

PUBLIC NOTICE
AGENDA
LOCKHART CITY COUNCIL
August 6, 2024
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 proclamation declaring August 4 - 10, 2024 as National Health Center Week. | 5-5 |
| B. | Discussion regarding Ordinance 2024-20 ordering a special election to be held on November 5, 2024 in Lockhart, Texas for the purpose of voting on proposed charter amendments, pursuant to Chapter 9 of the Texas Local Government Code and Article XI, Section 5 of the Texas Constitution. | 6-15 |
| C. | Discuss City Council minutes of the October 23, 2023, October 30, 2023, and November 20, 2023 meetings. | 16-25 |
| D. | Discussion regarding the proposed Fiscal Year 2024-2025 Budget for Guadalupe-Blanco River Authority (GBRA) to operate the Lockhart Water and Wastewater Treatment Plants. | 26-39 |
| E. | Discussion regarding Resolution 2024-19 accepting a petition for and calling a public hearing on the advisability of public improvements and creation of the Seawillow Public Improvement District pursuant to Chapter 372 of the Texas Local Government Code. | 40-58 |
| F. | Discussion regarding pipeline crossing and encroachment agreements between Union Pacific Railroad (UPRR) and the City of Lockhart related to the Lockhart Economic Development Administration (EDA) Grant. | 59-120 |
| G. | Discussion regarding Ordinance 2024-19 denying West Texas Gas (WTG) Utility, LLC's request to change rates in the City as part of the company's statewide gas utility system and requiring a prompt reimbursement of costs incurred by the City pursuant to Chapters 102 and 103 of the Texas Utilities Code. | 121-133 |

- H. Presentation of the City of Lockhart's Fiscal Year (FY) 2024-2025 Proposed Budget and consider the Lockhart Economic Development Corporation's Budget for FY 2024-2025, and set two public hearings on the FY 2024-2025 City of Lockhart Proposed Budget. 134-136
- I. Discussion regarding setting the 2024 combined maintenance and operations and interest and sinking proposed property tax rate of the City of Lockhart. 137-149
- J. Discuss rescheduling City Council meetings in 2024 due to conflicts with events. 150-151
- K. Announcement of nomination of Rob Ortiz to the Parks and Recreation Advisory Board by Councilmember John Castillo for a term to expire in November 2025. 152-156

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 on applications ZC-24-05 and PDD 24-03 by Winn Smith on Behalf of Mainsprings, LLC and discussion and/or action on Ordinance 2024-17 for a Zoning Change from PDD Planned Development District to a revised PDD Planned Development District on 1.778 acres located at 416 North Church Street, consisting of Block 1, Lot 1 of the Main Springs Subdivision. 157-199
 - B. Hold a PUBLIC HEARING and discussion and/or action on Ordinance 2024-18 amending Chapter 64 "Zoning" of the Lockhart Code of Ordinances, Appendix II, "Specific requirements for commercial districts" to adjust the maximum height within the CHB Commercial Heavy Business District and to add a required parking minimum for the "Hotel" used within the CHB Commercial Heavy Business District. 200-206

5. CONSENT AGENDA

- A. Approve City Council minutes of the October 23, 2023, October 30, 2023, and November 20, 2023 meetings. **207-216**
- B. Approve pipeline crossing and encroachment agreements between Union Pacific Railroad (UPRR) and the City of Lockhart related to the Lockhart Economic Development Administration (EDA) Grant. **217-278**

6. DISCUSSION/ACTION ITEMS

- A. Discussion and/or action regarding Ordinance 2024-20 ordering a special election to be held on November 5, 2024 in Lockhart, Texas for the purpose of voting on proposed charter amendments, pursuant to Chapter 9 of the Texas Local Government Code and Article XI, Section 5 of the Texas Constitution. **279-288**
- B. Discuss and consider the proposed Fiscal Year 2024-2025 Budget for Guadalupe-Blanco River Authority (GBRA) to operate the Lockhart Water and Wastewater Treatment Plants. **289-302**
- C. Discussion and/or action regarding Resolution 2024-19 accepting a petition for and calling a public hearing on the advisability of public improvements and creation of the Seawillow Public Improvement District pursuant to Chapter 372 of the Texas Local Government Code. **303-321**
- D. Discussion and/or action regarding Ordinance 2024-19 denying West Texas Gas (WTG) Utility, LLC's request to change rates in the City as part of the company's statewide gas utility system and requiring a prompt reimbursement of costs incurred by the City pursuant to Chapters 102 and 103 of the Texas Utilities Code. **322-334**
- E. Presentation of the City of Lockhart's Fiscal Year (FY) 2024-2025 Proposed Budget and consider approval of the Lockhart Economic Development Corporation's Budget for FY 2024-2025, and set two public hearings on the FY 2024-2025 City of Lockhart Proposed Budget. **335-337**
- F. Discussion and/or action regarding setting the 2024 combined maintenance and operations and interest and sinking proposed property tax rate of the City of Lockhart. **338-350**
- G. Discuss and consider rescheduling City Council meetings in 2024 due to conflicts with events. **351-352**
- H. Announcement of nomination of Rob Ortiz to the Parks and Recreation Advisory Board by Councilmember John Castillo for a term to expire in November 2025. **353-357**

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

- Update regarding the creation of the City's Homeless Outreach Team.
- Update regarding Austin Community College (ACC): Annexation Election for Lockhart Independent School District territory.
- Movies in the Park - Saturday, August 10th.
- School starts August 20th: City Park Swimming Pool will remain open through August with modified hours of operation while lifeguards are available.

8. COUNCIL AND STAFF COMMENTS - ITEMS OF COMMUNITY INTEREST

9. 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 2nd day of August, 2024 at 3:30 p.m.

Proclamation

WHEREAS, For over 50 years, Community Health Centers have provided high-quality, affordable, comprehensive primary and preventive health care in our nation's medically underserved communities, delivering value to, and having a significant impact on America's health care system; and

WHEREAS, as the country's largest primary care network, Community Health Centers are the health care home for over 31.5 million Americans in over 15,000 communities across the country. One in every eleven people in the United States gets their care at a Community Health Center; and

WHEREAS, Community Health Centers serve as beacons of essential resources and support in the face of disasters and pandemics and will continue to respond quickly to care for America's most vulnerable and underserved communities; and

WHEREAS, Community Health Centers are on the front lines of emerging health care crises. They operate over 900 mobile units, providing accessible health services in hundreds of rural and urban communities; and

WHEREAS, National Health Center Week offers the opportunity to celebrate America's more than 1,400 Community Health Center organizations with over 15,000 service delivery sites, including over 3,600 schools; and

WHEREAS, During National Health Center Week, we celebrate the legacy of America's Community Health Centers, and their vital role in shaping the past, present, and future of America's health care system.

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

August 4-10, 2024

as

**National Health Center Week
in the City of Lockhart, Texas**



I encourage all Americans to participate in this week by visiting their local health center and celebrating this vital partnership between America's Community Health Centers and the communities they serve.

IN TESTIMONY WHEREOF, I have hereto set my hand and caused the Seal of the City of Lockhart, Texas, to be affixed this the 6th day of August 2024.



CITY OF LOCKHART

ATTEST:

Julie Bowermon
City Secretary

Lew White, Mayor

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion regarding Ordinance 2024-20 ordering a special election to be held on November 5, 2024 in Lockhart, Texas for the purpose of voting on proposed charter amendments, pursuant to Chapter 9 of the Texas Local Government Code and Article XI, Section 5 of the Texas Constitution.

ORIGINATING DEPARTMENT AND CONTACT: City Attorney - Brad Bullock

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: On May 29, 2024, a charter amendment petition was submitted to the City. This petition proposed amendments to the City's Charter which would reform marijuana enforcement by city personnel, specifically by prohibiting the Lockhart Police Department from making any arrest or issuing any citation for Class A or Class B misdemeanor marijuana possession, except in limited cases.

As a home rule municipality, amendments to the City's charter are governed by Texas Local Government Code Chapter 9. When the City receives a proposed charter amendment that is supported by a petition signed by at least five percent (5%) of the qualified voters of the City or 20,000 qualified voters, whichever number is less, the City Council legally is required to order an election for the purpose of voting on the proposed charter amendment. The duty of the members of the City Council to order such an election when the requirements are met is a ministerial one and an election must be ordered. This does not reflect a policy endorsement or support of the measure being presented, but rather only reflects the Council's duty to follow established state law.

The petition received by the City on May 29 was signed by at least five percent (5%) of the qualified voters of the City of Lockhart. The City Attorney and City Secretary have verified that the signatures on the petition belong to at least five percent (5%) of the qualified voters of the City. Therefore, the members of the City Council must order an election. Again, doing so is a ministerial duty of the City Council.

The language of a ballot proposition is the responsibility of the authority ordering the election, not the responsibility of the party petitioning for an election to be called. *City of Galena Park v. Ponder* (App. 14 Dist. 2016) 503 S.W.3d 625. Pursuant to Local Government Code Section 9.004(e), the ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments. Where an ordinance submitting an amendment to a city charter included unrelated amendments, but amendments contained only one subject and ballot permitted voters to vote "yes" or "no" on each amendment without voting "yes" or "no" on all, amendment was valid. *City of Lubbock v. Geo. L. Simpson & Co.* (Civ.App. 1930) 31 S.W.2d 665, error dismissed. Voters must have the opportunity to vote "yes" or "no" on each amendment. For example, voters could vote "yes" to

City of Lockhart, Texas

Council Agenda Item Cover Sheet

prohibiting arrests for Class A or B misdemeanor marijuana possession, but vote “no” to ban the use of the odor of marijuana or hemp as probable cause for search or seizure. Therefore, each amendment must be submitted to the voters separately. Each section of the proposed new article is separated so that voters may vote on each section separately.

This ordinance orders the special election for the purpose of voting on the proposed charter amendments.

Staff recommends approval of the ordinance ordering the election. This has been reviewed by the City Attorney.

PROJECT SCHEDULE (if applicable): N/A

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of the ordinance ordering the election.

LIST OF SUPPORTING DOCUMENTS: Texas Local Govt Code - 9004 Charter Amendments, Ordinance 2024-20 calling special election for charter amendment

Vernon's Texas Statutes and Codes Annotated
Local Government Code (Refs & Annos)
Title 2. Organization of Municipal Government (Refs & Annos)
Subtitle A. Types of Municipalities
Chapter 9. Home-Rule Municipality

V.T.C.A., Local Government Code § 9.004

§ 9.004. Charter Amendments

Effective: September 1, 2023

[Currentness](#)

(a) Except as provided by [Section 9.0045](#), the governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller.

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted.

(c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

(1) include a substantial copy of the proposed amendment;

(2) include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election; and

(3) be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(d) An amendment may not contain more than one subject.

(e) The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.

(f) The requirement imposed by Subsection (c)(2) does not waive governmental immunity for any purpose and a person may not seek injunctive relief or any other judicial remedy to enforce the estimate of the anticipated fiscal impact on the municipality.

Credits

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1219, § 5, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1349, § 76, eff. Sept. 1, 1997; Acts 2007, 80th Leg., ch. 414, § 1, eff. Sept. 1, 2007; Acts 2023, 88th Leg., ch. 360 (S.B. 1860), § 3, eff. Sept. 1, 2023.

V. T. C. A., Local Government Code § 9.004, TX LOCAL GOVT § 9.004

Current through the end of the 2023 Regular, Second, Third and Fourth Called Sessions of the 88th Legislature, and the Nov. 7, 2023 general election.

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

ORDINANCE NO. 2024-20

AN ORDINANCE OF THE CITY OF LOCKHART, TEXAS ORDERING A SPECIAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 IN LOCKHART, TEXAS FOR THE PURPOSE OF VOTING ON PROPOSED CHARTER AMENDMENTS; PROVIDING FOR MATTERS INCIDENTAL THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lockhart (the “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, pursuant to Section 9.004(a) of the Texas Local Government Code, the City Council of the City of Lockhart, Texas (the “City Council”) shall submit proposed Charter amendments to the City’s voters at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality; and

WHEREAS, Section 9.004(b) of the Texas Local Government Code requires that such an election be ordered by ordinance; and

WHEREAS, the City Council wishes to order a special election to be held on November 5, 2024 for the purpose of submitting proposed amendments to the City Charter to the voters.

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

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. ELECTION ORDERED. The Lockhart City Council hereby orders a special election to be held on November 5, 2024 in Lockhart, Texas for the purpose of voting on the following propositions:

A. Shall Article XII, Section 12.01 of the Charter of the City of Lockhart be amended to update the name of Article XII to the “Lockhart Freedom Act”?

FOR _____
AGAINST _____

B. Shall Article XII, Section 12.02 of the Charter of the City of Lockhart be amended to enact the Lockhart Freedom Act to reform marijuana enforcement by city personnel, with the specific objectives of carefully allocating scarce city resources, reducing the risk of discriminatory enforcement practices, and focusing city resources on the highest priority public safety concerns?

FOR _____
AGAINST _____

C. Shall Article XII, Section 12.03 of the Charter of the City of Lockhart be amended to prohibit the Lockhart Police Department from making any arrest or issuing any citation for Class A or Class B misdemeanor marijuana possession, except in the limited cases described by the Lockhart Freedom Act?

FOR _____
AGAINST _____

D. Shall Article XII, Section 12.04 of the Charter of the City of Lockhart be amended to, in the event of a binding act of a state or federal court which would prevent the City of Lockhart's fulfillment of Section 12.03 of the Charter, make it the City's police to make enforcement of Class A and Class B misdemeanor marijuana possession its lowest enforcement priority?

FOR _____
AGAINST _____

E. Shall Article XII, Section 12.05 of the Charter of the City of Lockhart be amended to not limit enforcement of misdemeanor marijuana possession offenses if an offense is (a) revealed as part of a felony narcotics investigation that has been designated as "high priority" by a commander, assistant chief of police, or chief of police; (b) and/or revealed as part of the investigation for a violent felony?

FOR _____
AGAINST _____

F. Shall Article XII, Section 12.06 of the Charter of the City of Lockhart be amended to permit a Lockhart police officer with probable cause that a substance is marijuana to seize the substance, and if the officer seizes the substance, they must write a report explaining the grounds for seizure and release and detained person if possession of marijuana is the sole charge?

FOR _____
AGAINST _____

G. Shall Article XII, Section 12.07 of the Charter of the City of Lockhart be amended to state that a Class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge?

FOR _____
AGAINST _____

H. Shall Article XII, Section 12.08 of the Charter of the City of Lockhart be amended to ban City funds or personnel from requesting, conducting, or obtaining tetrahydrocannabinol (THC) testing of any cannabis-related substance to determine whether the substance meets the legal definition of marijuana under state or federal law, except (a) for purposes of toxicology testing to ensure public safety or (b) the investigation of a violent felony offense?

FOR _____
AGAINST _____

I. Shall Article XII, Section 12.09 of the Charter of the City of Lockhart be amended to ban using the odor of marijuana or hemp as probable cause for search or seizure except in limited circumstances of a police investigation?

FOR _____
AGAINST _____

J. Shall Article XII, Section 12.10 of the Charter of the City of Lockhart be amended to require the City Manager and Chief of Police to ensure that (a) City policies and internal operating procedures are updated in accord with the Lockhart Freedom Act and (b) Lockhart police officers receive adequate training concerning each of the provisions of the Lockhart Freedom Act?

FOR _____
AGAINST _____

K. Shall Article XII, Section 12.11 of the Charter of the City of Lockhart be amended to state that any violation of the Lockhart Freedom Act may subject a Lockhart police officer to discipline as provided by the Texas Local Government Code or as provided by City policy?

FOR _____
AGAINST _____

L. Shall Article XII, Section 12.12 of the Charter of the City of Lockhart be amended to require the City Manager, in consultation with the Chief of Police and other relevant City personnel, to prepare quarterly reports concerning the implementation of the Lockhart Freedom Act to be presented to the City Council at a public meeting subject to the Texas Open Meetings Act?

FOR _____
AGAINST _____

M. Shall Article XII, Section 12.13 of the Charter of the City of Lockhart be amended to state that in the event that any court finds any section of the Lockhart Freedom Act to be unlawful or unenforceable, that section shall be severed for this policy and the rest shall continue in force?

FOR _____
AGAINST _____

SECTION 3. AMENDMENTS. Should the voters approve any of the propositions listed above, the referenced sections of the City Charter shall be amended to read as follows:

A. Article XII, Section 12.01, Title: “This article shall be known as the Lockhart Freedom Act.”

B. Article XII, Section 12.02, Purpose: “Pursuant to the home rule authority of the Texas Constitution, to promote the health, safety, and general welfare of the people of Lockhart, Texas, the voters of Lockhart hereby enact the Lockhart Freedom Act a policy to reform marijuana enforcement by city personnel, with the specific objectives of carefully allocating scarce city resources, reducing the risk of discriminatory enforcement practices, and focusing city resources on the highest priority public safety concerns.”

C. Article XII, Section 12.03, Enforcement of misdemeanor marijuana offenses: “Unless and until a binding act of a state or federal court requires otherwise, the Lockhart Police Department

shall not make any arrest or issue any citation for Class A or Class B misdemeanor marijuana possession, except in the limited cases described by this policy.”

D. Article XII, Section 12.04, Safe Harbor: “In the event of a binding act of a state or federal court, which would prevent the City of Lockhart’s fulfillment of Section 12.03, the City’s policy shall be to make enforcement of Class A and Class B misdemeanor marijuana possession its lowest enforcement priority. In particular, the City shall update its annual budget, police department manual, and relevant policies and procedures to ensure that public safety resources are not wasted on misdemeanor marijuana enforcement and are instead targeted at other programs that best promote the health, safety, and general welfare of the people of Lockhart.”

E. Article XII, Section 12.05, Exceptions to enforcement policy: “This policy shall not limit enforcement of misdemeanor marijuana possession offenses if an offense is (a) revealed as part of a felony narcotics investigation that has been designated as “high priority” by a commander, assistant chief of police, or chief of police; (b) and/or revealed as part of the investigation of a violent felony. Lockhart police officers shall not issue any charge for misdemeanor possession of marijuana unless it meets one or more of these exceptions.”

F. Article XII, Section 12.06, Handling of evidence: “In any instance governed by this policy, if a Lockhart police officer has probable cause to believe that a substance is marijuana, the officer may seize the substance. If the officer seizes the substance, they must write a report explaining the grounds for seizure and release any detained person if possession of marijuana is the sole charge.”

G. Article XII, Section 12.07, No citations for paraphernalia or residue in lieu of possession charge: “A Class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge.”

H. Article XII, Section 12.08, Ban on using City resources for THC concentration testing: “No city funds or personnel shall be used to request, conduct, or obtain tetrahydrocannabinol (THC) testing of any cannabis-related substance to determine whether the substance meets the legal definition of marijuana under state or federal law, except (a) for purposes of toxicology testing to ensure public safety or (b) the investigation of a violent felony offense.”

I. Article XII, Section 12.09, Ban on using odor of marijuana or hemp as probable cause for search or seizure: “Lockhart police shall not consider the odor of marijuana or hemp to constitute probable cause for any search or seizure, except in the limited circumstances of a police investigation pursuant to Section 12.05.”

J. Article XII, Section 12.10, Training and policy updates: “The City Manager and Chief of Police shall ensure that (a) City policies and internal operating procedures are updated in accord with this policy and (b) Lockhart police officers receive adequate training concerning each of the provisions of this policy.”

K. Article XII, Section 12.11, Officer discipline: “Any violation of this policy may subject a Lockhart police officer to discipline as provided by the Texas Local Government Code or as provided by City policy.”

L. Article XII, Section 12.12, Quarterly reports: “The City Manager, in consultation with the Chief of Police and other relevant City personnel, shall prepare quarterly reports concerning the implementation of this policy, to be presented to the City Council at a public meeting subject to the Texas Open Meetings Act, and with the first report due no later than 120 days following the effective date of this policy. Each report shall include a summary of the City’s implementation of this policy and shall include specific information concerning enforcement of misdemeanor marijuana possession offenses, including total arrests made, total citations issues, estimated personnel hours used in conducting enforcement activities, and demographic information for each person charged with an offense, including age, gender, race, and ethnicity.”

M. Article XII, Section 12.13, Severability: “In any event that any court finds any section of the Lockhart Freedom Act to be unlawful or unenforceable, that section shall be severed from this policy and the rest shall continue in force.”

SECTION 4. VOTER INFORMATION.

A. Early voting by personal appearance will be conducted each weekday at the Scott Annex Building, 1403 Blackjack St., Suite A, Lockhart, Texas 78644 pursuant to the schedule below. Early voting by personal appearance will take place on Monday, October 21, 2024, through Friday, October 25, 2024, from 8:00am to 5:00pm. Early voting by personal appearance will also be conducted on Saturday, October 26, 2024, between the hours of 7:00 a.m. and 7:00 p.m., and on Sunday, October 27 between the hours of 9:00am and 3:00pm. Extended hours for Early Voting are Monday, October 28 through Friday, November 1 between the hours of 7:00am and 7:00pm. **Locations and hours may be changed by the County Elections Administrator.**

Monday, October 21	8:00am – 5:00pm
Tuesday, October 22	8:00am – 5:00pm
Wednesday, October 23	8:00am – 5:00pm
Thursday, October 24	8:00am – 5:00pm
Friday, October 25	8:00am – 5:00pm
Saturday, October 26	7:00am – 7:00pm
Sunday, October 27	9:00am – 3:00pm
Monday, October 28	7:00am – 7:00pm
Tuesday, October 29	7:00am – 7:00pm
Wednesday, October 30	7:00am – 7:00pm
Thursday, October 31	7:00am – 7:00pm
Friday, November 1	7:00am – 7:00pm

B. Applications for ballot by mail shall be mailed to:

Name of Early Voting Clerk: Devante Coe, Caldwell County Elections Administrator

Address: 1403 Blackjack Street, Suite A
Lockhart TX 78644

Telephone Number: 512-668-4347

Email Address: devante.coe@co.caldwell.tx.us
Early Voting Clerk's Website: www.co.caldwell.tx.us

C. Applications for Ballots by Mail (ABBM)s must be received no later than the close of business on Friday, October 25, 2024.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption by the City Council.

PASSED AND APPROVED by the Lockhart City Council in a public meeting on this the 6th day of August, 2024.

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

APPROVED AS TO FORM:

Bradford E. Bullock, City Attorney

**SPECIAL MEETING
LOCKHART CITY COUNCIL**

OCTOBER 23, 2023

6:30 P.M.

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

Council present:

Councilmember John Castillo
Councilmember Juan Mendoza
Mayor Pro-Tem Angie Gonzales-Sanchez

Mayor Lew White
Councilmember Brad Westmoreland
Councilmember Jeffry Michelson

Council absent:

Councilmember Kara McGregor

Staff present:

Steve Lewis, City Manager
Joseph Resendez, Assistant City Manager
Travis Hughes, Parks Director
Julie Bowermon, Civil Service/HR Director

Citizens/Visitors Addressing the Council: Robby Hazelbecker of Water Technology, Inc; Kari Biddix of Halff Associates; and Scott Caron of Ballard King.

ITEM 1. CALL TO ORDER,

Mayor Lew White called the meeting to order at 6:30 p.m.

Mayor White announced that some members of the Parks Advisory Board and Aquatics Committee were present.

ITEM 2-A. DISCUSSION AND CONSIDERATION OF A PRESENTATION FROM HALFF ASSOCIATES, INC. AND WATER TECHNOLOGY, INC. (WTI) REGARDING FUTURE AQUATIC FACILITIES CONCEPT PLANS AND RELATED CONCEPTUAL COST ESTIMATES.

Mr. Hughes stated that representatives of Halff Associates, Water Technology, Inc. and Ballard King would give the presentation of the Phase II results for the Aquatic Facilities study.

Robby Hazelbecker of Water Technology, Inc; Kari Biddix of Halff Associates; and Scott Caron of Ballard King provided information and there was discussion regarding the following:

Recent Aquatic Committee/Park's Commission

Phase II Workshop, Held Sept. 28, 2023

- Reviewed City-Wide Survey performed by Halff and associates;
- Summarized the Ballard*King Market Research;
- Confirmed Aquatic goals, objectives, activities and uses;
- Developed Aquatic program after virtual tour of similar facilities;
- Prioritized Features & Amenities;
- Conducted consensus exercises using a priorities handout and image boards for attendees voting;
- Reached consensus on number of pools and their planned use.

SUMMARY OF RECENT SURVEY RESULTS

A Public Survey was conducted for the Parks, Recreation and Open Space Master Plan Update which included multiple questions on Aquatics

- 128 respondents
- Opened on July 11
- Closed on August 22

Park Activities You Would Like to Participate In

ADULTS

1. Exercising on Trails
2. Swimming
3. Special events
4. Viewing nature
5. Canoeing or kayaking

CHILDREN

1. Playgrounds
2. Splash pad
3. Swimming
4. Arts/crafts classes
5. Soccer

Most Important Facilities or Amenities

1. New/upgraded restrooms
2. Trees and Landscaping
3. Benches
4. Walking/hiking trails
5. Swimming Pool

Top Priorities

1. Construct a new aquatics facility (indoor/outdoor) – 34% voted as top priority
2. Improvements/maintenance of existing parks and recreation facilities – 23% voted as top priority
3. Development of new indoor facilities – 13% voted as top priority

96% of survey respondents indicated that swimming pools are important facilities.

45 mentions in the survey open ended comments about swimming, splash pads, and pools.

POINTS MADE IN THE MARKET STUDY

- Primary service area: Lockhart City limits
 - Population: 14,725 : Typically, can support one outdoor pool
- Secondary service area: Within a 20-Minute drive; Population: 69,743
 - Distance from which individuals may travel to participate but on a limited basis.
- Due to the presence of alternative facilities, creeks and reservoirs in this area, people have options for participation.
- At least 34.0% of households include at least one child.
- 10% of people participating in swimming are looking for an organized activity, while 90% are in search of unorganized use. This further emphasizes the need for the leisure components.
- The Market Potential Index (MPI) for adults that participate in swimming is near the national number. This level of participation demonstrates the importance of having a pool in Lockhart.
- The identified service areas have a lower median household income than the National Average. Two Challenges with this fact:
 - Pre-conceived notion about admission fees and charges
 - Appropriate budget for maintenance and staffing
- Cost of Living: Less than the National number

- 22.7% of the population is under age 18, which is greater the national average.
- The population under 45 will grow demonstrating the need to cater to this market.
- In the case of swimming, Hispanic participation is greater than the national average.
- The most prominent Tapestry groups are conservative, family-oriented, and have a high participation rate in parks and recreation programs and facilities.

SELECTED PROGRAMS

Leisure Pool

- Beach Entry with Geysers
- Mini-Dumping Buckets
- Under Water Benches
- Water Basketball/Volleyball
- Large Areas for Learn to Swim Program and Water Exercise
- Option to Heat
 - Spring/Late Fall
- Rentable Shade Structures
- Birthday Pavilion
- Single Tube Slide with Run-out on Deck

Six-Lane, 25-Yard Training Pool with Diving

- Deep Water Pool (4'- 0" to 12'- 6") for:
 - Swim Team Program Development
 - Lifeguard Training
 - Advanced Swim Lessons
 - Scuba, Kayak, Class Potential
- Two 1-Meter Diving Boards
- Large Exercise Area
- Water Rentals and Special events
- Future Drop slide

LOCKHART AQUATIC CENTER OPERATIONS

Assumptions

- Final design could impact part-time staffing levels and influence revenue
- First year of operation will be 2025
- Primary Season of Memorial Day through Labor Day (approx. 13 weeks)
- Use by the High School during the school year

Ballard*King takes a conservative approach

- Built on industry standards and best practices

Recommendations

- Add year-round full-time coordinator for pool operations
- Annual allocation for capital/equipment replacement
- Purchase recreation management software
- Develop aquatic operations manual

Proposed Admission fees

Proposed revenue and expenditures to operate the aquatic facility

Concept development proposals

COST OPINION

Leisure/Teaching Pool

Concept A: 4,260 SF.

Pool Costs \$1,680,000

Play Structure \$162,000

Shade Structures (4) \$60,000

Concept B: 4,500 SF.
Pool Costs \$1,785,000
Spray Features \$62,000
Shade Structures (4) \$60,000
(Tube Slide/Tower \$376,850 – not included in cost)

Total Aquatic and Mechanical Costs: \$1.91M

Six Lane Competition Pool

Both Concepts 3,400 SF.
Deep Water Pool \$1,575,000
2-one Meter Boards included
(Future Drop Slide \$75K-130,000 – not included in cost)

Exclusions

Bath House/Mechanical Building/Party Pavilion
Haul Off of Soils
Survey
Soil Conditioning
Shade Structures
Housekeeping Pads
Electrical Bonding
Water, Sewer, and Electrical Hookups
Decks and Sealants
Pool Heater for Competition Pool
Starting Blocks & Lifeguard chairs
Expansion Joints
Permits
Parking/Landscape
Sales Tax
Estimate of Cost \$3.5 - \$4M (To be confirmed by an architect)

There was discussion regarding trends and programs offered of an Aquatics facility.

CONSENSUS: The consensus of the Council was that staff continue exploring how to finance the facility as well as possible locations for it.

ITEM 3. ADJOURNMENT

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 7:45 p.m.

PASSED and APPROVED this the 6th day of August, 2024.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon
City Secretary

**SPECIAL MEETING
LOCKHART CITY COUNCIL**

OCTOBER 30, 2023

6:30 P.M.

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

Council present:

Councilmember John Castillo
Councilmember Juan Mendoza
Councilmember Jeffry Michelson

Mayor Lew White
Councilmember Brad Westmoreland
Councilmember Kara McGregor
Mayor Pro-Tem Angie Gonzales-Sanchez

Staff present:

Steve Lewis, City Manager
Joseph Resendez, Assistant City Manager
David Fowler, Planning Director
Victoria Burns, Public Information Officer

Brad Bullock, City Attorney
Julie Bowermon, Civil Service/HR Director

Citizens/Visitors Addressing the Council: None.

ITEM 1. CALL TO ORDER,

Mayor Lew White called the meeting to order at 6:30 p.m.

ITEM 2-A. CONSIDERATION AND ACTION ON PETITION FOR RELEASE OF 389.249 ACRES FROM THE CITY'S ETJ FILED BY PHAU-LOCKHART 450, LLC.

Mayor White announced that the item would be discussed in Executive Session.

Mayor White announced that the Council would enter Executive Session at 6:31 p.m. to discuss the following:

ITEM 3. 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.

B. DISCUSSION WITH CITY ATTORNEY REGARDING LEGAL ADVICE RELATED TO SB 2038.

ITEM 4. OPEN SESSION

Mayor White announced that the Council would enter Open Session at 7:30 p.m.

A. DISCUSSION AND/OR ACTION REGARDING A PETITION FOR RELEASE OF PROPERTY FROM THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF LOCKHART.

Mayor White made a motion that the PHAU-LOCKHART 450, LLC. petition to remove property from the City's ETJ be denied because SB 2038 is an unconstitutional delegation of legislative authority and it conflicts with Local Government Code Section 420.023 City of Lockhart does not consent to a reduction of its ETJ. Councilmember McGregor seconded. The motion passed by a vote of 7-0.

B. DISCUSSION AND/OR ACTION REGARDING AUTHORIZING CITY ATTORNEY TO TAKE APPROPRIATE ACTION RELATED TO SB 2038.

Mayor White made a motion to authorize the City Attorney to join the Grand Prairie lawsuit regarding SB 2038. Councilmember McGregor seconded. The motion passed by a vote of 7-0.

ITEM 5. ADJOURNMENT

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 7:35 p.m.

PASSED and APPROVED this the 6th day of August, 2024.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon
City Secretary

**SPECIAL MEETING
LOCKHART CITY COUNCIL**

NOVEMBER 20, 2023

6:00 P.M.

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

Council present:

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

Mayor Lew White
Councilmember Kara McGregor
Councilmember Brad Westmoreland

Council absent:

Councilmember John Castillo

Staff present:

Steven Lewis, City Manager
Victoria Burns, Public Information Officer
Bertha Martinez, Library Director
Randy Jenkins, Fire Chief

Julie Bowermon, City Secretary
Gary Williamson, Police Chief
Sean Kelley, Public Works Director

Citizens/Visitors Addressing the Council: None.

ITEM 1. CALL TO ORDER.

Mayor Lew White called the meeting to order at 6:00 p.m. He announced that Councilmember Castillo would not be able to attend the meeting.

COUNCIL ACTION REGARDING THE NOVEMBER 7, 2023 GENERAL ELECTION.

ITEM 2-A. DISCUSSION AND/OR ACTION TO CONSIDER RESOLUTION 2023-18 CANVASSING THE GENERAL ELECTION HELD NOVEMBER 7, 2023 FOR THE ELECTION OF MAYOR; COUNCILMEMBER DISTRICT 3; AND, COUNCILMEMBER DISTRICT 4.

Mayor White announced that the election results would be read to canvass the November 7, 2023 City of Lockhart General Election.

The election results were read as follows:

Mayor Pro-Tem Sanchez read the election results for Mayor.
Councilmember Mendoza read the election results for District 3.
Councilmember Westmoreland read the election results for District 4.

		ABSENTEE	EARLY VOTING	ELECTION DAY	TOTAL
MAYOR	Lew White	15	849	563	1,427
	Juan Alvarez, Jr	4	252	260	516
DISTRICT 3	John Lairsen	8	327	195	530
	Barry Bacom	5	165	132	302
DISTRICT 4	Jeffry Michelson	1	234	157	392

Mayor White read Resolution 2023-18 in its entirety and announced that the following were elected:

Lew White as Mayor

John Lairsen as Councilmember District 3

Jeffry Michelson as Councilmember District 4

Mayor Pro-Tem Sanchez made a motion to approve Resolution 2023-18, as presented. Councilmember Westmoreland. The motion passed by a vote of 6-0.

ITEM 2-B. ADMINISTER OATH OF OFFICE TO NEWLY ELECTED COUNCILMEMBERS AS FOLLOWS:

Judge Chris Schneider administered the Oath of Office to Lew White as Mayor.

Judge Todd Blomerth administered the Oath of Office to John Lairsen as Councilmember District 3.

Judge Chris Schneider administered the Oath of Office to Jeffry Michelson as Councilmember District 4.

Councilmember John Lairsen took his seat at the Council dais.

ITEM 2-C. RECOGNITION TO OUTGOING COUNCILMEMBER KARA MCGREGOR.

Mayor White presented a plaque of appreciation to Kara McGregor for serving as Councilmember District 3 from 2017 to 2023.

Ms. McGregor thanked the Lockhart City Council and the community for their guidance and support during her tenure as Councilmember District 3. She expressed appreciation of the grace and support of the residents of District 3.

Mayor White thanked Ms. McGregor for her outstanding service to the community during her tenure as Councilmember District 3.

ITEM 3. ADJOURNMENT – RECEPTION TO FOLLOW ADJOURNMENT OF CITY COUNCIL MEETING.

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 6-0. The meeting was adjourned at 6:20 p.m.

PASSED and APPROVED this the 6th day of August, 2024.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion regarding the proposed Fiscal Year 2024-2025 Budget for Guadalupe-Blanco River Authority (GBRA) to operate the Lockhart Water and Wastewater Treatment Plants.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: On June 18, 2024, Council received the proposed annual operating budget from GBRA and heard a presentation regarding the operations and maintenance of the Lockhart Water and Wastewater Treatment Plants. City staff requested more time at that meeting so that staff could thoroughly examine the proposed budgets.

The most notable changes were the potential decrease in wastewater revenue at WWTP due to another local wastewater plant coming online mid-year with the ability to receive waste from septic haulers and impacts to the budget related to the Carrizo Groundwater Supply Project due to changes in quantities received from each source.

GBRA's fiscal year runs from September 1st through August 31st each year. If approved, GBRA's proposed budgets for Fiscal Year 2024-2025 will be incorporated into the City of Lockhart's Proposed Annual Budget for Fiscal Year 2024-25.

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 recommends acceptance of the GBRA Fiscal Year 2024–2025 Budgets for the Water Treatment Plant and Wastewater Treatment Plants.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

LIST OF SUPPORTING DOCUMENTS: 130-LOCKHART WWTP, 131-LOCKHART WTP



LOCKHART WASTEWATER RECLAMATION SYSTEM

WORK PLAN AND BUDGET

Fiscal Year Ending August 31, 2025

Preliminary as submitted by
Guadalupe-Blanco River Authority
July 1, 2024

Lockhart Division

Lockhart Wastewater Reclamation System

Operating Plan for Fiscal Year Ending 8/31/25

BACKGROUND

After signing a contract with the City of Lockhart in 1994, GBRA assumed the operation of the City's 1.1 million gallons per day (MGD) Larremore Street wastewater treatment plant. Subsequently in 1999, the new 1.5 MGD FM20 plant commenced operation increasing the City's combined wastewater treatment capacity to 2.6 MGD. The contract between the City of Lockhart and GBRA provides that GBRA will bill the City the actual cost of operating the two plants. As a result, revenue is matched to expenses and GBRA does not over-recover nor under-recover the cost of operating the System.

Personnel within the Lockhart Wastewater Reclamation System are organized into a team consisting of the Chief Operator and four operators. In addition, GBRA's water plant personnel located at the Lockhart Water Treatment Plant will assist in the maintenance and repair of the wastewater treatment plants. Serving as facilitators to the team will be the Hays/Caldwell Division Manager. Additional support will be received from the Seguin and New Braunfels offices in the form of engineering, electrical, purchasing, and administrative functions.

REVENUE SOURCES AND TRENDS

The following Work Plan and Budget is based on the two Lockhart Wastewater Treatment Plants treating an estimated sewage flow of 440.23 million gallons annually or 1.21 million gallons per day (MGD). For Fiscal Year 2025, the flow will be split with approximately 0.430 MGD treated by the Larremore Plant and 0.776 MGD treated by the FM 20 Plant. Revenue to treat this amount of waste has generally trended upward over the last several years coincident with inflationary increases in plant operating costs. The budgeted FY 2025 total revenue for the Lockhart Wastewater System is \$1,637,073 which is \$32,519 or 2.03% more than last year's budget.

MAJOR OPERATING AND MAINTENANCE EXPENDITURES

The combined operating expenditure budget for FY 2025 amounts to \$1,637,073. Significant operating expenses budgeted for Fiscal Year 2025 include biosolids disposal in the amount of \$294,256, power and utilities of \$244,887, laboratory testing and expenses of \$68,237. Significant maintenance expenditures budgeted for Fiscal Year 2025 include the rehabilitation of the Sludge Pumps at FM20 and the replacement of the drain valves between the Lift Station and Drain Station a Larremore.

In order to meet public service needs through motivated employees, provide advanced training, and maintain and upgrade occupational licenses, personnel will attend courses provided by various approved sources such as Texas Engineering Extension Service and Texas Water Utility Association. Plant personnel will also conduct in-house training in team building skills, confined space rescue, hazard communication, electrical safety and maintenance, first aid, and CPR. Other training will include computer software and personal development seminars.

FUND BALANCE

Funds for the above listed maintenance projects as well as all of the other operating expenditures that are summarized in the following pages will be provided from revenues from the City of Lockhart. Since this system represents a contract operation in which GBRA does not over-recover nor under-recover its costs, the net change in fund balance for FY 2025 is \$0.

**Guadalupe-Blanco River Authority
Work Plan & Budget
Fiscal Year Ending August 31, 2025**

**130 - Lockhart WWTP
Department ***

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
OPERATING BUDGET				
OPERATING REVENUES				
Wastewater Treatment				
41201	WW-OPR & MAINTENANCE	1,481,291	1,498,250	16,959
41202	WW-ADMINISTRATIVE & GENERAL	123,263	138,823	15,560
41207	WW-CREDIT TO CUSTOMER	(800,000)	(600,000)	200,000
	Total Wastewater Treatment	804,554	1,037,073	232,519
Misc Income				
45195	MISCELLANEOUS REVENUES	800,000	600,000	(200,000)
	Total Misc Income	800,000	600,000	(200,000)
	Total Operating Revenue	1,604,554	1,637,073	32,519
OPERATING EXPENSES				
Salaries				
51101	LBR-REGULAR WAGES	355,378	402,817	47,439
51102	LBR-OVERTIME	18,147	17,857	(290)
	Total Salaries	373,525	420,674	47,149
Benefits				
51298	BEN-BENEFIT ALLOCATION	151,278	170,373	19,095
	Total Benefits	151,278	170,373	19,095
Operating Supplies & Services				
52101	OPR-POWER & UTILITIES	242,050	244,887	2,837
52102	OPR-AUXILIARY POWER EXPENSE	5,000	5,000	-
52103	OPR-CHEMICALS	50,018	53,203	3,185
52110	OPR-SMALL TOOLS AND SUPPLIES	3,000	3,500	500
52113	OPR-LAB SUPPLIES	17,818	18,157	339
52114	OPR-LABORATORY SERVICES-GBRA	39,416	39,956	540
52115	OPR-LABORATORY SERVICES-OUTSOURCED	9,772	10,124	352
52118	OPR-DISPOSAL SERVICES	300,206	294,256	(5,950)
52120	OPR-UNIFORMS/BUSINESS ATTIRE	5,720	5,720	-

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
52121	OPR-SAFETY & EMERGENCY EXPENSE	3,185	3,325	140
52122	OPR-SECURITY EXPENSE	4,000	2,000	(2,000)
52124	OPR-EQUIPMENT EXPENSE	4,550	5,600	1,050
52125	OPR-VEHICLE EXPENSE	5,745	5,795	50
52133	OPR-SCADA	1,700	1,700	-
	Total Operating Supplies & Services	692,180	693,223	1,043
	Professional Services and Fees			
52205	OPR-PROFESSIONAL SERVICES-OTHER	4,560	4,690	130
52216	OPR-REGULATORY FEES	22,500	22,000	(500)
52222	OPR-MEMBERSHIPS & PUBLICATIONS	700	700	-
52223	OPR-LICENSE & TRAINING	3,594	3,744	150
52224	OPR-TRAVEL & MEETINGS	2,500	2,500	-
	Total Professional Services and Fees	33,854	33,634	(220)
	Office Expenses			
52301	OPR-OFFICE SUPPLIES	4,300	4,400	100
52302	OPR-COMPUTER & SOFTWARE EXPENSE	5,950	9,550	3,600
52303	OPR-WIDE AREA NETWORK EXPENSE	3,200	3,200	-
52304	OPR-COPY SUPPLIES AND SERVICES	3,000	-	(3,000)
52306	OPR-DATA & PHONE EXPENSE	8,000	800	(7,200)
52331	OPR-JANITORIAL SUPPLIES AND SERVICE	1,000	1,200	200
	Total Office Expenses	25,450	19,150	(6,300)
	Other Operating Expenses			
52420	OPR-INSURANCE EXPENSE	29,914	32,570	2,656
52430	OPR-MISC EXPENSE	200	200	-
	Total Other Operating Expenses	30,114	32,770	2,656
	SUBTOTAL OF OPERATIONAL EXPENSES	1,306,401	1,369,824	63,423
	Maintenance and Repair Equipment			
53101	M&R-EQUIPMENT	16,100	24,550	8,450
53110	M&R-CONTROL SYSTEMS	5,000	1,700	(3,300)
53115	M&R-METERS	1,500	1,500	-
	Total Maintenance and Repair Equipment	22,600	27,750	5,150
	Structures			
53201	M&R-BUILDING	6,890	3,426	(3,464)
53205	M&R-PUMPS AND MOTORS	31,500	36,750	5,250
53210	M&R-GATES AND VALVES	1,500	5,000	3,500
53220	M&R-CLARIFIERS	60,700	17,500	(43,200)
53237	M&R UV SYSTEM	20,000	20,000	-
	Total Structures	120,590	82,676	(37,914)

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
	Other Maintenance & Repairs			
53310	M&R-GROUNDS/ROW	13,500	13,500	-
53325	M&R-GENERAL MAINTENANCE	18,200	4,500	(13,700)
	Total Other Maintenance & Repairs	<u>31,700</u>	<u>18,000</u>	<u>(13,700)</u>
	SUBTOTAL OF M&R EXPENSES	<u>174,890</u>	<u>128,426</u>	<u>(46,464)</u>
	Administrative & General			
54100	ADMINISTRATIVE & GENERAL	123,263	138,823	15,560
	Total Administrative & General	<u>123,263</u>	<u>138,823</u>	<u>15,560</u>
	TOTAL OPERATING AND M&R EXPENSES	<u>1,604,554</u>	<u>1,637,073</u>	<u>32,519</u>
	Net Operating Income	<u>-</u>	<u>-</u>	<u>-</u>
	Net Change in Fund Balance	<u>-</u>	<u>-</u>	<u>-</u>



LOCKHART WATER TREATMENT PLANT SYSTEM

WORK PLAN AND BUDGET

Fiscal Year Ending August 31, 2025

Preliminary as submitted by
Guadalupe-Blanco River Authority
July 1, 2024

Lockhart Division

Lockhart Water Treatment Plant System

Operating Plan for Fiscal Year ending 8/31/25

BACKGROUND

GBRA entered into a contract in September 2000 with the City of Lockhart to operate its wells and 4 million gallon per day (mgd) water treatment plant beginning October 1, 2000 in addition to the operation of two wastewater treatment facilities for the City. These systems are under the direct oversight of the Lockhart Operations Manager. There are currently four operators assigned to the Lockhart Water Treatment Plant System which are responsible for operating and maintaining the plant and ground water production facilities. Personnel from the Lockhart Wastewater Reclamation System provide assistance in the operations and maintenance of the ground water system. Serving as facilitators to the Lockhart Operations team are the Division Manager-Hays and Caldwell Counties. Additional support will be received from the Seguin and New Braunfels office in the form of engineering, electrical, purchasing and administrative functions.

REVENUE SOURCES AND TRENDS

GBRA provides the operation of the City's 4.0 million gallons per day (MGD) groundwater treatment plant and water wells. The contract provides that GBRA does not over-recover nor under-recover the costs of operating the System.

The following Work Plan and Budget is based on operating and maintaining the Lockhart Water Treatment Plant, booster station and seven water wells. The projected water production of the plant and seven wells for FY 2025 is 193.30 MG or 0.538 MGD. However, the total water needs for the City from all sources is estimated to be approximately 585.0 MG. The differential or additional water required by the City of Lockhart will be supplied by the GBRA surface water treatment plant located in Luling and delivered through the Luling/Lockhart Treated Water Delivery System. Lockhart will also be receiving water from the Carrizo Water Treatment Plant located in Rosanky and delivered through the Alliance Project Delivery System. The budgeted FY 2025 operating revenue for the Lockhart Water Treatment Plant System is \$1,080,740 which is \$120,720 or 12.57% more than last year's budget and is based on a total estimated annual water treatment of 196,300,000 gallons or 196.30 MG. As described in the previous paragraph, the Lockhart WTP System is a cost-of-service operation and any year-over-year change in revenue is in a direct relationship to the changes in operating expenditures and capital improvements, for that year.

MAJOR OPERATING AND MAINTENANCE EXPENDITURES

Due to the nature of the GBRA and City of Lockhart contract, the operating expenditure budget for FY 2025 replicates the revenue budget and therefore also amounts to \$1,080,740. Two of the major operating expenses for the ensuing fiscal year are power and chemicals. Chlorine, liquid ammonium sulfate (LAS), orthophosphate, and fluoride are the primary chemicals required at the water treatment plant in order to properly treat and maintain the water quality in accordance with Texas Commission on Environmental Quality (TCEQ) requirements. Chlorine and LAS are used together as a disinfectant for the water. Orthophosphate is used as a corrosion inhibitor and as such, protects the City's distribution system and assures the delivery of high-quality water. Fluoride is added pursuant to Texas Department of State Health Services Fluoridation Program recommendations. The total chemical budget for FY 2025 is \$61,256. Power will also be a major expense for the upcoming year amounting to \$64,000. The maintenance expenses

include the replacement of the effluent valves on the Water Plant's filters. The installation of a Flow Meter on the discharge of the Clearwell. The rehabilitation and chemical treatment of a well and the media replacement of the two Aeration Towers at the Water Plant.

In order to meet public service needs through motivated employees, provide advanced training, and maintain and upgrade occupational licenses, personnel will attend courses provided by various approved sources such as Texas Engineering Extension Service and Texas Water Utility Association. Plant personnel will also conduct in-house training in team building skills, confined space rescue, hazard communication, electrical safety and maintenance, first aid, and CPR. Other training will include computer software and personal development seminars.

FUND BALANCE

Funds for the above listed maintenance projects as well as all of the other operating expenditures that are summarized in the following pages will be provided from revenues from the City of Lockhart. Since this division represents a contract operation in which GBRA does not over-recover nor under-recover its costs, the net change in fund balance for FY 2025 is \$0.

**Guadalupe-Blanco River Authority
Work Plan & Budget
Fiscal Year Ending August 31, 2025**

**131 - Lockhart WTP
Department ***

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
OPERATING BUDGET				
OPERATING REVENUES				
Water Treatment				
41101	PLANT O&M	872,578	981,522	108,944
41102	PLANT A&G	87,442	99,218	11,776
	Total Water Treatment	960,020	1,080,740	120,720
	Total Operating Revenue	960,020	1,080,740	120,720
OPERATING EXPENSES				
Salaries				
51101	LBR-REGULAR WAGES	251,317	287,541	36,224
51102	LBR-OVERTIME	13,657	13,119	(538)
	Total Salaries	264,974	300,660	35,686
Benefits				
51298	BEN-BENEFIT ALLOCATION	107,315	121,767	14,452
	Total Benefits	107,315	121,767	14,452
Operating Supplies & Services				
52101	OPR-POWER & UTILITIES	56,000	64,000	8,000
52103	OPR-CHEMICALS	56,605	61,256	4,651
52110	OPR-SMALL TOOLS AND SUPPLIES	2,250	3,000	750
52113	OPR-LAB SUPPLIES	14,231	14,560	329
52114	OPR-LABORATORY SERVICES-GBRA	5,172	5,422	250
52115	OPR-LABORATORY SERVICES-OUTSOURCED	2,336	6,075	3,739
52120	OPR-UNIFORMS/BUSINESS ATTIRE	3,800	4,400	600
52121	OPR-SAFETY & EMERGENCY EXPENSE	1,635	1,685	50
52122	OPR-SECURITY EXPENSE	1,750	-	(1,750)
52123	OPR-EQUIPMENT RENTAL	1,500	1,500	-
52124	OPR-EQUIPMENT EXPENSE	250	300	50
52125	OPR-VEHICLE EXPENSE	2,830	2,880	50
52133	OPR-SCADA	9,700	5,700	(4,000)
	Total Operating Supplies & Services	158,059	170,778	12,719

	FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
Professional Services and Fees			
52205 OPR-PROFESSIONAL SERVICES-OTHER	4,730	5,425	695
52216 OPR-REGULATORY FEES	12,200	12,200	-
52222 OPR-MEMBERSHIPS & PUBLICATIONS	400	400	-
52223 OPR-LICENSE & TRAINING	3,319	3,379	60
52224 OPR-TRAVEL & MEETINGS	2,500	2,500	-
Total Professional Services and Fees	23,149	23,904	755
Office Expenses			
52301 OPR-OFFICE SUPPLIES	750	750	-
52302 OPR-COMPUTER & SOFTWARE EXPENSE	4,050	7,900	3,850
52303 OPR-WIDE AREA NETWORK EXPENSE	3,200	3,200	-
52306 OPR-DATA & PHONE EXPENSE	5,800	4,300	(1,500)
52331 OPR-JANITORIAL SUPPLIES AND SERVICE	500	500	-
Total Office Expenses	14,300	16,650	2,350
Other Operating Expenses			
52420 OPR-INSURANCE EXPENSE	22,621	22,263	(358)
52430 OPR-MISC EXPENSE	250	250	-
Total Other Operating Expenses	22,871	22,513	(358)
SUBTOTAL OF OPERATIONAL EXPENSES	590,668	656,272	65,604
Maintenance and Repair Equipment			
53101 M&R-EQUIPMENT	1,850	2,350	500
53110 M&R-CONTROL SYSTEMS	19,400	5,500	(13,900)
53115 M&R-METERS	13,400	13,400	-
Total Maintenance and Repair Equipment	34,650	21,250	(13,400)
Structures			
53201 M&R-BUILDING	16,000	11,000	(5,000)
53205 M&R-PUMPS AND MOTORS	35,000	35,000	-
53210 M&R-GATES AND VALVES	5,000	42,500	37,500
53235 M&R-TRANSMISSION LINES	25,000	32,500	7,500
Total Structures	81,000	121,000	40,000
Other Maintenance & Repairs			
53302 M&R-WELLS	115,000	125,000	10,000
53310 M&R-GROUNDS/ROW	13,000	13,500	500
53325 M&R-GENERAL MAINTENANCE	38,260	44,500	6,240
Total Other Maintenance & Repairs	166,260	183,000	16,740
SUBTOTAL OF M&R EXPENSES	281,910	325,250	43,340

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
	Administrative & General			
54100	ADMINISTRATIVE & GENERAL	<u>87,442</u>	<u>99,218</u>	<u>11,776</u>
	Total Administrative & General	<u>87,442</u>	<u>99,218</u>	<u>11,776</u>
	TOTAL OPERATING AND M&R EXPENSES	<u>960,020</u>	<u>1,080,740</u>	<u>120,720</u>
	Net Operating Income	<u>-</u>	<u>-</u>	<u>-</u>
	Net Change in Fund Balance	<u>-</u>	<u>-</u>	<u>-</u>

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion regarding Resolution 2024-19 accepting a petition for and calling a public hearing on the advisability of public improvements and creation of the Seawillow Public Improvement District pursuant to Chapter 372 of the Texas Local Government Code.

ORIGINATING DEPARTMENT AND CONTACT: City Attorney - Brad Bullock

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: As Council recalls, the City previously approved the Seawillow Development Agreement, which provides that the City will take steps to authorize the creation of a public improvement district ("PID"), created pursuant to Chapter 372 of the Texas Local Government Code. Chapter 372 sets forth the steps necessary to establish the creation of a PID, and this resolution is one of the first required steps. The purpose of a PID is to allow development to pay for itself and reimburse a developer for funding certain approved costs related to infrastructure and similar items that benefit the new development. This resolution is required to be approved so that the PID may continue in the creation process and thereafter be formed and an assessment may be levied against the development for the eventual reimbursement of approved costs.

The attached Resolution 2024-19 accepts the petition submitted by the developer for the PID, calls for a public hearing (required by law) and makes findings that its creation is advisable. A second resolution authorizing the creation of the PID will be presented to Council for consideration at a future meeting after publication of the required public hearing notices.

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. This has

City of Lockhart, Texas

Council Agenda Item Cover Sheet

been reviewed by the City Attorney in consultation with the developer's attorney.

LIST OF SUPPORTING DOCUMENTS: Resolution 2024-19 - Accepting Petition and Calling Public Hearing on Seawillow PID Creation

RESOLUTION NO. 2024-19

RESOLUTION ACCEPTING A PETITION FOR AND CALLING A PUBLIC HEARING ON THE ADVISABILITY OF THE PUBLIC IMPROVEMENTS AND CREATION OF SEAWILLOW PUBLIC IMPROVEMENT DISTRICT WITHIN THE CITY OF LOCKHART, TEXAS PURSUANT TO CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE; AUTHORIZING THE MAILING AND PUBLICATION OF NOTICE OF THE PUBLIC HEARING RELATED THERETO; AND RESOLVING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Lockhart, Texas (the “City”), is authorized under Chapter 372 of the Texas Local Government Code, as amended (the “Act”), to create a public improvement district within its corporate limits and/or its extraterritorial jurisdiction; and

WHEREAS, the City Council of the City (the “City Council”) of Lockhart, Texas (the “City”) has received a petition (the “Petition”), requesting creation of a public improvement district to be named Seawillow Public Improvement District (the “District”) under Chapter 372 of the Texas Local Government Code (the “Act”), from the record owners of taxable real property representing more than fifty percent (50%) of the appraised value of the real property liable for assessment (as determined by the most recent certified appraisal roll for Caldwell County) in the proposed District and the record owners of taxable real property that constitute more than 50% of all of the area of all taxable real property that is liable for assessment in the proposed District; and

WHEREAS, the Petition, a copy of which is attached hereto as Exhibit A, has been examined, verified, previously accepted and found to meet the requirements of Section 372.005(b) of the Act and to be sufficient for consideration by the City Council; and

WHEREAS, the boundaries of the proposed District are described in the attachment to the Petition, said area for the District being partially located within the corporate limits of the City and partially within the extraterritorial jurisdiction of the City; and

WHEREAS, the City Council acknowledges the acceptance of the Petition and desires to schedule a public hearing to consider the advisability of the improvements and creation of the District;

WHEREAS, the general nature of the proposed public improvements to be provided by the District that are necessary for the development of the Property within the District and which shall promote the interests of the City and confer a special benefit upon the Property, may include: (i) street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) establishment or improvement of parks and open space, together with the design, construction of any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) sidewalks and landscaping, including entry monuments and features, fountains, lighting and signage; (iv) acquisition, construction, and improvement of water, wastewater and drainage improvements and facilities; (v) acquisition of real property, interests in

real property, or contract rights in connection with the Authorized Improvements; (vi) payment of costs, including, without limitation, design, engineering, permitting, legal, required payment, performance and maintenance bonds, bidding, support, construction, construction management, administrative and inspection costs, associated with developing and financing the public improvements listed in (i) through (v) above; (vii) projects similar to those listed in subsections (i) - (v) above or authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (viii) payment of costs associated with special supplemental services for improvement and promotion of the District as approved by the City including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and (ix) payment of costs associated with developing and financing the public improvements listed in (i) - (viii) above, as well as the interest, costs of issuance, reserve funds, or credit enhancement of bonds issued for the purposes described in (i) through (viii) above, and costs of establishing, administering and operating the District (collectively, the “Authorized Improvements”).

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

Section 1: THAT the public hearing is hereby scheduled at or after 7:30 p.m., on September 3, 2024, at Lockhart City Hall, 308 West San Antonio Street, Lockhart, Texas 78644 to receive public comment on the advisability of the improvements, nature of the improvements, estimated costs of the improvements, boundaries of the District, the method of assessment, and the apportionment of costs and creation of the District in the area described in the Petition attached as Exhibit A, pursuant to the Act; and

Section 2: THAT notice of said hearing, in the substantially final form presented herewith in Exhibit B with such changes as may be approved by the City’s counsel, shall be published in a newspaper of general circulation in the City before the 15th day prior to the date of the hearing as required by the Act; and

Section 3: THAT written notice, in the substantially final form presented herewith in Exhibit B with such changes as may be approved by the City’s counsel, shall be mailed to each property owner, as reflected on the tax rolls, of property subject to assessment within the proposed District before the 15th day prior to the date set for the hearing.

Section 4: THAT the recitals contained in the preamble hereof are found to be true and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgement and findings of the City Council.

Section 5: THAT it is officially found, determined, and declared that the meetings at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 6: THAT this Resolution shall be in force and effect from and after its final passage and it is so resolved.

[Signatures to follow]

**DULY RESOLVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
LOCKHART, TEXAS ON AUGUST 6, 2024**

CITY OF LOCKHART, TEXAS

APPROVED:

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

APPROVED AS TO FORM:

Bradford E. Bullock, City Attorney

Signature Page to Resolution Accepting District Petition

EXHIBIT A

PETITION
(see attached Petition)

A-1

**PETITION FOR CREATION OF THE SEAWILLOW PUBLIC IMPROVEMENT
DISTRICT WITHIN THE CITY OF LOCKHART, TEXAS**

TO THE HONORABLE MAYOR AND CITY COUNCIL, CITY OF LOCKHART, TEXAS:

COMES NOW RODG DT SEAWILLOW PROPCO LLC, a Texas limited liability company, DAVID ACEVEDO, an individual, EDUARDO ACEVEDO, an individual, as a representative of the Leandro Acevedo Estate, DAVID ACEVEDO, an individual, a representative of the Leandro Acevedo Estate, VIRGINIA VILLARREAL, an individual, a representative of the Leandro Acevedo Estate, MARGARITA BRITT, an individual, a representative of the Leandro Acevedo Estate (collectively, the “Petitioners”), the owners of certain taxable real property, and pursuant to Chapter 372 of the Texas Local Government Code, as amended (the “Act”), hereby petitions the City of Lockhart, Texas (“City”) to establish the Seawillow Public Improvement District to include property owned by the Petitioners and located partially within the City and partially within the extraterritorial jurisdiction of the City (the “District”). In support of same, Petitioners would respectfully show the following:

I.

The boundaries of the proposed District are set forth in Exhibit A attached hereto and incorporated by reference herein.

II.

The general nature of the proposed public improvements to be provided by the District that are necessary for the development of the Property within the District and which shall promote the interests of the City and confer a special benefit upon the Property, may include: (i) street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) establishment or improvement of parks and open space, together with the design, and construction of any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) sidewalks and landscaping, including entry monuments and features, fountains, lighting and signage; (iv) acquisition, construction, and improvement of water, wastewater and drainage improvements and facilities; (v) acquisition of real property, interests in real property, or contract rights in connection with the Authorized Improvements; (vi) payment of costs, including, without limitation, design, engineering, permitting, legal, required payment, performance and maintenance bonds, bidding, support, construction, construction management, administrative and inspection costs, associated with developing and financing the public improvements listed in (i) through (v) above; (vii) projects similar to those listed in subsections (i) - (v) above or authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (viii) payment of costs associated with special supplemental services for improvement and promotion of the District as approved by the City including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and (ix) payment of costs associated with developing and financing the public improvements listed in (i) - (viii) above, as well as the interest, costs of issuance, reserve funds, or credit enhancement of bonds issued

for the purposes described in (i) through (viii) above, and costs of establishing, administering and operating the District (collectively, the “Authorized Improvements”).

III.

The current estimated total cost of the proposed Authorized Improvements is \$150,000,000.

IV.

The City shall levy assessments on each parcel within the District in a manner that results in imposing equal shares of the costs on property similarly benefited. Each assessment may be paid in part or in full at any time (including interest), and certain assessments may be paid in annual installments (including interest). If the City allows an assessment to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those Authorized Improvements financed by the assessment and must continue for a period necessary to retire the indebtedness on those Authorized Improvements (including interest).

V.

The City will not be obligated to provide any funding to finance the Authorized Improvements, other than from assessments levied in the District. No City property in the District shall be assessed. The Petitioners may fund certain improvements from other funds available to the Petitioners.

VI.

The management of the District will be by the City, with the assistance of one or more consultants, who shall, from time to time, advise the City regarding certain operations of the District.

VII.

The persons or entities (through authorized representatives) signing this Petition concur with the establishment of the District and have the corporate or individual authority to execute and deliver the Petition.

VIII.

The Petitioners propose that the District be established and managed without the creation of an advisory board. However, if an advisory board is created, the Petitioners request a representative of the Petitioners be appointed to the advisory board.

IX.

The persons or entities (through authorized representatives) signing this Petition are also owners of taxable real property representing more than fifty percent (50%) of the appraised value of taxable real property liable for assessment under the proposal as determined by the current roll of the appraisal district in which the property is located; and the record owners of real property liable for assessment under the proposal who (a) constitute more than fifty percent (50%) of all record owners of property that is liable for assessment under the

proposal, and (b) own taxable real property that constitutes more than fifty percent (50%) of the area of all taxable real property that is liable for assessment under the proposal.

X.

This Petition will be filed with the City Secretary, City of Lockhart, Texas, in support of the creation of the District by the City Council of the City as herein provided.

[Signatures to follow]

EXECUTED on this July 3, 2024.

PETITIONERS:

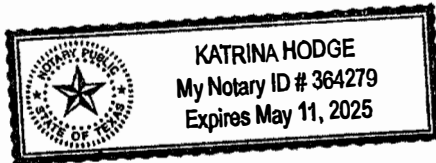
**RODG DT SEAWILLOW PROPCO
LLC, a Texas limited liability company**

By: [Signature]
Name: Thomas Staub
Title: CEO

STATE OF TEXAS §
 §
COUNTY OF Caldwell §

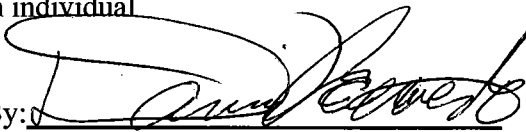
This instrument was acknowledged before me on July 3, 2024
by Thomas on behalf of said company listed above.

Staub



[Signature]
Notary Public, State of Texas

DAVID ACEVEDO,
an individual

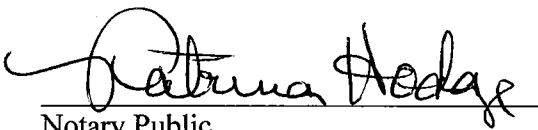
By: 

STATE OF TEXAS §
COUNTY OF Caldwell §

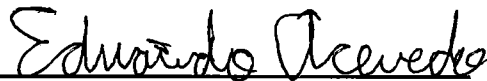
Before me, on this day personally appeared the foregoing individual, known to me to be the person whose name was subscribed in my presence to the foregoing instrument.

[SEAL]




Notary Public
Commission Expires: _____

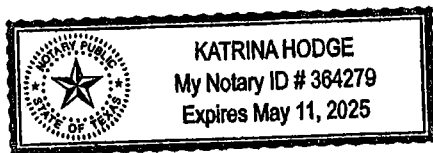
EDUARDO ACEVEDO,
an individual, a representative of the Leandro
Acevedo Estate

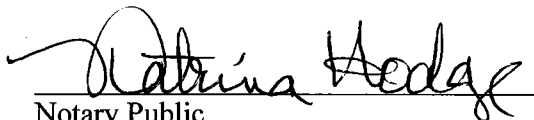
By: 

STATE OF TEXAS §
COUNTY OF Caldwell §

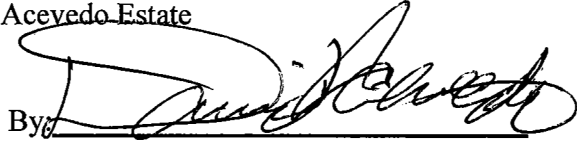
Before me, on this day personally appeared the foregoing individual, known to me to be the person whose name was subscribed in my presence to the foregoing instrument.

[SEAL]



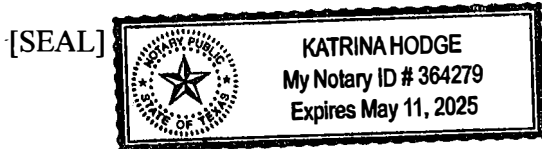

Notary Public
Commission Expires: _____

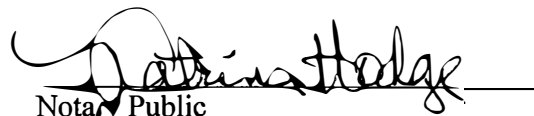
DAVID ACEVEDO,
an individual, a representative of the Leandro
Acevedo Estate

By: 

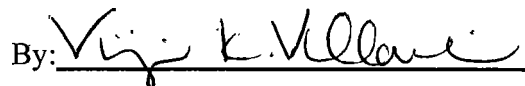
STATE OF TEXAS §
COUNTY OF Caldwell §

Before me, on this day personally appeared the foregoing individual, known to me to be
the person whose name was subscribed in my presence to the foregoing instrument.




Notary Public
Commission Expires: _____

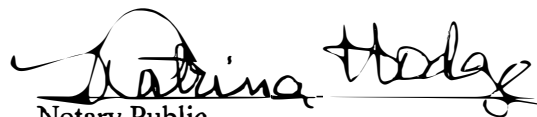
VILLARREAL
VIRGINIA VILLARREAL,
an individual, a representative of the Leandro
Acevedo Estate

By: 

STATE OF TEXAS §
COUNTY OF Caldwell §

Before me, on this day personally appeared the foregoing individual, known to me to be
the person whose name was subscribed in my presence to the foregoing instrument.




Notary Public
Commission Expires: _____

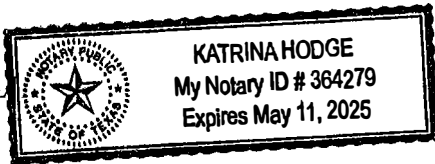
MARGARITA BRITT,
an individual, a representative of the Leandro
Acevedo Estate

By: Margarita Britt

STATE OF TEXAS §
COUNTY OF Caldwell §

Before me, on this day personally appeared the foregoing individual, known to me to be
the person whose name was subscribed in my presence to the foregoing instrument.

[SEAL]



Katrina Hodge
Notary Public
Commission Expires: _____

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

BEING a 588.547 acre tract of land situated in the JOHN A. NEILL SURVEY, ABSTRACT No. 20, Caldwell County, Texas, and being all of the called 89.769 acres of land as described in deed as recorded in Document Number 2021-006882, Real Property Records, Caldwell County, Texas, and a portion of the called 160.00 acres of land described in deed as recorded in Volume 28, Page 146 of the Real Property Records, Caldwell County, Texas, SAVE & EXCEPT the called 3.007 acres of land described in deed recorded in Instrument Number 2018-003545 Real Property Records, Caldwell County, Texas, and all of the 358.536 acres of land as described in deed as recorded in Volume 209, Page 425, Official Public Records, Caldwell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch capped iron rod found, marked Hinkle Surveying, on the Northeast Right-of-Way line of Farm to Market Road 1322, an 80 foot Right-of-Way, and for the Northwest corner of a called 85.00 acre tract of land as described in a deed to Charles D. Spillmann and Jane Spillmann as recorded in Document Number 2016-005533 of said Official Public Records, same being the Southwest corner of said 169.811 acre tract and the of this herein described tract;

THENCE North 31° 43' 06" West, along said Right-of-Way and the Southwest line of said 89.775 acre tract, a distance of **2,572.95 feet** to a 1/2 inch capped iron rod found, marked Jones Carter Prop Corner, for the Southwest corner of a called 80.04 acre tract of land as described in deed to Vema Investments, LLC. as recorded in Instrument 2021-007855 of said Official Public Records, same being a Northwest corner of said 89.775 acre tract;

THENCE North 78° 46' 11" East, along the common line of said 80.04 acres and said 89.775 acres, a distance of **1,665.32 feet** to a 1/2 inch iron rod found on the Southwest line of a called 358.536 acre tract of land as described in a deed to David V. Acevedo and Marge Margarita Acevedo as recorded in Volume 209, Page 425 of said Official Public Records, and being the Southeast corner of said 80.04 acres;

THENCE North 29°54'41" West, along the common line of said 358.536 acres and said 80.04 acres, a distance of **956.23 feet** to a 1/2 inch iron rod found for an interior angle point in the West line of a called 2.606 acre tract of land described in deed to Ray C. Nash and wife, Helen K. Nash as recorded in Volume 76, Page 743 of said Official Public Records, same being a Northwest corner of said 358.536 acres;

THENCE North 12°42'23" East, along the common line of said 358.536 acres and said 2.606 acres, a distance of **100.55 feet** to a 1 inch iron pipe found on the South Right-of-Way line of County Road 205, a.k.a. Seawillow Road, a variable width Right-of-Way;

THENCE along the South Right-of-way and the North line of said 358.536 acres the following bearings and distances:

South 72°03'50" East, a distance of **65.07 feet** to a 1/2 inch iron rod found capped;

South 86°16'07" East, a distance of **189.45 feet** to a 1/2 inch iron rod found capped;

North 79°02'20" East, a distance of **350.87 feet** to a three way fence corner post found;

North 78°34'18" East, a distance of **1,963.89 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 64°47'06" East, a distance of **592.08 feet** to a 1/2" iron rod found capped for the North corner of a called 3.07 acre tract of land described in deed to Chris C. Chapman and Kimberly K. Hoffman Chapman as recorded in Instrument Number 2018-003545 of said Official Public Records;

THENCE departing said South Right-of-Way, along the common line of said 3.07 acres and said 358.536 acres the following bearings and distances:

South 24°46'35" West, a distance of **365.69 feet** to a 1/2 inch iron rod found capped;

South 62°46'06" East, a distance of **358.21 feet** to a fence corner post found;

North 24°38'27" East, a distance of **366.83 feet** to a 5/8 inch iron rod found on said South Right-of-Way, for the East corner of said 3.07 acres;

THENCE South 61°15'06" East, along said South Right-of-Way line, a distance of **472.51 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set for the North corner of the 20.000 acre remainder of said 160 acre tract;

THENCE over and across, said 160 acres the following three (3) courses and distances:

South 32°22'32" West, a distance of **639.03 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 24°59'14" East, a distance of **617.22 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

North 82°35'38" East, a distance of **1096.03 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set on the West Right-of-Way line of said CR 205 and the East line of said 160 acres;

THENCE South 14°17'18" East, a distance of **970.10 feet** to a "L" bracket with flagging found for the Northwest corner of a called 1.997 acre tract of land as described in deed to Russell A. Nickel, a single man, as recorded in Instrument Number 2020-003246 of said Official Public Records, and being on the East line of said 358.536 acres;

THENCE South 11°10'32" East, along the East line of said 358.536 acres, passing a 5/8 inch iron rod found for the Northwest corner of a called 9.152 acre tract of land as described in the deed to Brenda Gayle Bagwell Hagan, a married person, as her separate property and estate as recorded in Instrument Number 2021004181 of said Official Public Records, same being the Southwest corner of said 1.997 acres, continuing a total distance of **935.26 feet** to a 6 inch wood fence corner post found for the Southwest corner of said 9.152 acres, same being an interior ell corner of said 358.536 acres;

THENCE North 78°31'19" East, along a North line of said 358.536 and along the South line of said 9.152 acres and a called 9.152 acres of land as described in deed to William R Hagan and Brenda G Hagan, husband and wife, as recorded in Volume 273, Page 537 of said Official Public Records, and the South line of a called 9.15 acres of land described in deed to Delores Stanton Revocable Trust as recorded in Instrument Number 2023-003597 of said Official Public Records, a distance of **2095.92 feet** to a 6 inch wood fence corner post found on the West Right-of-Way line of said CR 205 for a Northeast corner of said 358.536 acres, same being the Southeast corner of said 9.15 acres;

THENCE along the West Right-of-Way line of said CR 205 the following bearings and distances:

South 09°58'20" East, a distance of **1445.88 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 13°05'03" East, a distance of **202.27 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 23°19'16" East, a distance of **157.39 feet** to a 1/2 inch iron rod found capped for the Northeast corner of Lot 1, 2 and 3, Commanche Hill, Section One, a Subdivision in Caldwell County, Texas according to the Map or Plat of Records in Plat Cabinet A, Slide 28, Plat Records of Caldwell County, as described in deed to Beatrice Madrigal, a single person and John S. Rosales, a single person as recorded in Instrument Number 126568 of Official Public Records, same being the Southernmost Southeast corner of said 358.536 acres;

THENCE South 78°28'58" West, along the South line of said 358.536 acres, a distance of **4735.83 feet** to a 1 inch iron pipe found for the Southeast corner of said 85.00 acres and being the Southernmost Southwest corner of said 358.536 acres, from which a 1/2 inch iron rod found for the Southwest corner of said 85.00 acres bears South 78° 47' 06" West, a distance of 1,503.48 feet;

THENCE North 29°54'41" West, along the common line of said 85.00 acres and said 358.536 acres, a distance of **2533.18 feet** to a calculated point from which a 1/2 inch iron rod found capped "Hinkle Surveying" bears, South 78° 48' 18" West, a distance of 0.35 feet for the Northeast corner of said 85.00 acres and being the Southeast corner of said 89.775 acres;

THENCE South 78°46'18" West, along the South line of said 89.775 acres and the North line of said 85.00 acres, a distance of **1579.70 feet** to the **POINT OF BEGINNING**, containing an area of 25,637,112 Square Feet and/or **588.547 Acres** of land, more or less.

EXHIBIT B

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LOCKHART TO CONSIDER THE ADVISABILITY OF THE IMPROVEMENTS AND CREATION OF A PUBLIC IMPROVEMENT DISTRICT WITHIN THE CITY TO MAKE CERTAIN IMPROVEMENTS OVER CERTAIN PROPERTIES LOCATED WITHIN THE BOUNDARIES OF THE CITY

NOTICE IS HEREBY GIVEN THAT the City Council of the City of Lockhart, Texas (the “City”), pursuant to Chapter 372.009 of the Texas Local Government Code, as amended, (the “Act”), will hold a public hearing at or after 7:30 p.m. on September 3, 2024, at the Lockhart City Hall, 308 West San Antonio Street, Lockhart, Texas 78644 for the purpose of considering the establishment of a public improvement district partially located within the corporate limits of the City and partially within the extraterritorial jurisdiction of the City.

In accordance with the Act, the City Secretary has received a petition (the “Petition”) from certain property owners within the City that request the establishment of the Seawillow Public Improvement District.

The Petition and the legal description of the properties to be included in the public improvement district are on file and open for public inspection in the office of the City Secretary at the address stated above. The public hearing is being held with respect to the advisability of creating Seawillow Public Improvement District and the respective improvements to be made therein.

The general nature of the proposed public improvements to be provided by the District that are necessary for the development of the Property within the District and which shall promote the interests of the City and confer a special benefit upon the Property, may include: (i) street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) establishment or improvement of parks and open space, together with the design, construction of any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) sidewalks and landscaping, including entry monuments and features, fountains, lighting and signage; (iv) acquisition, construction, and improvement of water, wastewater and drainage improvements and facilities; (v) acquisition of real property, interests in real property, or contract rights in connection with the Authorized Improvements; (vi) payment of costs, including, without limitation, design, engineering, permitting, legal, required payment, performance and maintenance bonds, bidding, support, construction, construction management, administrative and inspection costs, associated with developing and financing the public improvements listed in (i) through (v) above; (vii) projects similar to those listed in subsections (i) - (v) above or authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (viii) payment of costs associated with special supplemental services for improvement and promotion of the District as approved by the City including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security,

business recruitment, development, recreation, and cultural enhancement; and (ix) payment of costs associated with developing and financing the public improvements listed in (i) - (viii) above, as well as the interest, costs of issuance, reserve funds, or credit enhancement of bonds issued for the purposes described in (i) through (viii) above, and costs of establishing, administering and operating the District (collectively, the “Authorized Improvements”).

The current estimated cost to fund the Authorized Improvements is \$150,000,000.

The boundaries of the proposed Seawillow Public Improvement District are approximately 588.547 acres partially located within the corporate limits of the City and partially within the extraterritorial jurisdiction of the City, located north of County Road 197 between Farm to Market Road 1322 and Seawillow Road. A full description of the boundaries of the proposed Seawillow Public Improvement District is available at Lockhart City Hall, 308 West San Antonio Street, Lockhart, Texas 78644.

The City shall levy assessments on each lot within the public improvement district in a manner that results in imposing equal shares of the costs on property similarly benefited. All assessments may be paid in full at any time (including accrued and unpaid interest), and certain assessments may be paid in annual installments (including interest and debt). If an assessment is allowed to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those Authorized Improvements financed in part by the assessment, and must continue for a period necessary to retire the indebtedness on those Authorized Improvements (including interest).

All of the costs of the Authorized Improvements will be paid from assessments levied on properties in the public improvement district and/or from other sources of funds of the developer.

All interested persons are invited to attend such public hearings to express their views with respect to the establishment of Seawillow Public Improvement District and the respective Authorized Improvements to be made therein. Questions or requests for additional information may be directed to Drew Slone, Locke Lord LLP, dslone@lockelord.com; (214) 740-8094.

Any interested persons unable to attend the hearing may submit their views in writing to the City Secretary prior to the date scheduled for the hearing.

This Notice of Public Hearing is given and the public hearing is being held pursuant to the requirements of the Act.

THE CITY OF LOCKHART, TEXAS

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion regarding pipeline crossing and encroachment agreements between Union Pacific Railroad (UPRR) and the City of Lockhart related to the Lockhart Economic Development Administration (EDA) Grant.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: In late 2022, the City of Lockhart was awarded a grant from the US Economic Development Administration for the development of a new wastewater main along the Union Pacific Railroad tracks from Tank Street to the Windridge subdivision. This wastewater improvement was to bolster the utilities for industrial projects near the new industrial park, along with increasing the capacity of the utility for commercial and residential projects in the area. The grant award was for \$2,100,000 (\$1,680,000 Federal Share- 80%, \$420,000 Local Share- 20%).

Since the project is located along the Union Pacific right-of-way, it is necessary to obtain permission to place utilities in or along the right-of-way by way of licensing agreements. This 4,150 linear foot project will require a total of three railroad crossings and one land encroachment along the route. The crossings have been designed to Union Pacific required standards, which include the construction and placement of steel carrier pipes to encase the pipelines at all railroad crossings. These carrier pipes are necessary to perform any future maintenance on the pipeline without disturbing the railway.

The three crossings cost \$22,930, the encroachment cost is \$35,490, for a total cost of \$58,420 due to Union Pacific for the placement of the utilities in UPRR's property. The founding sources for this wastewater improvement project include the EDA, Lockhart Economic Development Corporation and Wastewater Impact Fees.

If approved, the next steps in the project will be to obtain the final easement from neighboring property owners and seek competitive bids for the construction of the project.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully recommends approval of the Pipeline Crossing Agreements and Pipeline Encroachment Agreement with Union Pacific Railroad.

LIST OF SUPPORTING DOCUMENTS: EDA Wastewater Grant Exhibit, 0793400 City of Lockhart - Lockhart, TX, 0793401 City of Lockhart - Lockhart, TX, 0793402 City of Lockhart Encroachment - Lockhart Sub MP 36.99, 0793403 City of Lockhart - Lockhart, TX

CITY OF LOCKHART, TEXAS REVISED EXHIBIT 1 SITE PLAN PROPOSED SEWER LINE EXTENSION

LEGEND

PROPOSED 12" GRAVITY LINE

PROPOSED 18" GRAVITY LINE

PROPOSED 24" GRAVITY LINE

EXISTING 12" SEWER LINE

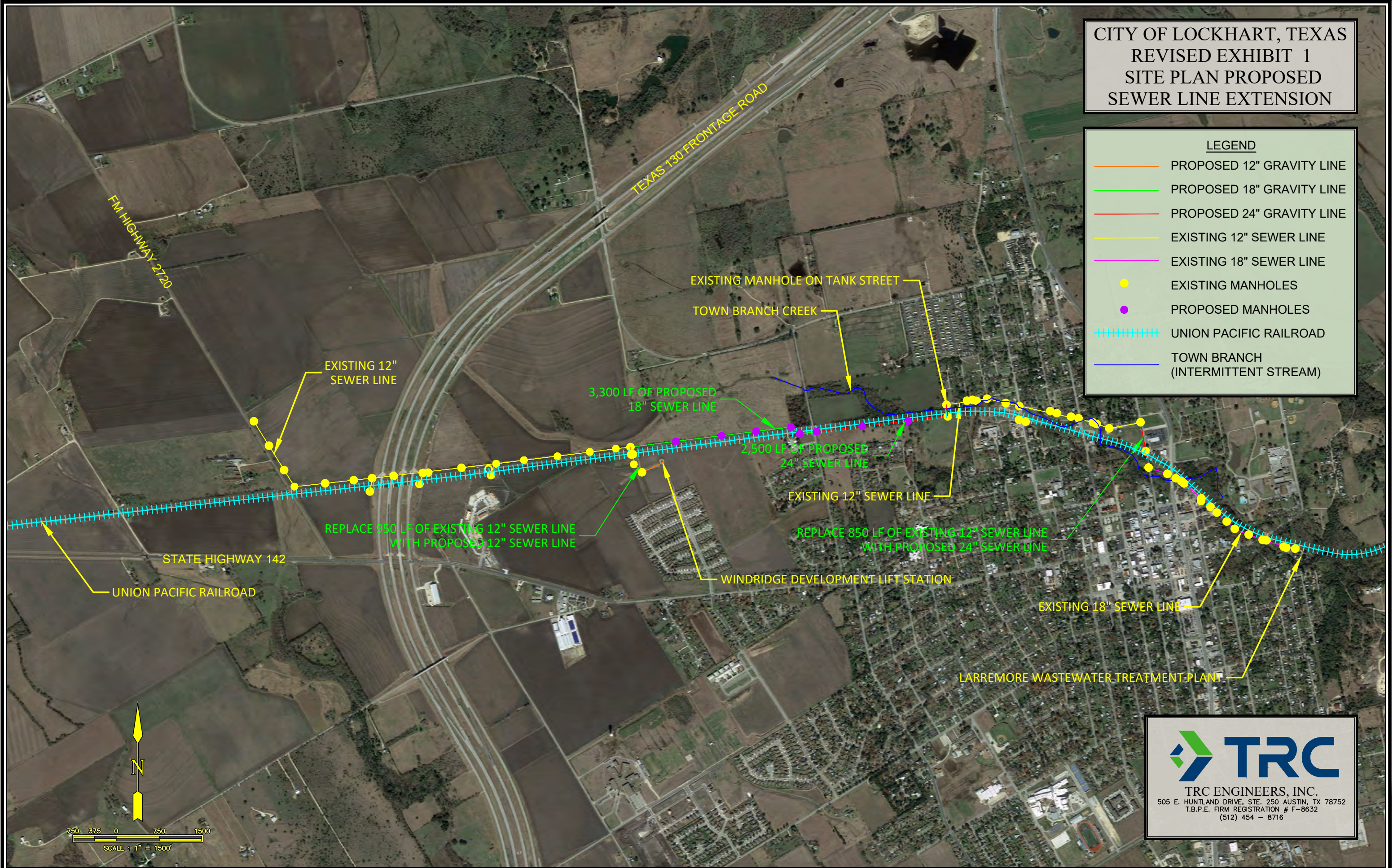
EXISTING 18" SEWER LINE

EXISTING MANHOLES

PROPOSED MANHOLES

UNION PACIFIC RAILROAD

TOWN BRANCH
(INTERMITTENT STREAM)



TRC ENGINEERS, INC.

505 E. HUNT LAND DRIVE, STE. 250 AUSTIN, TX 78752

T.B.P.E. FIRM REGISTRATION # F-8632

(512) 454 - 8716



July 8, 2024
Project: 0793400

CITY OF LOCKHART, TEXAS

Re: Proposed Underground 12 Inch Plastic Pipeline Crossing Encased In A 24 Inch Steel Casing For Transporting And Conveying Sewer Pipeline Crossing of Railroad Property at Mile Post 38.1 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please return the executed agreement via email. For any payment(s), please follow the accompanying instructions.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company.

- Payment in the amount of Six Thousand Five Hundred Dollars (**\$6,500.00**) is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, with Project No. 0793400 noted on that document. If you require formal billing, you may consider this letter as a formal bill and that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE CROSSING AGREEMENT

Mile Post: 38.1, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 8, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, a Texas Municipal Corporation to be addressed at 308 W San Antonio St, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 12 inch plastic pipeline crossing encased in a 24 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated January 9, 2024, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 12 inch plastic pipeline crossing encased in a 24 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Six Thousand Five Hundred Dollars (**\$6,500.00**).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793400)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St
Lockhart, Texas 78644

Article 12. AGREEMENT TO SUPERSEDE

This Agreement shall cancel and supersede the Original Agreement dated April 28, 2017 and identified as Audit No. 284816 and shall take effect as of the Effective Date first herein written. The Original Agreement shall terminate and the terms and conditions of this Agreement shall govern the use, maintenance and repair of the pipeline crossing.

Article 13. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

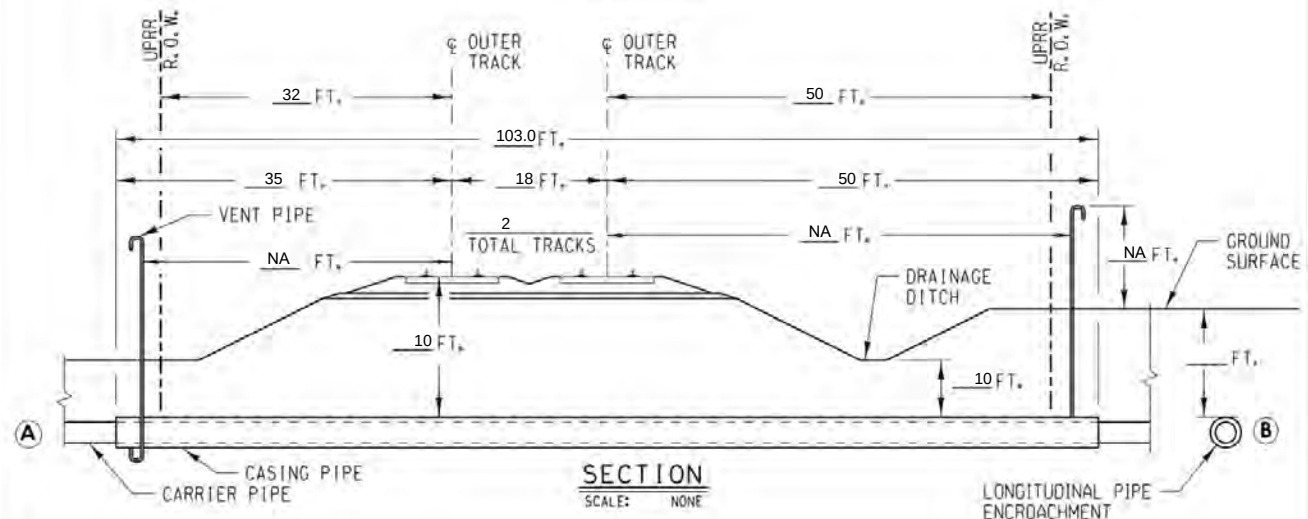
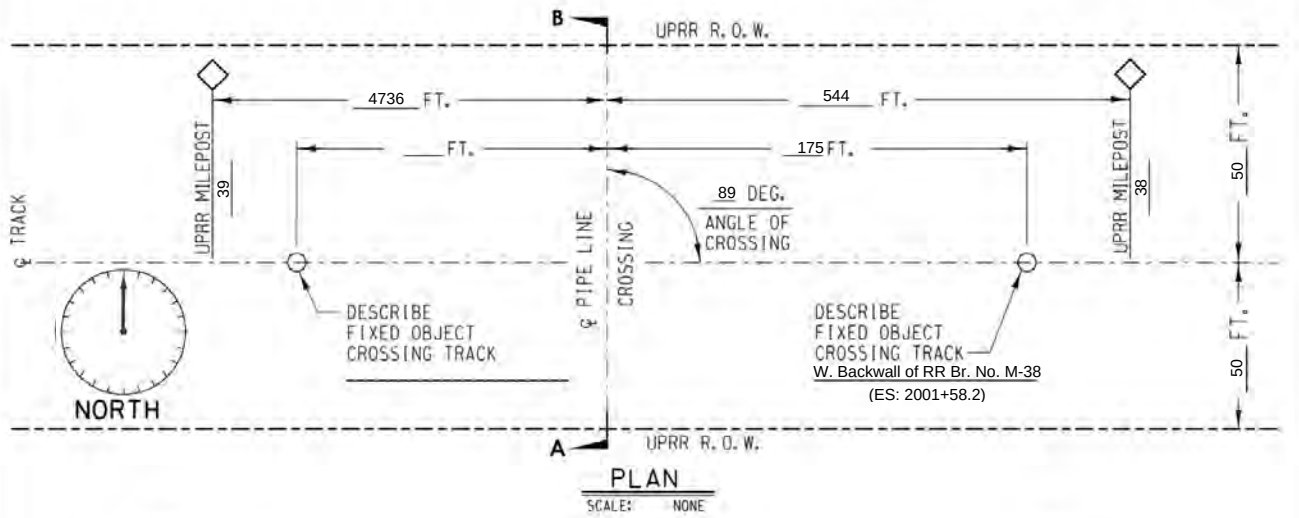
Craig O Benson
Sr Mgr Real Estate - Contracts

Name Printed: _____

Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.1

- A) METHOD OF INSTALLATION BORED AND JACKED
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT
- C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
- D) CARRIER MATERIAL PLASTIC, IF RCP, CLASS V? NA
COMMODITY TO BE CONVEYED SEWER
OPERATIONAL PRESSURE 0 PSI, MAOP 6 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 80, DIAMETER 12 IN.
CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL STEEL PIPE, IF RCP, CLASS V? NA
TOTAL LENGTH CASING PIPE: 103 FT.
WALL THICKNESS 0.375 IN. DIAMETER 24 IN.
CATHODIC/COATING PROTECTION NO
CASING PIPE IS SEALED AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 35 AND 50.



BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 38.10

LAT.: 29.88944444

E.S.M.: 2003+33.2

LONG.: -97.70111111

NEAREST CITY: LOCKHART

COUNTY: CALDWELL

STATE: TX

APPLICANT: CITY OF LOCKHART, TEXAS

FILE NO.: 0793400

DATE: 1/9/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensee to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensors has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensors then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.



July 8, 2024
Project: 0793401

CITY OF LOCKHART, TEXAS

Re: Proposed Underground 18 Inch Plastic Pipeline Encased In A 36 Inch Steel Casing For Transporting And Conveying Sewer Pipeline Crossing of Railroad Property at Mile Post 37.5 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please return the executed agreement via email. For any payment(s), please follow the accompanying instructions.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company.

- Payment in the amount of Twelve Thousand Nine Hundred Thirty Dollars (**\$12,930.00**) is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, with Project No. 0793401 noted on that document. If you require formal billing, you may consider this letter as a formal bill and that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE CROSSING AGREEMENT

Mile Post: 37.5, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 8, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, a Texas Municipal Corporation to be addressed at 308 W San Antonio St, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 18 inch plastic pipeline encased in a 36 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated January 9, 2024, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 18 inch plastic pipeline encased in a 36 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Twelve Thousand Nine Hundred Thirty Dollars (**\$12,930.00**).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793401)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St
Lockhart, Texas 78644

Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

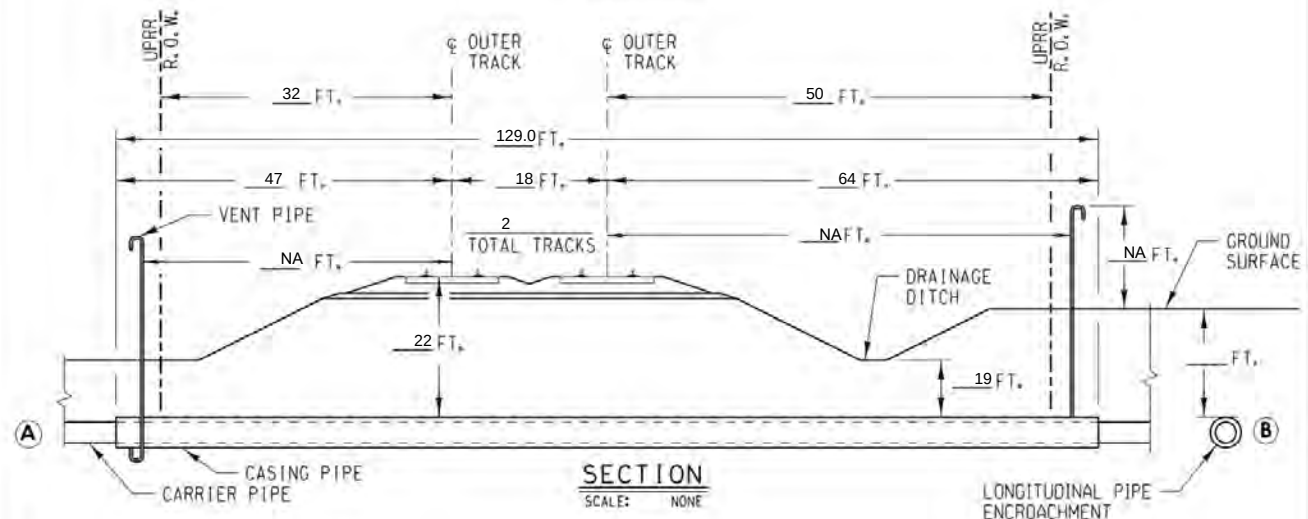
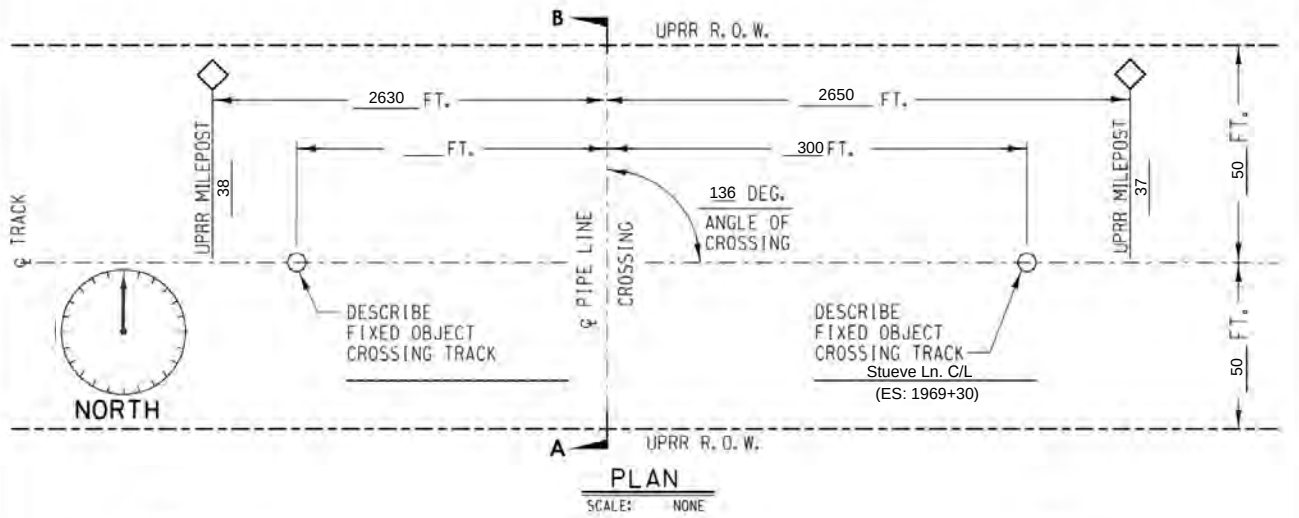
Craig O Benson
Sr Mgr Real Estate - Contracts

Name Printed: _____

Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1. CHAPTER 1. PART 5. SECTION 5.1

A) METHOD OF INSTALLATION BORED AND JACKED
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT _____
 C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
 D) CARRIER MATERIAL PLASTIC IF RCP, CLASS V? NA
 COMMODITY TO BE CONVEYED SEWER
 OPERATIONAL PRESSURE 0 PSI. MAOP 6 PSI.
 WALL THICKNESS (INCH)/ SCHEDULE 80 DIAMETER 18 IN.
 CATHODIC/COATING PROTECTION NO
 E) CASING MATERIAL STEEL PIPE IF RCP, CLASS V? NA
 TOTAL LENGTH CASING PIPE: 180.48 FT.
 WALL THICKNESS 0.625 IN. DIAMETER 36 IN.
 CATHODIC/COATING PROTECTION NO
 CASING PIPE IS SEALED AT THE ENDS
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 47 AND 64.



BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 37.50

LAT.: 29.89027778

E.S.M.: 1972+30

LONG.: -97.69138889

NEAREST CITY: LOCKHART

COUNTY: CALDWELL

STATE: TX

APPLICANT: CITY OF LOCKHART, TEXAS

FILE NO.: 0793401

DATE: 1/9/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensee to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensors has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.



July 29, 2024
Project: 0793402

CITY OF LOCKHART, TEXAS

RE: Proposed Construction of An Underground 24 Inch Uncased Plastic Pipeline Encroachment And A 24 Inch Plastic Pipeline Crossing Encased In A 48 Inch Steel Casing For Transporting And Conveying Sewer Only Between Mile Posts 36.99 and 37.1 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas.

Attached is an original of the agreement covering your use of the Railroad Company's right of way. **Review and return the partially executed agreement via email.**

Payment, with Project No. 0793402 referenced, in the amount of **Thirty Five Thousand Four Hundred Ninety (\$35,490.00)** is due and payable to Union Pacific Railroad Company upon your execution of the agreement. If you require formal billing, you may consider this letter as a formal bill. In compliance with the Internal Revenue Service's new policy regarding their Form 1099, I certify that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.

Send Electronic Payments to:

Name: Bank of America, Dallas, TX
Union Pacific Account = 3752021457
• ACH Routing Number = 1110-0001-2
• Wire Routing Number = 026009593

Mail Checks to:

Union Pacific Railroad Company
12567 Collection Center Drive
Chicago, IL 60693
• **CHECKS ONLY – NO AGREEMENTS**

UP does not currently offer a credit card option for these payments.

Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed document within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

After final approval and processing, the fully-executed agreement will be returned to you via email with instructions for coordinating your work. In no event should you begin work until you have received your counterpart of the fully-executed agreement.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE ENCROACHMENT AND CROSSING AGREEMENT

Between Mile Posts 36.99 and 37.1, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 29, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, Texas Municipal Corporation to be addressed at 308 W San Antonio St, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 24 inch uncased plastic pipeline encroachment and an underground 24 inch plastic pipeline crossing encased in a 48 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated April 11, 2024, attached hereto as **Exhibit A-1 & A-2** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 24 inch uncased plastic pipeline encroachment and a 24 inch plastic underground pipeline crossing encased in a 48 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Thirty Five Thousand Four Hundred Ninety Dollars (\$35,490.00).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licenser at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licenser to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licenser herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licenser to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licenser of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licenser to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licenser, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licenser's written consent, will be absolutely void and may result in Licenser's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licenser's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793402)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St
Lockhart, Texas 78644

Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

Jim Hild
Director Real Estate - Contracts

Name Printed: _____

Title: _____



LEGEND:

PIPELINE ENCROACHMENT — — — — —

PIPELINE CROSSING — — — — —

UPRRCO. R/W OUTLINED — — — — —

CADD FILENAME 0793402

SCAN FILENAME X

NOTE: BEFORE YOU BEGIN ANY WORK, SEE AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A-1"

UNION PACIFIC RAILROAD COMPANY

LOCKHART, CALDWELL COUNTY, TX

LOCKHART SUB M.P. 37.99

MAP MKT/V-6D/35

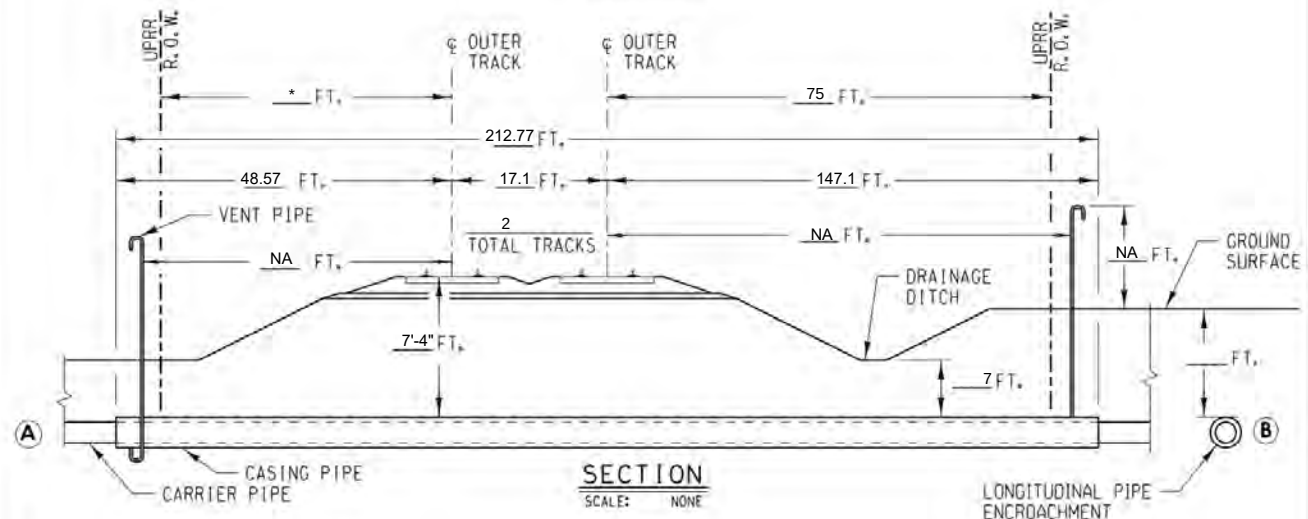
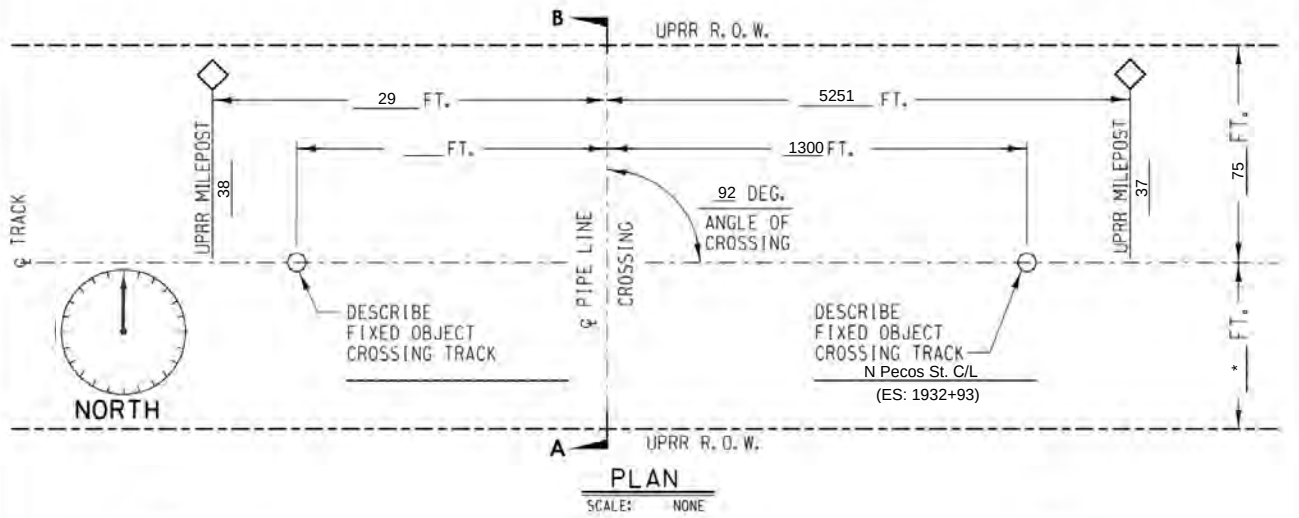
SCALE: 1" = 100'

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA DATE: 4/11/2024

JDB FILE: 0793402

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.1

- A) METHOD OF INSTALLATION BORED AND JACKED
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT
- C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
- D) CARRIER MATERIAL PLASTIC, IF RCP, CLASS V? NA
COMMODITY TO BE CONVEYED SEWER
OPERATIONAL PRESSURE 0 PSI, MAOP 6 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 80, DIAMETER 24 IN.
CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL STEEL PIPE, IF RCP, CLASS V? NA
TOTAL LENGTH CASING PIPE: 212.77 FT.
WALL THICKNESS 0.6875 IN. DIAMETER 48 IN.
CATHODIC/COATING PROTECTION NO
CASING PIPE IS SEALED AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 43 AND 147.



BUILDING AMERICA®

EXHIBIT "A"-2

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 36.99

LAT.: 29.89111111

E.S.M.: 1945+93

LONG.: -97.68333333

NEAREST CITY: LOCKHART

COUNTY: CALDWELL

STATE: TX

APPLICANT: CITY OF LOCKHART

FILE NO.: 0793402

DATE: 4/11/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licenser to use and maintain its entire property including the right and power of Licenser to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licenser without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licenser to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licenser's satisfaction and in strict conformity with: (i) Licenser's current engineering standards and specifications, including those for shoring and cribbing to protect Licenser's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licenser's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licenser, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licenser's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licenser's approval, Licensee shall contact both of Licenser's field representatives ("Licenser's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licenser has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit**

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall complete the required form at up.com/CBUD to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at this link for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.



July 8, 2024
Project: 0793403

CITY OF LOCKHART, TEXAS

Re: Proposed Underground 24 Inch Plastic Pipeline Encased In A 48 Inch Steel Casing For Transporting And Conveying Sewer Pipeline Crossing of Railroad Property at Mile Post 36.44 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please return the executed agreement via email. For any payment(s), please follow the accompanying instructions.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company.

- Payment in the amount of Three Thousand Five Hundred Dollars (**\$3,500.00**) is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, with Project No. 0793403 noted on that document. If you require formal billing, you may consider this letter as a formal bill and that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE CROSSING AGREEMENT

Mile Post: 36.44, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 8, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, a Texas Municipal Corporation to be addressed at 308 W San Antonio St, Suite 250, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 24 inch plastic pipeline encased in a 48 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated January 9, 2024, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 24 inch plastic pipeline encased in a 48 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Three Thousand Five Hundred Dollars (**\$3,500.00**).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licenser at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licenser to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licenser herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licenser to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licenser of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licenser to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licenser, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licenser's written consent, will be absolutely void and may result in Licenser's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licenser's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793403)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St, Suite 250
Lockhart, Texas 78644

Article 12. AGREEMENT TO SUPERSEDE

This Agreement shall cancel and supersede the Original Agreement dated September 1, 1987 and identified as Audit No. KX38060 and shall take effect as of the Effective Date first herein written. The Original Agreement shall terminate and the terms and conditions of this Agreement shall govern the use, maintenance and repair of the pipeline crossing.

Article 13. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

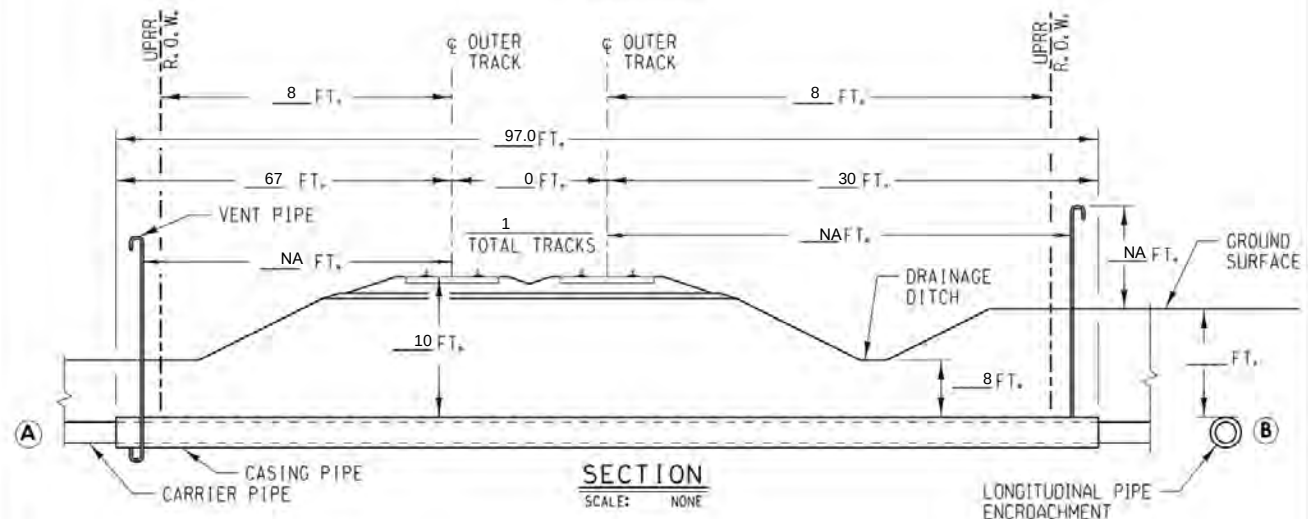
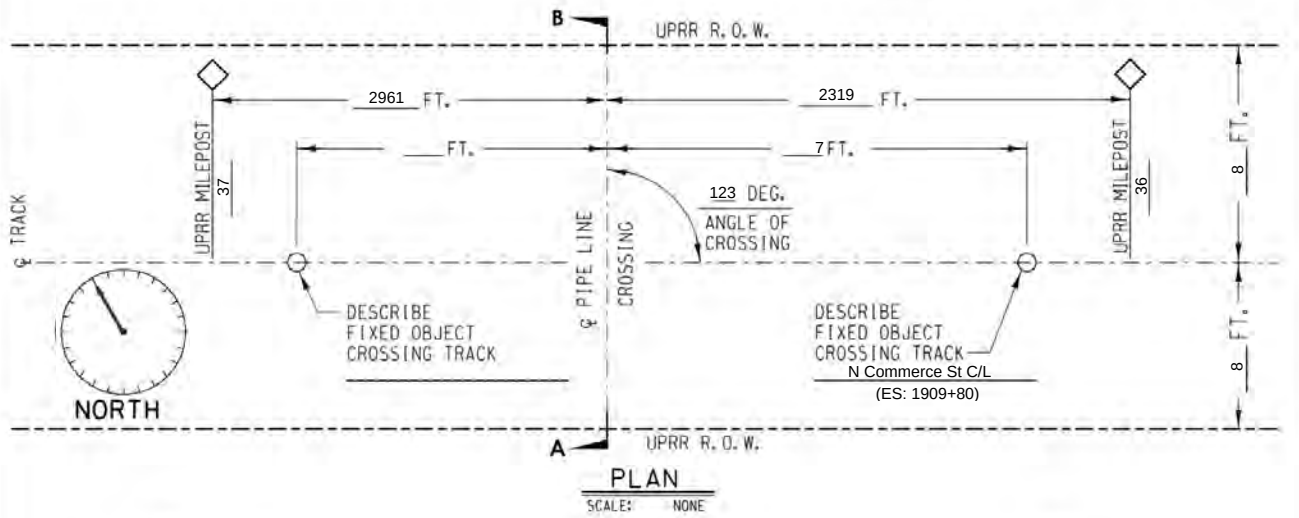
Craig O Benson
Sr Mgr Real Estate - Contracts

Name Printed: _____

Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.1

- A) METHOD OF INSTALLATION BORED AND JACKED
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT
- C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
- D) CARRIER MATERIAL PLASTIC, IF RCP, CLASS V? NA
COMMODITY TO BE CONVEYED SEWER
OPERATIONAL PRESSURE 0 PSI, MAOP 6 PSI
WALL THICKNESS (INCH)/ SCHEDULE 80, DIAMETER 24 IN.
CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL STEEL PIPE, IF RCP, CLASS V? NA
TOTAL LENGTH CASING PIPE: 115 FT.
WALL THICKNESS 0.375 IN. DIAMETER 48 IN.
CATHODIC/COATING PROTECTION NO
CASING PIPE IS SEALED AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 67 AND 30.



BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 36.44

LAT.: 29.88916667

E.S.M.: 1909+87

LONG.: -97.67222222

NEAREST CITY: LOCKHART

COUNTY: CALDWELL

STATE: TX

APPLICANT: CITY OF LOCKHART, TX

FILE NO.: 0793403

DATE: 1/9/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensors to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensors has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion regarding Ordinance 2024-19 denying West Texas Gas (WTG) Utility, LLC's request to change rates in the City as part of the company's statewide gas utility system and requiring a prompt reimbursement of costs incurred by the City pursuant to Chapters 102 and 103 of the Texas Utilities Code.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: On July 16, 2024, West Texas Gas Utility, LLC filed with the City a Statement of Intent to change gas rates in all municipalities within the company's statewide gas utility system effective August 20, 2024. This ordinance denies West Texas Gas Utility's request. Pursuant to the Texas Utilities Code, the City has exclusive jurisdiction to evaluate the company's Statement of Intent as it pertains to the distribution facilities located within the City. The Code also provides that costs included by the City in ratemaking activities are to be reimbursed by the regulated utility.

Staff recommends approval. This has been reviewed by the City Attorney.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-19 Denying Gas Rate, WTG Statement of Intent dated July 16, 2024

ORDINANCE NO. 2024-19

AN ORDINANCE OF THE COUNCIL OF THE CITY OF LOCKHART, TEXAS, DENYING WEST TEXAS GAS UTILITY, LLC'S REQUEST TO CHANGE RATES IN THE CITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY SYSTEM; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO WEST TEXAS GAS UTILITY, LLC; PROVIDING FOR THE VALIDITY OF SAID ORDINANCE; REPEALING ALL PRIOR ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about July 16, 2024, West Texas Gas Utility, LLC (the "Company") filed with the City of Lockhart, Texas ("City"), a Statement of Intent to change gas rates in all municipalities within the Company's statewide gas utility system effective August 20, 2024;

WHEREAS, the City has exclusive original jurisdiction to evaluate the Company's Statement of Intent as it pertains to the distribution facilities located within the City, pursuant to Texas Utilities Code 102.001(b) and 103.001;

WHEREAS, the Texas Utilities Code 103.022 provides that costs included by the City in ratemaking activities are to be reimbursed by the regulated utility;

WHEREAS, upon review of the Company's filing, City staff recommends findings that the Company's proposal is unjustified and unreasonable; and

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

SECTION 1. The Company's Statement of Intent to change gas rates within the City, as part of the Company's statewide gas utility system, is found to be unreasonable. West Texas Gas Utility, LLC's request to increase rates contained in the aforementioned Statement of Intent to Increase Gas Rates within the City with an effective date of August 20, 2024, is hereby in all things **DENIED**.

SECTION 2. The costs incurred by the City in reviewing the Company's application shall be promptly reimbursed by the Company.

SECTION 3. This Ordinance shall become effective immediately from and after its passage, as the law and charter in such cases provide.

SECTION 4. That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

SECTION 5. A copy of this ordinance, constituting final action on the Company's application, be forwarded to the appropriate designated representative of the Company within 10 days as follows:

J.J. King, Vice President – Gas Marketing
Amanda Edgmon, Treasurer/Secretary
West Texas Gas Utility, LLC
303 Veterans Airpark Ln, Suite 500
Midland, Texas 79705

And

Kate Norman
C. Glenn Adkins
Tandy Sticklen
Elizabeth Seyl
Coffin Norman LLP
1011 W. 31st Street
Austin, Texas 78705

SECTION 6. Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this Ordinance, are all hereby repealed.

SECTION 7. If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

APPROVED on the 6th day of August 2024.

CITY OF LOCKHART, TEXAS

ATTEST:

Lew White, Mayor

Julie Bowermon
City Secretary

APPROVED AS TO FORM:

Bradford E. Bullock
City Attorney



July 16, 2024

Via Federal Express

To the Honorable Mayors and Council Members:

Attached is a copy of the Statement of Intent of West Texas Gas Utility, LLC ("WTGU" or the "Company"), to increase gas utility rates within the incorporated areas of the Cities of Amarillo, Balmorhea, Cactus, Canadian, Canyon, Claude, Dalhart, Darrouzett, Devine, Eden, Farwell, Follett, Groom, Higgins, Junction, Kermit, La Vernia, Lockhart, Lubbock, Luling, Menard, Miami, Mobeetie, Natalia, Paint Rock, Seguin, Shamrock, Somerset, Sonora, Stratford, Texhoma, Texline, Van Horn, Wheeler, White Deer and Wolfforth, Texas ("Cities"). WTGU is filing a Statement of Intent at this time to more accurately match base rates with the costs of providing service and to recover extraordinary gas costs related to Winter Storm Uri through a separate surcharge. The Company requests that the proposed rates and tariffs contained in the Statement of Intent become effective on August 20, 2024, which is 35 days from the date of this filing. No action on the part of the Cities is required to permit the Company's proposed rates to take effect.

In addition to this city-level filing, the Company is also making a Statement of Intent filing with the Railroad Commission of Texas for the unincorporated areas of the seventy-three Counties in Texas that WTGU serves. The Company is requesting that the Cities and the Commission approve the same rates and tariffs and is providing the same information, including written testimony, to the Cities it serves and to the Commission.

If you have any questions, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink, appearing to read "J.J. King", written over a horizontal line.

J.J. King
Vice President of Gas Marketing

JJK:eas
Attachment

cc: Amanda Edgmon, Treasurer/Secretary, West Texas Gas Utility, LLC
Kate Norman, Coffin Renner LLP

**STATEMENT OF INTENT OF WEST TEXAS GAS UTILITY, LLC
TO INCREASE GAS UTILITY RATES WITHIN THE
UNINCORPORATED AREAS OF TEXAS**

To All Cities Within the State of Texas Served by West Texas Gas Utility, LLC:

West Texas Gas Utility, LLC (“WTGU” or “the Company”), a “gas utility” under Gas Utility Regulatory Act (“GURA”)¹ § 101.003(7), respectfully files this Statement of Intent, pursuant to Subchapter C of Chapter 104 of GURA and the rules of the Gas Services Department of the Railroad Commission of Texas (“Commission”), to increase gas utility rates within the unincorporated areas within Andrews, Archer, Armstrong, Atascosa, Bailey, Bastrop, Bexar, Brewster, Briscoe, Brown, Caldwell, Carson, Castro, Cochran, Coleman, Collingsworth, Concho, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dimmit, Donley, Floyd, Frio, Gaines, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Jeff Davis, Kimble, Kinney, La Salle, Lamb, Lipscomb, Lubbock, Lynn, McCulloch, Martin, Mason, Maverick, Medina, Menard, Moore, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reeves, Roberts, Runnels, Sherman, Sutton, Swisher, Terry, Tom Green, Travis, Uvalde, Val Verde, Wheeler, Wilson, Winkler, Yoakum, and Zavala Counties.² WTGU’s natural gas service area also includes the Cities of Amarillo, Balmorhea, Cactus, Canadian, Canyon, Claude, Dalhart, Darrouzett, Devine, Eden, Farwell, Follett, Groom, Higgins, Junction, Kermit, La Vernia, Lockhart, Lubbock, Luling, Menard, Miami, Mobeetie, Natalia, Paint Rock, Seguin, Shamrock, Somerset, Sonora, Stratford, Texhoma, Texline, Van Horn, Wheeler, White Deer, and Wolfforth, Texas. The Company’s proposed rates were developed based on WTGU’s costs to serve customers in the entirety of its Texas service area that take service under rate schedule tariffs approved by either a municipality or the Commission (“Jurisdictional Customers”). Contemporaneously with this filing, WTGU is also filing a Statement of Intent to Increase Rates for Jurisdictional Customers within each of the municipalities served by WTGU.

The Company requests that the proposed tariffs, attached as **Exhibit A** to this Statement of Intent and incorporated herein by reference, become effective on August 20, 2024, which is 35

¹ Tex. Util. Code §§ 101.001 *et seq.*

² This pleading uses the terms “unincorporated areas” and “environs” interchangeably.

days from the date of this filing. In support of its request, the Company respectfully shows as follows:

I. INTRODUCTION AND SUMMARY OF THE RATE REQUEST

WTGU is proposing new rates for the jurisdictional service it provides in Texas based on the cost of providing service to all Jurisdictional Customers within its service area, inclusive of both incorporated and unincorporated areas served by WTGU.³ This approach is consistent with the system-wide rates that are currently in effect for WTGU. For the 12-month period ended December 31, 2023, the Company's overall jurisdictional base rate revenue requirement on a system-wide basis totaled approximately \$26,466,131. The total adjusted revenue WTGU currently receives from jurisdictional customers is approximately \$13,188,368, leaving a revenue deficiency of approximately \$13,277,763. However, to moderate the effect of WTGU's rate change request on its customers, WTGU is not requesting to recover its full jurisdictional cost of service through this Statement of Intent. Rather, WTGU is requesting a base rate revenue requirement on a jurisdictional, system-wide basis of approximately \$19,967,258.

If approved, the requested rates will increase WTGU's jurisdictional revenues in Texas by \$6,778,890 which is an increase of approximately 35.75% total revenues including gas costs, or 51.40% base rate revenues, which excludes gas costs. Because the proposed changes will increase WTGU's total aggregate revenues by more than 2.5%, the proposed rate change constitutes a "major change" in rates as that term is defined by GURA § 104.101. Additionally, regarding GURA § 104.006, the proposed rates for areas not within a municipality will not exceed 115% of the average of all rates for similar services of all municipalities served by the Company within the same county.

As part of this rate filing, the Company is also requesting: (1) a prudence determination for all used and useful capital investment WTGU has made through December 31, 2023, including all capital investment reflected in the Company's interim rate adjustment ("IRA") filings made since WTGU's last statement of intent proceeding, pursuant to GURA § 104.301; (2) approval of a

³ WTGU serves domestic and non-domestic jurisdictional customers and irrigation and agricultural non-jurisdictional customers. Domestic customers are residential customers. Non-domestic customers are all other jurisdictional customers.

51.22% allocation factor for capital investment costs that should be allocated to or recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers to be used in future IRA filings; (3) Commission approval of new depreciation rates; (4) Commission approval of a regulatory asset comprised of extraordinary gas costs related to WTGU's continuation of service during Winter Storm Uri; (5) recovery of the Winter Storm Uri regulatory asset through a monthly surcharge over 60 months; (6) approval of its tariffs contained in Exhibit A; and (7) approval of a rate case expense recovery surcharge to recover the reasonable rate case expenses associated with this filing through a surcharge on rates, as provided by law. The exact amount of rate case expense will not be known until the case is complete.

The tariffs, attached hereto as **Exhibit A** to the Rate Filing Package and made a part hereof, support the rate changes proposed by the Company. The Company is proposing revised tariffs for natural gas service that will include rates for domestic and non-domestic customers that will consist of a customer charge and a volumetric charge. Implementation of new tariffs necessarily entails withdrawal of the Company's existing incorporated and environs tariffs. Other tariff changes are detailed in Section III(F) below.

II. JURISDICTION

WTGU is a gas utility as that term is defined in GURA § 101.003(7). Pursuant to GURA § 102.001(a), the Commission has exclusive original jurisdiction to set the rates WTGU requests for Jurisdictional Customers in the unincorporated areas served by WTGU. Consistent with such jurisdiction, the proposed rates identified in Exhibit A are applicable to the Company's natural gas service within the unincorporated areas. The Commission also has appellate authority over municipalities exercising original jurisdiction over the Company's filings.

III. DETAILS OF PROPOSED CHANGES

A. Rate Filing Package

In addition to this Statement of Intent, the Rate Filing Package consists of the following:

- Exhibit A Proposed Tariffs
- Exhibit B Proposed Revenue Change by Class
- Exhibit C Average Bill Impact by Class

- Exhibit D Direct Testimony and Exhibits
- Exhibit E Proposed Notice
- Exhibit F Protective Agreement
- Exhibit G Cost of Service Schedules
- Exhibit H Workpapers

B. Test Year

The Company's proposed cost of service as set forth in this Statement of Intent and Rate Filing Package is based on the 12-month period ended December 31, 2023.

C. Class and Number of Customers Affected

The proposed changes to the Company's tariffs will affect all Jurisdictional Customers that WTGU serves in Texas. The table below shows the approximate number of customers by class, who will be affected by the proposed rate changes:

Table 1
Customer Classes Affected

Customer Class	Environs Customers	Incorporated Customers
Domestic ⁴	5,747	12,176
Non-Domestic ⁵	475	2,010

Exhibits B and C, attached, show the amount of the proposed change and the effect of the proposed change on an average bill for each class of customers.

D. Proposed Rate Change

The proposed changes to rates for jurisdictional customers are set out below:

⁴ A "domestic customer" typically refers to residential service and is one whose natural gas service is individually metered.

⁵ A "non-domestic customer" is a customer who is not taking service under the residential tariff and includes commercial, industrial customers, public authority customers, and non-profit customers.

Table 2
Comparison of Current Rates to Proposed Rate Change⁶

Domestic Customers		
	Current	Proposed
Customer Charge	\$23.42 per month	\$29.50 per month
All Consumption ⁷	\$4.84 per Mcf	\$7.68 per Mcf
Non-Domestic Customers		
	Current	Proposed
Customer Charge	\$43.57 per month	\$79.00 per month
All Consumption	\$2.69 per Mcf	\$4.89 per Mcf

Exhibit C shows the average bill impact by customer class.

E. Depreciation Rates

The Company requests that the Commission approve new depreciation rates for WTGU and all of its natural gas assets.

F. Other Proposed Tariff Changes

In addition to the proposed changes in rates, WTGU proposes to add a new Winter Storm Cost Recovery Rider to recover approximately \$3.5 million over a five-year period. The Company also proposes to remove the EDIT Credit Rider because the credit associated with that rider is complete and to make non-substantive changes to the Pipeline Safety Fee Rider. The Company also proposes non-substantive formatting changes to its tariffs. WTGU does not propose to change the fee, deposit, or general terms of service provisions in the tariffs.

G. Effective Date

The Company requests that the Commission order the proposed rates to be effective for bills rendered on and after August 20, 2024, which is 35 days after the filing date.

⁶ The current rate amounts include amounts for the Company's pending GRIP filing in Case No. 00017395.

⁷ The terms "All Consumption" and "Volumetric" are used interchangeably.

H. Witness Testimony

Attached as **Exhibit D** to the Statement of Intent is the direct testimony supporting the Company's requested revenue requirement. The attached testimony includes the following witnesses:

- *Jack J. ("J.J.") King*, Vice President of Gas Marketing, provides an overview of the Company's operations, service territory, customer base and rate filing; supports the prudence of the Company's capital investment; explains affiliate relationships and transactions; addresses certain expense items; addresses extraordinary costs incurred during the Company's response to Winter Storm Uri; and identifies the tariff changes WTGU is requesting.
- *Amanda Edgmon*, Treasurer/Secretary also serving as WTGU Regulatory Accountant, addresses the Company's books and records; attests to the financial information contained in the Company's schedules; sponsors the Company's Gas Reliability Infrastructure Program ("GRIP") filings; discusses the proposed change to the factor to be used in future GRIP filings to determine the amount of capital investment that should be allocated to or recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers; presents the calculation of the regulatory asset amounts related to Winter Storm Uri; and explains the corporate cost allocation method and services from some affiliates.
- *Matthew S. Smith, P.E.*, Associate Vice President of Operations, provides an overview of field operations and expenses and supports the Company's rationale for its request to modify the factor used to determine what portion of the Company's capital investment will be recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers.
- *Dane A. Watson*, with Alliance Consulting Group, sponsors the depreciation study that he performed that produces the depreciation rates used to determine the Company's depreciation expense.
- *Dr. Bruce H. Fairchild*, Principal with Financial Concepts and Applications, Inc., sponsors the Company's cost of service schedules, requested capital structure and return on equity, overall rate of return, billing determinants, income tax expense and other tax issues, cost allocation and rate design; and presents the Company's proposed method for direct assignment of costs attributable to Jurisdictional Customers and Non-Jurisdictional Customers.

IV. RATE CASE EXPENSES

Pursuant to GURA § 104.051 and Commission Rule § 7.5530, WTGU requests recovery of all reasonable and necessary rate case expenses from affected customers through a surcharge to the final approved rates.

V. PUBLIC NOTICE

The Company will promptly undertake to notify the public of the proposed changes in its gas rates consistent with the requirements of GURA § 104.103 and Commission Rules §§ 7.230 and 7.235. The public notice that WTGU proposes to provide regarding the proposed change in rates is attached as **Exhibit E** to the Statement of Intent. WTGU asks that the Commission's Administrative Law Judge and Examiners approve its form of notice prior to publication or distribution to customers, and the Company will submit proof of notice promptly upon completion thereof.

VI. COMPANY REPRESENTATIVES FOR NOTIFICATION

WTGU's authorized representatives are:

J.J. King, Vice President- Gas Marketing
Amanda Edgmon, Treasurer/Secretary
West Texas Gas Utility, LLC
303 Veterans Airpark Ln, Suite 500
Midland, Texas 79705
(432) 682-4349
jking@westtexasgas.com
aedgmon@westtexasgas.com

and

Kate Norman
C. Glenn Adkins
Tandy Sticklen
Elizabeth Seyl
Coffin Renner LLP
1011 W. 31st Street
Austin, Texas 78705
512-879-0900
512-879-0912 (fax)
kate.norman@crtxlaw.com
glenn.adkins@crtxlaw.com
tandy.sticklen@crtxlaw.com
elizabeth.seyl@crtxlaw.com

Please serve all pleadings, motions, orders, and other documents filed in this proceeding upon WTGU's authorized representatives at the above-stated addresses.

VII. PROTECTIVE AGREEMENT

The Company's Rate Filing Package includes certain confidential materials. In addition, the scope of discovery in this case may require the production of additional confidential material. Accordingly, WTGU attaches as **Exhibit F** to this Statement of Intent a Protective Agreement to be used in this case. WTGU will provide confidential material upon execution of Exhibit A attached to the Protective Agreement.

VIII. CONCLUSION

WTGU requests that: (1) rates are approved consistent with those proposed herein to become effective for bills rendered on and after August 20, 2024; (2) capital investment WTGU has made through December 31, 2023 is deemed prudent; (3) the Commission approve the use of a 51.22% allocation factor for capital investment costs that should be allocated to or recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers to be used in future IRA filings; (4) the Commission approve new depreciation rates; (5) the proposed tariffs be approved; (6) the Commission approve the requested regulatory asset amount for costs related to Winter Storm Uri; (7) the Commission approve recovery of the Winter Storm Uri regulatory asset amount through a monthly surcharge over 60 months; (8) all reasonable rate case expenses incurred in connection with this Statement of Intent filing are authorized for recovery by the Company; and (9) for such further relief to which the Company may be entitled.

Respectfully submitted,

By: Kate Norman

Kate Norman

State Bar No. 24051121

C. Glenn Adkins

State Bar No. 24037433

Coffin Renner LLP

1011 West 31st Street

Austin, Texas 78705

512/879-0900

512/879-0912 (fax)

kate.norman@crtxlaw.com

glenn.adkins@crtxlaw.com

**ATTORNEYS FOR WEST TEXAS GAS
UTILITY, LLC**

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Presentation of the City of Lockhart's Fiscal Year (FY) 2024-2025 Proposed Budget and consider the Lockhart Economic Development Corporation's Budget for FY 2024-2025, and set two public hearings on the FY 2024-2025 City of Lockhart Proposed Budget.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis, Joseph Resendez

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: According to the City of Lockhart Charter, Article 9, Section 9.07, Public Hearing on Budget, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

According to the Lockhart Economic Development Corporation's bylaws, Article 4, Section 3 Annual Corporate Budget, the President shall submit the budget to the City Council for approval prior to submittal to the Board for final adoption.

The City of Lockhart is required by Charter to hold one public hearing on the budget. Staff recommends conducting two public hearings to allow the citizens of Lockhart the opportunity to discuss any item or amount presented in the proposed FY 2024-2025 Budget. The following dates are presented to the Council for public hearings:

- August 20, 2024 at 7:30 p.m.
- September 3, 2024 at 7:30 p.m.

To be held in the Council Chambers located at the Clark Library Annex - 217 South Main Street, 3rd floor, Lockhart, Texas. The City of Lockhart and the Lockhart Economic Development budget for FY 2024-2025 can be located on the City's website and hard copies are located in City Hall and the City Library.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully request the approval of the Lockhart Economic Development Corporation's budget and of the two dates presented to Council for public hearings on the City's proposed budget.

LIST OF SUPPORTING DOCUMENTS: FYE 2025 Proposed Revenue and Expense Summary

**CITY OF LOCKHART
PROPOSED BUDGET
FISCAL YEAR 2024-25**

	FYE 2022	FYE 2023	FYE 2024 AMENDED	FYE 2025 PROPOSED
	ACTUAL	ACTUAL	BUDGET	BUDGET
REVENUE SUMMARY				
GENERAL FUND	12,700,841	15,428,638	15,071,251	15,885,276
DEBT SERVICE FUND	1,231,677	2,065,283	1,738,469	1,899,172
ELECTRIC FUND	12,818,069	15,378,479	13,989,885	13,580,750
WATER FUND	4,505,246	6,863,082	5,754,837	5,765,987
WASTEWATER FUND	2,655,201	5,389,513	3,525,587	3,390,060
SOLID WASTE FUND	1,948,434	2,014,232	2,191,685	2,220,485
EMS FUND	1,338,154	1,891,625	1,523,200	507,733
AIRPORT FUND	108,768	122,326	162,050	179,550
LOCKHART ECO DEV FUND	1,296,355	1,817,686	1,179,140	1,234,140
TOTAL - REVENUES	38,602,745	50,970,864	45,136,104	44,663,153

EXPENSE SUMMARY					DELTA
GENERAL FUND	11,967,139	14,098,675	14,981,004	15,845,544	39,732
DEBT SERVICE FUND	1,290,472	1,662,332	1,654,125	1,659,937	239,235
ELECTRIC FUND	12,050,364	13,278,900	13,881,245	14,259,885	-679,135
WATER FUND	5,676,125	6,682,619	5,478,301	6,997,828	-1,231,841
WASTEWATER FUND	2,771,725	2,887,784	3,312,887	3,360,081	29,979
SOLID WASTE FUND	1,935,290	2,119,224	2,071,028	2,210,620	9,865
EMS FUND	1,339,370	1,599,419	2,202,429	766,453	-258,720
AIRPORT FUND	92,834	283,618	139,143	116,616	62,934
LOCKHART ECO DEV FUND	458,921	752,469	1,179,140	1,171,498	62,642
TOTAL - EXPENSES	37,582,240	43,365,040	44,899,302	46,388,462	

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion regarding setting the 2024 combined maintenance and operations and interest and sinking proposed property tax rate of the City of Lockhart.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Joseph Resendez

ACTION REQUESTED: Consensus

BACKGROUND/SUMMARY/DISCUSSION: The action taken by the City Council is required by the State of Texas in adherence with the Truth-In-Taxation laws.

If the proposed tax rate exceeds either the No New Revenue (NNR) rate or Voter Approval Rate (VAR), a record vote must be taken to place a proposal to adopt the rate on the agenda for a future Council meeting. If the motion passes, the Council must schedule and announce the date, time, and location of one (1) public hearing regarding the proposed tax rate set by the Council.

As directed by Council, the aforementioned public hearing is scheduled on September 3, 2024, at 7:30 p.m. in the Council Chambers located in the Clark Library Annex - Council Chambers, 217 South Main Street, 3rd floor, Lockhart, Texas.

Senate Bill 2 has limited the percentage increase from No New Revenue to Voter Approval Rate by 3.5% but has added a new unused incremental rate adjustment. The 2024 Voter Approval Rate (VAR), as prepared by the CAD, is 0.5093/\$100 assessed valuation. This rate includes the unused increment rate.

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: It is staff's recommendation that the

City of Lockhart, Texas

Council Agenda Item Cover Sheet

City Council set a tax rate for 2024; record the vote; schedule a public hearing on September 3, 2024 and announce the date, time, and location of the public hearing.

LIST OF SUPPORTING DOCUMENTS: City of Lockhart 2024 Tax Rate Calculations

**2024 NO-NEW-REVENUE AND VOTER-APPROVAL TAX RATE
INFORMATION**

CITY OF LOCKHART

	TOTAL
2023 TAX RATE	0.5348/\$100
2024 NO-NEW-REVENUE TAX RATE	0.5058/\$100
2024 VOTER-APPROVAL TAX RATE	0.5093/\$100
2024 UNUSED INCREMENT RATE	0.0000/\$100
2024 VOTER-APPROVAL RATE ADJUSTED FOR UNUSED INCREMENT RATE	0.5093/\$100
2024 DE MINIMUS TAX RATE	0.5301/\$100

SUBMITTED TO CITY OF LOCKHART THE 1st DAY OF August 2024.


SHANNA RAMZINSKI
CHIEF APPRAISER
CALDWELL COUNTY APPRAISAL DISTRICT

Received and Approval from Taxing Entity

Date

2024 Tax Rate Calculation Worksheet

Taxing Units Other Than School Districts or Water Districts

Form 50-856

City of Lockhart

(512) 398-3641

Taxing Unit Name

Phone (area code and number)

PO Box 239, Lockhart, 78644

www.lockhart-tx.org

Taxing Unit's Address, City, State, ZIP Code

Taxing Unit's Website Address

GENERAL INFORMATION: Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the no-new-revenue (NNR) tax rate and voter-approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 *Tax Rate Calculation Worksheet, School District without Chapter 313 Agreements* or Comptroller Form 50-884 *Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements*.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 *Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts* or Comptroller Form 50-860 *Developed Water District Voter-Approval Tax Rate Worksheet*.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease.

The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
1.	Prior year total taxable value. Enter the amount of the prior year taxable value on the prior year tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undisputed value in Line 6). This total includes the taxable value of homesteads with tax ceilings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17). ¹	\$ 1,446,114,981
2.	Prior year tax ceilings. Counties, cities and junior college districts. Enter the prior year total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision last year or a prior year for homeowners age 65 or older or disabled, use this step. ²	\$ 222,911,474
3.	Preliminary prior year adjusted taxable value. Subtract Line 2 from Line 1.	\$ 1,223,203,507
4.	Prior year total adopted tax rate.	\$ 0.5348 /\$100
5.	Prior year taxable value lost because court appeals of ARB decisions reduced the prior year's appraised value. A. Original prior year ARB values: \$ 0 B. Prior year values resulting from final court decisions: - \$ 0 C. Prior year value loss. Subtract B from A. ³	\$ 0
6.	Prior year taxable value subject to an appeal under Chapter 42, as of July 25. A. Prior year ARB certified value: \$ 0 B. Prior year disputed value: - \$ 0 C. Prior year undisputed value. Subtract B from A. ⁴	\$ 0
7.	Prior year Chapter 42 related adjusted values. Add Line 5C and Line 6C.	\$ 0

¹ Tex. Tax Code §26.012(14)² Tex. Tax Code §26.012(14)³ Tex. Tax Code §26.012(13)⁴ Tex. Tax Code §26.012(13)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
8.	Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Add Line 3 and Line 7.	\$ 1,223,203,507
9.	Prior year taxable value of property in territory the taxing unit deannexed after Jan. 1, 2024. Enter the prior year value of property in deannexed territory. ⁵	\$ 0
10.	Prior year taxable value lost because property first qualified for an exemption in the current year. If the taxing unit increased an original exemption, use the difference between the original exempted amount and the increased exempted amount. Do not include value lost due to freeport, goods-in-transit, temporary disaster exemptions. Note that lowering the amount or percentage of an existing exemption in the current year does not create a new exemption or reduce taxable value. A. Absolute exemptions. Use prior year market value: \$ 3,384,420 B. Partial exemptions. Current year exemption amount or current year percentage exemption times prior year value: + \$ 2,001,134 C. Value loss. Add A and B. ⁶	\$ 5,385,554
11.	Prior year taxable value lost because property first qualified for agricultural appraisal (1-d or 1-d-1), timber appraisal, recreational/scenic appraisal or public access airport special appraisal in the current year. Use only properties that qualified for the first time in the current year; do not use properties that qualified in the prior year. A. Prior year market value: \$ 262,248 B. Current year productivity or special appraised value: - \$ 410 C. Value loss. Subtract B from A. ⁷	\$ 261,838
12.	Total adjustments for lost value. Add Lines 9, 10C and 11C.	\$ 5,647,392
13.	Prior year captured value of property in a TIF. Enter the total value of the prior year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the prior year taxes were deposited into the tax increment fund. ⁸ If the taxing unit has no captured appraised value in line 18D, enter 0.	\$ 0
14.	Prior year total value. Subtract Line 12 and Line 13 from Line 8.	\$ 1,217,556,115
15.	Adjusted prior year total levy. Multiply Line 4 by Line 14 and divide by \$100.	\$ 6,511,490
16.	Taxes refunded for years preceding the prior tax year. Enter the amount of taxes refunded by the taxing unit for tax years preceding the prior tax year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for the prior tax year. This line applies only to tax years preceding the prior tax year. ⁹	\$ 233
17.	Adjusted prior year levy with refunds and TIF adjustment. Add Lines 15 and 16. ¹⁰	\$ 6,511,723
18.	Total current year taxable value on the current year certified appraisal roll today. This value includes only certified values or certified estimate of values and includes the total taxable value of homesteads with tax ceilings (will deduct in Line 20). These homesteads include homeowners age 65 or older or disabled. ¹¹ A. Certified values: \$ 1,656,758,189 B. Counties: Include railroad rolling stock values certified by the Comptroller's office: + \$ 0 C. Pollution control and energy storage system exemption: Deduct the value of property exempted for the current tax year for the first time as pollution control or energy storage system property: - \$ 0 D. Tax increment financing: Deduct the current year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the current year taxes will be deposited into the tax increment fund. Do not include any new property value that will be included in Line 23 below. ¹² - \$ 0 E. Total current year value. Add A and B, then subtract C and D.	\$ 1,656,758,189

⁵ Tex. Tax Code §26.012(15)⁶ Tex. Tax Code §26.012(15)⁷ Tex. Tax Code §26.012(15)⁸ Tex. Tax Code §26.03(c)⁹ Tex. Tax Code §26.012(13)¹⁰ Tex. Tax Code §26.012(13)¹¹ Tex. Tax Code §26.012, 26.04(c-2)¹² Tex. Tax Code §26.03(c)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
19.	Total value of properties under protest or not included on certified appraisal roll. ¹³	
	A. Current year taxable value of properties under protest. The chief appraiser certifies a list of properties still under ARB protest. The list shows the appraisal district's value and the taxpayer's claimed value, if any, or an estimate of the value if the taxpayer wins. For each of the properties under protest, use the lowest of these values. Enter the total value under protest. ¹⁴	\$ 31,031,109
	B. Current year value of properties not under protest or included on certified appraisal roll. The chief appraiser gives taxing units a list of those taxable properties that the chief appraiser knows about but are not included in the appraisal roll certification. These properties also are not on the list of properties that are still under protest. On this list of properties, the chief appraiser includes the market value, appraised value and exemptions for the preceding year and a reasonable estimate of the market value, appraised value and exemptions for the current year. Use the lower market, appraised or taxable value (as appropriate). Enter the total value of property not on the certified roll. ¹⁵	+ \$ 0
	C. Total value under protest or not certified. Add A and B.	\$ 31,031,109
20.	Current year tax ceilings. Counties, cities and junior colleges enter current year total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in the prior year or a previous year for homeowners age 65 or older or disabled, use this step. ¹⁶	\$ 241,806,563
21.	Current year total taxable value. Add Lines 18E and 19C. Subtract Line 20. ¹⁷	\$ 1,445,982,735
22.	Total current year taxable value of properties in territory annexed after Jan. 1, of the prior year. Include both real and personal property. Enter the current year value of property in territory annexed. ¹⁸	\$ 1,507,680
23.	Total current year taxable value of new improvements and new personal property located in new improvements. New means the item was not on the appraisal roll in the prior year. An improvement is a building, structure, fixture or fence erected on or affixed to land. New additions to existing improvements may be included if the appraised value can be determined. New personal property in a new improvement must have been brought into the taxing unit after Jan. 1, of the prior year and be located in a new improvement. New improvements do include property on which a tax abatement agreement has expired for the current year. ¹⁹	\$ 157,269,930
24.	Total adjustments to the current year taxable value. Add Lines 22 and 23.	\$ 158,777,610
25.	Adjusted current year taxable value. Subtract Line 24 from Line 21.	\$ 1,287,205,125
26.	Current year NNR tax rate. Divide Line 17 by Line 25 and multiply by \$100. ²⁰	\$ 0.5058 /\$100
27.	COUNTIES ONLY. Add together the NNR tax rates for each type of tax the county levies. The total is the current year county NNR tax rate. ²¹	\$ 0.0000 /\$100

SECTION 2: Voter-Approval Tax Rate

The voter-approval tax rate is the highest tax rate that a taxing unit may adopt without holding an election to seek voter approval of the rate. The voter-approval tax rate is split into two separate rates:

- Maintenance and Operations (M&O) Tax Rate:** The M&O portion is the tax rate that is needed to raise the same amount of taxes that the taxing unit levied in the prior year plus the applicable percentage allowed by law. This rate accounts for such things as salaries, utilities and day-to-day operations.
- Debt Rate:** The debt rate includes the debt service necessary to pay the taxing unit's debt payments in the coming year. This rate accounts for principal and interest on bonds and other debt secured by property tax revenue.

The voter-approval tax rate for a county is the sum of the voter-approval tax rates calculated for each type of tax the county levies. In most cases the voter-approval tax rate exceeds the no-new-revenue tax rate, but occasionally decreases in a taxing unit's debt service will cause the NNR tax rate to be higher than the voter-approval tax rate.

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
28.	Prior year M&O tax rate. Enter the prior year M&O tax rate.	\$ 0.4136 /\$100
29.	Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Enter the amount in Line 8 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 1,223,203,507

¹³ Tex. Tax Code §26.01(c) and (d)

¹⁴ Tex. Tax Code §26.01(c)

¹⁵ Tex. Tax Code §26.01(d)

¹⁶ Tex. Tax Code §26.012(6)(B)

¹⁷ Tex. Tax Code §26.012(6)

¹⁸ Tex. Tax Code §26.012(17)

¹⁹ Tex. Tax Code §26.012(17)

²⁰ Tex. Tax Code §26.04(c)

²¹ Tex. Tax Code §26.04(d)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
30.	Total prior year M&O levy. Multiply Line 28 by Line 29 and divide by \$100	\$ 5,059,169
31.	Adjusted prior year levy for calculating NNR M&O rate.	
	A. M&O taxes refunded for years preceding the prior tax year. Enter the amount of M&O taxes refunded in the preceding year for taxes before that year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2023. This line applies only to tax years preceding the prior tax year..... + \$ 175 B. Prior year taxes in TIF. Enter the amount of taxes paid into the tax increment fund for a reinvestment zone as agreed by the taxing unit. If the taxing unit has no current year captured appraised value in Line 18D, enter 0..... 0 - \$ C. Prior year transferred function. If discontinuing all of a department, function or activity and transferring it to another taxing unit by written contract, enter the amount spent by the taxing unit discontinuing the function in the 12 months preceding the month of this calculation. If the taxing unit did not operate this function for this 12-month period, use the amount spent in the last full fiscal year in which the taxing unit operated the function. The taxing unit discontinuing the function will subtract this amount in D below. The taxing unit receiving the function will add this amount in D below. Other taxing units enter 0. 0 +/- \$ D. Prior year M&O levy adjustments. Subtract B from A. For taxing unit with C, subtract if discontinuing function and add if receiving function..... 175 \$ E. Add Line 30 to 31D.	\$ 5,059,344
32.	Adjusted current year taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 1,287,205,125
33.	Current year NNR M&O rate (unadjusted). Divide Line 31E by Line 32 and multiply by \$100.	\$ 0.3930 /\$100
34.	Rate adjustment for state criminal justice mandate. ²³	
	A. Current year state criminal justice mandate. Enter the amount spent by a county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. \$ 0 B. Prior year state criminal justice mandate. Enter the amount spent by a county in the 12 months prior to the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. Enter zero if this is the first time the mandate applies. - \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100...... \$ 0.0000 /\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.0000 /\$100
35.	Rate adjustment for indigent health care expenditures. ²⁴	
	A. Current year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state assistance received for the same purpose. \$ 0 B. Prior year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state assistance received for the same purpose. - \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100...... \$ 0.0000 /\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.0000 /\$100

²² (Reserved for expansion)²³ Tex. Tax Code §26.044²⁴ Tex. Tax Code §26.0441

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
36.	Rate adjustment for county indigent defense compensation. ²⁵ A. Current year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state grants received by the county for the same purpose..... \$ 0 B. Prior year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state grants received by the county for the same purpose..... \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 D. Multiply B by 0.05 and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 E. Enter the lesser of C and D. If not applicable, enter 0.	\$ 0.0000 /\$100
37.	Rate adjustment for county hospital expenditures. ²⁶ A. Current year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year..... \$ 0 B. Prior year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2022 and ending on June 30, 2023..... \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 D. Multiply B by 0.08 and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 E. Enter the lesser of C and D, if applicable. If not applicable, enter 0.	\$ 0.0000 /\$100
38.	Rate adjustment for defunding municipality. This adjustment only applies to a municipality that is considered to be a defunding municipality for the current tax year under Chapter 109, Local Government Code. Chapter 109, Local Government Code only applies to municipalities with a population of more than 250,000 and includes a written determination by the Office of the Governor. See Tax Code Section 26.0444 for more information. A. Amount appropriated for public safety in the prior year. Enter the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year..... \$ 0 B. Expenditures for public safety in the prior year. Enter the amount of money spent by the municipality for public safety during the preceding fiscal year..... \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.0000 /\$100
39.	Adjusted current year NNR M&O rate. Add Lines 33, 34D, 35D, 36E, and 37E. Subtract Line 38D.	\$ 0.3930 /\$100
40.	Adjustment for prior year sales tax specifically to reduce property taxes. Cities, counties and hospital districts that collected and spent additional sales tax on M&O expenses in the prior year should complete this line. These entities will deduct the sales tax gain rate for the current year in Section 3. Other taxing units, enter zero. A. Enter the amount of additional sales tax collected and spent on M&O expenses in the prior year, if any. Counties must exclude any amount that was spent for economic development grants from the amount of sales tax spent..... \$ 0 B. Divide Line 40A by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 C. Add Line 40B to Line 39.	\$ 0.3930 /\$100
41.	Current year voter-approval M&O rate. Enter the rate as calculated by the appropriate scenario below. Special Taxing Unit. If the taxing unit qualifies as a special taxing unit, multiply Line 40C by 1.08. - or - Other Taxing Unit. If the taxing unit does not qualify as a special taxing unit, multiply Line 40C by 1.035.	\$ 0.4067 /\$100

²⁵ Tex. Tax Code §26.0442²⁶ Tex. Tax Code §26.0443

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
D41.	Disaster Line 41 (D41): Current year voter-approval M&O rate for taxing unit affected by disaster declaration. If the taxing unit is located in an area declared a disaster area and at least one person is granted an exemption under Tax Code Section 11.35 for property located in the taxing unit, the governing body may direct the person calculating the voter-approval tax rate to calculate in the manner provided for a special taxing unit. The taxing unit shall continue to calculate the voter-approval tax rate in this manner until the earlier of 1) the first year in which total taxable value on the certified appraisal roll exceeds the total taxable value of the tax year in which the disaster occurred, or 2) the third tax year after the tax year in which the disaster occurred If the taxing unit qualifies under this scenario, multiply Line 40C by 1.08. ²⁷ If the taxing unit does not qualify, do not complete Disaster Line 41 (Line D41).	\$ _____ / \$100
42.	Total current year debt to be paid with property taxes and additional sales tax revenue. Debt means the interest and principal that will be paid on debts that: (1) are paid by property taxes, (2) are secured by property taxes, (3) are scheduled for payment over a period longer than one year, and (4) are not classified in the taxing unit's budget as M&O expenses. A. Debt also includes contractual payments to other taxing units that have incurred debts on behalf of this taxing unit, if those debts meet the four conditions above. Include only amounts that will be paid from property tax revenue. Do not include appraisal district budget payments. If the governing body of a taxing unit authorized or agreed to authorize a bond, warrant, certificate of obligation, or other evidence of indebtedness on or after Sept. 1, 2021, verify if it meets the amended definition of debt before including it here. ²⁸ Enter debt amount \$ <u>1,659,937</u> B. Subtract unencumbered fund amount used to reduce total debt. - \$ <u>0</u> C. Subtract certified amount spent from sales tax to reduce debt (enter zero if none) - \$ <u>0</u> D. Subtract amount paid from other resources - \$ <u>0</u> E. Adjusted debt. Subtract B, C and D from A.	\$ <u>1,659,937</u>
43.	Certified prior year excess debt collections. Enter the amount certified by the collector. ²⁹	\$ <u>190,428</u>
44.	Adjusted current year debt. Subtract Line 43 from Line 42E.	\$ <u>1,469,509</u>
45.	Current year anticipated collection rate. A. Enter the current year anticipated collection rate certified by the collector. ³⁰ <u>99.00</u> % B. Enter the prior year actual collection rate. <u>100.00</u> % C. Enter the 2022 actual collection rate. <u>99.00</u> % D. Enter the 2021 actual collection rate. <u>102.00</u> % E. If the anticipated collection rate in A is lower than actual collection rates in B, C and D, enter the lowest collection rate from B, C and D. If the anticipated rate in A is higher than at least one of the rates in the prior three years, enter the rate from A. Note that the rate can be greater than 100%. ³¹	<u>99.00</u> %
46.	Current year debt adjusted for collections. Divide Line 44 by Line 45E.	\$ <u>1,484,352</u>
47.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ <u>1,445,982,735</u>
48.	Current year debt rate. Divide Line 46 by Line 47 and multiply by \$100.	\$ <u>0.1028</u> / \$100
49.	Current year voter-approval tax rate. Add Lines 41 and 48.	\$ <u>0.5093</u> / \$100
D49.	Disaster Line 49 (D49): Current year voter-approval tax rate for taxing unit affected by disaster declaration. Complete this line if the taxing unit calculated the voter-approval tax rate in the manner provided for a special taxing unit on Line D41. Add Line D41 and 48.	\$ _____ / \$100

²⁷ Tex. Tax Code §26.042(a)²⁸ Tex. Tax Code §26.012(7)²⁹ Tex. Tax Code §26.012(10) and 26.04(b)³⁰ Tex. Tax Code §26.04(b)³¹ Tex. Tax Code §§26.04(h), (h-1) and (h-2)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
50.	COUNTIES ONLY. Add together the voter-approval tax rates for each type of tax the county levies. The total is the current year county voter-approval tax rate.	\$ 0.0000 /\$100

SECTION 3: NNR Tax Rate and Voter-Approval Tax Rate Adjustments for Additional Sales Tax to Reduce Property Taxes

Cities, counties and hospital districts may levy a sales tax specifically to reduce property taxes. Local voters by election must approve imposing or abolishing the additional sales tax. If approved, the taxing unit must reduce its NNR and voter-approval tax rates to offset the expected sales tax revenue.

This section should only be completed by a county, city or hospital district that is required to adjust its NNR tax rate and/or voter-approval tax rate because it adopted the additional sales tax.

Line	Additional Sales and Use Tax Worksheet	Amount/Rate
51.	Taxable Sales. For taxing units that adopted the sales tax in November of the prior tax year or May of the current tax year, enter the Comptroller's estimate of taxable sales for the previous four quarters. ³² Estimates of taxable sales may be obtained through the Comptroller's Allocation Historical Summary webpage. Taxing units that adopted the sales tax before November of the prior year, enter 0.	\$ _____
52.	Estimated sales tax revenue. Counties exclude any amount that is or will be spent for economic development grants from the amount of estimated sales tax revenue. ³³ Taxing units that adopted the sales tax in November of the prior tax year or in May of the current tax year. Multiply the amount on Line 51 by the sales tax rate (.01, .005 or .0025, as applicable) and multiply the result by .95. ³⁴ - or - Taxing units that adopted the sales tax before November of the prior year. Enter the sales tax revenue for the previous four quarters. Do not multiply by .95.	\$ _____
53.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
54.	Sales tax adjustment rate. Divide Line 52 by Line 53 and multiply by \$100.	\$ _____ /\$100
55.	Current year NNR tax rate, unadjusted for sales tax. ³⁵ Enter the rate from Line 26 or 27, as applicable, on the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____ /\$100
56.	Current year NNR tax rate, adjusted for sales tax. Taxing units that adopted the sales tax in November the prior tax year or in May of the current tax year. Subtract Line 54 from Line 55. Skip to Line 57 if you adopted the additional sales tax before November of the prior tax year.	\$ _____ /\$100
57.	Current year voter-approval tax rate, unadjusted for sales tax. ³⁶ Enter the rate from Line 49, Line D49 (disaster) or Line 50 (counties) as applicable, of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ _____ /\$100
58.	Current year voter-approval tax rate, adjusted for sales tax. Subtract Line 54 from Line 57.	\$ _____ /\$100

SECTION 4: Voter-Approval Tax Rate Adjustment for Pollution Control

A taxing unit may raise its rate for M&O funds used to pay for a facility, device or method for the control of air, water or land pollution. This includes any land, structure, building, installation, excavation, machinery, equipment or device that is used, constructed, acquired or installed wholly or partly to meet or exceed pollution control requirements. The taxing unit's expenses are those necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality (TCEQ). The taxing unit must provide the tax assessor with a copy of the TCEQ letter of determination that states the portion of the cost of the installation for pollution control.

This section should only be completed by a taxing unit that uses M&O funds to pay for a facility, device or method for the control of air, water or land pollution.

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
59.	Certified expenses from the Texas Commission on Environmental Quality (TCEQ). Enter the amount certified in the determination letter from TCEQ. ³⁷ The taxing unit shall provide its tax assessor-collector with a copy of the letter. ³⁸	\$ _____
60.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
61.	Additional rate for pollution control. Divide Line 59 by Line 60 and multiply by \$100.	\$ _____ /\$100

³² Tex. Tax Code §26.041(d)

³³ Tex. Tax Code §26.041(i)

³⁴ Tex. Tax Code §26.041(d)

³⁵ Tex. Tax Code §26.04(c)

³⁶ Tex. Tax Code §26.04(c)

³⁷ Tex. Tax Code §26.045(d)

³⁸ Tex. Tax Code §26.045(i)

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
62.	Current year voter-approval tax rate, adjusted for pollution control. Add Line 61 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties) or Line 58 (taxing units with the additional sales tax).	\$ _____ /\$100

SECTION 5: Voter-Approval Tax Rate Adjustment for Unused Increment Rate

The unused increment rate is the rate equal to the sum of the prior 3 years Foregone Revenue Amounts divided by the current taxable value.³⁹ The Foregone Revenue Amount for each year is equal to that year's adopted tax rate subtracted from that year's voter-approval tax rate adjusted to remove the unused increment rate multiplied by that year's current total value.⁴⁰ In a year where a taxing unit adopts a rate by applying any portion of the unused increment rate, the portion of the unused increment rate that was used must be backed out of the calculation for that year.

The difference between the adopted tax rate and adjusted voter-approval tax rate is considered zero in the following scenarios:

- a tax year in which a taxing unit affected by a disaster declaration calculates the tax rate under Tax Code Section 26.042;⁴¹
- a tax year in which the municipality is a defunding municipality, as defined by Tax Code Section 26.0501(a);⁴² or
- after Jan. 1, 2022, a tax year in which the comptroller determines that the county implemented a budget reduction or reallocation described by Local Government Code Section 120.002(a) without the required voter approval.⁴³

Individual components can be negative, but the overall rate will be the greater of zero or the calculated rate.

This section should only be completed by a taxing unit that does not meet the definition of a special taxing unit.⁴⁴

Line	Unused Increment Rate Worksheet	Amount/Rate
63.	Year 3 Foregone Revenue Amount. Subtract the 2023 unused increment rate and 2023 actual tax rate from the 2023 voter-approval tax rate. Multiply the result by the 2023 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2023 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	 \$ 0.5348 /\$100 \$ 0.0000 /\$100 \$ 0.5348 /\$100 \$ 0.5348 /\$100 \$ 0.0000 /\$100 \$ 1,217,792,799 \$ 0
64.	Year 2 Foregone Revenue Amount. Subtract the 2022 unused increment rate and 2022 actual tax rate from the 2022 voter-approval tax rate. Multiply the result by the 2022 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2022 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	 \$ 0.6007 /\$100 \$ 0.0228 /\$100 \$ 0.5779 /\$100 \$ 0.6006 /\$100 \$ -0.0227 /\$100 \$ 1,039,759,915 \$ 0
65.	Year 1 Foregone Revenue Amount. Subtract the 2021 unused increment rate and 2021 actual tax rate from the 2021 voter-approval tax rate. Multiply the result by the 2021 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2021 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	 \$ 0.6459 /\$100 \$ 0.0123 /\$100 \$ 0.6336 /\$100 \$ 0.6354 /\$100 \$ -0.0018 /\$100 \$ 784,199,066 \$ 0
66.	Total Foregone Revenue Amount. Add Lines 63G, 64G and 65G	\$ 0.0000
67.	2024 Unused Increment Rate. Divide Line 66 by Line 21 of the No-New-Revenue Rate Worksheet. Multiply the result by 100	\$ 0.0000 /\$100
68.	Total 2024 voter-approval tax rate, including the unused increment rate. Add Line 67 to one of the following lines (as applicable): Line 49, Line 50 (counties), Line 58 (taxing units with additional sales tax) or Line 62 (taxing units with pollution)	\$ 0.5093 /\$100

³⁹ Tex. Tax Code §26.013(b)

⁴⁰ Tex. Tax Code §26.013(a)(1)-(a), (1-b), and (2)

⁴¹ Tex. Tax Code §26.04(c)(2)(A) and 26.042(a)

⁴² Tex. Tax Code §26.0501(a) and (c)

⁴³ Tex. Local Gov't Code §120.007(d)

⁴⁴ Tex. Local Gov't Code §120.007(d)

SECTION 6: De Minimis Rate

The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate, the rate that will raise \$500,000, and the current debt rate for a taxing unit.⁴⁴ This section should only be completed by a taxing unit that is a municipality of less than 30,000 or a taxing unit that does not meet the definition of a special taxing unit.⁴⁵

Line	De Minimis Rate Worksheet	Amount/Rate
69.	Adjusted current year NNR M&O tax rate. Enter the rate from Line 39 of the <i>Voter-Approval Tax Rate Worksheet</i> .	0.3930
70.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 1,445,982,735
71.	Rate necessary to impose \$500,000 in taxes. Divide \$500,000 by Line 70 and multiply by \$100.	\$ 0.0345 /\$100
72.	Current year debt rate. Enter the rate from Line 48 of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.1026 /\$100
73.	De minimis rate. Add Lines 69, 71 and 72.	\$ 0.5301 /\$100

SECTION 7: Voter-Approval Tax Rate Adjustment for Emergency Revenue Rate

In the tax year after the end of the disaster calculation time period detailed in Tax Code Section 26.042(a), a taxing unit that calculated its voter-approval tax rate in the manner provided for a special taxing unit due to a disaster must calculate its emergency revenue rate and reduce its voter-approval tax rate for that year.⁴⁶

Similarly, if a taxing unit adopted a tax rate that exceeded its voter-approval tax rate, calculated normally, without holding an election to respond to a disaster, as allowed by Tax Code Section 26.042(d), in the prior year, it must also reduce its voter-approval tax rate for the current tax year.⁴⁹

This section will apply to a taxing unit other than a special taxing unit that:

- directed the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit in the prior year; and
- the current year is the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred or the disaster occurred four years ago. This section will apply to a taxing unit in a disaster area that adopted a tax rate greater than its voter-approval tax rate without holding an election in the prior year.

Note: This section does not apply if a taxing unit is continuing to calculate its voter-approval tax rate in the manner provided for a special taxing unit because it is still within the disaster calculation time period detailed in Tax Code Section 26.042(a) because it has not met the conditions in Tax Code Section 26.042(a)(1) or (2).

Line	Emergency Revenue Rate Worksheet	Amount/Rate
74.	2023 adopted tax rate. Enter the rate in Line 4 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____ /\$100
75.	Adjusted 2023 voter-approval tax rate. Use the taxing unit's Tax Rate Calculation Worksheets from the prior year(s) to complete this line. If a disaster occurred in 2023 and the taxing unit calculated its 2023 voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) of the 2023 worksheet due to a disaster, complete the applicable sections or lines of <i>Form 50-856-a, Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> . - or - If a disaster occurred prior to 2023 for which the taxing unit continued to calculate its voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) in 2023, complete form 50-856-a, <i>Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> to recalculate the voter-approval tax rate the taxing unit would have calculated in 2023 if it had generated revenue based on an adopted tax rate using a multiplier of 1.035 in the years following the disaster. ⁵⁰ Enter the final adjusted 2023 voter-approval tax rate from the worksheet. - or - If the taxing unit adopted a tax rate above the 2023 voter-approval tax rate without calculating a disaster tax rate or holding an election due to a disaster, no recalculation is necessary. Enter the voter-approval tax rate from the prior year's worksheet.	\$ _____ /\$100
76.	Increase in 2023 tax rate due to disaster. Subtract Line 75 from Line 74.	\$ _____ /\$100
77.	Adjusted 2023 taxable value. Enter the amount in Line 14 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
78.	Emergency revenue. Multiply Line 76 by Line 77 and divide by \$100.	\$ _____
79.	Adjusted 2023 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
80.	Emergency revenue rate. Divide Line 78 by Line 79 and multiply by \$100. ⁵¹	\$ _____ /\$100

⁴⁴ Tex. Tax Code §26.04(c)(2)(B)

⁴⁵ Tex. Tax Code §26.012(8-a)

⁴⁶ Tex. Tax Code §26.063(a)(1)

⁴⁷ Tex. Tax Code §26.042(b)

⁴⁸ Tex. Tax Code §26.042(f)

⁴⁹ Tex. Tax Code §26.42(c)

⁵¹ Tex. Tax Code §26.42(b)

Line	Emergency Revenue Rate Worksheet	Amount/Rate
81.	Current year voter-approval tax rate, adjusted for emergency revenue. Subtract Line 80 from one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax), Line 62 (taxing units with pollution control) or Line 68 (taxing units with the unused increment rate).	\$ _____ /\$100

SECTION 8: Total Tax Rate

Indicate the applicable total tax rates as calculated above.

No-new-revenue tax rate. \$ 0.5058 /\$100

As applicable, enter the current year NNR tax rate from: Line 26, Line 27 (counties), or Line 56 (adjusted for sales tax).

Indicate the line number used: 26

Voter-approval tax rate. \$ 0.5093 /\$100

As applicable, enter the current year voter-approval tax rate from: Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (adjusted for sales tax), Line 62 (adjusted for pollution control), Line 68 (adjusted for unused increment), or Line 81 (adjusted for emergency revenue).

Indicate the line number used: 68

De minimis rate. \$ 0.5301 /\$100

If applicable, enter the current year de minimis rate from Line 73.

SECTION 9: Taxing Unit Representative Name and Signature

Enter the name of the person preparing the tax rate as authorized by the governing body of the taxing unit. By signing below, you certify that you are the designated officer or employee of the taxing unit and have accurately calculated the tax rates using values that are the same as the values shown in the taxing unit's certified appraisal roll or certified estimate of taxable value, in accordance with requirements in the Tax Code.⁵²

**print
here**

Vicki Schneider

Printed Name of Taxing Unit Representative

**sign
here**

Vicki Schneider

Taxing Unit Representative

07/30/2024

Date

⁵² Tex. Tax Code §526.04(c-2) and (d-2)

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discuss rescheduling City Council meetings in 2024 due to conflicts with events.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Julie Bowermon

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: Annually reviewing council meeting dates for conflicts is important to provide Development Services with an accurate Council meeting schedule when publishing public notice information about public hearings, such as zoning change applications. On December 5, 2023 City Council reviewed meeting dates for 2024 and authorized the attached calendar. At that time, it was the consensus of the City Council to approve the calendar, which included a meeting on October 1st and November 5th, and address any conflicts on a case by case basis as needed in the future.

Attached is the calendar that reflects the meeting conflicts in 2024 as listed below:

- **October 1** – National Night Out
- **November 5** - Election Day - Although the City of Lockhart was not scheduled to hold an election on November 5, 2024, a petition for a proposed charter amendment has been submitted.

Staff respectfully seeks direction from the City Council on the calendar and upcoming conflicts.

PROJECT SCHEDULE (if applicable): N/A

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: December 5, 2023: The 2024 City Council meeting calendar was approved.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: 2024 Council meeting calendar

X = HOLIDAYS

O = COUNCIL MEETINGS

□ = TML ANNUAL CONF

2024

⊗ = COUNCIL MEETING CONFLICT
- Oct 1st: NATIONAL NIGHT OUT

January

S	M	T	W	T	F	S
	X	2	3	4	5	6
7	8	9	10	11	12	13
14	X	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	X	20	21	22	23	24
25	26	27	28	29		

March

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	X	30
31						

April

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	X	28	29	30	31	

June

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

July

S	M	T	W	T	F	S
	1	2	3	X	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September

S	M	T	W	T	F	S
1	X	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

OCT 1st - NATIONAL NIGHT OUT

October

S	M	T	W	T	F	S
		X	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

TML CONF OCT 9-11
IN HOUSTON

November

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	X	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	X	X	30

NOV 5 = ELECTION DAY
(NO CITY ELECTIONS)

December

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	X	X	26	27	28
29	30	31				

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Announcement of nomination of Rob Ortiz to the Parks and Recreation Advisory Board by Councilmember John Castillo for a term to expire in November 2025.

ORIGINATING DEPARTMENT AND CONTACT: Council - John Castillo

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: Councilmember John Castillo has nominated Rob Ortiz to be appointed to the Parks and Recreation Advisory Board.

Mr. Ortiz currently serves as an alternate on the Parks and Recreation Advisory Board. After reviewing the application, Mr. Ortiz meets the qualifications to serve/continue to serve on a city board.

Resolution 2024-02 was adopted in 2024 establishing administrative procedures for the nomination of board and commission members to include a 2-step process. First, the nomination is to be placed on the agenda as "announcement of nomination" followed by a notice on a subsequent agenda as "discussion and/or action on the nomination." The two-step process does apply to the nomination of a person who currently holds an alternate position if the purpose of the nomination is to elevate them to a regular position on the same board.

This item is the announcement of nomination. If the Council should move to appoint Mr. Ortiz from the alternate position to a regular board member, action of appointment will occur during a subsequent Council meeting.

PROJECT SCHEDULE (if applicable): N/A

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: PAR Advisory Board Roster, Rob Ortiz application - Parks Board

PARKS AND RECREATION BOARD

Ord. 86-50, Adopted 11-25-86

First Name	Last Name	Title	Address1	Council Member	Date Appt	Exp
Vacant				John Castillo		
Dennis	Placke	Vice-Chair	1011 W.Live Oak St.	Brad Westmoreland	2/4/2020	2022
Karla	Tate		500 Caribbean Dr.	Mayor White	2/2/2021	2026
Lee	Parra		209 Windridge Dr. N.	Angie Sanchez	8/17/2021	2022
Linda	Thompson Bennett		1311 Torres St.	Juan Mendoza	12/17/2019	2022
Warren	Burnett	Chair	1205 Rio Vista Cove	John Lairsen	2/20/2024	2026
Russell	Wheeler		607 La Feliciana Dr.	Jeffry Michelson	12/15/2020	2026
Rob	Ortiz	Alternate	1004 N.Commerce	Mayor Pro-Tem	3/7/2017	2019
		Little League		Non-Voting member		
		Youth Soccer		Non-Voting member		
		Co-Rec. Softball		Non-Voting member		

Staff Liaison: Parks and Recreation Director
Steve Lewis, City Manager

NOTE:

Sec. 40-133. Members.

(a) The board shall consist of seven members appointed in accordance with section 2-210 to serve three years terms, such terms to coincide with the council position making the appointment and two alternates shall also be appointed by the mayor and mayor pro tem, one each. The two alternates shall also serve the term coinciding with the council position making the appointments. Vacancies shall be filed for an unexpired term in the manner in which the original appointments are required to be made. (Ordinance 06-08, adopted February 7, 2006)

2/29/24
DMD

In order to be considered for an appointment to a Lockhart Board or Commission, please complete the following application. You may also attach a current resume and letter of interest if you choose.

1. PERSONAL INFORMATION

Full Legal Name <i>VINCENT Ortiz III</i>		Preferred Name <i>Rob Ortiz</i>	
Physical Home Address <i>1004 N Commerce St</i>			
Mailing Address (if different)			
City <i>LOCKHART</i>		State <i>TX</i>	Zip <i>78644</i>
Home Phone <i>N/A</i>		Work Phone	
Mobile Phone <i>512-921-8000</i>			
Email Address			
Date of Birth			

2. AREAS OF INTEREST

Please indicate the position(s) of interest to you.

☐ Airport Advisory Board	☐ Historical Preservation Commission
☐ Zoning Board of Adjustment & Appeals	☐ Hotel Occupancy Tax Advisory Board
☐ Charter Review Commission	☐ Library Advisory Board
☐ Construction Board of Appeals	☒ Parks & Recreation Advisory Board
☐ Economic Development Corp (1/2 Cent Sales Tax)	☐ Planning & Zoning Commission
☐ Electric Board	

In the space below, please explain your interest in the position(s) selected above. Also, please explain any experience you have related to your selection(s).

For the past 14 years I have served as an alternate on this board. I have recently been more active due to ensuring a quorum. I am eager to represent District 2 as a full board member

3. BOARD MEMBER QUALIFICATIONS

The following are qualifications as outlined in Section 2-209 of the Lockhart Code of Ordinances to serve on a Board/Commission:

YES	NO	Please answer the following questions about Board/Commission qualifications:
☒	☐	Have you been a resident of the State of Texas/City of Lockhart for at least twelve (12) consecutive months preceding appointment?
☒	☐	Are you a registered voter?
☐	☒	Have you been removed from another city board or commission because of failure to attend meetings or for cause within the last three years?
☐	☒	Do you serve on any other City of Lockhart board/commission/committee at this time? If yes, please list: _____

For your reference, the following additional qualifications apply to appointed Board/Commission members:

- A member who is required to be a resident of the city (or county when applicable) when appointed and who thereafter moves his or her primary residence outside of the corporate limits of Lockhart (or county when applicable) vacates his or her position on a board of commission on the date the residency changes.
- The City Council shall have the right, but not the duty, to appoint up to two members who are not city residents but who are residents of Caldwell County to the Lockhart Airport Advisory Board, the Eugene Clark Library Board, and the Construction Board of Appeals.
- Any member of a board or commission who is absent from three consecutive regular meetings, or any four non-consecutive regular meetings of the board or commission during any twelve-month period, shall forfeit his or her position and the vacancy occurring shall be declared and filled by the Council.
- Members must maintain their qualifications while serving on a board or commission.
- No member of any appointed body shall serve on more than one quasi-judicial or advisory board or commission.
- No appointed body shall deviate from its charge, deliberate items not on its agendas, or speak for the council or City of Lockhart without council authorization.
- Members appointed serve without compensation.

Certification of Applicant

I hereby certify that the foregoing and any attached statements are true, accurate and complete. I also understand that this application is subject to disclosure under the Texas Public Information Act.


Applicant's Signature

1/29/2024
Date

Completed application, resume and letter of interest may be submitted in person, email, mail, or by fax to:

City of Lockhart
City Secretary's Office
308 W. San Antonio Street / PO Box 239
Lockhart, TX 78644

Phone: 512.398.3461
FAX: 512.398.5103
jbowermon@lockhart-tx.org

APPLICANT'S NAME: Rob Ortiz (Vincent Ortiz III)

BOARD NAME(S): Parks & Recreation
Advisory Board

The qualifications for members of boards and commissions, except special qualifications for service on a particular board or commission, are as follows:

- Appointees must each be a resident of the State of Texas and a resident of the City of Lockhart for at least twelve (12) consecutive months preceding their appointment unless a particular board's or commission's composition or state law allows for membership by a non-resident of the City.
Date of residency in Lockhart: LIFE LONG RESIDENT
- Appointees shall be qualified voters in the City of Lockhart or, if not a resident of the City, of Caldwell County.
Date qualified voter in Lockhart: 9/14/2002
- Appointees shall not have been removed from another city board or commission because of failure to attend meetings or for cause within the last three years.
Removed from another board? YES or NO
If yes, date _____ and board _____
- No member of any appointed body shall serve on more than one quasi-judicial or advisory board or commission.
Serves on another board? YES or NO
If yes, board currently serving: CURRENTLY AN ALTERNATE ON PARKS & RECREATION BOARD

BOARD SPECIFIC QUALIFICATIONS:

PARKS

Y or N City Resident? If no, applicant does not qualify.

Parks and Recreation Advisory Board meets on the fourth Thursday at 5:30 p.m. each month if there are items pending the Board's review. The Board's duties are to recommend to the city council policies and programs for the advancement and betterment of city parks and recreation; to render to the city manager recommendations concerning the annual budget of the parks and recreation department for presentation to the city council; to make recommendations to the city council regarding proposed parks facilities and recreation programs, encourage public interest in parks facilities and recreation programs and solicit the cooperation of public and private agencies in the advancement of city parks and recreation; to make recommendations through the city manager to the city council regarding special requests for use of public parks or facilities; and to make recommendations through the city manager to the city council regarding the use of donations, legacies or requests made to the city for the furtherance of city park facilities. All members must reside within the city limits. The Board consists of seven members that serve a three-year term. The Parks Manager is the staff liaison.

CITY SECRETARY'S DETERMINATION OF APPLICANT'S QUALIFICATION:

Is Applicant Qualified? YES NO DISCRETION OF THE COUNCIL

NOTES: _____

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Hold a PUBLIC HEARING on applications ZC-24-05 and PDD 24-03 by Winn Smith on Behalf of Mainsprings, LLC and discussion and/or action on Ordinance 2024-17 for a Zoning Change from PDD Planned Development District to a revised PDD Planned Development District on 1.778 acres located at 416 North Church Street, consisting of Block 1, Lot 1 of the Main Springs Subdivision.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: The proposed Planned Development proposes to change the uses on the undeveloped portion of the Main Springs development, which is also known as the Leona, a vacation rental community. The proposal is to revise the existing PDD to change from the combination of townhouses, retail, and live/work units south of the creek bisecting the site to a new mix additional rental units, a retail building, and a mixed retail and vacation rentals building, and a special events lawn that will be built around two levels of concrete surfaces that remain from the site's previous use as a concrete plant. A swimming pool is also planned to be provided. The proposed change will bring the total vacation rental units on the site to 17, while eliminating the six townhouses and three apartments that were included in the original PDD.

As in the existing version of the PDD, head-in street parking will be provided along Church Street and a driveway will connect Church Street to North Main Street. Six parking spaces will also be provided internal to the site. At the request of City staff, a sidewalk has been added to connect the site to West Pecan Street.

PROJECT SCHEDULE (if applicable): None

FISCAL NOTE (if applicable): None.

PREVIOUS COUNCIL ACTION: City Council approved the existing PDD through the adoption of Ordinance 20-02 on October 8, 2020.

COMMITTEE/BOARD/COMMISSION ACTION: The Planning and Zoning Commission held a public hearing on the proposed applications and unanimously recommended approval at its July 24, 2024 meeting.

STAFF RECOMMENDATION/REQUESTED MOTION: Approval of Ordinance 2024-17, Rezoning 416 North Church Street from PDD to a replacement PDD.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-17, Ord. 2024-17 Exhibit A--Plat, Exhibit B Cover sheet, Ord. 2024-17 Exhibit B--Main Springs PDD Full Set, ZC2405 case map, ZC2405 aerial, ZC2405 zoning, ZC2405 flu thoroughfares, ZC-24-05 and PDD-24-03 Staff Report--Council, ZC-24-05 and PDD-24-03 Application Scan, ZC-24-05 and PDD-24-03 Plans and Presentation Scan

ORDINANCE 2024-17

AN ORDINANCE OF THE CITY OF LOCKHART, TEXAS, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LOCKHART, TEXAS, TO RECLASSIFY THE PROPERTY KNOWN AS 1.778 ACRES IN THE MAIN SPRINGS PLANNED DEVELOPMENT SUBDIVISION, BLOCK 1, LOT 1, LOCATED AT 416 NORTH CHURCH STREET, FROM PDD PLANNED DEVELOPMENT DISTRICT TO PDD PLANNED DEVELOPMENT DISTRICT, INCLUDING BY-REFERENCE ADOPTION OF A REVISED PDD DEVELOPMENT PLAN FOR THE MAIN SPRINGS PLANNED DEVELOPMENT.

WHEREAS, on July 24, 2024, the Planning and Zoning Commission held a public hearing and voted to recommend approval of said change; and,

WHEREAS, the City Council desires to amend the zoning map as provided in Section 64-128 of the Code of Ordinances; and,

WHEREAS, a public hearing was held in conformance with applicable law;

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. The above-referenced property described in Zoning Change request ZC-24-05 and PDD Development Plan PDD-24-03 as 1.778 acres in the Main Springs Planned Development Subdivision, Block 1, Lot 1, located at 416 North Church Street, more particularly described in Exhibit "A" and located at 416 North Church Street, will be reclassified from PDD Planned Development District to PDD Planned Development District, including by-reference adoption of a PDD Development Plan for the Main Springs Planned Development, attached as Exhibit "B".

III. Severability: If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or unenforced, 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.

IV. 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.

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

VI. Effective Date: That this ordinance shall become effective and be in full force immediately upon and from the date of its passage.

PASSED, APPROVED, AND ADOPTED AT A REGULAR MEETING OF THE LOCKHART CITY COUNCIL ON THIS THE 6th DAY OF AUGUST, 2024.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Bowermon, City Secretary

Brad Bullock, City Attorney

LEGAL DESCRIPTION

All of a certain tract or parcel of land situated in the City of Lockhart, Caldwell County, Texas and being a part of the Byrd Lockhart Survey A-17 in the City of Lockhart, Caldwell County, Texas and being also all of a tract of land called 1.778 acres and conveyed to PHX 15, LLC by deed recorded in Instrument #2020-002650 of the Official Records of Caldwell County, Texas and being more particularly described as follows:

BEGINNING at a concrete monument set used for basis of bearing in the NE corner of the above mentioned 1.778 acre tract and the NW terminus of North Main Street and the South line of a tract of land called 1.052 acres and conveyed to Matthew James Lingvo et al by deed recorded in Instrument #2020-001988 of the Official Records of Caldwell County, Texas and being more particularly described as follows:

THENCE S 10 degrees 00 minutes 00 seconds E with the East line of the said 1.778 acre tract and the West line of North Main Street **292.07 feet** to a 5/8" iron pin found in the SE corner of the said 1.778 acre tract and the NE corner of Lot 4 in Block 31 of the Original Town of Lockhart as recorded in Volume Q Page 507 of the Deed Records of Caldwell County, Texas for the SE corner this tract.

THENCE S 80 degrees 02 minutes 03 seconds W with the North line of the said Block 31 and the South line of the said 1.778 acre tract **265.33 feet** to a concrete monument set in the SW corner of the said 1.778 acre tract and the NW corner of Lot 3 in the said Block 31 and the East line of North Church Street for the SW corner this tract.

THENCE N 09 degrees 55 minutes 54 seconds W with the West line of the said 1.778 acre tract and the East line of the North Church Street **291.97 feet** to a 1/2" iron pin found in the NW corner of the said 1.778 acre tract and the apparent SW corner of the above mentioned 1.052 acre tract for the NW corner this tract.

THENCE N 80 degrees 00 minutes 49 seconds E with the North line of the said 1.778 acre tract and the apparent South line of the said 1.052 acre tract **264.98 feet** to the place of beginning containing 1.778 acres of land more or less.

STATE OF TEXAS
COUNTY OF CALDWELL

I, Jerry L. Hinkle, registered professional land surveyor, State of Texas, hereby certify that this plat is a true and correct representation of a survey made on the ground and all monuments and markers were properly placed under my direct supervision and is true and correct to the best of my knowledge.

IN WITNESS THEREOF, my hand and seal, this the _____ day of _____, 20____.

Jerry L. Hinkle
Registered Professional
Land Surveyor #5459

STATE OF TEXAS
COUNTY OF CALDWELL

I, Teresa Rodriguez, County Clerk in and for Caldwell County, Texas do hereby certify that the foregoing instrument with its certificates of authentication was filed for record in my office the _____ day of _____, 20____, at _____ o'clock _____ M., and duly recorded on the _____ day of _____, 20____, in the Plat Records of Caldwell County, Texas in Plat Cabinet _____ at Slide _____.

Teresa Rodriguez
County Clerk, Caldwell County, Texas

MAIN SPRINGS PLANNED DEVELOPMENT LOT 1 IN BLOCK 1

A subdivision of 1.778 acres out of the Byrd Lockhart Survey A-17 in the City of Lockhart, Caldwell County, Texas

STATE OF TEXAS
COUNTY OF _____

I/WE, the undersigned owner(s) of the land shown on this plat designated as Tract 1 called 1.778 acres and recorded in Instrument #2020-002650 of the Official Records of Caldwell County, Texas and described and designated as MAIN SPRINGS in the City of Lockhart, Caldwell County, Texas do hereby subdivide such property and further reserve to the public all easements for the mutual use of all public utilities desiring to use the same, that any public utility shall have the right to remove and keep removed all or any part of any growth or construction for maintenance or efficient use of its respective system in such easements.

DATE _____

Representative for:
PHX 15, LLC
11801 HWY 73 WEST
AUSTIN, TX 78738

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and considerations stated hereon.

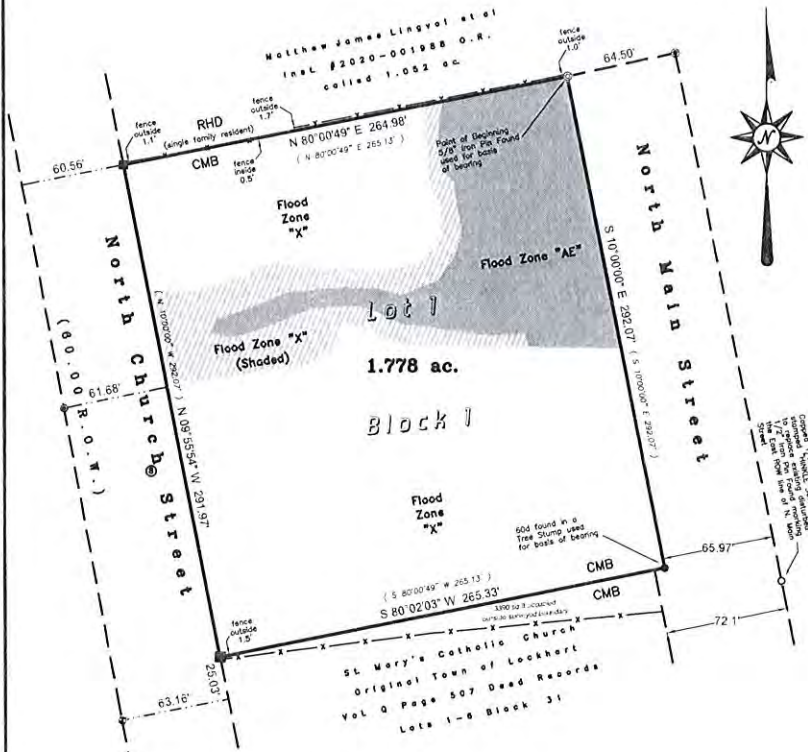
Given under my hand and seal of office this the _____ day of _____, 20____.

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF CALDWELL

I, _____, Chairman of the Planning and Zoning Commission of the City of Lockhart, do hereby certify that this plat was approved by the City of Lockhart, Caldwell County, Texas, on the _____ day of _____, 20____.

CHAIRMAN
PLANNING AND ZONING COMMISSION
CITY OF LOCKHART

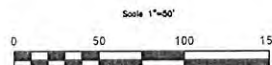


SURVEYORS NOTES:

- The Lots shown lie in Flood Zones approximately as shown according to FEMA Panel #4805500120E effective date June 19, 2012. FLOOD ZONE "X" (AREA NOT SHADED) is areas determined to be outside the 0.2% annual chance floodplain. FLOOD ZONE "AE" (SHADED AREA) is a special flood hazard areas subject to inundation by the 1% annual chance flood. Base Flood Elevations determined. The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood. FLOOD ZONE "X" (SHADED AREA) is areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood. The minimum permissible floor elevation for any buildings within 100-year floodplain requires a one foot freeboard according to the City of Lockhart Floodplain Ordinance. The Base flood elevation of this site will be determined by an engineer/surveyor for an Elevation Certificate required prior to construction of any improvements within Flood Zone AE.
- Lot 1 Block 1 is currently zoned CMB (Commercial Medium Business District) and proposed zoning to be PDD (Planned Development District). The surrounding lots are zoned CMB (Commercial Medium Business District) and RHD (Residential High Density).
- A 5' Sidewalk along N. Church Street will be permitted and constructed with each phase to provide for phased on-street parking. Refer to PDD for Phases of uses and on-street parking.
- A fee in lieu of parkland dedication, in the amount of \$882.00, shall be paid to the City for the proposed residential uses prior to the recording of this plat based upon five percent of the land market value of \$2.09 per square foot for 8400 square feet of total land area occupied by the apartment homes and townhouses.
- RECORD OWNERS OF LAND: PHX 15, LLC
DESIGNER OF PLAT: Hinkle Surveyors, PO Box 1027, Lockhart TX 78644
(512) 398-2000
DATE OF PREPARATION: August 2020
SURVEYOR: Jerry L. Hinkle, R.P.L.S. #5459 PO Box 1027, Lockhart TX 78644
(512) 398-2000
- Boundary & Lot Closure: 3' in 212923'
- Setbacks: Front-(along North Church Street 0') and Rear (along North Main Street 0'); Side (South side 10'); Side (North side 20')

LEGEND

- CONCRETE MONUMENT SET
- CAPPED 1/2" IRON PIN SET
- STAMPED "HINKLE SURVEYORS"
- 604 FOUND IN TREE STUMP
- 5/8" IRON ROD FOUND
- COTTON SPINDLE FOUND
- CAPPED IRON PIN FOUND
- STAMPED "HINKLE SURVEYORS"
- 604 FOUND IN TREE STUMP
- 5/8" IRON ROD FOUND
- COTTON SPINDLE FOUND
- FLOOD ZONE "AE"
- FLOOD ZONE "X" (SHADED)
- SANITARY SEWER
- FENCE
- UNLESS OTHERWISE NOTED

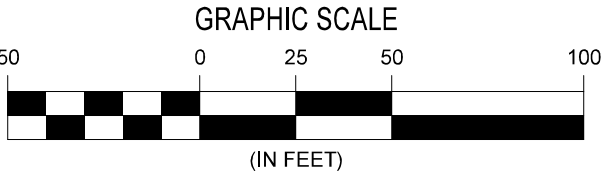
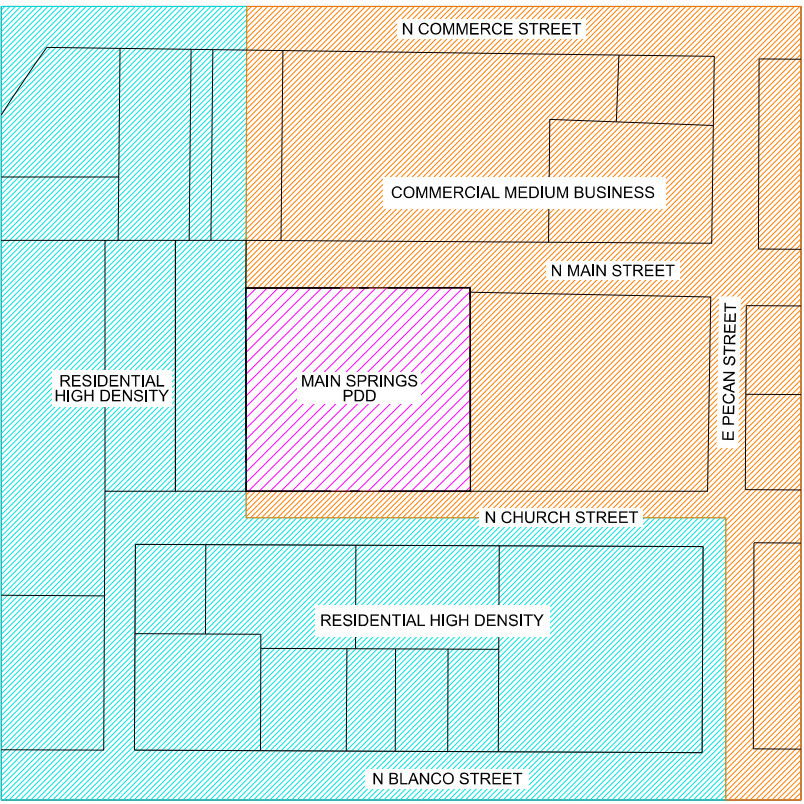


Field Book: d.c.	Drawn By: JKH UI
Job No. 20201202-aub1	Drawing: 20201202-aub1.dwg
Date: August 2020	Work Date: Begin 08/01/2020
Surveyed By: JKH JKH	Autocad Date: Begin 08/01/2020

HINKLE SURVEYORS
P.O. Box 1027 1109 S. Main Street Lockhart TX 78644
Ph: (512) 398-2000 Fax: (512) 398-7683 Email: contact@hinklesurveyors.com Firm Registration No. 100986-00

Exhibit B

PDD Development Plan

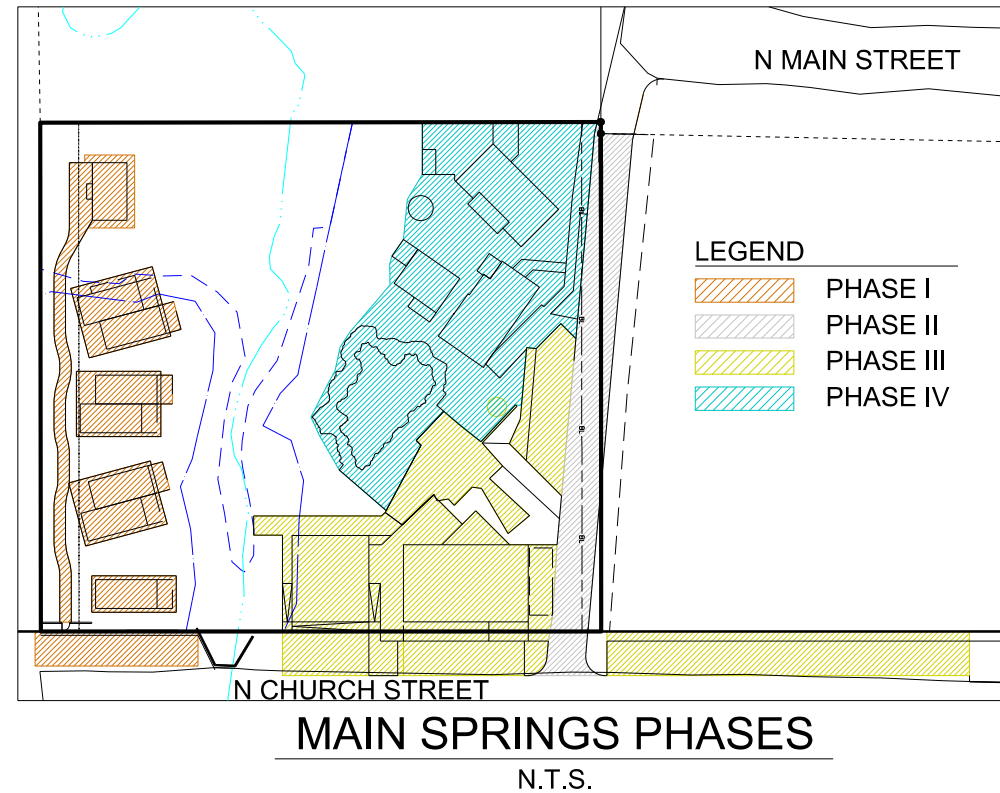


NOTE:
100-YR AND 500-YR FLOODPLAIN PER FEMA PANEL #48055C0120E
EFFECTIVE DATE JUNE 19, 2012.

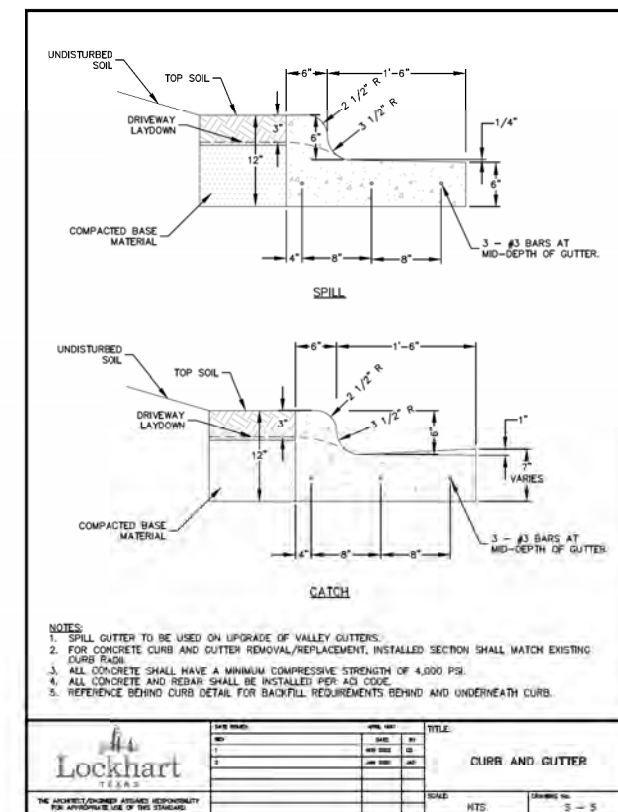
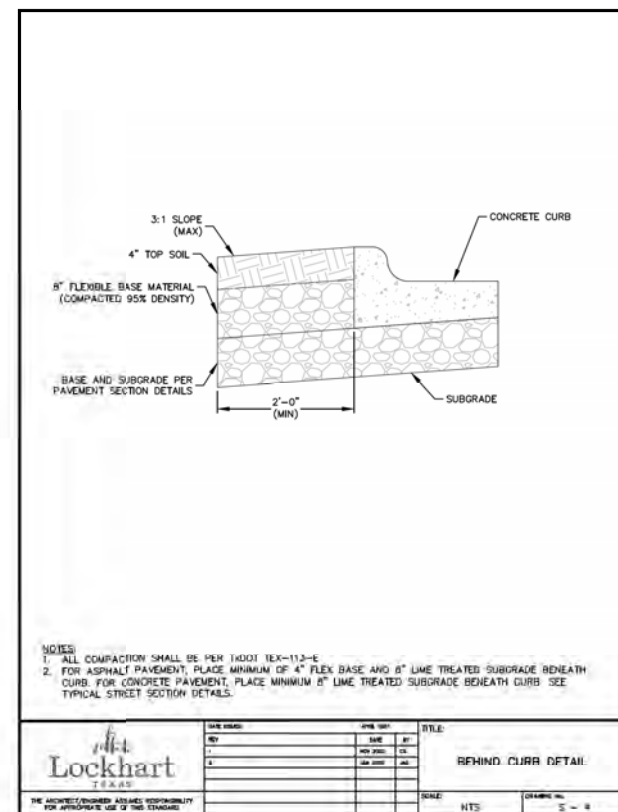


COUNTYWIDE BUILDERS 416 CHURCH ST., LOCKHART, TEXAS			REVISION DESCRIPTION	
DATE	BY		REV.	DESCRIPTION
MAIN SPRINGS PLANNED DEVELOPMENT PDD DEVELOPMENT PLAN				
 TX Registered Engineering Firm #F-1114 5707 SOUTHWEST PARKWAY BUILDING 2, SUITE 250 AUSTIN, TX 78735 PHONE: 512-306-8252				
7/16/2024				
DUNAWAY JOB NO.: B006350.001				
SHEET NO. 1 OF 3				

P:\006350\6350\001\Civil\CAD\VPDD Development Plan\Sheets\03-MSE350-S-PDD-11X17.dgn



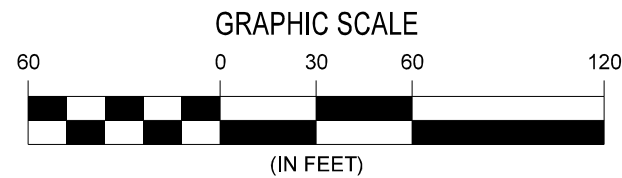
SITE, BUILDING AND PARKING INFORMATION											
	Use		Building Gross Area	Max. Height Allowed	Parking Calculation	ADA Spaces Required	Parking Required	Total Parking Required	On-Street Parking Provided	Off-Street Parking Provided	PHASE
Site Area=1.778 acres											
Vacation Cabin Rentals	Vacation Rental	8 Units	650/unit = 5200 s.f.	2 Story	1 space/unit	1	8	<u>9</u>	9	0	I
	Vacation Rental Accessory Use	1 Covered pavilion	570 s.f.	1 story	NA						
South Vacation Rentals	Residential	6 Units	825/unit = 4950s.f.	2 Story	1 space/unit	1	5	<u>6</u>	0	6	IV
Mixed Use - Building A	Commercial/Retail		2920 s.f.	2 Story	1 space/300 s.f. + 1/shift	1	14	<u>15</u>	15	0	III
	Vacation Rental	3 Units - Level 2	960/unit =2880s.f.		1 space/unit	0	3	<u>3</u>	3	0	III
Mixed Use - Building B	Commercial/Retail		2700 s.f.	2 story	1 space/300 s.f. + 1/shift	1	13	<u>14</u>	14	0	III
			TOTAL			4	43	<u>47</u>	41	6	
			Total parking spaces provided incl ADA		47						



Mike Mullone

 DUNAWAY TX Registered Engineering Firm #F-1114 5707 SOUTHWEST PARKWAY BUILDING 2, SUITE 250 AUSTIN, TX 78735 PHONE: 512-306-8252		COUNTYWIDE BUILDERS 416 CHURCH ST., LOCKHART, TEXAS MAIN SPRINGS PLANNED DEVELOPMENT PDD DEVELOPMENT PLAN				REV. NO. BY DATE REVISION DESCRIPTION	
7/16/2024							
DUNAWAY JOB NO.: B006350.001							
SHEET NO.		2 OF 3					

BUILDING SETBACK



ACCESSORY USE: A use which is wholly incidental to and supportive of the principal use of the same lot.

SPECIAL EVENTS LAWN: Private outdoor area that is available for rental by the public for performances, music, weddings, receptions, reunions, seminars, parties, and other similar occasions of limited duration.

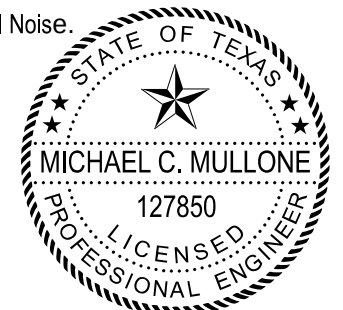
VACATION CABIN RENTALS: A development type which provides for 2-3 dwelling units within a single principal structure.

MIXED USE: Development type which provides for residential, office, retail and commercial use in a single structure.

BUILDING SETBACK LINE: Roof overhangs or awnings are allowed to project into the minimum building setback, but in no case shall be allowed to extend beyond the property line.

DEVELOPMENT STANDARDS

1. This project shall be developed and permitted in phases. Proposed Phases I,II,III and IV are shown on the Main Springs PDD phasing exhibit.
2. Allowed development within the 100-year flood plain shall consist of trails, open space, picnic facilities and pavilion built to comply with floodplain regulations as defined by *Chapter 22 Floods of the City of Lockhart Code of Ordinances*.
3. All finished floor elevations shall be a minimum of one foot above the 100-year storm elevation as defined by Atlas 14.
4. All structures shall be designed to conform with *Chapter 22- Floods of the City of Lockhart Code of Ordinances and Article II- Stormwater Drainage and Flood Control*.
5. Vegetative screening shall be provided along the north property line where the project is adjacent to residential use. Screening shall comply with Section 64-197(f)(2) of City of Lockhart Municipal Code.
6. Signage shall comply with *Chapter 46 Signs of the City of Lockhart Code of Ordinances*.
7. Private driveway shall be maintained by developer.
8. Off-street parking shall be designed and permitted through City of Lockhart at the time of Phase I and Phase III permitting. Required parking as defined by this PDD shall be constructed with each phase.
9. Construction of improvements in the Right-of-Way is the responsibility of the developer. After acceptance by the City of Lockhart, maintenance shall be the responsibility of the city of Lockhart.
10. All proposed outdoor lighting shall be dark-sky compliant and comply with City of Lockhart Ordinances.
11. Project shall comply with City of Lockhart Code Chapter 64-203 Nonresidential Appearance Standards.
12. Building setback lines shall comply as shown on PDD. Front setback = 0 feet, Rear setback = 0 feet, Side(south) setback = 10 feet, Side(north) setback = 20'.
13. Sidewalk along Church Street will be permitted and constructed with each phase to provide for phased on-street parking. Refer to PDD sheet 2 for Phases of uses and on-street parking.
14. This project shall comply with City of Lockhart Code Chapter 18, Article II Noise.



Mike Mullone

[illegible]

COUNTY WIDE BUILDERS
416 CHURCH ST., LOCKHART, TEXAS

MAIN SPRINGS PLANNED DEVELOPMENT PDD DEVELOPMENT PLAN

DUNAWAY
TX Registered Engineering Firm #F-1114

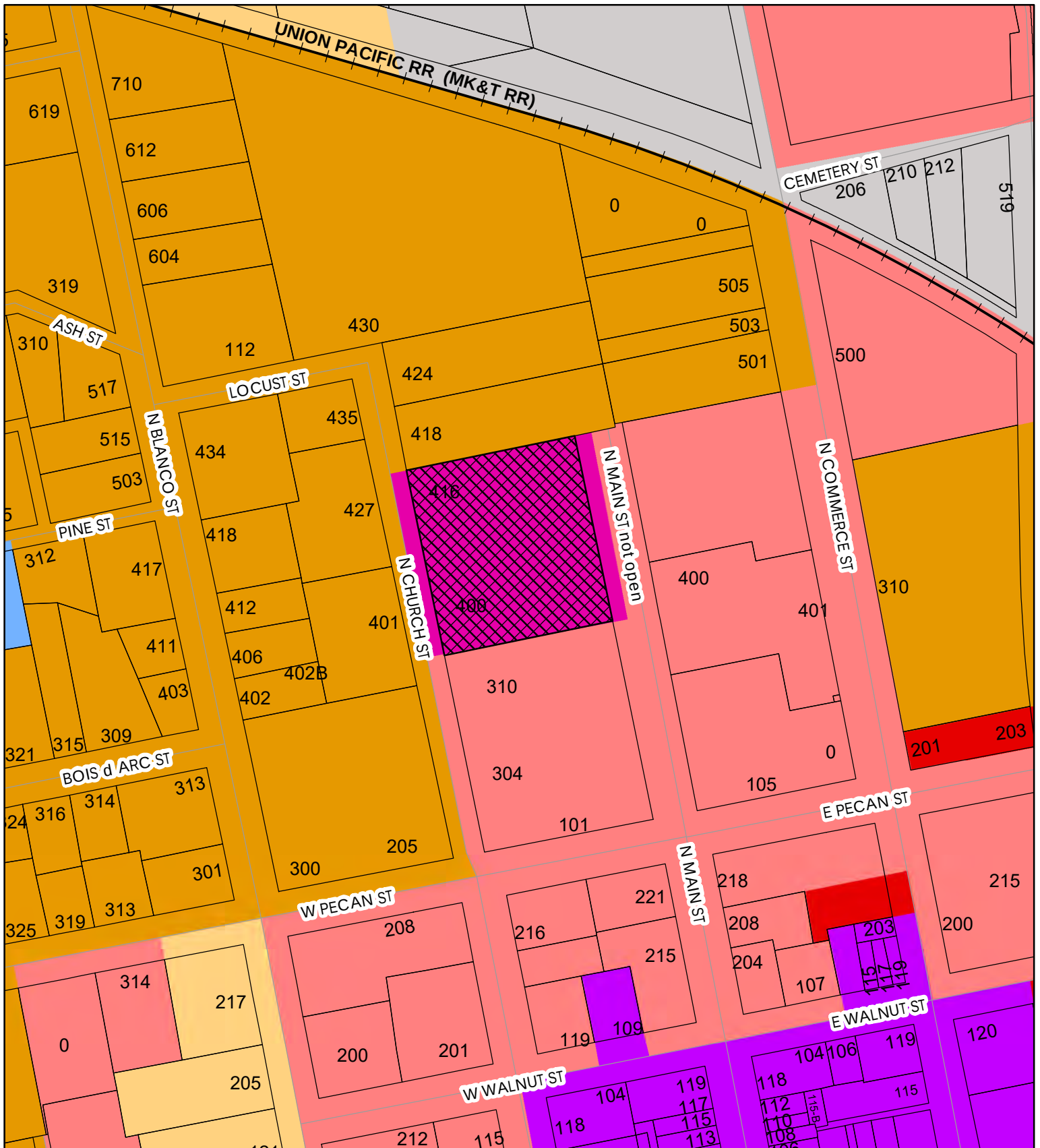
S 07 SOUTHWEST PARKWAY
BUILDING 2, SUITE 250
AUSTIN, TX 78735
PHONE: 512-306-8252

16/2024

UNAWAY JOB NO.:
B006350.001

HEET NO. 3 OF 3





ZC-24-05

PDD TO PDD

416 N CHURCH ST



scale 1" =200'

- ZONING DISTRICTS
- COMMERCIAL CENTRAL BUSINESS
 - COMMERCIAL HEAVY BUSINESS
 - COMMERCIAL MEDIUM BUSINESS
 - INDUSTRIAL LIGHT
 - PLANNED DEVELOPMENT
 - PUBLIC AND INSTITUTIONAL
 - RESIDENTIAL HIGH DENSITY
 - RESIDENTIAL MEDIUM DENSITY
- Page 167 of 372

CASE SUMMARY

STAFF CONTACT: Evan Olszewski, AICP, Planner

CASE NUMBER: ZC-24-05 and PDD-24-03

REPORT DATE: July 17, 2024

PLANNING & ZONING COMMISSION DATE: July 24, 2024

PLANNING & ZONING COMMISSION RECOMMENDATION: **Approval**

CITY COUNCIL DATE: August 6, 2024

STAFF RECOMMENDATION: **Approval**

SUGGESTED CONDITIONS: None

BACKGROUND DATA

ENGINEER: Michael C. Mullone, Dunaway Associates

SURVEYOR: Hinkle Surveyors

APPLICANT: Winn Smith, Mainsprings, LLC

OWNER: Mainsprings, LLC

SITE LOCATION: 416 North Church Street

SUBDIVISION NAME: Main Springs Planned Development, Block 1, Lot 1

SIZE OF PROPERTY: 1.778 acres

NUMBER OF LOTS: One lot to contain vacation rentals and commercial space

EXISTING USE OF PROPERTY: Vacation rentals in first phase per existing Planned Development District

ZONING CLASSIFICATION: PDD (Planned Development District, PDD-20-02)

ANALYSIS OF ISSUES

PROPOSED DEVELOPMENT: Zoning Change ZC-24-05 is a request for rezoning from PDD to PDD. The case is to be considered simultaneously with Planned Development District case PDD-24-03, which is an update to the Main Springs Planned Development District, originally approved in cases ZC-20-11 and PDD-20-02. The zoning change and PDD development plan must be considered concurrently, since the zoning is conditional upon the project being developed as depicted on the plan.

The proposed development is 1.778 acres with seventeen vacation cabin rental units in seven structures, a covered pavilion, a two-story commercial building, a pool, and a two-story mixed-use building that includes three of the vacation rental units. The project is designed as a resort rental destination that focuses on the Town Branch Creek and includes restaurant, commercial, and special event space. The development plan describes the project as "Vacation Cabin Rental" use, which is defined as "A development type which provides for 2-3 dwelling units within a single principal structure". The Applicant plans to operate the completed project as dispersed lodging rooms under central management. The project is designed to be completed in four phases. The first phase, discussed below, is already completed. The development plan for the final three phases includes a private drive through the south end of the property, partly on a permanent access easement at the northwestern corner of the property to the south. The private drive includes an 18' by 84' loading area for the mixed use and event uses, as well as the required parking for the nine vacation cabin rentals still to be constructed. The total parking required for the proposed revision is 47 spaces.

Main Springs' previously-approved development plan (PDD-20-02) includes eight vacation rental units in a total of four structures, a two-story commercial building, a two-story mixed-use building containing commercial on the first floor, three apartments on the second floor, six townhome condominium units,

and an open-air pavilion. The total number of parking spaces required for the development is 57. The difference between the two proposals is summarized below.

1. The townhome condominium units and apartment units in the approved plan are redefined as “Vacation Cabin Rentals”, to match the use of the existing units built in phase one;
2. A sidewalk extension is added to connect the development to the North Church Street and West Pecan Street intersection;
3. A lawn area for special events is added to the development plan.
4. An updated phasing map is proposed to allocate the proposed special event lawn and sidewalk improvements with the development phases approved in PDD-20-02, with the project’s completion date remaining unchanged;
5. A new parking table is proposed to update counts for the changed uses;
6. A development plan note is proposed to ensure the project complies with the noise standards in the Lockhart Code of Ordinances Chapter 18, Article III, and
7. The development plan note regarding lighting is updated to read “All proposed outdoor lighting shall be dark-sky compliant and comply with the City of Lockhart Ordinances”.

The following is a side-by-side comparison of the unit summaries provided in the Applicant’s submittal packages.

PDD-20-02	Parking: 57 spaces		PDD-24-03	Parking: 47 spaces
Vacation Cabin Rentals	8 units		Vacation Cabin Rentals	17 units
Covered Pavilion	1 unit		Covered Pavilion	1 unit
Townhomes	6 units		Mixed Use Building A	2,920 sf of commercial and 3 vacation rental units
Mixed Use Building A	2,920 sf of commercial and 3 apartments		Mixed Use Building B	2,700 sf of commercial
Mixed Use Building B	2,700 sf of commercial			

The location of the vacation rentals’ required parking along a private driveway extending between North Church Street and North Main Street and along North Church Street right-of-way remains unchanged. The first phase of the project has widened the east side of North Church Street to accommodate 90-degree on-street parking.

The property is divided by an unnamed tributary of Town Branch Creek within a floodplain area that extends from the east side of the site. Although the 100-year floodplain is the primary basis for regulating structures and other encroachments, the 500-year floodplain is also shown on the development plan. The proposed special events lawn is outside the 100-year floodplain. Both the pavilion and one of the commercial buildings extend into the floodplain but will be raised on columns such that their floors will be at least one-foot above the base flood elevation (100-year flood level), as required by our floodplain ordinance. The base floodplain elevation will be determined by hydrologic modeling prior to issuance of floodplain development permits.

NEIGHBORHOOD COMPATIBILITY: The greatest impact of the proposed project will likely be traffic generated by the commercial/retail/restaurant businesses. The vacation rental units will not generate excessive traffic. The development is proposed to be dark-sky compliant, so the impact of night lighting

should not be an issue. The Applicant has included language in the development plan update certifying the project will comply with the City of Lockhart's noise standards.

FORM AND CONTENT: The PDD Development Plan conforms to all minimum requirements for form and content. There are no deficiencies.

COMPLIANCE WITH STANDARDS: The proposed development will include a five-foot wide public sidewalk along North Church Street, which is one-foot wider than the minimum required. This sidewalk is proposed in the update to extend to the North Church Street and West Pecan Street intersection. PDD-20-02 approved several other deviations from normal ordinance standards: One is that there will be no public sidewalk along the North Main Street frontage because there is no actual street in that segment of the right-of-way where the street terminates in a dead end. The Planning and Zoning Commission approved a subdivision variance for this project's sidewalk in the final plat, and this plat still applies to this revised development plan. Much of the required parking for the development is being provided in the North Church Street right-of-way instead of on the private property. Finally, zero building setbacks are proposed along the east and west boundaries of the property instead of the setbacks normally required by the conventional zoning districts (roof eaves or awnings will not be allowed to extend across any property line).

ADDITIONAL REQUIREMENTS: None

STAFF RECOMMENDATION: Staff's recommendation for approval of the original version of the Planned Development District cited the benefit of the project's diversity of housing types. The main feature of the proposed revision is the removal of the townhomes and apartments in the new PDD. Staff believes the proposed revision appropriate because it will provide additional lodging, dining, and recreation options near downtown. As such, staff recommends approval of the revised PDD development plan and associated zoning change request.

CITY OF

Lockhart

TEXAS

ZONING CHANGE APPLICATION

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

APPLICANT/OWNER

APPLICANT NAME MAINSPRINGS LLC

ADDRESS 416 N. CHURCH ST.

DAY-TIME TELEPHONE (512) 787-0383

E-MAIL WS@COUNTYWIDERE.COM

OWNER NAME MAINSPRINGS LLC

ADDRESS 1207 E. 8TH ST.

DAY-TIME TELEPHONE (512) 787-0383

AUSTIN, TX ~~78702~~ 78702

E-MAIL WS@COUNTYWIDERE.COM

PROPERTY

ADDRESS OR GENERAL LOCATION 416 N CHURCH ST.

LEGAL DESCRIPTION (IF PLATTED) MAINSPRINGS, Block 1, Lot 1

SIZE 1.778 ACRE(S)

LAND USE PLAN DESIGNATION HIGH DENSITY RESIDENTIAL

EXISTING USE OF LAND AND/OR BUILDING(S) PDD, COMMERCIAL, VACATION RENTALS, MIXED USE

PROPOSED NEW USE, IF ANY REMOVE TOWNHOMES & APARTMENTS FROM PDD IN EXCHANGE FOR VACATION RENTALS

REQUESTED CHANGE

FROM CURRENT ZONING CLASSIFICATION PDD

TO PROPOSED ZONING CLASSIFICATION PDD

REASON FOR REQUEST SEE STATEMENT ATTACHED

SUBMITTAL REQUIREMENTS

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

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

IF NOT PLATTED, A METES AND BOUNDS LEGAL DESCRIPTION OF THE PROPERTY. \$1,516.70

APPLICATION FEE OF \$250, PLUS \$150 PER ACRE, MAXIMUM OF \$10,000, PLUS ADDITIONAL \$1,000 FOR PLANNED DEVELOPMENT DISTRICT PAYABLE TO THE CITY OF LOCKHART.

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

SIGNATURE



DATE 7/1/24

OFFICE USE ONLY

ACCEPTED BY D. Fowler

RECEIPT NUMBER 01306281

DATE SUBMITTED 7/3/24

CASE NUMBER ZC -24 - 05

DATE NOTICES MAILED 2-8-24

DATE NOTICE PUBLISHED 7-11-2024

PLANNING AND ZONING COMMISSION MEETING DATE 7/24/2024

PLANNING AND ZONING COMMISSION RECOMMENDATION _____

CITY COUNCIL MEETING DATE 8/6/24

DECISION _____

LEGAL DESCRIPTION

All of a certain tract or parcel of land situated in the City of Lockhart, Caldwell County, Texas and being a part of the Byrd Lockhart Survey A-17 in the City of Lockhart, Caldwell County, Texas and being a part of a tract of land called 1.778 acres and conveyed to PHX 15, LLC by deed recorded in Instrument #2020-001988 of the Official Records of Caldwell County, Texas and being more particularly described as follows:

BEGINNING at a concrete monument set used for base of bearing in the NE corner of the above mentioned 1.778 acre tract and the NW terminus of North Main Street and the South line of a tract of land called 1.052 acres and conveyed to Matthew James Lingrel et al by deed recorded in Instrument #2020-001988 of the Official Records of Caldwell County, Texas and being more particularly described as follows:

THENCE S 10 degrees 00 minutes 00 seconds E with the East line of the said 1.778 acre tract and the West line of North Main Street **292.07 feet** to a 600 rail found in a tree stump used for base of bearing in the SE corner of the said 1.778 acre tract and the NE corner of Lot 4 in Block 31 of the Original Town of Lockhart as recorded in Volume Q Page 507 of the Deed Records of Caldwell County, Texas for the SE corner of this tract.

THENCE S 80 degrees 02 minutes 03 seconds W with the North line of the said Block 31 and the South line of the said 1.778 acre tract **265.33 feet** to a concrete monument set in the SW corner of the said 1.778 acre tract and the NW corner of Lot 3 in the said Block 31 and the East line of North Church Street for the SW corner of this tract.

THENCE N 09 degrees 55 minutes 54 seconds W with the West line of the said 1.778 acre tract and the East line of the North Church Street **291.97 feet** to a 1/2" iron pin found in the NW corner of the said 1.778 acre tract and the apparent SW corner of the above mentioned 1.052 acre tract for the NW corner of this tract.

THENCE N 80 degrees 00 minutes 49 seconds E with the North line of the said 1.778 acre tract and the apparent South line of the said 1.052 acre tract **264.98 feet** to the place of beginning containing **1.778 acres** of land more or less.

STATE OF TEXAS
COUNTY OF CALDWELL

I, Jerry L. Hinkle, registered professional land surveyor, State of Texas, hereby certify that this plat is a true and correct representation of a survey made on the ground and all monuments and markers were properly placed under my direct supervision and is true and correct to the best of my knowledge.

IN WITNESS THEREOF, my hand and seal, this _____ day of _____, 20____.

Jerry L. Hinkle
Registered Professional
Land Surveyor #5459

STATE OF TEXAS
COUNTY OF CALDWELL

I, Teresa Rodriguez, County Clerk in and for Caldwell County, Texas do hereby certify that the foregoing instrument with its certificates of authentication was filed for record in my office the _____ day of _____, 20____, at _____ o'clock _____ M., and duly recorded on the _____ day of _____, 20____. In the Plat Records of Caldwell County, Texas in Plat Cabinet _____ at Slide _____.

Teresa Rodriguez
County Clerk, Caldwell County, Texas

MAIN SPRINGS PLANNED DEVELOPMENT LOT 1 IN BLOCK 1

A subdivision of 1.778 acres out of the Byrd Lockhart Survey A-17 in the City of Lockhart, Caldwell County, Texas

STATE OF TEXAS
COUNTY OF _____

I/WE, the undersigned owner(s) of the land shown on this plat designated as Tract 1 called 1.778 acres and recorded in Instrument #2020-002650 of the Official Records of Caldwell County, Texas and described and designated as MAIN SPRINGS in the City of Lockhart, Caldwell County, Texas do hereby subdivide such property and further reserve to the public all easements for the mutual use of all public utilities desiring to use the same; that any public utility shall have the right to remove and keep removed all or any part of any growth or construction for maintenance or efficient use of its respective system in such easements.

DATE _____

Representative for:
PHX 15, LLC
13001 HWY 71 WEST
AUSTIN, TX 78738

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and considerations stated herein.

Given under my hand and seal of office this the _____ day of _____, 20____.

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF CALDWELL

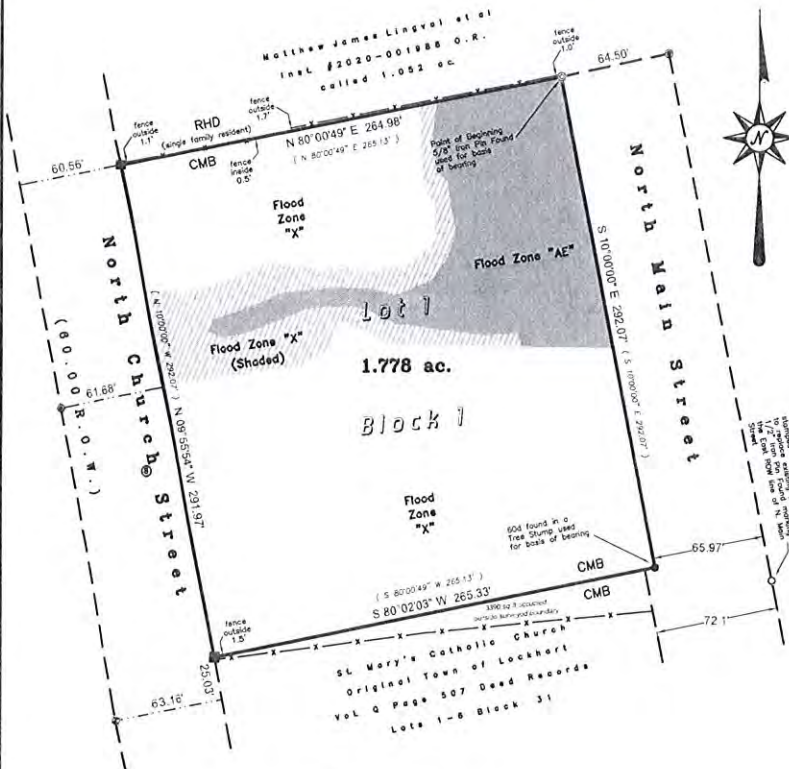
I, _____, Chairman of the Planning and Zoning Commission of the City of Lockhart, do hereby certify that this plat was approved by the City of Lockhart, Caldwell County, Texas, on the _____ day of _____, 20____.

CHAIRMAN
PLANNING AND ZONING COMMISSION
CITY OF LOCKHART



SURVEYORS NOTES:

- The Lots shown lie in Flood Zones approximately as shown according to FEMA Panel #480550120E effective date June 19, 2012. FLOOD ZONE "X" (AREA NOT SHADED) is areas determined to be outside the 0.2% annual chance floodplain. FLOOD ZONE "AE" (SHADED AREA) is a special flood hazard areas subject to inundation by the 1% annual chance flood. Base Flood Elevations determined. The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood. FLOOD ZONE "X" (SHADED AREA) is areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood. The minimum permissible floor elevation for any buildings within 100-year floodplain requires a one foot freeboard according to the City of Lockhart Floodplain Ordinance. The Base Flood elevation of this site will be determined by an engineer/surveyor for an Elevation Certificate required prior to construction of any improvements within Flood Zone AE.
- Lot 1 Block 1 is currently zoned CMB (Commercial Medium Business District) and proposed zoning to be PDD (Planned Development District). The surrounding lots are zoned CMB (Commercial Medium Business District) and RHD (Residential High Density).
- A 5' Sidewalk along N. Church Street will be permitted and constructed with each phase to provide for phased on-street parking. Refer to PDD for Phases of uses and on-street parking.
- A fee in lieu of parkland dedication, in the amount of \$882.00, shall be paid to the City for the proposed residential uses prior to the recording of this plat based upon five percent of the land market value of \$2.09 per square foot for 8400 square feet of total land area occupied by the apartment homes and townhouses.
- RECORD OWNERS OF LAND: PHX 15, LLC
DESIGNER OF PLAT: Hinkle Surveyors, PO Box 1027, Lockhart TX 78644
(512) 398-2000
DATE OF PREPARATION: August 2020
SURVEYOR: Jerry L. Hinkle, R.P.L.S. #5459 PO Box 1027, Lockhart TX 78644
(512) 398-2000
- Boundary & Lot Closure: 1' in 212923'
- Setbacks: Front (along North Church Street 0') and Rear (along North Main Street 0'); Side (South side 10'); Side (North side 20')



LEGEND

- CONCRETE MONUMENT SET
- CAPPED 1/2" IRON PIN SET
- 600 FOUND IN TREE STUMP
- 5/8" IRON ROD FOUND
- COTTON SPINDLE FOUND
- CAPPED IRON PIN FOUND
- STAMPED "HINKLE SURVEYORS"
- FLOOD ZONE "AE"
- FLOOD ZONE "X" (SHADED)
- SANITARY SEWER
- FENCE
- UNLESS OTHERWISE NOTED

Scale 1"=50'



Field Book: d.s.	Drawn By: JH, LH
Job No: 20201202-sub1	Drawing: 20201202-sub1.dwg
Date: August 2020	Word Date: 08/01/2020
Surveyed By: JH, JKB	Autocad Date: 08/01/2020

HINKLE SURVEYORS

P.O. Box 1027 1109 S. Main Street Lockhart TX 78644
Ph (512) 398-2000 Fax (512) 398-7683 Email: contact@hinklesurveyors.com Firm Registration No: 100885-00

Requested Changes from Original PDD:

- No Zoning Variances Requested
- Variance on size of PDD approved Unanimously in Aug. 2022 from Zoning Board of Adjustment.
- Original PDD and Zoning Variances Unanimously Approved by P&Z and City Council on September 23rd, 2020, and Oct. 8th, 2020, respectively.

PAGE 1:

1. Change “Townhome Condominiums” in Phase 4 and “Apartments” in Phase 3 to “Vacation Cabin Rentals”
2. Change “Live/Work” to “Vacation Rentals”
3. Add 5ft Sidewalk extension to Church St. and Pecan intersection as part of developer responsibility to construct with associated Phase.
4. Add Special Events Lawn

PAGE 2:

1. Update phasing map area to map new layout. No phasing has changed from original. Project began in March 2021 and is on pace to finish March 2026

TO DATE:

- a. Phase 1 - Complete (Vacation Rentals)
 - b. Phase 2 – Permitted and Under Construction 75% Complete
 - c. Phase 3 – 50% Design Complete
 - d. Phase 4 – 25% Design Complete
2. Update Parking Table for new use. The developer is still providing the required number of spaces.

PAGE 3:

1. Add Note 14. “This project shall comply with City of Lockhart Code Chapter 18, Article II Noise”
2. Edit Note 10. “City of Lockhart All proposed outdoor lighting shall be dark-sky compliant and comply with City of Lockhart Ordinances”
3. Delete Townhome Condominium as a use in the project
4. Add Special Events Lawn as use in the project

Reasoning:

Through the continued feasibility and design of the final phases of the project, the ownership group would like to amend our PDD. This is primarily driven by our continued study of the site as it relates to the application of our project goals are as follows:

- 1. Improve the creek - 'riparian' zone restoration with minimal disruption**
- 2. Preserve the funk - embracing existing concrete wash features on site**
- 3. Prioritize views to downtown and views to the creek - maintaining views from Cabin D3**
- 4. Reclaim the site with nature - preserving existing trees and reintroducing native flora**
- 5. Disrupt existing site hydrology as little as possible - all buildings are outside the floodplain**
- 6. Be phase-able - design allows for programmatic flexibility**
- 7. Partner with the city – improve pedestrian access within and around the site**

As we continued to study the Phase 4 building sizes, locations, heights, and proximity of buildings as it relates to the creek needed, we determined that the original Townhome concept would be detrimental to over half our project goals, including impeding views, risking the viability and sustainability of our spring fed creek, as well as force us to eliminate trees, which is against our mission. We feel that this use has a much more sustainable impact on the site and those that will be experiencing the district and Lockhart. This development began in 2020, but based on current supply and demand in 2024, we also feel that is an important time to extend our offerings for visitors as it has been widely discussed recently about the need for more visitor lodging in Lockhart.

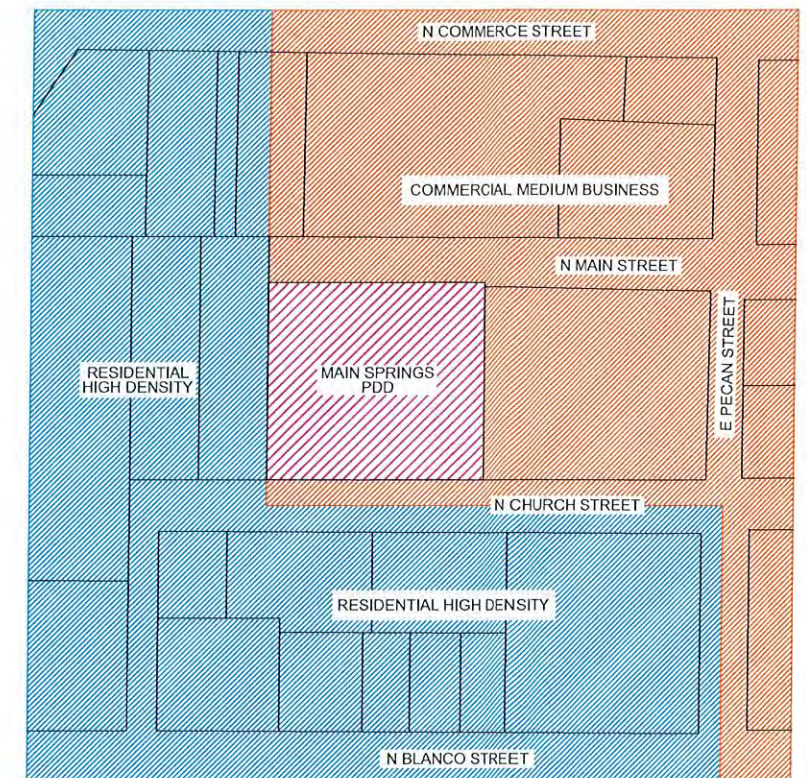
We have re-envisioned our development with these constraints and have realized that it is in the best interest of the property and the project to change the uses of the remaining residential portions of our project. We propose to change these uses to Cabin Vacation Rentals, like the completed Phase 1 use. This would enable us to provide up to 17 total units on the property. *The Leona at Mainsprings* is our unique cabin rental experience in Lockhart set to open in Fall of 24'. We believe doubling our initial room offerings, along with additional amenities and restaurant on property in Phase 3, will have an unprecedented impact on the tourist experience in Lockhart. Not only will it send large economic waves of support to the community through additional sales tax and HOT Funds revenue, but the retail and restaurant offerings will also be able to be enjoyed by the community, along with our event space. Each year, thousands of guests each year will stay within footsteps of downtown to experience all Lockhart has to offer, all while being as low impact to the community and environment as possible.

We have owned up to all agreements of our original PDD and are well on our way to full development completion. Our development will be an icon within the community, and we hope our message of sustainability and mobility will make Lockhart proud. We are not requesting any parking variances and will still utilize on-street parking as much as possible as part of our development goals and protect the site and the springs. Through the previous two completed phases we have spent thousands of dollars improving public infrastructure including parking and sidewalks at no cost to the city, and we will continue that mantra into future phases. We hope to bring a vibrant, walkable district to Lockhart, and we are very proud of what we have built. We ask for your support in favor of this changes.

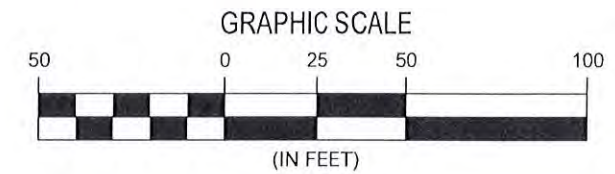
Thanks,

Winn Smith

Original PDD



SURROUNDING LAND USES
N.T.S.



NOTE:
100-YR AND 500-YR FLOODPLAIN PER FEMA PANEL #48055C0120E
EFFECTIVE DATE JUNE 19, 2012.



Mike Mullone

W. PECAN ST.

[illegible]

COUNTYWIDE BUILDERS
416 CHURCH ST., LOCKHART, TEXAS

MAIN SPRINGS PLANNED DEVELOPMENT PDD DEVELOPMENT PLAN

DUNAWAY
TX Registered Engineering Firm #F-1114
5707 SOUTHWEST PARKWAY
BUILDING 2, SUITE 250
AUSTIN, TX 78735
PHONE: 512-306-8252

6/25/2024

DUNAWAY JOB NO.:
B006350.001

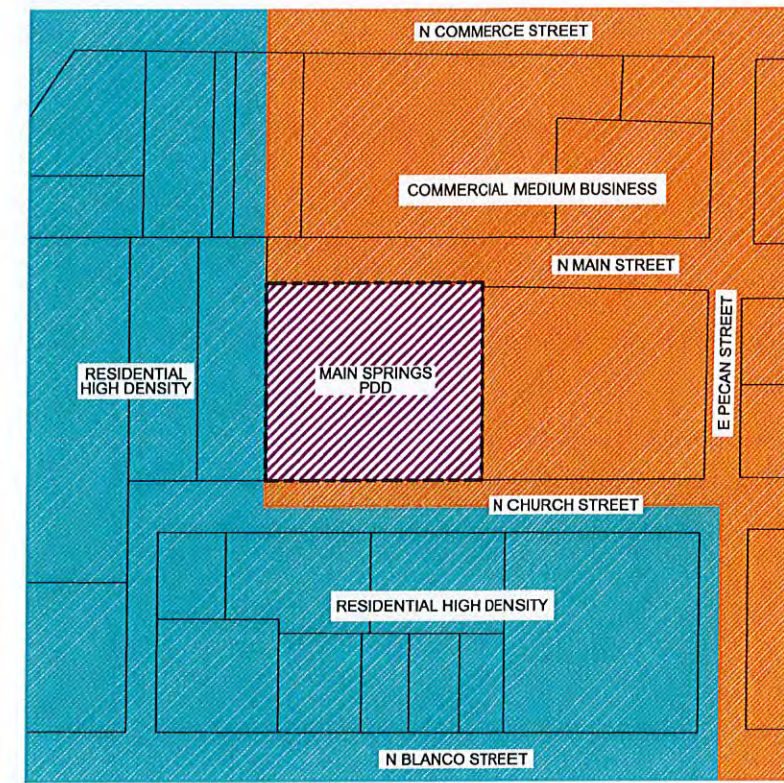
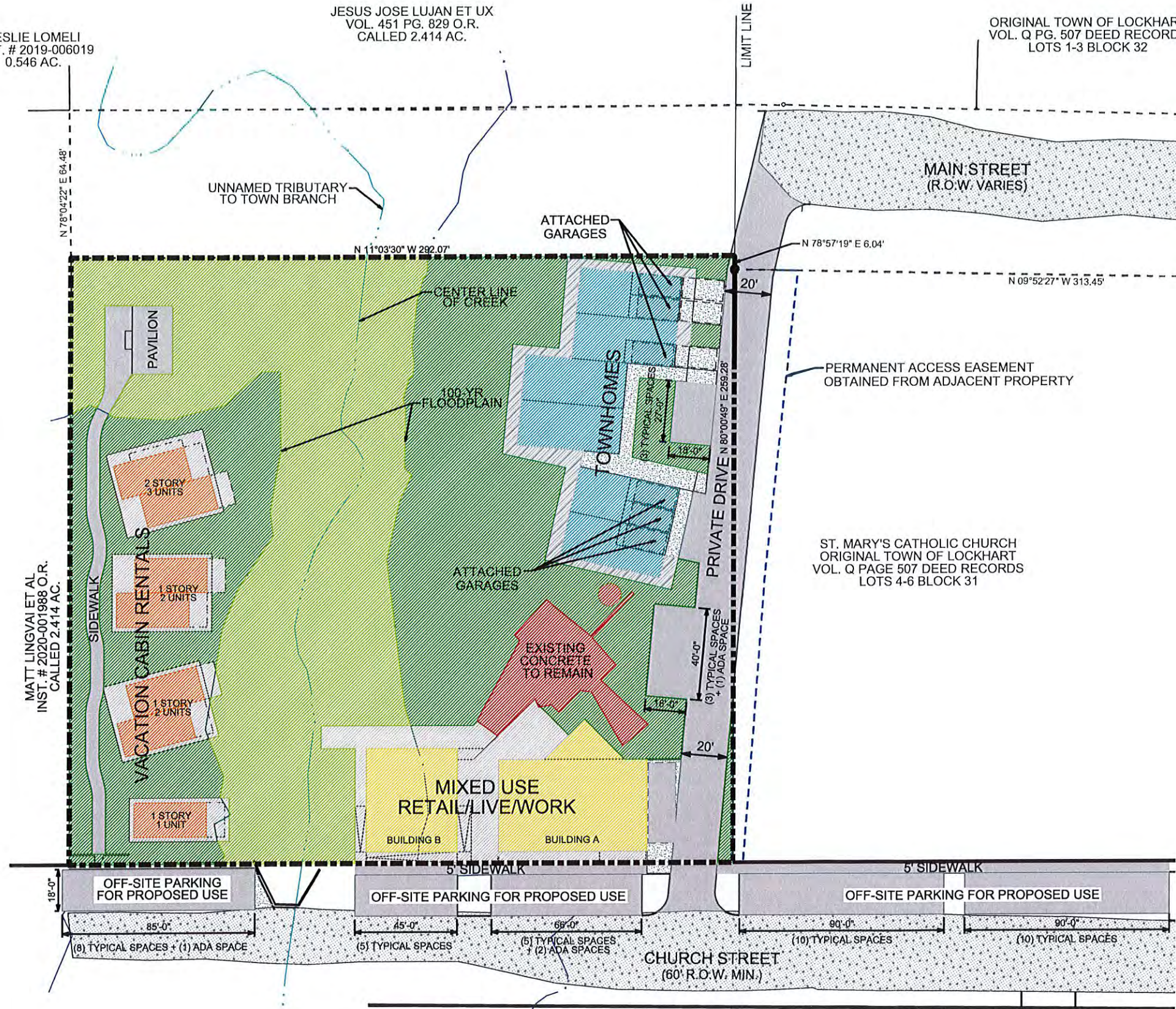
SHEET NO.	1 OF 3	25/20
-----------	--------	-------

LESLIE LOMELI
INST. # 2019-006019
0.546 AC.

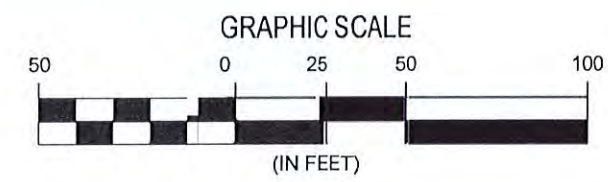
JESUS JOSE LUJAN ET UX
VOL. 451 PG. 829 O.R.
CALLED 2.414 AC.

ORIGINAL TOWN OF LOCKHART
VOL. Q PG. 507 DEED RECORDS
LOTS 1-3 BLOCK 32

MATT LINGVAI ET AL
INST. # 2020-001988 O.R.
CALLED 2.414 AC.



SURROUNDING LAND USES
N.T.S.



ST. MARY'S CATHOLIC CHURCH
ORIGINAL TOWN OF LOCKHART
VOL. Q PAGE 507 DEED RECORDS
LOTS 4-6 BLOCK 31



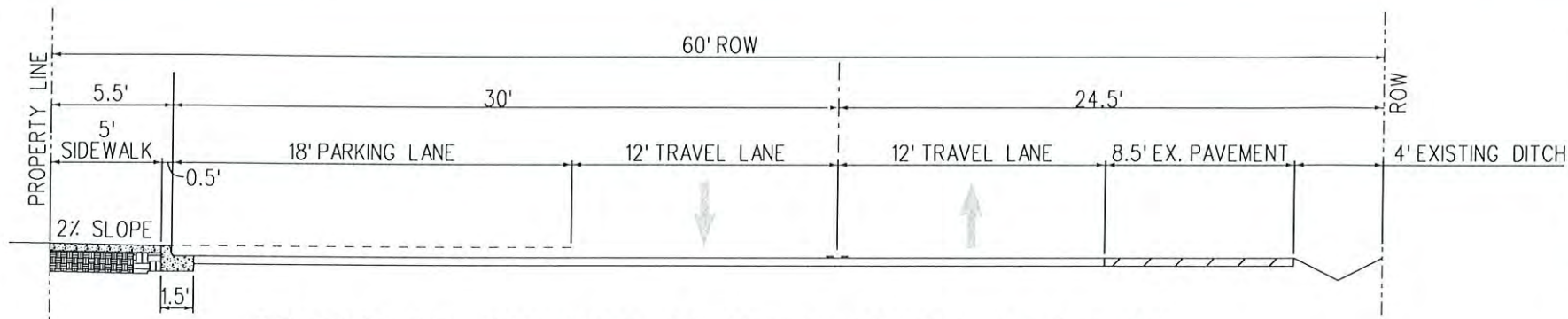
REV. NO.	BY	DATE	REVISION DESCRIPTION



COUNTYWIDE BUILDERS
416 CHURCH ST., LOCKHART, TEXAS
**PDD DEVELOPMENT PLAN
FOR
MAIN SPRINGS**

DUNAWAY
TX Registered Engineering Firm #1114
5707 SOUTHWEST PARKWAY
BUILDING 2, SUITE 250
AUSTIN, TX 78735
PHONE: 512-308-8252

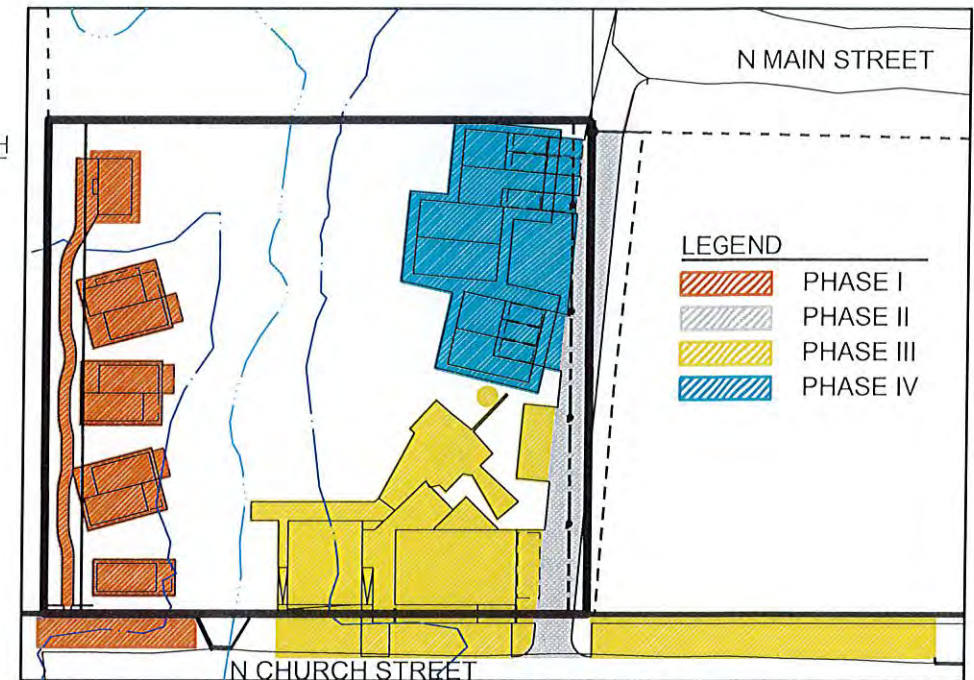
DUNAWAY JOB NO.:
B006150.001
SHEET NO. 1 OF 3



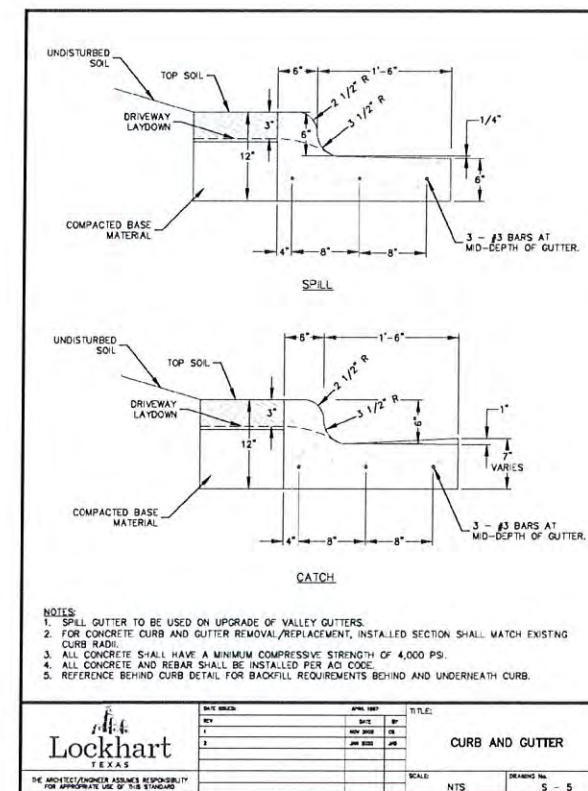
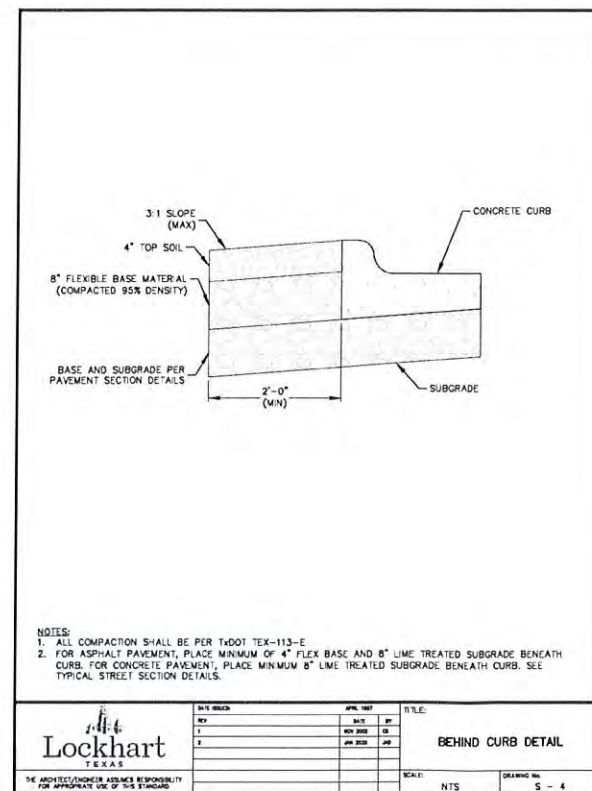
PROPOSED CHURCH STREET CROSS SECTION
N.T.S.

SITE, BUILDING AND PARKING INFORMATION

	Use		Building Gross Area	Max. Height Allowed	Parking Calculation	ADA Spaces Required	Parking Required	On-Street Parking Provided	Off-Street Parking Provided
Site Area=1.778 acres									
Vacation Cabin Rentals	Vacation Rental	8 Units	650/unit = 5200 s.f.	2 Story	1 space/unit	1	8	9	
	Vacation Rental Accessory Use	1 Covered pavilion	570 s.f.	1 story	NA				
Townhomes	Residential	6 Units	2000/unit = 12,000s.f.	2 Story	2 spaces/unit		12		12
Mixed Use - Building A	Commercial/Retail		2920 s.f.	2 Story	1 space/300 s.f. + 1/shift	1	14	15	
	Apartment	3 Units - Level 2	1000/unit = 3000s.f.		2 spaces/unit	1	6	3	4
Mixed Use - Building B	Commercial/Retail		2700 s.f.	2 story	1 space/300 s.f. + 1/shift	1	13	14	
TOTAL						4	53	41	16
Total parking spaces provided incl ADA						57			



MAIN SPRINGS PHASES
N.T.S.



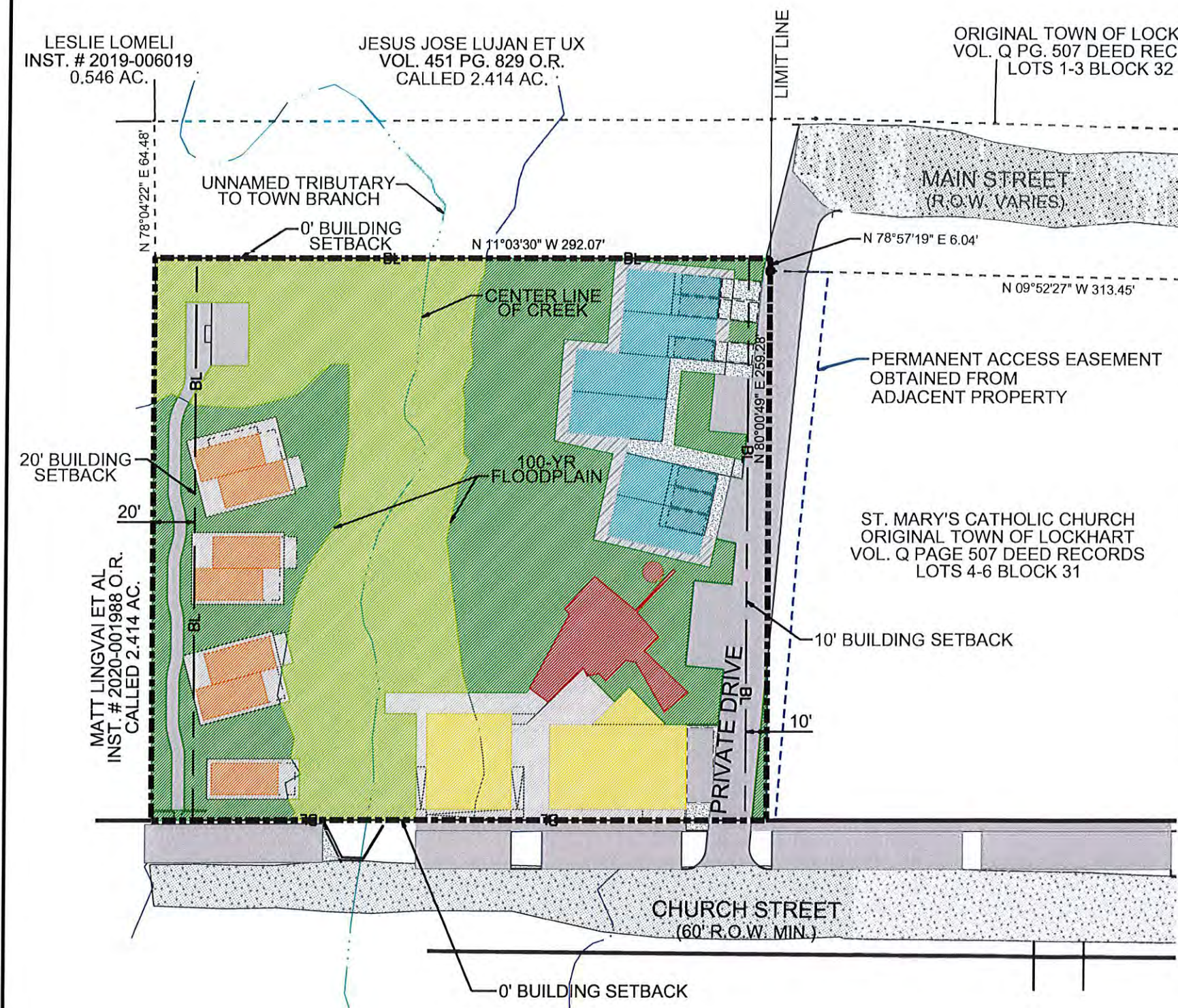
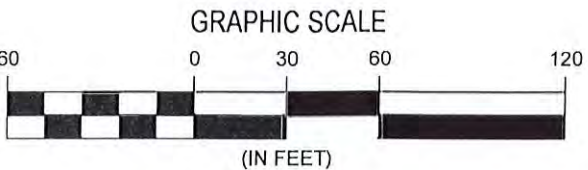
COUNTYWIDE BUILDERS
416 CHURCH ST., LOCKHART, TEXAS
**PDD DEVELOPMENT PLAN
FOR
MAIN SPRINGS**

DUNAWAY
TX Registered Engineering Firm #11114
5707 SOUTHWEST PARKWAY
BUILDING 2, SUITE 250
AUSTIN, TX 78735
PHONE: 512-306-8252

DUNAWAY JOB NO. 1
8006350.001
SHEET NO. 2 OF 3

Proposed PDD

BUILDING SETBACK



ACCESSORY USE: A use which is wholly incidental to and supportive of the principal use of the same lot.

TOWNHOME: A residential development type which provides for five or more dwelling units generally separated by common walls within a single structure. Some areas and yards may be commonly owned.

VACATION CABIN RENTALS: A development type which provides for 2-3 dwelling units within a single principal structure.

MIXED USE: Development type which provides for residential, office, retail and commercial use in a single structure.

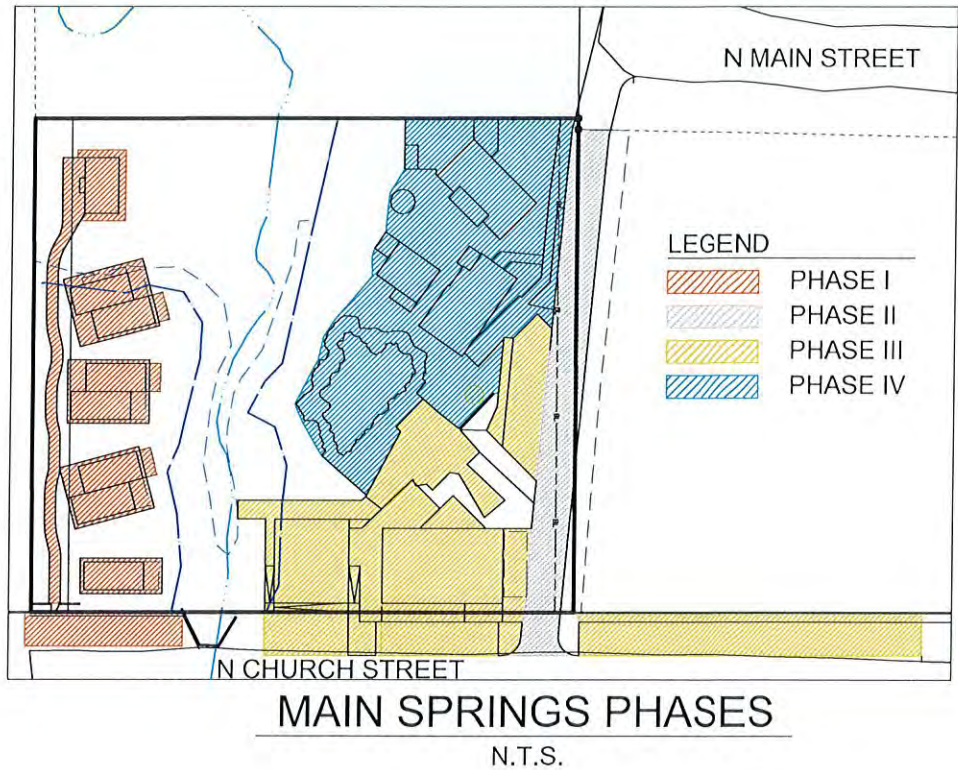
BUILDING SETBACK LINE: No building footprint shall encroach into the building setback. Roof overhangs or awnings are allowed into the setback.

This project shall be developed and permitted in phases. Proposed Phases I, II, III and IV are shown on the Main Springs PDD phasing exhibit.

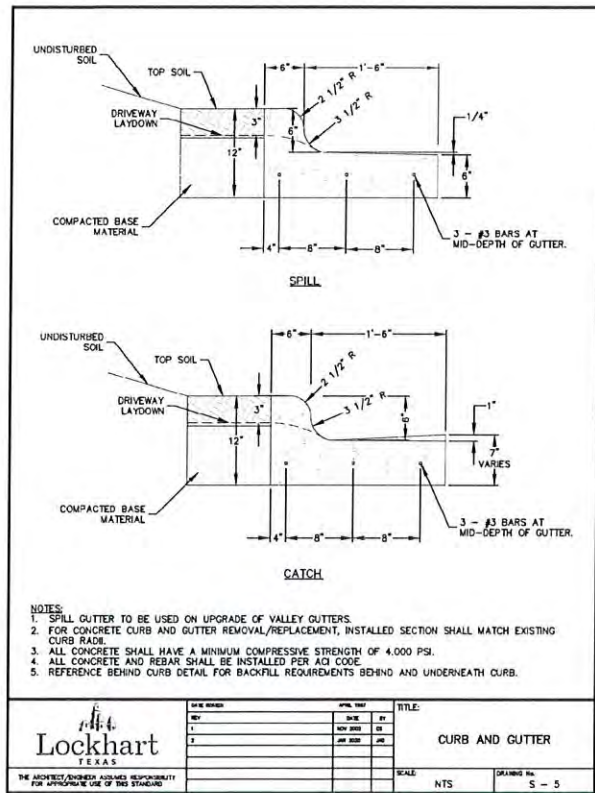
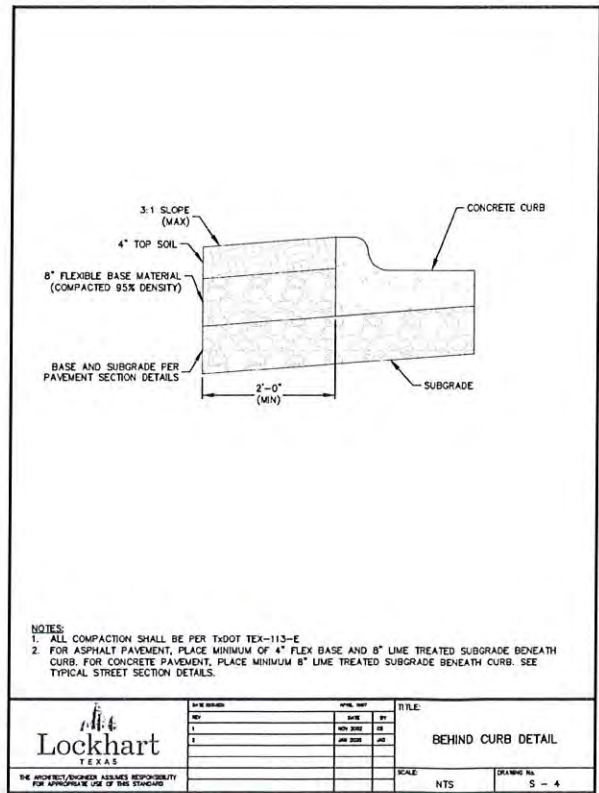
1. Allowed development within the 100-year flood plain shall consist of trails, open space, picnic facilities and pavilion built to comply with floodplain regulations as defined by Chapter 22 Floods of the City of Lockhart Code of Ordinances.
2. All finished floor elevations shall be a minimum of one foot above the 100-year storm elevation as defined by Atlas 14.
3. All structures shall be designed to conform with Chapter 22- Floods of the City of Lockhart Code of Ordinances and Article II- Stormwater Drainage and Flood Control.
4. Vegetative screening shall be provided along the north property line where the project is adjacent to residential use. Screening shall be a minimum of six (6) feet in height.
5. Signage shall comply with Chapter 46 Signs of the City of Lockhart Code of Ordinances.
6. Private driveway shall be maintained by developer.
7. Off-street parking shall be designed and permitted through City of Lockhart at the time of Phase I and Phase III permitting. Required parking as defined by this PDD shall be constructed with each phase.
8. Construction of improvements in the row is the responsibility of the developer. After acceptance by the City of Lockhart, maintenance shall be the responsibility of the city of Lockhart.
9. All proposed outdoor lighting shall be dark-sky compliant.
10. Project shall comply with City of Lockhart Code Chapter 64-203 Nonresidential Appearance Standards.
11. Building setback lines shall comply as shown on PDD. Front setback = 0 feet, Rear setback = 0 feet, Side(south) setback = 10 feet, Side(north) setback = 20'.
12. Sidewalk along Church Street will be permitted and constructed with each phase to provide for phased on-street parking. Refer to PDD sheet 2 for Phases of uses and on-street parking.



COUNTYWIDE BUILDERS 416 CHURCH ST., LOCKHART, TEXAS	
PDD DEVELOPMENT PLAN FOR MAIN SPRINGS	
DUNAWAY TX Registered Engineering Firm #F-1114 5707 SOUTHWEST PARKWAY BUILDING 2, SUITE 250 AUSTIN, TX 78735 PHONE: 512-306-8252	
MICHAEL C. MULLONE 127850 PROFESSIONAL ENGINEER	
DUNAWAY JOB NO.: R006130.001	
SHEET NO. 3 OF 3	



SITE, BUILDING AND PARKING INFORMATION										
	Use		Building Gross Area	Max. Height Allowed	Parking Calculation	ADA Spaces Required	Parking Required	Total Parking Required	On-Street Parking Provided	Off-Street Parking Provided
Site Area=1.778 acres										
Vacation Cabin Rentals	Vacation Rental	8 Units	650/unit = 5200 s.f.	2 Story	1 space/unit	1	8	<u>9</u>	9	0
	Vacation Rental Accessory Use	1 Covered pavilion	570 s.f.	1 story	NA					
South Vacation Rentals	Residential	6 Units	825/unit = 4950s.f.	2 Story	1 space/unit	1	5	<u>6</u>	0	6
Mixed Use - Building A	Commercial/Retail		2920 s.f.	2 Story	1 space/300 s.f. + 1/shift	1	14	<u>15</u>	15	0
	Vacation Rental	3 Units - Level 2	960/unit =2880s.f.		1 space/unit	0	3	<u>3</u>	3	0
Mixed Use - Building B	Commercial/Retail		2700 s.f.	2 story	1 space/300 s.f. + 1/shift	1	13	<u>14</u>	14	0
			TOTAL			4	43	<u>47</u>	41	6
			Total parking spaces provided incl ADA		47					



Mike Mullone

[illegible]

COUNTYWIDE BUILDERS
416 CHURCH ST., LOCKHART, TEXAS

MAIN SPRINGS PLANNED DEVELOPMENT PDD DEVELOPMENT PLAN

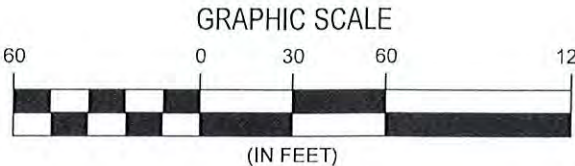
DUNAWAY
TX Registered Engineering Firm #E-1114
5707 SOUTHWEST PARKWAY
BUILDING 2, SUITE 250
AUSTIN, TX 78735
PHONE: 512-306-8252

6/25/2024

DUNAWAY JOB NO.:
B006350.001

SHEET NO. 2 OF 3

BUILDING SETBACK



LESLIE LOMELI
INST. # 2019-006019
0.546 AC.

JESUS JOSE LUJAN ET UX
VOL. 451 PG. 829 O.R.
CALLED 2 414 AC.

ORIGINAL TOWN OF LOCKHART
VOL. Q PG. 507 DEED RECORDS
| LOTS 1-3 BLOCK 32

ACCESSORY USE: A use which is wholly incidental to and supportive of the principal use of the same lot

SPECIAL EVENTS LAWN: Private outdoor area that is available for rental by the public for performances, music, weddings, receptions, reunions, seminars, parties, and other similar occasions of limited duration.

VACATION CABIN RENTALS: A development type which provides for 2-3 dwelling units within a single principal structure.

MIXED USE: Development type which provides for residential, office, retail and commercial use in a single structure.

BUILDING SETBACK LINE: Roof overhangs or awnings are allowed to project into the minimum building setback, but in no case shall be allowed to extend beyond the property line.

DEVELOPMENT STANDARDS

1. This project shall be developed and permitted in phases. Proposed Phases I, II, III and IV are shown on the Main Springs PDD phasing exhibit.
2. Allowed development within the 100-year flood plain shall consist of trails, open space, picnic facilities and pavilion built to comply with floodplain regulations as defined by *Chapter 22 Floods of the City of Lockhart Code of Ordinances*.
3. All finished floor elevations shall be a minimum of one foot above the 100-year storm elevation as defined by Atlas 14.
4. All structures shall be designed to conform with *Chapter 22- Floods of the City of Lockhart Code of Ordinances and Article II- Stormwater Drainage and Flood Control*.
5. Vegetative screening shall be provided along the north property line where the project is adjacent to residential use. Screening shall comply with Section 64-197(f)(2) of City of Lockhart Municipal Code.
6. Signage shall comply with *Chapter 46 Signs of the City of Lockhart Code of Ordinances*.
7. Private driveway shall be maintained by developer.
8. Off-street parking shall be designed and permitted through City of Lockhart at the time of Phase I and Phase III permitting. Required parking as defined by this PDD shall be constructed with each phase.
9. Construction of improvements in the Right-of-Way is the responsibility of the developer. After acceptance by the City of Lockhart, maintenance shall be the responsibility of the city of Lockhart.
10. All proposed outdoor lighting shall be dark-sky compliant and comply with City of Lockhart Ordinances.
11. Project shall comply with City of Lockhart Code Chapter 64-203 Nonresidential Appearance Standards.
12. Building setback lines shall comply as shown on PDD. Front setback = 0 feet, Rear setback = 0 feet, Side(south) setback = 10 feet, Side(north) setback = 20'.
13. Sidewalk along Church Street will be permitted and constructed with each phase to provide for phased on-street parking. Refer to PDD sheet 2 for Phases of uses and on-street parking.
14. This project shall comply with City of Lockhart Code Chapter 18 Article I Noise.



Mike Mullone

[illegible]

COUNTYWIDE BUILDERS
416 CHURCH ST., LOCKHART, TEXAS

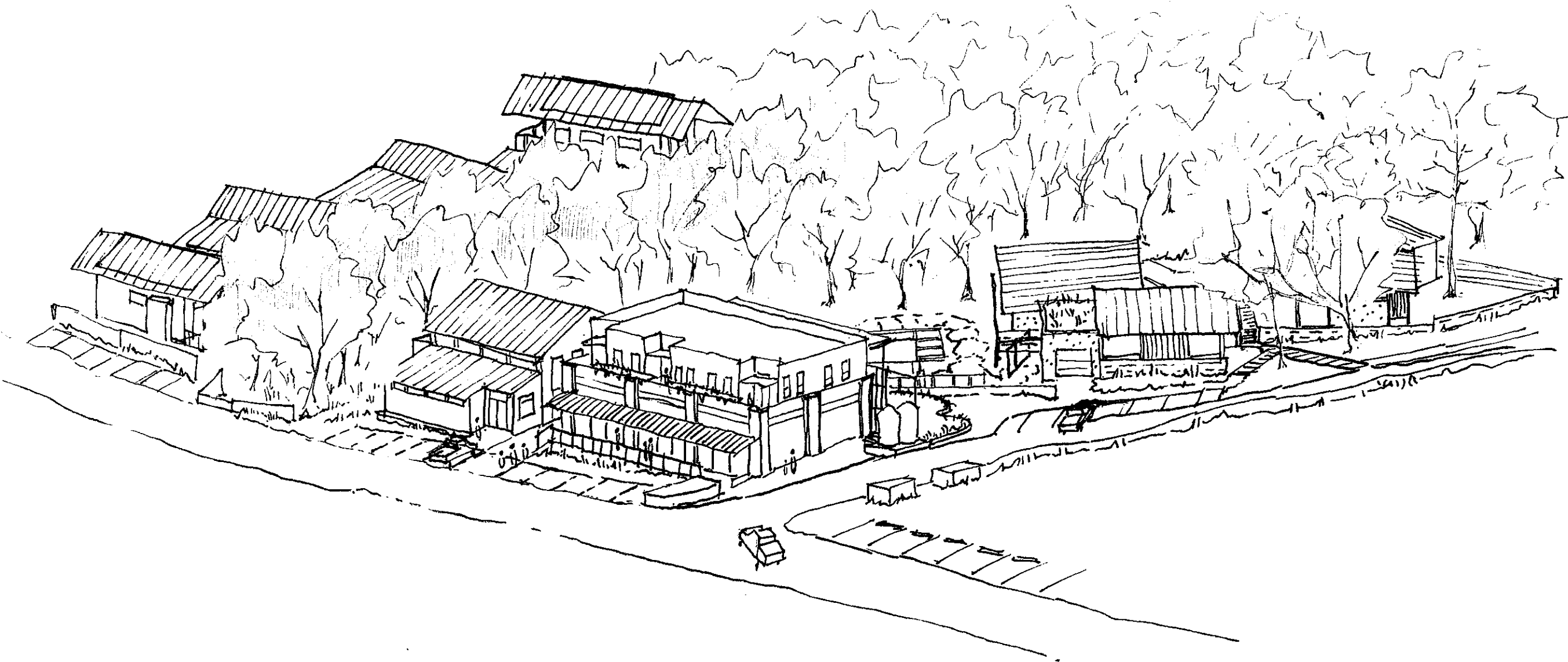
DUNAWAY
TX Registered Engineering Firm #F-1114
5707 SOUTHWEST PARKWAY
BUILDING 2, SUITE 250

6/25/2024

DUNAWAY JOB NO
B006350.001

SHEET NO	3 OF
----------	------

MASSING & CHARACTER



PROJECT GOALS

1. **Improve the creek** - 'riparian' zone restoration with minimal disruption
2. **Preserve the funk** - embracing existing concrete wash features on site
3. **Prioritize views to downtown and views to the creek** - maintaining views from Cabin D3
4. **Reclaim the site with nature** - preserving existing trees and reintroducing native flora
5. **Disrupt existing site hydrology as little as possible** - all buildings are outside the floodplain
6. **Be phase-able** - design allows for programmatic flexibility
7. **Partner with the city** - improve pedestrian access around and within the site

MIXED USE PERSPECTIVES - L2 UNIT MASSING

OPTION 2

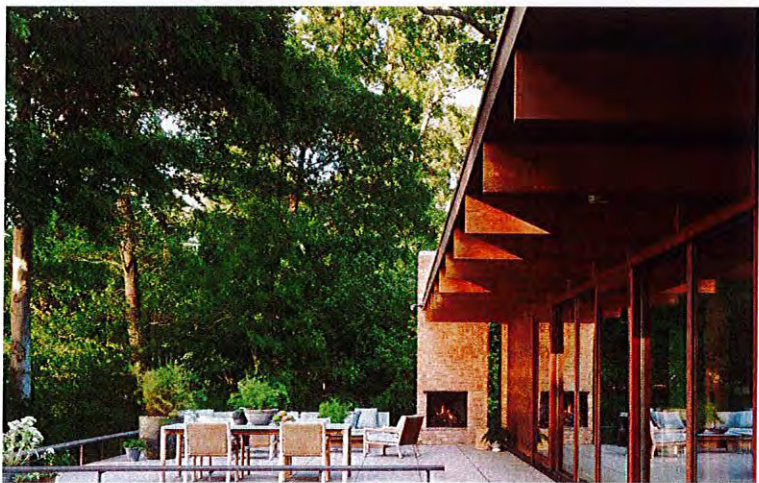


VIEW 1



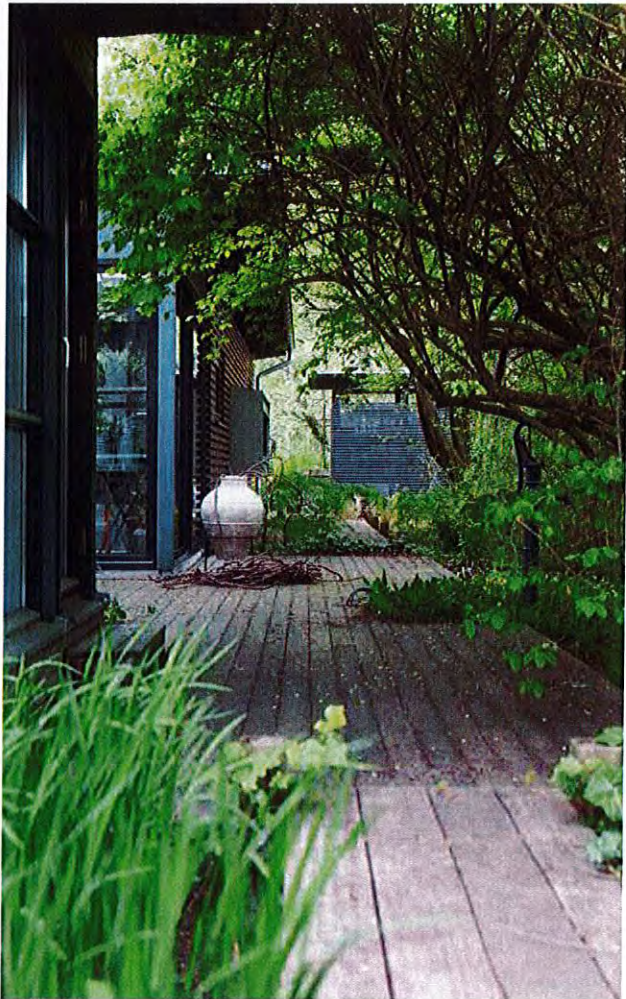
VIEW 2

SOUTH VACATION RENTALS

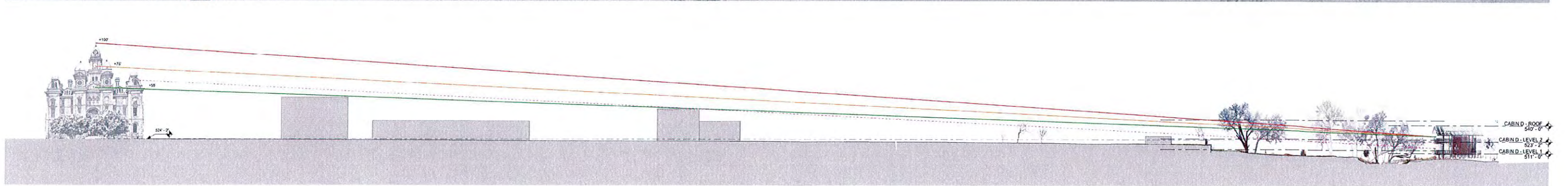


MAIN COURTYARDS & POOL

Updated Concept Images

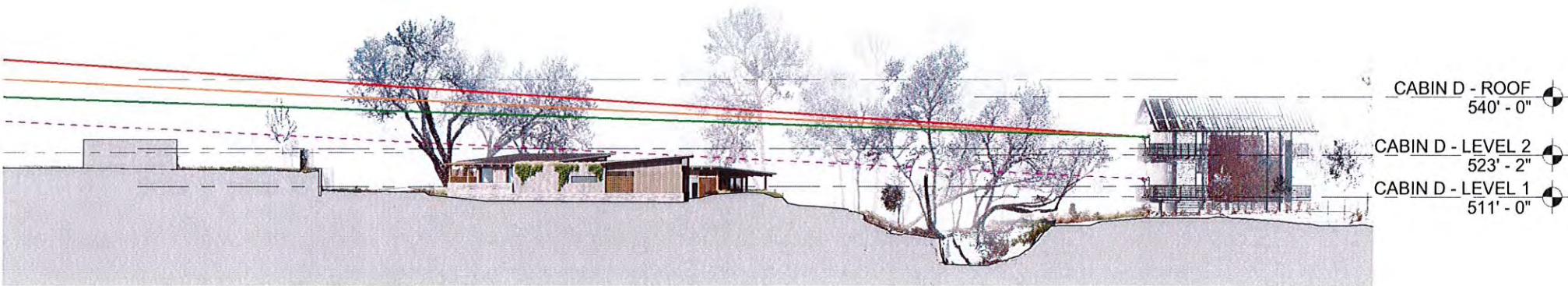
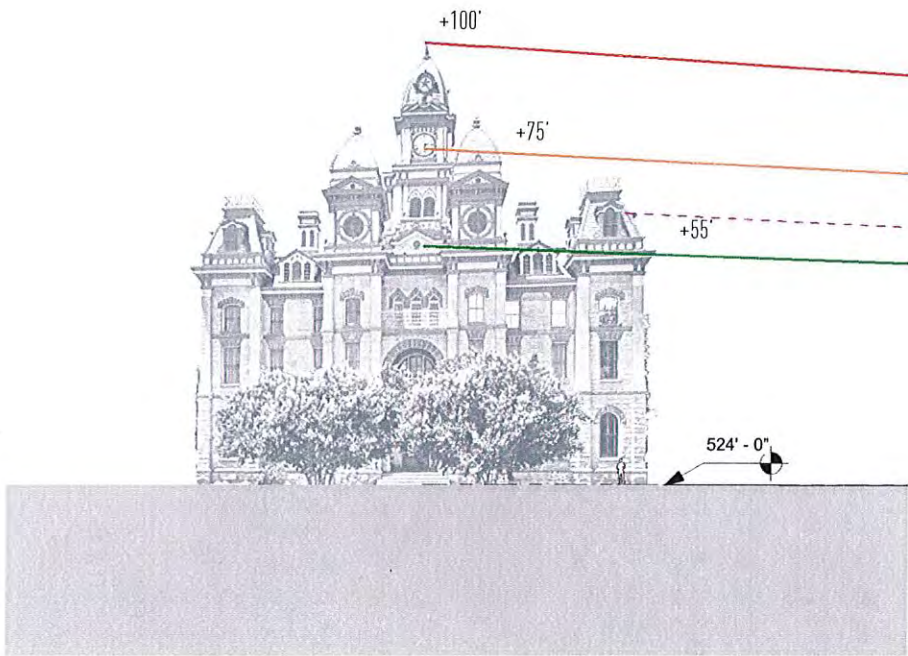


[~4 months a year, due to trees]



COURTHOUSE VIEW CORRIDOR

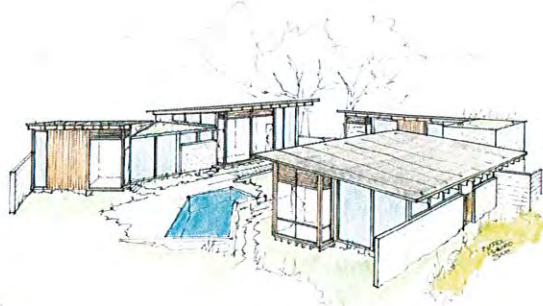
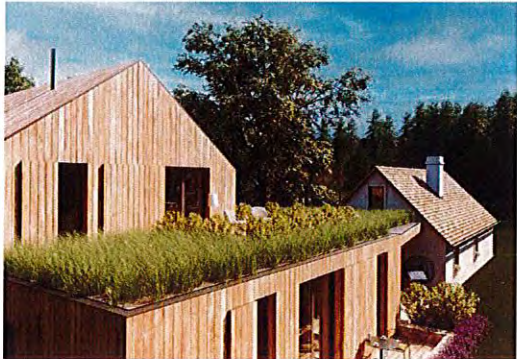
[~4 months a year, due to trees]



NOTE: THE COURTHOUSE HEIGHTS ARE BASED ON ROUGH ESTIMATES FROM GOOGLE EARTH. RECOMMENDED ON SITE, SIGHT LINES TO 100% VERIFY VIEW CORRIDOR

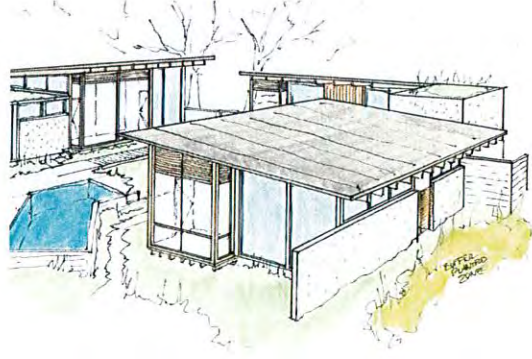
SOUTH RENTAL PERSPECTIVES

South Rentals from Cabin D L2



SOUTH RENTAL PERSPECTIVES

South Rentals from Restaurant Outdoor Dining



BUILDING A & B | RESTAURANT AND MIXED-USE

Front Elevtion View from Church Street



RESTAURANT - BACK FACADE



RESTAURANT - BACK FACADE VIEW 2



RESTAURANT - INTERIOR VIEW 1



MIXED USE - INTERIOR VIEW



City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Hold a PUBLIC HEARING and discussion and/or action on Ordinance 2024-18 amending Chapter 64 "Zoning" of the Lockhart Code of Ordinances, Appendix II, "Specific requirements for commercial districts" to adjust the maximum height within the CHB Commercial Heavy Business District and to add a required parking minimum for the "Hotel" used within the CHB Commercial Heavy Business District.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: The proposed text amendment is for the purpose of adjusting the maximum height for hotels in the CHB zoning district in order to facilitate the development of hotels in that district. The height limit for buildings in CHB is three stories and 40 feet. This height is too low to allow most modern hotel models, which are typically four-story designs, to be built by right. Additionally, the text amendment established a parking minimum based on spaces per room rather than per square foot, as the City's square footage-based requirement result in required parking much higher than what other cities require for hotels. Together, the suggested revisions will make it more feasible to build contemporary hotel designs in the only zoning district in which hotels are allowed by right.

PROJECT SCHEDULE (if applicable): None.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): None

PREVIOUS COUNCIL ACTION: Lockhart City Council has revised the Zoning Code numerous times, most recently Adopting Ordinance 2024-14 amending the code to add definitions, land use categories and a non-residential land use table on July 2, 2024.

COMMITTEE/BOARD/COMMISSION ACTION: The Planning and Zoning Commission voted unanimously to recommend approval of the proposed text amendments at their July 24, 2024 meeting.

STAFF RECOMMENDATION/REQUESTED MOTION: Approval

City of Lockhart, Texas

Council Agenda Item

Cover Sheet

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-18--CHB Height and Hotel Parking,
CHB Height and Hotel Parking Ordinance Memo for Hearings 7-15-24

ORDINANCE 2024-18

AN ORDINANCE OF THE CITY OF LOCKHART, TEXAS, AMENDING THE CITY OF LOCKHART CODE OF ORDINANCES, CHAPTER 64 “ZONING”, APPENDIX II “SPECIFIC REQUIREMENTS FOR COMMERCIAL DISTRICTS” TO MODIFY THE HEIGHT AND PARKING REQUIREMENTS OF THE COMMERCIAL HEAVY BUSINESS DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City of Lockhart Code of Ordinances (the “Code of Ordinances”) was adopted on July 7, 1998 by Ordinance No. 98-16; and

WHEREAS, On July 24, 2024, the City of Lockhart Planning and Zoning Commission held a public hearing and recommended approval of amendments to Chapter 64, Appendix II of the Zoning Ordinance in the Code of Ordinances; and

WHEREAS, The City Council of the City of Lockhart (the “City Council”) has determined that such amendments serve a public purpose and the City Council desires to amend the Code of Ordinances accordingly;

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

SECTION I. The foregoing recitals are approved and adopted herein for all purposes.

SECTION II. Chapter 64 “Zoning”, Appendix II “Specific requirements for commercial districts” is hereby amended in full to read as follows:

District	Minimum Lot area (sq. ft.)	Minimum Lot Dimensions (ft.) <u>Width</u> <u>Depth</u> (Note 1)	Maximum Lot Coverage with Structures	Minimum Building Setback from Property Line (ft.)			Maximum Height <u>Stories</u> <u>Feet</u> (Note 5)	Off-Street Parking Spaces Required (Note 7)	Remarks
				Street	Side (Note 2)	Rear			
CLB Light Business	7,500	60 — 125	75	25	20 ft. when adjoining any R district.	20	1.5 — 25	1.5 per shift person and 1 per each 300 sq. ft. of floor area.	Note 6
CCB Central Business	3,000	30 — 100	90	None	None	10	5 — 60	On-street except any structure over 3 stories shall be same as above.	Minimum 10 ft. alley connecting to street at each end.

CMB Medium Business	6,000	60 — 100	75	25	20 ft. when adjoining any R district.	20	5 — 60	1 per shift person and per each 300 sq. ft. of floor area.	Note 6
CHB Heavy Business	Same as above	Same as above	Same as above	Same as above	Same as above	Same as above	5 — 60	Same as above. Hotel uses shall be parked at 1.2 spaces per room.	Note 6
SPECIFIC REQUIREMENTS FOR ALL OTHER DISTRICTS									
AO Agricultural- Open Space	1 acre	200 — 200	30	See Note 8	See Note 8	See Note 8	3 — 30	2, plus 1 for each additional bedroom over 3 per dwelling unit.	
PI Public and Institutional	N/A	N/A	N/A		N/A	N/A	N/A	N/A	Specific requirements will be determined by the commission and/or council for each use permitted.
H or HL Historical Designation	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Appropriate concurrent historic designation to be attached per historic districts and landmarks chapter.
MH Manufactured Home (Note 9)	7,000	65 — 100	30	25	7.5 each side abutting another lot.	10	2 —	2 plus 1 for each additional bedroom over 3 (Note 3).	On corner lots, the street setback shall be 25 ft. minimum on one street and 15 ft. minimum on the other street. See Chapter 34, Code of Ordinances for manufactured

									home parks.
IL Industrial Light	6,500	60 — 105	50	25	10	10	50 —	1 per each 1,000 sq. ft. of gross floor area.	Note 6
IH Industrial Heavy	8,000	70 — 110	50	1 per each 1,000 sq. ft. of gross floor area	15	15	60 —	1 per each 1,000 sq. ft. of gross floor area.	Note 6
PDD Planned Development	5 acres	N/A	N/A	N/A	N/A	N/A	N/A	N/A	See Section 64-199.

(Ord. No. 90-03, pt. 2, 3-6-90; Ord. No. 93-20, pt. 2, 10-19-93; Ord. No. 94-03, pt. 1(9), 2-1-94; Ord. No. 95-07, pt. 1(G), 11-7-95; Ord. No. 97-21, § VI, 10-7-97; Ord. No. 97-34, § II, 12-16-97; Ord. No. 2022-46, § IV, 9-20-22)

Note—Notes 1 through 10 are set out following this appendix.

RECAPITULATION—RESIDENTIAL DEVELOPMENT TYPES

District:					
RLD		RMD		RHD	
Allowed	Permitted	Allowed	Permitted	Allowed	Permitted
SF-1	None	SF-1 SF-2 DF-1 PH-1	TH-1 PH-2 CF-1 CM-1 MH	SF-1 SF-2 DF-1 DF-2 PH-1 PH-2 CF-1 TH-1 CM-1 MF-1	CF-2 TH-2 CM-2 MF-2 MH

Note 1: Irregularly shaped lots shall have a width at the front building line of not less than 70% of the required lot width.

Note 2: Roof eaves or any other portion of a building closest to the property line must be a minimum of five feet from the property line, except for patio home and townhouse residential development types, and except for the PI and commercial zoning districts, where certain building walls are allowed to be along the property line in accordance with the applicable building and fire codes. Exterior building walls allowed along a property line, and not abutting another exterior building wall on the adjacent lot, shall require the dedication of a minimum five-foot wide private access easement on the adjacent lot along and contiguous to the length of the building wall for the purpose of constructing and maintaining the wall, except where said property line is also a street right-of-way line.

Note 3: Off-street parking for more than 5 vehicles, including ingress and egress shall be approved by the zoning administrator prior to issuance of a building permit.

Note 4: The number of dwelling units allowed; by dividing the total land area by the required minimum lot area for the development type.

Note 5: When height exceeds 2 stories the side and rear setback shall be increased 10 ft. for each additional story when adjoining any R district.

Note 6: When drive-through capability is not provided for service vehicles the rear building setback shall be 35 ft. minimum with a 20 ft. setback on one side.

Note 7: Drive-through and driveway facilities shall not be included as parking areas.

Note 8: Will be no less than that required for appropriate equivalent structure type and use as specified for other districts.

Note 9: These requirements are only for manufactured homes or site-built single-family dwellings on residential lots. Manufactured home parks shall comply with the provisions of chapter 34, City Code.

Note 10: On a lot that is not a corner lot where there are existing dwellings on at least three separate lots on the same side of the street in the same block, and where the average setback of all dwellings on the same side of the street in the same block is less than the minimum specified, the street setback may be reduced to that average for the construction or alteration of additional dwellings.

(Ord. No. 94-03, pt. 1(10), 2-1-94; Ord. No. 95-07, pt. 1(H), 11-7-95; Ord. No. 97-21, § VI, 10-7-97)

SECTION III. 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.

SECTION IV. 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.

SECTION V. 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.

SECTION VI. 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.

SECTION VII. Effective Date. That this ordinance shall become effective and be in full force immediately upon its passage.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, ON THIS THE 6th DAY OF AUGUST 2024.

CITY OF LOCKHART

Lew White
Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Bowermon
City Secretary

Brad Bullock
City Attorney

TO: Lockhart City Council

FROM: David Fowler AICP, Planning Director

SUBJECT: CHB Commercial Heavy Business amendments for building height and hotel parking

DATE: July 31, 2024

Dear Mayor and City Council:

The attached proposed code amendment updates the maximum height allowed in the CHB Commercial Heavy Business District and adds specific requirements for parking the “Hotel” use within the district on the Chapter 64 Appendix II “Specific requirements for commercial districts” table.

The CHB district’s current height maximum is three stories and 40 feet. The maximum heights allowed in the CCB Commercial Central Business and CMB Commercial Medium Business districts are five stories and 60 feet, which is higher, despite those districts having overall lower intensities of allowed land uses. This proposed amendment changes the CHB district’s height maximums to match these less-intense districts, resulting in an allowed height of five stories and 60 feet. The impetus for this recommendation is the fact that modern hotels, especially when located on highway frontages, are generally built to be four stories in height. Since hotels are only allowed by right in the CHB district and permitted in the CCB district, bringing the CHB district’s height standards up to match the less-intense CMB and CCB standards is a logical step to encourage the development of additional hotels and conference spaces in Lockhart.

Additionally, this proposal includes new text in the parking column of the Appendix II table to require 1.2 parking spaces per room for hotel uses in the CHB district. Staff surveyed other Texas cities’ parking requirements and found they ranged between 0.8 and 1 space per room. However, these cities also required additional parking spaces either for square footage of the conference space included in the hotel or by the number of employees. For simplicity in calculating the required parking, staff proposes 1.2 parking spaces per room and no additional parking required for accommodating accessory convention spaces or employees.

**SPECIAL MEETING
LOCKHART CITY COUNCIL**

OCTOBER 23, 2023

6:30 P.M.

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

Council present:

Councilmember John Castillo
Councilmember Juan Mendoza
Mayor Pro-Tem Angie Gonzales-Sanchez

Mayor Lew White
Councilmember Brad Westmoreland
Councilmember Jeffry Michelson

Council absent:

Councilmember Kara McGregor

Staff present:

Steve Lewis, City Manager
Joseph Resendez, Assistant City Manager
Travis Hughes, Parks Director
Julie Bowermon, Civil Service/HR Director

Citizens/Visitors Addressing the Council: Robby Hazelbecker of Water Technology, Inc; Kari Biddix of Halff Associates; and Scott Caron of Ballard King.

ITEM 1. CALL TO ORDER,

Mayor Lew White called the meeting to order at 6:30 p.m.

Mayor White announced that some members of the Parks Advisory Board and Aquatics Committee were present.

ITEM 2-A. DISCUSSION AND CONSIDERATION OF A PRESENTATION FROM HALFF ASSOCIATES, INC. AND WATER TECHNOLOGY, INC. (WTI) REGARDING FUTURE AQUATIC FACILITIES CONCEPT PLANS AND RELATED CONCEPTUAL COST ESTIMATES.

Mr. Hughes stated that representatives of Halff Associates, Water Technology, Inc. and Ballard King would give the presentation of the Phase II results for the Aquatic Facilities study.

Robby Hazelbecker of Water Technology, Inc; Kari Biddix of Halff Associates; and Scott Caron of Ballard King provided information and there was discussion regarding the following:

Recent Aquatic Committee/Park's Commission

Phase II Workshop, Held Sept. 28, 2023

- Reviewed City-Wide Survey performed by Halff and associates;
- Summarized the Ballard*King Market Research;
- Confirmed Aquatic goals, objectives, activities and uses;
- Developed Aquatic program after virtual tour of similar facilities;
- Prioritized Features & Amenities;
- Conducted consensus exercises using a priorities handout and image boards for attendees voting;
- Reached consensus on number of pools and their planned use.

SUMMARY OF RECENT SURVEY RESULTS

A Public Survey was conducted for the Parks, Recreation and Open Space Master Plan Update which included multiple questions on Aquatics

- 128 respondents
- Opened on July 11
- Closed on August 22

Park Activities You Would Like to Participate In

ADULTS

1. Exercising on Trails
2. Swimming
3. Special events
4. Viewing nature
5. Canoeing or kayaking

CHILDREN

1. Playgrounds
2. Splash pad
3. Swimming
4. Arts/crafts classes
5. Soccer

Most Important Facilities or Amenities

1. New/upgraded restrooms
2. Trees and Landscaping
3. Benches
4. Walking/hiking trails
5. Swimming Pool

Top Priorities

1. Construct a new aquatics facility (indoor/outdoor) – 34% voted as top priority
2. Improvements/maintenance of existing parks and recreation facilities – 23% voted as top priority
3. Development of new indoor facilities – 13% voted as top priority

96% of survey respondents indicated that swimming pools are important facilities.

45 mentions in the survey open ended comments about swimming, splash pads, and pools.

POINTS MADE IN THE MARKET STUDY

- Primary service area: Lockhart City limits
 - Population: 14,725 : Typically, can support one outdoor pool
- Secondary service area: Within a 20-Minute drive; Population: 69,743
 - Distance from which individuals may travel to participate but on a limited basis.
- Due to the presence of alternative facilities, creeks and reservoirs in this area, people have options for participation.
- At least 34.0% of households include at least one child.
- 10% of people participating in swimming are looking for an organized activity, while 90% are in search of unorganized use. This further emphasizes the need for the leisure components.
- The Market Potential Index (MPI) for adults that participate in swimming is near the national number. This level of participation demonstrates the importance of having a pool in Lockhart.
- The identified service areas have a lower median household income than the National Average. Two Challenges with this fact:
 - Pre-conceived notion about admission fees and charges
 - Appropriate budget for maintenance and staffing
- Cost of Living: Less than the National number

- 22.7% of the population is under age 18, which is greater the national average.
- The population under 45 will grow demonstrating the need to cater to this market.
- In the case of swimming, Hispanic participation is greater than the national average.
- The most prominent Tapestry groups are conservative, family-oriented, and have a high participation rate in parks and recreation programs and facilities.

SELECTED PROGRAMS

Leisure Pool

- Beach Entry with Geysers
- Mini-Dumping Buckets
- Under Water Benches
- Water Basketball/Volleyball
- Large Areas for Learn to Swim Program and Water Exercise
- Option to Heat
 - Spring/Late Fall
- Rentable Shade Structures
- Birthday Pavilion
- Single Tube Slide with Run-out on Deck

Six-Lane, 25-Yard Training Pool with Diving

- Deep Water Pool (4'- 0" to 12'- 6") for:
 - Swim Team Program Development
 - Lifeguard Training
 - Advanced Swim Lessons
 - Scuba, Kayak, Class Potential
- Two 1-Meter Diving Boards
- Large Exercise Area
- Water Rentals and Special events
- Future Drop slide

LOCKHART AQUATIC CENTER OPERATIONS

Assumptions

- Final design could impact part-time staffing levels and influence revenue
- First year of operation will be 2025
- Primary Season of Memorial Day through Labor Day (approx. 13 weeks)
- Use by the High School during the school year

Ballard*King takes a conservative approach

- Built on industry standards and best practices

Recommendations

- Add year-round full-time coordinator for pool operations
- Annual allocation for capital/equipment replacement
- Purchase recreation management software
- Develop aquatic operations manual

Proposed Admission fees

Proposed revenue and expenditures to operate the aquatic facility

Concept development proposals

COST OPINION

Leisure/Teaching Pool

Concept A: 4,260 SF.

Pool Costs \$1,680,000

Play Structure \$162,000

Shade Structures (4) \$60,000

Concept B: 4,500 SF.
Pool Costs \$1,785,000
Spray Features \$62,000
Shade Structures (4) \$60,000
(Tube Slide/Tower \$376,850 – not included in cost)

Total Aquatic and Mechanical Costs: \$1.91M

Six Lane Competition Pool

Both Concepts 3,400 SF.
Deep Water Pool \$1,575,000
2-one Meter Boards included
(Future Drop Slide \$75K-130,000 – not included in cost)

Exclusions

Bath House/Mechanical Building/Party Pavilion
Haul Off of Soils
Survey
Soil Conditioning
Shade Structures
Housekeeping Pads
Electrical Bonding
Water, Sewer, and Electrical Hookups
Decks and Sealants
Pool Heater for Competition Pool
Starting Blocks & Lifeguard chairs
Expansion Joints
Permits
Parking/Landscape
Sales Tax
Estimate of Cost \$3.5 - \$4M (To be confirmed by an architect)

There was discussion regarding trends and programs offered of an Aquatics facility.

CONSENSUS: The consensus of the Council was that staff continue exploring how to finance the facility as well as possible locations for it.

ITEM 3. ADJOURNMENT

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 7:45 p.m.

PASSED and APPROVED this the 6th day of August, 2024.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon
City Secretary

**SPECIAL MEETING
LOCKHART CITY COUNCIL**

OCTOBER 30, 2023

6:30 P.M.

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

Council present:

Councilmember John Castillo
Councilmember Juan Mendoza
Councilmember Jeffry Michelson

Mayor Lew White
Councilmember Brad Westmoreland
Councilmember Kara McGregor
Mayor Pro-Tem Angie Gonzales-Sanchez

Staff present:

Steve Lewis, City Manager
Joseph Resendez, Assistant City Manager
David Fowler, Planning Director
Victoria Burns, Public Information Officer

Brad Bullock, City Attorney
Julie Bowermon, Civil Service/HR Director

Citizens/Visitors Addressing the Council: None.

ITEM 1. CALL TO ORDER,

Mayor Lew White called the meeting to order at 6:30 p.m.

ITEM 2-A. CONSIDERATION AND ACTION ON PETITION FOR RELEASE OF 389.249 ACRES FROM THE CITY'S ETJ FILED BY PHAU-LOCKHART 450, LLC.

Mayor White announced that the item would be discussed in Executive Session.

Mayor White announced that the Council would enter Executive Session at 6:31 p.m. to discuss the following:

ITEM 3. 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.

B. DISCUSSION WITH CITY ATTORNEY REGARDING LEGAL ADVICE RELATED TO SB 2038.

ITEM 4. OPEN SESSION

Mayor White announced that the Council would enter Open Session at 7:30 p.m.

A. DISCUSSION AND/OR ACTION REGARDING A PETITION FOR RELEASE OF PROPERTY FROM THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF LOCKHART.

Mayor White made a motion that the PHAU-LOCKHART 450, LLC. petition to remove property from the City's ETJ be denied because SB 2038 is an unconstitutional delegation of legislative authority and it conflicts with Local Government Code Section 420.023 City of Lockhart does not consent to a reduction of its ETJ. Councilmember McGregor seconded. The motion passed by a vote of 7-0.

B. DISCUSSION AND/OR ACTION REGARDING AUTHORIZING CITY ATTORNEY TO TAKE APPROPRIATE ACTION RELATED TO SB 2038.

Mayor White made a motion to authorize the City Attorney to join the Grand Prairie lawsuit regarding SB 2038. Councilmember McGregor seconded. The motion passed by a vote of 7-0.

ITEM 5. ADJOURNMENT

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 7-0. The meeting was adjourned at 7:35 p.m.

PASSED and APPROVED this the 6th day of August, 2024.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon
City Secretary

**SPECIAL MEETING
LOCKHART CITY COUNCIL**

NOVEMBER 20, 2023

6:00 P.M.

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

Council present:

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

Mayor Lew White
Councilmember Kara McGregor
Councilmember Brad Westmoreland

Council absent:

Councilmember John Castillo

Staff present:

Steven Lewis, City Manager
Victoria Burns, Public Information Officer
Bertha Martinez, Library Director
Randy Jenkins, Fire Chief

Julie Bowermon, City Secretary
Gary Williamson, Police Chief
Sean Kelley, Public Works Director

Citizens/Visitors Addressing the Council: None.

ITEM 1. CALL TO ORDER.

Mayor Lew White called the meeting to order at 6:00 p.m. He announced that Councilmember Castillo would not be able to attend the meeting.

COUNCIL ACTION REGARDING THE NOVEMBER 7, 2023 GENERAL ELECTION.

ITEM 2-A. DISCUSSION AND/OR ACTION TO CONSIDER RESOLUTION 2023-18 CANVASSING THE GENERAL ELECTION HELD NOVEMBER 7, 2023 FOR THE ELECTION OF MAYOR; COUNCILMEMBER DISTRICT 3; AND, COUNCILMEMBER DISTRICT 4.

Mayor White announced that the election results would be read to canvass the November 7, 2023 City of Lockhart General Election.

The election results were read as follows:

Mayor Pro-Tem Sanchez read the election results for Mayor.
Councilmember Mendoza read the election results for District 3.
Councilmember Westmoreland read the election results for District 4.

		ABSENTEE	EARLY VOTING	ELECTION DAY	TOTAL
MAYOR	Lew White	15	849	563	1,427
	Juan Alvarez, Jr	4	252	260	516
DISTRICT 3	John Lairsen	8	327	195	530
	Barry Bacom	5	165	132	302
DISTRICT 4	Jeffry Michelson	1	234	157	392

Mayor White read Resolution 2023-18 in its entirety and announced that the following were elected:

Lew White as Mayor

John Lairsen as Councilmember District 3

Jeffry Michelson as Councilmember District 4

Mayor Pro-Tem Sanchez made a motion to approve Resolution 2023-18, as presented. Councilmember Westmoreland. The motion passed by a vote of 6-0.

ITEM 2-B. ADMINISTER OATH OF OFFICE TO NEWLY ELECTED COUNCILMEMBERS AS FOLLOWS:

Judge Chris Schneider administered the Oath of Office to Lew White as Mayor.

Judge Todd Blomerth administered the Oath of Office to John Lairsen as Councilmember District 3.

Judge Chris Schneider administered the Oath of Office to Jeffry Michelson as Councilmember District 4.

Councilmember John Lairsen took his seat at the Council dais.

ITEM 2-C. RECOGNITION TO OUTGOING COUNCILMEMBER KARA MCGREGOR.

Mayor White presented a plaque of appreciation to Kara McGregor for serving as Councilmember District 3 from 2017 to 2023.

Ms. McGregor thanked the Lockhart City Council and the community for their guidance and support during her tenure as Councilmember District 3. She expressed appreciation of the grace and support of the residents of District 3.

Mayor White thanked Ms. McGregor for her outstanding service to the community during her tenure as Councilmember District 3.

ITEM 3. ADJOURNMENT – RECEPTION TO FOLLOW ADJOURNMENT OF CITY COUNCIL MEETING.

Mayor Pro-Tem Sanchez made a motion to adjourn the meeting. Councilmember Mendoza seconded. The motion passed by a vote of 6-0. The meeting was adjourned at 6:20 p.m.

PASSED and APPROVED this the 6th day of August, 2024.

CITY OF LOCKHART

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Approve pipeline crossing and encroachment agreements between Union Pacific Railroad (UPRR) and the City of Lockhart related to the Lockhart Economic Development Administration (EDA) Grant.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: In late 2022, the City of Lockhart was awarded a grant from the US Economic Development Administration for the development of a new wastewater main along the Union Pacific Railroad tracks from Tank Street to the Windridge subdivision. This wastewater improvement was to bolster the utilities for industrial projects near the new industrial park, along with increasing the capacity of the utility for commercial and residential projects in the area. The grant award was for \$2,100,000 (\$1,680,000 Federal Share- 80%, \$420,000 Local Share- 20%).

Since the project is located along the Union Pacific right-of-way, it is necessary to obtain permission to place utilities in or along the right-of-way by way of licensing agreements. This 4,150 linear foot project will require a total of three railroad crossings and one land encroachment along the route. The crossings have been designed to Union Pacific required standards, which include the construction and placement of steel carrier pipes to encase the pipelines at all railroad crossings. These carrier pipes are necessary to perform any future maintenance on the pipeline without disturbing the railway.

The three crossings cost \$22,930, the encroachment cost is \$35,490, for a total cost of \$58,420 due to Union Pacific for the placement of the utilities in UPRR's property. The founding sources for this wastewater improvement project include the EDA, Lockhart Economic Development Corporation and Wastewater Impact Fees.

If approved, the next steps in the project will be to obtain the final easement from neighboring property owners and seek competitive bids for the construction of the project.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully recommends approval of the Pipeline Crossing Agreements and Pipeline Encroachment Agreement with Union Pacific Railroad.

LIST OF SUPPORTING DOCUMENTS: EDA Wastewater Grant Exhibit, 0793400 City of Lockhart - Lockhart, TX, 0793401 City of Lockhart - Lockhart, TX, 0793402 City of Lockhart Encroachment - Lockhart Sub MP 36.99, 0793403 City of Lockhart - Lockhart, TX

CITY OF LOCKHART, TEXAS REVISED EXHIBIT 1 SITE PLAN PROPOSED SEWER LINE EXTENSION

LEGEND

PROPOSED 12" GRAVITY LINE

PROPOSED 18" GRAVITY LINE

PROPOSED 24" GRAVITY LINE

EXISTING 12" SEWER LINE

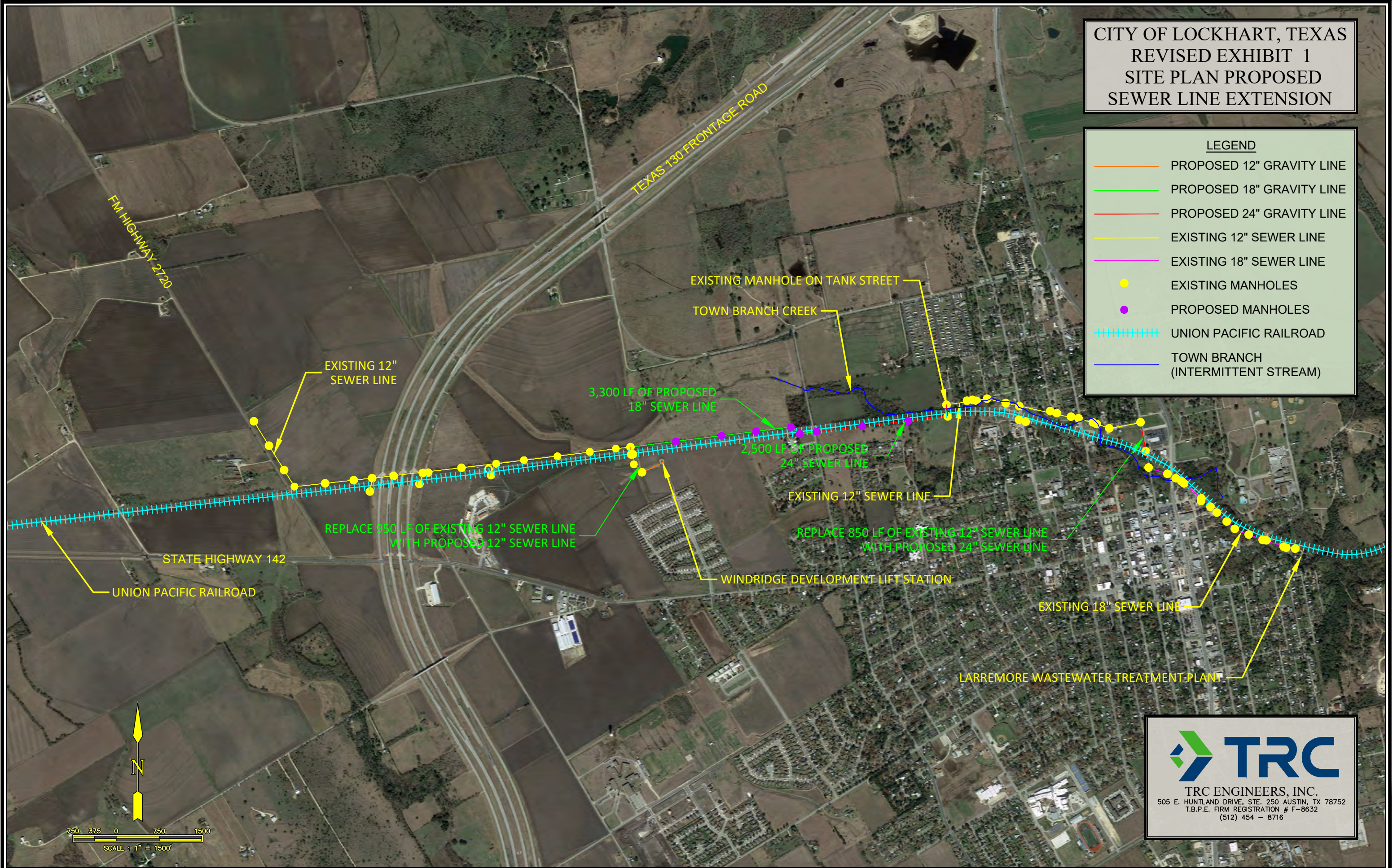
EXISTING 18" SEWER LINE

EXISTING MANHOLES

PROPOSED MANHOLES

UNION PACIFIC RAILROAD

TOWN BRANCH
(INTERMITTENT STREAM)



TRC ENGINEERS, INC.

505 E. HUNT LAND DRIVE, STE. 250 AUSTIN, TX 78752

T.B.P.E. FIRM REGISTRATION # F-8632

(512) 454 - 8716



July 8, 2024
Project: 0793400

CITY OF LOCKHART, TEXAS

Re: Proposed Underground 12 Inch Plastic Pipeline Crossing Encased In A 24 Inch Steel Casing For Transporting And Conveying Sewer Pipeline Crossing of Railroad Property at Mile Post 38.1 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please return the executed agreement via email. For any payment(s), please follow the accompanying instructions.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company.

- Payment in the amount of Six Thousand Five Hundred Dollars (**\$6,500.00**) is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, with Project No. 0793400 noted on that document. If you require formal billing, you may consider this letter as a formal bill and that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE CROSSING AGREEMENT

Mile Post: 38.1, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 8, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, a Texas Municipal Corporation to be addressed at 308 W San Antonio St, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 12 inch plastic pipeline crossing encased in a 24 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated January 9, 2024, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 12 inch plastic pipeline crossing encased in a 24 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Six Thousand Five Hundred Dollars (**\$6,500.00**).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793400)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St
Lockhart, Texas 78644

Article 12. AGREEMENT TO SUPERSEDE

This Agreement shall cancel and supersede the Original Agreement dated April 28, 2017 and identified as Audit No. 284816 and shall take effect as of the Effective Date first herein written. The Original Agreement shall terminate and the terms and conditions of this Agreement shall govern the use, maintenance and repair of the pipeline crossing.

Article 13. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

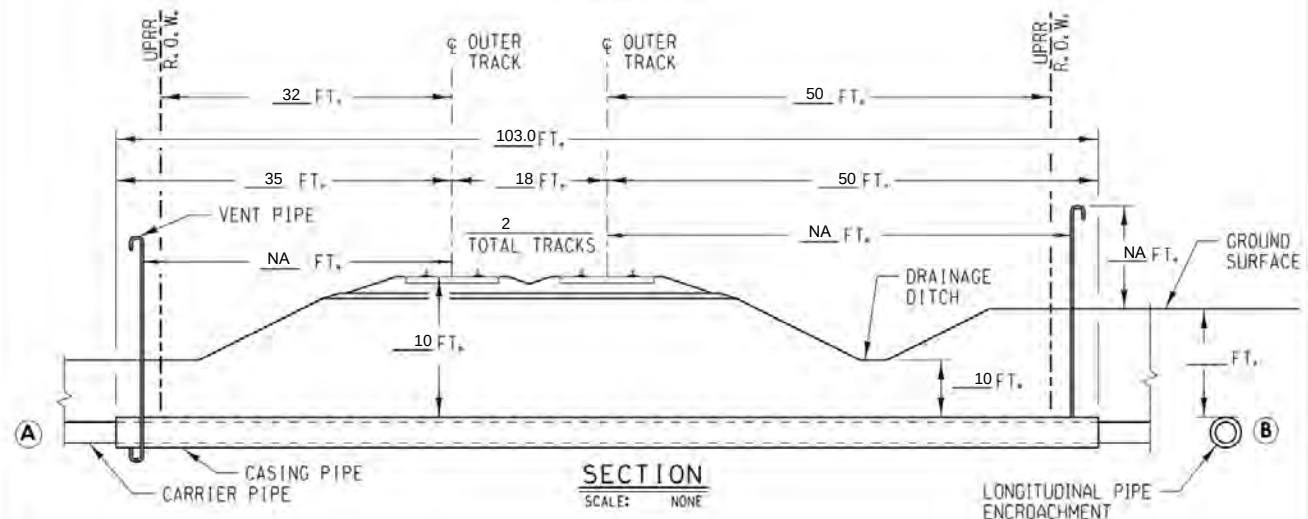
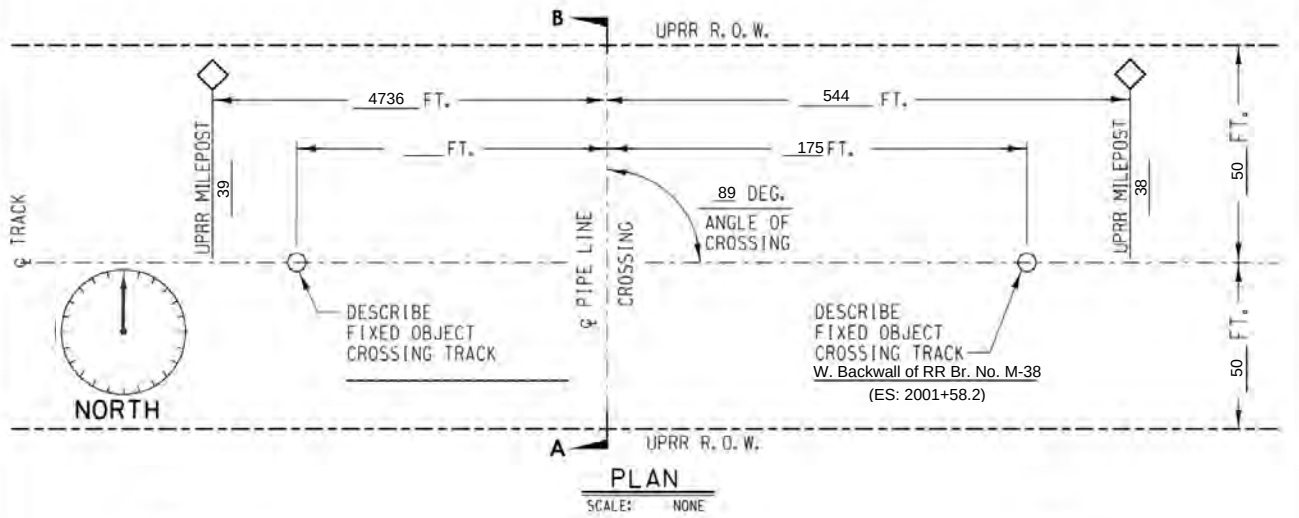
Craig O Benson
Sr Mgr Real Estate - Contracts

Name Printed: _____

Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.1

A) METHOD OF INSTALLATION BORED AND JACKED
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT _____
 C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
 D) CARRIER MATERIAL PLASTIC, IF RCP, CLASS V? NA
 COMMODITY TO BE CONVEYED SEWER
 OPERATIONAL PRESSURE 0 PSI, MAOP 6 PSI.
 WALL THICKNESS (INCH)/ SCHEDULE 80, DIAMETER 12 IN.
 CATHODIC/COATING PROTECTION NO
 E) CASING MATERIAL STEEL PIPE, IF RCP, CLASS V? NA
 TOTAL LENGTH CASING PIPE: 103 FT.
 WALL THICKNESS 0.375 IN. DIAMETER 24 IN.
 CATHODIC/COATING PROTECTION NO
 CASING PIPE IS SEALED AT THE ENDS.
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 35 AND 50.



BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 38.10

LAT.: 29.88944444

E.S.M.: 2003+33.2

LONG.: -97.70111111

NEAREST CITY: LOCKHART

COUNTY: CALDWELL

STATE: TX

APPLICANT: CITY OF LOCKHART, TEXAS

FILE NO.: 0793400

DATE: 1/9/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensee to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensors has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.



July 8, 2024
Project: 0793401

CITY OF LOCKHART, TEXAS

Re: Proposed Underground 18 Inch Plastic Pipeline Encased In A 36 Inch Steel Casing For Transporting And Conveying Sewer Pipeline Crossing of Railroad Property at Mile Post 37.5 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please return the executed agreement via email. For any payment(s), please follow the accompanying instructions.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company.

- Payment in the amount of Twelve Thousand Nine Hundred Thirty Dollars (**\$12,930.00**) is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, with Project No. 0793401 noted on that document. If you require formal billing, you may consider this letter as a formal bill and that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE CROSSING AGREEMENT

Mile Post: 37.5, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 8, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, a Texas Municipal Corporation to be addressed at 308 W San Antonio St, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 18 inch plastic pipeline encased in a 36 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated January 9, 2024, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 18 inch plastic pipeline encased in a 36 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Twelve Thousand Nine Hundred Thirty Dollars (**\$12,930.00**).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licensor at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licensor herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licensor to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licensor of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licensor to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licensor, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licensor's written consent, will be absolutely void and may result in Licensor's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licensor's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793401)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St
Lockhart, Texas 78644

Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

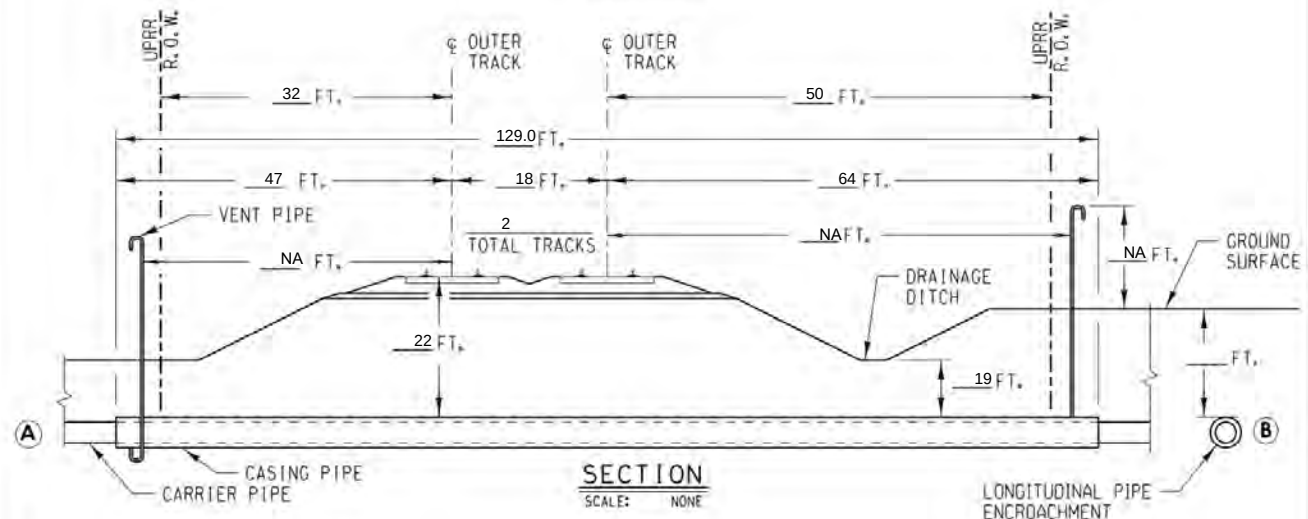
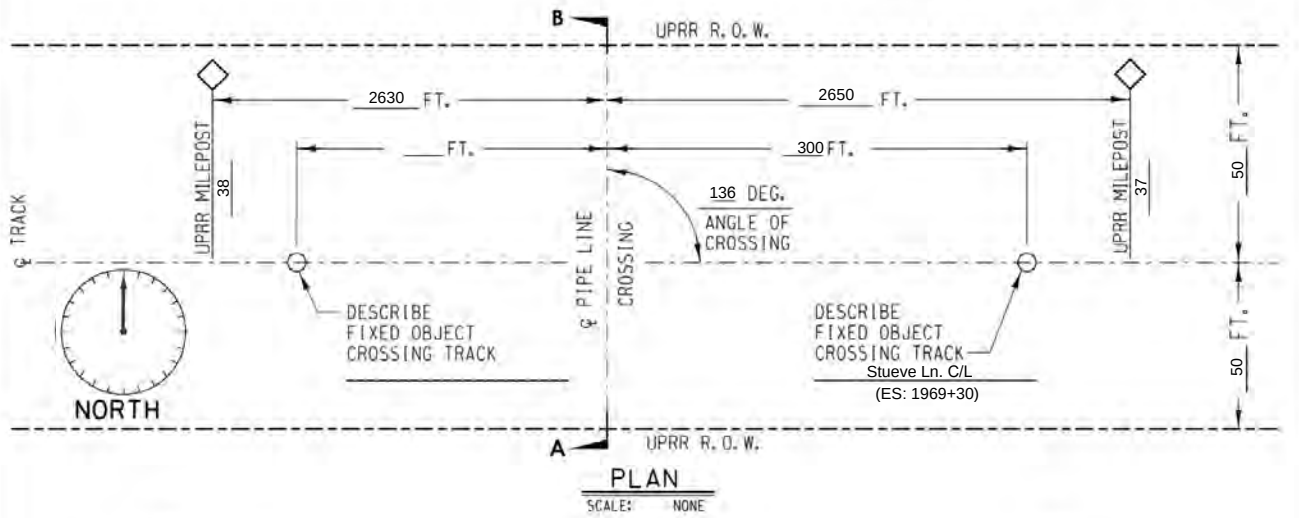
Craig O Benson
Sr Mgr Real Estate - Contracts

Name Printed: _____

Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1. CHAPTER 1. PART 5. SECTION 5.1

A) METHOD OF INSTALLATION BORED AND JACKED
 B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT _____
 C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
 D) CARRIER MATERIAL PLASTIC, IF RCP, CLASS V? NA
 COMMODITY TO BE CONVEYED SEWER
 OPERATIONAL PRESSURE 0 PSI. MAOP 6 PSI.
 WALL THICKNESS (INCH)/ SCHEDULE 80, DIAMETER 18 IN.
 CATHODIC/COATING PROTECTION NO
 E) CASING MATERIAL STEEL PIPE, IF RCP, CLASS V? NA
 TOTAL LENGTH CASING PIPE: 180.48 FT.
 WALL THICKNESS 0.625 IN. DIAMETER 36 IN.
 CATHODIC/COATING PROTECTION NO
 CASING PIPE IS SEALED AT THE ENDS
 F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 47 AND 64.



BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 37.50

LAT.: 29.89027778

E.S.M.: 1972+30

LONG.: -97.69138889

NEAREST CITY: LOCKHART

COUNTY: CALDWELL

STATE: TX

APPLICANT: CITY OF LOCKHART, TEXAS

FILE NO.: 0793401

DATE: 1/9/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensee to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensors has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.



July 29, 2024
Project: 0793402

CITY OF LOCKHART, TEXAS

RE: Proposed Construction of An Underground 24 Inch Uncased Plastic Pipeline Encroachment And A 24 Inch Plastic Pipeline Crossing Encased In A 48 Inch Steel Casing For Transporting And Conveying Sewer Only Between Mile Posts 36.99 and 37.1 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas.

Attached is an original of the agreement covering your use of the Railroad Company's right of way. **Review and return the partially executed agreement via email.**

Payment, with Project No. 0793402 referenced, in the amount of **Thirty Five Thousand Four Hundred Ninety (\$35,490.00)** is due and payable to Union Pacific Railroad Company upon your execution of the agreement. If you require formal billing, you may consider this letter as a formal bill. In compliance with the Internal Revenue Service's new policy regarding their Form 1099, I certify that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.

Send Electronic Payments to:

Name: Bank of America, Dallas, TX
Union Pacific Account = 3752021457
• ACH Routing Number = 1110-0001-2
• Wire Routing Number = 026009593

Mail Checks to:

Union Pacific Railroad Company
12567 Collection Center Drive
Chicago, IL 60693
• **CHECKS ONLY – NO AGREEMENTS**

UP does not currently offer a credit card option for these payments.

Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed document within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

After final approval and processing, the fully-executed agreement will be returned to you via email with instructions for coordinating your work. In no event should you begin work until you have received your counterpart of the fully-executed agreement.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE ENCROACHMENT AND CROSSING AGREEMENT

Between Mile Posts 36.99 and 37.1, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 29, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, Texas Municipal Corporation to be addressed at 308 W San Antonio St, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 24 inch uncased plastic pipeline encroachment and an underground 24 inch plastic pipeline crossing encased in a 48 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated April 11, 2024, attached hereto as **Exhibit A-1 & A-2** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 24 inch uncased plastic pipeline encroachment and a 24 inch plastic underground pipeline crossing encased in a 48 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Thirty Five Thousand Four Hundred Ninety Dollars (\$35,490.00).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licenser at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licenser to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licenser herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licenser to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licenser of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licenser to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licenser, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licenser's written consent, will be absolutely void and may result in Licenser's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licenser's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793402)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St
Lockhart, Texas 78644

Article 12. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

Jim Hild
Director Real Estate - Contracts

Name Printed: _____

Title: _____



LEGEND:

- PIPELINE ENCROACHMENT — — — — —
- PIPELINE CROSSING — — — — —
- UPRRCO. R/W OUTLINED - - - - -

CADD FILENAME	0793402
SCAN FILENAME	X

NOTE: BEFORE YOU BEGIN ANY WORK, SEE
AGREEMENT FOR FIBER OPTIC PROVISIONS.

EXHIBIT "A-1"

UNION PACIFIC RAILROAD COMPANY

LOCKHART, CALDWELL COUNTY, TX

LOCKHART SUB M.P. 37.99

MAP MKT/V-6D/35

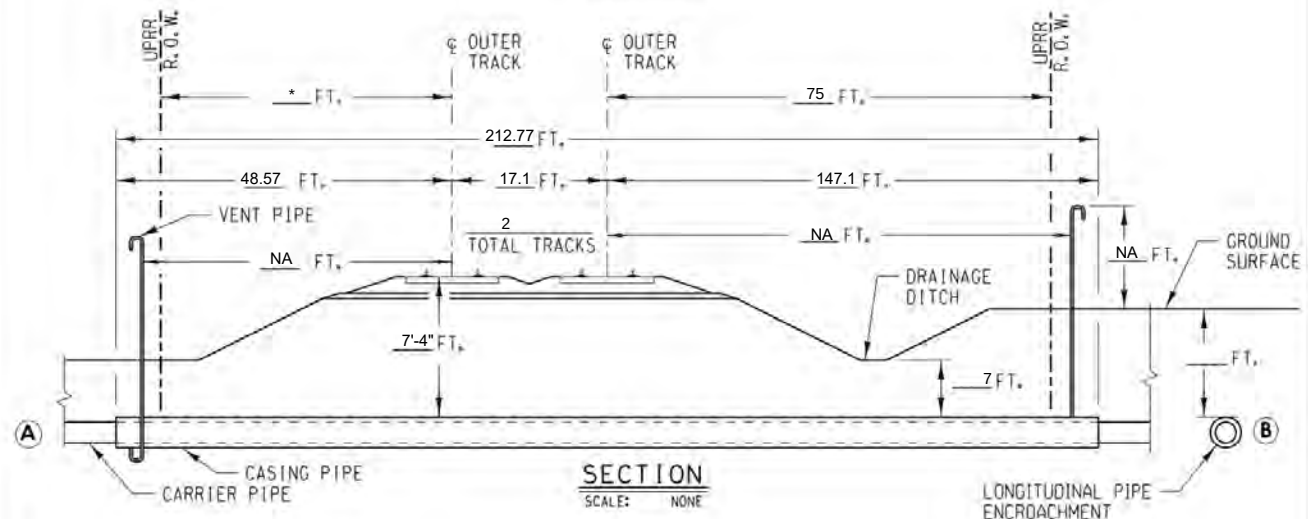
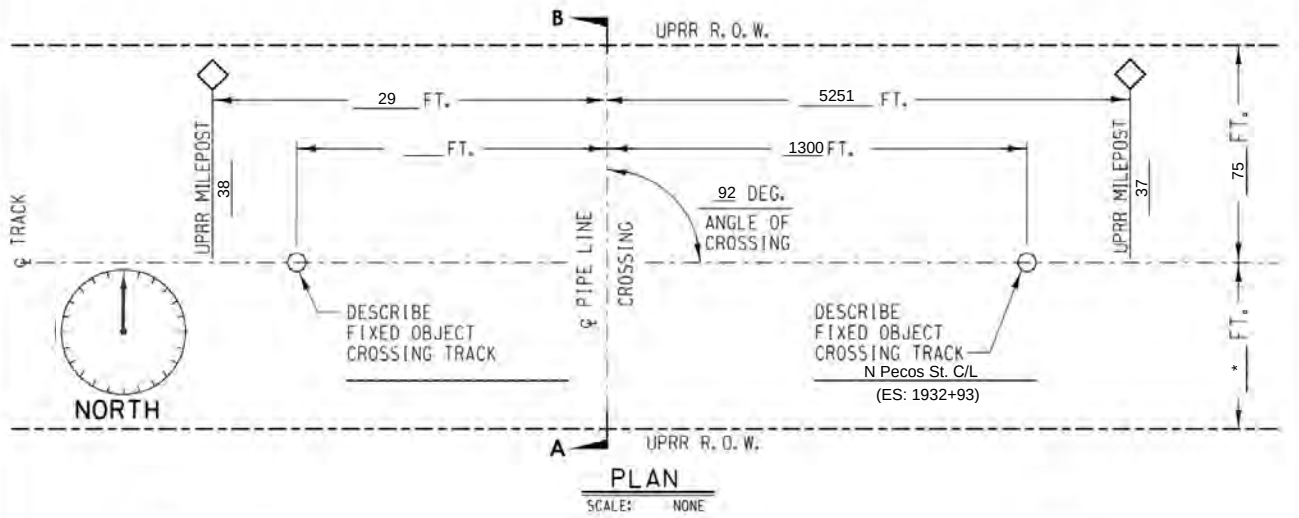
SCALE: 1" = 100'

OFFICE OF REAL ESTATE
OMAHA, NEBRASKA DATE: 4/11/2024

JDB FILE: 0793402

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.1

- A) METHOD OF INSTALLATION BORED AND JACKED
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT
- C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
- D) CARRIER MATERIAL PLASTIC, IF RCP, CLASS V? NA
COMMODITY TO BE CONVEYED SEWER
OPERATIONAL PRESSURE 0 PSI, MAOP 6 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 80, DIAMETER 24 IN.
CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL STEEL PIPE, IF RCP, CLASS V? NA
TOTAL LENGTH CASING PIPE: 212.77 FT.
WALL THICKNESS 0.6875 IN. DIAMETER 48 IN.
CATHODIC/COATING PROTECTION NO
CASING PIPE IS SEALED AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 43 AND 147.



BUILDING AMERICA®

EXHIBIT "A"-2

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 36.99

LAT.: 29.89111111

E.S.M.: 1945+93

LONG.: -97.68333333

NEAREST CITY: LOCKHART

COUNTY: CALDWELL

STATE: TX

APPLICANT: CITY OF LOCKHART

FILE NO.: 0793402

DATE: 4/11/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensors to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensors has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensors then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit**

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall complete the required form at up.com/CBUD to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at this link for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.



July 8, 2024
Project: 0793403

CITY OF LOCKHART, TEXAS

Re: Proposed Underground 24 Inch Plastic Pipeline Encased In A 48 Inch Steel Casing For Transporting And Conveying Sewer Pipeline Crossing of Railroad Property at Mile Post 36.44 on the Lockhart Subdivision at or near Lockhart, Caldwell County, Texas

Attached is an original of the agreement covering your use of the Railroad Company's right of way. Please return the executed agreement via email. For any payment(s), please follow the accompanying instructions.

An original copy of the fully-executed document will be returned to you, when approved and processed by the Railroad Company.

- Payment in the amount of Three Thousand Five Hundred Dollars (**\$3,500.00**) is due and payable to Union Pacific Railroad Company upon your execution of the agreement. Please include your payment, with Project No. 0793403 noted on that document. If you require formal billing, you may consider this letter as a formal bill and that 946001323 is this Corporation's correct Federal Taxpayer Identification Number.
- Railroad Protective Liability Insurance (RPLI) may be obtained from any insurance company which offers such coverage. Union Pacific has also worked with a national broker, Marsh USA, to make available RPLI to you or your contractor. You can find additional information, premium quotes, and application forms at (uprr.marsh.com).

If we have not received the executed documents within six months from the date of this letter, this proposed offer of an agreement is withdrawn and becomes null and void.

If you have any questions, please contact me at cobenson@up.com.

Sincerely,

Craig O Benson
Sr Mgr Real Estate - Contracts

PIPELINE CROSSING AGREEMENT

Mile Post: 36.44, Lockhart Subdivision
Location: Lockhart, Caldwell County, Texas

THIS AGREEMENT ("Agreement") is made and entered into as of July 8, 2024, ("Effective Date") by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, ("Licensor") and **CITY OF LOCKHART, TEXAS**, a Texas Municipal Corporation to be addressed at 308 W San Antonio St, Suite 250, Lockhart, Texas 78644 ("Licensee").

IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

Article 1. LICENSOR GRANTS RIGHT.

A. In consideration of the license fee to be paid by Licensee set forth below and in further consideration of the covenants and agreements to be performed by Licensee, Licensor hereby grants to Licensee the right to construct and thereafter, during the term hereof, maintain and operate an underground 24 inch plastic pipeline encased in a 48 inch steel casing for transporting and conveying sewer only, including any appurtenances required for the operation of said pipeline (collectively, "Licensee's Facilities") across Licensor's real property, trackage, or other facilities located in Lockhart, Caldwell County, State of Texas ("Railroad Property"). The specific specifications and limited purpose for Licensee's Facilities on, along, across and under Railroad Property are described in and shown on the Print and Specifications dated January 9, 2024, attached hereto as **Exhibit A** and made a part hereof.

B. Licensee represents and warrants that Licensee's Facilities will (i) only be used for an underground 24 inch plastic pipeline encased in a 48 inch steel casing for transporting and conveying sewer, and (ii) not be used to convey any other substance, any fiber optic cable, or for any other use, whether such use is currently technologically possible, or whether such use may come into existence during the life of this Agreement.

C. Licensee acknowledges that if it or its contractor provides Licensor with digital imagery depicting Licensee's Facilities ("Digital Imagery"), Licensee authorizes Licensor to use the Digital Imagery in preparing **Exhibit A**. Licensee represents and warrants that through a license or otherwise, it has the right to use the Digital Imagery and to permit Licensor to use the Digital Imagery in said manner.

Article 2. LICENSE FEE.

Upon execution of this Agreement, the Licensee shall pay to the Licensor a one-time License Fee of Three Thousand Five Hundred Dollars (**\$3,500.00**).

Article 3. TERM.

This Agreement shall take effect as of the Effective Date first herein written and shall continue in full force and effect until terminated as provided in the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

Article 4. LICENSEE'S COMPLIANCE WITH GENERAL TERMS.

Licensee represents and warrants that all work on Licensee's Facilities performed by Licensee or its contractors will strictly comply with all terms and conditions set forth herein, including the General Terms and Conditions, attached hereto as Exhibit B and made a part hereof.

Article 5. INSURANCE.

A. During the term of this Agreement, Licensee shall fully comply or cause its contractor(s) to fully comply with the insurance requirements described in **Exhibit C**, attached hereto and made a part hereof. Upon request only, Licensee shall send copies of all insurance documentation (e.g., certificates, endorsements, etc.) to Licenser at the address listed in the "NOTICES" Section of this Agreement.

B. If Licensee is subject to statute(s) limiting its insurance liability and/or limiting its ability to obtain insurance in compliance with **Exhibit C** of this Agreement, those statutes shall apply.

Article 6. DEFINITION OF LICENSEE.

For purposes of this Agreement, all references in this Agreement to Licensee will include Licensee's contractors, subcontractors, officers, agents and employees, and others acting under its or their authority (collectively, a "Contractor"). If a Contractor is hired by Licensee to perform any work on Licensee's Facilities (including initial construction and subsequent relocation, maintenance, and/or repair work), then Licensee shall provide a copy of this Agreement to its Contractor(s) and require its Contractor(s) to comply with all terms and conditions of this Agreement, including the indemnification requirements set forth in the "INDEMNITY" Section of **Exhibit B**. Licensee shall require any Contractor to release, defend, and indemnify Licenser to the same extent and under the same terms and conditions as Licensee is required to release, defend, and indemnify Licenser herein.

Article 7. ATTORNEYS' FEES, EXPENSES, AND COSTS.

If litigation or other court action or similar adjudicatory proceeding is undertaken by Licensee or Licenser to enforce its rights under this Agreement, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees and court costs, of the prevailing Party in such action, suit, or proceeding shall be reimbursed or paid by the Party against whose interest the judgment or decision is rendered. The provisions of this Article shall survive the termination of this Agreement.

Article 8. WAIVER OF BREACH.

The waiver by Licenser of the breach of any condition, covenant or agreement herein contained to be kept, observed and performed by Licensee shall in no way impair the right of Licenser to avail itself of any remedy for any subsequent breach thereof.

Article 9. ASSIGNMENT.

A. Licensee shall not assign this Agreement, in whole or in part, or any rights herein granted, without the written consent of Licenser, which must be requested in writing by Licensee. Any assignment or attempted transfer of this Agreement or any of the rights herein granted, whether voluntary, by operation of law, or otherwise, without Licenser's written consent, will be absolutely void and may result in Licenser's termination of this Agreement pursuant to the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of **Exhibit B**.

B. Upon Licenser's written consent to any assignment, this Agreement will be binding upon and inure to the benefit of the parties thereto, successors, heirs, and assigns, executors, and administrators.

Article 10. SEVERABILITY.

Any provision of this Agreement which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement.

Article 11. NOTICES.

Except Licensee's commencement of work notice(s) required under **Exhibit B**, all other notices required by this Agreement must be in writing, and (i) personally served upon the business address listed below ("Notice Address"), (ii) sent overnight via express delivery by a nationally recognized overnight delivery service such as Federal Express Corporation or United Parcel Service to the Notice Address, or (iii) by certified mail, return receipt requested to the Notice Address. Overnight express delivery notices will be deemed to be given upon receipt. Certified mail notices will be deemed to be given three (3) days after deposit with the United States Postal Service.

If to Licensor: Union Pacific Railroad Company
Attn: Analyst – Real Estate Utilities (Project No. 0793403)
1400 Douglas Street, MS 1690
Omaha, Nebraska 68179

If to Licensee: CITY OF LOCKHART, TEXAS
308 W San Antonio St, Suite 250
Lockhart, Texas 78644

Article 12. AGREEMENT TO SUPERSEDE

This Agreement shall cancel and supersede the Original Agreement dated September 1, 1987 and identified as Audit No. KX38060 and shall take effect as of the Effective Date first herein written. The Original Agreement shall terminate and the terms and conditions of this Agreement shall govern the use, maintenance and repair of the pipeline crossing.

Article 13. SPECIAL PROVISION – CONSTRUCTION OBSERVATION.

Licensor requires Licensee to provide monitoring of tracks and construction observation through Licensor approved observer named below during all construction and installation work. Licensee is to directly coordinate services with the named inspector:

Railpros Field Services
Email: RP.Utility@railpros.com
Phone (682)223-5271

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

CITY OF LOCKHART, TEXAS

By: _____

By: _____

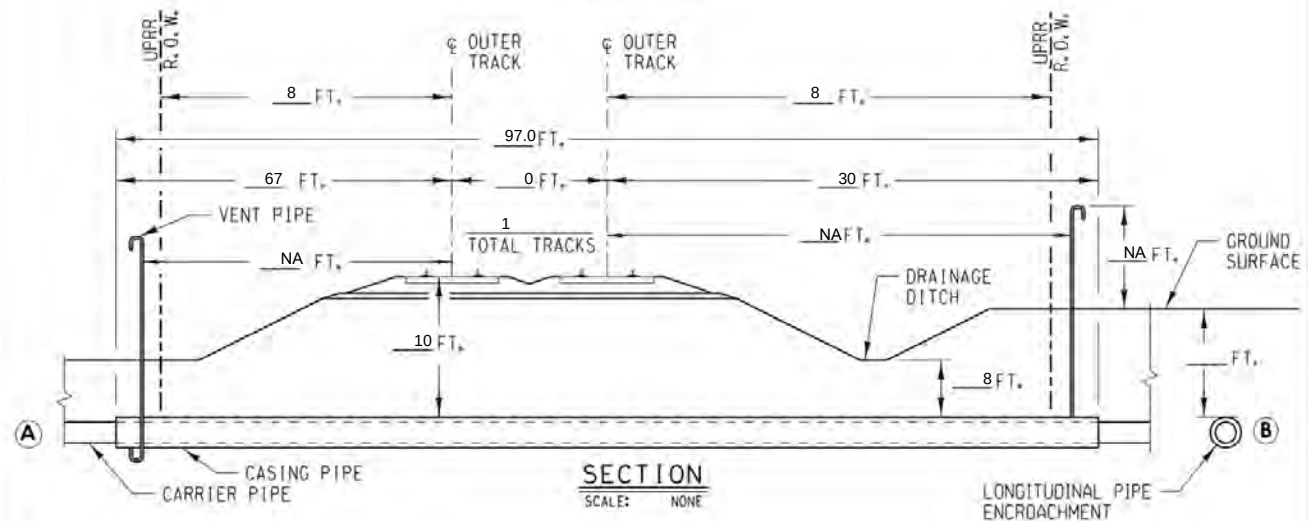
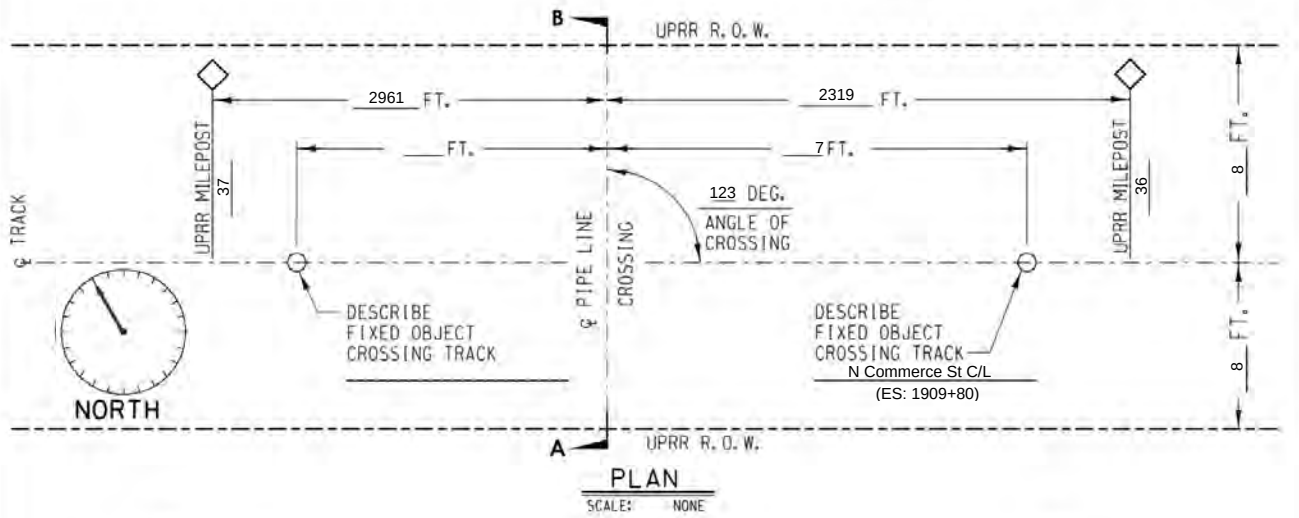
Craig O Benson
Sr Mgr Real Estate - Contracts

Name Printed: _____

Title: _____

NON-FLAMMABLE LIQUID PIPELINE

☒ CROSSING
☐ ENCROACHMENT
☐ BOTH



NOTES:

- 1) ALL DIMENSIONS MEASURED PERPENDICULAR TO THE CENTERLINE OF TRACK
- 2) REFER TO AREMA VOLUME 1, CHAPTER 1, PART 5, SECTION 5.1

- A) METHOD OF INSTALLATION BORED AND JACKED
- B) DIST. FROM CENTERLINE OF TRACK TO PIPE ENCROACHMENT _____
- C) SIGNS PROVIDED? AT MINIMUM SIGNS WILL BE PROVIDED AS STATED ABOVE
- D) CARRIER MATERIAL PLASTIC, IF RCP, CLASS V? NA
COMMODITY TO BE CONVEYED SEWER
OPERATIONAL PRESSURE 0 PSI, MAOP 6 PSI.
WALL THICKNESS (INCH)/ SCHEDULE 80, DIAMETER 24 IN.
CATHODIC/COATING PROTECTION NO
- E) CASING MATERIAL STEEL PIPE, IF RCP, CLASS V? NA
TOTAL LENGTH CASING PIPE: 115 FT.
WALL THICKNESS 0.375 IN. DIAMETER 48 IN.
CATHODIC/COATING PROTECTION NO
CASING PIPE IS SEALED AT THE ENDS.
- F) DISTANCE FROM CENTERLINE OF TRACK TO NEAR FACE OF BORING AND JACKING PITS WHEN MEASURED AT RIGHT ANGLES 67 AND 30.



BUILDING AMERICA®

EXHIBIT "A"

SUBDIVISION: Lockhart Sub.

TRACK TYPE: MAINLINE

M.P.: 36.44

LAT.: 29.88916667

E.S.M.: 1909+87

LONG.: -97.67222222

NEAREST CITY:
LOCKHART

COUNTY:
CALDWELL

STATE:
TX

APPLICANT: CITY OF LOCKHART, TX

FILE NO.: 0793403

DATE: 1/9/2024

EXHIBIT B

GENERAL TERMS AND CONDITIONS

Section 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

A. The foregoing grant is subject and subordinate to the prior and continuing right and obligation of Licensors to use and maintain its entire property including the right and power of Licensee to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics, or other wirelines, pipelines and other facilities upon, along or across any or all parts of its property, all or any of which may be freely done at any time or times by Licensors without liability to Licensee or to any other party for compensation or damages.

B. The foregoing grant is also subject to all outstanding superior rights (including those in favor of licensees and lessees of Railroad Property) and the right of Licensors to renew and extend the same, and is made without covenant of title or for quiet enjoyment. It shall be Licensee's sole obligation to obtain such additional permission, license and grants necessary on account of any such existing rights.

Section 2. ENGINEERING REQUIREMENTS; PERMITS.

A. Licensee's Facilities will be designed, constructed, operated, maintained, repaired, renewed, modified, reconstructed, removed, or abandoned in place on Railroad Property by Licensee or its contractor to Licensors's satisfaction and in strict conformity with: (i) Licensors's current engineering standards and specifications, including those for shoring and cribbing to protect Licensors's railroad operations and facilities ("UP Specifications"), except for variances approved in advance in writing by Licensors's Assistant Vice President Engineering – Design or its authorized representative ("UP Engineering Representative"); (ii) such other additional safety standards as Licensors, in its sole discretion, elects to require, including, without limitation, American Railway Engineering and Maintenance-of-Way Association ("AREMA") standards and guidelines (collectively, "UP Additional Requirements"); and (iii) all applicable laws, rules, and regulations, including any applicable Federal Railroad Administration and Federal Energy Regulatory Commission regulations and enactments (collectively, "Laws"). If there is any conflict between UP Specifications, UP Additional Requirements, and Laws, the most restrictive will apply.

B. Licensee shall keep the soil over Licensee's Facilities thoroughly compacted, and maintain the grade over and around Licensee's Facilities even with the surface of the adjacent ground.

C. If needed, Licensee shall secure, at Licensee's sole cost and expense, any and all necessary permits required to perform any work on Licensee's Facilities.

Section 3. NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES.

A. Licensee and its contractors are strictly prohibited from commencing any work associated with Licensee's Facilities without Licensors's written approval that the work will be in strict compliance with the "ENGINEERING REQUIREMENTS; PERMITS" Section of this Exhibit B. Upon Licensors's approval, Licensee shall contact both of Licensors's field representatives ("Licensors's Field Representatives") at least ten (10) days before commencement of any work on Licensee's Facilities.

B. Licensee shall not commence any work until: (1) Licensors has determined whether flagging or other special protective or safety measures ("Safety Measures") are required for performance of the work pursuant to the "FLAGGING" Section of this **Exhibit B** and provided Licensee written

authorization to commence work; and (2) Licensee has complied with the "PROTECTION OF FIBER OPTIC CABLE SYSTEMS" Section of this **Exhibit B**.

C. If, at any time, an emergency arises involving Licensee's Facilities, Licensee or its contractor shall immediately contact Licensors Response Management Communications Center at (888) 877-7267.

Section 4. FLAGGING.

A. Following Licensee's notice to Licensors Field Representatives required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensors shall inform Licensee if Safety Measures are required for performance of the work by Licensee or its contractor on Railroad Property. If Safety Measures are required, no work of any kind may be performed by Licensee or its contractor(s) until arrangements for the Safety Measures have been made and scheduled. If no Safety Measures are required, Licensors will give Licensee written authorization to commence work.

B. If any Safety Measures are performed or provided by Licensors, including but not limited to flagging, Licensors shall bill Licensee for such expenses incurred by Licensors, unless Licensors and a federal, state, or local governmental entity have agreed that Licensors is to bill such expenses to the federal, state, or local governmental entity. Additional information regarding the submission of such expenses by Licensors and payment thereof by Licensee can be found in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**. If Licensors performs any Safety Measures, Licensee agrees that Licensee is not relieved of any of responsibilities or liabilities set forth in this Agreement.

C. For flagging, the rate of pay per hour for each flagger will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage, and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between Licensors and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

D. Reimbursement to Licensors will be required covering the full eight-hour day during which any flagger is furnished, unless the flagger can be assigned to other railroad work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagger is engaged in other railroad work. Reimbursement will also be required for any day not actually worked by the flaggers following the flaggers' assignment to work on the project for which Licensors is required to pay the flaggers and which could not reasonably be avoided by Licensors by assignment of such flaggers to other work, even though Licensee may not be working during such time. When it becomes necessary for Licensors to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, Licensee must provide Licensors a minimum of five (5) days notice prior to the cessation of the need for a flagger. If five (5) days notice of cessation is not given, Licensee will still be required to pay flagging charges for the days the flagger was scheduled, even though flagging is no longer required for that period. An additional ten (10) days notice must then be given to Licensors if flagging services are needed again after such five day cessation notice has been given to Licensors.

Section 5. SAFETY.

A. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of any work on Railroad Property performed by Licensee or its contractor, and takes precedence over any work on Licensee's Facilities to be performed Licensee or its contractors. Licensee shall be responsible for initiating, maintaining and supervising all safety operations and programs in connection with any work on Licensee's Facilities. Licensee and its contractor shall, at a minimum comply, with Licensor's then current safety standards located at the below web address ("Licensor's Safety Standards") to ensure uniformity with the safety standards followed by Licensor's own forces. As a part of Licensee's safety responsibilities, Licensee shall notify Licensor if it determines that any of Licensor's Safety Standards are contrary to good safety practices. Licensee and its contractor shall furnish copies of Licensor's Safety Standards to each of its employees before they enter Railroad Property.

[Union Pacific Current Safety Requirements](#)

B. Licensee shall keep the job site on Railroad Property free from safety and health hazards and ensure that their employees are competent and adequately trained in all safety and health aspects of the work.

C. Licensee represents and warrants that all parts of Licensee's Facilities within and outside of the limits of Railroad Property will not interfere whatsoever with the constant, continuous, and uninterrupted use of the tracks, property, and facilities of Licensor, and nothing shall be done or suffered to be done by Licensee at any time that would in any manner impair the safety thereof.

D. Licensor's operations and work performed by Licensor's personnel may cause delays in Licensee's or its contractor's work on Licensee's Facilities. Licensee accepts this risk and agrees that Licensor shall have no liability to Licensee or any other person or entity for any such delays. Licensee must coordinate any work on Railroad Property by Licensee or any third party with Licensor's Field Representatives in strict compliance with the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**.

E. Licensor shall have the right, if it so elects, to provide any support it deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, repair, renewal, modification, relocation, reconstruction, or removal of Licensee's Facilities. In the event Licensor provides such support, Licensor shall invoice Licensee, and Licensee shall pay Licensor as set forth in the "LICENSEE'S PAYMENT OF EXPENSES" Section of this **Exhibit B**.

F. Licensee may use unmanned aircraft systems ("UAS") to inspect Licensee's Facilities only upon the prior authorization from and under the direction of Licensor's Field Representatives. Licensee represents and warrants that its use of UAS on Railroad Property will comply with Licensor's then-current Unmanned Aerial Systems Policy and all applicable laws, rules and regulations, including any applicable Federal Aviation Administration regulations and enactments pertaining to UAS.

Section 6. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

Fiber optic cable systems may be buried on Railroad Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. In addition to the notifications required under the "NOTICE OF COMMENCEMENT OF WORK; EMERGENCIES" Section of this **Exhibit B**, Licensee shall visit up.com/CBUD to complete and submit the required form to determine if fiber optic cable is buried anywhere on Railroad Property to be used by Licensee. If it is, Licensee shall telephone the telecommunications company(ies) involved, and arrange for a cable locator, make arrangements for relocation or other protection of the fiber optic cable, all at Licensee's expense, and will not commence any work on Railroad Property until all such protection or relocation has been completed.

Section 7. LICENSEE'S PAYMENT OF EXPENSES.

A. Licensee shall bear the entire cost and expense of the design, construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities.

B. Licensee shall fully pay for all materials joined, affixed to and labor performed on Railroad Property in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, and shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee. Licensee shall promptly pay or discharge all taxes, charges, and assessments levied upon, in respect to, or on account of Licensee's Facilities, to prevent the same from becoming a charge or lien upon any property of Licensor, and so that the taxes, charges, and assessments levied upon or in respect to such property shall not be increased because of the location, construction, or maintenance of Licensee's Facilities or any improvement, appliance, or fixture connected therewith placed upon such property, or on account of Licensee's interest therein. Where such tax, charge, or assessment may not be separately made or assessed to Licensee but shall be included in the assessment of the property of Licensor, then Licensee shall pay to Licensor an equitable proportion of such taxes determined by the value of Licensee's property upon property of Licensor as compared with the entire value of such property.

C. As set forth in the "FLAGGING" Section of this **Exhibit B**, Licensor shall have the right, if it so elects, to provide any Safety Measures Licensor deems necessary for the safety of Licensor's operations and trackage during Licensee's or its contractor's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, including, but not limited to supervision, inspection, and flagging services. In the event Licensor provides such Safety Measures, Licensor shall submit an itemized invoice to Licensee's notice recipient listed in the "NOTICES" Article of this Agreement. Licensee shall pay to Licensor the total amount listed on such invoice within thirty (30) days of Licensee's receipt of such invoice.

Section 8. MODIFICATIONS TO LICENSEE'S FACILITIES.

A. This grant is subject to Licensor's safe and efficient operation of its railroad, and continued use and improvement of Railroad Property (collectively, "Railroad's Use"). Accordingly, Licensee shall, at its sole cost and expense, modify, reconstruct, repair, renew, revise, relocate, or remove (individually, "Modification", or collectively, "Modifications") all or any portion of Licensee's Facilities as Licensor may designate or identify, in its sole discretion, in the furtherance of Railroad's Use.

B. Upon any Modification of all or any portion of Licensee's Facilities to another location on Railroad Property, Licensor and Licensee shall execute a Supplemental Agreement to this Pipeline Agreement to document the Modification(s) to Licensee's Facilities on Railroad Property. If the Modifications result in Licensee's Facilities moving off of Railroad Property, this Agreement will terminate upon Licensee's completion of such Modification(s) and all requirements contained within the "TERMINATION; REMOVAL OF LICENSEE'S FACILITIES" Section of this **Exhibit B**. Any such Modification(s) off of Railroad Property will not release Licensee from any liability or other obligation of Licensee arising prior to and upon completion of any such Modifications to the Licensee's Facilities.

Section 9. RESTORATION OF RAILROAD PROPERTY.

In the event Licensee, in any manner moves or disturbs any property of Licensor in connection with the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities, then, Licensee shall, as soon as possible and at Licensee's sole cost

and expense, restore Licensor's property to the same condition as the same were before such property was moved or disturbed.

Section 10. INDEMNITY.

A. Definitions. As used in this Section:

1. "Licensor" includes Licensor, its affiliates, its and their officers, directors, agents and employees, and other railroad companies using Railroad Property at or near the location of Licensee's installation and their officers, directors, agents, and employees.
2. "Licensee" includes Licensee and its agents, contractors, subcontractors, sub-subcontractors, employees, officers, and directors, or any other person or entity acting on its behalf or under its control.
3. "Loss" includes claims, suits, taxes, loss, damages (including punitive damages, statutory damages, and exemplary damages), costs, charges, assessments, judgments, settlements, liens, demands, actions, causes of action, fines, penalties, interest, and expenses of any nature, including court costs, reasonable attorneys' fees and expenses, investigation costs, and appeal expenses.

B. Licensee shall release, defend, indemnify, and hold harmless Licensor from and against any and all Loss, even if groundless, fraudulent, or false, that directly or indirectly arises out of or is related to Licensee's construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, removal, presence, use, or operation of Licensee's Facilities, including, but not limited to, any actual or alleged:

1. Bodily harm or personal injury (including any emotional injury or disease) to, or the death of, any person(s), including, but not limited to, Licensee, Licensor, any telecommunications company, or the agents, contractors, subcontractors, sub-subcontractors, or employees of the foregoing;
2. Damage to or the disturbance, loss, movement, or destruction of Railroad Property, including loss of use and diminution in value, including, but not limited to, any telecommunications system(s) or fiber optic cable(s) on or near Railroad Property, any property of Licensee or Licensor, or any property in the care, custody, or control of Licensee or Licensor;
3. Removal of person(s) from Railroad Property;
4. Any delays or interference with track or Railroad's Use caused by Licensee's activity(ies) on Railroad Property, including without limitation the construction, maintenance, modification, reconstruction, repair, renewal, revision, relocation, or removal of Licensee's Facilities or any part thereof, any activities, labor, materials, equipment, or machinery in conjunction therewith;
5. Right(s) or interest(s) granted pursuant to this Agreement;
6. Contents escaping from Licensee's Facilities, including without limitation any actual or alleged pollution, contamination, breach, or environmental Loss;

7. Licensee's breach of this Agreement or failure to comply with its provisions, including, but not limited to, any violation or breach by Licensee of any representations and warranties Licensee has made in this Agreement; and
8. Violation by Licensee of any law, statute, ordinance, governmental administrative order, rule, or regulation, including without limitation all applicable Federal Railroad Administration regulations.

C. THE FOREGOING OBLIGATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW FOR THE BENEFIT OF LICENSOR TO LOSSES CAUSED BY, ARISING FROM, RELATING TO, OR RESULTING FROM, IN WHOLE OR IN PART, THE NEGLIGENCE OF LICENSOR, AND SUCH NEGLIGENCE OF LICENSOR SHALL NOT LIMIT, DIMINISH, OR PRECLUDE LICENSEE'S OBLIGATIONS TO LICENSOR IN ANY RESPECT. NOTWITHSTANDING THE FOREGOING, SUCH OBLIGATION TO INDEMNIFY LICENSOR SHALL NOT APPLY TO THE EXTENT THE LOSS IS CAUSED BY THE SOLE, ACTIVE AND DIRECT NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF LICENSOR AS DETERMINED IN A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION.

Section 11. TERMINATION; REMOVAL OF LICENSEE'S FACILITIES.

A. If Licensee does not use the right herein granted on Licensee's Facilities for one (1) year, or if Licensee continues in default in the performance of any provision of this Agreement for a period of thirty (30) days after written notice from Licensor to Licensee specifying such default, Licensor may, at its sole discretion, terminate this Agreement by written notice to Licensee at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

B. In addition to the provisions of Paragraph "A" above, this Agreement may be terminated by written notice given by either party, without cause, upon thirty (30) days written notice to the non-terminating party at the address listed in the "NOTICES" Article of this Agreement. This Agreement will not terminate until Licensee complies with Paragraphs "C" and "D" of this Section found below.

C. Prior to the effective date of any termination described in this Section, Licensee shall submit an application to Licensor's online Utility Contracts System at [this link](#) for Licensee's removal, or if applicable, abandonment in place of Licensee's Facilities located on Railroad Property ("Removal/Abandonment Work"). Upon the UP Engineering Representative's approval of Licensee's application for the Removal/Abandonment Work, Licensor and Licensee shall execute a separate consent document that will govern Licensee's performance of the Removal/Abandonment Work from those portions of Railroad Property not occupied by roadbed and/or trackage ("Consent Document"). Licensee shall then restore the impacted Railroad Property to the same or reasonably similar condition as it was prior to Licensee's installation of Licensee's Facilities. For purposes of this Section, Licensee's (i) performance of the Removal/Abandonment Work, and (ii) restoration work will hereinafter be collectively referred to as the "Restoration Work".

D. Following Licensee's completion of the Restoration Work, Licensee shall provide a written certification letter to Licensor at the address listed in the "NOTICES" Article of this Agreement which certifies that the Restoration Work has been completed in accordance with the Consent Document. Licensee shall report to governmental authorities, as required by law, and notify Licensor immediately if any environmental contamination is discovered during Licensee's performance of the Restoration Work. Upon discovery, the Licensee shall initiate any and all removal, remedial and restoration actions that are necessary to restore the property to its original, uncontaminated condition. Licensee shall provide written certification to Licensor at the address listed in the "NOTICES" Article of this Agreement that environmental contamination has been remediated and the property has been

restored in accordance with Licensor's requirements. Upon Licensor's receipt of Licensee's restoration completion certifications, this Agreement will terminate.

E. In the event that Licensee fails to complete any of the Restoration Work, Licensor may, but is not obligated, to perform the Restoration Work. Any such work actually performed by Licensor will be at the cost and expense of Licensee. In the event that Licensor performs any of the Restoration Work, Licensee shall release Licensor from any and all Loss (defined in the "INDEMNITY" Section of this **Exhibit B**) arising out of or related to Licensor's performance of the Restoration Work.

F. Termination of this Agreement for any reason will not affect any of rights or obligations of the parties which may have accrued, or liabilities or Loss (defined in the "INDEMNITY" Section of this **Exhibit B**), accrued or otherwise, which may have arisen prior to such termination.

EXHIBIT C

INSURANCE REQUIREMENTS

In accordance with Article 5 of this Agreement, Licensee shall (1) procure and maintain at its sole cost and expense, or (2) require its Contractor(s) to procure and maintain, at their sole cost and expense, the following insurance coverage:

A. **Commercial General Liability Insurance.** Commercial general liability (CGL) with a limit of not less than \$2,000,000 each occurrence and an aggregate limit of not less than \$4,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- Contractual Liability Railroads ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

B. **Business Automobile Coverage Insurance.** Business auto coverage written on ISO form CA 00 01 10 01 (or a substitute form providing equivalent liability coverage) with a limit of not less \$2,000,000 for each accident, and coverage must include liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE:

- "Coverage For Certain Operations In Connection With Railroads" ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing "Union Pacific Railroad Company Property" as the Designated Job Site.

C. **Workers' Compensation and Employers' Liability Insurance.** Coverage must include but not be limited to:

- Licensee's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Licensee is self-insured, evidence of state approval and excess workers' compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

D. **Environmental Liability Insurance.** Environmental Legal Liability Insurance (ELL) applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed, cleanup costs, and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims, or compliance with statute, all in connection with any loss arising from the insured's performance under this Agreement. Except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, this insurance must apply as if each named insured were the only named insured; and separately to the additional insured against which claim is made or suit is brought. Coverage shall be maintained in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$4,000,000.

Licensee warrants that any retroactive date applicable to ELL insurance coverage under the policy is the same as or precedes the Effective Date of this Agreement, and that continuous coverage

will be maintained for a period of five (5) years beginning from the time the work under this Agreement is completed or if coverage is cancelled for any reason the policies extended discovery period, if any, will be exercised for the maximum time allowed.

E. **Railroad Protective Liability Insurance.** Licensee must maintain for the duration of work "Railroad Protective Liability" insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Licensors only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement. Notwithstanding the foregoing, Licensee does not need Railroad Protective Liability Insurance after its initial construction work is complete and all excess materials have been removed from Licensors property; PROVIDED, however, that Licensee shall procure such coverage for any subsequent maintenance, repair, renewal, modification, reconstruction, or removal work on Licensee's Facilities.

F. **Umbrella or Excess Insurance.** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.

Other Requirements

G. All policy(ies) required above (except business automobile, workers' compensation and employers' liability) must include Licensors as "Additional Insured" using ISO Additional Insured Endorsement CG 20 26 (or substitute form(s) providing equivalent coverage). The coverage provided to Licensors as additional insured shall not be limited by Licensee's liability under the indemnity provisions of this Agreement. BOTH LICENSOR AND LICENSEE EXPECT THAT LICENSOR WILL BE PROVIDED WITH THE BROADEST POSSIBLE COVERAGE AVAILABLE BY OPERATION OF LAW UNDER ISO ADDITIONAL INSURED FORM CG 20 26.

H. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this Agreement, or (b) all punitive damages are prohibited by all states in which this Agreement will be performed.

I. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Licensors and its agents, officers, directors and employees for damages covered by the workers' compensation and employers' liability or commercial umbrella or excess liability obtained by Licensee required in this Agreement, where permitted by law. This waiver must be stated on the certificate of insurance.

J. All insurance policies must be written by a reputable insurance company acceptable to Licensors or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.

K. The fact that insurance is obtained by Licensee will not be deemed to release or diminish the liability of Licensee, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Licensors from Licensee or any third party will not be limited by the amount of the required insurance coverage.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding Ordinance 2024-20 ordering a special election to be held on November 5, 2024 in Lockhart, Texas for the purpose of voting on proposed charter amendments, pursuant to Chapter 9 of the Texas Local Government Code and Article XI, Section 5 of the Texas Constitution.

ORIGINATING DEPARTMENT AND CONTACT: City Attorney - Brad Bullock

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: On May 29, 2024, a charter amendment petition was submitted to the City. This petition proposed amendments to the City's Charter which would reform marijuana enforcement by city personnel, specifically by prohibiting the Lockhart Police Department from making any arrest or issuing any citation for Class A or Class B misdemeanor marijuana possession, except in limited cases.

As a home rule municipality, amendments to the City's charter are governed by Texas Local Government Code Chapter 9. When the City receives a proposed charter amendment that is supported by a petition signed by at least five percent (5%) of the qualified voters of the City or 20,000 qualified voters, whichever number is less, the City Council legally is required to order an election for the purpose of voting on the proposed charter amendment. The duty of the members of the City Council to order such an election when the requirements are met is a ministerial one and an election must be ordered. This does not reflect a policy endorsement or support of the measure being presented, but rather only reflects the Council's duty to follow established state law.

The petition received by the City on May 29 was signed by at least five percent (5%) of the qualified voters of the City of Lockhart. The City Attorney and City Secretary have verified that the signatures on the petition belong to at least five percent (5%) of the qualified voters of the City. Therefore, the members of the City Council must order an election. Again, doing so is a ministerial duty of the City Council.

The language of a ballot proposition is the responsibility of the authority ordering the election, not the responsibility of the party petitioning for an election to be called. *City of Galena Park v. Ponder* (App. 14 Dist. 2016) 503 S.W.3d 625. Pursuant to Local Government Code Section 9.004(e), the ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments. Where an ordinance submitting an amendment to a city charter included unrelated amendments, but amendments contained only one subject and ballot permitted voters to vote "yes" or "no" on each amendment without voting "yes" or "no" on all, amendment was valid. *City of Lubbock v. Geo. L. Simpson & Co.* (Civ.App. 1930) 31 S.W.2d 665, error dismissed. Voters must have the opportunity to vote "yes" or "no" on each amendment. For example, voters could vote "yes" to

City of Lockhart, Texas

Council Agenda Item Cover Sheet

prohibiting arrests for Class A or B misdemeanor marijuana possession, but vote “no” to ban the use of the odor of marijuana or hemp as probable cause for search or seizure. Therefore, each amendment must be submitted to the voters separately. Each section of the proposed new article is separated so that voters may vote on each section separately.

This ordinance orders the special election for the purpose of voting on the proposed charter amendments.

Staff recommends approval of the ordinance ordering the election. This has been reviewed by the City Attorney.

PROJECT SCHEDULE (if applicable): N/A

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of the ordinance ordering the election.

LIST OF SUPPORTING DOCUMENTS: Texas Local Govt Code - 9004 Charter Amendments, Ordinance 2024-20 calling special election for charter amendment

Vernon's Texas Statutes and Codes Annotated
Local Government Code (Refs & Annos)
Title 2. Organization of Municipal Government (Refs & Annos)
Subtitle A. Types of Municipalities
Chapter 9. Home-Rule Municipality

V.T.C.A., Local Government Code § 9.004

§ 9.004. Charter Amendments

Effective: September 1, 2023

[Currentness](#)

(a) Except as provided by [Section 9.0045](#), the governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller.

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted.

(c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

- (1) include a substantial copy of the proposed amendment;
 - (2) include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election; and
 - (3) be published on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.
- (d) An amendment may not contain more than one subject.
- (e) The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.
- (f) The requirement imposed by Subsection (c)(2) does not waive governmental immunity for any purpose and a person may not seek injunctive relief or any other judicial remedy to enforce the estimate of the anticipated fiscal impact on the municipality.

Credits

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1219, § 5, eff. June 20, 1997; Acts 1997, 75th Leg., ch. 1349, § 76, eff. Sept. 1, 1997; Acts 2007, 80th Leg., ch. 414, § 1, eff. Sept. 1, 2007; Acts 2023, 88th Leg., ch. 360 (S.B. 1860), § 3, eff. Sept. 1, 2023.

V. T. C. A., Local Government Code § 9.004, TX LOCAL GOVT § 9.004

Current through the end of the 2023 Regular, Second, Third and Fourth Called Sessions of the 88th Legislature, and the Nov. 7, 2023 general election.

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

ORDINANCE NO. 2024-20

AN ORDINANCE OF THE CITY OF LOCKHART, TEXAS ORDERING A SPECIAL ELECTION TO BE HELD ON NOVEMBER 5, 2024 IN LOCKHART, TEXAS FOR THE PURPOSE OF VOTING ON PROPOSED CHARTER AMENDMENTS; PROVIDING FOR MATTERS INCIDENTAL THERETO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lockhart (the “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, pursuant to Section 9.004(a) of the Texas Local Government Code, the City Council of the City of Lockhart, Texas (the “City Council”) shall submit proposed Charter amendments to the City’s voters at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality; and

WHEREAS, Section 9.004(b) of the Texas Local Government Code requires that such an election be ordered by ordinance; and

WHEREAS, the City Council wishes to order a special election to be held on November 5, 2024 for the purpose of submitting proposed amendments to the City Charter to the voters.

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

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. ELECTION ORDERED. The Lockhart City Council hereby orders a special election to be held on November 5, 2024 in Lockhart, Texas for the purpose of voting on the following propositions:

A. Shall Article XII, Section 12.01 of the Charter of the City of Lockhart be amended to update the name of Article XII to the “Lockhart Freedom Act”?

FOR _____
AGAINST _____

B. Shall Article XII, Section 12.02 of the Charter of the City of Lockhart be amended to enact the Lockhart Freedom Act to reform marijuana enforcement by city personnel, with the specific objectives of carefully allocating scarce city resources, reducing the risk of discriminatory enforcement practices, and focusing city resources on the highest priority public safety concerns?

FOR _____
AGAINST _____

C. Shall Article XII, Section 12.03 of the Charter of the City of Lockhart be amended to prohibit the Lockhart Police Department from making any arrest or issuing any citation for Class A or Class B misdemeanor marijuana possession, except in the limited cases described by the Lockhart Freedom Act?

FOR _____
AGAINST _____

D. Shall Article XII, Section 12.04 of the Charter of the City of Lockhart be amended to, in the event of a binding act of a state or federal court which would prevent the City of Lockhart's fulfillment of Section 12.03 of the Charter, make it the City's police to make enforcement of Class A and Class B misdemeanor marijuana possession its lowest enforcement priority?

FOR _____
AGAINST _____

E. Shall Article XII, Section 12.05 of the Charter of the City of Lockhart be amended to not limit enforcement of misdemeanor marijuana possession offenses if an offense is (a) revealed as part of a felony narcotics investigation that has been designated as "high priority" by a commander, assistant chief of police, or chief of police; (b) and/or revealed as part of the investigation for a violent felony?

FOR _____
AGAINST _____

F. Shall Article XII, Section 12.06 of the Charter of the City of Lockhart be amended to permit a Lockhart police officer with probable cause that a substance is marijuana to seize the substance, and if the officer seizes the substance, they must write a report explaining the grounds for seizure and release and detained person if possession of marijuana is the sole charge?

FOR _____
AGAINST _____

G. Shall Article XII, Section 12.07 of the Charter of the City of Lockhart be amended to state that a Class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge?

FOR _____
AGAINST _____

H. Shall Article XII, Section 12.08 of the Charter of the City of Lockhart be amended to ban City funds or personnel from requesting, conducting, or obtaining tetrahydrocannabinol (THC) testing of any cannabis-related substance to determine whether the substance meets the legal definition of marijuana under state or federal law, except (a) for purposes of toxicology testing to ensure public safety or (b) the investigation of a violent felony offense?

FOR _____
AGAINST _____

I. Shall Article XII, Section 12.09 of the Charter of the City of Lockhart be amended to ban using the odor of marijuana or hemp as probable cause for search or seizure except in limited circumstances of a police investigation?

FOR _____
AGAINST _____

J. Shall Article XII, Section 12.10 of the Charter of the City of Lockhart be amended to require the City Manager and Chief of Police to ensure that (a) City policies and internal operating procedures are updated in accord with the Lockhart Freedom Act and (b) Lockhart police officers receive adequate training concerning each of the provisions of the Lockhart Freedom Act?

FOR _____
AGAINST _____

K. Shall Article XII, Section 12.11 of the Charter of the City of Lockhart be amended to state that any violation of the Lockhart Freedom Act may subject a Lockhart police officer to discipline as provided by the Texas Local Government Code or as provided by City policy?

FOR _____
AGAINST _____

L. Shall Article XII, Section 12.12 of the Charter of the City of Lockhart be amended to require the City Manager, in consultation with the Chief of Police and other relevant City personnel, to prepare quarterly reports concerning the implementation of the Lockhart Freedom Act to be presented to the City Council at a public meeting subject to the Texas Open Meetings Act?

FOR _____
AGAINST _____

M. Shall Article XII, Section 12.13 of the Charter of the City of Lockhart be amended to state that in the event that any court finds any section of the Lockhart Freedom Act to be unlawful or unenforceable, that section shall be severed for this policy and the rest shall continue in force?

FOR _____
AGAINST _____

SECTION 3. AMENDMENTS. Should the voters approve any of the propositions listed above, the referenced sections of the City Charter shall be amended to read as follows:

A. Article XII, Section 12.01, Title: “This article shall be known as the Lockhart Freedom Act.”

B. Article XII, Section 12.02, Purpose: “Pursuant to the home rule authority of the Texas Constitution, to promote the health, safety, and general welfare of the people of Lockhart, Texas, the voters of Lockhart hereby enact the Lockhart Freedom Act a policy to reform marijuana enforcement by city personnel, with the specific objectives of carefully allocating scarce city resources, reducing the risk of discriminatory enforcement practices, and focusing city resources on the highest priority public safety concerns.”

C. Article XII, Section 12.03, Enforcement of misdemeanor marijuana offenses: “Unless and until a binding act of a state or federal court requires otherwise, the Lockhart Police Department

shall not make any arrest or issue any citation for Class A or Class B misdemeanor marijuana possession, except in the limited cases described by this policy.”

D. Article XII, Section 12.04, Safe Harbor: “In the event of a binding act of a state or federal court, which would prevent the City of Lockhart’s fulfillment of Section 12.03, the City’s policy shall be to make enforcement of Class A and Class B misdemeanor marijuana possession its lowest enforcement priority. In particular, the City shall update its annual budget, police department manual, and relevant policies and procedures to ensure that public safety resources are not wasted on misdemeanor marijuana enforcement and are instead targeted at other programs that best promote the health, safety, and general welfare of the people of Lockhart.”

E. Article XII, Section 12.05, Exceptions to enforcement policy: “This policy shall not limit enforcement of misdemeanor marijuana possession offenses if an offense is (a) revealed as part of a felony narcotics investigation that has been designated as “high priority” by a commander, assistant chief of police, or chief of police; (b) and/or revealed as part of the investigation of a violent felony. Lockhart police officers shall not issue any charge for misdemeanor possession of marijuana unless it meets one or more of these exceptions.”

F. Article XII, Section 12.06, Handling of evidence: “In any instance governed by this policy, if a Lockhart police officer has probable cause to believe that a substance is marijuana, the officer may seize the substance. If the officer seizes the substance, they must write a report explaining the grounds for seizure and release any detained person if possession of marijuana is the sole charge.”

G. Article XII, Section 12.07, No citations for paraphernalia or residue in lieu of possession charge: “A Class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge.”

H. Article XII, Section 12.08, Ban on using City resources for THC concentration testing: “No city funds or personnel shall be used to request, conduct, or obtain tetrahydrocannabinol (THC) testing of any cannabis-related substance to determine whether the substance meets the legal definition of marijuana under state or federal law, except (a) for purposes of toxicology testing to ensure public safety or (b) the investigation of a violent felony offense.”

I. Article XII, Section 12.09, Ban on using odor of marijuana or hemp as probable cause for search or seizure: “Lockhart police shall not consider the odor of marijuana or hemp to constitute probable cause for any search or seizure, except in the limited circumstances of a police investigation pursuant to Section 12.05.”

J. Article XII, Section 12.10, Training and policy updates: “The City Manager and Chief of Police shall ensure that (a) City policies and internal operating procedures are updated in accord with this policy and (b) Lockhart police officers receive adequate training concerning each of the provisions of this policy.”

K. Article XII, Section 12.11, Officer discipline: “Any violation of this policy may subject a Lockhart police officer to discipline as provided by the Texas Local Government Code or as provided by City policy.”

L. Article XII, Section 12.12, Quarterly reports: “The City Manager, in consultation with the Chief of Police and other relevant City personnel, shall prepare quarterly reports concerning the implementation of this policy, to be presented to the City Council at a public meeting subject to the Texas Open Meetings Act, and with the first report due no later than 120 days following the effective date of this policy. Each report shall include a summary of the City’s implementation of this policy and shall include specific information concerning enforcement of misdemeanor marijuana possession offenses, including total arrests made, total citations issues, estimated personnel hours used in conducting enforcement activities, and demographic information for each person charged with an offense, including age, gender, race, and ethnicity.”

M. Article XII, Section 12.13, Severability: “In any event that any court finds any section of the Lockhart Freedom Act to be unlawful or unenforceable, that section shall be severed from this policy and the rest shall continue in force.”

SECTION 4. VOTER INFORMATION.

A. Early voting by personal appearance will be conducted each weekday at the Scott Annex Building, 1403 Blackjack St., Suite A, Lockhart, Texas 78644 pursuant to the schedule below. Early voting by personal appearance will take place on Monday, October 21, 2024, through Friday, October 25, 2024, from 8:00am to 5:00pm. Early voting by personal appearance will also be conducted on Saturday, October 26, 2024, between the hours of 7:00 a.m. and 7:00 p.m., and on Sunday, October 27 between the hours of 9:00am and 3:00pm. Extended hours for Early Voting are Monday, October 28 through Friday, November 1 between the hours of 7:00am and 7:00pm. **Locations and hours may be changed by the County Elections Administrator.**

Monday, October 21	8:00am – 5:00pm
Tuesday, October 22	8:00am – 5:00pm
Wednesday, October 23	8:00am – 5:00pm
Thursday, October 24	8:00am – 5:00pm
Friday, October 25	8:00am – 5:00pm
Saturday, October 26	7:00am – 7:00pm
Sunday, October 27	9:00am – 3:00pm
Monday, October 28	7:00am – 7:00pm
Tuesday, October 29	7:00am – 7:00pm
Wednesday, October 30	7:00am – 7:00pm
Thursday, October 31	7:00am – 7:00pm
Friday, November 1	7:00am – 7:00pm

B. Applications for ballot by mail shall be mailed to:

Name of Early Voting Clerk: Devante Coe, Caldwell County Elections Administrator

Address: 1403 Blackjack Street, Suite A
Lockhart TX 78644

Telephone Number: 512-668-4347

Email Address: devante.coe@co.caldwell.tx.us
Early Voting Clerk's Website: www.co.caldwell.tx.us

C. Applications for Ballots by Mail (ABBM)s must be received no later than the close of business on Friday, October 25, 2024.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption by the City Council.

PASSED AND APPROVED by the Lockhart City Council in a public meeting on this the 6th day of August, 2024.

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

APPROVED AS TO FORM:

Bradford E. Bullock, City Attorney

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discuss and consider the proposed Fiscal Year 2024-2025 Budget for Guadalupe-Blanco River Authority (GBRA) to operate the Lockhart Water and Wastewater Treatment Plants.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: On June 18, 2024, Council received the proposed annual operating budget from GBRA and heard a presentation regarding the operations and maintenance of the Lockhart Water and Wastewater Treatment Plants. City staff requested more time at that meeting so that staff could thoroughly examine the proposed budgets.

The most notable changes were the potential decrease in wastewater revenue at WWTP due to another local wastewater plant coming online mid-year with the ability to receive waste from septic haulers and impacts to the budget related to the Carrizo Groundwater Supply Project due to changes in quantities received from each source.

GBRA's fiscal year runs from September 1st through August 31st each year. If approved, GBRA's proposed budgets for Fiscal Year 2024-2025 will be incorporated into the City of Lockhart's Proposed Annual Budget for Fiscal Year 2024-25.

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 recommends acceptance of the GBRA Fiscal Year 2024–2025 Budgets for the Water Treatment Plant and Wastewater Treatment Plants.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

LIST OF SUPPORTING DOCUMENTS: 130-LOCKHART WWTP, 131-LOCKHART WTP



LOCKHART WASTEWATER RECLAMATION SYSTEM

WORK PLAN AND BUDGET

Fiscal Year Ending August 31, 2025

Preliminary as submitted by
Guadalupe-Blanco River Authority
July 1, 2024

Lockhart Division

Lockhart Wastewater Reclamation System

Operating Plan for Fiscal Year Ending 8/31/25

BACKGROUND

After signing a contract with the City of Lockhart in 1994, GBRA assumed the operation of the City's 1.1 million gallons per day (MGD) Larremore Street wastewater treatment plant. Subsequently in 1999, the new 1.5 MGD FM20 plant commenced operation increasing the City's combined wastewater treatment capacity to 2.6 MGD. The contract between the City of Lockhart and GBRA provides that GBRA will bill the City the actual cost of operating the two plants. As a result, revenue is matched to expenses and GBRA does not over-recover nor under-recover the cost of operating the System.

Personnel within the Lockhart Wastewater Reclamation System are organized into a team consisting of the Chief Operator and four operators. In addition, GBRA's water plant personnel located at the Lockhart Water Treatment Plant will assist in the maintenance and repair of the wastewater treatment plants. Serving as facilitators to the team will be the Hays/Caldwell Division Manager. Additional support will be received from the Seguin and New Braunfels offices in the form of engineering, electrical, purchasing, and administrative functions.

REVENUE SOURCES AND TRENDS

The following Work Plan and Budget is based on the two Lockhart Wastewater Treatment Plants treating an estimated sewage flow of 440.23 million gallons annually or 1.21 million gallons per day (MGD). For Fiscal Year 2025, the flow will be split with approximately 0.430 MGD treated by the Larremore Plant and 0.776 MGD treated by the FM 20 Plant. Revenue to treat this amount of waste has generally trended upward over the last several years coincident with inflationary increases in plant operating costs. The budgeted FY 2025 total revenue for the Lockhart Wastewater System is \$1,637,073 which is \$32,519 or 2.03% more than last year's budget.

MAJOR OPERATING AND MAINTENANCE EXPENDITURES

The combined operating expenditure budget for FY 2025 amounts to \$1,637,073. Significant operating expenses budgeted for Fiscal Year 2025 include biosolids disposal in the amount of \$294,256, power and utilities of \$244,887, laboratory testing and expenses of \$68,237. Significant maintenance expenditures budgeted for Fiscal Year 2025 include the rehabilitation of the Sludge Pumps at FM20 and the replacement of the drain valves between the Lift Station and Drain Station a Larremore.

In order to meet public service needs through motivated employees, provide advanced training, and maintain and upgrade occupational licenses, personnel will attend courses provided by various approved sources such as Texas Engineering Extension Service and Texas Water Utility Association. Plant personnel will also conduct in-house training in team building skills, confined space rescue, hazard communication, electrical safety and maintenance, first aid, and CPR. Other training will include computer software and personal development seminars.

FUND BALANCE

Funds for the above listed maintenance projects as well as all of the other operating expenditures that are summarized in the following pages will be provided from revenues from the City of Lockhart. Since this system represents a contract operation in which GBRA does not over-recover nor under-recover its costs, the net change in fund balance for FY 2025 is \$0.

**Guadalupe-Blanco River Authority
Work Plan & Budget
Fiscal Year Ending August 31, 2025**

**130 - Lockhart WWTP
Department ***

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
OPERATING BUDGET				
OPERATING REVENUES				
Wastewater Treatment				
41201	WW-OPR & MAINTENANCE	1,481,291	1,498,250	16,959
41202	WW-ADMINISTRATIVE & GENERAL	123,263	138,823	15,560
41207	WW-CREDIT TO CUSTOMER	(800,000)	(600,000)	200,000
	Total Wastewater Treatment	804,554	1,037,073	232,519
Misc Income				
45195	MISCELLANEOUS REVENUES	800,000	600,000	(200,000)
	Total Misc Income	800,000	600,000	(200,000)
	Total Operating Revenue	<u>1,604,554</u>	<u>1,637,073</u>	<u>32,519</u>
OPERATING EXPENSES				
Salaries				
51101	LBR-REGULAR WAGES	355,378	402,817	47,439
51102	LBR-OVERTIME	18,147	17,857	(290)
	Total Salaries	373,525	420,674	47,149
Benefits				
51298	BEN-BENEFIT ALLOCATION	151,278	170,373	19,095
	Total Benefits	151,278	170,373	19,095
Operating Supplies & Services				
52101	OPR-POWER & UTILITIES	242,050	244,887	2,837
52102	OPR-AUXILIARY POWER EXPENSE	5,000	5,000	-
52103	OPR-CHEMICALS	50,018	53,203	3,185
52110	OPR-SMALL TOOLS AND SUPPLIES	3,000	3,500	500
52113	OPR-LAB SUPPLIES	17,818	18,157	339
52114	OPR-LABORATORY SERVICES-GBRA	39,416	39,956	540
52115	OPR-LABORATORY SERVICES-OUTSOURCED	9,772	10,124	352
52118	OPR-DISPOSAL SERVICES	300,206	294,256	(5,950)
52120	OPR-UNIFORMS/BUSINESS ATTIRE	5,720	5,720	-

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
52121	OPR-SAFETY & EMERGENCY EXPENSE	3,185	3,325	140
52122	OPR-SECURITY EXPENSE	4,000	2,000	(2,000)
52124	OPR-EQUIPMENT EXPENSE	4,550	5,600	1,050
52125	OPR-VEHICLE EXPENSE	5,745	5,795	50
52133	OPR-SCADA	1,700	1,700	-
	Total Operating Supplies & Services	692,180	693,223	1,043
	Professional Services and Fees			
52205	OPR-PROFESSIONAL SERVICES-OTHER	4,560	4,690	130
52216	OPR-REGULATORY FEES	22,500	22,000	(500)
52222	OPR-MEMBERSHIPS & PUBLICATIONS	700	700	-
52223	OPR-LICENSE & TRAINING	3,594	3,744	150
52224	OPR-TRAVEL & MEETINGS	2,500	2,500	-
	Total Professional Services and Fees	33,854	33,634	(220)
	Office Expenses			
52301	OPR-OFFICE SUPPLIES	4,300	4,400	100
52302	OPR-COMPUTER & SOFTWARE EXPENSE	5,950	9,550	3,600
52303	OPR-WIDE AREA NETWORK EXPENSE	3,200	3,200	-
52304	OPR-COPY SUPPLIES AND SERVICES	3,000	-	(3,000)
52306	OPR-DATA & PHONE EXPENSE	8,000	800	(7,200)
52331	OPR-JANITORIAL SUPPLIES AND SERVICE	1,000	1,200	200
	Total Office Expenses	25,450	19,150	(6,300)
	Other Operating Expenses			
52420	OPR-INSURANCE EXPENSE	29,914	32,570	2,656
52430	OPR-MISC EXPENSE	200	200	-
	Total Other Operating Expenses	30,114	32,770	2,656
	SUBTOTAL OF OPERATIONAL EXPENSES	1,306,401	1,369,824	63,423
	Maintenance and Repair Equipment			
53101	M&R-EQUIPMENT	16,100	24,550	8,450
53110	M&R-CONTROL SYSTEMS	5,000	1,700	(3,300)
53115	M&R-METERS	1,500	1,500	-
	Total Maintenance and Repair Equipment	22,600	27,750	5,150
	Structures			
53201	M&R-BUILDING	6,890	3,426	(3,464)
53205	M&R-PUMPS AND MOTORS	31,500	36,750	5,250
53210	M&R-GATES AND VALVES	1,500	5,000	3,500
53220	M&R-CLARIFIERS	60,700	17,500	(43,200)
53237	M&R UV SYSTEM	20,000	20,000	-
	Total Structures	120,590	82,676	(37,914)

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
	Other Maintenance & Repairs			
53310	M&R-GROUNDS/ROW	13,500	13,500	-
53325	M&R-GENERAL MAINTENANCE	18,200	4,500	(13,700)
	Total Other Maintenance & Repairs	31,700	18,000	(13,700)
	SUBTOTAL OF M&R EXPENSES	174,890	128,426	(46,464)
	Administrative & General			
54100	ADMINISTRATIVE & GENERAL	123,263	138,823	15,560
	Total Administrative & General	123,263	138,823	15,560
	TOTAL OPERATING AND M&R EXPENSES	1,604,554	1,637,073	32,519
	Net Operating Income	-	-	-
	Net Change in Fund Balance	-	-	-



LOCKHART WATER TREATMENT PLANT SYSTEM

WORK PLAN AND BUDGET

Fiscal Year Ending August 31, 2025

Preliminary as submitted by
Guadalupe-Blanco River Authority
July 1, 2024

Lockhart Division

Lockhart Water Treatment Plant System

Operating Plan for Fiscal Year ending 8/31/25

BACKGROUND

GBRA entered into a contract in September 2000 with the City of Lockhart to operate its wells and 4 million gallon per day (mgd) water treatment plant beginning October 1, 2000 in addition to the operation of two wastewater treatment facilities for the City. These systems are under the direct oversight of the Lockhart Operations Manager. There are currently four operators assigned to the Lockhart Water Treatment Plant System which are responsible for operating and maintaining the plant and ground water production facilities. Personnel from the Lockhart Wastewater Reclamation System provide assistance in the operations and maintenance of the ground water system. Serving as facilitators to the Lockhart Operations team are the Division Manager-Hays and Caldwell Counties. Additional support will be received from the Seguin and New Braunfels office in the form of engineering, electrical, purchasing and administrative functions.

REVENUE SOURCES AND TRENDS

GBRA provides the operation of the City's 4.0 million gallons per day (MGD) groundwater treatment plant and water wells. The contract provides that GBRA does not over-recover nor under-recover the costs of operating the System.

The following Work Plan and Budget is based on operating and maintaining the Lockhart Water Treatment Plant, booster station and seven water wells. The projected water production of the plant and seven wells for FY 2025 is 193.30 MG or 0.538 MGD. However, the total water needs for the City from all sources is estimated to be approximately 585.0 MG. The differential or additional water required by the City of Lockhart will be supplied by the GBRA surface water treatment plant located in Luling and delivered through the Luling/Lockhart Treated Water Delivery System. Lockhart will also be receiving water from the Carrizo Water Treatment Plant located in Rosanky and delivered through the Alliance Project Delivery System. The budgeted FY 2025 operating revenue for the Lockhart Water Treatment Plant System is \$1,080,740 which is \$120,720 or 12.57% more than last year's budget and is based on a total estimated annual water treatment of 196,300,000 gallons or 196.30 MG. As described in the previous paragraph, the Lockhart WTP System is a cost-of-service operation and any year-over-year change in revenue is in a direct relationship to the changes in operating expenditures and capital improvements, for that year.

MAJOR OPERATING AND MAINTENANCE EXPENDITURES

Due to the nature of the GBRA and City of Lockhart contract, the operating expenditure budget for FY 2025 replicates the revenue budget and therefore also amounts to \$1,080,740. Two of the major operating expenses for the ensuing fiscal year are power and chemicals. Chlorine, liquid ammonium sulfate (LAS), orthophosphate, and fluoride are the primary chemicals required at the water treatment plant in order to properly treat and maintain the water quality in accordance with Texas Commission on Environmental Quality (TCEQ) requirements. Chlorine and LAS are used together as a disinfectant for the water. Orthophosphate is used as a corrosion inhibitor and as such, protects the City's distribution system and assures the delivery of high-quality water. Fluoride is added pursuant to Texas Department of State Health Services Fluoridation Program recommendations. The total chemical budget for FY 2025 is \$61,256. Power will also be a major expense for the upcoming year amounting to \$64,000. The maintenance expenses

include the replacement of the effluent valves on the Water Plant's filters. The installation of a Flow Meter on the discharge of the Clearwell. The rehabilitation and chemical treatment of a well and the media replacement of the two Aeration Towers at the Water Plant.

In order to meet public service needs through motivated employees, provide advanced training, and maintain and upgrade occupational licenses, personnel will attend courses provided by various approved sources such as Texas Engineering Extension Service and Texas Water Utility Association. Plant personnel will also conduct in-house training in team building skills, confined space rescue, hazard communication, electrical safety and maintenance, first aid, and CPR. Other training will include computer software and personal development seminars.

FUND BALANCE

Funds for the above listed maintenance projects as well as all of the other operating expenditures that are summarized in the following pages will be provided from revenues from the City of Lockhart. Since this division represents a contract operation in which GBRA does not over-recover nor under-recover its costs, the net change in fund balance for FY 2025 is \$0.

**Guadalupe-Blanco River Authority
Work Plan & Budget
Fiscal Year Ending August 31, 2025**

**131 - Lockhart WTP
Department ***

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
OPERATING BUDGET				
OPERATING REVENUES				
Water Treatment				
41101	PLANT O&M	872,578	981,522	108,944
41102	PLANT A&G	87,442	99,218	11,776
	Total Water Treatment	960,020	1,080,740	120,720
	Total Operating Revenue	960,020	1,080,740	120,720
OPERATING EXPENSES				
Salaries				
51101	LBR-REGULAR WAGES	251,317	287,541	36,224
51102	LBR-OVERTIME	13,657	13,119	(538)
	Total Salaries	264,974	300,660	35,686
Benefits				
51298	BEN-BENEFIT ALLOCATION	107,315	121,767	14,452
	Total Benefits	107,315	121,767	14,452
Operating Supplies & Services				
52101	OPR-POWER & UTILITIES	56,000	64,000	8,000
52103	OPR-CHEMICALS	56,605	61,256	4,651
52110	OPR-SMALL TOOLS AND SUPPLIES	2,250	3,000	750
52113	OPR-LAB SUPPLIES	14,231	14,560	329
52114	OPR-LABORATORY SERVICES-GBRA	5,172	5,422	250
52115	OPR-LABORATORY SERVICES-OUTSOURCED	2,336	6,075	3,739
52120	OPR-UNIFORMS/BUSINESS ATTIRE	3,800	4,400	600
52121	OPR-SAFETY & EMERGENCY EXPENSE	1,635	1,685	50
52122	OPR-SECURITY EXPENSE	1,750	-	(1,750)
52123	OPR-EQUIPMENT RENTAL	1,500	1,500	-
52124	OPR-EQUIPMENT EXPENSE	250	300	50
52125	OPR-VEHICLE EXPENSE	2,830	2,880	50
52133	OPR-SCADA	9,700	5,700	(4,000)
	Total Operating Supplies & Services	158,059	170,778	12,719

	FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
Professional Services and Fees			
52205 OPR-PROFESSIONAL SERVICES-OTHER	4,730	5,425	695
52216 OPR-REGULATORY FEES	12,200	12,200	-
52222 OPR-MEMBERSHIPS & PUBLICATIONS	400	400	-
52223 OPR-LICENSE & TRAINING	3,319	3,379	60
52224 OPR-TRAVEL & MEETINGS	2,500	2,500	-
Total Professional Services and Fees	23,149	23,904	755
Office Expenses			
52301 OPR-OFFICE SUPPLIES	750	750	-
52302 OPR-COMPUTER & SOFTWARE EXPENSE	4,050	7,900	3,850
52303 OPR-WIDE AREA NETWORK EXPENSE	3,200	3,200	-
52306 OPR-DATA & PHONE EXPENSE	5,800	4,300	(1,500)
52331 OPR-JANITORIAL SUPPLIES AND SERVICE	500	500	-
Total Office Expenses	14,300	16,650	2,350
Other Operating Expenses			
52420 OPR-INSURANCE EXPENSE	22,621	22,263	(358)
52430 OPR-MISC EXPENSE	250	250	-
Total Other Operating Expenses	22,871	22,513	(358)
SUBTOTAL OF OPERATIONAL EXPENSES	590,668	656,272	65,604
Maintenance and Repair Equipment			
53101 M&R-EQUIPMENT	1,850	2,350	500
53110 M&R-CONTROL SYSTEMS	19,400	5,500	(13,900)
53115 M&R-METERS	13,400	13,400	-
Total Maintenance and Repair Equipment	34,650	21,250	(13,400)
Structures			
53201 M&R-BUILDING	16,000	11,000	(5,000)
53205 M&R-PUMPS AND MOTORS	35,000	35,000	-
53210 M&R-GATES AND VALVES	5,000	42,500	37,500
53235 M&R-TRANSMISSION LINES	25,000	32,500	7,500
Total Structures	81,000	121,000	40,000
Other Maintenance & Repairs			
53302 M&R-WELLS	115,000	125,000	10,000
53310 M&R-GROUNDS/ROW	13,000	13,500	500
53325 M&R-GENERAL MAINTENANCE	38,260	44,500	6,240
Total Other Maintenance & Repairs	166,260	183,000	16,740
SUBTOTAL OF M&R EXPENSES	281,910	325,250	43,340

		FY 2024 BUDGET	FY 2025 BUDGET	FY 2025-2024 DIFFERENCE
	Administrative & General			
54100	ADMINISTRATIVE & GENERAL	<u>87,442</u>	<u>99,218</u>	<u>11,776</u>
	Total Administrative & General	<u>87,442</u>	<u>99,218</u>	<u>11,776</u>
	TOTAL OPERATING AND M&R EXPENSES	<u>960,020</u>	<u>1,080,740</u>	<u>120,720</u>
	Net Operating Income	<u>-</u>	<u>-</u>	<u>-</u>
	Net Change in Fund Balance	<u>-</u>	<u>-</u>	<u>-</u>

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding Resolution 2024-19 accepting a petition for and calling a public hearing on the advisability of public improvements and creation of the Seawillow Public Improvement District pursuant to Chapter 372 of the Texas Local Government Code.

ORIGINATING DEPARTMENT AND CONTACT: City Attorney - Brad Bullock

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: As Council recalls, the City previously approved the Seawillow Development Agreement, which provides that the City will take steps to authorize the creation of a public improvement district ("PID"), created pursuant to Chapter 372 of the Texas Local Government Code. Chapter 372 sets forth the steps necessary to establish the creation of a PID, and this resolution is one of the first required steps. The purpose of a PID is to allow development to pay for itself and reimburse a developer for funding certain approved costs related to infrastructure and similar items that benefit the new development. This resolution is required to be approved so that the PID may continue in the creation process and thereafter be formed and an assessment may be levied against the development for the eventual reimbursement of approved costs.

The attached Resolution 2024-19 accepts the petition submitted by the developer for the PID, calls for a public hearing (required by law) and makes findings that its creation is advisable. A second resolution authorizing the creation of the PID will be presented to Council for consideration at a future meeting after publication of the required public hearing notices.

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. This has

City of Lockhart, Texas

Council Agenda Item Cover Sheet

been reviewed by the City Attorney in consultation with the developer's attorney.

LIST OF SUPPORTING DOCUMENTS: Resolution 2024-19 - Accepting Petition and Calling Public Hearing on Seawillow PID Creation

RESOLUTION NO. 2024-19

RESOLUTION ACCEPTING A PETITION FOR AND CALLING A PUBLIC HEARING ON THE ADVISABILITY OF THE PUBLIC IMPROVEMENTS AND CREATION OF SEAWILLOW PUBLIC IMPROVEMENT DISTRICT WITHIN THE CITY OF LOCKHART, TEXAS PURSUANT TO CHAPTER 372, TEXAS LOCAL GOVERNMENT CODE; AUTHORIZING THE MAILING AND PUBLICATION OF NOTICE OF THE PUBLIC HEARING RELATED THERETO; AND RESOLVING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Lockhart, Texas (the “City”), is authorized under Chapter 372 of the Texas Local Government Code, as amended (the “Act”), to create a public improvement district within its corporate limits and/or its extraterritorial jurisdiction; and

WHEREAS, the City Council of the City (the “City Council”) of Lockhart, Texas (the “City”) has received a petition (the “Petition”), requesting creation of a public improvement district to be named Seawillow Public Improvement District (the “District”) under Chapter 372 of the Texas Local Government Code (the “Act”), from the record owners of taxable real property representing more than fifty percent (50%) of the appraised value of the real property liable for assessment (as determined by the most recent certified appraisal roll for Caldwell County) in the proposed District and the record owners of taxable real property that constitute more than 50% of all of the area of all taxable real property that is liable for assessment in the proposed District; and

WHEREAS, the Petition, a copy of which is attached hereto as Exhibit A, has been examined, verified, previously accepted and found to meet the requirements of Section 372.005(b) of the Act and to be sufficient for consideration by the City Council; and

WHEREAS, the boundaries of the proposed District are described in the attachment to the Petition, said area for the District being partially located within the corporate limits of the City and partially within the extraterritorial jurisdiction of the City; and

WHEREAS, the City Council acknowledges the acceptance of the Petition and desires to schedule a public hearing to consider the advisability of the improvements and creation of the District;

WHEREAS, the general nature of the proposed public improvements to be provided by the District that are necessary for the development of the Property within the District and which shall promote the interests of the City and confer a special benefit upon the Property, may include: (i) street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) establishment or improvement of parks and open space, together with the design, construction of any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) sidewalks and landscaping, including entry monuments and features, fountains, lighting and signage; (iv) acquisition, construction, and improvement of water, wastewater and drainage improvements and facilities; (v) acquisition of real property, interests in

real property, or contract rights in connection with the Authorized Improvements; (vi) payment of costs, including, without limitation, design, engineering, permitting, legal, required payment, performance and maintenance bonds, bidding, support, construction, construction management, administrative and inspection costs, associated with developing and financing the public improvements listed in (i) through (v) above; (vii) projects similar to those listed in subsections (i) - (v) above or authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (viii) payment of costs associated with special supplemental services for improvement and promotion of the District as approved by the City including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and (ix) payment of costs associated with developing and financing the public improvements listed in (i) - (viii) above, as well as the interest, costs of issuance, reserve funds, or credit enhancement of bonds issued for the purposes described in (i) through (viii) above, and costs of establishing, administering and operating the District (collectively, the “Authorized Improvements”).

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

Section 1: THAT the public hearing is hereby scheduled at or after 7:30 p.m., on September 3, 2024, at Lockhart City Hall, 308 West San Antonio Street, Lockhart, Texas 78644 to receive public comment on the advisability of the improvements, nature of the improvements, estimated costs of the improvements, boundaries of the District, the method of assessment, and the apportionment of costs and creation of the District in the area described in the Petition attached as Exhibit A, pursuant to the Act; and

Section 2: THAT notice of said hearing, in the substantially final form presented herewith in Exhibit B with such changes as may be approved by the City’s counsel, shall be published in a newspaper of general circulation in the City before the 15th day prior to the date of the hearing as required by the Act; and

Section 3: THAT written notice, in the substantially final form presented herewith in Exhibit B with such changes as may be approved by the City’s counsel, shall be mailed to each property owner, as reflected on the tax rolls, of property subject to assessment within the proposed District before the 15th day prior to the date set for the hearing.

Section 4: THAT the recitals contained in the preamble hereof are found to be true and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgement and findings of the City Council.

Section 5: THAT it is officially found, determined, and declared that the meetings at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 6: THAT this Resolution shall be in force and effect from and after its final passage and it is so resolved.

[Signatures to follow]

**DULY RESOLVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
LOCKHART, TEXAS ON AUGUST 6, 2024**

CITY OF LOCKHART, TEXAS

APPROVED:

Lew White, Mayor

ATTEST:

Julie Bowermon, City Secretary

APPROVED AS TO FORM:

Bradford E. Bullock, City Attorney

Signature Page to Resolution Accepting District Petition

EXHIBIT A

PETITION
(see attached Petition)

A-1

**PETITION FOR CREATION OF THE SEAWILLOW PUBLIC IMPROVEMENT
DISTRICT WITHIN THE CITY OF LOCKHART, TEXAS**

TO THE HONORABLE MAYOR AND CITY COUNCIL, CITY OF LOCKHART, TEXAS:

COMES NOW RODG DT SEAWILLOW PROPCO LLC, a Texas limited liability company, DAVID ACEVEDO, an individual, EDUARDO ACEVEDO, an individual, as a representative of the Leandro Acevedo Estate, DAVID ACEVEDO, an individual, a representative of the Leandro Acevedo Estate, VIRGINIA VILLARREAL, an individual, a representative of the Leandro Acevedo Estate, MARGARITA BRITT, an individual, a representative of the Leandro Acevedo Estate (collectively, the “Petitioners”), the owners of certain taxable real property, and pursuant to Chapter 372 of the Texas Local Government Code, as amended (the “Act”), hereby petitions the City of Lockhart, Texas (“City”) to establish the Seawillow Public Improvement District to include property owned by the Petitioners and located partially within the City and partially within the extraterritorial jurisdiction of the City (the “District”). In support of same, Petitioners would respectfully show the following:

I.

The boundaries of the proposed District are set forth in Exhibit A attached hereto and incorporated by reference herein.

II.

The general nature of the proposed public improvements to be provided by the District that are necessary for the development of the Property within the District and which shall promote the interests of the City and confer a special benefit upon the Property, may include: (i) street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) establishment or improvement of parks and open space, together with the design, and construction of any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) sidewalks and landscaping, including entry monuments and features, fountains, lighting and signage; (iv) acquisition, construction, and improvement of water, wastewater and drainage improvements and facilities; (v) acquisition of real property, interests in real property, or contract rights in connection with the Authorized Improvements; (vi) payment of costs, including, without limitation, design, engineering, permitting, legal, required payment, performance and maintenance bonds, bidding, support, construction, construction management, administrative and inspection costs, associated with developing and financing the public improvements listed in (i) through (v) above; (vii) projects similar to those listed in subsections (i) - (v) above or authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (viii) payment of costs associated with special supplemental services for improvement and promotion of the District as approved by the City including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security, business recruitment, development, recreation, and cultural enhancement; and (ix) payment of costs associated with developing and financing the public improvements listed in (i) - (viii) above, as well as the interest, costs of issuance, reserve funds, or credit enhancement of bonds issued

for the purposes described in (i) through (viii) above, and costs of establishing, administering and operating the District (collectively, the “Authorized Improvements”).

III.

The current estimated total cost of the proposed Authorized Improvements is \$150,000,000.

IV.

The City shall levy assessments on each parcel within the District in a manner that results in imposing equal shares of the costs on property similarly benefited. Each assessment may be paid in part or in full at any time (including interest), and certain assessments may be paid in annual installments (including interest). If the City allows an assessment to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those Authorized Improvements financed by the assessment and must continue for a period necessary to retire the indebtedness on those Authorized Improvements (including interest).

V.

The City will not be obligated to provide any funding to finance the Authorized Improvements, other than from assessments levied in the District. No City property in the District shall be assessed. The Petitioners may fund certain improvements from other funds available to the Petitioners.

VI.

The management of the District will be by the City, with the assistance of one or more consultants, who shall, from time to time, advise the City regarding certain operations of the District.

VII.

The persons or entities (through authorized representatives) signing this Petition concur with the establishment of the District and have the corporate or individual authority to execute and deliver the Petition.

VIII.

The Petitioners propose that the District be established and managed without the creation of an advisory board. However, if an advisory board is created, the Petitioners request a representative of the Petitioners be appointed to the advisory board.

IX.

The persons or entities (through authorized representatives) signing this Petition are also owners of taxable real property representing more than fifty percent (50%) of the appraised value of taxable real property liable for assessment under the proposal as determined by the current roll of the appraisal district in which the property is located; and the record owners of real property liable for assessment under the proposal who (a) constitute more than fifty percent (50%) of all record owners of property that is liable for assessment under the

proposal, and (b) own taxable real property that constitutes more than fifty percent (50%) of the area of all taxable real property that is liable for assessment under the proposal.

X.

This Petition will be filed with the City Secretary, City of Lockhart, Texas, in support of the creation of the District by the City Council of the City as herein provided.

[Signatures to follow]

EXECUTED on this July 3, 2024.

PETITIONERS:

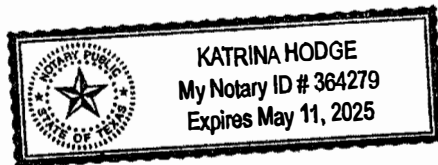
**RODG DT SEAWILLOW PROPCO
LLC, a Texas limited liability company**

By: [Signature]
Name: Thomas Staub
Title: CEO

STATE OF TEXAS §
 §
COUNTY OF Caldwell §

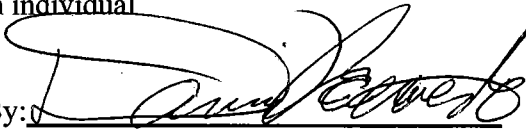
This instrument was acknowledged before me on July 3, 2024
by Thomas on behalf of said company listed above.

Staub



[Signature]
Notary Public, State of Texas

DAVID ACEVEDO,
an individual

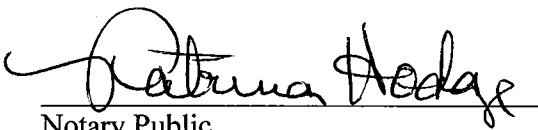
By: 

STATE OF TEXAS §
COUNTY OF Caldwell §

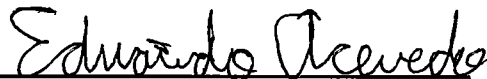
Before me, on this day personally appeared the foregoing individual, known to me to be the person whose name was subscribed in my presence to the foregoing instrument.

[SEAL]




Notary Public
Commission Expires: _____

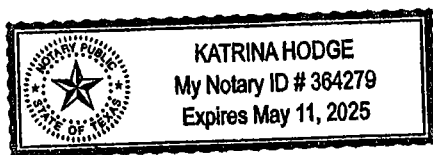
EDUARDO ACEVEDO,
an individual, a representative of the Leandro
Acevedo Estate

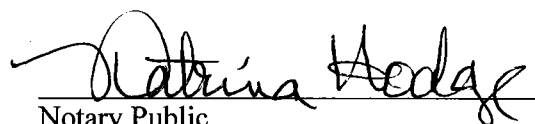
By: 

STATE OF TEXAS §
COUNTY OF Caldwell §

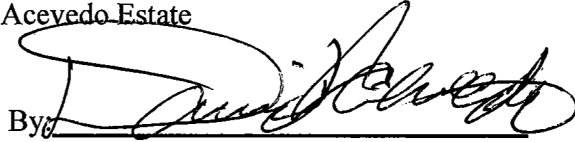
Before me, on this day personally appeared the foregoing individual, known to me to be the person whose name was subscribed in my presence to the foregoing instrument.

[SEAL]



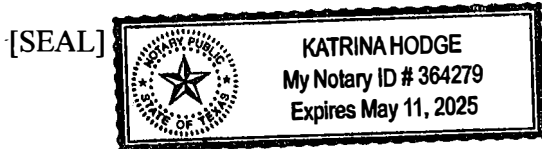

Notary Public
Commission Expires: _____

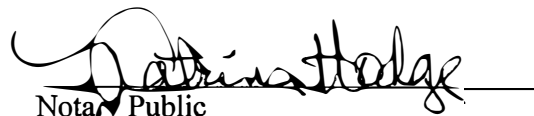
DAVID ACEVEDO,
an individual, a representative of the Leandro
Acevedo Estate

By: 

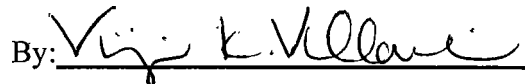
STATE OF TEXAS §
COUNTY OF Caldwell §

Before me, on this day personally appeared the foregoing individual, known to me to be
the person whose name was subscribed in my presence to the foregoing instrument.




Notary Public
Commission Expires: _____

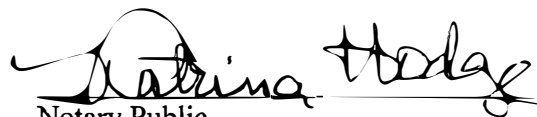
VILLARREAL
VIRGINIA VILLARREAL,
an individual, a representative of the Leandro
Acevedo Estate

By: 

STATE OF TEXAS §
COUNTY OF Caldwell §

Before me, on this day personally appeared the foregoing individual, known to me to be
the person whose name was subscribed in my presence to the foregoing instrument.




Notary Public
Commission Expires: _____

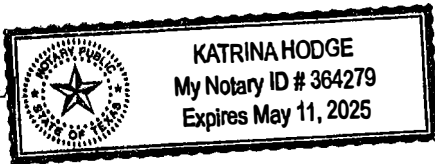
MARGARITA BRITT,
an individual, a representative of the Leandro
Acevedo Estate

By: Margarita Britt

STATE OF TEXAS §
COUNTY OF Caldwell §

Before me, on this day personally appeared the foregoing individual, known to me to be
the person whose name was subscribed in my presence to the foregoing instrument.

[SEAL]



Katrina Hodge
Notary Public
Commission Expires: _____

EXHIBIT A

Legal Description

LEGAL DESCRIPTION

BEING a 588.547 acre tract of land situated in the JOHN A. NEILL SURVEY, ABSTRACT No. 20, Caldwell County, Texas, and being all of the called 89.769 acres of land as described in deed as recorded in Document Number 2021-006882, Real Property Records, Caldwell County, Texas, and a portion of the called 160.00 acres of land described in deed as recorded in Volume 28, Page 146 of the Real Property Records, Caldwell County, Texas, SAVE & EXCEPT the called 3.007 acres of land described in deed recorded in Instrument Number 2018-003545 Real Property Records, Caldwell County, Texas, and all of the 358.536 acres of land as described in deed as recorded in Volume 209, Page 425, Official Public Records, Caldwell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch capped iron rod found, marked Hinkle Surveying, on the Northeast Right-of-Way line of Farm to Market Road 1322, an 80 foot Right-of-Way, and for the Northwest corner of a called 85.00 acre tract of land as described in a deed to Charles D. Spillmann and Jane Spillmann as recorded in Document Number 2016-005533 of said Official Public Records, same being the Southwest corner of said 169.811 acre tract and the of this herein described tract;

THENCE North 31° 43' 06" West, along said Right-of-Way and the Southwest line of said 89.775 acre tract, a distance of **2,572.95 feet** to a 1/2 inch capped iron rod found, marked Jones Carter Prop Corner, for the Southwest corner of a called 80.04 acre tract of land as described in deed to Vema Investments, LLC. as recorded in Instrument 2021-007855 of said Official Public Records, same being a Northwest corner of said 89.775 acre tract;

THENCE North 78° 46' 11" East, along the common line of said 80.04 acres and said 89.775 acres, a distance of **1,665.32 feet** to a 1/2 inch iron rod found on the Southwest line of a called 358.536 acre tract of land as described in a deed to David V. Acevedo and Marge Margarita Acevedo as recorded in Volume 209, Page 425 of said Official Public Records, and being the Southeast corner of said 80.04 acres;

THENCE North 29°54'41" West, along the common line of said 358.536 acres and said 80.04 acres, a distance of **956.23 feet** to a 1/2 inch iron rod found for an interior angle point in the West line of a called 2.606 acre tract of land described in deed to Ray C. Nash and wife, Helen K. Nash as recorded in Volume 76, Page 743 of said Official Public Records, same being a Northwest corner of said 358.536 acres;

THENCE North 12°42'23" East, along the common line of said 358.536 acres and said 2.606 acres, a distance of **100.55 feet** to a 1 inch iron pipe found on the South Right-of-Way line of County Road 205, a.k.a. Seawillow Road, a variable width Right-of-Way;

THENCE along the South Right-of-way and the North line of said 358.536 acres the following bearings and distances:

South 72°03'50" East, a distance of **65.07 feet** to a 1/2 inch iron rod found capped;

South 86°16'07" East, a distance of **189.45 feet** to a 1/2 inch iron rod found capped;

North 79°02'20" East, a distance of **350.87 feet** to a three way fence corner post found;

North 78°34'18" East, a distance of **1,963.89 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 64°47'06" East, a distance of **592.08 feet** to a 1/2" iron rod found capped for the North corner of a called 3.07 acre tract of land described in deed to Chris C. Chapman and Kimberly K. Hoffman Chapman as recorded in Instrument Number 2018-003545 of said Official Public Records;

THENCE departing said South Right-of-Way, along the common line of said 3.07 acres and said 358.536 acres the following bearings and distances:

South 24°46'35" West, a distance of **365.69 feet** to a 1/2 inch iron rod found capped;

South 62°46'06" East, a distance of **358.21 feet** to a fence corner post found;

North 24°38'27" East, a distance of **366.83 feet** to a 5/8 inch iron rod found on said South Right-of-Way, for the East corner of said 3.07 acres;

THENCE South 61°15'06" East, along said South Right-of-Way line, a distance of **472.51 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set for the North corner of the 20.000 acre remainder of said 160 acre tract;

THENCE over and across, said 160 acres the following three (3) courses and distances:

South 32°22'32" West, a distance of **639.03 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 24°59'14" East, a distance of **617.22 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

North 82°35'38" East, a distance of **1096.03 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set on the West Right-of-Way line of said CR 205 and the East line of said 160 acres;

THENCE South 14°17'18" East, a distance of **970.10 feet** to a "L" bracket with flagging found for the Northwest corner of a called 1.997 acre tract of land as described in deed to Russell A. Nickel, a single man, as recorded in Instrument Number 2020-003246 of said Official Public Records, and being on the East line of said 358.536 acres;

THENCE South 11°10'32" East, along the East line of said 358.536 acres, passing a 5/8 inch iron rod found for the Northwest corner of a called 9.152 acre tract of land as described in the deed to Brenda Gayle Bagwell Hagan, a married person, as her separate property and estate as recorded in Instrument Number 2021004181 of said Official Public Records, same being the Southwest corner of said 1.997 acres, continuing a total distance of **935.26 feet** to a 6 inch wood fence corner post found for the Southwest corner of said 9.152 acres, same being an interior ell corner of said 358.536 acres;

THENCE North 78°31'19" East, along a North line of said 358.536 and along the South line of said 9.152 acres and a called 9.152 acres of land as described in deed to William R Hagan and Brenda G Hagan, husband and wife, as recorded in Volume 273, Page 537 of said Official Public Records, and the South line of a called 9.15 acres of land described in deed to Delores Stanton Revocable Trust as recorded in Instrument Number 2023-003597 of said Official Public Records, a distance of **2095.92 feet** to a 6 inch wood fence corner post found on the West Right-of-Way line of said CR 205 for a Northeast corner of said 358.536 acres, same being the Southeast corner of said 9.15 acres;

THENCE along the West Right-of-Way line of said CR 205 the following bearings and distances:

South 09°58'20" East, a distance of **1445.88 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 13°05'03" East, a distance of **202.27 feet** to a 1/2 inch iron rod capped DATAPOINT#10194585 set;

South 23°19'16" East, a distance of **157.39 feet** to a 1/2 inch iron rod found capped for the Northeast corner of Lot 1, 2 and 3, Commanche Hill, Section One, a Subdivision in Caldwell County, Texas according to the Map or Plat of Records in Plat Cabinet A, Slide 28, Plat Records of Caldwell County, as described in deed to Beatrice Madrigal, a single person and John S. Rosales, a single person as recorded in Instrument Number 126568 of Official Public Records, same being the Southernmost Southeast corner of said 358.536 acres;

THENCE South 78°28'58" West, along the South line of said 358.536 acres, a distance of **4735.83 feet** to a 1 inch iron pipe found for the Southeast corner of said 85.00 acres and being the Southernmost Southwest corner of said 358.536 acres, from which a 1/2 inch iron rod found for the Southwest corner of said 85.00 acres bears South 78° 47' 06" West, a distance of 1,503.48 feet;

THENCE North 29°54'41" West, along the common line of said 85.00 acres and said 358.536 acres, a distance of **2533.18 feet** to a calculated point from which a 1/2 inch iron rod found capped "Hinkle Surveying" bears, South 78° 48' 18" West, a distance of 0.35 feet for the Northeast corner of said 85.00 acres and being the Southeast corner of said 89.775 acres;

THENCE South 78°46'18" West, along the South line of said 89.775 acres and the North line of said 85.00 acres, a distance of **1579.70 feet** to the **POINT OF BEGINNING**, containing an area of 25,637,112 Square Feet and/or **588.547 Acres** of land, more or less.

EXHIBIT B

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF LOCKHART TO CONSIDER THE ADVISABILITY OF THE IMPROVEMENTS AND CREATION OF A PUBLIC IMPROVEMENT DISTRICT WITHIN THE CITY TO MAKE CERTAIN IMPROVEMENTS OVER CERTAIN PROPERTIES LOCATED WITHIN THE BOUNDARIES OF THE CITY

NOTICE IS HEREBY GIVEN THAT the City Council of the City of Lockhart, Texas (the “City”), pursuant to Chapter 372.009 of the Texas Local Government Code, as amended, (the “Act”), will hold a public hearing at or after 7:30 p.m. on September 3, 2024, at the Lockhart City Hall, 308 West San Antonio Street, Lockhart, Texas 78644 for the purpose of considering the establishment of a public improvement district partially located within the corporate limits of the City and partially within the extraterritorial jurisdiction of the City.

In accordance with the Act, the City Secretary has received a petition (the “Petition”) from certain property owners within the City that request the establishment of the Seawillow Public Improvement District.

The Petition and the legal description of the properties to be included in the public improvement district are on file and open for public inspection in the office of the City Secretary at the address stated above. The public hearing is being held with respect to the advisability of creating Seawillow Public Improvement District and the respective improvements to be made therein.

The general nature of the proposed public improvements to be provided by the District that are necessary for the development of the Property within the District and which shall promote the interests of the City and confer a special benefit upon the Property, may include: (i) street and roadway improvements, including related sidewalks, drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) establishment or improvement of parks and open space, together with the design, construction of any ancillary structures, features or amenities such as trails, playgrounds, walkways, lighting and any similar items located therein; (iii) sidewalks and landscaping, including entry monuments and features, fountains, lighting and signage; (iv) acquisition, construction, and improvement of water, wastewater and drainage improvements and facilities; (v) acquisition of real property, interests in real property, or contract rights in connection with the Authorized Improvements; (vi) payment of costs, including, without limitation, design, engineering, permitting, legal, required payment, performance and maintenance bonds, bidding, support, construction, construction management, administrative and inspection costs, associated with developing and financing the public improvements listed in (i) through (v) above; (vii) projects similar to those listed in subsections (i) - (v) above or authorized by the Act, including similar off-site projects that provide a benefit to the property within the District; (viii) payment of costs associated with special supplemental services for improvement and promotion of the District as approved by the City including services related to advertising, promotion, health and sanitation, water and wastewater, public safety, security,

business recruitment, development, recreation, and cultural enhancement; and (ix) payment of costs associated with developing and financing the public improvements listed in (i) - (viii) above, as well as the interest, costs of issuance, reserve funds, or credit enhancement of bonds issued for the purposes described in (i) through (viii) above, and costs of establishing, administering and operating the District (collectively, the “Authorized Improvements”).

The current estimated cost to fund the Authorized Improvements is \$150,000,000.

The boundaries of the proposed Seawillow Public Improvement District are approximately 588.547 acres partially located within the corporate limits of the City and partially within the extraterritorial jurisdiction of the City, located north of County Road 197 between Farm to Market Road 1322 and Seawillow Road. A full description of the boundaries of the proposed Seawillow Public Improvement District is available at Lockhart City Hall, 308 West San Antonio Street, Lockhart, Texas 78644.

The City shall levy assessments on each lot within the public improvement district in a manner that results in imposing equal shares of the costs on property similarly benefited. All assessments may be paid in full at any time (including accrued and unpaid interest), and certain assessments may be paid in annual installments (including interest and debt). If an assessment is allowed to be paid in installments, then the installments must be paid in amounts necessary to meet annual costs for those Authorized Improvements financed in part by the assessment, and must continue for a period necessary to retire the indebtedness on those Authorized Improvements (including interest).

All of the costs of the Authorized Improvements will be paid from assessments levied on properties in the public improvement district and/or from other sources of funds of the developer.

All interested persons are invited to attend such public hearings to express their views with respect to the establishment of Seawillow Public Improvement District and the respective Authorized Improvements to be made therein. Questions or requests for additional information may be directed to Drew Slone, Locke Lord LLP, dslone@lockelord.com; (214) 740-8094.

Any interested persons unable to attend the hearing may submit their views in writing to the City Secretary prior to the date scheduled for the hearing.

This Notice of Public Hearing is given and the public hearing is being held pursuant to the requirements of the Act.

THE CITY OF LOCKHART, TEXAS

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding Ordinance 2024-19 denying West Texas Gas (WTG) Utility, LLC's request to change rates in the City as part of the company's statewide gas utility system and requiring a prompt reimbursement of costs incurred by the City pursuant to Chapters 102 and 103 of the Texas Utilities Code.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: On July 16, 2024, West Texas Gas Utility, LLC filed with the City a Statement of Intent to change gas rates in all municipalities within the company's statewide gas utility system effective August 20, 2024. This ordinance denies West Texas Gas Utility's request. Pursuant to the Texas Utilities Code, the City has exclusive jurisdiction to evaluate the company's Statement of Intent as it pertains to the distribution facilities located within the City. The Code also provides that costs included by the City in ratemaking activities are to be reimbursed by the regulated utility.

Staff recommends approval. This has been reviewed by the City Attorney.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: N/A

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-19 Denying Gas Rate, WTG Statement of Intent dated July 16, 2024

ORDINANCE NO. 2024-19

AN ORDINANCE OF THE COUNCIL OF THE CITY OF LOCKHART, TEXAS, DENYING WEST TEXAS GAS UTILITY, LLC'S REQUEST TO CHANGE RATES IN THE CITY, AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY SYSTEM; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO WEST TEXAS GAS UTILITY, LLC; PROVIDING FOR THE VALIDITY OF SAID ORDINANCE; REPEALING ALL PRIOR ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on or about July 16, 2024, West Texas Gas Utility, LLC (the "Company") filed with the City of Lockhart, Texas ("City"), a Statement of Intent to change gas rates in all municipalities within the Company's statewide gas utility system effective August 20, 2024;

WHEREAS, the City has exclusive original jurisdiction to evaluate the Company's Statement of Intent as it pertains to the distribution facilities located within the City, pursuant to Texas Utilities Code 102.001(b) and 103.001;

WHEREAS, the Texas Utilities Code 103.022 provides that costs included by the City in ratemaking activities are to be reimbursed by the regulated utility;

WHEREAS, upon review of the Company's filing, City staff recommends findings that the Company's proposal is unjustified and unreasonable; and

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

SECTION 1. The Company's Statement of Intent to change gas rates within the City, as part of the Company's statewide gas utility system, is found to be unreasonable. West Texas Gas Utility, LLC's request to increase rates contained in the aforementioned Statement of Intent to Increase Gas Rates within the City with an effective date of August 20, 2024, is hereby in all things **DENIED**.

SECTION 2. The costs incurred by the City in reviewing the Company's application shall be promptly reimbursed by the Company.

SECTION 3. This Ordinance shall become effective immediately from and after its passage, as the law and charter in such cases provide.

SECTION 4. That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

SECTION 5. A copy of this ordinance, constituting final action on the Company's application, be forwarded to the appropriate designated representative of the Company within 10 days as follows:

J.J. King, Vice President – Gas Marketing
Amanda Edgmon, Treasurer/Secretary
West Texas Gas Utility, LLC
303 Veterans Airpark Ln, Suite 500
Midland, Texas 79705

And

Kate Norman
C. Glenn Adkins
Tandy Sticklen
Elizabeth Seyl
Coffin Norman LLP
1011 W. 31st Street
Austin, Texas 78705

SECTION 6. Any previously adopted ordinances, and any subsequent amendments to them, which are in conflict with this Ordinance, are all hereby repealed.

SECTION 7. If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

APPROVED on the 6th day of August 2024.

CITY OF LOCKHART, TEXAS

ATTEST:

Lew White, Mayor

Julie Bowermon
City Secretary

APPROVED AS TO FORM:

Bradford E. Bullock
City Attorney



July 16, 2024

Via Federal Express

To the Honorable Mayors and Council Members:

Attached is a copy of the Statement of Intent of West Texas Gas Utility, LLC ("WTGU" or the "Company"), to increase gas utility rates within the incorporated areas of the Cities of Amarillo, Balmorhea, Cactus, Canadian, Canyon, Claude, Dalhart, Darrouzett, Devine, Eden, Farwell, Follett, Groom, Higgins, Junction, Kermit, La Vernia, Lockhart, Lubbock, Luling, Menard, Miami, Mobeetie, Natalia, Paint Rock, Seguin, Shamrock, Somerset, Sonora, Stratford, Texhoma, Texline, Van Horn, Wheeler, White Deer and Wolfforth, Texas ("Cities"). WTGU is filing a Statement of Intent at this time to more accurately match base rates with the costs of providing service and to recover extraordinary gas costs related to Winter Storm Uri through a separate surcharge. The Company requests that the proposed rates and tariffs contained in the Statement of Intent become effective on August 20, 2024, which is 35 days from the date of this filing. No action on the part of the Cities is required to permit the Company's proposed rates to take effect.

In addition to this city-level filing, the Company is also making a Statement of Intent filing with the Railroad Commission of Texas for the unincorporated areas of the seventy-three Counties in Texas that WTGU serves. The Company is requesting that the Cities and the Commission approve the same rates and tariffs and is providing the same information, including written testimony, to the Cities it serves and to the Commission.

If you have any questions, please do not hesitate to contact me.

Best regards,

J.J. King
Vice President of Gas Marketing

JJK:eas
Attachment

cc: Amanda Edgmon, Treasurer/Secretary, West Texas Gas Utility, LLC
Kate Norman, Coffin Renner LLP

**STATEMENT OF INTENT OF WEST TEXAS GAS UTILITY, LLC
TO INCREASE GAS UTILITY RATES WITHIN THE
UNINCORPORATED AREAS OF TEXAS**

To All Cities Within the State of Texas Served by West Texas Gas Utility, LLC:

West Texas Gas Utility, LLC (“WTGU” or “the Company”), a “gas utility” under Gas Utility Regulatory Act (“GURA”)¹ § 101.003(7), respectfully files this Statement of Intent, pursuant to Subchapter C of Chapter 104 of GURA and the rules of the Gas Services Department of the Railroad Commission of Texas (“Commission”), to increase gas utility rates within the unincorporated areas within Andrews, Archer, Armstrong, Atascosa, Bailey, Bastrop, Bexar, Brewster, Briscoe, Brown, Caldwell, Carson, Castro, Cochran, Coleman, Collingsworth, Concho, Crosby, Culberson, Dallam, Dawson, Deaf Smith, Dimmit, Donley, Floyd, Frio, Gaines, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, Jeff Davis, Kimble, Kinney, La Salle, Lamb, Lipscomb, Lubbock, Lynn, McCulloch, Martin, Mason, Maverick, Medina, Menard, Moore, Ochiltree, Oldham, Parmer, Pecos, Potter, Presidio, Randall, Reeves, Roberts, Runnels, Sherman, Sutton, Swisher, Terry, Tom Green, Travis, Uvalde, Val Verde, Wheeler, Wilson, Winkler, Yoakum, and Zavala Counties.² WTGU’s natural gas service area also includes the Cities of Amarillo, Balmorhea, Cactus, Canadian, Canyon, Claude, Dalhart, Darrouzett, Devine, Eden, Farwell, Follett, Groom, Higgins, Junction, Kermit, La Vernia, Lockhart, Lubbock, Luling, Menard, Miami, Mobeetie, Natalia, Paint Rock, Seguin, Shamrock, Somerset, Sonora, Stratford, Texhoma, Texline, Van Horn, Wheeler, White Deer, and Wolfforth, Texas. The Company’s proposed rates were developed based on WTGU’s costs to serve customers in the entirety of its Texas service area that take service under rate schedule tariffs approved by either a municipality or the Commission (“Jurisdictional Customers”). Contemporaneously with this filing, WTGU is also filing a Statement of Intent to Increase Rates for Jurisdictional Customers within each of the municipalities served by WTGU.

The Company requests that the proposed tariffs, attached as **Exhibit A** to this Statement of Intent and incorporated herein by reference, become effective on August 20, 2024, which is 35

¹ Tex. Util. Code §§ 101.001 *et seq.*

² This pleading uses the terms “unincorporated areas” and “environs” interchangeably.

days from the date of this filing. In support of its request, the Company respectfully shows as follows:

I. INTRODUCTION AND SUMMARY OF THE RATE REQUEST

WTGU is proposing new rates for the jurisdictional service it provides in Texas based on the cost of providing service to all Jurisdictional Customers within its service area, inclusive of both incorporated and unincorporated areas served by WTGU.³ This approach is consistent with the system-wide rates that are currently in effect for WTGU. For the 12-month period ended December 31, 2023, the Company's overall jurisdictional base rate revenue requirement on a system-wide basis totaled approximately \$26,466,131. The total adjusted revenue WTGU currently receives from jurisdictional customers is approximately \$13,188,368, leaving a revenue deficiency of approximately \$13,277,763. However, to moderate the effect of WTGU's rate change request on its customers, WTGU is not requesting to recover its full jurisdictional cost of service through this Statement of Intent. Rather, WTGU is requesting a base rate revenue requirement on a jurisdictional, system-wide basis of approximately \$19,967,258.

If approved, the requested rates will increase WTGU's jurisdictional revenues in Texas by \$6,778,890 which is an increase of approximately 35.75% total revenues including gas costs, or 51.40% base rate revenues, which excludes gas costs. Because the proposed changes will increase WTGU's total aggregate revenues by more than 2.5%, the proposed rate change constitutes a "major change" in rates as that term is defined by GURA § 104.101. Additionally, regarding GURA § 104.006, the proposed rates for areas not within a municipality will not exceed 115% of the average of all rates for similar services of all municipalities served by the Company within the same county.

As part of this rate filing, the Company is also requesting: (1) a prudence determination for all used and useful capital investment WTGU has made through December 31, 2023, including all capital investment reflected in the Company's interim rate adjustment ("IRA") filings made since WTGU's last statement of intent proceeding, pursuant to GURA § 104.301; (2) approval of a

³ WTGU serves domestic and non-domestic jurisdictional customers and irrigation and agricultural non-jurisdictional customers. Domestic customers are residential customers. Non-domestic customers are all other jurisdictional customers.

51.22% allocation factor for capital investment costs that should be allocated to or recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers to be used in future IRA filings; (3) Commission approval of new depreciation rates; (4) Commission approval of a regulatory asset comprised of extraordinary gas costs related to WTGU's continuation of service during Winter Storm Uri; (5) recovery of the Winter Storm Uri regulatory asset through a monthly surcharge over 60 months; (6) approval of its tariffs contained in Exhibit A; and (7) approval of a rate case expense recovery surcharge to recover the reasonable rate case expenses associated with this filing through a surcharge on rates, as provided by law. The exact amount of rate case expense will not be known until the case is complete.

The tariffs, attached hereto as **Exhibit A** to the Rate Filing Package and made a part hereof, support the rate changes proposed by the Company. The Company is proposing revised tariffs for natural gas service that will include rates for domestic and non-domestic customers that will consist of a customer charge and a volumetric charge. Implementation of new tariffs necessarily entails withdrawal of the Company's existing incorporated and environs tariffs. Other tariff changes are detailed in Section III(F) below.

II. JURISDICTION

WTGU is a gas utility as that term is defined in GURA § 101.003(7). Pursuant to GURA § 102.001(a), the Commission has exclusive original jurisdiction to set the rates WTGU requests for Jurisdictional Customers in the unincorporated areas served by WTGU. Consistent with such jurisdiction, the proposed rates identified in Exhibit A are applicable to the Company's natural gas service within the unincorporated areas. The Commission also has appellate authority over municipalities exercising original jurisdiction over the Company's filings.

III. DETAILS OF PROPOSED CHANGES

A. Rate Filing Package

In addition to this Statement of Intent, the Rate Filing Package consists of the following:

- Exhibit A Proposed Tariffs
- Exhibit B Proposed Revenue Change by Class
- Exhibit C Average Bill Impact by Class

- Exhibit D Direct Testimony and Exhibits
- Exhibit E Proposed Notice
- Exhibit F Protective Agreement
- Exhibit G Cost of Service Schedules
- Exhibit H Workpapers

B. Test Year

The Company's proposed cost of service as set forth in this Statement of Intent and Rate Filing Package is based on the 12-month period ended December 31, 2023.

C. Class and Number of Customers Affected

The proposed changes to the Company's tariffs will affect all Jurisdictional Customers that WTGU serves in Texas. The table below shows the approximate number of customers by class, who will be affected by the proposed rate changes:

**Table 1
Customer Classes Affected**

Customer Class	Environs Customers	Incorporated Customers
Domestic ⁴	5,747	12,176
Non-Domestic ⁵	475	2,010

Exhibits B and C, attached, show the amount of the proposed change and the effect of the proposed change on an average bill for each class of customers.

D. Proposed Rate Change

The proposed changes to rates for jurisdictional customers are set out below:

⁴ A "domestic customer" typically refers to residential service and is one whose natural gas service is individually metered.

⁵ A "non-domestic customer" is a customer who is not taking service under the residential tariff and includes commercial, industrial customers, public authority customers, and non-profit customers.

Table 2
Comparison of Current Rates to Proposed Rate Change⁶

Domestic Customers		
	Current	Proposed
Customer Charge	\$23.42 per month	\$29.50 per month
All Consumption ⁷	\$4.84 per Mcf	\$7.68 per Mcf
Non-Domestic Customers		
	Current	Proposed
Customer Charge	\$43.57 per month	\$79.00 per month
All Consumption	\$2.69 per Mcf	\$4.89 per Mcf

Exhibit C shows the average bill impact by customer class.

E. Depreciation Rates

The Company requests that the Commission approve new depreciation rates for WTGU and all of its natural gas assets.

F. Other Proposed Tariff Changes

In addition to the proposed changes in rates, WTGU proposes to add a new Winter Storm Cost Recovery Rider to recover approximately \$3.5 million over a five-year period. The Company also proposes to remove the EDIT Credit Rider because the credit associated with that rider is complete and to make non-substantive changes to the Pipeline Safety Fee Rider. The Company also proposes non-substantive formatting changes to its tariffs. WTGU does not propose to change the fee, deposit, or general terms of service provisions in the tariffs.

G. Effective Date

The Company requests that the Commission order the proposed rates to be effective for bills rendered on and after August 20, 2024, which is 35 days after the filing date.

⁶ The current rate amounts include amounts for the Company's pending GRIP filing in Case No. 00017395.

⁷ The terms "All Consumption" and "Volumetric" are used interchangeably.

H. Witness Testimony

Attached as **Exhibit D** to the Statement of Intent is the direct testimony supporting the Company's requested revenue requirement. The attached testimony includes the following witnesses:

- *Jack J. ("J.J.") King*, Vice President of Gas Marketing, provides an overview of the Company's operations, service territory, customer base and rate filing; supports the prudence of the Company's capital investment; explains affiliate relationships and transactions; addresses certain expense items; addresses extraordinary costs incurred during the Company's response to Winter Storm Uri; and identifies the tariff changes WTGU is requesting.
- *Amanda Edgmon*, Treasurer/Secretary also serving as WTGU Regulatory Accountant, addresses the Company's books and records; attests to the financial information contained in the Company's schedules; sponsors the Company's Gas Reliability Infrastructure Program ("GRIP") filings; discusses the proposed change to the factor to be used in future GRIP filings to determine the amount of capital investment that should be allocated to or recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers; presents the calculation of the regulatory asset amounts related to Winter Storm Uri; and explains the corporate cost allocation method and services from some affiliates.
- *Matthew S. Smith, P.E.*, Associate Vice President of Operations, provides an overview of field operations and expenses and supports the Company's rationale for its request to modify the factor used to determine what portion of the Company's capital investment will be recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers.
- *Dane A. Watson*, with Alliance Consulting Group, sponsors the depreciation study that he performed that produces the depreciation rates used to determine the Company's depreciation expense.
- *Dr. Bruce H. Fairchild*, Principal with Financial Concepts and Applications, Inc., sponsors the Company's cost of service schedules, requested capital structure and return on equity, overall rate of return, billing determinants, income tax expense and other tax issues, cost allocation and rate design; and presents the Company's proposed method for direct assignment of costs attributable to Jurisdictional Customers and Non-Jurisdictional Customers.

IV. RATE CASE EXPENSES

Pursuant to GURA § 104.051 and Commission Rule § 7.5530, WTGU requests recovery of all reasonable and necessary rate case expenses from affected customers through a surcharge to the final approved rates.

V. PUBLIC NOTICE

The Company will promptly undertake to notify the public of the proposed changes in its gas rates consistent with the requirements of GURA § 104.103 and Commission Rules §§ 7.230 and 7.235. The public notice that WTGU proposes to provide regarding the proposed change in rates is attached as **Exhibit E** to the Statement of Intent. WTGU asks that the Commission's Administrative Law Judge and Examiners approve its form of notice prior to publication or distribution to customers, and the Company will submit proof of notice promptly upon completion thereof.

VI. COMPANY REPRESENTATIVES FOR NOTIFICATION

WTGU's authorized representatives are:

J.J. King, Vice President- Gas Marketing
Amanda Edgmon, Treasurer/Secretary
West Texas Gas Utility, LLC
303 Veterans Airpark Ln, Suite 500
Midland, Texas 79705
(432) 682-4349
jking@westtexasgas.com
aedgmon@westtexasgas.com

and

Kate Norman
C. Glenn Adkins
Tandy Sticklen
Elizabeth Seyl
Coffin Renner LLP
1011 W. 31st Street
Austin, Texas 78705
512-879-0900
512-879-0912 (fax)
kate.norman@crtxlaw.com
glenn.adkins@crtxlaw.com
tandy.sticklen@crtxlaw.com
elizabeth.seyl@crtxlaw.com

Please serve all pleadings, motions, orders, and other documents filed in this proceeding upon WTGU's authorized representatives at the above-stated addresses.

VII. PROTECTIVE AGREEMENT

The Company's Rate Filing Package includes certain confidential materials. In addition, the scope of discovery in this case may require the production of additional confidential material. Accordingly, WTGU attaches as **Exhibit F** to this Statement of Intent a Protective Agreement to be used in this case. WTGU will provide confidential material upon execution of Exhibit A attached to the Protective Agreement.

VIII. CONCLUSION

WTGU requests that: (1) rates are approved consistent with those proposed herein to become effective for bills rendered on and after August 20, 2024; (2) capital investment WTGU has made through December 31, 2023 is deemed prudent; (3) the Commission approve the use of a 51.22% allocation factor for capital investment costs that should be allocated to or recovered from Jurisdictional Customers for investment that benefits both Jurisdictional and Non-Jurisdictional Customers to be used in future IRA filings; (4) the Commission approve new depreciation rates; (5) the proposed tariffs be approved; (6) the Commission approve the requested regulatory asset amount for costs related to Winter Storm Uri; (7) the Commission approve recovery of the Winter Storm Uri regulatory asset amount through a monthly surcharge over 60 months; (8) all reasonable rate case expenses incurred in connection with this Statement of Intent filing are authorized for recovery by the Company; and (9) for such further relief to which the Company may be entitled.

Respectfully submitted,

By: Kate Norman

Kate Norman

State Bar No. 24051121

C. Glenn Adkins

State Bar No. 24037433

Coffin Renner LLP

1011 West 31st Street

Austin, Texas 78705

512/879-0900

512/879-0912 (fax)

kate.norman@crtxlaw.com

glenn.adkins@crtxlaw.com

**ATTORNEYS FOR WEST TEXAS GAS
UTILITY, LLC**

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Presentation of the City of Lockhart's Fiscal Year (FY) 2024-2025 Proposed Budget and consider approval of the Lockhart Economic Development Corporation's Budget for FY 2024-2025, and set two public hearings on the FY 2024-2025 City of Lockhart Proposed Budget.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis, Joseph Resendez

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: According to the City of Lockhart Charter, Article 9, Section 9.07, Public Hearing on Budget, the City Council shall hold a public hearing on the budget submitted and all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item therein contained.

According to the Lockhart Economic Development Corporation's bylaws, Article 4, Section 3 Annual Corporate Budget, the President shall submit the budget to the City Council for approval prior to submittal to the Board for final adoption.

The City of Lockhart is required by Charter to hold one public hearing on the budget. Staff recommends conducting two public hearings to allow the citizens of Lockhart the opportunity to discuss any item or amount presented in the proposed FY 2024-2025 Budget. The following dates are presented to the Council for public hearings:

- August 20, 2024 at 7:30 p.m.
- September 3, 2024 at 7:30 p.m.

To be held in the Council Chambers located at the Clark Library Annex - 217 South Main Street, 3rd floor, Lockhart, Texas. The City of Lockhart and the Lockhart Economic Development budget for FY 2024-2025 can be located on the City's website and hard copies are located in City Hall and the City Library.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully request the approval of the Lockhart Economic Development Corporation's budget and of the two dates presented to Council for public hearings on the City's proposed budget.

LIST OF SUPPORTING DOCUMENTS: FYE 2025 Proposed Revenue and Expense Summary

**CITY OF LOCKHART
PROPOSED BUDGET
FISCAL YEAR 2024-25**

	FYE 2022	FYE 2023	FYE 2024 AMENDED	FYE 2025 PROPOSED
	ACTUAL	ACTUAL	BUDGET	BUDGET
REVENUE SUMMARY				
GENERAL FUND	12,700,841	15,428,638	15,071,251	15,885,276
DEBT SERVICE FUND	1,231,677	2,065,283	1,738,469	1,899,172
ELECTRIC FUND	12,818,069	15,378,479	13,989,885	13,580,750
WATER FUND	4,505,246	6,863,082	5,754,837	5,765,987
WASTEWATER FUND	2,655,201	5,389,513	3,525,587	3,390,060
SOLID WASTE FUND	1,948,434	2,014,232	2,191,685	2,220,485
EMS FUND	1,338,154	1,891,625	1,523,200	507,733
AIRPORT FUND	108,768	122,326	162,050	179,550
LOCKHART ECO DEV FUND	1,296,355	1,817,686	1,179,140	1,234,140
TOTAL - REVENUES	38,602,745	50,970,864	45,136,104	44,663,153

EXPENSE SUMMARY					DELTA
GENERAL FUND	11,967,139	14,098,675	14,981,004	15,845,544	39,732
DEBT SERVICE FUND	1,290,472	1,662,332	1,654,125	1,659,937	239,235
ELECTRIC FUND	12,050,364	13,278,900	13,881,245	14,259,885	-679,135
WATER FUND	5,676,125	6,682,619	5,478,301	6,997,828	-1,231,841
WASTEWATER FUND	2,771,725	2,887,784	3,312,887	3,360,081	29,979
SOLID WASTE FUND	1,935,290	2,119,224	2,071,028	2,210,620	9,865
EMS FUND	1,339,370	1,599,419	2,202,429	766,453	-258,720
AIRPORT FUND	92,834	283,618	139,143	116,616	62,934
LOCKHART ECO DEV FUND	458,921	752,469	1,179,140	1,171,498	62,642
TOTAL - EXPENSES	37,582,240	43,365,040	44,899,302	46,388,462	

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding setting the 2024 combined maintenance and operations and interest and sinking proposed property tax rate of the City of Lockhart.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Joseph Resendez

ACTION REQUESTED: Consensus

BACKGROUND/SUMMARY/DISCUSSION: The action taken by the City Council is required by the State of Texas in adherence with the Truth-In-Taxation laws.

If the proposed tax rate exceeds either the No New Revenue (NNR) rate or Voter Approval Rate (VAR), a record vote must be taken to place a proposal to adopt the rate on the agenda for a future Council meeting. If the motion passes, the Council must schedule and announce the date, time, and location of one (1) public hearing regarding the proposed tax rate set by the Council.

As directed by Council, the aforementioned public hearing is scheduled on September 3, 2024, at 7:30 p.m. in the Council Chambers located in the Clark Library Annex - Council Chambers, 217 South Main Street, 3rd floor, Lockhart, Texas.

Senate Bill 2 has limited the percentage increase from No New Revenue to Voter Approval Rate by 3.5% but has added a new unused incremental rate adjustment. The 2024 Voter Approval Rate (VAR), as prepared by the CAD, is 0.5093/\$100 assessed valuation. This rate includes the unused increment rate.

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:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

STAFF RECOMMENDATION/REQUESTED MOTION: It is staff's recommendation that the City Council set a tax rate for 2024; record the vote; schedule a public hearing on September 3, 2024 and announce the date, time, and location of the public hearing.

LIST OF SUPPORTING DOCUMENTS: City of Lockhart 2024 Tax Rate Calculations

**2024 NO-NEW-REVENUE AND VOTER-APPROVAL TAX RATE
INFORMATION**

CITY OF LOCKHART

	TOTAL
2023 TAX RATE	0.5348/\$100
2024 NO-NEW-REVENUE TAX RATE	0.5058/\$100
2024 VOTER-APPROVAL TAX RATE	0.5093/\$100
2024 UNUSED INCREMENT RATE	0.0000/\$100
2024 VOTER-APPROVAL RATE ADJUSTED FOR UNUSED INCREMENT RATE	0.5093/\$100
2024 DE MINIMUS TAX RATE	0.5301/\$100

SUBMITTED TO CITY OF LOCKHART THE 1st DAY OF August 2024.


SHANNA RAMZINSKI
CHIEF APPRAISER
CALDWELL COUNTY APPRAISAL DISTRICT

Received and Approval from Taxing Entity

Date

2024 Tax Rate Calculation Worksheet

Taxing Units Other Than School Districts or Water Districts

Form 50-856

City of Lockhart

(512) 398-3641

Taxing Unit Name

Phone (area code and number)

PO Box 239, Lockhart, 78644

www.lockhart-tx.org

Taxing Unit's Address, City, State, ZIP Code

Taxing Unit's Website Address

GENERAL INFORMATION: Tax Code Section 26.04(c) requires an officer or employee designated by the governing body to calculate the no-new-revenue (NNR) tax rate and voter-approval tax rate for the taxing unit. These tax rates are expressed in dollars per \$100 of taxable value calculated. The calculation process starts after the chief appraiser delivers to the taxing unit the certified appraisal roll and the estimated values of properties under protest. The designated officer or employee shall certify that the officer or employee has accurately calculated the tax rates and used values shown for the certified appraisal roll or certified estimate. The officer or employee submits the rates to the governing body by Aug. 7 or as soon thereafter as practicable.

School districts do not use this form, but instead use Comptroller Form 50-859 *Tax Rate Calculation Worksheet, School District without Chapter 313 Agreements* or Comptroller Form 50-884 *Tax Rate Calculation Worksheet, School District with Chapter 313 Agreements*.

Water districts as defined under Water Code Section 49.001(1) do not use this form, but instead use Comptroller Form 50-858 *Water District Voter-Approval Tax Rate Worksheet for Low Tax Rate and Developing Districts* or Comptroller Form 50-860 *Developed Water District Voter-Approval Tax Rate Worksheet*.

The Comptroller's office provides this worksheet to assist taxing units in determining tax rates. The information provided in this worksheet is offered as technical assistance and not legal advice. Taxing units should consult legal counsel for interpretations of law regarding tax rate preparation and adoption.

SECTION 1: No-New-Revenue Tax Rate

The NNR tax rate enables the public to evaluate the relationship between taxes for the prior year and for the current year based on a tax rate that would produce the same amount of taxes (no new taxes) if applied to the same properties that are taxed in both years. When appraisal values increase, the NNR tax rate should decrease.

The NNR tax rate for a county is the sum of the NNR tax rates calculated for each type of tax the county levies.

While uncommon, it is possible for a taxing unit to provide an exemption for only maintenance and operations taxes. In this case, the taxing unit will need to calculate the NNR tax rate separately for the maintenance and operations tax and the debt tax, then add the two components together.

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
1.	Prior year total taxable value. Enter the amount of the prior year taxable value on the prior year tax roll today. Include any adjustments since last year's certification; exclude Tax Code Section 25.25(d) one-fourth and one-third over-appraisal corrections from these adjustments. Exclude any property value subject to an appeal under Chapter 42 as of July 25 (will add undisputed value in Line 6). This total includes the taxable value of homesteads with tax ceilings (will deduct in Line 2) and the captured value for tax increment financing (adjustment is made by deducting TIF taxes, as reflected in Line 17). ¹	\$ 1,446,114,981
2.	Prior year tax ceilings. Counties, cities and junior college districts. Enter the prior year total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision last year or a prior year for homeowners age 65 or older or disabled, use this step. ²	\$ 222,911,474
3.	Preliminary prior year adjusted taxable value. Subtract Line 2 from Line 1.	\$ 1,223,203,507
4.	Prior year total adopted tax rate.	\$ 0.5348 /\$100
5.	Prior year taxable value lost because court appeals of ARB decisions reduced the prior year's appraised value. A. Original prior year ARB values: \$ 0 B. Prior year values resulting from final court decisions: - \$ 0 C. Prior year value loss. Subtract B from A. ³	\$ 0
6.	Prior year taxable value subject to an appeal under Chapter 42, as of July 25. A. Prior year ARB certified value: \$ 0 B. Prior year disputed value: - \$ 0 C. Prior year undisputed value. Subtract B from A. ⁴	\$ 0
7.	Prior year Chapter 42 related adjusted values. Add Line 5C and Line 6C.	\$ 0

¹ Tex. Tax Code §26.012(14)

² Tex. Tax Code §26.012(14)

³ Tex. Tax Code §26.012(13)

⁴ Tex. Tax Code §26.012(13)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
8.	Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Add Line 3 and Line 7.	\$ 1,223,203,507
9.	Prior year taxable value of property in territory the taxing unit deannexed after Jan. 1, 2024. Enter the prior year value of property in deannexed territory. ⁵	\$ 0
10.	Prior year taxable value lost because property first qualified for an exemption in the current year. If the taxing unit increased an original exemption, use the difference between the original exempted amount and the increased exempted amount. Do not include value lost due to freeport, goods-in-transit, temporary disaster exemptions. Note that lowering the amount or percentage of an existing exemption in the current year does not create a new exemption or reduce taxable value. A. Absolute exemptions. Use prior year market value: \$ 3,384,420 B. Partial exemptions. Current year exemption amount or current year percentage exemption times prior year value: + \$ 2,001,134 C. Value loss. Add A and B. ⁶	\$ 5,385,554
11.	Prior year taxable value lost because property first qualified for agricultural appraisal (1-d or 1-d-1), timber appraisal, recreational/scenic appraisal or public access airport special appraisal in the current year. Use only properties that qualified for the first time in the current year; do not use properties that qualified in the prior year. A. Prior year market value: \$ 262,248 B. Current year productivity or special appraised value: - \$ 410 C. Value loss. Subtract B from A. ⁷	\$ 261,838
12.	Total adjustments for lost value. Add Lines 9, 10C and 11C.	\$ 5,647,392
13.	Prior year captured value of property in a TIF. Enter the total value of the prior year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the prior year taxes were deposited into the tax increment fund. ⁸ If the taxing unit has no captured appraised value in line 18D, enter 0.	\$ 0
14.	Prior year total value. Subtract Line 12 and Line 13 from Line 8.	\$ 1,217,556,115
15.	Adjusted prior year total levy. Multiply Line 4 by Line 14 and divide by \$100.	\$ 6,511,490
16.	Taxes refunded for years preceding the prior tax year. Enter the amount of taxes refunded by the taxing unit for tax years preceding the prior tax year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for the prior tax year. This line applies only to tax years preceding the prior tax year. ⁹	\$ 233
17.	Adjusted prior year levy with refunds and TIF adjustment. Add Lines 15 and 16. ¹⁰	\$ 6,511,723
18.	Total current year taxable value on the current year certified appraisal roll today. This value includes only certified values or certified estimate of values and includes the total taxable value of homesteads with tax ceilings (will deduct in Line 20). These homesteads include homeowners age 65 or older or disabled. ¹¹ A. Certified values: \$ 1,656,758,189 B. Counties: Include railroad rolling stock values certified by the Comptroller's office: + \$ 0 C. Pollution control and energy storage system exemption: Deduct the value of property exempted for the current tax year for the first time as pollution control or energy storage system property: - \$ 0 D. Tax increment financing: Deduct the current year captured appraised value of property taxable by a taxing unit in a tax increment financing zone for which the current year taxes will be deposited into the tax increment fund. Do not include any new property value that will be included in Line 23 below. ¹² - \$ 0 E. Total current year value. Add A and B, then subtract C and D.	\$ 1,656,758,189

⁵ Tex. Tax Code §26.012(15)⁶ Tex. Tax Code §26.012(15)⁷ Tex. Tax Code §26.012(15)⁸ Tex. Tax Code §26.03(c)⁹ Tex. Tax Code §26.012(13)¹⁰ Tex. Tax Code §26.012(13)¹¹ Tex. Tax Code §26.012, 26.04(c-2)¹² Tex. Tax Code §26.03(c)

Line	No-New-Revenue Tax Rate Worksheet	Amount/Rate
19.	Total value of properties under protest or not included on certified appraisal roll. ¹³	
	A. Current year taxable value of properties under protest. The chief appraiser certifies a list of properties still under ARB protest. The list shows the appraisal district's value and the taxpayer's claimed value, if any, or an estimate of the value if the taxpayer wins. For each of the properties under protest, use the lowest of these values. Enter the total value under protest. ¹⁴ \$ 31,031,109	
	B. Current year value of properties not under protest or included on certified appraisal roll. The chief appraiser gives taxing units a list of those taxable properties that the chief appraiser knows about but are not included in the appraisal roll certification. These properties also are not on the list of properties that are still under protest. On this list of properties, the chief appraiser includes the market value, appraised value and exemptions for the preceding year and a reasonable estimate of the market value, appraised value and exemptions for the current year. Use the lower market, appraised or taxable value (as appropriate). Enter the total value of property not on the certified roll. ¹⁵ + \$ 0	
	C. Total value under protest or not certified. Add A and B.	\$ 31,031,109
20.	Current year tax ceilings. Counties, cities and junior colleges enter current year total taxable value of homesteads with tax ceilings. These include the homesteads of homeowners age 65 or older or disabled. Other taxing units enter 0. If your taxing unit adopted the tax ceiling provision in the prior year or a previous year for homeowners age 65 or older or disabled, use this step. ¹⁶	\$ 241,806,563
21.	Current year total taxable value. Add Lines 18E and 19C. Subtract Line 20. ¹⁷	\$ 1,445,982,735
22.	Total current year taxable value of properties in territory annexed after Jan. 1, of the prior year. Include both real and personal property. Enter the current year value of property in territory annexed. ¹⁸	\$ 1,507,680
23.	Total current year taxable value of new improvements and new personal property located in new improvements. New means the item was not on the appraisal roll in the prior year. An improvement is a building, structure, fixture or fence erected on or affixed to land. New additions to existing improvements may be included if the appraised value can be determined. New personal property in a new improvement must have been brought into the taxing unit after Jan. 1, of the prior year and be located in a new improvement. New improvements do include property on which a tax abatement agreement has expired for the current year. ¹⁹	\$ 157,269,930
24.	Total adjustments to the current year taxable value. Add Lines 22 and 23.	\$ 158,777,610
25.	Adjusted current year taxable value. Subtract Line 24 from Line 21.	\$ 1,287,205,125
26.	Current year NNR tax rate. Divide Line 17 by Line 25 and multiply by \$100. ²⁰	\$ 0.5058 /\$100
27.	COUNTIES ONLY. Add together the NNR tax rates for each type of tax the county levies. The total is the current year county NNR tax rate. ²¹	\$ 0.0000 /\$100

SECTION 2: Voter-Approval Tax Rate

The voter-approval tax rate is the highest tax rate that a taxing unit may adopt without holding an election to seek voter approval of the rate. The voter-approval tax rate is split into two separate rates:

- Maintenance and Operations (M&O) Tax Rate:** The M&O portion is the tax rate that is needed to raise the same amount of taxes that the taxing unit levied in the prior year plus the applicable percentage allowed by law. This rate accounts for such things as salaries, utilities and day-to-day operations.
- Debt Rate:** The debt rate includes the debt service necessary to pay the taxing unit's debt payments in the coming year. This rate accounts for principal and interest on bonds and other debt secured by property tax revenue.

The voter-approval tax rate for a county is the sum of the voter-approval tax rates calculated for each type of tax the county levies. In most cases the voter-approval tax rate exceeds the no-new-revenue tax rate, but occasionally decreases in a taxing unit's debt service will cause the NNR tax rate to be higher than the voter-approval tax rate.

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
28.	Prior year M&O tax rate. Enter the prior year M&O tax rate.	\$ 0.4136 /\$100
29.	Prior year taxable value, adjusted for actual and potential court-ordered adjustments. Enter the amount in Line 8 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 1,223,203,507

¹³ Tex. Tax Code §26.01(c) and (d)

¹⁴ Tex. Tax Code §26.01(c)

¹⁵ Tex. Tax Code §26.01(d)

¹⁶ Tex. Tax Code §26.012(6)(B)

¹⁷ Tex. Tax Code §26.012(6)

¹⁸ Tex. Tax Code §26.012(17)

¹⁹ Tex. Tax Code §26.012(17)

²⁰ Tex. Tax Code §26.04(c)

²¹ Tex. Tax Code §26.04(d)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
30.	Total prior year M&O levy. Multiply Line 28 by Line 29 and divide by \$100	\$ 5,059,169
31.	Adjusted prior year levy for calculating NNR M&O rate.	
	A. M&O taxes refunded for years preceding the prior tax year. Enter the amount of M&O taxes refunded in the preceding year for taxes before that year. Types of refunds include court decisions, Tax Code Section 25.25(b) and (c) corrections and Tax Code Section 31.11 payment errors. Do not include refunds for tax year 2023. This line applies only to tax years preceding the prior tax year..... + \$ 175 _____	
	B. Prior year taxes in TIF. Enter the amount of taxes paid into the tax increment fund for a reinvestment zone as agreed by the taxing unit. If the taxing unit has no current year captured appraised value in Line 18D, enter 0..... 0 _____ - \$ _____	
	C. Prior year transferred function. If discontinuing all of a department, function or activity and transferring it to another taxing unit by written contract, enter the amount spent by the taxing unit discontinuing the function in the 12 months preceding the month of this calculation. If the taxing unit did not operate this function for this 12-month period, use the amount spent in the last full fiscal year in which the taxing unit operated the function. The taxing unit discontinuing the function will subtract this amount in D below. The taxing unit receiving the function will add this amount in D below. Other taxing units enter 0. 0 _____ +/- \$ _____	
	D. Prior year M&O levy adjustments. Subtract B from A. For taxing unit with C, subtract if discontinuing function and add if receiving function..... 175 _____ \$ _____	\$ 5,059,344
	E. Add Line 30 to 31D.	
32.	Adjusted current year taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 1,287,205,125
33.	Current year NNR M&O rate (unadjusted). Divide Line 31E by Line 32 and multiply by \$100.	\$ 0.3930 /\$100
34.	Rate adjustment for state criminal justice mandate.²³	
	A. Current year state criminal justice mandate. Enter the amount spent by a county in the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. \$ 0 _____	
	B. Prior year state criminal justice mandate. Enter the amount spent by a county in the 12 months prior to the previous 12 months providing for the maintenance and operation cost of keeping inmates in county-paid facilities after they have been sentenced. Do not include any state reimbursement received by the county for the same purpose. Enter zero if this is the first time the mandate applies. - \$ 0 _____	
	C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100	
	D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.0000 /\$100
35.	Rate adjustment for indigent health care expenditures.²⁴	
	A. Current year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state assistance received for the same purpose. \$ 0 _____	
	B. Prior year indigent health care expenditures. Enter the amount paid by a taxing unit providing for the maintenance and operation cost of providing indigent health care for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state assistance received for the same purpose. - \$ 0 _____	
	C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100	
	D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.0000 /\$100

²² (Reserved for expansion)²³ Tex. Tax Code §26.044²⁴ Tex. Tax Code §26.0441

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
36.	Rate adjustment for county indigent defense compensation. ²⁵ A. Current year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year, less any state grants received by the county for the same purpose..... \$ 0 B. Prior year indigent defense compensation expenditures. Enter the amount paid by a county to provide appointed counsel for indigent individuals and fund the operations of a public defender's office under Article 26.044, Code of Criminal Procedure for the period beginning on July 1, 2022 and ending on June 30, 2023, less any state grants received by the county for the same purpose..... \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 D. Multiply B by 0.05 and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 E. Enter the lesser of C and D. If not applicable, enter 0.	\$ 0.0000 /\$100
37.	Rate adjustment for county hospital expenditures. ²⁶ A. Current year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, of the prior tax year and ending on June 30, of the current tax year..... \$ 0 B. Prior year eligible county hospital expenditures. Enter the amount paid by the county or municipality to maintain and operate an eligible county hospital for the period beginning on July 1, 2022 and ending on June 30, 2023. \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 D. Multiply B by 0.08 and divide by Line 32 and multiply by \$100..... \$ 0.0000 /\$100 E. Enter the lesser of C and D, if applicable. If not applicable, enter 0.	\$ 0.0000 /\$100
38.	Rate adjustment for defunding municipality. This adjustment only applies to a municipality that is considered to be a defunding municipality for the current tax year under Chapter 109, Local Government Code. Chapter 109, Local Government Code only applies to municipalities with a population of more than 250,000 and includes a written determination by the Office of the Governor. See Tax Code Section 26.0444 for more information. A. Amount appropriated for public safety in the prior year. Enter the amount of money appropriated for public safety in the budget adopted by the municipality for the preceding fiscal year \$ 0 B. Expenditures for public safety in the prior year. Enter the amount of money spent by the municipality for public safety during the preceding fiscal year \$ 0 C. Subtract B from A and divide by Line 32 and multiply by \$100 \$ 0.0000 /\$100 D. Enter the rate calculated in C. If not applicable, enter 0.	\$ 0.0000 /\$100
39.	Adjusted current year NNR M&O rate. Add Lines 33, 34D, 35D, 36E, and 37E. Subtract Line 38D.	\$ 0.3930 /\$100
40.	Adjustment for prior year sales tax specifically to reduce property taxes. Cities, counties and hospital districts that collected and spent additional sales tax on M&O expenses in the prior year should complete this line. These entities will deduct the sales tax gain rate for the current year in Section 3. Other taxing units, enter zero. A. Enter the amount of additional sales tax collected and spent on M&O expenses in the prior year, if any. Counties must exclude any amount that was spent for economic development grants from the amount of sales tax spent \$ 0 B. Divide Line 40A by Line 32 and multiply by \$100 \$ 0.0000 /\$100 C. Add Line 40B to Line 39.	\$ 0.3930 /\$100
41.	Current year voter-approval M&O rate. Enter the rate as calculated by the appropriate scenario below. Special Taxing Unit. If the taxing unit qualifies as a special taxing unit, multiply Line 40C by 1.08. - or - Other Taxing Unit. If the taxing unit does not qualify as a special taxing unit, multiply Line 40C by 1.035.	\$ 0.4067 /\$100

²⁵ Tex. Tax Code §26.0442²⁶ Tex. Tax Code §26.0443

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
D41.	Disaster Line 41 (D41): Current year voter-approval M&O rate for taxing unit affected by disaster declaration. If the taxing unit is located in an area declared a disaster area and at least one person is granted an exemption under Tax Code Section 11.35 for property located in the taxing unit, the governing body may direct the person calculating the voter-approval tax rate to calculate in the manner provided for a special taxing unit. The taxing unit shall continue to calculate the voter-approval tax rate in this manner until the earlier of 1) the first year in which total taxable value on the certified appraisal roll exceeds the total taxable value of the tax year in which the disaster occurred, or 2) the third tax year after the tax year in which the disaster occurred If the taxing unit qualifies under this scenario, multiply Line 40C by 1.08. ²⁷ If the taxing unit does not qualify, do not complete Disaster Line 41 (Line D41).	\$ _____ / \$100
42.	Total current year debt to be paid with property taxes and additional sales tax revenue. Debt means the interest and principal that will be paid on debts that: (1) are paid by property taxes, (2) are secured by property taxes, (3) are scheduled for payment over a period longer than one year, and (4) are not classified in the taxing unit's budget as M&O expenses. A. Debt also includes contractual payments to other taxing units that have incurred debts on behalf of this taxing unit, if those debts meet the four conditions above. Include only amounts that will be paid from property tax revenue. Do not include appraisal district budget payments. If the governing body of a taxing unit authorized or agreed to authorize a bond, warrant, certificate of obligation, or other evidence of indebtedness on or after Sept. 1, 2021, verify if it meets the amended definition of debt before including it here. ²⁸ Enter debt amount \$ <u>1,659,937</u> B. Subtract unencumbered fund amount used to reduce total debt. - \$ <u>0</u> C. Subtract certified amount spent from sales tax to reduce debt (enter zero if none) - \$ <u>0</u> D. Subtract amount paid from other resources - \$ <u>0</u> E. Adjusted debt. Subtract B, C and D from A.	\$ <u>1,659,937</u>
43.	Certified prior year excess debt collections. Enter the amount certified by the collector. ²⁹	\$ <u>190,428</u>
44.	Adjusted current year debt. Subtract Line 43 from Line 42E.	\$ <u>1,469,509</u>
45.	Current year anticipated collection rate. A. Enter the current year anticipated collection rate certified by the collector. ³⁰ <u>99.00</u> % B. Enter the prior year actual collection rate <u>100.00</u> % C. Enter the 2022 actual collection rate <u>99.00</u> % D. Enter the 2021 actual collection rate <u>102.00</u> % E. If the anticipated collection rate in A is lower than actual collection rates in B, C and D, enter the lowest collection rate from B, C and D. If the anticipated rate in A is higher than at least one of the rates in the prior three years, enter the rate from A. Note that the rate can be greater than 100%. ³¹	<u>99.00</u> %
46.	Current year debt adjusted for collections. Divide Line 44 by Line 45E.	\$ <u>1,484,352</u>
47.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ <u>1,445,982,735</u>
48.	Current year debt rate. Divide Line 46 by Line 47 and multiply by \$100.	\$ <u>0.1028</u> / \$100
49.	Current year voter-approval tax rate. Add Lines 41 and 48.	\$ <u>0.5093</u> / \$100
D49.	Disaster Line 49 (D49): Current year voter-approval tax rate for taxing unit affected by disaster declaration. Complete this line if the taxing unit calculated the voter-approval tax rate in the manner provided for a special taxing unit on Line D41. Add Line D41 and 48.	\$ _____ / \$100

²⁷ Tex. Tax Code §26.042(a)²⁸ Tex. Tax Code §26.012(7)²⁹ Tex. Tax Code §26.012(10) and 26.04(b)³⁰ Tex. Tax Code §26.04(b)³¹ Tex. Tax Code §§26.04(h), (h-1) and (h-2)

Line	Voter-Approval Tax Rate Worksheet	Amount/Rate
50.	COUNTIES ONLY. Add together the voter-approval tax rates for each type of tax the county levies. The total is the current year county voter-approval tax rate.	\$ 0.0000 /\$100

SECTION 3: NNR Tax Rate and Voter-Approval Tax Rate Adjustments for Additional Sales Tax to Reduce Property Taxes

Cities, counties and hospital districts may levy a sales tax specifically to reduce property taxes. Local voters by election must approve imposing or abolishing the additional sales tax. If approved, the taxing unit must reduce its NNR and voter-approval tax rates to offset the expected sales tax revenue.

This section should only be completed by a county, city or hospital district that is required to adjust its NNR tax rate and/or voter-approval tax rate because it adopted the additional sales tax.

Line	Additional Sales and Use Tax Worksheet	Amount/Rate
51.	Taxable Sales. For taxing units that adopted the sales tax in November of the prior tax year or May of the current tax year, enter the Comptroller's estimate of taxable sales for the previous four quarters. ³² Estimates of taxable sales may be obtained through the Comptroller's Allocation Historical Summary webpage. Taxing units that adopted the sales tax before November of the prior year, enter 0.	\$ _____
52.	Estimated sales tax revenue. Counties exclude any amount that is or will be spent for economic development grants from the amount of estimated sales tax revenue. ³³ Taxing units that adopted the sales tax in November of the prior tax year or in May of the current tax year. Multiply the amount on Line 51 by the sales tax rate (.01, .005 or .0025, as applicable) and multiply the result by .95. ³⁴ - or - Taxing units that adopted the sales tax before November of the prior year. Enter the sales tax revenue for the previous four quarters. Do not multiply by .95.	\$ _____
53.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
54.	Sales tax adjustment rate. Divide Line 52 by Line 53 and multiply by \$100.	\$ _____ /\$100
55.	Current year NNR tax rate, unadjusted for sales tax. ³⁵ Enter the rate from Line 26 or 27, as applicable, on the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____ /\$100
56.	Current year NNR tax rate, adjusted for sales tax. Taxing units that adopted the sales tax in November the prior tax year or in May of the current tax year. Subtract Line 54 from Line 55. Skip to Line 57 if you adopted the additional sales tax before November of the prior tax year.	\$ _____ /\$100
57.	Current year voter-approval tax rate, unadjusted for sales tax. ³⁶ Enter the rate from Line 49, Line D49 (disaster) or Line 50 (counties) as applicable, of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ _____ /\$100
58.	Current year voter-approval tax rate, adjusted for sales tax. Subtract Line 54 from Line 57.	\$ _____ /\$100

SECTION 4: Voter-Approval Tax Rate Adjustment for Pollution Control

A taxing unit may raise its rate for M&O funds used to pay for a facility, device or method for the control of air, water or land pollution. This includes any land, structure, building, installation, excavation, machinery, equipment or device that is used, constructed, acquired or installed wholly or partly to meet or exceed pollution control requirements. The taxing unit's expenses are those necessary to meet the requirements of a permit issued by the Texas Commission on Environmental Quality (TCEQ). The taxing unit must provide the tax assessor with a copy of the TCEQ letter of determination that states the portion of the cost of the installation for pollution control.

This section should only be completed by a taxing unit that uses M&O funds to pay for a facility, device or method for the control of air, water or land pollution.

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
59.	Certified expenses from the Texas Commission on Environmental Quality (TCEQ). Enter the amount certified in the determination letter from TCEQ. ³⁷ The taxing unit shall provide its tax assessor-collector with a copy of the letter. ³⁸	\$ _____
60.	Current year total taxable value. Enter the amount from Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
61.	Additional rate for pollution control. Divide Line 59 by Line 60 and multiply by \$100.	\$ _____ /\$100

³² Tex. Tax Code §26.041(d)

³³ Tex. Tax Code §26.041(i)

³⁴ Tex. Tax Code §26.041(d)

³⁵ Tex. Tax Code §26.04(c)

³⁶ Tex. Tax Code §26.04(c)

³⁷ Tex. Tax Code §26.045(d)

³⁸ Tex. Tax Code §26.045(i)

Line	Voter-Approval Rate Adjustment for Pollution Control Requirements Worksheet	Amount/Rate
62.	Current year voter-approval tax rate, adjusted for pollution control. Add Line 61 to one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties) or Line 58 (taxing units with the additional sales tax).	\$ _____ /\$100

SECTION 5: Voter-Approval Tax Rate Adjustment for Unused Increment Rate

The unused increment rate is the rate equal to the sum of the prior 3 years Foregone Revenue Amounts divided by the current taxable value.³⁹ The Foregone Revenue Amount for each year is equal to that year's adopted tax rate subtracted from that year's voter-approval tax rate adjusted to remove the unused increment rate multiplied by that year's current total value.⁴⁰ In a year where a taxing unit adopts a rate by applying any portion of the unused increment rate, the portion of the unused increment rate that was used must be backed out of the calculation for that year.

The difference between the adopted tax rate and adjusted voter-approval tax rate is considered zero in the following scenarios:

- a tax year in which a taxing unit affected by a disaster declaration calculates the tax rate under Tax Code Section 26.042;⁴¹
- a tax year in which the municipality is a defunding municipality, as defined by Tax Code Section 26.0501(a);⁴² or
- after Jan. 1, 2022, a tax year in which the comptroller determines that the county implemented a budget reduction or reallocation described by Local Government Code Section 120.002(a) without the required voter approval.⁴³

Individual components can be negative, but the overall rate will be the greater of zero or the calculated rate.

This section should only be completed by a taxing unit that does not meet the definition of a special taxing unit.⁴⁴

Line	Unused Increment Rate Worksheet	Amount/Rate
63.	Year 3 Foregone Revenue Amount. Subtract the 2023 unused increment rate and 2023 actual tax rate from the 2023 voter-approval tax rate. Multiply the result by the 2023 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2023 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	 \$ 0.5348 /\$100 \$ 0.0000 /\$100 \$ 0.5348 /\$100 \$ 0.5348 /\$100 \$ 0.0000 /\$100 \$ 1,217,792,799 \$ 0
64.	Year 2 Foregone Revenue Amount. Subtract the 2022 unused increment rate and 2022 actual tax rate from the 2022 voter-approval tax rate. Multiply the result by the 2022 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2022 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	 \$ 0.6007 /\$100 \$ 0.0228 /\$100 \$ 0.5779 /\$100 \$ 0.6006 /\$100 \$ -0.0227 /\$100 \$ 1,039,759,915 \$ 0
65.	Year 1 Foregone Revenue Amount. Subtract the 2021 unused increment rate and 2021 actual tax rate from the 2021 voter-approval tax rate. Multiply the result by the 2021 current total value A. Voter-approval tax rate (Line 67) B. Unused increment rate (Line 66) C. Subtract B from A D. Adopted Tax Rate E. Subtract D from C F. 2021 Total Taxable Value (Line 60) G. Multiply E by F and divide the results by \$100	 \$ 0.6459 /\$100 \$ 0.0123 /\$100 \$ 0.6336 /\$100 \$ 0.6354 /\$100 \$ -0.0018 /\$100 \$ 784,199,066 \$ 0
66.	Total Foregone Revenue Amount. Add Lines 63G, 64G and 65G	\$ 0.0000
67.	2024 Unused Increment Rate. Divide Line 66 by Line 21 of the No-New-Revenue Rate Worksheet. Multiply the result by 100	\$ 0.0000 /\$100
68.	Total 2024 voter-approval tax rate, including the unused increment rate. Add Line 67 to one of the following lines (as applicable): Line 49, Line 50 (counties), Line 58 (taxing units with additional sales tax) or Line 62 (taxing units with pollution)	\$ 0.5093 /\$100

³⁹ Tex. Tax Code §26.013(b)

⁴⁰ Tex. Tax Code §26.013(a)(1)-(a), (1-b), and (2)

⁴¹ Tex. Tax Code §26.04(c)(2)(A) and 26.042(a)

⁴² Tex. Tax Code §26.0501(a) and (c)

⁴³ Tex. Local Gov't Code §120.007(d)

⁴⁴ Tex. Local Gov't Code §120.007(d)

SECTION 6: De Minimis Rate

The de minimis rate is the rate equal to the sum of the no-new-revenue maintenance and operations rate, the rate that will raise \$500,000, and the current debt rate for a taxing unit.⁴⁴ This section should only be completed by a taxing unit that is a municipality of less than 30,000 or a taxing unit that does not meet the definition of a special taxing unit.⁴⁵

Line	De Minimis Rate Worksheet	Amount/Rate
69.	Adjusted current year NNR M&O tax rate. Enter the rate from Line 39 of the <i>Voter-Approval Tax Rate Worksheet</i> .	0.3930
70.	Current year total taxable value. Enter the amount on Line 21 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ 1,445,982,735
71.	Rate necessary to impose \$500,000 in taxes. Divide \$500,000 by Line 70 and multiply by \$100.	\$ 0.0345 /\$100
72.	Current year debt rate. Enter the rate from Line 48 of the <i>Voter-Approval Tax Rate Worksheet</i> .	\$ 0.1026 /\$100
73.	De minimis rate. Add Lines 69, 71 and 72.	\$ 0.5301 /\$100

SECTION 7: Voter-Approval Tax Rate Adjustment for Emergency Revenue Rate

In the tax year after the end of the disaster calculation time period detailed in Tax Code Section 26.042(a), a taxing unit that calculated its voter-approval tax rate in the manner provided for a special taxing unit due to a disaster must calculate its emergency revenue rate and reduce its voter-approval tax rate for that year.⁴⁶

Similarly, if a taxing unit adopted a tax rate that exceeded its voter-approval tax rate, calculated normally, without holding an election to respond to a disaster, as allowed by Tax Code Section 26.042(d), in the prior year, it must also reduce its voter-approval tax rate for the current tax year.⁴⁹

This section will apply to a taxing unit other than a special taxing unit that:

- directed the designated officer or employee to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit in the prior year; and
- the current year is the first tax year in which the total taxable value of property taxable by the taxing unit as shown on the appraisal roll for the taxing unit submitted by the assessor for the taxing unit to the governing body exceeds the total taxable value of property taxable by the taxing unit on January 1 of the tax year in which the disaster occurred or the disaster occurred four years ago. This section will apply to a taxing unit in a disaster area that adopted a tax rate greater than its voter-approval tax rate without holding an election in the prior year.

Note: This section does not apply if a taxing unit is continuing to calculate its voter-approval tax rate in the manner provided for a special taxing unit because it is still within the disaster calculation time period detailed in Tax Code Section 26.042(a) because it has not met the conditions in Tax Code Section 26.042(a)(1) or (2).

Line	Emergency Revenue Rate Worksheet	Amount/Rate
74.	2023 adopted tax rate. Enter the rate in Line 4 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____ /\$100
75.	Adjusted 2023 voter-approval tax rate. Use the taxing unit's Tax Rate Calculation Worksheets from the prior year(s) to complete this line. If a disaster occurred in 2023 and the taxing unit calculated its 2023 voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) of the 2023 worksheet due to a disaster, complete the applicable sections or lines of <i>Form 50-856-a, Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> . - or - If a disaster occurred prior to 2023 for which the taxing unit continued to calculate its voter-approval tax rate using a multiplier of 1.08 on Disaster Line 41 (D41) in 2023, complete form 50-856-a, <i>Adjusted Voter-Approval Tax Rate for Taxing Units in Disaster Area Calculation Worksheet</i> to recalculate the voter-approval tax rate the taxing unit would have calculated in 2023 if it had generated revenue based on an adopted tax rate using a multiplier of 1.035 in the years following the disaster. ⁵⁰ Enter the final adjusted 2023 voter-approval tax rate from the worksheet. - or - If the taxing unit adopted a tax rate above the 2023 voter-approval tax rate without calculating a disaster tax rate or holding an election due to a disaster, no recalculation is necessary. Enter the voter-approval tax rate from the prior year's worksheet.	\$ _____ /\$100
76.	Increase in 2023 tax rate due to disaster. Subtract Line 75 from Line 74.	\$ _____ /\$100
77.	Adjusted 2023 taxable value. Enter the amount in Line 14 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
78.	Emergency revenue. Multiply Line 76 by Line 77 and divide by \$100.	\$ _____
79.	Adjusted 2023 taxable value. Enter the amount in Line 25 of the <i>No-New-Revenue Tax Rate Worksheet</i> .	\$ _____
80.	Emergency revenue rate. Divide Line 78 by Line 79 and multiply by \$100. ⁵¹	\$ _____ /\$100

⁴⁴ Tex. Tax Code §26.04(c)(2)(B)

⁴⁵ Tex. Tax Code §26.012(8-a)

⁴⁶ Tex. Tax Code §26.063(a)(1)

⁴⁷ Tex. Tax Code §26.042(b)

⁴⁸ Tex. Tax Code §26.042(f)

⁴⁹ Tex. Tax Code §26.42(c)

⁵¹ Tex. Tax Code §26.42(b)

Line	Emergency Revenue Rate Worksheet	Amount/Rate
81.	Current year voter-approval tax rate, adjusted for emergency revenue. Subtract Line 80 from one of the following lines (as applicable): Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (taxing units with the additional sales tax), Line 62 (taxing units with pollution control) or Line 68 (taxing units with the unused increment rate).	\$ _____ /\$100

SECTION 8: Total Tax Rate

Indicate the applicable total tax rates as calculated above.

No-new-revenue tax rate. \$ 0.5058 /\$100

As applicable, enter the current year NNR tax rate from: Line 26, Line 27 (counties), or Line 56 (adjusted for sales tax).

Indicate the line number used: 26

Voter-approval tax rate. \$ 0.5093 /\$100

As applicable, enter the current year voter-approval tax rate from: Line 49, Line D49 (disaster), Line 50 (counties), Line 58 (adjusted for sales tax), Line 62 (adjusted for pollution control), Line 68 (adjusted for unused increment), or Line 81 (adjusted for emergency revenue).

Indicate the line number used: 68

De minimis rate. \$ 0.5301 /\$100

If applicable, enter the current year de minimis rate from Line 73.

SECTION 9: Taxing Unit Representative Name and Signature

Enter the name of the person preparing the tax rate as authorized by the governing body of the taxing unit. By signing below, you certify that you are the designated officer or employee of the taxing unit and have accurately calculated the tax rates using values that are the same as the values shown in the taxing unit's certified appraisal roll or certified estimate of taxable value, in accordance with requirements in the Tax Code.⁵²

**print
here**

Vicki Schneider

Printed Name of Taxing Unit Representative

**sign
here**

Vicki Schneider

Taxing Unit Representative

07/30/2024

Date

⁵² Tex. Tax Code §526.04(c-2) and (d-2)

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Discuss and consider rescheduling City Council meetings in 2024 due to conflicts with events.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Julie Bowermon

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: Annually reviewing council meeting dates for conflicts is important to provide Development Services with an accurate Council meeting schedule when publishing public notice information about public hearings, such as zoning change applications. On December 5, 2023 City Council reviewed meeting dates for 2024 and authorized the attached calendar. At that time, it was the consensus of the City Council to approve the calendar, which included a meeting on October 1st and November 5th, and address any conflicts on a case by case basis as needed in the future.

Attached is the calendar that reflects the meeting conflicts in 2024 as listed below:

- **October 1** – National Night Out
- **November 5** - Election Day - Although the City of Lockhart was not scheduled to hold an election on November 5, 2024, a petition for a proposed charter amendment has been submitted.

Staff respectfully seeks direction from the City Council on the calendar and upcoming conflicts.

PROJECT SCHEDULE (if applicable): N/A

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: December 5, 2023: The 2024 City Council meeting calendar was approved.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: 2024 Council meeting calendar

X = HOLIDAYS

O = COUNCIL MEETINGS

□ = TML ANNUAL CONF

2024

⊗ = COUNCIL MEETING CONFLICT
- Oct 1st: NATIONAL NIGHT OUT

January

S	M	T	W	T	F	S
	X	2	3	4	5	6
7	8	9	10	11	12	13
14	X	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	X	20	21	22	23	24
25	26	27	28	29		

March

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	X	30
31						

April

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	X	28	29	30	31	

June

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

July

S	M	T	W	T	F	S
	1	2	3	X	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September

S	M	T	W	T	F	S
1	X	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

OCT 1st - NATIONAL NIGHT OUT

October

S	M	T	W	T	F	S
		X	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

TML CONF OCT 9-11
IN HOUSTON

November

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	X	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	X	X	30

NOV 5 = ELECTION DAY
(NO CITY ELECTIONS)

December

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	X	X	26	27	28
29	30	31				

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: August 6, 2024

AGENDA ITEM CAPTION: Announcement of nomination of Rob Ortiz to the Parks and Recreation Advisory Board by Councilmember John Castillo for a term to expire in November 2025.

ORIGINATING DEPARTMENT AND CONTACT: Council - John Castillo

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: Councilmember John Castillo has nominated Rob Ortiz to be appointed to the Parks and Recreation Advisory Board.

Mr. Ortiz currently serves as an alternate on the Parks and Recreation Advisory Board. After reviewing the application, Mr. Ortiz meets the qualifications to serve/continue to serve on a city board.

Resolution 2024-02 was adopted in 2024 establishing administrative procedures for the nomination of board and commission members to include a 2-step process. First, the nomination is to be placed on the agenda as "announcement of nomination" followed by a notice on a subsequent agenda as "discussion and/or action on the nomination." The two-step process does apply to the nomination of a person who currently holds an alternate position if the purpose of the nomination is to elevate them to a regular position on the same board.

This item is the announcement of nomination. If the Council should move to appoint Mr. Ortiz from the alternate position to a regular board member, action of appointment will occur during a subsequent Council meeting.

PROJECT SCHEDULE (if applicable): N/A

FISCAL NOTE (if applicable): N/A

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: N/A

STAFF RECOMMENDATION/REQUESTED MOTION: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: PAR Advisory Board Roster, Rob Ortiz application - Parks Board , .

PARKS AND RECREATION BOARD

Ord. 86-50, Adopted 11-25-86

First Name	Last Name	Title	Address1	Council Member	Date Appt	Exp
Vacant				John Castillo		
Dennis	Placke	Vice-Chair	1011 W.Live Oak St.	Brad Westmoreland	2/4/2020	2022
Karla	Tate		500 Caribbean Dr.	Mayor White	2/2/2021	2026
Lee	Parra		209 Windridge Dr. N.	Angie Sanchez	8/17/2021	2022
Linda	Thompson Bennett		1311 Torres St.	Juan Mendoza	12/17/2019	2022
Warren	Burnett	Chair	1205 Rio Vista Cove	John Lairsen	2/20/2024	2026
Russell	Wheeler		607 La Feliciana Dr.	Jeffry Michelson	12/15/2020	2026
Rob	Ortiz	Alternate	1004 N.Commerce	Mayor Pro-Tem	3/7/2017	2019
		Little League		Non-Voting member		
		Youth Soccer		Non-Voting member		
		Co-Rec. Softball		Non-Voting member		

Staff Liaison: Parks and Recreation Director
Steve Lewis, City Manager

NOTE:

Sec. 40-133. Members.

(a) The board shall consist of seven members appointed in accordance with section 2-210 to serve three years terms, such terms to coincide with the council position making the appointment and two alternates shall also be appointed by the mayor and mayor pro tem, one each. The two alternates shall also serve the term coinciding with the council position making the appointments. Vacancies shall be filed for an unexpired term in the manner in which the original appointments are required to be made. (Ordinance 06-08, adopted February 7, 2006)

2/29/24
DMD

In order to be considered for an appointment to a Lockhart Board or Commission, please complete the following application. You may also attach a current resume and letter of interest if you choose.

1. PERSONAL INFORMATION

Full Legal Name <i>VINCENT Ortiz III</i>		Preferred Name <i>Rob Ortiz</i>	
Physical Home Address <i>1004 N Commerce St</i>			
Mailing Address (if different)			
City <i>LOCKHART</i>	State <i>TX</i>	Zip <i>78644</i>	
Home Phone <i>N/A</i>		Work Phone	
Mobile Phone <i>512-921-8000</i>			
Email Address			
Date of Birth			

2. AREAS OF INTEREST

Please indicate the position(s) of interest to you.

☐ Airport Advisory Board	☐ Historical Preservation Commission
☐ Zoning Board of Adjustment & Appeals	☐ Hotel Occupancy Tax Advisory Board
☐ Charter Review Commission	☐ Library Advisory Board
☐ Construction Board of Appeals	☒ Parks & Recreation Advisory Board
☐ Economic Development Corp (1/2 Cent Sales Tax)	☐ Planning & Zoning Commission
☐ Electric Board	

In the space below, please explain your interest in the position(s) selected above. Also, please explain any experience you have related to your selection(s).

For the past 14 years I have served as an alternate on this board. I have recently been more active due to ensuring a quorum. I am ~~to~~ eager to represent ~~my~~ District 2 as a full board member

3. BOARD MEMBER QUALIFICATIONS

The following are qualifications as outlined in Section 2-209 of the Lockhart Code of Ordinances to serve on a Board/Commission:

YES	NO	Please answer the following questions about Board/Commission qualifications:
☒	☐	Have you been a resident of the State of Texas/City of Lockhart for at least twelve (12) consecutive months preceding appointment?
☒	☐	Are you a registered voter?
☐	☒	Have you been removed from another city board or commission because of failure to attend meetings or for cause within the last three years?
☐	☒	Do you serve on any other City of Lockhart board/commission/committee at this time? If yes, please list: _____

For your reference, the following additional qualifications apply to appointed Board/Commission members:

- A member who is required to be a resident of the city (or county when applicable) when appointed and who thereafter moves his or her primary residence outside of the corporate limits of Lockhart (or county when applicable) vacates his or her position on a board of commission on the date the residency changes.
- The City Council shall have the right, but not the duty, to appoint up to two members who are not city residents but who are residents of Caldwell County to the Lockhart Airport Advisory Board, the Eugene Clark Library Board, and the Construction Board of Appeals.
- Any member of a board or commission who is absent from three consecutive regular meetings, or any four non-consecutive regular meetings of the board or commission during any twelve-month period, shall forfeit his or her position and the vacancy occurring shall be declared and filled by the Council.
- Members must maintain their qualifications while serving on a board or commission.
- No member of any appointed body shall serve on more than one quasi-judicial or advisory board or commission.
- No appointed body shall deviate from its charge, deliberate items not on its agendas, or speak for the council or City of Lockhart without council authorization.
- Members appointed serve without compensation.

Certification of Applicant

I hereby certify that the foregoing and any attached statements are true, accurate and complete. I also understand that this application is subject to disclosure under the Texas Public Information Act.


Applicant's Signature

1/29/2024
Date

Completed application, resume and letter of interest may be submitted in person, email, mail, or by fax to:

City of Lockhart
City Secretary's Office
308 W. San Antonio Street / PO Box 239
Lockhart, TX 78644

Phone: 512.398.3461
FAX: 512.398.5103
jbowermon@lockhart-tx.org

APPLICANT'S NAME: Rob Ortiz (Vincent Ortiz III)

BOARD NAME(S): Parks & Recreation
Advisory Board

The qualifications for members of boards and commissions, except special qualifications for service on a particular board or commission, are as follows:

- Appointees must each be a resident of the State of Texas and a resident of the City of Lockhart for at least twelve (12) consecutive months preceding their appointment unless a particular board's or commission's composition or state law allows for membership by a non-resident of the City.
Date of residency in Lockhart: LIFE LONG RESIDENT
- Appointees shall be qualified voters in the City of Lockhart or, if not a resident of the City, of Caldwell County.
Date qualified voter in Lockhart: 9/14/2002
- Appointees shall not have been removed from another city board or commission because of failure to attend meetings or for cause within the last three years.
Removed from another board? YES or NO
If yes, date _____ and board _____
- No member of any appointed body shall serve on more than one quasi-judicial or advisory board or commission.
Serves on another board? YES or NO
If yes, board currently serving: CURRENTLY AN ALTERNATE ON PARKS & RECREATION BOARD

BOARD SPECIFIC QUALIFICATIONS:

PARKS

Y or N City Resident? If no, applicant does not qualify.

Parks and Recreation Advisory Board meets on the fourth Thursday at 5:30 p.m. each month if there are items pending the Board's review. The Board's duties are to recommend to the city council policies and programs for the advancement and betterment of city parks and recreation; to render to the city manager recommendations concerning the annual budget of the parks and recreation department for presentation to the city council; to make recommendations to the city council regarding proposed parks facilities and recreation programs, encourage public interest in parks facilities and recreation programs and solicit the cooperation of public and private agencies in the advancement of city parks and recreation; to make recommendations through the city manager to the city council regarding special requests for use of public parks or facilities; and to make recommendations through the city manager to the city council regarding the use of donations, legacies or requests made to the city for the furtherance of city park facilities. All members must reside within the city limits. The Board consists of seven members that serve a three-year term. The Parks Manager is the staff liaison.

CITY SECRETARY'S DETERMINATION OF APPLICANT'S QUALIFICATION:

Is Applicant Qualified? YES NO DISCRETION OF THE COUNCIL

NOTES: _____



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:

