yards, 83rd Floor
New York, NY 10001

City:

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

Section 12. 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 13. 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 agreed to by the parties. The parties 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 14. 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 15. Mutual Assistance

The parties 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.

Section 16. Undocumented Workers.

Company and Lessee have executed the certification attached hereto as **Exhibit “A.”** During the Agreement Term, the Company and Lessee agree not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), the Company or Lessee shall repay the taxes abated herein, and any other funds received by the Company or Lessee from the City as of the date of such violation within 120 days after the date the Company or Lessee is notified by the City of such violation, plus interest at the rate of four percent (**4%**) compounded annually from the date of violation until paid. Company or Lessee are not liable for a violation of this Section by a subsidiary, affiliate (Company Affiliate), or franchisee of Company or Lessee or by a person with whom Company or Lessee contract. Company and Lessee hereby verify in accordance with the requirements of Chapters 2271, 2274, and 2274 of the Government Code and subject to applicable law that Company and Lessee will not Boycott Israel, does not and will not Boycott Energy Companies, and does not and will not Discriminate Against Firearm Entities or Firearm Trade Associations, as such capitalized terms are defined in such chapters of the Government Code and subject to the provisions of such chapters of the Government Code.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2023.

THE CITY OF LOCKHART

ATTEST:

Lew White, Mayor

Julie Bowermon, City Secretary

COMPANY:
F3 LOCKHART COMPANY LLC

By: _____
Name: Michael Winston
Title: Authorized Signatory

LESSEE:
F3 ColdCo Lockhart LLC

By: _____
Name: Michael Winston
Title: Authorized Signatory

State of Texas)
)
County of Caldwell)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, 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 _____, 2023, by _____ known to me to be the of F3 Lockhart Company LLC

Notary Public

My Commission expires:

State of _____)
)
County of _____)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____ known to me to be the of F3 ColdCo Lockhart LLC

Notary Public

My Commission expires:

EXHIBIT “A”

Certification Regarding Employment of Undocumented Aliens

F3 Lockhart Owner LLC, a Delaware limited liability company (the “**Company**”) and _____ (the “**Lessee**”) hereby certify to the City of Lockhart, Texas that Company and Lessee and any branches, divisions, or departments of Company and Lessee do not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code.

F3 Lockhart Owner LLC

By: _____
Name: _____
Title: _____
Date: _____

[Lessee]

By: _____
Name: _____
Title: _____
Date: _____

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion and a presentation from the Lower Colorado River Authority (LCRA) on the creation of a new emergency communication voice radio system for Caldwell County.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: The City of Lockhart and Caldwell County are currently on the Greater Austin-Travis Regional Radio System (GATRRS). The GATRRS system is operated by the City of Austin and provides voice communications for public safety and other public service organizations in the central Texas region. Participating counties include Bastrop, Blanco, Burnet, Caldwell, Lee, Llano, Travis, and Williamson counties.

All voice radio communication systems involve the use of a combination of radio towers, FCC licensed radio frequencies, software, specialized radio equipment, portable and mobile radios, maintenance, programming, monitoring, and support.

Due to GATRRS system reliability, radio coverage, and system maintenance, Caldwell County has contracted with LCRA to create a new voice radio communication system in Caldwell County for public safety using two existing towers, one new tower and all new infrastructure. Current end user portable and mobile radios will be reprogrammed for use on the new system.

The City of Lockhart will be asked to enter into an Interlocal Agreement (ILA) with LCRA to become a participating member of the new LCRA system.

A combined 911 emergency dispatch facility for Caldwell County at the Justice Center is also in the development phase for use with the new LCRA system. It is yet to be determined if it will be a centralized (one agency) or co-located (multiple agencies) facility.

City staff is in communication with the City of Austin, Texas Department of Public Safety (TxDPS), and Texas Department of Transportation (TxDOT) to assume the tower leases, equipment, and maintenance costs associated with the current GATRRS system.

PROJECT SCHEDULE (if applicable): The estimated completion of the new LCRA voice radio communication system is spring/summer of 2024.

AMOUNT & SOURCE OF FUNDING:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

Funds Required:
Account Number:
Funds Available:
Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: N/A

LIST OF SUPPORTING DOCUMENTS: Lockhart City Council Presentation 2023-10-17

City of Lockhart and LCRA Telecom

CITY OF
Lockhart
TEXAS

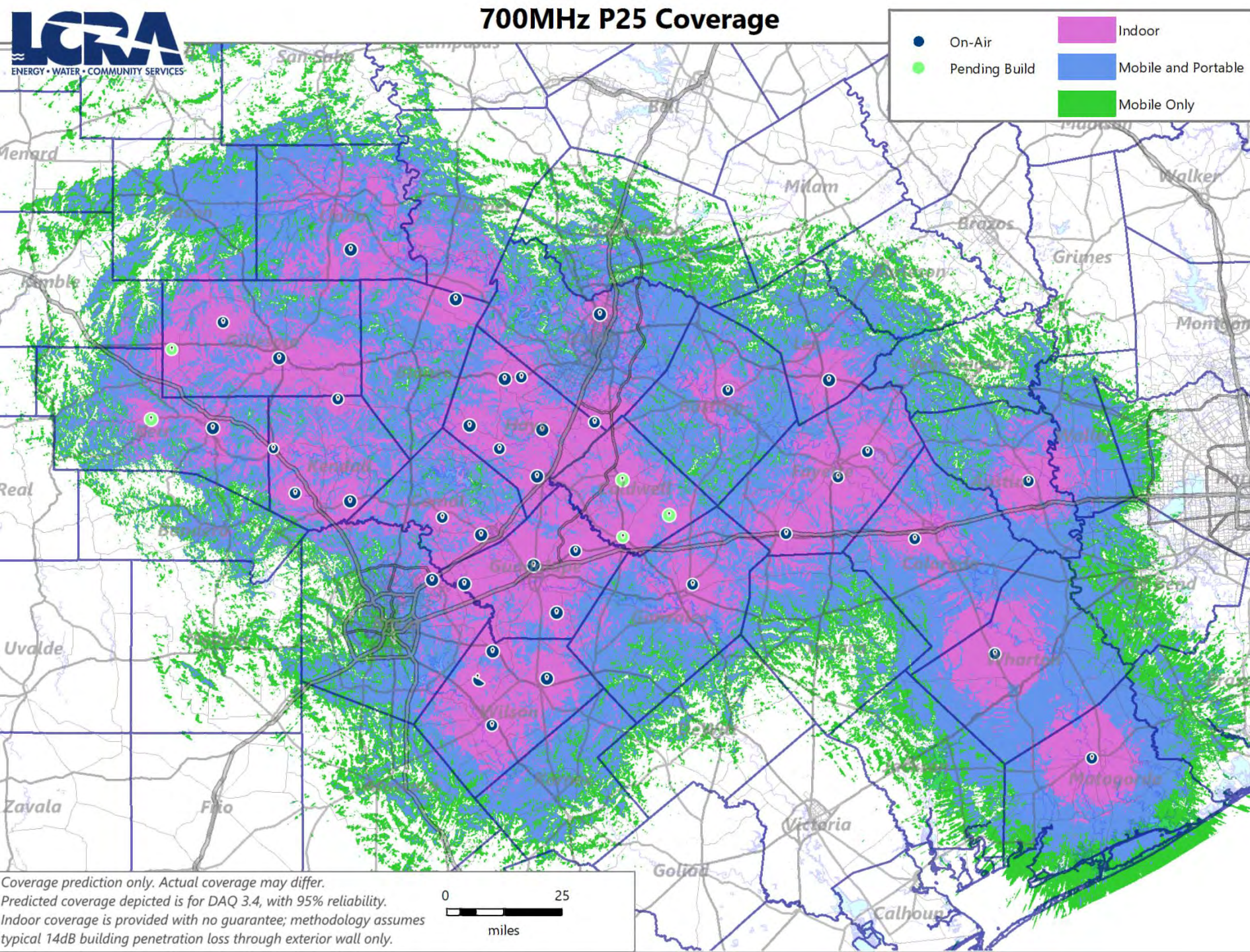
Moving to the Future of
Emergency Communication
Systems



Agenda

October 17, 2023

- Introductions
- LCRA Telecom Introduction and Overview
- Caldwell County Telecom Plan for 700 MHz Infrastructure
- Information for Migration of 700 MHz Radio System



LCRA 700 MHz Radio Coverage for Public Safety

Law Enforcement
Fire Protection
Emergency Services

The image shows the silhouettes of several communication towers against a clear blue sky. The towers are of varying heights and are equipped with numerous antennas and satellite dishes. The foreground shows the dark silhouettes of trees and the base of the towers.

Always There to Support You

- 24x7x365 monitoring & support
- System design, installation, and monitoring
- Operate and maintain all electronics
- Replacement of obsolete hardware
- Software & firmware updates
- 99.9%+ reliability

A low-angle photograph of a technician in a white hard hat and safety harness working on a metal radio tower. The technician is positioned on a horizontal beam, reaching up to adjust a white cylindrical antenna. The tower's structure consists of various metal beams and cables, with a thick blue rope running vertically. The background is a clear, bright blue sky.

Full-service Installation and Maintenance

Our Radio Shop services include:

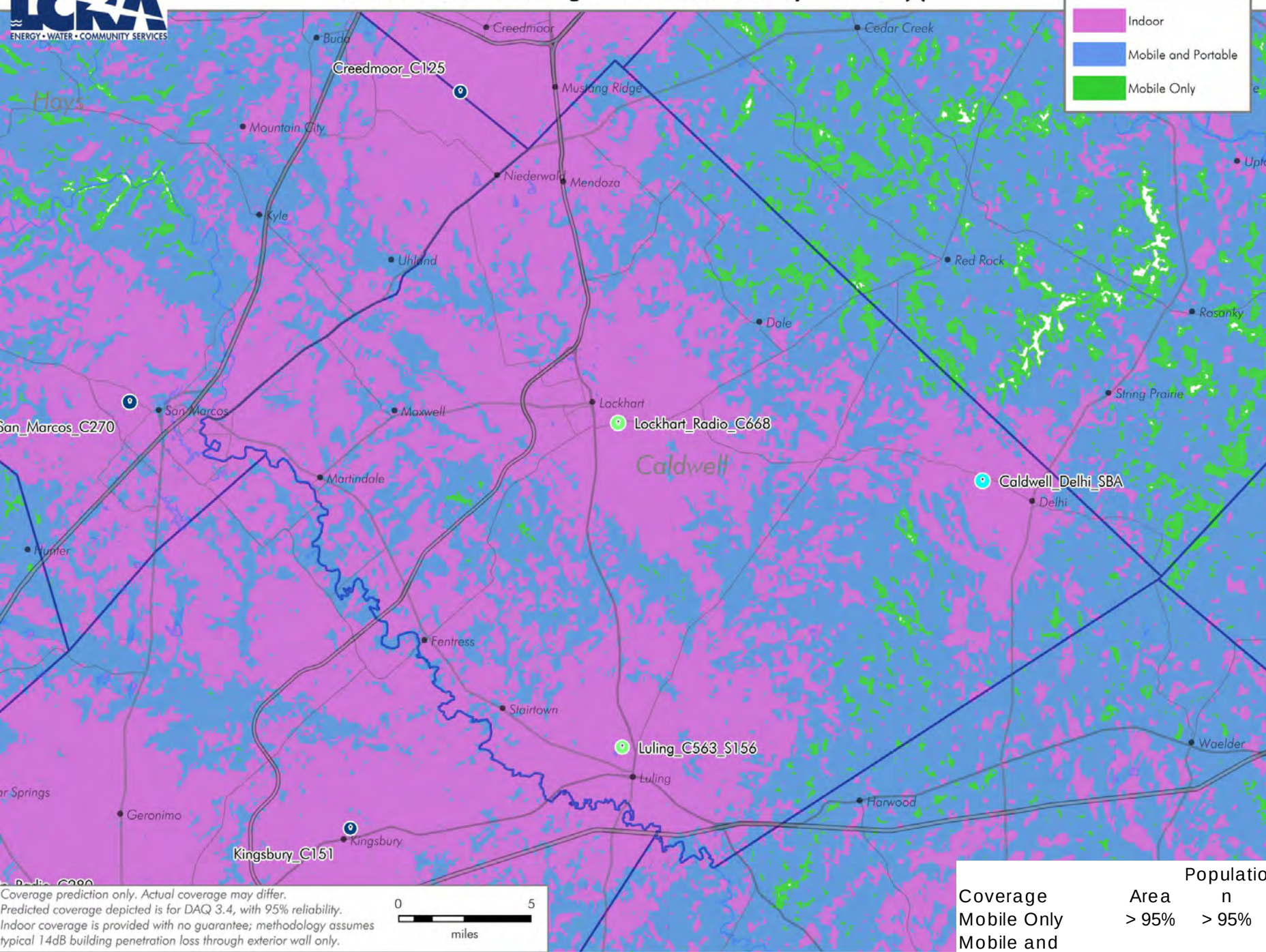
- Install & maintain dispatch consoles
- Radio sales, programming & repair
- Configure radio personalities & talk groups
- Radio, light bar, camera installations
- Batteries, antennas, microphones
- Software & firmware updates
- FCC licenses and frequencies

Caldwell County Emergency Communications Plan

700 MHz Infrastructure

Confidential



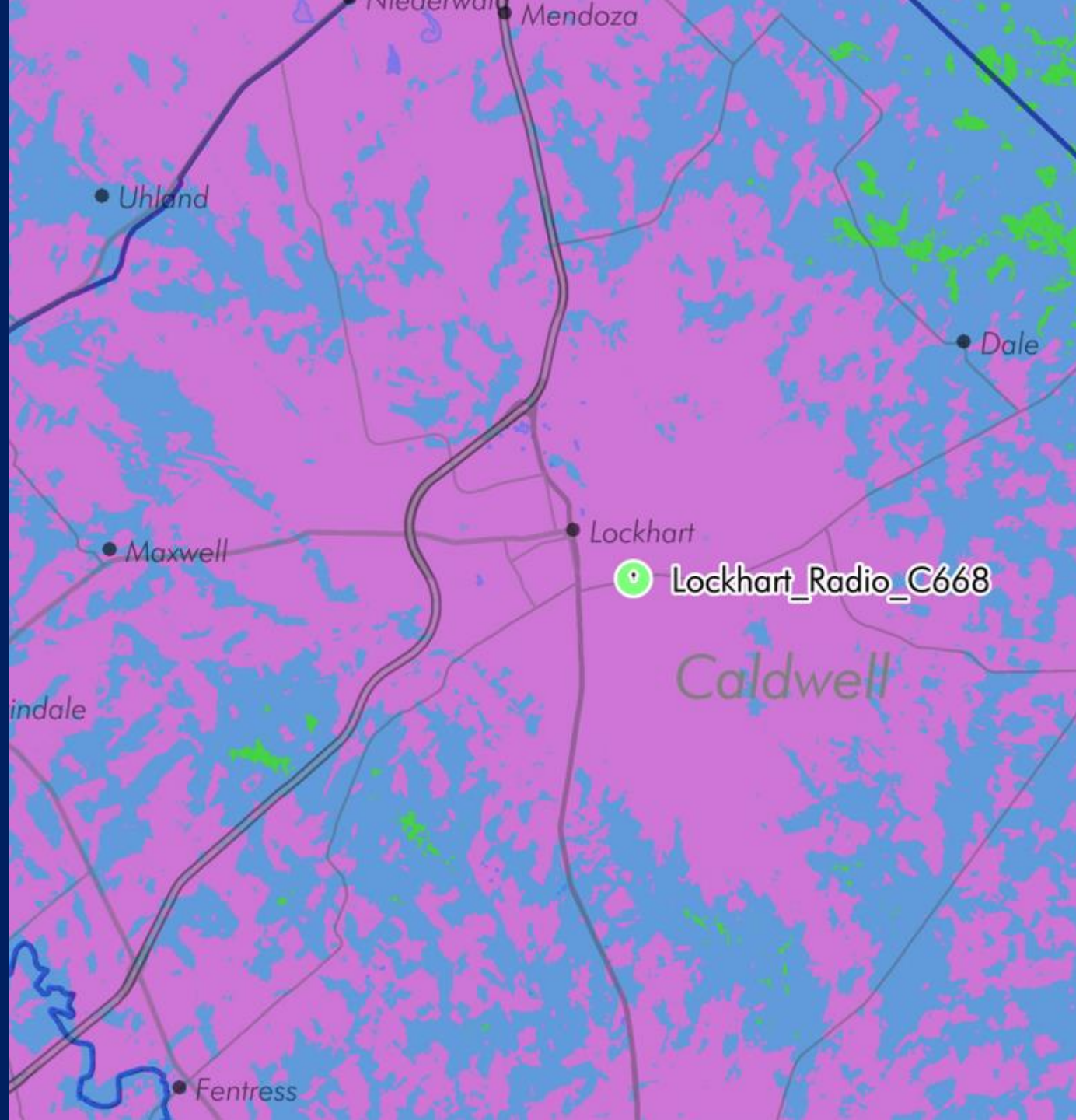


3 Site Addition for Caldwell County

- Reed Drive Site
- Luling Site
- Delhi Site

Coverage	Area	Population
Mobile Only	> 95%	> 95%
Mobile and		

Close-up of City of Lockhart and Surrounding Area



- Current radios will work on the new system with a reprogram. Radio reprogramming included in project.
- Co-located Dispatch is in motion for all county law enforcement at Caldwell County Judicial Center.
- Airtime charges for shared maintenance are \$20/radio/month and \$100/console/month. These charges recur while the city remains part of the shared radio system.
- The city will operate with LCRA utilizing an Interlocal Agreement that is signed before migration.
- Questions?

Information for Migration of 700 MHz Radio System

Khalil Coltrain

(254) 458-1827 cell

khalil.coltrain@lcra.org

Disclaimer

This presentation is for informational purposes only and is not intended as an offer for the purchase or sale of any services or equipment. No data or other information contained herein is warranted or guaranteed.

All estimates contained in this presentation are based on current labor and material rates and are presented in an effort to accurately convey a preliminary outline of expenses related to the project as currently outlined. Actual costs will be defined, in detail, in a final proposal, and may vary.

LCRA Telecommunication radio services are provided on a non-profit, cost shared basis. Services are available only to eligible organizations, LCRA is not a common carrier.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discuss Resolution 2023-15 designating the Chief of Police as the Authorized Official on the police department's Body Worn Camera Program grant through the Office of the Governor.

ORIGINATING DEPARTMENT AND CONTACT: Police - Gary Williamson

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: On November 16th, 2021, Council approved a resolution authorizing the submittal of the Body Worn Camera (BWC) Program grant through the Office of the Governor. The resolution also named the former police chief as the Authorized Official. With the departure of the former police chief, a new resolution naming the position of Chief of Police as the Authorized Official is needed to come in compliance with the grant requirements and receive reimbursement.

The police department's Body Worn Camera Program grant purchased replacement body cameras. The cost for the BWC program is \$85,260.00. The grant requires a 25% match. Twenty-nine(29) Motorola WaV300 Body Worn Cameras, including cloud storage and accessories, were purchased.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION:

LIST OF SUPPORTING DOCUMENTS: 2023 BWC Grant - Amended

RESOLUTION 2023-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS AUTHORIZING SUBMISSION OF A GRANT APPLICATION FOR THE BODY WORN CAMERA PROGRAM UPGRADE TO THE OFFICE OF THE GOVERNOR.

WHEREAS, the City of Lockhart finds it in the best interest of the citizens of Lockhart, that the **Body Worn Camera Program** be operated for the 2022 – 2023 years: and

WHEREAS, the City Council of the City of Lockhart, Texas agrees to provide applicable matching funds for the said project as required by the Body-Worn Camera Program grant application; and

WHEREAS, the City of Lockhart agrees that in the event of loss or misuse of the Office of the Governor funds, the City of Lockhart assures that the funds will be returned to the Office of the Governor in full; and

WHEREAS, the City of Lockhart designates the Chief of Police as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter, or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that the City of Lockhart approves submission of the grant application for the **Body Worn Camera Program** to the Office of the Governor.

Passed and Approved this 17th day of October, 2023.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

Monte Akers, City Attorney

Grant Number: **4366701**

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion regarding Amendment Number 3 to the Capital Area Council of Governments' (CAPCOG) Lease of Site For Air Quality Monitoring and appointing the City Manager to sign the amendment if approved.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: CAPCOG stores an Air Quality Monitoring Station at 214 Bufkin Lane, behind the City's Electric Department. The monitoring unit has been in place since 2013 and collects data regarding local air quality, such as ground-level Ozone, and reports data back to CAPCOG. The collected data can then be used for the Air Quality Index (AQI) in real-time and Forecast AQI in order to plan outdoor activities, especially for sensitive groups.

The purpose of this Amendment Number 3 is to extend the Term of the Amendment 2 of the Original Lease from its current end date of December 31, 2023, to December 31, 2026, in order to enable continued collection of ambient air quality data at the site through the expiration date of CAPCOG's 2019-2026 Air Quality Monitoring Network Plan Addendum.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of extending the existing agreement for another three years.

LIST OF SUPPORTING DOCUMENTS: CAMS 1604 Site Lease Agreement Amendment

City of Lockhart, Texas

Council Agenda Item Cover Sheet

3_2023-07-06 v 2.word, Monitor Picture, 2018 CAPCOG Air Quality Monitor Lease

**AMENDMENT NUMBER 3 TO CAPITAL AREA COUNCIL OF GOVERNMENTS “LEASE OF
SITE FOR AIR QUALITY
MONITORING”**

Recitals

The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the state of Texas organized and operating under the Texas Regional Planning Act of 1965, as amended, chapter 391 of the Local Government Code. The City of Lockhart ("City") is a city that has leased land to CAPCOG for the purpose of ambient air quality monitoring since May 15, 2013. This agreement was authorized by Chapter 791 of the Government Code and is captioned "Lease of Site for Air Quality Monitoring" (hereinafter "Original Lease"). Amendment 1 extended the Original Lease from its end date of December 31, 2015, to December 31, 2018. Amendment 2 extended the Term of Amendment 1 from December 31, 2018, to December 31, 2023.

Purpose of Amendment

The purpose of Amendment Number 3 is to extend the Term of the Amendment 2 of the Original Lease from its current end date of December 31, 2023, to December 31, 2026, in order to enable continued collection of ambient air quality data at this site through the expiration date of CAPCOG's 2019-2026 Air Quality Monitoring Network Plan Addendum.

CAPCOG and City are willing to amend the Original Lease agreement as stated below. This Amendment is pursuant to the authority implicit in Article 8.2, which indicates that the Original Lease may be amended by a writing signed by all parties.

REVISION 1. Section 3. "Term" is amended as follows:

"3.1 This Lease begins on the date it is executed on behalf of City and it ends December 31, 2026."

Sections 3.2 is not affected by this Amendment and remain as seen in the Original Lease.

Miscellaneous

Each individual signing this Amendment 3 to the Original Lease on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Amendment 3 to the Original Lease is executed in duplicate originals.

Except as amended herein, the terms and conditions of the Original Lease remain in full force and effect.

CITY OF LOCKHART

CAPITAL AREA COUNCIL OF
GOVERNMENTS

By: _____

Steven Lewis
City Manager

By: _____

Betty Voights
Executive Director

Date: _____

Date: _____



**Capital Area
Council of
Governments**
**Air Quality
Monitoring Station**
For more information go to
www.capog.org/divisions/regionalairquality/aq-status
For Questions Call: 512-916-6000

**AIR CENTRAL TEXAS**
**AIR QUALITY
MONITORING STATION**
For local air quality information, visit
aqtexas.com
For more on air quality monitoring, visit
www.aqtrn.gov

O&M
Operations & Maintenance

**AMENDMENT NUMBER 2 TO
CAPITAL AREA COUNCIL OF GOVERNMENTS "LEASE OF SITE FOR AIR QUALITY
MONITORING"**

Recitals

The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the state of Texas organized and operating under the Texas Regional Planning Act of 1965, as amended, chapter 391 of the Local Government Code. The City of Lockhart ("City") is a city that has leased land to CAPCOG for the purpose of ambient air quality monitoring since May 15, 2013. This agreement was authorized by Chapter 791 of the Government Code and is captioned "Lease of Site for Air Quality Monitoring" (hereinafter "Original Lease"). Amendment 1 extended the Original Lease from its end date of December 31, 2015, to December 31, 2018.

Purpose of Amendment

The purpose of Amendment Number 2 is to extend the Term of the Amendment 1 of the Original Lease from its current end date of December 31, 2018, to December 31, 2023, in order to enable continued collection of ambient air quality data at this site through the expiration date of CAPCOG's 2019-2023 Air Quality Monitoring Network Plan.

CAPCOG and City are willing to amend the Original Lease agreement as stated below. This Amendment is pursuant to the authority implicit in Article 8.2, which indicates that the Original Lease may be amended by a writing signed by all parties.

REVISION 1. Section 3. "Term" is amended as follows:

"3.1 This Lease begins on the date it is executed on behalf of City and it ends December 31, ~~2018~~2023."

Sections 3.2 is not affected by this Amendment and remain as seen in the Original Lease.

Miscellaneous

Each individual signing this Amendment 2 to the Original Lease on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Amendment 2 to the Original Lease is executed in duplicate originals.

Except as amended herein, the terms and conditions of the Original Lease remain in full force and effect.

CITY OF LOCKHART

By: _____

Vance Rodgers
City Manager

Date: _____

8-1-18

CAPITAL AREA COUNCIL OF
GOVERNMENTS

By: _____

Betty Voights
Executive Director

Date: _____

7/23/18

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Receive and discuss the 4th Quarter Fiscal Year 2023 Investment Report.

ORIGINATING DEPARTMENT AND CONTACT: Finance - Joseph Resendez, ACM

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: The Texas Public Funds Investment Act requires local governments to review and accept the quarterly investment reports for each quarterly reporting period of the fiscal year. The 4th Quarter Investment Report of Fiscal Year 2023, ending September 30, 2023 is presented for your review and acceptance.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully request a motion to accept the 3rd Quarter Investment Report for Fiscal Year 2023.

LIST OF SUPPORTING DOCUMENTS: FY 2023 - Q4 Investment Report

CITY OF LOCKHART

Quarterly Investment Report
For the Quarter Ended September 30, 2023

October 17, 2023

CITY of LOCKHART
Quarterly Investment Report
For the Quarter Ended September 30, 2023

This report is presented in accordance with the Texas Government Code, Title 10, Chapter 2256, Public Funds Investment; Section 2256.023 known as the "Public Funds Investment Act". Attached is a detailed City of Lockhart investment report for the period July 1, 2023 through September 30, 2023. The Investment Portfolio Summary reports the beginning and ending book values and market values for the quarterly reporting period as follows:

July 1, 2023

Cash
Marketable Securities
Investment Pools
Certificates of Deposits
Total:

Investment Portfolio		
	Book Value	Market Value
Cash	1,261,054	1,261,054
Marketable Securities	0	0
Investment Pools	39,333,873	39,333,330
Certificates of Deposits	0	0
Total:	40,594,928	40,594,384

September 30, 2023

Cash
Marketable Securities
Investment Pools
Certificates of Deposits
Total:

Fund Availabilty		
Unrestricted Funds	10,583,346	10,583,346
Restricted Funds	29,243,651	29,243,105
Total Funds	39,826,997	39,826,451

Unrestricted Funds	12,069,665	12,069,665
Restricted Funds	24,733,710	24,731,075
Total Funds	36,803,375	36,800,740

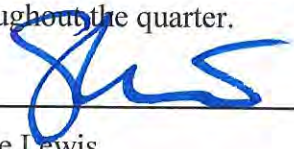
July 1, 2023

Unrestricted Funds
Restricted Funds
Total Funds

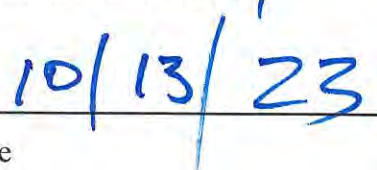
September 30, 2023

Unrestricted Funds
Restricted Funds
Total Funds

The investment portfolio, at all times during the quarter, complied with the Public Funds Investment Act and the City of Lockhart Investment Policy. TexPool, Texas CLASS and TexSTAR were also in compliance with the Public Funds Investment Act and the City of Lockhart Investment Policy throughout the quarter.



Steve Lewis
City Manager



Date

CITY of LOCKHART
Investment Portfolio Summary
For the Quarter Ended September 30, 2023

	Investment Portfolio			
	Book Value	% of Total	Market Value	% of Total
<u>July 1, 2023</u>				
Cash	1,261,054	2.1%	1,261,054	2.1%
Marketable Securities	0	0.0%	0	0.0%
Investment Pools	39,333,873	97.9%	39,333,330	97.9%
Certificates of Deposits	0	0.0%	0	0.0%
Portfolio Total	40,594,928	100.0%	40,594,384	100.0%
<u>September 30, 2023</u>				
Cash	800,907	2.2%	800,907	2.2%
Marketable Securities	0	0.0%	0	0.0%
Investment Pools	36,002,468	97.8%	35,999,833	97.8%
Certificates of Deposits	0	0.0%	0	0.0%
Portfolio Total	36,803,375	100.0%	36,800,740	100.0%
<u>Change in Value</u>				
Cash	(460,148)		(460,148)	
Marketable Securities	0		0	
Investment Pools	(3,331,405)		(3,333,497)	
Certificates of Deposits	0		0	
Portfolio Total	(3,791,553)		(3,793,644)	
<u>Maturity Data</u>				
	0			
	Book Value @	Weighted	Yield	
	9/30/2023	Average	to	
		Maturity	Maturity	
Cash	800,907	0 Days		1.00%
Marketable Securities	0	0 Days		0.00%
Investment Pools - Texas CLASS	19,428,629	49 Days *		5.52%
Investment Pools - TexPool	7,687,675	23 Days *		5.05%
Investment Pools - TexSTAR	8,886,164	30 Days *		5.31%
Certificates of Deposits	0	0 Days		0.00%
	36,803,375	38 Days		5.27%

Benchmark - 4 Week Treasury Bills - Secondary Market @ September 30, 2023 5.33%

* Weighted Average Maturity of Pool Investments - City funds are available from pools upon request.

<u>Total Return On Investment</u>	<u>Interest Earned</u>
Cash	2,193
Marketable Securities	0
Investment Pools - Texas CLASS	264,519
Investment Pools - TexPool	129,767
Investment Pools - TexSTAR	116,332
Certificates of Deposits	0
Total Return on Investment	512,810

CITY OF LOCKHART
Cash Accounts (as reconciled to FLNB)
For the Quarter Ended September 30, 2023

General Operating Account - FLNB		
		<u>Value</u>
July 1, 2023	\$	1,261,054
Deposits		11,269,712
Withdrawals		(11,732,053)
Interest Earned		2,193
September 30, 2023	\$	800,907

Total Cash Accounts		
		<u>Value</u>
July 1, 2023	\$	1,261,054
Deposits		11,269,712
Withdrawals		(11,732,053)
Interest Earned		2,193
September 30, 2023	\$	800,907

4

<u>Holdings During the Quarter</u>								Beginning Value	Beginning Book Value	Beginning Market Value	Ending Value @ Par	Ending Book Value	Ending Market Value
Type of Security	CUSIP	Purchase Date	Par Value	Coupon 0.34%	Date of Maturity	Yield to Maturity	Purchase Price	Quarterly Interest Earned	@ Par	July 1, 2023		September 30, 2023	
								-					0
								-					0
Totals			\$ -				\$ - \$ - \$ - \$ - \$ - \$ -						\$ -

0.22%									
<u>Purchases</u>									
Type of Security	CUSIP	Purchase Date	Par Value	Coupon Rate	Date of Maturity	Yield to Maturity	Settlement Total	Price	Accrued Interest
Totals			\$ -				\$ -		\$ -

<u>Maturities</u>	<u>Purchase Date</u>	<u>Par Value</u>	<u>Coupon Rate</u>	<u>Date of Maturity</u>	<u>Yield to Maturity</u>	<u>Settlement Total</u>
\$ -						
Totals		<u>\$ -</u>	0.59%			<u>\$ -</u>

CITY OF LOCKHART
Investment Pool Transactions Summary
For the Quarter Ended September 30, 2023

TexPool - City of Lockhart					
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>	<u>Net Asset</u> <u>Value</u>	<u>Weighted Aver.</u> <u>Maturity</u>	<u>Average</u> <u>Monthly Yield</u>
July 1, 2023	11,399,931	11,399,133	0.999930	19 Days	4.6100%
Deposits	5,021,000				
Withdrawals	(8,863,023)				
Interest Earned	129,767				
September 30, 2023	7,687,675	7,686,675	0.99987	23 Days	5.0500%

Texas CLASS					
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>	<u>Net Asset</u> <u>Value</u>	<u>Weighted Aver.</u> <u>Maturity</u>	<u>Average</u> <u>Monthly Yield</u>
July 1, 2023	19,164,110	19,164,110	1.00000	36 Days	4.8600%
Deposits	0				
Withdrawals	0				
Interest Earned	264,519				
September 30, 2023	19,428,629	19,428,629	1.00000	49 days	5.5200%

TexSTAR					
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>	<u>Net Asset</u> <u>Value</u>	<u>Weighted Aver.</u> <u>Maturity</u>	<u>Average</u> <u>Monthly Yield</u>
July 1, 2023	8,769,832	8,770,086	1.00003	39 Days	4.6066%
Deposits	0				
Withdrawals	0				
Interest Earned	116,332				
September 30, 2023	8,886,164	8,884,529	0.999816	30 Days	5.3105%

Total of All Pools		
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>
July 1, 2023	39,333,873	39,333,330
Deposits	5,021,000	
Withdrawals	(8,863,023)	
Interest Earned	510,617	
September 30, 2023	36,002,468	35,999,833

CITY of LOCKHART
Certificates of Deposit Transaction Summary
For the Quarter Ended September 30, 2023

Holdings During the Quarter

<u>CD Number</u>	<u>Holder</u>	<u>Purchase Date</u>	<u>Face Value</u>	<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Yield to Maturity</u>	<u>Purchase Price</u>	<u>Quarterly Interest Earned</u>	<u>Beginning Face Value</u>	<u>Beginning Market Value</u>	<u>Ending Face Value</u>	<u>Ending Market Value</u>
									July 1, 2023		September 30, 2023	
			<u>\$ -</u>				<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

Purchases

<u>CD Number</u>	<u>Holder</u>	<u>Purchase Date</u>	<u>Face Value</u>	<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Yield to Maturity</u>	<u>Purchase Price</u>
			<u>\$ -</u>				<u>\$ -</u>

Maturities

<u>CD Number</u>	<u>Holder</u>	<u>Purchase Date</u>	<u>Face Value</u>	<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Yield to Maturity</u>	<u>Settlement Total</u>
			<u>\$ -</u>				<u>\$ -</u>

<i>City of Lockhart</i>			
<i>Investment Pools</i>			
<i><u>Standard and Poor's Ratings</u></i>			
<u>Month</u>	<u>TexPool</u>	<u>TexSTAR</u>	<u>Texas CLASS</u>
October-22	AAAm	AAAm	AAAm
November-22	AAAm	AAAm	AAAm
December-22	AAAm	AAAm	AAAm
January-23	AAAm	AAAm	AAAm
February-23	AAAm	AAAm	AAAm
March-23	AAAm	AAAm	AAAm
April-23	AAAm	AAAm	AAAm
May-23	AAAm	AAAm	AAAm
June-23	AAAm	AAAm	AAAm
July-23	AAAm	AAAm	AAAm
August-23	AAAm	AAAm	AAAm
September-23	AAAm	AAAm	AAAm

<i>City of Lockhart</i>			
<i>Bank Collateralization</i>			
<i><u>Standard and Poor's Ratings</u></i>			
			FLNB
<u>Month</u>			<u>Collateralization *</u>
October-22			AAA
November-22			AAA
December-22			AAA
January-23			AAA
February-23			AAA
March-23			AAA
April-23			AAA
May-23			AAA
June-23			AAA
July-23			AAA
August-23			AAA
September-23			AAA
* Guaranteed by US government (AAA)			

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion regarding engagement letter with the law firm of Messer Fort for legal services.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: The current City Attorney, Monte Akers, has announced his retirement at the end of 2023, and this amended engagement letter with his law firm provides that Brad Bullock will succeed Mr. Akers. Legal services provided will be those as city attorney, municipal court prosecutor, and economic development corporation attorney. As discussed with the Council, the rates for legal services will remain at \$185/hr. through the end of Fiscal Year 2025, and travel will be at no cost.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: Discussion at Council Meeting of August 1, 2023.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approval of engagement letter.

LIST OF SUPPORTING DOCUMENTS: Engagement letter with Messer Fort law firm.



October 11, 2023

VIA EMAIL: slewis@lockhart-tx.org

Steven Lewis, City Manager
City of Lockhart
308 W. San Antonio St.
Lockhart, TX 78644

RE: City of Lockhart Legal Services Agreement

Dear Mr. Lewis:

Messer Fort, PLLC (“M&F” or “Firm”) and I appreciate the opportunity to represent the City of Lockhart. This letter outlines some of the specific terms of our engagement. If you have any questions about these matters, please call me.

1. **Client:** Our client will be the City of Lockhart. Our representation in this matter is limited to the City of Lockhart and the term “Client” does not include, and we do not represent, any other entities or individuals.
2. **Scope of Work:** The City of Lockhart hereby engages M&F to perform the following services:
 - a. Serve as the city attorney, attorney for the Lockhart Economic Development Corporation, and the municipal court prosecutor for the City of Lockhart
 - b. Matters as assigned and services mutually agreed upon by the City of Lockhart and M&F; however, either party may request an addendum to this Agreement in a form mutually agreeable to the parties prior to the provision of additional services hereunder.
3. **Conflicts:** M&F represents that it has reviewed its records and has no conflicts of interest involving the City of Lockhart. M&F will do all within reason necessary to prevent and avoid any situation that might constitute a conflict. In the event a conflict arises, M&F shall promptly advise the City of Lockhart of such, in writing, and shall notify the City of Lockhart of M&F’s proposal to resolve the conflict.
4. **Personnel:** M&F has over twenty attorneys, including six partners, in its North Texas office and three partners in its Austin office. Bradford E. Bullock will have the primary responsibility for providing or supervising services for the City of Lockhart. Other M&F lawyers (including less experienced lawyers or contract lawyers selected by M&F) and legal assistants may be involved when M&F believes it would be beneficial or is necessary to serve the City of Lockhart, but Bradford E. Bullock will be the primary contact on matters assigned to M&F under this Engagement Agreement. Attorney resumes can be viewed at www.txmunicipallaw.com.

5. **Results**: Any views M&F expresses about a likely outcome are only expressions of judgment, we do not make representations or guarantees to the City of Lockhart as to the probability of ultimate success or any particular result.

The City of Lockhart acknowledges and agrees that M&F's entitlement to payment for fees and expenses shall not be contingent upon the results obtained or the final disposition of the services for which M&F has been retained.

6. **Records**: The City of Lockhart should retain all originals and copies of documents the City of Lockhart desires for future reference. M&F will retain most of its file(s) for a certain period of time, but ultimately the file will be destroyed in accordance with our record retention schedule. M&F does not contact the client prior to such destruction.

The City of Lockhart recognizes that working papers shall be assembled and accumulated by M&F in connection with this representation, and that same shall belong to and remain the property of M&F.

7. **Litigation Matters**: M&F will represent the City of Lockhart with respect to matters assigned under City of Lockhart, and the City's officers, employees or agents in a lawsuit upon the request of the City of Lockhart. Likewise, we will initiate litigation only at the request of the City of Lockhart as directed.

8. **Fees**: M&F shall bill the City of Lockhart monthly for services rendered and expenses incurred, in the manner agreed to herein, until such time as this Agreement has expired by its own terms or has been terminated. M&F shall separate invoices as requested by the City of Lockhart. Attorney's fees are based upon a consideration of time and labor involved, the skill requisite to perform the services properly, the preclusion of other employment by M&F due to acceptance of the matters identified herein, time limitations imposed by the City of Lockhart or other circumstances, results achieved, experience, reputation and ability, extraordinary time requirements, and M&F's hourly rates. The Firm will bill the City of Lockhart at the following rates:

General Counsel	
Partners	\$185
Associate Attorney	\$185
Paralegal Support	\$85

M&F shall maintain these rates, including no-charge for travel time, until the conclusion of City of Lockhart's Fiscal Year 2025. Upon the conclusion of FY2025, M&F will confer with City of Lockhart regarding a rate review.

Time for legal work is billed in tenth of an hour increments, as follows:

.1 = 6 minutes	.5 = 30 minutes	.9 = 54 minutes
.2 = 12 minutes	.6 = 36 minutes	1.0 = 60 minutes
.3 = 18 minutes	.7 = 42 minutes	
.4 = 24 minutes	.8 = 48 minutes	

Opinion letters for bonds are a flat fee paid from the bond proceeds, if requested. Market rates (non-governmental) will be charged when the City of Lockhart is being reimbursed for legal expenses, such as by a developer or a debt issuance, if applicable. The City of Lockhart understands that the costs of services can be estimated in advance on a per case basis, but no particular amount is guaranteed as the amount of time necessary to spend on a legal matter can be influenced by the actions of third parties. The City of Lockhart further understands that M&F hourly rates may be modestly increased on an annual basis, but that any annual increase shall be no more than ten percent of the current rate.

9. **Billing Practices and Payment:** M&F bills for matters on a monthly basis, and payment is due upon receipt of the statement. We do not bill for expenses associated with our representation except for filing and recording fees, litigation costs, and charges for extraordinary items which may be generated by the particular demands of the project involved.

If experts or consultants are retained or if other support services are required, e.g., mediators, engineers, court reporters, investigators, etc., these individuals or firms will be retained based upon the City of Lockhart consent. The City of Lockhart will be responsible for paying the fees of these individuals or firms, and such payments should be made within thirty days of receipt of their invoice or M&F's invoice containing the charges for the third party. We will advise these individuals or firms that they are being retained by and for the benefit of the City of Lockhart and that the City of Lockhart is responsible for payment of their fees.

If the City of Lockhart has a question about M&F's billing procedures or statements, please ask Bradford E. Bullock. M&F prefers that questions be raised as soon as possible so that we can address the concerns and be certain the City of Lockhart understands our procedures and our statements and is fully satisfied with them.

10. **Termination:** Either party may terminate our representation at any time by notifying the other in writing. In either case, M&F's withdrawal will be accomplished pursuant to applicable ethical requirements. Upon termination of the representation, the City of Lockhart will be obligated to pay for all services rendered and expenses incurred.
11. **Amendments/Modifications:** The City of Lockhart and M&F may amend or modify this Agreement so long as such amendment or modification is reduced to writing and is mutually agreed upon by the City of Lockhart and M&F.
12. **Independent Legal Review:** M&F has written this engagement letter on its own behalf. Please feel free to seek independent legal advice from legal counsel of your choosing in order to review this engagement letter. M&F wishes to provide you ample opportunity to consult with independent counsel, we do not require that you return a signed copy of this letter immediately.
13. **Attorney Complaint Information:** M&F intends to maintain the high standard of ethical conduct towards the City of Lockhart and others as set out and enforced by the State Bar of Texas. If for any reason the City of Lockhart believes an attorney in M&F has violated the written rules of professional conduct for lawyers and/or has questions prior to filing a grievance, the City of Lockhart may either contact the Office of the Chief Disciplinary Counsel of the State Bar of Texas by calling 1-866-224-5999 (toll free) or writing to P.O. Box 12487, Austin, Texas 78711-2487. Please note that by signing the grievance form any attorney-client

privilege which would otherwise keep discussions between your attorney and you confidential will be waived.

14. Press Inquiries: From time to time, we may receive media inquiries concerning the City of Lockhart. Applicable ethical requirements may preclude or limit our response to those inquiries. Subject to ethical limitations, M&F will abide by your instructions concerning whether and in what manner we respond to media inquiries. In the absence of specific instructions, we will respond to such inquiries in accordance with our best judgment, revealing non-confidential information when it is ethical to do so and appears to advance the City of Lockhart' interests.

15. Electronic Mail: In the course of our representation, we may have occasion to communicate with you or with others by electronic mail. Such communications will not be encrypted. Although interception of such communications by a third party would constitute a violation of federal law, we can offer no assurance that such interception will not occur. We will abide by any instructions you may give us concerning electronic mail communications; in the absence of such instructions, we will use our own judgment regarding the advisability of using such means of communication.

16. Miscellaneous: Duplicate counterparts of this Agreement may be or may have been executed by the parties hereto. Each such executed copy or counterpart shall have the full force and effect of an original executed instrument.

Any notice or communication required or permitted hereunder shall be in writing, and shall be sent by (a) personal delivery (provided that such delivery is confirmed by the courier delivery service), or (b) expedited delivery service with proof of delivery, or by United States mail, postage pre-paid, registered or certified mail, or (c) pre-paid facsimile, addressed as follows:

If to the City of Lockhart:

Steven Lewis, City Manager
City of Lockhart
308 W. San Antonio St.
Lockhart, TX 78644

If to the Firm:

Messer Fort, PLLC
Attn: Bradford E. Bullock
4201 W. Parmer Ln., Ste. C-150
Austin, TX 78727

or to such other address or for the attention of such other person as thereafter shall be designated in writing by the applicable parties sent in accordance herewith. Any such notice or communication shall be deemed to have been given at either the time of personal delivery or, in the case of delivery service or certified or registered mail, as of the date of deposit or delivery to the United States Postal Service or expedited delivery service in the manner provided herein, or, in the case of facsimile, upon receipt. Any notice required by this Agreement shall be void and of no effect unless given in accordance with the provisions of this paragraph. Either party hereto may change the address for notice specified above for giving the other party two (2) days' advance, written notice of such change of address.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Travis, Texas. This Agreement is executed by the authorized agent of the City of Lockhart and M&F, effective as of the date first above written.

17. Texas Lawyer's Creed: On November 7, 1989, the Texas Supreme Court adopted the Texas Lawyer's Creed - a Mandate for Professionalism. Paragraph II, subparagraph 1 of the Creed requires us to advise you of its contents when we undertake representation. A copy of the Creed is enclosed. We intend to abide by the Creed.

If the City of Lockhart agrees with the foregoing, please sign and return one enclosed copy of this letter and retain the other copy for your records to be effective upon execution.

Again, we appreciate you employing Messer Fort, PLLC to represent you and we look forward to working with you and establishing a mutually beneficial relationship.

Sincerely yours,
Messer Fort, PLLC

Bradford E. Bullock

THE CITY OF LOCKHART AGREES TO RETAIN MESSER FORT, PLLC ON THE FOREGOING TERMS.

Steven Lewis, City Manager
City of Lockhart

PRIVACY NOTICE

Attorneys, like other professionals who advise on personal financial matters, are now required by a new federal law to inform their individual clients of their policies regarding privacy of client information. Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by this new law. Therefore, we have always protected your right to privacy.

In the course of providing our clients with advice, we receive significant personal financial information from our clients and from others. If you are a client of Messer Fort, PLLC, you should know that all information that we receive from you or obtain in the course of representing you is held in confidence, and is not released to people outside the firm, except as expressly or implicitly authorized by you in the course of representing you, or as required under applicable law. We maintain physical, electronic, and procedural safeguards that comply with professional standards to protect your personal information.

**THE TEXAS LAWYER’S CREED—
A MANDATE FOR PROFESSIONALISM**

Adopted November 7, 1989

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ORDER OF ADOPTION
THE TEXAS LAWYER’S CREED—A MANDATE FOR
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- I. Our Legal System
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ORDER OF ADOPTION

The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession’s broader duty to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession.

The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics instead of being part of the solution have become part of the problem.

The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct. These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon re-enforcement by peer pressure and public opinion,

and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence.

These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

We must always be mindful that the practice of law is a profession. As members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt “The Texas Lawyer’s Creed—A Mandate for Professionalism” as attached hereto and made a part hereof.

In Chambers, this 7th day of November, 1989.

TEXAS LAWYER'S CREED

THE TEXAS LAWYER'S CREED—A MANDATE FOR PROFESSIONALISM

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate legal means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this creed when undertaking representation.
2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.

7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.

8. I will advise my client that we will not pursue tactics which are intended primarily for delay.

9. I will advise my client that we will not pursue any course of action which is without merit.

10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.

11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.

TEXAS LAWYER'S CREED

6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.

2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.

3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.

4. I will be punctual.

5. I will not engage in any conduct which offends the dignity and decorum of proceedings.

6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.

7. I will respect the rulings of the Court.

8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.

9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

STANDARDS FOR APPELLATE CONDUCT

Lawyers are an indispensable part of the pursuit of justice. They are officers of courts charged with safeguarding, interpreting, and applying the law through which justice is achieved. Appellate courts rely on counsel to present opposing views of how the law should be applied to facts established in other proceedings. The appellate lawyer's role is to present the law controlling the disposition of a case in a manner that clearly reveals the legal issues raised by the record while persuading the court that an interpretation or application favored by the lawyer's clients is in the best interest of the administration of equal justice under law.

The duties lawyers owe to the justice system, other officers of the court, and lawyers' clients are generally well-defined and understood by the appellate bar. Problems that arise when duties conflict can be resolved through understanding the nature and extent of a lawyer's respective duties, avoiding the tendency to emphasize a particular duty at the expense of others, and detached common sense. To that end, the following standards of conduct for appellate lawyers are set forth by reference to the duties owed by every appellate practitioner.

Use of these standards for appellate conduct as a basis for motions for sanctions, civil liability or litigation would be contrary to their intended purpose and shall not be permitted. Nothing in these standards alters existing standards of conduct under the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure or the Code of Judicial Conduct.

LAWYERS' DUTIES TO CLIENTS

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by a real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest. The lawyer's duty to a client does not militate against the concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of harm on the appellate process, the courts, and the law itself.

1. Counsel will advise their clients of the contents of these Standards of Conduct when undertaking representation.
2. Counsel will explain the fee agreement and cost expectation to their clients. Counsel will then endeavor to achieve the client's lawful appellate objectives as quickly, efficiently, and economically as possible.
3. Counsel will maintain sympathetic detachment, recognizing that lawyers should not become so closely associated with clients that the lawyer's objective judgment is impaired.
4. Counsel will be faithful to their clients' lawful objectives, while mindful of their concurrent duties to the legal system and the public good.
5. Counsel will explain the appellate process to their clients. Counsel will advise clients of the range of potential outcomes, likely costs, timetables, effect of the judgment pending appeal, and the availability of alternative dispute resolution.
6. Counsel will not foster clients' unrealistic expectations.
7. Negative opinions of the court or opposing counsel shall not be expressed unless relevant to a client's decision process.
8. Counsel will keep clients informed and involved in decisions and will promptly respond to inquiries.
9. Counsel will advise their clients of proper behavior, including that civility and courtesy are expected.
10. Counsel will advise their clients that counsel reserves the right to grant accommodations to opposing counsel in matters that do not adversely affect the client's lawful objectives. A client has no right to instruct a lawyer to refuse reasonable requests made by other counsel.
11. A client has no right to demand that counsel abuse anyone or engage in any offensive conduct.
12. Counsel will advise clients that an appeal should only be pursued in a good faith belief that the trial court has committed error or that there is a reasonable basis for the extension, modification, or reversal of existing law, or that an appeal is otherwise warranted.

13. Counsel will advise clients that they will not take frivolous positions in an appellate court, explaining the penalties associated therewith. Appointed appellate counsel in criminal cases shall be deemed to have complied with this standard of conduct if they comply with the requirements imposed on appointed counsel by courts and statutes.

LAWYERS' DUTIES TO THE COURT

As professionals and advocates, counsel assist the Court in the administration of justice at the appellate level. Through briefs and oral submissions, counsel provide a fair and accurate understanding of the facts and law applicable to their case. Counsel also serve the Court by respecting and maintaining the dignity and integrity of the appellate process.

1. An appellate remedy should not be pursued unless counsel believes in good faith that error has been committed, that there is a reasonable basis for the extension, modification, or reversal of existing law, or that an appeal is otherwise warranted.
2. An appellate remedy should not be pursued primarily for purposes of delay or harassment.
3. Counsel should not misrepresent, mischaracterize, misquote, or miscite the factual record or legal authorities.
4. Counsel will advise the Court of controlling legal authorities, including those adverse to their position, and should not cite authority that has been reversed, overruled, or restricted without informing the court of those limitations.
5. Counsel will present the Court with a thoughtful, organized, and clearly written brief.
6. Counsel will not submit reply briefs on issues previously briefed in order to obtain the last word.
7. Counsel will conduct themselves before the Court in a professional manner, respecting the decorum and integrity of the judicial process.
8. Counsel will be civil and respectful in all communications with the judges and staff.
9. Counsel will be prepared and punctual for all Court appearances, and will be prepared to assist the Court in understanding the record, controlling authority, and the effect of the court's decision.
10. Counsel will not permit a client's or their own ill feelings toward the opposing party, opposing counsel, trial judges or members of the appellate court to influence their conduct or demeanor in dealings with the judges, staff, other counsel, and parties.

LAWYERS' DUTIES TO LAWYERS

Lawyers bear a responsibility to conduct themselves with dignity towards and respect for each other, for the sake of maintaining the effectiveness and credibility of the system they serve. The duty that lawyers owe their clients and the system can be most effectively carried out when lawyers treat each other honorably.

1. Counsel will treat each other and all parties with respect.
2. Counsel will not unreasonably withhold consent to a reasonable request for cooperation or scheduling accommodation by opposing counsel.
3. Counsel will not request an extension of time solely for the purpose of unjustified delay.
4. Counsel will be punctual in communications with opposing counsel.
5. Counsel will not make personal attacks on opposing counsel or parties.
6. Counsel will not attribute bad motives or improper conduct to other counsel without good cause, or make unfounded accusations of impropriety.
7. Counsel will not lightly seek court sanctions.
8. Counsel will adhere to oral or written promises and agreements with other counsel.
9. Counsel will neither ascribe to another counsel or party a position that counsel or the party has not taken, nor seek to create an unjustified inference based on counsel's statements or conduct.
10. Counsel will not attempt to obtain an improper advantage by manipulation of margins and type size in a manner to avoid court rules regarding page limits.
11. Counsel will not serve briefs or other communications in a manner or at a time that unfairly limits another party's opportunity to respond.

THE COURT'S RELATIONSHIP WITH COUNSEL

Unprofessionalism can exist only to the extent it is tolerated by the court. Because courts grant the right to practice law, they control the manner in which the practice is conducted. The right to practice requires counsel to conduct themselves in a manner compatible with the role of the appellate courts in administering justice. Likewise, no one more surely sets the tone and the pattern for the conduct of appellate lawyers than appellate judges. Judges must practice civility in order to foster professionalism in those appearing before them.

1. Inappropriate conduct will not be rewarded, while exemplary conduct will be appreciated.
2. The court will take special care not to reward departures from the record.
3. The court will be courteous, respectful, and civil to counsel.
4. The court will not disparage the professionalism or integrity of counsel based upon the conduct or reputation of counsel's client or co-counsel.
5. The court will endeavor to avoid the injustice that can result from delay after submission of a case.
6. The court will abide by the same standards of professionalism that it expects of counsel in its treatment of the facts, the law, and the arguments.
7. Members of the court will demonstrate respect for other judges and courts.

STANDARDS OF PRACTICE TO BE OBSERVED BY ATTORNEYS APPEARING IN CIVIL ACTIONS

Adopted in *Dondi Properties Corp. v. Commerce Sav. and Loan Assn*,
121 F.R.D. 284 (N.D. Tex., July 14, 1988)

- A. In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.
- B. A lawyer owes, to the judiciary, candor, diligence and utmost respect.
- C. A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.
- D. A lawyer unquestionably owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.
- E. Lawyers should treat each other, the opposing party, the court, and members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.
- F. A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.
- G. In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.
- H. A lawyer should not use any form of discovery or the scheduling of discovery, as a means of harassing opposing counsel or counsel's client.
- I. Lawyers will be punctual in communications with others and in honoring scheduled appearances and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.
- J. If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.
- K. Effective advocacy does not require antagonistic or obnoxious behavior and members of the Bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discuss an Interlocal Agreement with Caldwell County for Emergency Medical Services.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: Following termination of the City's EMS contract with Seton, the City and County negotiated this ILA whereby the City will provide EMS services in the City and that portion of the County previously served by Seton (designated Lockhart 1 and Lockhart 2). Under the ILA, which was adopted by the Caldwell County Commissioners Court on October 10, 2023, the City will provide EMS services in the designated service area, for which the County will pay the City \$350,000 annually, plus up to \$200,000 for capital expenses. The County and City will meet informally to produce a mutually agreeable budget for EMS. The term of the ILA is from October 1, 2023, to September 30, 2024, and will automatically extend for an additional year unless a party provides the other party with notice of termination by July 1, 2024. Either Party may terminate the ILA for convenience by providing the other party with 30 days' notice of termination.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: Discussion only at previous Council meetings.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approval of ILA.

LIST OF SUPPORTING DOCUMENTS: ILA, as approved by the Caldwell County Commissioners Court on Oct. 10, 2023.

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN
CALDWELL COUNTY AND THE CITY OF LOCKHART
FOR
EMERGENCY MEDICAL SERVICES**

WHEREAS, the Commissioners Court of Caldwell County, Texas (the "County") is a political subdivision of the State of Texas authorized to provide emergency medical services, including emergency ambulance services, pursuant to Chapter 774, Texas Health and Safety Code;

WHEREAS, the City of Lockhart (the "City") is a home rule city within Caldwell County that is authorized to provide EMS services, including emergency ambulance services, pursuant to Chapter 774, Texas Health and Safety Code;

WHEREAS, the City is an EMS provider, licensed under Chapter 773, Texas Health and Safety Code;

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governments to enter into interlocal agreements to improve the efficiency and effectiveness of local governments by authorizing the fullest possible range of intergovernmental contracting authority at the local level, including contracts between counties and cities;

WHEREAS, the County is authorized to provide for emergency ambulance service in the County pursuant to Section 774.003(a) of the Texas Health and Safety Code and, in providing said service, the County may contract with a municipality "to provide efficient emergency ambulance service" in the County pursuant to Section 774.003(b) of the Texas Health and Safety Code and "may expend county funds to defray the expense of establishing, operating, and maintaining the emergency ambulance service in the county" pursuant to Section 774.003(c) of the Texas Health and Safety Code; and

WHEREAS, the County and City desire to enter into an agreement whereby emergency medical services, including emergency ambulance services, will be provided by the City within the city and certain incorporated and unincorporated areas of the county.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, the County and the City agree as follows:

**ARTICLE I
SERVICES**

Section 1.01. **PROVISION OF EMS.** On the condition that the City is able to provide reasonable protection for the citizens of Lockhart, and subject to any approval requirements under Section 774.003, Texas Health and Safety Code, the City will provide emergency medical services, including emergency ambulance services, in the incorporated and unincorporated areas of Caldwell County, labeled as "Lockhart 1" and "Lockhart 2" as depicted in Exhibit 'A,' attached to and incorporated into this Agreement for all purposes. Services shall be provided only as reasonably required to meet the medical needs of emergency medical services patients, and performed in accordance with accepted standards of emergency medicine.

Section 1.02 **DECLARED DISASTER.** In the event of a declared or other disaster, and as determined by the appropriate authority having jurisdiction under applicable law, the City will fully cooperate and assist the County, or any other authority having jurisdiction within the Service Area, in accordance with state and federal law.

Section 1.03. **BILLING SERVICES.** For purposes of providing billing services on behalf of the County, the County appoints the City to be its authorized billing agent for all service claims during the term of this Agreement. The City shall bill all County claims arising from this Agreement. The City may engage a third-party billing service to satisfy this Section.

Section 1.04. **EMS DIRECTOR.** The City will provide an individual to serve in the capacity of an EMS Director for the City's EMS Department, subject to the following minimum qualifications and duties:

- (a) **QUALIFICATIONS.** The EMS Director will, at a minimum, have:
 - (1) Current certification as an emergency medical technician-paramedic (EMT-P), as issued by the Texas Department of State Health Services;
 - (2) At least five (5) years of field experience; and
 - (3) At least three (3) years of EMS management experience; ~~and~~
- (b) **DUTIES.** The EMS Director will, among other duties as prescribed by the City, be responsible for:
 - (1) Oversight of all aspects of the City's EMS Department operations, including field and office operations, disaster response, EMS compliance issues, and budgeting and staffing responsibilities;
 - (2) Preparation of an annual budget and recommendations for the budget;
 - (3) Recommendations relevant to any significant purchases or special operational needs;
 - (4) Development and periodic revision, as necessary, of written EMS dispatching protocols, and any other protocols and procedures required for or relevant to the City's delivery of emergency medical services;
 - (5) Coordination of all staff scheduling and EMS Department coverage needs;
 - (6) Monitoring and verification of all relevant EMS Department staff qualifications and credentials;
 - (7) Supervision of EMS staff and delegation of authority to individuals assisting with EMS operations management, continuing education coordination, and emergency care management;
 - (8) Monitoring, scheduling, and direction of maintenance to for EMS Vehicles and equipment;
 - (9) Fulfilling any other obligations assigned to the EMS Director pursuant to this Agreement; and
 - (10) Coordination of the EMS Department generally with, and reporting as required to:
 - (A) The City Manager and City Council;
 - (B) The County Judge, the Commissioners Court, and the County Auditor;
 - (C) Other interested parties relevant to all service area agreements, area emergency operations, disaster coordination, and mutual aid.

Section 1.05. **STAFFING.** The City agrees to employ, or contract with, trained, licensed, and certified emergency medical services personnel for purposes of staffing the City's EMS Department to provide emergency medical services, including emergency ambulance services, pursuant to this Agreement.

- Section 1.06. **LICENSURE AND CERTIFICATION.** During the term of this agreement, the City will maintain all federal and state licenses and certifications, including continuing education requirements, necessary for the City to operate its EMS Department. The EMS Director will be primarily responsible for monitoring and coordinating the EMS Department's compliance with all relevant standards required to maintain such licenses and certificates, including continuing education requirements, and directing action as necessary to maintain the same. The City agrees to maintain and make available to the County for inspection or copy, upon request, current information for all EMS Department personnel as permitted by state law, including necessary licenses, certifications, controlled substances certificates, continuing education requirements, driver's licenses and required insurance coverage, and criminal history checks required for each person providing emergency medical services under this Agreement.
- Section 1.07. **BRIEFING AND INPUT.** Upon reasonable request by the County, the City Manager will confer with the County for the purposes of exchanging suggestions, input, and recommendations concerning all expenditures and revenue related to emergency medical services under this Agreement.
- Section 1.08. **FACILITY VISITATIONS.** The County will have the right to visit City emergency medical services facilities, and will have the right to discuss with the City matters that are of mutual concern. Such visitations are subject to the timely notification and approval of the City Manager, whose approval will not be unreasonably withheld.
- Section 1.09. **BUDGET WORKSHOPS.** The City will prepare and provide to the County a proposed emergency medical services department budget, with recommendations. By the end of April of the initial term or any subsequent renewal term, the City and the County agree to informally meet to discuss the services provided pursuant to this Agreement to produce a mutually satisfactory departmental budget. At said meeting(s), the Parties shall make a reasonable effort to ensure the attendance of the County Judge, a County Commissioner, the Mayor, the City Manager, an Assistant City Manager, the EMS Director, and the Parties' respective legal counsel. The Parties affirm and acknowledge that each Party has sole discretion in establishing their respective budgets.
- Section 1.10. **COMPLIANCE WITH LAW.** Each Party shall ensure that all applicable laws and rules have been satisfied.

ARTICLE II COST AND PAYMENT

- Section 2.01. **PAYMENT FOR SERVICES.** The County will pay the City \$350,000.00 annually, which shall consist of eleven monthly installments of \$29,166.66 and one installment of \$29,166.74, for services performed pursuant to this Agreement. In addition to the foregoing payment, the County authorizes the City to retain any fees charged and collected pursuant to Section 2.03 of this Agreement. Payment under this Section shall be made no later than the 15th day of each month during any term of this Agreement.
- Section 2.02. **PAYMENT FOR CAPITAL EXPENSES.** Notwithstanding Section 2.01 of this Agreement, and upon written request by the City, the County will pay the City one-half of actual costs expended by the City for capital assets, not to exceed \$200,000.00. Any expenditure for which the City seeks payment under this Section is subject to the County's consent, not to be unreasonably withheld.

Section 2.03. **AUTHORIZATION TO COLLECT FEES.** When responding to a call-for-service outside the City's corporate limits, the City is authorized to charge and collect fees consistent with a fee schedule established by the County for emergency medical services provided outside the City's corporate limits. The County reserves the right, from time to time, to review and update the established fee schedule to be consistent with the latest Centers for Medicare & Medicaid Services (CMS) fee schedule provided to the City by the City's billing service.

Section 2.04. **PAYMENT FROM CURRENT REVENUES.** Each Party's performance under this Agreement is conditioned on the appropriation of funds by said Party on a yearly basis, and constitutes a commitment of current revenues only. In the event that a Party fails to appropriate funds sufficient for the performance of the Party's obligations under this Agreement, said Party will provide notice to the other Party that insufficient funds have been appropriated to satisfy the party's financial obligations under this Agreement. Failure of a Party to sufficiently appropriate funds shall be grounds for termination of this Agreement.

ARTICLE III TERM & TERMINATION

Section 3.01. **INITIAL TERM.** Regardless of the execution date of this Agreement, the initial term will begin on October 1, 2023, and expire on September 30, 2024.

Section 3.02. **RENEWAL TERM.** This Agreement will renew automatically on October 1, 2024 and expire on September 30, 2025, unless a Party provides the other Party with a notice of termination no later than July 1, 2024.

Section 3.03. **TERMINATION FOR CONVENIENCE.** Either Party may terminate this Agreement without cause by providing the other party notice of termination at least 30 days prior to the termination date identified in said notice.

ARTICLE IV RECORDKEEPING

Section 4.01. **SEMIANNUAL REPORTS.** As soon as practicable after the end of a six-month period, beginning on October 1 of the initial term or any renewal term, the City shall compile and detail any metrics reasonably believed by the City to demonstrate the quality, efficiency, and effectiveness of providing EMS services, including ambulance services, during that quarter. Reported metrics should include:

- (1) Itemized costs of operation and supplies;
- (2) Revenues;
- (3) Number of calls for service;
- (4) Number of total responses;
- (5) Number of patients transported;
- (6) Average chute time;
- (7) Average response time;
- (8) High-volume response locations; and
- (9) High-volume periods for calls for service.

Section 4.02. **FINANCIAL RECORDS.** Upon written request by the County, the City will make its financial records related to the provision of emergency medical services as contemplated by this Agreement available for review, inspection, or audit by Caldwell

County. Financial records include revenue, expenses, budget data, billing, collection, or any other record that pertains to services provided pursuant to this Agreement. The County will timely notify the City of its intent to audit said records, which shall not interfere with the City's day-to-day functions.

Section 4.03. **RECORDKEEPING.** The City will keep all records required to account for and reflect all services provided by the City under this Agreement. All public records will be subject to disclosure, pursuant to Chapter 552, Texas Government Code.

Section 4.04. **HHS PRIVACY REGULATIONS.** The Health Insurance Portability and Accountability Act (HIPAA), requires that the City offer assurances to the County that the City will safeguard any protected health information received or created on behalf of the County. Pursuant to this requirement, the Parties further agree to execute a HIPAA-compliant Standard Business Associate Contract.

ARTICLE V MISCELLANEOUS

Section 5.01. **SEVERABILITY.** If any provision of this Agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions.

Section 5.02. **FORCE MAJEURE.** Either of the parties to this Agreement shall be excused from any delays and/or failures in the performance of the terms and conditions of this Agreement, to the extent that such delays and/or failures result from causes beyond the delaying/failing party's reasonable control, including but not limited to war (whether declared or not), armed conflict or the serious threat of the same (including but not limited to hostile attack, blockade, military embargo), hostilities, invasion, act of a foreign enemy, extensive military mobilization, civil war, riot, rebellion, revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience, act of terrorism, sabotage or piracy; plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine, social distancing, isolation or other behavioral restrictions; act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, nationalization; act of God or natural disaster such as but not limited to violent storm, cyclone, typhoon, hurricane, tornado, earthquake, landslide, flood, damage or destruction by lightning, drought; explosion, fire, destruction of machines, equipment and of any kind of installation, prolonged breakdown of transport, telecommunication or electric current; shortage or inability to obtain critical material or supplies to the extent not subject to the reasonable control of the subject party ("force majeure event ") whether foreseeable or unforeseeable by the parties at the time of the execution of this Agreement. Any delaying/failing party shall, with all reasonable diligence, attempt to remedy the cause of delay and/or failure and shall recommence all remaining duties under this Agreement within a reasonable time of such remedy.

Section 5.03. **NOTICE.** Any notice required under this Agreement will be given in writing and may be effected by certified or registered mail, return receipt requested, to the following:

TO COUNTY:	Caldwell County Judge 110 S. Main Street, Room 101 Lockhart, Texas 78644
WITH A COURTESY COPY TO:	District Attorney's Office Attn: Civil Division 1703 S. Colorado St., Box 5 Lockhart, Texas 78644
TO CITY:	The City of Lockhart Attn: City Manager P.O. Box 239 308 W. San Antonio Street Lockhart, Texas 78644

Any party to this Agreement may provide a change of address by written notice to the other party.

- Section 5.04. **LIABILITY.** All parties to this Agreement agree to be responsible, in accordance with applicable state or federal law, each for their own negligent acts or omissions, or other tortious conduct in the course of performance of this Agreement without waiving any sovereign immunity, governmental immunity, statutory immunity, or other defenses available to the parties under federal or state law. Nothing in this paragraph will be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. All parties agree that any such liability or damages occurring during the performance of this Agreement caused by the joint or comparative negligence of the parties, or their employees, agents, or officers will be determined in accordance with comparative responsibility laws of Texas, but only to the extent such laws are applicable to the party.
- Section 5.05. **Waiver.** No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provision of this Agreement except by written instrument of the party charged with such waiver and estoppel.
- Section 5.06. **VENUE AND JURISDICTION.** Venue will lie in the district courts serving Caldwell County, Texas, and are the exclusive jurisdiction and venue for any lawsuit, cause of action, temporary restraining order, temporary injunction, injunction, petition for extraordinary relief, mandamus, or any other legal proceeding or claim arising out of the performance of this Agreement. This Agreement will be governed and interpreted by the laws of the State of Texas.
- Section 5.07. **ENTIRE AGREEMENT.** This Agreement, including any exhibits or attachments, contains the entire agreement between the County and the City concerning the duties required by this Agreement. The Parties hereby expressly warrant and represent that they are not relying on any promises or agreements that are not contained in this Agreement concerning any of the terms in this Agreement. Except otherwise specified in this Agreement, no modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties hereto.
- Section 5.08. **PLURALITY, GENDER, AND HEADINGS.** In this Agreement, words in the singular number include the plural, and those in the plural include the singular. Words of any

gender also refer to any other gender. Headings in this Agreement are descriptive only, and not terms of inclusion or exclusion.

- Section 5.09. **NO JOINT VENTURE.** Nothing in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties, and any implication to the contrary is expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint any Party as an agent of another for any purpose whatsoever. Except as otherwise specifically provided herein, no Party shall in any way assume any of the liability of the other for acts of the other or obligations of another.
- Section 5.10. **DEFAULT, NON-WAIVER, CUMULATIVE RIGHTS, AND MITIGATION.** It is not a waiver of Agreement default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and no party's use of any right or remedy will preclude or waive its right to any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise. All parties have a duty to mitigate damages. The waiver by any Party of a breach of this shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision. Nothing in this Agreement is intended by any Party to constitute a waiver of any immunity from suit or liability to which it is entitled under applicable law.
- Section 5.11. **ASSIGNMENT.** The Parties may not assign their rights and interests under this Agreement to any other party, unless approved in writing by the Parties. In the event of such assignment or in the event of legal succession of a Party's interest in this Agreement by operation of law, this Agreement shall be binding on the assignees and inure to the benefit of the Parties.
- Section 5.13. **REVIEW BY COUNSEL.** The County and the City acknowledge that each party has received and had the opportunity to review this Agreement, and each party has had the opportunity, whether exercised or not, to have each respective party's attorneys review this Agreement. The parties agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement, or any amendments or exhibits hereto.
- Section 5.14. **SIGNATORY WARRANTY.** The signatories for the County and the City represent that each has the full right, power, and authority to enter into and perform this Agreement in accordance with all of its terms and conditions, and that the execution and delivery of this Agreement has been made by authorized representatives of the Parties to validly and legally bind the Parties to all terms, performances, and provisions set forth in this Agreement.

**[THIS SECTION LEFT INTENTIONALLY BLANK]
[SIGNATURES FOLLOW ON FOLLOWING PAGE]**

Section 5.15. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

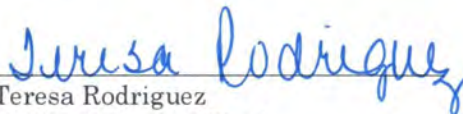
IN WITNESS HEREOF, the parties hereto have executed this Agreement on this the 10th day of October, 2023

CALDWELL COUNTY, TEXAS:



Hoppy Haden
Caldwell County Judge

Attest:



Teresa Rodriguez
Caldwell County Clerk

THE CITY OF LOCKHART:

Steve Lewis
Lockhart City Manager

Attest:

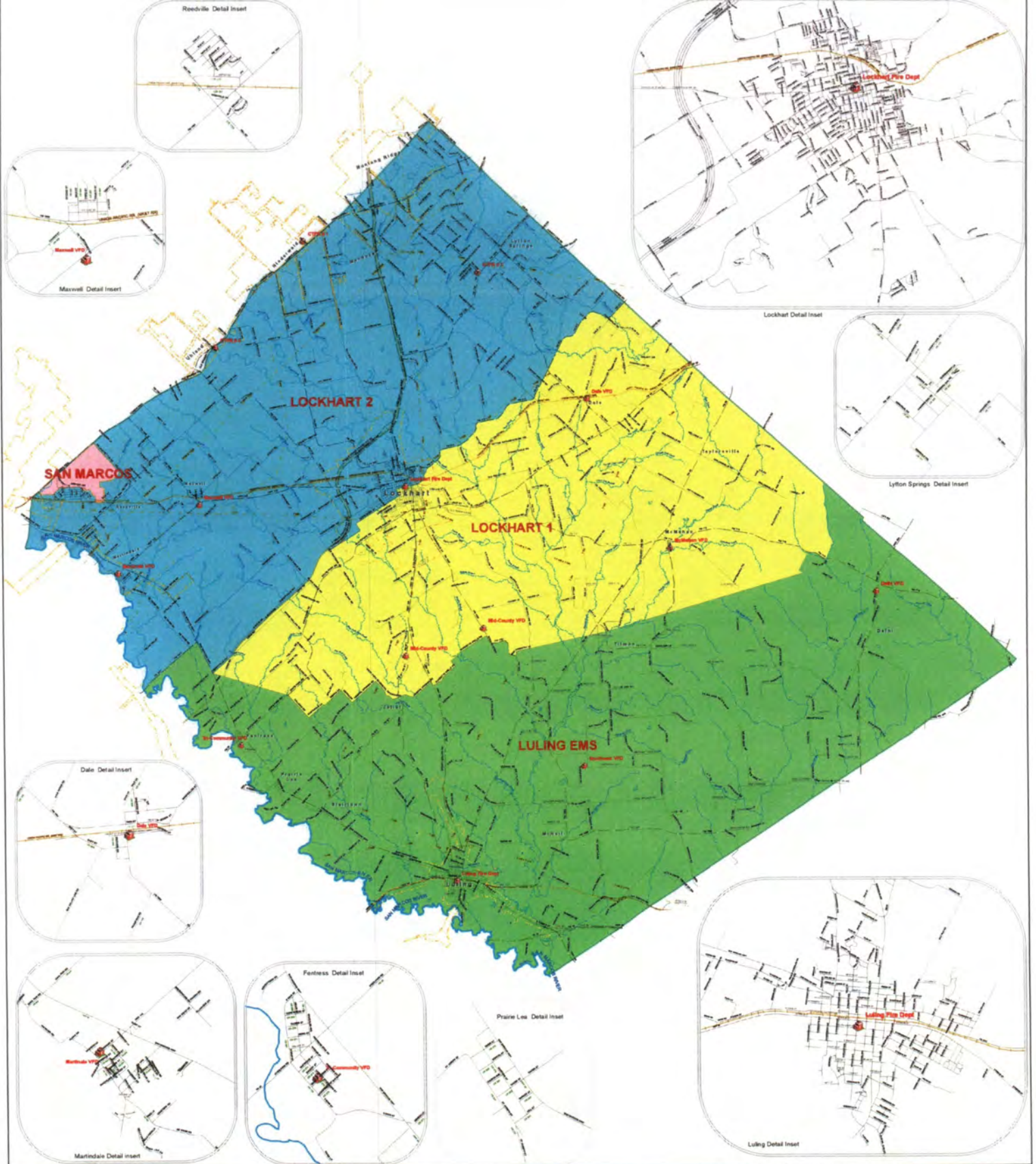
Julie Bowermon
Lockhart City Secretary



EXHIBIT 'A'

SERVICE MAP

INTERLOCAL COOPERATION AGREEMENT BETWEEN CALDWELL COUNTY AND THE CITY OF LOCKHART FOR EMERGENCY MEDICAL SERVICES



Caldwell County EMS Districts



0 1 2 4 6 8 Miles

Legend	
Caldwell_EMS_Districts	LOCKHART 2
District	LULING EMS
	LOCKHART 1
	SAN MARCOS

The original Fire District boundaries were approved by the County Commissioners' in 1991. Unland VPD, Helderwald VPD, & Lytton Springs VPD combined to be Chisholm Trail Fire & Rescue in 2003. Chisholm Trail Fire & Rescue created ESD #1 in 2007 by voters. Maxwell Fire District created ESD #2 in 2008 by voters. ESD #2 annexed some area from Martindale VPD in 2011 by voters.

Each time the City of Lockhart adopts new annexed properties, then each appropriate VPD will forfeit that area and the City of Lockhart will add that area to their fire district.

This map is being provided as a courtesy and should only be used as a general guide. It is not a guarantee of location, configuration, size or title. No warranty is expressed or implied to any user for any purpose.

Additionally, neither this document nor any other document provided by the Caldwell County Appraisal District purports to authorize entry onto privately owned property.

Printed by Caldwell County Appraisal District Date Printed: Monday, February 09, 2015

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discuss the purchase of a 2023 Ford F-450 diesel ambulance chassis through Sterling McCall Ford utilizing the Houston Galveston Area Council (HGAC) Purchasing Cooperative and authorizing the City Manager to execute a Purchase Order for the ambulance chassis.

ORIGINATING DEPARTMENT AND CONTACT: EMS - EMS Director Cean Charles, Fire Chief Randy Jenkins

ACTION REQUESTED: Approval of Bid

BACKGROUND/SUMMARY/DISCUSSION: The 2023 Ford F-450 diesel chassis will be used to power a new Frazer custom ambulance to be built for Lockhart EMS. Due to the short supply of ambulance chassis, it must be guaranteed with a purchase order as soon as a chassis becomes available. A new Type I 14' Module (patient transport area) will be constructed to mount on the Ford F-450 chassis. The Module and related expenses will be requested with a separate purchase order when it is time to begin construction of the Module.

The new Frazer ambulance, when completed, will be deployed by Lockhart EMS to respond to emergency medical calls and non-emergency transport in the City of Lockhart, the northern portions of Caldwell County, and mutual aid requests.

The new Frazer ambulance, when completed, will replace Medic 2, a 2017 Ford Demers with approximately 260,000 miles. Best practice is to move an ambulance from the front-line to reserve at approximately 125,000 miles and replace or remount at 250,000 to 300,000 miles.

The cost of the Ford F-450 Chassis, including HGAC fees, is \$72,250. The total cost of the ambulance when completed will be approximately \$300,000. Caldwell County has agreed to reimburse Lockhart for one-half of the total cost of the new ambulance.

The delivery time of the Ford F-450 chassis is November 2023. The Frazer ambulance manufactured in Houston, TX will be completed by late summer/fall 2024.

PROJECT SCHEDULE (if applicable): The delivery time of the Ford F-450 chassis is November 2023. The Frazer ambulance manufactured in Houston, TX is estimated to be completed by late summer/fall of 2024.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$ 72,250

Account Number: 570-5319-906-00

Funds Available: \$ 305,000

Account Name: Motor Vehicles

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): The total cost of the ambulance (not including internal machinery and equipment) when completed will be approximately \$300,000. Caldwell County has agreed to reimburse Lockhart for one-half of the total cost of the new ambulance.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends the purchase of a 2023 Ford F-450 diesel ambulance chassis through Sterling McCall Ford utilizing the Houston Galveston Area Council (HGAC) Purchasing Cooperative.

LIST OF SUPPORTING DOCUMENTS: Lockhart EMS PA Estimate Q3277-1 (1), Lockhart Estimate Q3277-1

Purchase Agreement

This PURCHASE AGREEMENT made this 4th day of October, 2023 between ("Vendor") Sterling McCall Ford located at 6445 Southwest Freeway Houston, TX 77074 and Lockhart EMS located at 214 Bufkin Lane Lockhart, TX 78664 ("Customer"). WHEREAS, Vendor desires to sell and Customer desires to purchase certain products, and/or services more specifically described in Q3277-0001 dated 10/4/2023 for the total amount of \$ 293,625.00 (hereafter "Products"),

Chassis details

- **Chassis Make: Ford**
- **Chassis Model: F-450**
- **Qty ordered: 1**
- **Quoted chassis price (each): \$72,250.00**

NOW THEREFORE, the parties hereto, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby agree as follows:

1. Vendor agrees to sell and schedule pickup/delivery as described in Q3277-0001 dated 10/4/2023 and Customer shall purchase from Vendor, the Products for the prices as set forth in detail on Q3277-0001 dated 10/4/2023.
2. The sale of the Products is governed by the terms and conditions set forth on Exhibit A, which is attached hereto and made a part hereof.
3. The Term of this Agreement shall commence on October 4th, 2023 and expire 1 year from execution date.
4. If the parties have entered into any additional covenants, promises, terms and conditions not otherwise specified herein or in any schedule or Exhibit hereto, said special provisions shall be set forth in Exhibit A. If there shall be any conflict within the provisions of this Agreement, the following order of priority shall apply: this PURCHASE AGREEMENT, Exhibit A, Customer's purchase order, Vendor's invoice.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement as of the day and year first above written.

Title Information

Enter Exactly as it needs to appear

Owner

Name:

Address:

Lien Holder (If Applicable)

Name:

Address

:

Purchase Agreement Signature Page

Lockhart EMS

Sign: _____

Print: _____

Title: _____

Date: _____

Frazer, Ltd.

Sign:  _____

Print: Adam Fischer _____

Title: Vice President, Sales & Marketing _____

Date: 10/4/2023 _____

LIST OF EXHIBITS:

EXHIBIT A: Standard Terms and Conditions

EXHIBIT A

Standard Terms and Conditions

INVOICING AND PAYMENT TERMS: Vendor shall submit one (1) original invoice per payment due. The invoice(s) shall include the items listed in accordance with the quote mentioned in the Sale Agreement with reference to the Customer's Purchase Order Number.

If the Sale Agreement provides for any progress (or advance) payments based on specific milestones or activities, Vendor's invoice shall certify to the accomplishment or performance by Vendor of said milestone or activity, and that Customer has obtained a security interest in such Products to the extent of such payment.

Payment shall be due upon receipt of the invoice and delivery of the unit to the Customer unless previously negotiated.

CANCELLATION POLICY: Cancellation of orders must be received 120 days prior to the agreed upon delivery date. If the order is canceled within the 120 day window, a fee of 25% of the total purchase order price will apply.

DELIVERY TERMS: The products listed in the estimate are to be delivered Free On Board (FOB) Destination to Houston, TX. Customer representative(s) will pick up the unit at upfitter location, 7219 Rampart St., Houston, TX 77081 and transport it to their final destination at customer expense unless otherwise specified in the Vendor quote.

TERMINATION FOR CAUSE: Customer may terminate this Sale Agreement and any corresponding Purchase Order, or any part thereof, for cause including, but not limited to the following Vendor actions: (1) any default or breach of any of the terms and conditions of the Sale Agreement, (2) failure to provide Customer, upon request, a reasonable assurance of future performance, or (3) bankruptcy, dissolution, or suspension of payments by judicial decree. If Vendor does not cure such failure within a period of five (5) days or such a longer period as Customer may authorize in writing after the date such notice is sent to Vendor, then termination may proceed.

Vendor may also terminate this Sale Agreement and any corresponding Purchase Order for cause, and Vendor will not be in breach of same, in the event any supplier to Vendor fails to deliver Products and/or component parts in a timely fashion and Vendor cannot make alternate accommodations in order to comply with the Parties' agreed upon completion and delivery dates.

CHANGE ORDERS: Vendor has the right to modify the Purchase Order requirements and conditions as needed and will advise Customer in writing of such requested changes. Vendor shall not proceed with any changes without Customer's written authorization. Any request by Customer to change the terms or conditions of the Purchase Order, including product specifications, options, and price, must be made in advance of the production job order release. Any changes made after the release of the production job order will incur a \$350 fee per change order made in a 24 hour period and will be included on a secondary invoice. Vendor reserves the right to refuse changes requested by the Customer.

PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING: All commercial, financial or technical information in any form that Vendor provides to Customer shall be deemed proprietary and confidential and Customer shall not disclose such information to third parties without Vendor's written consent. Termination of the Sale Agreement shall not relieve Customer of this confidentiality obligation. Upon Vendor's request, Customer shall return all confidential information to Vendor along with any reproductions, in whole or in part. The confidentiality obligation does not apply to information that is in the public domain through no fault of Customer or to information lawfully within Customer's possession prior to the date of the Purchase Order, as evidenced by Customer's written records.

INDEMNIFICATION: Customer shall fully release, indemnify, defend and hold harmless Vendor, its co-venturers, its contractors, and their respective affiliates, and Vendor's and their respective directors, officers and employees (including agency personnel) ("Vendor Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Vendor Group as it pertains to Vendor's Products.

Vendor shall fully release, indemnify, defend and hold harmless Customer, its co-venturers, its contractors, and their respective affiliates, and the Customer's and their respective directors, officers and employees (including agency personnel) ("Customer Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Customer Group as it pertains to Vendor's Products.

Customer Initials: _____

LIMITATIONS ON DAMAGES: In the event of any dispute, disagreement or breach alleged by Customer on the part of Vendor, Customer's exclusive and sole remedy shall be repair or replacement, if practical, of the module, or component part, by Vendor. If Vendor is not able to effectuate a repair, replacement, or cure that brings the module, or component part, into compliance with the Parties' agreement, then Vendor shall refund the sale price to Customer. In no event shall Vendor be liable to Customer, or to any third-party acting through Customer, for any additional, consequential or punitive damages, or damages for lost sales, revenue or profits claimed by Customer or any third-party acting through Customer.

FORCE MAJEURE: A force majeure delay shall mean any delay or other unforeseeable causes beyond the reasonable control of the party affected, provided that any such delay is not caused, in whole or in part, by the acts or omissions of the party so delayed and further provided that such party is unable to make up for such delay with reasonable diligence and speed. If any such cause delays Vendor's performance, the delivery date or time for completion may be extended by a period of time reasonably necessary to overcome the effect of such delay; however, Vendor shall take all reasonable measures to mitigate the effects of the force majeure event and to minimize such delay. A party affected by a force majeure event shall notify the other party of such force majeure event within forty-eight (48) hours of its knowledge of such event for the event to be considered a bona fide force majeure event.

TITLE AND RISK OF LOSS: Title to the Products shall transfer to Customer upon receipt of Products by Customer or its agent unless otherwise stated in the Sale Agreement. Notwithstanding the above, risk of loss of the Products shall remain with Vendor until delivered to Customer.

WAIVER: Vendor's failure to exercise or enforce any right in the Purchase Order, or any other right or privilege under law, or Vendor's waiver of any breach by Customer shall not constitute a waiver or modification of any terms, conditions, privileges or rights whether of the same or similar type, unless Vendor gives such waiver in writing.

LIENS: Vendor waives and relinquishes all existing and future liens and claims (statutory or otherwise) for the Products specified in the Purchase Order, and warrants that the Products will be free and clear of all liens, claims or encumbrances of any kind.

INSPECTION, REVIEW AND WITNESSING: Customer and/or the ultimate owner of the Products have the right to inspect and attend testing of the Products at Vendor's premises (or its supplier's or subcontractor's premises) with reasonable advance notice. If any inspection is made on the premises of Vendor or its supplier, Vendor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

APPLICABLE LAW AND VENUE: The Sale Agreement shall be governed and interpreted in accordance with the laws of the State of Texas, without reference to any principle of conflict of laws. Customer and Vendor expressly exclude the application of the Convention on International Sale of Goods to the Sale Agreement. Venue for all judicial, administrative, or regulatory proceedings shall be Houston, Harris County, Texas.

OWNERSHIP OF DOCUMENTS: Title to all drawings, specifications, calculations, technical data and other documents that Customer submits in accordance with the Purchase Order shall vest with Vendor. Vendor shall have the right to use such documents for any purpose pertaining to the manufacture, assembly, and delivery of the Products.

Title to all drawings, specifications, calculations, technical data, and other documents that Vendor submits to the Customer shall vest with the Customer. Customer shall have the right to use such documents for any purpose pertaining to the installation, operation, and maintenance of the Products.

INSURANCE: Vendor shall comply with the project insurance requirements for which the Products are being provided. Customer shall provide specific reasonable levels required as soon as such levels are available, which shall not exceed \$1,000,000 for any non-statutory category other than excess liability umbrella, which shall not exceed \$4,000,000. When requested by Customer, Vendor shall provide certificates of insurance as proof of same.

SURVIVAL: The provisions of the following Paragraphs of these Terms and Conditions shall survive any cancellation or termination of the Purchase Order: (Proprietary Information, Confidentiality and Advertising), (Indemnification), (Liens), and (Applicable Law and Venue).

Customer Quote



10/4/2023 4:23:49 PM

Estimate No: Q3277-0001
Quote Date: 10/4/2023
Expiration Date: 11/18/2023
Salesperson: KS
Payment Terms: Due on Delivery

Invoice To: 11552
Cean Charles
Lockhart EMS
City of Lockhart
214 Bufkin Lane
Lockhart TX 78664
US

Deliver To:
Cean Charles
Lockhart EMS
City of Lockhart
214 Bufkin Lane
Lockhart TX 78664
US

Order Instructions:

* Limited Edition Discount applied. Changes to the specification may affect the discount.*

No.	Item	Qty	U/M:		Unit Price		Net Amount
1	MODULE Type I 14' Module	1.00	EA	\$	231,375.00	\$	231,375.00
2	CHASSIS 2023 Ford F-450 Diesel	1.00	EA	\$	71,250.00	\$	71,250.00
Using Stock w/Vin #:1FDUF4GT3PDA19759, Expected to hit the ground early November							
Chassis only must be paid for at time of arrival to dealership. Balance will be invoiced 30 days prior to unit completion and will be due at time of delivery.							
3	DELIVERY Customer Pick Up: FOB Frazer	1.00	M	\$	0.00	\$	0.00
4	HGAC-NEW Contract No. AM10-23	1.00	EA	\$	1,000.00	\$	1,000.00
5	SpecDoc Configurable item to create the SpecDoc	1.00	EA	\$	0.00	\$	0.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. :

Customer Quote



10/4/2023 4:23:49 PM

Estimate No: Q3277-0001
Quote Date: 10/4/2023
Expiration Date: 11/18/2023
Salesperson: KS
Payment Terms: Due on Delivery

Order Instructions:

No.	Item	Qty	U/M:		Unit Price		Net Amount
-----	------	-----	------	--	------------	--	------------

Remit To:							
Frazer, Ltd.					Sale Amount:		
7219 Rampart Street					Order Disc(3.2935%):		
Houston TX 77081					Surcharge:		
					Sales Tax:		
					Misc Charges:		
					Total Amount:		

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. .



Defining the future of Mobile Healthcare.™

For your convenience, all pricing has been itemized below per quote Q3277-0001 for Lockhart EMS

Base Module	\$ 147,050.00
Chassis Exterior	\$ 24,725.00
Module Exterior	\$ 33,775.00
Chassis Interior	\$ 6,850.00
Module Interior	\$ 18,975.00
Total \$	231,375.00

Items included in above totals:

1. Type I 14' Module - Side Entry Door Forward of Front I/O Configuration	\$ 6,150.00
2. This is a CAAS GVS v3.0 Unit	\$ incl

Chassis Exterior:

3. Heat Shielding for Diesel Chassis	\$ 2,025.00
4. Chassis Paint Layout: Keep Factory Paint Color - White	\$ incl
5. Chassis : 2023 Ford F-450, Diesel, 4x2, Regular Cab, 108" Cab to Axle, Z1 - Oxford White	\$ incl
6. Suspension: LiquidSpring	\$ 15,550.00
7. Wheel type: Factory Aluminum	\$ incl
8. Dual Dynamics Valve Stem Extender with Equalization and Pressure Indicator	\$ 375.00
9. Road Force Elite tire and wheel balancing	\$ incl
10. Chassis Steps: ArcRite with Sure Grip	\$ 1,350.00
11. Grille Guard: Full Replacement Bumper	\$ 1,750.00
12. 10" and 12" Air Horns	\$ 1,450.00
13. Compressor Type: Standard	\$ 850.00
14. Air Horn Switching Options: Momentary	\$ 125.00
15. Passenger's side Grille Light: Whelen M4 Red/Clear Light	\$ 125.00
16. Driver's side Grille Light: Whelen M4 Clear/Red Light	\$ 125.00
17. Passenger's side Intersect Light: Whelen M4 Red/Clear Light	\$ 125.00
18. Driver's side Intersect Light: Whelen M4 Clear/Red Light	\$ 125.00
19. Driver Fender Light: Whelen M4 Red Light	\$ 375.00
20. Passenger Fender Light: Whelen M4 Red Light	\$ 375.00
21. *Note to Engineering* Fender Lights to be centered over the wheel well*	\$ incl

Chassis Exterior Subtotal \$ 24,725.00

Module Exterior:

22. Power Source: Onan 5.5kW Generator	\$ 12,625.00
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Defining the future of Mobile Healthcare.

23. Locking Gas Cap	\$	incl
24. Module Paint Layout: Two Tone - Frazer White (Frazer White) and Blue	\$	4,650.00
25. Roof Color: Frazer White (Frazer White)	\$	incl
26. Paint spray out card(s) needed — Blue	\$	225.00
27. Rear Wall 3M Conspicuity Layout - Chevron : Fluorescent Yellow/Green Base Color and Blue - Reflective Overlay	\$	2,025.00
28. Conspicuity on Rear Entry Door Windows Matching the Rear Wall	\$	250.00
29. Entry Door Conspicuity Layout - Squares : White Base Color	\$	450.00
30. Conspicuity Strips on Compartments Matching the Rear Wall	\$	375.00
31. Front Wall Placard: 11" x 8.5" Painted Side-Loading Aluminum Holder with Lasco	\$	250.00
32. Rear Wall Placard: 11" x 8.5" Painted Side-Loading Aluminum Holder with Lasco	\$	250.00
33. Frazer Provided Graphics	\$	3,000.00
34. Body Drop on the Passenger's Side Forward of Rear Wheels	\$	incl
35. Hidden Switch Behind the Driver's Side Rear Bumper End Cap	\$	300.00
36. Compartment Keys: J210 in the Electrical Compartment	\$	incl
37. Ground Lights: Entry Doors	\$	1,350.00
38. Shore Power: Single 30 Amp on Front Wall	\$	incl
39. Pigtail/Plug Option: Pigtail	\$	incl
40. Install Ignition Kill Switch	\$	375.00
41. Coax 1: Run coax from location 1 to Electrical Compartment	\$	incl
42. Coax 2: Run coax from location 2 to Electrical Compartment	\$	incl
43. Coax 3: Run coax from location 3 to Chassis	\$	incl
44. Coax 4: Run coax from location 4 to Chassis	\$	incl
45. Front Wall Light Layout: High 5 Lights	\$	incl
46. Front Wall Light #1: Whelen M6 Clear Light	\$	incl
47. Front Wall Light #2: Whelen M6 Red Light	\$	incl
48. Front Wall Light #3: Whelen M6 Green Light	\$	175.00
49. Front Wall Light #4: Whelen M6 Red Light	\$	incl
50. Front Wall Light #5: Whelen M6 Clear Light	\$	incl
51. Front Wall Driver Side Box Light: Whelen M9 Red Light	\$	175.00
52. Front Wall Passenger Box Light: Whelen M9 Red Light	\$	175.00
53. Driver Wall Front Box Light: Whelen M9 Red Light	\$	175.00
54. Driver Wall Rear Box Light: Whelen M9 Red Light	\$	175.00



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55. Driver Wheel Well Light: Whelen M6 Red/Clear Light	\$	125.00
56. Side Scene Lights: Frazer Standard Whelen M9 Chrome Housing	\$	incl
57. O2 Compartment Style: 76" O2 Standup with Divider	\$	incl
58. O2 Cylinder Bracket Type: Ratchet Straps for H Cylinder	\$	incl
59. O2 Cylinder Changing Wrench	\$	125.00
60. O2 Regulator - Ship Loose	\$	250.00
61. Intermediate Compartment Style: Horizontal Adjustable Shelf	\$	incl
62. Electrical Compartment Style: Taller Electrical Compartment	\$	incl
63. Dometic Self-Contained A/C with Exhaust Fan	\$	incl
64. Rear Storage Compartment Style: Rear Storage with divider and shelf with I/O access	\$	675.00
65. Module Window Option: Sliding Window	\$	incl
66. Upper Rear Wall Light Layout: 3 Across	\$	incl
67. Upper Light #1: Whelen M6 Load Light	\$	incl
68. Upper Light #2: Whelen M6 Amber Light	\$	incl
69. Upper Light #3: Whelen M6 Load Light	\$	incl
70. Lower Light #1: Whelen M6 Brake/Tail/Turn Red Light	\$	incl
71. Lower Light #2: Whelen M6 Brake/Tail/Turn Red Light	\$	incl
72. Lower Light #3: Whelen M6 Blue/Clear Light	\$	125.00
73. Lower Light #4: Whelen M6 Blue/Clear Light	\$	125.00
74. Rear Wall Driver Box Light: Whelen M9 Red Light	\$	175.00
75. Rear Wall Passenger Box Light: Whelen M9 Red Light	\$	175.00
76. Rear Backboard Options: No Shelf	\$	incl
77. Lower BTTs: 2 M6 Lights on each side	\$	950.00
78. Rear Bumper	\$	incl
79. Door Grabbers	\$	incl
80. License Plate Light	\$	incl
81. Passenger Wall Front Box Light: Whelen M9 Red Light	\$	175.00
82. Passenger Wall Rear Box Light: Whelen M9 Red Light	\$	175.00
83. Passenger Wheel Well Light: Whelen M6 Clear/Red Light	\$	125.00
84. Passenger Scene Light Activated with Side Entry Door	\$	425.00
85. Interior Step Option: Double Step Well	\$	incl
86. Passenger Rear Compartment Style: Onan Genset Compartment	\$	incl
87. Door Locks on Entry Doors and Front I/O	\$	1,900.00



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88. Gas Hold Open on All Compartments	\$	1,250.00
Module Exterior Subtotal	\$	33,775.00
Chassis Interior:		
89. Siren Speakers: Whelen SA 315 Speakers	\$	incl
90. Tap-2 on Primary Siren	\$	incl
91. Siren Option: Whelen C9 Siren in Console	\$	incl
92. Mic 1 on passenger's side slot 1	\$	incl
93. HAAS Alert System: HAAS Alert Responder to Vehicle - 3 Year Sub	\$	incl
94. Slot 1: Double Slot Switch Panel	\$	incl
95. Slot 2: Joined with 1	\$	incl
96. Slot 3: Siren 1	\$	incl
97. Slot 4: Radio Plate: 7.5 L X 2.5 W opening dims	\$	incl
98. Slot 5: Double Blank Insert	\$	250.00
99. Slot 6: Joined with 5	\$	incl
100. COMP OPEN / DOOR OPEN Warning Buzzer	\$	325.00
101. COMP OPEN / DOOR OPEN Red Warning Light on Driver side of siren plate on console	\$	475.00
102. Kussmaul USB/USB-C at Console	\$	300.00
103. Console Switch Layout : Primary - Secondary - Air Horn - Kussmaul USB/USB-C - Blank - Blank - Blank - Rear Load - Interior Lights - Side Scene (Driver's Side) - Side Scene (Passenger's Side) - Start/Stop Genset -	\$	incl
104. New Armrest	\$	300.00
105. Console Layout: 6-Slot Console	\$	incl
106. Front Base of Console: 120VAC	\$	700.00
107. Floor in Front of Console: Gamber Johnson Heavy Dual Cup Holder	\$	250.00
108. Rear of Console: Single Mapholder	\$	300.00
109. Chassis Rear Wall: 3 High Glove Box Holder	\$	300.00
110. Camera System: Voyager 7" Monitor with Back-Up Camera	\$	2,175.00
111. White Back-up Camera	\$	incl
112. Map Light: Light on passenger side	\$	300.00
113. Secure-Idle Anti-Theft System	\$	850.00
114. UNOC#1065: Wig Wag on chassis headlights with switch at console, position #5 (Option not in CPQ for Ford)	\$	325.00
Chassis Interior Subtotal	\$	6,850.00



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Module Interior:

115. Protek Cushions	\$	incl
116. Cobalt Blue Interior	\$	incl
117. Stainless Steel Countertops	\$	incl
118. Yellow Grab Rails	\$	300.00
119. Stacked Cabinet with Medvault Opening	\$	1,650.00
120. Customer Provided Medvault	\$	625.00
121. (2) Glove Box Holders on the Front Wall	\$	450.00
122. 15 Qt. Engel Fridge	\$	1,525.00
123. Duplex Outlet on the Front Wall	\$	incl
124. Location 1: 4 Switch w/Thermostat	\$	incl
125. Location 2: Double O2 Outlet	\$	incl
126. Location 3: 12VDC wired Failsafe	\$	175.00
127. Location 4: Dual USB receptacles	\$	300.00
128. Location 6: Suction	\$	incl
129. Location 7: Quad 120 VAC	\$	incl
130. Location 8: Blank	\$	incl
131. Location 9: Blank	\$	incl
132. Action Wall Switch Layout : Interior Lights; Dimmer; Ventilation Fan; Module Heater - Hi/Off/Low;	\$	incl
133. Technimount ZOLL X Monitor Mount (Heavy Duty) on the Action Wall Countertop	\$	1,975.00
134. Sharps Container at Action Wall	\$	incl
135. Acrylic Holder at the Action Wall Cabinet	\$	incl
136. New 6pt Harness at the CPR Seat	\$	700.00
137. Acrylic Holder Aft CPR Seat	\$	incl
138. Rear Door Switch Layout : Acknowledge; Blank; Dump/Bypass (Suspension); Rear Load;	\$	incl
139. Two Seating Positions at the Squad Bench - 1 and 2	\$	incl
140. Harness Type for Seat Position 1: New 6pt Harness	\$	700.00
141. Harness Type for Seat Position 2: New 6pt Harness	\$	700.00
142. Acrylic Holder and Sharps at Squad Bench	\$	1,075.00
143. Triple Squad Bench Cabinet	\$	1,225.00
144. Trashcan With Lid at the Head of the Squad Bench	\$	incl
145. O2 Outlet Above the Front I/O	\$	incl



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146. Door Forward Front I/O with Hospital Grade Power Strip with Lexan Doors	\$	incl
147. 2 High "D" Cylinder Holder in the Front I/O	\$	250.00
148. Duplex Outlet Above the Front I/O	\$	incl
149. O2 Outlet in Ceiling Raceway	\$	450.00
150. IV Hanger on Ceiling Raceway	\$	incl
151. Driver and Passenger Side Yellow Powdercoated Ceiling Grab Rails for 14' Unit	\$	650.00
152. IV Hanger on Squad Bench Ceiling	\$	incl
153. Head knocker options: With Clock only	\$	625.00
154. Stryker cot tower only (no antler and bar)	\$	incl
155. Floor Options: Customer Provided Stryker Power-LOAD - Gen 2	\$	2,225.00
156. Loncoin II Onyx Floor	\$	incl
157. Captain's Chair Type: Valor's Captain's Chair with Child Safety Seat and 4pt. Harness	\$	2,375.00
158. Module Heater : New	\$	incl
159. Customer Provided Items Processing Fee	\$	1,000.00
Module Interior Subtotal		\$ 18,975.00



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Email this quote along with your PO
to Kalyn Salsman at ksalsman@frazerbilt.com

Remit To:

Per TMVCC, we are quoting this through our
licensed franchise dealer, Sterling McCall Ford.

Sterling McCall Ford
6445 Southwest Freeway
Houston, TX 77074

Standard Terms and Conditions

INVOICING AND PAYMENT TERMS: Vendor shall submit one (1) original invoice per payment due. The invoice(s) shall include the items listed in accordance with the quote mentioned in the Sale Agreement with reference to the Customer's Purchase Order Number.

If the Sale Agreement provides for any progress (or advance) payments based on specific milestones or activities, Vendor's invoice shall certify to the accomplishment or performance by Vendor of said milestone or activity, and that Customer has obtained a security interest in such Products to the extent of such payment.

Payment shall be due upon receipt of the invoice and delivery of the unit to the Customer unless previously negotiated.

CANCELLATION POLICY: Cancellation of orders must be received 120 days prior to the agreed upon delivery date. If the order is cancelled within the 120 day window, a fee of 25% of the total purchase order price will apply.

DELIVERY TERMS: The products listed in the estimate are to be delivered Free On Board (FOB) Destination to Houston, TX. Customer representative(s) will pick up the unit at upfitter location, 7219 Rampart St., Houston, TX 77081 and transport it to their final destination at customer expense unless otherwise specified in the Vendor quote.



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TERMINATION FOR CAUSE: Customer may terminate this Sale Agreement and any corresponding Purchase Order, or any part thereof, for cause including, but not limited to the following Vendor actions: (1) any default or breach of any of the terms and conditions of the Sale Agreement, (2) failure to provide Customer, upon request, a reasonable assurance of future performance, or (3) bankruptcy, dissolution, or suspension of payments by judicial decree. If Vendor does not cure such failure within a period of five (5) days or such a longer period as Customer may authorize in writing after the date such notice is sent to Vendor, then termination may proceed.

Vendor may also terminate this Sale Agreement and any corresponding Purchase Order for cause, and Vendor will not be in breach of same, in the event any supplier to Vendor fails to deliver Products and/or component parts in a timely fashion and Vendor cannot make alternate accommodations in order to comply with the Parties' agreed upon completion and delivery dates.

CHANGE ORDERS: Vendor has the right to modify the Purchase Order requirements and conditions as needed and will advise Customer in writing of such requested changes. Vendor shall not proceed with any changes without Customer's written authorization. Any request by Customer to change the terms or conditions of the Purchase Order, including product specifications, options, and price, must be made in advance of the production job order release. Any changes made after the release of the production job order will incur a \$350 fee per change order made in a 24 hour period and will be included on a secondary invoice. Vendor reserves the right to refuse changes requested by the Customer.

PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING: All commercial, financial or technical information in any form that Vendor provides to Customer shall be deemed proprietary and confidential and Customer shall not disclose such information to third parties without Vendor's written consent. Termination of the Sale Agreement shall not relieve Customer of this confidentiality obligation. Upon Vendor's request, Customer shall return all confidential information to Vendor along with any reproductions, in whole or in part. The confidentiality obligation does not apply to information that is in the public domain through no fault of Customer or to information lawfully within Customer's possession prior to the date of the Purchase Order, as evidenced by Customer's written records.

INDEMNIFICATION: Customer shall fully release, indemnify, defend and hold harmless Vendor, its co-venturers, its contractors, and their respective affiliates, and Vendor's and their respective directors, officers and employees (including agency personnel) ("Vendor Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase



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Order without regard to any allegation of negligence on the part of the Vendor Group as it pertains to Vendor's Products.

Vendor shall fully release, indemnify, defend and hold harmless Customer, its co-venturers, its contractors, and their respective affiliates, and the Customer's and their respective directors, officers and employees (including agency personnel) ("Customer Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Customer Group as it pertains to Vendor's Products.

Customer Initials: _____

LIMITATIONS ON DAMAGES: In the event of any dispute, disagreement or breach alleged by Customer on the part of Vendor, Customer's exclusive and sole remedy shall be repair or replacement, if practical, of the module, or component part, by Vendor. If Vendor is not able to effectuate a repair, replacement, or cure that brings the module, or component part, into compliance with the Parties' agreement, then Vendor shall refund the sale price to Customer. In no event shall Vendor be liable to Customer, or to any third-party acting through Customer, for any additional, consequential or punitive damages, or damages for lost sales, revenue or profits claimed by Customer or any third-party acting through Customer.

FORCE MAJEURE: A force majeure delay shall mean any delay or other unforeseeable causes beyond the reasonable control of the party affected, provided that any such delay is not caused, in whole or in part, by the acts or omissions of the party so delayed and further provided that such party is unable to make up for such delay with reasonable diligence and speed. If any such cause delays Vendor's performance, the delivery date or time for completion may be extended by a period of time reasonably necessary to overcome the effect of such delay; however, Vendor shall take all reasonable measures to mitigate the effects of the force majeure event and to minimize such delay. A party affected by a force majeure event shall notify the other party of such force majeure event within forty-eight (48) hours of its knowledge of such event for the event to be considered a bona fide force majeure event.

TITLE AND RISK OF LOSS: Title to the Products shall transfer to Customer upon receipt of Products by Customer or its agent unless otherwise stated in the Sale Agreement. Notwithstanding the above, risk of loss of the Products shall remain with Vendor until delivered to Customer.



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WAIVER: Vendor's failure to exercise or enforce any right in the Purchase Order, or any other right or privilege under law, or Vendor's waiver of any breach by Customer shall not constitute a waiver or modification of any terms, conditions, privileges or rights whether of the same or similar type, unless Vendor gives such waiver in writing.

LIENS: Vendor waives and relinquishes all existing and future liens and claims (statutory or otherwise) for the Products specified in the Purchase Order, and warrants that the Products will be free and clear of all liens, claims or encumbrances of any kind.

INSPECTION, REVIEW AND WITNESSING: Customer and/or the ultimate owner of the Products have the right to inspect and attend testing of the Products at Vendor's premises (or its supplier's or subcontractor's premises) with reasonable advance notice. If any inspection is made on the premises of Vendor or its supplier, Vendor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

APPLICABLE LAW AND VENUE: The Sale Agreement shall be governed and interpreted in accordance with the laws of the State of Texas, without reference to any principle of conflict of laws. Customer and Vendor expressly exclude the application of the Convention on International Sale of Goods to the Sale Agreement. Venue for all judicial, administrative, or regulatory proceedings shall be Houston, Harris County, Texas.

OWNERSHIP OF DOCUMENTS: Title to all drawings, specifications, calculations, technical data and other documents that Customer submits in accordance with the Purchase Order shall vest with Vendor. Vendor shall have the right to use such documents for any purpose pertaining to the manufacture, assembly, and delivery of the Products.

Title to all drawings, specifications, calculations, technical data, and other documents that Vendor submits to the Customer shall vest with the Customer. Customer shall have the right to use such documents for any purpose pertaining to the installation, operation, and maintenance of the Products.

INSURANCE: Vendor shall comply with the project insurance requirements for which the Products are being provided. Customer shall provide specific reasonable levels required as soon as such levels are available, which shall not exceed \$1,000,000 for any non-statutory category other than excess liability umbrella, which shall not exceed \$4,000,000. When requested by Customer, Vendor shall provide certificates of insurance as proof of same.



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SURVIVAL: The provisions of the following Paragraphs of these Terms and Conditions shall survive any cancellation or termination of the Purchase Order: (Proprietary Information, Confidentiality and Advertising), (Indemnification), (Liens), and (Applicable Law and Venue).

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discuss Petition for Release of 389.249 acres from the City's ETJ filed by PHAU-Lockhart 450, LLC.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - City Attorney Monte Akers; Planning Director David Fowler

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: On October 25, 2023, PHAU-Lockhart, the owners of 384.249 acres located to the south of State Highway 142 and east of Borchert Loop, requested the property be released from the Lockhart Extraterritorial Jurisdiction. This property is the site of the Juniper Springs subdivision, which was the subject of a preliminary plat which the Lockhart Planning and Zoning Commission approved in July 2023. This property is also part of the Clearfork Ranch Municipal Utility District (MUD), which the city approved in January 2019. The petition was filed in accordance with Sections 42.101-105 of the Texas Local Government Code. Senate Bill 2038, effective September 1, 2023, provides that owners of land in a City's ETJ may petition for release of the land by the City, resulting in the land being considered subject only to County jurisdiction. The City has received such a petition requesting the release of 389.249 acres along SH 142, as described in the attached petition. If the City grants the petition, the area will be released immediately. Additional information about SB 2038 is also attached.

PROJECT SCHEDULE (if applicable): None.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: None.

STAFF RECOMMENDATION/REQUESTED MOTION: Seek legal advice in executive session before taking action on the petition.

City of Lockhart, Texas

Council Agenda Item

Cover Sheet

LIST OF SUPPORTING DOCUMENTS: Petition, cover letter, property description, survey exhibit, certificate of ownership, and Post Session Update: ETJ Release



RECEIVED

4301 Bull Creek Rd. Ste 150
Austin, Texas 78731
Tel. 512.328.2008
Fax 512.328.2409
www.mhllp.com

OCT - 6 2023

A handwritten signature in black ink, appearing to read 'Julie Bowermon', is written over the date stamp.

CITY OF LOCKHART
CITY SECRETARY'S OFFICE

October 6, 2023

City of Lockhart
Attn: Julie Bowermon, City Secretary
308 West San Antonio Street
Lockhart, Texas 78644

Via Hand Delivery

RE: Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart

Dear Ms. Bowermon,

On behalf of PHAU-Lockhart 450, LLC ("Petitioner"), owner of property located within the extraterritorial jurisdiction of the City of Lockhart ("City"), enclosed please find a Request and Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart (the "Petition"). In accordance with Sections 42.101-105 of the Texas Local Government Code, Petitioner requests the release of lands owned by Petitioner from the City's extraterritorial jurisdiction.

Please file stamp and return the enclosed extra copy of the Petition. We appreciate the City's actions regarding this Petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laci Ehlers', is written in a cursive style.

Laci Ehlers

October 6, 2023

City of Lockhart
Attn: Julie Bowermon, City Secretary
308 West San Antonio Street
Lockhart, Texas 78644

Via Hand Delivery

RE: Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart

Dear Ms. Bowermon,

On behalf of PHAU-Lockhart 450, LLC ("Petitioner"), owner of property located within the extraterritorial jurisdiction of the City of Lockhart ("City"), enclosed please find a Request and Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart (the "Petition"). In accordance with Sections 42.101-105 of the Texas Local Government Code, Petitioner requests the release of lands owned by Petitioner from the City's extraterritorial jurisdiction.

Please file stamp and return the enclosed extra copy of the Petition. We appreciate the City's actions regarding this Petition.

Sincerely,



Laci Ehlers

**REQUEST AND PETITION FOR RELEASE OF PROPERTY FROM THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF LOCKHART
(384.249 ACRES)**

**TO THE MAYOR OF THE GOVERNING BODY OF THE CITY OF LOCKHART,
TEXAS:**

The undersigned ("Petitioner"), acting pursuant to the provisions Sections 42.101-105 of the Texas Local Government Code, respectfully petitions the City of Lockhart (the "City") to release the land described by metes and bounds on Exhibit "A" and depicted on Exhibit "A-1" (the "Land"), from the extraterritorial jurisdiction ("ETJ") of the City. In support of this petition, Petitioner would show the following:

I.

Petitioner is the owner of all of the Land, comprised of 384.249 acres currently situated within the extraterritorial boundaries of the City in Caldwell County, Texas, and is fully described by metes and bounds on Exhibit "A", attached hereto and incorporated herein by reference. Petitioner certifies that the description of the Land attached as Exhibit "A" is true and correct. A map of the Land to be released is attached hereto as Exhibit "B".

II.

Pursuant to section 43.102(b) of the Texas Local Government Code, Petitioner certifies that it is the owner of one hundred percent (100%) in value of the holders of title of the Land pursuant to the tax rolls of the Caldwell County Appraisal District as evidenced by Exhibit "C" and is, therefore, authorized to file this Petition.

III.

To the extent required by applicable law, this Petition has satisfied the signature requirements described in Sections 42.103 and 42.104(a) of the Texas Local Government Code and Chapter 277 of the Texas Election Code, not later than the 180th day after the date the first signature for the Petition is obtained.

IV.

The individual who executed this Petition on behalf of the Petitioner is fully authorized to sign this Petition as evidenced by Exhibit "D". The signature is hereby sufficient to effectuate the immediate release of the Land from the City's ETJ. If the City fails to take action to release the Land by the later of the 45th day after the date the City receives this Petition or the next meeting of the City's governing body that occurs after the 30th day after the date the City receives this Petition, the Land is released by operation of law.

V.

Petitioner prays that (i) this Petition be verified by the City Secretary or other person at the City responsible for verifying signatures, (ii) the Petitioner be notified of the results, and (iii) this Petition be granted, immediately releasing the Land from the City's ETJ.

Executed to be effective as of the 4th day of October, 2023.

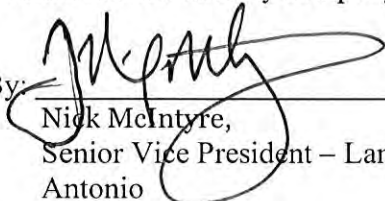
* * *

SIGNATURE PAGE TO
REQUEST AND PETITION FOR RELEASE OF PROPERTY FROM THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF LOCKHART
(384.249 ACRES)

PETITIONER:

PHAU-Lockhart 450, LLC,
a Texas limited liability company

By: _____


Nick McIntyre,
Senior Vice President – Land Austin/San
Antonio

Date: 10/4/2023

DOB or VRN of Signer: 9/15/1978

Residence Address of Signer:

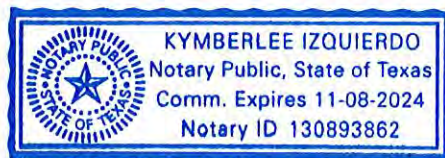
1903 STONEWREATH DRIVE
ROUND ROCK, TX 78681

THE STATE OF TEXAS §

COUNTY OF Travis §

This instrument was acknowledged before me on this 4th day of October, 2023
by Nick McIntyre, Senior Vice President – Land Austin/San Antonio of PHAU-Lockhart 450,
LLC, a Texas limited liability company, on behalf of said limited liability company.

(SEAL)





Notary Public, State of Texas

EXHIBIT "A"
THE LAND

Exhibit A

**A METES AND BOUNDS
DESCRIPTION OF A
384.249 ACRE TRACT OF LAND**

BEING a 384.249 acre (16,737,882 square feet) tract of land situated in the J.B. Gray Survey, Abstract 116, and the W. House Survey, Abstract 15, Caldwell County, Texas; and being a portion of that certain called 316.436 acre tract described in instrument to PHAU-LOCKHART 450, LLC recorded in Document No. 2021-005590 of the Official Public Records of Caldwell County, being a portion of that certain called 135.731 acre tract described in instrument to PHAU-LOCKHART 450, LLC recorded in Document No. 2022-005824 of the Official Public Records of Caldwell County, being all of that certain called 32.486 acre tract described in instrument to PHAU-LOCKHART 450, LLC recorded in Document No. 2023-000880 of the Official Public Records of Caldwell County, being all of that certain called 0.5165 acre tract described in instrument to Maya Ingram recorded in Document No. 2019-004315, described in instrument to John Casey Roy recorded in Document No. 2019-004310, described in instrument to Rene Abrego Roy recorded in Document No. 2019-004312, described in instrument to Danielle Benson recorded in Document No. 2019-004314, and described in instrument to Michelle Wittenburg recorded in Document No. 2019006266 all of the Official Public Records of Caldwell County, being a portion of the land as depicted in Exhibit A of the Interlocal Cooperative Agreement between Caldwell County and the City of Lockhart for Subdivision Regulation within the Extraterritorial Jurisdiction of the City of Lockhart under Resolution 2018-19; and being more particularly described as follows:

COMMENCING at a 2-inch metal post found on the northeasterly right of way line of County Road 108 (Borcher loop) (width varies) marking the south corner of the said 316.436 acre tract, and the western-most corner of that certain remainder of called 59.289 acre tract described in instrument to JAKOVICH INTERESTS, L.L.C., recorded in Document No. 2022-000876 of the Official Public Records of Caldwell County;

THENCE, North 58°54'24" East, 1006.26 feet along the southeasterly line of aforesaid 316.436 acre tract to the **POINT OF BEGINNING** of herein described tract;

THENCE, departing the southeasterly line of aforesaid 316.436 acre tract and over and across aforesaid 316.436 acre tract and aforesaid 135.731 acre tract, the following four (4) courses and distances:

1. North 36°00'10" West, 776.25 feet to a point for corner;
2. North 32°00'19" West, 2,102.91 feet to a point for corner;
3. North 25°00'00" West 1,031.18 feet to a point for corner;
4. North 15°00'00" West 429.28 feet to a point of curvature in the southeasterly right-of-way of State Highway 142 (width varies);

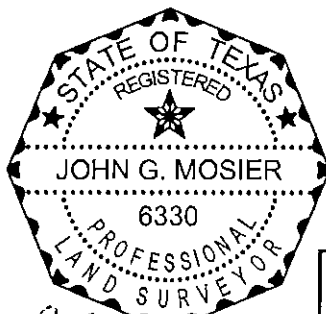
THENCE, along said southeasterly right-of-way of State Highway 142, the following two (2) courses and distances:

1. In a northeasterly direction, along a non-tangent curve to the left, a central angle of 10°37'41", a radius of 1,979.86 feet, a chord bearing and distance of North 66°06'53" East, 366.72 feet, and a total arc length of 367.25 feet, to a brass disk in concrete (TxDOT Type 2 monument) found for the point of tangency;
2. North 60°48'03" East, 72.48 feet to a point for corner, on the southwesterly line of that certain 2.04 acre tract described in instrument to the State of Texas recorded in Volume 211, Page 501 of the Deed Records of Caldwell County, and marking the southeast corner of that certain 1.148 acre tract (Part 2) described in Instrument to the State of Texas recorded in Volume 111, Page 272 of the Official Public Records of Caldwell County, and from which a 1/2-inch iron rod (bent) found bears: South 48°25'08" East, 0.20 feet;

THENCE, along the southwesterly, southeasterly, and northeasterly lines of said 2.04 acre tract the following four (4) courses and distances:

1. South 48°25'08" East, 243.37 feet to a concrete monument (TxDOT Type 1) found marking the south corner of said 2.04 acre tract for corner;
2. North 61°06'51" East, 199.72 feet to a concrete monument (TxDOT Type 1) found marking the southeast corner of said 2.04 acre tract for corner;
3. North 11°21'22" East, 159.62 feet to a 1/2-inch iron rod with plastic cap stamped "KHA" set found marking the east corner of said 2.04 acre tract for corner;
4. North 65°23'10" West, 135.83 feet to a brass disk in concrete (TxDOT Type 2 monument) found on the southeasterly right of way line of said State Highway 142 marking the southwest corner of that certain 1.553 acre tract (Part 1) described in aforesaid instrument to the State of Texas;

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GREG.MOSIER@KIMLEY-HORN.COM



John G. Mosier
9-22-23

**SURVEY EXHIBIT OF A
384.249 ACRES**

J.B. GRAY SURVEY, ABSTRACT NO. 116
W. HOUSE SURVEY, ABSTRACT NO. 15
CALDWELL COUNTY, TEXAS

Kimley»Horn

10101 Reunion Place, Suite 400
San Antonio, Texas 78216

FIRM # 10193973

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MGB	JGM	Sep. 2023	068725500	1 OF 4

THENCE, along the said southeasterly right of way line of State Highway 142 the following three (3) courses and distances:

1. North 60°48'30" East, 73.56 feet to a brass disk in concrete (TxDOT Type 2 monument) found for the point of curvature;
2. in a northeasterly direction, along a tangent curve to the right, a central angle of 30°17'19", a radius of 1,839.85 feet, a chord bearing and distance of North 75°57'11" East, 961.33 feet, and a total arc length of 972.61 feet to a brass disk in concrete (TxDOT Type 2 monument) found at a point of tangency;
3. South 88°54'09" East, 1,200.54 feet to a brass disk in concrete (TxDOT Type 2 monument) found marking the northeast corner of said 135.731 acre tract, and the northwest corner of that certain 55.627 acre tract described in instrument to SPILLMAN FARMS LLC recorded in Document No. 2023-002277 of the Official Public Records of Caldwell County;

THENCE, along the southwesterly, and northwesterly, lines of said 55.627 acre tract the following five (5) courses and distances:

1. South 31°07'22" East, 708.49 feet to a wood post found marking the east corner of said 135.731 acre tract;
2. South 58°52'53" West, 114.97 feet to a 1/2-inch iron rod with plastic cap "UNREADABLE" found for corner;
3. South 55°23'01" West, 17.64 feet to a "T" post in rock mound found marking a westerly corner of said 55.627 acre tract;
4. South 31°47'47" East, 1102.97 feet to a "T" post found in a 2-inch iron pipe in a rock mound marking the south corner of said 55.627 acre tract;
5. North 59°08'09" East, 2443.75 feet to a 12-inch wood post found on the southwesterly line of that certain 17.18 acre tract (first tract) described in instrument to Kenneth G. Willenberg recorded in Document No. 2015-001132 of the Official Public Records of Caldwell County;

THENCE, along the southwesterly and southeasterly line of said 17.18 acre tract the following two (2) courses and distances:

1. South 32°06'46" East, 654.15 feet to a 2-inch metal post found marking the south corner of said 17.18 acre tract;
2. North 59°21'32" East, 262.39 feet to a 2-inch metal post found marking the west corner of that certain 14.6 acre tract (second tract) described in said instrument to Kenneth G. Willenberg;

THENCE, South 30°58'48" East, 850.02 feet to a 2-inch metal post found on the northwesterly line of that certain 45.489 acre tract described in instrument to Kyle R. and Rudolph E. Schroeder recorded in Document No. 2016-000084 of the Official Public Records of Caldwell County, marking the east corner of aforesaid 316.436 acre tract and the south corner of said 14.6 acre tract;

THENCE, South 58°49'37" West, 2,283.22 feet, along the southeasterly line of said 316.436 acre tract to a cotton spindle in a 3/4-inch iron pipe found marking the west corner of said 45.489 acre tract and northeast corner of aforesaid 32.486 acre tract;

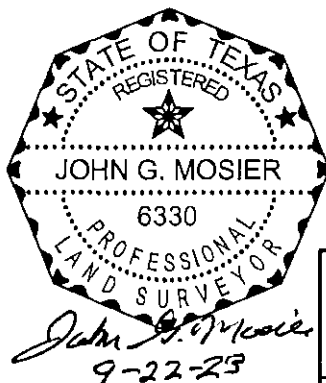
THENCE, South 31°48'12" East, 633.97 feet along the common line of said 32.486 acre tract and said 45.489 acre tract to a metal fence post found on the northwesterly line of that certain 46.401 acre tract described in the partition deed to Rudolph E. Schroeder recorded in Document No. 2015-005802 of the Official Public Records of Caldwell County, and marking the east corner of said 32.486 acre tract and the south corner aforesaid 45.489 acre tract;

THENCE, South 59°04'39" West, 2,248.07 feet along the southeasterly line aforesaid 32.486 acre tract to a 2" Steel fence post found marking the southeast corner aforesaid 32.486 acre tract and being in the northeast line of aforesaid 59.289 acre tract;

THENCE, North 31°05'36" West, 627.22 feet along the common line aforesaid 32.486 acre tract and said 59.289 acre tract to a 1/2" iron rod with plastic cap stamped "KHA" set marking the southwest corner aforesaid 32.486 acre tract and inner ell corner aforesaid 316.436 acre tract;

THENCE, South 58°54'24" West, 950.64 feet along aforesaid 316.436 acre tract and said 0.5165 acre tract to the **POINT OF BEGINNING** and containing 384.249 acres of land in Caldwell County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System, South Central Zone (FIPS 4204) (NAD'83), as determined by the Global Positioning System (GPS). All distances shown hereon are on the Surface. To convert Surface distances to Grid apply the Surface to Grid Scale Factor of 0.9998858382. The unit of linear measurement is U.S. Survey Feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

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SURVEY EXHIBIT OF A 384.249 ACRES

J.B. GRAY SURVEY, ABSTRACT NO. 116
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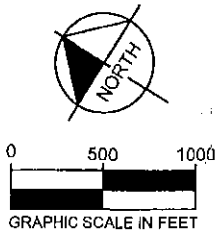
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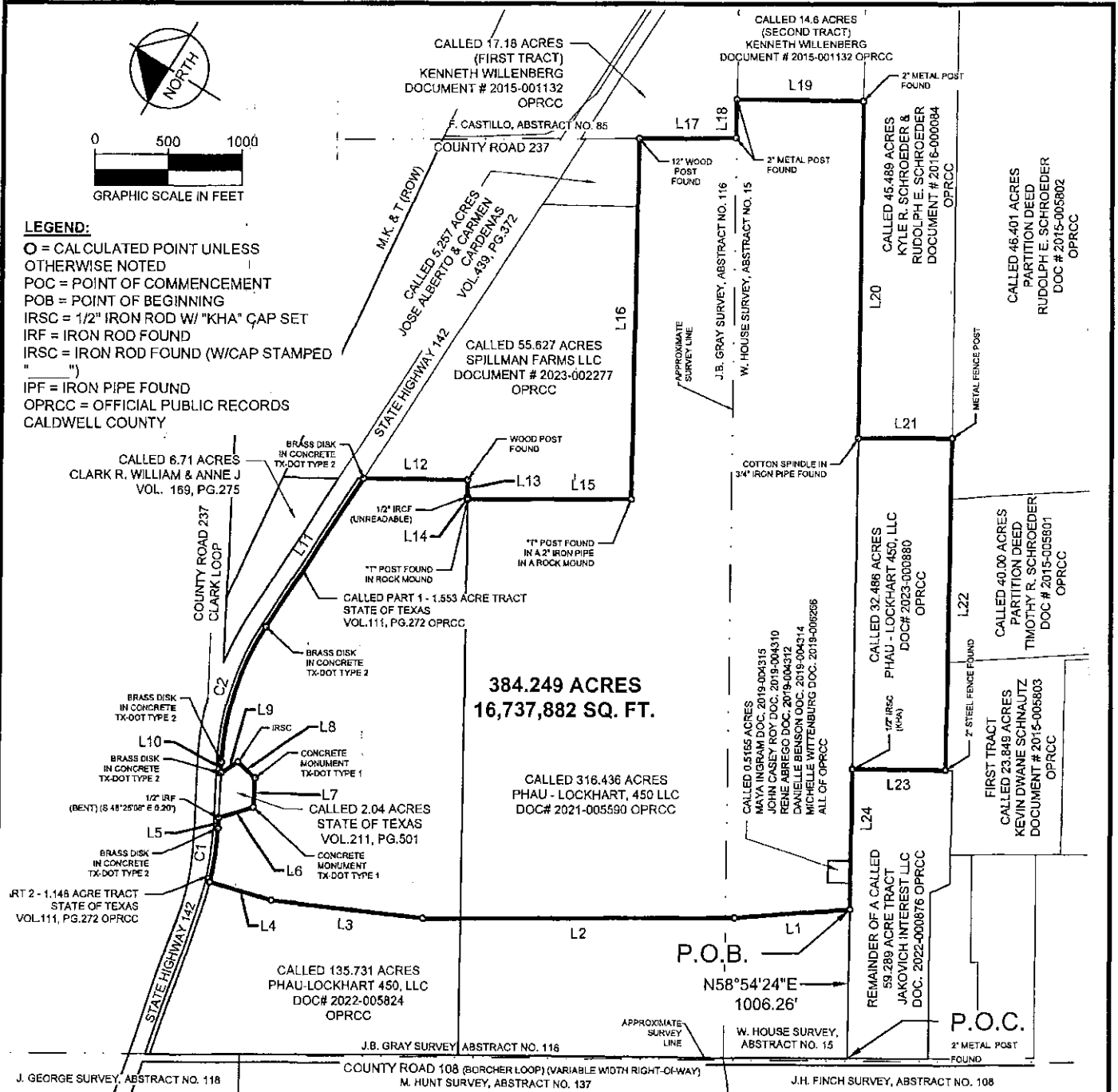
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MGB	JGM	Sep. 2023	068725500	2 OF 4

EXHIBIT "A-1"
THE LAND



LEGEND:

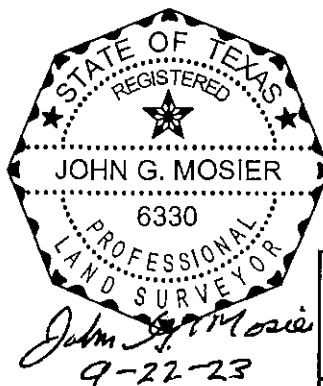
O = CALCULATED POINT UNLESS OTHERWISE NOTED
 POC = POINT OF COMMENCEMENT
 POB = POINT OF BEGINNING
 IRSC = 1/2" IRON ROD W/ "KHA" CAP SET
 IRF = IRON ROD FOUND
 IRSC = IRON ROD FOUND (W/CAP STAMPED " ")
 IPF = IRON PIPE FOUND
 OPRCC = OFFICIAL PUBLIC RECORDS
 CALDWELL COUNTY



NOTES: SEE SHEET 4 FOR LINE & CURVE TABLE

SURVEYORS CERTIFICATION: THIS IS A LEGAL DESCRIPTION BASED ON A FIELD SURVEY BY KIMLEY-HORN PERSONNEL. NO IMPROVEMENTS ARE SHOWN. ALL EXISTING EASEMENTS MAY NOT BE SHOWN. THIS IS NOT A LAND TITLE SURVEY. SEE THE SEPARATE LAND TITLE SURVEY UNDER JOB NUMBER 068725500 FOR ADDITIONAL INFORMATION.

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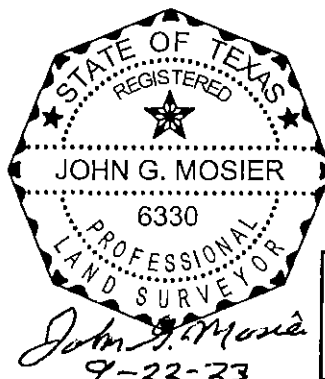
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 1000'	MGB	JGM	9/22/2023	068725500	3 OF 4

CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	10°37'41"	1979.86'	367.25'	N66°06'53"E	366.72'
C2	30°17'19"	1839.85'	972.61'	N75°57'11"E	961.33'

LINE TABLE		
NO.	BEARING	LENGTH
L1	N36°00'10"W	776.25'
L2	N32°00'19"W	2102.91'
L3	N25°00'00"W	1031.18'
L4	N15°00'00"W	429.28'
L5	N60°48'03"E	72.48'
L6	S48°25'08"E	243.37'
L7	N61°06'51"E	199.72'
L8	N11°21'22"E	159.62'
L9	N65°23'10"W	135.83'
L10	N60°48'30"E	73.56'
L11	S88°54'09"E	1200.54'
L12	S31°07'22"E	708.49'
L13	S58°52'53"W	114.97'
L14	S55°23'01"W	17.64'
L15	S31°47'47"E	1102.97'
L16	N59°08'09"E	2443.75'
L17	S32°06'46"E	654.15'
L18	N59°21'32"E	262.39'
L19	S30°58'48"E	850.02'
L20	S58°49'37"W	2283.22'
L21	S31°48'12"E	633.97'
L22	S59°04'39"W	2248.07'
L23	N31°05'36"W	627.22'
L24	S58°54'24"W	950.64'

SURVEYORS CERTIFICATION: THIS IS A LEGAL DESCRIPTION BASED ON A FIELD SURVEY BY KIMLEY-HORN PERSONNEL. NO IMPROVEMENTS ARE SHOWN. ALL EXISTING EASEMENTS MAY NOT BE SHOWN. THIS IS NOT A LAND TITLE SURVEY. SEE THE SEPARATE LAND TITLE SURVEY UNDER JOB NUMBER 068725500 FOR ADDITIONAL INFORMATION.

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Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 1000'	MGD	JGM	9/22/2023	068725500	4 OF 4

EXHIBIT “B”
MAP

Exhibit B

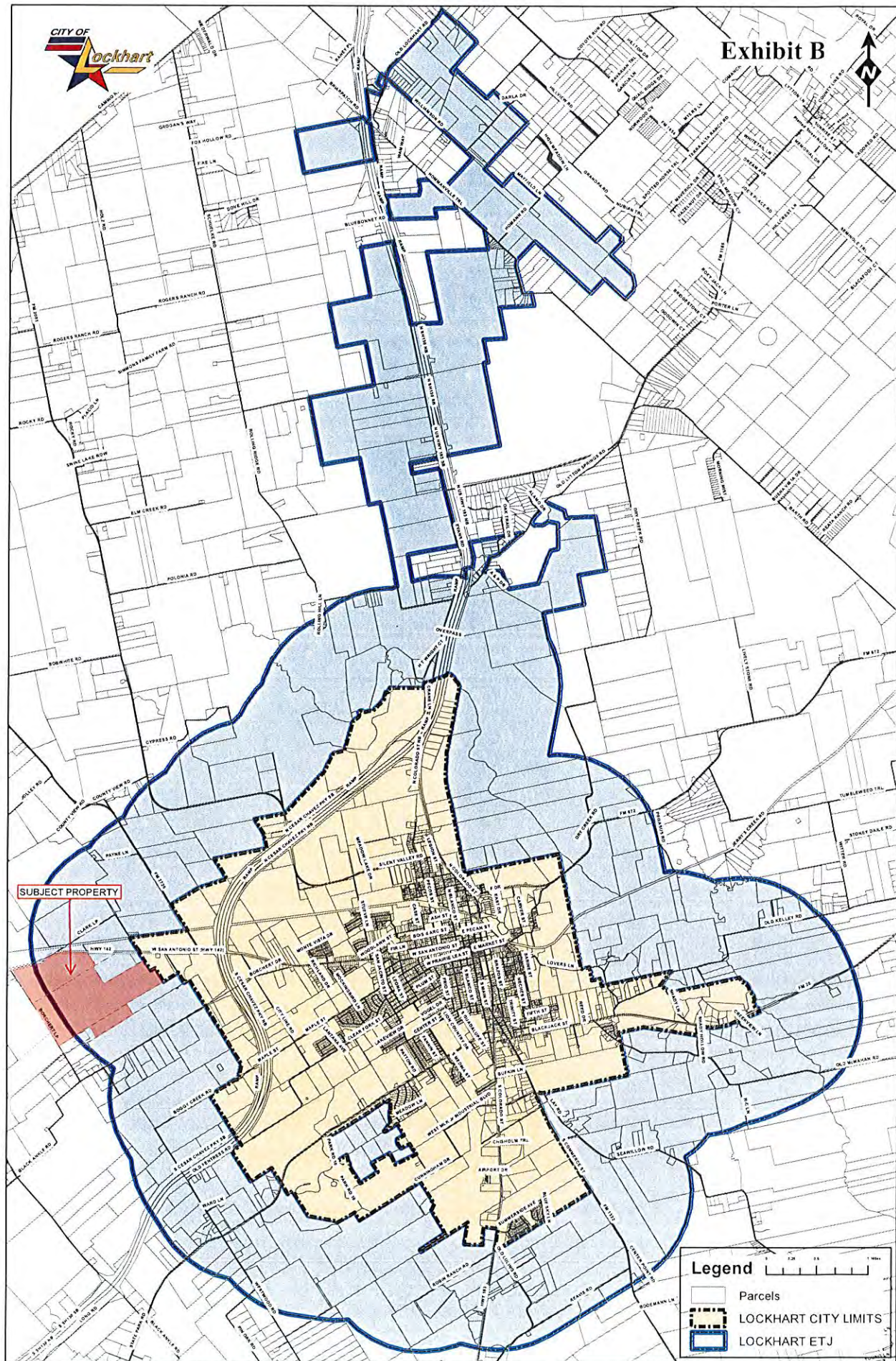


EXHIBIT “C”
CERTIFICATE OF OWNERSHIP

Exhibit C

CERTIFICATE OF OWNERSHIP

STATE OF TEXAS §
COUNTY OF CALDWELL §

I, Shanna Ramzinski, Chief Appraiser of the Caldwell County Appraisal District ("District"), hereby certify that I have examined the 2023 appraisal roll of the District and find that according to the records of the District as of today's date listed below, the following is true:

Property ID	Owner	Appraisal District Property Description
125238	PHAU - LOCKHART 450 LLC	A015 HOUSE, WILLIAM, ACRES 32.486
14994	PHAU - LOCKHART 450 LLC	A116 GRAY, JOHN B., ACRES 135.731
14998	PHAU - LOCKHART 450 LLC	A116 GRAY, JOHN B., ACRES 316.436, & A015 HOUSE, WILLIAM

Appraisal card(s) indicating the 2023 ownership and property for the Property are attached.

WITNESS MY SIGNATURE THIS 4th day of October, 2023.

CALDWELL COUNTY APPRAISAL DISTRICT

By: Shanna Ramzinski

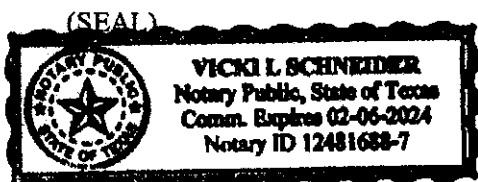
Name: Shanna Ramzinski

Title: Chief Appraiser

STATE OF TEXAS §

COUNTY OF CALDWELL §

This instrument was acknowledged before me on the 4th day of October, 2023 by Shanna Ramzinski, Chief Appraiser of the Caldwell County Appraisal District.



Vicki L. Schneider
Name: Vicki L. Schneider
Notary Public, State of Texas

EXHIBIT “D”
SIGNATURE AUTHORITY

PHAU – LOCKHART 450, LLC

CERTIFICATE

The undersigned hereby certifies that he is the duly elected and acting Secretary of **PHAU – LOCKHART 450, LLC**, a Texas limited liability company (“Company”), duly organized to conduct business in the State of Texas and as such has custody of the corporate records of the Company and is authorized to execute and deliver this Certificate on behalf of the Company; and hereby further certifies as follows:

1. Attached hereto as Exhibit “A” is a full, true, and correct copy of the Resolutions duly adopted by a majority of the Managers of the Company by a written consent effective January 1, 2023, in accordance with the Texas Business Organizations Code, the Certificate of Formation, and Company Agreement of the Company.

2. The Resolutions attached hereto as Exhibit “A” have not been amended, modified, or rescinded, and are in full force and effect on the date hereof.

3. There are no provisions in the Certificate of Formation or Company Agreement of the Company limiting the above-described Resolutions, and such Resolutions are in conformity with the provisions of the Company’s Certificate of Formation and Company Agreement, and with the proceedings of the Managers.

EXECUTED the 25th day of April 2023.



Michael C. Brisch
Secretary

The undersigned, the Chief Financial Officer of the Company, hereby certifies that Michael C. Brisch is the Secretary of the Company and is authorized to execute and deliver this Certificate for, and on behalf of, the Company.



Eric Bakk
Chief Financial Officer

EXHIBIT "A"

RESOLVED, that Nick McIntyre is authorized and empowered, in his capacity as Senior Vice President – Land Austin/San Antonio of the Company, to execute and deliver for, and on behalf of, the Company, any and all documents relating to plats, contracts for improvements to land, land planning, engineering or design, and covenants, conditions, and restrictions ("Land Documents") as may be reasonable, necessary, proper or convenient and to perform all acts and do all such other things necessary for, and on behalf of, the Company relating to the Land Documents;

FURTHER RESOLVED, that any and all instruments related to the Land Documents executed and delivered on behalf of the Company in connection with the foregoing resolutions shall be binding against the Company; and

FURTHER RESOLVED, that all acts, transactions, or agreements undertaken prior to the adoption of these resolutions by Nick McIntyre, in his capacity as Senior Vice President – Land Austin/San Antonio, are hereby authorized, adopted, ratified, confirmed and approved by the undersigned to the extent they were not authorized, adopted, ratified, confirmed and approved previously and as if they had been authorized, adopted, ratified, confirmed and approved in accordance with the Company's Agreement or other governing documents.

POST-SESSION UPDATE: ETJ RELEASE

[Senate Bill 2038](#) is a significant piece of legislation that could fundamentally alter how cities interact with their extraterritorial jurisdictions (ETJs). This law authorizes residents and landowners to decide if their respective areas within a city's ETJ remain in the ETJ, offering two pathways for areas within a city's ETJ to be released: (1) through a petition filed by residents or landowners, or (2) by an election on the question of release held in the area within the ETJ.

For the first option, a resident can file a petition for release of their area from the city's ETJ. The petition must contain signatures from more than 50 percent of the registered voters or a majority in value of the titleholders of land in the area. Upon receiving a valid petition, the city secretary verifies the signatures, notifies the residents whether or not the petition contains the required number of signatures, and, if it indeed contains the required number of signatures, the city is required to immediately release the area from its ETJ.

The second pathway for release is by an election. A resident can request an election by submitting to the city a petition bearing the signatures of at least five percent of the registered voters in the area to be released. Following the election, if a majority of qualified voters in the area approve the release, the city must release the area. A city can voluntarily release an area instead of holding an election.

To be valid, a petition must fulfill specific requirements. It must be in writing, detail the area's boundaries, and include a map of the area to be released. The petition must also carry the requisite number of signatures and include each signer's printed name, signature, date of birth, voter registration number, county of registration (if the area spans multiple counties), residence address, and date of signing. For home rule cities, city charter provisions governing petition validity may also apply under certain circumstances.

S.B. 2038's ETJ release provisions do not apply to the following five areas: (1) an area within five miles of a military base boundary where active training occurs; (2) an area within 15 miles of an active military base in San Antonio's or Houston's ETJ; (3) certain areas that were voluntarily annexed into cities' ETJ in Hays County; (4) property located in an industrial district; and (5) property subject to a strategic partnership agreement as defined in Chapter 43 of the Texas Local Government Code.

Moreover, starting from January 1, 2023, the law prevents automatic ETJ expansion due to annexation. Instead, ETJ expansion can only occur if property owners who would be included in the city's ETJ request their area to be included in the ETJ when an area is annexed. The bill requires a city to release ETJ acquired from an annexation commenced after January 1, 2023 to comply with this new limitation on ETJ expansion through annexation.

S.B. 2038 may also impact agreements between cities and counties regarding the regulation of subdivisions in the ETJ under Chapter 242 of the Local Government Code. If an area that is subject to an agreement between the city and county relating to platting or subdivision authority is removed from the city's ETJ, the city retains no authority over that property and the county is the entity authorized to regulate subdivisions in the removed area.

The release of areas from the ETJ under the new legislation will impact the applicability of city regulations outside the city limits. Though cities have limited authority to regulate in the ETJ as it is, S.B. 2038 will potentially disrupt the uniform application of those limited regulations. Most notably, released areas will no longer be subject to applicable subdivision and platting regulations or sign regulations. Cities also will lose the ability to participate in the establishment of certain special purpose districts, like municipal utility districts, in areas that are released from the ETJ.

It is possible that other types of economic development measures are impacted as well, including the operation of municipal development districts and public improvement districts that include areas within the ETJ. Other city regulations, like the extension of nuisance ordinances outside the city limits for home rule cities and regulations governing the operation of city utilities likely will not be impacted, as the statutes authorizing those regulations outside the city limits do not distinguish applicability based on inclusion of the area in the city's ETJ.

S.B. 2038 takes effect on September 1, 2023.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Hold a PUBLIC HEARING and discussion and/or action regarding Ordinance 2023-21, proposing **Text Amendments** to Chapter 64, "Zoning," of the of the Lockhart Code of Ordinances, amending Article VII, "Zoning Districts and Standards," Section 64-197 "Regulations Common to all or Several Districts," amending Subsection (i) "Residential design," amending Subsection (1) "Single-family design," adding Subsection b., "Residential design options," adding a new subsection (2) "Multifamily Design," and amending Appendix I., "Specific Requirements for Residential Development Types," to revise parking requirements for multifamily land use types.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: The proposed changes are the product of the work of the Housing and Development Committee, formed earlier this year. These proposed amendments will complement the recent revisions in residential landscaping requirements and the anti-repetition requirements which were adopted in June of this year. These additional standards would create design options for new houses in both new subdivisions as well as houses built on infill lots. New houses in subdivisions of greater than four units would be required to include four of the options, while infill residences and houses in subdivisions created through minor plats would be required to include two elements. The proposed design standards for multifamily developments include building design options similar to the single-family-standards while also containing two new site-design requirements as well as a requirement for elevators in four-story buildings. As a result of discussion at the Planning and Zoning Commission meeting held October 11, 2023, the parking requirement for multifamily development is recommended to be reduced to two spaces per residential unit while increasing the required recreational space to eight percent of the overall site area of a multifamily development.

PROJECT SCHEDULE (if applicable): None

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): The proposed amendments may have the effect of increasing the improved value of new residential units due to the enhanced design standards that would be required.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PREVIOUS COUNCIL ACTION: The City Council most recently adopted the residential landscaping and single-family residential anti-repetition amendments to Article VII of Chapter 64, "Zoning," of the Lockhart Code of Ordinances on June 20, 2023.

COMMITTEE/BOARD/COMMISSION ACTION: The Planning and Zoning Commission reviewed the proposed amendments at its October 11, 2023 meeting, recommending approval with a few amendments to staff's original version of the code amendments. These amendments related to reducing required parking in multifamily developments in exchange for increasing the recreational space which is required.

STAFF RECOMMENDATION/REQUESTED MOTION: APPROVAL of Ordinance 2023-21, amending Article VII and Appendix I of Chapter 64, "Zoning," of the Lockhart Code of Ordinances.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2023-21, 10-12-2023 Residential design Memo to Council

ORDINANCE 2023-21

AN ORDINANCE OF THE CITY OF LOCKHART, TEXAS, AMENDING CHAPTER 64 "ZONING" OF THE CODE OF ORDINANCES, ARTICLE VII "ZONING STANDARDS," SECTION 64-197 "REGULATIONS COMMON TO ALL OR SEVERAL DISTRICTS," AMENDING SUBSECTION (i), RESIDENTIAL DESIGN," AMENDING SUBSECTION (1) "SINGLE-FAMILY DESIGN," ADDING SUBSECTION b. "RESIDENTIAL DESIGN OPTIONS," ADDING A NEW SUBSECTION (2) "MULTIFAMILY DESIGN," TO ESTABLISH MINIMUMUM RESIDENTIAL DESIGN REQUIREMENTS AND AMENDING APPENDIX I, "SPECIFIC REQUIREMNTS FOR RESIDENTIAL DEVELOPMENT TYPES," TO REVISE THE PARKING REQUIREMENTS FOR MULTIFAMILY LAND USE TYPES; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Sections 64-93(c)(3)(7) and 64-196(a) authorize the Planning and Zoning Commission to determinations of appropriate zoning or use; and,

WHEREAS, some land uses require clarification by deleting or revising existing definitions, or creating new standards for aspects of land uses that do not have defined standards; and,

WHEREAS, Chapter 64, Zoning, currently has limited standards for residential building and site design; and,

WHEREAS, The Housing and Development Committee has expressed their desire to add further design standards for residential development to Chapter 64, Zoning; and,

WHEREAS, the Lockhart Planning and Zoning Commission held a public hearing on October 11, 2023, to consider proposed amendments to the applicable sections of Chapter 64 "Zoning", and voted to recommend said amendments; and,

WHEREAS, the City Council has determined that such amendments serve a public purpose and desires to amend the Code of Ordinances accordingly.

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

- I. The foregoing recitals are approved and adopted herein for all purposes.
- II. Chapter 64 "Zoning", Section 64-197, is hereby amended as follows, with all existing provisions not shown remaining unchanged:

Sec. 64-197. Regulations common to one or more districts

(i) Residential design

(1) Single-family design

- b. Residential design options.* Every residential building in the SF-1, SF-2 and DF-1, DF-2, PH-1, PH-2, CF,-1, and CF-2. development types must incorporate at least 4 of the design options listed below, with the exception of residences built on individual residential lots or parcels created through plat or by deed before 1990 or on residential lots created through a minor plat of four or fewer lots, which are required to incorporate two of the options listed below:

1. Covered front porch of at least 80 square feet in area (min. 8' deep) with a railing at least 36" high except at entrance (may encroach front setback by four feet).
2. Upgraded garage doors, including an upgraded surface material such as wood grain, plus decorative features such as double doors, windows or decorative hardware.
3. Nearest front face of house set back least 5 feet further than front yard setback line.
4. Garage door that does not face the front yard setback or garage completely behind main structure.
5. Garage recessed at least 5 feet from front building face
6. Chimney or dormers visible from the front elevation. Chimneys must serve a working fireplace.
7. Decorative windows including transoms, bay windows, picture windows, multi-pane windows (excluding the use of grills), shutters, or other similar window enhancements.
8. Rainwater harvesting system of 1,000 gallons or solar panel system with a capacity of at least 3 kilowatts as part of initial permitted construction, meeting building code requirements.
9. Enhanced pavement (brick/pave stone/stamped concrete/colored concrete) on paved surfaces other than the public sidewalk.
10. Incorporation of authentic stone or brick into at least 50% of three building elevations.

(2) Multifamily design

- a. Developments of the MF-2 development type greater than 5 acres in area must have frontage along, or direct driveway access to an arterial level street.
- b. All buildings over 3 stories in the MF-1 and MF-2 development types must provide an elevator.
- c. At least 8 percent of land area in MF-1 and MF-2 developments must be devoted to recreation space, including swimming pools, playgrounds, indoor exercise rooms, picnic areas, dog parks, and other outdoor amenities.
- d. All developments in the MF-1 and MF-2 development types must incorporate four of the following design options:
 1. Balconies at least 50 square feet in area on 50 percent of all living units.
 2. Awnings over entryways to buildings and at least 25 percent of exterior windows.
 3. At least 30 percent of parking spaces covered, with at least 20 percent of covered parking spaces in enclosed garages which provide electrical outlets sufficient to charge an electric vehicle.

4. No parking located between the property line along a street and the front of the nearest building or buildings to the street .
5. Windows having decorative features such as multi-pane design, arches, or shutters.
6. Use of dormers or other vertical offsets to attain vertical articulation.
7. Providing horizontal articulation of at least 4 feet for every 30 feet of building wall.
8. Only enclosed climate-controlled hallways and stairwells rather than open breezeways and stairwells.

III. Chapter 64 “Zoning”, Appendix I., Specific Requirements for Residential Development Types” is hereby amended as follows, with all existing provisions not shown remaining unchanged:

Development Type	Min. off-street Parking Spaces per Dwelling Unit Excluding Garages (Note 3)
MF-1 Multifamily-1	2
MF-2 Multifamily 2	2

IV. Severability: If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or un-enforced, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting and of the Mayor in approving this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity of any other portion, provision or regulation.

V. Repealer: That all other ordinances, sections, or parts of ordinances heretofore adopted by the City of Lockhart in conflict with the provisions set out above in this ordinance are hereby repealed or amended as indicated.

VI. Penalty: Any person who violates any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined as provided in Section 1-8 of the City Code.

VII. Publication: That the City Secretary is directed to cause the caption of this ordinance to be published in a newspaper of general circulation according to law.

VIII. Effective Date. That this ordinance shall become effective and be in full force ten days from the date of its passage.

**PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS,
ON THIS THE 17th DAY OF OCTOBER 2023.**

CITY OF LOCKHART

Lew White
Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Bowermon
Deputy City Secretary

Monte Akers
City Attorney

TO: City Council
FROM: David Fowler, Planning Director
SUBJECT: Proposed residential design standards
DATE: October 12, 2023

The proposed residential design standards are a product of the Housing and Development Committee formed after the joint meetings of City Council and the Planning and Zoning Commission in late 2022 and early 2023. These recommended amendments are designed to fulfill the aim for enhanced design standards that could improve the quality of the city's residential development projects following the surge in residential growth that has hit Lockhart starting in 2021. Previous changes resulting from the committee's work include the passage of residential landscaping standards, the earlier anti-repetition standards for single-family houses, and the adoption of the first new fees for planning and zoning-related applications for the first time in over 25 years.

This set of proposed text amendments are designed to add architectural features, energy saving features, and amenities that would make each residential dwelling more distinctive, increase visual differentiation between residences and potentially add long-term value through enhanced visual quality and quality of materials. For single-family residential developments, house designs will have to incorporate four architectural elements from a list of ten options. The adoption of this requirement would result in each house having at least four features that are presently absent from most recently built houses in Lockhart. Architectural features such as those included in the list of options are all more common in cities that have adopted design standards for single-family housing which require builders to incorporate the features into house designs. After discussions at the planning and Zoning Commission meeting held October 11, 2023, the Commission recommended reducing new houses built on existing infill lots or lots developed as part of a minor plat with four or fewer lots to two design options.

For multifamily housing, a similar set of design options are also accompanied by proposed minimum recreation space requirements, an elevator requirement for four-story buildings, and the requirement that the higher density MF-2 development type must have arterial street access for projects over five acres in size. In exchange for increasing the required recreational space on multifamily spaces to eight percent, the Planning and Zoning Commission recommended reducing the required parking in MF-1 and MF-2 developments to two spaces per residential unit. The current parking requirement in multifamily developments is currently 2.25 spaces per residential unit, which apartment developers have overwhelmingly complained is an excessive parking requirement.

The next and final code revision stemming from the Housing and Development Committee's work will be a revision of the City's Planned Development District ordinance to enhance the stated purpose of the ordinance and the expectations for such applications, including the addition of several additional submission requirements.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Approve Resolution 2023-15 designating the Chief of Police as the Authorized Official on the police department's Body Worn Camera Program grant through the Office of the Governor.

ORIGINATING DEPARTMENT AND CONTACT: Police - Gary Williamson

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: On November 16th, 2021, Council approved a resolution authorizing the submittal of the Body Worn Camera (BWC) Program grant through the Office of the Governor. The resolution also named the former police chief as the Authorized Official. With the departure of the former police chief, a new resolution naming the position of Chief of Police as the Authorized Official is needed to come in compliance with the grant requirements and receive reimbursement.

The police department's Body Worn Camera Program grant purchased replacement body cameras. The cost for the BWC program is \$85,260.00. The grant requires a 25% match. Twenty-nine(29) Motorola WaV300 Body Worn Cameras, including cloud storage and accessories, were purchased.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION:

LIST OF SUPPORTING DOCUMENTS: 2023 BWC Grant - Amended

RESOLUTION 2023-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS AUTHORIZING SUBMISSION OF A GRANT APPLICATION FOR THE BODY WORN CAMERA PROGRAM UPGRADE TO THE OFFICE OF THE GOVERNOR.

WHEREAS, the City of Lockhart finds it in the best interest of the citizens of Lockhart, that the **Body Worn Camera Program** be operated for the 2022 – 2023 years: and

WHEREAS, the City Council of the City of Lockhart, Texas agrees to provide applicable matching funds for the said project as required by the Body-Worn Camera Program grant application; and

WHEREAS, the City of Lockhart agrees that in the event of loss or misuse of the Office of the Governor funds, the City of Lockhart assures that the funds will be returned to the Office of the Governor in full; and

WHEREAS, the City of Lockhart designates the Chief of Police as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter, or terminate the grant on behalf of the applicant agency.

NOW THEREFORE, BE IT RESOLVED that the City of Lockhart approves submission of the grant application for the **Body Worn Camera Program** to the Office of the Governor.

Passed and Approved this 17th day of October, 2023.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

Monte Akers, City Attorney

Grant Number: **4366701**

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Approve Amendment Number 3 to the Capital Area Council of Governments' (CAPCOG) Lease of Site For Air Quality Monitoring and appointing the City Manager to sign the amendment.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: CAPCOG stores an Air Quality Monitoring Station at 214 Bufkin Lane, behind the City's Electric Department. The monitoring unit has been in place since 2013 and collects data regarding local air quality, such as ground-level Ozone, and reports data back to CAPCOG. The collected data can then be used for the Air Quality Index (AQI) in real-time and Forecast AQI in order to plan outdoor activities, especially for sensitive groups.

The purpose of this Amendment Number 3 is to extend the Term of the Amendment 2 of the Original Lease from its current end date of December 31, 2023, to December 31, 2026, in order to enable continued collection of ambient air quality data at the site through the expiration date of CAPCOG's 2019-2026 Air Quality Monitoring Network Plan Addendum.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of extending the existing agreement for another three years.

LIST OF SUPPORTING DOCUMENTS: CAMS 1604 Site Lease Agreement Amendment

City of Lockhart, Texas

Council Agenda Item

Cover Sheet

3_2023-07-06 v 2.word, Monitor Picture, 2018 CAPCOG Air Quality Monitor Lease

**AMENDMENT NUMBER 3 TO CAPITAL AREA COUNCIL OF GOVERNMENTS “LEASE OF
SITE FOR AIR QUALITY
MONITORING”**

Recitals

The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the state of Texas organized and operating under the Texas Regional Planning Act of 1965, as amended, chapter 391 of the Local Government Code. The City of Lockhart ("City") is a city that has leased land to CAPCOG for the purpose of ambient air quality monitoring since May 15, 2013. This agreement was authorized by Chapter 791 of the Government Code and is captioned "Lease of Site for Air Quality Monitoring" (hereinafter "Original Lease"). Amendment 1 extended the Original Lease from its end date of December 31, 2015, to December 31, 2018. Amendment 2 extended the Term of Amendment 1 from December 31, 2018, to December 31, 2023.

Purpose of Amendment

The purpose of Amendment Number 3 is to extend the Term of the Amendment 2 of the Original Lease from its current end date of December 31, 2023, to December 31, 2026, in order to enable continued collection of ambient air quality data at this site through the expiration date of CAPCOG's 2019-2026 Air Quality Monitoring Network Plan Addendum.

CAPCOG and City are willing to amend the Original Lease agreement as stated below. This Amendment is pursuant to the authority implicit in Article 8.2, which indicates that the Original Lease may be amended by a writing signed by all parties.

REVISION 1. Section 3. "Term" is amended as follows:

"3.1 This Lease begins on the date it is executed on behalf of City and it ends December 31, 2026."

Sections 3.2 is not affected by this Amendment and remain as seen in the Original Lease.

Miscellaneous

Each individual signing this Amendment 3 to the Original Lease on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Amendment 3 to the Original Lease is executed in duplicate originals.

Except as amended herein, the terms and conditions of the Original Lease remain in full force and effect.

CITY OF LOCKHART

CAPITAL AREA COUNCIL OF
GOVERNMENTS

By: _____

Steven Lewis
City Manager

By: _____

Betty Voights
Executive Director

Date: _____

Date: _____



**AMENDMENT NUMBER 2 TO
CAPITAL AREA COUNCIL OF GOVERNMENTS "LEASE OF SITE FOR AIR QUALITY
MONITORING"**

Recitals

The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the state of Texas organized and operating under the Texas Regional Planning Act of 1965, as amended, chapter 391 of the Local Government Code. The City of Lockhart ("City") is a city that has leased land to CAPCOG for the purpose of ambient air quality monitoring since May 15, 2013. This agreement was authorized by Chapter 791 of the Government Code and is captioned "Lease of Site for Air Quality Monitoring" (hereinafter "Original Lease"). Amendment 1 extended the Original Lease from its end date of December 31, 2015, to December 31, 2018.

Purpose of Amendment

The purpose of Amendment Number 2 is to extend the Term of the Amendment 1 of the Original Lease from its current end date of December 31, 2018, to December 31, 2023, in order to enable continued collection of ambient air quality data at this site through the expiration date of CAPCOG's 2019-2023 Air Quality Monitoring Network Plan.

CAPCOG and City are willing to amend the Original Lease agreement as stated below. This Amendment is pursuant to the authority implicit in Article 8.2, which indicates that the Original Lease may be amended by a writing signed by all parties.

REVISION 1. Section 3. "Term" is amended as follows:

"3.1 This Lease begins on the date it is executed on behalf of City and it ends December 31, ~~2018~~2023."

Sections 3.2 is not affected by this Amendment and remain as seen in the Original Lease.

Miscellaneous

Each individual signing this Amendment 2 to the Original Lease on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

This Amendment 2 to the Original Lease is executed in duplicate originals.

Except as amended herein, the terms and conditions of the Original Lease remain in full force and effect.

CITY OF LOCKHART

By: _____

Vance Rodgers
City Manager

Date: _____

8-1-18

CAPITAL AREA COUNCIL OF
GOVERNMENTS

By: _____

Betty Voights
Executive Director

Date: _____

7/23/18

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Accept the 4th Quarter Fiscal Year 2023 Investment Report.

ORIGINATING DEPARTMENT AND CONTACT: Finance - Joseph Resendez, ACM

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: The Texas Public Funds Investment Act requires local governments to review and accept the quarterly investment reports for each quarterly reporting period of the fiscal year. The 4th Quarter Investment Report of Fiscal Year 2023, ending September 30, 2023 is presented for your review and acceptance.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully request a motion to accept the 3rd Quarter Investment Report for Fiscal Year 2023.

LIST OF SUPPORTING DOCUMENTS: FY 2023 - Q4 Investment Report

CITY OF LOCKHART

Quarterly Investment Report
For the Quarter Ended September 30, 2023

October 17, 2023

CITY of LOCKHART
Quarterly Investment Report
For the Quarter Ended September 30, 2023

This report is presented in accordance with the Texas Government Code, Title 10, Chapter 2256, Public Funds Investment; Section 2256.023 known as the "Public Funds Investment Act". Attached is a detailed City of Lockhart investment report for the period July 1, 2023 through September 30, 2023. The Investment Portfolio Summary reports the beginning and ending book values and market values for the quarterly reporting period as follows:

July 1, 2023

Cash
Marketable Securities
Investment Pools
Certificates of Deposits
Total:

Investment Portfolio		
	Book Value	Market Value
Cash	1,261,054	1,261,054
Marketable Securities	0	0
Investment Pools	39,333,873	39,333,330
Certificates of Deposits	0	0
Total:	40,594,928	40,594,384

September 30, 2023

Cash
Marketable Securities
Investment Pools
Certificates of Deposits
Total:

Fund Availabilty		
Unrestricted Funds	10,583,346	10,583,346
Restricted Funds	29,243,651	29,243,105
Total Funds	39,826,997	39,826,451
Unrestricted Funds	12,069,665	12,069,665
Restricted Funds	24,733,710	24,731,075
Total Funds	36,803,375	36,800,740

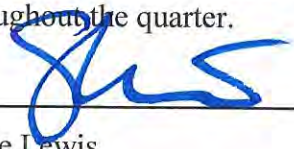
July 1, 2023

Unrestricted Funds
Restricted Funds
Total Funds

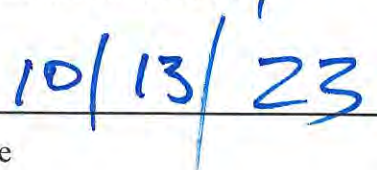
September 30, 2023

Unrestricted Funds
Restricted Funds
Total Funds

The investment portfolio, at all times during the quarter, complied with the Public Funds Investment Act and the City of Lockhart Investment Policy. TexPool, Texas CLASS and TexSTAR were also in compliance with the Public Funds Investment Act and the City of Lockhart Investment Policy throughout the quarter.



Steve Lewis
City Manager



Date

CITY of LOCKHART
Investment Portfolio Summary
For the Quarter Ended September 30, 2023

	Investment Portfolio			
	Book Value	% of Total	Market Value	% of Total
<u>July 1, 2023</u>				
Cash	1,261,054	2.1%	1,261,054	2.1%
Marketable Securities	0	0.0%	0	0.0%
Investment Pools	39,333,873	97.9%	39,333,330	97.9%
Certificates of Deposits	0	0.0%	0	0.0%
Portfolio Total	40,594,928	100.0%	40,594,384	100.0%
<u>September 30, 2023</u>				
Cash	800,907	2.2%	800,907	2.2%
Marketable Securities	0	0.0%	0	0.0%
Investment Pools	36,002,468	97.8%	35,999,833	97.8%
Certificates of Deposits	0	0.0%	0	0.0%
Portfolio Total	36,803,375	100.0%	36,800,740	100.0%
<u>Change in Value</u>				
Cash	(460,148)		(460,148)	
Marketable Securities	0		0	
Investment Pools	(3,331,405)		(3,333,497)	
Certificates of Deposits	0		0	
Portfolio Total	(3,791,553)		(3,793,644)	
<u>Maturity Data</u>				
	0			
	Book Value @	Weighted	Yield	
	9/30/2023	Average	to	
		Maturity	Maturity	
Cash	800,907	0 Days		1.00%
Marketable Securities	0	0 Days		0.00%
Investment Pools - Texas CLASS	19,428,629	49 Days *		5.52%
Investment Pools - TexPool	7,687,675	23 Days *		5.05%
Investment Pools - TexSTAR	8,886,164	30 Days *		5.31%
Certificates of Deposits	0	0 Days		0.00%
	36,803,375	38 Days		5.27%

Benchmark - 4 Week Treasury Bills - Secondary Market @ September 30, 2023 5.33%

* Weighted Average Maturity of Pool Investments - City funds are available from pools upon request.

<u>Total Return On Investment</u>	<u>Interest Earned</u>
Cash	2,193
Marketable Securities	0
Investment Pools - Texas CLASS	264,519
Investment Pools - TexPool	129,767
Investment Pools - TexSTAR	116,332
Certificates of Deposits	0
Total Return on Investment	512,810

CITY OF LOCKHART
Cash Accounts (as reconciled to FLNB)
For the Quarter Ended September 30, 2023

General Operating Account - FLNB		
		<u>Value</u>
July 1, 2023	\$	1,261,054
Deposits		11,269,712
Withdrawals		(11,732,053)
Interest Earned		2,193
September 30, 2023	\$	800,907

Total Cash Accounts		
		<u>Value</u>
July 1, 2023	\$	1,261,054
Deposits		11,269,712
Withdrawals		(11,732,053)
Interest Earned		2,193
September 30, 2023	\$	800,907

4

0.22%									
<u>Purchases</u>									
Type of Security	CUSIP	Purchase Date	Par Value	Coupon Rate	Date of Maturity	Yield to Maturity	Settlement Total	Price	Accrued Interest
Totals			\$ -				\$ -		\$ -

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CITY OF LOCKHART
Investment Pool Transactions Summary
For the Quarter Ended September 30, 2023

TexPool - City of Lockhart					
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>	<u>Net Asset</u> <u>Value</u>	<u>Weighted Aver.</u> <u>Maturity</u>	<u>Average</u> <u>Monthly Yield</u>
July 1, 2023	11,399,931	11,399,133	0.999930	19 Days	4.6100%
Deposits	5,021,000				
Withdrawals	(8,863,023)				
Interest Earned	129,767				
September 30, 2023	7,687,675	7,686,675	0.99987	23 Days	5.0500%

Texas CLASS					
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>	<u>Net Asset</u> <u>Value</u>	<u>Weighted Aver.</u> <u>Maturity</u>	<u>Average</u> <u>Monthly Yield</u>
July 1, 2023	19,164,110	19,164,110	1.00000	36 Days	4.8600%
Deposits	0				
Withdrawals	0				
Interest Earned	264,519				
September 30, 2023	19,428,629	19,428,629	1.00000	49 days	5.5200%

TexSTAR					
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>	<u>Net Asset</u> <u>Value</u>	<u>Weighted Aver.</u> <u>Maturity</u>	<u>Average</u> <u>Monthly Yield</u>
July 1, 2023	8,769,832	8,770,086	1.00003	39 Days	4.6066%
Deposits	0				
Withdrawals	0				
Interest Earned	116,332				
September 30, 2023	8,886,164	8,884,529	0.999816	30 Days	5.3105%

Total of All Pools		
	<u>Book</u> <u>Value</u>	<u>Market</u> <u>Value</u>
July 1, 2023	39,333,873	39,333,330
Deposits	5,021,000	
Withdrawals	(8,863,023)	
Interest Earned	510,617	
September 30, 2023	36,002,468	35,999,833

CITY of LOCKHART
Certificates of Deposit Transaction Summary
For the Quarter Ended September 30, 2023

Holdings During the Quarter

<u>CD Number</u>	<u>Holder</u>	<u>Purchase Date</u>	<u>Face Value</u>	<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Yield to Maturity</u>	<u>Purchase Price</u>	<u>Quarterly Interest Earned</u>	<u>Beginning Face Value</u>	<u>Beginning Market Value</u>	<u>Ending Face Value</u>	<u>Ending Market Value</u>
									July 1, 2023	September 30, 2023		
			<u>\$ -</u>				<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

Purchases

<u>CD Number</u>	<u>Holder</u>	<u>Purchase Date</u>	<u>Face Value</u>	<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Yield to Maturity</u>	<u>Purchase Price</u>
			<u>\$ -</u>				<u>\$ -</u>

Maturities

<u>CD Number</u>	<u>Holder</u>	<u>Purchase Date</u>	<u>Face Value</u>	<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Yield to Maturity</u>	<u>Settlement Total</u>
			<u>\$ -</u>				<u>\$ -</u>

<i>City of Lockhart</i>			
<i>Investment Pools</i>			
<i><u>Standard and Poor's Ratings</u></i>			
<u>Month</u>	<u>TexPool</u>	<u>TexSTAR</u>	<u>Texas CLASS</u>
October-22	AAAm	AAAm	AAAm
November-22	AAAm	AAAm	AAAm
December-22	AAAm	AAAm	AAAm
January-23	AAAm	AAAm	AAAm
February-23	AAAm	AAAm	AAAm
March-23	AAAm	AAAm	AAAm
April-23	AAAm	AAAm	AAAm
May-23	AAAm	AAAm	AAAm
June-23	AAAm	AAAm	AAAm
July-23	AAAm	AAAm	AAAm
August-23	AAAm	AAAm	AAAm
September-23	AAAm	AAAm	AAAm

<i>City of Lockhart</i>			
<i>Bank Collateralization</i>			
<i><u>Standard and Poor's Ratings</u></i>			
			FLNB
<u>Month</u>			<u>Collateralization *</u>
October-22			AAA
November-22			AAA
December-22			AAA
January-23			AAA
February-23			AAA
March-23			AAA
April-23			AAA
May-23			AAA
June-23			AAA
July-23			AAA
August-23			AAA
September-23			AAA
* Guaranteed by US government (AAA)			

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion and/or action regarding Resolution 2023-16 approving an economic development performance agreement with F3 Lockhart Owner LLC to authorize the Lockhart Economic Development Corporation to provide a rebate of up to \$1,000,000 for reimbursement of in-ground utilities to serve the project over a 10-year term.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: Project Apple Pie is a refrigerated warehouse and cold chain logistics operator, sponsored by Related Fund Management (RFM). Founded in 2009, RFM has established itself over more than a decade as a highly skilled and differentiated real estate investment manager with approximately \$10.9 billion of assets under management. RFM has demonstrated a successful track record of investing across all portions of the real estate capital stack and in all major sectors.

The project plans to acquire and develop a ground-up, Class A, energy-efficient public refrigerated warehouse to support the Austin-San Antonio corridor, as well as the greater Central Texas market, with a focus on the rapidly growing subsector of direct-to-consumer ("D2C") grocery deliveries. The initial facility would be approximately 310,000 SF. The facility plans to store frozen and refrigerated foods. As a full-service cold chain provider, the company serves food producers and manufacturers, grocery retailers, and food service companies.

The company plans to have a Lockhart-based staff of 100+ employees in year 4 with an average annual wage of \$38,480. All jobs included in the 380 agreement and economic development performance agreement require benefits.

While the total proposed site is approximately 53 acres, the company will operate on approximately 25 acres with the opportunity to expand by 50%. The excess land allows for additional buildable SF on which they may develop into another cold storage facility or traditional "dry" industrial warehouses totaling 877,900 SF. The land owner and company have initiated the voluntary annexation process with the City which is a requirement in this performance agreement.

Investment:

> \$65 million in real property. The application does not include the value of the inventory since it is not currently known. Inventory is taxed at the same rate as real and personal property based on the value of the inventory at the end of each year.

Incentives:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

The Economic Development Performance Agreement up for consideration is for rebate for the construction of in-ground utilities (water and wastewater lines) not to exceed \$1,000,000.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: The LEDC Board of Directors unanimously approved the performance agreement at a special called meeting on October 11, 2023.

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends adoption of Resolution 2023-16

LIST OF SUPPORTING DOCUMENTS: City Resolution 2023-16 Apple Pie, LEDC Resolution 2023-03 Signed, LEDC Draft Minutes 10.11.23

RESOLUTION NO. 2023-16

**A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS
APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE
AGREEMENT WITH F3 LOCKHART OWNER LLC TO AUTHORIZE THE
LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A
REBATE OF UP TO \$1,000,000 TO F3 LOCKHART OWNER, LLC FOR
REIMBURSEMENT OF IN-GROUND UTILITIES.**

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, F3 Lockhart Owner LLC (F3) will engage in a project whereby it will make a capital investment of \$65,000,000 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 \$1,000,000 to reimburse F3 for the cost of in-ground utilities; and

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 F3, a copy of which Agreement is attached hereto as Exhibit “A,” which is incorporated herein for all purposes.

Approved and adopted on this, the ____th day of _____ 2023.

CITY OF LOCKHART, TEXAS

Lew White, Mayor

Attest:

Approved as to form:

Julie Bowermon, 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 F3 Lockhart Owner, LLC. (“**F3**”) a limited liability company.

RECITALS

WHEREAS, F3 desires to construct a facility and to 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 F3 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 F3 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 F3 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 F3 on the

Property and in which the will operate their business.

(b) “**Effective Date**” shall mean the date that all parties have executed this Agreement.

(c) “**Full Time Equivalent Job**” (“**FTE Job**”) shall mean the sum of annual hours of employees who work at least 30 hours in any week, including accrued or used hours associated with holidays, vacation, sick and personal time, and overtime, divided by 1,560.

(d) “**Property**” shall mean 53 acres, more or less, of and described as A068 CRENSHAW, CORNELIUS, ACRES 172.718 in Caldwell County, Texas.

Section 3: Term

The “**Term**” of this Agreement shall be ten (10) years, commencing on the Effective Date of this Agreement, and terminating at midnight on the day immediately preceding the tenth anniversary of the Effective Date.

Section 4. F3 Requirements

In consideration of the financial incentives described and offered by LEDC pursuant to this Agreement, F3 agrees:

- (a) To, directly and/or through one or more of its affiliates, make a capital investment of sixty-five million dollars (\$65,000,000.00) 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 F3 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 December 31, 2025.
- (d) Other than due to a Business Interruption Exception, to create and fill and/or cause the creation and filling of at least one hundred (100) Full Time Equivalent Jobs positions at the Facility at following rate:
 - By Year Ending 2025: a total of 33 FTE jobs positions
 - By Year Ending 2026: a total of 75 FTE jobs positions
 - By Year Ending 2027: a total of 83 FTE jobs positions.
 - By Year Ending 2028: a total of 92 FTE jobs positions.
 - By Year Ending 2029: a total of 100 FTE jobs positions.(Such persons may work in shifts and may not 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; provided that Business Interruption Exceptions shall not be a violation of this provision.
- (f) To maintain at least one hundred (100) Full Time Equivalent Jobs starting January 1, 2030 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 F3 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(e) as well as Employment and Payroll Certification during the Term of this Agreement (which may include partial redactions of social security or other employee information to protect employee privacy).
- (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.
- (j) Attached to this Agreement as Exhibit B and incorporated herein by reference is the concept plan for the site which will evolve and change over time.
- (k) F3 shall consent to annexation of the property into the corporate limits of the city and shall waive all objections and protests to such annexation, such annexation shall be in full. This Agreement constitutes a voluntary, irrevocable petition for annexation of the Property to the City and shall run with the land and bind all future owners of any part of the property and shall survive the Term or termination of this Agreement. Any act or omission of F3 which prevents or unduly delays the annexation of the Property shall constitute a breach of F3's obligations under this Agreement. No provision of this Agreement shall be interpreted to conflict with or reduce the City's authority to levy and collect sales & use taxes in accordance with applicable law once and to the extent that commercial operations commence on the Property.

Section 5. LEDC Requirements

In consideration of F3's agreement to locate its business within the City and to perform the other acts described herein, LEDC agrees it will:

- i) Reimburse F3 not to exceed one million dollars (\$1,000,000.00) for completed in-ground infrastructure serving the Facility as approved in writing by the City of Lockhart (not to be unreasonably denied or delayed), and to be paid to F3 no later than thirty (30) days following LEDC's receipt of satisfactory written documentation of F3's purchase and installation of infrastructure.

Section 6. Recapture/Termination

- (a) In the event that F3 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 (i) temporary suspensions of operations due to interruptions in utilities, supply chain shortages, labor shortages, pandemics, safety issues, or similar or (ii) 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 F3 illegal or economically untenable, or other event beyond the reasonable control of F3 (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 F3 shall not be

entitled to any grants from the City for the year of such breach. The burden shall be upon F3 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 F3 fail to resume business operations within one (1) year of the date of discontinuance of operations, F3 shall not be entitled to any grants from the City of Lockhart for the year of such breach or prospectively.

- (b) In the event that F3 allow 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), F3 shall not be entitled to any grants from the City of Lockhart for the year of such breach or prospectively.

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 agreed to by the parties. LEDC and F3 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 of the parties 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 F3 with respect to the transactions contemplated herein. This Agreement may be amended, altered, or revoked only by written instrument signed by the LEDC and F3.

Section 9. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the parties, their respective successors and assigns. F3 may assign its rights and obligations under this agreement only upon prior written approval of the LEDC, which approval shall not be unreasonably withheld or delayed; provided that F3 may collaterally assign this agreement to purchasers of the F3, affiliates, lenders, existing or prospective partners in the Facility with notice to, but not consent from, LEDC.

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:

F3: F3 Lockhart Owner, LLC
Attn:

Cc: Plant Manager _____

Lockhart, Texas _____

Lockhart Economic Development Corporation:
Lockhart Economic Development Corporation
Attn: President
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 F3 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.

Section 14. Undocumented Workers.

F3 have executed the certification attached hereto as **Exhibit "A."** During the Term of this Agreement, the F3 agree not to knowingly employ any undocumented workers and, if

convicted of a violation under 8 U.S.C. Section 1324a (f), F3 shall repay the taxes abated herein, and any other funds received by the F3 from the LEDC as of the date of such violation within 120 days after the date the F3 is notified by the LEDC of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid. F3 are not liable for a violation of this Section by a subsidiary, affiliate (F3 Affiliate), or franchisee of F3 or by a person with whom F3 contracts. F3 hereby verifies in accordance with the requirements of Chapters 2271, 2274, and 2274 of the Government Code and subject to applicable law that F3 will not Boycott Israel, does not and will not Boycott Energy Companies, and does not and will not Discriminate Against Firearm Entities or Firearm Trade Associations, as such capitalized terms are defined in such chapters of the Government Code and subject to the provisions of such chapters of the Government Code.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2023.

THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION:

Steve Lewis, President

ATTEST:

Michael Kamerlander, LEDC Secretary

F3 Lockhart Owner, LLC :

By : _____

Name : _____

Title : _____

EXHIBIT “A”

Certification Regarding Employment of Undocumented Aliens

F3 Lockhart Owner, LLC, a Delaware limited liability company (the “**Company**”) and _____ (the “**Lessee**”) hereby certify to the LEDC, Texas that Company and Lessee and any branches, divisions, or departments of Company and Lessee do not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code.

F3 Lockhart Owner, LLC

By: _____

Name: _____

Title: _____

Date: _____

[Lessee]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT “B”

RESOLUTION NO. 2023-03

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION APPROVING AN ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT WITH F3 LOCKHART OWNER LLC TO AUTHORIZE THE LOCKHART ECONOMIC DEVELOPMENT CORPORATION TO PROVIDE A REBATE OF UP TO \$1,000,000 TO F3 LOCKHART OWNER, LLC FOR REIMBURSEMENT OF IN-GROUND UTILITIES.

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, F3 Lockhart Owner LLC (F3) will engage in a project whereby it will make a capital investment of \$65,000,000 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

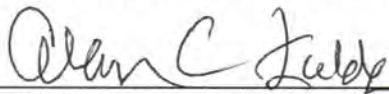
WHEREAS, pursuant to the EDPA, the LEDC will provide a grant of up to \$1,000,000 to reimburse F3 for the cost of in-ground utilities; and

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

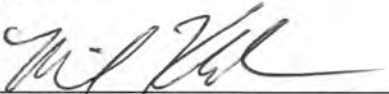
1. Recitals: The foregoing recitals are adopted and incorporated herein for all purposes.
2. Approval of the EDPA: The Board of Directors of the LEDC hereby approves the EDPA between the LEDC and F3, a copy of which Agreement is attached hereto as Exhibit "A," which is incorporated herein for all purposes.

Approved and adopted on this, the 11 th day of October 2023.

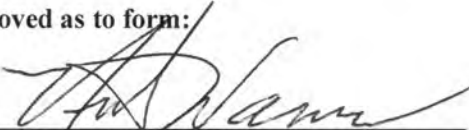
LOCKHART ECONOMIC DEVELOPMENT CORPORATION


Alan Felder, Chairman

Attest:


Michael Kamerlander, Board Secretary

Approved as to form:


Nicole Warren, Board Attorney

DRAFT MINUTES

LOCKHART ECONOMIC DEVELOPMENT CORPORATION

**WEDNESDAY, OCTOBER 11, 2023
6:00 P.M.**

**LEDC OFFICE
215 E. MARKET STREET
LOCKHART, TEXAS**

Board Members Present: Alan Fielder, Chairman; Alfredo Muñoz; Doug Foster; Yolanda Strey; Juan Alvarez (6:04 pm); Sally Daniel (6:06 pm)

Board Members Absent: Frank Estrada

Staff Present: Steve Lewis; Mike Kamerlander; 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

2.1 Hold a public hearing regarding a performance agreement with F3 Lockhart Owner, LLC pursuant to Sec. 505.159, Local Government Code.

Chairman opened public hearing at 6:00 PM and closed the hearing at 6:01 PM with no one from the public in attendance.

3. PUBLIC COMMENTS

No public comments

4. DISCUSSION AND/OR ACTION

4.1 Discussion and/or action regarding minutes from the September 11, 2023 meeting.

Mike Kamerlander suggested edit to address a typo that the “a” in Ms. Strey’s name was left off in Section 4. That will be fixed in final minutes.

Motion to approve the minutes from the September 11, 2023 meeting.

Motion: Alfredo Muñoz

Second: Yolanda Strey

Vote: 4 of 4

4.2 Discussion and/or action regarding LEDC Resolution 2023-03 approving an economic development performance agreement with F3 Lockhart Owner, LLC to authorize the Lockhart Economic Development Corporation to provide a rebate of up to \$1,000,000 for reimbursement of in-ground utilities to serve the project over a 10-year term.

Mike Kamerlander reviewed the project and explained the proposed site plan to the board. He went over the economic development performance agreement and answered questions the board had.

Two amendments were offered up by staff:

1. Requiring annexation of the property.
2. Attach the proposed site plan as “Exhibit B” and insert language, “Attached is the concept plan for the site which will evolve and change over time.”

LOCKHART ECONOMIC DEVELOPMENT CORPORATION (LEDC)

DRAFT MINUTES

Wednesday, October 11, 2023 - 6:00 P.M.

Page 1 of 2

Motion to adopt Resolution 2023-03 with proposed amendments.

Motion: Doug Foster

Second: Alfredo Muñoz

Vote: 6 of 6

5. DISCUSSION ONLY

5.1 Activity Updates

Mike Kamerlander provided an update on the Industrial Park and that accounting of the project is ongoing. He reminded the board of the Ziegenfelder Groundbreaking ceremony on Tuesday, October 17th at 10 AM and encouraged all of the board to attend.

6. ADJOURN

Motion to Adjourn.

Motion: Alfredo Muñoz

Second: Yolanda Strey

Vote: 6 of 6

LEDC Board of Directors Adjourned at 6:26 PM.

Minutes approved this the 13th day of November, 2023.

Alan Fielder, Chairman LEDC

Michael Kamerlander, Secretary LEDC

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion and/or action regarding approving a Chapter 380 economic development agreement with F3 Lockhart Owner LLC providing a real and personal property tax rebate over a 10-year term.

ORIGINATING DEPARTMENT AND CONTACT: Economic Development - Michael Kamerlander

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: Project Apple Pie is a refrigerated warehouse and cold chain logistics operator, sponsored by Related Fund Management (RFM). Founded in 2009, RFM has established itself over more than a decade as a highly skilled and differentiated real estate investment manager with approximately \$10.9 billion of assets under management. RFM has demonstrated a successful track record of investing across all portions of the real estate capital stack and in all major sectors.

The project plans to acquire and develop a ground-up, Class A, energy-efficient public refrigerated warehouse to support the Austin-San Antonio corridor, as well as the greater Central Texas market, with a focus on the rapidly growing subsector of direct-to-consumer ("D2C") grocery deliveries.

The initial facility would be approximately 310,000 SF. The facility plans to store frozen and refrigerated foods. As a full-service cold chain provider, the company serves food producers and manufacturers, grocery retailers, and food service companies.

The company plans to have a Lockhart-based staff of 100+ employees in year 4 with an average annual wage of \$38,480. All jobs included in the 380 agreement and economic development performance agreement require benefits.

While the total proposed site is approximately 53 acres, the company will operate on approximately 25 acres with the opportunity to expand by 50%. The excess land allows for additional buildable SF on which they may develop into another cold storage facility or traditional "dry" industrial warehouses totaling 877,900 SF. The land owner and company have initiated the voluntary annexation process with the City which is required in order to receive any tax incentives rebates.

Investment:

\$65 million in real property. The application does not include the value of the inventory since it is not currently known. Inventory is taxed at the same rate as real and personal property based on the value of the inventory at the end of each year.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

Incentives:

The Chapter 380 agreement provides a 5-year rebate of real and personal property taxes within a 10-year term. The rebate term will run for five sequential years and offer the following schedule:

Year 1: 85% Rebate

Year 2: 70%

Year 3: 55%

Year 4: 40%

Year 5: 25%

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of the Chapter 380 agreement.

LIST OF SUPPORTING DOCUMENTS: F3 Lockhart _ City of Lockhart 380 101023

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 F3 LOCKHART OWNER LLC (“**Company**”) and F3 ColdCo Lockhart LLC (“**Lessee**”), collectively (“parties”).

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 at least 300,000 square foot facility in the City, bring jobs to the City, and participate in the Economic Development Program established in this Agreement.

Company and Lessee intend to make a total investment of at least sixty-five million dollars (\$65,000,000.00) 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 and Lessee 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 and Lessee 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. Agreement Term

This Agreement shall have a term of ten (10) years (“**Agreement Term**”), 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 tenth anniversary of that date unless sooner terminated as provided herein. For example, if construction is completed and a Certificate of Occupancy obtained in 2024, Year One of this agreement will commence on January 1, 2025.

Section 4. Property Tax Rebate Term

The Property Tax Rebate Term (“**Rebate Term**”) shall be a term of five (5) years. The Rebate Term shall commence after the commencement of the Agreement Term and may commence and apply for any five consecutive years ending on or before the end of the Agreement Term. The Rebate Term shall commence on January 1 of the year following Company’s request to start the Rebate Term. For City budgeting purposes, Company must request term commencement by May 31 of the year prior to the start. Example: Company requests term start on May 15, 2025. Year 1 will be 2026 with the first rebate to company in 2027 per the terms in this Agreement. Notwithstanding the commencement of the Rebate Term, the Rebate Term shall not exceed the Agreement Term. At the end of the Agreement Term the City shall have no obligation under Section 6 (b) below.

Section 5. COMPANY and LESEE Requirements

Company and Lessee agree:

- (a) To acquire sufficient land in the City of Lockhart, estimated to be fifty-three (53) acres, (“the “**Property**”) that will be suitable for the construction of a cold storage facility, for the operation of Company activities thereon (“the “**Facility**”).
- (b) Construct the Facility on the Property of at least 300,000 square feet and with other improvements, including equipment, with a project budget of at least sixty-five million dollars (\$65,000,000.00) 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.
- (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 twenty four (24) months after the issuance of the aforesaid building permit.
- (e) Employ a minimum of one hundred (100) Full Time Equivalent (“**FTE**”) employees within the first five (5) years from the commencement of the Agreement Term.
- (f) Company and/or Lessee shall provide the City with proof of employment of employees by submitting copies of payroll records and federal employment tax forms (which may redact portions of social security numbers or addresses to protect employee privacy) or other documentation satisfactory to the City, which shall be provided within thirty (30) days of the end of each year of the Agreement Term.

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

The term “**Full Time Equivalent**,” as used in this Agreement, shall mean the sum of annual hours of employees who work at least 30 hours in any week, including accrued or used hours associated with holidays, vacation, sick and personal time, and overtime, divided by 1,560. FTEs shall be required to be eligible for benefits such as medical, dental, and vision insurance.

- (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 or Lessee.
- (h) Notify City by May 31st of the year prior to Company’s requested 1st year of property tax rebates as described in Section 6 (b) below. Failure to request commencement of property tax Rebate Term by this date will result in a delay of 1 year. For instance: For Rebate Term to begin January 1, 2026, company must request the Rebate Term begin by May 31, 2025. Should company request June 30, 2025, Rebate Term shall begin on January 1, 2027.

Section 6. City Requirements

- (a) In consideration of Company’s and/or Lessee’s agreement to perform the acts described above, City agrees to provide an annual grant to Lessee in an amount of money equal to a percentage of the annual City of Lockhart ad valorem taxes paid by Company and the Lessee on the Real Property and all improvements and personal property located in or on or being a part of or supporting the operation of the Facility (“**Increment**”) for that year and actually collected by the City.

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

For Year one: eighty-five percent (85%) of the Increment attributable to that year and paid to the City;

For Year two: seventy percent (70%) of the Increment attributable to that year and paid to the City;

For Year three: fifty-five percent (55%) of the Increment attributable to that year and paid to the City;

For Year four: forty percent (40%) 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 Lessee the applicable amount of each annual grant, following Company's payment of ad valorem taxes for that year, on or before May 1 of the calendar year following such payment.
- (d) Any payment by the City to the Lessee or Company shall satisfy the City's obligation to both the Lessee and Company pursuant to the grant under this Agreement.

Section 7. Termination

In the event that Company and/or Lessee 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, temporary suspensions of operations due to interruptions in utilities, supply chain shortages, labor shortages, pandemics, health and safety requirements or other event beyond the reasonable control of Company and/or Lessee for a period of 365 consecutive days during the Agreement Term, then in such event the City will no longer be obligated to expend any further funds for tax reimbursement, and Lessee shall be not be entitled to any grant by the City under Section 6 of this Agreement for the calendar year in which such breach occurred. The burden shall be upon Company and/or Lessee 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, temporary suspensions of operations due to interruptions in utilities, supply chain shortages, labor shortages, pandemics, health and safety requirements or other event beyond the control of Company and/or Lessee. In the event Company and/or Lessee meet 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 and/or Lessee, then Company and Lessee shall have a period of one (1) year in which to resume the operation of the distribution facility. In the event that Company and Lessee fail 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 Lessee shall not be entitled to any grant by the City under Section 6 of this agreement for the calendar year in which the breach occurred.

Subject to the notice and cure periods described in this Agreement, in the event that Company or Lessee allow 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 or Lessee shall not be entitled to any grant by the City under Section 6 of this agreement for the calendar year in which such breach occurred.

In the event that Company or Lessee 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 not be entitled to any grant by the City under Section 6 of this agreement for the calendar year in which such breach occurred.

In the event that the City determines that Company and/or Lessee is in default of any of the terms or conditions contained in this Agreement, then in such event the City shall give the party sixty (60) days written notice and opportunity to cure such default. Except as provided in Section 5(b) herein, in the event such default is not cured to the satisfaction of the City within the sixty (60) days notice period, then in such event the City will not pay any grants under Section 6 for the year in which such breach occurred and it will not be obligated to expend any further monies for tax reimbursement.

Section 8. Certification of Compliance

On or before April 15 of each year that this Agreement is in effect, Company and/or Lessee 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 and/or Lessee 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 and/or Lessee related to the provisions of this Agreement.

Section 9. Entire Agreement

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

Section 10. 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; provided that Company may collaterally assign this agreement to purchasers of the Company, affiliates, lenders, existing or prospective partners in the Facility with notice to, but not consent from, the City.

Section 11. 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:

F3 Lockhart Owner LLC
C/O Ivan Karpov
30 Hudson Yards, 83rd Floor
New York, NY 10001

Cc: Plant Manager

Lockhart, Texas 78644

LESSEE:

C/O Ivan Karpov
30 Hudson Yards, 83rd Floor
New York, NY 10001

City:

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

Section 12. 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 13. 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 agreed to by the parties. The parties 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 14. 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 15. Mutual Assistance

The parties 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.

Section 16. Undocumented Workers.

Company and Lessee have executed the certification attached hereto as **Exhibit “A.”** During the Agreement Term, the Company and Lessee agree not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), the Company or Lessee shall repay the taxes abated herein, and any other funds received by the Company or Lessee from the City as of the date of such violation within 120 days after the date the Company or Lessee is notified by the City of such violation, plus interest at the rate of four percent (**4%**) compounded annually from the date of violation until paid. Company or Lessee are not liable for a violation of this Section by a subsidiary, affiliate (Company Affiliate), or franchisee of Company or Lessee or by a person with whom Company or Lessee contract. Company and Lessee hereby verify in accordance with the requirements of Chapters 2271, 2274, and 2274 of the Government Code and subject to applicable law that Company and Lessee will not Boycott Israel, does not and will not Boycott Energy Companies, and does not and will not Discriminate Against Firearm Entities or Firearm Trade Associations, as such capitalized terms are defined in such chapters of the Government Code and subject to the provisions of such chapters of the Government Code.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2023.

THE CITY OF LOCKHART

ATTEST:

Lew White, Mayor

Julie Bowermon, City Secretary

COMPANY:
F3 LOCKHART COMPANY LLC

By: _____
Name: Michael Winston
Title: Authorized Signatory

LESSEE:
F3 ColdCo Lockhart LLC

By: _____
Name: Michael Winston
Title: Authorized Signatory

State of Texas)
)
County of Caldwell)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, 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 _____, 2023, by _____ known to me to be the of F3 Lockhart Company LLC

Notary Public

My Commission expires:

State of _____)
)
County of _____)(

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____ known to me to be the of F3 ColdCo Lockhart LLC

Notary Public

My Commission expires:

EXHIBIT “A”

Certification Regarding Employment of Undocumented Aliens

F3 Lockhart Owner LLC, a Delaware limited liability company (the “**Company**”) and _____ (the “**Lessee**”) hereby certify to the City of Lockhart, Texas that Company and Lessee and any branches, divisions, or departments of Company and Lessee do not and will not knowingly employ an undocumented worker, as that term is defined by Section 2264.001(4) of the Texas Government Code.

F3 Lockhart Owner LLC

By: _____
Name: _____
Title: _____
Date: _____

[Lessee]

By: _____
Name: _____
Title: _____
Date: _____

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion and/or action regarding engagement letter with the law firm of Messer Fort for legal services.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: The current City Attorney, Monte Akers, has announced his retirement at the end of 2023, and this amended engagement letter with his law firm provides that Brad Bullock will succeed Mr. Akers. Legal services provided will be those as city attorney, municipal court prosecutor, and economic development corporation attorney. As discussed with the Council, the rates for legal services will remain at \$185/hr. through the end of Fiscal Year 2025, and travel will be at no cost.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: Discussion at Council Meeting of August 1, 2023.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approval of engagement letter.

LIST OF SUPPORTING DOCUMENTS: Engagement letter with Messer Fort law firm.



October 11, 2023

VIA EMAIL: slewis@lockhart-tx.org

Steven Lewis, City Manager
City of Lockhart
308 W. San Antonio St.
Lockhart, TX 78644

RE: City of Lockhart Legal Services Agreement

Dear Mr. Lewis:

Messer Fort, PLLC (“M&F” or “Firm”) and I appreciate the opportunity to represent the City of Lockhart. This letter outlines some of the specific terms of our engagement. If you have any questions about these matters, please call me.

1. **Client:** Our client will be the City of Lockhart. Our representation in this matter is limited to the City of Lockhart and the term “Client” does not include, and we do not represent, any other entities or individuals.
2. **Scope of Work:** The City of Lockhart hereby engages M&F to perform the following services:
 - a. Serve as the city attorney, attorney for the Lockhart Economic Development Corporation, and the municipal court prosecutor for the City of Lockhart
 - b. Matters as assigned and services mutually agreed upon by the City of Lockhart and M&F; however, either party may request an addendum to this Agreement in a form mutually agreeable to the parties prior to the provision of additional services hereunder.
3. **Conflicts:** M&F represents that it has reviewed its records and has no conflicts of interest involving the City of Lockhart. M&F will do all within reason necessary to prevent and avoid any situation that might constitute a conflict. In the event a conflict arises, M&F shall promptly advise the City of Lockhart of such, in writing, and shall notify the City of Lockhart of M&F’s proposal to resolve the conflict.
4. **Personnel:** M&F has over twenty attorneys, including six partners, in its North Texas office and three partners in its Austin office. Bradford E. Bullock will have the primary responsibility for providing or supervising services for the City of Lockhart. Other M&F lawyers (including less experienced lawyers or contract lawyers selected by M&F) and legal assistants may be involved when M&F believes it would be beneficial or is necessary to serve the City of Lockhart, but Bradford E. Bullock will be the primary contact on matters assigned to M&F under this Engagement Agreement. Attorney resumes can be viewed at www.txmunicipallaw.com.

5. **Results**: Any views M&F expresses about a likely outcome are only expressions of judgment, we do not make representations or guarantees to the City of Lockhart as to the probability of ultimate success or any particular result.

The City of Lockhart acknowledges and agrees that M&F's entitlement to payment for fees and expenses shall not be contingent upon the results obtained or the final disposition of the services for which M&F has been retained.

6. **Records**: The City of Lockhart should retain all originals and copies of documents the City of Lockhart desires for future reference. M&F will retain most of its file(s) for a certain period of time, but ultimately the file will be destroyed in accordance with our record retention schedule. M&F does not contact the client prior to such destruction.

The City of Lockhart recognizes that working papers shall be assembled and accumulated by M&F in connection with this representation, and that same shall belong to and remain the property of M&F.

7. **Litigation Matters**: M&F will represent the City of Lockhart with respect to matters assigned under City of Lockhart, and the City's officers, employees or agents in a lawsuit upon the request of the City of Lockhart. Likewise, we will initiate litigation only at the request of the City of Lockhart as directed.

8. **Fees**: M&F shall bill the City of Lockhart monthly for services rendered and expenses incurred, in the manner agreed to herein, until such time as this Agreement has expired by its own terms or has been terminated. M&F shall separate invoices as requested by the City of Lockhart. Attorney's fees are based upon a consideration of time and labor involved, the skill requisite to perform the services properly, the preclusion of other employment by M&F due to acceptance of the matters identified herein, time limitations imposed by the City of Lockhart or other circumstances, results achieved, experience, reputation and ability, extraordinary time requirements, and M&F's hourly rates. The Firm will bill the City of Lockhart at the following rates:

General Counsel	
Partners	\$185
Associate Attorney	\$185
Paralegal Support	\$85

M&F shall maintain these rates, including no-charge for travel time, until the conclusion of City of Lockhart's Fiscal Year 2025. Upon the conclusion of FY2025, M&F will confer with City of Lockhart regarding a rate review.

Time for legal work is billed in tenth of an hour increments, as follows:

.1 = 6 minutes	.5 = 30 minutes	.9 = 54 minutes
.2 = 12 minutes	.6 = 36 minutes	1.0 = 60 minutes
.3 = 18 minutes	.7 = 42 minutes	
.4 = 24 minutes	.8 = 48 minutes	

Opinion letters for bonds are a flat fee paid from the bond proceeds, if requested. Market rates (non-governmental) will be charged when the City of Lockhart is being reimbursed for legal expenses, such as by a developer or a debt issuance, if applicable. The City of Lockhart understands that the costs of services can be estimated in advance on a per case basis, but no particular amount is guaranteed as the amount of time necessary to spend on a legal matter can be influenced by the actions of third parties. The City of Lockhart further understands that M&F hourly rates may be modestly increased on an annual basis, but that any annual increase shall be no more than ten percent of the current rate.

9. **Billing Practices and Payment:** M&F bills for matters on a monthly basis, and payment is due upon receipt of the statement. We do not bill for expenses associated with our representation except for filing and recording fees, litigation costs, and charges for extraordinary items which may be generated by the particular demands of the project involved.

If experts or consultants are retained or if other support services are required, e.g., mediators, engineers, court reporters, investigators, etc., these individuals or firms will be retained based upon the City of Lockhart consent. The City of Lockhart will be responsible for paying the fees of these individuals or firms, and such payments should be made within thirty days of receipt of their invoice or M&F's invoice containing the charges for the third party. We will advise these individuals or firms that they are being retained by and for the benefit of the City of Lockhart and that the City of Lockhart is responsible for payment of their fees.

If the City of Lockhart has a question about M&F's billing procedures or statements, please ask Bradford E. Bullock. M&F prefers that questions be raised as soon as possible so that we can address the concerns and be certain the City of Lockhart understands our procedures and our statements and is fully satisfied with them.

10. **Termination:** Either party may terminate our representation at any time by notifying the other in writing. In either case, M&F's withdrawal will be accomplished pursuant to applicable ethical requirements. Upon termination of the representation, the City of Lockhart will be obligated to pay for all services rendered and expenses incurred.
11. **Amendments/Modifications:** The City of Lockhart and M&F may amend or modify this Agreement so long as such amendment or modification is reduced to writing and is mutually agreed upon by the City of Lockhart and M&F.
12. **Independent Legal Review:** M&F has written this engagement letter on its own behalf. Please feel free to seek independent legal advice from legal counsel of your choosing in order to review this engagement letter. M&F wishes to provide you ample opportunity to consult with independent counsel, we do not require that you return a signed copy of this letter immediately.
13. **Attorney Complaint Information:** M&F intends to maintain the high standard of ethical conduct towards the City of Lockhart and others as set out and enforced by the State Bar of Texas. If for any reason the City of Lockhart believes an attorney in M&F has violated the written rules of professional conduct for lawyers and/or has questions prior to filing a grievance, the City of Lockhart may either contact the Office of the Chief Disciplinary Counsel of the State Bar of Texas by calling 1-866-224-5999 (toll free) or writing to P.O. Box 12487, Austin, Texas 78711-2487. Please note that by signing the grievance form any attorney-client

privilege which would otherwise keep discussions between your attorney and you confidential will be waived.

14. Press Inquiries: From time to time, we may receive media inquiries concerning the City of Lockhart. Applicable ethical requirements may preclude or limit our response to those inquiries. Subject to ethical limitations, M&F will abide by your instructions concerning whether and in what manner we respond to media inquiries. In the absence of specific instructions, we will respond to such inquiries in accordance with our best judgment, revealing non-confidential information when it is ethical to do so and appears to advance the City of Lockhart' interests.

15. Electronic Mail: In the course of our representation, we may have occasion to communicate with you or with others by electronic mail. Such communications will not be encrypted. Although interception of such communications by a third party would constitute a violation of federal law, we can offer no assurance that such interception will not occur. We will abide by any instructions you may give us concerning electronic mail communications; in the absence of such instructions, we will use our own judgment regarding the advisability of using such means of communication.

16. Miscellaneous: Duplicate counterparts of this Agreement may be or may have been executed by the parties hereto. Each such executed copy or counterpart shall have the full force and effect of an original executed instrument.

Any notice or communication required or permitted hereunder shall be in writing, and shall be sent by (a) personal delivery (provided that such delivery is confirmed by the courier delivery service), or (b) expedited delivery service with proof of delivery, or by United States mail, postage pre-paid, registered or certified mail, or (c) pre-paid facsimile, addressed as follows:

If to the City of Lockhart:

Steven Lewis, City Manager
City of Lockhart
308 W. San Antonio St.
Lockhart, TX 78644

If to the Firm:

Messer Fort, PLLC
Attn: Bradford E. Bullock
4201 W. Parmer Ln., Ste. C-150
Austin, TX 78727

or to such other address or for the attention of such other person as thereafter shall be designated in writing by the applicable parties sent in accordance herewith. Any such notice or communication shall be deemed to have been given at either the time of personal delivery or, in the case of delivery service or certified or registered mail, as of the date of deposit or delivery to the United States Postal Service or expedited delivery service in the manner provided herein, or, in the case of facsimile, upon receipt. Any notice required by this Agreement shall be void and of no effect unless given in accordance with the provisions of this paragraph. Either party hereto may change the address for notice specified above for giving the other party two (2) days' advance, written notice of such change of address.

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Travis, Texas. This Agreement is executed by the authorized agent of the City of Lockhart and M&F, effective as of the date first above written.

17. Texas Lawyer's Creed: On November 7, 1989, the Texas Supreme Court adopted the Texas Lawyer's Creed - a Mandate for Professionalism. Paragraph II, subparagraph 1 of the Creed requires us to advise you of its contents when we undertake representation. A copy of the Creed is enclosed. We intend to abide by the Creed.

If the City of Lockhart agrees with the foregoing, please sign and return one enclosed copy of this letter and retain the other copy for your records to be effective upon execution.

Again, we appreciate you employing Messer Fort, PLLC to represent you and we look forward to working with you and establishing a mutually beneficial relationship.

Sincerely yours,
Messer Fort, PLLC

Bradford E. Bullock

THE CITY OF LOCKHART AGREES TO RETAIN MESSER FORT, PLLC ON THE FOREGOING TERMS.

Steven Lewis, City Manager
City of Lockhart

PRIVACY NOTICE

Attorneys, like other professionals who advise on personal financial matters, are now required by a new federal law to inform their individual clients of their policies regarding privacy of client information. Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by this new law. Therefore, we have always protected your right to privacy.

In the course of providing our clients with advice, we receive significant personal financial information from our clients and from others. If you are a client of Messer Fort, PLLC, you should know that all information that we receive from you or obtain in the course of representing you is held in confidence, and is not released to people outside the firm, except as expressly or implicitly authorized by you in the course of representing you, or as required under applicable law. We maintain physical, electronic, and procedural safeguards that comply with professional standards to protect your personal information.

**THE TEXAS LAWYER’S CREED—
A MANDATE FOR PROFESSIONALISM**

Adopted November 7, 1989

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ORDER OF ADOPTION
THE TEXAS LAWYER’S CREED—A MANDATE FOR
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ORDER OF ADOPTION

The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession’s broader duty to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession.

The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics instead of being part of the solution have become part of the problem.

The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct. These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon re-enforcement by peer pressure and public opinion,

and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence.

These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

We must always be mindful that the practice of law is a profession. As members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt “The Texas Lawyer’s Creed—A Mandate for Professionalism” as attached hereto and made a part hereof.

In Chambers, this 7th day of November, 1989.

TEXAS LAWYER'S CREED

THE TEXAS LAWYER'S CREED—A MANDATE FOR PROFESSIONALISM

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate legal means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this creed when undertaking representation.
2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.

7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.

8. I will advise my client that we will not pursue tactics which are intended primarily for delay.

9. I will advise my client that we will not pursue any course of action which is without merit.

10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.

11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.

TEXAS LAWYER'S CREED

6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.

2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.

3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.

4. I will be punctual.

5. I will not engage in any conduct which offends the dignity and decorum of proceedings.

6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.

7. I will respect the rulings of the Court.

8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.

9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

STANDARDS FOR APPELLATE CONDUCT

Lawyers are an indispensable part of the pursuit of justice. They are officers of courts charged with safeguarding, interpreting, and applying the law through which justice is achieved. Appellate courts rely on counsel to present opposing views of how the law should be applied to facts established in other proceedings. The appellate lawyer's role is to present the law controlling the disposition of a case in a manner that clearly reveals the legal issues raised by the record while persuading the court that an interpretation or application favored by the lawyer's clients is in the best interest of the administration of equal justice under law.

The duties lawyers owe to the justice system, other officers of the court, and lawyers' clients are generally well-defined and understood by the appellate bar. Problems that arise when duties conflict can be resolved through understanding the nature and extent of a lawyer's respective duties, avoiding the tendency to emphasize a particular duty at the expense of others, and detached common sense. To that end, the following standards of conduct for appellate lawyers are set forth by reference to the duties owed by every appellate practitioner.

Use of these standards for appellate conduct as a basis for motions for sanctions, civil liability or litigation would be contrary to their intended purpose and shall not be permitted. Nothing in these standards alters existing standards of conduct under the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure or the Code of Judicial Conduct.

LAWYERS' DUTIES TO CLIENTS

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by a real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest. The lawyer's duty to a client does not militate against the concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of harm on the appellate process, the courts, and the law itself.

1. Counsel will advise their clients of the contents of these Standards of Conduct when undertaking representation.
2. Counsel will explain the fee agreement and cost expectation to their clients. Counsel will then endeavor to achieve the client's lawful appellate objectives as quickly, efficiently, and economically as possible.
3. Counsel will maintain sympathetic detachment, recognizing that lawyers should not become so closely associated with clients that the lawyer's objective judgment is impaired.
4. Counsel will be faithful to their clients' lawful objectives, while mindful of their concurrent duties to the legal system and the public good.
5. Counsel will explain the appellate process to their clients. Counsel will advise clients of the range of potential outcomes, likely costs, timetables, effect of the judgment pending appeal, and the availability of alternative dispute resolution.
6. Counsel will not foster clients' unrealistic expectations.
7. Negative opinions of the court or opposing counsel shall not be expressed unless relevant to a client's decision process.
8. Counsel will keep clients informed and involved in decisions and will promptly respond to inquiries.
9. Counsel will advise their clients of proper behavior, including that civility and courtesy are expected.
10. Counsel will advise their clients that counsel reserves the right to grant accommodations to opposing counsel in matters that do not adversely affect the client's lawful objectives. A client has no right to instruct a lawyer to refuse reasonable requests made by other counsel.
11. A client has no right to demand that counsel abuse anyone or engage in any offensive conduct.
12. Counsel will advise clients that an appeal should only be pursued in a good faith belief that the trial court has committed error or that there is a reasonable basis for the extension, modification, or reversal of existing law, or that an appeal is otherwise warranted.

13. Counsel will advise clients that they will not take frivolous positions in an appellate court, explaining the penalties associated therewith. Appointed appellate counsel in criminal cases shall be deemed to have complied with this standard of conduct if they comply with the requirements imposed on appointed counsel by courts and statutes.

LAWYERS' DUTIES TO THE COURT

As professionals and advocates, counsel assist the Court in the administration of justice at the appellate level. Through briefs and oral submissions, counsel provide a fair and accurate understanding of the facts and law applicable to their case. Counsel also serve the Court by respecting and maintaining the dignity and integrity of the appellate process.

1. An appellate remedy should not be pursued unless counsel believes in good faith that error has been committed, that there is a reasonable basis for the extension, modification, or reversal of existing law, or that an appeal is otherwise warranted.
2. An appellate remedy should not be pursued primarily for purposes of delay or harassment.
3. Counsel should not misrepresent, mischaracterize, misquote, or miscite the factual record or legal authorities.
4. Counsel will advise the Court of controlling legal authorities, including those adverse to their position, and should not cite authority that has been reversed, overruled, or restricted without informing the court of those limitations.
5. Counsel will present the Court with a thoughtful, organized, and clearly written brief.
6. Counsel will not submit reply briefs on issues previously briefed in order to obtain the last word.
7. Counsel will conduct themselves before the Court in a professional manner, respecting the decorum and integrity of the judicial process.
8. Counsel will be civil and respectful in all communications with the judges and staff.
9. Counsel will be prepared and punctual for all Court appearances, and will be prepared to assist the Court in understanding the record, controlling authority, and the effect of the court's decision.
10. Counsel will not permit a client's or their own ill feelings toward the opposing party, opposing counsel, trial judges or members of the appellate court to influence their conduct or demeanor in dealings with the judges, staff, other counsel, and parties.

LAWYERS' DUTIES TO LAWYERS

Lawyers bear a responsibility to conduct themselves with dignity towards and respect for each other, for the sake of maintaining the effectiveness and credibility of the system they serve. The duty that lawyers owe their clients and the system can be most effectively carried out when lawyers treat each other honorably.

1. Counsel will treat each other and all parties with respect.
2. Counsel will not unreasonably withhold consent to a reasonable request for cooperation or scheduling accommodation by opposing counsel.
3. Counsel will not request an extension of time solely for the purpose of unjustified delay.
4. Counsel will be punctual in communications with opposing counsel.
5. Counsel will not make personal attacks on opposing counsel or parties.
6. Counsel will not attribute bad motives or improper conduct to other counsel without good cause, or make unfounded accusations of impropriety.
7. Counsel will not lightly seek court sanctions.
8. Counsel will adhere to oral or written promises and agreements with other counsel.
9. Counsel will neither ascribe to another counsel or party a position that counsel or the party has not taken, nor seek to create an unjustified inference based on counsel's statements or conduct.
10. Counsel will not attempt to obtain an improper advantage by manipulation of margins and type size in a manner to avoid court rules regarding page limits.
11. Counsel will not serve briefs or other communications in a manner or at a time that unfairly limits another party's opportunity to respond.

THE COURT'S RELATIONSHIP WITH COUNSEL

Unprofessionalism can exist only to the extent it is tolerated by the court. Because courts grant the right to practice law, they control the manner in which the practice is conducted. The right to practice requires counsel to conduct themselves in a manner compatible with the role of the appellate courts in administering justice. Likewise, no one more surely sets the tone and the pattern for the conduct of appellate lawyers than appellate judges. Judges must practice civility in order to foster professionalism in those appearing before them.

1. Inappropriate conduct will not be rewarded, while exemplary conduct will be appreciated.
2. The court will take special care not to reward departures from the record.
3. The court will be courteous, respectful, and civil to counsel.
4. The court will not disparage the professionalism or integrity of counsel based upon the conduct or reputation of counsel's client or co-counsel.
5. The court will endeavor to avoid the injustice that can result from delay after submission of a case.
6. The court will abide by the same standards of professionalism that it expects of counsel in its treatment of the facts, the law, and the arguments.
7. Members of the court will demonstrate respect for other judges and courts.

STANDARDS OF PRACTICE TO BE OBSERVED BY ATTORNEYS APPEARING IN CIVIL ACTIONS

Adopted in *Dondi Properties Corp. v. Commerce Sav. and Loan Assn*,
121 F.R.D. 284 (N.D. Tex., July 14, 1988)

- A. In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.
- B. A lawyer owes, to the judiciary, candor, diligence and utmost respect.
- C. A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.
- D. A lawyer unquestionably owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.
- E. Lawyers should treat each other, the opposing party, the court, and members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.
- F. A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.
- G. In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.
- H. A lawyer should not use any form of discovery or the scheduling of discovery, as a means of harassing opposing counsel or counsel's client.
- I. Lawyers will be punctual in communications with others and in honoring scheduled appearances and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.
- J. If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.
- K. Effective advocacy does not require antagonistic or obnoxious behavior and members of the Bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion and/or action to adopt an Interlocal Agreement with Caldwell County for Emergency Medical Services.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: Following termination of the City's EMS contract with Seton, the City and County negotiated this ILA whereby the City will provide EMS services in the City and that portion of the County previously served by Seton (designated Lockhart 1 and Lockhart 2). Under the ILA, which was adopted by the Caldwell County Commissioners Court on October 10, 2023, the City will provide EMS services in the designated service area, for which the County will pay the City \$350,000 annually, plus up to \$200,000 for capital expenses. The County and City will meet informally to produce a mutually agreeable budget for EMS. The term of the ILA is from October 1, 2023, to September 30, 2024, and will automatically extend for an additional year unless a party provides the other party with notice of termination by July 1, 2024. Either Party may terminate the ILA for convenience by providing the other party with 30 days' notice of termination.

PROJECT SCHEDULE (if applicable): N/A

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION: Discussion only at previous Council meetings.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Approval of ILA.

LIST OF SUPPORTING DOCUMENTS: ILA, as approved by the Caldwell County Commissioners Court on Oct. 10, 2023.

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN
CALDWELL COUNTY AND THE CITY OF LOCKHART
FOR
EMERGENCY MEDICAL SERVICES**

WHEREAS, the Commissioners Court of Caldwell County, Texas (the "County") is a political subdivision of the State of Texas authorized to provide emergency medical services, including emergency ambulance services, pursuant to Chapter 774, Texas Health and Safety Code;

WHEREAS, the City of Lockhart (the "City") is a home rule city within Caldwell County that is authorized to provide EMS services, including emergency ambulance services, pursuant to Chapter 774, Texas Health and Safety Code;

WHEREAS, the City is an EMS provider, licensed under Chapter 773, Texas Health and Safety Code;

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, authorizes local governments to enter into interlocal agreements to improve the efficiency and effectiveness of local governments by authorizing the fullest possible range of intergovernmental contracting authority at the local level, including contracts between counties and cities;

WHEREAS, the County is authorized to provide for emergency ambulance service in the County pursuant to Section 774.003(a) of the Texas Health and Safety Code and, in providing said service, the County may contract with a municipality "to provide efficient emergency ambulance service" in the County pursuant to Section 774.003(b) of the Texas Health and Safety Code and "may expend county funds to defray the expense of establishing, operating, and maintaining the emergency ambulance service in the county" pursuant to Section 774.003(c) of the Texas Health and Safety Code; and

WHEREAS, the County and City desire to enter into an agreement whereby emergency medical services, including emergency ambulance services, will be provided by the City within the city and certain incorporated and unincorporated areas of the county.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, the County and the City agree as follows:

**ARTICLE I
SERVICES**

Section 1.01. **PROVISION OF EMS.** On the condition that the City is able to provide reasonable protection for the citizens of Lockhart, and subject to any approval requirements under Section 774.003, Texas Health and Safety Code, the City will provide emergency medical services, including emergency ambulance services, in the incorporated and unincorporated areas of Caldwell County, labeled as "Lockhart 1" and "Lockhart 2" as depicted in Exhibit 'A,' attached to and incorporated into this Agreement for all purposes. Services shall be provided only as reasonably required to meet the medical needs of emergency medical services patients, and performed in accordance with accepted standards of emergency medicine.

Section 1.02 **DECLARED DISASTER.** In the event of a declared or other disaster, and as determined by the appropriate authority having jurisdiction under applicable law, the City will fully cooperate and assist the County, or any other authority having jurisdiction within the Service Area, in accordance with state and federal law.

Section 1.03. **BILLING SERVICES.** For purposes of providing billing services on behalf of the County, the County appoints the City to be its authorized billing agent for all service claims during the term of this Agreement. The City shall bill all County claims arising from this Agreement. The City may engage a third-party billing service to satisfy this Section.

Section 1.04. **EMS DIRECTOR.** The City will provide an individual to serve in the capacity of an EMS Director for the City's EMS Department, subject to the following minimum qualifications and duties:

- (a) **QUALIFICATIONS.** The EMS Director will, at a minimum, have:
 - (1) Current certification as an emergency medical technician-paramedic (EMT-P), as issued by the Texas Department of State Health Services;
 - (2) At least five (5) years of field experience; and
 - (3) At least three (3) years of EMS management experience; ~~and~~
- (b) **DUTIES.** The EMS Director will, among other duties as prescribed by the City, be responsible for:
 - (1) Oversight of all aspects of the City's EMS Department operations, including field and office operations, disaster response, EMS compliance issues, and budgeting and staffing responsibilities;
 - (2) Preparation of an annual budget and recommendations for the budget;
 - (3) Recommendations relevant to any significant purchases or special operational needs;
 - (4) Development and periodic revision, as necessary, of written EMS dispatching protocols, and any other protocols and procedures required for or relevant to the City's delivery of emergency medical services;
 - (5) Coordination of all staff scheduling and EMS Department coverage needs;
 - (6) Monitoring and verification of all relevant EMS Department staff qualifications and credentials;
 - (7) Supervision of EMS staff and delegation of authority to individuals assisting with EMS operations management, continuing education coordination, and emergency care management;
 - (8) Monitoring, scheduling, and direction of maintenance to for EMS Vehicles and equipment;
 - (9) Fulfilling any other obligations assigned to the EMS Director pursuant to this Agreement; and
 - (10) Coordination of the EMS Department generally with, and reporting as required to:
 - (A) The City Manager and City Council;
 - (B) The County Judge, the Commissioners Court, and the County Auditor;
 - (C) Other interested parties relevant to all service area agreements, area emergency operations, disaster coordination, and mutual aid.

Section 1.05. **STAFFING.** The City agrees to employ, or contract with, trained, licensed, and certified emergency medical services personnel for purposes of staffing the City's EMS Department to provide emergency medical services, including emergency ambulance services, pursuant to this Agreement.

- Section 1.06. **LICENSURE AND CERTIFICATION.** During the term of this agreement, the City will maintain all federal and state licenses and certifications, including continuing education requirements, necessary for the City to operate its EMS Department. The EMS Director will be primarily responsible for monitoring and coordinating the EMS Department's compliance with all relevant standards required to maintain such licenses and certificates, including continuing education requirements, and directing action as necessary to maintain the same. The City agrees to maintain and make available to the County for inspection or copy, upon request, current information for all EMS Department personnel as permitted by state law, including necessary licenses, certifications, controlled substances certificates, continuing education requirements, driver's licenses and required insurance coverage, and criminal history checks required for each person providing emergency medical services under this Agreement.
- Section 1.07. **BRIEFING AND INPUT.** Upon reasonable request by the County, the City Manager will confer with the County for the purposes of exchanging suggestions, input, and recommendations concerning all expenditures and revenue related to emergency medical services under this Agreement.
- Section 1.08. **FACILITY VISITATIONS.** The County will have the right to visit City emergency medical services facilities, and will have the right to discuss with the City matters that are of mutual concern. Such visitations are subject to the timely notification and approval of the City Manager, whose approval will not be unreasonably withheld.
- Section 1.09. **BUDGET WORKSHOPS.** The City will prepare and provide to the County a proposed emergency medical services department budget, with recommendations. By the end of April of the initial term or any subsequent renewal term, the City and the County agree to informally meet to discuss the services provided pursuant to this Agreement to produce a mutually satisfactory departmental budget. At said meeting(s), the Parties shall make a reasonable effort to ensure the attendance of the County Judge, a County Commissioner, the Mayor, the City Manager, an Assistant City Manager, the EMS Director, and the Parties' respective legal counsel. The Parties affirm and acknowledge that each Party has sole discretion in establishing their respective budgets.
- Section 1.10. **COMPLIANCE WITH LAW.** Each Party shall ensure that all applicable laws and rules have been satisfied.

ARTICLE II COST AND PAYMENT

- Section 2.01. **PAYMENT FOR SERVICES.** The County will pay the City \$350,000.00 annually, which shall consist of eleven monthly installments of \$29,166.66 and one installment of \$29,166.74, for services performed pursuant to this Agreement. In addition to the foregoing payment, the County authorizes the City to retain any fees charged and collected pursuant to Section 2.03 of this Agreement. Payment under this Section shall be made no later than the 15th day of each month during any term of this Agreement.
- Section 2.02. **PAYMENT FOR CAPITAL EXPENSES.** Notwithstanding Section 2.01 of this Agreement, and upon written request by the City, the County will pay the City one-half of actual costs expended by the City for capital assets, not to exceed \$200,000.00. Any expenditure for which the City seeks payment under this Section is subject to the County's consent, not to be unreasonably withheld.

Section 2.03. **AUTHORIZATION TO COLLECT FEES.** When responding to a call-for-service outside the City's corporate limits, the City is authorized to charge and collect fees consistent with a fee schedule established by the County for emergency medical services provided outside the City's corporate limits. The County reserves the right, from time to time, to review and update the established fee schedule to be consistent with the latest Centers for Medicare & Medicaid Services (CMS) fee schedule provided to the City by the City's billing service.

Section 2.04. **PAYMENT FROM CURRENT REVENUES.** Each Party's performance under this Agreement is conditioned on the appropriation of funds by said Party on a yearly basis, and constitutes a commitment of current revenues only. In the event that a Party fails to appropriate funds sufficient for the performance of the Party's obligations under this Agreement, said Party will provide notice to the other Party that insufficient funds have been appropriated to satisfy the party's financial obligations under this Agreement. Failure of a Party to sufficiently appropriate funds shall be grounds for termination of this Agreement.

ARTICLE III TERM & TERMINATION

Section 3.01. **INITIAL TERM.** Regardless of the execution date of this Agreement, the initial term will begin on October 1, 2023, and expire on September 30, 2024.

Section 3.02. **RENEWAL TERM.** This Agreement will renew automatically on October 1, 2024 and expire on September 30, 2025, unless a Party provides the other Party with a notice of termination no later than July 1, 2024.

Section 3.03. **TERMINATION FOR CONVENIENCE.** Either Party may terminate this Agreement without cause by providing the other party notice of termination at least 30 days prior to the termination date identified in said notice.

ARTICLE IV RECORDKEEPING

Section 4.01. **SEMIANNUAL REPORTS.** As soon as practicable after the end of a six-month period, beginning on October 1 of the initial term or any renewal term, the City shall compile and detail any metrics reasonably believed by the City to demonstrate the quality, efficiency, and effectiveness of providing EMS services, including ambulance services, during that quarter. Reported metrics should include:

- (1) Itemized costs of operation and supplies;
- (2) Revenues;
- (3) Number of calls for service;
- (4) Number of total responses;
- (5) Number of patients transported;
- (6) Average chute time;
- (7) Average response time;
- (8) High-volume response locations; and
- (9) High-volume periods for calls for service.

Section 4.02. **FINANCIAL RECORDS.** Upon written request by the County, the City will make its financial records related to the provision of emergency medical services as contemplated by this Agreement available for review, inspection, or audit by Caldwell

County. Financial records include revenue, expenses, budget data, billing, collection, or any other record that pertains to services provided pursuant to this Agreement. The County will timely notify the City of its intent to audit said records, which shall not interfere with the City's day-to-day functions.

Section 4.03. **RECORDKEEPING.** The City will keep all records required to account for and reflect all services provided by the City under this Agreement. All public records will be subject to disclosure, pursuant to Chapter 552, Texas Government Code.

Section 4.04. **HHS PRIVACY REGULATIONS.** The Health Insurance Portability and Accountability Act (HIPAA), requires that the City offer assurances to the County that the City will safeguard any protected health information received or created on behalf of the County. Pursuant to this requirement, the Parties further agree to execute a HIPAA-compliant Standard Business Associate Contract.

ARTICLE V MISCELLANEOUS

Section 5.01. **SEVERABILITY.** If any provision of this Agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions.

Section 5.02. **FORCE MAJEURE.** Either of the parties to this Agreement shall be excused from any delays and/or failures in the performance of the terms and conditions of this Agreement, to the extent that such delays and/or failures result from causes beyond the delaying/failing party's reasonable control, including but not limited to war (whether declared or not), armed conflict or the serious threat of the same (including but not limited to hostile attack, blockade, military embargo), hostilities, invasion, act of a foreign enemy, extensive military mobilization, civil war, riot, rebellion, revolution, military or usurped power, insurrection, civil commotion or disorder, mob violence, act of civil disobedience, act of terrorism, sabotage or piracy; plague, epidemic, pandemic, outbreaks of infectious disease or any other public health crisis, including quarantine, social distancing, isolation or other behavioral restrictions; act of authority whether lawful or unlawful, compliance with any law or governmental order, rule, regulation or direction, curfew restriction, expropriation, compulsory acquisition, seizure of works, requisition, nationalization; act of God or natural disaster such as but not limited to violent storm, cyclone, typhoon, hurricane, tornado, earthquake, landslide, flood, damage or destruction by lightning, drought; explosion, fire, destruction of machines, equipment and of any kind of installation, prolonged breakdown of transport, telecommunication or electric current; shortage or inability to obtain critical material or supplies to the extent not subject to the reasonable control of the subject party ("force majeure event ") whether foreseeable or unforeseeable by the parties at the time of the execution of this Agreement. Any delaying/failing party shall, with all reasonable diligence, attempt to remedy the cause of delay and/or failure and shall recommence all remaining duties under this Agreement within a reasonable time of such remedy.

Section 5.03. **NOTICE.** Any notice required under this Agreement will be given in writing and may be effected by certified or registered mail, return receipt requested, to the following:

TO COUNTY:	Caldwell County Judge 110 S. Main Street, Room 101 Lockhart, Texas 78644
WITH A COURTESY COPY TO:	District Attorney's Office Attn: Civil Division 1703 S. Colorado St., Box 5 Lockhart, Texas 78644
TO CITY:	The City of Lockhart Attn: City Manager P.O. Box 239 308 W. San Antonio Street Lockhart, Texas 78644

Any party to this Agreement may provide a change of address by written notice to the other party.

- Section 5.04. **LIABILITY.** All parties to this Agreement agree to be responsible, in accordance with applicable state or federal law, each for their own negligent acts or omissions, or other tortious conduct in the course of performance of this Agreement without waiving any sovereign immunity, governmental immunity, statutory immunity, or other defenses available to the parties under federal or state law. Nothing in this paragraph will be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities. All parties agree that any such liability or damages occurring during the performance of this Agreement caused by the joint or comparative negligence of the parties, or their employees, agents, or officers will be determined in accordance with comparative responsibility laws of Texas, but only to the extent such laws are applicable to the party.
- Section 5.05. **Waiver.** No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provision of this Agreement except by written instrument of the party charged with such waiver and estoppel.
- Section 5.06. **VENUE AND JURISDICTION.** Venue will lie in the district courts serving Caldwell County, Texas, and are the exclusive jurisdiction and venue for any lawsuit, cause of action, temporary restraining order, temporary injunction, injunction, petition for extraordinary relief, mandamus, or any other legal proceeding or claim arising out of the performance of this Agreement. This Agreement will be governed and interpreted by the laws of the State of Texas.
- Section 5.07. **ENTIRE AGREEMENT.** This Agreement, including any exhibits or attachments, contains the entire agreement between the County and the City concerning the duties required by this Agreement. The Parties hereby expressly warrant and represent that they are not relying on any promises or agreements that are not contained in this Agreement concerning any of the terms in this Agreement. Except otherwise specified in this Agreement, no modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties hereto.
- Section 5.08. **PLURALITY, GENDER, AND HEADINGS.** In this Agreement, words in the singular number include the plural, and those in the plural include the singular. Words of any

gender also refer to any other gender. Headings in this Agreement are descriptive only, and not terms of inclusion or exclusion.

- Section 5.09. **NO JOINT VENTURE.** Nothing in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties, and any implication to the contrary is expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint any Party as an agent of another for any purpose whatsoever. Except as otherwise specifically provided herein, no Party shall in any way assume any of the liability of the other for acts of the other or obligations of another.
- Section 5.10. **DEFAULT, NON-WAIVER, CUMULATIVE RIGHTS, AND MITIGATION.** It is not a waiver of Agreement default if the non-defaulting party fails to immediately declare a default or delays in taking any action. The rights and remedies provided by this Agreement are cumulative, and no party's use of any right or remedy will preclude or waive its right to any other remedy. These rights and remedies are in addition to any other rights the parties may have by law, statute, ordinance, or otherwise. All parties have a duty to mitigate damages. The waiver by any Party of a breach of this shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision. Nothing in this Agreement is intended by any Party to constitute a waiver of any immunity from suit or liability to which it is entitled under applicable law.
- Section 5.11. **ASSIGNMENT.** The Parties may not assign their rights and interests under this Agreement to any other party, unless approved in writing by the Parties. In the event of such assignment or in the event of legal succession of a Party's interest in this Agreement by operation of law, this Agreement shall be binding on the assignees and inure to the benefit of the Parties.
- Section 5.13. **REVIEW BY COUNSEL.** The County and the City acknowledge that each party has received and had the opportunity to review this Agreement, and each party has had the opportunity, whether exercised or not, to have each respective party's attorneys review this Agreement. The parties agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement, or any amendments or exhibits hereto.
- Section 5.14. **SIGNATORY WARRANTY.** The signatories for the County and the City represent that each has the full right, power, and authority to enter into and perform this Agreement in accordance with all of its terms and conditions, and that the execution and delivery of this Agreement has been made by authorized representatives of the Parties to validly and legally bind the Parties to all terms, performances, and provisions set forth in this Agreement.

**[THIS SECTION LEFT INTENTIONALLY BLANK]
[SIGNATURES FOLLOW ON FOLLOWING PAGE]**

Section 5.15. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

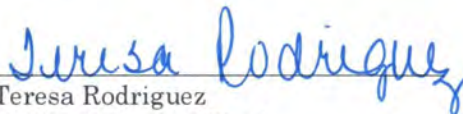
IN WITNESS HEREOF, the parties hereto have executed this Agreement on this the 10th day of October, 2023

CALDWELL COUNTY, TEXAS:



Hoppy Haden
Caldwell County Judge

Attest:



Teresa Rodriguez
Caldwell County Clerk

THE CITY OF LOCKHART:

Steve Lewis
Lockhart City Manager

Attest:

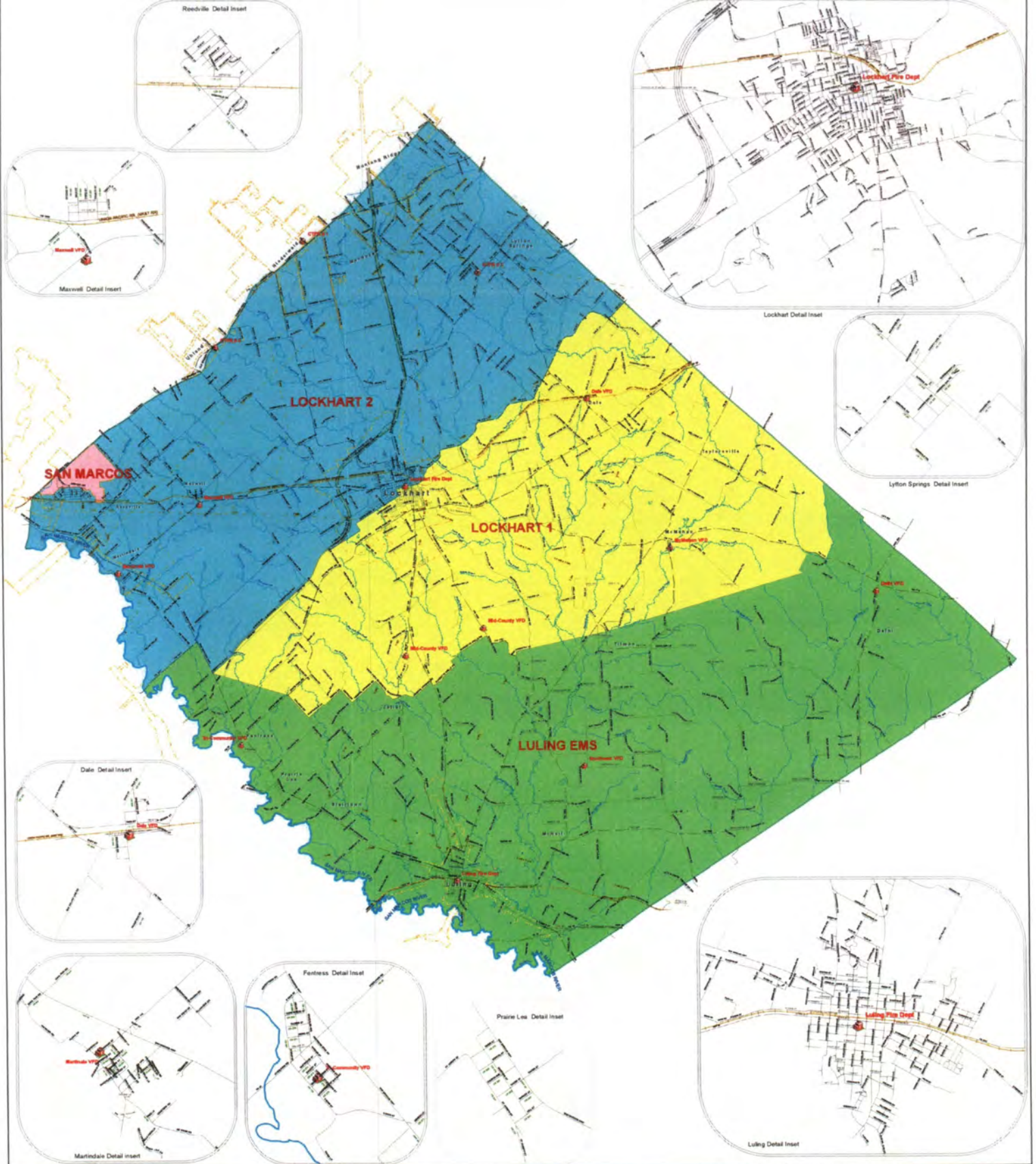
Julie Bowermon
Lockhart City Secretary



EXHIBIT 'A'

SERVICE MAP

INTERLOCAL COOPERATION AGREEMENT BETWEEN CALDWELL COUNTY AND THE CITY OF LOCKHART FOR EMERGENCY MEDICAL SERVICES



Caldwell County EMS Districts

The original Fire District boundaries were approved by the County Commissioners' in 1991. Umland VPD, Helderwald VPD, & Lytton Springs VPD combined to be Chisholm Trail Fire & Rescue in 2003. Chisholm Trail Fire & Rescue created ESD #1 in 2007 by voters. Maxwell Fire District created ESD #2 in 2008 by voters. ESD #2 annexed some area from Martindale VPD in 2011 by voters.

Each time the City of Lockhart adopts new annexed properties, then each appropriate VPD will forfeit that area and the City of Lockhart will add that area to their fire district.

This map is being provided as a courtesy and should only be used as a general guide. It is not a guarantee of location, configuration, size or title. No warranty is expressed or implied to any user for any purpose.

Additionally, neither this document nor any other document provided by the Caldwell County Appraisal District purports to authorize entry onto privately owned property.



Printed by Caldwell County Appraisal District Date Printed: Monday, February 09, 2015

Legend	
Caldwell_EMS_Districts	LOCKHART 2
District	LULING EMS
	LOCKHART 1
	SAN MARCOS

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion and/or action to consider the purchase of a 2023 Ford F-450 diesel ambulance chassis through Sterling McCall Ford utilizing the Houston Galveston Area Council (HGAC) Purchasing Cooperative and authorizing the City Manager to execute a Purchase Order for the ambulance chassis.

ORIGINATING DEPARTMENT AND CONTACT: EMS - EMS Director Cean Charles, Fire Chief Randy Jenkins

ACTION REQUESTED: Approval of Bid

BACKGROUND/SUMMARY/DISCUSSION: The 2023 Ford F-450 diesel chassis will be used to power a new Frazer custom ambulance to be built for Lockhart EMS. Due to the short supply of ambulance chassis, it must be guaranteed with a purchase order as soon as a chassis becomes available. A new Type I 14' Module (patient transport area) will be constructed to mount on the Ford F-450 chassis. The Module and related expenses will be requested with a separate purchase order when it is time to begin construction of the Module.

The new Frazer ambulance, when completed, will be deployed by Lockhart EMS to respond to emergency medical calls and non-emergency transport in the City of Lockhart, the northern portions of Caldwell County, and mutual aid requests.

The new Frazer ambulance, when completed, will replace Medic 2, a 2017 Ford Demers with approximately 260,000 miles. Best practice is to move an ambulance from the front-line to reserve at approximately 125,000 miles and replace or remount at 250,000 to 300,000 miles.

The cost of the Ford F-450 Chassis, including HGAC fees, is \$72,250. The total cost of the ambulance when completed will be approximately \$300,000. Caldwell County has agreed to reimburse Lockhart for one-half of the total cost of the new ambulance.

The delivery time of the Ford F-450 chassis is November 2023. The Frazer ambulance manufactured in Houston, TX will be completed by late summer/fall 2024.

PROJECT SCHEDULE (if applicable): The delivery time of the Ford F-450 chassis is November 2023. The Frazer ambulance manufactured in Houston, TX is estimated to be completed by late summer/fall of 2024.

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$ 72,250

Account Number: 570-5319-906-00

Funds Available: \$ 305,000

Account Name: Motor Vehicles

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable): The total cost of the ambulance (not including internal machinery and equipment) when completed will be approximately \$300,000. Caldwell County has agreed to reimburse Lockhart for one-half of the total cost of the new ambulance.

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends the purchase of a 2023 Ford F-450 diesel ambulance chassis through Sterling McCall Ford utilizing the Houston Galveston Area Council (HGAC) Purchasing Cooperative.

LIST OF SUPPORTING DOCUMENTS: Lockhart EMS PA Estimate Q3277-1 (1), Lockhart Estimate Q3277-1

Purchase Agreement

This PURCHASE AGREEMENT made this 4th day of October, 2023 between ("Vendor") Sterling McCall Ford located at 6445 Southwest Freeway Houston, TX 77074 and Lockhart EMS located at 214 Bufkin Lane Lockhart, TX 78664 ("Customer"). WHEREAS, Vendor desires to sell and Customer desires to purchase certain products, and/or services more specifically described in Q3277-0001 dated 10/4/2023 for the total amount of \$ 293,625.00 (hereafter "Products"),

Chassis details

- **Chassis Make: Ford**
- **Chassis Model: F-450**
- **Qty ordered: 1**
- **Quoted chassis price (each): \$72,250.00**

NOW THEREFORE, the parties hereto, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby agree as follows:

1. Vendor agrees to sell and schedule pickup/delivery as described in Q3277-0001 dated 10/4/2023 and Customer shall purchase from Vendor, the Products for the prices as set forth in detail on Q3277-0001 dated 10/4/2023.
2. The sale of the Products is governed by the terms and conditions set forth on Exhibit A, which is attached hereto and made a part hereof.
3. The Term of this Agreement shall commence on October 4th, 2023 and expire 1 year from execution date.
4. If the parties have entered into any additional covenants, promises, terms and conditions not otherwise specified herein or in any schedule or Exhibit hereto, said special provisions shall be set forth in Exhibit A. If there shall be any conflict within the provisions of this Agreement, the following order of priority shall apply: this PURCHASE AGREEMENT, Exhibit A, Customer's purchase order, Vendor's invoice.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement as of the day and year first above written.

Title Information

Enter Exactly as it needs to appear

Owner

Name:

Address:

Lien Holder (If Applicable)

Name:

Address

:

Purchase Agreement Signature Page

Lockhart EMS

Sign: _____

Print: _____

Title: _____

Date: _____

Frazer, Ltd.

Sign:  _____

Print: Adam Fischer _____

Title: Vice President, Sales & Marketing _____

Date: 10/4/2023 _____

LIST OF EXHIBITS:

EXHIBIT A: Standard Terms and Conditions

EXHIBIT A

Standard Terms and Conditions

INVOICING AND PAYMENT TERMS: Vendor shall submit one (1) original invoice per payment due. The invoice(s) shall include the items listed in accordance with the quote mentioned in the Sale Agreement with reference to the Customer's Purchase Order Number.

If the Sale Agreement provides for any progress (or advance) payments based on specific milestones or activities, Vendor's invoice shall certify to the accomplishment or performance by Vendor of said milestone or activity, and that Customer has obtained a security interest in such Products to the extent of such payment.

Payment shall be due upon receipt of the invoice and delivery of the unit to the Customer unless previously negotiated.

CANCELLATION POLICY: Cancellation of orders must be received 120 days prior to the agreed upon delivery date. If the order is canceled within the 120 day window, a fee of 25% of the total purchase order price will apply.

DELIVERY TERMS: The products listed in the estimate are to be delivered Free On Board (FOB) Destination to Houston, TX. Customer representative(s) will pick up the unit at upfitter location, 7219 Rampart St., Houston, TX 77081 and transport it to their final destination at customer expense unless otherwise specified in the Vendor quote.

TERMINATION FOR CAUSE: Customer may terminate this Sale Agreement and any corresponding Purchase Order, or any part thereof, for cause including, but not limited to the following Vendor actions: (1) any default or breach of any of the terms and conditions of the Sale Agreement, (2) failure to provide Customer, upon request, a reasonable assurance of future performance, or (3) bankruptcy, dissolution, or suspension of payments by judicial decree. If Vendor does not cure such failure within a period of five (5) days or such a longer period as Customer may authorize in writing after the date such notice is sent to Vendor, then termination may proceed.

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CHANGE ORDERS: Vendor has the right to modify the Purchase Order requirements and conditions as needed and will advise Customer in writing of such requested changes. Vendor shall not proceed with any changes without Customer's written authorization. Any request by Customer to change the terms or conditions of the Purchase Order, including product specifications, options, and price, must be made in advance of the production job order release. Any changes made after the release of the production job order will incur a \$350 fee per change order made in a 24 hour period and will be included on a secondary invoice. Vendor reserves the right to refuse changes requested by the Customer.

PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING: All commercial, financial or technical information in any form that Vendor provides to Customer shall be deemed proprietary and confidential and Customer shall not disclose such information to third parties without Vendor's written consent. Termination of the Sale Agreement shall not relieve Customer of this confidentiality obligation. Upon Vendor's request, Customer shall return all confidential information to Vendor along with any reproductions, in whole or in part. The confidentiality obligation does not apply to information that is in the public domain through no fault of Customer or to information lawfully within Customer's possession prior to the date of the Purchase Order, as evidenced by Customer's written records.

INDEMNIFICATION: Customer shall fully release, indemnify, defend and hold harmless Vendor, its co-venturers, its contractors, and their respective affiliates, and Vendor's and their respective directors, officers and employees (including agency personnel) ("Vendor Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Vendor Group as it pertains to Vendor's Products.

Vendor shall fully release, indemnify, defend and hold harmless Customer, its co-venturers, its contractors, and their respective affiliates, and the Customer's and their respective directors, officers and employees (including agency personnel) ("Customer Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Customer Group as it pertains to Vendor's Products.

Customer Initials: _____

LIMITATIONS ON DAMAGES: In the event of any dispute, disagreement or breach alleged by Customer on the part of Vendor, Customer's exclusive and sole remedy shall be repair or replacement, if practical, of the module, or component part, by Vendor. If Vendor is not able to effectuate a repair, replacement, or cure that brings the module, or component part, into compliance with the Parties' agreement, then Vendor shall refund the sale price to Customer. In no event shall Vendor be liable to Customer, or to any third-party acting through Customer, for any additional, consequential or punitive damages, or damages for lost sales, revenue or profits claimed by Customer or any third-party acting through Customer.

FORCE MAJEURE: A force majeure delay shall mean any delay or other unforeseeable causes beyond the reasonable control of the party affected, provided that any such delay is not caused, in whole or in part, by the acts or omissions of the party so delayed and further provided that such party is unable to make up for such delay with reasonable diligence and speed. If any such cause delays Vendor's performance, the delivery date or time for completion may be extended by a period of time reasonably necessary to overcome the effect of such delay; however, Vendor shall take all reasonable measures to mitigate the effects of the force majeure event and to minimize such delay. A party affected by a force majeure event shall notify the other party of such force majeure event within forty-eight (48) hours of its knowledge of such event for the event to be considered a bona fide force majeure event.

TITLE AND RISK OF LOSS: Title to the Products shall transfer to Customer upon receipt of Products by Customer or its agent unless otherwise stated in the Sale Agreement. Notwithstanding the above, risk of loss of the Products shall remain with Vendor until delivered to Customer.

WAIVER: Vendor's failure to exercise or enforce any right in the Purchase Order, or any other right or privilege under law, or Vendor's waiver of any breach by Customer shall not constitute a waiver or modification of any terms, conditions, privileges or rights whether of the same or similar type, unless Vendor gives such waiver in writing.

LIENS: Vendor waives and relinquishes all existing and future liens and claims (statutory or otherwise) for the Products specified in the Purchase Order, and warrants that the Products will be free and clear of all liens, claims or encumbrances of any kind.

INSPECTION, REVIEW AND WITNESSING: Customer and/or the ultimate owner of the Products have the right to inspect and attend testing of the Products at Vendor's premises (or its supplier's or subcontractor's premises) with reasonable advance notice. If any inspection is made on the premises of Vendor or its supplier, Vendor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

APPLICABLE LAW AND VENUE: The Sale Agreement shall be governed and interpreted in accordance with the laws of the State of Texas, without reference to any principle of conflict of laws. Customer and Vendor expressly exclude the application of the Convention on International Sale of Goods to the Sale Agreement. Venue for all judicial, administrative, or regulatory proceedings shall be Houston, Harris County, Texas.

OWNERSHIP OF DOCUMENTS: Title to all drawings, specifications, calculations, technical data and other documents that Customer submits in accordance with the Purchase Order shall vest with Vendor. Vendor shall have the right to use such documents for any purpose pertaining to the manufacture, assembly, and delivery of the Products.

Title to all drawings, specifications, calculations, technical data, and other documents that Vendor submits to the Customer shall vest with the Customer. Customer shall have the right to use such documents for any purpose pertaining to the installation, operation, and maintenance of the Products.

INSURANCE: Vendor shall comply with the project insurance requirements for which the Products are being provided. Customer shall provide specific reasonable levels required as soon as such levels are available, which shall not exceed \$1,000,000 for any non-statutory category other than excess liability umbrella, which shall not exceed \$4,000,000. When requested by Customer, Vendor shall provide certificates of insurance as proof of same.

SURVIVAL: The provisions of the following Paragraphs of these Terms and Conditions shall survive any cancellation or termination of the Purchase Order: (Proprietary Information, Confidentiality and Advertising), (Indemnification), (Liens), and (Applicable Law and Venue).

Customer Quote



10/4/2023 4:23:49 PM

Estimate No: Q3277-0001
Quote Date: 10/4/2023
Expiration Date: 11/18/2023
Salesperson: KS
Payment Terms: Due on Delivery

Invoice To: 11552
Cean Charles
Lockhart EMS
City of Lockhart
214 Bufkin Lane
Lockhart TX 78664
US

Deliver To:
Cean Charles
Lockhart EMS
City of Lockhart
214 Bufkin Lane
Lockhart TX 78664
US

Order Instructions:

* Limited Edition Discount applied. Changes to the specification may affect the discount.*

No.	Item	Qty	U/M:		Unit Price		Net Amount
1	MODULE Type I 14' Module	1.00	EA	\$	231,375.00	\$	231,375.00
2	CHASSIS 2023 Ford F-450 Diesel	1.00	EA	\$	71,250.00	\$	71,250.00
Using Stock w/Vin #:1FDUF4GT3PDA19759, Expected to hit the ground early November Chassis only must be paid for at time of arrival to dealership. Balance will be invoiced 30 days prior to unit completion and will be due at time of delivery.							
3	DELIVERY Customer Pick Up: FOB Frazer	1.00	M	\$	0.00	\$	0.00
4	HGAC-NEW Contract No. AM10-23	1.00	EA	\$	1,000.00	\$	1,000.00
5	SpecDoc Configurable item to create the SpecDoc	1.00	EA	\$	0.00	\$	0.00

Frazer will accept returns on parts up to 180 days after shipment. No restocking fee will be charged if the item is returned within 90 days of the original invoice date. All parts returns should be shipped back freight prepaid and require prior approval with a "Returns Material Authorization" (RMA) clearly displayed on the exterior of the shipping package. A credit will be issued towards the customer's account within approximately 7 business days of receipt of the item. If a part is returned after 90 days of the original invoice date a 15% restocking fee will be applied. Frazer Ltd reserves the right to accept returned items at its sole discretion based upon the condition of the item to be placed back into stock. :

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Remit To:							
Frazer, Ltd.					Sale Amount:		
7219 Rampart Street					Order Disc(3.2935%):		
Houston TX 77081					Surcharge:		
					Sales Tax:		
					Misc Charges:		
					Total Amount:		

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For your convenience, all pricing has been itemized below per quote Q3277-0001 for Lockhart EMS

Base Module	\$ 147,050.00
Chassis Exterior	\$ 24,725.00
Module Exterior	\$ 33,775.00
Chassis Interior	\$ 6,850.00
Module Interior	\$ 18,975.00
Total \$	231,375.00

Items included in above totals:

1. Type I 14' Module - Side Entry Door Forward of Front I/O Configuration	\$ 6,150.00
2. This is a CAAS GVS v3.0 Unit	\$ incl

Chassis Exterior:

3. Heat Shielding for Diesel Chassis	\$ 2,025.00
4. Chassis Paint Layout: Keep Factory Paint Color - White	\$ incl
5. Chassis : 2023 Ford F-450, Diesel, 4x2, Regular Cab, 108" Cab to Axle, Z1 - Oxford White	\$ incl
6. Suspension: LiquidSpring	\$ 15,550.00
7. Wheel type: Factory Aluminum	\$ incl
8. Dual Dynamics Valve Stem Extender with Equalization and Pressure Indicator	\$ 375.00
9. Road Force Elite tire and wheel balancing	\$ incl
10. Chassis Steps: ArcRite with Sure Grip	\$ 1,350.00
11. Grille Guard: Full Replacement Bumper	\$ 1,750.00
12. 10" and 12" Air Horns	\$ 1,450.00
13. Compressor Type: Standard	\$ 850.00
14. Air Horn Switching Options: Momentary	\$ 125.00
15. Passenger's side Grille Light: Whelen M4 Red/Clear Light	\$ 125.00
16. Driver's side Grille Light: Whelen M4 Clear/Red Light	\$ 125.00
17. Passenger's side Intersect Light: Whelen M4 Red/Clear Light	\$ 125.00
18. Driver's side Intersect Light: Whelen M4 Clear/Red Light	\$ 125.00
19. Driver Fender Light: Whelen M4 Red Light	\$ 375.00
20. Passenger Fender Light: Whelen M4 Red Light	\$ 375.00
21. *Note to Engineering* Fender Lights to be centered over the wheel well*	\$ incl

Chassis Exterior Subtotal \$ 24,725.00

Module Exterior:

22. Power Source: Onan 5.5kW Generator	\$ 12,625.00
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23. Locking Gas Cap	\$	incl
24. Module Paint Layout: Two Tone - Frazer White (Frazer White) and Blue	\$	4,650.00
25. Roof Color: Frazer White (Frazer White)	\$	incl
26. Paint spray out card(s) needed — Blue	\$	225.00
27. Rear Wall 3M Conspicuity Layout - Chevron : Fluorescent Yellow/Green Base Color and Blue - Reflective Overlay	\$	2,025.00
28. Conspicuity on Rear Entry Door Windows Matching the Rear Wall	\$	250.00
29. Entry Door Conspicuity Layout - Squares : White Base Color	\$	450.00
30. Conspicuity Strips on Compartments Matching the Rear Wall	\$	375.00
31. Front Wall Placard: 11" x 8.5" Painted Side-Loading Aluminum Holder with Lasco	\$	250.00
32. Rear Wall Placard: 11" x 8.5" Painted Side-Loading Aluminum Holder with Lasco	\$	250.00
33. Frazer Provided Graphics	\$	3,000.00
34. Body Drop on the Passenger's Side Forward of Rear Wheels	\$	incl
35. Hidden Switch Behind the Driver's Side Rear Bumper End Cap	\$	300.00
36. Compartment Keys: J210 in the Electrical Compartment	\$	incl
37. Ground Lights: Entry Doors	\$	1,350.00
38. Shore Power: Single 30 Amp on Front Wall	\$	incl
39. Pigtail/Plug Option: Pigtail	\$	incl
40. Install Ignition Kill Switch	\$	375.00
41. Coax 1: Run coax from location 1 to Electrical Compartment	\$	incl
42. Coax 2: Run coax from location 2 to Electrical Compartment	\$	incl
43. Coax 3: Run coax from location 3 to Chassis	\$	incl
44. Coax 4: Run coax from location 4 to Chassis	\$	incl
45. Front Wall Light Layout: High 5 Lights	\$	incl
46. Front Wall Light #1: Whelen M6 Clear Light	\$	incl
47. Front Wall Light #2: Whelen M6 Red Light	\$	incl
48. Front Wall Light #3: Whelen M6 Green Light	\$	175.00
49. Front Wall Light #4: Whelen M6 Red Light	\$	incl
50. Front Wall Light #5: Whelen M6 Clear Light	\$	incl
51. Front Wall Driver Side Box Light: Whelen M9 Red Light	\$	175.00
52. Front Wall Passenger Box Light: Whelen M9 Red Light	\$	175.00
53. Driver Wall Front Box Light: Whelen M9 Red Light	\$	175.00
54. Driver Wall Rear Box Light: Whelen M9 Red Light	\$	175.00



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55. Driver Wheel Well Light: Whelen M6 Red/Clear Light	\$	125.00
56. Side Scene Lights: Frazer Standard Whelen M9 Chrome Housing	\$	incl
57. O2 Compartment Style: 76" O2 Standup with Divider	\$	incl
58. O2 Cylinder Bracket Type: Ratchet Straps for H Cylinder	\$	incl
59. O2 Cylinder Changing Wrench	\$	125.00
60. O2 Regulator - Ship Loose	\$	250.00
61. Intermediate Compartment Style: Horizontal Adjustable Shelf	\$	incl
62. Electrical Compartment Style: Taller Electrical Compartment	\$	incl
63. Dometic Self-Contained A/C with Exhaust Fan	\$	incl
64. Rear Storage Compartment Style: Rear Storage with divider and shelf with I/O access	\$	675.00
65. Module Window Option: Sliding Window	\$	incl
66. Upper Rear Wall Light Layout: 3 Across	\$	incl
67. Upper Light #1: Whelen M6 Load Light	\$	incl
68. Upper Light #2: Whelen M6 Amber Light	\$	incl
69. Upper Light #3: Whelen M6 Load Light	\$	incl
70. Lower Light #1: Whelen M6 Brake/Tail/Turn Red Light	\$	incl
71. Lower Light #2: Whelen M6 Brake/Tail/Turn Red Light	\$	incl
72. Lower Light #3: Whelen M6 Blue/Clear Light	\$	125.00
73. Lower Light #4: Whelen M6 Blue/Clear Light	\$	125.00
74. Rear Wall Driver Box Light: Whelen M9 Red Light	\$	175.00
75. Rear Wall Passenger Box Light: Whelen M9 Red Light	\$	175.00
76. Rear Backboard Options: No Shelf	\$	incl
77. Lower BTTs: 2 M6 Lights on each side	\$	950.00
78. Rear Bumper	\$	incl
79. Door Grabbers	\$	incl
80. License Plate Light	\$	incl
81. Passenger Wall Front Box Light: Whelen M9 Red Light	\$	175.00
82. Passenger Wall Rear Box Light: Whelen M9 Red Light	\$	175.00
83. Passenger Wheel Well Light: Whelen M6 Clear/Red Light	\$	125.00
84. Passenger Scene Light Activated with Side Entry Door	\$	425.00
85. Interior Step Option: Double Step Well	\$	incl
86. Passenger Rear Compartment Style: Onan Genset Compartment	\$	incl
87. Door Locks on Entry Doors and Front I/O	\$	1,900.00



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88. Gas Hold Open on All Compartments	\$	1,250.00
Module Exterior Subtotal		\$ 33,775.00
Chassis Interior:		
89. Siren Speakers: Whelen SA 315 Speakers	\$	incl
90. Tap-2 on Primary Siren	\$	incl
91. Siren Option: Whelen C9 Siren in Console	\$	incl
92. Mic 1 on passenger's side slot 1	\$	incl
93. HAAS Alert System: HAAS Alert Responder to Vehicle - 3 Year Sub	\$	incl
94. Slot 1: Double Slot Switch Panel	\$	incl
95. Slot 2: Joined with 1	\$	incl
96. Slot 3: Siren 1	\$	incl
97. Slot 4: Radio Plate: 7.5 L X 2.5 W opening dims	\$	incl
98. Slot 5: Double Blank Insert	\$	250.00
99. Slot 6: Joined with 5	\$	incl
100. COMP OPEN / DOOR OPEN Warning Buzzer	\$	325.00
101. COMP OPEN / DOOR OPEN Red Warning Light on Driver side of siren plate on console	\$	475.00
102. Kussmaul USB/USB-C at Console	\$	300.00
103. Console Switch Layout : Primary - Secondary - Air Horn - Kussmaul USB/USB-C - Blank - Blank - Blank - Rear Load - Interior Lights - Side Scene (Driver's Side) - Side Scene (Passenger's Side) - Start/Stop Genset -	\$	incl
104. New Armrest	\$	300.00
105. Console Layout: 6-Slot Console	\$	incl
106. Front Base of Console: 120VAC	\$	700.00
107. Floor in Front of Console: Gamber Johnson Heavy Dual Cup Holder	\$	250.00
108. Rear of Console: Single Mapholder	\$	300.00
109. Chassis Rear Wall: 3 High Glove Box Holder	\$	300.00
110. Camera System: Voyager 7" Monitor with Back-Up Camera	\$	2,175.00
111. White Back-up Camera	\$	incl
112. Map Light: Light on passenger side	\$	300.00
113. Secure-Idle Anti-Theft System	\$	850.00
114. UNOC#1065: Wig Wag on chassis headlights with switch at console, position #5 (Option not in CPQ for Ford)	\$	325.00
Chassis Interior Subtotal		\$ 6,850.00



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Module Interior:

115. Protek Cushions	\$	incl
116. Cobalt Blue Interior	\$	incl
117. Stainless Steel Countertops	\$	incl
118. Yellow Grab Rails	\$	300.00
119. Stacked Cabinet with Medvault Opening	\$	1,650.00
120. Customer Provided Medvault	\$	625.00
121. (2) Glove Box Holders on the Front Wall	\$	450.00
122. 15 Qt. Engel Fridge	\$	1,525.00
123. Duplex Outlet on the Front Wall	\$	incl
124. Location 1: 4 Switch w/Thermostat	\$	incl
125. Location 2: Double O2 Outlet	\$	incl
126. Location 3: 12VDC wired Failsafe	\$	175.00
127. Location 4: Dual USB receptacles	\$	300.00
128. Location 6: Suction	\$	incl
129. Location 7: Quad 120 VAC	\$	incl
130. Location 8: Blank	\$	incl
131. Location 9: Blank	\$	incl
132. Action Wall Switch Layout : Interior Lights; Dimmer; Ventilation Fan; Module Heater - Hi/Off/Low;	\$	incl
133. Technimount ZOLL X Monitor Mount (Heavy Duty) on the Action Wall Countertop	\$	1,975.00
134. Sharps Container at Action Wall	\$	incl
135. Acrylic Holder at the Action Wall Cabinet	\$	incl
136. New 6pt Harness at the CPR Seat	\$	700.00
137. Acrylic Holder Aft CPR Seat	\$	incl
138. Rear Door Switch Layout : Acknowledge; Blank; Dump/Bypass (Suspension); Rear Load;	\$	incl
139. Two Seating Positions at the Squad Bench - 1 and 2	\$	incl
140. Harness Type for Seat Position 1: New 6pt Harness	\$	700.00
141. Harness Type for Seat Position 2: New 6pt Harness	\$	700.00
142. Acrylic Holder and Sharps at Squad Bench	\$	1,075.00
143. Triple Squad Bench Cabinet	\$	1,225.00
144. Trashcan With Lid at the Head of the Squad Bench	\$	incl
145. O2 Outlet Above the Front I/O	\$	incl



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146. Door Forward Front I/O with Hospital Grade Power Strip with Lexan Doors	\$	incl
147. 2 High "D" Cylinder Holder in the Front I/O	\$	250.00
148. Duplex Outlet Above the Front I/O	\$	incl
149. O2 Outlet in Ceiling Raceway	\$	450.00
150. IV Hanger on Ceiling Raceway	\$	incl
151. Driver and Passenger Side Yellow Powdercoated Ceiling Grab Rails for 14' Unit	\$	650.00
152. IV Hanger on Squad Bench Ceiling	\$	incl
153. Head knocker options: With Clock only	\$	625.00
154. Stryker cot tower only (no antler and bar)	\$	incl
155. Floor Options: Customer Provided Stryker Power-LOAD - Gen 2	\$	2,225.00
156. Loncoin II Onyx Floor	\$	incl
157. Captain's Chair Type: Valor's Captain's Chair with Child Safety Seat and 4pt. Harness	\$	2,375.00
158. Module Heater : New	\$	incl
159. Customer Provided Items Processing Fee	\$	1,000.00
Module Interior Subtotal		\$ 18,975.00



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Email this quote along with your PO
to Kalyn Salsman at ksalsman@frazerbilt.com

Remit To:

Per TMVCC, we are quoting this through our
licensed franchise dealer, Sterling McCall Ford.

Sterling McCall Ford
6445 Southwest Freeway
Houston, TX 77074

Standard Terms and Conditions

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CHANGE ORDERS: Vendor has the right to modify the Purchase Order requirements and conditions as needed and will advise Customer in writing of such requested changes. Vendor shall not proceed with any changes without Customer's written authorization. Any request by Customer to change the terms or conditions of the Purchase Order, including product specifications, options, and price, must be made in advance of the production job order release. Any changes made after the release of the production job order will incur a \$350 fee per change order made in a 24 hour period and will be included on a secondary invoice. Vendor reserves the right to refuse changes requested by the Customer.

PROPRIETARY INFORMATION, CONFIDENTIALITY AND ADVERTISING: All commercial, financial or technical information in any form that Vendor provides to Customer shall be deemed proprietary and confidential and Customer shall not disclose such information to third parties without Vendor's written consent. Termination of the Sale Agreement shall not relieve Customer of this confidentiality obligation. Upon Vendor's request, Customer shall return all confidential information to Vendor along with any reproductions, in whole or in part. The confidentiality obligation does not apply to information that is in the public domain through no fault of Customer or to information lawfully within Customer's possession prior to the date of the Purchase Order, as evidenced by Customer's written records.

INDEMNIFICATION: Customer shall fully release, indemnify, defend and hold harmless Vendor, its co-venturers, its contractors, and their respective affiliates, and Vendor's and their respective directors, officers and employees (including agency personnel) ("Vendor Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase



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Order without regard to any allegation of negligence on the part of the Vendor Group as it pertains to Vendor's Products.

Vendor shall fully release, indemnify, defend and hold harmless Customer, its co-venturers, its contractors, and their respective affiliates, and the Customer's and their respective directors, officers and employees (including agency personnel) ("Customer Group") from and against any and all claims arising out of the Customer's purchase, use, sale or incorporation of any Products purchased from Vendor into Customer's products or equipment wherein it is claimed or alleged that Vendor's Products are defective or violate any warranty, standard of care, industry standard or governmental regulation or term or condition of any Purchase Order without regard to any allegation of negligence on the part of the Customer Group as it pertains to Vendor's Products.

Customer Initials: _____

LIMITATIONS ON DAMAGES: In the event of any dispute, disagreement or breach alleged by Customer on the part of Vendor, Customer's exclusive and sole remedy shall be repair or replacement, if practical, of the module, or component part, by Vendor. If Vendor is not able to effectuate a repair, replacement, or cure that brings the module, or component part, into compliance with the Parties' agreement, then Vendor shall refund the sale price to Customer. In no event shall Vendor be liable to Customer, or to any third-party acting through Customer, for any additional, consequential or punitive damages, or damages for lost sales, revenue or profits claimed by Customer or any third-party acting through Customer.

FORCE MAJEURE: A force majeure delay shall mean any delay or other unforeseeable causes beyond the reasonable control of the party affected, provided that any such delay is not caused, in whole or in part, by the acts or omissions of the party so delayed and further provided that such party is unable to make up for such delay with reasonable diligence and speed. If any such cause delays Vendor's performance, the delivery date or time for completion may be extended by a period of time reasonably necessary to overcome the effect of such delay; however, Vendor shall take all reasonable measures to mitigate the effects of the force majeure event and to minimize such delay. A party affected by a force majeure event shall notify the other party of such force majeure event within forty-eight (48) hours of its knowledge of such event for the event to be considered a bona fide force majeure event.

TITLE AND RISK OF LOSS: Title to the Products shall transfer to Customer upon receipt of Products by Customer or its agent unless otherwise stated in the Sale Agreement. Notwithstanding the above, risk of loss of the Products shall remain with Vendor until delivered to Customer.



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WAIVER: Vendor's failure to exercise or enforce any right in the Purchase Order, or any other right or privilege under law, or Vendor's waiver of any breach by Customer shall not constitute a waiver or modification of any terms, conditions, privileges or rights whether of the same or similar type, unless Vendor gives such waiver in writing.

LIENS: Vendor waives and relinquishes all existing and future liens and claims (statutory or otherwise) for the Products specified in the Purchase Order, and warrants that the Products will be free and clear of all liens, claims or encumbrances of any kind.

INSPECTION, REVIEW AND WITNESSING: Customer and/or the ultimate owner of the Products have the right to inspect and attend testing of the Products at Vendor's premises (or its supplier's or subcontractor's premises) with reasonable advance notice. If any inspection is made on the premises of Vendor or its supplier, Vendor, without additional charge, shall provide all reasonable facilities and assistance for the safety and convenience of the inspectors in the performance of their duties.

APPLICABLE LAW AND VENUE: The Sale Agreement shall be governed and interpreted in accordance with the laws of the State of Texas, without reference to any principle of conflict of laws. Customer and Vendor expressly exclude the application of the Convention on International Sale of Goods to the Sale Agreement. Venue for all judicial, administrative, or regulatory proceedings shall be Houston, Harris County, Texas.

OWNERSHIP OF DOCUMENTS: Title to all drawings, specifications, calculations, technical data and other documents that Customer submits in accordance with the Purchase Order shall vest with Vendor. Vendor shall have the right to use such documents for any purpose pertaining to the manufacture, assembly, and delivery of the Products.

Title to all drawings, specifications, calculations, technical data, and other documents that Vendor submits to the Customer shall vest with the Customer. Customer shall have the right to use such documents for any purpose pertaining to the installation, operation, and maintenance of the Products.

INSURANCE: Vendor shall comply with the project insurance requirements for which the Products are being provided. Customer shall provide specific reasonable levels required as soon as such levels are available, which shall not exceed \$1,000,000 for any non-statutory category other than excess liability umbrella, which shall not exceed \$4,000,000. When requested by Customer, Vendor shall provide certificates of insurance as proof of same.



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SURVIVAL: The provisions of the following Paragraphs of these Terms and Conditions shall survive any cancellation or termination of the Purchase Order: (Proprietary Information, Confidentiality and Advertising), (Indemnification), (Liens), and (Applicable Law and Venue).

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Consideration and action on Petition for Release of 389.249 acres from the City's ETJ filed by PHAU-Lockhart 450, LLC.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - City Attorney
Monte Akers; Planning Director David Fowler

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: On October 25, 2023, PHAU-Lockhart, the owners of 384.249 acres located to the south of State Highway 142 and east of Borchert Loop, requested the property be released from the Lockhart Extraterritorial Jurisdiction. This property is the site of the Juniper Springs subdivision, which was the subject of a preliminary plat which the Lockhart Planning and Zoning Commission approved in July 2023. This property is also part of the Clearfork Ranch Municipal Utility District (MUD), which the city approved in January 2019. The petition was filed in accordance with Sections 42.101-105 of the Texas Local Government Code. Senate Bill 2038, effective September 1, 2023, provides that owners of land in a City's ETJ may petition for release of the land by the City, resulting in the land being considered subject only to County jurisdiction. The City has received such a petition requesting the release of 389.249 acres along SH 142, as described in the attached petition. If the City grants the petition, the area will be released immediately. Additional information about SB 2038 is also attached.

PROJECT SCHEDULE (if applicable): None.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: None.

STAFF RECOMMENDATION/REQUESTED MOTION: Seek legal advice in executive session before taking action on the petition.

City of Lockhart, Texas

Council Agenda Item

Cover Sheet

LIST OF SUPPORTING DOCUMENTS: Petition, cover letter, property description, survey exhibit, certificate of ownership, and Post Session Update: ETJ Release



RECEIVED

4301 Bull Creek Rd. Ste 150
Austin, Texas 78731
Tel. 512.328.2008
Fax 512.328.2409
www.mhllp.com

OCT - 6 2023

A handwritten signature in black ink, appearing to read 'Julie Bowermon', is written over the date stamp.

CITY OF LOCKHART
CITY SECRETARY'S OFFICE

October 6, 2023

City of Lockhart
Attn: Julie Bowermon, City Secretary
308 West San Antonio Street
Lockhart, Texas 78644

Via Hand Delivery

RE: Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart

Dear Ms. Bowermon,

On behalf of PHAU-Lockhart 450, LLC ("Petitioner"), owner of property located within the extraterritorial jurisdiction of the City of Lockhart ("City"), enclosed please find a Request and Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart (the "Petition"). In accordance with Sections 42.101-105 of the Texas Local Government Code, Petitioner requests the release of lands owned by Petitioner from the City's extraterritorial jurisdiction.

Please file stamp and return the enclosed extra copy of the Petition. We appreciate the City's actions regarding this Petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Laci Ehlers', is written in a cursive style.

Laci Ehlers

October 6, 2023

City of Lockhart
Attn: Julie Bowermon, City Secretary
308 West San Antonio Street
Lockhart, Texas 78644

Via Hand Delivery

RE: Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart

Dear Ms. Bowermon,

On behalf of PHAU-Lockhart 450, LLC ("Petitioner"), owner of property located within the extraterritorial jurisdiction of the City of Lockhart ("City"), enclosed please find a Request and Petition for Release of Property from the Extraterritorial Jurisdiction of the City of Lockhart (the "Petition"). In accordance with Sections 42.101-105 of the Texas Local Government Code, Petitioner requests the release of lands owned by Petitioner from the City's extraterritorial jurisdiction.

Please file stamp and return the enclosed extra copy of the Petition. We appreciate the City's actions regarding this Petition.

Sincerely,



Laci Ehlers

**REQUEST AND PETITION FOR RELEASE OF PROPERTY FROM THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF LOCKHART
(384.249 ACRES)**

**TO THE MAYOR OF THE GOVERNING BODY OF THE CITY OF LOCKHART,
TEXAS:**

The undersigned ("Petitioner"), acting pursuant to the provisions Sections 42.101-105 of the Texas Local Government Code, respectfully petitions the City of Lockhart (the "City") to release the land described by metes and bounds on Exhibit "A" and depicted on Exhibit "A-1" (the "Land"), from the extraterritorial jurisdiction ("ETJ") of the City. In support of this petition, Petitioner would show the following:

I.

Petitioner is the owner of all of the Land, comprised of 384.249 acres currently situated within the extraterritorial boundaries of the City in Caldwell County, Texas, and is fully described by metes and bounds on Exhibit "A", attached hereto and incorporated herein by reference. Petitioner certifies that the description of the Land attached as Exhibit "A" is true and correct. A map of the Land to be released is attached hereto as Exhibit "B".

II.

Pursuant to section 43.102(b) of the Texas Local Government Code, Petitioner certifies that it is the owner of one hundred percent (100%) in value of the holders of title of the Land pursuant to the tax rolls of the Caldwell County Appraisal District as evidenced by Exhibit "C" and is, therefore, authorized to file this Petition.

III.

To the extent required by applicable law, this Petition has satisfied the signature requirements described in Sections 42.103 and 42.104(a) of the Texas Local Government Code and Chapter 277 of the Texas Election Code, not later than the 180th day after the date the first signature for the Petition is obtained.

IV.

The individual who executed this Petition on behalf of the Petitioner is fully authorized to sign this Petition as evidenced by Exhibit "D". The signature is hereby sufficient to effectuate the immediate release of the Land from the City's ETJ. If the City fails to take action to release the Land by the later of the 45th day after the date the City receives this Petition or the next meeting of the City's governing body that occurs after the 30th day after the date the City receives this Petition, the Land is released by operation of law.

V.

Petitioner prays that (i) this Petition be verified by the City Secretary or other person at the City responsible for verifying signatures, (ii) the Petitioner be notified of the results, and (iii) this Petition be granted, immediately releasing the Land from the City's ETJ.

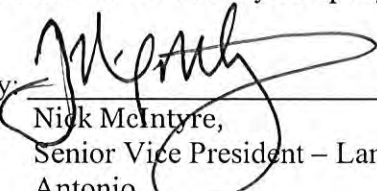
Executed to be effective as of the 4th day of October, 2023.

* * *

SIGNATURE PAGE TO
REQUEST AND PETITION FOR RELEASE OF PROPERTY FROM THE
EXTRATERRITORIAL JURISDICTION OF THE CITY OF LOCKHART
(384.249 ACRES)

PETITIONER:

PHAU-Lockhart 450, LLC,
a Texas limited liability company

By: 
Nick McIntyre,
Senior Vice President – Land Austin/San
Antonio

Date: 10/4/2023

DOB or VRN of Signer: 9/15/1978

Residence Address of Signer:

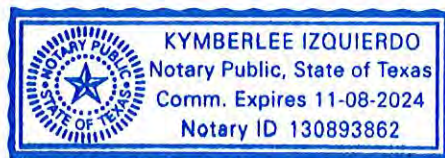
1903 STONEWRIGHT DRIVE
ROUND ROCK, TX 78681

THE STATE OF TEXAS §

COUNTY OF Travis §

This instrument was acknowledged before me on this 4th day of October, 2023
by Nick McIntyre, Senior Vice President – Land Austin/San Antonio of PHAU-Lockhart 450,
LLC, a Texas limited liability company, on behalf of said limited liability company.

(SEAL)




Notary Public, State of Texas

EXHIBIT "A"
THE LAND

Exhibit A

**A METES AND BOUNDS
DESCRIPTION OF A
384.249 ACRE TRACT OF LAND**

BEING a 384.249 acre (16,737,882 square feet) tract of land situated in the J.B. Gray Survey, Abstract 116, and the W. House Survey, Abstract 15, Caldwell County, Texas; and being a portion of that certain called 316.436 acre tract described in instrument to PHAU-LOCKHART 450, LLC recorded in Document No. 2021-005590 of the Official Public Records of Caldwell County, being a portion of that certain called 135.731 acre tract described in instrument to PHAU-LOCKHART 450, LLC recorded in Document No. 2022-005824 of the Official Public Records of Caldwell County, being all of that certain called 32.486 acre tract described in instrument to PHAU-LOCKHART 450, LLC recorded in Document No. 2023-000880 of the Official Public Records of Caldwell County, being all of that certain called 0.5165 acre tract described in instrument to Maya Ingram recorded in Document No. 2019-004315, described in instrument to John Casey Roy recorded in Document No. 2019-004310, described in instrument to Rene Abrego Roy recorded in Document No. 2019-004312, described in instrument to Danielle Benson recorded in Document No. 2019-004314, and described in instrument to Michelle Wittenburg recorded in Document No. 2019006266 all of the Official Public Records of Caldwell County, being a portion of the land as depicted in Exhibit A of the Interlocal Cooperative Agreement between Caldwell County and the City of Lockhart for Subdivision Regulation within the Extraterritorial Jurisdiction of the City of Lockhart under Resolution 2018-19; and being more particularly described as follows:

COMMENCING at a 2-inch metal post found on the northeasterly right of way line of County Road 108 (Borcher loop) (width varies) marking the south corner of the said 316.436 acre tract, and the western-most corner of that certain remainder of called 59.289 acre tract described in instrument to JAKOVICH INTERESTS, L.L.C., recorded in Document No. 2022-000876 of the Official Public Records of Caldwell County;

THENCE, North 58°54'24" East, 1006.26 feet along the southeasterly line of aforesaid 316.436 acre tract to the **POINT OF BEGINNING** of herein described tract;

THENCE, departing the southeasterly line of aforesaid 316.436 acre tract and over and across aforesaid 316.436 acre tract and aforesaid 135.731 acre tract, the following four (4) courses and distances:

1. North 36°00'10" West, 776.25 feet to a point for corner;
2. North 32°00'19" West, 2,102.91 feet to a point for corner;
3. North 25°00'00" West 1,031.18 feet to a point for corner;
4. North 15°00'00" West 429.28 feet to a point of curvature in the southeasterly right-of-way of State Highway 142 (width varies);

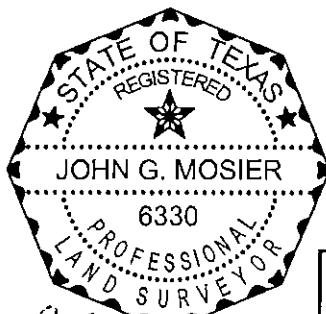
THENCE, along said southeasterly right-of-way of State Highway 142, the following two (2) courses and distances:

1. In a northeasterly direction, along a non-tangent curve to the left, a central angle of 10°37'41", a radius of 1,979.86 feet, a chord bearing and distance of North 66°06'53" East, 366.72 feet, and a total arc length of 367.25 feet, to a brass disk in concrete (TxDOT Type 2 monument) found for the point of tangency;
2. North 60°48'03" East, 72.48 feet to a point for corner, on the southwesterly line of that certain 2.04 acre tract described in instrument to the State of Texas recorded in Volume 211, Page 501 of the Deed Records of Caldwell County, and marking the southeast corner of that certain 1.148 acre tract (Part 2) described in instrument to the State of Texas recorded in Volume 111, Page 272 of the Official Public Records of Caldwell County, and from which a 1/2-inch iron rod (bent) found bears: South 48°25'08" East, 0.20 feet;

THENCE, along the southwesterly, southeasterly, and northeasterly lines of said 2.04 acre tract the following four (4) courses and distances:

1. South 48°25'08" East, 243.37 feet to a concrete monument (TxDOT Type 1) found marking the south corner of said 2.04 acre tract for corner;
2. North 61°06'51" East, 199.72 feet to a concrete monument (TxDOT Type 1) found marking the southeast corner of said 2.04 acre tract for corner;
3. North 11°21'22" East, 159.62 feet to a 1/2-inch iron rod with plastic cap stamped "KHA" set found marking the east corner of said 2.04 acre tract for corner;
4. North 65°23'10" West, 135.83 feet to a brass disk in concrete (TxDOT Type 2 monument) found on the southeasterly right of way line of said State Highway 142 marking the southwest corner of that certain 1.553 acre tract (Part 1) described in aforesaid instrument to the State of Texas;

JOHN G. MOSIER
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6330
10101 REUNION PLACE, SUITE 400
SAN ANTONIO, TEXAS 78216
PH. 210-541-9166
GREG.MOSIER@KIMLEY-HORN.COM



John G. Mosier
9-22-23

**SURVEY EXHIBIT OF A
384.249 ACRES**

J.B. GRAY SURVEY, ABSTRACT NO. 116
W. HOUSE SURVEY, ABSTRACT NO. 15
CALDWELL COUNTY, TEXAS

Kimley»Horn

10101 Reunion Place, Suite 400
San Antonio, Texas 78216

FIRM # 10193973

Tel. No. (210) 541-9166
www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
N/A	MGB	JGM	Sep. 2023	068725500	1 OF 4

THENCE, along the said southeasterly right of way line of State Highway 142 the following three (3) courses and distances:

1. North 60°48'30" East, 73.56 feet to a brass disk in concrete (TxDOT Type 2 monument) found for the point of curvature;
2. in a northeasterly direction, along a tangent curve to the right, a central angle of 30°17'19", a radius of 1,839.85 feet, a chord bearing and distance of North 75°57'11" East, 961.33 feet, and a total arc length of 972.61 feet to a brass disk in concrete (TxDOT Type 2 monument) found at a point of tangency;
3. South 88°54'09" East, 1,200.54 feet to a brass disk in concrete (TxDOT Type 2 monument) found marking the northeast corner of said 135.731 acre tract, and the northwest corner of that certain 55.627 acre tract described in instrument to SPILLMAN FARMS LLC recorded in Document No. 2023-002277 of the Official Public Records of Caldwell County;

THENCE, along the southwesterly, and northwesterly, lines of said 55.627 acre tract the following five (5) courses and distances:

1. South 31°07'22" East, 708.49 feet to a wood post found marking the east corner of said 135.731 acre tract;
2. South 58°52'53" West, 114.97 feet to a 1/2-inch iron rod with plastic cap "UNREADABLE" found for corner;
3. South 55°23'01" West, 17.64 feet to a "T" post in rock mound found marking a westerly corner of said 55.627 acre tract;
4. South 31°47'47" East, 1102.97 feet to a "T" post found in a 2-inch iron pipe in a rock mound marking the south corner of said 55.627 acre tract;
5. North 59°08'09" East, 2443.75 feet to a 12-inch wood post found on the southwesterly line of that certain 17.18 acre tract (first tract) described in instrument to Kenneth G. Willenberg recorded in Document No. 2015-001132 of the Official Public Records of Caldwell County;

THENCE, along the southwesterly and southeasterly line of said 17.18 acre tract the following two (2) courses and distances:

1. South 32°06'46" East, 654.15 feet to a 2-inch metal post found marking the south corner of said 17.18 acre tract;
2. North 59°21'32" East, 262.39 feet to a 2-inch metal post found marking the west corner of that certain 14.6 acre tract (second tract) described in said instrument to Kenneth G. Willenberg;

THENCE, South 30°58'48" East, 850.02 feet to a 2-inch metal post found on the northwesterly line of that certain 45.489 acre tract described in instrument to Kyle R. and Rudolph E. Schroeder recorded in Document No. 2016-000084 of the Official Public Records of Caldwell County, marking the east corner of aforesaid 316.436 acre tract and the south corner of said 14.6 acre tract;

THENCE, South 58°49'37" West, 2,283.22 feet, along the southeasterly line of said 316.436 acre tract to a cotton spindle in a 3/4-inch iron pipe found marking the west corner of said 45.489 acre tract and northeast corner of aforesaid 32.486 acre tract;

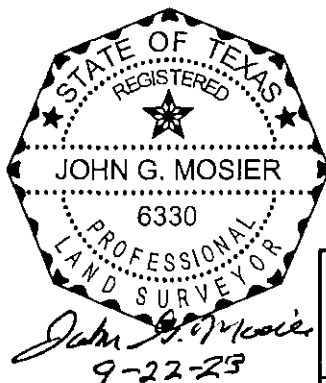
THENCE, South 31°48'12" East, 633.97 feet along the common line of said 32.486 acre tract and said 45.489 acre tract to a metal fence post found on the northwesterly line of that certain 46.401 acre tract described in the partition deed to Rudolph E. Schroeder recorded in Document No. 2015-005802 of the Official Public Records of Caldwell County, and marking the east corner of said 32.486 acre tract and the south corner aforesaid 45.489 acre tract;

THENCE, South 59°04'39" West, 2,248.07 feet along the southeasterly line aforesaid 32.486 acre tract to a 2" Steel fence post found marking the southeast corner aforesaid 32.486 acre tract and being in the northeast line of aforesaid 59.289 acre tract;

THENCE, North 31°05'36" West, 627.22 feet along the common line aforesaid 32.486 acre tract and said 59.289 acre tract to a 1/2" iron rod with plastic cap stamped "KHA" set marking the southwest corner aforesaid 32.486 acre tract and inner ell corner aforesaid 316.436 acre tract;

THENCE, South 58°54'24" West, 950.64 feet along aforesaid 316.436 acre tract and said 0.5165 acre tract to the **POINT OF BEGINNING** and containing 384.249 acres of land in Caldwell County, Texas. The basis of bearing for this description is the Texas State Plane Coordinate System, South Central Zone (FIPS 4204) (NAD'83), as determined by the Global Positioning System (GPS). All distances shown hereon are on the Surface. To convert Surface distances to Grid apply the Surface to Grid Scale Factor of 0.9998858382. The unit of linear measurement is U.S. Survey Feet. This document was prepared in the office of Kimley-Horn and Associates, Inc. in San Antonio, Texas.

JOHN G. MOSIER
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6330
10101 REUNION PLACE, SUITE 400
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SURVEY EXHIBIT OF A 384.249 ACRES

J.B. GRAY SURVEY, ABSTRACT NO. 116
W. HOUSE SURVEY, ABSTRACT NO. 15
CALDWELL COUNTY, TEXAS

Kimley»Horn

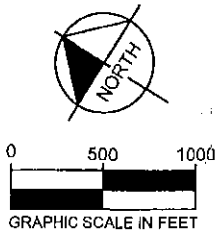
10101 Reunion Place, Suite 400
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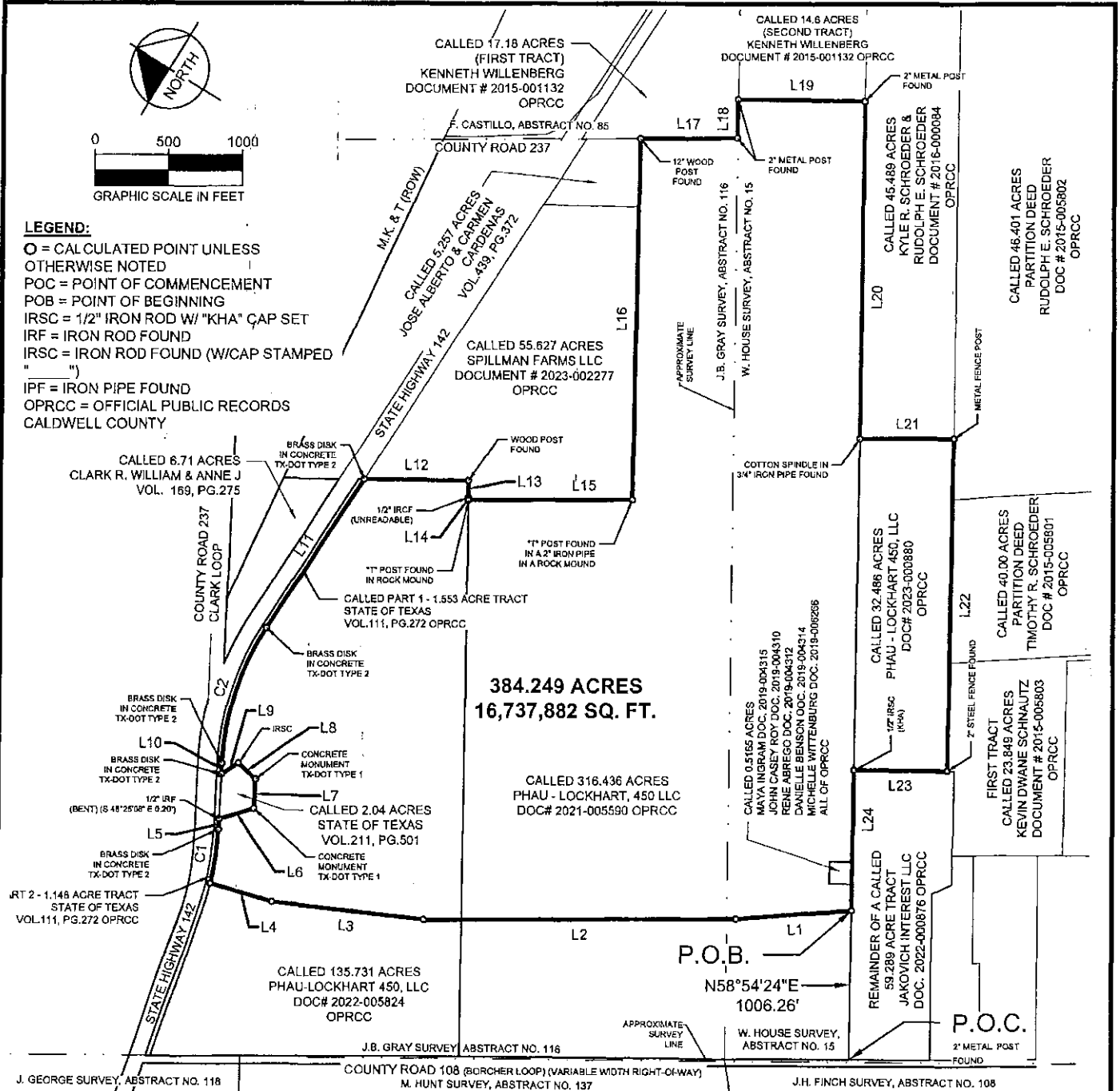
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N/A	MGB	JGM	Sep. 2023	068725500	2 OF 4

EXHIBIT "A-1"
THE LAND



LEGEND:

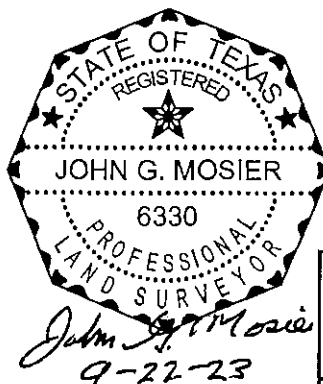
O = CALCULATED POINT UNLESS OTHERWISE NOTED
 POC = POINT OF COMMENCEMENT
 POB = POINT OF BEGINNING
 IRSC = 1/2" IRON ROD W/ "KHA" CAP SET
 IRF = IRON ROD FOUND
 IRSC = IRON ROD FOUND (W/CAP STAMPED " ")
 IPF = IRON PIPE FOUND
 OPRCC = OFFICIAL PUBLIC RECORDS
 CALDWELL COUNTY



NOTES: SEE SHEET 4 FOR LINE & CURVE TABLE

SURVEYORS CERTIFICATION: THIS IS A LEGAL DESCRIPTION BASED ON A FIELD SURVEY BY KIMLEY-HORN PERSONNEL. NO IMPROVEMENTS ARE SHOWN. ALL EXISTING EASEMENTS MAY NOT BE SHOWN. THIS IS NOT A LAND TITLE SURVEY. SEE THE SEPARATE LAND TITLE SURVEY UNDER JOB NUMBER 068725500 FOR ADDITIONAL INFORMATION.

JOHN G. MOSIER
 REGISTERED PROFESSIONAL
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SURVEY EXHIBIT OF A 384.249 ACRES

J.B. GRAY SURVEY, ABSTRACT NO. 116
 W. HOUSE SURVEY, ABSTRACT NO. 15
 CALDWELL COUNTY, TEXAS

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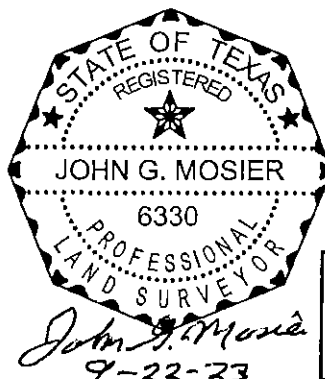
Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 1000'	MGB	JGM	9/22/2023	068725500	3 OF 4

CURVE TABLE					
NO.	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD
C1	10°37'41"	1979.86'	367.25'	N66°06'53"E	366.72'
C2	30°17'19"	1839.85'	972.61'	N75°57'11"E	961.33'

LINE TABLE		
NO.	BEARING	LENGTH
L1	N36°00'10"W	776.25'
L2	N32°00'19"W	2102.91'
L3	N25°00'00"W	1031.18'
L4	N15°00'00"W	429.28'
L5	N60°48'03"E	72.48'
L6	S48°25'08"E	243.37'
L7	N61°06'51"E	199.72'
L8	N11°21'22"E	159.62'
L9	N65°23'10"W	135.83'
L10	N60°48'30"E	73.56'
L11	S88°54'09"E	1200.54'
L12	S31°07'22"E	708.49'
L13	S58°52'53"W	114.97'
L14	S55°23'01"W	17.64'
L15	S31°47'47"E	1102.97'
L16	N59°08'09"E	2443.75'
L17	S32°06'46"E	654.15'
L18	N59°21'32"E	262.39'
L19	S30°58'48"E	850.02'
L20	S58°49'37"W	2283.22'
L21	S31°48'12"E	633.97'
L22	S59°04'39"W	2248.07'
L23	N31°05'36"W	627.22'
L24	S58°54'24"W	950.64'

SURVEYORS CERTIFICATION: THIS IS A LEGAL DESCRIPTION BASED ON A FIELD SURVEY BY KIMLEY-HORN PERSONNEL. NO IMPROVEMENTS ARE SHOWN. ALL EXISTING EASEMENTS MAY NOT BE SHOWN. THIS IS NOT A LAND TITLE SURVEY. SEE THE SEPARATE LAND TITLE SURVEY UNDER JOB NUMBER 068725500 FOR ADDITIONAL INFORMATION.

JOHN G. MOSIER
REGISTERED PROFESSIONAL
LAND SURVEYOR NO. 6330
10101 REUNION PLACE, SUITE 400
SAN ANTONIO, TEXAS 78216
PH. 210-541-9166
GREG.MOSIER@KIMLEY-HORN.COM



SURVEY EXHIBIT OF A 384.249 ACRES

J.B. GRAY SURVEY, ABSTRACT NO. 116
W. HOUSE SURVEY, ABSTRACT NO. 15
CALDWELL COUNTY, TEXAS

Kimley»Horn

10101 Reunion Place, Suite 400
San Antonio, Texas 78216 FIRM # 10193973

Tel. No. (210) 541-9166
www.kimley-horn.com

Scale	Drawn by	Checked by	Date	Project No.	Sheet No.
1" = 1000'	MGB	JGM	9/22/2023	068725500	4 OF 4

BLANKENSHIP, MATTHEW 9/22/2023 1:16 PM K:\SNA_SURVEY\PERRY HOMES CLEAR FORK RANCH\068725500-CLEAR FORK RANCH\DWG\EXHIBITS\384.249 AC ETJ EX.DWG

EXHIBIT “B”
MAP

Exhibit B

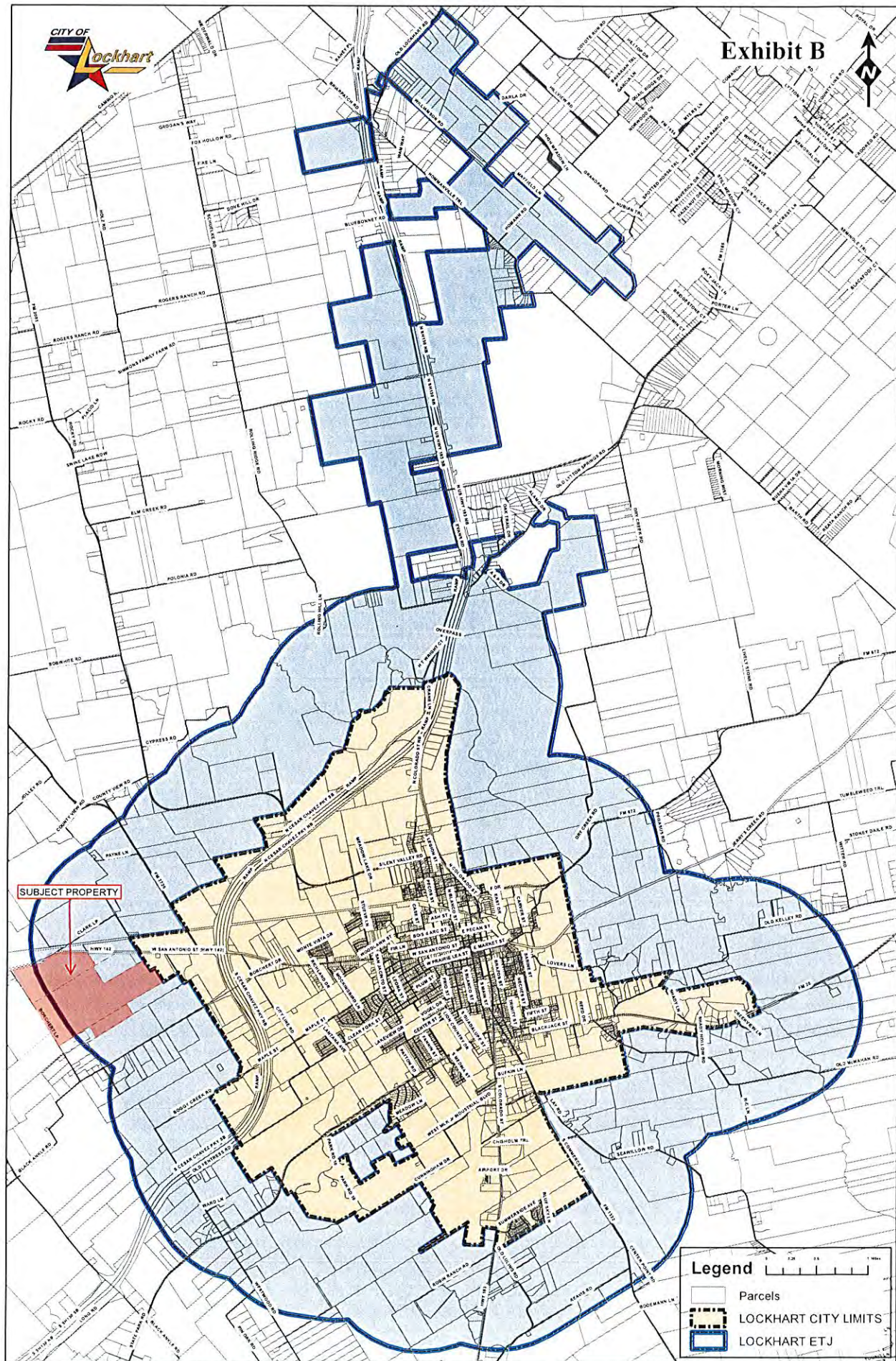


EXHIBIT “C”
CERTIFICATE OF OWNERSHIP

Exhibit C

CERTIFICATE OF OWNERSHIP

STATE OF TEXAS §
 §
 COUNTY OF CALDWELL §

I, Shanna Ramzinski, Chief Appraiser of the Caldwell County Appraisal District ("District"), hereby certify that I have examined the 2023 appraisal roll of the District and find that according to the records of the District as of today's date listed below, the following is true:

Property ID	Owner	Appraisal District Property Description
125238	PHAU - LOCKHART 450 LLC	A015 HOUSE, WILLIAM, ACRES 32.486
14994	PHAU - LOCKHART 450 LLC	A116 GRAY, JOHN B., ACRES 135.731
14998	PHAU - LOCKHART 450 LLC	A116 GRAY, JOHN B., ACRES 316.436, & A015 HOUSE, WILLIAM

Appraisal card(s) indicating the 2023 ownership and property for the Property are attached.

WITNESS MY SIGNATURE THIS 4th day of October, 2023.

CALDWELL COUNTY APPRAISAL DISTRICT

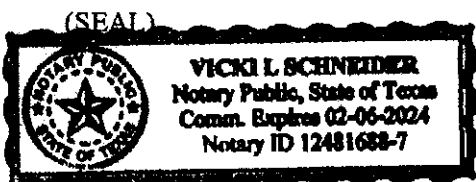
By: Shanna Ramzinski

Name: Shanna Ramzinski

Title: Chief Appraiser

STATE OF TEXAS §
 COUNTY OF CALDWELL §

This instrument was acknowledged before me on the 4th day of October, 2023 by Shanna Ramzinski, Chief Appraiser of the Caldwell County Appraisal District.



Vicki L. Schneider
 Name: Vicki L. Schneider
 Notary Public, State of Texas

EXHIBIT “D”
SIGNATURE AUTHORITY

PHAU – LOCKHART 450, LLC

CERTIFICATE

The undersigned hereby certifies that he is the duly elected and acting Secretary of **PHAU – LOCKHART 450, LLC**, a Texas limited liability company (“Company”), duly organized to conduct business in the State of Texas and as such has custody of the corporate records of the Company and is authorized to execute and deliver this Certificate on behalf of the Company; and hereby further certifies as follows:

1. Attached hereto as Exhibit “A” is a full, true, and correct copy of the Resolutions duly adopted by a majority of the Managers of the Company by a written consent effective January 1, 2023, in accordance with the Texas Business Organizations Code, the Certificate of Formation, and Company Agreement of the Company.

2. The Resolutions attached hereto as Exhibit “A” have not been amended, modified, or rescinded, and are in full force and effect on the date hereof.

3. There are no provisions in the Certificate of Formation or Company Agreement of the Company limiting the above-described Resolutions, and such Resolutions are in conformity with the provisions of the Company’s Certificate of Formation and Company Agreement, and with the proceedings of the Managers.

EXECUTED the 25th day of April 2023.



Michael C. Brisch
Secretary

The undersigned, the Chief Financial Officer of the Company, hereby certifies that Michael C. Brisch is the Secretary of the Company and is authorized to execute and deliver this Certificate for, and on behalf of, the Company.



Eric Bakk
Chief Financial Officer

EXHIBIT "A"

RESOLVED, that Nick McIntyre is authorized and empowered, in his capacity as Senior Vice President – Land Austin/San Antonio of the Company, to execute and deliver for, and on behalf of, the Company, any and all documents relating to plats, contracts for improvements to land, land planning, engineering or design, and covenants, conditions, and restrictions ("Land Documents") as may be reasonable, necessary, proper or convenient and to perform all acts and do all such other things necessary for, and on behalf of, the Company relating to the Land Documents;

FURTHER RESOLVED, that any and all instruments related to the Land Documents executed and delivered on behalf of the Company in connection with the foregoing resolutions shall be binding against the Company; and

FURTHER RESOLVED, that all acts, transactions, or agreements undertaken prior to the adoption of these resolutions by Nick McIntyre, in his capacity as Senior Vice President – Land Austin/San Antonio, are hereby authorized, adopted, ratified, confirmed and approved by the undersigned to the extent they were not authorized, adopted, ratified, confirmed and approved previously and as if they had been authorized, adopted, ratified, confirmed and approved in accordance with the Company's Agreement or other governing documents.

POST-SESSION UPDATE: ETJ RELEASE

[Senate Bill 2038](#) is a significant piece of legislation that could fundamentally alter how cities interact with their extraterritorial jurisdictions (ETJs). This law authorizes residents and landowners to decide if their respective areas within a city's ETJ remain in the ETJ, offering two pathways for areas within a city's ETJ to be released: (1) through a petition filed by residents or landowners, or (2) by an election on the question of release held in the area within the ETJ.

For the first option, a resident can file a petition for release of their area from the city's ETJ. The petition must contain signatures from more than 50 percent of the registered voters or a majority in value of the titleholders of land in the area. Upon receiving a valid petition, the city secretary verifies the signatures, notifies the residents whether or not the petition contains the required number of signatures, and, if it indeed contains the required number of signatures, the city is required to immediately release the area from its ETJ.

The second pathway for release is by an election. A resident can request an election by submitting to the city a petition bearing the signatures of at least five percent of the registered voters in the area to be released. Following the election, if a majority of qualified voters in the area approve the release, the city must release the area. A city can voluntarily release an area instead of holding an election.

To be valid, a petition must fulfill specific requirements. It must be in writing, detail the area's boundaries, and include a map of the area to be released. The petition must also carry the requisite number of signatures and include each signer's printed name, signature, date of birth, voter registration number, county of registration (if the area spans multiple counties), residence address, and date of signing. For home rule cities, city charter provisions governing petition validity may also apply under certain circumstances.

S.B. 2038's ETJ release provisions do not apply to the following five areas: (1) an area within five miles of a military base boundary where active training occurs; (2) an area within 15 miles of an active military base in San Antonio's or Houston's ETJ; (3) certain areas that were voluntarily annexed into cities' ETJ in Hays County; (4) property located in an industrial district; and (5) property subject to a strategic partnership agreement as defined in Chapter 43 of the Texas Local Government Code.

Moreover, starting from January 1, 2023, the law prevents automatic ETJ expansion due to annexation. Instead, ETJ expansion can only occur if property owners who would be included in the city's ETJ request their area to be included in the ETJ when an area is annexed. The bill requires a city to release ETJ acquired from an annexation commenced after January 1, 2023 to comply with this new limitation on ETJ expansion through annexation.

S.B. 2038 may also impact agreements between cities and counties regarding the regulation of subdivisions in the ETJ under Chapter 242 of the Local Government Code. If an area that is subject to an agreement between the city and county relating to platting or subdivision authority is removed from the city's ETJ, the city retains no authority over that property and the county is the entity authorized to regulate subdivisions in the removed area.

The release of areas from the ETJ under the new legislation will impact the applicability of city regulations outside the city limits. Though cities have limited authority to regulate in the ETJ as it is, S.B. 2038 will potentially disrupt the uniform application of those limited regulations. Most notably, released areas will no longer be subject to applicable subdivision and platting regulations or sign regulations. Cities also will lose the ability to participate in the establishment of certain special purpose districts, like municipal utility districts, in areas that are released from the ETJ.

It is possible that other types of economic development measures are impacted as well, including the operation of municipal development districts and public improvement districts that include areas within the ETJ. Other city regulations, like the extension of nuisance ordinances outside the city limits for home rule cities and regulations governing the operation of city utilities likely will not be impacted, as the statutes authorizing those regulations outside the city limits do not distinguish applicability based on inclusion of the area in the city's ETJ.

S.B. 2038 takes effect on September 1, 2023.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: October 17, 2023

AGENDA ITEM CAPTION: Discussion and/or action to consider Resolution 2023-17 authorizing a salary adjustment for City Manager Steven Lewis and addendum to the City Manager Agreement dated effective August 18, 2018 by and between the City of Lockhart and Steven Lewis.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

City Council will conduct an annual evaluation with the City Manager in Executive Session.

The current agreement provides that adjustments to the City Manager's salary be carried out through a Resolution. Attached is a Resolution to be considered in Open Session if the Council desires to adjust the City Manager's salary.

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): N/A

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: Resolution 2023-17, .

RESOLUTION 2023-17

A RESOLUTION OF THE CITY OF LOCKHART, TEXAS, AUTHORIZING A SALARY ADJUSTMENT FOR CITY MANAGER STEVEN LEWIS AND ADDENDUM TO THE CITY MANAGER AGREEMENT DATED EFFECTIVE AUGUST 28, 2018, BY AND BETWEEN THE CITY OF LOCKHART AND STEVEN LEWIS

WHEREAS, by “City of Lockhart City Manager Agreement” (“the Agreement”) dated effective August 28, 2018, the City Council of the City of Lockhart employed, and Steven Lewis agreed to be employed as City Manager of the City; and

WHEREAS, pursuant to Sec. 5.1 of the Agreement, the City Council is to review the City Manager’s job performance at least annually; and

WHEREAS, pursuant to Sec. 3.2 of the Agreement, the Council may, in its discretion, adjust the salary paid to the City Manager, but not in an amount less than the salary provided in Sec. 3.1 of the Agreement, such adjustments to be made pursuant to lawful Council resolutions and for which the parties agreed to execute and Addendum to the Agreement; and

WHEREAS, the City Council has reviewed the City Manager’s job performance and is of the opinion that his salary should be adjusted and an Addendum executed.

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

1. The foregoing recitals and adopted and incorporated herein for all purposes.
2. The annual salary to be paid to City Manager Steven Lewis pursuant to Sec. 3.1 of the Agreement is hereby adjusted in the following manner provided in the Addendum to said Agreement that is attached hereto as Exhibit “A.”
3. The Mayor is authorized to execute this resolution and the attached Addendum.

PASSED AND ADOPTED on this the 17th day of October 2023.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Bowermon, City Secretary

Monte Akers, City Attorney

EXHIBIT “A” TO RESOLUTION 2023-17
ADDENDUM FOUR TO CITY MANAGER AGREEMENT

Recitals

1. By “City of Lockhart City Manager Agreement” (“the Agreement”) dated effective August 28, 2018, the City Council of the City of Lockhart employed, and Steven Lewis agreed to be employed as City Manager of the City.
2. Pursuant to Sec. 3.2 of the Agreement, the Council may, in its discretion, adjust the salary paid to the City Manager, but not in an amount less than the salary provided in Sec. 3.1 of the Agreement, such adjustments to be made pursuant to lawful Council resolutions and for which the parties agreed to execute and Addendum to the Agreement.
3. The City Council has reviewed the City Manager’s job performance and is of the opinion that his salary should be adjusted and an Addendum to the Agreement be executed by the parties.

Agreement and Amendment

For and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Section 3.1 of the Agreement is hereby amended to read as follows:

3.1 Salary. The City shall provide the Manager with an annual salary in the sum of _____ commencing October 1, 2023. This annual salary rate shall be paid to the Manager in equal installments on the schedule as other City employees and shall be paid net of any applicable withholding or deductions required by Applicable Law and Authorities.

Except as amended by this Addendum, all other terms, provisions, obligations, and responsibilities of the parties contained in the Agreement shall remain in full force and effect.

ADOPTED and effective on this the 17th day of October 2023.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Bowermon, City Secretary

Monte Akers, City Attorney

Acceptance and Agreement by Steven D. Lewis on October ____, 2023.

Steven D. Lewis, City Manager



Lockhart

T E X A S

2022-2023 Strategic Work Plan



The Strategic Planning Process

From January through April 2022, the City of Lockhart embarked on a strategic planning process to create strategic priorities for 2022-2023. The following is the process used to reach the conclusions for the plan:

The process kicked off with a preliminary Zoom between the City Manager, Steve Lewis, Mayor Lew White, and professional facilitator Alysia A. Cook, PCED, IOM with Opportunity Strategies LLC. The three met to review key issues facing the city, understand the programs and projects currently underway, and to prepare the process and format for the planning session.

On April 8, 2022, the City of Lockhart Management Team met at the Library for Part 1 of the Strategic Work Planning Session for 2022-2023.

On April 9, 2022, the City of Lockhart City Council and City Manager met at the Library for Part 2 of the Strategic Work Planning Session for 2022-2023.



Day One – Management Team

Day One began with City Manager Steve Lewis reviewing with the Management Team the City of Lockhart's accomplishments and success stories of 2021.

Following that, the City Manager and the facilitator shared some leadership concepts and considerations with the Lockhart Management Team. This led to some group discussions about the importance of continuous learning and leadership development.

The City Manager discussed with the participants that when goals are adopted by the City Council, they provide a positive impact for the Management Team in at least 4 different ways:

- a) Direction is clearly set by City Council
- b) Once that direction is established, differences can be discussed in a more open, less polarizing manner
- c) Saves time in decision making on projects/programs
- d) City Manager's recommendations can be better aligned with ultimate objectives

Mission of Lockhart Management Team

To promote and influence the alignment of organizational resources by focusing on:

- a) Organizational planning and issues
- b) Open communication with elected officials, staff, boards, commissions, and citizens
- c) Ensuring City of Lockhart is a leader in Central Texas regarding issues with community relevance
- d) Implementing programs that derive from the City Council and community's goals

Start – Stop – Continue

The facilitator then engaged the Management Team in a group exercise called *Start – Stop – Continue* which divides participants into small groups and has them offer feedback on what the City needs to start doing, stop doing, and continue doing.

These are individual manager recommendations and not necessarily agreed to by all managers or by City Council members. The responses are as follows:

Start

- Long-term capital planning
- Increasing non-emergency communications
- Administering annual customer service surveys that are statistically valid
- Developing recreation programs
- Indoor community recreation center
- City facilities and community infrastructure improvements
- New spaces for city facilities
- Modernize Human Resources policies including technology
- A vehicle acquisition fund
- Decreasing steps in the hiring process
- Staff planning for future growth
- Modernizing our contracts, best practices, attorney, etc. including reviewing for mutually beneficial language and avoiding one-sided contracts

Stop

- Ineffective/outdated contracts
- Thinking small
- Six-month probationary period for personnel
- Reconnecting customers after 10pm
- Providing free services (such as banners and road closures) and establish a fee schedule for these special requests
- Requiring utility inspections for every change of occupant

Continue

- Longevity pay
- Forward-looking planning for quality growth
- Law enforcement outreach with community
- Contracting (sending RFPs) for solid waste collection
- Supporting tourism
- Modernizing technology, e.g. paperless, Go Green
- Enhancing community investment
- Planning our wayfinding and signage
- Growing events that enhance overnight stays in Lockhart and maximize HOT \$ collections
- Economic growth including considering developing a 4th industrial park
- Striving for improved customer service
- Community engagement including public open houses and social media



Next, the Management Team embarked on a discussion around the following topics which also included some departmental reports on the status of various projects:

- Growth Trends
- Land Development
- Economic Development
- Service Delivery
- Workforce Development
- Long Range Financial Outlook

Following those discussions, the facilitator led the Management Team through a discussion of what they each thought should be the 2022-2023 goals City Council would establish the following day. She recorded those recommendations, then the group reached consensus on what would be put forth to the Council to consider.

The final decisions for 2022-2023 were made by City Council the following day and are listed below.

Day Two – City Council

Day Two began with City Manager Steve Lewis reviewing with City Council the City of Lockhart's accomplishments and success stories of 2021.

Expectations – City Council

Following that, the facilitator asked City Council to share any expectations for the day. Responses were as follows:

- TxDOT – Wayfinding and Signage
- Summerside Subdivision turn lane and traffic light
- Urgent Care facility
- Comprehensive mental health care for first responders
- Keeping City Staff wages competitive
- Need for an Assistant City Manager
- Need for a grantwriter
- Regional animal shelter
- Next industrial park and/or property

The following is the City of Lockhart 2022-2023 Strategic Work Plan.

City of Lockhart Vision:

- To be a first-class community that has maintained its integrity and sense of community characterized by livable neighborhoods and quality schools.
- To be a City that focuses on family by ensuring quality recreational and cultural activities, services, housing, economic, and educational opportunities that promote a well-rounded productive member of the community.
- To be a City that is friendly to visitors and future residents with a spirit of fellowship and cooperation by accommodating their needs and recognizing the wealth in cultural, ethnic and age diversity.
- To be a City committed to sustainability by diligently balancing community needs with available resources and managing growth in a smart and fiscally responsible manner.
- To be a City that celebrates and embraces its long and rich history by reinvesting in neighborhoods, preserving areas and buildings of historic significance and returning the Central Business District to an economically viable and lively activity center.
- To be a City recognized for the quality of its built environment and the integration of the natural landscape throughout the community.
- To be a City that ensures a good balance between residential, commercial, industrial, and public/institutional uses supported by quality infrastructure and transportation systems.
- To be a City known for its innovative solutions to managing growth, progressiveness of City government, and responsiveness to the needs of citizens and businesses.

Source: Lockhart 2020 Comprehensive Plan

Goal #1:

**City
Facilities**

Goal #2:

**Human Resources/
Staffing**

Goal #3:

**Parks &
Recreation**

Goal #4:

Infrastructure

Goal #5:

**Modernization &
Communications**

Goal #6:

**Development &
Quality of Life**

Goal #7:

**Revenue
Sustainability**

2022-2023 Goals:

Each of the following seven goals is guided by the values of diversity and inclusion. Diversity and inclusion are a tapestry that is woven through every goal, every service, and every program.

Goal #1: City Facilities

To begin planning for new city facilities and offices.

Goal #2: Human Resources/Staffing

To enhance our HR services to ensure Lockhart remains a competitive employer.

Goal #3: Parks & Recreation

To develop the Parks & Recreation program and services.

Goal #4: Infrastructure

To enhance physical infrastructure and branded wayfinding throughout Lockhart.

Goal #5: Modernization & Communications

To modernize our in-house and online technology, systems, and communications to serve residents more efficiently and tell the Lockhart story.

Goal #6: Development & Quality of Life

To continually improve the quality of life and employment opportunities of the people of Lockhart.

Goal #7: Revenue Sustainability

To ensure the long-term financial health and sustainability of the City of Lockhart.

Goal #1: City Facilities

To begin planning for new city facilities and offices.

- 1.1 Consider which facilities improvements should be funded by certificates of obligation vs. bonds
- 1.2 Begin plans to replace/update City Hall
- 1.3 Begin plans to replace/update Police/Fire/Training facilities
- 1.4 Begin plans to replace/update Maintenance/City Barn Utilities
- 1.5 Reclaim old space at the hospital
- 1.6 Lease additional space at the EDC building
- 1.7 Conduct a Facilities Study with architects and engineers
- 1.8 Consider Airport improvements (TxDOT Aviation) in the study

Goal #2: Human Resources/Staffing

To enhance our HR services to ensure Lockhart remains a competitive employer.

- 2.1 Hire ACM (Assistant City Manager) immediately
- 2.2 Hire City Manager Support Staff (Executive Assistant or Administrative Assistant)
- 2.3 Once new ACM is hired, assign him/her with developing a Staffing Plan
- 2.4 Once new ACM is hired, assign him/her with developing a Succession Plan
- 2.5 Consider adding additional staff city-wide as needed
- 2.6 Retain law enforcement officers by ensuring compensation competitiveness
- 2.7 Implement a formal EAP (Employee Assistance Program)
- 2.8 Secure a grantwriter (explore opportunities for hiring one vs. contractor)

Goal #3: Parks & Recreation

To develop the Parks & Recreation program and services.

- 3.1 Develop adult and youth programming that utilize existing facilities
- 3.2 Conduct successful outreach to sports leagues across Texas and neighboring states
- 3.3 Consider new Parks & Rec facilities such as pickleball, volleyball, and frisbee golf
- 3.4 Plan for and implement safety improvements of existing facilities
- 3.5 Plan for and implement aesthetic improvements of existing facilities
- 3.6 City Council requests to meet with Parks & Rec Director and City Manager to discuss ideas and brainstorm next steps in the Parks Plan including:
 - Work session, then tour Parks facilities with Parks & Rec Director
 - Discuss short-term vs. long-term Parks & Rec needs
 - Develop plan to survey citizens including bond exploration

Goal #4: Infrastructure

To enhance physical infrastructure and branded wayfinding throughout Lockhart.

- 4.1 Conduct public open houses to determine public wishes for Downtown
- 4.2 Council to approve a final Downtown Conceptual Design and authorize staff to implement
- 4.3 Consider an additional commercial district with retail and mixed-use offerings
- 4.4 Issue the RFP for a Comprehensive Plan update (hire firm by January 2023, then CIP (capital improvement plan) to follow
- 4.5 Explore downtown WiFi options including geofencing

Goal #5: Modernization & Communications

To modernize our in-house and online technology, systems, and communications to serve residents more efficiently and tell the Lockhart story.

- 5.1 PIO (Public Information Officer) to secure proposals for a new website design including:
 - Online forms and application portals (permitting, employment, variance requests, etc.)
 - Must be mobile responsive platform
 - Ensure ease of use and innovative utility of site
 - Include a portal to the Lockhart Economic Development Corporation website
- 5.2 Hire a consultant to 1) build a survey to ask the public what information they seek to find on the City of Lockhart website and 2) compare Lockhart website to other communities with high utilization of an innovative website
- 5.3 Streamline application processes of permits, developer proposals, engineering, employment, etc. to be placed on website (see 5.1)
- 5.4 Verify internet access at all City facilities



Goal #6: Development & Quality of Life

To continually improve the quality of life and employment opportunities of the people of Lockhart.

- 6.1 Consider proposed sidewalk ordinance
- 6.2 Facilitate/incentivize more housing options including:
 - Rental housing options
 - Workforce housing options
 - Higher-income housing
 - Infill/revitalized housing within centers of commerce (existing or planned)
 - Senior/retiree housing
- 6.3 Continue to promote family-friendly events in Downtown
- 6.4 Encourage higher development standards (within state legislature constraints) to research modernization techniques and make recommendations to City Manager for consideration
- 6.5 Continue to implement Animal Control Audit recommendations
- 6.6 Continue to provide concerts on the square

Goal #7: Revenue Sustainability

To ensure the long-term financial health and sustainability of the City of Lockhart.

- 7.1 Explore and increase film production permitting fees
- 7.2 Create and implement fees for banners, road closures, event special requests
- 7.3 Use grantwriter (see 2.8) to find and write grants that benefit the City of Lockhart and its residents
- 7.4 Conduct discussions between City Council and Staff regarding which items can/should be funded by certificates of obligation vs. bonds
- 7.5 Update/increase construction permit fees and impact fees
- 7.6 Explore a bond vote for the items proposed by Parks & Rec and Council from Goal #3
- 7.7 Explore the concept of a Community Foundation with community benefactor options including other communities who have successfully created and implemented a Community Foundation

City of Lockhart Leadership

The 2022 City Council and Management Team participating:

City Council:

Lew White, Mayor
Angie Gonzales-Sanchez, Mayor Pro-Tem
Brad Westmoreland, Councilmember At-Large
Juan Mendoza, Councilmember District 1
David Bryant, Councilmember District 2
Kara McGregor, Councilmember District 3
Jeffrey Michelson, Councilmember District 4

Management Team:

Steve Lewis, City Manager
Julie Bowermon, Director of Human Resources
Connie Constancio, City Secretary
Travis Hughes, Director of Parks & Recreation
Randy Jenkins, Fire Chief
Mike Kamerlander, Economic Development Director
Sean Kelley, Public Works Director
Pam Larison, Director of Finance
Bobby Leos, Electric Superintendent
Victoria Maranan, Public Information Officer
Bertha Martinez, Director of Library Services
Ernest Pedraza, Chief of Police





City of Lockhart

2020-2021 Strategic Priorities

Prepared by:

