

PUBLIC NOTICE
AGENDA
LOCKHART CITY COUNCIL
September 17, 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 a Proclamation proclaiming September 23-27, 2024 as National GEAR UP Week in Lockhart. | 5 |
| B. | Presentation by Workforce Solutions Rural Capital Area regarding training and workforce development. | 6 |
| C. | Discuss Ordinance 2024-27 vacating and abandoning approximately 0.101 acres of unused public right-of-way consisting of an alley approximately 20 feet in width extending from the 200 block of West China Street to the 200 block of Apple Street, located west of 202 China Street and east of 1124 North Blanco Street. | 7-17 |
| D. | Discuss recommendation to award bid to O & A Classic Coatings and Painting Co. of Hurst, Texas in the amount of \$162,000 for the San Jacinto Elevated Storage Tank Painting Project. | 18-26 |
| E. | Discuss Resolution 2024-23 to approve a contract proposal from Studio Steinbomer to provide professional architectural/engineering services for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute. | 27-51 |
| F. | Discuss Resolution 2024-24 to award contract for Construction-Manager-At-Risk (CMAR) services to D. Wilson Construction Co. for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute. | 52-133 |
| G. | Discuss Resolution 2024-25, as requested by TxDOT, to authorize the adoption of the proposed designs of the Gateway Monument and Wayfinding signage as depicted in the 2022 Wayfinding Master Plan, and requesting installation within the operational highway right-of-way. | 134-204 |

- H. Discuss Ordinance 2024-28 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 4, Section 58-142(a)(1) and 58-142(a)(2), Entitled "Water Rates", adjusting the monthly fixed service charge and consumption charge to cover increased costs in water supply, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers. 205-211
- I. Discuss Ordinance 2024-29 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 3, 58-108(c), entitled "Schedule of Charges" to recover costs for wastewater debt payments and maintenance and operations of the collection and treatment system and transporting wastewater to said collection and treatment system. 212-217
- J. Discuss Interlocal Agreement for ground lease with Caldwell County Emergency Services District No. 5 to lease EMS Stations No. 1 (214 Bufkin Ln.) and No. 2 (1914 W San Antonio Rd.) for the performance of governmental services pursuant to Chapter 791 of the Texas Government Code and Chapter 272 of the Texas Local Government Code. 218-232
- K. Discuss appointing two Representatives of the City of Lockhart to the General Assembly of the Capital Area Council of Governments (CAPCOG). 233-235
- L. Discussion regarding the Texas Municipal League Election for the Region 10 Director. 236-245

7:30 P.M. REGULAR MEETING

- 1. **CALL TO ORDER**
Mayor Lew White
- 2. **INVOCATION, PLEDGE OF ALLEGIANCE**
Invocation. Pledge of Allegiance to the United States and Texas flags.
- 3. **PUBLIC COMMENT**
The purpose of this item is to allow the public an opportunity to address the City Council on issues that are or are not on the agenda. No discussion can be carried out on the citizen/visitor comment about items not on the agenda. Comments are limited to three minutes per speaker.
- 4. **PUBLIC HEARING/COUNCIL ACTION**
 - A. Hold a PUBLIC HEARING and discussion and/or action on an appeal of the Planning and Zoning Commission's denial of application SUP-24-08 by Cesar Ernesto Ochoa Jr. for a Specific Use Permit to allow a Manufactured Home on 0.458 acres in the Byrd Lockhart League zoned RMD Residential Medium Density District and located at 1001 Perez Street. 246-267

5. DISCUSSION/ACTION ITEMS

- A. Discussion and/or action on Ordinance 2024-27 vacating and abandoning approximately 0.101 acres of unused public right-of-way consisting of an alley approximately 20 feet in width extending from the 200 block of West China Street to the 200 block of Apple Street, located west of 202 China Street and east of 1124 North Blanco Street. **268-278**
- B. Discussion and/or action regarding recommendation to award bid to O & A Classic Coatings and Painting Co. of Hurst, Texas in the amount of \$162,000 for the San Jacinto Elevated Storage Tank Painting Project. **279-287**
- C. Discussion and/or action regarding Resolution 2024-23 to approve a contract proposal from Studio Steinbomer to provide professional architectural/engineering services for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute. **288-312**
- D. Discussion and/or action regarding Resolution 2024-24 to award contract for Construction-Manager-At-Risk (CMAR) services to D. Wilson Construction Co. for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute. **313-395**
- E. Discussion and/or action regarding Resolution 2024-25, as requested by TxDOT, to authorize the adoption of the proposed designs of the Gateway Monument and Wayfinding signage as depicted in the 2022 Wayfinding Master Plan, and requesting installation within the operational highway right-of-way. **396-466**
- F. Discussion and/or action to consider Ordinance 2024-28 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 4, Section 58-142(a)(1) and 58-142(a)(2), Entitled "Water Rates", adjusting the monthly fixed service charge and consumption charge to cover increased costs in water supply, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers. **467-473**
- G. Discussion and/or action to consider Ordinance 2024-29 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 3, 58-108(c), entitled "Schedule of Charges" to recover costs for wastewater debt payments and maintenance and operations of the collection and treatment system and transporting wastewater to said collection and treatment system. **474-479**
- H. Discussion and/or action regarding Interlocal Agreement for ground lease with Caldwell County Emergency Services District No. 5 to lease EMS Stations No. 1 (214 Bufkin Ln.) and No. 2 (1914 W San Antonio Rd.) for the performance of governmental services pursuant to Chapter 791 of the Texas Government Code and Chapter 272 of the Texas Local Government Code. **480-494**

- I. Discuss and consider action regarding appointing two Representatives of the City of Lockhart to the General Assembly of the Capital Area Council of Governments (CAPCOG). 495-497
- J. Discuss and consider action regarding the Texas Municipal League Election for the Region 10 Director. 498-507

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

- TxDOT Safety and Mobility Study meeting (US 183 from SH 71 to SH 130) set for September 19th.
- Airport "Fifty to Fifty Romeo Fly-In" - September 28th.
- Comprehensive Plan Comment Period through October 9th.
- National Night Out - Tuesday, October 1, 2024.
- Reminder: There will not be a City Council meeting on the first Tuesday of October due to the National Night Out event. The meeting has been moved to Thursday, October 3, 2024.
- Evening with the Authors' fundraiser - October 5th.
- Citywide Bulk Cleanup - Saturday, October 12th.

7. COUNCIL AND STAFF COMMENTS - ITEMS OF COMMUNITY INTEREST

8. ADJOURNMENT

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

Posted on the bulletin board in the Municipal Building, 308 West San Antonio Street, Lockhart, Texas, on September 13, 2024 at 3:30 p.m.

Proclamation

Whereas, the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) is a federally funded program designed to increase the number of students who stay in school and pursue postsecondary education; and

Whereas, GEAR UP focuses on students who might be the first person in their family to go to college; and

Whereas, GEAR UP provides seven-year grants to states or partnership to deliver support and resources to students and their families, starting no later than the 7th grade (middle school) through high school and onward to fulfill their dreams attaining a postsecondary education; and

Whereas, GEAR UP services including tutoring, mentoring, advising, rigorous academic preparation and financial education to improve access and success in higher education; and

Whereas, GEAR UP is built around public-private partnerships to support students as they prepare to enter and succeed in education beyond high school; and

Whereas, GEAR UP has enabled thousands of students since 1999 to achieve their dreams of higher education; and

Whereas, GEAR UP is committed to providing a quality education for all students, helping them to achieve their highest potential.

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

September 23-27, 2024

as

“National GEAR UP Week in Lockhart, Texas”

and I encourage all people in our state to join in this special observance.

IN TESTIMONY, WHEREOF, I have hereto set my hand and cause to be affixed the Seal of the City of Lockhart, Texas this the 17th day of September, 2024.

ATTEST:

Julie Bowermon
City Secretary



CITY OF LOCKHART

Lew White
Mayor

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Presentation by Workforce Solutions Rural Capital Area regarding training and workforce development.

ORIGINATING DEPARTMENT AND CONTACT: Council - Mayor Lew White

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: Ramon Rivera, County Coordinator for the Smithville Workforce Training Center, partners of Workforce Solutions Capital Area, has requested to provide a presentation to City Council regarding their program. Their organizational focus is to work with employers to identify their employment needs and train, recruit employees. Continued investment in developing a skilled workforce is a high priority for economic development initiatives and promotes a healthy, robust economy necessary for future talent skill sets. The organization currently partners with Austin Community College, Texas State University, Blinn College, ATDS Trucking School and many more.

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: None.

LIST OF SUPPORTING DOCUMENTS:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION:

Discuss Ordinance 2024-27 vacating and abandoning approximately 0.101 acres of unused public right-of-way consisting of an alley approximately 20 feet in width extending from the 200 block of West China Street to the 200 block of Apple Street, located west of 202 China Street and east of 1124 North Blanco Street.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: This is the hearing to abandon a City right-of-way that is 20 feet wide and 221 feet long. This right-of-way separates a residential property at 202 China Street from a garage business that is located at 1124 North Blanco Street. If the abandonment is approved, the alley will be split evenly between the abutting properties. The owner of 202 China Street initiated the abandonment by filing a petition for abandonment. The family of the owner of 202 China Street intends to subdivide the lot after acquiring their share of the alley into two lots, fronting on China and Apple Streets, respectively. The owner of 1124 North Blanco has not signed the abutting property owner consent form, due to concerns that he would be required to relocate a fence he installed that encroached the alley to the extent that it would also encroach on the neighbor's lot after the alley is divided between the two abutting owners. The City Attorney has advised staff that City Council can legally approve the abandonment of the alley and its division between the abutting properties without the consent of both affected owners.

PROJECT SCHEDULE (if applicable): None

FISCAL NOTE (if applicable): None

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: None.

STAFF RECOMMENDATION/REQUESTED MOTION: Approval of Ordinance 2024-27, abandoning the 20-foot wide alley located east of 1124 North Blanco Street and west of 202 China Street.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-27 202 China St. Alley, Ordinance 2024-27 Appendix A, Exhibit B--adjoining owner consent letter, 202 China Street alley--area maps, Survey and proposed plat, Adjoining tenant request letter

ORDINANCE NO. 2024-27

AN ORDINANCE OF THE CITY OF LOCKHART, TEXAS ABANDONING A SEGMENT OF AN UNNAMED ALLEY CONNECTING CHINA STREET TO APPLE STREET BETWEEN 202 WEST CHINA STREET AND 1124 NORTH BLANCO STREET, COVERING 0.101 ACRES WHICH IS MORE PARTICULARLY DESCRIBED AND OR DEPICTED IN EXHIBIT A, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES; AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OR DEEDS CONVEYING SAID RIGHT-OF-WAY TO ADJACENT PROPERTY OWNERS; PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith SHALL BE REPEALED TO THE EXTENT OF THE CONFLICT ONLY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Lockhart is a home rule municipality; and

WHEREAS, City's Charter, Powers of the city council Section 3.07 (o) provides that the City may exercise exclusive dominion, control and jurisdiction including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the city and provide for the improvement of same as provided in V.T.C.A., Transportation Code Ch. 313, as now or hereafter amended.; and

WHEREAS, Texas Transportation Code Section 311.007 provides that a home rule municipality may vacate, abandon, or close a street or alley; and

WHEREAS, the burden of continued maintenance of streets that are not being used exceeds the benefit that would be incurred if the City continued ownership of the streets; and

WHEREAS, the City Council of the City of Lockhart, Texas has determined and finds it is in the public interest that the heretofore described unnamed alleys, as described and/or depicted in Exhibit A, which is attached hereto and incorporated herein for all purposes, should be abandoned, vacated and closed as a public roadway.

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

Section 1: That the legislative findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2: It is in the public interest to vacate, abandon, and close the segment of the 0.112-acre alley between north Blanco Street and West Olive Street as shown on Exhibit A

Section 3: Said segments of the 0.101-acre unnamed alley are hereby vacated, abandoned, and closed.

Section 4: The City Manager is hereby authorized to convey by Deed without warranty all the interest the City has in and to the segment of the 0.101-acre unnamed alley as shown described in Section 2 of this ordinance to the owners of the abutting properties.

Section 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

Section 6. The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

Section 7. If any provision, section, sentence, clause, or phrase of this ordinance or application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Lockhart City Council in adopting, and the Mayor in approving this Ordinance, that no portion thereof or provisions or regulation contained herein shall become inoperative or fall by reason of any unconstitutionally or invalidity of any portion, provision, or regulation.

Section 8. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section 9: That this Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS,
THIS THE 17th DAY OF SEPTEMBER, 2024.**

Lew White, Mayor
City of Lockhart

ATTEST:

Julie Bowermon,
City Secretary

APPROVED AS TO FORM:

Bradford Bullock, City Attorney

Ordinance 2024-27

2 of 2

EXHIBIT A



CITY OF
Lockhart
TEXAS

0 50 100 Feet

Legend

- RIGHT-OF-WAY ABANDONMENT
- PARCEL BOUNDARY

This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey, and represents only the approximate relative location of property boundaries.

Exhibit B

Current Owner and/or Adjoining Property Owner Abandonment Consent Letter

PAULA HERNANDEZ RODRIGUEZ LIFE ESTATE has reviewed the attached Exhibit "A", has no objection, and hereby consents to the vacation/abandonment of the street and/or alley right-of-way as illustrated on Exhibit A.

THE UNDERSIGNED WILL HOLD THE CITY OF LOCKHART, TEXAS HARMLESS AND INDEMNIFY IT AGAINST ALL SUITS, COSTS, EXPENSES AND DAMAGES THAT MAY ARISE OR ARISE OR GROW OUT OF SUCH ABANDONMENT.

Owner Signature: *Paula Rodriguez* Date: 6/5/24

Owner Printed name: Paula Rodriguez

Owner Signature: _____ Date: _____

Owner Printed name: _____

Owner Mailing Address: _____

Property Address: 202 CHINA STREET (PROPERTY ID 18435)

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF CALDWELL §

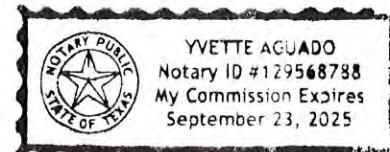
This instrument was acknowledged before me on this the date of June 5, 2024, by

Yvette Aguado [Notary Signature]

Notary Public, State of Texas

Notary's Printed Name: Yvette Aguado

Notary's commission expires: 9-23-2025

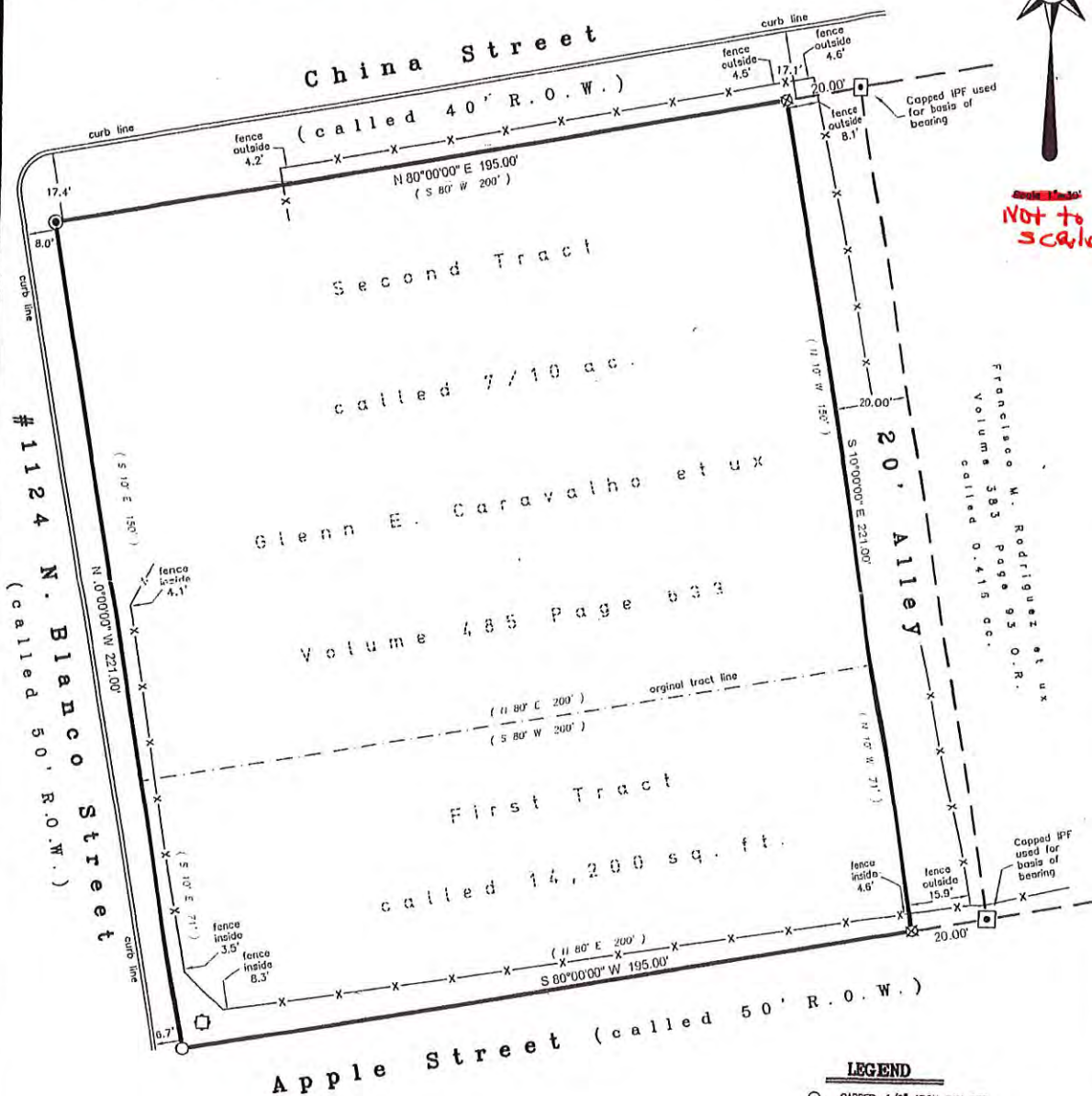


City of Lockhart Caldwell County, Texas

Byrd Lockhart Survey A-17

General Notes

1) THIS SURVEY IS FOR USE WITH THIS ONE TRANSACTION ONLY.
 2) FLOOD ZONES SHOWN ARE APPROXIMATE AND CREATE NO LIABILITY ON THE PART OF THE SURVEYOR AND ARE BASED ON FRONT A FLOOD INSURANCE RATE MAP. The property shown lies in Flood Zone "X" according to FEMA Panel #42055C120E effective date June 19, 2012. Flood Zone "X" is areas determined to be outside the 1% annual chance floodplain. WARNING: This flood statement, as determined by a HUD - F.I.A. FLOOD HAZARD BOUNDARY MAP, DOES NOT IMPLY that the Property or the improvements thereon will be Free from Flooding or Flood Damage. On rare occasions, Greater Floods Can and Will Occur, and Flood Heights may be increased by Man-Made or Natural Causes.



BOUNDARY SURVEY ONLY

This survey is to the City of Lockhart showing Street Right of Ways of the EAST LINE of NORTH BLANCO STREET, the SOUTH LINE of CHINA STREET, and the NORTH LINE of APPLE STREET and a 20' ALLEY being a part of the Byrd Lockhart Survey A-17 in the City of Lockhart, Caldwell County, Texas. I do hereby certify that (1) the foregoing plat is a true and correct representation of a survey made on the ground under my direct supervision on August 17, 2015. No attempt was made by the Surveyor to locate any improvements. THIS SURVEY IS CERTIFIED AND ITS CONTENTS GUARANTEED FOR USE WITH THIS ONE TRANSACTION ONLY DATED THIS DATE. THE SURVEYOR SHALL INCUR NO LIABILITY FOR ANY USE OF THIS SURVEY BEYOND THIS ONE TRANSACTION OR FOR ANY PERSONS(S) NOT ASSOCIATED WITH THIS TRANSACTION. Only those prints containing the raised Surveyor's seal and an original "LIVE" signature should be considered official and relied upon by the user.

Jerry L. Hinkle, R.P.L.S. #5459

- LEGEND**
- CAPPED 1/2" IRON PIN SET
 - CAPPED IRON PIN FOUND
 - ⊕ FIRE HYDRANT
 - HOLE DRILLED IN CONCRETE
 - ⊕ CALCULATED POINT
 - (.....) ORIGINAL DEEDED CALLS
 - X- FENCES MEANDER
 - UNLESS OTHERWISE NOTED

Field Book: d.c.	Drawn By: JH BS
Job No. 20152291	Drawing: 20152291.dwg
Date: August 2015	Word Disk: Begin 08012015
Surveyed By: JH JDB	Autocad Disk: Begin 08012015



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. 100886-00

Minor Plat SIFUENTES ADDITION

A subdivision of 0.416 acres out of the Byrd Lockhart Survey A-17 In the City of Lockhart, Caldwell County, Texas

SURVEY NOTES:

- The Lots shown lie in Flood Zone "X" according to FEMA Panel #4805500120E effective date June 19, 2012. FLOOD ZONE "X" is areas determined to be outside the 0.2% annual chance floodplain.
- Lot 1 and Lot 2 in Block 1 is zoned RMD (Residential Medium Density District) and the surrounding lots are zoned IL (Industrial Light); CHB (Commercial Heavy Business) and RMD (Residential Medium Density District) as shown on plat.
- Building Setbacks shall be in accordance with City of Lockhart Zoning Ordinance.
- A four-foot wide public sidewalk shall be constructed along the South property line frontage of Lot 2 in Block 1 along the North line of Apple Street by individual lot owner, prior to issuance of Certificate of Occupancy.
- RECORD OWNERS OF LAND: Elizabeth Sifuentes and Alfonso Sifuentes
DESIGNERS OF PLAT: Hinkle Surveyors, P.O. Box 1027, Lockhart TX 78644 (512) 398-2000
DATE OF PREPARATION: April 2024
SURVEYOR: Jerry L. Hinkle, R.L.S., #5459 P.O. Box 1027, Lockhart TX 78644 (512) 398-2000
- Boundary Closure: 1" in 74509'; Lot Closure #1=1" in 494993'; Lot Closure #2=1" in 44930'

STATE OF TEXAS
COUNTY OF CALDWELL

We, the undersigned owner of the land shown on this plat by deed recorded in Instrument # 2022-006303 of the Official Public Records of Caldwell County, Texas and described as 0.416 acres, do hereby subdivide such property to be known as SIFUENTES ADDITION 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 _____ ELIZABETH SIFUENTES
108 W. OLIVE STREET
LOCKHART, TEXAS 78644

ALFONSO SIFUENTES
108 W. OLIVE STREET
LOCKHART, TEXAS 78644

STATE OF TEXAS
COUNTY OF CALDWELL

Before me, the undersigned authority, personally appeared ELIZABETH SIFUENTES, 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.

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF CALDWELL

Before me, the undersigned authority, personally appeared ALFONSO SIFUENTES, 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.

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF CALDWELL

I, Steve Lewis, City Manager 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____.

STEVE LEWIS
CITY OF LOCKHART, MANAGER

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

LEGAL DESCRIPTION

All of a certain tract or parcel of land situated in the City of Lockhart, Caldwell County, Texas and being also a part of the Byrd Lockhart Survey A-17 and being also all of a tract of land called 0.416 acres and conveyed to Elizabeth Sifuentes et vir by deed recorded in Instrument #2022-006303 of the Official Public Records of Caldwell County, Texas and being more particularly described as follows:

BEGINNING at a capped iron pin found stamped HINKLE SURVEYORS used for basis of bearing in the NW corner of the said Sifuentes tract and the intersection of the East line of a 20' Alley and the South line of China Street for the NW corner this tract.

THENCE N 80°05'11" E with the North line of the said Sifuentes tract and the South line of China Street 82.20 feet to a capped iron pin found stamped RPLS1868 in the NE corner of the said Sifuentes tract and the apparent NW corner of a tract of land called 0.401 acres and conveyed to Gabriel Nicolas Contreras by deed recorded in Instrument #2023-004943 of the said Official Public Records for the NE corner this tract.

THENCE S 09°53'06" E with the East line of the said Sifuentes tract and the apparent West line of the above mentioned 0.401 acre tract 220.79 feet to a capped iron pin found stamped RPLS1868 in the SE corner of the said Sifuentes tract and the SW corner of the said 0.401 acre tract and the North line of Apple Street for the SE corner this tract.

THENCE S 79°56'33" W with the South line of the said Sifuentes tract and the North line of Apple Street 81.75 feet to a capped iron pin found stamped HINKLE SURVEYORS in the SW corner of the said Sifuentes tract and the intersection of the said 20' Alley and the North line of Apple Street for the SW corner this tract.

THENCE N 10°00'00" W with the West line of the said Sifuentes tract and the East line of the said 20' Alley 221.00 feet to the place of beginning containing 0.416 acres of land more or less.

STATE OF TEXAS
COUNTY OF CALDWELL

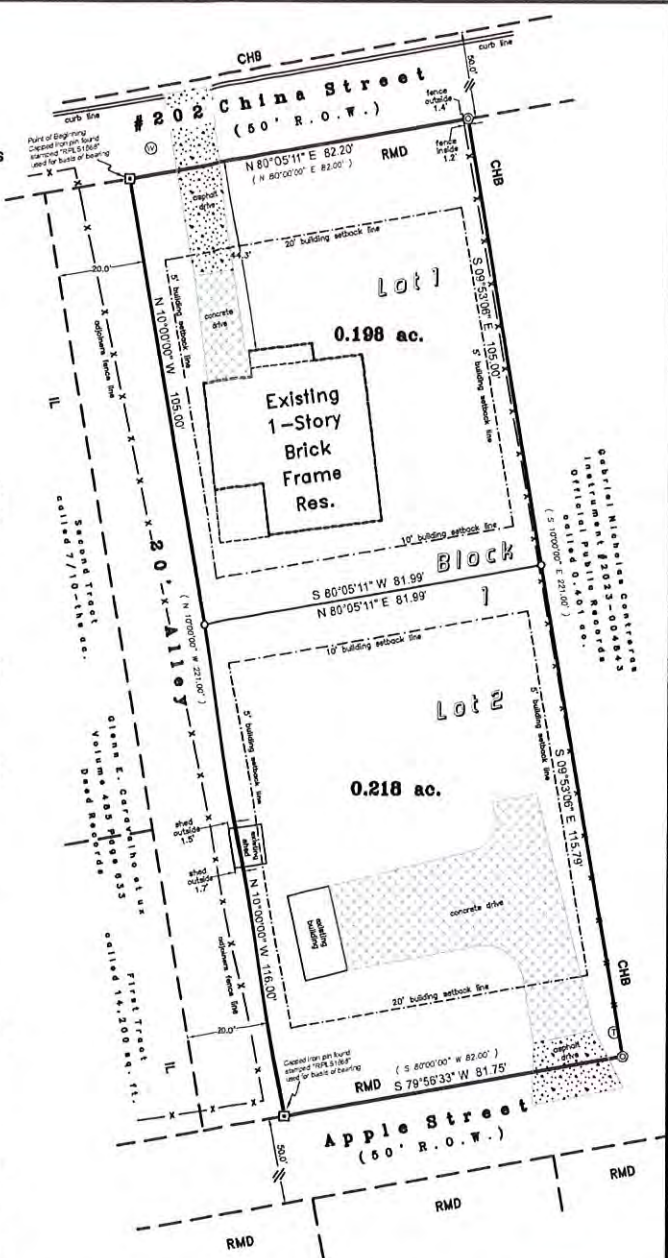
I, Jerry L. Hinkle, registered professional land surveyor, State of Texas, hereby certify that this plat is a true and correct representation of a survey made on the ground and all monuments and markers were properly placed under my direct supervision and is true and correct to the best of my knowledge.

IN WITNESS THEREOF, my hand and seal, this _____ day of _____, 20____.

NOT FOR PUBLIC RELEASE

Jerry L. Hinkle
Registered Professional
Land Surveyor #5459

Hinkle Surveyors, 2024



RMD=RESIDENTIAL LIGHT DENSITY
IL=INDUSTRIAL LIGHT
CHB=COMMERCIAL HEAVY BUSINESS



Field Book: d.s.
Job No. 20240052-sub
Dated: April 2024
Surveyed By: J.L.H. JSH

Drawn By: J.L.H. JSH
Drawing: 20240052-sub.dwg
Word Data: Bugh 0401024
Autoback Date: Bugh 0401024

HINKLE
SURVEYORS
P.O. Box 1027 1109 S. Main Street Lockhart, TX 78644
Ph (512) 398-2000 Fax (512) 398-7883 Email contact@hinklesurveyors.com Firm Registration No. 100888-00

**City of Lockhart
City Council**

May 6, 2024

Alfonso Sifuentes and Elizabeth Sifuentes would like to make a request to abandoned the 20 foot alley that runs North and South between China and Apple Streets, the address is 202 China Street.

We plan on building a home on the Apple Street side and are currently applying to subdivide the current lot at 202 China Street into two parcels.

The home at 202 China Street is occupied by a family member and the new lot will also be occupied by a family member.

Our storage shed is currently located slightly over into the alley as well as the alley has a fence currently, which we hope to rebuild in the center of the alley.

We would like to request that the alley be abandoned and each property owner abutting the alley will be entitled to receive 10 feet of the alley.

I would like to have this request processed before my subdivision plat if approved so I can add the 10' portion of the alley to my lots.

The alley South of Apple Street was abandoned by City Ordinance 06-03. (copy attached).

Thank you for your time in this matter.

Alfonso Sifuentes

A handwritten signature in black ink, appearing to be 'Alfonso Sifuentes', written over a horizontal line.

Representative

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss recommendation to award bid to O & A Classic Coatings and Painting Co. of Hurst, Texas in the amount of \$162,000 for the San Jacinto Elevated Storage Tank Painting Project.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Approval of Bid

BACKGROUND/SUMMARY/DISCUSSION: The painting of the 250,000 gallon elevated storage tank (EST) located on San Jacinto Street is a routine maintenance project. The EST was last painted in 2007. The EST receives inspections annually and the tower is in good condition but requires painting to maintain its condition. The project consists of abrasive blast/spot repair/painting of the interior, pressure wash/spot repair/painting of the exterior and painting of two logos on the EST. The project also consists of an ADD Alternative Bid including shrouding of the tank during all washing and painting work on the tank's exterior. The purpose of the shrouding it is to protect property located close to the tank site from debris and paint as this EST is located close to residential properties.

Bids were advertised in compliance with State Law for the San Jacinto Tank Repaint Project. Fifteen (15) sealed bids were received, ranging from \$161,123.00 to \$359,500.00. The lowest bidder, Five 12 Painting & Remodeling, LLC submitted a total bid of \$161,123, however their reference checks were unsatisfactory. The second-lowest bidder, O & A Classic Coating and Painting Co. has completed similar projects in the past and received satisfactory references from both owners and engineers. O & A Classic Coating and Painting Co.'s total bid for the project was \$162,000.00. The difference between the two total bids is \$877.00, which includes the Base Bid and the ADD Alternative to provide shrouding. Therefore, it is recommended that the City award the project to O & A Classic Coating and Painting Co. in the amount of \$162,000.00 for the Base Bid and the Add Alternative.

PROJECT SCHEDULE (if applicable): Project completion is expected to be completed within the 2024 Calendar Year

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$162,000.00

Account Number: 520-5750-964-00

Funds Available: \$162,000.00

Account Name: Water Tower Repair

FISCAL NOTE (if applicable):

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully recommends approval of the Base Bid and Add Alternative Bid to O & A Classic Coating and Painting Co. in the amount of \$162,000.00.

LIST OF SUPPORTING DOCUMENTS: Bid Award Recommendation - San Jacinto Elevated Tank Repaint Project, TANK LOGO EXHIBIT



505 East Huntland Drive
Suite 250
Austin, Texas 78752

T 512.454.8716
TRCcompanies.com
T.B.P.E. #F-8632

September 11, 2024

Mr. Sean Kelley, Public Works Director
City of Lockhart
705 Wichita Street
Lockhart, Texas 78644

**RE: San Jacinto Tank Repaint Project
Bid Award Recommendation**

Dear Mr. Kelley:

Fifteen (15) sealed bids were received at Lockhart City Council Chambers on September 5, 2024, at 11:00 A.M. for the above-referenced project. The total bids ranged from \$161,123.00 from Five12 Painting & Remodeling, LLC. of St. Cloud, Florida to \$359,500.00 from TMI Coatings, Inc. of St. Paul, Minnesota. A detailed bid tabulation is attached for your reference.

The project consists of abrasive blast/spot repair/painting of interior, pressure wash/spot repair/painting on exterior, and painting of logos on the elevated storage tank, and also has an Add Alternate Bid including shrouding of the tank during all washing/painting work on the tank exterior.

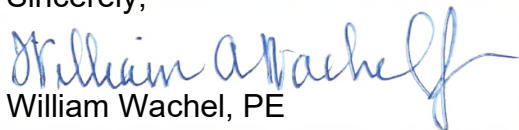
The lowest bidder, Five12 Painting & Remodeling, LLC., has completed similar work in the past. TRC conducted reference checks on similar projects supplied by the Contractor and found that Five12 Painting & Remodeling, LLC., completed some projects to the satisfaction of both the owners and the engineers. However, in one instance, the Contractor failed to complete the project to the satisfaction of both the owner and the engineer, which resulted in citizen's property damages and fraudulent workers compensation. The contractor did pay for damages caused and ultimately completed satisfactory work. Therefore, TRC has concluded that Five12 Painting & Remodeling, LLC., may not be the best fit to complete the work for the above-referenced project.

The 2nd low bidder, O&A Classic Coatings and Paintings Co., has successfully completed similar work in the past. TRC conducted reference checks on similar projects supplied by the Contractor and found that O&A Classic Coatings and Paintings Co. completed those projects to the satisfaction of both the Owners and the Engineers with no issues.

The Base Bid from Five12 Painting & Remodeling, LLC. totaled \$138,123.00 with an Add Alternate Bid totaling in \$161,123.00. The Base Bid from O&A Classic Coatings and Paintings Co. totaled \$142,000.00 with an Add Alternate Bid totaling in \$162,000.00. The difference between the two lowest bidders is \$877.00 for the Base Bid and Add Alternative Bid. Therefore, it is recommended that the City award the project to the 2nd lowest bidder, O&A Classic Coatings and Paintings Co., in the amount of \$162,000.00 for the Base Bid plus Add Alternate Bid amount.

If you have any other questions or comments, please do not hesitate to contact this office.

Sincerely,



William Wachel, PE
Vice President

Attachment: Bid Tabulation



				Five12 Painting & Remodeling, LLC 584 Peg Court St Cloud, Florida 34769		O&A Classic Coatings and Paintings Co. 441 Fieldwood Terrace Hurst, Texas 76053		RCB (or MC) Sandblasting & Painting, Inc. PO Box 802 Cedar Springs, MI 49319	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00	\$3,400.00	\$3,400.00
P.2	Mobilization and De-mobilization	1	LS	\$7,000.00	\$7,000.00	\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$60,000.00	\$60,000.00	\$73,000.00	\$73,000.00	\$36,000.00	\$36,000.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$60,123.00	\$60,123.00	\$55,000.00	\$55,000.00	\$65,000.00	\$65,000.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$2,000.00	\$2,000.00	\$3,000.00	\$3,000.00	\$500.00	\$500.00
P.6	Paint the Logos	1	LS	\$5,000.00	\$5,000.00	\$4,000.00	\$4,000.00	\$6,500.00	\$6,500.00
	TOTAL BASE BID				\$138,123.00		\$142,000.00		\$114,400.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$23,000.00	\$23,000.00	\$20,000.00	\$20,000.00	\$49,000.00	\$49,000.00
	TOTAL ALTERNATE BID				\$23,000.00		\$20,000.00		\$49,000.00
	TOTAL BASE BID + ALTERNATE BID TIEMS				\$161,123.00		\$162,000.00		\$163,400.00

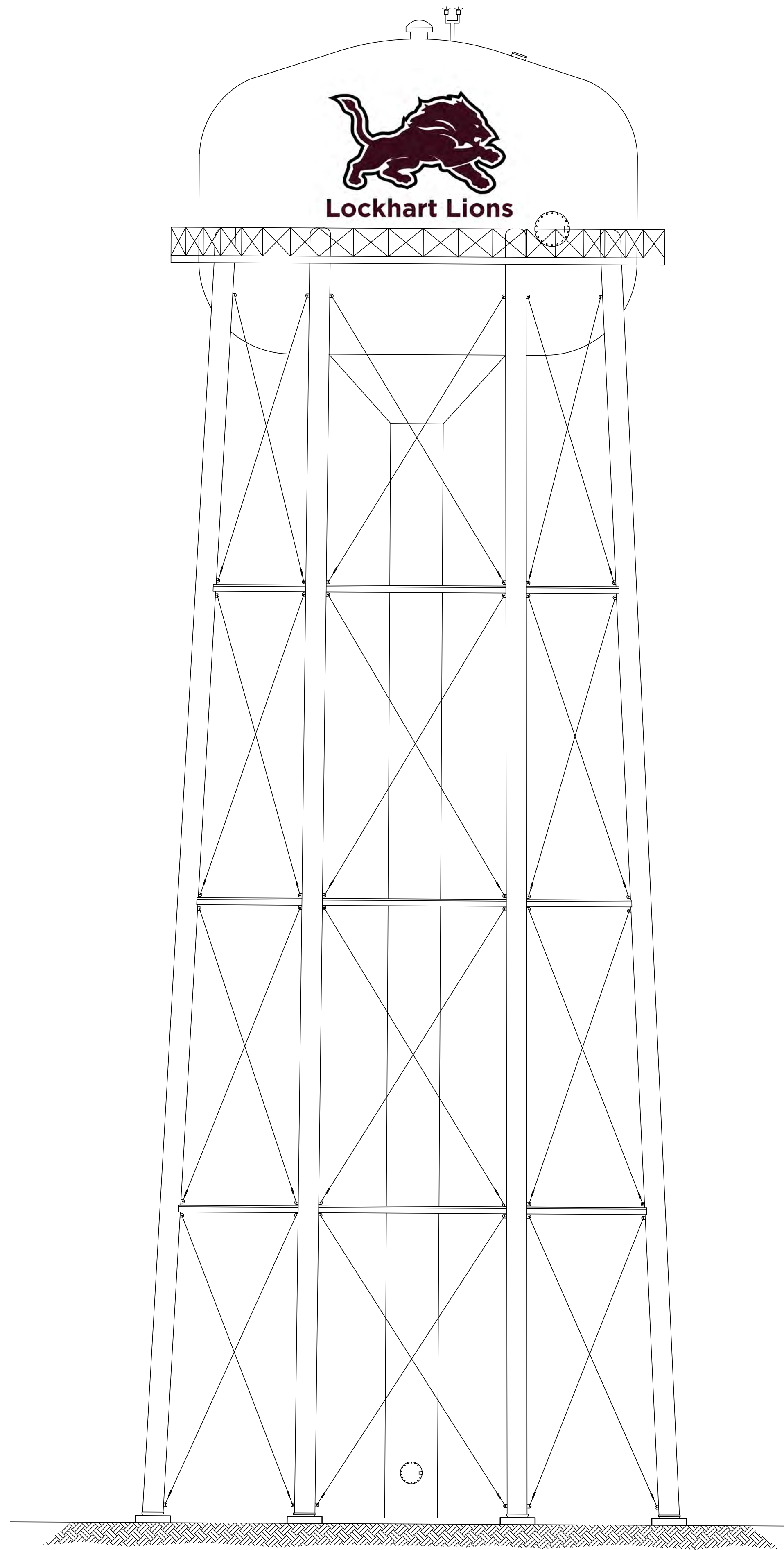
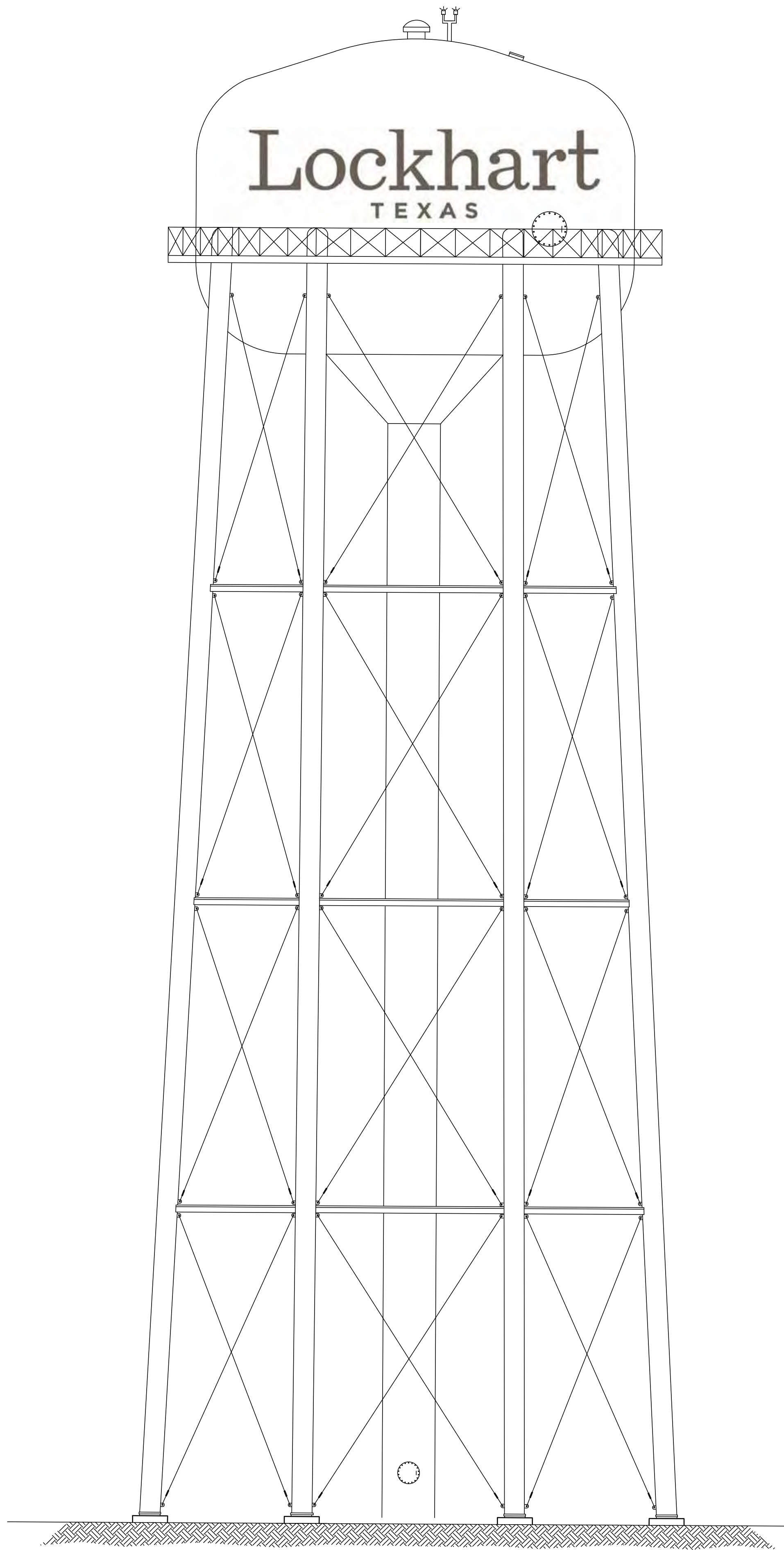
				Cor Iesu, LLC 4622 Carmel Lane Rowlett, Texas 75088		BRZ Coatings, Inc. 5500 Timber Ridge Watauga, TX 76137		I&S Tank Services, LLC 8041 Telegraph Road Quinlan, Texas 75474	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$5,000.00	\$5,000.00	\$3,000.00	\$3,000.00	\$7,812.00	\$7,812.00
P.2	Mobilization and De-mobilization	1	LS	\$5,000.00	\$5,000.00	\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$50,000.00	\$50,000.00	\$67,000.00	\$67,000.00	\$90,253.00	\$90,253.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$65,000.00	\$65,000.00	\$67,000.00	\$67,000.00	\$56,184.00	\$56,184.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$1,500.00	\$1,500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
P.6	Paint the Logos	1	LS	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$6,000.00	\$6,000.00
TOTAL BASE BID					\$133,500.00		\$149,000.00		\$164,249.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$30,000.00	\$30,000.00	\$37,000.00	\$37,000.00	\$30,000.00	\$30,000.00
TOTAL ALTERNATE BID					\$30,000.00		\$37,000.00		\$30,000.00
TOTAL BASE BID + ALTERNATE BID TIEMS					\$163,500.00		\$186,000.00		\$194,249.00



				Utility Service Co., Inc. 535 Courtney Hodges Blvd Perry, GA 31069		Classic Protective Coatings, Inc. N7670 State Road 25 Menomonle, WI 54751		Leary Construction Company, Inc. 32 East Plerson Street Greenfield, IN 46140	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$2,000.00	\$2,000.00	\$5,000.00	\$5,000.00	\$5,915.52	\$5,915.52
P.2	Mobilization and De-mobilization	1	LS	\$5,000.00	\$5,000.00	\$11,000.00	\$11,000.00	\$11,535.27	\$11,535.27
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$76,000.00	\$76,000.00	\$99,000.00	\$99,000.00	\$64,557.22	\$64,557.22
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$56,700.00	\$56,700.00	\$79,400.00	\$79,400.00	\$90,888.33	\$90,888.33
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$5,000.00	\$5,000.00	\$2,000.00	\$2,000.00	\$5,500.00	\$5,500.00
P.6	Paint the Logos	1	LS	\$13,100.00	\$13,100.00	\$12,000.00	\$12,000.00	\$12,455.56	\$12,455.56
TOTAL BASE BID					\$157,800.00		\$208,400.00		\$190,851.90
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$58,400.00	\$58,400.00	\$22,000.00	\$22,000.00	\$47,768.89	\$47,768.89
TOTAL ALTERNATE BID					\$58,400.00		\$22,000.00		\$47,768.89
TOTAL BASE BID + ALTERNATE BID TIEMS					\$216,200.00		\$230,400.00		\$238,620.79

				Maguire Iron, Inc. 2001 East Robur Drive Sioux Falls, SD 57104		D&M Tank, LLC 6901 Mansfield Cardinal Road Kennedale, Texas 76060		Viking Painting, LLC PO Box 24162 Omaha, NE 68124	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$2,500.00	\$2,500.00	\$8,060.00	\$8,060.00	\$2,000.00	\$2,000.00
P.2	Mobilization and De-mobilization	1	LS	\$2,500.00	\$2,500.00	\$7,000.00	\$7,000.00	\$12,200.00	\$12,200.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$56,500.00	\$56,500.00	\$76,828.00	\$76,828.00	\$77,900.00	\$77,900.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$68,000.00	\$68,000.00	\$88,712.00	\$88,712.00	\$65,400.00	\$65,400.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$3,900.00	\$3,900.00
P.6	Paint the Logos	1	LS	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00	\$9,000.00	\$9,000.00
TOTAL BASE BID					\$142,500.00		\$193,600.00		\$170,400.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$100,000.00	\$100,000.00	\$50,000.00	\$50,000.00	\$81,100.00	\$81,100.00
TOTAL ALTERNATE BID					\$100,000.00		\$50,000.00		\$81,100.00
TOTAL BASE BID + ALTERNATE BID TIEMS					\$242,500.00		\$243,600.00		\$251,500.00

				TanksCo Inc. 1516 Royster Road Fort Worth, Texas 76134		N.G. Painting, L.P. 1225 Bandera Hwy Suite A2 Kerrville, Texas 78028		TMI Coatings, Inc. 3291 Terminal Drive St. Paul, MN 55121	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$10,000.00	\$10,000.00	\$1,000.00	\$1,000.00	\$3,000.00	\$3,000.00
P.2	Mobilization and De-mobilization	1	LS	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00	\$8,000.00	\$8,000.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$141,000.00	\$141,000.00	\$90,000.00	\$90,000.00	\$150,500.00	\$150,500.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$80,300.00	\$80,300.00	\$120,000.00	\$120,000.00	\$122,000.00	\$122,000.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$12,000.00	\$12,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
P.6	Paint the Logos	1	LS	\$6,000.00	\$6,000.00	\$5,000.00	\$5,000.00	\$9,000.00	\$9,000.00
TOTAL BASE BID					\$254,300.00		\$219,000.00		\$294,500.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$25,000.00	\$25,000.00	\$70,000.00	\$70,000.00	\$65,000.00	\$65,000.00
TOTAL ALTERNATE BID					\$25,000.00		\$70,000.00		\$65,000.00
TOTAL BASE BID + ALTERNATE BID TIEMS					\$279,300.00		\$289,000.00		\$359,500.00



City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss Resolution 2024-23 to approve a contract proposal from Studio Steinbomer to provide professional architectural/engineering services for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins, Joseph Resendez

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: City staff and Studio Steinbomer (Architect) coordinated with D. Wilson Construction (Construction Manager at-Risk) to finalize terms of the Fire Station No. 1 Remodel project. Resolution 2024-23 outlines the architect's basic services, responsibilities, compensation, and includes a framework for project design and construction administration. This resolution is provided for Council review and approval.

Once the Resolution is approved, staff, Studio Steinbomer, and D. Wilson Construction will move forward with the next step in the pre-construction phase. Staff will return to Council at a later date to approve the final project scope and budget.

History

At the March 5, 2024 Council meeting, Council approved an architectural services proposal from Studio Steinbomer for the renovation of Fire Station No. 1 to provide design and construction observation services to include Design Development, Construction Documents, and Construction Observation Services. The proposal also included Hazardous Materials Abatement Coordination services to assist the environmental services contractor in coordinating asbestos abatement.

In addition, the proposal provided for the Construction Manager at-Risk (CMAR) delivery method for construction and will not be publicly bid through the typical competitive sealed bidding process. Studio Steinbomer recommended this delivery method due to the project being a remodel of an existing building with historic preservation considerations as opposed to a new build construction project.

Studio Steinbomer provided assistance to the City in developing and publishing the Request for Proposal (RFP) to procure a CMAR contractor and provided input as appropriate during the selection process. At the June 18, 2024 Council meeting, Council selected D. Wilson Construction Co. as the CMAR contract that offers the best value for the Fire Station No. 1 project and authorized the City Manager to negotiate and finalize terms of the CMAR agreement.

Background

City of Lockhart, Texas

Council Agenda Item Cover Sheet

Studio Steinbomer prepared a Fire Station No. 1 condition report, structural condition survey, and preliminary design drawings in 2021. An asbestos survey and report was completed on February 14, 2024, by an environmental services contractor.

The Fire Station No. 1 project scope includes life safety upgrades such as fire sprinklers, fire alarm system, diesel exhaust removal, enhanced living and working quarters on the second floor, exterior upgrades, and abatement of asbestos containing materials identified in the asbestos survey and impacted by remodel construction.

Fire Station No. 1 is located within the Lockhart Historical District. The Lockhart Historical Preservation Commission (LHPC) will review any proposed changes to the exterior of the building, as well as any interior work that impacts load-bearing walls.

PROJECT SCHEDULE (if applicable): Estimated project duration of six months to include final design, procurement, and construction.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): The estimated total construction cost, at the current scope, is approximately \$673,000. Additional Architect and Engineering fees of \$49,750 are also anticipated for updates to the Current Drawing, Construction Documentation and Construction Phase Services. Lastly, asbestos abatement consulting fees of \$12,378.

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends the approval of Resolution 2024-23 to approve a contract proposal from Studio Steinbomer to provide professional architectural/engineering services for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute.

LIST OF SUPPORTING DOCUMENTS: Resolution 2024-23 - Award Contract for Architect services for Fire Station No. 1 Remodel

CITY OF LOCKHART, TEXAS

RESOLUTION NO. 2024-23

**A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS
SELECTING STUDIO STEINBOMER AS ARCHITECT FOR FIRE
STATION NO. 1 REMODEL PROJECT, AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, on March 5, 2024, City Council approved a proposal from Studio Steinbomer to provide Construction Documentation and Construction Phase services as the consulting Architect to remodel Fire Station No. 1; and

WHEREAS, on March 5, 2024, City Council approved an oral resolution authorizing the Construction Manager At Risk (CMAR) delivery method for procurement of construction services to remodel Fire Station No. 1; and

WHEREAS, the City Council desires to authorize the City Manager to execute a contract with Studio Steinbomer;

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

1. The City Council hereby awards Architect services for the Fire Station No. 1 Remodel Project to Studio Steinbomer.
2. The City Manager is hereby authorized to execute a contract, a draft copy of which is attached to this Resolution as **Exhibit 1**, with Studio Steinbomer to provide Construction Documentation and Construction Phase services as the consulting Architect to remodel Fire Station No. 1.

PASSED AND APPROVED by the City Council of the City of Lockhart, Texas this 17th day of September, 2024.

Lew White
Mayor

ATTEST:

APPROVED AS TO FORM:

By:

Julie Bowermon
City Secretary

Bradford Bullock
City Attorney

EXHIBIT 1

AIA® Document B104® – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

« »
« »
« »
« City of Lockhart, TX
308 W. San Antonio St.
PO Box 239
Lockhart, TX 78644
»

and the Architect:
(Name, legal status, address and other information)

«Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors »
«4303 Medical Parkway »
« Austin, Texas, 78756 »
« 512-479-0022
Attn: Amy Bramwell »

for the following Project:
(Name, location and detailed description)

« Lockhart Firestation #1
»
«201 W. Market Street »
« Lockhart, Texas 78644 »

The Owner and Architect agree as follows.

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EXHIBIT 1

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

« See Attached Exhibit A -Scope Descriptions and Fee Proposal »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project consistent with Texas Local Government Code 271.904(d) and Texas Civil Practice and Remedies Code 130.0021. Nothing in this Agreement shall require the Architect to exercise professional skill and judgment greater than that set forth in this Section 2.1 (the "Standard of Care").

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

EXHIBIT 1

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

\$1,000,000 each occurrence
\$300,000 damage to rented premises
\$10,000 medical expense
\$1,000,000 personal injury
\$2,000,000 general aggregate »

.2 Automobile Liability

« \$1,000,000 »

.3 Workers' Compensation

« statutory »

.4 Professional Liability

« \$1,000,000 per claim
\$2,000,000 annual aggregate »

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Exhibit A and Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Owner and Architect (collectively, the "Parties") expressly disclaim responsibility for the accuracy and completeness of information furnished by third parties or of information requiring specialized skills, expertise, or knowledge to ascertain the accuracy and completeness not held by the applicable Party and the Parties agree that the other Party shall not be held liable for inaccuracy or correctness of such information or any damages resulting therefrom.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

EXHIBIT 1

§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall assist the Owner in obtaining an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

§ 3.3.2 The Architect shall endeavor to incorporate the design requirements of the laws, ordinances, and regulations promulgated by the Owner, and shall work with appropriate City staff and employees of the Owner to determine the feasibility and/or need of any variance or other exception in incorporating such design requirements required for construction of the Project. Nothing in this provision shall require either party to incorporate or approve design requirements for construction of the Project not in conformance with any applicable laws, ordinances, or regulations.

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, assist the Owner and Contractor to update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner and Contractor in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A133™-2017, Standard Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A133-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. To the extent of any conflict between this Agreement and the AIA A133-2017, this Agreement shall control.

§ 3.4.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, which are solely the Contractor's rights and responsibilities under the Contract Documents. The Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

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§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

§ 3.4.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to

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rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement.

(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)

« »

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services « fifteen » (« 15 ») visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within « three » (« 3 ») months of the date of substantial completion, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

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ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality. Modifications to the Construction Documents made necessary by any increase or decrease in the Owner's budget as defined by this provision for the Cost of the Work shall be provided as an Additional Service under Article 4.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall have the right, in the Owner's sole discretion, to request reasons justifying the requirement for such requests in writing from the Architect.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

§ 5.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Nothing in this provision shall prohibit the Owner, or its representatives from communicating with the Contractor directly on such matters as the Owner deems necessary, provided, however, that the Owner shall include the Architect in all such direct communications and the failure of the Owner to communicate with the Architect on matters relating to the Contract Documents shall relieve Architect from any liability or claims arising out of or relating to such failure of Owner.

§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.10

§ 5.11 I

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the

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Architect or Architect's consultants; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official

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regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall request similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner hereby agrees to indemnify and hold harmless the Architect, its agents and employees as well as Architect's consultants, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees and economic damages arising out of, in connection with or resulting from any unauthorized use of the Instruments of Service.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A133–2017, Standard Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.4.2.

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§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a district court located in Caldwell County, Texas

☐ Other: *(Specify)*

☐

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

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§ 8.3 INDEMNIFICATION Arbitration

§ 8.3.1 ARCHITECT SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, AND/OR ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES ("OWNER'S PARTIES") FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO ARCHITECT'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE ARCHITECT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. ARCHITECT SHALL NOT BE LIABLE TO INDEMNIFY AND HOLD HARMLESS THE OWNER'S PARTIES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO OWNER'S PARTIES' NEGLIGENT ACTS OR OMISSIONS.

OWNER SHALL INDEMNIFY AND HOLD HARMLESS THE ARCHITECT, ITS AGENTS AND EMPLOYEES AND CONSULTANTS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND ECONOMIC DAMAGES RESULTING FROM THE OWNER'S NEGLIGENT ACTS OR OMISSIONS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. OWNER SHALL HAVE NO LIABILITY TO INDEMNIFY OR HOLD HARMLESS THE ARCHITECT FROM CLAIMS OR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS BY THIRD PARTIES OVER WHICH THE OWNER DOES NOT EXERCISE CONTROL OR ARE OUTSIDE THE SCOPE OF OWNER'S RESPONSIBILITIES UNDER THE AGREEMENT OR ANY OTHER AGREEMENT EXECUTED IN CONNECTION WITH THE PROJECT. THE PARTIES EXPRESSLY ACKNOWLEDGE THAT THE OWNER'S AUTHORITY TO INDEMNIFY AND HOLD HARMLESS ANY THIRD PARTY IS GOVERNED BY ARTICLE XI, SECTION 7 OF THE TEXAS CONSTITUTION, AND ANY PROVISION THAT PURPORTS TO REQUIRE INDEMNIFICATION BY THE OWNER IS INVALID. NOTHING IN THIS AGREEMENT REQUIRES THAT THE OWNER INCUR DEBT, ASSESS OR COLLECT FUNDS, OR CREATE A SINKING FUND. PURSUANT TO TEXAS LOCAL GOVERNMENT CODE 271.903(A), THE OWNER SHALL MAINTAIN THE CONTINUING RIGHT TO TERMINATE, AT THE EXPIRATION OF EACH BUDGET PERIOD OF THE OWNER DURING THE TERM OF THIS AGREEMENT AND IS CONDITIONED ON THE BEST EFFORTS BY THE CITY COUNCIL OF THE OWNER TO OBTAIN AND APPROPRIATE FUNDS FOR PAYMENT OF THIS AGREEMENT AND THUS COMMITS THE OWNER'S CURRENT REVENUES ONLY.

§ 8.3.2 THE PARTIES EXPRESSLY AGREE THAT NOTHING IN THIS PROVISION SHALL BE CONSTRUED TO REQUIRE A DUTY TO DEFEND BY THE OTHER PARTY, AND SUCH REQUIREMENTS ARE GOVERNED BY INSURANCE PROVISIONS DESCRIBED IN THIS AGREEMENT.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 Default and Safe Harbor

If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. If Owner remits payment due within seven days of receiving notice, Architect shall resume services with no penalty assessed, but Owner agrees that deadlines may change as a result of such Owner failure. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all undisputed sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 Suspension

§ 9.2.1 If the Owner suspends the Project, the Architect and the Architect's consultants shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect and the Architect's consultants shall be compensated for reasonable expenses incurred in the interruption and resumption of the Architect's and the Architect's consultants' services. The Architect's and the Architect's consultants' fees for the remaining services and the time schedules shall be equitably adjusted.

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§ 9.2.2 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the sole fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.3 Termination for Cause

Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.4 Termination for Convenience

§ 9.4.1 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.4.2 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.4.3 The Architect may terminate this Agreement upon not less than thirty (30) days' written notice to the Owner for Architect's convenience and without cause.

§ 9.4.4 In the event of termination by the Architect, the Architect shall continue to dutifully and diligently perform its obligations under this Agreement until the expiration of thirty (30) days from the Owner's receipt of notice of termination, and shall, during that time, endeavor to assist the Owner in transitioning all information necessary to an architect chosen by the Owner to replace the Architect.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 Choice of Law and Venue

This Agreement shall be governed by the law of the State of Texas without regard to the conflicts of law provisions. Venue for any suit arising under this Agreement shall be a court of competent jurisdiction in Caldwell County, Texas.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A133-2017, Standard Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall

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survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 Severability

The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum
(Insert amount)

« See Exhibit A for detailed cost description »

- .2 Percentage Basis
(Insert percentage value)

« » (« ») % of the Owner’s budget for the Cost of the Work, as calculated in accordance with Section 11.6.

- .3 Other
(Describe the method of compensation)

« »

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

«Hourly according to rates listed in Exhibit A »

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus « » percent (« »%), or as follows:

« »

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Design Phase	«NA »	percent (	« NA »	%)
Construction Documents	« »	percent (	« »	%)
Phase				
Construction Phase	« »	percent (	« »	%)
Total Basic Compensation	one hundred	percent (	100	%)

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§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

«See Exhibit A for hourly rates »

Employee or Category	Rate

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Printing, reproductions, plots, and standard form documents;
- .4 Postage, handling, and delivery;
- .5 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .6 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .7 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses.; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus «fifteen » percent («15 » %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of « zero » (\$ « 0 ») shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid « sixty » (« 60 ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

EXHIBIT 1

« 10 » % «ten percent annually »

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

« § 12.1 Renderings, models, or other presentation materials not otherwise prepared by Architect in its development of the design are not part of the Architect's Basic Services. To the extent Owner desires such renderings, models, or other presentation materials, they shall be an Additional Service.

§ 12.2 Permitting of the Project is not part of the Architect's Basic Services.

§ 12.3 Owner and persons claiming through Owner agree to limit the liability of Architect, its agents and employees for all claims arising out of, in connection with or resulting from the performance of services under this Agreement to an amount equal to the proceeds available under the Architect's applicable insurance policy. In addition, Architect shall not be liable for the services of any consultants or contractors.

§ 12.4 Force Majeure

Neither Architect nor Owner shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome

§ 12.5 No person or entity other than Owner is intended to be a beneficiary of Architect's services under this Agreement and no person or entity other than Owner shall have the right to maintain any action in contract against the Architect.

§ 12.6 The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas. Texas Board of Architectural Examiners, 505 E Huntland Dr., Austin, Texas 78752. Telephone: (512) 305-9000.

»

§ 12.7 Energy Boycott Companies

If the Architect is required to make a verification pursuant to Texas Government Code Section 2276.002, the Architect verifies that it does not boycott energy companies and will not boycott energy companies during the term of this Agreement. The Architect may indicate in writing why such verification is not required.

§ 12.8 Boycott Israel Companies

Architect certifies that, pursuant to Texas Government Code 2271.002, it does not boycott Israel and will not boycott Israel during the term of this Agreement resulting from this solicitation. The Architect shall state any facts that make it exempt from the boycott certification in writing to the Owner.

§ 12.9 Excluded Parties

EXHIBIT 1

Architect certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

§ 12.10 Firearm Entities Discrimination

Architect verifies that: (1) it does not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Architect shall promptly notify Owner.

§ 12.11 Foreign Terrorist Organizations

Architect represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Texas Government Code Section 2252.152.

§ 12.12 Public Information Act

Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act").

§ 12.13 Award of Attorneys' Fees

Pursuant to Texas Government Code 2252.904, the parties agree that the prevailing party in any suit arising out of a dispute of the terms of this Agreement shall be awarded reasonable attorneys' fees and costs.

§ 12.14 Binding Effect

This Agreement shall inure to the benefit of, be binding upon, and be enforceable against, the Owner and the Architect and their respective permitted successors, assigns, transferees, and delegates.

§ 12.15 No Implied Waiver

The failure of a Party to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in this Agreement shall not be construed as a waiver or a relinquishment thereof for the future.

»

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™-2017, Standard Abbreviated Form of Agreement Between Owner and Architect

- .2 *Intentionally Omitted.*

« »

- .3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

« »

- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

«See Exhibit A – Project Scope Description and Fee Proposal »

EXHIBIT 1

This Agreement entered into as of the day and year first written above.

OWNER (Signature)
«Steven Lewis»«City Manager, City of Lockhart»
(Printed name and title)

ARCHITECT (Signature)
« »« »
(Printed name, title, and license number, if required)

EXHIBIT A



July 26, 2023
Revised February 19, 2024

Randy Jenkins
City of Lockhart, Texas
1911 Borchart Dr
Lockhart, TX 78644

RE: Proposal for Construction Documentation and Construction Phase services for Fire Stations #1

Dear Mr. Jenkins:

We at **Studio Steinbomer Architecture and Interiors** are pleased to provide you and the City of Lockhart (henceforth referred to as “Owner”) with the following fee proposal for architectural services to provide Construction Documents and Construction Observation for the renovation of Fire Station #1, 201 W. Market Street, Lockhart, TX 78644. In addition to architectural services, this proposal also covers fees and services for the following consultants:

- **Wilson Girgenti** – Mechanical, Electrical, and Plumbing Engineering
- **Tsen Engineering** – Structural Engineering

Both of these groups of engineers have extensive experience teaming with us on projects such as this and in-depth prior experience with this building.

I. PROJECT SCOPE PARAMETERS

The scope of this project will be to update, modify, develop, and complete the work delineated in the **Fire Station #1 Condition and Feasibility Study** and accompanying drawings completed in the Fall of 2020 (attached to this proposal as reference), and amended by our conversation with Randy Jenkins in May of 2023. The Design Team will provide design and construction observation services to include Design Development, Construction Documents, and Construction Observation Services. Formal design review submissions are anticipated at 50% Construction Documents. It is currently anticipated this project will use a CMAR delivery method for construction and will not be publicly bid.

II. BASIC SERVICES

Construction Documentation provided for the following. Project elements considered new scope from the previously completed work are shown in *italics*:

Architectural Improvements:

- Review of 2018 IBC and IEBC building codes for any potential impact on project scope. (Feasibility study was performed under 2015 IBC.)
- Update and remodel to existing 2nd floor kitchen.

EXHIBIT A

- Update and remodel to existing 2nd floor restroom. Current drawings will be revised to include a urinal and relocate the water heater.
- Remodel of 2nd floor to include new bunk rooms and conversion of existing training rooms into a new Day Room.
- New flooring and paint throughout the upstairs remodeled area.
- New exterior color scheme and painting of exterior woodwork
- Investigation of existing covered arch-top windows on the second floor to determine if they can be re-opened.
- New garage doors and openers as a bid alternate.
- New Fire Station #1 signage added to South side of building.

Fire and Life Safety Improvements:

- New fire sprinkler system installed throughout.
- New smoke detectors installed throughout
- Improvements to first floor fire truck bay ceilings to provide required fire separation.
- Improvements to both stairs for improved egress and fire separation between living quarters and fire truck bays.
- New fire truck exhaust system

Hazardous Materials Abatement Coordination:

- *Coordinate with City's CIH consultant to align areas of abatement and replacement of removed materials into the Construction Documents*
- *Coordination of Construction Document Add Alternate for the remediation of the existing windows to include documentation of window types and methodology of reglazing the existing window sashes once the asbestos containing materials has been abated.*

Mechanical, Electrical & Plumbing Improvements:

- New hot water heater
- New 1st floor restroom ventilation
- Replacement and supplementation of existing emergency lighting systems
- Relocation and reconfiguration of existing 2nd floor HVAC
- New electrical panels to replace existing damaged and/or unsafe electrical panels
- New exit signs as required by code.

Structural Improvements:

- Structural analysis and detailed of any required structural repairs.

Meetings and Client Reviews:

We anticipate a total of 3 in-person meetings. All other project communications will take place via email, phone, or video conferencing. In-person meetings to be distributed as follows:

- One kick-off meeting and review of any potential scope changes.
- One 50% construction document review and "page-turn" of current project progress
- One final review meeting prior to the work being 100% complete and issued for bidding and construction.

EXHIBIT A

ASSUMPTIONS, EXCLUSIONS, AND CONDITIONS:

The scope of services presented herein and associated proposed fees are based upon our understanding of the proposed scope of work. Changes in the project that affect the underlying contract assumptions may impact the required professional service fee. This proposal is based on the following assumptions, exclusions, and conditions:

- Owner requested additional meetings/trips will be billed as an additional service at the attached rates.
- Owner required changes to the state scope of work will be billed as additional services.
- Owner requested changes to the scope of work after the commencement of construction documents will be billed as an additional service.
- It is assumed this work will be constructed by a pre-selected Construction Manager and not via a competitive sealed public bid. If public bidding is chosen by the City of Lockhart, additional services may be required to produce the required specifications and instructions required for public bidding as well as attendance at any pre-bid meetings required for the process.
- This proposal assumes that all available site and building documentation (including site topographical and tree surveys, deed restrictions, covenants, etc) will be provided by the Owner and shared by the Client and Project Team.
- The Owner will provide access to the sites as necessary for field investigation and existing conditions confirmation.
- If required for the stated scope of work, the Owner shall furnish the following tests/results and information to the A/E Team: core borings, probings and subsurface exploration, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment and similar data; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; geotechnical reports.

IV. FEES:

Basic Services

The lump sum fee to provide the anticipated services outlined above shall be as follows:

Updates to Current Drawing and Construction Documentation:	
Architectural	25,000
MEP	7,500
Structural	5, 750
	\$38, 250
Construction Phase Services	
Architectural	\$7,500
MEP	\$4,000
Structural	hourly, if required
	\$11,500

EXHIBIT A

Total Fees for Services \$49,750

Fees for services are invoiced monthly based on the percentage of completion of each phase of work.

V. REIMBURSABLE EXPENSES:

Reimbursable expenses are billed in addition to compensation for architectural services. These expenses include, but are not limited to, printing and reproductions, delivery services, mileage, airfare and overnight expenses, filing fees for governmental review and inspection, and consultants required for your project. Reimbursable expenses will be billed at cost plus 15%. Mileage shall be billed at the current standard IRS mileage rates. Reimbursable expenses greater than \$500 will be approved by client prior to billing.

VI. ADDITIONAL SERVICES:

Additional Services will be billed at the attached hourly rates and include, but are not limited to, the following:

- Services due to owner-initiated changes to the design and documents during the conceptual design, including changes to the building size.
- Changes and/or increase in Project Scope or Scope of Architectural Services resulting from project assumptions as defined in the proposal which prove to be incorrect.
- Changes to scope due to unforeseen building conditions
- Additional requested meetings or site visits other than those previously mentioned.

We thank you for this opportunity, and we look forward to working with you.

Sincerely,

Studio Steinbomer

Accepted By:

Name Date

Name Date

Attachments: General Terms and Conditions

EXHIBIT A

GENERAL TERMS AND CONDITIONS

Year 2024 Hourly Billing Rates for Architectural Services:

Principal	\$250
Senior Project Manager	\$200
Project Manager	\$180
Project Support	\$150

Reimbursable expenses are billed in addition to compensation for architectural services. These expenses include printing and reproductions, delivery services and subconsultants necessary for your project. These expenses will be billed at cost with a 15% administrative fee.

We bill clients monthly for our services and ask that clients understand that all invoices are due upon receipt. Amounts unpaid forty-five days after the invoice date shall bear interest at the rate of 10% per annum. Regrettably, we must suspend work on the project if payment is not received within 60 days from the date of the invoice.

Projects put on hold, at the client’s request, for a period of one year or more are subject to Billing Rates in effect at the time the project is restarted.

We traditionally ask for a retainer in the amount of \$2500 for new projects of this size. The retainer will be shown on all invoices and will be deducted from the last bill at the close of your project.

The drawings we create are the instruments of conveyance of services performed and are not subject to state sales tax. All drawings created by our firm remain the property of this firm and may not be used by any other person or companies for any other construction or research purposes.

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas. Texas Board of Architectural Examiners, 505 E. Huntland Drive, Austin, Texas 78752, (512) 305-9000.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss Resolution 2024-24 to award contract for Construction-Manager-At-Risk (CMAR) services to D. Wilson Construction Co. for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins, Joseph Resendez

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: City staff and Studio Steinbomer (Architect) coordinated with D. Wilson Construction (Construction Manager at-Risk) to finalize terms of the Fire Station No. 1 Remodel project. Resolution 2024-24 outlines the CMAR's responsibilities, establishes cost limits, and includes provisions for the construction manager to act as both a consultant during preconstruction and a constructor during the construction phase, ensuring cost control while providing a Guaranteed Maximum Price (GMP) on total expenses. This resolution is provided for Council review and approval.

Once the Resolution is approved, staff, Studio Steinbomer, and D. Wilson Construction will move forward with the next step in the pre-construction phase. Staff will return to Council at a later date to approve the final project scope and budget.

History

Request for Proposals (RFP) for Construction-Manager-at-Risk (CMAR) services for the Fire Station No. 1 Remodel project was advertised on May 13, 2024 and ended May 31, 2024. Staff received two submissions and recommended D. Wilson Construction Co. to provide CMAR services for the project after reviewing the submitted proposals with general observations provided by Studio Steinbomer, the City's project Architect. At the June 18, 2024 Council meeting, Council approved the selection of D. Wilson Construction Co. as the proposal that offers the best value and authorized the City Manager to negotiate and finalize terms of the CMAR agreement.

Background

The CMAR delivery method provides for the general contractor to assume the risk for construction at the contracted price/Guaranteed Maximum Price (GMP) and provide consultation to the City regarding construction during and after the design of the project. Benefits of this method include proactive modifications during the design phase, which are more cost-effective than making changes on the construction site. This will also mitigate potential delays due to any design changes during construction. In comparison, the competitive sealed bidding process requires all drawings and specifications by the design team to be completed prior to the publishing of the bid.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

The Fire Station No. 1 project scope includes life safety upgrades such as fire sprinklers, fire alarm system, diesel exhaust removal, enhanced living and working quarters on the second floor, exterior upgrades, and abatement of asbestos containing materials identified in the asbestos survey and impacted by remodel construction.

Fire Station No. 1 is located within the Lockhart Historical District. The Lockhart Historical Preservation Commission (LHPC) will review any proposed changes to the exterior of the building, as well as any interior work that impacts load-bearing walls.

PROJECT SCHEDULE (if applicable): Estimated project duration of six months to include final design, procurement, and construction.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): The estimated total construction cost, at the current scope, is approximately \$673,000. Additional Architect and Engineering fees of \$49,750 are also anticipated for updates to the Current Drawing, Construction Documentation and Construction Phase Services. Lastly, asbestos abatement consulting fees of \$12,378. D. Wilson Construction Co. Proposed Fees for CMAR Services are included in the attached resolution and include the following:

- Construction Manager at Risk (CMAR) Services Fee - 6.75%
 - o This fee is to be a fee percentage based on the Owner (City of Lockhart) approved Guaranteed Maximum Price to provide comprehensive construction phase services for the project and attachments described in the RFP.
- Pre-Construction Services - included in CMAR Services Fee.
- Contractor Reimbursable General Conditions based on Cost of Work - \$76,534.

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION:

LIST OF SUPPORTING DOCUMENTS: Resolution 2024-24 - Award Contract for CMAR services for Fire Station No. 1 Remodel

CITY OF LOCKHART, TEXAS

RESOLUTION NO. 2024-24

**A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS
SELECTING D. WILSON CONSTRUCTION CO. AS CONSTRUCTION
MANAGER-AT-RISK (CMAR) FOR FIRE STATION NO. 1 REMODEL
PROJECT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, on March 5, 2024, City Council approved an oral resolution authorizing the Construction Manager At Risk (CMAR) delivery method for procurement of construction services to remodel Fire Station No. 1;

WHEREAS, on May 13, 2024, the City published notice of the request for proposals for performing the duties of Construction Manager at Risk for the Fire Station No. 1 Remodel Project and received two responses on May 31, 2024;

WHEREAS, City Staff evaluated the proposals and is recommending the selection of D. Wilson Construction Co. as the CMAR that offers the best value for the Fire Station No. 1 Remodel Project; and

WHEREAS, the City Council desires to authorize the City Manager to execute a contract with D. Wilson Construction Co.;

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

1. The City Council hereby awards CMAR services for the Fire Station No. 1 Remodel Project to D. Wilson Construction Co.
2. The City Manager is hereby authorized to execute a contract, a draft copy of which is attached to this Resolution as **Exhibit 1**, with D. Wilson Construction Co. to serve as the Construction Manager at Risk to perform construction services to remodel Fire Station No. 1.

PASSED AND APPROVED by the City Council of the City of Lockhart, Texas this 17th day of September, 2024.

Lew White
Mayor

ATTEST:

By:

Julie Bowermon
City Secretary

APPROVED AS TO FORM:

Bradford Bullock
City Attorney

Construction Manager At Risk (CMAR) Agreement

Standard Form of Agreement Between Owner and Construction Manager as Constructor (AIA A133 – 2019) where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

AGREEMENT made as of the 3rd day of September in the year 2024.

BETWEEN the Owner:

City of Lockhart, TX
308 W. San Antonio St.
PO Box 239
Lockhart, TX 78644

and the Construction Manager:
(Name, legal status, address, and other information)

D. Wilson Construction Co.
1858 Grandstand Drive
San Antonio, TX 78238

for the following Project:

Fire Station No. 1 Remodel Project

The Architect:

Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors
4303 Medical Parkway
Austin, TX 78756

The Owner and Construction Manager agree as follows.

EXHIBIT 1

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	GENERAL PROVISIONS
3	CONSTRUCTION MANAGER'S RESPONSIBILITIES
4	OWNER'S RESPONSIBILITIES
5	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7	COST OF THE WORK FOR CONSTRUCTION PHASE
8	DISCOUNTS, REBATES, AND REFUNDS
9	SUBCONTRACTS AND OTHER AGREEMENTS
10	ACCOUNTING RECORDS
11	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12	DISPUTE RESOLUTION
13	TERMINATION OR SUSPENSION
14	MISCELLANEOUS PROVISIONS
15	SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Originally built in 1914 as the City of Lockhart's first City Hall and Fire station, Lockhart's Fire Station No. 1 has been in nearly continuous use as an operating fire station as well as housing a variety of other purposes, including a jail, police department, and municipal court. Some modifications have necessarily been made over the years but without significant impact on the actual structure. The building is now and has been for some time, used entirely for Fire Department purposes. The scope of the project is a significant interior remodel of the existing building with a focus on life safety, electrical upgrades, and improvement to the living areas for the firefighters. **The Construction Manager shall work with the Owner to coordinate Fire Department operations before and during construction as well as during performance of work in the warranty periods so as to provide the least impact to public safety and protect private and public property.**

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Project Location: 201 W Market St, Lockhart, Texas

EXHIBIT 1

Project Specifics – Scope of Work:

Base Scope:

- Installation of a full automatic fire suppression system (sprinklers), fire/smoke notification system.
- Deisel Exhaust system for noxious gases in the apparatus bays.
- Enhanced fire/smoke protection on the ceilings and stair walls of the first level.
- Enhanced emergency exiting from the second level.
- Living and working quarters renovations includes upgrade both restrooms up and down, and upstairs fully renovated kitchen, sleeping quarters, most ceilings and floor finishes.
- Upgrades to hazardous electrical panels and switchgear.
- Enhanced fire/smoke barrier between Apparatus Bays and sleeping areas above.
- Enhanced emergency exiting from second floor.
- Enhanced Living and working quarters for Firefighters.
- Restroom on first floor renovated including exhaust air vent, reduced tripping hazard.
- Restroom on second floor completely renovated with new expanded shower, new finishes.
- Kitchen: replace cabinets, appliances and reorganize for better utilization.
- Relocate existing furnace #2 to above ceiling and new ductwork throughout that system.
- Remodel one room bunk style sleeping quarters to three separate rooms.
- New ceilings and LED lights throughout new ceiling areas.
- New floor finishes.
- Re-pointing of some brick masonry.
- New Overhead Doors
- New Exterior Signage

Add Alternate Scope:

- Re-glazing and painting the exterior of all existing windows.
- Repainting of all exterior doors and woodwork, including the cornice.

Work to be completed under separate contract:

- Interior Asbestos remediation.

Exhibit C of the Contractor's Response to the Request for Proposal ("RFP") provides a Preliminary Drawing and Specifications for Interim Review of the Project site and interior. Final Drawings and Specifications will be completed with input from the Owner, Construction Manager, and the Architect.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

The estimated construction budget at the current scope and at time of execution is \$673,000. GMP Amendment to be executed at a later date.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

See Exhibit D of the RFP for Preliminary Schedule.

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

Not applicable.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Not applicable.

EXHIBIT 1

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

Additional Project considerations will be determined on an as-needed basis.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

City Manager
« Steven Lewis »
« Lockhart City Manager »
« 105 S. Colorado Street »
« Lockhart, Texas 78644 »
« slewis@lockhart-tx.org »
« 512-769-8072 (Mobile) »

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

(List name, address and other contact information.)

« Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors »« »
«4303 Medical Parkway »
« Austin, Texas, 78756 »
« 512-479-0022

Attn: Amy Bramwell »

§ 1.1.10 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

« »« »
« »
« »
« »
« »

.2 Civil Engineer:

« »« »
« »
« »
« »
« »

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

« »

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

« »
« »
« »

EXHIBIT 1

« »
« »
« »

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

«
Leland Stennett
DWCC Regional Manager
1858 Grandstand
San Antonio, Tx. 78238
lelands@dwilsonconstruction.com
(210)825-9643
»

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

« Not applicable. »

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

« Not applicable. »

§ 1.1.15 Other Initial Information on which this Agreement is based:

« None. »

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply in its entirety unless specifically stated otherwise in the AIA Document A201™-2017,

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General Conditions of the Contract for Construction. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES

The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager’s Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services, including but not limited to preparing schedules and estimates. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. The recommendations and advice of the Construction Manager concerning design alternatives and potential cost savings shall be subject to the review and approval of the Architect, Owner and the Owner’s professional consultants. The Construction Manager shall certify to the Owner that the Project, to the best of his knowledge, has been constructed in accordance with the Architect’s construction documents. The certification shall be in a form which is acceptable to the Owner and Construction Manager.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; site use and improvements; selection of materials and equipment; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect’s review and the Owner’s acceptance. The Construction Manager shall obtain the Architect’s approval for the portion of the Project schedule relating to the performance of the Architect’s services. The Project schedule shall coordinate and integrate the Construction Manager’s services, the Architect’s services, other Owner consultants’ services, and the Owner’s responsibilities; and identify items that affect the Project’s timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; dates of Substantial Completion and Final Completion; and the occupancy/service requirements of the Owner. If updated Project schedules indicate that previously-approved schedules may not be met, then Construction Manager shall make appropriate recommendation to the Owner and Architect and, upon written approval of both, shall implement necessary corrective action.

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§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 Intentionally omitted.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

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§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

« See Tab 5, Attachment B »

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 The date of Final Completion upon which the proposed Guaranteed Maximum Price is based, which date shall not be more than 30 days after the date of Substantial Completion; and
- .6 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the

EXHIBIT 1

Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Guaranteed Maximum Price shall not include in the Cost of the Work any taxes from which the Owner is exempt by virtue of its status as a governmental entity. In the event that the Construction Manager is required to pay or bear the burden of any new federal, state, or local tax, or if any rate increase of an existing tax (except a tax on net profits), as a result of any statute, court decision, written ruling, or regulation takes effect after the Contract date, the Guaranteed Maximum Price shall be increased by the amount of the new tax, or tax increase.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment. Other than services normally associated with Construction Manager's performance of the general conditions, Construction Manager shall not perform any portions of the Work unless it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors or subcontractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

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§ 4.1.3 The Owner, when such services are reasonably necessary for the Project, shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. This shall specifically include an abatement survey conducted prior to the start of the Preconstruction Phase.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Construction Manager's Services shall be provided in conjunction with the services of the Architect. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

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« None. See Tab 5 »

§ 5.1.2 Intentionally omitted.

§ 5.1.2.1 Intentionally omitted.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within « six » (« 6 ») months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services may be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable within thirty (30) days of receipt of the Construction Manager's invoice. Amounts unpaid « more than sixty » (« 60 ») days after the invoice date shall bear interest at the legal rate prevailing from time to time as indicated in Texas Government Code 2251.025.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment as set forth in Article 11. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee of which the total shall not exceed the Guaranteed Maximum Price.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

« The Construction Manager's Fee shall be calculated as 6.75% of the Cost of the Work, and not as a percentage of the Contract Sum. No Construction Manager's Fee shall be paid on the Construction Manager's Contingency or the Owner's Contingency until funds are allocated from those contingencies to the Cost of Work »

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

« »Method of adjustment for changes shall be via a Change event to modify the contract value plus a fee of 6.75%

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

« 10% »

§ 6.1.5 Intentionally omitted.

§ 6.1.6 Liquidated Damages

« § 6.1.6.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Construction Manager that time is of the essence in the Substantial Completion and Final Completion of the Project and Owner shall sustain actual and direct damages as a result of Construction Manager's failure, neglect or refusal to achieve said deadlines. Such actual and direct damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Construction Manager that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Construction Manager to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Construction Manager if such delay occurs. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for personnel, attorney fees, architectural fees, engineering fees, program management fees, inspection fees, storage costs, food service costs, transportation costs, utilities costs, costs of temporary facilities, loss of interest on money, and other miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial or Final Completion, shall be construed as a breach of this Agreement.

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§ 6.1.6.2 It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from the Final Payment made to the Construction Manager a sum equal to one thousand dollars (\$1,000) per day for each and every additional calendar day beyond the agreed date of Substantial Completion.

§ 6.1.6.3 Such damages shall be in addition to, and not in lieu of, any other rights, claims or remedies Owner may have against Construction Manager. »

§ 6.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

« None. »

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform minor work at the site or, with the Owner’s prior approval, at off-site workshops.

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§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

« See Tab 5, Attachment B »

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, except taxes from which the Owner is exempt by virtue of its status as a governmental entity, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors or Construction Manager in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Intentionally omitted.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

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§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable, except this does not include taxes from which the Owner is exempt by virtue of its status as a governmental entity.

§ 7.6.3 Fees and assessments for the building permit, construction permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.6 Costs for software acquired specifically for the Work and not previously owned by or licensed to Construction Manager, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Intentionally omitted.

§ 7.6.10 Intentionally omitted.

§ 7.6.11 Intentionally omitted.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9 or other provisions or amendments to this Agreement. However, notwithstanding anything in Article 7 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in

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which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include any items not specifically enumerated in Attachment B.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions; and (4) offers the best value to Owner, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all

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costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the « 15th » day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the « 30th » day of the « following » month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than « forty-six » (« 46 ») days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee. Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by Owner and the amount of such payments to subcontractors and supplies, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be (1) the percentage of that portion of the Work which has actually been completed.

§ 11.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

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- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« 10% »

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« Not applicable. »

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

« None. »

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

« None. »

§ 11.1.9 Intentionally omitted.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

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§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements according to the terms below:

- .1 During monthly payment substantiation, the Construction Manager shall submit an AIA Document G703-1992, Continuation Sheet which adequately identifies the percentage of Work complete and the amount to be paid to Subcontractors; and
- .2 verify said information described in Section 11.1.11.1 with reports detailing checks provided to Subcontractors.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, including the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting and reconciliation for the Cost of the Work, including allowances and change orders, containing the detailed requirements by this Subparagraph 11.2.1, and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum

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Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest in accordance with Texas Government Code 2251.025.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision or recommendation by the Initial Decision Maker shall be required as a condition precedent to mediation.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« Not applicable. »

« »

« »

« »

§ 12.1.3 When Owner has an applicable claim for construction defects, Owner shall comply with the provisions of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Construction Manager’s or Architect’s opportunity to cure.

§ 12.2 Binding Dispute Resolution

For any Claim arising out of the terms of the Contract Documents or performance of Work, including those subject to, but not resolved by voluntary mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

[☐] Arbitration pursuant to Article 15 of AIA Document A201–2017

[☒] Litigation in a court of competent jurisdiction in Caldwell County, Texas

[☐] Other: *(Specify)*

« »

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

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§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as

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the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

« Using the same method set forth in Section 13.2.2 of this Agreement »

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price, if established, and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. This does not prevent Construction Manager from engaging subcontractors to perform various phases of the Project in accordance with law, but Construction Manager shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 14.2.2 The Owner may, with written consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1

Commercial General Liability as follows with policy limits of not less than the below:

See Certificate of Insurance in Exhibit B.

§ 14.3.1.6 Intentionally omitted

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager’s negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner’s insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

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§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 Payment and Performance Bonds. The Construction Manager shall provide both a payment and performance bond before commencing Work on the Project in accordance with Texas Government Code Sec. 2253.021.

§ 14.4 Notice requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission:

« »

§ 14.5 Other provisions:

« Texas Public Information Act. Contractor acknowledges that City is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Contractor (and Contractor's professional associates and/or Subcontractors) under this Agreement are instruments of service in respect of the Project and property of the City and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (Texas Government Code, Chapter 552). Contractor agrees that City is under no obligation to notify Contractor of a request for information or to otherwise ensure confidentiality.

Form 1295 Certificate. The Parties acknowledge that the Contractor will complete a Form 1295 required pursuant to Section 2252.908(c)(4), Texas Government Code before final execution of this Agreement.

Verifications of Statutory Representations and Covenants. The Contractor makes the following representations and verifications to enable to City to comply with Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Contractor, respectively within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

(a) Not a Sanctioned Company. Contractor represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Contractor and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(b) No Boycott of Israel. The Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, "boycott Israel" has the meaning provided in Section 2271.001, Government Code.

(c) No Discrimination Against Firearm Entities. The Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the meaning provided in Section 2274.001(3), Government Code.

(d) No Boycott of Energy Companies. The Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 2276.001(1), Government Code.

(e) No Waiver of Immunity. The Contractor acknowledges that the Owner, as a municipality, is a government entity operating under the laws of the State of Texas and therefore has sovereign immunity from all claims and liabilities

EXHIBIT 1

unless specifically waived pursuant to express statutory authority. Nothing in this Agreement or the Contract Documents shall be construed to waive the Owner's sovereign immunity beyond what is statutorily authorized pursuant to Texas law.»

§ 14.6 INDEMNIFICATION

CONTRACTOR DOES HEREBY AGREE TO, INDEMNIFY, DEFEND, AND HOLD HARMLESS OWNER AND ALL OF ITS OFFICIAL, OFFICERS, EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL LIABILITY CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS, LIENS, OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS, AND ATTORNEY'S FEES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS, OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE SUCH INDEMNITY SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS WHEN THE LIABILITY, CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS, LIENS, OR CAUSES OF ACTIONS LIE AGAINST ANY PERSON OR ENTITY INDEMNIFIED HEREIN.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price;
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, to be executed at a later date;
- .3 D. Wilson Construction Company Response to Request for Proposal, to the extent that it does not conflict with the terms of the other documents comprising the Agreement, including Attachment B and Tab 5; and
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

« »« »

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

« »« »

(Printed name and title)

DRAFT AIA® Document A133™ – 2009

Guaranteed Maximum Price Amendment

for the following PROJECT:

(Name and address or location)

<< >>
<< >>

THE OWNER:

(Name, legal status and address)

<< >>< >>
<< >>

THE CONSTRUCTION MANAGER:

(Name, legal status and address)

<< >>< >>
<< >>

ARTICLE A.1

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 2.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of this Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed <> (\$ <>), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Construction Manager's Fee, and other items that comprise the Guaranteed Maximum Price.
(Provide below or reference an attachment.)

<< >>

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Contract Documents permit the Owner to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

<< >>

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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EXHIBIT 1

EXHIBIT A

Item	Price (\$0.00)

§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

<< >>

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)

<< >>

Section	Title	Date	Pages

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)

<< >>

Number	Title	Date

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Agreement.)

<< >>

ARTICLE A.2

§ A.2.1 The anticipated date of Substantial Completion established by this Amendment:

<< >>

OWNER (Signature)

CONSTRUCTION MANAGER (Signature)

<< >><> >>

(Printed name and title)

<< >><> >>

(Printed name and title)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/24/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hughston Insurance Agency, Inc. PO Box 8550 Brownsville TX 78526		CONTACT NAME: Camille Atkinson PHONE (A/C, No, Ext): (956) 542-4387 FAX (A/C, No): (956) 542-8335 E-MAIL ADDRESS: camille@hiains.net															
INSURED D. Wilson Construction Company 1207 E. Pecan McAllen TX 78501 (956) 686-9573		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC#</th> </tr> </thead> <tbody> <tr> <td>INSURER A: New Hampshire Insurance Compan</td> <td>23841</td> </tr> <tr> <td>INSURER B: National Union Fire Ins. Compa</td> <td>19445</td> </tr> <tr> <td>INSURER C: Asper American Insurance Company</td> <td>43460</td> </tr> <tr> <td>INSURER D: United Fire & Casualty</td> <td>13021</td> </tr> <tr> <td>INSURER E: Travelers Insurance</td> <td>19445</td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC#	INSURER A: New Hampshire Insurance Compan	23841	INSURER B: National Union Fire Ins. Compa	19445	INSURER C: Asper American Insurance Company	43460	INSURER D: United Fire & Casualty	13021	INSURER E: Travelers Insurance	19445	INSURER F:	
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INSURER D: United Fire & Casualty	13021																
INSURER E: Travelers Insurance	19445																
INSURER F:																	

COVERAGES ME CERTIFICATE NUMBER: Cert ID 3936 (180) REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GENL AGGREGATE LIMIT APPLIED PER: ☐ POLICY ☒ PROJECT ☐ LOG ☐ OTHER		3292114	09/01/2023	09/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Empl Benefits Liab \$ 1,000,000
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY		4544771	09/01/2023	09/01/2024	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	☒ UMBRELLA L&B ☐ EXCESS L&B ☐ DED ☒ RETENTION \$	☐ OCCUR ☐ CLAIMS-MADE	CX00XDY23	09/01/2023	09/01/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ 10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in WA) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N / A	22298392	09/01/2023	09/01/2024	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 F.I. DISFAS - FA FMPD OYFF \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Builder's Risk		46314213	09/01/2023	09/01/2024	Any One Jobsite \$ 25,000,000
E	Leased Rented Equipment		QT-660-8492LSGG-TLC-23	09/01/2023	09/01/2024	Any One Item \$ 100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: Bid for Lockhart Fire Station No. 1

CERTIFICATE HOLDER

CANCELLATION

City of Lockhart 308 W. San Antonio St P. O. Box 239 Lockhart TX 78644	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	---

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ACORD 25 (2016/03)

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Page 1 of 1

HUGHSTON

INSURANCE AGENCY

David C. Hughston, CIC, CPCU
Peggy Gonzalez, CIC, CPCU, CRIS
Christopher Hughston, CIC
Brock Hughston

May 24, 2024

Joe Araiza
D. Wilson Construction Company
P. O. Box 3455
McAllen, TX 78501

Re: D. Wilson Construction Company
City of Lockhart
Lockhart Fire Station No.1

To Whom It May Concern:

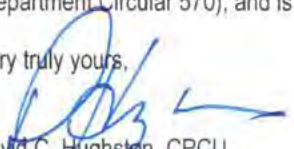
It has been the privilege of Hughston Insurance Agency, Inc. to provide surety bonds on behalf of D. Wilson Construction Company for over fifty (50) years, during which time D. Wilson Construction Company has performed and we have issued performance and payment bonds for contracts valued as high as \$80,000,000.00 single project. In our opinion, D. Wilson Construction Company remains properly financed, well equipped, and capably managed.

At the present time, Markel Insurance Company (with Treasury Limit over \$193,000,000) provides a \$200,000,000.00 aggregate surety program to D. Wilson Construction Company. Markel Insurance Company is listed in the State Board of Insurance, Bond Department's "List of Insurance Companies" licensed to write fidelity and surety bonds in Texas and is authorized to do business up to the limit of the contract. Bonding capacity has remained unchanged for the last five (5) years.

As always, Markel Insurance Company reserves the right to perform normal underwriting at the time of any bond request, including, without limitation, prior review and approval of relevant contract documents, bond forms, and project financing.

Markel Insurance Company is listed on the U.S. Treasury Department's Listing of Approved Sureties (Department Circular 570), and is rated A+ XV by A.M. Best Company.

Very truly yours,


David C. Hughston, CPCU
Attorney-in-Fact

46 Cove Circle P.O. Box 8190 BROWNSVILLE, TEXAS 78526 (956) 542-4387 Fax (956) 542-8335
www.hiains.net

CITY OF LOCKHART FIRE STATION #1

PRELIMINARY

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW. IT IS NOT TO BE USED FOR FINAL DESIGN OR CONSTRUCTION. PROJECT: CITY OF LOCKHART, TEXAS. PREPARED BY: ROBERT A. STEINBOMER, P.E. TEXAS REG. #7988

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ARCHITECTURE INTERIORS

1400 S Congress Ave, Suite B202
Austin, TX 78704
T: 512-475-0022
www.steinbomer.com

VICINITY MAP

PROJECT LOCATION
201 W MARKET ST.
LOCKHART, TX 78644

GRAPHIC SYMBOLS & CONVENTIONS

GRAPHIC SYMBOLS

1

BUILDING SECTION

SCALE: 3/4" = 1'-0"

SCALE OF SECTION OR DETAIL

1/A6.1

LONGITUDINAL OR CROSS SECTION NO.

1/A6.1

SHEET NO. ON WHICH SECTION IS DRAWN

1/A6.1

SURFACE SHOWN IN ELEVATION

1/A6.1

SHEET ON WHICH ELEVATION IS DRAWN

3/A5.1

DETAIL NO.

3/A5.1

AREA OF DETAIL ENLARGED

3/A5.1

SHEET NO. ON WHICH ENLARGED DETAIL IS DRAWN

1

2

3

4

A000

SHEET NO.

1

2

3

4

A000

ELEV. NO.

GRAPHIC CONVENTIONS

△

REVISION NUMBER

CENTERLINES AND PROJECTED LINES

HIDDEN LINE AND/OR LINE ABOVE FLOOR PLANE

BOUNDARY LINE AND/OR FLOOR LINES IN EXTERIOR ELEVATIONS

4'-0"

4'-0"

6"

DIMENSION LINE DESIGNATIONS

101

DOOR TYPE APPEARING ON SCHEDULE OF OPENINGS

101

DOOR NUMBER

B

WINDOW TYPE

PROJECT DIRECTORY

CLIENT:

CITY OF LOCKHART
Box 900
LOCKHART, TX 78644
TEL: (512) 398-3461
EMAIL: SLEWIS@lockhart-tx.org
CONTACT: STEVE LEWIS

ARCHITECT:

STUDIO STEINBOMER
P.O. BOX 66878
AUSTIN, TX 78766
TEL: (512) 479-0022 EXT. 980
FAX: (512) 477-4668
EMAIL: robert@steinbomer.com
CONTACT: ROBERT STEINBOMER

MEP ENGINEER:

WILSON GIRGENTI
13785 RESEARCH BLVD , SUITE 125
AUSTIN, TX 78750
TEL: (512) 762-3641
EMAIL: MCOAD@WILSONGIRGENTI.COM
CONTACT: MISSY COAD

STRUCTURAL ENGINEER:

TSEN ENGINEERING
210 BARTON SRPINGS RD
AUSTIN, TEXAS 78704
TEL: (512) 474-4001
EMAIL: jbuchanan@tsenengineering.com
CONTACT: JAMIE BUCHANAN

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UPPER LEVEL DEMOLITION PLAN

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UPPER LEVEL DEMO PLAN - HVAC AND PLUMBING

MP-201

LOWER LEVEL PLAN - HVAC AND PLUMBING

MP-202

UPPER LEVEL PLAN - HVAC AND PLUMBING

STRUCTURAL: 8 1/2" X 11"

ATTACHMENT

RENOVATION TO THE

LOCKHART FIRE STATION #1

201 W MARKET ST, LOCKHART, TEXAS 78644

DATE: 11/06/20

DRAWN: BJ/BP

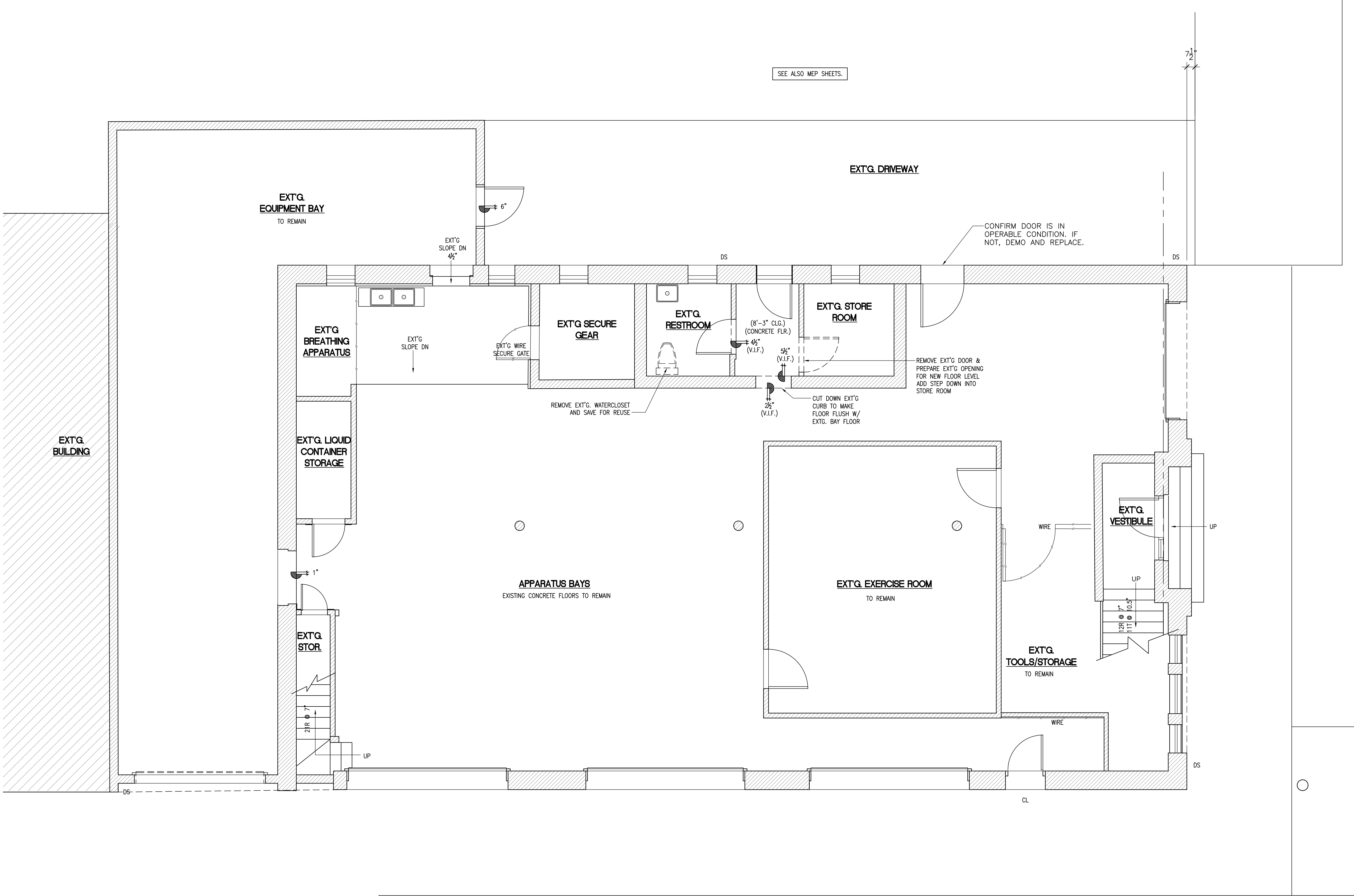
SCALE: AS NOTED

No.	Description	Date
	REVISION	2/23/21

SHEET X OF X

COVER SHEET

A-001



GENERAL NOTES

- DRAWINGS REPRESENT ASSUMPTIONS OF EXISTING CONDITIONS BASED ON THE BEST AVAILABLE INFORMATION, INCLUDING FIELD MEASUREMENTS AND PRIOR CONSTRUCTION DOCUMENTATION. MANY EXISTING CONDITIONS CANNOT BE VERIFIED UNTIL WALLS, FLOORS AND/OR CEILINGS ARE OPENED UP FOR CONSTRUCTION. DRAWINGS INDICATE INTENT AND SCOPE OF WORK. THE CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS IN THE FIELD AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES PRIOR TO PROCEEDING WITH WORK.
- BEFORE PROCEEDING WITH ANY MAJOR DIVISION OF WORK, VERIFY ALL DIMENSIONS AND RELATIONSHIPS TO NEW AND EXISTING CONDITIONS.
- ALL DIMENSIONS OF NEW CONSTRUCTION ARE TO FINISHED FACE OF WALL UNLESS NOTED OTHERWISE. EXISTING DIMENSIONS ARE TO FINISHED FACE. CONTRACTOR SHALL VERIFY ALL EXISTING DIMENSIONS.
- DO NOT SCALE DRAWINGS FOR CONSTRUCTION OR COORDINATION PURPOSES. USE INDICATED DIMENSIONS. IF QUESTIONS ARISE, CONTACT ARCHITECT FOR CLARIFICATION.
- CONTRACTOR SHALL INSTALL ALL FIREBLOCKING AND FIRESTOPPING IN ACCORDANCE WITH AND AS REQUIRED BY BUILDING CODE.
- CONTRACTORS AND SUBCONTRACTORS SHALL KEEP SITE FREE OF DEBRIS AT ALL TIMES. OWNER WILL PARTIALLY OCCUPY.
- SIZES FOR DOORS ARE NOMINAL AND CONTRACTOR SHALL VERIFY ACTUAL SIZES AND SUITABILITY FOR OPENING LOCATION WITH THE PRODUCT MANUFACTURER PRIOR TO ORDERING. SIZES FOR WINDOWS ARE ROUGH OPENINGS. ANY DISCREPANCIES SHALL BE BROUGHT TO ARCHITECT'S ATTENTION IMMEDIATELY.
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- IT IS THE INTENT OF THESE DOCUMENTS TO PROVIDE A COMPLETE INSTALLATION IN EVERY RESPECT. IF ADDITIONAL DETAILS OF SPECIAL CONSTRUCTION ARE REQUIRED FOR WORK INDICATED OR SPECIFIED, THE CONTRACTOR SHALL PROVIDE THE MATERIALS, EQUIPMENT AND LABOR REQUIRED TO COMPLETE SUCH INSTALLATION AND CONSTRUCTION AT NO ADDITIONAL COST TO OWNER.
- THE ARCHITECT WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY CLAIMS, DAMAGES, LOSSES OR EXPENSES ARISING FROM, IN CONNECTION WITH, OR RESULTING FROM THE PERFORMANCE (OR THE FAILURE TO PERFORM) OF ANY ASPECT OF CONSTRUCTION OF THIS PROJECT, WHERE THE OWNER OR CONTRACTOR HAS KNOWINGLY AUTHORIZED OR PERMITTED A DEVIATION FROM ANY DOCUMENT PREPARED BY THE ARCHITECT OR WHERE THE OWNER OR CONTRACTOR HAS ELECTED NOT TO FOLLOW ANY WRITTEN RECOMMENDATION OF THE ARCHITECT.
- ALL CONSTRUCTION WORK SHALL COMPLY WITH THE INTERNATIONAL BUILDING CODE, 2015, AND ALL CITY OF LOCKHART DEVELOPMENT ORDINANCES AND ALL APPLICABLE BUILDING CODES.
- THIS SHEET AND THE INFORMATION CONTAINED HEREIN IS PART OF A COMPLETE SET OF DRAWINGS. THIS SHEET SHALL NOT BE SEPARATED FROM THIS SET FOR THE PURPOSES OF REGULATORY APPROVAL, PERMITTING, BIDDING, OR CONSTRUCTION.

LEGEND

- EXISTING WALL CONSTRUCTION
- DENOTES AREAS TO BE DEMOLISHED
- EXT'G WIRE FENCING

PRELIMINARY

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW ONLY. IT IS NOT TO BE USED FOR REGULATORY APPROVAL, PERMITTING, OR CONSTRUCTION. ROBERT A. STEINBOMER TEXAS REG. #7988

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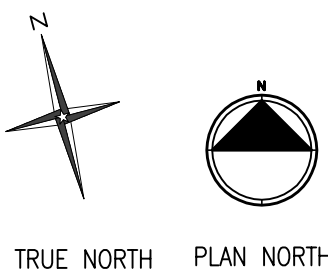
RENOVATION TO THE
LOCKHART FIRE STATION #1
201 W MARKET ST, LOCKHART, TEXAS 78644

DATE:			11/6/20
DRAWN:			BJ/BP/EL
SCALE:			AS NOTED
No.	Description	Date	
	REVISION	2/23/21	

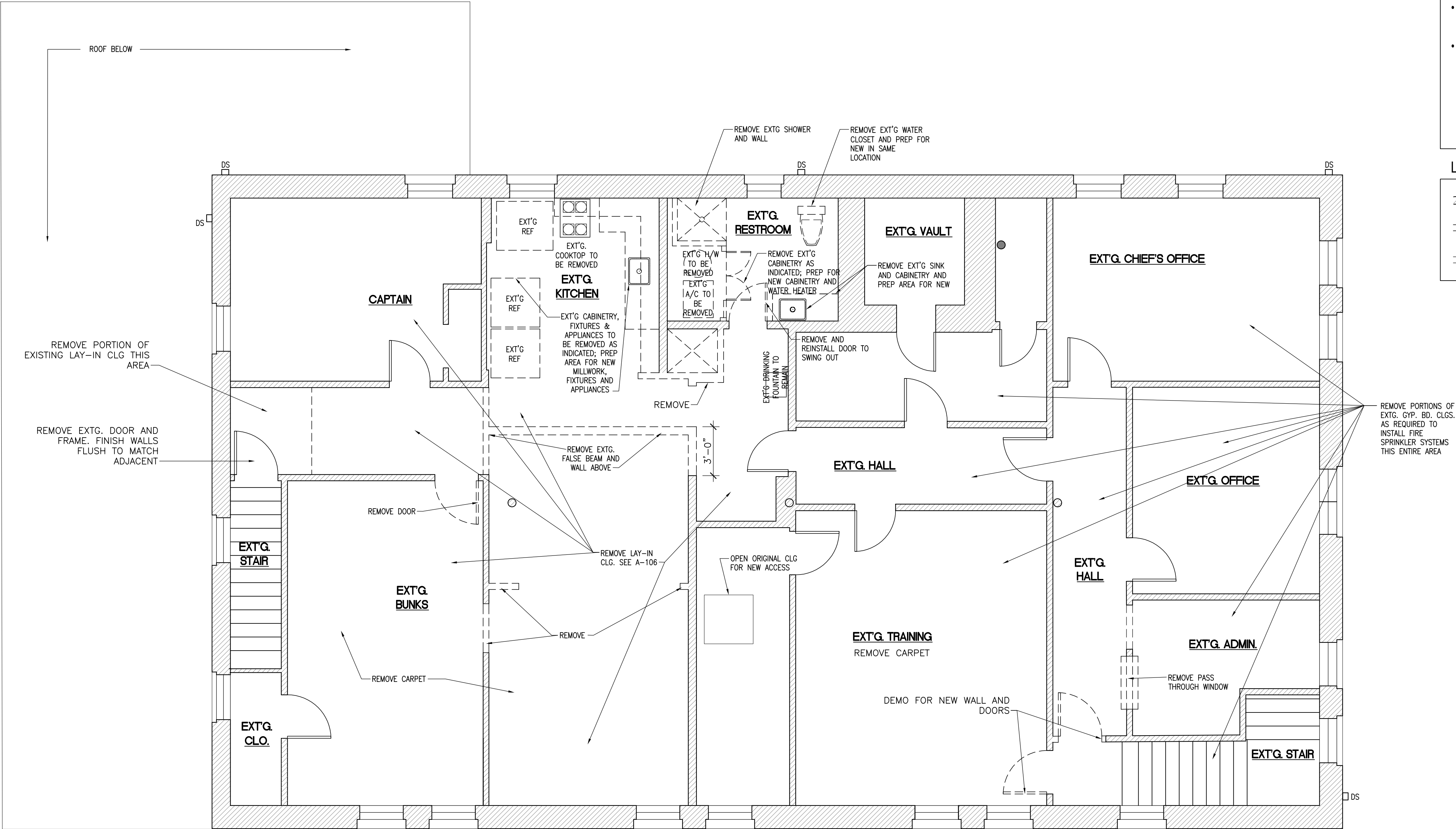
SHEET X OF X

DEMOLITION PLAN

A-101



1 LOWER LEVEL DEMOLITION PLAN
SCALE: 1/4"=1'-0"



- GENERAL NOTES**
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LEGEND

- EXISTING WALL CONSTRUCTION
- DENOTES AREAS TO BE DEMOLISHED
- EXT'G WIRE FENCING

RENOVATION TO THE
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201 W MARKET ST, LOCKHART, TEXAS 78644

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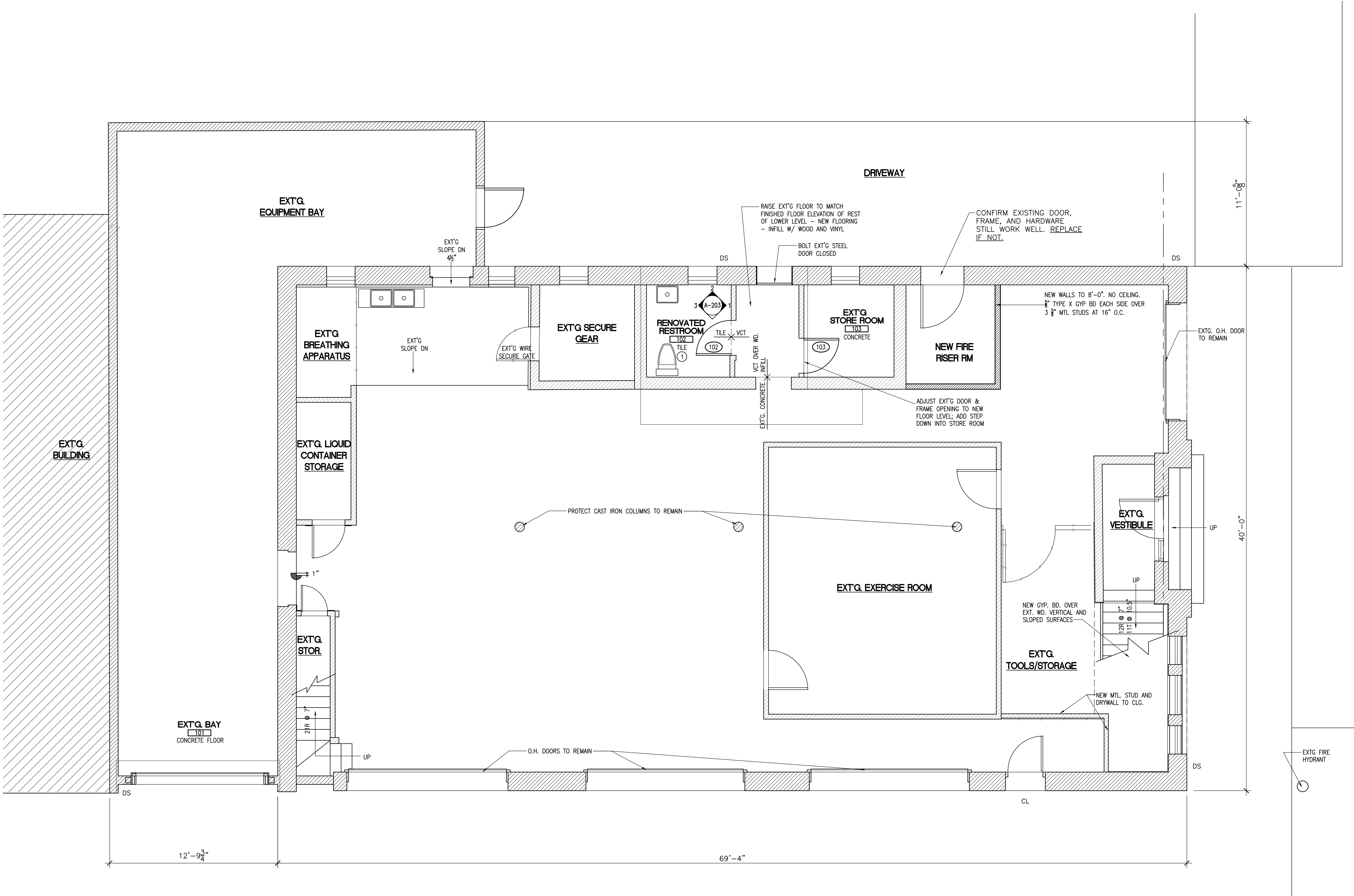
1400 S Congress Ave, Suite B202
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DATE: 11/6/20
DRAWN: BJ/BP/EL
SCALE: AS NOTED

No.	Description	Date
	REVISION	2/23/21

SHEET X OF X
DEMOLITION PLAN
A-102



GENERAL NOTES

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LEGEND

- DENOTES AREAS WHERE NO WORK WILL BE PERFORMED
- EXISTING WALL CONSTRUCTION
- NEW WALL CONSTRUCTION (FRAMING AND FINISH)
- EXT'G WIRE FENCING

GENERAL SCOPE NOTES

- 1 PROVIDE NEW TILE ON WALLS BEHIND AND ADJACENT TO WATERCLOSET AND PROVIDE NEW PAINT ON ALL OTHER WALLS. PROVIDE NEW TILE FLOORING THIS AREA.

ADDITIONAL SCOPE NOTES

- REPAINT INTERIOR WALLS AND TRIM TYP. THROUGHOUT

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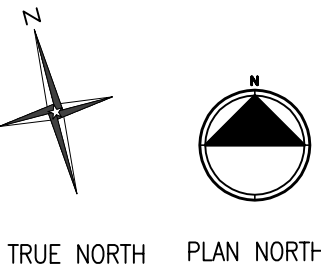
RENOVATION TO THE
LOCKHART FIRE STATION #1
201 W MARKET ST, LOCKHART, TEXAS 78644

DATE:	11/6/20	
DRAWN:	BJ/BP/EL	
SCALE:	AS NOTED	
No.	Description	Date
	REVISION	2/23/21

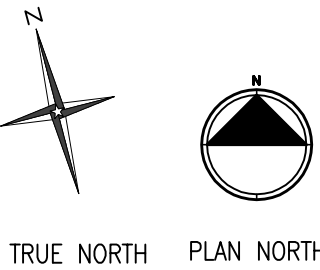
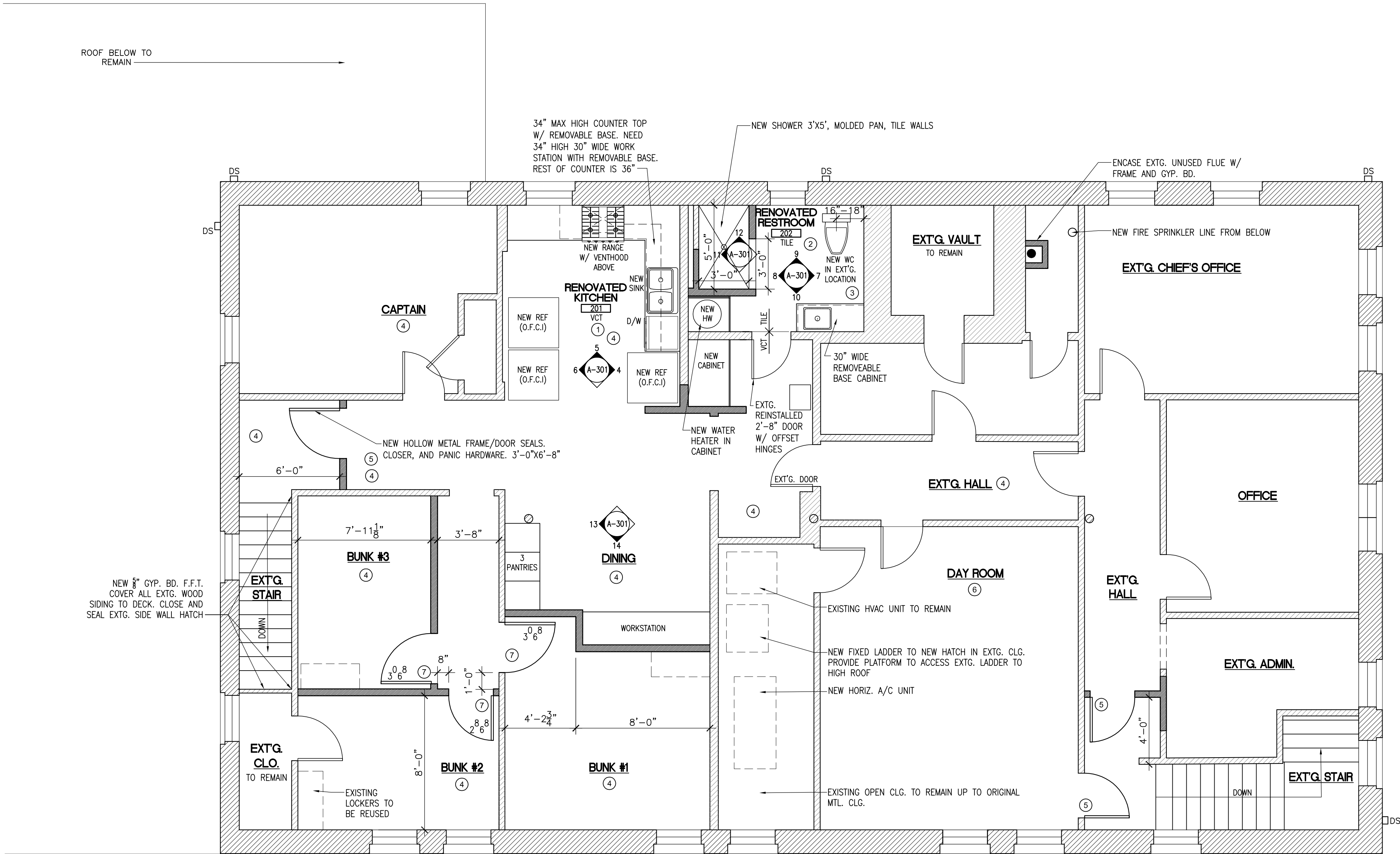
SHEET X OF X

LOWER LEVEL FLOOR PLAN

A-103



1 LOWER LEVEL FLOOR PLAN
SCALE: 1/4"=1'-0"



1 UPPER LEVEL FLOOR PLAN
SCALE: 1/4"=1'-0"
Resolution 2024-24 - Pg. 33 of 80

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LEGEND

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- NEW WALL CONSTRUCTION (FRAMING AND FINISH)
- EXT'G WIRE FENCING

GENERAL SCOPE NOTES

- PROVIDE NEW CABINETRY, SLIDE-IN RANGE WITH VENT HOOD ABOVE, SINK W/ DISPOSAL, DISHWASHER, AND REFRIGERATORS (3) AS INDICATED; PROVIDE NEW PAINT THROUGHOUT.
- PROVIDE NEW CABINET FOR WATER HEATER AND GENERAL STORAGE AS INDICATED; PROVIDE NEW PAINT THROUGHOUT; PROVIDE NEW COUNTER, CABINETRY AND LAVATORY SINK.
- NEW W/C, LAV, AND CABINET, NEW MIRROR, LIGHTS
- NEW VINYL STRIP FLOORING OVER EXISTING V.C.T.
- NEW H.M. DOOR AND FRAME WITH SMOKE SEALS, CLOSER PANIC HARDWARE
- NEW CARPET
- NEW S.C. PNTD. WD. DOORS W/ LEVER PRIVACY LOCKSET

ADDITIONAL SCOPE NOTES

- REPAINT INTERIOR WALLS AND TRIM TYP. THROUGHOUT
- SEE ALSO MEP AND STRUCTURAL DRAWINGS

RENOVATION TO THE

LOCKHART FIRE STATION #1

201 W MARKET ST, LOCKHART, TEXAS 78644

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DATE: 11/6/20
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SCALE: AS NOTED

No.	Description	Date
1	REVISION	2/23/21

SHEET X OF X
UPPER LEVEL
FLOOR PLAN

A-104

LEGEND

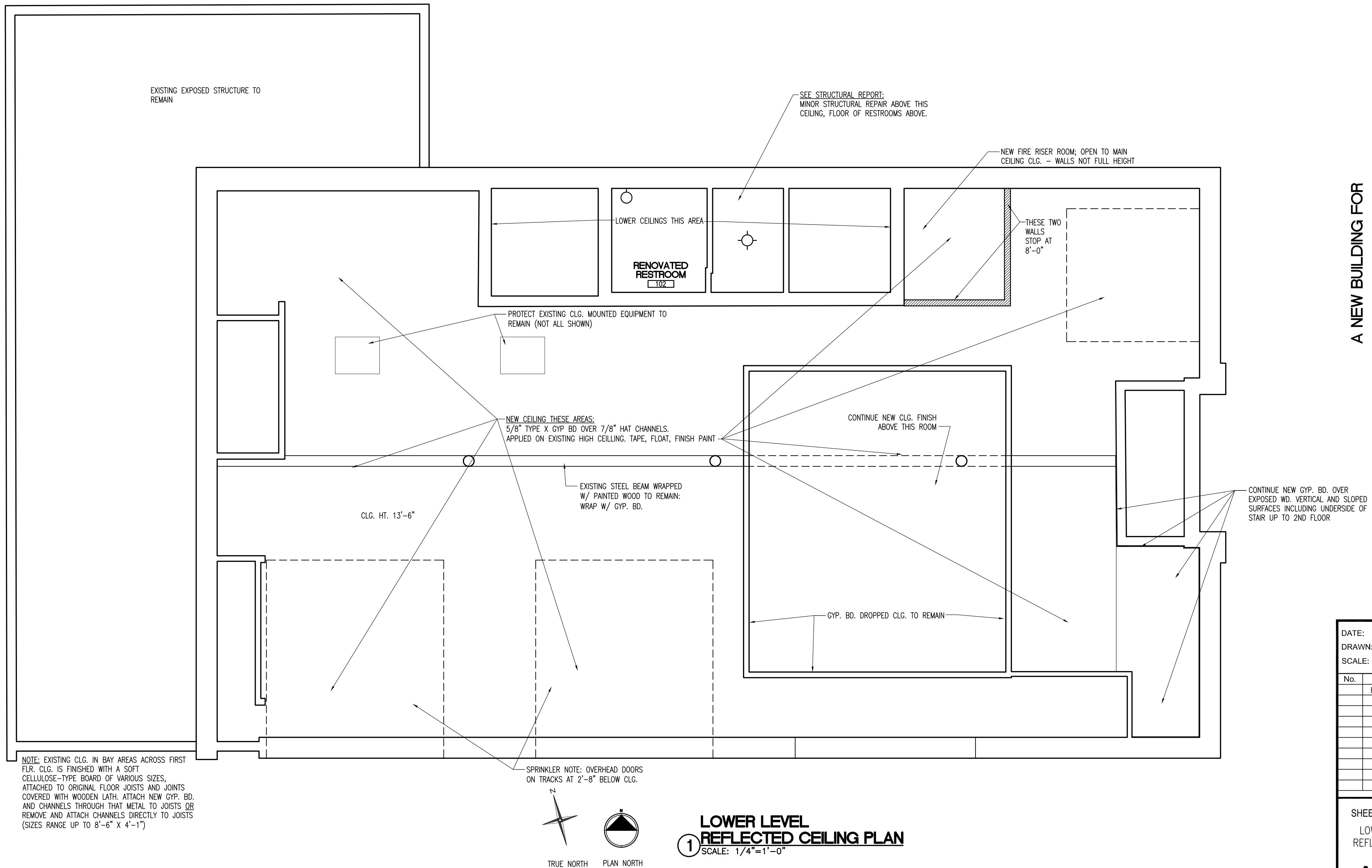
- NEW 2' X 4' LIGHT FIXTURE - REFER TO MEP DWGS
-  NEW 2' X 4' LIGHT FIXTURE - REFER TO MEP DWGS
-  2X4 ACOUSTICAL CEILING TILE WITH GRID
-  PAINTED GYP. BOARD CEILING - FURR DOWN AS INDICATED , TYP.
-  DENOTES CENTER OF GRID
-  SUPPLY AIR DIFFUSER - COORD. W/ MEP
-  RETURN AIR DIFFUSER - COORD. W/ MEP
-  EXHAUST GRILLES - COORD. W/ MEP
-  WALL-MOUNTED EXIT SIGN - COORD. WITH MEP
-  WALL-MOUNTED LIGHT - RE MEP DWGS
-  SURFACE-MOUNTED LIGHT - RE MEP DWGS

NOTE: SEE ALSO MECHANICAL/ELECTRICAL/PLUMBING DWGS

GENERAL NOTES

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NOTE: CONDITIONS OUTSIDE THE LIMITS OF CONTRACT ARE ASSUMED.



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A NEW BUILDING FOR

LOCKHART FIRE STATION #1

BORCHERT LOOP, LOCKHART, TEXAS 78644

DATE: 05/17/17
DRAWN: BJ/BP/EL
SCALE: AS NOTED

[illegible]

SHEET X OF X
UPPER LEVEL –
REFLECTED CEILING
PLANS

A-106

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A NEW BUILDING FOR

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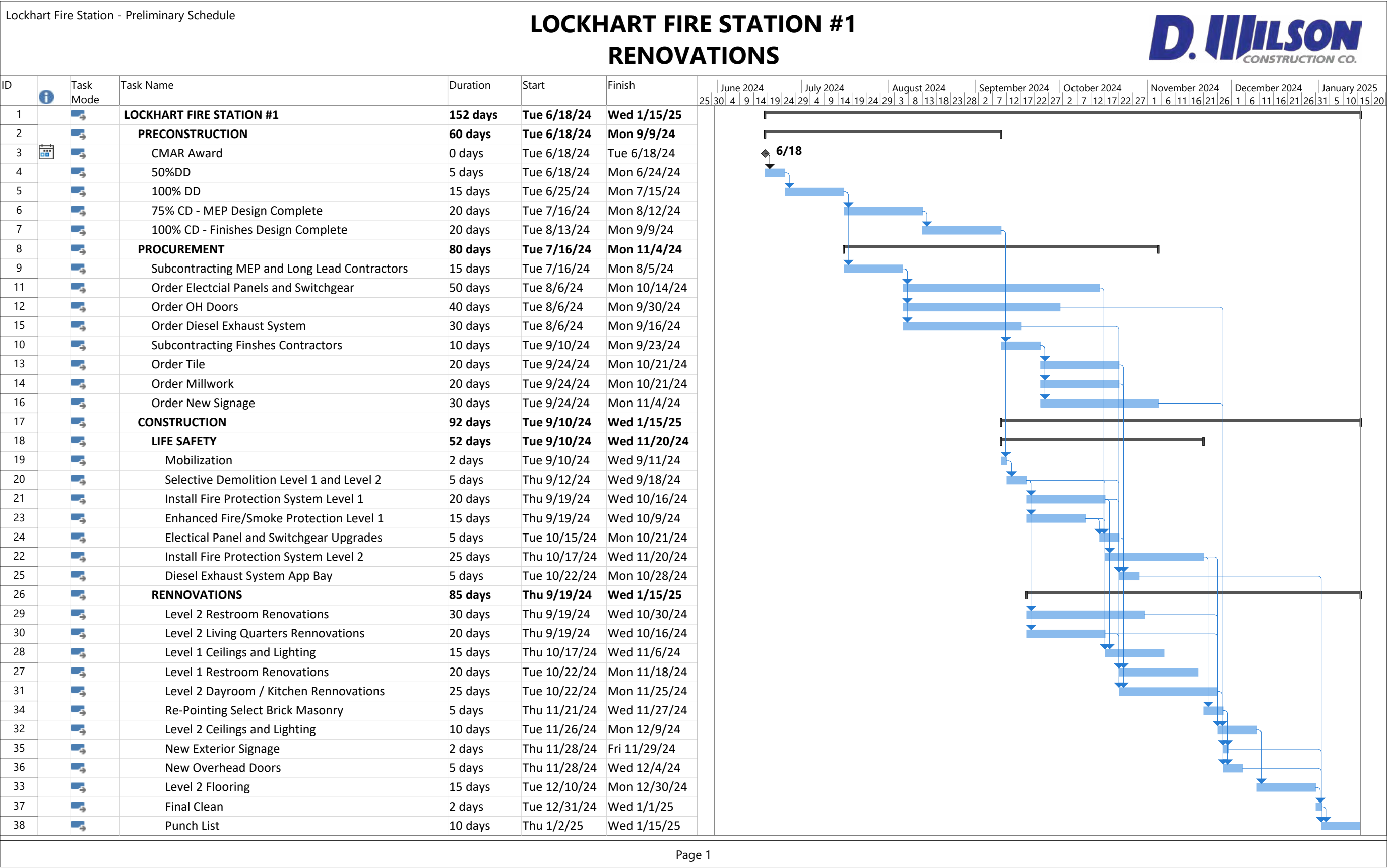
BORCHERT LOOP, LOCKHART, TEXAS 78644

SHEET X OF X
INTERIOR
ELEVATIONS AND
ENLARGED PLANS

A-203



ATTACHMENT O - PROJECT SCHEDULE



Page 1

PROPOSED FEES

1. Construction Management at Risk Services Fee. This fee is to be a fee percentage based on the Owner approved Guaranteed Maximum Price to provide comprehensive construction phase services for the project described in this RFQ/RFP and attached forms of agreement (Attachments C, D, and E).

The Cost of Work Times **Six Point Seventy-Five Percent (6.75%)**

The CMAR Fee shall include items listed in Attachment B – noted as “in Fee”.

2. Pre-Construction Services: To complete all work associated with Section 2 Project Scope, on the basis of a lump sum amount:

Lump Sum Pre-Construction Services \$ _____ \$(_____) **Included in Fee**

3. Contractor Reimbursable General Conditions: Estimated Total General Conditions Cost based on

Cost of Work **\$ Seventy-Six Thousand Five Hundred Thirty-Four Dollars and No Cents (\$76,534.00)**

as itemized on Attachment "B". Note on Attachment "B" any exceptions that you take with the itemized list. Utilizing the Schedule of General Conditions/General Requirements/Cost of Work (Attachment B), and the CMAR's knowledge of similar projects, provide an estimated cost for all labor, materials, and equipment to be included in the General Conditions cost of the project. Some items listed in the Schedule are not applicable and are to be identified as n/a.

4. Payment & Performance Bonds: Please provide an alternate proposal, the cost to provide Payment and Performance bonds for this work. Additionally, indicate the name of your bonding agent including your current bonding capacity expressed in net available, current bond positions and total bonding capacity.

Payment and Performance Bonds - **Included in General Conditions – Reference Attachment B – Item 77**

General Contractor's P & P Bond Percentage of Cost (Alternate) **\$1.50%**

Bonding Agent:

Markel Insurance Agency
Nate Badding, Director
9500 Arboreteum Blvd., Suite 400
Austin, Texas 78759
Phone: (512) 684-3463

We currently have \$89,271,917 in current bonding capacity. Our company bond limits are \$80,000,000 per project and \$200,000,000 aggregate. Please see our reference letter from our bonding agent under Tab 1 - Company Information on page 4.

5. Subcontractor Bonds: Please describe your company policy regarding subcontractor bonding requirements, if any. Indicate the mandatory nature of the bonding policy including contract thresholds for bond requirement and describe situations for waiving subcontractor bonds. Based on your corporate policy, please provide an estimate for subcontractor bond costs to be included in the Cost of Work, if any.

Subcontractor Bond Cost Estimate: \$ _____

Subcontractor Bond Rate Estimate: _____ Percent (_____ %)

Based on the scope of this project, we would not anticipate the need for subcontractor bonding.

EXHIBIT 1

6. **Subcontractor Default Insurance:** The owner is considering the requirement of Subcontractor Default Insurance in lieu of subcontractor bonding. Please provide the total cost to provide Subcontractor Default Insurance, which is included in the Cost of Work, if any. Also, please describe how the program would function, what entity is providing the insurance, how it would be administrated, deductible amounts, the method of billing actual cost for this program and potential dispensation of rebate savings at the conclusion of the warranty period. Please describe how deductible risk is included or not included in the cost the program.

Subcontractor Default Insurance Cost Estimate: \$ _____

Subcontractor Default Insurance Rate Estimate: _____ Percent (_____ %)

DWCC does not participate in any subcontractor default insurance programs as a cost savings to our Owners.

7. **Labor Burdens:** For estimating purposes, provide average percentage rates for payroll taxes, insurance, and benefits for salaried and hourly payroll costs. The burden rate established for this project should be representative of the actual costs of actual payroll, tax & insurance and benefits extended to the Contractor's employees. Labor burdens should not be a profit center and all labor burden components must be subject to an open book audit by Owner or its agents, to verify actual costs.

For purposes of defining PT&I and benefits on a fixed or audited actual basis, the burden rate shall be applied to base (not gross), or taxable, labor cost only and shall include all payroll taxes, workers compensation insurance and benefits, health insurance, vacation, holiday pay and retirement. The fixed rate only applies to full time employees who get full time benefits and shall not be charged on temporary, part time or intern employees who are not eligible for benefits like retirement, vacation, and health insurance. The burden rates shall not apply to premium portions of overtime.

Burden items that do not apply to the premium portion of overtime include, union benefits, workers compensation insurance, general liability insurance, health insurance, and vacation and holiday pay.

Salaried Burden: **39%**

Hourly Burden: **32%**

8. **Proposed Fee for Self-Performed Work.** The City of Lockhart will, when it's in the best interest of the owner, allow the successful CMAR to self-perform various components of the work. The CMAR will submit a closed bid for this self-performed work along with three (3) other bids in a closed bid opening with the owner.

DWCC does not anticipate self-performing any work related to this project.

9. **Clarifications, Exceptions, and Exclusions.** CMAR is to list all clarifications, exceptions, and exclusions relative to the proposed fees and other costs reflected above.

D. Wilson has no clarifications or assumptions as related to fees other than those enumerated above.

EXHIBIT 1

ATTACHMENT B - SCHEDULE OF GENERAL CONDITIONS/GENERAL REQUIREMENTS

ATTACHMENT B

List of General Conditions/General Requirements/Cost of Work

1) Field and home staff administration and supervision based on General Contractor's attached Project Schedule:

	Raw Costs	Burden	% of Time	No. of Weeks	
Project Manager	\$ 2,698.47 /wk x	39% x	25% x	12	wks = \$ 11,252.62
Assistant Project Manager	\$ 1,340.69 /wk x	39% x	25% x	12	wks = \$ 5,590.68
Superintendent	\$ 2,016.83 /wk x	39% x	100% x	12	wks = \$ 33,640.70
Assistant Superintendent	/wk x	39% x	25% x		wks = \$ -
Other _____	/wk x	39% x	0% x		wks = \$ -
Other _____	/wk x	39% x	0% x		wks = \$ -
Other _____	/wk x	39% x	0% x		wks = \$ -

Indicate the percentage of time your personnel will be dedicated solely to this project:

2) Field Engineering Labor with burden (See Note 1)	= \$ -
3) Field Engineering Equipment and Supplies (See Note 2)	= \$ 400.00
4) Field Project Office (See Note 3)	= use Building
5) Safety Equipment (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 750.00
6) First Aid Supplies (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 150.00
7) Fire Extinguishers (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 150.00
8) COVID-19 Testing (Site Office Personnel only)	= In Fee
9) Daily COVID-19 Screening (Sub-contractor, vendors, suppliers)	= \$
10) Handrails/Toe Boards/Opening Protection	= C.O.W.
11) Fire Watch/Security Guards Services & System	= C.O.W.
12) Temporary Fences/Covered Walkways	= C.O.W.
13) Barricades	= C.O.W.
14) Safety Nets	= C.O.W.
15) Debris Removal and Haul-off, Dumpster Fees	= C.O.W.
16) Traffic Control/Roadway Maintenance & Resoration	= C.O.W.
18) Tool/Utility Trailer Rental	= C.O.W.
19) Water/Ice (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 150.00
20) Temporary Lighting/Wiring	= C.O.W.
21) Electrical Cost during Construction (Site Office and Personnel Only, Project Cost paid by Owner)	= use Building
22) Temporary Water Expense (Site Office and Personnel only, Project cost paid by Owner)	= use Building
23) Temporary Heating (Site Office and Personnel only, Project Cost in Cost of the Work)	= use Building
24) Temporary Cooling Expense (Site Office and Personnel only, Project Cost in Cost of Work)	= use Building
25) Temporary Stairs/Enclosures/Partitions	= C.O.W.
26) Project Signs/Bulletin Boards	= \$ 500.00
27) Dewatering Equipment	= C.O.W.
28) Generators	= C.O.W.
29) Material Hoisting	= C.O.W.
30) As-Built Documents (Drafting/Printing/Digital)	= \$ 750.00
31) Field Office Supplies and Materials	= \$ 150.00
32) Portable Toilets and Sanitation (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 750.00
33) Postage/Express/Courier/Delivery Services	= \$ 150.00
34) Bid Plans and Change Order Printing	= \$ 500.00
35) Copy Machine and Paper	= \$ 250.00
36) Telephone, Cell, Paging, Radios, Internet	= \$ 600.00
37) Internet Based Project Management System/Software	= In Fee

EXHIBIT 1

ATTACHMENT B

38)	Corporate Executives/Principles/Project Executive	=	In Fee
39)	Legal	=	In Fee
40)	Accounting	=	In Fee
41)	QA/QC	=	In Fee
42)	Risk Management	=	In Fee
43)	Production Engineering	=	In Fee
44)	Purchasing/Procurement	=	In Fee
45)	Cost Engineers (except Pre-Construction)	=	In Fee
46)	BIM Manager/Coordinator	=	In Fee
47)	Secretarial/Administrative/Clerk (off-site)	=	In Fee
47)	Off-Site Staff Travel & Transportation	=	In Fee
48)	Staff Training & Continuing Education	=	In Fee
49)	Executive/Leadership Transportation	=	In Fee
50)	Bonuses	=	In Fee
51)	Corporate IT/Systems and Fees	=	In Fee
52)	Presentation Charts and Graphics	=	In Fee
53)	Warranty Inspection and Coordination	=	In Fee
54)	CMAR Licenses/Fees	=	In Fee
55)	AGC Association Fees	=	In Fee
56)	Off-Site Insurance	=	In Fee
57)	Personal Computers On-Site/Network Connections	=	\$ 900.00
58)	Operations & Maintenance Manuals (Printing and Digital)	=	\$ 400.00
59)	Owner Operations and On-site Training	=	C.O.W.
60)	Janitorial – weekly clean-up (Site Office and Personnel only, Project Cost in Cost of Work)	=	N/A
61)	Final Clean-up	=	C.O.W.
62)	Small Tools and Consumables (See Note 4)	=	N/A
63)	Vehicle Rental / Truck Allowance (Superintendent/On-Site Project Manager)	=	<i>in Salaries</i>
64)	Equipment Fuel, Maintenance, and Repair	=	C.O.W.
65)	Storage Yard Rental	=	N/A
66)	Parking Lot/Space Rentals	=	N/A
67)	Parking Fees/Shuttle Expenses	=	N/A
68)	Trade Permits	=	C.O.W.
69)	Building Permit	=	<i>C.O.W.</i>
70)	All Risk Builder's Risk Insurance/Installation Floater	=	\$ 2,500.00
71)	Commercial General & Excess Liability Insurance	=	\$ 6,500.00
72)	Workman's Compensation/Employer's Liability Insurance	=	<i>w/Gen. Liability</i>
73)	Commercial Automobile Liability	=	<i>w/Gen. Liability</i>
74)	Umbrella Liability Insurance	=	<i>w/Gen. Liability</i>
75)	Subcontractor Bonds	=	C.O.W.
76)	Supplier Bonds	=	C.O.W.
77)	Performance and Payment Bonds	=	\$ 10,500.00
Subtotal: (Items 2-77)		=	\$ 26,050.00
Total Maximum General Contitions (Items 1-77)		=	\$ 76,534.00

EXHIBIT 1

ATTACHMENT B

Note: Please indicate with a N/A the items above that, in your opinion, do not apply to this project.
Please indicate with a "0" (zero) the items above that are included in your fee.

C.O.W. = Cost of Work

***See General Note on General Conditions Assumptions regarding overall approach to pricing General Conditions.

General Conditions Assumptions

General Note In general, it is the intent that the General Conditions proposed are inclusive of costs associated with the Contractor's field office compound AND the building and sitework construction (example – portable toilets and sanitation shall be included for the field office compound as well as portable toilets distributed around site, inside and outside of building as required).

Note 1 – Field Engineering General Contractor shall provide line, grade, plumb and dimensional control for the site and building construction except as follows:

Assume the major subcontractors such as site utility construction, steel erection, turnkey site and building concrete including place and finish, electrical, mechanical, masonry, glass and glazing and drywall will provide their own engineering from control provided by the General Contractor (examples of GC's control include major grid control, exterior face of building line with offset, floor and roof opening control, elevation benchmarks, and major work points and radiuses defined in the Contract Documents).

Assume General Contractor will provide QA/QC engineering of subcontractor engineering described above by providing frequent and random checks of subcontractor engineering work. Assume engineering for cut and fill of the site and building pad construction will be provided by subcontractor.

Assume General Contractor will provide all engineering for structural excavation.

Note 2 - Field Engineering Equipment and Supplies General Contractor shall provide all equipment and supplies related to General Contractor's engineering activities as described in Note 1 above. This line item should include all job site radios for engineering and site staff.

Note 3 - Field Project Office In addition to General Contractor's temporary office facilities, include all storage containers, tool vaults, chemical storage containers, door hardware inventory and storage facilities, etc.

Note 4 – Small Tools and Consumables General Contractor shall provide all small tools and consumables related to performance of contractor's self-performed work only. For the purposes of this proposal, General Contractor should assume that the only self-performed work includes construction and maintenance of temporary facilities and roads, rough carpentry, safety and accident prevention, cleaning, and site maintenance.

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

« Fire Station No. 1 Remodel Project »
« »

THE OWNER:
(Name, legal status and address)

« City of Lockhart, Texas »« »
« 308 W. San Antonio St.
P.O. Box 239
Lockhart, Texas 78644 »

THE ARCHITECT:
(Name, legal status and address)

Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors
4303 Medical Parkway
Austin, TX 78756

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ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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EXHIBIT 1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. While the proposal submitted by the Contractor prior to the execution of the Contract Documents is considered part of the Agreement, the terms contained within the proposal are only integrated into the Agreement to the extent that they do not conflict with the other Contract Documents. To the extent that there is a conflict between the proposal and the other Contract Documents, the other Contract Documents shall control.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the Architect as identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

EXHIBIT 1

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization.

EXHIBIT 1

Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen (15) days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic’s lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner’s interest therein.

§ 2.2 Evidence of the Owner’s Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fifteen (15) days of the Contractor’s request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as “confidential,” the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner, with the help of the Architect, shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Owner does not guarantee the accuracy of the information furnished and the Contractor shall exercise proper precautions relating to the safe performance of the Work.

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§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have and in its sole discretion, correct such default or neglect. The Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Owner in the Owner's administration of the Contract, the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Owner and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Owner or Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Owner and Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Owner or Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Owner or Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the

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Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

The Contractor shall be responsible for pursuing with the State Comptroller any tax exemption for equipment and/or materials to be incorporated into this Project.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.1. 1 Unless specifically stated otherwise, the Contractor shall secure and pay for all permits, approvals, and fees required for the Work, including but not limited to: impact fees, building permit, mechanical permit, electrical permit, plumbing permit, sign permit, water taps, sewer taps, water meters, fire hydrants, detector check devices, temporary sanitary facilities, and the like; and may be reimbursed specifically for the costs of impact fees, building permit, mechanical permit, electrical permit, plumbing permit, sign permit, water taps, sewer taps, water meters, fire hydrants, and detector check devices.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within fourteen (14) days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and

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similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a Separate Contractor its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 CONTRACTOR DOES HEREBY AGREE TO, INDEMNIFY, DEFEND, AND HOLD HARMLESS

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OWNER AND ALL OF ITS OFFICIAL, OFFICERS, EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND ALL OF THE ARCHITECT'S AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS, , OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS, AND ATTORNEYS' FEES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS, OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE. SUCH INDEMNITY SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner and Architect shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

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§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor’s rights and obligations under the subcontract.

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§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

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§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

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- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

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§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location

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agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven (7) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven (7) days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven (7) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within the timeframe established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven (7) additional days' notice to the Owner and Architect, stop

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the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will

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promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

Contractor and Architect acknowledge that, regardless of the terms contained within the Contract Documents, the Owner is a government entity with immunity from all claims for property damage, personal injury, or death unless specifically waived pursuant to Texas Civil Practice and Remedies Code Chapter 101, known as the Texas Tort Claims Act. Nothing herein shall be construed to be a grant of the Owner's waiver of immunity outside the limitations specified by the Legislature under the Texas Tort Claims Act.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed

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by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 Intentionally omitted.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in Section 14.3 of the AIA Document A133-2019. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide both a payment and performance bond before commencing Work on the Project in accordance with Texas Government Code Sec. 2253.021. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the State of Texas.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Intentionally omitted.

§ 11.2.2 Intentionally omitted.

§ 11.2.3 Intentionally omitted.

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§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused to the extent such loss is covered by the insurance policy.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or Owner, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect or Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the

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Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the laws of the State of Texas.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate described in Texas Government Code Sec. 2251.012(b).

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven (7) days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing

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portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven (7) additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise commits a material breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, , without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work

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properly executed; reasonable costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than ten (10) years after the date of Substantial Completion of the Work as prescribed in Texas Civil Practice and Remedies Code Section 16.009 subject to the exceptions stated in Texas Government Code Section 2272.005. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

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§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and/or binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten (10) days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten (10) days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision, but not the underlying Claim.

EXHIBIT 1

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Intentionally omitted.

§ 15.3.2 The parties shall endeavor to resolve their Claims by voluntary mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision, but not the underlying Claim on which the initial decision is based.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Binding Dispute Resolution

§ 15.4.1 Pursuant to Section 12.2 of the AIA Document A133-2019, any Claim arising out of the terms of the Contract Documents or performance of the Work, including those subject to, but not resolved by voluntary mediation pursuant to this Article 15, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction in Caldwell County, Texas.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss Resolution 2024-25, as requested by TxDOT, to authorize the adoption of the proposed designs of the Gateway Monument and Wayfinding signage as depicted in the 2022 Wayfinding Master Plan, and requesting installation within the operational highway right-of-way.

ORIGINATING DEPARTMENT AND CONTACT: Parks & Recreation - Travis Hughes

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: The 2022 Wayfinding Master Plan was approved and adopted during the February 1, 2022 Council Meeting, but no Resolution was presented at that time. As part of the TxDOT application process for installing Gateway Monument Signs in highway right-of-ways, a Resolution must be included. This Resolution was produced with guidance from TxDOT to specifically address their requirements for Gateway Monument Sign installation.

PROJECT SCHEDULE (if applicable): Immediate

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): Funding for this project is allocated in the Mayor's budget.

PREVIOUS COUNCIL ACTION: Council approved/adopted the 2022 Wayfinding Master Plan on February 1, 2022.

COMMITTEE/BOARD/COMMISSION ACTION: The Wayfinding Committee created and presented the Wayfinding Master Plan to Council.

STAFF RECOMMENDATION/REQUESTED MOTION: Approve Resolution 2024-25

LIST OF SUPPORTING DOCUMENTS: RESOLUTION 2024-25 -Gateway Monument Sign Approval and Installation, Lockhart Wayfinding Master Plan (1-25-22) NOTES, 73875 R1 - Lockhart Parks Rec - Lockhart Gateway Signs - Lockhart Tx

RESOLUTION 2024-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, AUTHORIZING THE ADOPTION OF THE PROPOSED DESIGNS OF THE GATEWAY MONUMENT AND WAYFINDING SIGNAGE AS DEPICTED IN THE 2022 WAYFINDING MASTER PLAN, AND REQUESTING INSTALLATION WITHIN THE OPERATIONAL HIGHWAY RIGHT-OF-WAY.

WHEREAS, the city has jurisdiction over the proposed Gateway Monument and Wayfinding Sign locations; and

WHEREAS, the city has approved the Gateway Monument and Wayfinding Sign designs; and

WHEREAS, the city assumes all costs associated with the Gateway Monument and Wayfinding Sign installations; and

WHEREAS, the city assumes all responsibility for maintenance of the Gateway Monument and Wayfinding Signs, associated landscaping, and lighting; and

WHEREAS, the city has allocated funds to begin the Gateway Monument and Wayfinding Sign installation project immediately.

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

City Council approves the adoption and installation of the proposed Gateway Monument and Wayfinding Signage as depicted in the 2022 Wayfinding Master Plan. Attached as Exhibit A.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, ON THIS THE 17th DAY OF SEPTEMBER 2024.

CITY OF LOCKHART

Lew White, Mayor

Attest:

APPROVED AS TO FORM:

Julie Bowermon, City Secretary

Brad Bullock, City Attorney



Lockhart's civic signage should honor both its history and embrace its evolution into a modern, growing community.

This document is a Wayfinding Master Plan for the City of Lockhart, Texas. It is the culmination of a community and City collaboration that began in 2013. Early groundwork for this process began with envisioning the need for a greater City presence, followed by updating the City's brand identity in 2018, and now with the design and implementation of a comprehensive signage master plan.

The signage master plan was created by the Lockhart Wayfinding Committee which was formed by Mayor and Council appointed community members - all from diverse backgrounds, having local knowledge, relevant experience and expertise to lend in developing a signage master plan. It was overseen by City Planning staff. The Committee embarked on a series work sessions and field excursions to develop this master plan to meet the City's goals.

Establish a sense of place and community identity

Make Lockhart more tourist-friendly

Encourage traffic to destinations that visitors might not otherwise know about

Attract new businesses and investment

Provide a uniform system of wayfinding signage specifically for the central business district

Identify the entry points into Lockhart with signage that welcomes visitors to Lockhart

Conform to TxDOT requirements for sign placement in the right-of-way of State-maintained roads

This signage master plan document reflects the design intent of a modular system of vehicular and pedestrian focused elements intended to endure normal outdoor and public interaction.

This signage system is intended to be of the highest quality in build and execution and this document should be seen as a design guide for these components and deviation from this document is not permitted.

The approved City wordmark or wordmark with founding date are the only appropriate elements to appear on City gateway or identification signage.

Contractors should refer to the City of Lockhart Brand guidelines for approved artwork and typographic specifications for application in signage. All material sourced through the City.

Lockhart
1852

City wordmark with founding date only to be used on primary gateway locations

Lockhart

City wordmark to be used on all other secondary perimeter signage locations



City logo without wordmark lockup only to be used on vehicular and pedestrian signage

CITY OF
Lockhart
PUBLIC WORKS

City of Lockhart lockup to be used to for identification on City owned properties, amenities or service locations.

Character and Nature

The visual character and nature of the signage system is not only complimentary to the elegant brand identity of the City but also time-less and simple in design free from overly thematic typographic, color schemes or forms.

The visual character is derived from inspiration from cultural and historic influences mixed with simple, contemporary forms and expressions.

Lockhart is comprised of a growing and diverse collection of building areas and environments where the signage will be placed, and therefore, the system should be visually adaptable to these conditions.



Materiality

Materials for City identification and wayfinding signage should reflect “real” materials and be composed of high quality finishes and components.

The materiality of the signage has visual and practical characteristics that are important to the identity and long-term viability of the signage system.

Contractors should refer to the City of Lockhart Brand guidelines for approved artwork and colors for application in signage. All material sourced through the City.

Reduce the visual clutter or overuse of signs to reduce confusion

Enhance the perception of Lockhart as a safe, clean and welcoming community

Create a system with neutral colors and shapes that do not clash the various architectural styles in Lockhart

Signage should be affordable, easily fabricated and maintained, and adaptable



“Blackened” steel finish



Smooth finish concrete

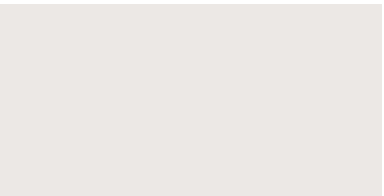


Simple native inspired plantscapes

Pantone 405 C/U
CMYK. 0 8 16 59
RGB. 105 97 88
HEX# 696158



PMS W GRAY 1 C/U
CMYK. 15 14 170
RGB. 214 209 202
HEX# D6D1CA



White
CMYK. 0 0 0 0
RGB. 255 255 255
HEX# FFFFFFFF



Powder coating or vinyl colors based on approved City brand colors

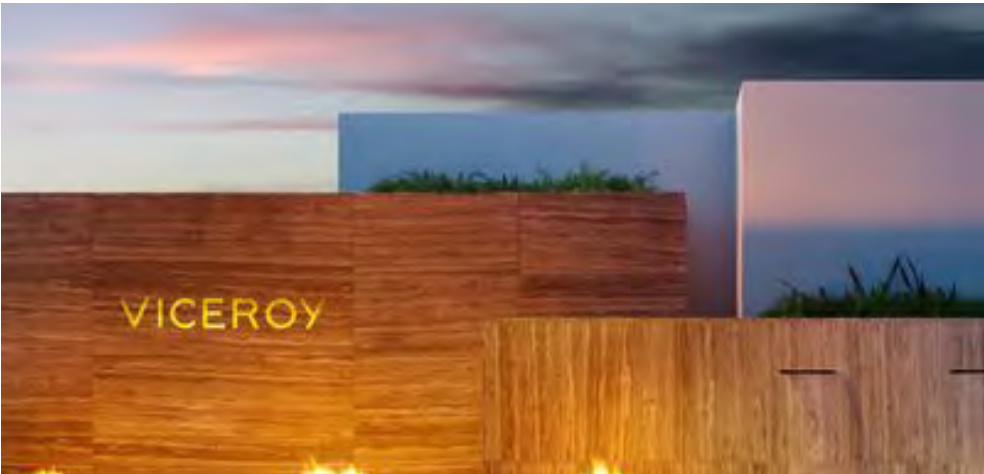
Illumination

Illumination on select signage elements should be warm tone 3000-3500 K LED lighting. Signage components are not to be internally illuminated but uplit or facelit to create pleasing, subtle highlights and character.



Illumination is intended to bring presence to locations such as gateway signage, enhance the visibility and overall character without being bright, harsh or distracting.

Lighting fixtures should only be in pre-finished black or dark bronze finishes if exposed to visibility.



Uplighting should be bright enough to fully illuminate signage features.



Lighting fixtures should be simple, elegant, well placed and organized in their layout. Decorative fixtures are not permitted.

Gateway Signage

Gateway and perimeter signage for the Lockhart community will serve to unite the environs of the City under a consistent brand identity and help visitors identify the city.

Signage should act in a more civic role for perimeter, gateway or key directional elements. This signage should present itself in a timeless manner and assume some authority over the area in a non-commercial presentation.

A guiding principle should be to always look for ways to reinforce the civic aspects of the community and enriching areas they occupy.

The city sign system should be able to adapt to a variety of roles and uses and still present a clear and consistent brand message of inspirational qualities.

The gateway and perimeter signage proposed in this master plan adapts in scale and in physical appearance due to location, considerations of visibility and highway speeds but will be visually consistent in character and nature, use of City brand identity assets, materiality and use of illumination.

Proposed locations depicted in this master plan represent favorable locations for presence, visibility and growth projections. The City of Lockhart may choose to add additional locations or remove and relocation of elements as growth evolves.

The locations and designs depicted in this master plan are intended to be in compliance with the intent of the Texas Department of Transportation Gateway Monuments Program Guidelines and other roadway signage best practices.

Locations - Visibility Studies

The following pages depict studies to determine proposed locations and visibility of gateway elements at thresholds to the city.



Location 1 - HWY 130 North Gateway



The City of Lockhart reserves the rights to revise this document at any time.

Location 1 - HWY 130 North Gateway



Location 1 - HWY 130 North Gateway



Location 2 - HWY 183 South Gateway



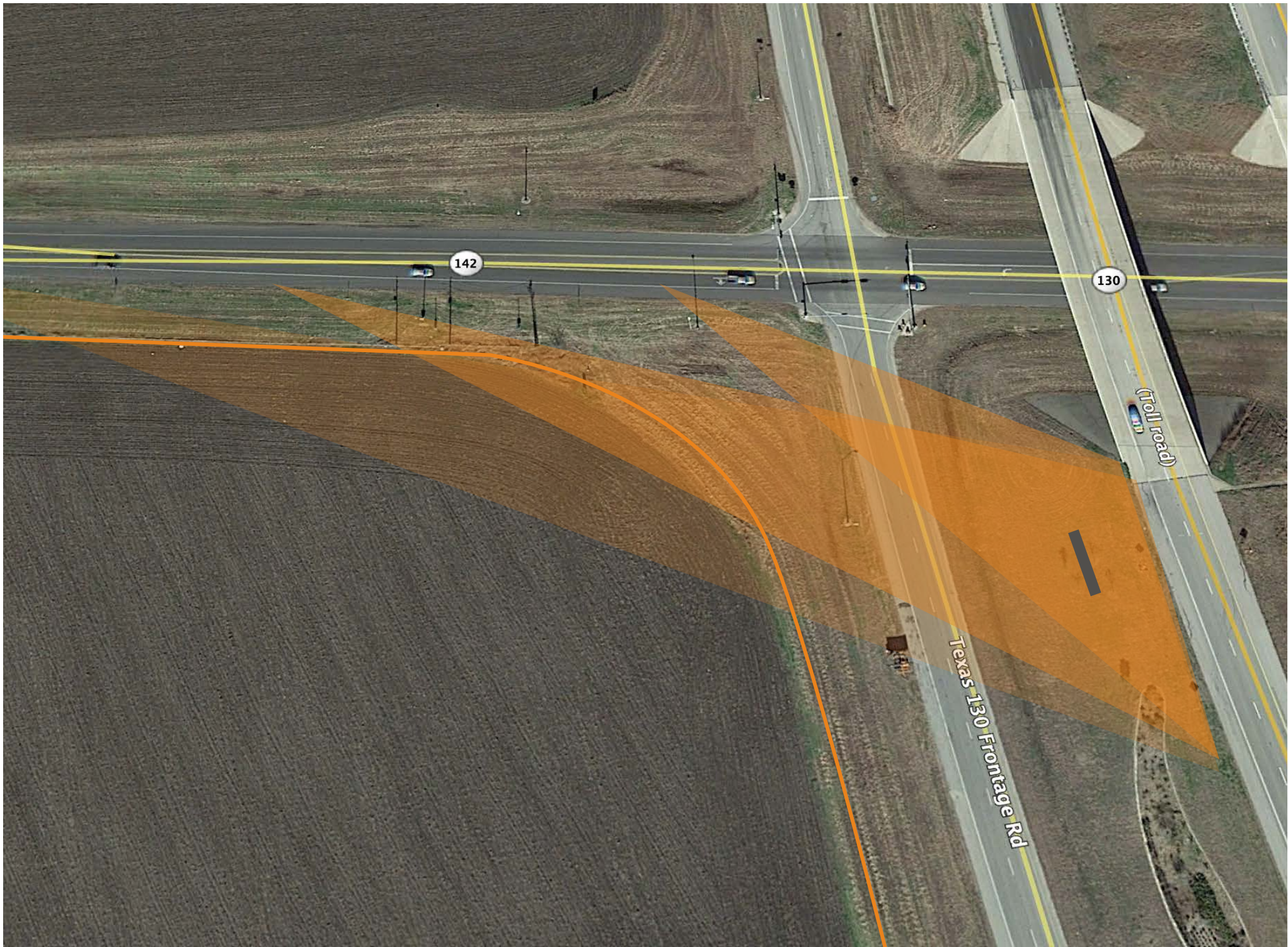


Location 2 - HWY 183 South Gateway

Location shown with impact of future development at the location.



Location 3 - HWY 142 West Gateway



The City of Lockhart reserves the rights to revise this document at any time.

Location 3 - HWY 142 West Gateway



Location 3 - HWY 142 West Gateway

Location shown with impact of future development at the location.



Location 4 - HWY 130 Southwest Gateway

View from northbound lane of SH130.



Location 4 - HWY 130 Southwest Gateway

View from northbound lane of SH130 access road.





Location 5 - HWY 20 East Gateway

Location may be impacted by utility easement.





Long Distance and High Speed



Typical Highway Distance and Speed

Location 1 - SH 130 North Gateway



Location 1 - SH 130 North Gateway

The SH 130 gateway location is seen as the primary gateway to the city. Passing southbound traffic on the lower and upper decks of SH 130 will be greeted by a unique landmark that sits on a prominent, elevated, peninsula of land that is at the crossing of three different roadways.

Existing trees will provide a backdrop to the free-standing letterforms while integrating native plantings to the sculpted base will provide an anchored appearance to the installation.

Area roadway lighting and integral lighting to the installation will provide an elegant presentation and adequate visibility at night without creating glaring or distracting situations to motorists.



Location 1 - HWY 130 North Gateway

freestanding cut steel letter-form with white painted faces and black returns

powder coated sign base with concealed LED uplight in trough

Solar Spot lighting.

cast in place smooth concrete base

concealed LED uplighting in native landscape base



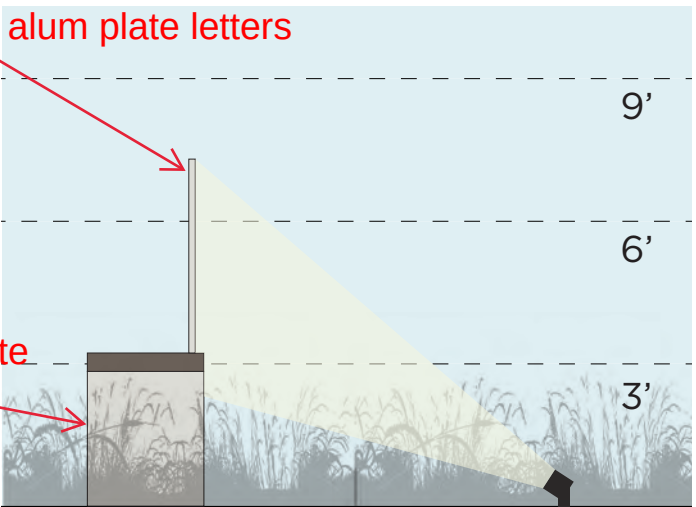
ST 100 Primary Gateway Sign

Dimensions: 38'L X 7'6"H Above Grade - Letter height shown is 4'-2"

***This proposed design is larger than the allowable TxDOT guidelines but the location and position in proximity to traffic warrants additional consideration.

1" thick alum plate letters

3' deep concrete



ST 100 Primary Gateway Sign Side View

Location 2 - HWY 183 South Gateway

Smaller than the SH 130 gateway element but equally important are the secondary gateways into the city via the additional SH 130 and HWY 183 roadways.

Utilizing similar materials and colors but constructed differently, these installations present an elegant, simple identification to the city.

As with the northern gateway, these installations will utilize the same native planting landscape and have similar illumination as part of the overall presentation.



Location 3 - HWY 142 West Gateway

The gateway element at the western entrance of the city along SH 130 and HWY 142 will sit along the elevated portion of the overpass.



Location 4 - SH 130 Southwest Gateway

The gateway element at the southwestern entrance of the city along SH 130 will be placed adjacent to the roadway so it is clearly visible from both northbound lanes.



Location 2, 3 & 4 Secondary Gateway Sign

applied cut steel letter-form with white painted faces and black returns

What thickness of letters 1/4"

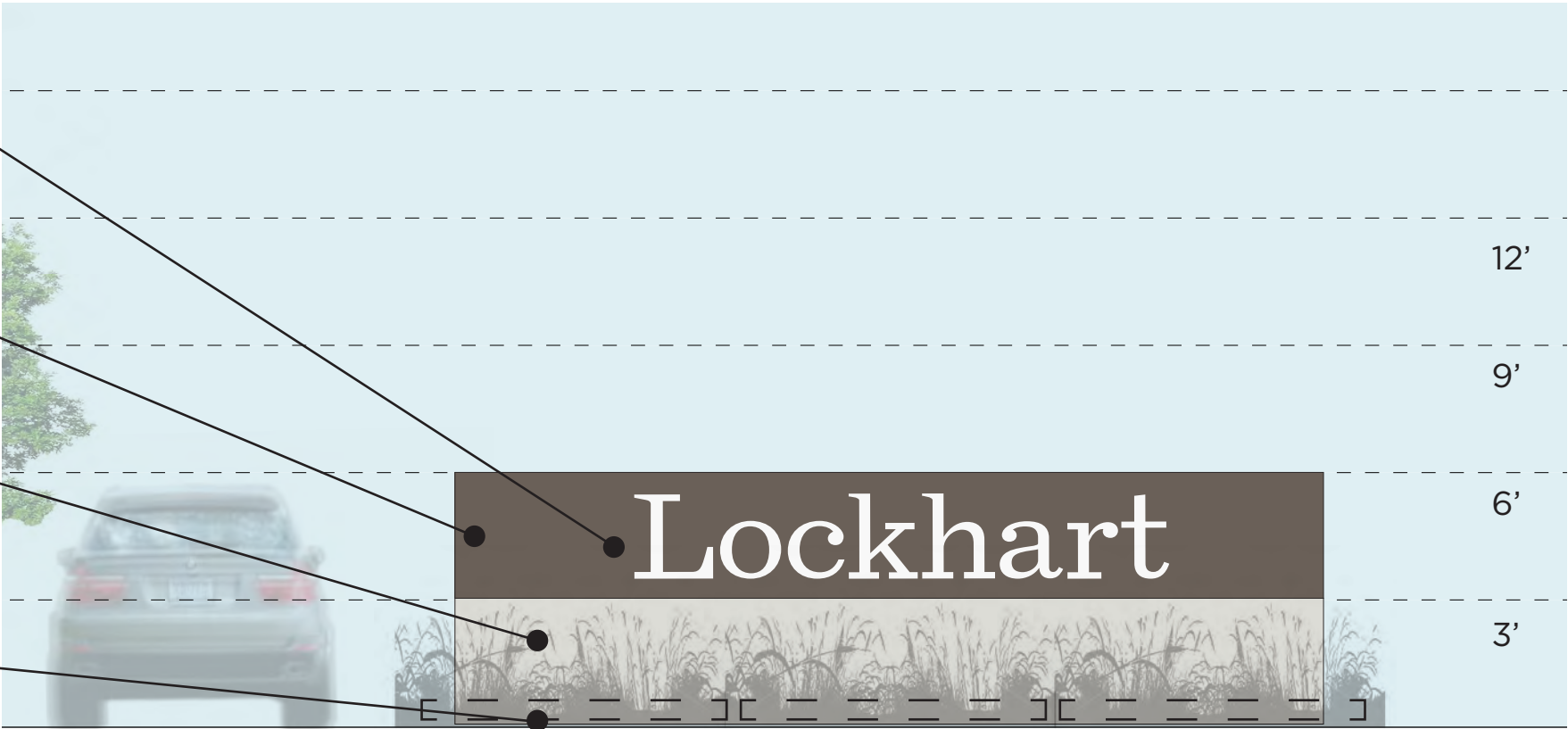
Solar Spot lighting.
freestanding blackened steel panel

Would suggest a solid paint color
SW Tricorn Matte finish is nice.

Blackend is a difficult process
and can rust and detrriorate.

cast in place smooth concrete base
Spot lighting or recessed lightng
in base

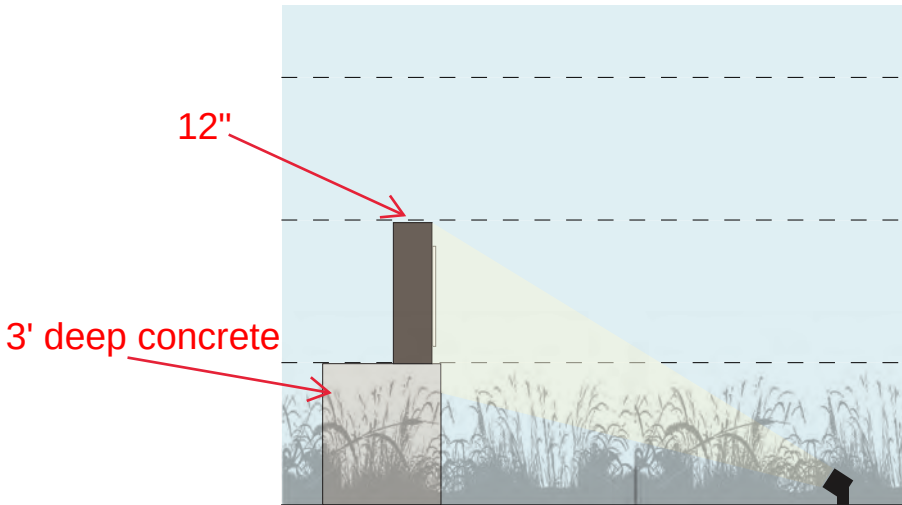
concealed LED
uplighting in native
landscape base



ST 101 Secondary Gateway Sign

Dimensions: 20'L X 6'-0"H Above Grade - Letter height shown is 2'-0"

***This proposed design is within the allowable TxDOT guidelines for gateway signage size.



ST 101/102/103 Gateway Sign Side view

Location 5 - HWY 20 East Gateway

Tertiary gateway elements are the smallest of the gateway installations and be placed at city entrances that are primarily two-lane farm to market roadways with limited visibility.

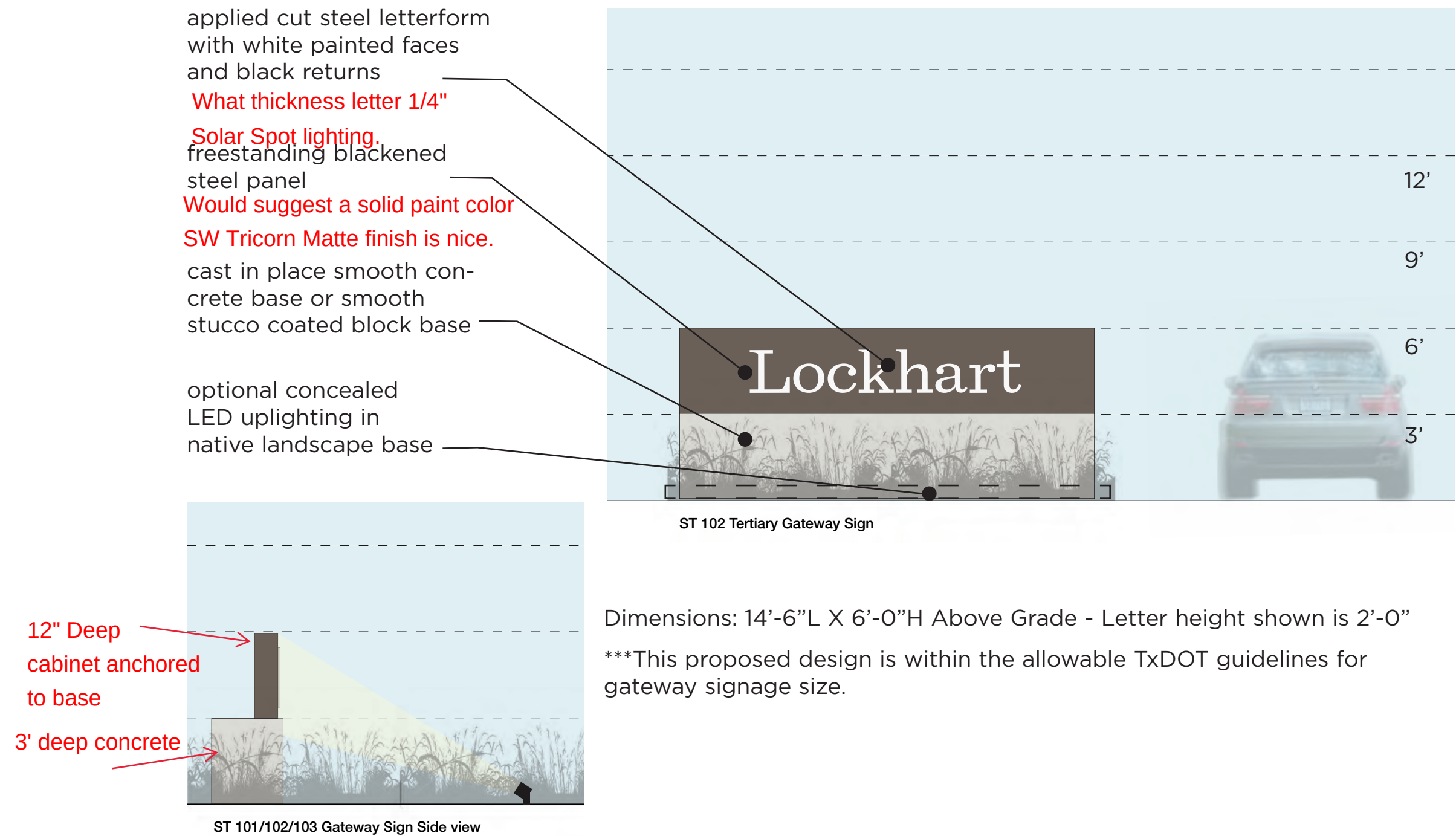
Utilizing similar materials and colors as the secondary gateway signs but constructed differently, these installations present an elegant, simple identification to the city.

As with the northern gateway, these installations will not utilize native planting landscape nor have illumination due to maintenance concerns and lack of utility infrastructure at the proposed locations.

*** Also shown with vehicular directional sign



Location 5 - Tertiary Gateway Sign



Vehicular Wayfinding and Identification Signage

Vehicular signage components act to greet motorists on highways and surface streets at various speeds and distances for directional and identification needs.

City based wayfinding signage should direct to districts, landmarks, amenities, major roadways and other civic features that can act as anchors for smaller levels of more precise wayfinding information.

Modern vehicular wayfinding signage should be complimentary to mobile or in-car navigation systems and can often be coordinated together.

Key characteristics of vehicular wayfinding signage should respond to different roadway conditions. Sitaline distances create the need for a variety of scales and information sets. Signage should be simple and easy to read with no more than 3-5 destinations listed at any given time.

A key practice for wayfinding signage is while directing to civic locations such as districts, parks, airports or municipal destinations that identification signage should be in place to support confirmation of the journey and civic identity.

Proposed locations depicted in this masterplan represent favorable locations for presence, visibility and growth projections. The City of Lockhart may choose to add additional locations or remove and relocate elements as growth evolves.

The locations and designs depicted in this master plan are intended to be in compliance with the intent of the Texas Department of Transportation Gateway Monuments Program Guidelines and other roadway signage best practices.

Vehicular Wayfinding and Identification Signage

Proposed Signage Destinations:

Gateway Signage

- Cesar Chavez Parkway (SH 130)
- Colorado Street (US 183)
- San Antonio Street (SH 142)

Directional signs

- Along arterial streets

Location maps

- Courthouse square and near library
- City Park

Interpretive signs and markers (example locations)

Courthouse Square Historic District

All City Parks, *Lockhart State Park*

- Municipal Airport
- Lion’s Stadium
- Dr Eugene Clark Library
- Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal Burial Park

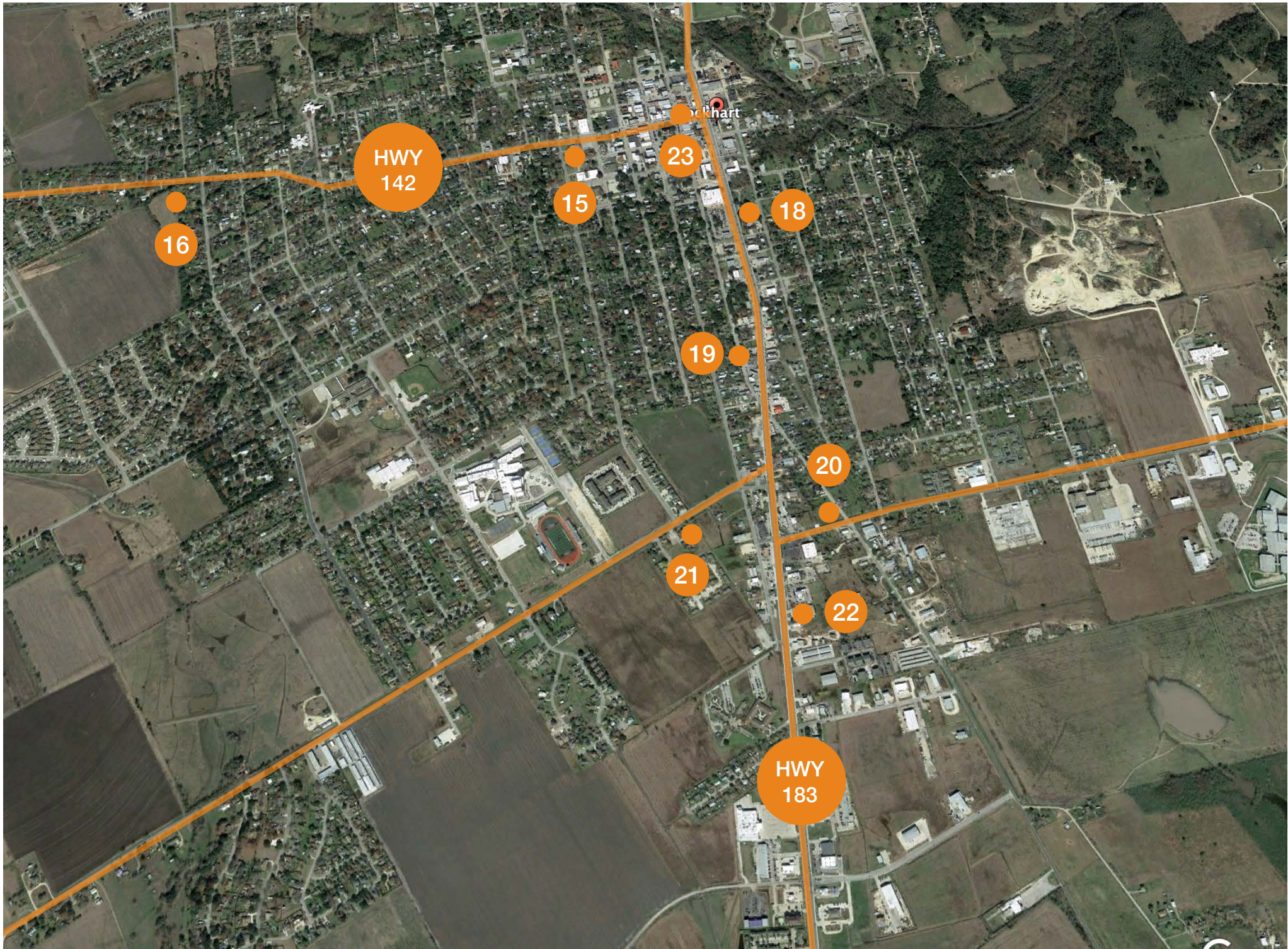
Primary Vehicular Wayfinding Locations

Highway speed scaled vehicular directionals will greet motorist at locations within the city where direction to key landmark destinations, city facilities and amenities will be displayed.

All potential locations are not depicted but rather what would constitute the initial phase of implementation.



Primary Vehicular Wayfinding Locations



The City of Lockhart reserves the rights to revise this document at any time.

Primary Vehicular Wayfinding Viewing Distances

Messaging content and typographic sizing are optimized to allow motorist to comfortably read signage at highway or slower speed. Limiting the number of destinations on the signs will aid in legibility and mitigating confusion and creating maintenance issues.



Primary Vehicular Wayfinding

removable powder coated
metal sign face with silk
screen applied reflective
graphics

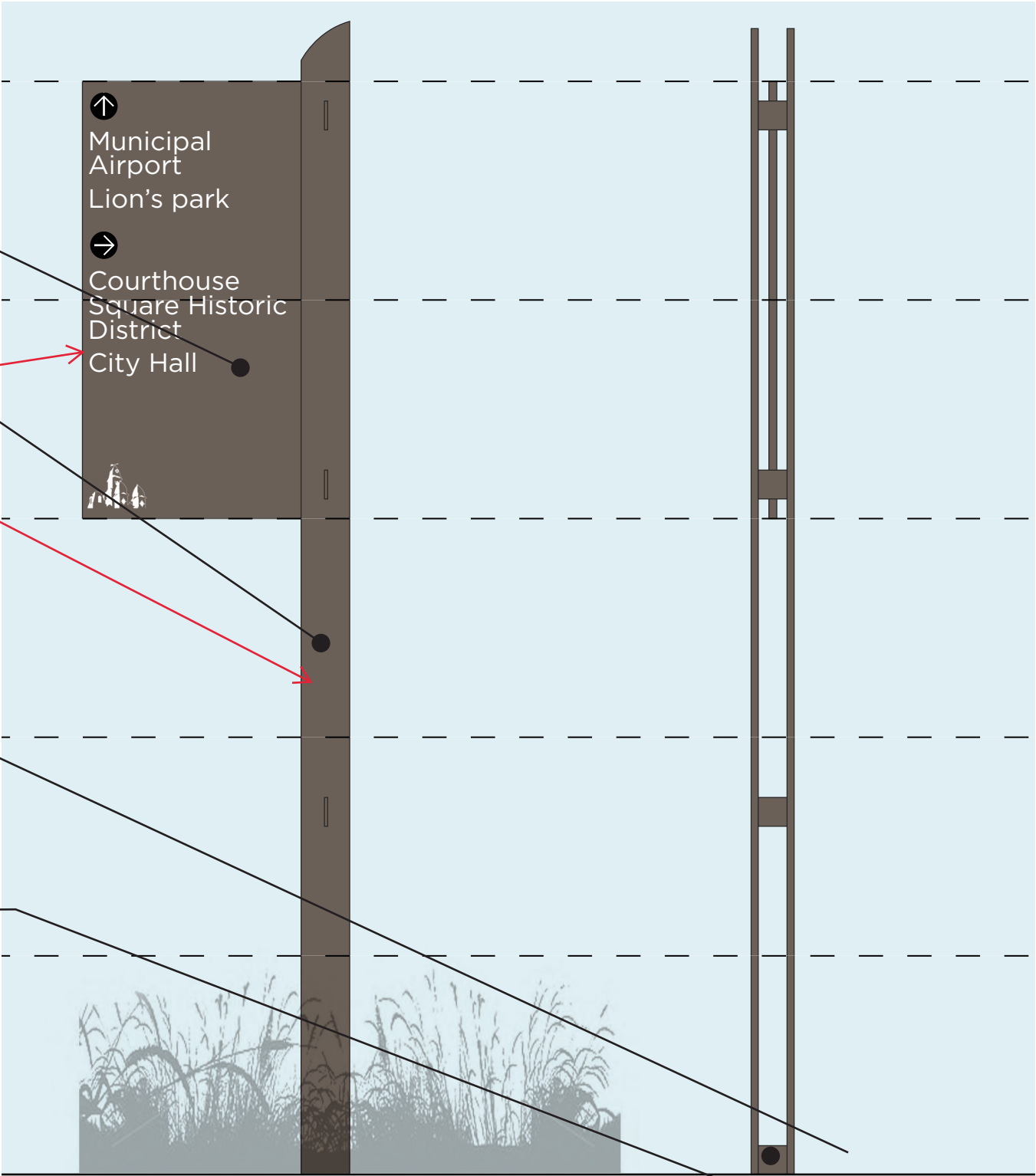
Vinyl and then UV liquid lam coated.

fabricated powder coated
steel post and bracket

1" thick Aluminum plate construction

City/TXDOT approved break-
away bracket

structural footing as required



3/4" thick plate
with break away
bolts. Sq tube base
embedded in foundation.

ST 200 Primary Vehicular Wayfinding Sign

The City of Lockhart reserves the rights to
revise this document at any time.

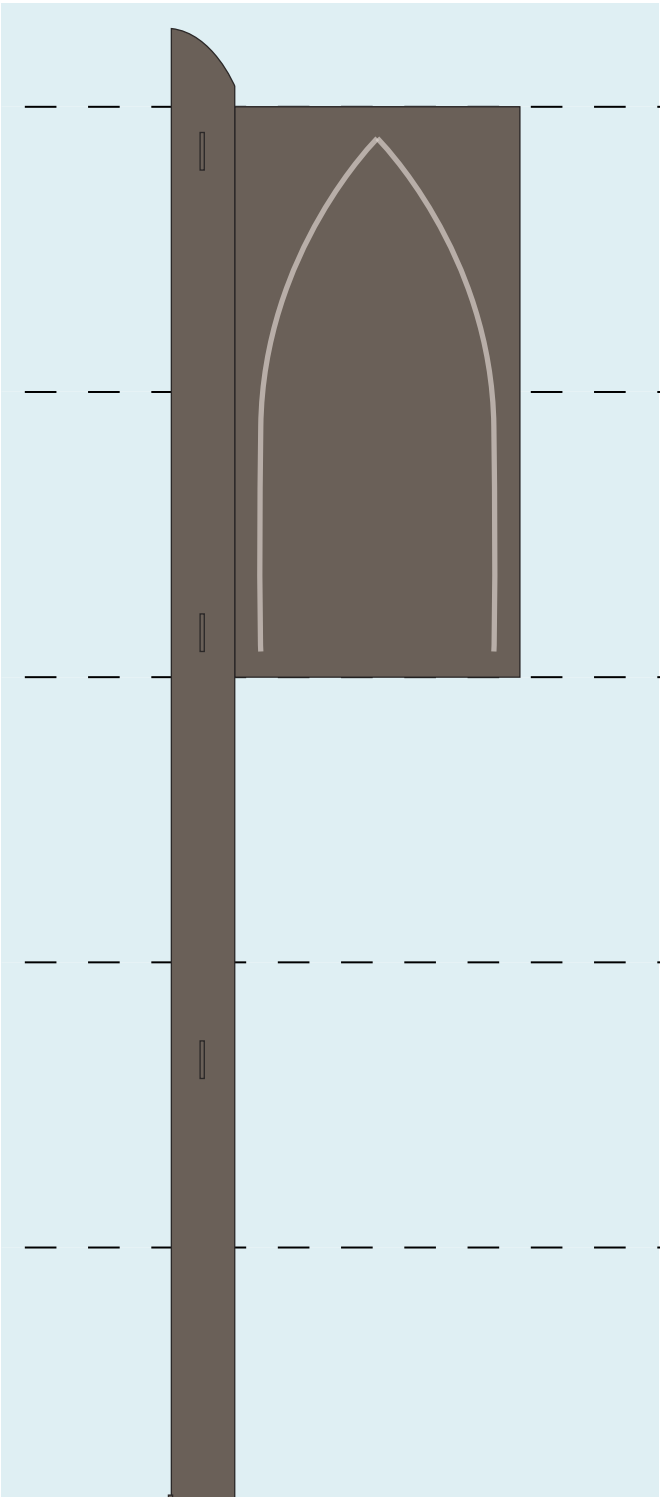
Primary Vehicular Wayfinding

As the reverse side of the vehicular wayfinding sign panel will have no wayfinding information on it the City may choose to keep them blank on the painted face.

The Wayfinding Committee created an opportunity for thematic imagery be presented on these panels, the subject would botanical inspired linework of native flora and fauna or historical/cultural references.

This material could be applied vinyl and done as a civic program where the panels could be changed out seasonally or as part of larger civic initiatives or periods of celebration.

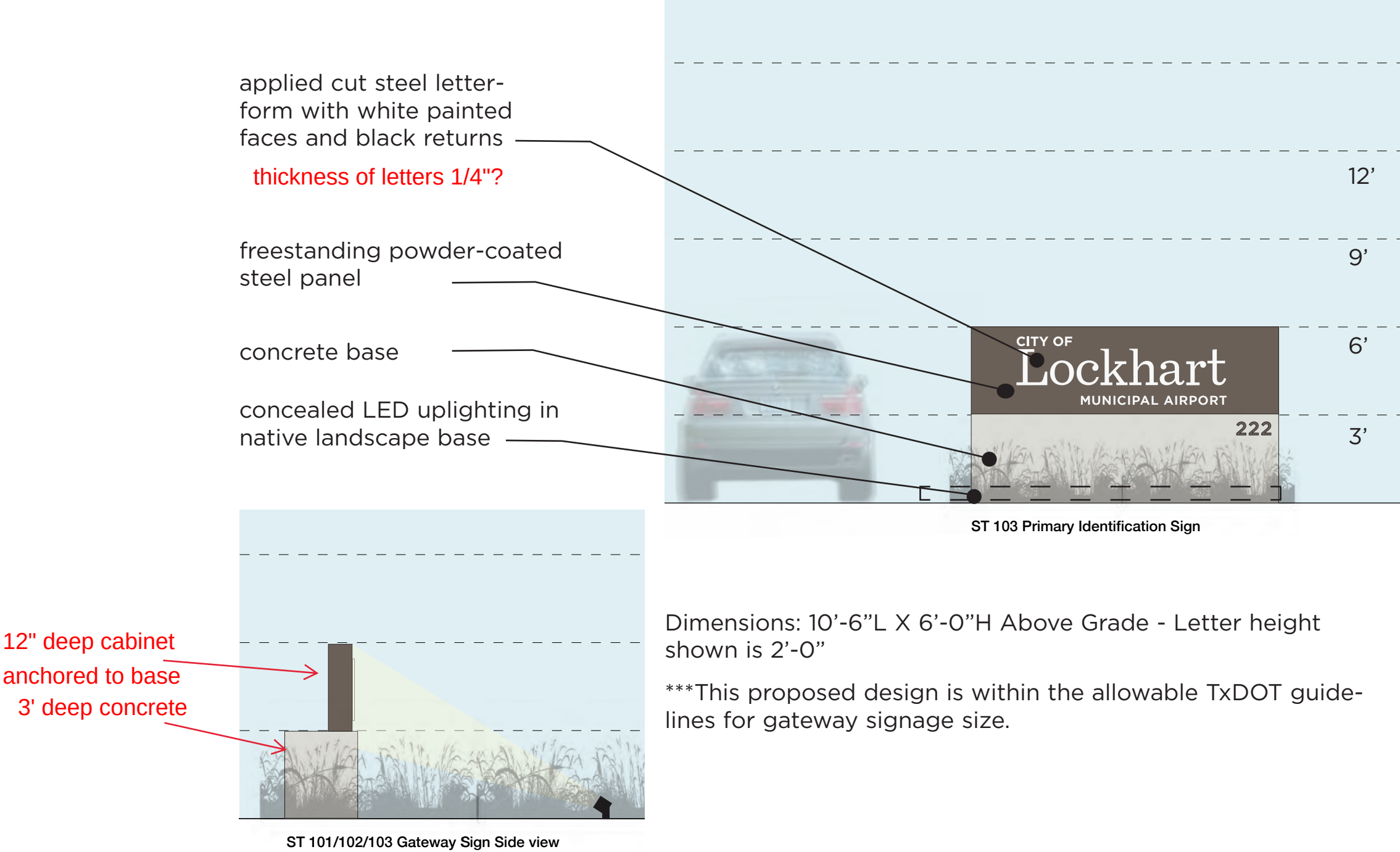
Every effort should be to avoid overly thematic, interpretive or distracting content themes.





The City of Lockhart reserves the rights to revise this document at any time.

Primary Identification Sign



Primary Identification Sign

Lockhart City Hall currently has a digital display as part of the facility’s monument sign.

The City should update the display as part of the new signage installation for City Hall that allows for a wider variety of content as well as present a more contemporary appearance for the City headquarters.



The City of Lockhart reserves the rights to revise this document at any time.

LED display

applied cut steel letter-form with white painted faces and black returns

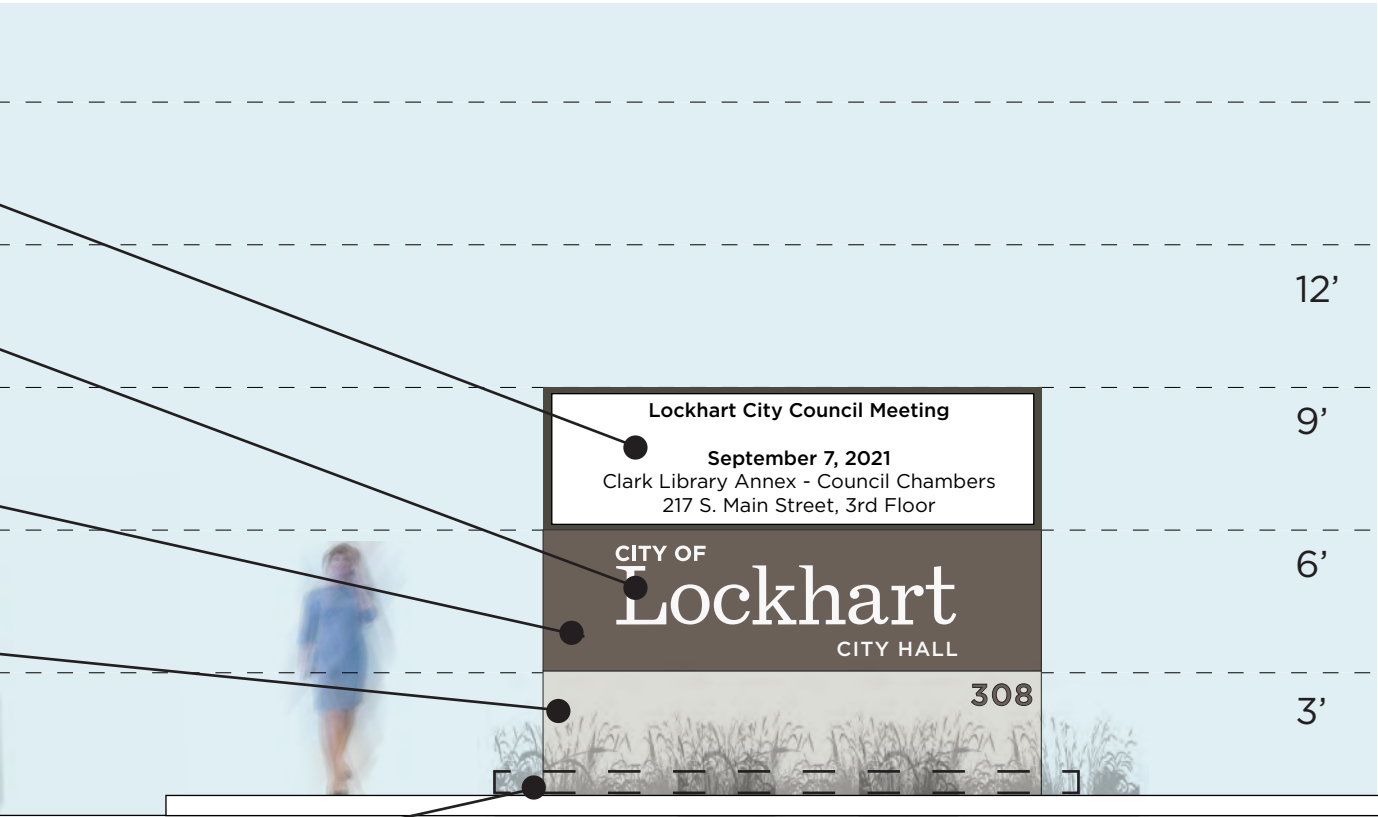
1/4" thick alum letters?
freestanding powder-coated-steel panel

24" deep cabinet. Double sided.
Daktronics message center

concrete base

With steel pole in the ground with pier below foundation.

concealed LED uplighting in native landscape base



ST 103 Primary Identification Sign with Digital Display

Dimensions: 10'-6"L X 6'-0"H Above Grade - Letter height shown is 2'-0"
***This proposed design is within the allowable TxDOT guidelines for gateway signage size.

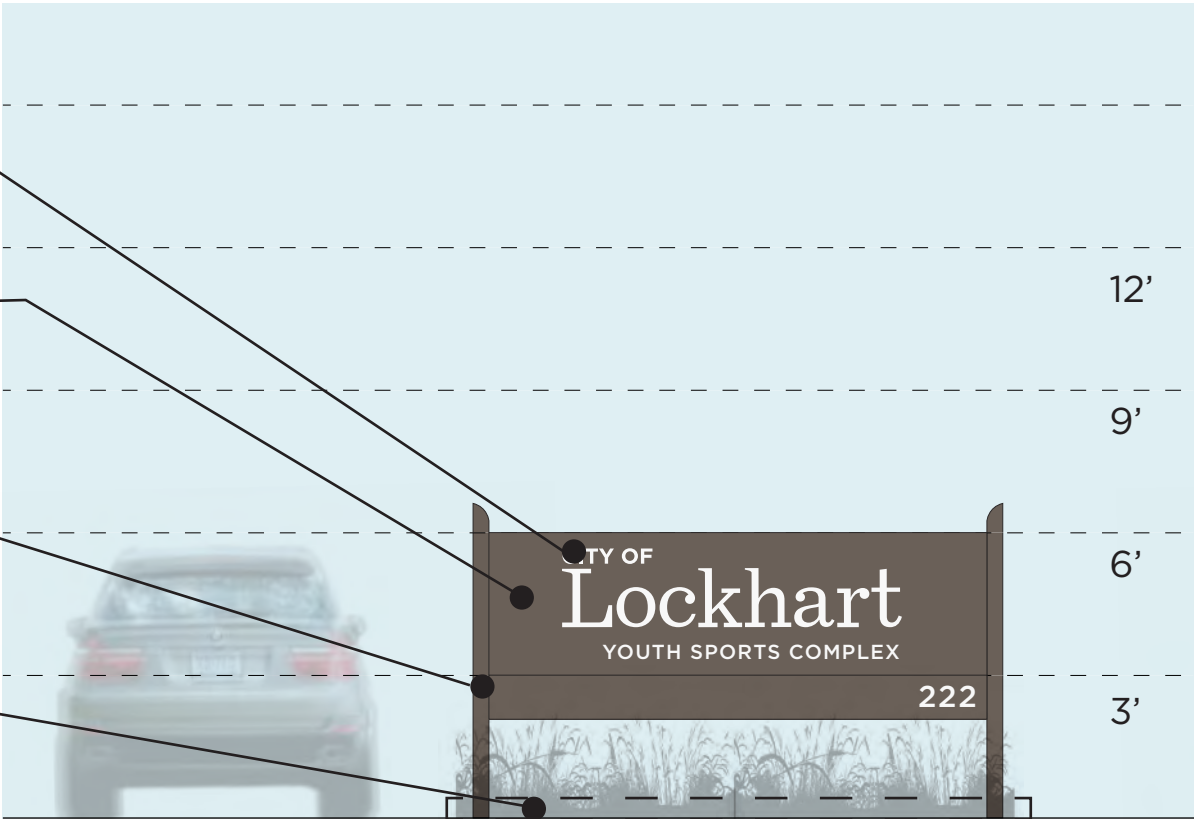
Secondary Identification Sign

silk screen graphics
White vinyl with UV lam

powder coated metal panel

fabricated powder coated
metal legs

concealed LED uplighting
in native landscape base as
appropriate to location



ST 104 Secondary Identification Sign

5" x 5" alum posts with radius caps. 4" deep cabinet mount between posts.
Post direct buried into ground.

Dimensions: 10'-6"L X 6'-0"H Above Grade - "Lockhart" Letter height shown is 2'-0"

***This proposed design is within the allowable TxDOT guidelines for gateway signage size.



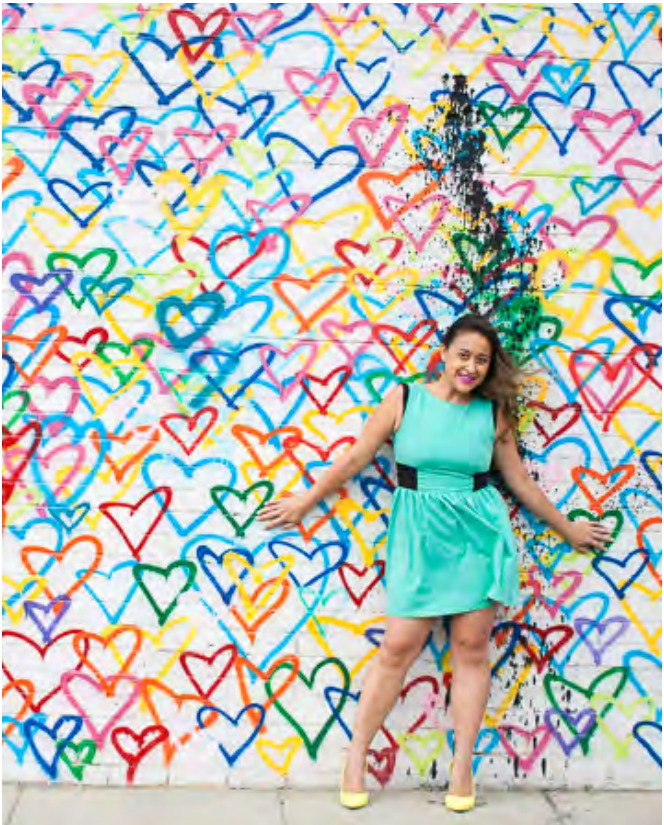
Orientation



Directional



Interpretive



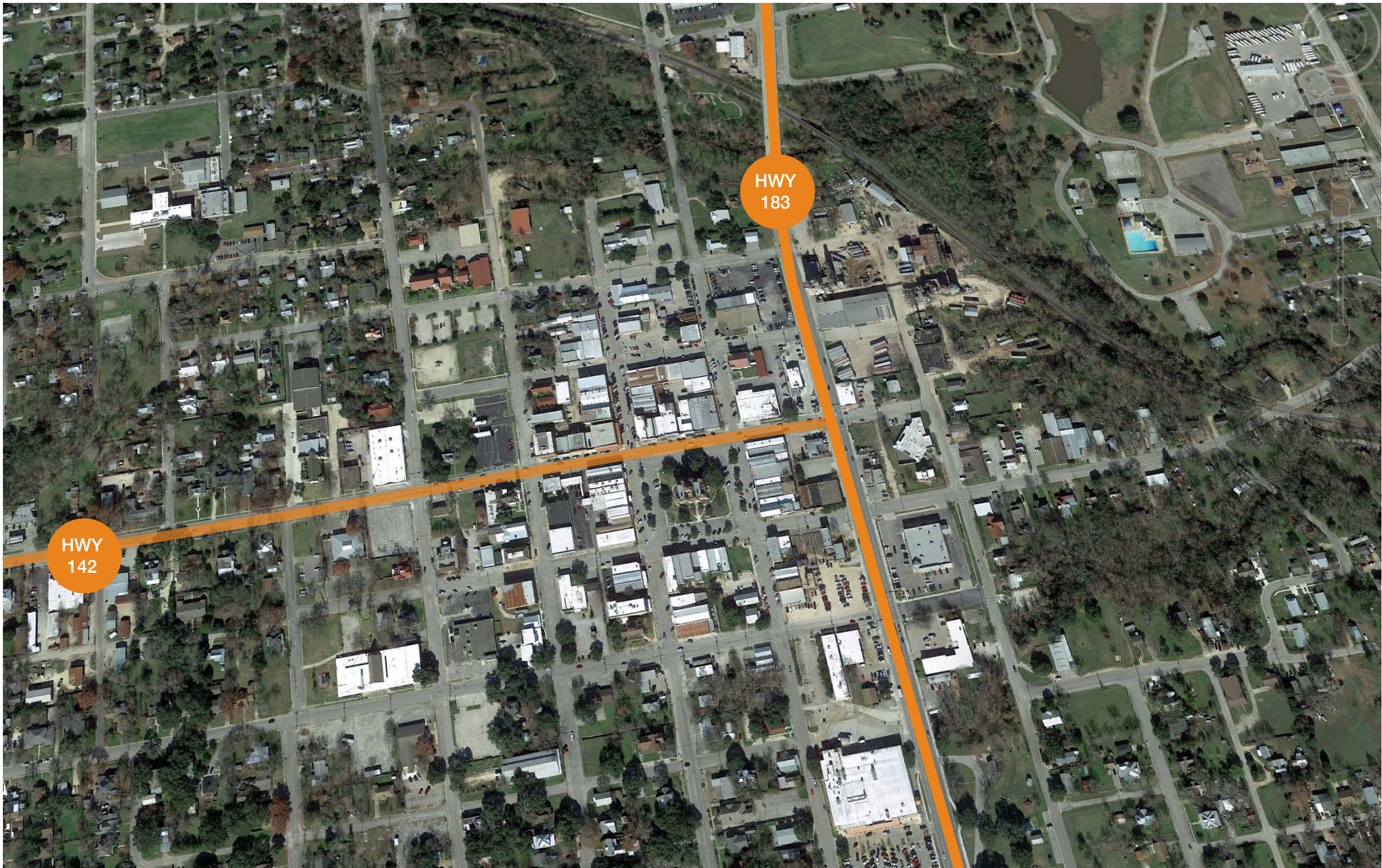
Placemaking / Landmark

Pedestrian Wayfinding



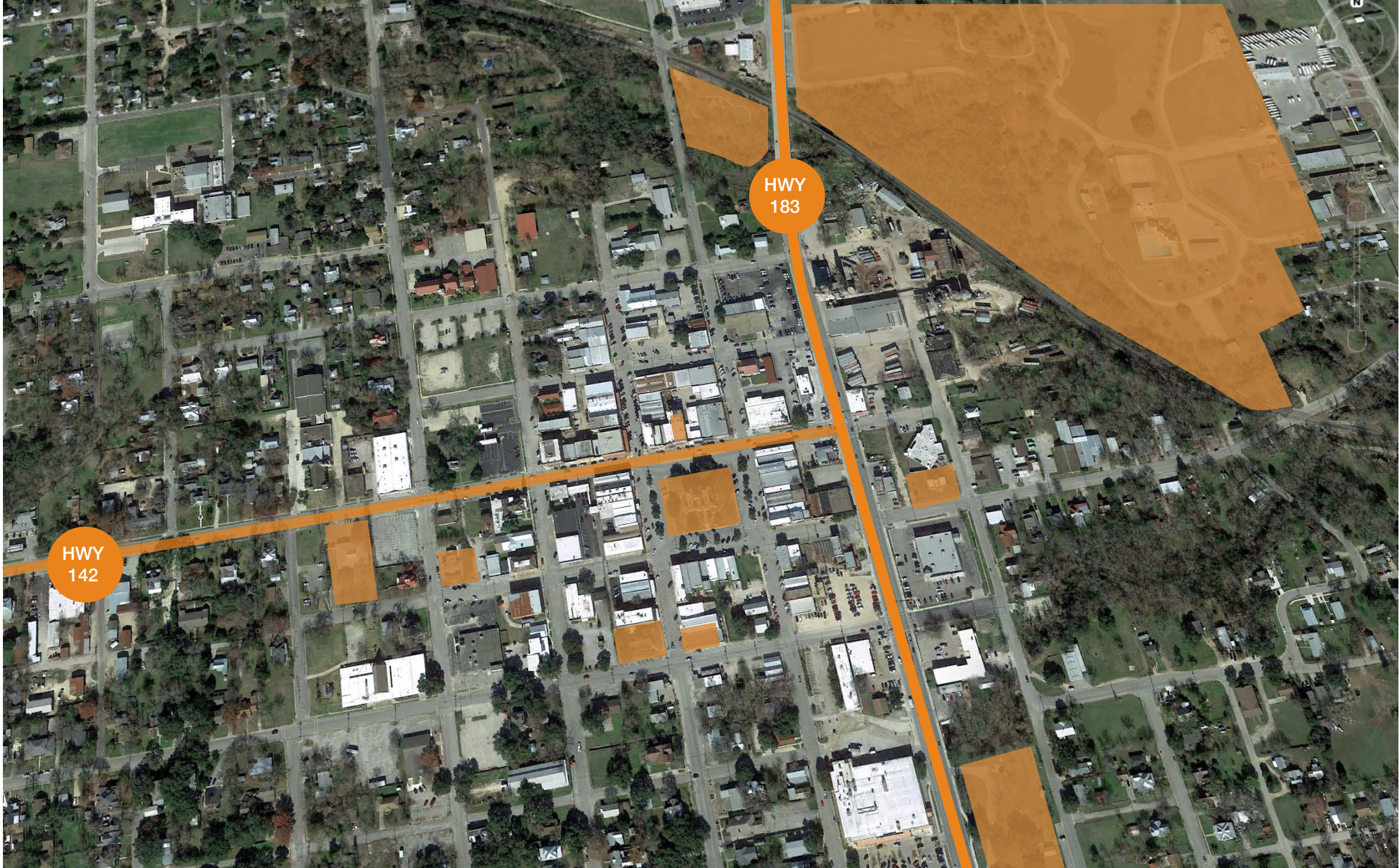
Pedestrian Wayfinding

- Courthouse Square Historic District
- Dr Eugene Clark Library
- United States Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal Burial Park
- Historical/Interpretive Locations
- All City Parks



Pedestrian Wayfinding

- Courthouse Square Historic District
- Dr Eugene Clark Library
- United States Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal Burial Park
- Historical/Interpretive Locations
- All City Parks



The City of Lockhart reserves the rights to revise this document at any time.

Pedestrian Wayfinding

- Courthouse Square Historic District
- Dr Eugene Clark Library
- United States Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal Burial Park
- Historical/Interpretive Locations
- All City Parks



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Pedestrian Wayfinding

- Courthouse Square Historic District
- Dr Eugene Clark Library
- United States Post Office
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- All City Parks

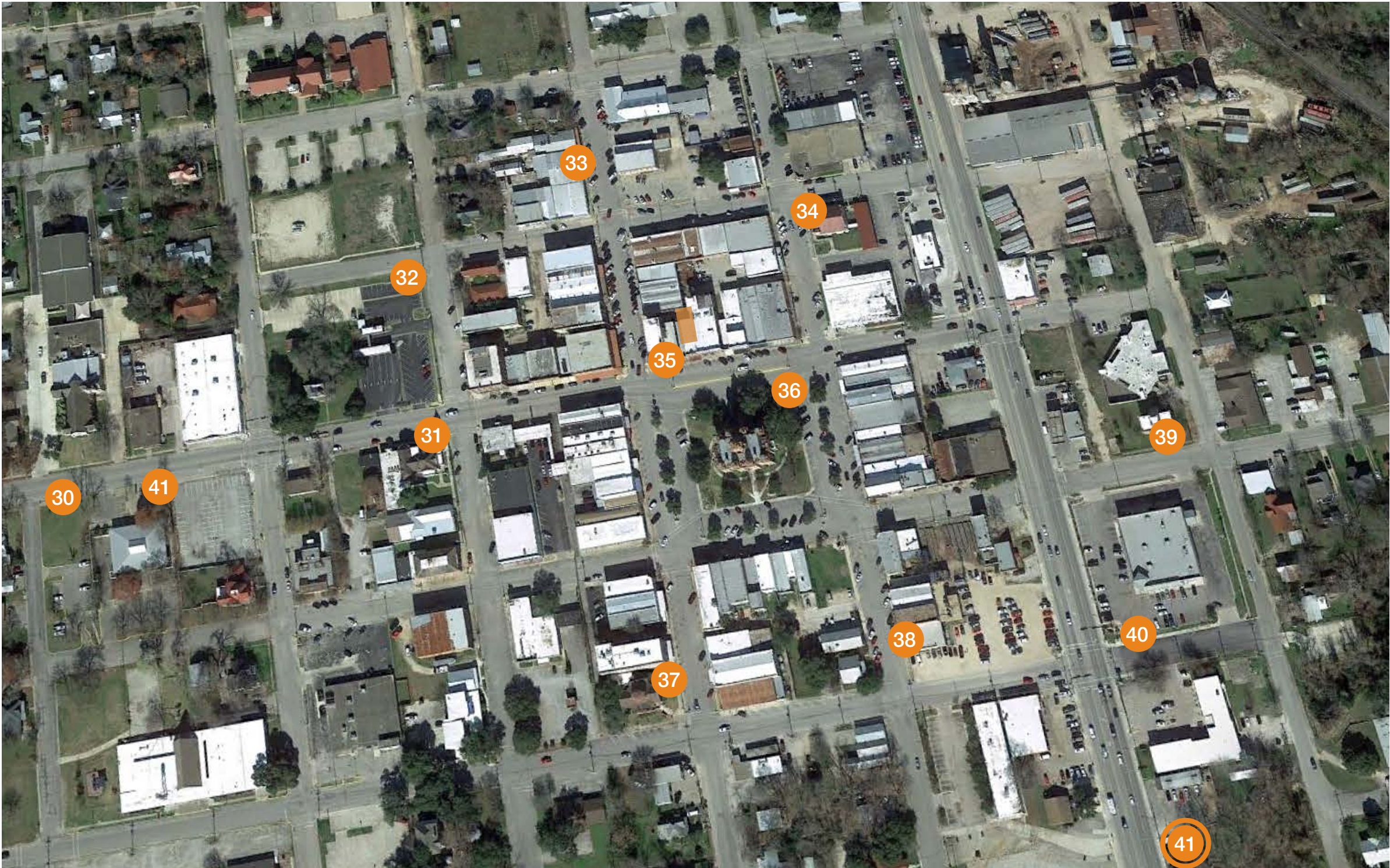


The City of Lockhart reserves the rights to revise this document at any time.

Pedestrian Wayfinding

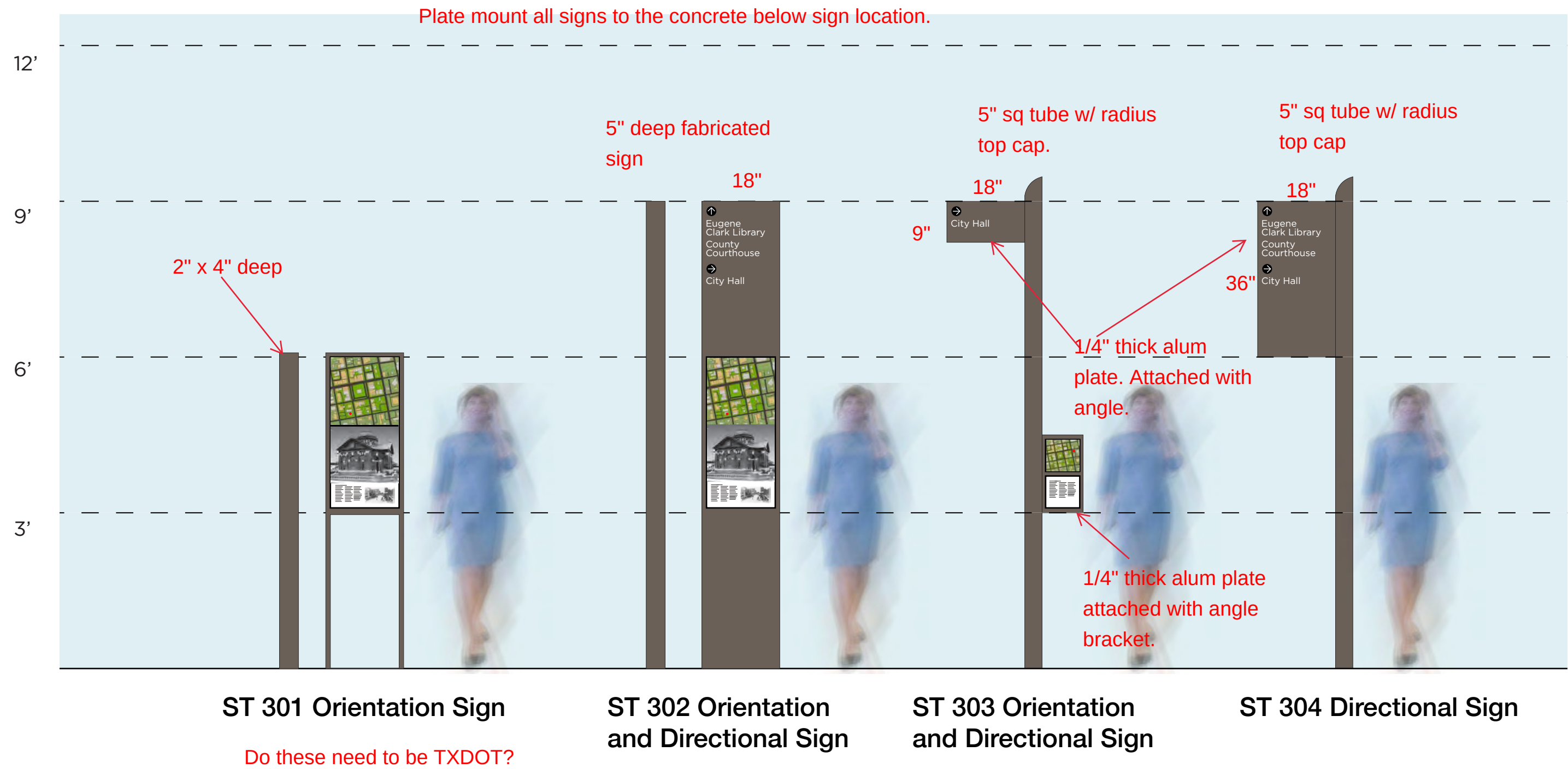
Final Locations TBD

- Courthouse Square Historic District
- Dr Eugene Clark Library
- United States Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal Burial Park
- Historical/Interpretive Locations
- All City Parks



The City of Lockhart reserves the rights to revise this document at any time.

Pedestrian Wayfinding



Pedestrian Wayfinding

Pedestrian orientation and wayfinding elements will be placed in purposeful locations to direct and inform to public destinations, landmarks or amenities.

A modular system will allow for flexibility in depicting maps, directional information and historical and interpretive information.

As each panel is double-sided community event posters or other temporary information could be depicted instead of the wayfinding information.



Pedestrian Wayfinding - Map Graphic Style

A custom but highly stylized map for pedestrian orientation and wayfinding elements will allow for ease in legibility as well as ability to edit/create source files as revisions to maps will need to occur.



***Reference Image



Final map artwork to be determined

Placemaking Attraction

A Lockhart wordmark themed placemaking element in the central part of the Courthouse Square Historic District will create a unique landmark, a gathering place and photographic backdrop.

It is recommended that a site specific plaza be developed with ample space to accommodate group photography. Ambient and spot lighting should be provided so that the plaza can be used in the daytime and nighttime.



Steel framed bases for each individual letter to mount. Anchor bases into concrete. Spot light inset into each steel base and upright letter. 12" deep fabricated letters with base plates that will mount to steel base. powder coated with graffiti clear coat.

Dimensions: "L" cap height to be 6'
***This proposed design is comply with ADA guidelines for free-standing elements.

cut steel freestanding letter-form with white painted faces and black returns



ST 400 Placemaking Element

Placemaking Attraction

The placemaking attraction shown in this rendering to be at the North East Corner of the court-house square should compliment roadway, parking and pedestrian planning efforts.







Pedestrian Wayfinding

Historical and Interpretive information and supporting imagery can educate visitors to Lockhart’s and Caldwell County’s rich history in key areas around the Courthouse Square Historic District.

Narrative information should follow best practices for quick viewing and prolonged reading scenarios.



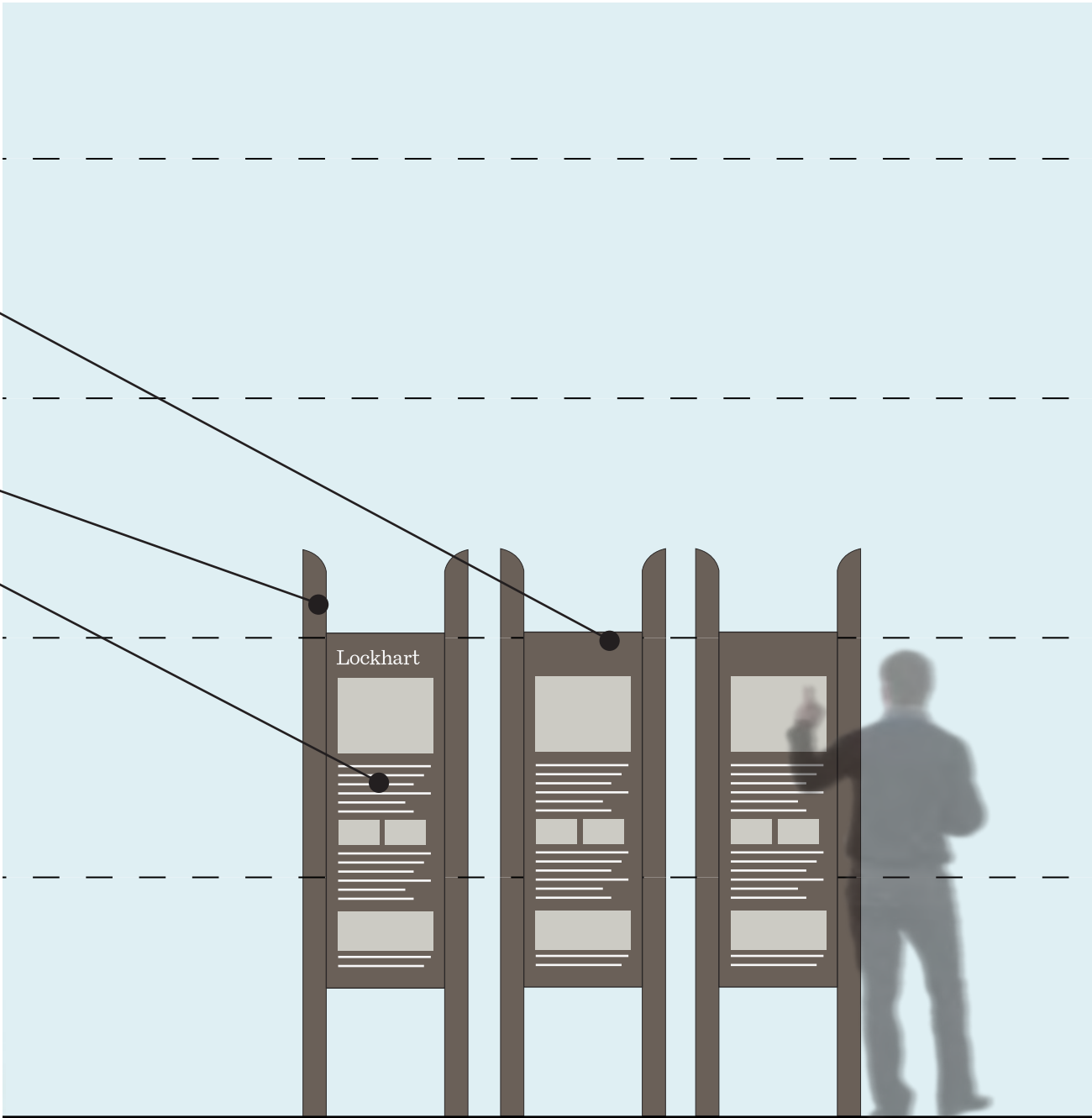
Dimensions: Each panel is 2’-0”W X 7’-2”H

powder coated metal panel

fabricated powder coated metal legs

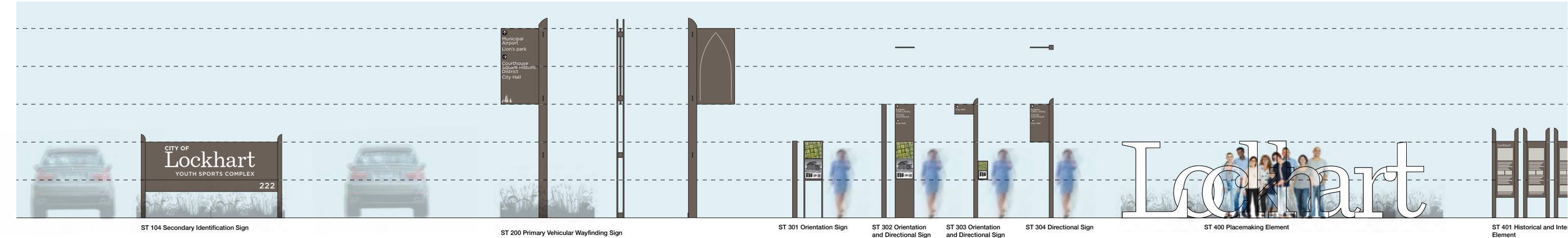
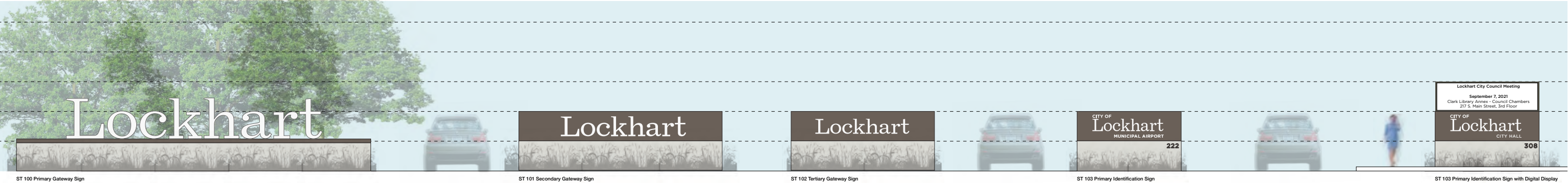
silk screen graphics

Plate mount to base and anchor bolt into concrete below sign.



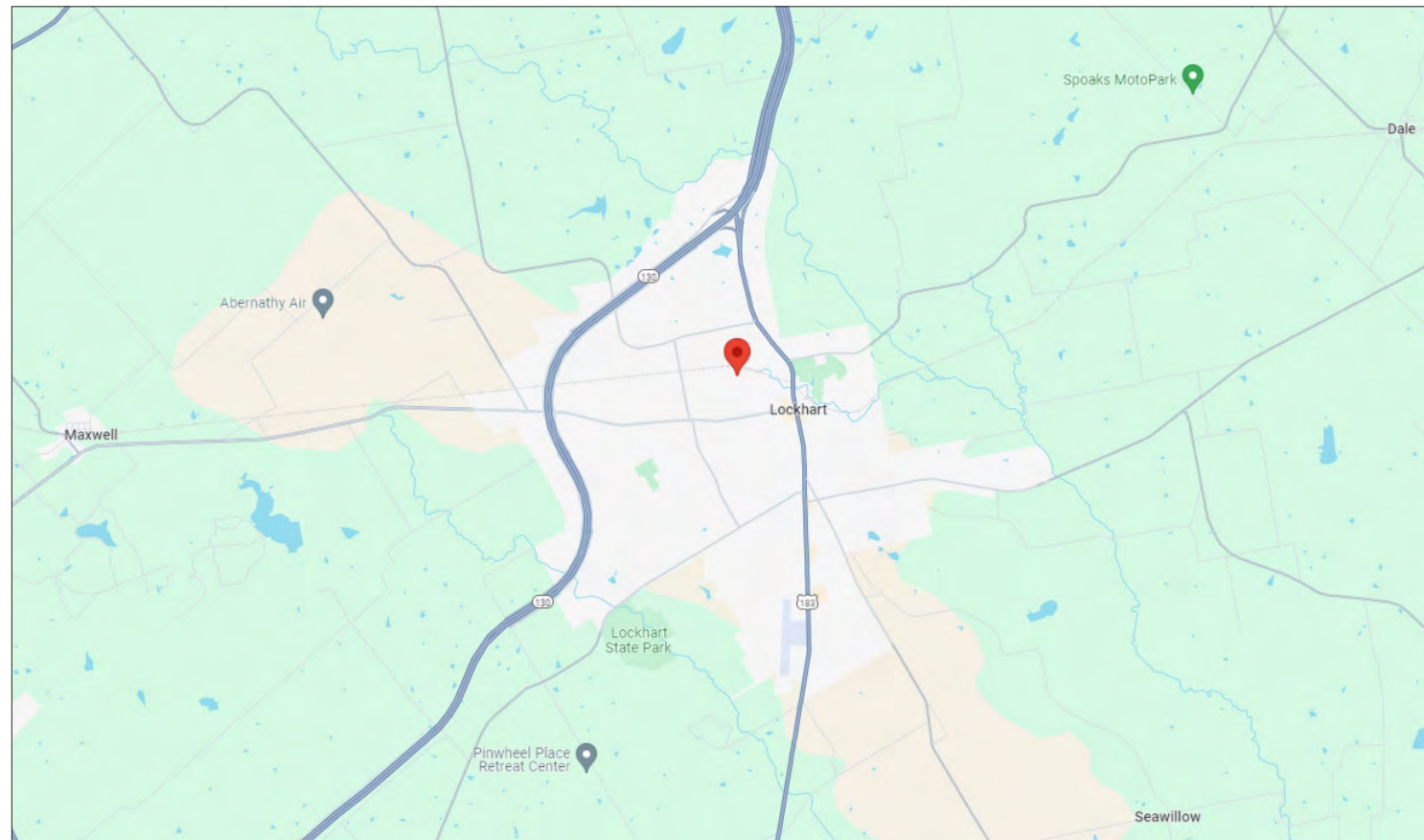
ST 401 Historical and Interpretive Element

Identification and Wayfinding System



LOCKHART PARKS & REC

Gateway Sign Package



705 Wichita St, Lockhart, TX 78644





Job Name:

Lockhart Gateway Signs

■ Proposal Drawing
□ Final Drawing

Client: Lockhart Parks & Rec
Location: 705 Wichita St,
Lockhart, TX 78644
Salesperson: Maggie Star
Prj. Mngr.:
Date: 08/01/2024
Designer: Shawn Murphy
File Name: 73875 - Lockhart
Parks & Rec - Lockhart
Gateway Signs - Lockhart
Tx.cdr

Proposal #: 73875

Job #: n/a

Revisions (M/D/Y)-(initials): desc.



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(713) 943-1831

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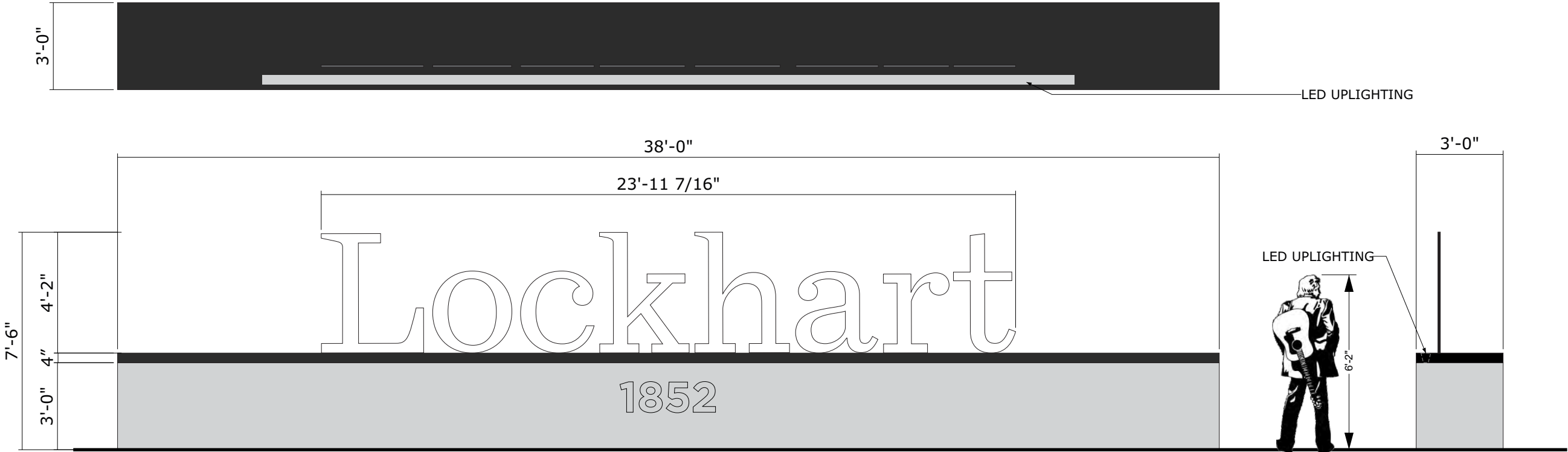
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Powdercoated base or cast stone cap? And what do the letters attach to?

What LED uplights are we using? Must be a specific one since the width is known. Do they mount to the front somehow, or in a trough?



A

GATEWAY SIGN @ HWY 130 (NORTH)

QTY: ONE (1)

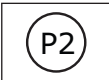
Scale: 1/4" = 1'-0"

SCOPE: MF & INSTALL SIGN.

- CONCRETE BASE (FOOTER BURIAL DEPTH TBD) with
- ALUMINUM SIGN BASE/SIGN CABINET WITH LED UPLIGHTING and
- FREE-STANDING 1" ALUMINUM FCO LETTERS with WHITE FACES/BLACK RETURNS AFFIXED TO BASE CABINET
- "1852" DATE MOLDED INTO CONCRETE BASE



SW 6528
Tricorn Black



Akzo Nobel
White



FIELD SURVEY REQUIRED
PRIOR TO PRODUCTION

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Lockhart
1852

SIMULATED NIGHT VIEW WITH UPLIGHTING

Scale: 1/4" = 1'-0"

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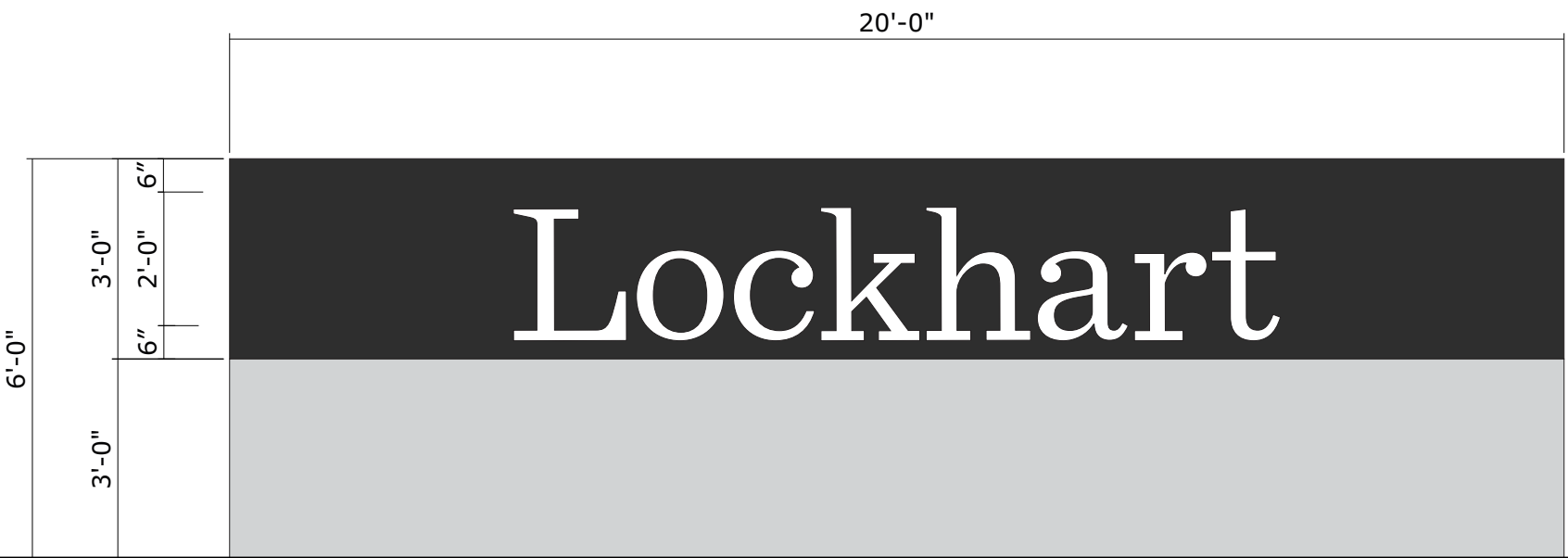
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LED UPLIGHTING



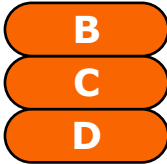
LED UPLIGHTING



6'-2"

36"

12"



GATEWAY SIGN @ HWY 183 (SOUTH), HWY 142 (WEST) and SH 130 (SOUTHWEST)

QTY: ONE (1) EACH, THREE TOTAL

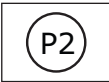
Scale: 3/8" = 1'-0"

SCOPE: MF & INSTALL SIGN.

- CONCRETE BASE (FOOTER BURIAL DEPTH TBD) with TROUGH FOR LED UPLIGHTING
- ALUMINUM SIGN SIGN CABINET WITH 1/4" ALUMINUM FCO LETTERS FLUSH MOUNTED



SW 6528
Tricorn Black



Akzo Nobel
White



**FIELD SURVEY REQUIRED
PRIOR TO PRODUCTION**

CUSTOMER APPROVAL

APPROVED BY: _____ **DATE:** ____ / ____ / ____

Job Name:

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Proposal #: 73875

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Lockhart

SIMULATED NIGHT VIEW WITH UPLIGHTING

Scale: 3/8" = 1'-0"

CUSTOMER APPROVAL

APPROVED BY: _____ DATE: ____ / ____ / ____

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss Ordinance 2024-28 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 4, Section 58-142(a)(1) and 58-142(a)(2), Entitled "Water Rates", adjusting the monthly fixed service charge and consumption charge to cover increased costs in water supply, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers.

ORIGINATING DEPARTMENT AND CONTACT: Finance - Joseph Resendez, Keeli Michna

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: At the September 3, 2024 Council meeting, Raftelis, the City's utility rate consultant, gave a presentation providing recommended adjustments to the water and wastewater rates for Fiscal Year 2024-2025 (FYE 2025) and Fiscal Year 2025-2026 (FYE 2026). These adjustments are recommendations to account for updated revenue and expenditure requirements in the water utility fund. Specifically, updates to the Carrizo Groundwater Supply Project operating and maintenance costs and debt service requirements and wholesale water costs from the Luling Water Treatment Plant.

The Carrizo Project was approved by Council in February 2018 as an agreement with the Guadalupe-Blanco River Authority (GBRA) to provide Lockhart citizens with a long-term treated water supply (up to 3,000 acre-feet). This groundwater development project will generate a total of 15,000 acre-feet per year of groundwater which will be distributed to participating utilities like Lockhart. The City is responsible for its proportional share of the project's debt service and operational expenses for the construction of facilities to pump, treat, and transport the groundwater from the well fields in Gonzales and Caldwell County. The facilities and transmission infrastructure are complete and operational. The project is undergoing final treatment and pressure testing and anticipated to go online in Fall 2024.

Raftelis' recommended rate adjustments maintain the Tier 0 - "Lifeline Rate" charging \$0 for the first 2,000 gallons of water consumption. This low usage water customer tier represents fixed income customers. In addition, the recommendations include a 50% increase to the pricing signals between Tiers 2 & 3 and Tiers 3 & 4 to address the increased maintenance and operations costs of treated water for high volume residential customers. Finally, the proposed 2025 water and wastewater rate adjustments will still maintain competitive prices for the average Lockhart residential customer when compared to peer communities in Central Texas.

Ordinance 2024-28 provides for the implementation of Raftelis' recommended water rates over a two-year phase-in beginning in the second bill cycle of November 2024. The following table is a summary of the new monthly water rates:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

CURRENT		FYE 2025		FYE 2026
Water Revenue Adjustment		35%		20%
Fixed Charge				
Meter Size	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025	
5/8"	\$ 27.45	\$ 37.05	\$ 44.46	
1"	\$ 68.61	\$ 92.62	\$ 111.14	
1-1/2"	\$ 137.23	\$ 185.26	\$ 222.31	
2"	\$ 219.56	\$ 296.40	\$ 355.68	
3"	\$ 411.68	\$ 555.76	\$ 666.91	
4"	\$ 686.13	\$ 926.27	\$ 1,111.52	
Residential				
Per Thousand Gallons	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025	
Tier 0 (0-1,999)	\$ -	\$ -	\$ -	
Tier 1 (2-5,999)	\$ 4.86	\$ 6.56	\$ 7.87	
Tier 2 (6-9,999)	\$ 6.07	\$ 8.19	\$ 9.83	
Tier 3 (10-19,999)	\$ 7.04	\$ 12.29	\$ 14.74	
Tier 4 (20+)	\$ 7.77	\$ 18.43	\$ 22.11	
Non-Residential (all usage)				
Per Thousand Gallons	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025	
All Usage	\$ 5.02	\$ 6.77	\$ 8.12	

City of Lockhart, Texas

Council Agenda Item Cover Sheet

If Ordinance 2024-28 is adopted, city staff will provide notice to customers of the upcoming utility rate changes.

Background

On February 2, 2021, the City Council approved the City Manager to enter into an agreement with Raftelis Financial Consultants, Inc. to provide the City of Lockhart with a water and wastewater study. The purpose of the study was to determine the total cost of providing water and wastewater services, equitably distribute costs to customers, and design rates to safeguard the financial integrity of the city utility systems.

At the August 3, 2021 and August 17, 2021 Council meetings, Raftelis' consultant provided the results of the rate study and presented three rate adjustment scenarios over a 3-year phase-in period. According to the consultant, in order to recover costs for water supply land leases, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers, the City should set rates according to the different sizes of the customers' meters and their usage, which is common among municipal utility providers.

The Council approved and implemented the scenario 2 rate plan with a three-year phase-in at the September 21, 2021 Council meeting. As anticipated in 2021, City staff reengaged with Raftelis consultants in August 2023 to reevaluate the water and wastewater rates due to updates in the Carrizo Groundwater Project operating and maintenance costs and debt service requirements for the construction of facilities to pump, treat, and transport the groundwater and wholesale water costs from the Luling Water Treatment Plant.

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 adoption of Ordinance 2024-28.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-28 - Water Rates 2024

ORDINANCE 2024-28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, AMENDING THE LOCKHART CODE OF ORDINANCES CHAPTER 58, UTILITIES, ARTICLE II, DIVISION 4, SECTION 58-142(a)(1) and 58-142(a)(2), ENTITLED "WATER RATES" BY AMENDING WATER RATES FOR ALL CUSTOMERS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Lockhart City Council has determined based on the recommendation of Raftelis Financial Consultants, Inc. that the city water rates need to be revised to recover costs for water supply land leases, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers; and

WHEREAS, the Lockhart City Council has determined that new rates are necessary for the future of the community and the costs of the water supply must be covered in meter service charge and rates for usage as allowed by state law and approved by the City Council in open session; and

WHEREAS, the Lockhart City Council finds that this ordinance serves a public purpose by providing for the supply of potable water for future city growth and use, and that is necessary for the health, safety and welfare of the community.

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

Chapter 58, Utilities, Section 58-142 of the Code of Ordinances, City of Lockhart, Texas, are hereby amended to read as follows:

Sec. 58-142.- Water rates.

(a)The charges for water services furnished by the city for all residential and non-residential customers shall be as follows:

- (1) *A monthly fixed service charge* per residential and non-residential customer per month according to the size of water meter installed. Meters 5/8" and larger will adjust over 2-year phase in period to their respective meter capacity ratios.

Schedule "A"

Fixed Charge

<i>Meter Size</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
5/8"	\$ 37.05	\$ 44.46
1"	\$ 92.62	\$ 111.14
1-1/2"	\$ 185.26	\$ 222.31
2"	\$ 296.40	\$ 355.68
3"	\$ 555.76	\$ 666.91
4"	\$ 926.27	\$ 1,111.52

(2) A consumption charge per 1,000 gallons:

Residential

<i>Per Thousand Gallons</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
Tier 0 (0-1,999)	\$ -	\$ -
Tier 1 (2-5,999)	\$ 6.56	\$ 7.87
Tier 2 (6-9,999)	\$ 8.19	\$ 9.83
Tier 3 (10-19,999)	\$ 12.29	\$ 14.74
Tier 4 (20+)	\$ 18.43	\$ 22.11

Non-Residential (all usage)

<i>Per Thousand Gallons</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
All Usage	\$ 6.77	\$ 8.12

II. Repealer: All other ordinances, section, 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.

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

IV. It is hereby officially found, determined, and declared that the meeting at which this ordinance was passed was open in the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, as given, all as required by Chapter 551, as amended, Texas Government Code.

V. 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 or any other portion, provision or regulation.

VI. Effective Date: This ordinance shall become effective with the second utility billing cycle in November 2024.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
LOCKHART, TEXAS, ON THIS THE _____ DAY OF _____, 2024.

CITY OF LOCKHART

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: September 17, 2024

AGENDA ITEM CAPTION: Discuss Ordinance 2024-29 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 3, 58-108(c), entitled "Schedule of Charges" to recover costs for wastewater debt payments and maintenance and operations of the collection and treatment system and transporting wastewater to said collection and treatment system.

ORIGINATING DEPARTMENT AND CONTACT: Finance - Joseph Resendez, Keeli Michna

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: At the September 3, 2024 Council meeting, Raftelis, the City's utility rate consultant, gave a presentation providing recommended adjustments to the water and wastewater rates for Fiscal Year 2024-2025 (FYE 2025) and Fiscal Year 2025-2026 (FYE 2026). These adjustments are recommendations to account for updated revenue and expenditure requirements in the wastewater utility fund. Specifically, a 3% inflationary adjustment for operation and maintenance costs of the City's wastewater collection infrastructure and treatment facilities. The process and calculations for winter averaging will remain in place as currently adopted.

Ordinance 2024-29 provides for the implementation of Raftelis' recommended wastewater rates over a two-year phase-in beginning in the second bill cycle of November 2024. The following table is a summary of the new monthly wastewater rates:

CURRENT			FYE 2025		FYE 2026	
Wastewater Revenue Adjustment						
			3%		3%	
Residential Fixed Charge						
Meter Size	Effective for utility 2 nd Bill Cycle of November 2023		Effective for utility 2 nd Bill Cycle of November 2024		Effective for utility 2 nd Bill Cycle of November 2025	
5/8"	\$	19.18	\$	19.75	\$ 20.34	
1"	\$	19.18	\$	19.75	\$ 20.34	
1-1/2"	\$	19.18	\$	19.75	\$ 20.34	
2"	\$	19.18	\$	19.75	\$ 20.34	
3"	\$	19.18	\$	19.75	\$ 20.34	
4"	\$	19.18	\$	19.75	\$ 20.34	

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Non Residential Fixed Charge				
Meter Size	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025	
5/8"	\$ 23.65	\$ 24.35	\$ 25.08	
1"	\$ 23.65	\$ 24.35	\$ 25.08	
1-1/2"	\$ 23.65	\$ 24.35	\$ 25.08	
2"	\$ 23.65	\$ 24.35	\$ 25.08	
3"	\$ 23.65	\$ 24.35	\$ 25.08	
4"	\$ 23.65	\$ 24.35	\$ 25.08	
Variable Charge for Residential and Non Residential				
Per Thousand Gallons	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025	
Tier 0 (0-1,999)	\$ -	\$ -	\$ -	
Tier 1 (2+)	\$ 5.77	\$ 5.94	\$ 6.12	

If Ordinance 2024-29 is adopted, city staff will provide notice to customers of the upcoming utility rate changes.

Background

On February 2, 2021, the City Council approved the City Manager to enter into an agreement with Raftelis Financial Consultants, Inc. to provide the City of Lockhart with a water and wastewater study. The purpose of the study was to determine the total cost of providing water and wastewater services, equitably distribute costs to customers, and design rates to safeguard the financial integrity of the city utility systems.

At the August 3, 2021 and August 17, 2021 Council meetings, Raftelis' consultant provided the results of the rate study and presented three rate adjustment scenarios over a 3-year phase-in period. According to the consultant, in order to recover costs for water supply land leases, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers, the City should set rates according to the different sizes of the customers' meters and their usage, which is common among municipal utility providers.

The Council approved and implemented the scenario 2 rate plan with a three-year phase-in at

City of Lockhart, Texas

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the September 21, 2021 Council meeting. As anticipated in 2021, City staff reengaged with Raftelis consultants in August 2023 to reevaluate the water and wastewater rates due to updates in the Carrizo Groundwater Project operating and maintenance costs and debt service requirements for the construction of facilities to pump, treat, and transport the groundwater and wholesale water costs from the Luling Water Treatment Plant.

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 adoption of Ordinance 2024-29.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-29 - Sewer Rates 2024

ORDINANCE 2024-29

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, AMENDING THE LOCKHART CODE OF ORDINANCES CHAPTER 58, UTILITIES, ARTICLE II, DIVISION 3, 58-108(c), ENTITLED "SCHEDULE OF CHARGES" BY AMENDING SEWER RATES FOR ALL CUSTOMERS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Lockhart City Council has determined based on the recommendation of Raftelis Financial Consultants, Inc. that the city wastewater rates need to be revised to recover costs for wastewater debt payments, and maintenance and operations of supplying residential and non-residential wastewater services to its customers; and

WHEREAS, the Lockhart City Council has determined that new rates are necessary for the future of the community and the costs of wastewater services and debt obligations must be met by a fixed service charge and rates for usage as allowed by state law and approved by the City Council in open session; and

WHEREAS, the Lockhart City Council finds that this ordinance serves a public purpose by providing for the wastewater collection and treatment for future city growth and use, and that is necessary for the health, safety and welfare of the community.

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

Chapter 58, Utilities, Section 58-108(c) of the Code of Ordinances, City of Lockhart, Texas, are hereby amended to read as follows:

Sec. 58-108. - Schedule of charges.

(c) The following schedule of charges for residential and non-residential customers will be implemented effective with the first sewer bill rendered from and after final passage of this section. The monthly fixed service charge and the consumption charge is to be for the payment of the expenses associated with the costs of operation and maintenance of the wastewater collection and treatment system and debt service for treatment plant operations.

Schedule "A"

Residential Fixed Charge

<i>Meter Size</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
5/8"	\$ 19.75	\$ 20.34
1"	\$ 19.75	\$ 20.34
1-1/2"	\$ 19.75	\$ 20.34
2"	\$ 19.75	\$ 20.34
3"	\$ 19.75	\$ 20.34
4"	\$ 19.75	\$ 20.34

Non Residential Fixed Charge

<i>Meter Size</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
5/8"	\$ 24.35	\$ 25.08
1"	\$ 24.35	\$ 25.08
1-1/2"	\$ 24.35	\$ 25.08
2"	\$ 24.35	\$ 25.08
3"	\$ 24.35	\$ 25.08
4"	\$ 24.35	\$ 25.08

Variable Charge for Residential and Non Residential

<i>Per Thousand Gallons</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
Tier 0 (0-1,999)	\$ -	\$ -
Tier 1 (2+)	\$ 5.94	\$ 6.12

II. Repealer: All other ordinances, section, 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.

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

IV. It is hereby officially found, determined, and declared that the meeting at which this ordinance was passed was open in the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

V. 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 or any other portion, provision or regulation.

VI. Effective Date: This ordinance shall become effective with the second utility billing cycle in November 2024.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, ON THIS THE _____ DAY OF _____, 2024.

CITY OF LOCKHART

Lew White, Mayor

Attest:

APPROVED AS TO FORM:

Julie Bowermon, City Secretary

Bradford E. Bullock, City Attorney

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss Interlocal Agreement for ground lease with Caldwell County Emergency Services District No. 5 to lease EMS Stations No. 1 (214 Bufkin Ln.) and No. 2 (1914 W San Antonio Rd.) for the performance of governmental services pursuant to Chapter 791 of the Texas Government Code and Chapter 272 of the Texas Local Government Code.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: The proposed Interlocal Agreement between Emergency Services District (ESD) No. 5 and the City of Lockhart provides for the City to lease two city-owned EMS stations to the ESD for a one-year term, with the option to renew the lease for an additional year. The proposed rent paid by the ESD to the City is \$1 per month for the term of the agreement. Station #1 is located at 214 Bufkin Ln and provides primary coverage for the south and east portion of Lockhart and the central portions of Caldwell county. Station #2 is located at 1914 W San Antonio Rd and provides primary coverage to the northern and western portions of the city of Lockhart and Caldwell County.

The lease also outlines responsibilities for utilities, maintenance, and insurance, and provisions for addressing defaults and damages. For example, ESD No. 5 will be responsible for their pro rata share of all utilities, routine maintenance, and any upgrades to the facility and furnishing any required equipment necessary to perform the ESD's functions. In addition, the ESD will obtain and pay for its own telephone and internet services. As a governmental entity, the ESD is exempt from paying property tax.

ESD No. 5 is on schedule to begin operations and provide EMS services in Lockhart on January 1, 2025.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

City of Lockhart, Texas

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COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of the Interlocal Agreement as presented.

LIST OF SUPPORTING DOCUMENTS: ILA - City of Lockhart and ESD No. 5 Lease Agreement

STATE OF TEXAS §
 §
COUNTY OF §

**INTERLOCAL AGREEMENT FOR GROUND LEASE -EMERGENCY SERVICES DISTRICT
NO. 5 AND CITY OF LOCKHART, TEXAS**

THIS INTERLOCAL LEASE AGREEMENT ("Lease Agreement") made and entered into by and between EMERGENCY SERVICES DISTRICT NO. 5 ("ESD No. 5"), a political subdivision of the State of Texas organized and operating pursuant to the provisions of Section 48-e, Article III of the Texas Constitution and Chapter 775 of the Health and Safety Code, as amended ("H&S Code") (hereinafter "Lessee"), and the City of Lockhart, Texas, a Texas home rule municipality acting by and through its governing body, the City Council (hereinafter "Lessor").

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes units of local government to contract with one or more units of local government to perform government functions and services; and

WHEREAS, Section 272.005 of the Texas Local Government Code authorizes a political subdivision to lease property, including real property, to another political subdivision to promote a public purpose without the necessity of complying with any competitive purchasing procedures; and

WHEREAS, this Lease Agreement is entered into pursuant to the authority, under the provisions of, and in accordance with, Chapter 791 of the Texas Government Code, and Chapter 272 of the Texas Local Government Code for the performance of governmental functions and services; specifically, public health and welfare; and the lease of city-owned property without following requirements competitive bidding procedures.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, EMS Station #1 and #2 in the City of Lockhart, Texas, as indicated on the aerial map attached hereto as Exhibit A and incorporated herein for all purposes (hereinafter "Leased Premises").

ARTICLE I

Term of Lease

1.01 This Lease Agreement shall commence on upon execution by the last party hereto, and remain in effect for an Initial Term of one (1) year, unless terminated earlier upon mutual written agreement by the parties or as otherwise provided in this Lease Agreement. Lessee shall have an option to renew this Lease Agreement for one additional terms of one (1) year upon written notice to Lessor within three (3) months prior to the end of the Initial Term and any extensions thereafter.

1.02 Either party may terminate this Lease for any reason upon notice being given of its desire to so terminate at least ninety (90) days prior to the date of termination. If the Lessor desires to terminate the Lease for cause prior to the expiration of the Initial Term and any extensions mutually agreed thereafter, Lessee shall not be entitled to compensation for such early termination.

ARTICLE II

Rent

2.01 Lessee agrees and promises to pay to Lessor the sum of \$1.00 per month for the term of the Lease. If the Lease Agreement is renewed, the rental amount will be determined upon

mutual agreement of Lessor and Lessee. Lessee shall also be responsible for a pro rata share of all utilities based on the amount of respective square footage of EMS Stations #1 and #2 leased to Lessee under this Lease.

2.02 All payments made hereunder by Lessee shall be made to Lessor at the offices of the City of Lockhart, unless notified in writing to the contrary by Lessor. All payments of lease rent and other amounts becoming due and payable from Lessee to Lessor under and in connection with this Lease may be made by delivering to Lessor, at the then-applicable address provided for herein, Lessee's check in the amount of such payment, on or before the due date thereof under the terms of this Lease.

2.03 Lessee shall pay a late charge of \$25.00 if the monthly payment (rent plus pro rata utilities) has not been paid by Lessee by the tenth (10th) day of the month in which it is due. Failure of Lessee to pay any rent, pro rata utility payment or monetary penalty on delinquent payments prior to the first day of the following month shall constitute a default of this Lease.

ARTICLE III

Taxes and Assessments

3.01 As a governmental entity, Lessee is typically exempt from paying taxes and other such governmental levies and charges. It is Lessee's responsibility to take the necessary steps to protect Lessee's exempt status. Should Lessee fail to do so, Lessee shall pay such which may be assessed, levied, confirmed, imposed or become a lien upon the Leased Premises (or any portion thereof), or become payable or accrue during the Term.

ARTICLE IV

Use

4.01 Lessee shall be allowed to construct, operate and the governmental and public functions ESD #5 is authorized to perform by law, along with other related governmental uses and functions.

4.02 Lessee shall not utilize the Leased Premises for any illegal or unauthorized use.

4.03 Lessee agrees to accept the Leased Premises in their present condition and "as is" for Lessee's authorized uses. Further, Lessor disclaims and Lessee accepts such disclaimer, as to warranty, either express or implied, on the condition, use, or fitness for purposes of the Leased Premises. Lessee assumes full responsibility to make upgrades at Lessee's sole expense and to furnish any additional equipment not already part of the Leased Premises necessary to perform its governmental function.

4.04 During the Initial Term of this Lease, Lessee shall have the unencumbered use of the Leased Premises; provided, however, that Lessor shall have access to said Leased Premises for the purpose of fulfilling its obligation hereto of said Lessee as are hereinafter set out; or to reasonably inspect the Premises, for which access shall not be unreasonably withheld by Lessee. Further, Lessor shall be under no obligation to make improvements to the Leased Premises as might be desired by Lessee, which are and shall remain Lessee's full responsibility during the Initial Term of this Lease and any extensions approved by the Parties thereafter.

4.05 The Lessee, for itself, its representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. No person on the grounds of race, color, sex, religion, or national origin shall be excluded from participation in or denied the benefits of, or otherwise be subject to discrimination under any activity performed by Lessee;

2. That in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services therefrom, no person on the grounds of race, color, sex, religion or national origin shall be excluded from participation in or denied the benefits of, or otherwise be subject to discrimination under any activity performed by Lessee;

3. That the Lessee shall use the Leased Premises in compliance with all requirements imposed by law; and

4. That the Lessee shall at all times use the Leased Premises in compliance with all non-discrimination laws, either in effect at the present time or those promulgated in the future, of the United States of America, the State of Texas, Caldwell County, Texas, and the City of Lockhart, Texas.

ARTICLE V

Maintenance

5.01 Routine maintenance of the Leased Premises and any improvements constructed thereupon by the Lessee shall be the sole responsibility of the Lessee.

5.02 Lessee shall arrange and be responsible for obtaining and paying for its own telephone and internet service and obtaining necessary extensions of hardware for the operation of these services. Lessee shall pay or reimburse Lessor for the connection and extension of any utility services used by Lessee in a pro rata amount based on the square footage of the Leased Premises.

5.03 Lessee shall be responsible for obtaining all necessary equipment, material, and items necessary to perform its mandated governmental functions at Lessee's sole expense. Lessor shall not be responsible for such expenses and Lessee disclaims and waives any right or claim to payment or reimbursement for same.

5.04 Lessee shall be responsible for the repair or replacement of any fixtures that are part of or located in the Leased Premises during the Initial Term and any extensions agreed to by the Parties thereafter.

ARTICLE VI

Limitation of Liability

6.01 The liability for acts or omissions of the agents and employees of either party or for injuries caused by conditions of tangible property is provided for solely by the provisions of the Texas Civil Practice and Remedies Code, Chapters 75, 101 and 102, and that Workers' Compensation Insurance coverage for state and county employees is provided as mandated by the provisions of Texas Labor Code, Chapter 504.

ARTICLE VII

Lessee's Property and Certain Notices

7.01 Lessor shall not be liable for any damage to or loss of personal property placed in, on or about the Leased Premises by Lessee or others, resulting from fire, theft, explosion, flood, windstorm, hurricane, or other casualty caused by acts of God or by the acts or omissions of other occupants of other space in the building.

ARTICLE VIII

Assignment

8.01 This Lease Agreement shall be binding on the heirs, successors and assigns of the parties hereto. Lessee shall not assign, sublet or transfer its interest or obligations in and under this lease without the prior, written consent of Lessor. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of Lessee or Lessor.

ARTICLE IX

Default

9.01 In the event of any default by the Lessee in any of the terms, conditions, covenants, or agreements herein contained, Lessor may enforce the performance of this Lease Agreement in any manner provided by law including forfeiting and terminating at Lessor's discretion if such default continues for a period of twenty (20) days after Lessor notifies Lessee in writing of such default and its intention to declare this Lease Agreement terminated. Unless Lessee shall have completely removed and cured such default as aforesaid, this Lease Agreement shall terminate and come to an end as if that were the day originally fixed herein for the expiration of the term.

9.02 Default by Lessee shall be defined as (a) failing to timely pay the Lease Rent, pro rata utilities, or other expenses incurred by Lessee in the performance of its governmental functions due and payable to Lessor by the first day of the following month, or (b) failing to begin a reasonable attempt to comply, within twenty (20) days of receiving written notice from Lessor, with any substantive provision of this Lease.

9.03 Lessor's remedies for Lessee's default are to enter and take possession of the Lease Premises and exclude Lessee from said premises. Lessee agrees to reimburse Lessor for actual expenditures reasonably made in order to relet the Leased Premises; or enter the Leased Premises

and perform Lessee's obligations; or terminate this Lease by proper written notice and sue for damages authorized by law.

9.04 Lessee agrees that all permanent improvements and fixtures located on the Leased Premises shall become and remain the property of Lessor and that in the event of default, Lessee shall peaceably vacate the Leased Premises.

ARTICLE X

Insurance

10.01 As a condition precedent to Lessee's right to use the Leased Premises, Lessee shall continuously maintain in effect during the term of this Agreement and any extension thereof, at Lessee's expense, the following insurance coverage:

1. Comprehensive General (Public) Liability Insurance covering the Lessee, and Lessee's activities at the Leased Premises. Liability insurance limits shall be in the following minimum amounts: Bodily Injury, including Death and Property Damage: \$500,000 combined single limit coverage, on a per occurrence or claims made basis/\$1,000,000 aggregate limit.

2. Fire and extended coverage to cover 100% of the full replacement value for the Leased Premises as calculated at the initiation of this Lease Agreement. This coverage shall include for theft, vandalism, malicious mischief, as well as damages caused from weather conditions, acts of God, etc.

3. All policies, either of the Lessee or Sub-Lessee's, shall name the City of Lockhart as an additional named insured and provide for a minimum of thirty (30) days written notice to Lessor prior to the effective date of any cancellation, material change, or lapse of such policies.

4. Notwithstanding other provisions herein contained, Lessor may cancel this Lease with or without notice to Lessee should Lessee's insurance lapse for a period of ten (10) days or more. Lessor may elect to reinstate and revive such Lease after such insurance obligation is cured by Lessee.

5. Appropriate insurance on Lessee's personal property located within the Leased Premises.

6. All policies must be approved by Lessor to ensure that the provisions of this section are included.

7. Lessor shall be provided with a copy of all such policies by Lessee.

8. Any insurance policy herein required or procured by Lessee shall contain any express waiver of any right or subrogation by the insurance company against the City of Lockhart.

10.02. If the improved premises shall be partially damaged by any casualty insurable under Lessee's insurance policy, Lessee shall, upon receipt of the insurance proceeds, repair the same. If the Leased Premises shall be damaged as a result of a risk which is not fully covered by Lessee's insurance, Lessee shall either (a) repair or rebuild the damaged improvements to the extent of available insurance proceeds. If Lessee fails to repair or rebuild the damaged improvements to the extent of available insurance proceeds or terminate this Lease and assign insurance proceeds to Lessor, Lessor shall have the right to terminate this Lease and recover damages from Lessee.

ARTICLE XI

Indemnification

11.01 Lessee agrees to indemnify and hold harmless the Lessor, its agents,

employees, and representatives from and against all liability for any and all claims, suits, demands, and/or actions arising from negligent acts or omissions which may arise out of or result from Lessee's occupancy or use of the Leased Premises.

ARTICLE XII

Miscellaneous

12.01 All notices provided to be given under this Lease Agreement shall be given by certified mail or registered mail, addressed to the proper party or delivered in person at the following addresses:

Lessor: City of Lockhart, Texas
Attention: Mayor Lew White
308 W. San Antonio Street
P.O. Box 239
Lockhart, Texas 78644

Lessee: Caldwell County Emergency Services District No. 5
Attention: Board President
P.O. Box 478
Lockhart, Texas 78644

Copy to: Bradford E. Bullock
City Attorney, City of Lockhart
4201 W. Parmer, Ste. C-150
Austin, Texas 78727

John Carlton
ESD No. 5 General Counsel
4301 Westbank Drive, Ste. B-130
Austin, Texas 78746

12.02 This Lease Agreement shall be binding upon and inure to the benefit of the parties

hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Lease Agreement.

12.03 This Lease Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Caldwell County, Texas, and venue shall lie in Caldwell County, Texas.

12.04 In case any one or more of the provisions contained in this Lease Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof and this Lease Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

12.05 This Lease Agreement constitutes the sole and only lease of the parties hereto and supersedes any prior understandings or written or oral leases between the parties respecting the within subject matter.

12.06 No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

12.07 The rights and remedies provided by this Lease Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

12.08 No waiver by the parties hereto of any default or breach of any term, condition, or covenant of this Lease Agreement shall be deemed to be waiver of any other breach of the same or any other term, condition, or covenant contained herein.

12.09 Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant in this Lease Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome.

12.10 Time is of the essence of this Lease Agreement.

12.11 Lessee's leasehold estate, created hereby and all of Lessee's rights, titles and interests, hereunder are subject and subordinate to any mortgage presently existing.

12.12 There are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this lease, and there are no warranties that extend beyond those expressly stated in this lease.

12.13 All exhibits, schedules and attachments referred to in this lease are hereby incorporated by reference for all purposes as fully as if set forth at length herein. This lease constitutes the entire agreement of the parties with respect to the subject matter hereof, and all prior correspondence, memoranda, agreements or understandings (written or oral) with respect hereto are merged into and superseded by this lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written, in duplicate originals.

INTERLOCAL AGREEMENT FOR GROUND LEASE - EMERGENCY
SERVICES DISTRICT NO. 5 AND CITY OF LOCKHART, TEXAS

Lessor:

CITY OF LOCKHART, TEXAS

Lessee:

EMERGENCY SERVICES

DISTRICT NO. 5

By:

Lew White, Mayor

By:.....

ATTEST:

Julie Bowermon

City Secretary

City of Lockhart, Texas

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss appointing two Representatives of the City of Lockhart to the General Assembly of the Capital Area Council of Governments (CAPCOG).

ORIGINATING DEPARTMENT AND CONTACT: Council - Mayor Lew White

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: CAPCOG, formed in 1970, serves as an advocate, planner and coordinator on regional issues in the 10-County encompassing Austin-Round Rock-Georgetown Metropolitan Statistical Area. The CAPCOG General Assembly serves as their governing body for purposes of selecting the Executive Committee, adopting operational bylaws and budget, determining membership dues, and guiding the organization's mission. The CAPCOG bylaws provide that Associate members (governmental agencies) can appoint "Sustaining members" (a non-voting representative) which is a person or organization with a positive interest in the welfare of the region. At least 2/3 of the General Assembly's voting representatives must be elected officials.

Based on the population estimates of the City of Lockhart, CAPCOG indicates that the city qualifies to have two representatives on the General Assembly. The General Assembly meets at least twice per year. CAPCOG requests that the city update our designated representatives which are currently Mayor Lew White and Councilmember Jeffry Michelson. Other Caldwell County General Assembly members include: Judge Haden, Commissioner Westmoreland, Mayor Watts, (Luling), and Mayor Glaze (Martindale).

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: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: CAPCOG Board Appointment Information



6800 Burleson Road, Building 310, Suite 165
Austin, Texas 78744-2306
Ph: 512-916-6000 Fax: 512-916-6001
www.capcog.org

BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS WILLIAMSON

General Assembly Representation Summary for the City of Lockhart

CAPCOG's General Assembly is the organization's governing body for the purposes of selecting the Executive Committee, amending the council's bylaws, adopting budgets, determining membership dues, and guiding the organization's mission. Each CAPCOG member appoints representatives to serve as their voice on the General Assembly, and every year CAPCOG provides a list to ensure member's representative are current. According to the CAPCOG bylaws, full members — counties and municipalities — are entitled at least one representative on the General Assembly; however, they can have additional representatives based on population as shown below:

Counties	Municipalities	No. of Representatives
Under 20,000	Under 10,000	1
20,000-100,000	10,000-50,000	2
100,000+	50,000-100,000	3
-----	100,000+	4

Associate members — special government districts, school districts, nonprofits, utilities, chambers of commerce, and other governmental agencies — can appoint one representative to the General Assembly. Sustaining members, any person or organization with a positive interest in the welfare of the region, can participate as a non-voting General Assembly representative. At least two-thirds of the General Assembly's voting representatives must be elected officials.

Based on the U.S. Census' most recent population estimates and CAPCOG's bylaws, the **City of Lockhart** qualifies for **2 representative(s)** on the General Assembly. Its current representatives are:

- **Mayor Lew White**
- **Council Member Jeffry Michelson**

Please provide any updates to **City of Lockhart's** representative(s) by completing the attached form. More information about CAPCOG's General Assembly representation is at <https://www.capcog.org/about/general-assembly/>.

As a reminder, General Assembly Representatives are invited to the September 11th General Assembly Meeting at the Austin SouthPark Hotel, 4140 Governors Row in Austin. Representatives can RSVP at <https://www.capcog.org/trainings/general-assembly/>.



APPOINTMENT FORM - GENERAL ASSEMBLY REPRESENTATIVE CAPITAL AREA COUNCIL OF GOVERNMENTS

The governing bodies of CAPCOG's members designate General Assembly representatives.

Counties: Official appointments are made at Commissioners Court.
Cities, Towns, Villages: Official appointments are made at City Council meetings.
Organizations: Official appointments are made by the Board or other governing body.

PLEASE COMPLETE THE FOLLOWING SECTION

Governing Body:

_____ County Commissioners Court (e.g., Travis County Commissioners Court)

-OR-

_____ City Council (e.g., Austin City Council)

-OR-

_____ Other (Board or other governing body)

City, County, or Organization being represented

Name of Representative

Position

Address

City, Zip Code

Telephone Number

Fax Number

Email address (*General Assembly Reps. will be subscribed to CAPCOG Connections, Training Alerts, & other e-newsletters.*)

Check One:

_____ Reappointment

_____ Filling Vacancy

_____ Changing Representative

Name of Previous Representative

I confirm our governing body appointed the above individual to serve as a CAPCOG General Assembly

Representative for the above entity on _____.

Date of Meeting

Signature of Chief Elected Official/Chair of Governing Board

Date

Email this form to execadmin@capcog.org or fax it to 512-916-6001. For questions about completing this form, call Teresa Williams at 512-916-6018.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion regarding the Texas Municipal League Election for the Region 10 Director.

ORIGINATING DEPARTMENT AND CONTACT: Council - Mayor Lew White

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

It is time to fill nine regional director positions on the TML Board of Directors (Regions 2, 4, 6, 8, 10, 12, 14, and 16 for a two-year term; Region 15 for a one-year term). Previously, these elections were held at regional meetings. Now, after a recent change to the TML Constitution, they will be administered centrally by TML.

During even-numbered years, the even-numbered regions are up for election. Terms are two years, and there are no term limits. The new terms will begin on October 11, 2024, upon adjournment of the TML Annual Conference and end on November 13, 2026, upon adjournment of the TML Annual Conference.

In addition to the even-numbered regions, there is a vacancy in Region 15 that needs to be filled. This partial term will begin on October 11, 2024, upon adjournment of the TML Annual Conference and end on October 31, 2025, upon adjournment of the TML Annual Conference.

The City of Lockhart has received the official ballot for the TML Region 10 Director election. The deadline to return the completed ballot is October 3, 2024.

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: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: Official Ballot - Region 10 Director Election, Candidates



OFFICIAL BALLOT

Texas Municipal League (TML) Region 10 Director Election

This is the official ballot for the election of the Region 10 director of the TML Board of Directors. You received this ballot because you are the city's primary contact person with TML. Each TML member city is entitled to one vote, which vote must be cast by a majority vote of the city's governing body. Please record your city's choice by placing an "X" in the square beside the candidate's name or writing in the name of an eligible person in the space provided. You can only vote for one candidate.

The officials listed on this ballot have been nominated to serve a two-year term on the TML Board of Directors. A brief biography for each candidate is included after the ballot.

Ballots must reach the TML office by 5:00 p.m. Central Time on October 3, 2024. Ballots received after this date cannot be counted. **The ballot must be properly signed and mailed to: Rachael Pitts, Texas Municipal League, 1821 Rutherford Lane, Suite 400, Austin, TX 78754, or scanned and emailed to rpitts@tml.org. If the ballot is not signed, it will not be counted.**

Region 10 Director (select one)

☐

Dr. Christopher Harvey, Mayor, Manor

☐

Jimmy Jenkins, Councilmember, Smithville

☐

Na'Cole Thompson, Mayor Pro Tem, Leander

Certificate

I certify that the vote cast above has been cast in accordance with the will of the majority of the governing body of the city named below.

Witness my hand, this _____ day of _____, 2024.

Signature of Authorized Official

Title

Printed Name of Authorized Official

Printed Name of City

Region 10 Director Candidate Biographies (printed on both sides)



Dr. Christopher Harvey, Mayor, Manor

I humbly submit this application for the Region 10 Regional Director position. I have lived in Region 10 all my life, being born and raised in Austin, now living in Manor. I am a graduate of Texas State University (Social Work), Concordia University at Austin (Master's in Education Administration), and the University of Mary Hardin-Baylor (Doctorate in Leadership in Education Administration). I am a leader in the field of Education. I am a man with Christian values and practices. I am a family man with a wife and three girls. My political affiliation is non-partisan. I value diversity, small business, and community. I believe that strong city leadership can change our country and the world. I have served my community on the Manor City Council since 2019. My colleagues in Region 10 will share that when I have had the floor, I didn't promote Manor, but the region.

My supporters in the Texas Legislature and US Congress will echo the sentiment. I am an advocate of regional planning. We've even embarked on a regional wastewater treatment plant and regional economic initiatives with Samsung, Tesla, Applied Materials, and the City of Austin. I have worked to build a relationship with Mayor Kirk Watson and we talk about regional employment, transportation needs (like US HWY 290, FM 973, and HWY 95). He is a supporter of regional planning. He called several Mayors to meet in Austin to answer the call of joining an association so that we can partner and build our area together. I shared this with my council and city staff. We believe in the work and made the financial and time commitments.



Jimmy Jenkins, Councilmember, Smithville

I am retired from American Airlines and returned home to Smithville in 2018. I was born in Wichita Falls and have been a tradesman all my life. After retirement, I wanted to keep my mind and body active. I started attending council meetings and ran for and was elected in 2023. Our small city is at the edge of the growth that is hitting Bastrop County, and over the next two to three years it will be at our doors. As a Smithville councilmember, I have been very active in TML, CARTPO, the Bastrop County Public Health Taskforce, and other related activities for the city. Managing our land use, working with officials to protect our city's ability to govern, and managing the city's infrastructure are top priorities. I have the privilege to be appointed to the 2024 TML Policy Summit. Working to protect our cities' rights to govern and promoting good legislation with other TML members will be a privilege. I am

a firm believer that working together with other cities and towns we can improve the lives of our constituents and make our cities better by the exchange of ideas and being good listeners. If I am chosen to serve, I will work hard for Region 10. Listening to ideas from member cities, promoting each other, and promoting ideas that the members put forth to TML leadership will be job one. Texas is a great place to live, raise a family, and to be from. Let's keep it that way. Thank you in advance for your consideration.

Region 10 Director Candidate Biographies (printed on both sides)



Na'Cole Thompson, Mayor Pro Tem, Leander

Na'Cole Thompson's dedication to public service, combined with her extensive experience, education, and recommendation from TML Director Mayor Christine DeLisle, make her a strong candidate for the Texas Municipal League Region 10 director, where she aims to represent and advocate for her region's interests at the state level. Na'Cole's active membership with the Texas Association of Black City Council Members, is a further testament to her advocacy for inclusive governance. As a native Austinite and notable figure, Na'Cole has proven herself to be a versatile leader with deep connections in her community. Currently serving her second term on the Leander City Council and as the mayor pro tem, she continues to demonstrate her commitment to her constituents. Na'Cole's community involvement extends outside city limits as she serves on the Capital Area Council of Governments (CAPCOG) General Assembly, where she contributes to regional strategies that benefit a wide range of communities. Additionally, Na'Cole serves as the board president of the Brushy Creek Regional Utility Authority, working closely with neighboring cities to ensure effective water resource management. On the Leander City Council, Na'Cole has been a proactive council liaison to the Leander Public Arts & Culture Commission, spearheading cultural enrichment through events such as the City's annual Juneteenth and Martin Luther King Jr. celebrations. Lastly, as a small business owner, Na'Cole brings a practical understanding of the challenges and opportunities facing local enterprises. Her educational background includes an MBA from Florida Metropolitan University and a bachelor's degree in communications from Baylor University, supplemented by her graduation from the Women's Entrepreneurship Certificate Program at Cornell University and the LBJ Women's Campaign School.



Dr. Chris Harvey

Lecturer — Org, Wkforce, & Ldrshp Studies
PED 101

☎ phone: (512) 245-2115

✉ ch28937@txstate.edu

Scholarly/Creative Work

Service

📄 Download Faculty CV

Biography and Education

Dr. Christopher Harvey is a Lecturer in the Department of Occupational, Workforce, and Leadership Studies at Texas State University since 2016. He teaches the undergraduate and graduate courses.

Dr. Harvey has 19 years of public education and 9 years of higher education experience. He is currently the Chief Academic Support Officer in Manor Independent School District. His goal is to improve student readiness for college, career, and/or military through strategic partnerships with colleges/universities, community organizations, and businesses.

Dr. Harvey obtained a Bachelors of Social Work at Texas State University, a Master's of Education Administration from Concordia University at Austin, and he earned his Ed.D. in Leadership in Education Administration from the University of Mary Hardin-Baylor.

He is also currently the Mayor of the City of Manor.

Teaching Interests

Topics:

- Education Administration/Leadership
- Principal & Superintendent Development
- Classroom Management/Restorative Justice
- Social Work (BSW Coursework)
- Career Planning
- Diversity and Cultural Proficiency
- Technology in Education
- Adult Development

Delivery

- Hybrid and online teaching formats
- Technology in teaching and learning

Target Audience

- Traditional Students
- Adult, non-traditional, post-traditional learners

Selected Scholarly/Creative Work

- Singh, S. M., Ashford-Hanserd, S. N., Harvey, C. J., Mouton, A., Torre, C. M., Muoneke, A., & Eaglin. (2023). Exploring Computer Science District and School Policies and Practices for African American and Hispanic Students with Disabilities in Central Texas. *Journal of The Alliance of Black School Educators*.

 [View all Scholarly/Creative Work](#)

Selected Service Activities



Board Member

Destroying the Gap

July 2020-Present

Board Member

Keep the Covenant

January 2014-Present

Board of Directors

Turning Point Bible Fellowship Church

September 1996-Present

 [View all Service Activities](#)

Turning Point Bible
facultyqualifications@tptbfe.edu

Julie Bowermon

Subject:

FW: Director for Region 10TML

This email originated from an external sender. Please exercise caution before clicking on any links or attachments.

Good afternoon, Mayors, and Council members. The contact person for TML in each city will be receiving a ballot in the mail so that each city can vote on the Region 10 Director. I am reaching out with the following letter that I hope you will share with your council when you vote on this matter. I thank you for your consideration in advance.

Hello, Mayor and Council

I know probably every council is going through budget, so I will try to keep this short.

If your city has not gotten the ballot yet, it will be arriving soon. As a member of Region 10, you will be asked to vote on a Director for the region. I am running for the position and would appreciate your consideration for this very important position.

My city of Smithville is on the edge of the growth for Bastrop County, and I know that there is massive growth in Region 10. We need the legislature to let the cities keep our rights to govern ourselves.

If elected I will work with the TML to make sure our voice is heard, and our Region is well represented in every way.

I know that our Region will be well represented no matter who is voted in but I hope that you will give me the chance to make a difference.

You can reach me at my email, or cellphone.

Thank you

Jimmy Jenkins City Council Place 3 Smithville

jjenkins@ci.smithville.tx.us

512-740-0893



Julie Bowermon

Subject: FW: Region 10 Director Election
Attachments: Video.mov; NaColeThompson BioSketch.pdf

From: Nacole Thompson <NThompson@leandertx.gov>
Sent: Tuesday, August 27, 2024 12:55 PM
To: Nacole Thompson <NThompson@leandertx.gov>
Subject: Region 10 Director Election

This email originated from an external sender. Please exercise caution before clicking on any links or attachments.

Hello and Happy Tuesday!

My name is Na’Cole Thompson and I am one of the candidates seeking your vote as the next TML Region 10 Director. With the constitution change in 2023, this years’ election for regional director is a new process. Your city will be asked to cast and submit a signed ballot noting your choice for region 10 director no later than 5 pm CST on Thursday, October 3, 2024.

Mayor Christine DeLisle, our current Region 10 director, is wrapping up her tenure on the board. We appreciate her service and dedication to our region. I also appreciate her confidence in my abilities and her nomination of me for this role.

I have attached my bio along with a short video which shares more about me and why I’m running. Please feel free to reach out as I’d love to schedule a time to connect and learn more about you and your city.

Thank you!

Na'Cole Thompson, MBA

Mayor Pro Tem

Leander City Council Place 4

Post Office Box 319 | Leander, Texas 78646

512-528-2743 | nthompson@leandertx.gov

Na’Cole Thompson

Mayor Pro Tem

City of Leander

BOARDS

Brushy Creek Regional Utility Authority
Board President

Leander Public Arts & Culture Commission
City Council Liaison

Texas Association of Black City Council Members
Member



Na’Cole Thompson’s dedication to public service, combined with her extensive experience, education and recommendation from TML Director Mayor Christine DeLisle, make her a strong candidate for the Texas Municipal League Region 10 Director, where she aims to represent and advocate for her region’s interests at the state level. Na’Cole’s active membership with the Texas Association of Black City Council Members, is a further testament to her advocacy for inclusive governance.

As a native Austinite and notable figure, Na’Cole has proven herself to be a versatile leader with deep connections in her community. Currently serving her second term on the Leander City Council and as Mayor Pro Tem, she continues to demonstrate her commitment to her constituents.

Na’Cole’s community involvement extends outside city limits as she serves on the Capital Area Council of Governments (CAPCOG) General Assembly, where she contributes to regional strategies that benefit a wide range of communities. Additionally, Na’Cole serves as Board President of the Brushy Creek Regional Utility Authority, working closely with neighboring cities to ensure effective water resource management.

On the Leander City Council, Na’Cole has been a proactive Council Liaison to the Leander Public Arts & Culture Commission, spearheading cultural enrichment through events such as the city’s annual Juneteenth and Martin Luther King Jr. celebrations.

Lastly, as a small business owner, Na’Cole brings a practical understanding of the challenges and opportunities facing local enterprises. Her educational background includes an MBA from Florida Metropolitan University and a bachelor’s degree in communications from Baylor University, supplemented by her graduation from the Women’s Entrepreneurship Certificate Program at Cornell University and the LBJ Women’s Campaign School.

Office: 512-528-2743
nthompson@leandertx.gov

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Hold a PUBLIC HEARING and discussion and/or action on an appeal of the Planning and Zoning Commission's denial of application SUP-24-08 by Cesar Ernesto Ochoa Jr. for a Specific Use Permit to allow a Manufactured Home on 0.458 acres in the Byrd Lockhart League zoned RMD Residential Medium Density District and located at 1001 Perez Street.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Consensus

BACKGROUND/SUMMARY/DISCUSSION: The item is the appeal of a denial of a Specific Use Permit (SUP) for a manufactured home on 0.458 acres at 1001 Perez Street. The subject property exceeds the minimum lot area and would accommodate the proposed manufactured home while allowing adequate parking on the site. The property is located in an area that includes other manufactured homes, including the adjacent manufactured home park, located to the north. The site is adequately served by public utilities.

In denying the SUP, the Planning and Zoning Commission stated their belief that further permitting of manufactured homes in residential zoning districts will discourage construction of site-built homes in nearby areas. Some commission members opined manufactured homes depreciate in value more quickly than site-built homes, and are likely to be renter-occupied after the initial occupant moves out.

While no letters of support or opposition were received prior to the Planning and Zoning Commission hearing, staff has received one letter opposing the appeal in response to the notification of the appeal hearing.

PROJECT SCHEDULE (if applicable): None.

FISCAL NOTE (if applicable): None

PREVIOUS COUNCIL ACTION: None

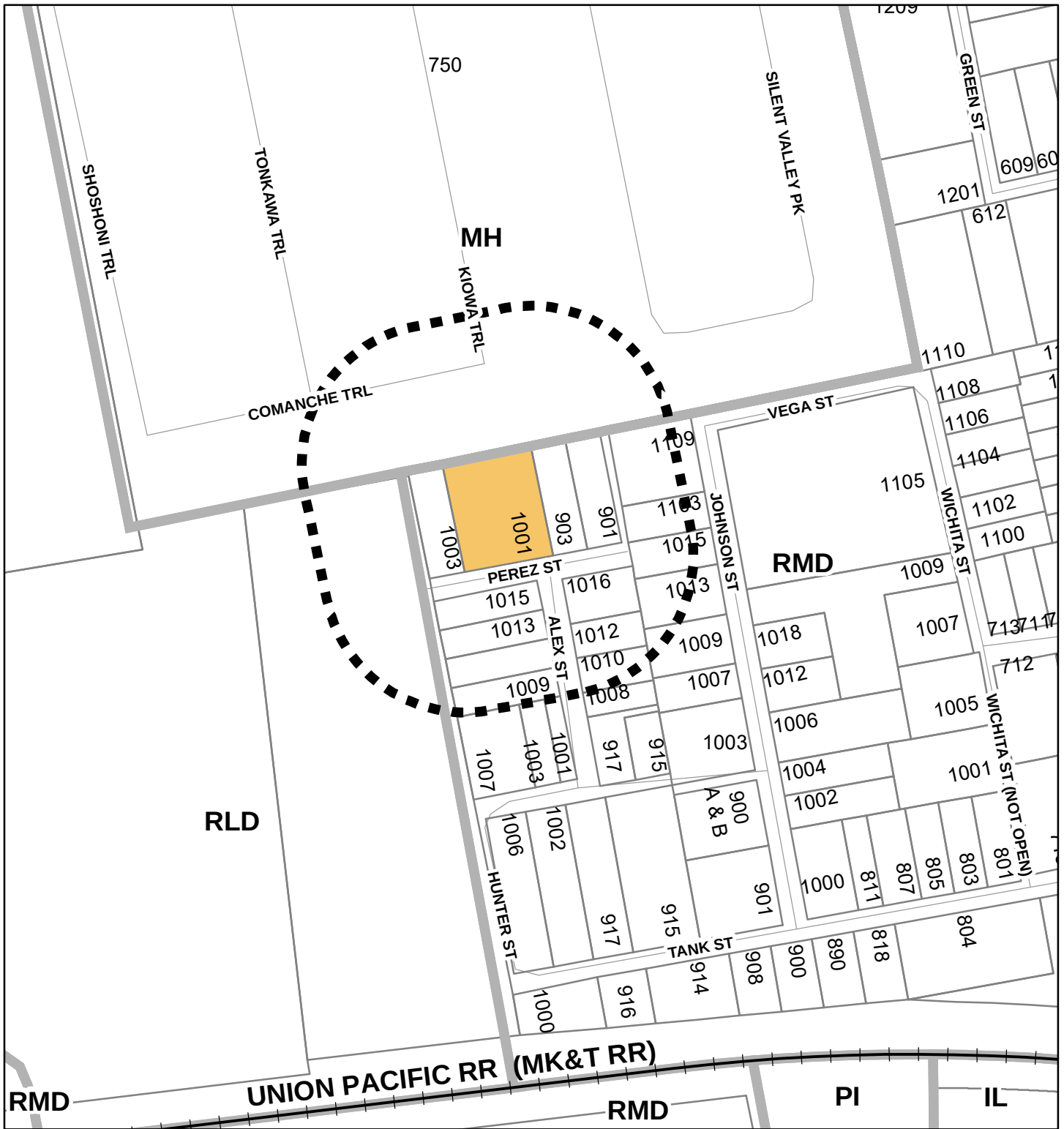
COMMITTEE/BOARD/COMMISSION ACTION: the Planning and Zoning Commission voted 5-0 with one abstention to deny the SUP application at its meeting held August 28, 2024.

STAFF RECOMMENDATION/REQUESTED MOTION: Staff had recommended approval of SUP-24-08 to the Planning and Zoning Commission, as the application is compliant with applicable zoning regulations and no opposition has been expressed to the application.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

LIST OF SUPPORTING DOCUMENTS: SUP2408 case map, SUP2408 aerial, SUP-24-08 Staff Report, SUP-24-08 Denial Letter, SUP-24-08 Application Scan, Floorplan for Manufactured Home from Applicant, SUP-24-08 appeal email, 1001 Perez Manufactured Home SUP opposition letter



SUP-24-08

1001 PEREZ ST

MANUFACTURED HOME



scale 1" = 200'



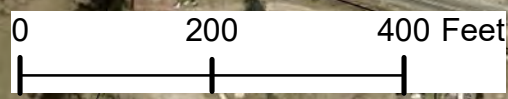
SUBJECT PROPERTY



ZONING BOUNDARY



200 FT. BUFFER



CASE SUMMARY

STAFF CONTACT: Evan Olszewski, AICP, Planner
REPORT DATE: August 21, 2024
PUBLIC HEARING DATE: August 28, 2024
APPLICANT'S REQUEST: MH Manufactured Home Use
STAFF RECOMMENDATION: **Approval**
SUGGESTED CONDITIONS: None

CASE NUMBER: SUP-24-08

BACKGROUND DATA

APPLICANT(S): Cesar Ernesto Ochoa Jr.
OWNER(S): Cesar Ochoa Sr.
SITE LOCATION: 1001 Perez Street
LEGAL DESCRIPTION: 0.458 Acres in the Byrd Lockhart League, Abstract Number 17
SIZE OF PROPERTY: 0.458 acres
EXISTING USE OF PROPERTY: Storage building on vacant lot
ZONING CLASSIFICATION: RMD Residential Medium Density

ANALYSIS OF ISSUES

CHARACTERISTICS OF PROPOSED USE: The subject property is zoned RMD Residential Medium Density and is located in a residential area north of the railroad tracks and abutting an existing manufactured home park to the north. The Applicant has submitted the request for the Specific Use Permit because the MH Manufactured Home use requires an SUP. The Manufactured Home use is only allowed by right in the MH Manufactured Home district and is permitted via SUP in the RMD and RHD districts. Manufactured homes where allowed or permitted are subject to the additional code requirements in Section 64-200.

The Applicant proposes to install a new manufactured home approximately 32 feet wide and 56 feet deep on the lot. The lot dimensions are approximately 128 feet by 156 feet, which means the home will meet the Chapter 64-200(a)(2) requirement for manufactured homes to be sited with the long side facing the street. The proposed manufactured home is approximately 1,800 square feet and has three bedrooms. It has two entrances: The primary entrance on the south side and a secondary entrance to the north.

NEIGHBORHOOD COMPATIBILITY: An RMD Residential Medium Density neighborhood abuts the property to the south, east, and west. To the north of the property is an existing manufactured home park, consisting of approximately 29 acres. While the manufactured home park is nearby, there is no direct street access from Perez Street to the park and a screening fence blocks pedestrian access and visual communication between the two areas. There are several other manufactured homes within a quarter-mile of the site, excluding the manufactured home park.

The Future Land Use Plan shows that this property and its surroundings are intended for Medium Density Residential development. The Thoroughfare Plan shows a future hike/bike trail along the railroad track about 700 feet to the south of the property. There is also an existing park nearby at the corner of North Pecos Street and Tank Street.

COMPLIANCE WITH STANDARDS: The subject property is approximately 19,950 square feet, which meets the required area for the MH Manufactured Home use. The property meets the other required dimensional and area standards for the Manufactured Home use listed in Appendix II of Chapter 64. The front setback depicted on the site plan is 30 feet. The side and rear setbacks depicted are 11 feet and 94 feet, respectively. The MH use requires a 25-foot front setback, seven-and-a-half-foot side setbacks, and a 10-foot rear setback. According to Chapter 64-200, a stoop, porch, or patio is required at each entrance to the manufactured home. The porches are drawn on the site plan and the entrances are far enough from the required setbacks for this requirement to be met.

The Applicant's site plan shows a parking area 18 feet by 18 feet on the south-eastern edge of the property. The proposed parking area provides the required room for two vehicles and will need to be paved or repaved, as the existing concrete is in poor condition.

ADEQUACY OF INFRASTRUCTURE: A six-inch wastewater line and a six-inch water line reach the site from Alex Street and Perez Street.

RESPONSE TO NOTIFICATION: None as of the date of this staff report.

STAFF RECOMMENDATION: **Approval**

August 29, 2024

Mr. Cesar Ochoa, Jr.
909 Brass Street
Austin, TX 78702
COchoa512@yahoo.com

Dear Mr. Ochoa:

On August 28, 2024, the Lockhart Planning and Zoning Commission DENIED your request for a Specific Use Permit (SUP-24-08) to allow a Manufactured Home on a 0.458-acre tract zoned RMD Residential Medium Density and located at 1001 Perez Street.

This decision was made by of 5 in favor of denial, 1 member abstaining. The decision can be appealed and scheduled for a hearing by the Lockhart City Council within 10 days of this decision. If you wish to appeal, please email Planning Director David Fowler at dfowler@lockhart-tx.org requesting an appeal to Council by September 7th to begin the process.

If you have any questions, I may be contacted by phone at 737-787-8892, or by e-mail at eolszewski@lockhart-tx.org.

Respectfully,

Evan Olszewski, AICP
Planner

Cc:
David Fowler, AICP, Planning Director

SPECIFIC USE PERMIT APPLICATION

CITY OF

Lockhart

TEXAS

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

APPLICANT/OWNER

APPLICANT NAME Cesar Ernesto Ochoa JR ADDRESS 909 Brass st Austin Tx
DAY-TIME TELEPHONE 512-676-1181 78702
E-MAIL COchoa512@yahoo.com
OWNER NAME Cesar Ochoa sr ADDRESS 909 Brass st Austin Tx
DAY-TIME TELEPHONE 512 721 9339 78702
E-MAIL Ochoa Cesar 102@gmail.com

PROPERTY

ADDRESS OR GENERAL LOCATION 1001 Perez st lockhart tx 78644
LEGAL DESCRIPTION (IF PLATTED) A017, ^{Lockhart} byrd, acres .46
SIZE 0.458 ACRE(S) ZONING CLASSIFICATION Residential MD
EXISTING USE OF LAND AND/OR BUILDING(S) Storage

REQUESTED SPECIFIC USE

PROPOSED USE REQUIRING PERMIT Residential home - Manufactured Home

CHARACTERISTICS OF PROPOSED USE, INCLUDING INDOOR AND OUTDOOR FACILITIES, ANTICIPATED OCCUPANCY (NUMBER OF DWELLING UNITS, RESIDENTS, EMPLOYEES, SEATS, OR OTHER MEASURE OF CAPACITY, AS APPLICABLE), GROSS FLOOR AREA, HOURS OF OPERATION, AND ANY OTHER RELEVANT INFORMATION. ATTACH ADDITIONAL SHEETS, IF NECESSARY.

manufactured home for living use, 32' x 56'

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.

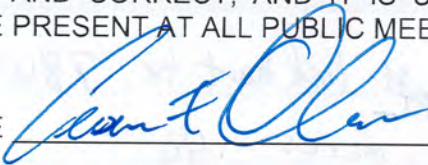
IF NOT PLATTED, A METES AND BOUNDS LEGAL DESCRIPTION OF THE PROPERTY.

SITE PLAN, SUBMITTED ON PAPER NO LARGER THAN 11" X 17", SHOWING: 1) Scale and north arrow; 2) Location of site with respect to streets and adjacent properties; 3) Property lines and dimensions; 4) Location and dimensions of buildings; 5) Building setback distances from property lines; 6) Location, dimensions, and surface type of off-street parking spaces and loading areas; 7) Location, dimensions, and surface type of walks and patios; 8) Location, type, and height of free-standing signs; fences, landscaping, and outdoor lighting; 9) utility line types and locations; and, 10) any other proposed features of the site which are applicable to the requested specific use.

APPLICATION FEE OF \$250, PLUS \$150 PER ACRE, MAXIMUM OF \$2,500,
APPLICATION FEE OF \$ 1319.00 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

8/6/24

OFFICE USE ONLY

ACCEPTED BY Gwen Olsen

RECEIPT NUMBER RC1513425

DATE SUBMITTED 8/7/2024

CASE NUMBER SUP - 24 - 08

DATE NOTICES MAILED 8-12-2024

DATE NOTICE PUBLISHED 8-15-2024

PLANNING AND ZONING COMMISSION MEETING DATE 8/28/2024

DECISION _____

CONDITIONS _____

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.

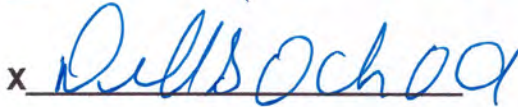
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08/4/2024

Dear city of lockhart to whom it may concern I cesar
ochoa sr and debbie ochoa give any and all
permissions to cesar ochoa jr for use of permit
application and property use at 1001 perez st
lockhart Tx, 78644 if any question or concerns please
contact me at 5127219339

x 

x 



ASH & ASSOCIATES

SURVEYING - MAPPING - PLANNING

"Serving the Community of Texas"

142 Jackson Lane
San Marcos, Texas 78666
Phone: 512-392-1719
ashandassociates.net

STATE OF TEXAS
COUNTY OF CALDWELL

BYRD LOCKHART LEAGUE

BEING 0.458 ACRES OF LAND OUT OF THE BYRD LOCKHART LEAGUE, CALDWELL COUNTY, TEXAS, BEING ALL OF THAT CERTAIN CALLED 7800 SQUARE FOOT TRACT OF LAND, DESCRIBED AS "FIRST TRACT", AND THAT CERTAIN CALLED ONE-QUARTER ACRE TRACT OF LAND, DESCRIBED AS "SECOND TRACT", BY DEED CONVEYED TO CESAR OCHOA & DEBBIE S. OCHOA, AS RECORDED IN VOLUME 130, PAGE 880, DEED RECORDS OF CALDWELL COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY THE METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 iron rod found at the northeastern corner of said Ochoa called "Second Tract", for the northeastern corner of the herein described tract of land, same being at the common northwestern corner of a called 0.18 acre tract of land conveyed to Roberto Esquivel & Gabriela Barba by deed recorded in Document No. 2016-003649, Deed Records of Caldwell County, Texas, and being in the south line of a called 29.215 acre tract of land conveyed to Silent Valley Texas LP by deed recorded in Document No. 2024-003292, Deed Records of Caldwell County, Texas;

THENCE with the east line of said Ochoa called "Second Tract", and the common west line of said Esquivel tract, **South 12°22'40" East** (S 10° E Record), a distance of **155.76 feet** (156' Record) to a 1/2 inch iron rod found at the southeast corner of said Ochoa called "Second Tract", same being the common southwest corner of said called 0.18 acre Esquivel tract, for the southeast corner of the herein described tract of land, and being in the north line of Perez Street, a 30 foot public right-of-way, and from which a 1/2 iron rod found bears North 79°40'51" East, a distance of 50.25 feet;

THENCE departing said called 0.18 acre Esquivel tract, with the north line of said Perez Street, the following two (2) courses and distances:

1. **South 77°37'20" West** (S 80° W Record), with the south line of said Ochoa called "Second Tract", a distance of **78.00 feet** (78' Record) to a 1/2 iron rod set with cap marked "RPLS 5687" at the southwest corner of said Ochoa called "Second Tract", and the common southeast corner of the abovementioned Ochoa called "First Tract";
2. **South 77°37'20" West** (S 80° W Record), departing said Ochoa called "Second Tract", with the south line of said Ochoa called "First Tract", a distance of **50.00 feet** (50' Record) to a 1/2 iron rod set with cap marked "RPLS 5687" at the southwest corner of said Ochoa called "First Tract", same being at the southeast corner of a called 0.181 acre tract of land conveyed to Saul H. Vela by deed recorded in Document No. 2018-000654, Deed Records of Caldwell County, Texas, and from which a disturbed 1/2 inch iron rod found bears North 29°36'47" East, a distance of 4.44 feet;

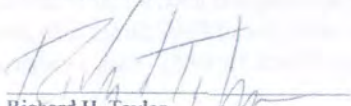
THENCE with the west line of said Ochoa called "First Tract", the common east line of said called 0.181 acre Vela tract, and generally along the meanders of a dilapidated wire fence, **North 12°22'40" West** (N 10° W Record), a distance of **155.76 feet** (156' Record) to a 1/2 iron rod set with cap marked "RPLS 5687" at the northwest corner of said Ochoa called "First Tract", and the common northeast corner of said called 0.181 acre Vela tract, for the northwest corner of the herein described tract of land, and being in the south line of the aforementioned called 29.215 acre Silent Valley Texas LP tract;

THENCE departing said called 0.181 acre Vela tract, with the south line of said called 29.215 acre Silent Valley Texas LP tract, and generally along the meanders of a wire fence, the following two (2) courses and distances:

1. **North 77°37'20" East** (N 80° E Record), with the north line of said Ochoa called "First Tract", a distance of **50.00 feet** (50' Record) to a 1/2 iron rod set with cap marked "RPLS 5687" at the northeast corner of said Ochoa called "First Tract", and the common northwest corner of the aforementioned Ochoa called "Second Tract";
2. **North 77°37'20" East** (N 80° E Record), departing said Ochoa called "First Tract", with the north line of said Ochoa called "Second Tract", a distance of **78.00 feet** (78' Record) to the **POINT OF BEGINNING** and **CONTAINING 0.458 ACRES OF LAND.**

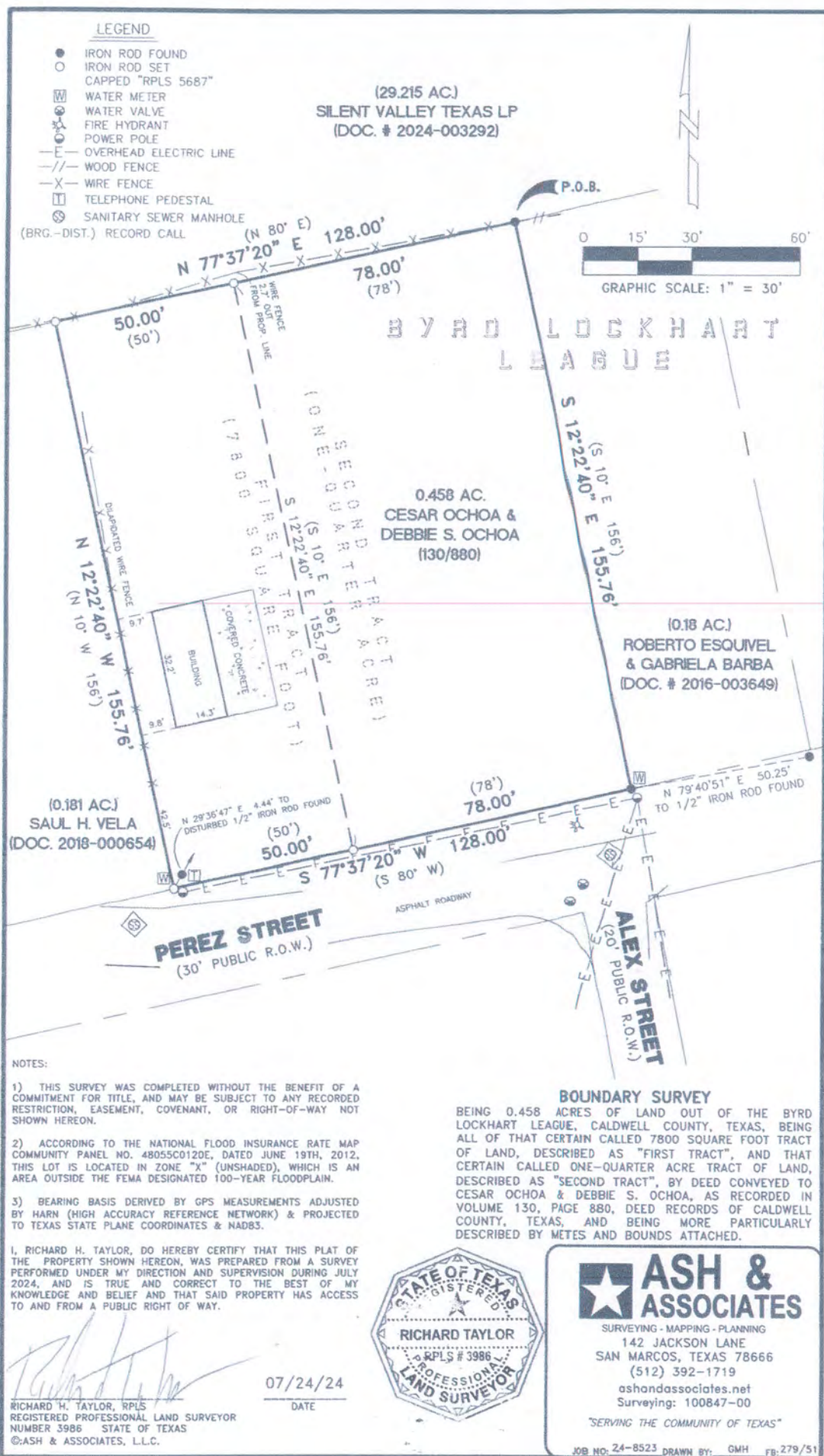
BEARING BASIS HEREIN DERIVED BY GPS MEASUREMENTS ADJUSTED BY HARN (HIGH ACCURACY REFERENCE NETWORK) & PROJECTED TO TEXAS STATE PLANE COORDINATES (TEXAS SOUTH CENTRAL ZONE) & NAD83.

I, Richard H. Taylor, do certify that this description and associated exhibit were prepared this date from a boundary survey performed under my direction during July 2024, and is true and correct to the best of my knowledge and belief.


Richard H. Taylor
Registered Professional Land Surveyor
No. 3986 State of Texas
Attachment: Drawing of 0.458 acres
Job: 24-8523

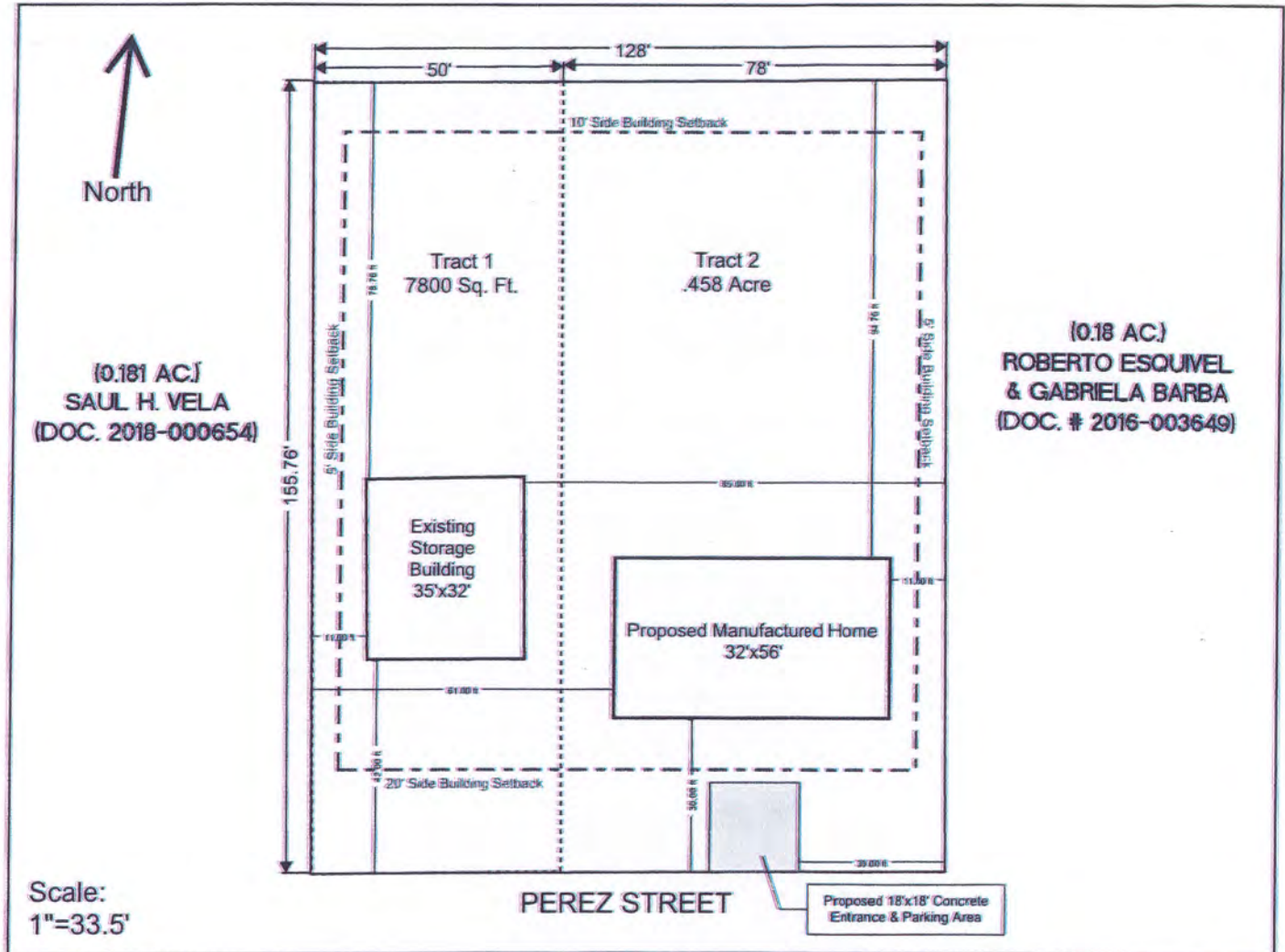
07/24/24
Date





CITY OF LOCKHART - SITE PLAN

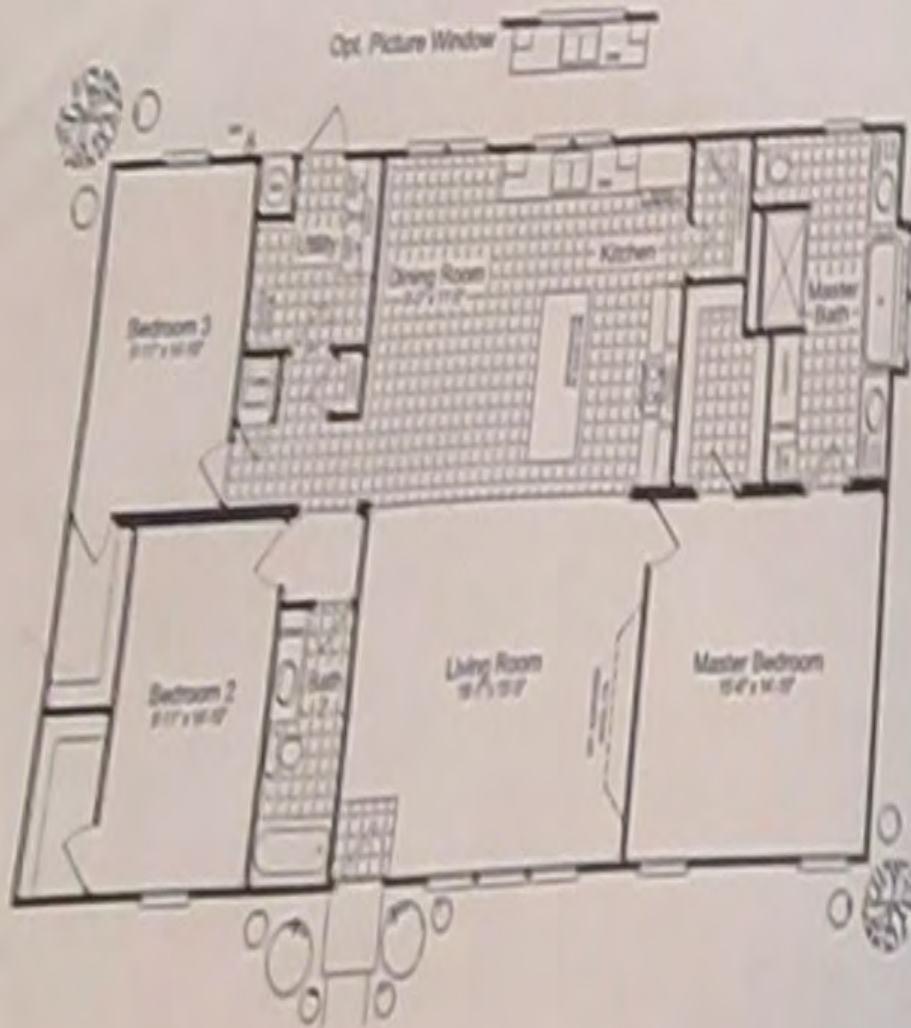
APPLICANT NAME: Cesar Ochoa Jr. PHONE: 512-674-1181
 SITE ADDRESS: 1001 Perez St
 PERMIT NUMBER: _____ DATE: _____
 PROPOSED WORK: _____



Please indicate the following:

1. North arrow, scale of the drawing (e.g., 1" = 50 feet), property lines with dimensions, and abutting streets and alleys;
2. Outline the location, size, and type of all structures with labels indicating whether existing or proposed; show roof overhangs as dotted lines;
3. Distances between all existing and/or proposed structures (measuring from roof overhang, if any) as well as from all existing and/or proposed structures to all property lines;
4. Location, type, and width of all known easements; and
5. Location, dimensions, and surface material of existing or proposed driveways and off-street parking areas; specify the number of provided and required parking spaces. Planning staff can assist with this requirement.

Fiesta SERIES



The "URBAN VALUE"
Model: 320FT32563D
 Add "M" to model # for MCO
 1736 Square feet
 31'-0" x 56'-0"
 3 Bedrooms / 2 Baths
 Austin, Texas See 10/20/2021

Key Features:

- * Large Kitchen Island
- * Kitchen Pantry
- * Metal Accent Island Front
- * Dual Opening Kitchen Windows
- * MBath Continental Windows

- * Free Standing Tub - MBath
- * 60" Hand-Laid Tile Shower
- * Vanity w/ Linen Cabinetry - MBath
- * Walk-In Closets - All Bedrooms

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 All Rights Reserved.

Palm Harbor Homes has a continuous product updating and improvement process, specifications are subject to change without notice or obligation. (Shown: the floor plan shown is representative only and may vary from the actual home. Square footage values are based on internal widths and all room dimensions are approximate subject to industry standards. It values may vary upon actual units. Some construction components may have been recycled after close inspection for safety and appearance.

David Fowler

From: Cesar Ochoa <cochoa512@yahoo.com>
Sent: Friday, August 30, 2024 1:42 PM
To: David Fowler
Subject: Appeal (Permit#SUP-24-08)

This email originated from an external sender. Please exercise caution before clicking on any links or attachments.

Dear David Fowler,

Good afternoon. I wish to appeal my case
(Permit#SUP-24-08) to allow a Manufactured Home on a 0.458-acre tract zoned RMD Residential
Medium Density and located at 1001 Perez Street.
I'm available to present myself to the council about this matter as soon as possible.
Thank you

[Yahoo Mail: Search, Organize, Conquer](#)

MEMO

TO: David Fowler, AICP
Planning Director

FROM: Francisco and Juanita Recio
Property Owners of 1010 Alex Street
Lockhart, Texas 78644

DATE: September 11, 2024

SUBJECT: SUP-24-08; 1001 Perez Street

Planning and Zoning Commission:

We would like to thank you for **denying** the request for a Specific Use Permit to allow a manufactured home on 0.458 acres at 1001 Perez Street. We hope that you will not change your mind during the appeal.

This is an older residential area with mainly stick built homes. This section of the city has been growing. Dilapidated homes have been torn down or remodeled and several newly stick built homes have been going up. This has enhanced the area and improved the neighborhood.

Entrance to Perez Street is on Alex Street which is very narrow. Usually there are many vehicles parked on the street which makes it difficult to get through. Adding another manufactured home to Perez Street will decrease the value of the stick built homes and possibly put them at peril due to the precarious access. Manufactured homes, when caught on fire, burn easily and fast.

Please **do not overturn** your initial decision to deny the request.

Thank you.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION:

Discussion and/or action on Ordinance 2024-27 vacating and abandoning approximately 0.101 acres of unused public right-of-way consisting of an alley approximately 20 feet in width extending from the 200 block of West China Street to the 200 block of Apple Street, located west of 202 China Street and east of 1124 North Blanco Street.

ORIGINATING DEPARTMENT AND CONTACT: Development Services - David Fowler

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: This is the hearing to abandon a City right-of-way that is 20 feet wide and 221 feet long. This right-of-way separates a residential property at 202 China Street from a garage business that is located at 1124 North Blanco Street. If the abandonment is approved, the alley will be split evenly between the abutting properties. The owner of 202 China Street initiated the abandonment by filing a petition for abandonment. The family of the owner of 202 China Street intends to subdivide the lot after acquiring their share of the alley into two lots, fronting on China and Apple Streets, respectively. The owner of 1124 North Blanco has not signed the abutting property owner consent form, due to concerns that he would be required to relocate a fence he installed that encroached the alley to the extent that it would also encroach on the neighbor's lot after the alley is divided between the two abutting owners. The City Attorney has advised staff that City Council can legally approve the abandonment of the alley and its division between the abutting properties without the consent of both affected owners.

PROJECT SCHEDULE (if applicable): None

FISCAL NOTE (if applicable): None

PREVIOUS COUNCIL ACTION: None.

COMMITTEE/BOARD/COMMISSION ACTION: None.

STAFF RECOMMENDATION/REQUESTED MOTION: Approval of Ordinance 2024-27, abandoning the 20-foot wide alley located east of 1124 North Blanco Street and west of 202 China Street.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-27 202 China St. Alley, Ordinance 2024-27 Appendix A, Exhibit B--adjoining owner consent letter, 202 China Street alley--area maps, Survey and proposed plat, Adjoining tenant request letter

ORDINANCE NO. 2024-27

AN ORDINANCE OF THE CITY OF LOCKHART, TEXAS ABANDONING A SEGMENT OF AN UNNAMED ALLEY CONNECTING CHINA STREET TO APPLE STREET BETWEEN 202 WEST CHINA STREET AND 1124 NORTH BLANCO STREET, COVERING 0.101 ACRES WHICH IS MORE PARTICULARLY DESCRIBED AND OR DEPICTED IN EXHIBIT A, WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES; AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OR DEEDS CONVEYING SAID RIGHT-OF-WAY TO ADJACENT PROPERTY OWNERS; PROVIDING THAT ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith SHALL BE REPEALED TO THE EXTENT OF THE CONFLICT ONLY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Lockhart is a home rule municipality; and

WHEREAS, City's Charter, Powers of the city council Section 3.07 (o) provides that the City may exercise exclusive dominion, control and jurisdiction including the right to close and abandon streets and alleys in, upon, over and under the public streets, avenues, sidewalks, alleys, highways, boulevards and public grounds of the city and provide for the improvement of same as provided in V.T.C.A., Transportation Code Ch. 313, as now or hereafter amended.; and

WHEREAS, Texas Transportation Code Section 311.007 provides that a home rule municipality may vacate, abandon, or close a street or alley; and

WHEREAS, the burden of continued maintenance of streets that are not being used exceeds the benefit that would be incurred if the City continued ownership of the streets; and

WHEREAS, the City Council of the City of Lockhart, Texas has determined and finds it is in the public interest that the heretofore described unnamed alleys, as described and/or depicted in Exhibit A, which is attached hereto and incorporated herein for all purposes, should be abandoned, vacated and closed as a public roadway.

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

Section 1: That the legislative findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2: It is in the public interest to vacate, abandon, and close the segment of the 0.112-acre alley between north Blanco Street and West Olive Street as shown on Exhibit A

Section 3: Said segments of the 0.101-acre unnamed alley are hereby vacated, abandoned, and closed.

Section 4: The City Manager is hereby authorized to convey by Deed without warranty all the interest the City has in and to the segment of the 0.101-acre unnamed alley as shown described in Section 2 of this ordinance to the owners of the abutting properties.

Section 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

Section 6. The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

Section 7. If any provision, section, sentence, clause, or phrase of this ordinance or application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the Lockhart City Council in adopting, and the Mayor in approving this Ordinance, that no portion thereof or provisions or regulation contained herein shall become inoperative or fall by reason of any unconstitutionally or invalidity of any portion, provision, or regulation.

Section 8. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

Section 9: That this Ordinance shall become effective from and after its date of passage in accordance with law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS,
THIS THE 17th DAY OF SEPTEMBER, 2024.**

Lew White, Mayor
City of Lockhart

ATTEST:

Julie Bowermon,
City Secretary

APPROVED AS TO FORM:

Bradford Bullock, City Attorney

Ordinance 2024-27

2 of 2

EXHIBIT A



CITY OF
Lockhart
TEXAS

0 50 100 Feet

Legend

- RIGHT-OF-WAY ABANDONMENT
- PARCEL BOUNDARY

This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey, and represents only the approximate relative location of property boundaries.

Exhibit B

Current Owner and/or Adjoining Property Owner Abandonment Consent Letter

PAULA HERNANDEZ RODRIGUEZ LIFE ESTATE has reviewed the attached Exhibit "A", has no objection, and hereby consents to the vacation/abandonment of the street and/or alley right-of-way as illustrated on Exhibit A.

THE UNDERSIGNED WILL HOLD THE CITY OF LOCKHART, TEXAS HARMLESS AND INDEMNIFY IT AGAINST ALL SUITS, COSTS, EXPENSES AND DAMAGES THAT MAY ARISE OR ARISE OR GROW OUT OF SUCH ABANDONMENT.

Owner Signature: *Paula Rodriguez* Date: 6/5/24

Owner Printed name: Paula Rodriguez

Owner Signature: _____ Date: _____

Owner Printed name: _____

Owner Mailing Address: _____

Property Address: 202 CHINA STREET (PROPERTY ID 18435)

ACKNOWLEDGMENT

THE STATE OF TEXAS §

COUNTY OF CALDWELL §

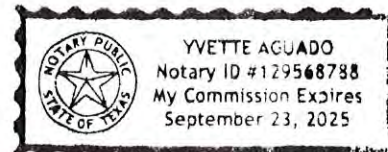
This instrument was acknowledged before me on this the date of June 5, 2024, by

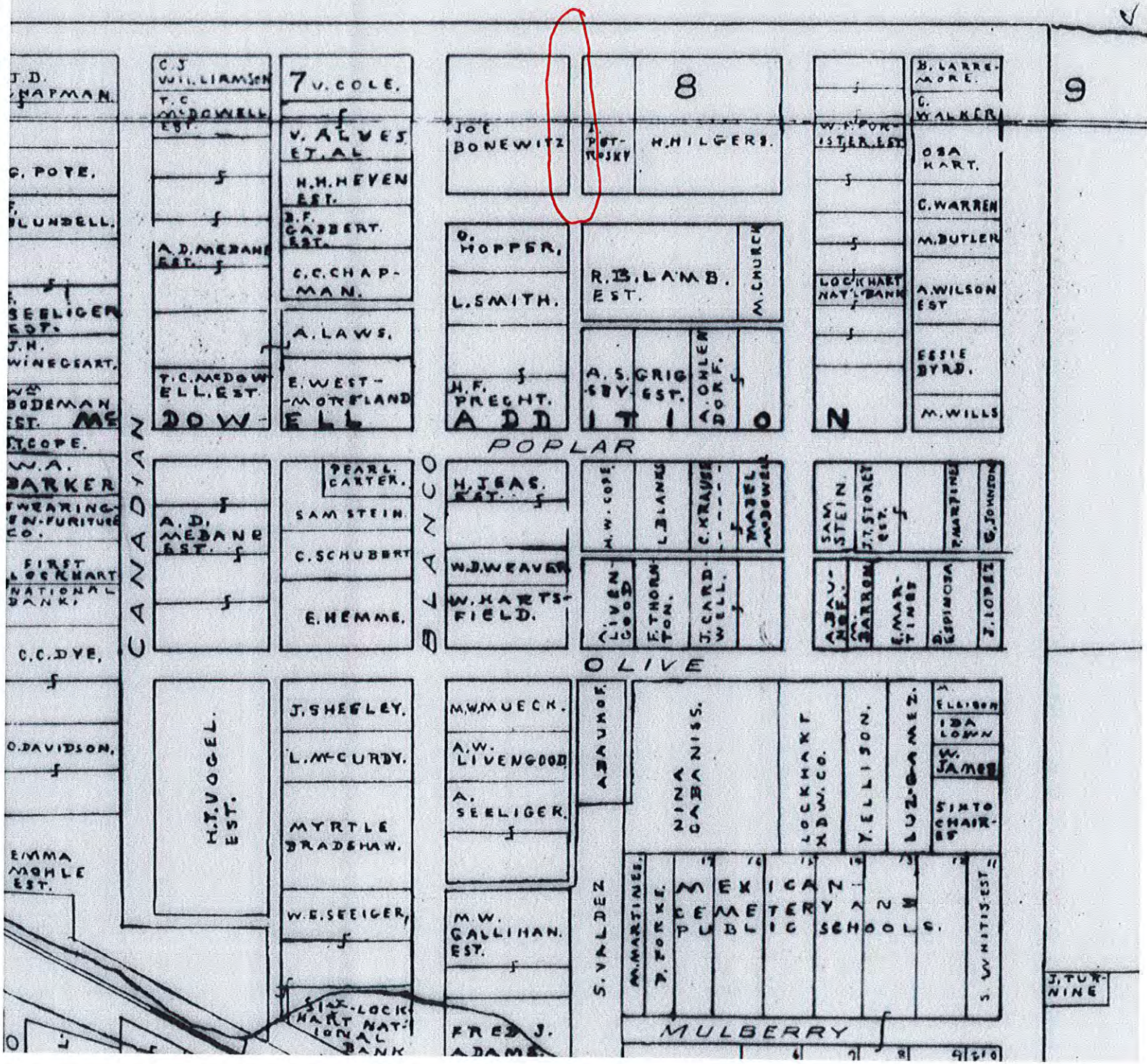
Yvette Aguado [Notary Signature]

Notary Public, State of Texas

Notary's Printed Name: Yvette Aguado

Notary's commission expires: 9-23-2025





City of Lockhart Caldwell County, Texas

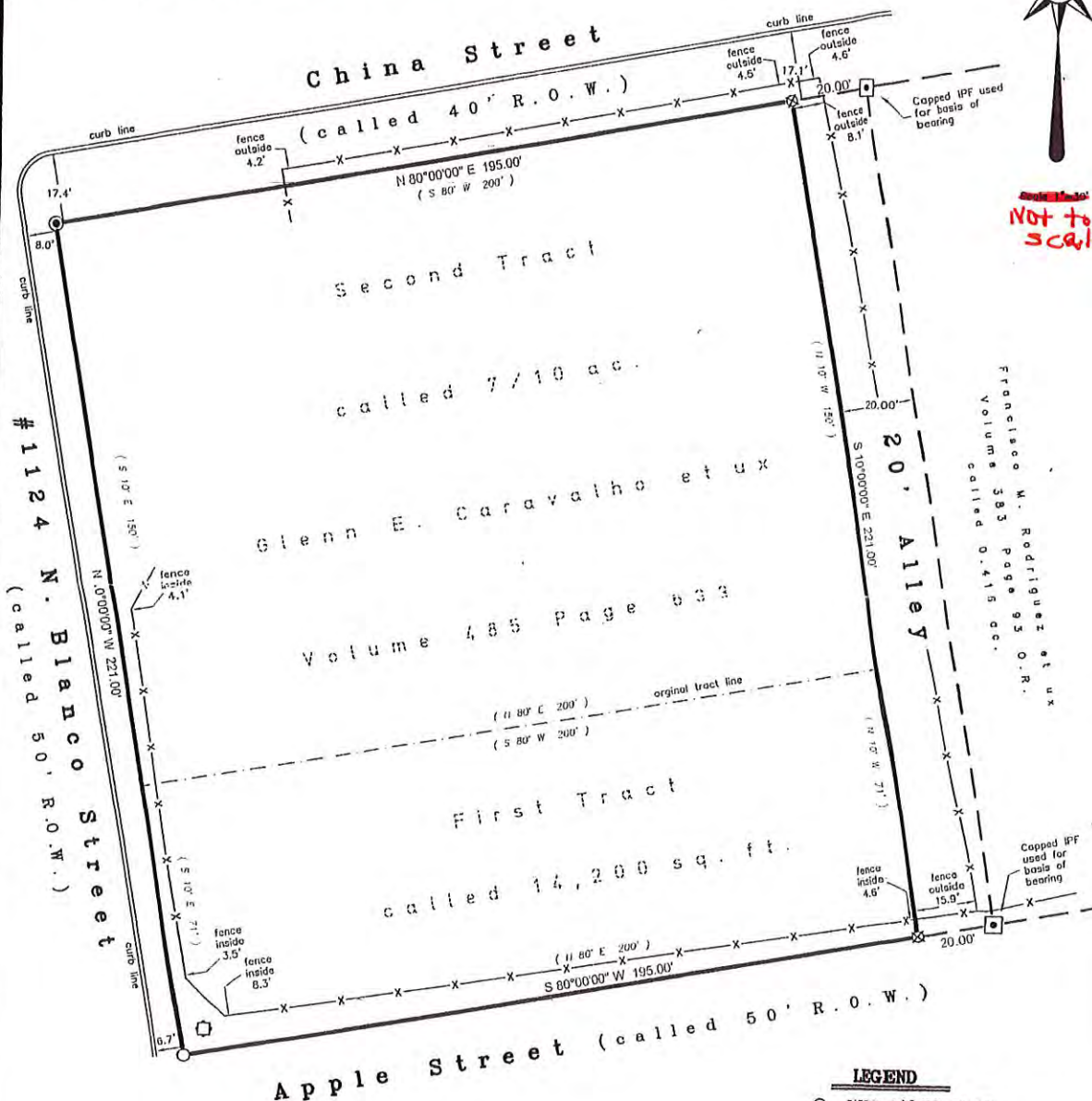
Byrd Lockhart Survey A-17

General Notes

1) THIS SURVEY IS FOR USE WITH THIS ONE TRANSACTION ONLY.
 2) FLOOD ZONES SHOWN ARE APPROXIMATE AND CREATE NO LIABILITY ON THE PART OF THE SURVEYOR AND ARE BASED ON FRONT A FLOOD INSURANCE RATE MAP. The property shown lies in Flood Zone "X" according to FEMA Panel #2055C120E effective date June 19, 2012. Flood Zone "X" is areas determined to be outside the 1% annual chance floodplain. WARNING: This flood statement, as determined by a HUD - F.I.A. FLOOD HAZARD BOUNDARY MAP, DOES NOT IMPLY that the Property or the improvements thereon will be Free from Flooding or Flood Damage. On rare occasions, Greater Floods Can and Will Occur, and Flood Heights may be increased by Man-Made or Natural Causes.



Not to Scale



BOUNDARY SURVEY ONLY

This survey is to the City of Lockhart showing Street Right of Ways of the EAST LINE of NORTH BLANCO STREET, the SOUTH LINE of CHINA STREET, and the NORTH LINE of APPLE STREET and a 20' ALLEY being a part of the Byrd Lockhart Survey A-17 in the City of Lockhart, Caldwell County, Texas. I do hereby certify that (1) the foregoing plat is a true and correct representation of a survey made on the ground under my direct supervision on August 17, 2015. No attempt was made by the Surveyor to locate any improvements. THIS SURVEY IS CERTIFIED AND ITS CONTENTS GUARANTEED FOR USE WITH THIS ONE TRANSACTION ONLY DATED THIS DATE. THE SURVEYOR SHALL INCUR NO LIABILITY FOR ANY USE OF THIS SURVEY BEYOND THIS ONE TRANSACTION OR FOR ANY PERSONS(S) NOT ASSOCIATED WITH THIS TRANSACTION. Only those prints containing the raised Surveyor's seal and an original "LIVE" signature should be considered official and relied upon by the user.

Jerry L. Hinkle, R.P.L.S. #5459

Hinkle Surveyors, 2014

Field Book: d.c.	Drawn By: JH BS
Job No. 20152291	Drawing: 20152291.dwg
Date: August 2015	Word Disk: Begin 08012015
Surveyed By: JH JDB	Autocad Disk: Begin 08012015



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. 100886-00

Minor Plat SIFUENTES ADDITION

A subdivision of 0.416 acres out of the Byrd Lockhart Survey A-17 In the City of Lockhart, Caldwell County, Texas

SURVEY NOTES:

- The Lots shown lie in Flood Zone "X" according to FEMA Panel #4805500120E effective date June 19, 2012. FLOOD ZONE "X" is areas determined to be outside the 0.2% annual chance floodplain.
- Lot 1 and Lot 2 in Block 1 is zoned RMD (Residential Medium Density District) and the surrounding lots are zoned IL (Industrial Light); CHB (Commercial Heavy Business) and RMD (Residential Medium Density District) as shown on plat.
- Building setbacks shall be in accordance with City of Lockhart Zoning Ordinance.
- A four-foot wide public sidewalk shall be constructed along the South property line frontage of Lot 2 in Block 1 along the North line of Apple Street by individual lot owner, prior to issuance of Certificate of Occupancy.
- RECORD OWNERS OF LAND: Elizabeth Sifuentes and Alfonso Sifuentes
DESIGNERS OF PLAT: Hinkle Surveyors, P.O. Box 1027, Lockhart TX 78644 (512) 398-2000
DATE OF PREPARATION: April 2024
SURVEYOR: Jerry L. Hinkle, R.L.S., #5459 P.O. Box 1027, Lockhart TX 78644 (512) 398-2000
- Boundary Closure: 1" in 74509'; Lot Closure #1=1" in 494993'; Lot Closure #2=1" in 44930'

STATE OF TEXAS
COUNTY OF CALDWELL

We, the undersigned owner of the land shown on this plat by deed recorded in Instrument # 2022-006303 of the Official Public Records of Caldwell County, Texas and described as 0.416 acres, do hereby subdivide such property to be known as SIFUENTES ADDITION 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 _____ ELIZABETH SIFUENTES
108 W. OLIVE STREET
LOCKHART, TEXAS 78644

ALFONSO SIFUENTES
108 W. OLIVE STREET
LOCKHART, TEXAS 78644

STATE OF TEXAS
COUNTY OF CALDWELL

Before me, the undersigned authority, personally appeared ELIZABETH SIFUENTES, 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.

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF CALDWELL

Before me, the undersigned authority, personally appeared ALFONSO SIFUENTES, 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.

Notary Public in and for the State of Texas

STATE OF TEXAS
COUNTY OF CALDWELL

I, Steve Lewis, City Manager 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____.

STEVE LEWIS
CITY OF LOCKHART, MANAGER

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

LEGAL DESCRIPTION

All of a certain tract or parcel of land situated in the City of Lockhart, Caldwell County, Texas and being also a part of the Byrd Lockhart Survey A-17 and being also all of a tract of land called 0.416 acres and conveyed to Elizabeth Sifuentes et vir by deed recorded in Instrument #2022-006303 of the Official Public Records of Caldwell County, Texas and being more particularly described as follows:

BEGINNING at a capped iron pin found stamped HINKLE SURVEYORS used for basis of bearing in the NW corner of the said Sifuentes tract and the intersection of the East line of a 20' Alley and the South line of China Street for the NW corner this tract.

THENCE N 80°05'11" E with the North line of the said Sifuentes tract and the South line of China Street 82.20 feet to a capped iron pin found stamped RPLS1868 in the NE corner of the said Sifuentes tract and the apparent NW corner of a tract of land called 0.401 acres and conveyed to Gabriel Nicolas Contreras by deed recorded in Instrument #2023-004943 of the said Official Public Records for the NE corner this tract.

THENCE S 09°53'06" E with the East line of the said Sifuentes tract and the apparent West line of the above mentioned 0.401 acre tract 220.79 feet to a capped iron pin found stamped RPLS1868 in the SE corner of the said Sifuentes tract and the SW corner of the said 0.401 acre tract and the North line of Apple Street for the SE corner this tract.

THENCE S 79°56'33" W with the South line of the said Sifuentes tract and the North line of Apple Street 81.75 feet to a capped iron pin found stamped HINKLE SURVEYORS in the SW corner of the said Sifuentes tract and the intersection of the said 20' Alley and the North line of Apple Street for the SW corner this tract.

THENCE N 10°00'00" W with the West line of the said Sifuentes tract and the East line of the said 20' Alley 221.00 feet to the place of beginning containing 0.416 acres of land more or less.

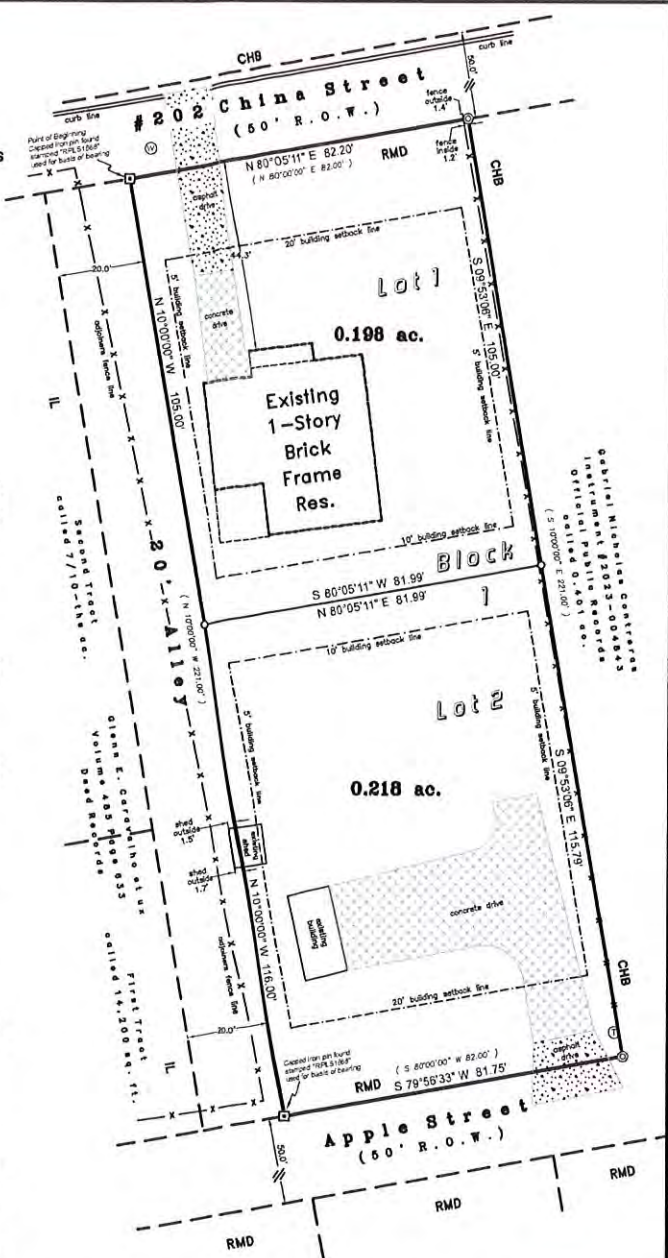
STATE OF TEXAS
COUNTY OF CALDWELL

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____.

NOT FOR PUBLIC RELEASE

Jerry L. Hinkle
Registered Professional
Land Surveyor #5459



RMD=RESIDENTIAL LIGHT DENSITY
IL=INDUSTRIAL LIGHT
CHB=COMMERCIAL HEAVY BUSINESS



Field Book: d.s.
Job No. 20240052-sub
Dated: April 2024
Surveyed By: J.L.H. JSH

Drawn By: J.L.H. JSH
Drawing: 20240052-sub.dwg
Word Data: Bugh 0401024
AutoCAD Date: Bugh 0401024

HINKLE
SURVEYORS
P.O. Box 1027 1109 S. Main Street Lockhart, TX 78644
Ph (512) 398-2000 Fax (512) 398-7883 Email contact@hinklesurveyors.com Firm Registration No. 100888-00

**City of Lockhart
City Council**

May 6, 2024

Alfonso Sifuentes and Elizabeth Sifuentes would like to make a request to abandoned the 20 foot alley that runs North and South between China and Apple Streets, the address is 202 China Street.

We plan on building a home on the Apple Street side and are currently applying to subdivide the current lot at 202 China Street into two parcels.

The home at 202 China Street is occupied by a family member and the new lot will also be occupied by a family member.

Our storage shed is currently located slightly over into the alley as well as the alley has a fence currently, which we hope to rebuild in the center of the alley.

We would like to request that the alley be abandoned and each property owner abutting the alley will be entitled to receive 10 feet of the alley.

I would like to have this request processed before my subdivision plat if approved so I can add the 10' portion of the alley to my lots.

The alley South of Apple Street was abandoned by City Ordinance 06-03. (copy attached).

Thank you for your time in this matter.

Alfonso Sifuentes

A handwritten signature in black ink, appearing to be 'Alfonso Sifuentes', written over a horizontal line.

Representative

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding recommendation to award bid to O & A Classic Coatings and Painting Co. of Hurst, Texas in the amount of \$162,000 for the San Jacinto Elevated Storage Tank Painting Project.

ORIGINATING DEPARTMENT AND CONTACT: Public Works - Sean Kelley

ACTION REQUESTED: Approval of Bid

BACKGROUND/SUMMARY/DISCUSSION: The painting of the 250,000 gallon elevated storage tank (EST) located on San Jacinto Street is a routine maintenance project. The EST was last painted in 2007. The EST receives inspections annually and the tower is in good condition but requires painting to maintain its condition. The project consists of abrasive blast/spot repair/painting of the interior, pressure wash/spot repair/painting of the exterior and painting of two logos on the EST. The project also consists of an ADD Alternative Bid including shrouding of the tank during all washing and painting work on the tank's exterior. The purpose of the shrouding it is to protect property located close to the tank site from debris and paint as this EST is located close to residential properties.

Bids were advertised in compliance with State Law for the San Jacinto Tank Repaint Project. Fifteen (15) sealed bids were received, ranging from \$161,123.00 to \$359,500.00. The lowest bidder, Five 12 Painting & Remodeling, LLC submitted a total bid of \$161,123, however their reference checks were unsatisfactory. The second-lowest bidder, O & A Classic Coating and Painting Co. has completed similar projects in the past and received satisfactory references from both owners and engineers. O & A Classic Coating and Painting Co.'s total bid for the project was \$162,000.00. The difference between the two total bids is \$877.00, which includes the Base Bid and the ADD Alternative to provide shrouding. Therefore, it is recommended that the City award the project to O & A Classic Coating and Painting Co. in the amount of \$162,000.00 for the Base Bid and the Add Alternative.

PROJECT SCHEDULE (if applicable): Project completion is expected to be completed within the 2024 Calendar Year

AMOUNT & SOURCE OF FUNDING:

Funds Required: \$162,000.00

Account Number: 520-5750-964-00

Funds Available: \$162,000.00

Account Name: Water Tower Repair

FISCAL NOTE (if applicable):

City of Lockhart, Texas

Council Agenda Item Cover Sheet

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff respectfully recommends approval of the Base Bid and Add Alternative Bid to O & A Classic Coating and Painting Co. in the amount of \$162,000.00.

LIST OF SUPPORTING DOCUMENTS: Bid Award Recommendation - San Jacinto Elevated Tank Repaint Project, TANK LOGO EXHIBIT



505 East Huntland Drive
Suite 250
Austin, Texas 78752

T 512.454.8716
TRCcompanies.com
T.B.P.E. #F-8632

September 11, 2024

Mr. Sean Kelley, Public Works Director
City of Lockhart
705 Wichita Street
Lockhart, Texas 78644

**RE: San Jacinto Tank Repaint Project
Bid Award Recommendation**

Dear Mr. Kelley:

Fifteen (15) sealed bids were received at Lockhart City Council Chambers on September 5, 2024, at 11:00 A.M. for the above-referenced project. The total bids ranged from \$161,123.00 from Five12 Painting & Remodeling, LLC. of St. Cloud, Florida to \$359,500.00 from TMI Coatings, Inc. of St. Paul, Minnesota. A detailed bid tabulation is attached for your reference.

The project consists of abrasive blast/spot repair/painting of interior, pressure wash/spot repair/painting on exterior, and painting of logos on the elevated storage tank, and also has an Add Alternate Bid including shrouding of the tank during all washing/painting work on the tank exterior.

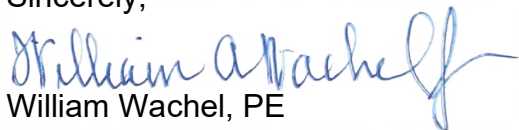
The lowest bidder, Five12 Painting & Remodeling, LLC., has completed similar work in the past. TRC conducted reference checks on similar projects supplied by the Contractor and found that Five12 Painting & Remodeling, LLC., completed some projects to the satisfaction of both the owners and the engineers. However, in one instance, the Contractor failed to complete the project to the satisfaction of both the owner and the engineer, which resulted in citizen's property damages and fraudulent workers compensation. The contractor did pay for damages caused and ultimately completed satisfactory work. Therefore, TRC has concluded that Five12 Painting & Remodeling, LLC., may not be the best fit to complete the work for the above-referenced project.

The 2nd low bidder, O&A Classic Coatings and Paintings Co., has successfully completed similar work in the past. TRC conducted reference checks on similar projects supplied by the Contractor and found that O&A Classic Coatings and Paintings Co. completed those projects to the satisfaction of both the Owners and the Engineers with no issues.

The Base Bid from Five12 Painting & Remodeling, LLC. totaled \$138,123.00 with an Add Alternate Bid totaling in \$161,123.00. The Base Bid from O&A Classic Coatings and Paintings Co. totaled \$142,000.00 with an Add Alternate Bid totaling in \$162,000.00. The difference between the two lowest bidders is \$877.00 for the Base Bid and Add Alternative Bid. Therefore, it is recommended that the City award the project to the 2nd lowest bidder, O&A Classic Coatings and Paintings Co., in the amount of \$162,000.00 for the Base Bid plus Add Alternate Bid amount.

If you have any other questions or comments, please do not hesitate to contact this office.

Sincerely,



William Wachel, PE
Vice President

Attachment: Bid Tabulation



				Five12 Painting & Remodeling, LLC 584 Peg Court St Cloud, Florida 34769		O&A Classic Coatings and Paintings Co. 441 Fieldwood Terrace Hurst, Texas 76053		RCB (or MC) Sandblasting & Painting, Inc. PO Box 802 Cedar Springs, MI 49319	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00	\$3,400.00	\$3,400.00
P.2	Mobilization and De-mobilization	1	LS	\$7,000.00	\$7,000.00	\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$60,000.00	\$60,000.00	\$73,000.00	\$73,000.00	\$36,000.00	\$36,000.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$60,123.00	\$60,123.00	\$55,000.00	\$55,000.00	\$65,000.00	\$65,000.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$2,000.00	\$2,000.00	\$3,000.00	\$3,000.00	\$500.00	\$500.00
P.6	Paint the Logos	1	LS	\$5,000.00	\$5,000.00	\$4,000.00	\$4,000.00	\$6,500.00	\$6,500.00
TOTAL BASE BID					\$138,123.00		\$142,000.00		\$114,400.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$23,000.00	\$23,000.00	\$20,000.00	\$20,000.00	\$49,000.00	\$49,000.00
TOTAL ALTERNATE BID					\$23,000.00		\$20,000.00		\$49,000.00
TOTAL BASE BID + ALTERNATE BID TIEMS					\$161,123.00		\$162,000.00		\$163,400.00

				Cor Iesu, LLC 4622 Carmel Lane Rowlett, Texas 75088		BRZ Coatings, Inc. 5500 Timber Ridge Watauga, TX 76137		I&S Tank Services, LLC 8041 Telegraph Road Quinlan, Texas 75474	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$5,000.00	\$5,000.00	\$3,000.00	\$3,000.00	\$7,812.00	\$7,812.00
P.2	Mobilization and De-mobilization	1	LS	\$5,000.00	\$5,000.00	\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$50,000.00	\$50,000.00	\$67,000.00	\$67,000.00	\$90,253.00	\$90,253.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$65,000.00	\$65,000.00	\$67,000.00	\$67,000.00	\$56,184.00	\$56,184.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$1,500.00	\$1,500.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
P.6	Paint the Logos	1	LS	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00	\$6,000.00	\$6,000.00
TOTAL BASE BID					\$133,500.00		\$149,000.00		\$164,249.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$30,000.00	\$30,000.00	\$37,000.00	\$37,000.00	\$30,000.00	\$30,000.00
TOTAL ALTERNATE BID					\$30,000.00		\$37,000.00		\$30,000.00
TOTAL BASE BID + ALTERNATE BID TIEMS					\$163,500.00		\$186,000.00		\$194,249.00

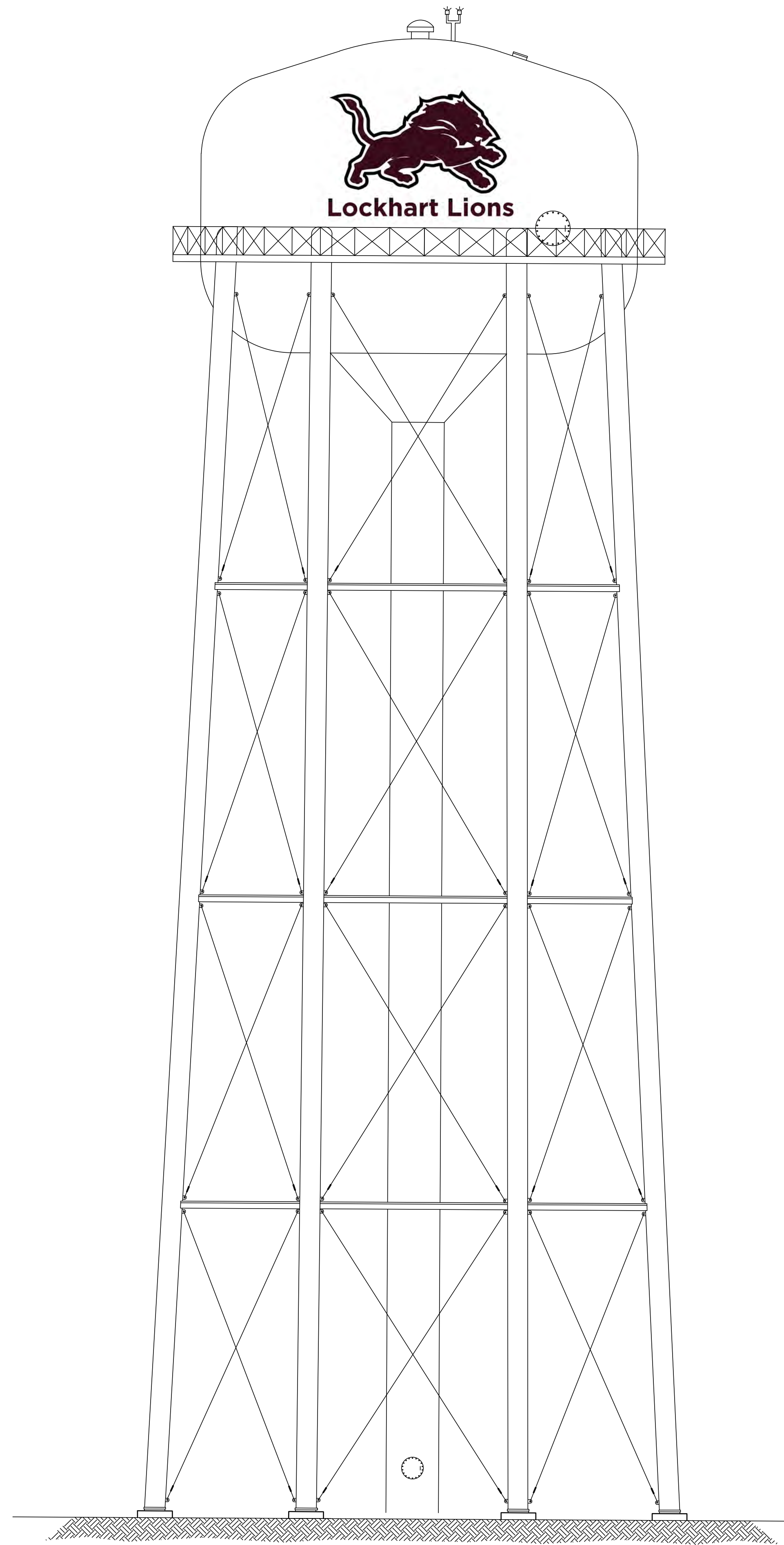
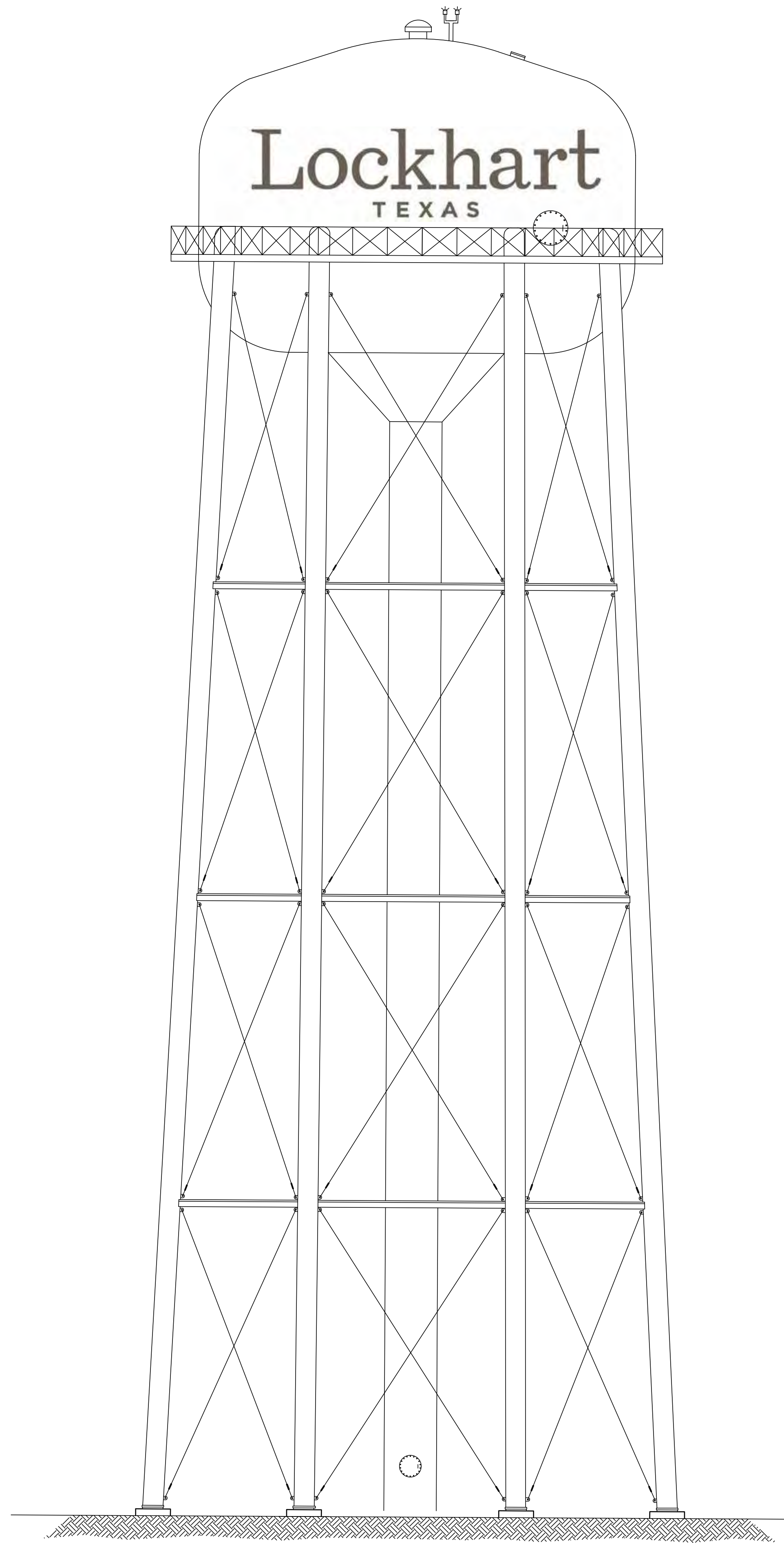


				Utility Service Co., Inc. 535 Courtney Hodges Blvd Perry, GA 31069		Classic Protective Coatings, Inc. N7670 State Road 25 Menomonle, WI 54751		Leary Construction Company, Inc. 32 East Plerson Street Greenfield, IN 46140	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$2,000.00	\$2,000.00	\$5,000.00	\$5,000.00	\$5,915.52	\$5,915.52
P.2	Mobilization and De-mobilization	1	LS	\$5,000.00	\$5,000.00	\$11,000.00	\$11,000.00	\$11,535.27	\$11,535.27
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$76,000.00	\$76,000.00	\$99,000.00	\$99,000.00	\$64,557.22	\$64,557.22
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$56,700.00	\$56,700.00	\$79,400.00	\$79,400.00	\$90,888.33	\$90,888.33
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$5,000.00	\$5,000.00	\$2,000.00	\$2,000.00	\$5,500.00	\$5,500.00
P.6	Paint the Logos	1	LS	\$13,100.00	\$13,100.00	\$12,000.00	\$12,000.00	\$12,455.56	\$12,455.56
TOTAL BASE BID					\$157,800.00		\$208,400.00		\$190,851.90
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$58,400.00	\$58,400.00	\$22,000.00	\$22,000.00	\$47,768.89	\$47,768.89
TOTAL ALTERNATE BID					\$58,400.00		\$22,000.00		\$47,768.89
TOTAL BASE BID + ALTERNATE BID TIEMS					\$216,200.00		\$230,400.00		\$238,620.79

				Maguire Iron, Inc. 2001 East Robur Drive Sioux Falls, SD 57104		D&M Tank, LLC 6901 Mansfield Cardinal Road Kennedale, Texas 76060		Viking Painting, LLC PO Box 24162 Omaha, NE 68124	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$2,500.00	\$2,500.00	\$8,060.00	\$8,060.00	\$2,000.00	\$2,000.00
P.2	Mobilization and De-mobilization	1	LS	\$2,500.00	\$2,500.00	\$7,000.00	\$7,000.00	\$12,200.00	\$12,200.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$56,500.00	\$56,500.00	\$76,828.00	\$76,828.00	\$77,900.00	\$77,900.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$68,000.00	\$68,000.00	\$88,712.00	\$88,712.00	\$65,400.00	\$65,400.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$3,900.00	\$3,900.00
P.6	Paint the Logos	1	LS	\$8,000.00	\$8,000.00	\$8,000.00	\$8,000.00	\$9,000.00	\$9,000.00
TOTAL BASE BID					\$142,500.00		\$193,600.00		\$170,400.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$100,000.00	\$100,000.00	\$50,000.00	\$50,000.00	\$81,100.00	\$81,100.00
TOTAL ALTERNATE BID					\$100,000.00		\$50,000.00		\$81,100.00
TOTAL BASE BID + ALTERNATE BID TIEMS					\$242,500.00		\$243,600.00		\$251,500.00



				TanksCo Inc. 1516 Royster Road Fort Worth, Texas 76134		N.G. Painting, L.P. 1225 Bandera Hwy Suite A2 Kerrville, Texas 78028		TMI Coatings, Inc. 3291 Terminal Drive St. Paul, MN 55121	
Item	Description	Qty.	Unit	Unit Price	Total	Unit Price	Total	Unit Price	Total
BASE BID									
P.1	Performance and Payment Bonds	1	LS	\$10,000.00	\$10,000.00	\$1,000.00	\$1,000.00	\$3,000.00	\$3,000.00
P.2	Mobilization and De-mobilization	1	LS	\$5,000.00	\$5,000.00	\$1,000.00	\$1,000.00	\$8,000.00	\$8,000.00
P.3	Abrasive Blast/Spot Repair/Paint Interior	1	LS	\$141,000.00	\$141,000.00	\$90,000.00	\$90,000.00	\$150,500.00	\$150,500.00
P.4	Pressure Wash/Spot Repair/Paint Exterior	1	LS	\$80,300.00	\$80,300.00	\$120,000.00	\$120,000.00	\$122,000.00	\$122,000.00
P.5	Regrade/Reseed All Disturbed Areas	1	LS	\$12,000.00	\$12,000.00	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
P.6	Paint the Logos	1	LS	\$6,000.00	\$6,000.00	\$5,000.00	\$5,000.00	\$9,000.00	\$9,000.00
TOTAL BASE BID					\$254,300.00		\$219,000.00		\$294,500.00
ADDITIVE ALTERNATIVE BID ITEMS									
P.A.1	Shroud Tank during all exterior washing/painting	1	LS	\$25,000.00	\$25,000.00	\$70,000.00	\$70,000.00	\$65,000.00	\$65,000.00
TOTAL ALTERNATE BID					\$25,000.00		\$70,000.00		\$65,000.00
TOTAL BASE BID + ALTERNATE BID TIEMS					\$279,300.00		\$289,000.00		\$359,500.00



City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding Resolution 2024-23 to approve a contract proposal from Studio Steinbomer to provide professional architectural/engineering services for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins, Joseph Resendez

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: City staff and Studio Steinbomer (Architect) coordinated with D. Wilson Construction (Construction Manager at-Risk) to finalize terms of the Fire Station No. 1 Remodel project. Resolution 2024-23 outlines the architect's basic services, responsibilities, compensation, and includes a framework for project design and construction administration. This resolution is provided for Council review and approval.

Once the Resolution is approved, staff, Studio Steinbomer, and D. Wilson Construction will move forward with the next step in the pre-construction phase. Staff will return to Council at a later date to approve the final project scope and budget.

History

At the March 5, 2024 Council meeting, Council approved an architectural services proposal from Studio Steinbomer for the renovation of Fire Station No. 1 to provide design and construction observation services to include Design Development, Construction Documents, and Construction Observation Services. The proposal also included Hazardous Materials Abatement Coordination services to assist the environmental services contractor in coordinating asbestos abatement.

In addition, the proposal provided for the Construction Manager at-Risk (CMAR) delivery method for construction and will not be publicly bid through the typical competitive sealed bidding process. Studio Steinbomer recommended this delivery method due to the project being a remodel of an existing building with historic preservation considerations as opposed to a new build construction project.

Studio Steinbomer provided assistance to the City in developing and publishing the Request for Proposal (RFP) to procure a CMAR contractor and provided input as appropriate during the selection process. At the June 18, 2024 Council meeting, Council selected D. Wilson Construction Co. as the CMAR contract that offers the best value for the Fire Station No. 1 project and authorized the City Manager to negotiate and finalize terms of the CMAR agreement.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

Background

Studio Steinbomer prepared a Fire Station No. 1 condition report, structural condition survey, and preliminary design drawings in 2021. An asbestos survey and report was completed on February 14, 2024, by an environmental services contractor.

The Fire Station No. 1 project scope includes life safety upgrades such as fire sprinklers, fire alarm system, diesel exhaust removal, enhanced living and working quarters on the second floor, exterior upgrades, and abatement of asbestos containing materials identified in the asbestos survey and impacted by remodel construction.

Fire Station No. 1 is located within the Lockhart Historical District. The Lockhart Historical Preservation Commission (LHPC) will review any proposed changes to the exterior of the building, as well as any interior work that impacts load-bearing walls.

PROJECT SCHEDULE (if applicable): Estimated project duration of six months to include final design, procurement, and construction.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): The estimated total construction cost, at the current scope, is approximately \$673,000. Additional Architect and Engineering fees of \$49,750 are also anticipated for updates to the Current Drawing, Construction Documentation and Construction Phase Services. Lastly, asbestos abatement consulting fees of \$12,378.

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends the approval of Resolution 2024-23 to approve a contract proposal from Studio Steinbomer to provide professional architectural/engineering services for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute.

LIST OF SUPPORTING DOCUMENTS: Resolution 2024-23 - Award Contract for Architect services for Fire Station No. 1 Remodel

CITY OF LOCKHART, TEXAS

RESOLUTION NO. 2024-23

**A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS
SELECTING STUDIO STEINBOMER AS ARCHITECT FOR FIRE
STATION NO. 1 REMODEL PROJECT, AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, on March 5, 2024, City Council approved a proposal from Studio Steinbomer to provide Construction Documentation and Construction Phase services as the consulting Architect to remodel Fire Station No. 1; and

WHEREAS, on March 5, 2024, City Council approved an oral resolution authorizing the Construction Manager At Risk (CMAR) delivery method for procurement of construction services to remodel Fire Station No. 1; and

WHEREAS, the City Council desires to authorize the City Manager to execute a contract with Studio Steinbomer;

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

1. The City Council hereby awards Architect services for the Fire Station No. 1 Remodel Project to Studio Steinbomer.
2. The City Manager is hereby authorized to execute a contract, a draft copy of which is attached to this Resolution as **Exhibit 1**, with Studio Steinbomer to provide Construction Documentation and Construction Phase services as the consulting Architect to remodel Fire Station No. 1.

PASSED AND APPROVED by the City Council of the City of Lockhart, Texas this 17th day of September, 2024.

Lew White
Mayor

ATTEST:

APPROVED AS TO FORM:

By:

Julie Bowermon
City Secretary

Bradford Bullock
City Attorney

EXHIBIT 1

AIA® Document B104® – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

« »
« »
« »
« City of Lockhart, TX
308 W. San Antonio St.
PO Box 239
Lockhart, TX 78644
»

and the Architect:
(Name, legal status, address and other information)

«Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors »
«4303 Medical Parkway »
« Austin, Texas, 78756 »
« 512-479-0022
Attn: Amy Bramwell »

for the following Project:
(Name, location and detailed description)

« Lockhart Firestation #1
»
«201 W. Market Street »
« Lockhart, Texas 78644 »

The Owner and Architect agree as follows.

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EXHIBIT 1

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

« See Attached Exhibit A -Scope Descriptions and Fee Proposal »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project consistent with Texas Local Government Code 271.904(d) and Texas Civil Practice and Remedies Code 130.0021. Nothing in this Agreement shall require the Architect to exercise professional skill and judgment greater than that set forth in this Section 2.1 (the "Standard of Care").

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

EXHIBIT 1

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

\$1,000,000 each occurrence
\$300,000 damage to rented premises
\$10,000 medical expense
\$1,000,000 personal injury
\$2,000,000 general aggregate »

.2 Automobile Liability

« \$1,000,000 »

.3 Workers' Compensation

« statutory »

.4 Professional Liability

« \$1,000,000 per claim
\$2,000,000 annual aggregate »

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Exhibit A and Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information. The Owner and Architect (collectively, the "Parties") expressly disclaim responsibility for the accuracy and completeness of information furnished by third parties or of information requiring specialized skills, expertise, or knowledge to ascertain the accuracy and completeness not held by the applicable Party and the Parties agree that the other Party shall not be held liable for inaccuracy or correctness of such information or any damages resulting therefrom.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

EXHIBIT 1

§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall assist the Owner in obtaining an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

§ 3.3.2 The Architect shall endeavor to incorporate the design requirements of the laws, ordinances, and regulations promulgated by the Owner, and shall work with appropriate City staff and employees of the Owner to determine the feasibility and/or need of any variance or other exception in incorporating such design requirements required for construction of the Project. Nothing in this provision shall require either party to incorporate or approve design requirements for construction of the Project not in conformance with any applicable laws, ordinances, or regulations.

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, assist the Owner and Contractor to update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner and Contractor in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A133™-2017, Standard Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A133-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. To the extent of any conflict between this Agreement and the AIA A133-2017, this Agreement shall control.

§ 3.4.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, which are solely the Contractor's rights and responsibilities under the Contract Documents. The Architect shall not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

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§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

§ 3.4.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to

EXHIBIT 1

rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement.

(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)

« »

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services « fifteen » (« 15 ») visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within « three » (« 3 ») months of the date of substantial completion, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

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ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality. Modifications to the Construction Documents made necessary by any increase or decrease in the Owner's budget as defined by this provision for the Cost of the Work shall be provided as an Additional Service under Article 4.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall have the right, in the Owner's sole discretion, to request reasons justifying the requirement for such requests in writing from the Architect.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

§ 5.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents. Nothing in this provision shall prohibit the Owner, or its representatives from communicating with the Contractor directly on such matters as the Owner deems necessary, provided, however, that the Owner shall include the Architect in all such direct communications and the failure of the Owner to communicate with the Architect on matters relating to the Contract Documents shall relieve Architect from any liability or claims arising out of or relating to such failure of Owner.

§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.10

§ 5.11 I

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the

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Architect or Architect's consultants; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official

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regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall request similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The Owner hereby agrees to indemnify and hold harmless the Architect, its agents and employees as well as Architect's consultants, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees and economic damages arising out of, in connection with or resulting from any unauthorized use of the Instruments of Service.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A133-2017, Standard Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.4.2.

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§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a district court located in Caldwell County, Texas

☐ Other: *(Specify)*

☐

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

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§ 8.3 INDEMNIFICATION Arbitration

§ 8.3.1 ARCHITECT SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, AND/OR ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES ("OWNER'S PARTIES") FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO ARCHITECT'S PERFORMANCE, AND/OR FAILURES TO PAY A SUBCONTRACTOR OR SUPPLIER BY THE ARCHITECT OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, CONSULTANTS UNDER CONTRACT TO ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. ARCHITECT SHALL NOT BE LIABLE TO INDEMNIFY AND HOLD HARMLESS THE OWNER'S PARTIES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED DAMAGES, COSTS, ATTORNEY FEES, AND EXPENSES TO THE EXTENT CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY ACTS OF NEGLIGENCE, INTENTIONAL TORTS, WILLFUL MISCONDUCT, PERSONAL INJURY OR DAMAGE TO PROPERTY, AND/OR OTHERWISE RELATED TO OWNER'S PARTIES' NEGLIGENT ACTS OR OMISSIONS.

OWNER SHALL INDEMNIFY AND HOLD HARMLESS THE ARCHITECT, ITS AGENTS AND EMPLOYEES AND CONSULTANTS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND ECONOMIC DAMAGES RESULTING FROM THE OWNER'S NEGLIGENT ACTS OR OMISSIONS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT. OWNER SHALL HAVE NO LIABILITY TO INDEMNIFY OR HOLD HARMLESS THE ARCHITECT FROM CLAIMS OR DAMAGES RESULTING FROM THE ACTS OR OMISSIONS BY THIRD PARTIES OVER WHICH THE OWNER DOES NOT EXERCISE CONTROL OR ARE OUTSIDE THE SCOPE OF OWNER'S RESPONSIBILITIES UNDER THE AGREEMENT OR ANY OTHER AGREEMENT EXECUTED IN CONNECTION WITH THE PROJECT. THE PARTIES EXPRESSLY ACKNOWLEDGE THAT THE OWNER'S AUTHORITY TO INDEMNIFY AND HOLD HARMLESS ANY THIRD PARTY IS GOVERNED BY ARTICLE XI, SECTION 7 OF THE TEXAS CONSTITUTION, AND ANY PROVISION THAT PURPORTS TO REQUIRE INDEMNIFICATION BY THE OWNER IS INVALID. NOTHING IN THIS AGREEMENT REQUIRES THAT THE OWNER INCUR DEBT, ASSESS OR COLLECT FUNDS, OR CREATE A SINKING FUND. PURSUANT TO TEXAS LOCAL GOVERNMENT CODE 271.903(A), THE OWNER SHALL MAINTAIN THE CONTINUING RIGHT TO TERMINATE, AT THE EXPIRATION OF EACH BUDGET PERIOD OF THE OWNER DURING THE TERM OF THIS AGREEMENT AND IS CONDITIONED ON THE BEST EFFORTS BY THE CITY COUNCIL OF THE OWNER TO OBTAIN AND APPROPRIATE FUNDS FOR PAYMENT OF THIS AGREEMENT AND THUS COMMITS THE OWNER'S CURRENT REVENUES ONLY.

§ 8.3.2 THE PARTIES EXPRESSLY AGREE THAT NOTHING IN THIS PROVISION SHALL BE CONSTRUED TO REQUIRE A DUTY TO DEFEND BY THE OTHER PARTY, AND SUCH REQUIREMENTS ARE GOVERNED BY INSURANCE PROVISIONS DESCRIBED IN THIS AGREEMENT.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 Default and Safe Harbor

If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. If Owner remits payment due within seven days of receiving notice, Architect shall resume services with no penalty assessed, but Owner agrees that deadlines may change as a result of such Owner failure. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all undisputed sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 Suspension

§ 9.2.1 If the Owner suspends the Project, the Architect and the Architect's consultants shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect and the Architect's consultants shall be compensated for reasonable expenses incurred in the interruption and resumption of the Architect's and the Architect's consultants' services. The Architect's and the Architect's consultants' fees for the remaining services and the time schedules shall be equitably adjusted.

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§ 9.2.2 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the sole fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.3 Termination for Cause

Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.4 Termination for Convenience

§ 9.4.1 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.4.2 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.4.3 The Architect may terminate this Agreement upon not less than thirty (30) days' written notice to the Owner for Architect's convenience and without cause.

§ 9.4.4 In the event of termination by the Architect, the Architect shall continue to dutifully and diligently perform its obligations under this Agreement until the expiration of thirty (30) days from the Owner's receipt of notice of termination, and shall, during that time, endeavor to assist the Owner in transitioning all information necessary to an architect chosen by the Owner to replace the Architect.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 Choice of Law and Venue

This Agreement shall be governed by the law of the State of Texas without regard to the conflicts of law provisions. Venue for any suit arising under this Agreement shall be a court of competent jurisdiction in Caldwell County, Texas.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A133–2017, Standard Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall

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survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 Severability

The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum
(Insert amount)

« See Exhibit A for detailed cost description »

- .2 Percentage Basis
(Insert percentage value)

« » (« ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

- .3 Other
(Describe the method of compensation)

« »

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

«Hourly according to rates listed in Exhibit A »

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus « » percent (« »%), or as follows:

« »

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Design Phase	«NA »	percent (	« NA »	%)
Construction Documents	« »	percent (	« »	%)
Phase				
Construction Phase	« »	percent (	« »	%)
Total Basic Compensation	one hundred	percent (	100	%)

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§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

«See Exhibit A for hourly rates »

Employee or Category	Rate

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Printing, reproductions, plots, and standard form documents;
- .4 Postage, handling, and delivery;
- .5 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .6 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .7 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses.; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus «fifteen » percent («15 » %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of « zero » (\$ « 0 ») shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid « sixty » (« 60 ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

EXHIBIT 1

« 10 » % «ten percent annually »

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

« § 12.1 Renderings, models, or other presentation materials not otherwise prepared by Architect in its development of the design are not part of the Architect's Basic Services. To the extent Owner desires such renderings, models, or other presentation materials, they shall be an Additional Service.

§ 12.2 Permitting of the Project is not part of the Architect's Basic Services.

§ 12.3 Owner and persons claiming through Owner agree to limit the liability of Architect, its agents and employees for all claims arising out of, in connection with or resulting from the performance of services under this Agreement to an amount equal to the proceeds available under the Architect's applicable insurance policy. In addition, Architect shall not be liable for the services of any consultants or contractors.

§ 12.4 Force Majeure

Neither Architect nor Owner shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either Party and that by exercise of due foresight such Party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome

§ 12.5 No person or entity other than Owner is intended to be a beneficiary of Architect's services under this Agreement and no person or entity other than Owner shall have the right to maintain any action in contract against the Architect.

§ 12.6 The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas. Texas Board of Architectural Examiners, 505 E Huntland Dr., Austin, Texas 78752. Telephone: (512) 305-9000.

»

§ 12.7 Energy Boycott Companies

If the Architect is required to make a verification pursuant to Texas Government Code Section 2276.002, the Architect verifies that it does not boycott energy companies and will not boycott energy companies during the term of this Agreement. The Architect may indicate in writing why such verification is not required.

§ 12.8 Boycott Israel Companies

Architect certifies that, pursuant to Texas Government Code 2271.002, it does not boycott Israel and will not boycott Israel during the term of this Agreement resulting from this solicitation. The Architect shall state any facts that make it exempt from the boycott certification in writing to the Owner.

§ 12.9 Excluded Parties

EXHIBIT 1

Architect certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

§ 12.10 Firearm Entities Discrimination

Architect verifies that: (1) it does not, and will not for the duration of this Agreement, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to this Agreement. If circumstances relevant to this provision change during the course of this Agreement, Architect shall promptly notify Owner.

§ 12.11 Foreign Terrorist Organizations

Architect represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Texas Government Code Section 2252.152.

§ 12.12 Public Information Act

Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act").

§ 12.13 Award of Attorneys' Fees

Pursuant to Texas Government Code 2252.904, the parties agree that the prevailing party in any suit arising out of a dispute of the terms of this Agreement shall be awarded reasonable attorneys' fees and costs.

§ 12.14 Binding Effect

This Agreement shall inure to the benefit of, be binding upon, and be enforceable against, the Owner and the Architect and their respective permitted successors, assigns, transferees, and delegates.

§ 12.15 No Implied Waiver

The failure of a Party to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in this Agreement shall not be construed as a waiver or a relinquishment thereof for the future.

»

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™-2017, Standard Abbreviated Form of Agreement Between Owner and Architect

- .2 *Intentionally Omitted.*

« »

- .3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

« »

- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

«See Exhibit A – Project Scope Description and Fee Proposal »

EXHIBIT 1

This Agreement entered into as of the day and year first written above.

OWNER (Signature)
«Steven Lewis»«City Manager, City of Lockhart»
(Printed name and title)

ARCHITECT (Signature)
« »« »
(Printed name, title, and license number, if required)

EXHIBIT A



July 26, 2023
Revised February 19, 2024

Randy Jenkins
City of Lockhart, Texas
1911 Borchart Dr
Lockhart, TX 78644

RE: Proposal for Construction Documentation and Construction Phase services for Fire Stations #1

Dear Mr. Jenkins:

We at **Studio Steinbomer Architecture and Interiors** are pleased to provide you and the City of Lockhart (henceforth referred to as “Owner”) with the following fee proposal for architectural services to provide Construction Documents and Construction Observation for the renovation of Fire Station #1, 201 W. Market Street, Lockhart, TX 78644. In addition to architectural services, this proposal also covers fees and services for the following consultants:

- **Wilson Girgenti** – Mechanical, Electrical, and Plumbing Engineering
- **Tsen Engineering** – Structural Engineering

Both of these groups of engineers have extensive experience teaming with us on projects such as this and in-depth prior experience with this building.

I. PROJECT SCOPE PARAMETERS

The scope of this project will be to update, modify, develop, and complete the work delineated in the **Fire Station #1 Condition and Feasibility Study** and accompanying drawings completed in the Fall of 2020 (attached to this proposal as reference), and amended by our conversation with Randy Jenkins in May of 2023. The Design Team will provide design and construction observation services to include Design Development, Construction Documents, and Construction Observation Services. Formal design review submissions are anticipated at 50% Construction Documents. It is currently anticipated this project will use a CMAR delivery method for construction and will not be publicly bid.

II. BASIC SERVICES

Construction Documentation provided for the following. Project elements considered new scope from the previously completed work are shown in *italics*:

Architectural Improvements:

- Review of 2018 IBC and IEBC building codes for any potential impact on project scope. (Feasibility study was performed under 2015 IBC.)
- Update and remodel to existing 2nd floor kitchen.

EXHIBIT A

- Update and remodel to existing 2nd floor restroom. Current drawings will be revised to include a urinal and relocate the water heater.
- Remodel of 2nd floor to include new bunk rooms and conversion of existing training rooms into a new Day Room.
- New flooring and paint throughout the upstairs remodeled area.
- New exterior color scheme and painting of exterior woodwork
- Investigation of existing covered arch-top windows on the second floor to determine if they can be re-opened.
- New garage doors and openers as a bid alternate.
- New Fire Station #1 signage added to South side of building.

Fire and Life Safety Improvements:

- New fire sprinkler system installed throughout.
- New smoke detectors installed throughout
- Improvements to first floor fire truck bay ceilings to provide required fire separation.
- Improvements to both stairs for improved egress and fire separation between living quarters and fire truck bays.
- New fire truck exhaust system

Hazardous Materials Abatement Coordination:

- *Coordinate with City's CIH consultant to align areas of abatement and replacement of removed materials into the Construction Documents*
- *Coordination of Construction Document Add Alternate for the remediation of the existing windows to include documentation of window types and methodology of reglazing the existing window sashes once the asbestos containing materials has been abated.*

Mechanical, Electrical & Plumbing Improvements:

- New hot water heater
- New 1st floor restroom ventilation
- Replacement and supplementation of existing emergency lighting systems
- Relocation and reconfiguration of existing 2nd floor HVAC
- New electrical panels to replace existing damaged and/or unsafe electrical panels
- New exit signs as required by code.

Structural Improvements:

- Structural analysis and detailed of any required structural repairs.

Meetings and Client Reviews:

We anticipate a total of 3 in-person meetings. All other project communications will take place via email, phone, or video conferencing. In-person meetings to be distributed as follows:

- One kick-off meeting and review of any potential scope changes.
- One 50% construction document review and "page-turn" of current project progress
- One final review meeting prior to the work being 100% complete and issued for bidding and construction.

EXHIBIT A

ASSUMPTIONS, EXCLUSIONS, AND CONDITIONS:

The scope of services presented herein and associated proposed fees are based upon our understanding of the proposed scope of work. Changes in the project that affect the underlying contract assumptions may impact the required professional service fee. This proposal is based on the following assumptions, exclusions, and conditions:

- Owner requested additional meetings/trips will be billed as an additional service at the attached rates.
- Owner required changes to the state scope of work will be billed as additional services.
- Owner requested changes to the scope of work after the commencement of construction documents will be billed as an additional service.
- It is assumed this work will be constructed by a pre-selected Construction Manager and not via a competitive sealed public bid. If public bidding is chosen by the City of Lockhart, additional services may be required to produce the required specifications and instructions required for public bidding as well as attendance at any pre-bid meetings required for the process.
- This proposal assumes that all available site and building documentation (including site topographical and tree surveys, deed restrictions, covenants, etc) will be provided by the Owner and shared by the Client and Project Team.
- The Owner will provide access to the sites as necessary for field investigation and existing conditions confirmation.
- If required for the stated scope of work, the Owner shall furnish the following tests/results and information to the A/E Team: core borings, probings and subsurface exploration, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment and similar data; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; geotechnical reports.

IV. FEES:

Basic Services

The lump sum fee to provide the anticipated services outlined above shall be as follows:

Updates to Current Drawing and Construction Documentation:	
Architectural	25,000
MEP	7,500
Structural	5, 750
	\$38, 250
Construction Phase Services	
Architectural	\$7,500
MEP	\$4,000
Structural	hourly, if required
	\$11,500

EXHIBIT A

Total Fees for Services

\$49,750

Fees for services are invoiced monthly based on the percentage of completion of each phase of work.

V. REIMBURSABLE EXPENSES:

Reimbursable expenses are billed in addition to compensation for architectural services. These expenses include, but are not limited to, printing and reproductions, delivery services, mileage, airfare and overnight expenses, filing fees for governmental review and inspection, and consultants required for your project. Reimbursable expenses will be billed at cost plus 15%. Mileage shall be billed at the current standard IRS mileage rates. Reimbursable expenses greater than \$500 will be approved by client prior to billing.

VI. ADDITIONAL SERVICES:

Additional Services will be billed at the attached hourly rates and include, but are not limited to, the following:

- Services due to owner-initiated changes to the design and documents during the conceptual design, including changes to the building size.
- Changes and/or increase in Project Scope or Scope of Architectural Services resulting from project assumptions as defined in the proposal which prove to be incorrect.
- Changes to scope due to unforeseen building conditions
- Additional requested meetings or site visits other than those previously mentioned.

We thank you for this opportunity, and we look forward to working with you.

Sincerely,

Studio Steinbomer

Accepted By:

Name _____ Date _____

Name _____ Date _____

Attachments: General Terms and Conditions

EXHIBIT A

GENERAL TERMS AND CONDITIONS

Year 2024 Hourly Billing Rates for Architectural Services:

Principal	\$250
Senior Project Manager	\$200
Project Manager	\$180
Project Support	\$150

Reimbursable expenses are billed in addition to compensation for architectural services. These expenses include printing and reproductions, delivery services and subconsultants necessary for your project. These expenses will be billed at cost with a 15% administrative fee.

We bill clients monthly for our services and ask that clients understand that all invoices are due upon receipt. Amounts unpaid forty-five days after the invoice date shall bear interest at the rate of 10% per annum. Regrettably, we must suspend work on the project if payment is not received within 60 days from the date of the invoice.

Projects put on hold, at the client’s request, for a period of one year or more are subject to Billing Rates in effect at the time the project is restarted.

We traditionally ask for a retainer in the amount of \$2500 for new projects of this size. The retainer will be shown on all invoices and will be deducted from the last bill at the close of your project.

The drawings we create are the instruments of conveyance of services performed and are not subject to state sales tax. All drawings created by our firm remain the property of this firm and may not be used by any other person or companies for any other construction or research purposes.

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas. Texas Board of Architectural Examiners, 505 E. Huntland Drive, Austin, Texas 78752, (512) 305-9000.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding Resolution 2024-24 to award contract for Construction-Manager-At-Risk (CMAR) services to D. Wilson Construction Co. for the Fire Station No. 1 remodel at 201 W. Market St. and authorize the City Manager to execute.

ORIGINATING DEPARTMENT AND CONTACT: Fire - Randy Jenkins, Joseph Resendez

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: City staff and Studio Steinbomer (Architect) coordinated with D. Wilson Construction (Construction Manager at-Risk) to finalize terms of the Fire Station No. 1 Remodel project. Resolution 2024-24 outlines the CMAR's responsibilities, establishes cost limits, and includes provisions for the construction manager to act as both a consultant during preconstruction and a constructor during the construction phase, ensuring cost control while providing a Guaranteed Maximum Price (GMP) on total expenses. This resolution is provided for Council review and approval.

Once the Resolution is approved, staff, Studio Steinbomer, and D. Wilson Construction will move forward with the next step in the pre-construction phase. Staff will return to Council at a later date to approve the final project scope and budget.

History

Request for Proposals (RFP) for Construction-Manager-at-Risk (CMAR) services for the Fire Station No. 1 Remodel project was advertised on May 13, 2024 and ended May 31, 2024. Staff received two submissions and recommended D. Wilson Construction Co. to provide CMAR services for the project after reviewing the submitted proposals with general observations provided by Studio Steinbomer, the City's project Architect. At the June 18, 2024 Council meeting, Council approved the selection of D. Wilson Construction Co. as the proposal that offers the best value and authorized the City Manager to negotiate and finalize terms of the CMAR agreement.

Background

The CMAR delivery method provides for the general contractor to assume the risk for construction at the contracted price/Guaranteed Maximum Price (GMP) and provide consultation to the City regarding construction during and after the design of the project. Benefits of this method include proactive modifications during the design phase, which are more cost-effective than making changes on the construction site. This will also mitigate potential delays due to any design changes during construction. In comparison, the competitive sealed bidding process requires all drawings and specifications by the design team

City of Lockhart, Texas

Council Agenda Item Cover Sheet

to be completed prior to the publishing of the bid.

The Fire Station No. 1 project scope includes life safety upgrades such as fire sprinklers, fire alarm system, diesel exhaust removal, enhanced living and working quarters on the second floor, exterior upgrades, and abatement of asbestos containing materials identified in the asbestos survey and impacted by remodel construction.

Fire Station No. 1 is located within the Lockhart Historical District. The Lockhart Historical Preservation Commission (LHPC) will review any proposed changes to the exterior of the building, as well as any interior work that impacts load-bearing walls.

PROJECT SCHEDULE (if applicable): Estimated project duration of six months to include final design, procurement, and construction.

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): The estimated total construction cost, at the current scope, is approximately \$673,000. Additional Architect and Engineering fees of \$49,750 are also anticipated for updates to the Current Drawing, Construction Documentation and Construction Phase Services. Lastly, asbestos abatement consulting fees of \$12,378. D. Wilson Construction Co. Proposed Fees for CMAR Services are included in the attached resolution and include the following:

- Construction Manager at Risk (CMAR) Services Fee - 6.75%
 - o This fee is to be a fee percentage based on the Owner (City of Lockhart) approved Guaranteed Maximum Price to provide comprehensive construction phase services for the project and attachments described in the RFP.
- Pre-Construction Services - included in CMAR Services Fee.
- Contractor Reimbursable General Conditions based on Cost of Work - \$76,534.

PREVIOUS COUNCIL ACTION:

COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION:

LIST OF SUPPORTING DOCUMENTS: Resolution 2024-24 - Award Contract for CMAR services for Fire Station No. 1 Remodel

City of Lockhart, Texas

Council Agenda Item Cover Sheet

CITY OF LOCKHART, TEXAS

RESOLUTION NO. 2024-24

**A RESOLUTION OF THE CITY COUNCIL OF LOCKHART, TEXAS
SELECTING D. WILSON CONSTRUCTION CO. AS CONSTRUCTION
MANAGER-AT-RISK (CMAR) FOR FIRE STATION NO. 1 REMODEL
PROJECT, AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, on March 5, 2024, City Council approved an oral resolution authorizing the Construction Manager At Risk (CMAR) delivery method for procurement of construction services to remodel Fire Station No. 1;

WHEREAS, on May 13, 2024, the City published notice of the request for proposals for performing the duties of Construction Manager at Risk for the Fire Station No. 1 Remodel Project and received two responses on May 31, 2024;

WHEREAS, City Staff evaluated the proposals and is recommending the selection of D. Wilson Construction Co. as the CMAR that offers the best value for the Fire Station No. 1 Remodel Project; and

WHEREAS, the City Council desires to authorize the City Manager to execute a contract with D. Wilson Construction Co.;

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

1. The City Council hereby awards CMAR services for the Fire Station No. 1 Remodel Project to D. Wilson Construction Co.
2. The City Manager is hereby authorized to execute a contract, a draft copy of which is attached to this Resolution as **Exhibit 1**, with D. Wilson Construction Co. to serve as the Construction Manager at Risk to perform construction services to remodel Fire Station No. 1.

PASSED AND APPROVED by the City Council of the City of Lockhart, Texas this 17th day of September, 2024.

Lew White
Mayor

ATTEST:

By:

Julie Bowermon
City Secretary

APPROVED AS TO FORM:

Bradford Bullock
City Attorney

EXHIBIT 1

Construction Manager At Risk (CMAR) Agreement

Standard Form of Agreement Between Owner and Construction Manager as Constructor (AIA A133 – 2019) where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

AGREEMENT made as of the 3rd day of September in the year 2024.

BETWEEN the Owner:

City of Lockhart, TX
308 W. San Antonio St.
PO Box 239
Lockhart, TX 78644

and the Construction Manager:
(Name, legal status, address, and other information)

D. Wilson Construction Co.
1858 Grandstand Drive
San Antonio, TX 78238

for the following Project:

Fire Station No. 1 Remodel Project

The Architect:

Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors
4303 Medical Parkway
Austin, TX 78756

The Owner and Construction Manager agree as follows.

EXHIBIT 1

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	GENERAL PROVISIONS
3	CONSTRUCTION MANAGER'S RESPONSIBILITIES
4	OWNER'S RESPONSIBILITIES
5	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7	COST OF THE WORK FOR CONSTRUCTION PHASE
8	DISCOUNTS, REBATES, AND REFUNDS
9	SUBCONTRACTS AND OTHER AGREEMENTS
10	ACCOUNTING RECORDS
11	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12	DISPUTE RESOLUTION
13	TERMINATION OR SUSPENSION
14	MISCELLANEOUS PROVISIONS
15	SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Originally built in 1914 as the City of Lockhart's first City Hall and Fire station, Lockhart's Fire Station No. 1 has been in nearly continuous use as an operating fire station as well as housing a variety of other purposes, including a jail, police department, and municipal court. Some modifications have necessarily been made over the years but without significant impact on the actual structure. The building is now and has been for some time, used entirely for Fire Department purposes. The scope of the project is a significant interior remodel of the existing building with a focus on life safety, electrical upgrades, and improvement to the living areas for the firefighters. **The Construction Manager shall work with the Owner to coordinate Fire Department operations before and during construction as well as during performance of work in the warranty periods so as to provide the least impact to public safety and protect private and public property.**

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

Project Location: 201 W Market St, Lockhart, Texas

EXHIBIT 1

Project Specifics – Scope of Work:

Base Scope:

- Installation of a full automatic fire suppression system (sprinklers), fire/smoke notification system.
- Deisel Exhaust system for noxious gases in the apparatus bays.
- Enhanced fire/smoke protection on the ceilings and stair walls of the first level.
- Enhanced emergency exiting from the second level.
- Living and working quarters renovations includes upgrade both restrooms up and down, and upstairs fully renovated kitchen, sleeping quarters, most ceilings and floor finishes.
- Upgrades to hazardous electrical panels and switchgear.
- Enhanced fire/smoke barrier between Apparatus Bays and sleeping areas above.
- Enhanced emergency exiting from second floor.
- Enhanced Living and working quarters for Firefighters.
- Restroom on first floor renovated including exhaust air vent, reduced tripping hazard.
- Restroom on second floor completely renovated with new expanded shower, new finishes.
- Kitchen: replace cabinets, appliances and reorganize for better utilization.
- Relocate existing furnace #2 to above ceiling and new ductwork throughout that system.
- Remodel one room bunk style sleeping quarters to three separate rooms.
- New ceilings and LED lights throughout new ceiling areas.
- New floor finishes.
- Re-pointing of some brick masonry.
- New Overhead Doors
- New Exterior Signage

Add Alternate Scope:

- Re-glazing and painting the exterior of all existing windows.
- Repainting of all exterior doors and woodwork, including the cornice.

Work to be completed under separate contract:

- Interior Asbestos remediation.

Exhibit C of the Contractor's Response to the Request for Proposal ("RFP") provides a Preliminary Drawing and Specifications for Interim Review of the Project site and interior. Final Drawings and Specifications will be completed with input from the Owner, Construction Manager, and the Architect.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

The estimated construction budget at the current scope and at time of execution is \$673,000. GMP Amendment to be executed at a later date.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

See Exhibit D of the RFP for Preliminary Schedule.

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

Not applicable.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

Not applicable.

EXHIBIT 1

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

Additional Project considerations will be determined on an as-needed basis.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:

(List name, address, and other contact information.)

City Manager
« Steven Lewis »
« Lockhart City Manager »
« 105 S. Colorado Street »
« Lockhart, Texas 78644 »
« slewis@lockhart-tx.org »
« 512-769-8072 (Mobile) »

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

(List name, address and other contact information.)

« Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors »« »
«4303 Medical Parkway »
« Austin, Texas, 78756 »
« 512-479-0022 »

Attn: Amy Bramwell »

§ 1.1.10 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

« »« »
« »
« »
« »
« »

.2 Civil Engineer:

« »« »
« »
« »
« »
« »

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

« »

§ 1.1.11 The Architect's representative:

(List name, address, and other contact information.)

« »
« »
« »

EXHIBIT 1

« »
« »
« »

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

«
Leland Stennett
DWCC Regional Manager
1858 Grandstand
San Antonio, Tx. 78238
lelands@dwilsonconstruction.com
(210)825-9643
»

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

« Not applicable. »

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

« Not applicable. »

§ 1.1.15 Other Initial Information on which this Agreement is based:

« None. »

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply in its entirety unless specifically stated otherwise in the AIA Document A201™-2017,

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General Conditions of the Contract for Construction. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES

The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager’s Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services, including but not limited to preparing schedules and estimates. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require. The recommendations and advice of the Construction Manager concerning design alternatives and potential cost savings shall be subject to the review and approval of the Architect, Owner and the Owner’s professional consultants. The Construction Manager shall certify to the Owner that the Project, to the best of his knowledge, has been constructed in accordance with the Architect’s construction documents. The certification shall be in a form which is acceptable to the Owner and Construction Manager.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; site use and improvements; selection of materials and equipment; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect’s review and the Owner’s acceptance. The Construction Manager shall obtain the Architect’s approval for the portion of the Project schedule relating to the performance of the Architect’s services. The Project schedule shall coordinate and integrate the Construction Manager’s services, the Architect’s services, other Owner consultants’ services, and the Owner’s responsibilities; and identify items that affect the Project’s timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; dates of Substantial Completion and Final Completion; and the occupancy/service requirements of the Owner. If updated Project schedules indicate that previously-approved schedules may not be met, then Construction Manager shall make appropriate recommendation to the Owner and Architect and, upon written approval of both, shall implement necessary corrective action.

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§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 Intentionally omitted.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

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§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

« See Tab 5, Attachment B »

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 The date of Final Completion upon which the proposed Guaranteed Maximum Price is based, which date shall not be more than 30 days after the date of Substantial Completion; and
- .6 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the

EXHIBIT 1

Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Guaranteed Maximum Price shall not include in the Cost of the Work any taxes from which the Owner is exempt by virtue of its status as a governmental entity. In the event that the Construction Manager is required to pay or bear the burden of any new federal, state, or local tax, or if any rate increase of an existing tax (except a tax on net profits), as a result of any statute, court decision, written ruling, or regulation takes effect after the Contract date, the Guaranteed Maximum Price shall be increased by the amount of the new tax, or tax increase.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment. Other than services normally associated with Construction Manager's performance of the general conditions, Construction Manager shall not perform any portions of the Work unless it has been awarded such portion in accordance with the same procedures imposed upon all other trade contractors or subcontractors, and then, only if the Owner has determined that the Construction Manager's bid or proposal provides the best value for the Owner.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

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§ 4.1.3 The Owner, when such services are reasonably necessary for the Project, shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. This shall specifically include an abatement survey conducted prior to the start of the Preconstruction Phase.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Construction Manager's Services shall be provided in conjunction with the services of the Architect. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

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« None. See Tab 5 »

§ 5.1.2 Intentionally omitted.

§ 5.1.2.1 Intentionally omitted.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within « six » (« 6 ») months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services may be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable within thirty (30) days of receipt of the Construction Manager's invoice. Amounts unpaid « more than sixty » (« 60 ») days after the invoice date shall bear interest at the legal rate prevailing from time to time as indicated in Texas Government Code 2251.025.

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment as set forth in Article 11. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee of which the total shall not exceed the Guaranteed Maximum Price.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

« The Construction Manager's Fee shall be calculated as 6.75% of the Cost of the Work, and not as a percentage of the Contract Sum. No Construction Manager's Fee shall be paid on the Construction Manager's Contingency or the Owner's Contingency until funds are allocated from those contingencies to the Cost of Work »

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

« »Method of adjustment for changes shall be via a Change event to modify the contract value plus a fee of 6.75%

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

« 10% »

§ 6.1.5 Intentionally omitted.

§ 6.1.6 Liquidated Damages

« § 6.1.6.1 Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Construction Manager that time is of the essence in the Substantial Completion and Final Completion of the Project and Owner shall sustain actual and direct damages as a result of Construction Manager's failure, neglect or refusal to achieve said deadlines. Such actual and direct damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Construction Manager that the amounts stated below are the minimum value of the costs and actual and direct damages caused by failure of Construction Manager to substantially complete the work within the allotted times, that such sums are liquidated direct damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Construction Manager if such delay occurs. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for personnel, attorney fees, architectural fees, engineering fees, program management fees, inspection fees, storage costs, food service costs, transportation costs, utilities costs, costs of temporary facilities, loss of interest on money, and other miscellaneous increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial or Final Completion, shall be construed as a breach of this Agreement.

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§ 6.1.6.2 It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from the Final Payment made to the Construction Manager a sum equal to one thousand dollars (\$1,000) per day for each and every additional calendar day beyond the agreed date of Substantial Completion.

§ 6.1.6.3 Such damages shall be in addition to, and not in lieu of, any other rights, claims or remedies Owner may have against Construction Manager. »

§ 6.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

« None. »

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform minor work at the site or, with the Owner’s prior approval, at off-site workshops.

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§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

« See Tab 5, Attachment B »

§ 7.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, except taxes from which the Owner is exempt by virtue of its status as a governmental entity, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors or Construction Manager in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Intentionally omitted.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

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§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable, except this does not include taxes from which the Owner is exempt by virtue of its status as a governmental entity.

§ 7.6.3 Fees and assessments for the building permit, construction permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.6 Costs for software acquired specifically for the Work and not previously owned by or licensed to Construction Manager, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Intentionally omitted.

§ 7.6.10 Intentionally omitted.

§ 7.6.11 Intentionally omitted.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9 or other provisions or amendments to this Agreement. However, notwithstanding anything in Article 7 to the contrary, no reimbursable cost or expense will be paid again if it is also included and paid in any general conditions amount submitted by Construction Manager.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in

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which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include any items not specifically enumerated in Attachment B.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions; and (4) offers the best value to Owner, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all

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costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the « 15th » day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the « 30th » day of the « following » month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than « forty-six » (« 46 ») days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee. Each Application for Payment shall also include a list, with backup data, of how each payment shall be spent, including a list detailing which subcontractors and suppliers will be paid out of funds paid by Owner and the amount of such payments to subcontractors and supplies, and in the next payment cycle, proof of each payment to Construction Manager's subcontractors and suppliers after payment.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be (1) the percentage of that portion of the Work which has actually been completed.

§ 11.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

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- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« 10% »

§ 11.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« Not applicable. »

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

« None. »

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

« None. »

§ 11.1.9 Intentionally omitted.

§ 11.1.10 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

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§ 11.1.11 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements according to the terms below:

- .1 During monthly payment substantiation, the Construction Manager shall submit an AIA Document G703-1992, Continuation Sheet which adequately identifies the percentage of Work complete and the amount to be paid to Subcontractors; and
- .2 verify said information described in Section 11.1.11.1 with reports detailing checks provided to Subcontractors.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, including the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting and reconciliation for the Cost of the Work, including allowances and change orders, containing the detailed requirements by this Subparagraph 11.2.1, and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum

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Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest in accordance with Texas Government Code 2251.025.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision or recommendation by the Initial Decision Maker shall be required as a condition precedent to mediation.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« Not applicable. »

« »

« »

« »

§ 12.1.3 When Owner has an applicable claim for construction defects, Owner shall comply with the provisions of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Construction Manager’s or Architect’s opportunity to cure.

§ 12.2 Binding Dispute Resolution

For any Claim arising out of the terms of the Contract Documents or performance of Work, including those subject to, but not resolved by voluntary mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

[☐] Arbitration pursuant to Article 15 of AIA Document A201–2017

[☒] Litigation in a court of competent jurisdiction in Caldwell County, Texas

[☐] Other: *(Specify)*

« »

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

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§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as

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the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

« Using the same method set forth in Section 13.2.2 of this Agreement »

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price, if established, and Contract Time may be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. This does not prevent Construction Manager from engaging subcontractors to perform various phases of the Project in accordance with law, but Construction Manager shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 14.2.2 The Owner may, with written consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1

Commercial General Liability as follows with policy limits of not less than the below:

See Certificate of Insurance in Exhibit B.

§ 14.3.1.6 Intentionally omitted

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager’s negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner’s insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

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§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 Payment and Performance Bonds. The Construction Manager shall provide both a payment and performance bond before commencing Work on the Project in accordance with Texas Government Code Sec. 2253.021.

§ 14.4 Notice requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission:

« »

§ 14.5 Other provisions:

« Texas Public Information Act. Contractor acknowledges that City is a governmental entity and that all documents, plans, data, studies, surveys, drawings, maps, models, reports, photographs, and/or any items prepared or furnished by Contractor (and Contractor's professional associates and/or Subcontractors) under this Agreement are instruments of service in respect of the Project and property of the City and upon completion of the Project shall thereafter be subject to the Texas Public Information Act (Texas Government Code, Chapter 552). Contractor agrees that City is under no obligation to notify Contractor of a request for information or to otherwise ensure confidentiality.

Form 1295 Certificate. The Parties acknowledge that the Contractor will complete a Form 1295 required pursuant to Section 2252.908(c)(4), Texas Government Code before final execution of this Agreement.

Verifications of Statutory Representations and Covenants. The Contractor makes the following representations and verifications to enable to City to comply with Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Contractor, respectively within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

(a) Not a Sanctioned Company. Contractor represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Contractor and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(b) No Boycott of Israel. The Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, "boycott Israel" has the meaning provided in Section 2271.001, Government Code.

(c) No Discrimination Against Firearm Entities. The Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the meaning provided in Section 2274.001(3), Government Code.

(d) No Boycott of Energy Companies. The Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 2276.001(1), Government Code.

(e) No Waiver of Immunity. The Contractor acknowledges that the Owner, as a municipality, is a government entity operating under the laws of the State of Texas and therefore has sovereign immunity from all claims and liabilities

EXHIBIT 1

unless specifically waived pursuant to express statutory authority. Nothing in this Agreement or the Contract Documents shall be construed to waive the Owner's sovereign immunity beyond what is statutorily authorized pursuant to Texas law.»

§ 14.6 INDEMNIFICATION

CONTRACTOR DOES HEREBY AGREE TO, INDEMNIFY, DEFEND, AND HOLD HARMLESS OWNER AND ALL OF ITS OFFICIAL, OFFICERS, EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM AND AGAINST ANY AND ALL LIABILITY CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS, LIENS, OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS, AND ATTORNEY'S FEES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS, OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE SUCH INDEMNITY SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS WHEN THE LIABILITY, CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS, LIENS, OR CAUSES OF ACTIONS LIE AGAINST ANY PERSON OR ENTITY INDEMNIFIED HEREIN.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price;
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, to be executed at a later date;
- .3 D. Wilson Construction Company Response to Request for Proposal, to the extent that it does not conflict with the terms of the other documents comprising the Agreement, including Attachment B and Tab 5; and
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

« »« »

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

« »« »

(Printed name and title)

DRAFT AIA® Document A133™ – 2009

Guaranteed Maximum Price Amendment

for the following PROJECT:

(Name and address or location)

« »
« »

THE OWNER:

(Name, legal status and address)

« »« »
« »

THE CONSTRUCTION MANAGER:

(Name, legal status and address)

« »« »
« »

ARTICLE A.1

§ A.1.1 Guaranteed Maximum Price

Pursuant to Section 2.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of this Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed « » (\$ « »), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Construction Manager's Fee, and other items that comprise the Guaranteed Maximum Price.
(Provide below or reference an attachment.)

« »

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Contract Documents permit the Owner to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

« »

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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EXHIBIT 1

EXHIBIT A

Item	Price (\$0.00)

§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

<< >>

§ A.1.1.6 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here, or refer to an exhibit attached to this Agreement.)

<< >>

Section	Title	Date	Pages

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here, or refer to an exhibit attached to this Agreement.)

<< >>

Number	Title	Date

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following other documents and information:
(List any other documents or information here, or refer to an exhibit attached to this Agreement.)

<< >>

ARTICLE A.2

§ A.2.1 The anticipated date of Substantial Completion established by this Amendment:

<< >>

OWNER (Signature)

CONSTRUCTION MANAGER (Signature)

<< >><< >>

(Printed name and title)

<< >><< >>

(Printed name and title)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/24/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hughston Insurance Agency, Inc. PO Box 8550 Brownsville TX 78526	CONTACT NAME: Camille Atkinson PHONE (A/C, No, Ext): (956) 542-4387 FAX (A/C, No): (956) 542-8335 E-MAIL ADDRESS: camille@hiains.net														
INSURED D. Wilson Construction Company 1207 E. Pecan McAllen TX 78501 (956) 686-9573	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC#</th> </tr> </thead> <tbody> <tr> <td>INSURER A: New Hampshire Insurance Compan</td> <td>23841</td> </tr> <tr> <td>INSURER B: National Union Fire Ins. Compa</td> <td>19445</td> </tr> <tr> <td>INSURER C: Asper American Insurance Company</td> <td>43460</td> </tr> <tr> <td>INSURER D: United Fire & Casualty</td> <td>13021</td> </tr> <tr> <td>INSURER E: Travelers Insurance</td> <td>19445</td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC#	INSURER A: New Hampshire Insurance Compan	23841	INSURER B: National Union Fire Ins. Compa	19445	INSURER C: Asper American Insurance Company	43460	INSURER D: United Fire & Casualty	13021	INSURER E: Travelers Insurance	19445	INSURER F:	
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INSURER E: Travelers Insurance	19445														
INSURER F:															

COVERAGES ME CERTIFICATE NUMBER: Cert ID 3936 (180) REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GENL AGGREGATE LIMIT APPLIED PER: ☐ POLICY ☒ PROJECT ☐ LOG ☐ OTHER		3292114	09/01/2023	09/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Empl Benefits Liab \$ 1,000,000
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY		4544771	09/01/2023	09/01/2024	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	☒ UMBRELLA UAB ☐ EXCESS UAB ☐ DED ☒ RETENTION \$	☐ OCCUR ☐ CLAIMS-MADE	CX00XDY23	09/01/2023	09/01/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ 10,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in WA) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N / A	22298392	09/01/2023	09/01/2024	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 F.I. DISFAS - FA FMPD OYFF \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Builder's Risk		46314213	09/01/2023	09/01/2024	Any One Jobsite \$ 25,000,000
E	Leased Rented Equipment		QT-660-8492LSGG-TLC-23	09/01/2023	09/01/2024	Any One Item \$ 100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: Bid for Lockhart Fire Station No. 1

CERTIFICATE HOLDER

CANCELLATION

City of Lockhart 308 W. San Antonio St P. O. Box 239 Lockhart TX 78644	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	---

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ACORD 25 (2016/03)

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Page 1 of 1

HUGHSTON

INSURANCE AGENCY

David C. Hughston, CIC, CPCU
Peggy Gonzalez, CIC, CPCU, CRIS
Christopher Hughston, CIC
Brock Hughston

May 24, 2024

Joe Araiza
D. Wilson Construction Company
P. O. Box 3455
McAllen, TX 78501

Re: D. Wilson Construction Company
City of Lockhart
Lockhart Fire Station No.1

To Whom It May Concern:

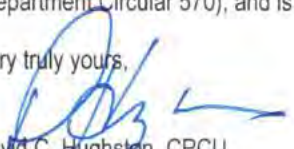
It has been the privilege of Hughston Insurance Agency, Inc. to provide surety bonds on behalf of D. Wilson Construction Company for over fifty (50) years, during which time D. Wilson Construction Company has performed and we have issued performance and payment bonds for contracts valued as high as \$80,000,000.00 single project. In our opinion, D. Wilson Construction Company remains properly financed, well equipped, and capably managed.

At the present time, Markel Insurance Company (with Treasury Limit over \$193,000,000) provides a \$200,000,000.00 aggregate surety program to D. Wilson Construction Company. Markel Insurance Company is listed in the State Board of Insurance, Bond Department's "List of Insurance Companies" licensed to write fidelity and surety bonds in Texas and is authorized to do business up to the limit of the contract. Bonding capacity has remained unchanged for the last five (5) years.

As always, Markel Insurance Company reserves the right to perform normal underwriting at the time of any bond request, including, without limitation, prior review and approval of relevant contract documents, bond forms, and project financing.

Markel Insurance Company is listed on the U.S. Treasury Department's Listing of Approved Sureties (Department Circular 570), and is rated A+ XV by A.M. Best Company.

Very truly yours,


David C. Hughston, CPCU
Attorney-in-Fact

46 Cove Circle P.O. Box 8190 BROWNSVILLE, TEXAS 78526 (956) 542-4387 Fax (956) 542-8335
www.hiains.net

CITY OF LOCKHART FIRE STATION #1

PRELIMINARY

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW. IT IS NOT TO BE USED FOR FINAL DESIGN OR CONSTRUCTION. PROJECT: CITY OF LOCKHART, TEXAS. PROJECT NO.: 2024-01. PREPARED BY: STEINBOMER ARCHITECTURE INTERIORS. TEXAS REG. #7988

studio | steinbomer

ARCHITECTURE INTERIORS

1400 S Congress Ave, Suite B202
Austin, TX 78704
T: 512.475.0022
www.steinbomer.com

VICINITY MAP

PROJECT LOCATION
201 W MARKET ST.
LOCKHART, TX 78644

GRAPHIC SYMBOLS & CONVENTIONS

GRAPHIC SYMBOLS

1

BUILDING SECTION

SCALE: 3/4" = 1'-0"

SCALE OF SECTION OR DETAIL

1/A6.1

LONGITUDINAL OR CROSS SECTION NO.

1/A6.1

SHEET NO. ON WHICH SECTION IS DRAWN

1/A6.1

SURFACE SHOWN IN ELEVATION

1/A6.1

SHEET ON WHICH ELEVATION IS DRAWN

3/A5.1

DETAIL NO.

AREA OF DETAIL ENLARGED

SHEET NO. ON WHICH ENLARGED DETAIL IS DRAWN

1

2

3

4

A000

SHEET NO.

ELEV. NO.

GRAPHIC CONVENTIONS

△

REVISION NUMBER

CENTERLINES AND PROJECTED LINES

HIDDEN LINE AND/OR LINE ABOVE FLOOR PLANE

BOUNDARY LINE AND/OR FLOOR LINES IN EXTERIOR ELEVATIONS

4'-0"

4'-0"

6"

DIMENSION LINE DESIGNATIONS

101

DOOR TYPE APPEARING ON SCHEDULE OF OPENINGS

DOOR NUMBER

B

WINDOW TYPE

PROJECT DIRECTORY

CLIENT:

CITY OF LOCKHART
Box 900
LOCKHART, TX 78644
TEL: (512) 398-3461
EMAIL: SLEWIS@lockhart-tx.org
CONTACT: STEVE LEWIS

ARCHITECT:

STUDIO STEINBOMER
P.O. BOX 66878
AUSTIN, TX 78766
TEL: (512) 479-0022 EXT. 980
FAX: (512) 477-4668
EMAIL: robert@steinbomer.com
CONTACT: ROBERT STEINBOMER

MEP ENGINEER:

WILSON GIRGENTI
13785 RESEARCH BLVD , SUITE 125
AUSTIN, TX 78750
TEL: (512) 762-3641
EMAIL: MCOAD@WILSONGIRGENTI.COM
CONTACT: MISSY COAD

STRUCTURAL ENGINEER:

TSEN ENGINEERING
210 BARTON SRPINGS RD
AUSTIN, TEXAS 78704
TEL: (512) 474-4001
EMAIL: jbuchanan@tsenengineering.com
CONTACT: JAMIE BUCHANAN

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UPPER LEVEL DEMOLITION PLAN

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UPPER LEVEL FLOOR PLAN

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LOWER LEVEL REFLECTED CEILING PLAN

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LOWER LEVEL PLAN - HVAC AND PLUMBING

MP-202

UPPER LEVEL PLAN - HVAC AND PLUMBING

STRUCTURAL: 8 1/2" X 11"

ATTACHMENT

RENOVATION TO THE

LOCKHART FIRE STATION #1

201 W MARKET ST, LOCKHART, TEXAS 78644

DATE: 11/06/20

DRAWN: BJ/BP

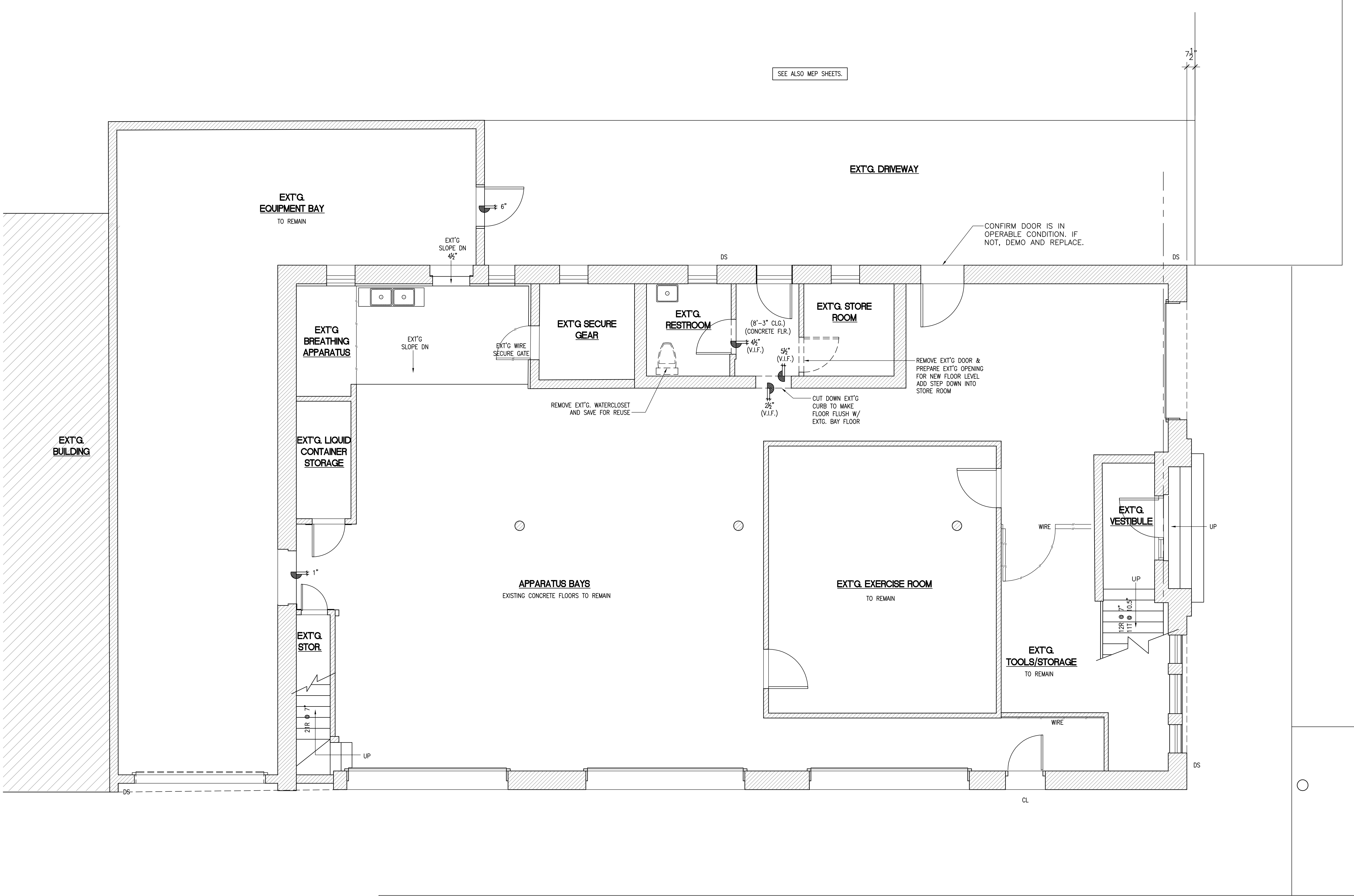
SCALE: AS NOTED

No.	Description	Date
	REVISION	2/23/21

SHEET X OF X

COVER SHEET

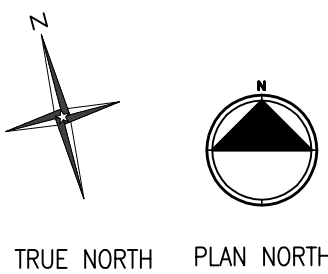
A-001



- GENERAL NOTES**
- DRAWINGS REPRESENT ASSUMPTIONS OF EXISTING CONDITIONS BASED ON THE BEST AVAILABLE INFORMATION, INCLUDING FIELD MEASUREMENTS AND PRIOR CONSTRUCTION DOCUMENTATION. MANY EXISTING CONDITIONS CANNOT BE VERIFIED UNTIL WALLS, FLOORS AND/OR CEILINGS ARE OPENED UP FOR CONSTRUCTION. DRAWINGS INDICATE INTENT AND SCOPE OF WORK. THE CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS IN THE FIELD AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES PRIOR TO PROCEEDING WITH WORK.
 - BEFORE PROCEEDING WITH ANY MAJOR DIVISION OF WORK, VERIFY ALL DIMENSIONS AND RELATIONSHIPS TO NEW AND EXISTING CONDITIONS.
 - ALL DIMENSIONS OF NEW CONSTRUCTION ARE TO FINISHED FACE OF WALL UNLESS NOTED OTHERWISE. EXISTING DIMENSIONS ARE TO FINISHED FACE. CONTRACTOR SHALL VERIFY ALL EXISTING DIMENSIONS.
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 - SIZES FOR DOORS ARE NOMINAL AND CONTRACTOR SHALL VERIFY ACTUAL SIZES AND SUITABILITY FOR OPENING LOCATION WITH THE PRODUCT MANUFACTURER PRIOR TO ORDERING. SIZES FOR WINDOWS ARE ROUGH OPENINGS. ANY DISCREPANCIES SHALL BE BROUGHT TO ARCHITECT'S ATTENTION IMMEDIATELY.
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 - IT IS THE INTENT OF THESE DOCUMENTS TO PROVIDE A COMPLETE INSTALLATION IN EVERY RESPECT. IF ADDITIONAL DETAILS OF SPECIAL CONSTRUCTION ARE REQUIRED FOR WORK INDICATED OR SPECIFIED, THE CONTRACTOR SHALL PROVIDE THE MATERIALS, EQUIPMENT AND LABOR REQUIRED TO COMPLETE SUCH INSTALLATION AND CONSTRUCTION AT NO ADDITIONAL COST TO OWNER.
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 - THIS SHEET AND THE INFORMATION CONTAINED HEREIN IS PART OF A COMPLETE SET OF DRAWINGS. THIS SHEET SHALL NOT BE SEPARATED FROM THIS SET FOR THE PURPOSES OF REGULATORY APPROVAL, PERMITTING, BIDDING, OR CONSTRUCTION.

LEGEND

- EXISTING WALL CONSTRUCTION
- DENOTES AREAS TO BE DEMOLISHED
- EXT'G WIRE FENCING



1 LOWER LEVEL DEMOLITION PLAN
SCALE: 1/4"=1'-0"

Resolution 2024-24 - Pg. 30 of 80

PRELIMINARY

THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW ONLY. IT IS NOT TO BE USED FOR REGULATORY APPROVAL, PERMITTING, OR CONSTRUCTION. ROBERT A. STEINBOMER TEXAS REG. #7988

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ARCHITECTURE INTERIORS

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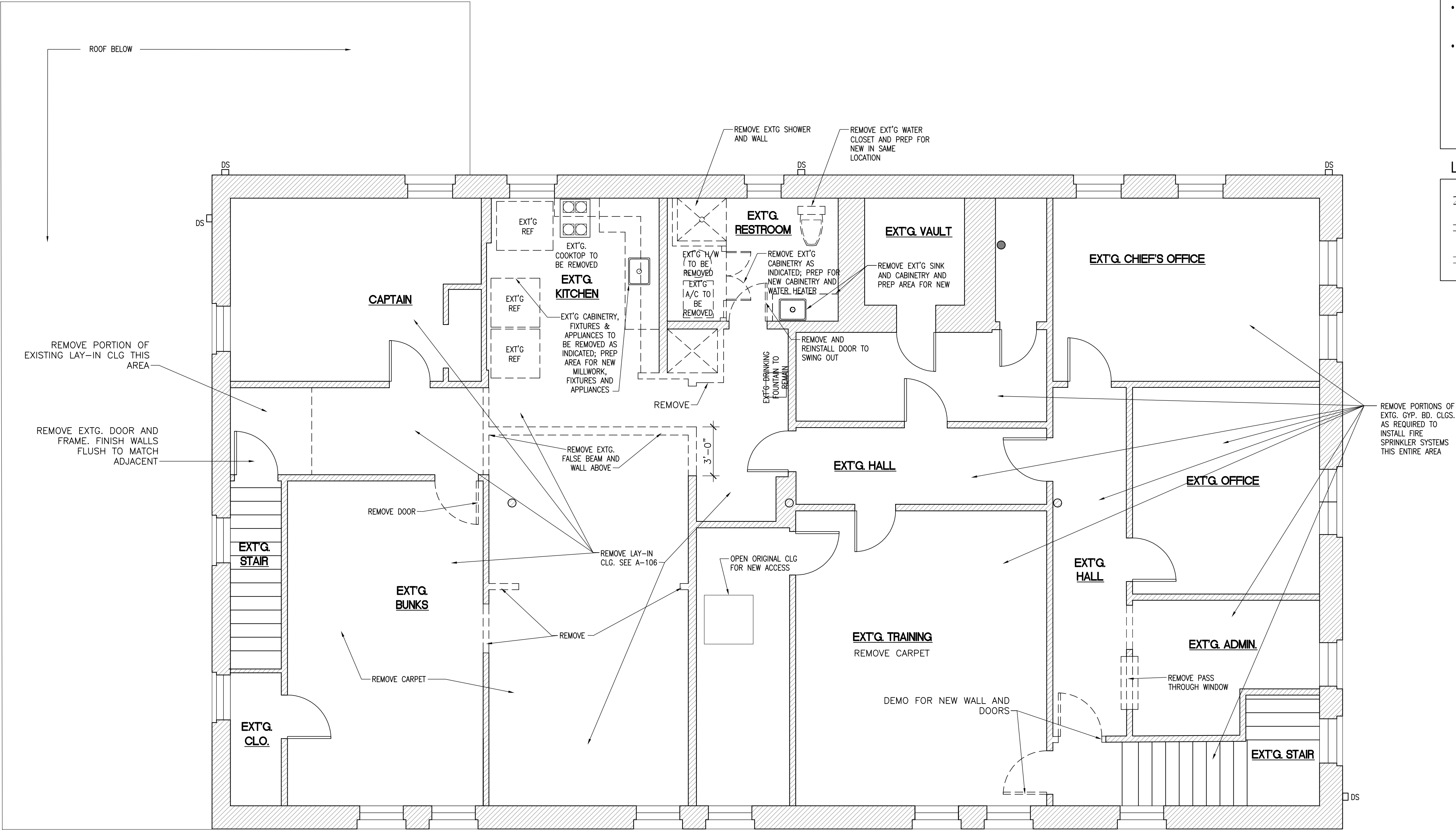
1400 S Congress Ave Suite B202
Austin, TX 78704
T: 512.479.0022
www.steinbomer.com

RENOVATION TO THE
LOCKHART FIRE STATION #1
201 W MARKET ST, LOCKHART, TEXAS 78644

DATE:	11/6/20	
DRAWN:	BJ/BP/EL	
SCALE:	AS NOTED	
No.	Description	Date
	REVISION	2/23/21

SHEET X OF X
DEMOLITION PLAN

A-101



GENERAL NOTES

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RENOVATION TO THE

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201 W MARKET ST, LOCKHART, TEXAS 78644

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LOCKHART
CONSTRUCTION
ROBERT A. STEINBOMER
TEXAS REG. #7988

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ARCHITECTS & ENGINEERS

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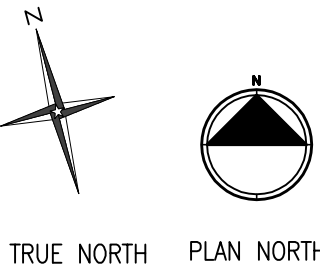
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DRAWN: BJ/BP/EL
SCALE: AS NOTED

No.	Description	Date
	REVISION	2/23/21

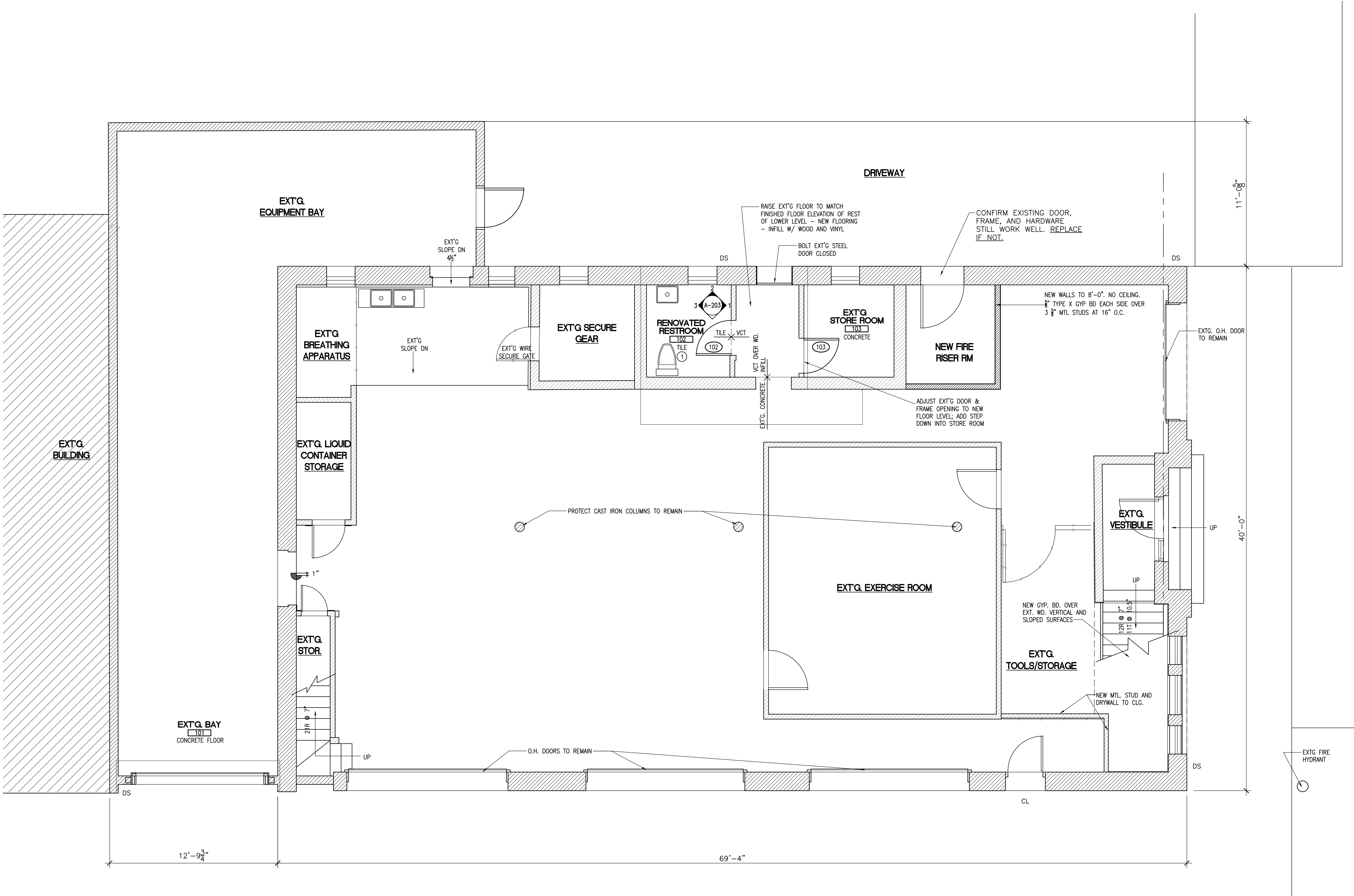
SHEET X OF X

DEMOLITION PLAN

A-102



1 UPPER LEVEL DEMOLITION PLAN
SCALE: 1/4"=1'-0"
Resolution 2024-24 - Pg. 31 of 80



GENERAL NOTES

- DRAWINGS REPRESENT ASSUMPTIONS OF EXISTING CONDITIONS BASED ON THE BEST AVAILABLE INFORMATION, INCLUDING FIELD MEASUREMENTS AND PRIOR CONSTRUCTION DOCUMENTATION. MANY EXISTING CONDITIONS CANNOT BE VERIFIED UNTIL WALLS, FLOORS AND/OR CEILINGS ARE OPENED UP FOR CONSTRUCTION. DRAWINGS INDICATE INTENT AND SCOPE OF WORK. THE CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS IN THE FIELD AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES PRIOR TO PROCEEDING WITH WORK.
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LEGEND

- DENOTES AREAS WHERE NO WORK WILL BE PERFORMED
- EXISTING WALL CONSTRUCTION
- NEW WALL CONSTRUCTION (FRAMING AND FINISH)
- EXT'G WIRE FENCING

GENERAL SCOPE NOTES

- 1 PROVIDE NEW TILE ON WALLS BEHIND AND ADJACENT TO WATERCLOSET AND PROVIDE NEW PAINT ON ALL OTHER WALLS. PROVIDE NEW TILE FLOORING THIS AREA.

ADDITIONAL SCOPE NOTES

- REPAINT INTERIOR WALLS AND TRIM TYP. THROUGHOUT

PRELIMINARY

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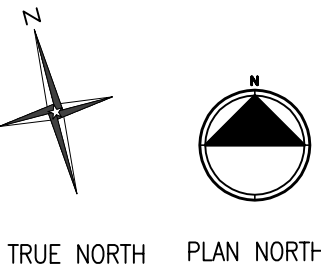
RENOVATION TO THE
LOCKHART FIRE STATION #1
201 W MARKET ST, LOCKHART, TEXAS 78644

DATE:	11/6/20	
DRAWN:	BJ/BP/EL	
SCALE:	AS NOTED	
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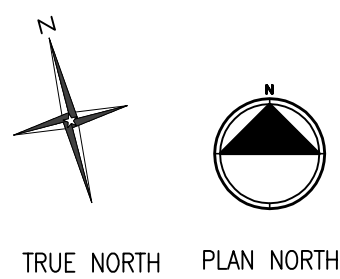
SHEET X OF X

LOWER LEVEL FLOOR PLAN

A-103



1 LOWER LEVEL FLOOR PLAN
SCALE: 1/4"=1'-0"



1 UPPER LEVEL FLOOR PLAN
SCALE: 1/4"=1'-0"
Resolution 2024-24 - Pg. 33 of 80

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	DENOTES AREAS WHERE NO WORK WILL BE PERFORMED
	EXISTING WALL CONSTRUCTION
	NEW WALL CONSTRUCTION (FRAMING AND FINISH)
	EXT'G WIRE FENCING

- ① PROVIDE NEW CABINETY, SLIDE-IN RANGE WITH VENT HOOD ABOVE, SINK W/ DISPOSAL, DISHWASHER, AND REFRIGERATORS (3) AS INDICATED; PROVIDE NEW PAINT THROUGHOUT.
- ② PROVIDE NEW CABINET FOR WATER HEATER AND GENERAL STORAGE AS INDICATED; PROVIDE NEW PAINT THROUGHOUT; PROVIDE NEW COUNTER, CABINETY AND LAVATORY SINK.
- ③ NEW W/C, LAV, AND CABINET, NEW MIRROR, LIGHTS
- ④ NEW VINYL STRIP FLOORING OVER EXISTING V.C.T.
- ⑤ NEW H.M. DOOR AND FRAME WITH SMOKE SEALS, CLOSER PANIC HARDWARE
- ⑥ NEW CARPET
- ⑦ NEW S.C. PNTD. WD. DOORS W/ LEVER PRIVACY LOCKSET

- REPAINT INTERIOR WALLS AND TRIM TYP. THROUGHOUT
- SEE ALSO MEP AND STRUCTURAL DRAWINGS

RENOVATION TO THE

LOCKHART FIRE STATION #1

201 W MARKET ST, LOCKHART, TEXAS 78644

PRELIMINARY

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TEXAS REG. #7988

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SHEET X OF X
UPPER LEVEL
FLOOR PLAN

A-104

LEGEND

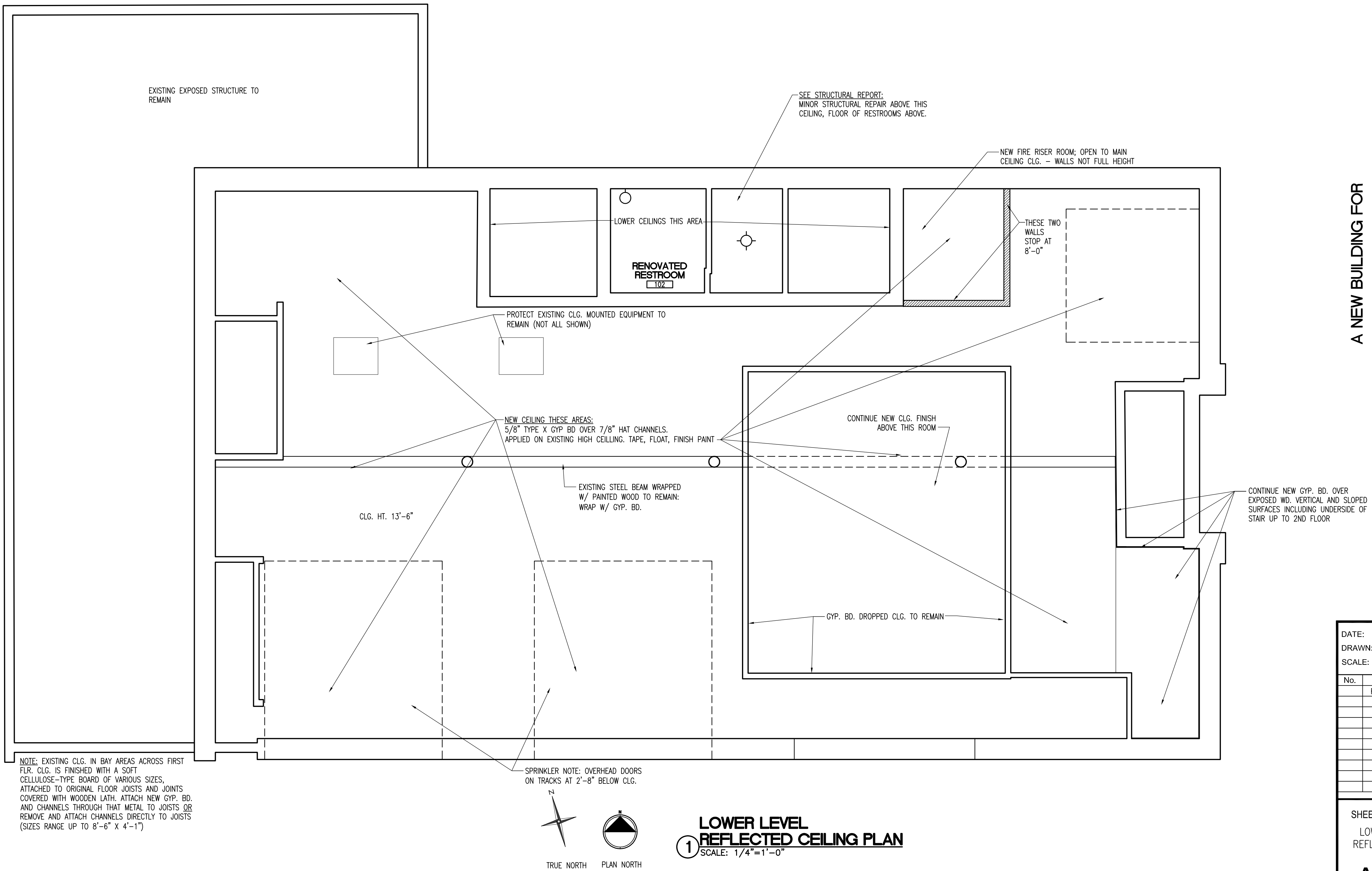
- NEW 2' X 4' LIGHT FIXTURE - REFER TO MEP DWGS
- 2X4 ACOUSTICAL CEILING TILE WITH GRID
- PAINTED GYP. BOARD CEILING - FURR DOWN AS INDICATED , TYP.
- CL
|
●
|
CL
— DENOTES CENTER OF GRID
- ☒ SUPPLY AIR DIFFUSER - COORD. W/ MEP
- ☑ RETURN AIR DIFFUSER - COORD. W/ MEP
- ☒ EXHAUST GRILLES - COORD. W/ MEP
- ⊙ WALL-MOUNTED EXIT SIGN - COORD. WITH MEP
- ♀ WALL-MOUNTED LIGHT - RE MEP DWGS
- ⊙ SURFACE-MOUNTED LIGHT - RE MEP DWGS

NOTE: SEE ALSO MECHANICAL/ELECTRICAL/PLUMBING DWGS

GENERAL NOTES

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NOTE: CONDITIONS OUTSIDE THE LIMITS OF CONTRACT ARE ASSUMED.



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A NEW BUILDING FOR

LOCKHART FIRE STATION #1

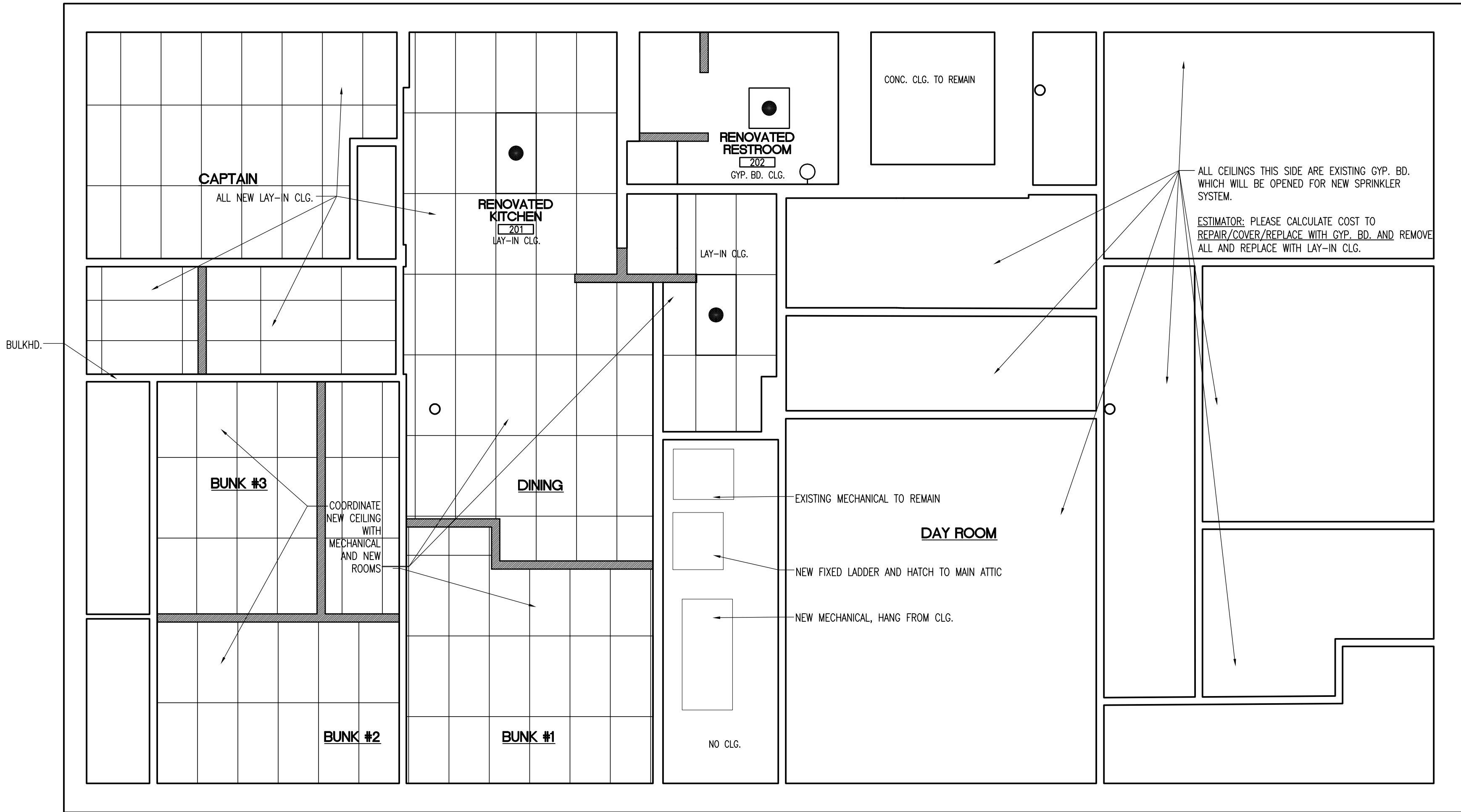
BORCHERT LOOP, LOCKHART, TEXAS 78644

No.	Description	Date
	REVISION	2/23/21

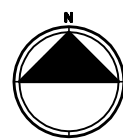
SHEET X OF X
UPPER LEVEL –
REFLECTED CEILING
PLANS

A-106

Page 350 of 522



TRUE NORTH



PLAN NORTH

**UPPER LEVEL
REFLECTED CEILING PLAN**
① SCALE: 1/4" = 1'-0"

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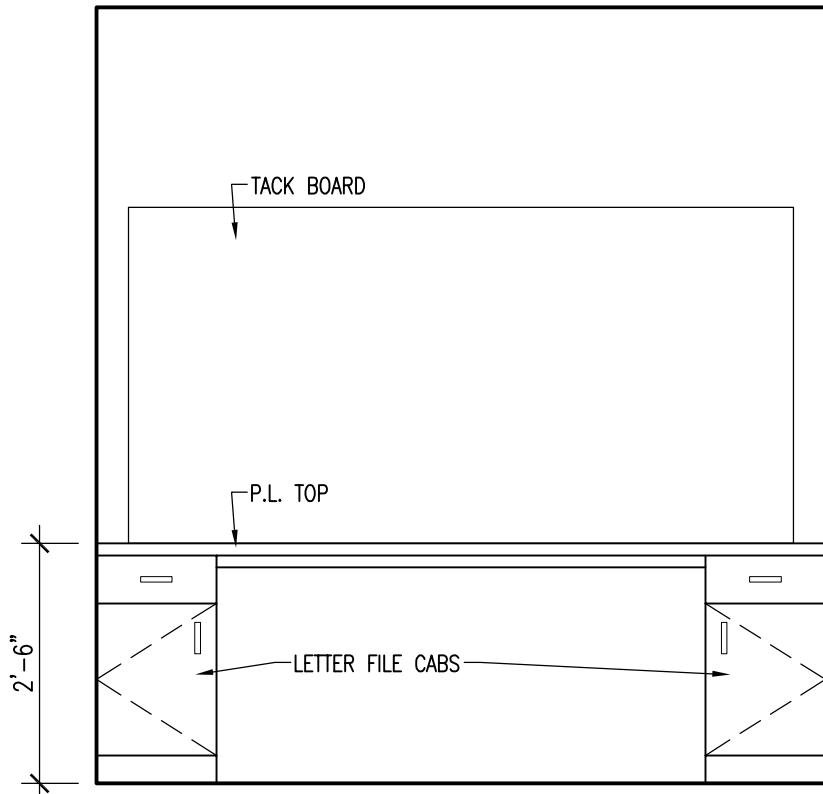
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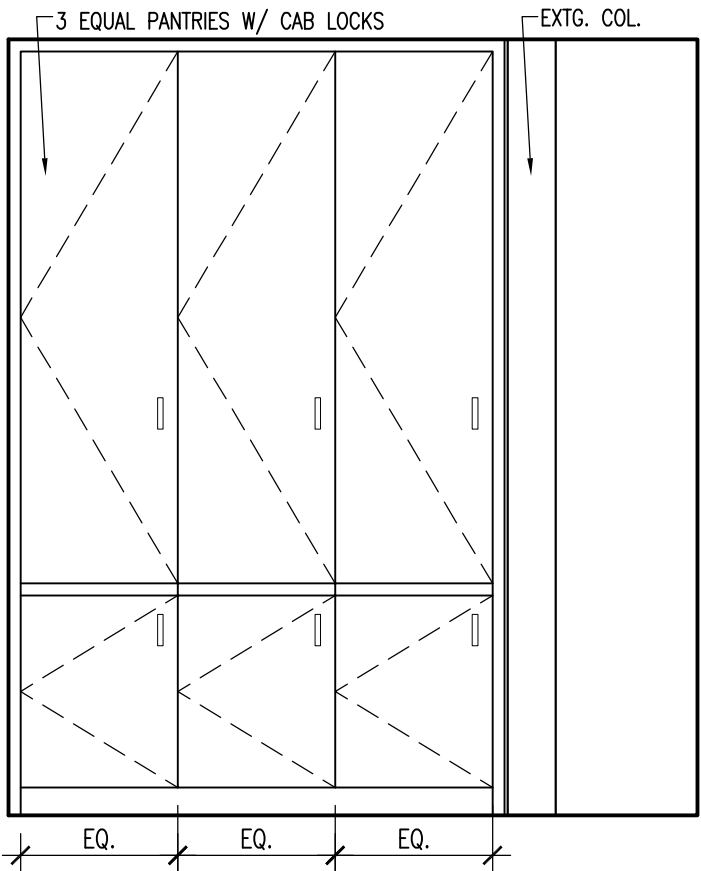
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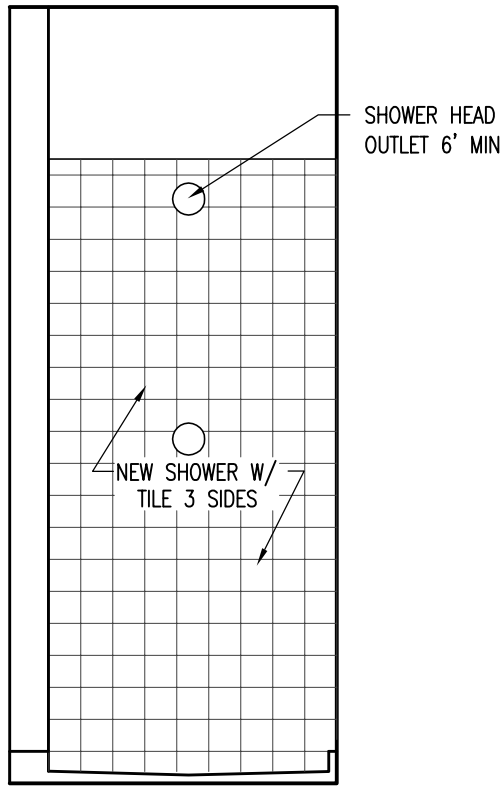
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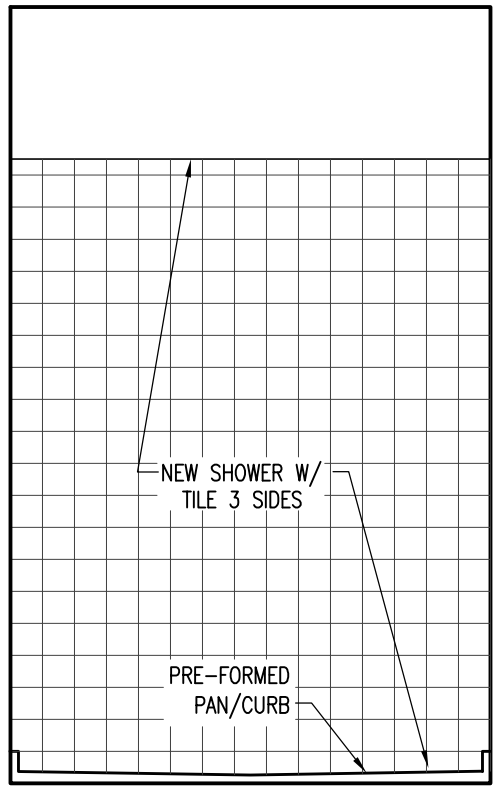
14 DINING SOUTH
SCALE: 1/2"=1'-0"



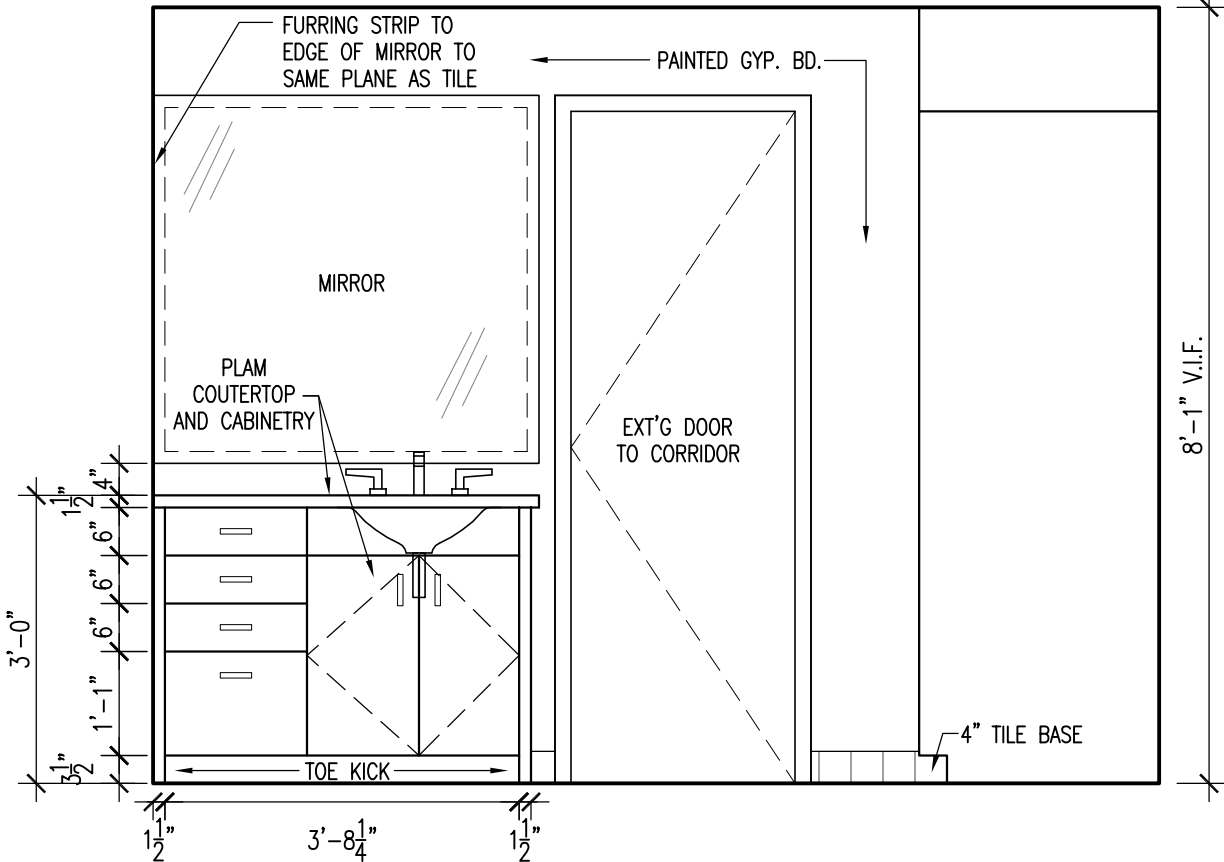
13 DINING WEST
SCALE: 1/2"=1'-0"



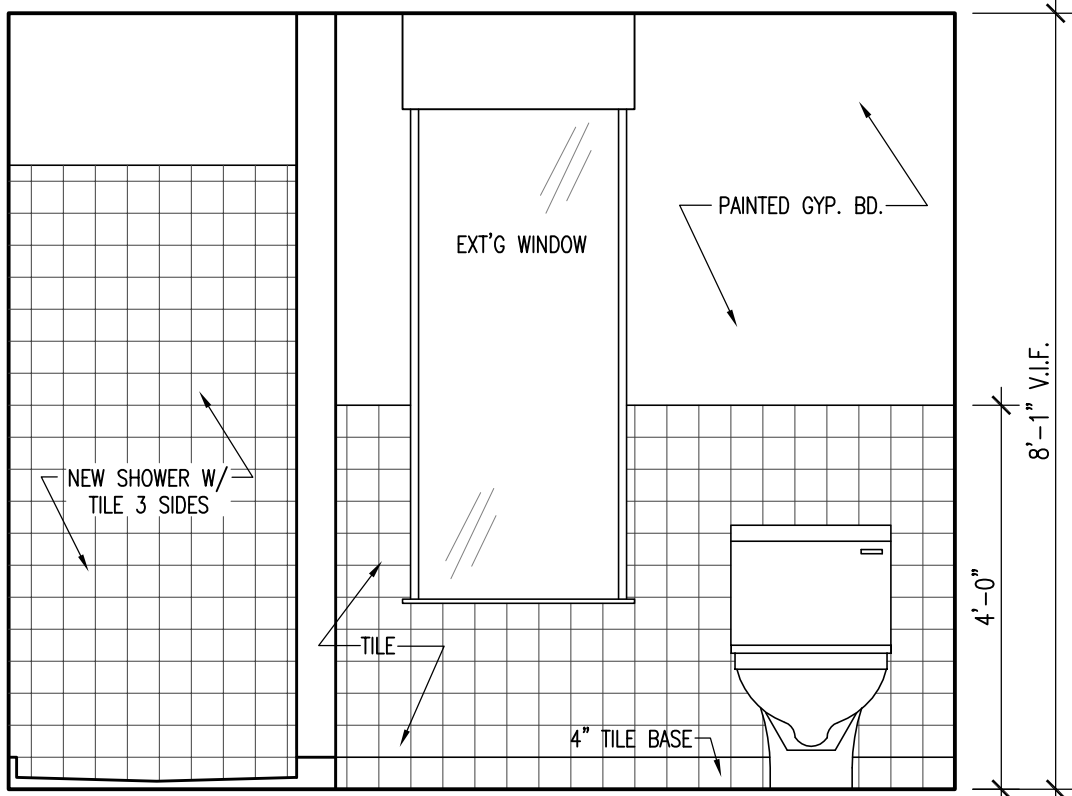
12 RENOVATED RESTROOM 202 - SHOWER INSIDE EAST
SCALE: 1/2"=1'-0"



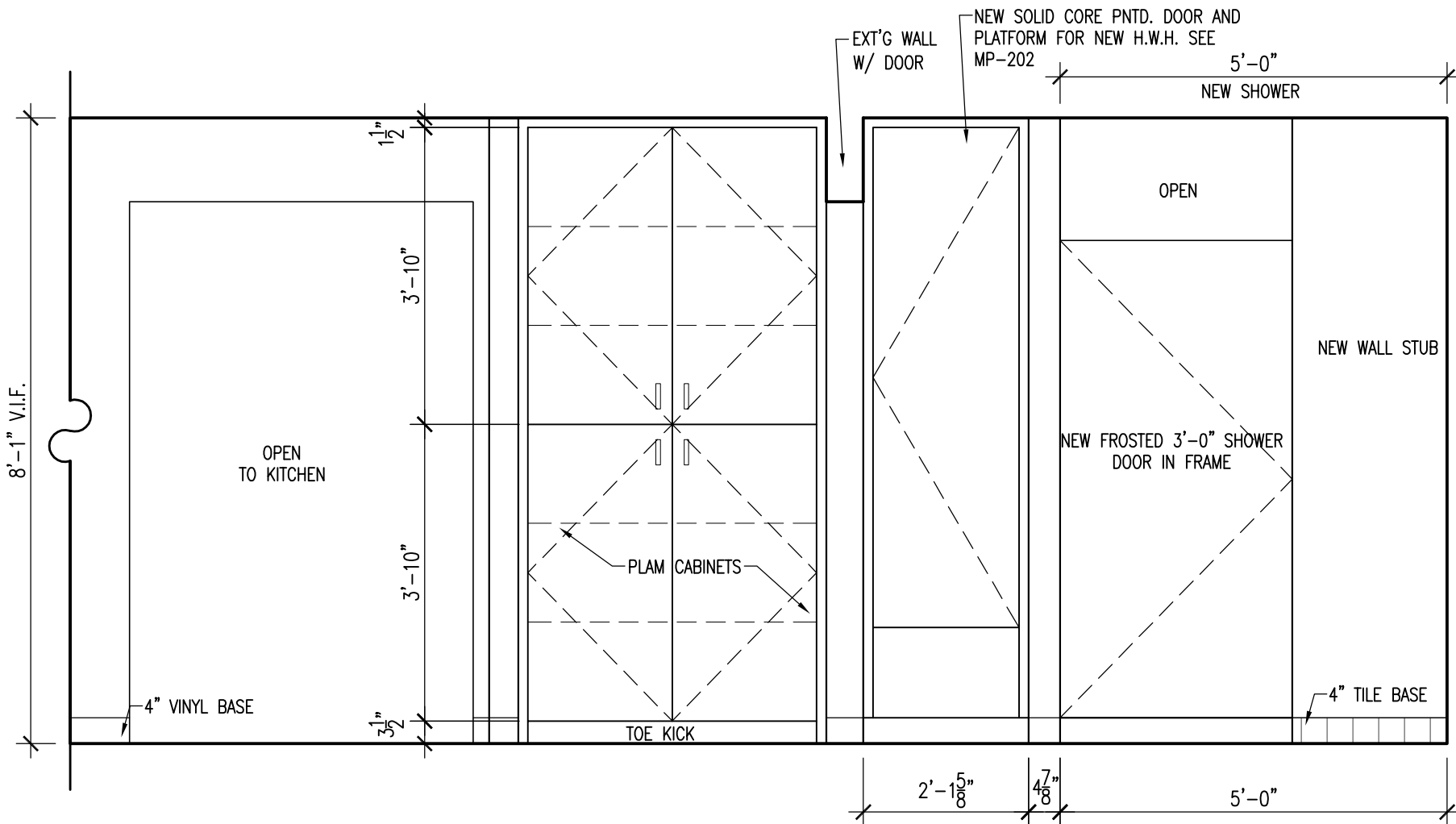
11 RENOVATED RESTROOM 202 - SHOWER INSIDE WEST
SCALE: 1/2"=1'-0"



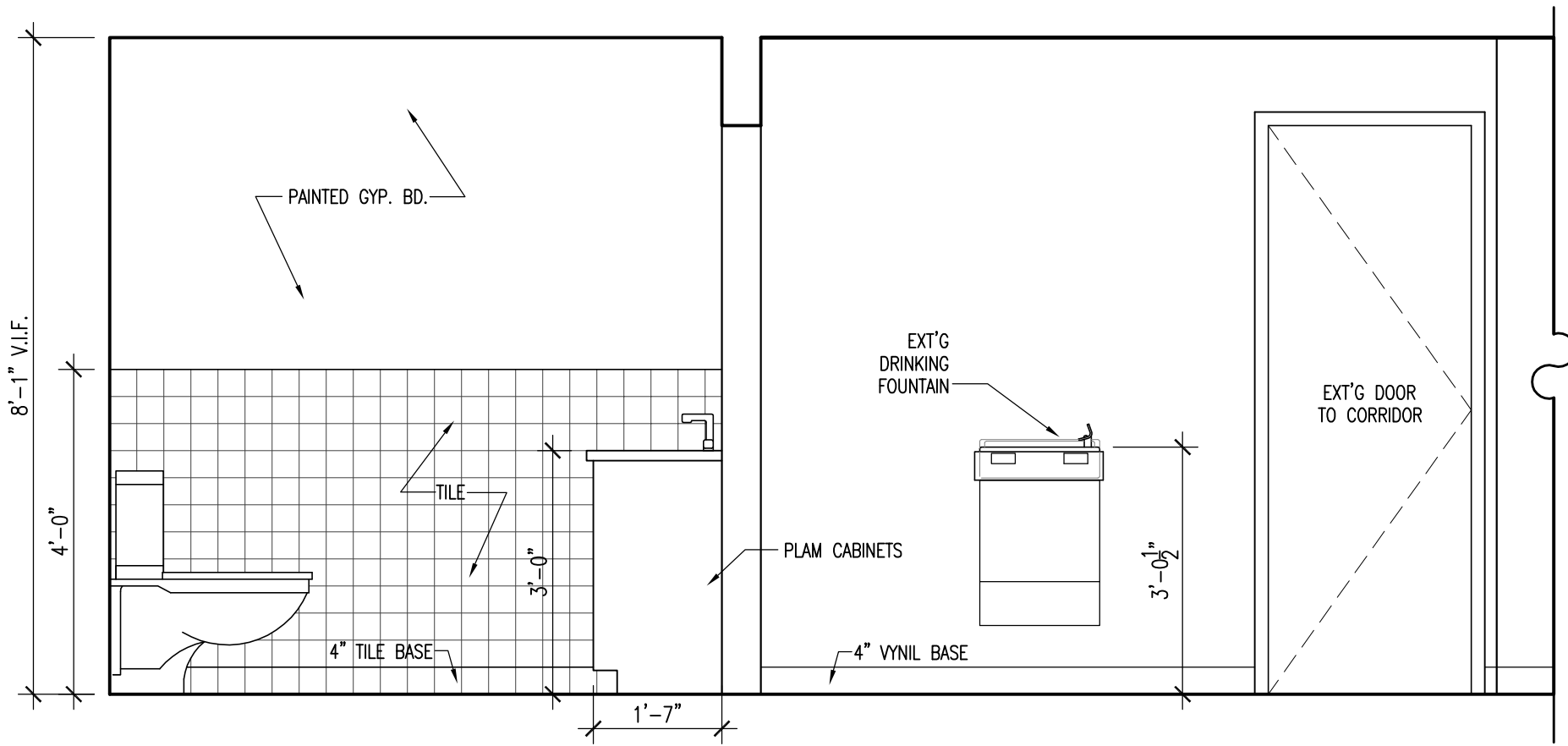
10 RENOVATED RESTROOM 202 - SOUTH
SCALE: 1/2"=1'-0"



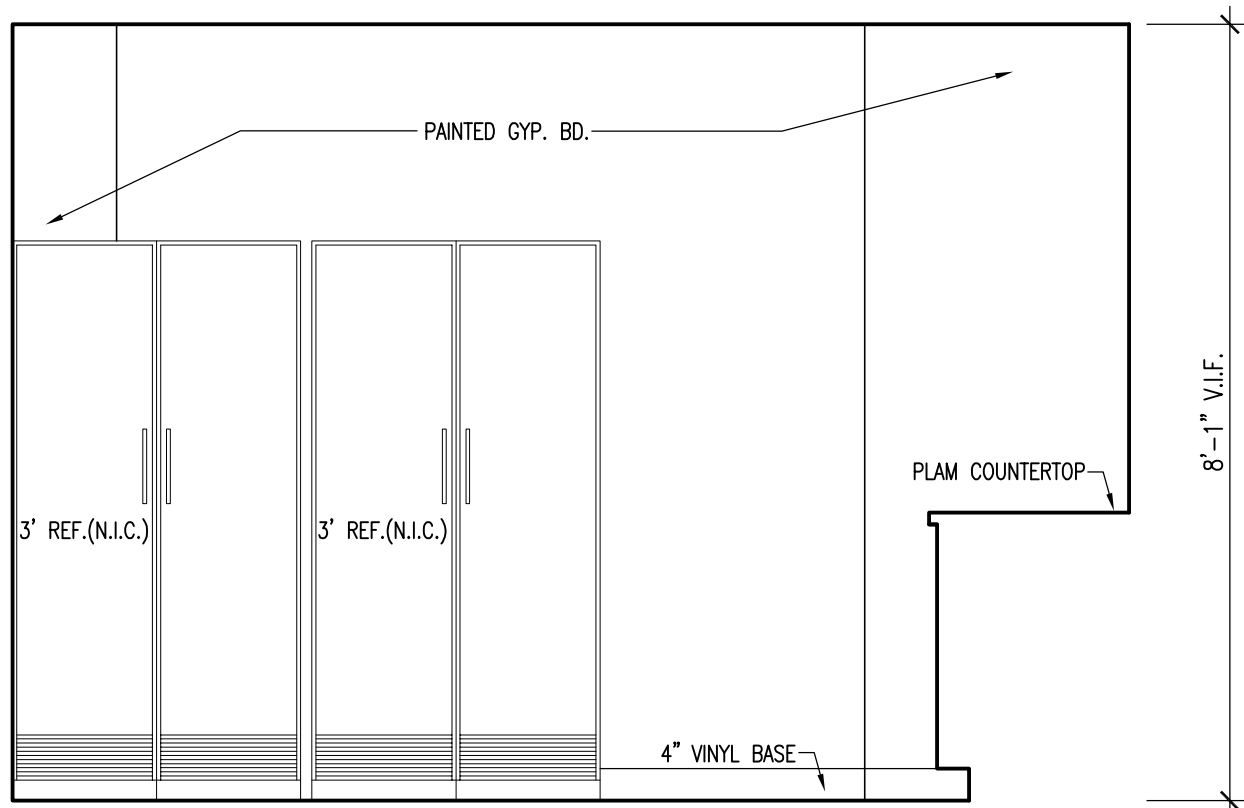
9 RENOVATED RESTROOM 202 - NORTH
SCALE: 1/2"=1'-0"



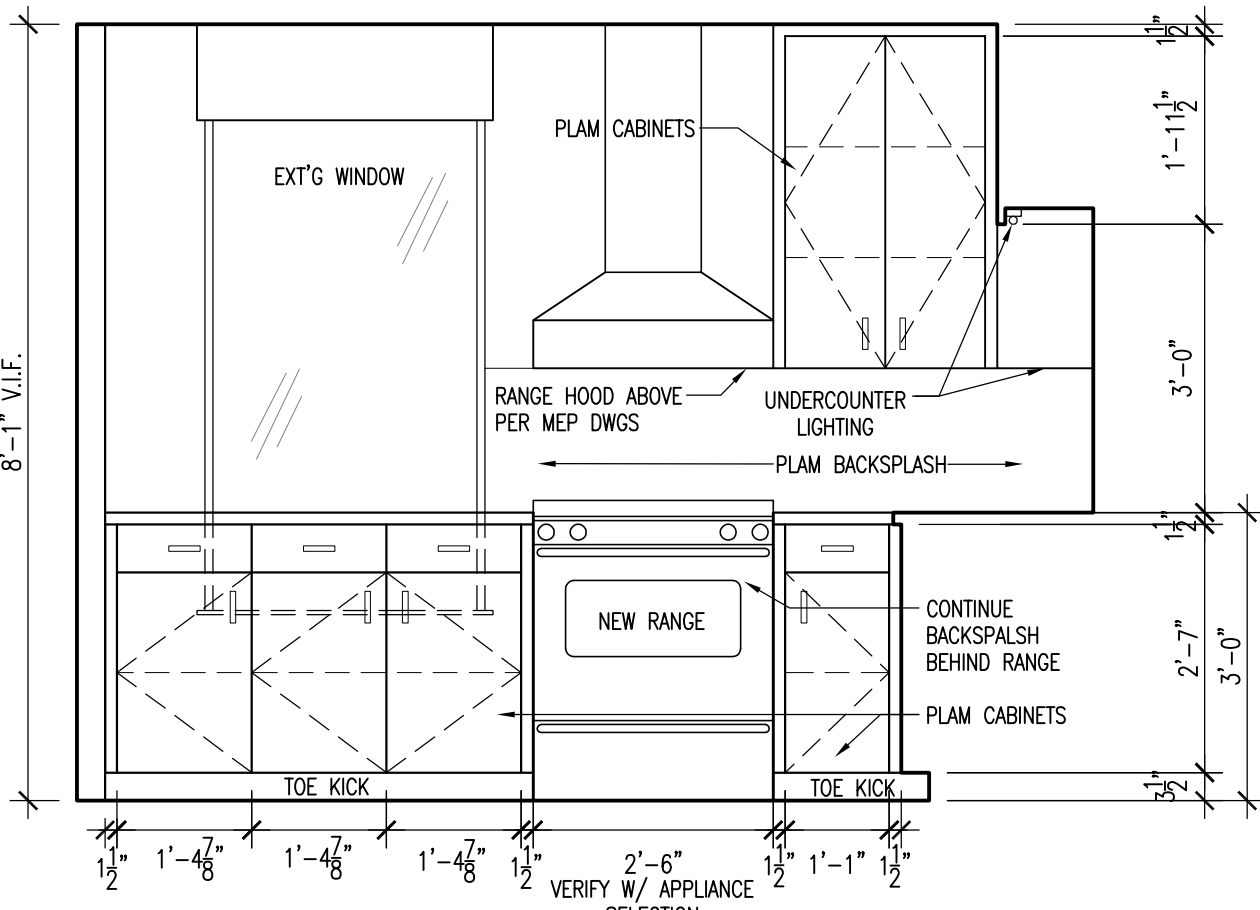
8 RENOVATED RESTROOM 202/HALL - WEST
SCALE: 1/2"=1'-0"



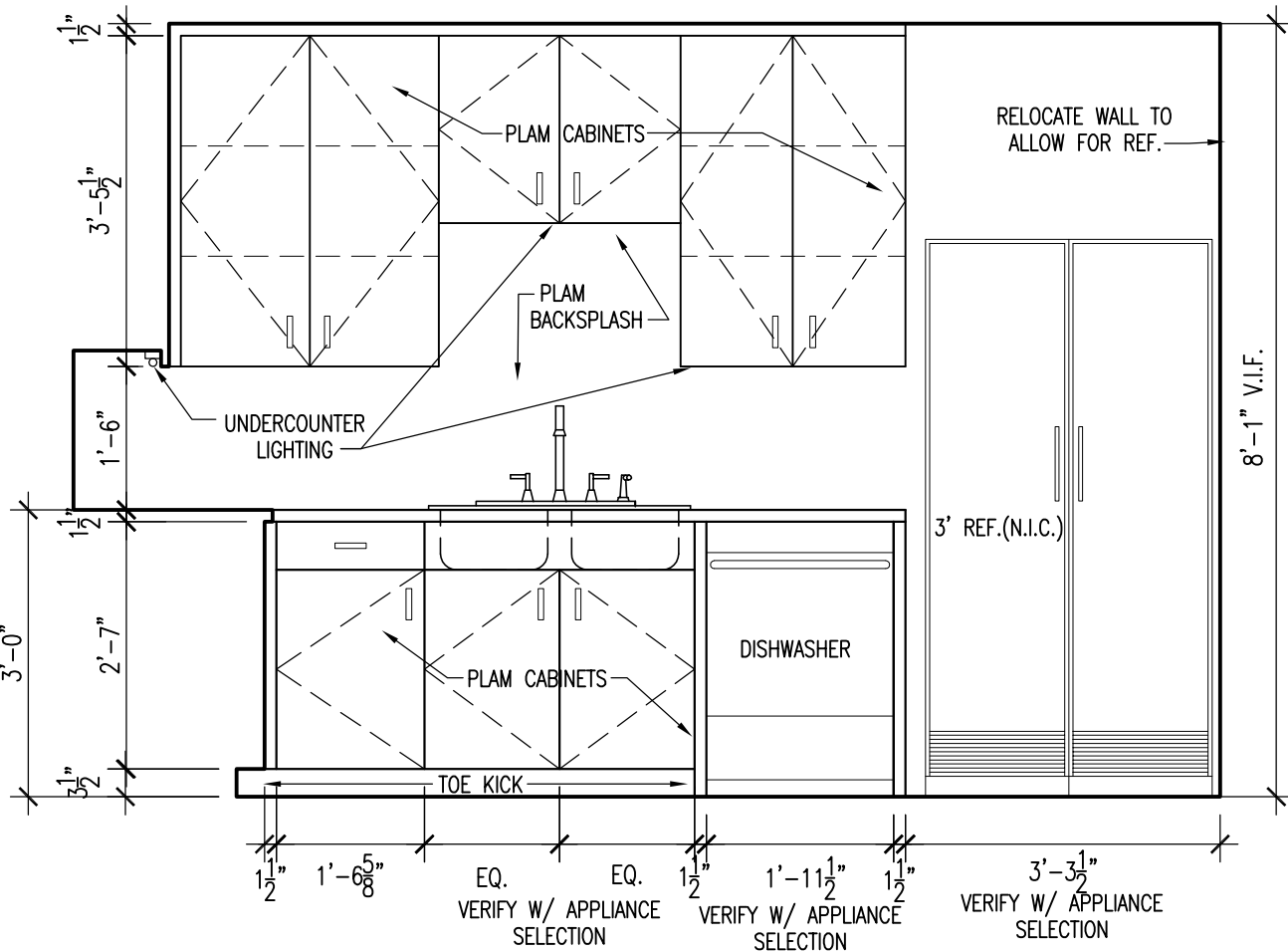
7 RENOVATED RESTROOM 202/HALL - EAST
SCALE: 1/2"=1'-0"



6 RENOVATED KITCHEN 201 - WEST
SCALE: 1/2"=1'-0"



5 RENOVATED KITCHEN 201 - NORTH
SCALE: 1/2"=1'-0"



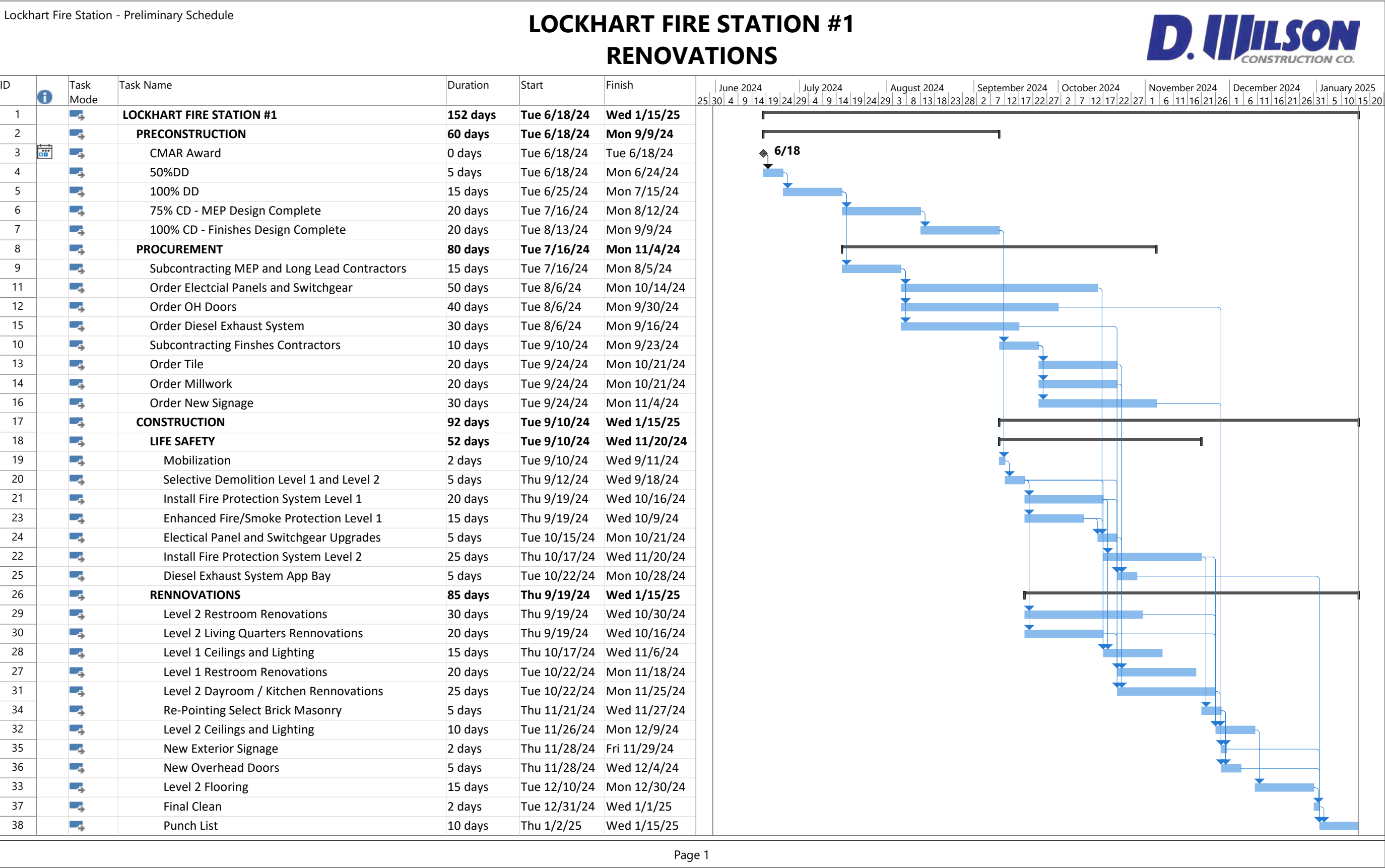
4 RENOVATED KITCHEN 201 - EAST
SCALE: 1/2"=1'-0"

A NEW BUILDING FOR
LOCKHART FIRE STATION #1
BORCHERT LOOP, LOCKHART, TEXAS 78644

DATE:	11/6/20	
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SHEET X OF X
INTERIOR
ELEVATIONS AND
ENLARGED PLANS
A-203

ATTACHMENT O - PROJECT SCHEDULE



Page 1

PROPOSED FEES

1. Construction Management at Risk Services Fee. This fee is to be a fee percentage based on the Owner approved Guaranteed Maximum Price to provide comprehensive construction phase services for the project described in this RFQ/RFP and attached forms of agreement (Attachments C, D, and E).

The Cost of Work Times **Six Point Seventy-Five Percent (6.75%)**

The CMAR Fee shall include items listed in Attachment B – noted as “in Fee”.

2. Pre-Construction Services: To complete all work associated with Section 2 Project Scope, on the basis of a lump sum amount:

Lump Sum Pre-Construction Services \$ _____ \$(_____) **Included in Fee**

3. Contractor Reimbursable General Conditions: Estimated Total General Conditions Cost based on

Cost of Work **\$ Seventy-Six Thousand Five Hundred Thirty-Four Dollars and No Cents (\$76,534.00)**

as itemized on Attachment "B". Note on Attachment "B" any exceptions that you take with the itemized list. Utilizing the Schedule of General Conditions/General Requirements/Cost of Work (Attachment B), and the CMAR's knowledge of similar projects, provide an estimated cost for all labor, materials, and equipment to be included in the General Conditions cost of the project. Some items listed in the Schedule are not applicable and are to be identified as n/a.

4. Payment & Performance Bonds: Please provide an alternate proposal, the cost to provide Payment and Performance bonds for this work. Additionally, indicate the name of your bonding agent including your current bonding capacity expressed in net available, current bond positions and total bonding capacity.

Payment and Performance Bonds - **Included in General Conditions – Reference Attachment B – Item 77**

General Contractor's P & P Bond Percentage of Cost (Alternate) **\$1.50%**

Bonding Agent:

Markel Insurance Agency
Nate Badding, Director
9500 Arboreteum Blvd., Suite 400
Austin, Texas 78759
Phone: (512) 684-3463

We currently have \$89,271,917 in current bonding capacity. Our company bond limits are \$80,000,000 per project and \$200,000,000 aggregate. Please see our reference letter from our bonding agent under Tab 1 - Company Information on page 4.

5. Subcontractor Bonds: Please describe your company policy regarding subcontractor bonding requirements, if any. Indicate the mandatory nature of the bonding policy including contract thresholds for bond requirement and describe situations for waiving subcontractor bonds. Based on your corporate policy, please provide an estimate for subcontractor bond costs to be included in the Cost of Work, if any.

Subcontractor Bond Cost Estimate: \$ _____

Subcontractor Bond Rate Estimate: _____ Percent (_____ %)

Based on the scope of this project, we would not anticipate the need for subcontractor bonding.

EXHIBIT 1

6. **Subcontractor Default Insurance:** The owner is considering the requirement of Subcontractor Default Insurance in lieu of subcontractor bonding. Please provide the total cost to provide Subcontractor Default Insurance, which is included in the Cost of Work, if any. Also, please describe how the program would function, what entity is providing the insurance, how it would be administrated, deductible amounts, the method of billing actual cost for this program and potential dispensation of rebate savings at the conclusion of the warranty period. Please describe how deductible risk is included or not included in the cost the program.

Subcontractor Default Insurance Cost Estimate: \$ _____

Subcontractor Default Insurance Rate Estimate: _____ Percent (_____%)

DWCC does not participate in any subcontractor default insurance programs as a cost savings to our Owners.

7. **Labor Burdens:** For estimating purposes, provide average percentage rates for payroll taxes, insurance, and benefits for salaried and hourly payroll costs. The burden rate established for this project should be representative of the actual costs of actual payroll, tax & insurance and benefits extended to the Contractor's employees. Labor burdens should not be a profit center and all labor burden components must be subject to an open book audit by Owner or its agents, to verify actual costs.

For purposes of defining PT&I and benefits on a fixed or audited actual basis, the burden rate shall be applied to base (not gross), or taxable, labor cost only and shall include all payroll taxes, workers compensation insurance and benefits, health insurance, vacation, holiday pay and retirement. The fixed rate only applies to full time employees who get full time benefits and shall not be charged on temporary, part time or intern employees who are not eligible for benefits like retirement, vacation, and health insurance. The burden rates shall not apply to premium portions of overtime.

Burden items that do not apply to the premium portion of overtime include, union benefits, workers compensation insurance, general liability insurance, health insurance, and vacation and holiday pay.

Salaried Burden: **39%**

Hourly Burden: **32%**

8. **Proposed Fee for Self-Performed Work.** The City of Lockhart will, when it's in the best interest of the owner, allow the successful CMAR to self-perform various components of the work. The CMAR will submit a closed bid for this self-performed work along with three (3) other bids in a closed bid opening with the owner.

DWCC does not anticipate self-performing any work related to this project.

9. **Clarifications, Exceptions, and Exclusions.** CMAR is to list all clarifications, exceptions, and exclusions relative to the proposed fees and other costs reflected above.

D. Wilson has no clarifications or assumptions as related to fees other than those enumerated above.

EXHIBIT 1

ATTACHMENT B - SCHEDULE OF GENERAL CONDITIONS/GENERAL REQUIREMENTS

ATTACHMENT B

List of General Conditions/General Requirements/Cost of Work

1) Field and home staff administration and supervision based on General Contractor's attached Project Schedule:

	Raw Costs	Burden	% of Time	No. of Weeks	
Project Manager	\$ 2,698.47 /wk x	39% x	25% x	12	wks = \$ 11,252.62
Assistant Project Manager	\$ 1,340.69 /wk x	39% x	25% x	12	wks = \$ 5,590.68
Superintendent	\$ 2,016.83 /wk x	39% x	100% x	12	wks = \$ 33,640.70
Assistant Superintendent	/wk x	39% x	25% x		wks = \$ -
Other _____	/wk x	39% x	0% x		wks = \$ -
Other _____	/wk x	39% x	0% x		wks = \$ -
Other _____	/wk x	39% x	0% x		wks = \$ -

Indicate the percentage of time your personnel will be dedicated solely to this project:

2) Field Engineering Labor with burden (See Note 1)	= \$ -
3) Field Engineering Equipment and Supplies (See Note 2)	= \$ 400.00
4) Field Project Office (See Note 3)	= use Building
5) Safety Equipment (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 750.00
6) First Aid Supplies (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 150.00
7) Fire Extinguishers (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 150.00
8) COVID-19 Testing (Site Office Personnel only)	= In Fee
9) Daily COVID-19 Screening (Sub-contractor, vendors, suppliers)	= \$
10) Handrails/Toe Boards/Opening Protection	= C.O.W.
11) Fire Watch/Security Guards Services & System	= C.O.W.
12) Temporary Fences/Covered Walkways	= C.O.W.
13) Barricades	= C.O.W.
14) Safety Nets	= C.O.W.
15) Debris Removal and Haul-off, Dumpster Fees	= C.O.W.
16) Traffic Control/Roadway Maintenance & Resoration	= C.O.W.
18) Tool/Utility Trailer Rental	= C.O.W.
19) Water/Ice (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 150.00
20) Temporary Lighting/Wiring	= C.O.W.
21) Electrical Cost during Construction (Site Office and Personnel Only, Project Cost paid by Owner)	= use Building
22) Temporary Water Expense (Site Office and Personnel only, Project cost paid by Owner)	= use Building
23) Temporary Heating (Site Office and Personnel only, Project Cost in Cost of the Work)	= use Building
24) Temporary Cooling Expense (Site Office and Personnel only, Project Cost in Cost of Work)	= use Building
25) Temporary Stairs/Enclosures/Partitions	= C.O.W.
26) Project Signs/Bulletin Boards	= \$ 500.00
27) Dewatering Equipment	= C.O.W.
28) Generators	= C.O.W.
29) Material Hoisting	= C.O.W.
30) As-Built Documents (Drafting/Printing/Digital)	= \$ 750.00
31) Field Office Supplies and Materials	= \$ 150.00
32) Portable Toilets and Sanitation (Site Office and Personnel only, Project Cost in Cost of Work)	= \$ 750.00
33) Postage/Express/Courier/Delivery Services	= \$ 150.00
34) Bid Plans and Change Order Printing	= \$ 500.00
35) Copy Machine and Paper	= \$ 250.00
36) Telephone, Cell, Paging, Radios, Internet	= \$ 600.00
37) Internet Based Project Management System/Software	= In Fee

EXHIBIT 1

ATTACHMENT B

38)	Corporate Executives/Principles/Project Executive	=	In Fee
39)	Legal	=	In Fee
40)	Accounting	=	In Fee
41)	QA/QC	=	In Fee
42)	Risk Management	=	In Fee
43)	Production Engineering	=	In Fee
44)	Purchasing/Procurement	=	In Fee
45)	Cost Engineers (except Pre-Construction)	=	In Fee
46)	BIM Manager/Coordinator	=	In Fee
47)	Secretarial/Administrative/Clerk (off-site)	=	In Fee
47)	Off-Site Staff Travel & Transportation	=	In Fee
48)	Staff Training & Continuing Education	=	In Fee
49)	Executive/Leadership Transportation	=	In Fee
50)	Bonuses	=	In Fee
51)	Corporate IT/Systems and Fees	=	In Fee
52)	Presentation Charts and Graphics	=	In Fee
53)	Warranty Inspection and Coordination	=	In Fee
54)	CMAR Licenses/Fees	=	In Fee
55)	AGC Association Fees	=	In Fee
56)	Off-Site Insurance	=	In Fee
57)	Personal Computers On-Site/Network Connections	=	\$ 900.00
58)	Operations & Maintenance Manuals (Printing and Digital)	=	\$ 400.00
59)	Owner Operations and On-site Training	=	C.O.W.
60)	Janitorial – weekly clean-up (Site Office and Personnel only, Project Cost in Cost of Work)	=	N/A
61)	Final Clean-up	=	C.O.W.
62)	Small Tools and Consumables (See Note 4)	=	N/A
63)	Vehicle Rental / Truck Allowance (Superintendent/On-Site Project Manager)	=	<i>in Salaries</i>
64)	Equipment Fuel, Maintenance, and Repair	=	C.O.W.
65)	Storage Yard Rental	=	N/A
66)	Parking Lot/Space Rentals	=	N/A
67)	Parking Fees/Shuttle Expenses	=	N/A
68)	Trade Permits	=	C.O.W.
69)	Building Permit	=	<i>C.O.W.</i>
70)	All Risk Builder's Risk Insurance/Installation Floater	=	\$ 2,500.00
71)	Commercial General & Excess Liability Insurance	=	\$ 6,500.00
72)	Workman's Compensation/Employer's Liability Insurance	=	<i>w/Gen. Liability</i>
73)	Commercial Automobile Liability	=	<i>w/Gen. Liability</i>
74)	Umbrella Liability Insurance	=	<i>w/Gen. Liability</i>
75)	Subcontractor Bonds	=	C.O.W.
76)	Supplier Bonds	=	C.O.W.
77)	Performance and Payment Bonds	=	\$ 10,500.00
Subtotal: (Items 2-77)		=	\$ 26,050.00
Total Maximum General Contitions (Items 1-77)		=	\$ 76,534.00

EXHIBIT 1

ATTACHMENT B

Note: Please indicate with a N/A the items above that, in your opinion, do not apply to this project.
Please indicate with a "0" (zero) the items above that are included in your fee.

C.O.W. = Cost of Work

***See General Note on General Conditions Assumptions regarding overall approach to pricing General Conditions.

General Conditions Assumptions

General Note In general, it is the intent that the General Conditions proposed are inclusive of costs associated with the Contractor's field office compound AND the building and sitework construction (example – portable toilets and sanitation shall be included for the field office compound as well as portable toilets distributed around site, inside and outside of building as required).

Note 1 – Field Engineering General Contractor shall provide line, grade, plumb and dimensional control for the site and building construction except as follows:

Assume the major subcontractors such as site utility construction, steel erection, turnkey site and building concrete including place and finish, electrical, mechanical, masonry, glass and glazing and drywall will provide their own engineering from control provided by the General Contractor (examples of GC's control include major grid control, exterior face of building line with offset, floor and roof opening control, elevation benchmarks, and major work points and radiuses defined in the Contract Documents).

Assume General Contractor will provide QA/QC engineering of subcontractor engineering described above by providing frequent and random checks of subcontractor engineering work. Assume engineering for cut and fill of the site and building pad construction will be provided by subcontractor.

Assume General Contractor will provide all engineering for structural excavation.

Note 2 - Field Engineering Equipment and Supplies General Contractor shall provide all equipment and supplies related to General Contractor's engineering activities as described in Note 1 above. This line item should include all job site radios for engineering and site staff.

Note 3 - Field Project Office In addition to General Contractor's temporary office facilities, include all storage containers, tool vaults, chemical storage containers, door hardware inventory and storage facilities, etc.

Note 4 – Small Tools and Consumables General Contractor shall provide all small tools and consumables related to performance of contractor's self-performed work only. For the purposes of this proposal, General Contractor should assume that the only self-performed work includes construction and maintenance of temporary facilities and roads, rough carpentry, safety and accident prevention, cleaning, and site maintenance.

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

« Fire Station No. 1 Remodel Project »
« »

THE OWNER:
(Name, legal status and address)

« City of Lockhart, Texas »« »
« 308 W. San Antonio St.
P.O. Box 239
Lockhart, Texas 78644 »

THE ARCHITECT:
(Name, legal status and address)

Steinbomer & Associates, Architects, Inc. dba Sudio Steinbomer Architecture and Interiors
4303 Medical Parkway
Austin, TX 78756

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ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES

EXHIBIT 1

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EXHIBIT 1

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. While the proposal submitted by the Contractor prior to the execution of the Contract Documents is considered part of the Agreement, the terms contained within the proposal are only integrated into the Agreement to the extent that they do not conflict with the other Contract Documents. To the extent that there is a conflict between the proposal and the other Contract Documents, the other Contract Documents shall control.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the Architect as identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization.

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Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen (15) days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic’s lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner’s interest therein.

§ 2.2 Evidence of the Owner’s Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fifteen (15) days of the Contractor’s request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as “confidential,” the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner, with the help of the Architect, shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Owner does not guarantee the accuracy of the information furnished and the Contractor shall exercise proper precautions relating to the safe performance of the Work.

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§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have and in its sole discretion, correct such default or neglect. The Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Owner in the Owner's administration of the Contract, the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Owner and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Owner or Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Owner and Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Owner or Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Owner or Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the

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Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

The Contractor shall be responsible for pursuing with the State Comptroller any tax exemption for equipment and/or materials to be incorporated into this Project.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.1. 1 Unless specifically stated otherwise, the Contractor shall secure and pay for all permits, approvals, and fees required for the Work, including but not limited to: impact fees, building permit, mechanical permit, electrical permit, plumbing permit, sign permit, water taps, sewer taps, water meters, fire hydrants, detector check devices, temporary sanitary facilities, and the like; and may be reimbursed specifically for the costs of impact fees, building permit, mechanical permit, electrical permit, plumbing permit, sign permit, water taps, sewer taps, water meters, fire hydrants, and detector check devices.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within fourteen (14) days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and

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similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a Separate Contractor its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 CONTRACTOR DOES HEREBY AGREE TO, INDEMNIFY, DEFEND, AND HOLD HARMLESS

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OWNER AND ALL OF ITS OFFICIAL, OFFICERS, EMPLOYEES, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND ALL OF THE ARCHITECT'S AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY CLAIMS, LOSSES, DAMAGES, SUITS, DEMANDS, , OR CAUSES OF ACTION INCLUDING ALL EXPENSES OF LITIGATION AND/OR SETTLEMENT, COURT COSTS, AND ATTORNEYS' FEES ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM, DAMAGE, LOSS, OR EXPENSE IS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY (OTHER THAN THE WORK ITSELF), BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE. SUCH INDEMNITY SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE CONTRACTOR OR A SUBCONTRACTOR UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner and Architect shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

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§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor’s rights and obligations under the subcontract.

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§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

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§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

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- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

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§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location

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agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven (7) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven (7) days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven (7) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within the timeframe established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven (7) additional days' notice to the Owner and Architect, stop

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the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will

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promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

Contractor and Architect acknowledge that, regardless of the terms contained within the Contract Documents, the Owner is a government entity with immunity from all claims for property damage, personal injury, or death unless specifically waived pursuant to Texas Civil Practice and Remedies Code Chapter 101, known as the Texas Tort Claims Act. Nothing herein shall be construed to be a grant of the Owner's waiver of immunity outside the limitations specified by the Legislature under the Texas Tort Claims Act.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed

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by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 Intentionally omitted.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in Section 14.3 of the AIA Document A133-2019. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide both a payment and performance bond before commencing Work on the Project in accordance with Texas Government Code Sec. 2253.021. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the State of Texas.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Intentionally omitted.

§ 11.2.2 Intentionally omitted.

§ 11.2.3 Intentionally omitted.

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§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused to the extent such loss is covered by the insurance policy.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect or Owner, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect or Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the

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Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the laws of the State of Texas.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

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approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate described in Texas Government Code Sec. 2251.012(b).

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven (7) days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing

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portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven (7) additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise commits a material breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, , without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work

EXHIBIT 1

properly executed; reasonable costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than ten (10) years after the date of Substantial Completion of the Work as prescribed in Texas Civil Practice and Remedies Code Section 16.009 subject to the exceptions stated in Texas Government Code Section 2272.005. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

EXHIBIT 1

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and/or binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten (10) days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten (10) days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision, but not the underlying Claim.

EXHIBIT 1

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Intentionally omitted.

§ 15.3.2 The parties shall endeavor to resolve their Claims by voluntary mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision, but not the underlying Claim on which the initial decision is based.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Binding Dispute Resolution

§ 15.4.1 Pursuant to Section 12.2 of the AIA Document A133-2019, any Claim arising out of the terms of the Contract Documents or performance of the Work, including those subject to, but not resolved by voluntary mediation pursuant to this Article 15, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction in Caldwell County, Texas.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding Resolution 2024-25, as requested by TxDOT, to authorize the adoption of the proposed designs of the Gateway Monument and Wayfinding signage as depicted in the 2022 Wayfinding Master Plan, and requesting installation within the operational highway right-of-way.

ORIGINATING DEPARTMENT AND CONTACT: Parks & Recreation - Travis Hughes

ACTION REQUESTED: Resolution

BACKGROUND/SUMMARY/DISCUSSION: The 2022 Wayfinding Master Plan was approved and adopted during the February 1, 2022 Council Meeting, but no Resolution was presented at that time. As part of the TxDOT application process for installing Gateway Monument Signs in highway right-of-ways, a Resolution must be included. This Resolution was produced with guidance from TxDOT to specifically address their requirements for Gateway Monument Sign installation.

PROJECT SCHEDULE (if applicable): Immediate

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable): Funding for this project is allocated in the Mayor's budget.

PREVIOUS COUNCIL ACTION: Council approved/adopted the 2022 Wayfinding Master Plan on February 1, 2022.

COMMITTEE/BOARD/COMMISSION ACTION: The Wayfinding Committee created and presented the Wayfinding Master Plan to Council.

STAFF RECOMMENDATION/REQUESTED MOTION: Approve Resolution 2024-25

LIST OF SUPPORTING DOCUMENTS: RESOLUTION 2024-25 -Gateway Monument Sign Approval and Installation, Lockhart Wayfinding Master Plan (1-25-22) NOTES, 73875 R1 - Lockhart Parks Rec - Lockhart Gateway Signs - Lockhart Tx

RESOLUTION 2024-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, AUTHORIZING THE ADOPTION OF THE PROPOSED DESIGNS OF THE GATEWAY MONUMENT AND WAYFINDING SIGNAGE AS DEPICTED IN THE 2022 WAYFINDING MASTER PLAN, AND REQUESTING INSTALLATION WITHIN THE OPERATIONAL HIGHWAY RIGHT-OF-WAY.

WHEREAS, the city has jurisdiction over the proposed Gateway Monument and Wayfinding Sign locations; and

WHEREAS, the city has approved the Gateway Monument and Wayfinding Sign designs; and

WHEREAS, the city assumes all costs associated with the Gateway Monument and Wayfinding Sign installations; and

WHEREAS, the city assumes all responsibility for maintenance of the Gateway Monument and Wayfinding Signs, associated landscaping, and lighting; and

WHEREAS, the city has allocated funds to begin the Gateway Monument and Wayfinding Sign installation project immediately.

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

City Council approves the adoption and installation of the proposed Gateway Monument and Wayfinding Signage as depicted in the 2022 Wayfinding Master Plan. Attached as Exhibit A.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, ON THIS THE 17th DAY OF SEPTEMBER 2024.

CITY OF LOCKHART

Lew White, Mayor

Attest:

APPROVED AS TO FORM:

Julie Bowermon, City Secretary

Brad Bullock, City Attorney



Lockhart's civic signage should honor both its history and embrace its evolution into a modern, growing community.

This document is a Wayfinding Master Plan for the City of Lockhart, Texas. It is the culmination of a community and City collaboration that began in 2013. Early groundwork for this process began with envisioning the need for a greater City presence, followed by updating the City's brand identity in 2018, and now with the design and implementation of a comprehensive signage master plan.

The signage master plan was created by the Lockhart Wayfinding Committee which was formed by Mayor and Council appointed community members - all from diverse backgrounds, having local knowledge, relevant experience and expertise to lend in developing a signage master plan. It was overseen by City Planning staff. The Committee embarked on a series work sessions and field excursions to develop this master plan to meet the City's goals.

Establish a sense of place and community identity

Make Lockhart more tourist-friendly

Encourage traffic to destinations that visitors might not otherwise know about

Attract new businesses and investment

Provide a uniform system of wayfinding signage specifically for the central business district

Identify the entry points into Lockhart with signage that welcomes visitors to Lockhart

Conform to TxDOT requirements for sign placement in the right-of-way of State-maintained roads

This signage master plan document reflects the design intent of a modular system of vehicular and pedestrian focused elements intended to endure normal outdoor and public interaction.

This signage system is intended to be of the highest quality in build and execution and this document should be seen as a design guide for these components and deviation from this document is not permitted.

The approved City wordmark or wordmark with founding date are the only appropriate elements to appear on City gateway or identification signage.

Contractors should refer to the City of Lockhart Brand guidelines for approved artwork and typographic specifications for application in signage. All material sourced through the City.

Lockhart
1852

City wordmark with founding date only to be used on primary gateway locations

Lockhart

City wordmark to be used on all other secondary perimeter signage locations



City logo without wordmark lockup only to be used on vehicular and pedestrian signage

CITY OF
Lockhart
PUBLIC WORKS

City of Lockhart lockup to be used to for identification on City owned properties, amenities or service locations.

Character and Nature

The visual character and nature of the signage system is not only complimentary to the elegant brand identity of the City but also timeless and simple in design free from overly thematic typographic, color schemes or forms.

The visual character is derived from inspiration from cultural and historic influences mixed with simple, contemporary forms and expressions.

Lockhart is comprised of a growing and diverse collection of building areas and environments where the signage will be placed, and therefore, the system should be visually adaptable to these conditions.



Materiality

Materials for City identification and wayfinding signage should reflect “real” materials and be composed of high quality finishes and components.

The materiality of the signage has visual and practical characteristics that are important to the identity and long-term viability of the signage system.

Contractors should refer to the City of Lockhart Brand guidelines for approved artwork and colors for application in signage. All material sourced through the City.

Reduce the visual clutter or overuse of signs to reduce confusion

Enhance the perception of Lockhart as a safe, clean and welcoming community

Create a system with neutral colors and shapes that do not clash the various architectural styles in Lockhart

Signage should be affordable, easily fabricated and maintained, and adaptable



“Blackened” steel finish



Smooth finish concrete

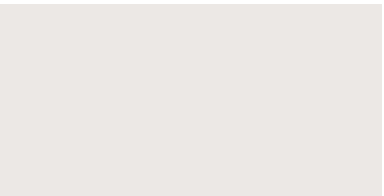


Simple native inspired plantscapes

Pantone 405 C/U
CMYK. 0 8 16 59
RGB. 105 97 88
HEX# 696158



PMS W GRAY 1 C/U
CMYK. 15 14 170
RGB. 214 209 202
HEX# D6D1CA



White
CMYK. 0 0 0 0
RGB. 255 255 255
HEX# FFFFFFFF



Powder coating or vinyl colors based on approved City brand colors

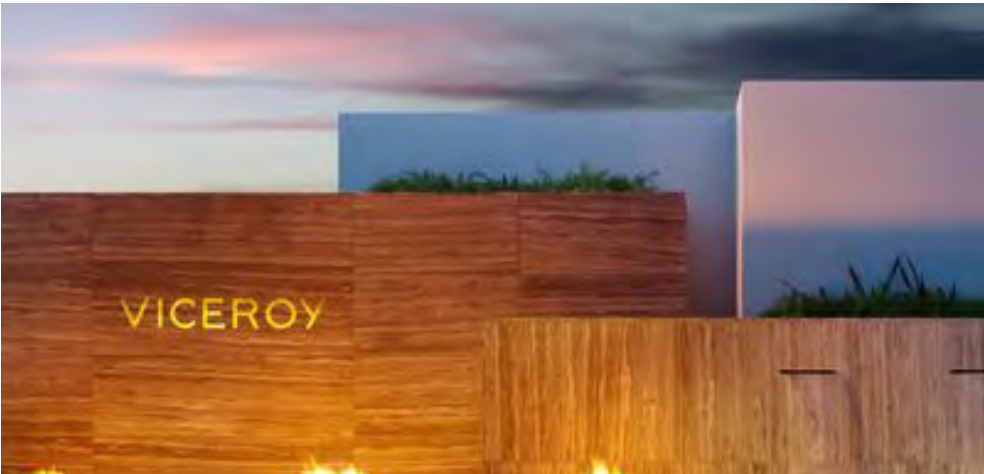
Illumination

Illumination on select signage elements should be warm tone 3000-3500 K LED lighting. Signage components are not to be internally illuminated but uplit or facelit to create pleasing, subtle highlights and character.



Illumination is intended to bring presence to locations such as gateway signage, enhance the visibility and overall character without being bright, harsh or distracting.

Lighting fixtures should only be in pre-finished black or dark bronze finishes if exposed to visibility.



Uplighting should be bright enough to fully illuminate signage features.



Lighting fixtures should be simple, elegant, well placed and organized in their layout. Decorative fixtures are not permitted.

Gateway Signage

Gateway and perimeter signage for the Lockhart community will serve to unite the environs of the City under a consistent brand identity and help visitors identify the city.

Signage should act in a more civic role for perimeter, gateway or key directional elements. This signage should present itself in a timeless manner and assume some authority over the area in a non-commercial presentation.

A guiding principle should be to always look for ways to reinforce the civic aspects of the community and enriching areas they occupy.

The city sign system should be able to adapt to a variety of roles and uses and still present a clear and consistent brand message of inspirational qualities.

The gateway and perimeter signage proposed in this master plan adapts in scale and in physical appearance due to location, considerations of visibility and highway speeds but will be visually consistent in character and nature, use of City brand identity assets, materiality and use of illumination.

Proposed locations depicted in this master plan represent favorable locations for presence, visibility and growth projections. The City of Lockhart may choose to add additional locations or remove and relocation of elements as growth evolves.

The locations and designs depicted in this master plan are intended to be in compliance with the intent of the Texas Department of Transportation Gateway Monuments Program Guidelines and other roadway signage best practices.

Locations - Visibility Studies

The following pages depict studies to determine proposed locations and visibility of gateway elements at thresholds to the city.



Location 1 - HWY 130 North Gateway



The City of Lockhart reserves the rights to revise this document at any time.

Location 1 - HWY 130 North Gateway



Location 1 - HWY 130 North Gateway



Location 2 - HWY 183 South Gateway



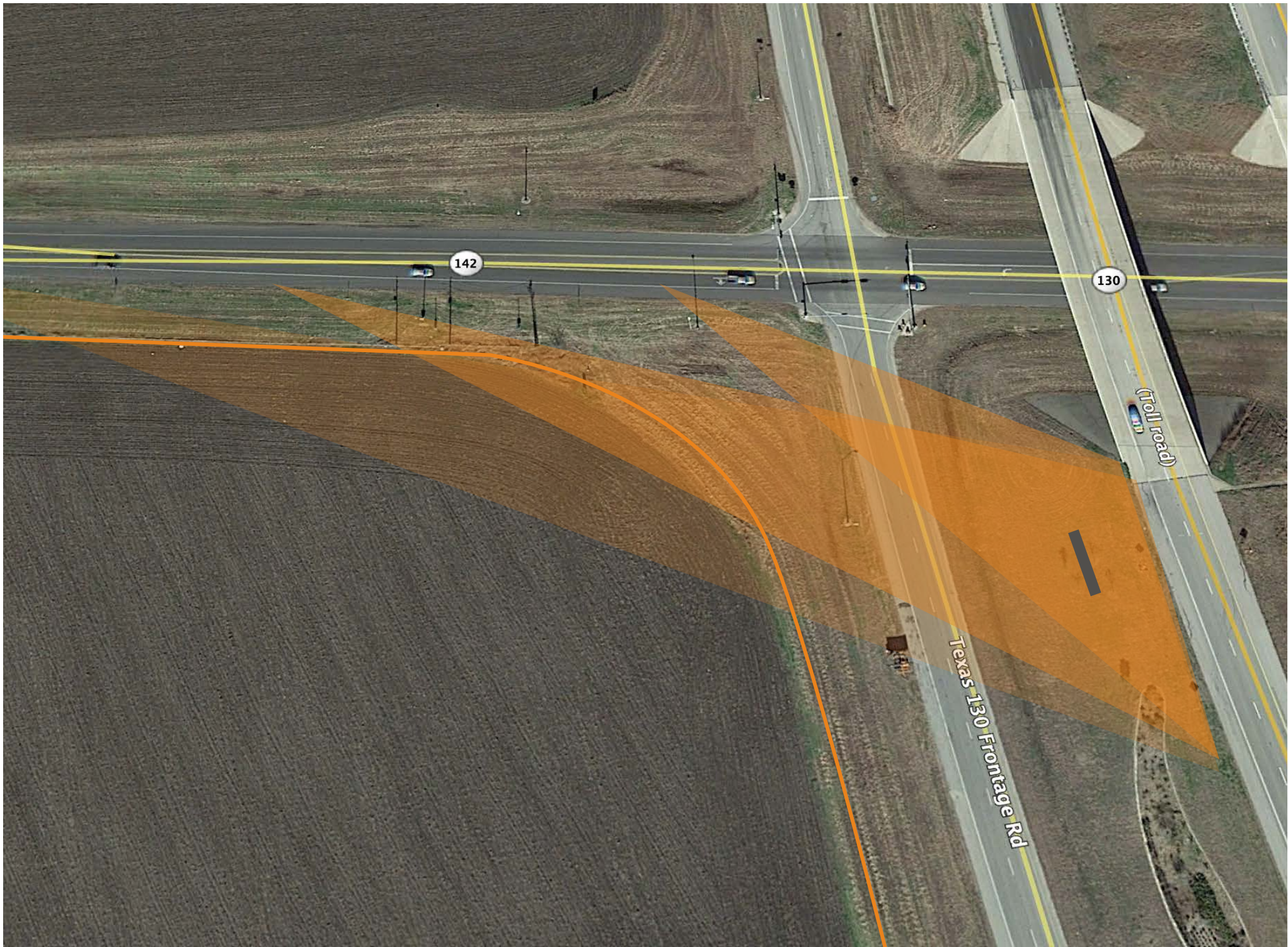


Location 2 - HWY 183 South Gateway

Location shown with impact of future development at the location.



Location 3 - HWY 142 West Gateway



The City of Lockhart reserves the rights to revise this document at any time.

Location 3 - HWY 142 West Gateway



Location 3 - HWY 142 West Gateway

Location shown with impact of future development at the location.



Location 4 - HWY 130 Southwest Gateway

View from northbound lane of SH130.



Location 4 - HWY 130 Southwest Gateway

View from northbound lane of SH130 access road.





Location 5 - HWY 20 East Gateway

Location may be impacted by utility easement.





Long Distance and High Speed



Typical Highway Distance and Speed

Location 1 - SH 130 North Gateway



Location 1 - SH 130 North Gateway

The SH 130 gateway location is seen as the primary gateway to the city. Passing southbound traffic on the lower and upper decks of SH 130 will be greeted by a unique landmark that sits on a prominent, elevated, peninsula of land that is at the crossing of three different roadways.

Existing trees will provide a backdrop to the free-standing letterforms while integrating native plantings to the sculpted base will provide an anchored appearance to the installation.

Area roadway lighting and integral lighting to the installation will provide an elegant presentation and adequate visibility at night without creating glaring or distracting situations to motorists.



Location 1 - HWY 130 North Gateway

freestanding cut steel letter-form with white painted faces and black returns

powder coated sign base with concealed LED uplight in trough

Solar Spot lighting.

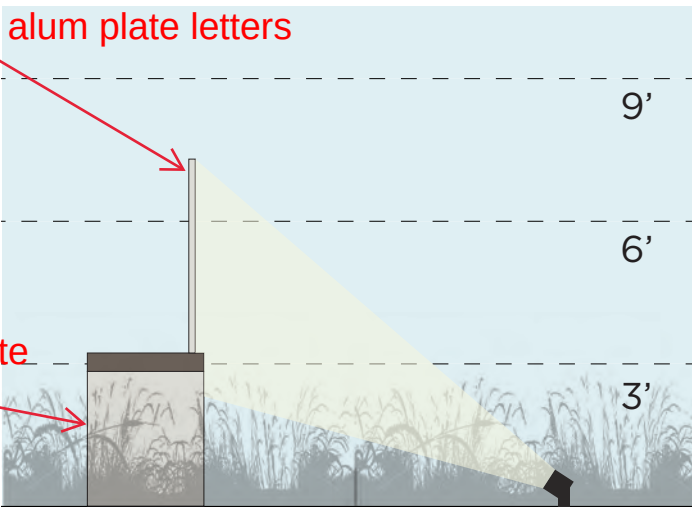
cast in place smooth concrete base

concealed LED uplighting in native landscape base



ST 100 Primary Gateway Sign

1" thick alum plate letters



3' deep concrete

ST 100 Primary Gateway Sign Side View

Dimensions: 38'L X 7'6"H Above Grade - Letter height shown is 4'-2"

***This proposed design is larger than the allowable TxDOT guidelines but the location and position in proximity to traffic warrants additional consideration.

Location 2 - HWY 183 South Gateway

Smaller than the SH 130 gateway element but equally important are the secondary gateways into the city via the additional SH 130 and HWY 183 roadways.

Utilizing similar materials and colors but constructed differently, these installations present an elegant, simple identification to the city.

As with the northern gateway, these installations will utilize the same native planting landscape and have similar illumination as part of the overall presentation.



Location 3 - HWY 142 West Gateway

The gateway element at the western entrance of the city along SH 130 and HWY 142 will sit along the elevated portion of the overpass.



Location 4 - SH 130 Southwest Gateway

The gateway element at the southwestern entrance of the city along SH 130 will be placed adjacent to the roadway so it is clearly visible from both northbound lanes.



Location 2, 3 & 4 Secondary Gateway Sign

applied cut steel letter-form with white painted faces and black returns

What thickness of letters 1/4"

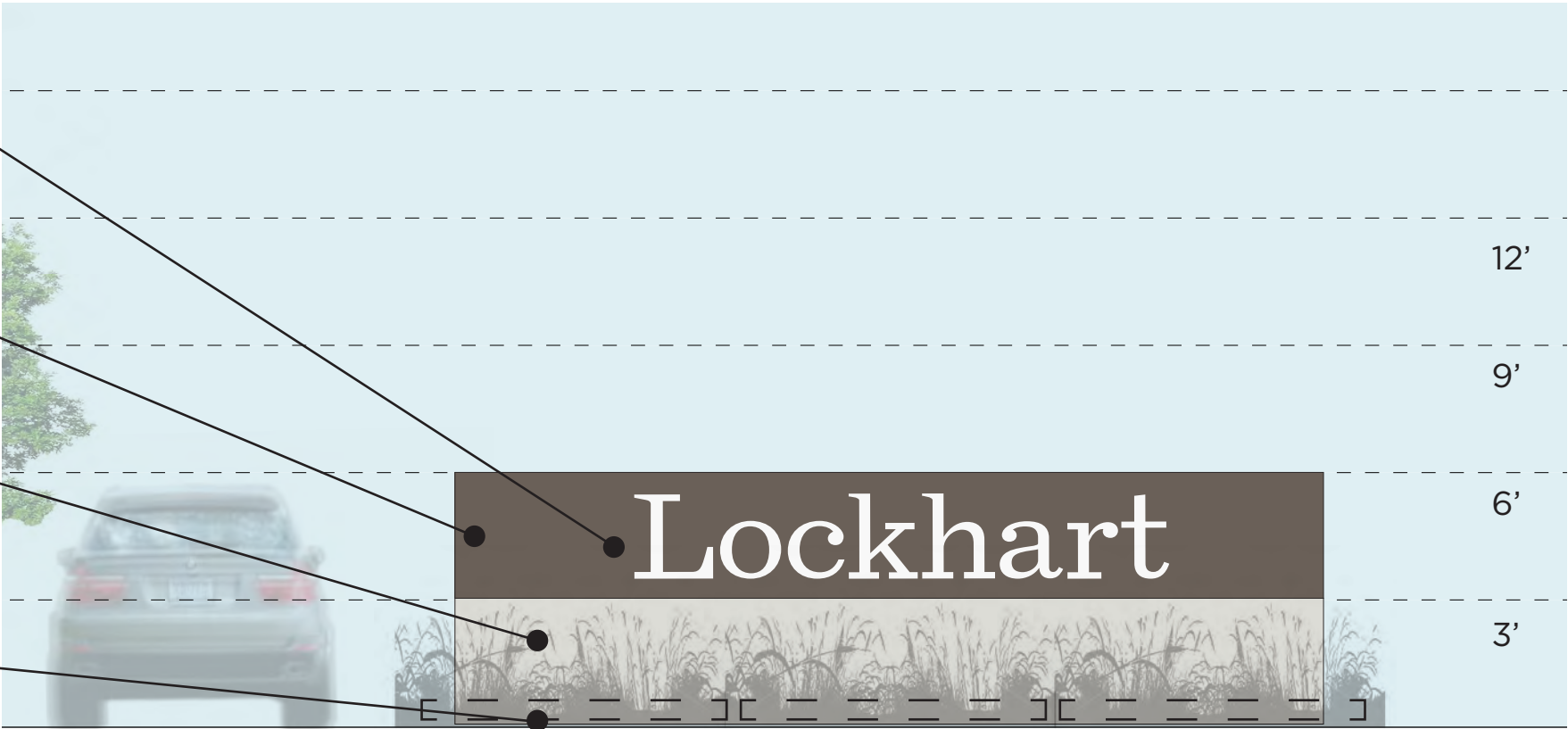
Solar Spot lighting.
freestanding blackened steel panel

Blackend is a difficult process and can rust and detrriorate.

cast in place smooth concrete base
Spot lighting or recessed lightng in base

concealed LED uplighting in native landscape base

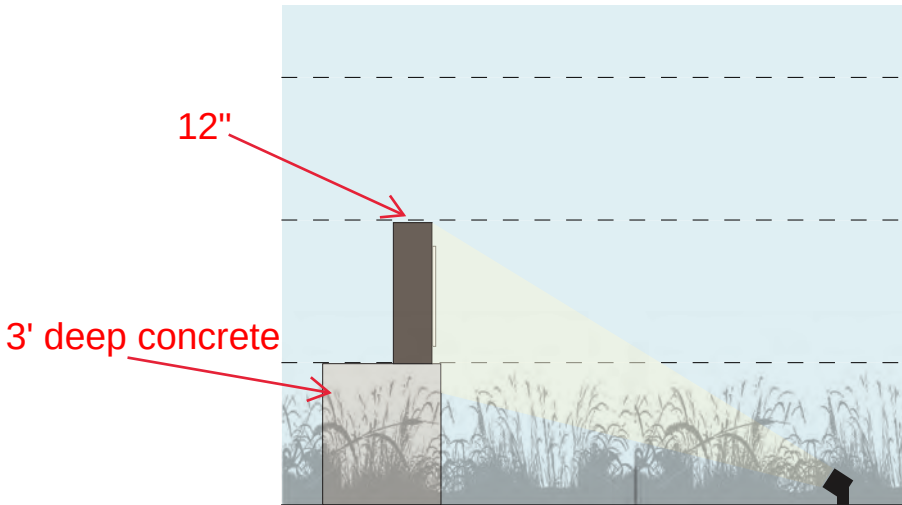
Would suggest a solid paint color
SW Tricorn Matte finish is nice.



ST 101 Secondary Gateway Sign

Dimensions: 20'L X 6'-0"H Above Grade - Letter height shown is 2'-0"

***This proposed design is within the allowable TxDOT guidelines for gateway signage size.



ST 101/102/103 Gateway Sign Side view

Location 5 - HWY 20 East Gateway

Tertiary gateway elements are the smallest of the gateway installations and be placed at city entrances that are primarily two-lane farm to market roadways with limited visibility.

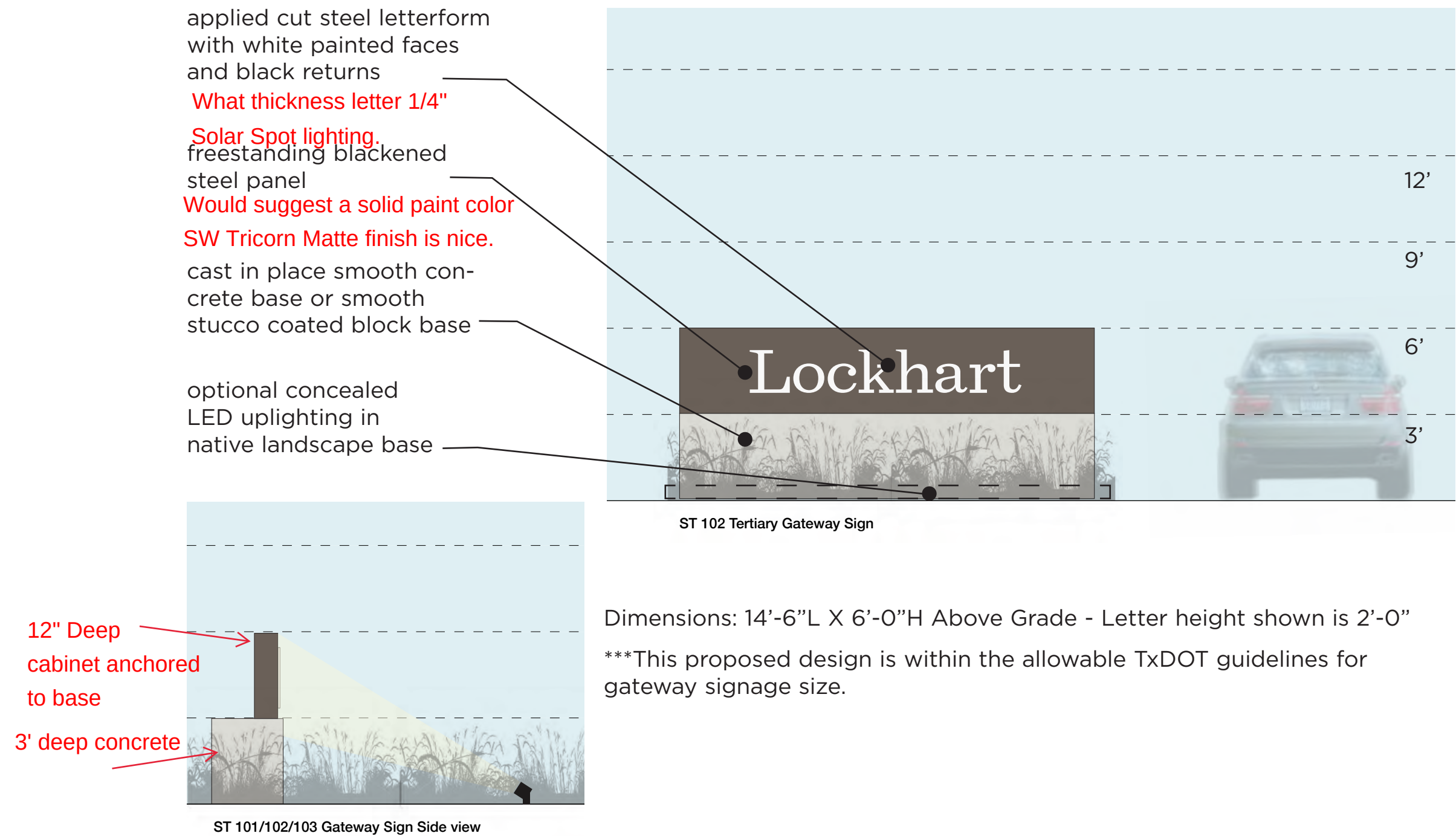
Utilizing similar materials and colors as the secondary gateway signs but constructed differently, these installations present an elegant, simple identification to the city.

As with the northern gateway, these installations will not utilize native planting landscape nor have illumination due to maintenance concerns and lack of utility infrastructure at the proposed locations.

*** Also shown with vehicular directional sign



Location 5 - Tertiary Gateway Sign



Vehicular Wayfinding and Identification Signage

Vehicular signage components act to greet motorists on highways and surface streets at various speeds and distances for directional and identification needs.

City based wayfinding signage should direct to districts, landmarks, amenities, major roadways and other civic features that can act as anchors for smaller levels of more precise wayfinding information.

Modern vehicular wayfinding signage should be complimentary to mobile or in-car navigation systems and can often be coordinated together.

Key characteristics of vehicular wayfinding signage should respond to different roadway conditions. Sitaline distances create the need for a variety of scales and information sets. Signage should be simple and easy to read with no more than 3-5 destinations listed at any given time.

A key practice for wayfinding signage is while directing to civic locations such as districts, parks, airports or municipal destinations that identification signage should be in place to support confirmation of the journey and civic identity.

Proposed locations depicted in this masterplan represent favorable locations for presence, visibility and growth projections. The City of Lockhart may choose to add additional locations or remove and relocate elements as growth evolves.

The locations and designs depicted in this master plan are intended to be in compliance with the intent of the Texas Department of Transportation Gateway Monuments Program Guidelines and other roadway signage best practices.

Vehicular Wayfinding and Identification Signage

Proposed Signage Destinations:

Gateway Signage

- Cesar Chavez Parkway (SH 130)
- Colorado Street (US 183)
- San Antonio Street (SH 142)

Directional signs

- Along arterial streets

Location maps

- Courthouse square and near library
- City Park

Interpretive signs and markers (example locations)

Courthouse Square Historic District

All City Parks, *Lockhart State Park*

- Municipal Airport
- Lion’s Stadium
- Dr Eugene Clark Library
- Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal Burial Park

Primary Vehicular Wayfinding Locations

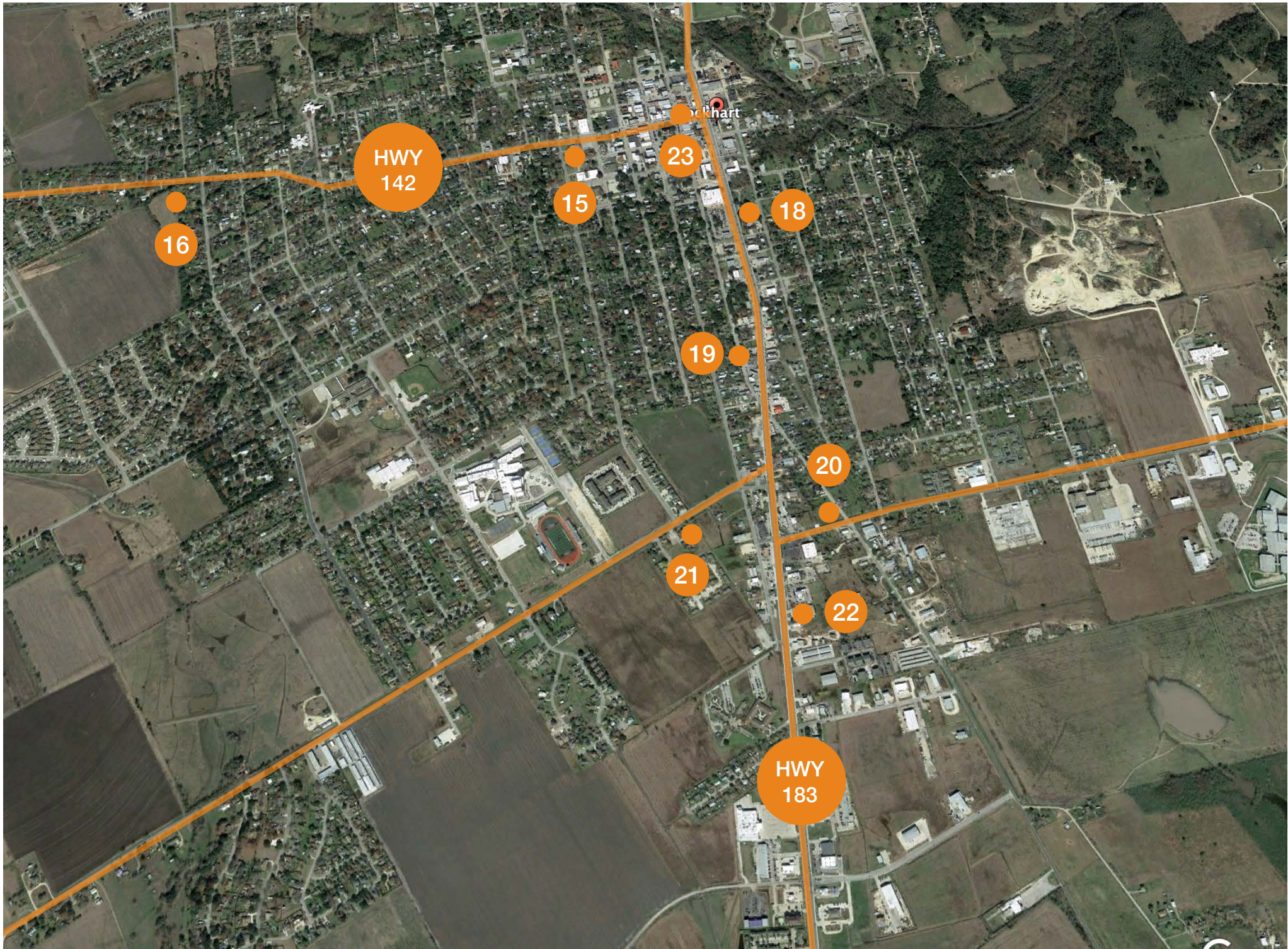
Highway speed scaled vehicular directionals will greet motorist at locations within the city where direction to key landmark destinations, city facilities and amenities will be displayed.

All potential locations are not depicted but rather what would constitute the initial phase of implementation.



The City of Lockhart reserves the rights to revise this document at any time.

Primary Vehicular Wayfinding Locations



The City of Lockhart reserves the rights to revise this document at any time.

Primary Vehicular Wayfinding Viewing Distances

Messaging content and typographic sizing are optimized to allow motorist to comfortably read signage at highway or slower speed. Limiting the number of destinations on the signs will aid in legibility and mitigating confusion and creating maintenance issues.



Primary Vehicular Wayfinding

removable powder coated
metal sign face with silk
screen applied reflective
graphics

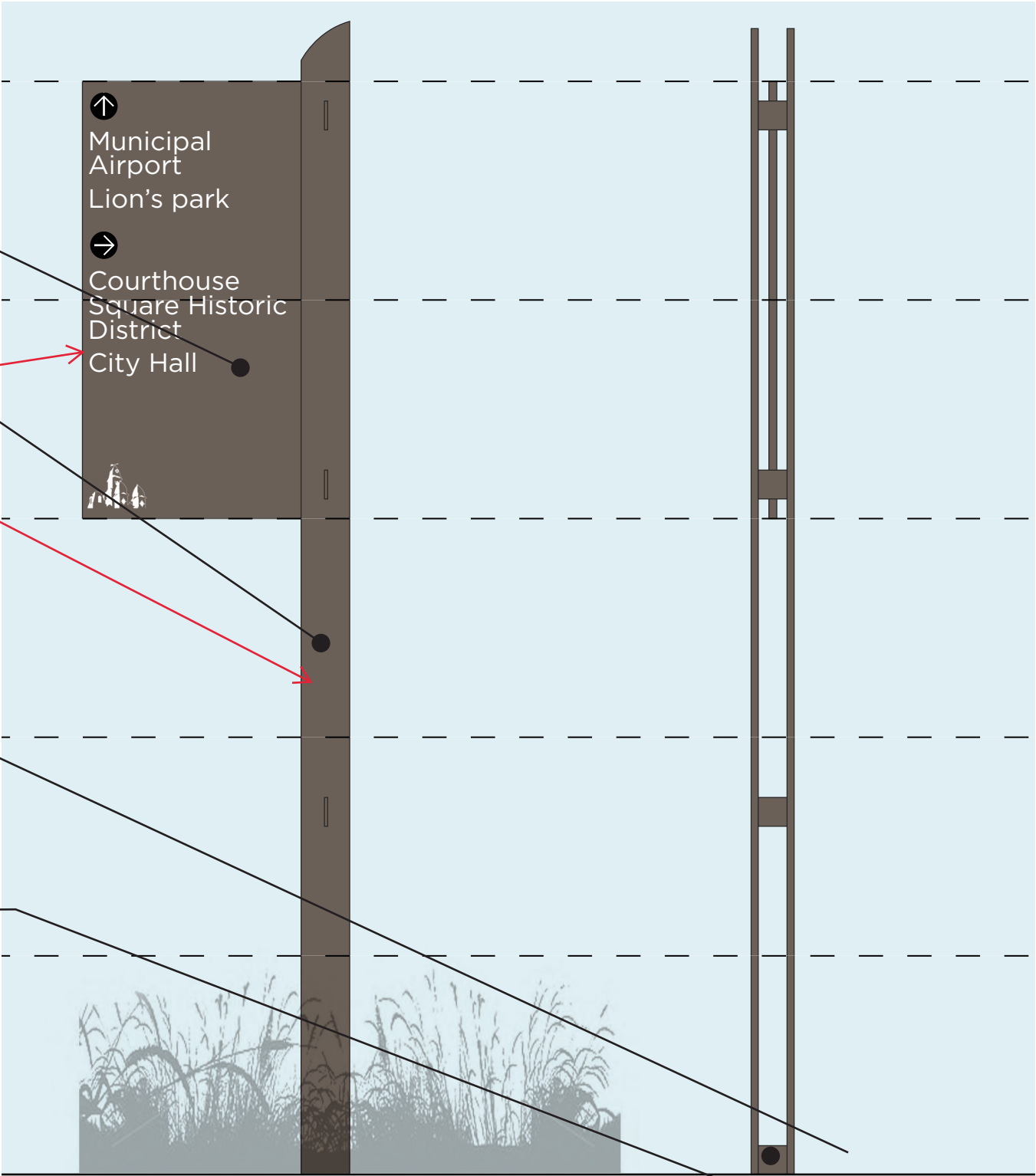
Vinyl and then UV liquid lam coated.

fabricated powder coated
steel post and bracket

1" thick Aluminum plate construction

City/TXDOT approved break-
away bracket

structural footing as required



ST 200 Primary Vehicular Wayfinding Sign

The City of Lockhart reserves the rights to
revise this document at any time.

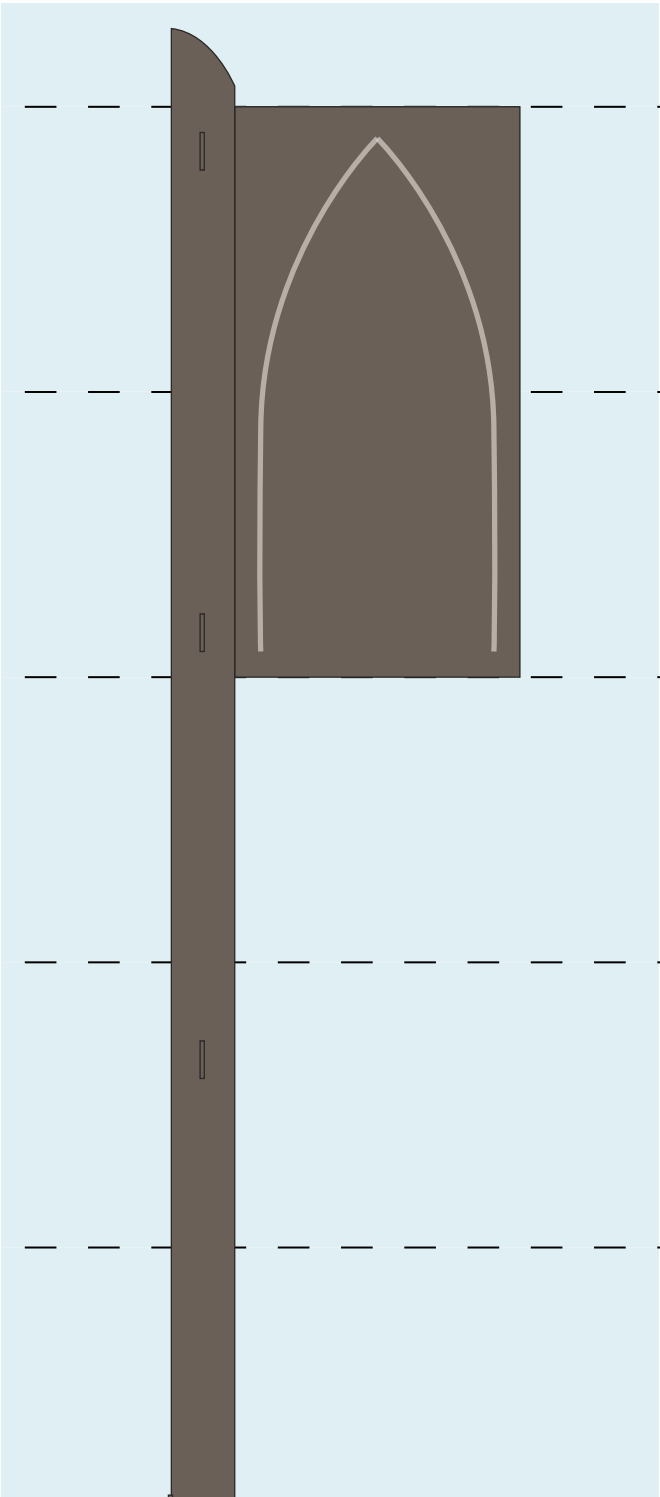
Primary Vehicular Wayfinding

As the reverse side of the vehicular wayfinding sign panel will have no wayfinding information on it the City may choose to keep them blank on the painted face.

The Wayfinding Committee created an opportunity for thematic imagery be presented on these panels, the subject would botanical inspired linework of native flora and fauna or historical/cultural references.

This material could be applied vinyl and done as a civic program where the panels could be changed out seasonally or as part of larger civic initiatives or periods of celebration.

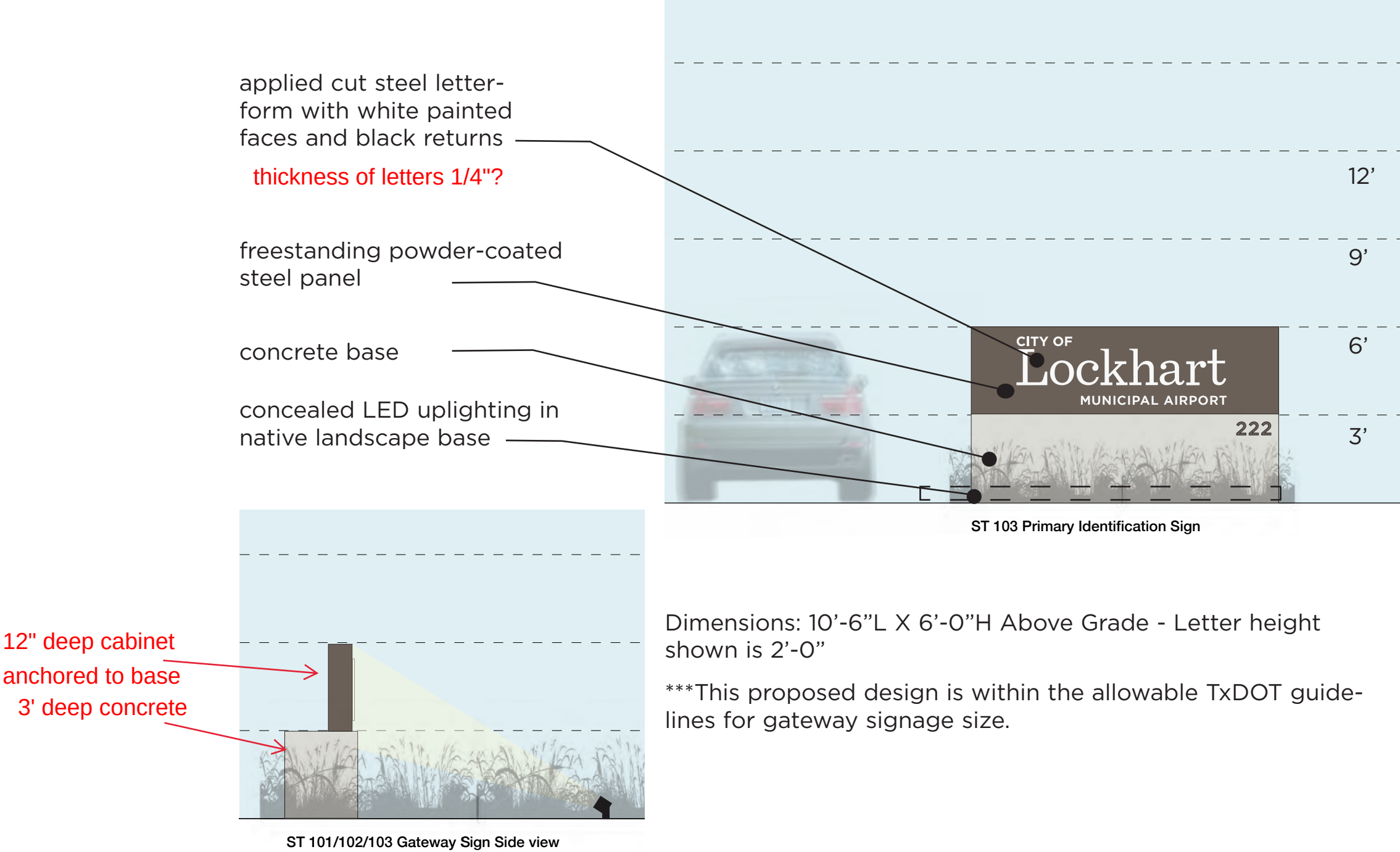
Every effort should be to avoid overly thematic, interpretive or distracting content themes.





The City of Lockhart reserves the rights to revise this document at any time.

Primary Identification Sign



Primary Identification Sign

Lockhart City Hall currently has a digital display as part of the facility’s monument sign.

The City should update the display as part of the new signage installation for City Hall that allows for a wider variety of content as well as present a more contemporary appearance for the City headquarters.



The City of Lockhart reserves the rights to revise this document at any time.

LED display

applied cut steel letter-form with white painted faces and black returns

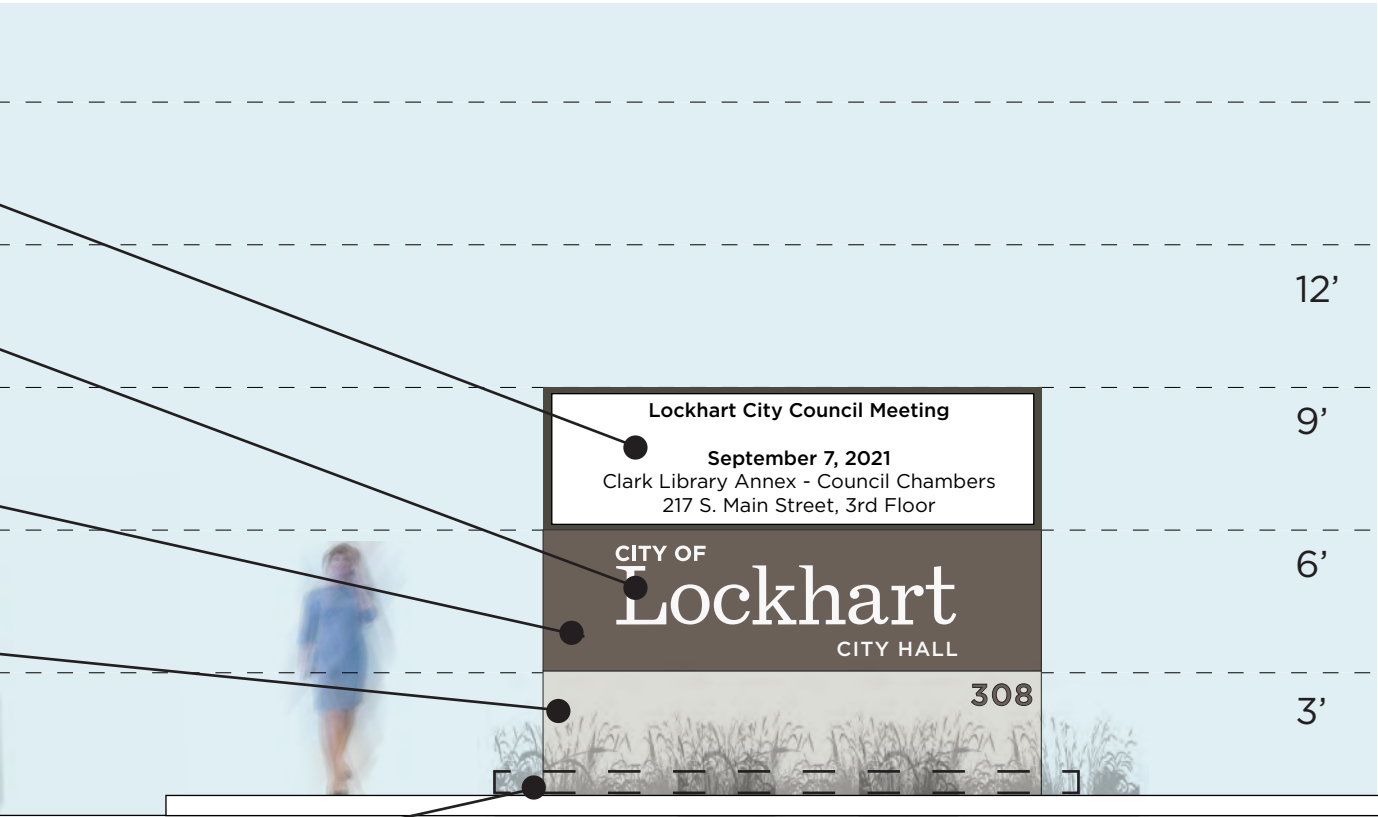
1/4" thick alum letters?
freestanding powder-coated-steel panel

24" deep cabinet. Double sided.
Daktronics message center

concrete base

With steel pole in the ground with pier below foundation.

concealed LED uplighting in native landscape base



ST 103 Primary Identification Sign with Digital Display

Dimensions: 10'-6"L X 6'-0"H Above Grade - Letter height shown is 2'-0"
***This proposed design is within the allowable TxDOT guidelines for gateway signage size.

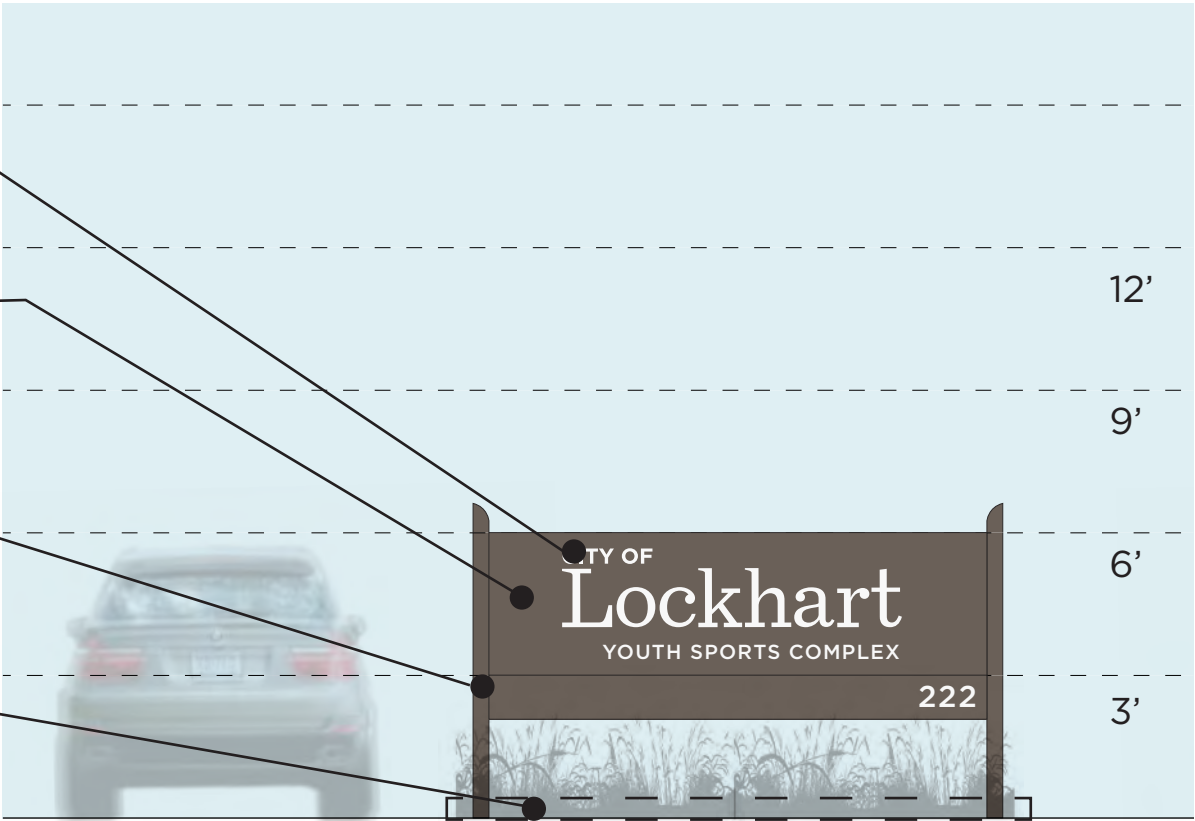
Secondary Identification Sign

silk screen graphics
White vinyl with UV lam

powder coated metal panel

fabricated powder coated
metal legs

concealed LED uplighting
in native landscape base as
appropriate to location



ST 104 Secondary Identification Sign

5" x 5" alum posts with radius caps. 4" deep cabinet mount between posts.
Post direct buried into ground.

Dimensions: 10'-6"L X 6'-0"H Above Grade - "Lockhart" Letter height shown is 2'-0"

***This proposed design is within the allowable TxDOT guidelines for gateway signage size.



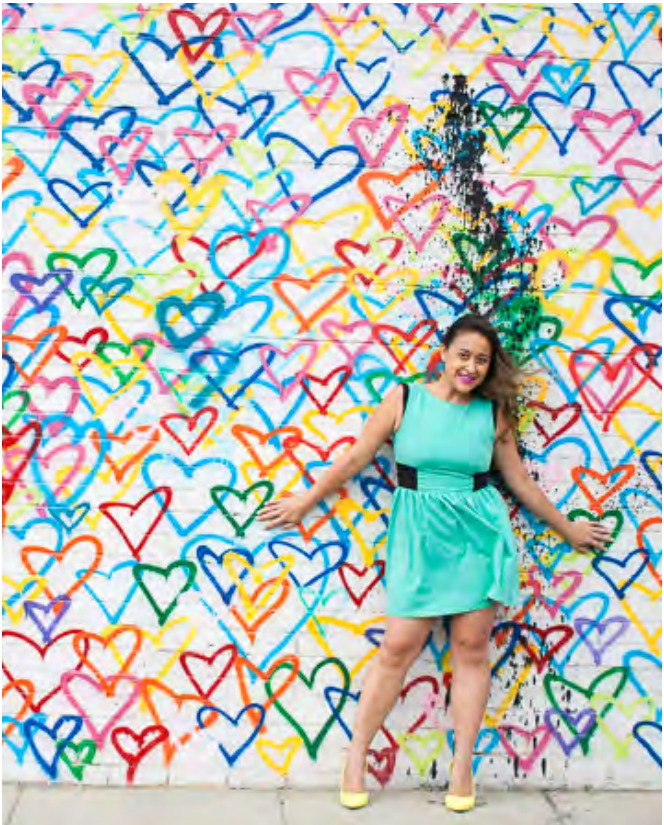
Orientation



Directional



Interpretive



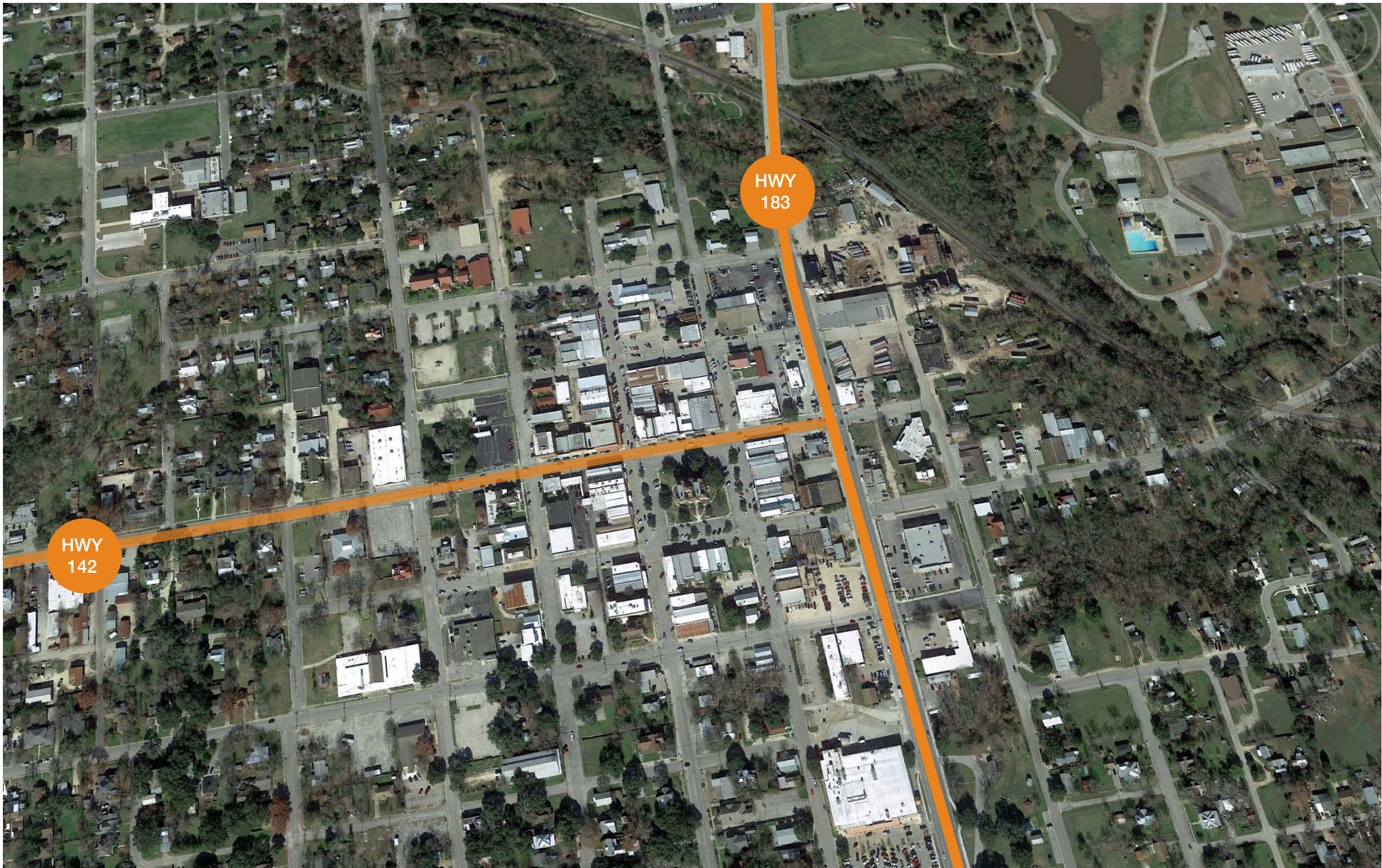
Placemaking / Landmark

Pedestrian Wayfinding



Pedestrian Wayfinding

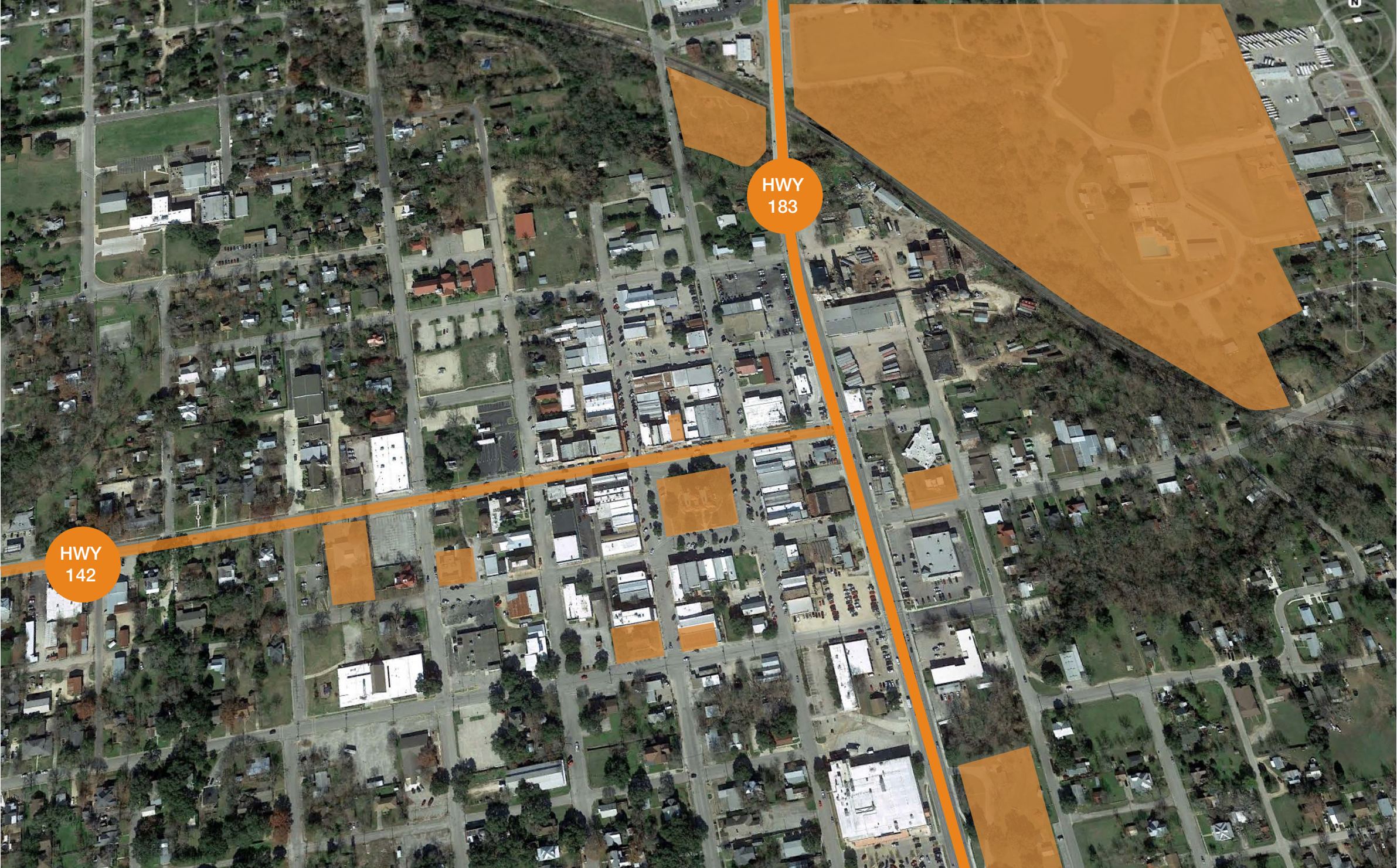
- Courthouse Square
Historic District
- Dr Eugene Clark Library
- United States Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal
Burial Park
- Historical/Interpretive
Locations
- All City Parks



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Pedestrian Wayfinding

- Courthouse Square Historic District
- Dr Eugene Clark Library
- United States Post Office
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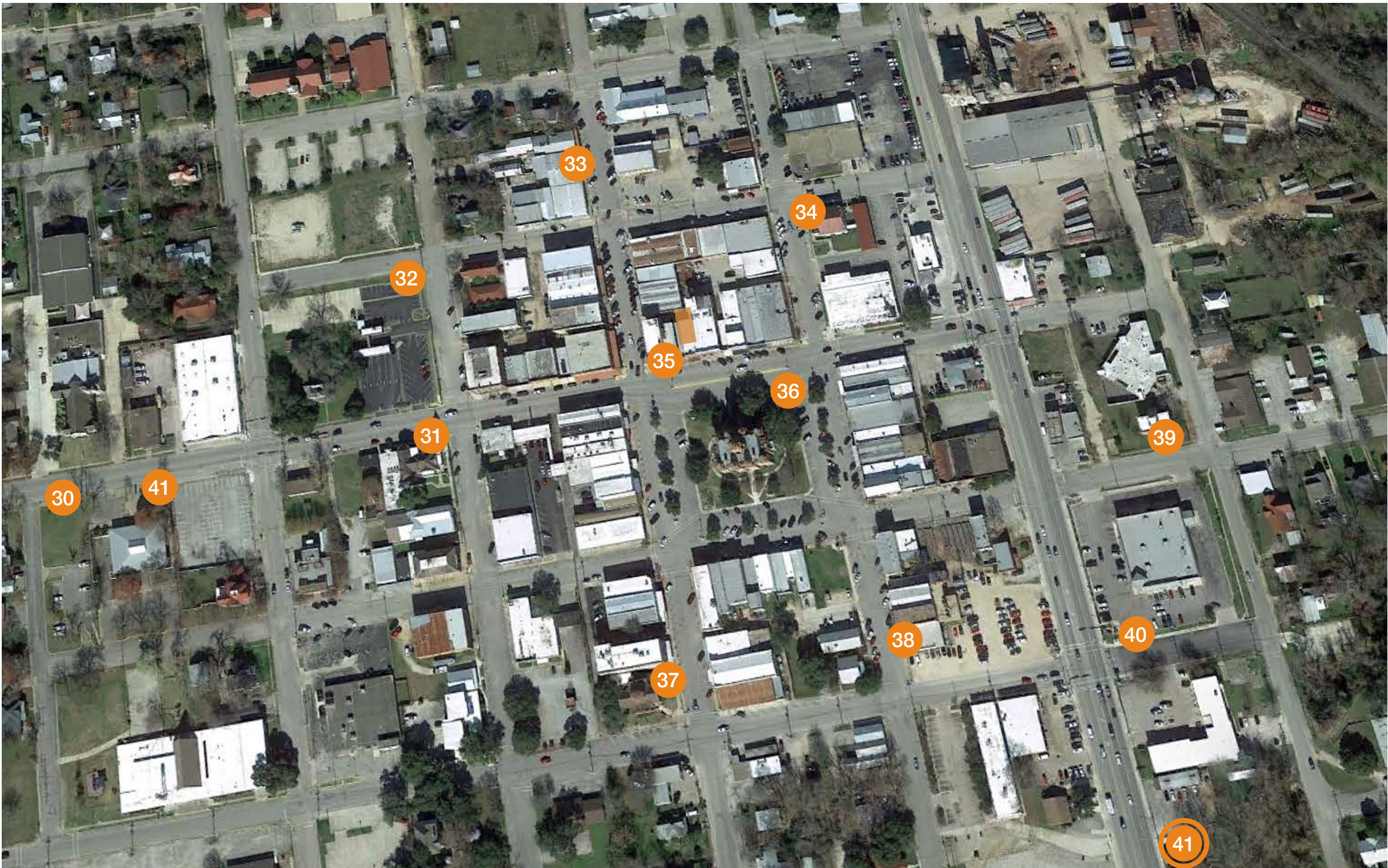


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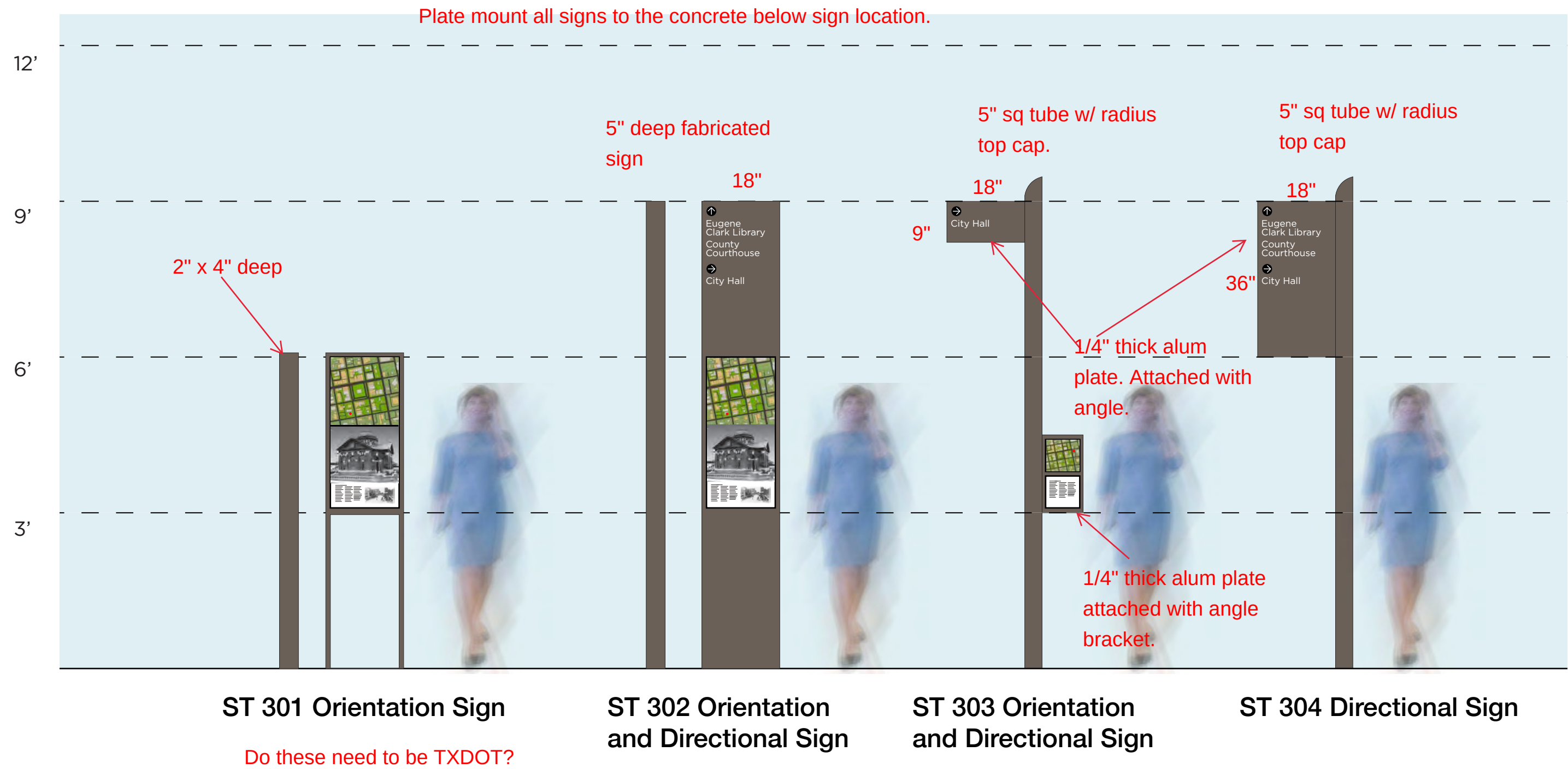
Pedestrian Wayfinding

Final Locations TBD

- Courthouse Square Historic District
- Dr Eugene Clark Library
- United States Post Office
- Caldwell County Museum
- Brock Log Cabin
- Lockhart Municipal Burial Park
- Historical/Interpretive Locations
- All City Parks



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Pedestrian Wayfinding

Pedestrian orientation and wayfinding elements will be placed in purposeful locations to direct and inform to public destinations, landmarks or amenities.

A modular system will allow for flexibility in depicting maps, directional information and historical and interpretive information.

As each panel is double-sided community event posters or other temporary information could be depicted instead of the wayfinding information.



Pedestrian Wayfinding - Map Graphic Style

A custom but highly stylized map for pedestrian orientation and wayfinding elements will allow for ease in legibility as well as ability to edit/create source files as revisions to maps will need to occur.



***Reference Image



Final map artwork to be determined

Placemaking Attraction

A Lockhart wordmark themed placemaking element in the central part of the Courthouse Square Historic District will create a unique landmark, a gathering place and photographic backdrop.

It is recommended that a site specific plaza be developed with ample space to accommodate group photography. Ambient and spot lighting should be provided so that the plaza can be used in the daytime and nighttime.



Steel framed bases for each individual letter to mount. Anchor bases into concrete. Spot light inset into each steel base and upright letter. 12" deep fabricated letters with base plates that will mount to steel base. powder coated with graffiti clear coat.

Dimensions: "L" cap height to be 6'
***This proposed design is comply with ADA guidelines for free-standing elements.

cut steel freestanding letter-form with white painted faces and black returns



ST 400 Placemaking Element

Placemaking Attraction

The placemaking attraction shown in this rendering to be at the North East Corner of the court-house square should compliment roadway, parking and pedestrian planning efforts.







Pedestrian Wayfinding

Historical and Interpretive information and supporting imagery can educate visitors to Lockhart’s and Caldwell County’s rich history in key areas around the Courthouse Square Historic District.

Narrative information should follow best practices for quick viewing and prolonged reading scenarios.



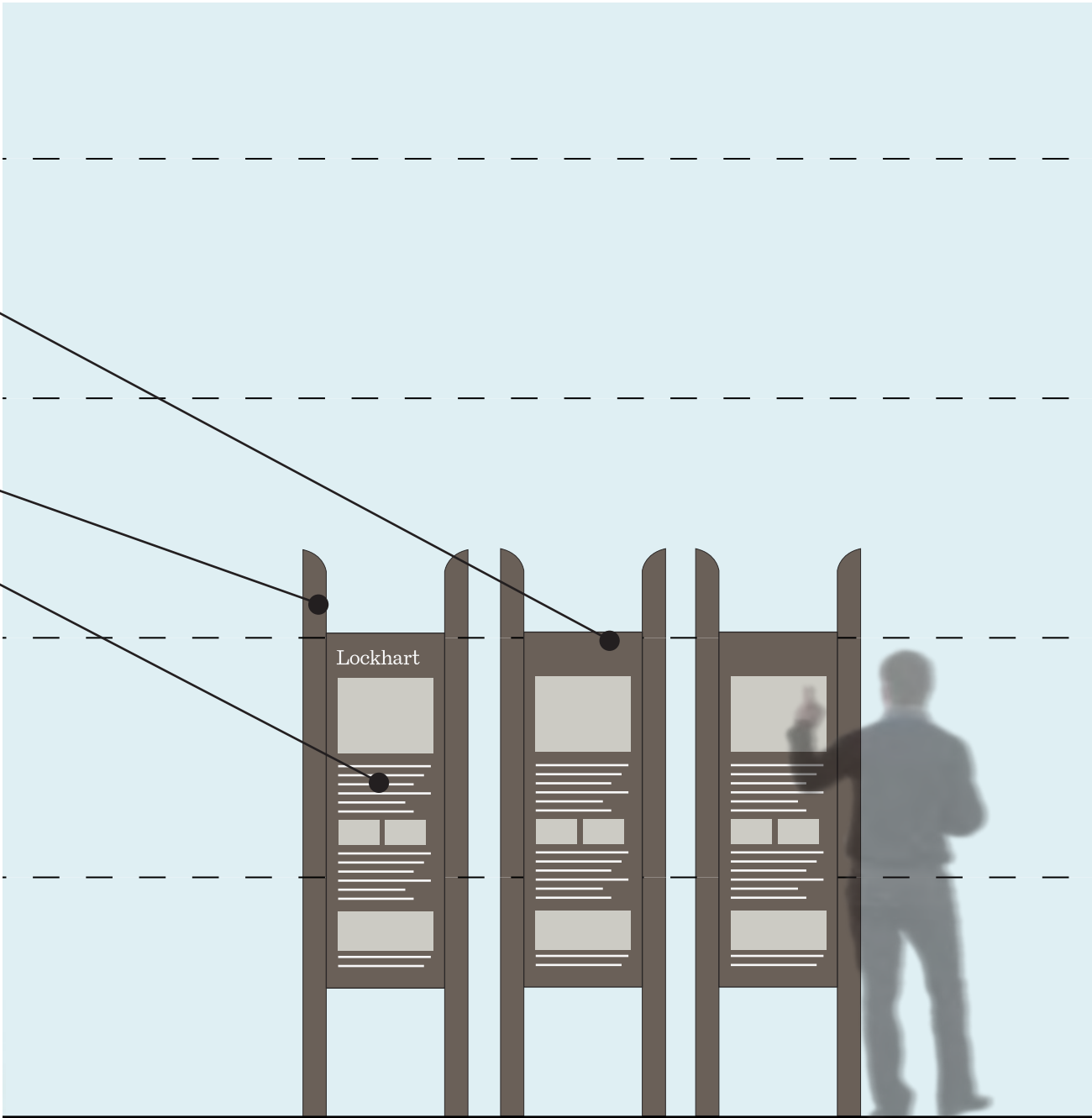
Dimensions: Each panel is 2’-0”W X 7’-2”H

powder coated metal panel

fabricated powder coated metal legs

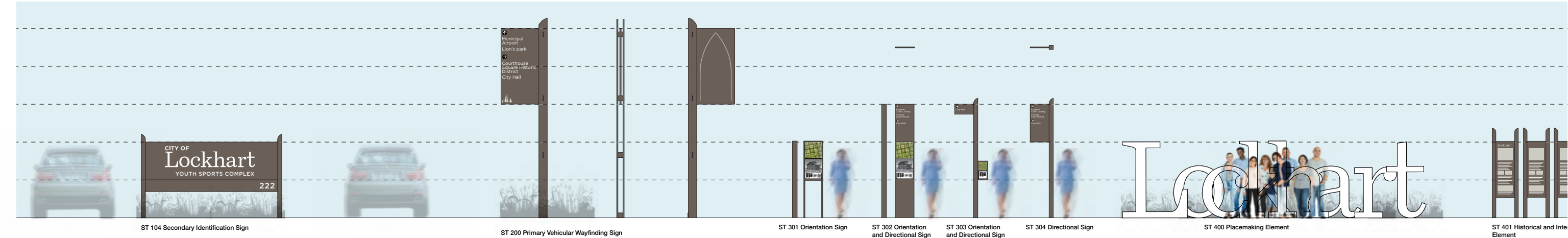
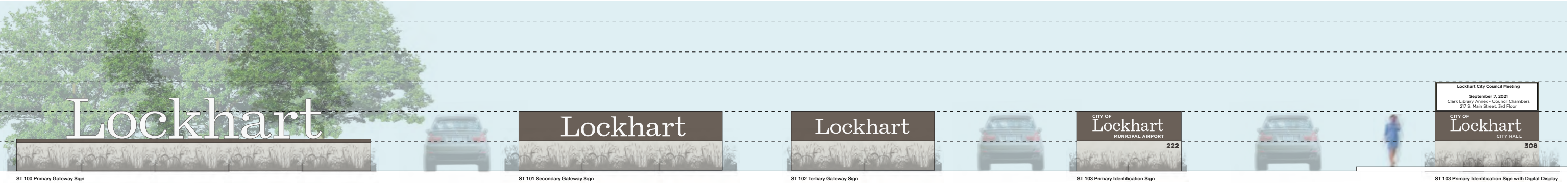
silk screen graphics

Plate mount to base and anchor bolt into concrete below sign.



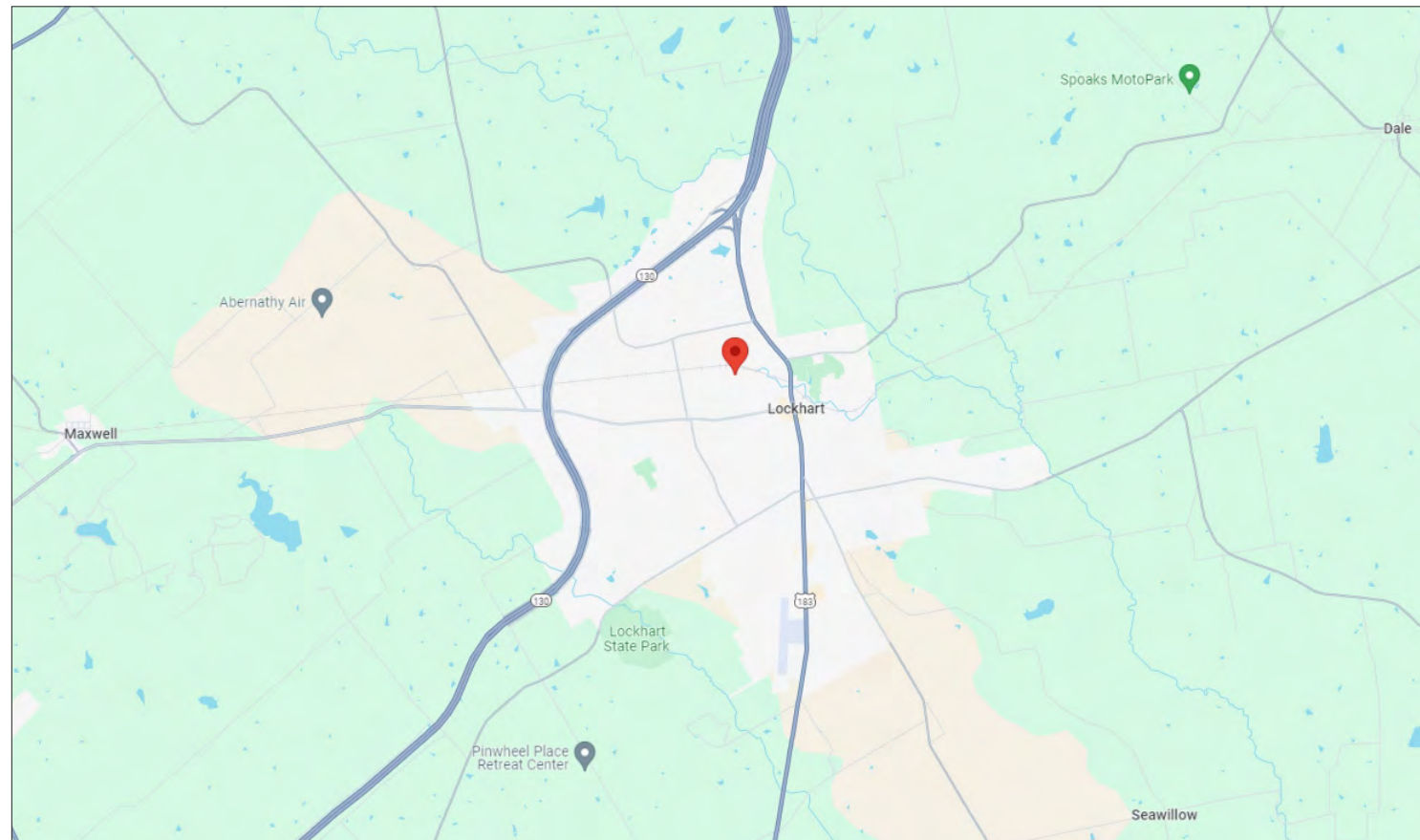
ST 401 Historical and Interpretive Element

Identification and Wayfinding System



LOCKHART PARKS & REC

Gateway Sign Package



705 Wichita St, Lockhart, TX 78644





Job Name:

Lockhart Gateway Signs

■ Proposal Drawing
□ Final Drawing

Client: Lockhart Parks & Rec
Location: 705 Wichita St,
Lockhart, TX 78644
Salesperson: Maggie Star
Prj. Mngr.:
Date: 08/01/2024
Designer: Shawn Murphy
File Name: 73875 - Lockhart
Parks & Rec - Lockhart
Gateway Signs - Lockhart
Tx.cdr

Proposal #: 73875

Job #: n/a

Revisions (M/D/Y)-(initials): desc.



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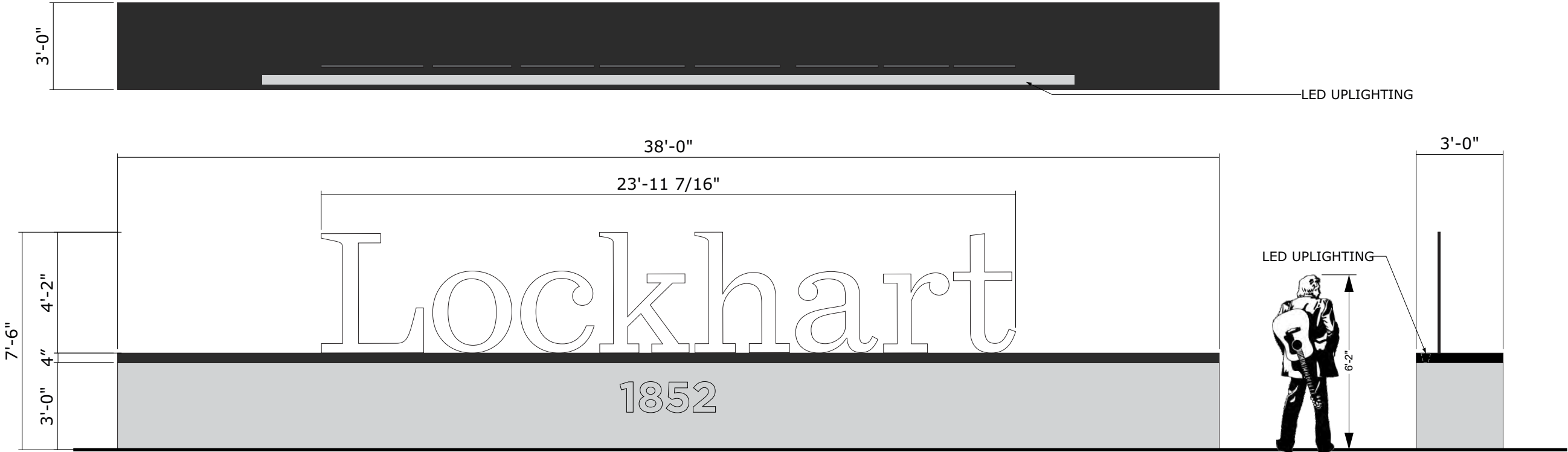
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Powdercoated base or cast stone cap? And what do the letters attach to?

What LED uplights are we using? Must be a specific one since the width is known. Do they mount to the front somehow, or in a trough?



A

GATEWAY SIGN @ HWY 130 (NORTH)

QTY: ONE (1)

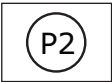
Scale: 1/4" = 1'-0"

SCOPE: MF & INSTALL SIGN.

- CONCRETE BASE (FOOTER BURIAL DEPTH TBD) with
- ALUMINUM SIGN BASE/SIGN CABINET WITH LED UPLIGHTING and
- FREE-STANDING 1" ALUMINUM FCO LETTERS with WHITE FACES/BLACK RETURNS AFFIXED TO BASE CABINET
- "1852" DATE MOLDED INTO CONCRETE BASE



SW 6528
Tricorn Black



Akzo Nobel
White



FIELD SURVEY REQUIRED
PRIOR TO PRODUCTION

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Lockhart
1852

SIMULATED NIGHT VIEW WITH UPLIGHTING

Scale: 1/4" = 1'-0"

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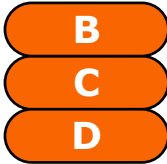
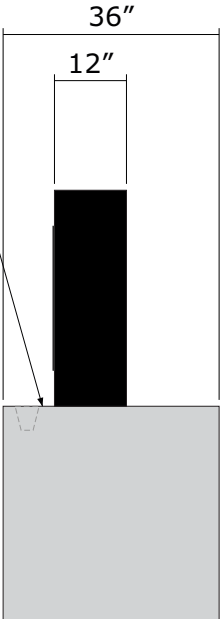
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LED UPLIGHTING



LED UPLIGHTING



GATEWAY SIGN @ HWY 183 (SOUTH), HWY 142 (WEST) and SH 130 (SOUTHWEST)

QTY: ONE (1) EACH, THREE TOTAL

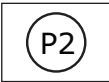
Scale: 3/8" = 1'-0"

SCOPE: MF & INSTALL SIGN.

- CONCRETE BASE (FOOTER BURIAL DEPTH TBD) with TROUGH FOR LED UPLIGHTING
- ALUMINUM SIGN SIGN CABINET WITH 1/4" ALUMINUM FCO LETTERS FLUSH MOUNTED



SW 6528
Tricorn Black



Akzo Nobel
White



**FIELD SURVEY REQUIRED
PRIOR TO PRODUCTION**

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Lockhart

SIMULATED NIGHT VIEW WITH UPLIGHTING

Scale: 3/8" = 1'-0"

CUSTOMER APPROVAL

APPROVED BY: _____ DATE: ____ / ____ / ____

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion and/or action to consider Ordinance 2024-28 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 4, Section 58-142(a)(1) and 58-142(a)(2), Entitled "Water Rates", adjusting the monthly fixed service charge and consumption charge to cover increased costs in water supply, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers.

ORIGINATING DEPARTMENT AND CONTACT: Finance - Joseph Resendez, Keeli Michna

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: At the September 3, 2024 Council meeting, Raftelis, the City's utility rate consultant, gave a presentation providing recommended adjustments to the water and wastewater rates for Fiscal Year 2024-2025 (FYE 2025) and Fiscal Year 2025-2026 (FYE 2026). These adjustments are recommendations to account for updated revenue and expenditure requirements in the water utility fund. Specifically, updates to the Carrizo Groundwater Supply Project operating and maintenance costs and debt service requirements and wholesale water costs from the Luling Water Treatment Plant.

The Carrizo Project was approved by Council in February 2018 as an agreement with the Guadalupe-Blanco River Authority (GBRA) to provide Lockhart citizens with a long-term treated water supply (up to 3,000 acre-feet). This groundwater development project will generate a total of 15,000 acre-feet per year of groundwater which will be distributed to participating utilities like Lockhart. The City is responsible for its proportional share of the project's debt service and operational expenses for the construction of facilities to pump, treat, and transport the groundwater from the well fields in Gonzales and Caldwell County. The facilities and transmission infrastructure are complete and operational. The project is undergoing final treatment and pressure testing and anticipated to go online in Fall 2024.

Raftelis' recommended rate adjustments maintain the Tier 0 - "Lifeline Rate" charging \$0 for the first 2,000 gallons of water consumption. This low usage water customer tier represents fixed income customers. In addition, the recommendations include a 50% increase to the pricing signals between Tiers 2 & 3 and Tiers 3 & 4 to address the increased maintenance and operations costs of treated water for high volume residential customers. Finally, the proposed 2025 water and wastewater rate adjustments will still maintain competitive prices for the average Lockhart residential customer when compared to peer communities in Central Texas.

Ordinance 2024-28 provides for the implementation of Raftelis' recommended water rates over a two-year phase-in beginning in the second bill cycle of November 2024. The following table is a summary of the new monthly water rates:

City of Lockhart, Texas

Council Agenda Item Cover Sheet

CURRENT		FYE 2025	FYE 2026
Water Revenue Adjustment		35%	20%
Fixed Charge			
Meter Size	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025
5/8" \$	27.45 \$	37.05 \$	44.46
1" \$	68.61 \$	92.62 \$	111.14
1-1/2" \$	137.23 \$	185.26 \$	222.31
2" \$	219.56 \$	296.40 \$	355.68
3" \$	411.68 \$	555.76 \$	666.91
4" \$	686.13 \$	926.27 \$	1,111.52
Residential			
Per Thousand Gallons	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025
Tier 0 (0- 1,999) \$	- \$	- \$	-
Tier 1 (2- 5,999) \$	4.86 \$	6.56 \$	7.87
Tier 2 (6- 9,999) \$	6.07 \$	8.19 \$	9.83
Tier 3 (10- 19,999) \$	7.04 \$	12.29 \$	14.74
Tier 4 (20+) \$	7.77 \$	18.43 \$	22.11
Non-Residential (all usage)			
Per Thousand Gallons	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025

City of Lockhart, Texas

Council Agenda Item Cover Sheet

All Usage \$	5.02 \$	6.77 \$	8.12
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If Ordinance 2024-28 is adopted, city staff will provide notice to customers of the upcoming utility rate changes.

Background

On February 2, 2021, the City Council approved the City Manager to enter into an agreement with Raftelis Financial Consultants, Inc. to provide the City of Lockhart with a water and wastewater study. The purpose of the study was to determine the total cost of providing water and wastewater services, equitably distribute costs to customers, and design rates to safeguard the financial integrity of the city utility systems.

At the August 3, 2021 and August 17, 2021 Council meetings, Raftelis' consultant provided the results of the rate study and presented three rate adjustment scenarios over a 3-year phase-in period. According to the consultant, in order to recover costs for water supply land leases, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers, the City should set rates according to the different sizes of the customers' meters and their usage, which is common among municipal utility providers.

The Council approved and implemented the scenario 2 rate plan with a three-year phase-in at the September 21, 2021 Council meeting. As anticipated in 2021, City staff reengaged with Raftelis consultants in August 2023 to reevaluate the water and wastewater rates due to updates in the Carrizo Groundwater Project operating and maintenance costs and debt service requirements for the construction of facilities to pump, treat, and transport the groundwater and wholesale water costs from the Luling Water Treatment Plant.

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 adoption of

City of Lockhart, Texas

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Ordinance 2024-28.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-28 - Water Rates 2024

ORDINANCE 2024-28

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, AMENDING THE LOCKHART CODE OF ORDINANCES CHAPTER 58, UTILITIES, ARTICLE II, DIVISION 4, SECTION 58-142(a)(1) and 58-142(a)(2), ENTITLED "WATER RATES" BY AMENDING WATER RATES FOR ALL CUSTOMERS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Lockhart City Council has determined based on the recommendation of Raftelis Financial Consultants, Inc. that the city water rates need to be revised to recover costs for water supply land leases, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers; and

WHEREAS, the Lockhart City Council has determined that new rates are necessary for the future of the community and the costs of the water supply must be covered in meter service charge and rates for usage as allowed by state law and approved by the City Council in open session; and

WHEREAS, the Lockhart City Council finds that this ordinance serves a public purpose by providing for the supply of potable water for future city growth and use, and that is necessary for the health, safety and welfare of the community.

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

Chapter 58, Utilities, Section 58-142 of the Code of Ordinances, City of Lockhart, Texas, are hereby amended to read as follows:

Sec. 58-142.- Water rates.

(a)The charges for water services furnished by the city for all residential and non-residential customers shall be as follows:

- (1) *A monthly fixed service charge* per residential and non-residential customer per month according to the size of water meter installed. Meters 5/8" and larger will adjust over 2-year phase in period to their respective meter capacity ratios.

Schedule "A"

Fixed Charge

<i>Meter Size</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
5/8"	\$ 37.05	\$ 44.46
1"	\$ 92.62	\$ 111.14
1-1/2"	\$ 185.26	\$ 222.31
2"	\$ 296.40	\$ 355.68
3"	\$ 555.76	\$ 666.91
4"	\$ 926.27	\$ 1,111.52

(2) A consumption charge per 1,000 gallons:

Residential

<i>Per Thousand Gallons</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
Tier 0 (0-1,999)	\$ -	\$ -
Tier 1 (2-5,999)	\$ 6.56	\$ 7.87
Tier 2 (6-9,999)	\$ 8.19	\$ 9.83
Tier 3 (10-19,999)	\$ 12.29	\$ 14.74
Tier 4 (20+)	\$ 18.43	\$ 22.11

Non-Residential (all usage)

<i>Per Thousand Gallons</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
All Usage	\$ 6.77	\$ 8.12

II. Repealer: All other ordinances, section, 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.

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

IV. It is hereby officially found, determined, and declared that the meeting at which this ordinance was passed was open in the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, as given, all as required by Chapter 551, as amended, Texas Government Code.

V. 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 or any other portion, provision or regulation.

VI. Effective Date: This ordinance shall become effective with the second utility billing cycle in November 2024.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF
LOCKHART, TEXAS, ON THIS THE _____ DAY OF _____, 2024.

CITY OF LOCKHART

Lew White, Mayor

Attest:

Julie Bowermon, City Secretary

APPROVED AS TO FORM:

Bradford E. Bullock, City Attorney

City of Lockhart, Texas

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COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion and/or action to consider Ordinance 2024-29 amending the Lockhart Code of Ordinances, Chapter 58, Utilities, Article 2, Division 3, 58-108(c), entitled "Schedule of Charges" to recover costs for wastewater debt payments and maintenance and operations of the collection and treatment system and transporting wastewater to said collection and treatment system.

ORIGINATING DEPARTMENT AND CONTACT: Finance - Joseph Resendez, Keeli Michna

ACTION REQUESTED: Ordinance

BACKGROUND/SUMMARY/DISCUSSION: At the September 3, 2024 Council meeting, Raftelis, the City's utility rate consultant, gave a presentation providing recommended adjustments to the water and wastewater rates for Fiscal Year 2024-2025 (FYE 2025) and Fiscal Year 2025-2026 (FYE 2026). These adjustments are recommendations to account for updated revenue and expenditure requirements in the wastewater utility fund. Specifically, a 3% inflationary adjustment for operation and maintenance costs of the City's wastewater collection infrastructure and treatment facilities. The process and calculations for winter averaging will remain in place as currently adopted.

Ordinance 2024-29 provides for the implementation of Raftelis' recommended wastewater rates over a two-year phase-in beginning in the second bill cycle of November 2024. The following table is a summary of the new monthly wastewater rates:

CURRENT			FYE 2025		FYE 2026	
Wastewater Revenue Adjustment						
			3%		3%	
Residential Fixed Charge						
Meter Size	Effective for utility 2 nd Bill Cycle of November 2023		Effective for utility 2 nd Bill Cycle of November 2024		Effective for utility 2 nd Bill Cycle of November 2025	
5/8"	\$	19.18	\$	19.75	\$ 20.34	
1"	\$	19.18	\$	19.75	\$ 20.34	
1-1/2"	\$	19.18	\$	19.75	\$ 20.34	
2"	\$	19.18	\$	19.75	\$ 20.34	
3"	\$	19.18	\$	19.75	\$ 20.34	
4"	\$	19.18	\$	19.75	\$ 20.34	

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Non Residential Fixed Charge				
Meter Size	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025	
5/8"	\$ 23.65	\$ 24.35	\$ 25.08	
1"	\$ 23.65	\$ 24.35	\$ 25.08	
1-1/2"	\$ 23.65	\$ 24.35	\$ 25.08	
2"	\$ 23.65	\$ 24.35	\$ 25.08	
3"	\$ 23.65	\$ 24.35	\$ 25.08	
4"	\$ 23.65	\$ 24.35	\$ 25.08	
Variable Charge for Residential and Non Residential				
Per Thousand Gallons	Effective for utility 2 nd Bill Cycle of November 2023	Effective for utility 2 nd Bill Cycle of November 2024	Effective for utility 2 nd Bill Cycle of November 2025	
Tier 0 (0-1,999)	\$ -	\$ -	\$ -	
Tier 1 (2+)	\$ 5.77	\$ 5.94	\$ 6.12	

If Ordinance 2024-29 is adopted, city staff will provide notice to customers of the upcoming utility rate changes.

Background

On February 2, 2021, the City Council approved the City Manager to enter into an agreement with Raftelis Financial Consultants, Inc. to provide the City of Lockhart with a water and wastewater study. The purpose of the study was to determine the total cost of providing water and wastewater services, equitably distribute costs to customers, and design rates to safeguard the financial integrity of the city utility systems.

At the August 3, 2021 and August 17, 2021 Council meetings, Raftelis' consultant provided the results of the rate study and presented three rate adjustment scenarios over a 3-year phase-in period. According to the consultant, in order to recover costs for water supply land leases, debt payments, and maintenance and operations of supplying residential, commercial, and industrial water to its customers, the City should set rates according to the different sizes of the customers' meters and their usage, which is common among municipal utility providers.

The Council approved and implemented the scenario 2 rate plan with a three-year phase-in at

City of Lockhart, Texas

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the September 21, 2021 Council meeting. As anticipated in 2021, City staff reengaged with Raftelis consultants in August 2023 to reevaluate the water and wastewater rates due to updates in the Carrizo Groundwater Project operating and maintenance costs and debt service requirements for the construction of facilities to pump, treat, and transport the groundwater and wholesale water costs from the Luling Water Treatment Plant.

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 adoption of Ordinance 2024-29.

LIST OF SUPPORTING DOCUMENTS: Ordinance 2024-29 - Sewer Rates 2024

ORDINANCE 2024-29

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, AMENDING THE LOCKHART CODE OF ORDINANCES CHAPTER 58, UTILITIES, ARTICLE II, DIVISION 3, 58-108(c), ENTITLED "SCHEDULE OF CHARGES" BY AMENDING SEWER RATES FOR ALL CUSTOMERS; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER; PROVIDING FOR PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Lockhart City Council has determined based on the recommendation of Raftelis Financial Consultants, Inc. that the city wastewater rates need to be revised to recover costs for wastewater debt payments, and maintenance and operations of supplying residential and non-residential wastewater services to its customers; and

WHEREAS, the Lockhart City Council has determined that new rates are necessary for the future of the community and the costs of wastewater services and debt obligations must be met by a fixed service charge and rates for usage as allowed by state law and approved by the City Council in open session; and

WHEREAS, the Lockhart City Council finds that this ordinance serves a public purpose by providing for the wastewater collection and treatment for future city growth and use, and that is necessary for the health, safety and welfare of the community.

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

Chapter 58, Utilities, Section 58-108(c) of the Code of Ordinances, City of Lockhart, Texas, are hereby amended to read as follows:

Sec. 58-108. - Schedule of charges.

(c) The following schedule of charges for residential and non-residential customers will be implemented effective with the first sewer bill rendered from and after final passage of this section. The monthly fixed service charge and the consumption charge is to be for the payment of the expenses associated with the costs of operation and maintenance of the wastewater collection and treatment system and debt service for treatment plant operations.

Schedule "A"

Residential Fixed Charge

<i>Meter Size</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
5/8"	\$ 19.75	\$ 20.34
1"	\$ 19.75	\$ 20.34
1-1/2"	\$ 19.75	\$ 20.34
2"	\$ 19.75	\$ 20.34
3"	\$ 19.75	\$ 20.34
4"	\$ 19.75	\$ 20.34

Non Residential Fixed Charge

<i>Meter Size</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
5/8"	\$ 24.35	\$ 25.08
1"	\$ 24.35	\$ 25.08
1-1/2"	\$ 24.35	\$ 25.08
2"	\$ 24.35	\$ 25.08
3"	\$ 24.35	\$ 25.08
4"	\$ 24.35	\$ 25.08

Variable Charge for Residential and Non Residential

<i>Per Thousand Gallons</i>	<i>Effective for utility 2nd Bill Cycle of November 2024</i>	<i>Effective for utility 2nd Bill Cycle of November 2025</i>
Tier 0 (0-1,999)	\$ -	\$ -
Tier 1 (2+)	\$ 5.94	\$ 6.12

II. Repealer: All other ordinances, section, 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.

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

IV. It is hereby officially found, determined, and declared that the meeting at which this ordinance was passed was open in the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

V. 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 or any other portion, provision or regulation.

VI. Effective Date: This ordinance shall become effective with the second utility billing cycle in November 2024.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF LOCKHART, TEXAS, ON THIS THE _____ DAY OF _____, 2024.

CITY OF LOCKHART

Lew White, Mayor

Attest:

APPROVED AS TO FORM:

Julie Bowermon, City Secretary

Bradford E. Bullock, City Attorney

City of Lockhart, Texas

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COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discussion and/or action regarding Interlocal Agreement for ground lease with Caldwell County Emergency Services District No. 5 to lease EMS Stations No. 1 (214 Bufkin Ln.) and No. 2 (1914 W San Antonio Rd.) for the performance of governmental services pursuant to Chapter 791 of the Texas Government Code and Chapter 272 of the Texas Local Government Code.

ORIGINATING DEPARTMENT AND CONTACT: Administration - Steven Lewis

ACTION REQUESTED: Agreement

BACKGROUND/SUMMARY/DISCUSSION: The proposed Interlocal Agreement between Emergency Services District (ESD) No. 5 and the City of Lockhart provides for the City to lease two city-owned EMS stations to the ESD for a one-year term, with the option to renew the lease for an additional year. The proposed rent paid by the ESD to the City is \$1 per month for the term of the agreement. Station #1 is located at 214 Bufkin Ln and provides primary coverage for the south and east portion of Lockhart and the central portions of Caldwell county. Station #2 is located at 1914 W San Antonio Rd and provides primary coverage to the northern and western portions of the city of Lockhart and Caldwell County.

The lease also outlines responsibilities for utilities, maintenance, and insurance, and provisions for addressing defaults and damages. For example, ESD No. 5 will be responsible for their pro rata share of all utilities, routine maintenance, and any upgrades to the facility and furnishing any required equipment necessary to perform the ESD's functions. In addition, the ESD will obtain and pay for its own telephone and internet services. As a governmental entity, the ESD is exempt from paying property tax.

ESD No. 5 is on schedule to begin operations and provide EMS services in Lockhart on January 1, 2025.

PROJECT SCHEDULE (if applicable):

AMOUNT & SOURCE OF FUNDING:

Funds Required:

Account Number:

Funds Available:

Account Name:

FISCAL NOTE (if applicable):

PREVIOUS COUNCIL ACTION:

City of Lockhart, Texas

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COMMITTEE/BOARD/COMMISSION ACTION:

STAFF RECOMMENDATION/REQUESTED MOTION: Staff recommends approval of the Interlocal Agreement as presented.

LIST OF SUPPORTING DOCUMENTS: ILA - City of Lockhart and ESD No. 5 Lease Agreement

STATE OF TEXAS §
 §
COUNTY OF §

**INTERLOCAL AGREEMENT FOR GROUND LEASE -EMERGENCY SERVICES DISTRICT
NO. 5 AND CITY OF LOCKHART, TEXAS**

THIS INTERLOCAL LEASE AGREEMENT ("Lease Agreement") made and entered into by and between EMERGENCY SERVICES DISTRICT NO. 5 ("ESD No. 5"), a political subdivision of the State of Texas organized and operating pursuant to the provisions of Section 48-e, Article III of the Texas Constitution and Chapter 775 of the Health and Safety Code, as amended ("H&S Code") (hereinafter "Lessee"), and the City of Lockhart, Texas, a Texas home rule municipality acting by and through its governing body, the City Council (hereinafter "Lessor").

WHEREAS, the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code authorizes units of local government to contract with one or more units of local government to perform government functions and services; and

WHEREAS, Section 272.005 of the Texas Local Government Code authorizes a political subdivision to lease property, including real property, to another political subdivision to promote a public purpose without the necessity of complying with any competitive purchasing procedures; and

WHEREAS, this Lease Agreement is entered into pursuant to the authority, under the provisions of, and in accordance with, Chapter 791 of the Texas Government Code, and Chapter 272 of the Texas Local Government Code for the performance of governmental functions and services; specifically, public health and welfare; and the lease of city-owned property without following requirements competitive bidding procedures.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor, EMS Station #1 and #2 in the City of Lockhart, Texas, as indicated on the aerial map attached hereto as Exhibit A and incorporated herein for all purposes (hereinafter "Leased Premises").

ARTICLE I

Term of Lease

1.01 This Lease Agreement shall commence on upon execution by the last party hereto, and remain in effect for an Initial Term of one (1) year, unless terminated earlier upon mutual written agreement by the parties or as otherwise provided in this Lease Agreement. Lessee shall have an option to renew this Lease Agreement for one additional terms of one (1) year upon written notice to Lessor within three (3) months prior to the end of the Initial Term and any extensions thereafter.

1.02 Either party may terminate this Lease for any reason upon notice being given of its desire to so terminate at least ninety (90) days prior to the date of termination. If the Lessor desires to terminate the Lease for cause prior to the expiration of the Initial Term and any extensions mutually agreed thereafter, Lessee shall not be entitled to compensation for such early termination.

ARTICLE II

Rent

2.01 Lessee agrees and promises to pay to Lessor the sum of \$1.00 per month for the term of the Lease. If the Lease Agreement is renewed, the rental amount will be determined upon

mutual agreement of Lessor and Lessee. Lessee shall also be responsible for a pro rata share of all utilities based on the amount of respective square footage of EMS Stations #1 and #2 leased to Lessee under this Lease.

2.02 All payments made hereunder by Lessee shall be made to Lessor at the offices of the City of Lockhart, unless notified in writing to the contrary by Lessor. All payments of lease rent and other amounts becoming due and payable from Lessee to Lessor under and in connection with this Lease may be made by delivering to Lessor, at the then-applicable address provided for herein, Lessee's check in the amount of such payment, on or before the due date thereof under the terms of this Lease.

2.03 Lessee shall pay a late charge of \$25.00 if the monthly payment (rent plus pro rata utilities) has not been paid by Lessee by the tenth (10th) day of the month in which it is due. Failure of Lessee to pay any rent, pro rata utility payment or monetary penalty on delinquent payments prior to the first day of the following month shall constitute a default of this Lease.

ARTICLE III

Taxes and Assessments

3.01 As a governmental entity, Lessee is typically exempt from paying taxes and other such governmental levies and charges. It is Lessee's responsibility to take the necessary steps to protect Lessee's exempt status. Should Lessee fail to do so, Lessee shall pay such which may be assessed, levied, confirmed, imposed or become a lien upon the Leased Premises (or any portion thereof), or become payable or accrue during the Term.

ARTICLE IV

Use

4.01 Lessee shall be allowed to construct, operate and the governmental and public functions ESD #5 is authorized to perform by law, along with other related governmental uses and functions.

4.02 Lessee shall not utilize the Leased Premises for any illegal or unauthorized use.

4.03 Lessee agrees to accept the Leased Premises in their present condition and "as is" for Lessee's authorized uses. Further, Lessor disclaims and Lessee accepts such disclaimer, as to warranty, either express or implied, on the condition, use, or fitness for purposes of the Leased Premises. Lessee assumes full responsibility to make upgrades at Lessee's sole expense and to furnish any additional equipment not already part of the Leased Premises necessary to perform its governmental function.

4.04 During the Initial Term of this Lease, Lessee shall have the unencumbered use of the Leased Premises; provided, however, that Lessor shall have access to said Leased Premises for the purpose of fulfilling its obligation hereto of said Lessee as are hereinafter set out; or to reasonably inspect the Premises, for which access shall not be unreasonably withheld by Lessee. Further, Lessor shall be under no obligation to make improvements to the Leased Premises as might be desired by Lessee, which are and shall remain Lessee's full responsibility during the Initial Term of this Lease and any extensions approved by the Parties thereafter.

4.05 The Lessee, for itself, its representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. No person on the grounds of race, color, sex, religion, or national origin shall be excluded from participation in or denied the benefits of, or otherwise be subject to discrimination under any activity performed by Lessee;

2. That in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services therefrom, no person on the grounds of race, color, sex, religion or national origin shall be excluded from participation in or denied the benefits of, or otherwise be subject to discrimination under any activity performed by Lessee;

3. That the Lessee shall use the Leased Premises in compliance with all requirements imposed by law; and

4. That the Lessee shall at all times use the Leased Premises in compliance with all non-discrimination laws, either in effect at the present time or those promulgated in the future, of the United States of America, the State of Texas, Caldwell County, Texas, and the City of Lockhart, Texas.

ARTICLE V

Maintenance

5.01 Routine maintenance of the Leased Premises and any improvements constructed thereupon by the Lessee shall be the sole responsibility of the Lessee.

5.02 Lessee shall arrange and be responsible for obtaining and paying for its own telephone and internet service and obtaining necessary extensions of hardware for the operation of these services. Lessee shall pay or reimburse Lessor for the connection and extension of any utility services used by Lessee in a pro rata amount based on the square footage of the Leased Premises.

5.03 Lessee shall be responsible for obtaining all necessary equipment, material, and items necessary to perform its mandated governmental functions at Lessee's sole expense. Lessor shall not be responsible for such expenses and Lessee disclaims and waives any right or claim to payment or reimbursement for same.

5.04 Lessee shall be responsible for the repair or replacement of any fixtures that are part of or located in the Leased Premises during the Initial Term and any extensions agreed to by the Parties thereafter.

ARTICLE VI

Limitation of Liability

6.01 The liability for acts or omissions of the agents and employees of either party or for injuries caused by conditions of tangible property is provided for solely by the provisions of the Texas Civil Practice and Remedies Code, Chapters 75, 101 and 102, and that Workers' Compensation Insurance coverage for state and county employees is provided as mandated by the provisions of Texas Labor Code, Chapter 504.

ARTICLE VII

Lessee's Property and Certain Notices

7.01 Lessor shall not be liable for any damage to or loss of personal property placed in, on or about the Leased Premises by Lessee or others, resulting from fire, theft, explosion, flood, windstorm, hurricane, or other casualty caused by acts of God or by the acts or omissions of other occupants of other space in the building.

ARTICLE VIII

Assignment

8.01 This Lease Agreement shall be binding on the heirs, successors and assigns of the parties hereto. Lessee shall not assign, sublet or transfer its interest or obligations in and under this lease without the prior, written consent of Lessor. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of Lessee or Lessor.

ARTICLE IX

Default

9.01 In the event of any default by the Lessee in any of the terms, conditions, covenants, or agreements herein contained, Lessor may enforce the performance of this Lease Agreement in any manner provided by law including forfeiting and terminating at Lessor's discretion if such default continues for a period of twenty (20) days after Lessor notifies Lessee in writing of such default and its intention to declare this Lease Agreement terminated. Unless Lessee shall have completely removed and cured such default as aforesaid, this Lease Agreement shall terminate and come to an end as if that were the day originally fixed herein for the expiration of the term.

9.02 Default by Lessee shall be defined as (a) failing to timely pay the Lease Rent, pro rata utilities, or other expenses incurred by Lessee in the performance of its governmental functions due and payable to Lessor by the first day of the following month, or (b) failing to begin a reasonable attempt to comply, within twenty (20) days of receiving written notice from Lessor, with any substantive provision of this Lease.

9.03 Lessor's remedies for Lessee's default are to enter and take possession of the Lease Premises and exclude Lessee from said premises. Lessee agrees to reimburse Lessor for actual expenditures reasonably made in order to relet the Leased Premises; or enter the Leased Premises

and perform Lessee's obligations; or terminate this Lease by proper written notice and sue for damages authorized by law.

9.04 Lessee agrees that all permanent improvements and fixtures located on the Leased Premises shall become and remain the property of Lessor and that in the event of default, Lessee shall peaceably vacate the Leased Premises.

ARTICLE X

Insurance

10.01 As a condition precedent to Lessee's right to use the Leased Premises, Lessee shall continuously maintain in effect during the term of this Agreement and any extension thereof, at Lessee's expense, the following insurance coverage:

1. Comprehensive General (Public) Liability Insurance covering the Lessee, and Lessee's activities at the Leased Premises. Liability insurance limits shall be in the following minimum amounts: Bodily Injury, including Death and Property Damage: \$500,000 combined single limit coverage, on a per occurrence or claims made basis/\$1,000,000 aggregate limit.

2. Fire and extended coverage to cover 100% of the full replacement value for the Leased Premises as calculated at the initiation of this Lease Agreement. This coverage shall include for theft, vandalism, malicious mischief, as well as damages caused from weather conditions, acts of God, etc.

3. All policies, either of the Lessee or Sub-Lessee's, shall name the City of Lockhart as an additional named insured and provide for a minimum of thirty (30) days written notice to Lessor prior to the effective date of any cancellation, material change, or lapse of such policies.

4. Notwithstanding other provisions herein contained, Lessor may cancel this Lease with or without notice to Lessee should Lessee's insurance lapse for a period of ten (10) days or more. Lessor may elect to reinstate and revive such Lease after such insurance obligation is cured by Lessee.

5. Appropriate insurance on Lessee's personal property located within the Leased Premises.

6. All policies must be approved by Lessor to ensure that the provisions of this section are included.

7. Lessor shall be provided with a copy of all such policies by Lessee.

8. Any insurance policy herein required or procured by Lessee shall contain any express waiver of any right or subrogation by the insurance company against the City of Lockhart.

10.02. If the improved premises shall be partially damaged by any casualty insurable under Lessee's insurance policy, Lessee shall, upon receipt of the insurance proceeds, repair the same. If the Leased Premises shall be damaged as a result of a risk which is not fully covered by Lessee's insurance, Lessee shall either (a) repair or rebuild the damaged improvements to the extent of available insurance proceeds. If Lessee fails to repair or rebuild the damaged improvements to the extent of available insurance proceeds or terminate this Lease and assign insurance proceeds to Lessor, Lessor shall have the right to terminate this Lease and recover damages from Lessee.

ARTICLE XI

Indemnification

11.01 Lessee agrees to indemnify and hold harmless the Lessor, its agents,

employees, and representatives from and against all liability for any and all claims, suits, demands, and/or actions arising from negligent acts or omissions which may arise out of or result from Lessee's occupancy or use of the Leased Premises.

ARTICLE XII

Miscellaneous

12.01 All notices provided to be given under this Lease Agreement shall be given by certified mail or registered mail, addressed to the proper party or delivered in person at the following addresses:

Lessor: City of Lockhart, Texas
Attention: Mayor Lew White
308 W. San Antonio Street
P.O. Box 239
Lockhart, Texas 78644

Lessee: Caldwell County Emergency Services District No. 5
Attention: Board President
P.O. Box 478
Lockhart, Texas 78644

Copy to: Bradford E. Bullock
City Attorney, City of Lockhart
4201 W. Parmer, Ste. C-150
Austin, Texas 78727

John Carlton
ESD No. 5 General Counsel
4301 Westbank Drive, Ste. B-130
Austin, Texas 78746

12.02 This Lease Agreement shall be binding upon and inure to the benefit of the parties

hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Lease Agreement.

12.03 This Lease Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Caldwell County, Texas, and venue shall lie in Caldwell County, Texas.

12.04 In case any one or more of the provisions contained in this Lease Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof and this Lease Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

12.05 This Lease Agreement constitutes the sole and only lease of the parties hereto and supersedes any prior understandings or written or oral leases between the parties respecting the within subject matter.

12.06 No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

12.07 The rights and remedies provided by this Lease Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.

12.08 No waiver by the parties hereto of any default or breach of any term, condition, or covenant of this Lease Agreement shall be deemed to be waiver of any other breach of the same or any other term, condition, or covenant contained herein.

12.09 Neither Lessor nor Lessee shall be required to perform any term, condition, or covenant in this Lease Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the control of Lessor or Lessee and which by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome.

12.10 Time is of the essence of this Lease Agreement.

12.11 Lessee's leasehold estate, created hereby and all of Lessee's rights, titles and interests, hereunder are subject and subordinate to any mortgage presently existing.

12.12 There are no implied warranties of merchantability, of fitness for a particular purpose, or of any other kind arising out of this lease, and there are no warranties that extend beyond those expressly stated in this lease.

12.13 All exhibits, schedules and attachments referred to in this lease are hereby incorporated by reference for all purposes as fully as if set forth at length herein. This lease constitutes the entire agreement of the parties with respect to the subject matter hereof, and all prior correspondence, memoranda, agreements or understandings (written or oral) with respect hereto are merged into and superseded by this lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written, in duplicate originals.

INTERLOCAL AGREEMENT FOR GROUND LEASE - EMERGENCY
SERVICES DISTRICT NO. 5 AND CITY OF LOCKHART, TEXAS

Lessor:

CITY OF LOCKHART, TEXAS

Lessee:

EMERGENCY SERVICES

DISTRICT NO. 5

By:

Lew White, Mayor

By:.....

ATTEST:

Julie Bowermon

City Secretary

City of Lockhart, Texas

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss and consider action regarding appointing two Representatives of the City of Lockhart to the General Assembly of the Capital Area Council of Governments (CAPCOG).

ORIGINATING DEPARTMENT AND CONTACT: Council - Mayor Lew White

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION: CAPCOG, formed in 1970, serves as an advocate, planner and coordinator on regional issues in the 10-County encompassing Austin-Round Rock-Georgetown Metropolitan Statistical Area. The CAPCOG General Assembly serves as their governing body for purposes of selecting the Executive Committee, adopting operational bylaws and budget, determining membership dues, and guiding the organization's mission. The CAPCOG bylaws provide that Associate members (governmental agencies) can appoint "Sustaining members" (a non-voting representative) which is a person or organization with a positive interest in the welfare of the region. At least 2/3 of the General Assembly's voting representatives must be elected officials.

Based on the population estimates of the City of Lockhart, CAPCOG indicates that the city qualifies to have two representatives on the General Assembly. The General Assembly meets at least twice per year. CAPCOG requests that the city update our designated representatives which are currently Mayor Lew White and Councilmember Jeffry Michelson. Other Caldwell County General Assembly members include: Judge Haden, Commissioner Westmoreland, Mayor Watts, (Luling), and Mayor Glaze (Martindale).

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: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: CAPCOG Board Appointment Information



6800 Burleson Road, Building 310, Suite 165
Austin, Texas 78744-2306
Ph: 512-916-6000 Fax: 512-916-6001
www.capcog.org

BASTROP BLANCO BURNET CALDWELL FAYETTE HAYS LEE LLANO TRAVIS WILLIAMSON

General Assembly Representation Summary for the City of Lockhart

CAPCOG's General Assembly is the organization's governing body for the purposes of selecting the Executive Committee, amending the council's bylaws, adopting budgets, determining membership dues, and guiding the organization's mission. Each CAPCOG member appoints representatives to serve as their voice on the General Assembly, and every year CAPCOG provides a list to ensure member's representative are current. According to the CAPCOG bylaws, full members — counties and municipalities — are entitled at least one representative on the General Assembly; however, they can have additional representatives based on population as shown below:

Counties	Municipalities	No. of Representatives
Under 20,000	Under 10,000	1
20,000-100,000	10,000-50,000	2
100,000+	50,000-100,000	3
-----	100,000+	4

Associate members — special government districts, school districts, nonprofits, utilities, chambers of commerce, and other governmental agencies — can appoint one representative to the General Assembly. Sustaining members, any person or organization with a positive interest in the welfare of the region, can participate as a non-voting General Assembly representative. At least two-thirds of the General Assembly's voting representatives must be elected officials.

Based on the U.S. Census' most recent population estimates and CAPCOG's bylaws, the **City of Lockhart** qualifies for **2 representative(s)** on the General Assembly. Its current representatives are:

- **Mayor Lew White**
- **Council Member Jeffry Michelson**

Please provide any updates to **City of Lockhart's** representative(s) by completing the attached form. More information about CAPCOG's General Assembly representation is at <https://www.capcog.org/about/general-assembly/>.

As a reminder, General Assembly Representatives are invited to the September 11th General Assembly Meeting at the Austin SouthPark Hotel, 4140 Governors Row in Austin. Representatives can RSVP at <https://www.capcog.org/trainings/general-assembly/>.



APPOINTMENT FORM - GENERAL ASSEMBLY REPRESENTATIVE CAPITAL AREA COUNCIL OF GOVERNMENTS

The governing bodies of CAPCOG's members designate General Assembly representatives.

Counties: Official appointments are made at Commissioners Court.
Cities, Towns, Villages: Official appointments are made at City Council meetings.
Organizations: Official appointments are made by the Board or other governing body.

PLEASE COMPLETE THE FOLLOWING SECTION

Governing Body:

_____ County Commissioners Court (e.g., Travis County Commissioners Court)

-OR-

_____ City Council (e.g., Austin City Council)

-OR-

_____ Other (Board or other governing body)

City, County, or Organization being represented

Name of Representative

Position

Address

City, Zip Code

Telephone Number

Fax Number

Email address (*General Assembly Reps. will be subscribed to CAPCOG Connections, Training Alerts, & other e-newsletters.*)

Check One:

_____ Reappointment

_____ Filling Vacancy

_____ Changing Representative

Name of Previous Representative

I confirm our governing body appointed the above individual to serve as a CAPCOG General Assembly

Representative for the above entity on _____.

Date of Meeting

Signature of Chief Elected Official/Chair of Governing Board

Date

Email this form to execadmin@capcog.org or fax it to 512-916-6001. For questions about completing this form, call Teresa Williams at 512-916-6018.

City of Lockhart, Texas

Council Agenda Item Cover Sheet

COUNCIL MEETING DATE: September 17, 2024

AGENDA ITEM CAPTION: Discuss and consider action regarding the Texas Municipal League Election for the Region 10 Director.

ORIGINATING DEPARTMENT AND CONTACT: Council - Mayor Lew White

ACTION REQUESTED: Other

BACKGROUND/SUMMARY/DISCUSSION:

It is time to fill nine regional director positions on the TML Board of Directors (Regions 2, 4, 6, 8, 10, 12, 14, and 16 for a two-year term; Region 15 for a one-year term). Previously, these elections were held at regional meetings. Now, after a recent change to the TML Constitution, they will be administered centrally by TML.

During even-numbered years, the even-numbered regions are up for election. Terms are two years, and there are no term limits. The new terms will begin on October 11, 2024, upon adjournment of the TML Annual Conference and end on November 13, 2026, upon adjournment of the TML Annual Conference.

In addition to the even-numbered regions, there is a vacancy in Region 15 that needs to be filled. This partial term will begin on October 11, 2024, upon adjournment of the TML Annual Conference and end on October 31, 2025, upon adjournment of the TML Annual Conference.

The City of Lockhart has received the official ballot for the TML Region 10 Director election. The deadline to return the completed ballot is October 3, 2024.

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: None. Discretion of the Council.

LIST OF SUPPORTING DOCUMENTS: Official Ballot - Region 10 Director Election, Candidates, .



OFFICIAL BALLOT

Texas Municipal League (TML) Region 10 Director Election

This is the official ballot for the election of the Region 10 director of the TML Board of Directors. You received this ballot because you are the city's primary contact person with TML. Each TML member city is entitled to one vote, which vote must be cast by a majority vote of the city's governing body. Please record your city's choice by placing an "X" in the square beside the candidate's name or writing in the name of an eligible person in the space provided. You can only vote for one candidate.

The officials listed on this ballot have been nominated to serve a two-year term on the TML Board of Directors. A brief biography for each candidate is included after the ballot.

Ballots must reach the TML office by 5:00 p.m. Central Time on October 3, 2024. Ballots received after this date cannot be counted. **The ballot must be properly signed and mailed to: Rachael Pitts, Texas Municipal League, 1821 Rutherford Lane, Suite 400, Austin, TX 78754, or scanned and emailed to rpitts@tml.org. If the ballot is not signed, it will not be counted.**

Region 10 Director (select one)

☐

Dr. Christopher Harvey, Mayor, Manor

☐

Jimmy Jenkins, Councilmember, Smithville

☐

Na'Cole Thompson, Mayor Pro Tem, Leander

Certificate

I certify that the vote cast above has been cast in accordance with the will of the majority of the governing body of the city named below.

Witness my hand, this _____ day of _____, 2024.

Signature of Authorized Official

Title

Printed Name of Authorized Official

Printed Name of City

Region 10 Director Candidate Biographies (printed on both sides)



Dr. Christopher Harvey, Mayor, Manor

I humbly submit this application for the Region 10 Regional Director position. I have lived in Region 10 all my life, being born and raised in Austin, now living in Manor. I am a graduate of Texas State University (Social Work), Concordia University at Austin (Master's in Education Administration), and the University of Mary Hardin-Baylor (Doctorate in Leadership in Education Administration). I am a leader in the field of Education. I am a man with Christian values and practices. I am a family man with a wife and three girls. My political affiliation is non-partisan. I value diversity, small business, and community. I believe that strong city leadership can change our country and the world. I have served my community on the Manor City Council since 2019. My colleagues in Region 10 will share that when I have had the floor, I didn't promote Manor, but the region.

My supporters in the Texas Legislature and US Congress will echo the sentiment. I am an advocate of regional planning. We've even embarked on a regional wastewater treatment plant and regional economic initiatives with Samsung, Tesla, Applied Materials, and the City of Austin. I have worked to build a relationship with Mayor Kirk Watson and we talk about regional employment, transportation needs (like US HWY 290, FM 973, and HWY 95). He is a supporter of regional planning. He called several Mayors to meet in Austin to answer the call of joining an association so that we can partner and build our area together. I shared this with my council and city staff. We believe in the work and made the financial and time commitments.



Jimmy Jenkins, Councilmember, Smithville

I am retired from American Airlines and returned home to Smithville in 2018. I was born in Wichita Falls and have been a tradesman all my life. After retirement, I wanted to keep my mind and body active. I started attending council meetings and ran for and was elected in 2023. Our small city is at the edge of the growth that is hitting Bastrop County, and over the next two to three years it will be at our doors. As a Smithville councilmember, I have been very active in TML, CARTPO, the Bastrop County Public Health Taskforce, and other related activities for the city. Managing our land use, working with officials to protect our city's ability to govern, and managing the city's infrastructure are top priorities. I have the privilege to be appointed to the 2024 TML Policy Summit. Working to protect our cities' rights to govern and promoting good legislation with other TML members will be a privilege. I am

a firm believer that working together with other cities and towns we can improve the lives of our constituents and make our cities better by the exchange of ideas and being good listeners. If I am chosen to serve, I will work hard for Region 10. Listening to ideas from member cities, promoting each other, and promoting ideas that the members put forth to TML leadership will be job one. Texas is a great place to live, raise a family, and to be from. Let's keep it that way. Thank you in advance for your consideration.

Region 10 Director Candidate Biographies (printed on both sides)



Na'Cole Thompson, Mayor Pro Tem, Leander

Na'Cole Thompson's dedication to public service, combined with her extensive experience, education, and recommendation from TML Director Mayor Christine DeLisle, make her a strong candidate for the Texas Municipal League Region 10 director, where she aims to represent and advocate for her region's interests at the state level. Na'Cole's active membership with the Texas Association of Black City Council Members, is a further testament to her advocacy for inclusive governance. As a native Austinite and notable figure, Na'Cole has proven herself to be a versatile leader with deep connections in her community. Currently serving her second term on the Leander City Council and as the mayor pro tem, she continues to demonstrate her commitment to her constituents. Na'Cole's community involvement extends outside city limits as she serves on the Capital Area Council of Governments (CAPCOG) General Assembly, where she contributes to regional strategies that benefit a

wide range of communities. Additionally, Na'Cole serves as the board president of the Brushy Creek Regional Utility Authority, working closely with neighboring cities to ensure effective water resource management. On the Leander City Council, Na'Cole has been a proactive council liaison to the Leander Public Arts & Culture Commission, spearheading cultural enrichment through events such as the City's annual Juneteenth and Martin Luther King Jr. celebrations. Lastly, as a small business owner, Na'Cole brings a practical understanding of the challenges and opportunities facing local enterprises. Her educational background includes an MBA from Florida Metropolitan University and a bachelor's degree in communications from Baylor University, supplemented by her graduation from the Women's Entrepreneurship Certificate Program at Cornell University and the LBJ Women's Campaign School.



Dr. Chris Harvey

Lecturer — Org, Wkforce, & Ldrshp Studies
PED 101

📞 phone: (512) 245-2115

✉ ch28937@txstate.edu

Scholarly/Creative Work

Service

📄 Download Faculty CV

Biography and Education

Dr. Christopher Harvey is a Lecturer in the Department of Occupational, Workforce, and Leadership Studies at Texas State University since 2016. He teaches the undergraduate and graduate courses.

Dr. Harvey has 19 years of public education and 9 years of higher education experience. He is currently the Chief Academic Support Officer in Manor Independent School District. His goal is to improve student readiness for college, career, and/or military through strategic partnerships with colleges/universities, community organizations, and businesses.

Dr. Harvey obtained a Bachelors of Social Work at Texas State University, a Master's of Education Administration from Concordia University at Austin, and he earned his Ed.D. in Leadership in Education Administration from the University of Mary Hardin-Baylor.

He is also currently the Mayor of the City of Manor.

Teaching Interests

Topics:

- Education Administration/Leadership
- Principal & Superintendent Development
- Classroom Management/Restorative Justice
- Social Work (BSW Coursework)
- Career Planning
- Diversity and Cultural Proficiency
- Technology in Education
- Adult Development

Delivery

- Hybrid and online teaching formats
- Technology in teaching and learning

Target Audience

- Traditional Students
- Adult, non-traditional, post-traditional learners

Selected Scholarly/Creative Work

- Singh, S. M., Ashford-Hanserd, S. N., Harvey, C. J., Mouton, A., Torre, C. M., Muoneke, A., & Eaglin. (2023). Exploring Computer Science District and School Policies and Practices for African American and Hispanic Students with Disabilities in Central Texas. *Journal of The Alliance of Black School Educators*.

 [View all Scholarly/Creative Work](#)

Selected Service Activities



Board Member

Destroying the Gap

July 2020-Present

Board Member

Keep the Covenant

January 2014-Present

Board of Directors

Turning Point Bible Fellowship Church

September 1996-Present

 [View all Service Activities](#)

Turning Point Bible
Faculty Qualifications
facultyqualifications@tpbf.edu

Julie Bowermon

Subject:

FW: Director for Region 10TML

This email originated from an external sender. Please exercise caution before clicking on any links or attachments.

Good afternoon, Mayors, and Council members. The contact person for TML in each city will be receiving a ballot in the mail so that each city can vote on the Region 10 Director. I am reaching out with the following letter that I hope you will share with your council when you vote on this matter. I thank you for your consideration in advance.

Hello, Mayor and Council

I know probably every council is going through budget, so I will try to keep this short.

If your city has not gotten the ballot yet, it will be arriving soon. As a member of Region 10, you will be asked to vote on a Director for the region. I am running for the position and would appreciate your consideration for this very important position.

My city of Smithville is on the edge of the growth for Bastrop County, and I know that there is massive growth in Region 10. We need the legislature to let the cities keep our rights to govern ourselves.

If elected I will work with the TML to make sure our voice is heard, and our Region is well represented in every way.

I know that our Region will be well represented no matter who is voted in but I hope that you will give me the chance to make a difference.

You can reach me at my email, or cellphone.

Thank you

Jimmy Jenkins City Council Place 3 Smithville

jjenkins@ci.smithville.tx.us

512-740-0893



Julie Bowermon

Subject: FW: Region 10 Director Election
Attachments: Video.mov; NaColeThompson BioSketch.pdf

From: Nacole Thompson <NThompson@leandertx.gov>
Sent: Tuesday, August 27, 2024 12:55 PM
To: Nacole Thompson <NThompson@leandertx.gov>
Subject: Region 10 Director Election

This email originated from an external sender. Please exercise caution before clicking on any links or attachments.

Hello and Happy Tuesday!

My name is Na’Cole Thompson and I am one of the candidates seeking your vote as the next TML Region 10 Director. With the constitution change in 2023, this years’ election for regional director is a new process. Your city will be asked to cast and submit a signed ballot noting your choice for region 10 director no later than 5 pm CST on Thursday, October 3, 2024.

Mayor Christine DeLisle, our current Region 10 director, is wrapping up her tenure on the board. We appreciate her service and dedication to our region. I also appreciate her confidence in my abilities and her nomination of me for this role.

I have attached my bio along with a short video which shares more about me and why I’m running. Please feel free to reach out as I’d love to schedule a time to connect and learn more about you and your city.

Thank you!

Na'Cole Thompson, MBA

Mayor Pro Tem

Leander City Council Place 4

Post Office Box 319 | Leander, Texas 78646
512-528-2743 | nthompson@leandertx.gov

Na’Cole Thompson

Mayor Pro Tem

City of Leander

BOARDS

Brushy Creek Regional Utility Authority
Board President

Leander Public Arts & Culture Commission
City Council Liaison

Texas Association of Black City Council Members
Member



Na’Cole Thompson’s dedication to public service, combined with her extensive experience, education and recommendation from TML Director Mayor Christine DeLisle, make her a strong candidate for the Texas Municipal League Region 10 Director, where she aims to represent and advocate for her region’s interests at the state level. Na’Cole’s active membership with the Texas Association of Black City Council Members, is a further testament to her advocacy for inclusive governance.

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Na’Cole’s community involvement extends outside city limits as she serves on the Capital Area Council of Governments (CAPCOG) General Assembly, where she contributes to regional strategies that benefit a wide range of communities. Additionally, Na’Cole serves as Board President of the Brushy Creek Regional Utility Authority, working closely with neighboring cities to ensure effective water resource management.

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Lastly, as a small business owner, Na’Cole brings a practical understanding of the challenges and opportunities facing local enterprises. Her educational background includes an MBA from Florida Metropolitan University and a bachelor’s degree in communications from Baylor University, supplemented by her graduation from the Women’s Entrepreneurship Certificate Program at Cornell University and the LBJ Women’s Campaign School.

Office: 512-528-2743
nthompson@leandertx.gov



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:

