



City of Hutto

Agenda

City Council Meeting

Thursday, August 1, 2024 at 7:00 PM

City Council Chambers

Hutto City Hall

500 W. Live Oak Street

In accordance with the Texas Open Meetings Act this meeting agenda is posted for public information, continuously, for at least 72 hours prior to the scheduled time of the meeting on the bulletin board located on the exterior wall of the City Hall building at 500 West Live Oak, Hutto, Texas. This meeting agenda is also accessible via the Internet at huttotx.gov

1. CALL SESSION TO ORDER

2. ROLL CALL

3. INVOCATION

4. PLEDGE OF ALLEGIANCE

5. PROCLAMATIONS

5.1. Purple Heart City Proclamation

6. CITY MANAGER COMMENTS

7. PUBLIC COMMENT

Any citizen wishing to speak during public comment may do so after completing the required registration form. The purpose of this item is to allow the residents of Hutto and other interested persons an opportunity to address the City Council on agenda issues and on non-agenda issues that are a matter of the jurisdiction of the City Council (i.e., City policy or legislative issues). Non-agenda issues regarding daily operational or administrative matters should be first dealt with at the administrative level by calling City Hall at (512) 759-4839 during business hours. Each person providing public comment will be limited to 3 minutes. Any citizen wishing to speak during public comment may do so after completing the required registration form. Written comments for this meeting may also be sent to comments@huttotx.gov PRIOR to 4:00 pm on August 1, 2024. The email must include name, address, phone # and email to be recognized properly. Written comments will be provided to Council.

8. PRESENTATIONS

8.1. Budget Presentation for Fiscal Year 2024-2025 (City Manager James Earp)

9. BOARDS AND COMMISSIONS

9.1. Consideration and possible action regarding possible appointments, re-appointments and/or removals to City Boards, Commissions, Task Forces, Economic Development Corporations, Local Government Corporations and Tax Increment Reinvestment Zone Boards, and Area Government appointments.

10. ORDINANCES

10.1. Consideration and possible action on Ordinance No. O-2024-029 amending the Hutto Code of Ordinances by amending Article 1.05 of Chapter 1 "General Provisions" of the Hutto Code of Ordinances which is entitled "Municipal Court," by amending DIVISION 1 GENERALLY; Article 1.05 to establish a Municipal Court of Record No. 1 for criminal

matters; AMENDING Division 2. Judge to provide for the appointment of a Municipal Court JUDGES FOR THE MUNICIPAL COURT OF RECORD NO. 1 AND NO. 2; TO PROVIDE FOR the appointment of a court clerk for the Municipal Court of Record No. 1 and No. 2; amending Division 3 Fines, Costs and Special Expenses to provide for the collection in the Municipal Court of Record No. 1; establishing a Municipal Court of Record No. 2 for Civil matters, BY ADDING Division 4 Civil action; adding Division 5 Alternative Enforcement and providing an effective date of September 1, 2024. (Legal)

11. RESOLUTIONS

- 11.1. Consideration and possible action on Resolution No. R-2024-162 appointing Judge Lucas Wilson as the Administrative Hearing Officer of Municipal Court of Record No. 2. (Legal)
- 11.2. Consideration and possible action on Resolution No. R-2024-163 approving a 3-year engagement with Brooks Watson & Co as the City's financial auditors for an amount not to exceed \$177,000, with option to renew each additional year for two years (Alberta Barrett)
- 11.3. Consideration and possible action on Resolution R-2024-164 approving a two-year contract with Valley View Consulting to serve as the City's investment advisors for an amount not to exceed \$117,500 (Alberta Barrett)
- 11.4. Consideration and possible action relating to Resolution No. R-2024-165 setting two public hearings for the limited purpose annexation of 4.881 acres of land, commercial parcel, in the Williamson County Water, Sewer, Irrigation and Drainage District No. 3. (Sara Cervantes)

12. OTHER BUSINESS

- 12.1. Consideration and possible action relating to Texas Pollutant Discharge Elimination System (TPDES) Wastewater Permit Applications in the City of Hutto Extraterritorial Jurisdiction (Legal)
- 12.2. Consideration and possible action on City Council Place 3 regarding compliance with Resolution R-2023-022 and Section 3.02 of the Hutto City Charter; declaring Council Place 3 per Section 3.06(a) and 3.06(b)(1) of the Hutto City Charter vacant for failure of Council Member for Place 3 to meet the qualifications of office; and if necessary, setting date for the filling of vacancy per Section 3.06(c) of the Hutto City Charter (Mayor Mike Snyder)
- 12.3. Consideration and possible action on City Council Place 5 regarding compliance with Resolution R-2023-022 and Section 3.02 of the Hutto City Charter; declaring Council Place 5 per Section 3.06(a) and 3.06(b)(1) of the Hutto City Charter vacant for failure of Council Member for Place 5 to meet the qualifications of office; and if necessary, setting date for the filling of vacancy per Section 3.06(c) of the Hutto City Charter (Councilmember Randal Clark)

13. CONSENT AGENDA ITEMS

- 13.1. Consideration and possible action to approve Resolution No. R-2024-166 to award the Northwest Transmission Main Waterline Project to the lowest responsive bidder, Nelson Lewis, Inc., in the amount of \$2,687,050 and authorizing the City Manager to execute the construction contract with Nelson Lewis, Inc (CIP Project W03-2023) (Matt Rector)
- 13.2. Consideration and possible action on Resolution No. R-2024-167 authorizing the City Manager to execute a task order with Terracon in the amount of \$24,076 for

construction materials testing related to the Northwest Transmission Main Waterline project (CIP W03-2023) (Matt Rector)

- 13.3. Consideration and possible action to approve Resolution No. R-2024-168 to award the Exchange at Limmer Intersection Project to the lowest responsive bidder, Jerdon Enterprise, LP., in the amount of \$1,019,189.55 and authorizing the City Manager to execute the construction contract with Jerdon Enterprise, LP. (CIP Project T14-2024) (Matt Rector)
- 13.4. Consideration and possible action on Resolution No. R-2024-169 authorizing the City Manager to execute a task order with Arias in the amount of \$15,875.00 for construction materials testing related to the Exchange at Limmer Intersection Improvements project (CIP T14-2024) (Matt Rector)
- 13.5. Consideration and possible action on Resolution R-2024-170 authorizing the City Manager to execute an agreement with Telesystem for Primary Managed Lit Dedicated Fiber Services in the amount of \$237,600.00 (David Reeves)
- 13.6. Consideration and possible action on Resolution No. R-2024-171 authorizing the City Manager to execute a task order with Raba Kistner in the amount of \$235,728.90 for construction materials observation and testing services related to the South Wastewater Treatment Plant Expansion project (CIP WW-06-2023) (Matt Rector)
- 13.7. Consideration and possible action on Resolution No. R-2024-172 authorizing the City Manager to terminate the July 7, 2005 lease agreement between the City of Hutto and the Hutto Independent School District for the property located at 400 East Front Street, 0.654 acres, Hutto, Texas (Legal)
- 13.8. Consideration and possible action on approval of Ordinance No. O-2024-041 regarding Blanket Purchase Orders for consumable goods and services by adding a vendor, Consilio, for Cold Storage Litigation (Alberta Barrett)
- 13.9. Consideration and possible action on Resolution R-2024-173 approving the First Amendment to Cooperation Agreement for Williamson County Urban County Program Fiscal Years 2025-2027 and authorizing the Mayor to execute the Agreement on the City's behalf.
- 13.10. Consideration and possible action on acceptance of the investment report for the period ended June 30, 2024 (Alberta Barrett)
- 13.11. Consideration and possible action on approving the following City Council meeting minutes: July 11, 2024 - amended, July 13, 2024 Special Meeting, July 18, 2024 Work Session, and July 18, 2024.

14. EXECUTIVE SESSION

The City Council for the City of Hutto reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above as authorized by the Texas Government Code Sections 551.071 (Litigation/Consultation with Attorney), 551.072 (Deliberations regarding real property), 551.073 (Deliberations regarding gifts and donations), 551.074 (Deliberations regarding personnel matters) or 551.076 (Deliberations regarding deployment/implementation of security personnel or devices) and 551.087 (Deliberations regarding Economic Development negotiations).

- 14.1. Receive legal advice pursuant to Texas Government Code Sec. 551.071, (Consultation with Attorney), related to pending and/or Council legal requests relating to (a) releasing attorney notes related to the Report to the City Council relating to the Investigation of Mike Snyder dated November 7, 2019; (b) the release of separation agreements of

former executive staff members, Assistant City Manager, Assistant to the City Manager, Director of Human Resources and the Certified Financial Officer and any affidavits or documents relating thereto; (c) the review of the Urbana Limmer Loop development agreement; (d) Alta Ed Schmidt Cost Participation Agreement; (e) potential claims and pending litigation, including but not limited to *Hutto et al v. McGinnis Lochridge, LLP, et al.*, Cause No.22-0259-C368 in the 480th Judicial District Court of Williamson County, Texas.

- 14.2. Receive legal advice and deliberate potential lease of real estate pursuant to Texas Government Code sections 551.071, (Consultation with Attorney) and 551.072, (Deliberation Regarding Real Property), related to solar land lease and carbon leasing.

15. ACTION RELATIVE TO EXECUTIVE SESSION

- 15.1. Possible action related to items discussed in Executive Session.

16. CITY COUNCIL COMMENTS

Pursuant to Texas Government Code Sec. 551.0415, a member of the governing body may make an announcement about items of community interest during a meeting of the governing body without given notice of the subject of the announcement. Items of Community Interests include: (1) expressions of thanks, congratulations, or condolence; (2) information regarding holiday schedule; (3) an honorary or salutary recognition of public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition of the subdivision; (4) a reminder regarding social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the political subdivision; and (5) announcements involving imminent threat to the public health and safety of people in the political subdivision that has arisen after the posting of the agenda.

- 16.1. General Comments from City Council

- 16.2. Future Agenda Items

- 16.3. Future Additional or Rescheduled meetings as allowed by Hutto City Code Section 1.02.033 Additional or Rescheduled Meetings

17. ADJOURNMENT

18. CERTIFICATION

I certify that this notice of the August 1, 2024 Hutto City Council meeting was posted on the City of Hutto website and the City Hall bulletin board of the City of Hutto on 7/29/2024 before 5:30 P.M.



Laura Hallmark
Laura Hallmark

The City of Hutto is committed to comply with the Americans Disability Act. The Hutto City Council Chamber is wheelchair accessible. Request for reasonable special accommodations must be made 48 hours prior to the meeting. Please email the City Secretary's office at Laura.Hallmark@huttotx.gov or call (512) 759-4839 for assistance.



A PROCLAMATION RECOGNIZING THE CITY OF HUTTO AS A PURPLE HEART CITY

WHEREAS, THE CITY OF HUTTO HAS A PROUD HISTORY OF SUPPORTING OUR ACTIVE MILITARY AND VETERAN POPULATION; AND

WHEREAS, THE PURPLE HEART MEDAL IS THE OLDEST MILITARY DECORATION IN PRESENT USE, AND WAS INITIALLY CREATED AS A BADGE OF MILITARY MERIT BY GENERAL GEORGE WASHINGTON ON AUGUST 7TH, 1782; AND

WHEREAS, THE PURPLE HEART MEDAL WAS THE FIRST AWARD MADE AVAILABLE TO THE COMMON SOLDIER, AND IS SPECIFICALLY AWARDED TO MEMBERS OF THE UNITED STATES ARMED FORCES WHO HAVE BEEN WOUNDED IN COMBAT OR HAVE PAID THE ULTIMATE SACRIFICE FOR OUR FREEDOMS BEING KILLED IN ACTION AGAINST A DECLARED ENEMY OF THE UNITED STATES OF AMERICA; AND

WHEREAS, THE PEOPLE OF THE CITY OF HUTTO HAVE GREAT ADMIRATION AND THE UTMOST GRATITUDE FOR ALL OF THE WOMEN AND MEN WHO HAVE SELFLESSLY SERVED THEIR COUNTRY AND THIS COMMUNITY IN THE U.S. ARMED FORCES; AND

WHEREAS, VETERANS HAVE PAID THE HIGH PRICE OF FREEDOM BY LEAVING THEIR FAMILIES AND COMMUNITIES AND PLACING THEMSELVES IN HARM'S WAY FOR THE GOOD OF ALL; AND

WHEREAS, NATIONALLY, PURPLE HEART DAY IS OBSERVED ON AUGUST 7TH EACH YEAR, AS A TIME FOR AMERICANS TO REMEMBER AND HONOR THE BRAVE WOMEN AND MEN WHO WERE EITHER WOUNDED IN BATTLE, OR PAID THE ULTIMATE SACRIFICE WITH THEIR LIVES; AND

WHEREAS, THE MISSION OF THE MILITARY ORDER OF THE PURPLE HEART IS TO FOSTER AN ENVIRONMENT OF GOODWILL AMONG COMBAT-WOUNDED VETERANS AND THEIR FAMILIES, PROMOTE PATRIOTISM, SUPPORT LEGISLATIVE INITIATIVES, AND MOST IMPORTANTLY, TO MAKE SURE THAT WE NEVER FORGET THE SACRIFICES OF OUR MILITARY SERVICE WOMEN AND MEN; AND

WHEREAS, HUTTO APPRECIATES THE SACRIFICES OF ALL OF ITS MILITARY VETERANS, COMBAT VETERANS, PURPLE HEART RECIPIENTS, AND THEIR FAMILIES FOR THE SACRIFICES THAT THEY HAVE MADE IN DEFENDING OUR FREEDOMS, AND WANTS TO EXPRESS GRATITUDE AND HONOR THEM;

NOW, THEREFORE, WE, THE CITY COUNCIL OF THE CITY OF HUTTO, DO HERBY PROCLAIM THE CITY OF HUTTO AS:

A PURPLE HEART CITY

AND ENCOURAGE ALL RESIDENTS AND BUSINESSES OF HUTTO TO SHOW THEIR APPRECIATION FOR SACRIFICES THAT PURPLE HEART RECIPIENTS HAVE MADE IN DEFENDING OUR FREEDOMS, TO ACKNOWLEDGE THEIR COURAGE, AND TO SHOW THEM THE HONOR AND SUPPORT THAT THEY HAVE EARNED.

CITY OF HUTTO, TEXAS

MIKE SNYDER, MAYOR

AGENDA ITEM REPORT

10.1.



To: City Council

Subject: Consideration and possible action on Ordinance No. O-2024-029 amending the Hutto Code of Ordinances by amending Article 1.05 of Chapter 1 “General Provisions” of the Hutto Code of Ordinances which is entitled “Municipal Court,” by amending DIVISION 1 GENERALLY; Article 1.05 to establish a Municipal Court of Record No. 1 for criminal matters; AMENDING Division 2. Judge to provide for the appointment of a Municipal Court JUDGES FOR THE MUNICIPAL COURT OF RECORD NO. 1 AND NO. 2; TO PROVIDE FOR the appointment of a court clerk for the Municipal Court of Record No. 1 and No. 2; amending Division 3 Fines, Costs and Special Expenses to provide for the collection in the Municipal Court of Record No. 1; establishing a Municipal Court of Record No. 2 for Civil matters, BY ADDING Division 4 Civil action; adding Division 5 Alternative Enforcement and providing an effective date of September 1, 2024. (Legal)

Meeting: Thursday, August 1, 2024

Department: Legal /

Staff Contact:

BACKGROUND INFORMATION:

Currently, the City of Hutto has created a municipal court. Ordinance No. 2024-029 will repeal provisions relating to the municipal court in the current city code and create a municipal court of record. Under the authority of Chapter 30 and the Municipal Courts of Record Act passed in 1997, a municipal court may become a court of record through passage of a local ordinance.

The practical effect of this difference is on appeal. Appeals from either type of municipal court are generally to the county court. TEX. CODE CRIM. PROC. art. 4.08. Appeals from a municipal court are tried de novo, meaning that the case is tried again from the beginning and all the evidence and witnesses must be presented again. On the other hand, an appeal from a municipal court of record is based on specific points of error as contained in the “record” of the court. Id. at art. 44.17. Municipal courts of record are created for the practical purpose of providing a more efficient disposition of appeals.

The statutes creating municipal courts of record require that the judges be licensed to practice law in Texas. No such provision is required of other municipal judges. Municipal courts of record have additional jurisdiction in their territorial limits and their extraterritorial limits. Section 30.00005, G.C. This jurisdiction is concurrent with a district court or county court at law for the purpose of enforcing health and safety or nuisance abatement ordinances.

Additionally, a governmental body, by ordinance, may provide for the civil jurisdiction of a municipal

AGENDA ITEM REPORT

10.1.



court of record to include:

- (1) civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Local Government Code, or Subchapter E, Chapter 683, Transportation Code;
- (2) concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Local Government Code, within the municipality's territorial limits and property owned by the municipality located in the municipality's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances; and
- (3) authority to issue: Civil Enforcement in Municipal Court
 - (A) search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and
 - (B) seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

As a result, the municipal court has the same jurisdiction and the same jurisdictional limits as the district court for purposes of Chapter 54, subchapter B. Section 54.012 states: A municipality may bring a civil action for the enforcement of an ordinance:

- (1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring, or apparatus, plumbing and fixtures, entrances, or exits;
- (2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (3) for zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme;
- (4) establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements;
- (5) implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;
- (6) relating to dangerously damaged or deteriorated structures or improvements;
- (7) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (8) relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;
- (9) relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality;
- (10) relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain;
- (11) relating to animal care and control; or
- (12) relating to water conservation measures, including watering restrictions. Tex. Loc. Gov't Code

AGENDA ITEM REPORT

10.1.



Ann. § 54.012. Section §54.013, entitled Jurisdiction, states: “Jurisdiction and venue of an action under this subchapter are in the district court or the county court at law of the county in which the municipality bringing the action is located.” Tex. Loc. Gov’t Code Ann. § 54.013.

The revisions since the first reading on May 4, 2024 are attached in the redline version. The Municipal Court Ordinance will be amended to provide for a Municipal Court of Recor No.1 and No.2 rather than have a division 1 for criminal matters and a division 2 for civil matters.

Division 3 **Fines, Costs and Special Expenses** was amended to provide that warrant fees, building security fund fees and technology fees are collected in the Municipal Court of Record Np. 1
For civil enforcement, the matters below were added:

1. for zoning violations. •
2. subdivision regulations including street width and design, lot size, building width or elevation, setback requirements, or utility regulations; •
3. implementing civil penalties under its general authority for conduct classified by statute as a Class C misdemeanor;
4. relating to the interior configuration, design, illumination, or visibility of certain sexually oriented businesses; •
5. relating to point source effluent regulations
6. relating to floodplain control;

SUMMARY OF REQUEST:

STAFF REVIEW:

FISCAL NOTES:

ATTACHMENTS:

1. Hutto MunCtRecord Draft 7.26.24 Clean
2. Hutto MunCtRecord 7.23.24 redline

ORDINANCE NO. O-2024-029

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS, AMENDING THE CITY OF HUTTO CODE OF ORDINANCES BY AMENDING ARTICLE 1.05 OF CHAPTER 1 “GENERAL PROVISIONS” OF THE HUTTO CODE OF ORDINANCES WHICH IS ENTITLED “MUNICIPAL COURT,” BY AMENDING DIVISION 1 GENERALLY; ARTICLE 1.05 TO ESTABLISH A MUNICIPAL COURT OF RECORD NO. 1 FOR CRIMINAL MATTERS; AMENDING DIVISION 2 JUDGE TO PROVIDE FOR THE APPOINTMENT OF MUNICIPAL COURT JUDGES FOR THE MUNICIPAL COURT OF RECORD NO. 1 AND NO. 2; TO PROVIDE FOR THE APPOINTMENT OF A COURT CLERK FOR THE MUNICIPAL COURT OF RECORD NO. 1 AND NO. 2; AMENDING DIVISION 3 FINES, COSTS AND SPECIAL EXPENSES TO PROVIDE FOR COLLECTION IN THE MUNICIPAL COURT OF RECORD NO. 1; ESTABLISHING A MUNICIPAL COURT OF RECORD NO. 2 FOR CIVIL MATTERS, BY ADDING DIVISION 4 CIVIL ACTION; ADDING DIVISION 5 ALTERNATIVE ENFORCEMENT; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PROPER NOTICE AND MEETING; AND MAKING VARIOUS FINDINGS AND PROVISIONS.

WHEREAS, the City Council of the City of Hutto, Texas (“City”) seeks to provide for the enforcement of its municipal ordinances through a Municipal Court of Record; and

WHEREAS, the City Council is authorized to establish a Municipal Court of Record by ordinance pursuant to Chapter 30 of the Texas Government Code; and

WHEREAS, the City Council hereby determines that the creation of a Court of Record is necessary to more effectively enforce the ordinances of the City; and

WHEREAS, the City Council further determines that the creation of a Municipal Court of Record is necessary to provide a more efficient disposition of cases arising in the municipality for both the State of Texas and the Defendant; and

WHEREAS, the City Council hereby deems it in the public interest to establish a Municipal Court of Record by ordinance, pursuant to Chapter 30 of the Texas Government Code.

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

SECTION 1. FINDINGS OF FACT. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

SECTION 2. ENACTMENT. Chapter 1, Article 1.05 of the Hutto Code of Ordinances entitled “Municipal Court,” is hereby amended and the following provisions are adopted to establish

the “Municipal Court of Record No. 1 in Hutto, Texas” for criminal matters and “Municipal Court of Record No. 2 in Hutto, Texas” for civil matters; to provide for judges and a municipal court clerk for the Municipal Court of Record No. 1 and No. 2; and to amend Division 3 Fines, Costs and Special Expenses to provide for the collection in the Municipal Court of Record No. 1 as shown on **Attachment “A”**, incorporated herein for all purposes.

SECTION 3. REPEALER. All other ordinances or parts of ordinances additionally in conflict herewith are repealed to the extent of such conflict only.

SECTION 4. SEVERABILITY. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this ordinance shall be enforced as written.

SECTION 5. PUBLICATION. The City Secretary shall publish this ordinance on the City’s website and shall publish the approval of this ordinance by the City Council in the approved City Council minutes.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect on September 1, 2024 from and after its passage and publication as required by law, the Hutto City Charter and the Hutto Code of Ordinances.

SECTION 7. PROPER NOTICE AND MEETING. 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 law.

PASSED AND APPROVED on first reading, the 2nd day of May, 2024, by a vote of 6 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Hutto, Texas.

PASSED AND APPROVED on final reading this, the 1st day of August, 2024, by a vote of _____ (ayes) to _____ (nays) to _____ (abstentions) of the City Council of Hutto, Texas.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST

Laura Hallmark, City Secretary

ATTACHMENT “A”

CHAPTER 1 GENERAL PROVISIONS ARTICLE 1.05 MUNICIPAL COURT OF RECORD

Division 1 Generally

Sec. 1.05.001 Municipal Court of Record Created.

- (a) There is hereby created the “Municipal Court of Record in Hutto, Texas,” (“Municipal Court of Record”). There will be two Municipal Courts of Record in Hutto, Texas. Municipal Court of Record No. 1 will have jurisdiction over criminal matters and Municipal Court of Record No. 2 will have jurisdiction over civil matters. The Municipal Court that is operating in the City of Hutto on the date that this Ordinance is adopted shall complete its pending cases and thereafter be abolished, and all cases arising from alleged actions or inactions occurring after the date of the adoption of this Ordinance shall be filed in the Municipal Court of Record No. 1 for criminal matters for disposition and the Municipal Court of Record No. 2 for civil matters.
- (b) The court shall have no term and may sit at any time for the transaction of business of the Court. Where the term “Municipal Court” is used in the City’s Code of Ordinances, it shall mean the Municipal Court of Record created herein. Any provision of the City ordinances or state law that is applicable to a municipal court shall be applicable to the Municipal Court of Record created herein unless the provision is in conflict with or inconsistent with Chapters 29 or 30 Subchapter A of the Texas Government Code, as amended, which governs municipal courts of record.

Sec. 1.05.002 Jurisdictional Limits of the Municipal Court of Record No. 1 and 2.

- (a) The Municipal Court of Record No. 1 and No. 2 has all such jurisdiction as is provided to municipal courts by Section 29.003 and Section 30.0005 of the Texas Government Code.
- (b) The Municipal Court of Record No. 1 has concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the City of Hutto and are punishable by fine only.
- (c) The Municipal Court of Record No. 2 has civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Texas Local Government Code, or Subchapter E, Chapter 683, Texas Transportation Code.
- (d) The Municipal Court of Record No. 2 has concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Texas Local Government Code, within the City’s territorial limits and property owned by the City located in the City’s extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances.

ATTACHMENT “A”

- (e) The Municipal Court of Record No. 1 has authority to issue:
 - (1) Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and
 - (2) Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

Division 2 Judge, Municipal Clerk, Court Rules and Procedures, and Appeal.

Sec. 1.05.031 Municipal Judge Qualifications and Appointment.

- (a) The Municipal Court of Record No. 1 and No. 2 shall be presided over by judge(s), who shall be known as the “municipal judge(s).” Any judge(s) shall be appointed by the City Council for a term of two (2) years and shall be entitled to a salary set by the City Council. The amount of a judge’s salary may not be diminished during the judge’s term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.
- (b) Upon the adoption of this Article, the current presiding judge of the Municipal Court of Hutto shall become the presiding judge of the Municipal Court of Record No. 1 and No. 2. The initial term shall expire two years from the date of his/her last appointment by the City Council as judge of the Municipal Court of Record No. 1 and No. 2. At the conclusion of the initial term described herein, all succeeding terms of the Municipal Judge shall be two (2) years from the date of the last appointment by the City Council.
- (c) The municipal judge must:
 - (1) be a citizen of the United States;
 - (2) be a resident of this state;
 - (3) be a licensed attorney in good standing; and
 - (4) have two (2) or more years of experience in the practice of law in this state.
- (d) A person may not serve as a municipal judge if the person is otherwise employed by the municipality. A municipal judge who accepts other employment with the municipality vacates the judicial office.
- (e) If a vacancy occurs in the office of municipal judge, the City Council shall adopt a resolution appointing a qualified person to fill the office for the remainder of the unexpired term.
- (f) There may also be alternate judges appointed by the City Council, subject to the same qualifications, who shall have all the powers and shall discharge all the duties of a municipal judge while serving as municipal judge. In the event of the appointment of any such alternate judge, the regular municipal judge shall be titled and known as “presiding judge.” Each alternate judge shall be appointed for a term of two (2) years. If the presiding judge is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason, he/she shall select one of the alternate judge(s) to serve during

ATTACHMENT “A”

his/her absence.

- (g) The municipal judges may exchange benches and act for each other in any proceeding pending in the court. An act performed by any of the judges is binding on all parties to the proceeding.
- (h) The municipal judge(s) shall take judicial notice of state law and the ordinances and corporate limits of the municipality. The presiding judge of the Municipal Court of Record No. 1 and No. 2 may adopt Standing Orders and Local Rules for the Municipal Court of Record No. 1 or Municipal Court of Record No. 2
- (i) The judge(s) of the Municipal Court of Record No. 1 and No. 2 may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the Court’s jurisdiction and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the Court.
- (j) A municipal judge is a magistrate and may issue administrative search warrants.
- (k) A municipal judge may be removed from office by the City Council:
 - (1) as provided by Section 1-a, Article V, Texas Constitution; or
 - (2) for the reasons and by the procedure provided in Subchapter B, Chapter 21, Texas Local Government Code.

Sec. 1.05.032 **Court Rules.**

The Texas Code of Criminal Procedure, the Texas Rules of Evidence, and the Texas Rules of Appellate Procedure, as modified by Chapter 30, Texas Government Code, govern the trial of cases before the Municipal Court of Record No. 1 and No. 2. The judge may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the Municipal Court of Record No. 1 and No. 2. that are not inconsistent with law.

Sec. 1.05.033 **Municipal Court Clerk Appointment, Powers, and Duties.**

- (a) The City Manager shall appoint a clerk of the Municipal Court of Record No. 1 and No. 2, who may also be known as the Court Clerk, and the City Manager may hire, direct and remove the court personnel, including the clerk of the Municipal Court of Record No. 1 and No. 2, as authorized in the city’s annual budget and as may be necessary for the proper operation of the Court.
- (b) The Court Clerk shall keep the Court records, issue process, and generally perform the duties for the Municipal Court of Record No. 1 and No. 2 that a clerk of the county court at law exercising criminal jurisdiction is required by law to perform for that court. In addition, the clerk shall maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts. The Court Clerk shall perform the duties in accordance with state law and City ordinances.

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- (c) The Court Clerk shall perform the following duties as well as any other duties that may be determined by the City Manager.
 - (1) Prepare and maintain accurate dockets and minutes for each Municipal Court of Record created under this article;
 - (2) Have custody of all documents and papers relating to the business of each of the Municipal Court of Records;
 - (3) Supervise the collection of fines imposed by each of the Municipal Court of Records;
 - (4) Maintain complaints for all cases in each of the Municipal Court of Records for which a complaint is required by law;
 - (5) Be responsible for full and proper accounting of all fines collected and issue receipt to a person who pays a fine with cash money;
 - (6) Preserve the records of each of the Municipal Court of Records in accordance with the City’s records retention schedule;
 - (7) Acquire and maintain a seal in conformance with state law for the Municipal Court of Record No. 1 and No. 2;
 - (8) Supervise the selection of persons for jury service in each of the Municipal Court of Records; and
 - (9) Have all other powers and duties assigned to a Court Clerk by the City ordinances, Chapters 29 and 30 of the Texas Government Code, Chapter 45 of the Texas Code of Criminal Procedure, and other state law.
- (d) The term of office for the Court Clerk shall continue unless vacated by the Court Clerk or removed by the City Manager. If the office of court clerk is vacated, regardless of the reason for the vacancy, the City Manager shall appoint a replacement.
- (e) Upon the adoption of this article, the current Municipal Court Clerk/Court Administrator of Hutto shall become the Court Clerk of the Municipal Court of Record No. 1 and No. 2 in the City of Hutto.

Sec. 1.05.034 Preserving Court Record.

For the purpose of recording the proceedings and preserving a record in all cases tried before the Municipal Court of Record No.1 and 2 a good quality electronic recording device shall be used. When the recording device is used, a court reporter need not be present at the trial to certify the reporter’s record. Proceedings of the court that are appealed shall be transcribed by an official court reporter selected by the municipality who meets the qualifications provided by law for official court reporters. Any appellate transcription requested shall be paid for in advance of delivery by the party that is filing the appeal. The recording shall be kept and stored for a thirty 30-day period beginning the day after a final order has been entered in the proceeding, upon completion of the trial, or after the denial of motion for a new trial, whichever occurs last.

Sec. 1.05.035 Court Facilities and Seal.

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- (a) The City Council shall provide courtrooms, jury rooms, offices, office furniture, libraries, law books, and other facilities and supplies that the City Council determines necessary for the proper operation of the Municipal Court of Record No. 1 and No. 2.
- (b) The City Council shall provide the Municipal Court of Record No. 1 and No. 2 with a seal that contains the phrase “Municipal Court of Record No. 1 in Hutto, Texas” or the “Municipal Court of Record No. 2 in Hutto, Texas”. The use of the seal must conform to Article 45.012 of the Code of Criminal Procedure.

Sec. 1.05.036 Complaints and Pleadings.

Proceedings in the Municipal Court of Record No. 1 shall commence by citation or complaint, as provided by state law. Complaints and pleadings must substantially conform to the relevant provisions of Chapters 27 and 45, Code of Criminal Procedure.

Sec. 1.05.037 Prosecution.

Prosecution in the Municipal Court of Record No. 1 shall be conducted as provided by Article 45.201, Code of Criminal Procedure. Prosecution may be performed by the City Attorney or another lawyer designated as Municipal Prosecutor/Deputy City Attorney.

Sec. 1.05.038 Jury.

- (a) A person who is brought before the Municipal Court of Record No. 1 and who is charged with an offense is entitled to be tried by a jury of six (6) persons. Trial by jury, including the summoning of jurors, must substantially conform to Chapter 45, Code of Criminal Procedure.
- (b) The Court Clerk shall supervise the selection of persons for jury service.

Sec. 1.05.039 Appeal from Judgment of Conviction.

- (a) A defendant has the right of appeal from a judgment or conviction in the Municipal Court of Record No. 1. The State of Texas has the right to appeal as provided by Article 44.01, Code of Criminal Procedure.
- (b) The appellate court shall determine each appeal from a Municipal Court of Record No. 1 conviction and each appeal from the state on the basis of the errors that are set forth in the appellant’s motion and that are presented in the clerk’s record and reporter’s record prepared from the proceedings leading to the conviction or appeal. An appeal from the Municipal Court of Record No. 1 shall not be by trial de novo.
- (c) To perfect an appeal, the appellant must file a motion for new trial not later than the 10th day after the date on which the judgment and sentence are rendered. The motion must be in writing and must be filed with the Court Clerk of the Municipal Court of Record No. 1. The motion must set forth the points of error of which the appellant complains. The motion or an

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amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed ninety (90) days from the original filing deadline. If the court does not act on the motion before the expiration of the thirty (30) days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

- (d) To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the appellant must give a written notice of appeal and must file the notice with the court no later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed ninety (90) days from the original filing deadline.
- (e) The fee for the preparation of the clerk’s record, which does not include the fee the defendant must pay for an actual transcript of the proceedings is \$25.00. The clerk shall note the payment of the fee on the docket of the Municipal Court of Record No. 1. If the case is reversed on appeal, the fee shall be refunded to the defendant.

Sec. 1.05.040 Appeal Bond and Record on Appeal.

- (a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the Municipal Court of Record No 1. The bond must be approved by the judge and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.
- (b) The appeal bond must be in the amount of \$100.00 or double the amount of fines and costs adjudged against the defendant, whichever is greater.
- (c) The bond must:
 - (1) state that the defendant was convicted in the case and has appealed;
 - (2) be conditioned on the defendant’s immediate and daily personal appearance in the court to which the appeal is taken; and
 - (3) be in the form of either a cash bond, or surety bond naming two or more good and sufficient sureties as approved by the court.
- (d) After an order overruling a motion for new trial, the defendant shall give written notice of appeal and pay a fee for the preparation of the clerk’s record of \$25.00 not later than ten (10) days after the date on which the motion is overruled. The court shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant. The defendant shall pay the fee for the preparation of the clerk’s record and the fee for an actual transcription of the proceedings.

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- (e) The record on appeal must substantially conform to the provisions relating to the preparation of a transcript in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 1.05.041 **Statement of Facts.**

- (a) A reporter’s record included in the record on appeal must substantially conform to the provisions relating to the preparation of a reporter’s record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.
- (b) The appellant shall pay for the reporter’s record.

Sec. 1.05.042 **Bills of Exception.**

Bills of exception must substantially conform to the provisions relating to the preparation of bills of exception in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 1.05.043 **Transfer of Record.**

- (a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file the following with the Court Clerk of the Municipal Court of Record No. 1:
 - (1) the reporter’s record;
 - (2) a written description of material to be included in the clerk’s record in addition to the required material; and
 - (3) any material to be included in the clerk’s record that is not in the custody of the clerk.
- (b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.
- (c) After the court approves the record, the clerk shall promptly forward the record to the appellate court clerk.

Sec. 1.05.044 **New Trial.**

- (a) Each party, on filing the party’s brief on appeal with the appellate court clerk, shall deliver a copy of the brief to the municipal judge.
- (b) The trial court shall decide from the briefs of the parties whether the appellant should be permitted to withdraw the notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time before the record is filed with the appellate court.
- (c) If the appellate court awards a new trial to the appellant, the case stands as if a new trial had been granted by the Municipal Court of Record.

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Sec. 1.05.045 Certificate of Appellate Proceedings.

- (a) Upon receipt of the certificate of appellate proceedings from the appellate court clerk, the clerk of the Municipal Court of Record No. 1 shall file the certificate with the papers in the case and note the certificate on the case docket.
- (b) If the Municipal Court of Record No. 1 judgment is affirmed, to enforce the judgment the court may:
 - (1) forfeit the bond of the defendant;
 - (2) issue a *Writ of Capias* for the defendant;
 - (3) issue an execution against the defendant’s property;
 - (4) order a refund for the defendant’s costs; or
 - (5) conduct an indigency hearing at the court’s discretion.

Division 3 Fines, Costs and Special Expenses

Sec. 1.05.061 Warrant Fee and Failure to Appear

- (a) As authorized by applicable statutes of the state, the city does hereby impose fees for services of police officers of the city, which fees are to be paid by the defendant convicted of an offense in the Municipal Court of Record No. 1 as set forth in Texas Code of Criminal Procedure Art. 102.011(a)(2)
- (b) As authorized by the Texas Code of Criminal Procedure Article 45.203, if the defendant fails to appear before the Municipal Court of Record No. 1 in violation of Texas Penal Code Section 38.10(a) or Texas Transportation Code Section 543.009, a fee of Twenty-five dollars (\$25.00) shall be paid by the defendant convicted of the offense of Failure to Appear.
- (c) The fees, when collected shall be paid into the city treasury for the use and benefit of the city.
- (d) It is the intent of this section to adopt those fees as authorized by applicable statutes, and in the event of conflict it is understood that the statutory law shall in all things prevail.

Sec. 1.05.062 Building Security Fund

- (b) Fee assessed. All defendants convicted in a trial for a misdemeanor offense in the Municipal Court of Record No. 1 shall be required to pay a fee in the amount of three dollars (\$3.00), as a cost of court.

Sec. 1.05.063 Technology Fund

- (b) Amount of fee; assessment and collection
 - (2) The fee shall be assessed and collected from the defendant upon conviction for a

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misdemeanor offense in the Municipal Court of Record No. 1 as a cost of court.

Division 4. **Civil Action**

Sec. 1.05.091 **Civil Action in Municipal Court of Record No. 2**

- (a) The City may bring a civil action in a district court or county court at law of Williamson County, Texas, or in the Municipal Court of Record No. 2 in Hutto, Texas, for civil matters for the enforcement of an ordinance:
 - (1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
 - (2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
 - (3) for zoning that provides for the use of land or classifies a parcel of land according to the municipality’s district classification scheme;
 - (4) establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements;
 - (5) implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;
 - (6) relating to dangerously damaged or deteriorated structures or improvements;
 - (7) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
 - (8) relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;
 - (9) relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality;
 - (10) relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain;
 - (11) relating to animal care and control; or
 - (12) relating to water conservation measures, including watering restrictions.

Sec. 1.05.092 **Injunction.**

- (a) On a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant, the city may obtain against the owner or owner’s representative with control over the premises an injunction that:

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- (1) prohibits specific conduct that violates the ordinance; and
 - (2) requires specific conduct that is necessary for compliance with the ordinance.
- (b) It is not necessary for the city to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted.

Sec. 1.05.093 **Civil Penalty.**

- (a) In a suit against the owner or the owner’s representative with control over the premises, the city may recover a civil penalty if it proves that:
 - (1) the defendant was actually notified of the provisions of the ordinance; and
 - (2) after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.
- (b) A civil penalty under this section may not exceed \$1,000 a day for a violation of an ordinance, except that a civil penalty under this section may not exceed \$5,000 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or stormwater sewer system, owned or controlled by the city.

Sec. 1.05.094 **Action for Repair or Demolition of Structure.**

- (a) The city may bring an action in a district court or county court at law of Williamson County, Texas, or the Municipal Court of Record No. 2, to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover the removal costs pursuant to Subchapter B, Chapter 54 of the Texas Local Government Code.
- (b) In any such action under this Section, the city may also bring a claim for
 - (1) civil penalties under Section 1.05.093 of this Article or Subchapter B, Chapter 54 of the Texas Local Government Code, as it applies, and
 - (2) an action in rem against the structure that may result in a judgment against the structure as well as a judgment against the defendant.
 - (3) The City may file a notice of lis pendens in the real property records of the Williamson County Clerk upon the filing of the action.
- (c) The City may use an enforcement action to compel repair or demolition of a structure under Municipal Court of Record No. 2 even if the city has proceeded with the administrative process for enforcement provided elsewhere in this Article.

Sec. 1.05.095 through Sec. 1.05.100. **(Reserved)**

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Division 5 Alternative Enforcement

Sec. 1.05.101 Procedure for Administrative Hearing in Municipal Court of Record No. 2.

The City may enforce ordinances subject to quasi-judicial enforcement through an administrative hearing process as authorized by Chapter 54, Subchapter C, Texas Local Government Code:

- (a) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances or exits;
- (b) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (c) • for zoning violations. •
- (d) subdivision regulations including street width and design, lot size, building width or elevation, setback requirements, or utility regulations; •
- (e) implementing civil penalties under its general authority for conduct classified by statute as a Class C misdemeanor;
- (f) relating to dangerously damaged or deteriorated buildings or improvements;
- (g) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (h) relating to the interior configuration, design, illumination, or visibility of certain sexually oriented businesses; •
- (i) relating to point source effluent regulations
- (j) relating to a building code or to the condition, use or appearance of property in the City;
- (k) relating to animal care and control;
- (l) relating to floodplain control; or
- (m) relating to water conservation measures including watering restrictions.

Sec. 1.05.102 Administrative Hearing Officer; Duties.

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- (a) An Administrative Hearing Officer shall preside over the administrative adjudication hearings established under Section 1.05.101, appointed by the City Council. The City Council may also provide for substitute Administrative Hearing Officers to preside over the administrative adjudication hearings in the absence of the Administrative Hearing Officer. A substitute Administrative Hearing Officer shall have the same powers, duties, and functions, and must meet the same qualifications as the Administrative Hearing Officer.
- (b) The Administrative Hearing Officer shall:
 - (1) be a licensed attorney in good standing with the State Bar of Texas, with at least five (5) years' experience as a practicing attorney.
 - (2) be authorized to administer oaths and issue orders compelling the attendance of witnesses and production of documents; and
 - (3) act pursuant to the authority granted by Texas Local Government Code Section 54.044 and Section 1.05.101.

Sec. 1.05.103 Notice and Hearing.

- (a) A person charged with a violation of Section 1.05.101 is entitled to notice by citation or summons.
- (b) A citation or summons issued pursuant to the procedures adopted under Section 1.05.101 must:
 - (1) notify the person charged with a violation under Section 1.05.101 of the right to a hearing;
 - (2) provide information as to the time and place of the hearing;
 - (3) state the type, date and location of violation;
 - (4) state the penalty range for which the person may be liable; and
 - (5) provide instructions and the due date for paying penalties, costs and fees, as prescribed in the City's Fee schedule, payment of which shall be an admission of liability for the violation charged.
- (c) The original, or a copy of the summons or citation, shall be kept by the Court Clerk as a record in the ordinary course of business of the City and is rebuttable proof of the facts it states.
- (d) The person who issued the citation or summons is not required to attend a hearing under Section 1.05.101.
- (e) A person charged with a violation of Section 1.05.101 who fails to appear at a hearing authorized under Section 1.05.101 is considered to admit liability for the violation charged. The Administrative Hearing Officer shall issue an order of liability and assess appropriate penalties, costs and fees against the person charged with a violation under this Section 1.05.101.

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- (f) At a hearing under Section 1.05.101, the Administrative Hearing Officer shall issue an order stating whether the person charged with a violation of Section 1.05.101 is liable for the violation. Upon a finding of liability, the Administrative Hearing Officer shall issue an order:
 - (1) Notifying the person charged with a violation under Section 1.05.101 of the provisions of the ordinance violated, and the requirements needed to comply with the ordinance;
 - (2) assessing the penalty, costs and fees;
 - (3) requiring abatement of the violation by a specific date; and
 - (4) any other requirements deemed necessary by the Administrative Hearing Officer to obtain compliance.
- (g) Upon a finding of liability, the Administrative Hearing Officer may set the date and time for a compliance hearing. A copy of the order shall be provided to the person charged with violating Section 1.05.101 as notice of the compliance hearing.
- (h) If, at a compliance hearing, the Administrative Hearing Officer finds that the person charged with violating Section 1.05.101 has remedied or abated the violation, the Administrative Hearing Officer may reduce the applicable penalty, fees and costs.
- (i) If, at a hearing under Section 1.05.101, the Administrative Hearing Officer finds the person charged with violating Section 1.05.101 is not liable for the violation, the person shall not be responsible for any penalty, cost or fee.
- (j) An order issued pursuant to Section 1.05.101 shall be filed with the Court Clerk and the Williamson County District Clerk, who shall keep the order in a manner of keeping records in the ordinary course of business in separate index and file. The order may be recorded using microfilm, microfiche, or data processing techniques.

Sec. 1.05.104 Establishing Penalty.

- (a) The establishment of a penalty shall be consistent with and pursuant to the provisions of Section 54.044 of the Texas Local Government Code, and as amended.
- (b) The penalty range to be assessed against a person found liable under Section 1.05.101 shall be:
 - (1) not less than \$250, nor more than \$1,000 a day for a first violation;
 - (2) not less than \$500, nor more than \$1,000 a day for a second violation;
 - (3) not less than \$750, nor more than \$1,000 a day for a third or subsequent violation; or
 - (4) in the event of egregious violations, hazardous conditions that endanger the health or safety of the public, or other statutory provisions that authorize a higher penalty, the Administrative Hearing Officer may increase the penalty as

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deemed appropriate as authorized by law.

- (c) In addition to the penalty assessed, the Administrative Hearing Officer may require the person found liable for a violation under Section 1.05.101 to pay fees and costs.
- (d) In determining the amount of penalty to be assessed, the Administrative Hearing Officer shall consider the following factors:
 - (1) the gravity of the violation;
 - (2) any actions taken by the person found liable for a violation of Section 1.05.101 to correct the violation;
 - (3) any previous violations committed by the person;
 - (4) the actual costs of repairs to the City due to the violation as supported by receipts or testimony or other evidence;
 - (5) indigence of the person; and
 - (6) any other relevant evidence.

Sec. 1.05.105 **Enforcement of Order.**

An order issued against a person found liable for a violation of Section 1.05.101 may be enforced by:

- (a) filing a civil suit for the collection of a penalty assessed against the person;
- (b) obtaining an injunction that:
 - (1) prohibits specific conduct that violates the ordinance; or
 - (2) requires specific conduct necessary for compliance with the ordinance; and
- (c) referral to a collection agency for non-payment of assessed penalties, costs and fees, with the cost to the City for collection services assessed as costs and added to the judgment.

Sec. 1.05.106 **Appeal.**

- (a) A person who is found liable by an Administrative Hearing Officer for a violation of Section 1.05.101 may appeal the determination by filing a petition in the Municipal Court of Record No. 2 before the 31st day after the date the Administrative Hearing Officer’s order is filed. An appeal does not stay enforcement and collection of the judgment unless the person, before filing the appeal petition, posts a bond with the Municipal Court of Record No. 2 in the amount of the penalties, costs and fees ordered by the Administrative Hearing Officer in accordance with the Administrative Hearing Officer’s Order.
- (b) If a person found liable for a violation of Section 1.05.101 does not timely appeal the Administrative Hearing Officer’s order, the order shall become a final judgment.

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Sec. 1.05.107 Disposition of Administrative Penalties, Costs and Fees.

- (a) Penalties, costs and fees assessed under Section 1.05.101 shall be paid into the City’s general fund for the use and benefit of the City.
- (b) A portion of each penalty assessed and paid under Section 1.05.101 shall be deposited into the Compliance Assistance Account established in Section 1.05.108 of this Article, as determined by the Administrative Hearing Officer in the Administrative Hearing Officer’s Order.

Sec. 1.05.108 Compliance Assistance Account.

- (a) The Compliance Assistance Account is composed of penalties collected under Section 1.05.101 and under Section 1.05.104. The Compliance Assistance Account shall be used for the purpose of rehabilitating, repairing or abating nuisances of properties and premises in the City for persons who:
 - (1) have been found liable for an administrative violation under Section 1.05.101;
 - (2) are found by the Administrative Hearing Officer to be indigent and financially unable to comply with an administrative order issued under Section 1.05.101
 - (3) file a request with the Code Enforcement Division for the purpose of rehabilitating and/or repairing the person’s property or premises until it complies with the Administrative Order;
 - (4) have not received funds from the Compliance Assistance Account within the preceding 36 months;
 - (5) do not qualify for other home repair or rehabilitation assistance programs available through the City: and
 - (6) own and occupy the property.
- (b) The Compliance Assistant Account shall be administered by the City.

ORDINANCE NO. O-2024-029

AN ORDINANCE OF THE CITY OF HUTTO, TEXAS, AMENDING THE CITY OF HUTTO CODE OF ORDINANCES BY AMENDING ARTICLE 1.05 OF CHAPTER 1 "GENERAL PROVISIONS" OF THE HUTTO CODE OF ORDINANCES WHICH IS ENTITLED "MUNICIPAL COURT," BY ~~AMENDING DIVISION 1 GENERALLY;~~ ARTICLE 1.05 TO ESTABLISH A MUNICIPAL COURT OF RECORD NO. 1 ~~FOR CRIMINAL MATTERS;~~ ~~AMENDING~~ DIVISION 2 JUDGE TO PROVIDE FOR THE APPOINTMENT OF ~~MUNICIPAL COURT JUDGES FOR THE MUNICIPAL COURT OF RECORD NO. 1 AND NO. 2;~~ TO PROVIDE FOR THE APPOINTMENT OF A COURT CLERK ~~FOR THE MUNICIPAL COURT OF RECORD NO. 1 AND NO. 2;~~ ~~AMENDING DIVISION 3 FINES, COSTS AND SPECIAL EXPENSES TO PROVIDE FOR COLLECTION IN THE MUNICIPAL COURT OF RECORD NO. 1;~~ ~~ESTABLISHING A MUNICIPAL COURT OF RECORD NO. 2 FOR CIVIL MATTERS, BY ADDING~~ DIVISION 4 CIVIL ACTION; ADDING DIVISION 5 ALTERNATIVE ENFORCEMENT; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PROPER NOTICE AND MEETING; AND MAKING VARIOUS FINDINGS AND PROVISIONS.

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WHEREAS, the City Council of the City of Hutto, Texas ("City") seeks to provide for the enforcement of its municipal ordinances through a Municipal Court of Record; and

WHEREAS, the City Council is authorized to establish a Municipal Court of Record by ordinance pursuant to Chapter 30 of the Texas Government Code; and

WHEREAS, the City Council hereby determines that the creation of a Court of Record is necessary to more effectively enforce the ordinances of the City; and

WHEREAS, the City Council further determines that the creation of a Municipal Court of Record is necessary to provide a more efficient disposition of cases arising in the municipality for both the State of Texas and the Defendant; and

WHEREAS, the City Council hereby deems it in the public interest to establish a Municipal Court of Record by ordinance, pursuant to Chapter 30 of the Texas Government Code.

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

SECTION 1. FINDINGS OF FACT. The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are adopted by the City Council and made a part hereof for all purposes.

SECTION 2. ENACTMENT. Chapter 1, Article 1.05 of the Hutto Code of Ordinances entitled "Municipal Court," is hereby ~~amended~~ and the following provisions are adopted

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City of Hutto
Municipal Court of Record

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to establish the “Municipal Court of Record No. 1 in Hutto, Texas” for criminal matters and “Municipal Court of Record No. 2 in Hutto, Texas” for civil matters; to provide for judges and a municipal court clerk for the Municipal Court of Record No. 1 and No. 2; and to amend Division 3 Fines, Costs and Special Expenses to provide for the collection in the Municipal Court of Record No. 1 as shown on **Attachment “A”**, incorporated herein for all purposes.

SECTION 3. REPEALER. All other ordinances or parts of ordinances additionally in conflict herewith are repealed to the extent of such conflict only.

SECTION 4. SEVERABILITY. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this ordinance shall be enforced as written.

SECTION 5. PUBLICATION. The City Secretary shall publish this ordinance on the City’s website and shall publish the approval of this ordinance by the City Council in the approved City Council minutes.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect on September 1, 2024, from and after its passage and publication as required by law, the Hutto City Charter and the Hutto Code of Ordinances.

SECTION 7. PROPER NOTICE AND MEETING. 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 law.

PASSED AND APPROVED on first reading , the 2nd day of May, 2024, by a vote of 6 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Hutto, Texas.

PASSED AND APPROVED on final reading this, the 1st day of August, 2024, by a vote of (ayes) to (nays) to (abstentions) of the City Council of Hutto, Texas.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST

Laura Hallmark, City Secretary

City of Hutto
Municipal Court of Record

Page 2 of 17

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CHAPTER 1
GENERAL PROVISIONS
ARTICLE 1.05
MUNICIPAL COURT OF RECORD

Division 1 **Generally**

Sec. 1.05.001 **Municipal Court of Record Created.**

- (a) There is hereby created the "Municipal Court of Record in Hutto, Texas." ("Municipal Court of Record"). There will be two Municipal Courts of Record in Hutto, Texas. Municipal Court of Record No. 1 will have jurisdiction over criminal matters and Municipal Court of Record No. 2 will have jurisdiction over civil matters. The Municipal Court that is operating in the City of Hutto on the date that this Ordinance is adopted shall complete its pending cases and thereafter be abolished, and all cases arising from alleged actions or inactions occurring after the date of the adoption of this Ordinance shall be filed in the Municipal Court of Record No. 1 for criminal matters for disposition and the Municipal Court of Record No. 2 for civil matters.
- (b) The court shall have no term and may sit at any time for the transaction of business of the Court. Where the term "Municipal Court" is used in the City's Code of Ordinances, it shall mean the Municipal Court of Record created herein. Any provision of the City ordinances or state law that is applicable to a municipal court shall be applicable to the Municipal Court of Record created herein unless the provision is in conflict with or inconsistent with Chapters 29 or 30 Subchapter A of the Texas Government Code, as amended, which governs municipal courts of record.

Sec. 1.05.002 **Jurisdictional Limits of the Municipal Court of Record No. 1 and 2.**

- (a) The Municipal Court of Record No. 1 and No. 2 has all such jurisdiction as is provided to municipal courts by Section 29.003 and Section 30.0005 of the Texas Government Code.
- (b) The Municipal Court of Record No. 1 has concurrent jurisdiction with a justice court in any precinct in which the municipality is located in criminal cases that arise within the territorial limits of the City of Hutto and are punishable by fine only.
- (c) The Municipal Court of Record No. 2 has civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Texas Local Government Code, or Subchapter E, Chapter 683, Texas Transportation Code.
- (d) The Municipal Court of Record No. 2 has concurrent jurisdiction with a district court or a county court at law under Subchapter B, Chapter 54, Texas Local Government Code, within the City's territorial limits and property owned by the City located in the City's extraterritorial jurisdiction for the purpose of enforcing health and safety and nuisance abatement ordinances.

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- (e) The Municipal Court of Record No. 1 has authority to issue:
- (1) Search warrants for the purpose of investigating a health and safety or nuisance abatement ordinance violation; and
 - (2) Seizure warrants for the purpose of securing, removing, or demolishing the offending property and removing the debris from the premises.

Division 2 **Judge, Municipal Clerk, Court Rules and Procedures, and Appeal.**

Sec. 1.05.031 **Municipal Judge Qualifications and Appointment.**

- (a) The Municipal Court of Record No. 1 and No. 2 shall be presided over by judge(s), who shall be known as the “municipal judge(s).” Any judge(s) shall be appointed by the City Council for a term of two (2) years and shall be entitled to a salary set by the City Council. The amount of a judge’s salary may not be diminished during the judge’s term of office. The salary may not be based directly or indirectly on fines, fees, or costs collected by the court.
- (b) Upon the adoption of this Article, the current presiding judge of the Municipal Court of Hutto shall become the presiding judge of the Municipal Court of Record No. 1 and No. 2. The initial term shall expire two years from the date of his/her last appointment by the City Council as judge of the Municipal Court of Record No. 1 and No. 2. At the conclusion of the initial term described herein, all succeeding terms of the Municipal Judge shall be two (2) years from the date of the last appointment by the City Council.
- (c) The municipal judge must:
- (1) be a citizen of the United States;
 - (2) be a resident of this state;
 - (3) be a licensed attorney in good standing; and
 - (4) have two (2) or more years of experience in the practice of law in this state.
- (d) A person may not serve as a municipal judge if the person is otherwise employed by the municipality. A municipal judge who accepts other employment with the municipality vacates the judicial office.
- (e) If a vacancy occurs in the office of municipal judge, the City Council shall adopt a resolution appointing a qualified person to fill the office for the remainder of the unexpired term.
- (f) There may also be alternate judges appointed by the City Council, subject to the same qualifications, who shall have all the powers and shall discharge all the duties of a municipal judge while serving as municipal judge. In the event of the appointment of any such alternate judge, the regular municipal judge shall be titled and known as “presiding judge.” Each alternate judge shall be appointed for a term of two (2) years. If the presiding judge is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason, he/she shall select one of the alternate judge(s) to serve during

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his/her absence.

- (g) The municipal judges may exchange benches and act for each other in any proceeding pending in the court. An act performed by any of the judges is binding on all parties to the proceeding.
- (h) The municipal judge(s) shall take judicial notice of state law and the ordinances and corporate limits of the municipality. The presiding judge of the Municipal Court of Record No. 1 and No. 2 may adopt Standing Orders and Local Rules for the Municipal Court of Record No. 1 or Municipal Court of Record No. 2
- (i) The judge(s) of the Municipal Court of Record No. 1 and No. 2 may grant writs of mandamus, injunction, attachment, and other writs necessary to the enforcement of the Court’s jurisdiction and may issue writs of habeas corpus in cases in which the offense charged is within the jurisdiction of the Court.
- (j) A municipal judge is a magistrate and may issue administrative search warrants.
- (k) A municipal judge may be removed from office by the City Council:
 - (1) as provided by Section 1-a, Article V, Texas Constitution; or
 - (2) for the reasons and by the procedure provided in Subchapter B, Chapter 21, Texas Local Government Code.

Sec. 1.05.032 Court Rules.

The Texas Code of Criminal Procedure, the Texas Rules of Evidence, and the Texas Rules of Appellate Procedure, as modified by Chapter 30, Texas Government Code, govern the trial of cases before the Municipal Court of Record No. 1 and No. 2. The judge may make and enforce all rules of practice and procedure necessary to expedite the trial of cases before the Municipal Court of Record No. 1 and No. 2, that are not inconsistent with law.

Sec. 1.05.033 Municipal Court Clerk Appointment, Powers, and Duties.

- (a) The City Manager shall appoint a clerk of the Municipal Court of Record No. 1 and No. 2, who may also be known as the Court Clerk, and the City Manager may hire, direct and remove the court personnel, including the clerk of the Municipal Court of Record No. 1 and No. 2, as authorized in the city’s annual budget and as may be necessary for the proper operation of the Court.
- (b) The Court Clerk shall keep the Court records, issue process, and generally perform the duties for the Municipal Court of Record No. 1 and No. 2 that a clerk of the county court at law exercising criminal jurisdiction is required by law to perform for that court. In addition, the clerk shall maintain an index of all court judgments in the same manner as county clerks are required by law to prepare for criminal cases arising in county courts. The Court Clerk shall perform the duties in accordance with state law and City ordinances.

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(c) The Court Clerk shall perform the following duties as well as any other duties that may be determined by the City Manager.

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- (1) Prepare and maintain accurate dockets and minutes for each Municipal Court of Record created under this article;
- (2) Have custody of all documents and papers relating to the business of each of the Municipal Court of Records;
- (3) Supervise the collection of fines imposed by each of the Municipal Court of Records;
- (4) Maintain complaints for all cases in each of the Municipal Court of Records for which a complaint is required by law;
- (5) Be responsible for full and proper accounting of all fines collected and issue receipt to a person who pays a fine with cash money;
- (6) Preserve the records of each of the Municipal Court of Records in accordance with the City's records retention schedule;
- (7) Acquire and maintain a seal in conformance with state law for the Municipal Court of Record No. 1 and No. 2;
- (8) Supervise the selection of persons for jury service in each of the Municipal Court of Records; and
- (9) Have all other powers and duties assigned to a Court Clerk by the City ordinances, Chapters 29 and 30 of the Texas Government Code, Chapter 45 of the Texas Code of Criminal Procedure, and other state law.

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(d) The term of office for the Court Clerk shall continue unless vacated by the Court Clerk or removed by the city manager. If the office of court clerk is vacated, regardless of the reason for the vacancy, the city manager shall appoint a replacement.

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(e) Upon the adoption of this article, the current Municipal Court Clerk/Court Administrator of Hutto shall become the Court Clerk of the Municipal Court of Record No. 1 and No. 2 in the City of Hutto.

Sec. 1.05.034 Preserving Court Record.

For the purpose of recording the proceedings and preserving a record in all cases tried before the Municipal Court of Record No. 1 and 2 a good quality electronic recording device shall be used. When the recording device is used, a court reporter need not be present at the trial to certify the reporter's record. Proceedings of the court that are appealed shall be transcribed by an official court reporter selected by the municipality who meets the qualifications provided by law for official court reporters. Any appellate transcription requested shall be paid for in advance of delivery by the party that is filing the appeal. The recording shall be kept and stored for a thirty 30-day period beginning the day after a final order has been entered in the proceeding, upon completion of the trial, or after the denial of motion for a new trial, whichever occurs last.

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Sec. 1.05.035 Court Facilities and Seal.

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- (a) The City Council shall provide courtrooms, jury rooms, offices, office furniture, libraries, law books, and other facilities and supplies that the City Council determines necessary for the proper operation of the Municipal Court of Record No. 1 and No. 2.
- (b) The City Council shall provide the Municipal Court of Record No. 1 and No. 2 with a seal that contains the phrase “Municipal Court of Record No. 1 in Hutto, Texas.” or the “Municipal Court of Record No. 2 in Hutto, Texas”. The use of the seal must conform to Article 45.012 of the Code of Criminal Procedure.

Sec. 1.05.036 Complaints and Pleadings.

Proceedings in the Municipal Court of Record No. 1 shall commence by citation or complaint, as provided by state law. Complaints and pleadings must substantially conform to the relevant provisions of Chapters 27 and 45, Code of Criminal Procedure.

Sec. 1.05.037 Prosecution.

Prosecution in the Municipal Court of Record No. 1 shall be conducted as provided by Article 45.201, Code of Criminal Procedure. Prosecution may be performed by the City Attorney or another lawyer designated as Municipal Prosecutor/Deputy City Attorney.

Sec. 1.05.038 Jury.

- (a) A person who is brought before the Municipal Court of Record No. 1 and who is charged with an offense is entitled to be tried by a jury of six (6) persons. Trial by jury, including the summoning of jurors, must substantially conform to Chapter 45, Code of Criminal Procedure.
- (b) The Court Clerk shall supervise the selection of persons for jury service.

Sec. 1.05.039 Appeal from Judgment of Conviction.

- (a) A defendant has the right of appeal from a judgment or conviction in the Municipal Court of Record No. 1. The State of Texas has the right to appeal as provided by Article 44.01, Code of Criminal Procedure.
- (b) The appellate court shall determine each appeal from a Municipal Court of Record No. 1 conviction and each appeal from the state on the basis of the errors that are set forth in the appellant’s motion and that are presented in the clerk’s record and reporter’s record prepared from the proceedings leading to the conviction or appeal. An appeal from the Municipal Court of Record No. 1 shall not be by trial de novo.
- (c) To perfect an appeal, the appellant must file a motion for new trial not later than the 10th day after the date on which the judgment and sentence are rendered. The motion must be in writing and must be filed with the Court Clerk of the Municipal Court of Record No. 1. The motion must set forth the points of error of which the appellant complains. The motion or an

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amended motion may be amended by leave of court at any time before action on the motion is taken, but not later than the 20th day after the date on which the original or amended motion is filed. The court may for good cause extend the time for filing or amending, but the extension may not exceed ninety (90) days from the original filing deadline. If the court does not act on the motion before the expiration of the thirty (30) days allowed for determination of the motion, the original or amended motion is overruled by operation of law.

- (d) To perfect an appeal, the appellant must also give notice of the appeal. If the appellant requests a hearing on the motion for new trial, the appellant may give the notice of appeal orally in open court on the overruling of the motion. If there is no hearing, the appellant must give a written notice of appeal and must file the notice with the court no later than the 10th day after the date on which the motion is overruled. The court may for good cause extend that time period, but the extension may not exceed ninety (90) days from the original filing deadline.
- (e) The fee for the preparation of the clerk’s record, which does not include the fee the defendant must pay for an actual transcript of the proceedings is \$25.00. The clerk shall note the payment of the fee on the docket of the Municipal Court of Record No. 1. If the case is reversed on appeal, the fee shall be refunded to the defendant.

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Sec. 1.05.040 Appeal Bond and Record on Appeal.

- (a) If the defendant is not in custody, the defendant may not take an appeal until the defendant files an appeal bond with the Municipal Court of Record No 1. The bond must be approved by the judge, and must be filed not later than the 10th day after the date on which the motion for new trial is overruled. If the defendant is in custody, the defendant shall be committed to jail unless the defendant posts the appeal bond.
- (b) The appeal bond must be in the amount of \$100.00 or double the amount of fines and costs adjudged against the defendant, whichever is greater.
- (c) The bond must:
 - (1) state that the defendant was convicted in the case and has appealed;
 - (2) be conditioned on the defendant’s immediate and daily personal appearance in the court to which the appeal is taken; and
 - (3) be in the form of either a cash bond, or surety bond naming two or more good and sufficient sureties as approved by the court.
- (d) After an order overruling a motion for new trial, the defendant shall give written notice of appeal and pay a fee for the preparation of the clerk’s record of \$25.00 not later than ten (10) days after the date on which the motion is overruled. The court shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded to the defendant. The defendant shall pay the fee for the preparation of the clerk’s record and the fee for an actual transcription of the proceedings.

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- (e) The record on appeal must substantially conform to the provisions relating to the preparation of a transcript in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 1.05.041 **Statement of Facts.**

- (a) A reporter’s record included in the record on appeal must substantially conform to the provisions relating to the preparation of a reporter’s record in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.
- (b) The appellant shall pay for the reporter’s record.

Sec. 1.05.042 **Bills of Exception.**

Bills of exception must substantially conform to the provisions relating to the preparation of bills of exception in the Texas Rules of Appellate Procedure and the Code of Criminal Procedure.

Sec. 1.05.043 **Transfer of Record.**

- (a) Not later than the 60th day after the date on which the notice of appeal is given or filed, the parties must file the following with the Court Clerk of the Municipal Court Of Record No. 1:
 - (1) the reporter’s record;
 - (2) a written description of material to be included in the clerk’s record in addition to the required material; and
 - (3) any material to be included in the clerk’s record that is not in the custody of the clerk.
- (b) On completion of the record, the municipal judge shall approve the record in the manner provided for record completion, approval, and notification in the court of appeals.
- (c) After the court approves the record, the clerk shall promptly forward the record to the appellate court clerk.

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Sec. 1.05.044 **New Trial.**

- (a) Each party, on filing the party’s brief on appeal with the appellate court clerk, shall deliver a copy of the brief to the municipal judge.
- (b) The trial court shall decide from the briefs of the parties whether the appellant should be permitted to withdraw the notice of appeal and be granted a new trial by the court. The court may grant a new trial at any time before the record is filed with the appellate court.
- (c) If the appellate court awards a new trial to the appellant, the case stands as if a new trial had been granted by the Municipal Court of Record.

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Sec. 1.05.045 Certificate of Appellate Proceedings.

- (a) Upon receipt of the certificate of appellate proceedings from the appellate court clerk, the clerk of the Municipal Court of Record No. 1 shall file the certificate with the papers in the case and note the certificate on the case docket.
- (b) If the Municipal Court of Record No. 1 judgment is affirmed, to enforce the judgment the court may:
 - (1) forfeit the bond of the defendant;
 - (2) issue a *Writ of Capias* for the defendant;
 - (3) issue an execution against the defendant’s property;
 - (4) order a refund for the defendant’s costs; or
 - (5) conduct an indigency hearing at the court’s discretion.

Division 3 Fines, Costs and Special Expenses

Sec. 1.05.061 Warrant Fee and Failure to appear,

- (a) As authorized by applicable statutes of the state, the city does hereby impose fees for services of police officers of the city, which fees are to be paid by the defendant convicted of an offense in the Municipal Court of Record No. 1 as set forth in Texas Code of Criminal Procedure Art. 102.011(a)(2)
- (b) As authorized by the Texas Code of Criminal Procedure Article 45.203, if the defendant fails to appear before the Municipal Court of Record No. 1 in violation of Texas Penal Code Section 38.10(a) or Texas Transportation Code Section 543.009, a fee of Twenty-five dollars (\$25.00) shall be paid by the defendant convicted of the offense of Failure to Appear.
- (c) The fees, when collected shall be paid into the city treasury for the use and benefit of the city.
- (d) It is the intent of this section to adopt those fees as authorized by applicable statutes, and in the event of conflict it is understood that the statutory law shall in all things prevail.

Sec. 1.05.062 Building Security Fund

- (b) Fee assessed. All defendants convicted in a trial for a misdemeanor offense in the Municipal Court of Record No. 1 shall be required to pay a fee in the amount of three dollars (\$3.00), as a cost of court.

Sec. 1.05.063 Technology Fund

- (b) Amount of fee; assessment and collection
 - (2) The fee shall be assessed and collected from the defendant upon conviction for a

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Division 4. Civil Action

Sec. 1.05.091 Civil Action in Municipal Court of Record No. 2

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- (a) The City may bring a civil action in a district court or county court at law of Williamson County, Texas, or in the Municipal Court of Record No. 2 in Hutto, Texas, for civil matters for the enforcement of an ordinance:

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- (1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;
- (2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (3) for zoning that provides for the use of land or classifies a parcel of land according to the municipality's district classification scheme;
- (4) establishing criteria for land subdivision or construction of buildings, including provisions relating to street width and design, lot size, building width or elevation, setback requirements, or utility service specifications or requirements;
- (5) implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor;
- (6) relating to dangerously damaged or deteriorated structures or improvements;
- (7) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (8) relating to the interior configuration, design, illumination, or visibility of business premises exhibiting for viewing by customers while on the premises live or mechanically or electronically displayed entertainment intended to provide sexual stimulation or sexual gratification;
- (9) relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the municipality;
- (10) relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain;
- (11) relating to animal care and control; or
- (12) relating to water conservation measures, including watering restrictions.

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Sec. 1.05.092 Injunction.

- (a) On a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant, the city may obtain against the owner or owner's representative with control over the premises an injunction that:

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- (1) prohibits specific conduct that violates the ordinance; and
 - (2) requires specific conduct that is necessary for compliance with the ordinance.
- (b) It is not necessary for the city to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted.

Sec. 1.05.093 Civil Penalty.

- (a) In a suit against the owner or the owner’s representative with control over the premises, the city may recover a civil penalty if it proves that:
- (1) the defendant was actually notified of the provisions of the ordinance; and
 - (2) after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.
- (b) A civil penalty under this section may not exceed \$1,000 a day for a violation of an ordinance, except that a civil penalty under this section may not exceed \$5,000 a day for a violation of an ordinance relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system, including a sanitary or storm water sewer system, owned or controlled by the city.

Sec. 1.05.094 Action for Repair or Demolition of Structure.

- (a) The city may bring an action in a district court or county court at law of Williamson County, Texas, or the Municipal Court of Record No. 2, to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover the removal costs pursuant to Subchapter B, Chapter 54 of the Texas Local Government Code.
- (b) In any such action under this Section, the city may also bring a claim for
- (1) civil penalties under Section 1.05.093 of this Article or Subchapter B, Chapter 54 of the Texas Local Government Code, as it applies, and
 - (2) an action in rem against the structure that may result in a judgment against the structure as well as a judgment against the defendant.
 - (3) The City may file a notice of lis pendens in the real property records of the Williamson County Clerk upon the filing of the action.
- (c) The City may use an enforcement action to compel repair or demolition of a structure under Municipal Court of Record No. 2 even if the city has proceeded with the administrative process for enforcement provided elsewhere in this Article.

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Sec. 1.05.095 through Sec. 1.05.100. (Reserved)

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Division 5 Alternative Enforcement

Sec. 1.05.101 Procedure for Administrative Hearing in Municipal Court of Record No. 2.

The City may enforce ordinances subject to quasi-judicial enforcement through an administrative hearing process as authorized by Chapter 54, Subchapter C, Texas Local Government Code:

- (a) for the preservation of public safety, relating to the materials or methods used to construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances or exits;
- (b) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;
- (c) • for zoning violations. •
- (d) subdivision regulations including street width and design, lot size, building width or elevation, setback requirements, or utility regulations; •
- (e) implementing civil penalties under its general authority for conduct classified by statute as a Class C misdemeanor;
- (f) relating to dangerously damaged or deteriorated buildings or improvements;
- (g) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents;
- (h) relating to the interior configuration, design, illumination, or visibility of certain sexually oriented businesses; •
- (i) relating to point source effluent regulations
- (j) relating to a building code or to the condition, use or appearance of property in the City;
- (k) relating to animal care and control; •
- (l) relating to floodplain control; or
- (m) relating to water conservation measures including watering restrictions.

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Sec. 1.05.102 Administrative Hearing Officer; Duties.

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- (a) An Administrative Hearing Officer shall preside over the administrative adjudication hearings established under ~~Section 1.05.101, appointed by the City Council~~. The City Council may also provide for substitute Administrative Hearing Officers to preside over the administrative adjudication hearings in the absence of the Administrative Hearing Officer. A substitute Administrative Hearing Officer shall have the same powers, duties, and functions, and must meet the same qualifications as the Administrative Hearing Officer.
- (b) The Administrative Hearing Officer shall:
- (1) be a licensed attorney in good standing with the State Bar of Texas, with at least five (5) years' experience as a practicing attorney.
 - (2) be authorized to administer oaths and issue orders compelling the attendance of witnesses and production of documents; and
 - (3) act pursuant to the authority granted by Texas Local Government Code Section 54.044 and ~~Section 1.05.101~~.

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Sec. 1.05.103 Notice and Hearing.

- (a) A person charged with a violation of ~~Section 1.05.101~~ is entitled to notice by citation or summons.
- (b) A citation or summons issued pursuant to the procedures adopted under ~~Section 1.05.101~~ must:
- (1) notify the person charged with a violation under ~~Section 1.05.101~~ of the right to a hearing;
 - (2) provide information as to the time and place of the hearing;
 - (3) state the type, date and location of violation;
 - (4) state the penalty range for which the person may be liable; and
 - (5) provide instructions and the due date for paying penalties, costs and fees, as prescribed in the City's Fee schedule, payment of which shall be an admission of liability for the violation charged.
- (c) The original, or a copy of the summons or citation, shall be kept by the ~~Court Clerk~~ as a record in the ordinary course of business of the City and is rebuttable proof of the facts it states.
- (d) The person who issued the citation or summons is not required to attend a hearing under ~~Section 1.05.101~~.
- (e) A person charged with a violation of ~~Section 1.05.101~~ who fails to appear at a hearing authorized under ~~Section 1.05.101~~ is considered to admit liability for the violation charged. The Administrative Hearing Officer shall issue an order of liability and assess appropriate penalties, costs and fees against the person charged with a violation under this ~~Section 1.05.101~~.

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ATTACHMENT “A”

(f) At a hearing under Section 1.05.101, the Administrative Hearing Officer shall issue an order stating whether the person charged with a violation of Section 1.05.101 is liable for the violation. Upon a finding of liability, the Administrative Hearing Officer shall issue an order:

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- (1) Notifying the person charged with a violation under Section 1.05.101 of the provisions of the ordinance violated, and the requirements needed to comply with the ordinance;
- (2) assessing the penalty, costs and fees;
- (3) requiring abatement of the violation by a specific date; and
- (4) any other requirements deemed necessary by the Administrative Hearing Officer to obtain compliance.

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(g) Upon a finding of liability, the Administrative Hearing Officer may set the date and time for a compliance hearing. A copy of the order shall be provided to the person charged with violating Section 1.05.101 as notice of the compliance hearing.

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(h) If, at a compliance hearing, the Administrative Hearing Officer finds that the person charged with violating Section 1.05.101 has remedied or abated the violation, the Administrative Hearing Officer may reduce the applicable penalty, fees and costs.

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(i) If, at a hearing under Section 1.05.101, the Administrative Hearing Officer finds the person charged with violating Section 1.05.101 is not liable for the violation, the person shall not be responsible for any penalty, cost or fee.

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(j) An order issued pursuant to Section 1.05.101 shall be filed with the Court Clerk and the Williamson County District Clerk, who shall keep the order in a manner of keeping records in the ordinary course of business in separate index and file. The order may be recorded using microfilm, microfiche, or data processing techniques.

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Sec. 1.05.104 Establishing Penalty.

(a) The establishment of a penalty shall be consistent with and pursuant to the provisions of Section 54.044 of the Texas Local Government Code, and as amended.

(b) The penalty range to be assessed against a person found liable under Section 1.05.101 shall be:

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- (1) not less than \$250, nor more than \$1,000 a day for a first violation;
- (2) not less than \$500, nor more than \$1,000 a day for a second violation;
- (3) not less than \$750, nor more than \$1,000 a day for a third or subsequent violation; or
- (4) in the event of egregious violations, hazardous conditions that endanger the health or safety of the public, or other statutory provisions that authorize a higher penalty, the Administrative Hearing Officer may increase the penalty as deemed appropriate as authorized by law.

ATTACHMENT “A”

- (c) In addition to the penalty assessed, the Administrative Hearing Officer may require the person found liable for a violation under Section 1.05.101 to pay fees and costs.
- (d) In determining the amount of penalty to be assessed, the Administrative Hearing Officer shall consider the following factors:
 - (1) the gravity of the violation;
 - (2) any actions taken by the person found liable for a violation of Section 1.05.101 to correct the violation;
 - (3) any previous violations committed by the person;
 - (4) the actual costs of repairs to the City due to the violation as supported by receipts or testimony or other evidence;
 - (5) indigence of the person; and
 - (6) any other relevant evidence.

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Sec. 1.05.105 Enforcement of Order.

An order issued against a person found liable for a violation of Section 1.05.101 may be enforced by:

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- (a) filing a civil suit for the collection of a penalty assessed against the person;
- (b) obtaining an injunction that:
 - (1) prohibits specific conduct that violates the ordinance; or
 - (2) requires specific conduct necessary for compliance with the ordinance; and
- (c) referral to a collection agency for non-payment of assessed penalties, costs and fees, with the cost to the City for collection services assessed as costs and added to the judgment.

Sec. 1.05.106 Appeal.

- (a) A person who is found liable by an Administrative Hearing Officer for a violation of Section 1.05.101 may appeal the determination by filing a petition in the Municipal Court of Record No. 2 before the 31st day after the date the Administrative Hearing Officer's order is filed. An appeal does not stay enforcement and collection of the judgment unless the person, before filing the appeal petition, posts a bond with the Municipal Court of Record No. 2 in the amount of the penalties, costs and fees ordered by the Administrative Hearing Officer in accordance with the Administrative Hearing Officer's Order.
- (b) If a person found liable for a violation of Section 1.05.101 does not timely appeal the Administrative Hearing Officer's order, the order shall become a final judgment.

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ATTACHMENT “A”

Sec. 1.05.107 Disposition of Administrative Penalties, Costs and Fees.

- (a) Penalties, costs and fees assessed under Section 1.05.101 shall be paid into the City’s general fund for the use and benefit of the City.
- (b) A portion of each penalty assessed and paid under Section 1.05.101 shall be deposited into the Compliance Assistance Account established in Section 1.05.108 of this Article, as determined by the Administrative Hearing Officer in the Administrative Hearing Officer’s Order.

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Sec. 1.05.108 Compliance Assistance Account.

- (a) The Compliance Assistance Account is composed of penalties collected under Section 1.05.101 and under Section 1.05.104. The Compliance Assistance Account shall be used for the purpose of rehabilitating, repairing or abating nuisances of properties and premises in the City for persons who:
 - (1) have been found liable for an administrative violation under Section 1.05.101;
 - (2) are found by the Administrative Hearing Officer to be indigent and financially unable to comply with an administrative order issued under Section 1.05.101;
 - (3) file a request with the Code Enforcement Division for the purpose of rehabilitating and/or repairing the person’s property or premises until it complies with the Administrative Order;
 - (4) have not received funds from the Compliance Assistance Account within the preceding 36 months;
 - (5) do not qualify for other home repair or rehabilitation assistance programs available through the City; and
 - (6) own and occupy the property.
- (b) The Compliance Assistant Account shall be administered by the City.

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AGENDA ITEM REPORT

11.1.



To: City Council
Subject: Consideration and possible action on Resolution No. R-2024-162 appointing Judge Lucas Wilson as the Administrative Hearing Officer of Municipal Court of Record No. 2. (Legal)
Meeting: Thursday, August 1, 2024
Department: Legal /
Staff Contact:

BACKGROUND INFORMATION:

SUMMARY OF REQUEST:

Municipal Court of Record No. 2 was established for civil matters. The Hutto Code of Ordinances Section 1.05.102 (a) and (b) establishes the Administrative Hearing Officer's duties and criteria for the Officer. Judge Wilson can serve as the Administrative Hearing Officer and this resolution will appoint Judge Wilson in that capacity.

STAFF REVIEW:

FISCAL NOTES:

ATTACHMENTS:

1. Hutto Res Appointing Admin Hearing Officer 6.13.24

RESOLUTION NO. R-2024-__

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
APPOINTING JUDGE LUCAS WILSON AS THE
ADMINISTRATIVE HEARING OFFICER OF MUNICIPAL
COURT OF RECORD NO. 2; PROVIDING PROPER
NOTICE & MEETING, AND PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, the City of Hutto, Texas (“City”) established a Municipal Court of Record No. 2 for Civil Matters and Alternative Enforcement; and

WHEREAS, the City Code of Ordinances Section 1.05.102 (a) establishes that an Administrative Hearing Officer shall preside over the administrative adjudication hearings and Section 1.05.102 (b) establishes the criteria for the Administrative Hearing Officer; and

WHEREAS, Judge Lucas Wilson meets all criteria of Section 1.05.102 (b); and

WHEREAS, the City Council desires to appoint Judge Lucas Wilson as the Administrative Hearing Officer of Municipal Court of Record No. 2.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: The Hutto City Council hereby approves and appoints Judge Lucas Wilson as the Administrative Hearing Officer of Municipal Court of Record No. 2.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the 20th day of June 2024 on vote of __AYES; __NAYS; __ABSTENTIONS

City of Hutto, Texas

Mike Snyder, Mayor

ATTEST:

Amanda Taylor, Interim City Secretary

AGENDA ITEM REPORT

11.2.



To: City Council

Subject: Consideration and possible action on Resolution No. R-2024-163 approving a 3-year engagement with Brooks Watson & Co as the City's financial auditors for an amount not to exceed \$177,000, with option to renew each additional year for two years (Alberta Barrett)

Meeting: Thursday, August 1, 2024

Department: Finance /

Staff Contact:

BACKGROUND INFORMATION:

A Request for Qualifications (RFQ) was issued to select an auditing firm to provide independent audit services for the City. The RFQ outlines that the audit services will initially be for the fiscal year ending September 30, 2024, 2025, 2026 but also additionally states that the selected firm will have the opportunity to audit financial statements for each of the two (2) subsequent fiscal years, based upon satisfactory performance, awarded in one year increments. The agreement also includes a provision for a single audit, if applicable, for \$7,500 per year. A single audit is required when the City expends \$750,000 or more of federal funds in a fiscal year.

The RFQ was advertised in May and adhered to the following schedule:

First Advertisement Request for Qualifications: May 12, 2024
 Second Advertisement Request for Qualifications: May 19, 2024
 Deadline for questions: June 14, 2024
 Request for Qualifications Opening: June 28, 2024

The City received seven (7) responses to the published RFQ. All the firms submitted Statement of Qualifications which were thorough and complete. All firms proposed to perform their audits in accordance with Government Auditing Standards.

The Selection Committee reviewed the responses for completeness and evaluated each of the seven responses on their proposed staff, project experience, project schedule, qualifications and availability. The evaluation committee scored the proposals as follows:

Criteria	Points	ABIP, PC	BrooksWatson & Co., PLLC	CL A	EisnerAmp er, LLC	Pattill o, Brown &	Vai l & Park, P.C.	We aver and Ti

AGENDA ITEM REPORT

11.2.



						Hill, LLP		dwell, LLP
Qualifications & Availability	30	21.8	26.2	23.4	24.6	22.4	23.0	25.0
Proposed Staff	25	19.2	22.0	19.6	20.0	20.0	19.2	22.2
Similar Project Experience	20	18.6	17.2	15.8	14.0	16.0	15.4	18.4
Project Schedule	20	18.0	18.0	12.6	18.6	13.8	16.6	14.2
Cost	5	3.4	4.6	4.2	3.2	5.0	4.2	1.8
Total	100	81.0	88.0	75.6	80.4	77.2	78.4	81.6
Rank		3	1	7	4	6	5	2

After scoring was completed, BrooksWatson & Co, PLLC., received the highest scores from the Committee. BrooksWatson & Co are the City's incumbent auditors, and City staff has been satisfied with their performance. The City's previous engagement with BrooksWatson & Co., PLLC was \$146,825 for FY 2021-2023. The current engagement will not exceed \$177,000 (the financial statement audit fee for FY 2024-2026, plus \$7,500 each year for a single audit, if applicable).

SUMMARY OF REQUEST:

Staff recommends approval as presented.

STAFF REVIEW:

FISCAL NOTES:

The fees for the financial statement audit for each year are as follows:

General Fund (10)
Account Number: 10-020-001-6405
Account Name: Professional Fees

FY 2024: \$49,500 + \$7,500 = \$57,000

AGENDA ITEM REPORT

11.2.



FY 2025: $\$51,500 + \$7,500 = \$59,000$

FY 2026: $\$53,500 + \$7,500 = \$61,000$

Total = $\$177,000$

FY 2027 (Optional): $\$55,500 + \$7,500 = \$63,000$

FY 2028: (Optional): $\$57,750 + \$7,500 = \$65,250$

The fee for a single audit, if applicable, is \$7,500 per year.

ATTACHMENTS:

1. Hutto Res Approving BrooksWatson
2. City of Hutto Audit Engagement Letter - 2024 - 2026 - options 2 addl years
3. Brooks Watson Form 1295-Independent Audit Services-acknowledged

RESOLUTION NO. R-2024-XXX

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
APPROVING A 3-YEAR AGREEMENT BETWEEN
BROOKSWATSON & CO AND THE CITY OF HUTTO FOR
PROFESSIONAL SERVICES TO SERVE AS THE CITY'S
FINANCIAL AUDITORS FOR AN AMOUNT NOT TO
EXCEED \$177,000, WITH OPTION TO RENEW EACH
ADDITIONAL YEAR FOR TWO YEARS; AUTHORIZING
THE CITY MANAGER TO EXECUTE THE AGREEMENT;
PROVIDING PROPER NOTICE & MEETING, AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council desires to enter into a contract for financial audit services between BrooksWatson & Co ("BrooksWatson") and the City of Hutto, Texas (City); and

WHEREAS, as detailed in the terms of the Agreement, BrooksWatson will serve as financial auditors for fiscal years 2024 through 2026, and then two optional one-year periods thereafter; and

WHEREAS, the City Council desires to authorize the City Manager to execute the Agreement attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: The Hutto City Council hereby approves and authorizes the City Manager to execute the Agreement, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the 1st day of August 2024 on vote of __AYES; __NAYS; __ABSTENTIONS.

THE CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

BROOKSWATSON & CO.
CERTIFIED PUBLIC ACCOUNTANTS

July 27, 2024

City of Hutto, Texas
500 W. Live Oak Street
Hutto, TX 78634

The following represents our understanding of the services we will provide the City of Hutto, Texas.

You have requested that we audit the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Hutto, Texas (the "City") as of September 30, 2024, 2025, 2026, with options to renew annually for 2027 & 2028 and for the years then ended and the related notes, which collectively comprise City of Hutto, Texas' basic financial statements as listed in the table of contents. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audit will be conducted with the objective of our expressing an opinion on each opinion unit applicable to those basic financial statements.

Accounting principles generally accepted in the United States of America require that supplementary information, such as management's discussion, and analysis, pension information, and budgetary comparison information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by accounting principles generally accepted in the United States of America. This RSI will be subjected to certain limited procedures but will not be audited:

- 1) Management's discussion and analysis
- 2) Budgetary Comparison Schedules
- 3) Pension and OPEB schedules

Supplementary information other than RSI will accompany the City of Hutto, Texas' basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

- 1) Combining statements and schedules for – Nonmajor Governmental Funds
- 2) Budget to Actual schedule for governmental funds not included within RSI

Also, the report will include the following other additional information that will not be subject to the auditing procedures applied in our audit of the financial statements:

- 1) Introductory section
- 2) Statistical section

Auditor Responsibilities

We will conduct our audit in accordance with Generally Accepted Auditing Standards in the United States ("GAAS"). As part of an audit in accordance with GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any other periods.

Compliance with Laws and Regulations

As previously discussed, as part of obtaining reasonable assurance about whether the basic financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Management Responsibilities

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the basic financial statements in accordance with accounting principles generally accepted in the United States of America.
2. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of basic financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements; and
3. To provide us with:
 - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the basic financial statements such as records, documentation, and other matters;
 - ii. Additional information that we may request from management for the purpose of the audit;
 - iii. Unrestricted access to persons within the entity and others from whom we determine it necessary to obtain audit evidence.
 - iv. A written acknowledgement of all the documents that management expects to issue that will be included in the annual report and the planned timing and method of issuance of that annual report; and

- v. A final version of the annual report (including all the documents that, together, comprise the annual report) in a timely manner prior to the date of the auditor's report.
- 4. For including the auditor's report in any document containing basic financial statements that indicates that such basic financial statements have been audited by us;
- 5. For identifying and ensuring that the entity complies with the laws and regulations applicable to its activities;
- 6. For adjusting the basic financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the basic financial statements as a whole; and
- 7. For acceptance of nonattest services, including identifying the proper party to oversee nonattest work;
- 8. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets;
- 9. For informing us of any known or suspected fraud affecting the entity involving management, employees with significant role in internal control and others where fraud could have a material effect on the financials; and
- 10. For the accuracy and completeness of all information provided.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility: (a) for the preparation of the supplementary information in accordance with the applicable criteria; (b) to provide us with the appropriate written representations regarding supplementary information; (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information; and (d) to present the supplementary information with the audited basic financial statements, or if the supplementary information will not be presented with the audited basic financial statements, to make the audited basic financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

We understand that your employees will prepare all confirmations we request and will locate any documents or invoices selected by us for testing.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval

before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

Professional standards prohibit us from being the sole host and/or the sole storage for your financial and non-financial data. As such, it is your responsibility to maintain your original data and records and we cannot be responsible to maintain such original information. By signing this engagement letter, you affirm that you have all the data and records required to make your books and records complete.

Additional terms and conditions with respect to the audit engagement are as follows:

- a. The books are maintained, and financial statements are prepared using the GAAP (accrual and modified accrual) basis of accounting as appropriate depending on the type of fund.
- b. All questionnaires and schedules need are provided within the timeline indicated.
- c. All bank accounts have been reconciled to the bank statements and general ledger.
- d. The accounts receivable aging schedules are completed and reconciled to the general ledger as of fiscal year end and reflects only the specific uncollected amounts.
- e. The capital assets and depreciation schedule(s) are completed and reconciled to the general ledger as of fiscal year end.
- f. All public improvement district ("PID") activity is fully accounted for and reconciled.
- g. The accounts payable aging schedules are completed and reconciled to the general ledger as of fiscal year end.
- h. The debt schedule(s) are completed and reconciled to the general ledger as of fiscal year end.
- i. The beginning fund and net position balances agrees to the prior year report.

These are the minimum items we must have at least one week prior to the beginning of the fieldwork for our audit. Should this not be the case, we will request that your personnel complete all schedules and bring the necessary accounts into such order. Alternatively, we may agree with you, to provide the personnel to perform such tasks; however, since these tasks are beyond the scope of our audit, we will bill you for such additional work at our standard hourly rates.

Nonattest Services

With respect to any nonattest services we perform, including preparation of the financial statements and related schedules, we will not assume management responsibilities on behalf of the City of Hutto, Texas. However, we will provide advice and recommendations to assist management of City of Hutto, Texas in performing its responsibilities. The City of Hutto, Texas' management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Our responsibilities and limitations of the nonattest services are as follows:

- We will perform the services in accordance with applicable professional standards, including SSARS No. 21.
- The nonattest services are limited to the (accounting preparation services) previously outlined. Our firm, in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account coding and approving journal entries.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

Reporting

We will issue a written report upon completion of our audit of the City's basic financial statements. Our report will be addressed to the City Council of the City of Hutto, Texas. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s) to our auditor's report, or if necessary, withdraw from the engagement. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Fees and Timing

The timing of our audit will be scheduled for performance and completion as follows:

	<i>Begin</i>	<i>Complete</i>
Document internal control and preliminary tests	July	September
Mail confirmations	October	October
Perform year-end audit procedures	December	January
Issue audit reports		March

Jon Watson is the engagement partner for the audit services specified in this letter. His responsibilities include supervising BrooksWatson & Company, PLLC's services performed as

part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

Our fees for the financial statement audit is as follows:

Fiscal Year	City Financial Statement Audit	Single Audit
2024	\$49,500	\$7,500
2025	\$51,500	\$7,500
2026	\$53,500	\$7,500

Optional Renewals:

2027	\$55,500	\$7,500
2028	\$57,750	\$7,500

This contract is for the three years ended September 30, 2024, 2025, and 2026. This contract includes optional renewals for the 2027 and 2028 audits. If either party wishes to discontinue this contract for the 2027 and/or 2028 audit, respectively, they agree to notify the other party by May 31st of that respective year. For example, if non-renewal is anticipated for the 2027 audit, the auditor or City will notify the counter party by May 31, 2027 of their intent to terminate the remainder of the contract and optional renewals (2027 and 2028). This contract will renew for each respective year on June 1 (2027 & 2028), if no notice of termination is provided.

Invoices will be rendered monthly and are payable upon presentation. We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. We are not responsible for bank, attorney, or confirmation fees billed as part of the completion of the audit. Whenever possible, we will attempt to use the City of Hutto, Texas' personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce our time requirements and facilitate the timely conclusion of the audit.

Other Matters

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

The audit documentation for this engagement is the property of BrooksWatson & Company, PLLC and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulators, federal agencies and the U.S. Government Accountability Office pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of BrooksWatson & Company, PLLC's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to these agencies and regulators. The regulators and

agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies. We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

You agree to inform us of facts that may affect the financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

At the conclusion of our audit engagement, we will communicate to City Council the following significant findings from the audit:

- Our view about the qualitative aspects of the entity's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements compliance over major federal award programs including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,

Brooks Watson & Co.

Brooks Watson & Co., PLLC
14950 Heathrow Forest Pkwy | Ste 530
Houston, TX 77032

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of the City of Hutto by:

City Manager

Signature: _____

Date: _____

Mayor

Signature: _____

Date: _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

BrooksWatson & Co., PLLC
Houston, TX United States

Certificate Number:

2024-1180820

Date Filed:

06/26/2024

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Hutto, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2024-020-AB-001

Independent Audit Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Watson, Jonathan	Houston, TX United States	X	
	Brooks, Michael	Houston, TX United States	X	

5 Check only if there is NO Interested Party.

☐

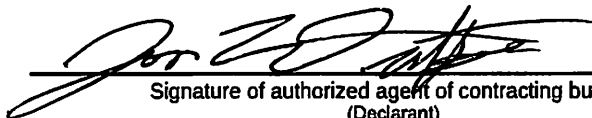
6 UNSWORN DECLARATION

My name is Jonathan Watson, and my date of birth is 02/11/1985.

My address is 3260 Floral Garden Ln. Porter TX 77365 USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 26 day of June, 2024.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

BrooksWatson & Co., PLLC
Houston, TX United States

Certificate Number:
2024-1180820

Date Filed:
06/26/2024

Date Acknowledged:
07/25/2024

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Hutto, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2024-020-AB-001
Independent Audit Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Watson, Jonathan	Houston, TX United States	X	
	Brooks, Michael	Houston, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)

AGENDA ITEM REPORT

11.3.



To: City Council
Subject: Consideration and possible action on Resolution R-2024-164 approving a two-year contract with Valley View Consulting to serve as the City's investment advisors for an amount not to exceed \$117,500 (Alberta Barrett)
Meeting: Thursday, August 1, 2024
Department: Finance /
Staff Contact:

BACKGROUND INFORMATION:

In selecting an investment advisor, the City shall follow the procedures provided in the Professional Services Procurement Act, Texas Government Code Chapter 2254, Subchapter A; and the Purchasing and Contracting Authority of Municipalities, Subchapter A, Texas Government Code Chapter 252.

Under Texas Government Code § 2254.002(2)A, Professional Services include accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, professional nursing, and forensic science; and § 252.022(a)(4), the City may procure personal, professional, or planning services, as required by § 2254.003(a) not on the basis of competitive bids but rather shall make its selection and award a contract on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. Valley View was established in 1998 and has demonstrated competence and the qualifications necessary for investment services as well as providing a fair and reasonable price.

Valley View Consulting will be performing and assisting the City with the following duties:

1. Assist City staff in developing cash flow projections;
2. Make suggestions and provide advice on appropriate investment strategies;
3. Advise on market conditions and economic data;
4. Assist in the selection, purchase, and sale of investments that comply with the City's investment policy and the Texas Public Funds Investment Act (PFIA). This step is very important to City staff so that funds can be ladderred in relation to the cash flow projections;
5. Advise on investment of bond proceeds in order to get the best possible rate of return that is consistent with proceedings and the federal rules and regulations;
6. Assist City staff in creating quarterly investment reports.

The investment advisors, Valley View Consulting, will not have discretionary investment authority over any of the City funds and the staff will make all decisions regarding the purchase and sale of all investments. The City's cash balances have grown to nearly \$500 million as of the end of June 2024

AGENDA ITEM REPORT

11.3.



and as the City continues to grow, these advisory services described above will be very beneficial to the Finance Department and the City of Hutto.

SUMMARY OF REQUEST:

Staff recommends acceptance as presented.

STAFF REVIEW:

FISCAL NOTES:

The fees for the investment advisory services are as follows:

General Fund (10)

Account Number: 10-020-001-6405

Account Name: Professional Fees

FY 2024-2025 = \$42,500

FY 2025-2026 = \$75,000

ATTACHMENTS:

1. Hutto Res Agreement Valley View 7.29.24
2. IA Agreement 2024 07 02 Hutto (002)
3. Form ADV Part 2 2024 03 25 (002)
4. Hutto 1295 Form Cert 2024-1193601

RESOLUTION NO. R-2024-__

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
APPROVING A TWO-YEAR CONTRACT BETWEEN
VALLEY VIEW CONSULTING, L.L.C. AND THE CITY OF
HUTTO TO SERVE AS THE CITY'S INVESTMENT
ADVISORS FOR AN AMOUNT NOT TO EXCEED \$117,500;
AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT; PROVIDING PROPER NOTICE &
MEETING, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council desires to enter an agreement between Valley View Consulting, L.L.C. and the City of Hutto, Texas ("City") for investment advisor services, for an amount not to exceed \$117,500; and

WHEREAS, as detailed in the terms of the agreement, Valley View Consulting, L.L.C. will serve as investment advisors for two years until September 30, 2026; and

WHEREAS, the City Council desires to authorize the City Manager to execute the Agreement, attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: The Hutto City Council hereby approves and authorizes the City Manager to execute the Agreement, attached as Exhibit A, a copy of the same being attached hereto and incorporated herein for all purposes.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the 1st day of August 2024 on vote of __AYES; __NAYS; __ABSTENTIONS

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

**AGREEMENT
BY AND BETWEEN
CITY OF HUTTO, TEXAS
AND
VALLEY VIEW CONSULTING, L.L.C.**

It is understood and agreed that the City of Hutto (the *Investor*) will have money available for investment (the *Investable Funds*) and Valley View Consulting, L.L.C. (the *Advisor*) has been requested to provide professional services to the Investor with respect to the Investable Funds. This agreement (the *Agreement*) constitutes the understanding of the parties regarding the subject matter hereof.

1. This Agreement shall apply to all Investable Funds of the Investor from time to time during the period in which this Agreement shall be effective.
2. The Advisor agrees to provide its professional services to direct and coordinate all programs of investing as may be considered and authorized by the Investor.
3. The Advisor agrees to perform the following duties, as requested:
 - a) Assist the Investor in developing cash flow projections,
 - b) Suggest appropriate investment strategies to achieve the Investor's objectives,
 - c) Advise the Investor on market conditions, general information and economic data,
 - d) Analyze risk/return relationships between various investment alternatives,
 - e) Attend occasional meetings as requested by the Investor,
 - f) Assist in the selection, purchase, and sale of investments. The Advisor shall not have discretionary investment authority over the Investable Funds and the Investor shall make all decisions regarding purchase and sale of investments. All funds shall be invested consistent with the Texas Public Funds Investment Act, Chapter 2256 Government Code and the Investor's Investment Policy. The eligible investments are listed in the Investor's Investment Policy,
 - g) Advise on the investment of bond funds as to provide the best possible rate of return to the Investor in a manner which is consistent with the proceedings of the Investor authorizing the investment of the bond funds or applicable federal rules and regulations,
 - h) Assist the Investor in creating investment reports in compliance with State legislation and the Investor's Investment Policy, and
 - i) Assist the Investor with primary depository selection.

4. The Investor agrees to:

- a) Compensate the Advisor for all services rendered and expenses incurred as set forth in Appendix A attached hereto,
- b) Provide the Advisor with the schedule of estimated cash flow requirements related to the Investable Funds, and will promptly notify the Advisor as to any changes in such estimated cash flow projections,
- c) Allow the Advisor to rely upon all information regarding schedules, investment policies and strategies, restrictions, or other information regarding the Investable Funds as provided to it by the Investor and that the Advisor shall have no responsibility to verify, through audit or investigation, the accuracy or completeness of such information,
- d) Recognize that there is no assurance that recommended investments will be available or that such will be able to be purchased or sold at the price recommended by the Advisor, and
- e) Not require the Advisor to place any order on behalf of the Investor that is inconsistent with any recommendation given by the Advisor or the policies and regulations pertaining to the Investor.

5. In providing the investment services in this Agreement, it is agreed that the Advisor shall have no liability or responsibility for any loss or penalty resulting from any investment made or not made in accordance with the provisions of this Agreement, except that the Advisor shall be liable for its own gross negligence or willful misconduct; nor shall the Advisor be responsible for any loss incurred by reason of any act or omission of any broker, selected with reasonable care by the Advisor and approved by the Investor, or of the Investor's custodian. Furthermore, the Advisor shall not be liable for any investment made which causes the interest on the Investor's obligations to become included in the gross income of the owners thereof.

6. The fee due to the Advisor in providing services pursuant to this Agreement shall be calculated in accordance with Appendix A attached hereto, and shall become due and payable as specified. All expenses for which the Advisor is entitled to reimbursement in accordance with Appendix A attached hereto shall become due and payable at the end of each calendar quarter in which such expenses are incurred.

7. This Agreement shall initially remain in effect until September 30, 2026 with the option of the Investor to extend this Agreement in additional one or two-year periods. Provided, however, the Investor or Advisor may terminate this Agreement upon thirty (30) days written notice to the other party. In the event of such termination, it is understood and agreed that only the amounts due to the Advisor for services provided and expenses incurred to and including the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement. In the event this Agreement is terminated, all investments and/or funds held by the Advisor shall be returned to the Investor as soon as practicable. In addition, the parties hereto agree that upon termination of this Agreement the Advisor shall have no continuing obligation to the Investor regarding the investment of funds or performing any other services contemplated herein.

8. The Advisor reserves the right to offer and perform these and other services for various other clients. The Investor agrees that the Advisor may give advice and act with respect to any of its other clients, which may differ from advice given to the Investor. The Investor agrees to coordinate with and avoid undue demands upon the Advisor to prevent conflicts with the performance of the Advisor towards its other clients.

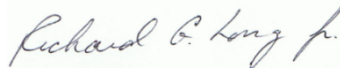
9. The Advisor shall not assign this Agreement without the express written consent of the Investor.

10. Investor acknowledges that:

- 1) X Investor was provided a written copy of Form ADV Part 2 not less than 48 hours prior to entering into this written contract, or
- 2) Investor received a written copy of Form ADV Part 2 at the time of entering this contract and has the right to terminate this contract without penalty within five business days after entering this contract.
- 3) Investor is renewing an expiring contract and has received in the past, and offered annually, a written copy of Form ADV Part 2.

When accepted by the Investor, it, together with Appendix A attached hereto, will constitute the entire Agreement between the Investor and Advisor for the purposes and the consideration herein specified.

Respectfully submitted,



Richard G. Long, Jr.
Manager, Valley View Consulting, L.L.C.

This agreement is hereby agreed to and executed on behalf of the City of Hutto, Texas.

By: _____

City of Hutto, Texas

Date: _____

APPENDIX A

FEE SCHEDULE AND EXPENSE ITEMS

In consideration for the services rendered by the Advisor in connection with the investment of the Investable Funds designated by the Investor, it is understood and agreed that the fee will be an annual fee equal to:

<u>Average Quarter End Book Value</u>	<u>Annual Fee</u>
First \$100 million	0.030% (3 basis points)
Next \$100 million	0.020% (2 basis points)
Portfolio balances above \$200 million	0.010% (1 basis points)

First Fiscal Year Annual Fee maximum = \$50,000.00.

Additional Fiscal Year's Annual Fee maximum = \$75,000.00.

In the event a flexible repurchase agreement or other similar investment option is utilized, the Advisor shall receive a normal and customary fee within the guidelines of the Internal Revenue Service, in lieu of Agreement Fee.

Said fee includes all costs of services related to this Agreement, and all travel and business expense related to periodic meeting attendance. With pre-trip Investor approval, the Advisor may also request reimbursement for special meeting or event travel and business expense. The obligation of the Advisor to pay expenses shall not include any costs incident to litigation, mandamus action, test case or other similar legal actions.

Any other fees retained by the Advisor shall be disclosed to the Investor.



FORM ADV Part 2 – The Brochure

Valley View Consulting, L.L.C.
2428 Carters Mill Road
Huddleston, VA 24104-4003

SEC File Number 801-56181

540.297.3419 phone

www.valleyviewconsultingllc.com

March 25, 2024

This brochure provides information about the qualifications and business practices of Valley View Consulting, L.L.C. If you have any questions about the contents of this brochure, please contact us at 540.297.3419. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.

Additional information about Valley View Consulting, L.L.C. is available on the SEC’s website at www.adviserinfo.sec.gov.

This filing of Form ADV Part 2 is in conjunction with the Annual Updating Amendments requirement. General wording edits, Form ADV Part 2 requirements, and resume revisions have been incorporated. The last update to this brochure was March 19, 2023.



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Advisory Business

Valley View Consulting, L.L.C. (“Valley View”), established in 1998 and registered in 1999. Registration with the SEC does not imply a certain level of skill or training.

Valley View provides investment supervisory services primarily to government entities and their related organizations. Services are provided on a non-discretionary, non-custodial basis. State legislation and individual client investment policies determine authorized investments and appropriate strategies. Fixed income/fixed maturity securities, mutual funds, local government investment pools, and financial institution deposits provide the main investment options. Strategies are generally focused on safety of principal and maintenance of adequate liquidity to fund operational needs.

Each client’s investment policy and cash flow requirements tailor the investment advice offered by Valley View. Clients have complete control and discretion over allowed investments and implemented strategies. Valley View does not participate in any wrap-fee programs.

As of December 31, 2023, Valley View provided non-discretionary advisory services to seventy-one entities with approximately \$14 billion (Book Value) in total assets under management. Additionally, Valley View provides other cash and investment consulting services to non-advisory clients.

Valley View is solely owned by Richard G. Long, Jr.

Fees and Compensation

Investment supervisory fees can be a percentage of assets under management, hourly rates, fixed fees, or a combination of these. All fees are negotiable, and direct-billed and payable in arrears. Fees structures generally range from 0.01% to 0.10%, annually, based on the book value of assets under management; \$100.00 to \$750.00 per hour; \$250 to \$25,000 per project; \$150.00 to \$500.00 per month; or other fees as negotiated at the time of contract. In some cases, a minimum or maximum annual fee may apply. Contracts are cancelable without cause with 30 days’ notice. Clients maintain their own safekeeping agent/custodian relationships and are responsible for any related fees. Local government investment pools and mutual funds are subject to their own fee schedules. Recommended mutual funds have been, and are anticipated to be, no-load money market funds. Valley View assists each client in minimizing transactional expenses or any other normal business expenses that might be incurred in the management of its funds.

Should a guaranteed investment contract, flexible repurchase agreement or other structured investment option be utilized, Valley View may receive a normal and customary fee (usually paid by the counterparty) within the guidelines of the Internal Revenue Service, in lieu of the fee prescribed in the advisor agreement.

Although no other forms of compensation are anticipated, if any additional compensation is received, the amount and source will be disclosed to the client.

Performance-Based Fees and Side-By-Side Management

Valley View does not charge any performance-based fees nor participate in side-by-side management.



Types of Clients

Valley View generally provides investment advice to “government entity” investors, including, but not limited to state agencies, cities, counties, school districts, special districts, colleges and universities, and special authorities. Additionally, Valley View provides advice to clients on matters not directly involving investing.

Valley View does not impose a minimum dollar value of assets for starting or maintaining a relationship.

Methods of Analysis, Investment Strategies and Risk of Loss

Each client’s investment policy governs investment strategy selection and implementation, with most client investment objectives focused on preservation of principal and maintenance of adequate liquidity to fund ongoing operations. Investing in securities involves risk of loss that clients should be prepared to bear. Selecting investments with limited credit risk and matching short and long-term maturity purchases to client-based cash needs primarily manages the risk of realized loss. Most investments are cash equivalent or fixed income/fixed maturity that are held to maturity.

Depending upon investment and strategy selection, each client may risk loss of principal or anticipated earnings due to issuer default or adverse market movement.

Valley View most often offers advice on money market instruments, certificates of deposit and other financial institution deposits, municipal bonds, mutual fund shares, United States government securities, repurchase agreements, and local government investment pools. Valley View’s analysis includes fundamental, cyclical, and client-based cash flow requirements. Information sources include financial newspapers and magazines, research material prepared by others, corporate rating services, annual reports, prospectuses, regulatory filings, and other financial information sources.

Credit Risk – Most government entities specifically manage and limit exposure to credit risk. Assuming large amounts of credit risk is inconsistent with the main objectives to “primarily emphasize safety of principal and liquidity.” All issuers contain incremental credit risk, although the markets believe certain ones have reduced credit risk (e.g., U.S. government securities). Generally, legislation does allow specific issuer-types with credit risk, but restricts that risk based on measurements of nationally recognized credit rating agencies or other criteria.

Credit risk considerations extend beyond the investments that are selected to be included in the entity’s portfolio. Properly collateralized deposits or repurchase agreements, secured in accordance with the investment policy and federal banking regulations, essentially reduce the inherent credit risk of the financial institution or counterparty. Each client retains control and responsibility for collateral fair value monitoring. Valley View may periodically review collateral values and financial institution strength.

Prior to investment, accurate identification of the individual issuer’s risk profile or the local government investment pool/mutual fund’s investment criteria, and analysis of the historical risk/return relationship determines if the client will potentially receive adequate return for any increased risk. Although minimum credit rating requirements may apply, the investment policies and strategies of available pools/funds are reviewed to ensure that their policies are congruent with those of the client.



Market/Opportunity Risk – The restriction of most credit risks focuses portfolio management on controlling market risk and opportunity risk. Working with the yield curve, issuer yield spreads, and cash flow requirements addresses these two risks.

Appropriate yield curve positioning, with limited interest rate cycle timing, provides most yield enhancement. Our services include the research and analysis necessary for formulating strategy recommendations. Cash flow predictability creates the baseline for investment strategy development. Keeping current-use funds in expenditure-related maturities or cash-equivalent alternatives, while positioning stable and longer-range funds further out the yield curve, generally provides overall portfolio enhancement.

For government entities, the higher yield-advantage of extended maturities most safely manifests itself in increased interest earnings (not speculative gains). Therefore, a hold-to-maturity strategy is primarily utilized.

Disciplinary Information

Valley View attempts to comply with all registration requirements and has not experienced any legal or disciplinary event that is material to a client's evaluation of its advisory business or to the integrity of its management personnel.

Other Financial Industry Activities and Affiliations

Valley View is not affiliated with any other financial institution and no related person is a general partner in any partnership in which clients are solicited to invest. There are no registrations (current or pending) for either the firm or its management personnel to register as a broker-dealer, futures commission merchant, commodity pool operator, commodity trading advisor, or an associated person to the forgoing entities.

All investment advice and security transactions are separately handled and are not subject to any commingling or front loading. Except as described above, Valley View is not compensated by any investment provider or investment manager.

Valley View is actively engaged in business other than giving investment advice, and anticipates spending less than 50% of its resources pursuing and providing non-investment advisory services. Other activities include, but are not limited to, bank service analysis and provider selection, cash and investment management policies and procedures creation and revision, and other finance-related services.

Code of Ethics addressing Privacy Policy, Participation or Interest in Client Transactions, and Personal Trading

Valley View maintains a Code of Ethics that is available upon request to its clients. The Code is designed to prevent client-based conflicts of interest and attempts to comply with applicable laws and regulations.

Valley View advises government entities subject to various open records requirements. Therefore most, if not all, client information is considered public. If Valley View and its advisory personnel do have access to non-public information, Valley View pledges its best efforts to not disclose the information without the prior written client approval and destroy any discarded files (e.g., shredding).



As a firm, Valley View does not participate in, nor have an interest in, investments that may be recommended to clients or resulting client transactions. However, the team members are allowed to purchase similar investments for his or her personal account and related accounts. The team member is not allowed to commingle or execute in front of client transactions.

To further reduce any conflict of interest, individual Valley View team members primarily invest in “non-reportable securities” or securities not eligible for client portfolios.

Brokerage Practices

Specific client consent is required to determine the investments to be bought or sold, the amount of the investments to be bought or sold, the broker-dealer or financial institution to be used, or the commission rates to be paid (where applicable). In most cases, the client authorizes and annually re-approves a broker-dealer list. Valley View may assist clients in selecting broker-dealers based on the firm and representative’s government funds experience, compliance with client investment policies, competitive pricing, and responsiveness to client needs. Valley View does receive “general” market research from investment providers; however, no products, services, or soft dollar benefits are provided to Valley View. Eligible securities are usually sold by each broker-dealer “as principal” without additional commissions. Multiple client transactions are not aggregated as each client has specific needs and settlement requirements. Given the commonality of most investment options, not aggregating client transactions generally does not result in higher commissions or costs.

Review of Accounts

At relationship initiation, Valley View reviews each client’s investment policy, eligible investment products, current investment practices, cash flow requirements, recent investment reports, authorized broker-dealer and investment provider lists, and other pertinent documentation. Investment maturities, significant cash inflows and/or outflows, bond issuance, quarter end, fiscal year end, major market movements, and other factors trigger periodic reviews. Ongoing reviews include current portfolio, projected cash flows, investment policy requirements, investment strategy targets, market conditions, and other considerations.

As Chief Investment Officer, Mr. Long performs the investment supervisory function and reviews all accounts. Mr. Day, Ms. Hobbs, Mr. Pinon, Mr. Saenz, and Ms. Upshaw assist in all aspects of client service as registered investment adviser representatives. Mr. Gomez, Ms. Mendoza, and Mr. Phifer primarily focus on monthly accounting and quarterly investment reports. Mr. Pinon, Mr. Saenz, and Ms. Wertz also support bank relationship selection and documentation. Ms. Gerhardt assists as needed.

Client reports include, but are not limited to:

- Individual transaction information (at time of transaction).
- Broker-dealer trade and financial institution deposit confirmations and activity reports sent directly to the client by the respective firm.
- Safekeeping agent/security clearance receipts and holdings reports sent directly to the client by the respective firm.
- Written portfolio reports, prepared as per each client’s investment policy and contract terms.



Fixed income security “Fair Value” is provided by client-specific safekeeping agents/custodians, by generally available market prices, or determined by reviewing generally available offering prices and decreasing the price by an appropriate bid/offer spread.

Client Referrals and Other Compensation

Valley View does not have any arrangements where it receives cash or other economic benefit from a non-client in connection with giving advice to clients. If fee sharing applies to future, new client referrals, the arrangement and potential compensation will be disclosed to each potential client prior to contract initiation, and on an ongoing basis thereafter.

Custody

Valley View does not have custody of client funds.

Investment Discretion

Valley View does not have investment discretion over client funds. All investment advice and investment transactions are separately handled and are not subject to any commingling or front loading.

Voting Client Securities

Valley View does not vote client proxies. Each client’s safekeeping agent/custodian is responsible for communicating all proxy events.

Financial Information

Valley View does not have discretion over investment transactions, custody of client funds, or require payment of more than \$1,200 in fees per client, six or more months in advance. Audited financial statements are not available.



Brochure Supplement

Valley View Consulting, L.L.C.
2428 Carters Mill Road
Huddleston, VA 24104-4003

SEC File Number 801-56181

540.297.3419 phone

www.valleyviewconsultingllc.com

March 25, 2024

This brochure supplement provides information about all Valley View personnel supplementing the Valley View Consulting, L.L.C. brochure. It is usually attached to the brochure. Please contact Richard G. Long, Jr., Chief Compliance Officer (540.297.3419) if you did not receive Valley View's brochure or if you have any questions about the contents of this supplement.

Additional information about all registered investment adviser representatives is available on the SEC's website at www.adviserinfo.sec.gov.



As Chief Compliance Officer, Richard G. Long, Jr. (540.297.3419) provides supervisory oversight of all Valley View personnel. That oversight includes individual adherence to the firm's Compliance Manual and Code of Ethics. Client reports, transactions, correspondence, and other activities are routinely monitored to confirm appropriateness and suitability.

Résumés

Benjamin F. Day

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.
- Investment industry since 1984
- Diversified background in sales and trading
- Extensive client-based risk/return analysis experience

Mr. Day first entered the securities industry in 1984 and has sales and trading desk experience in equity, matched book and fixed income investments. His various positions with large and regional investment-related firms developed a knowledgeable assessment of the major market rallies and melt downs of the last thirty years. This background enhances his outlook regarding portfolio risk/reward and client expectation. He has over fifteen years' experience in developing and delivering investment portfolio management seminars.

Mr. Day (born 1957) is a graduate of Northwood University with a Bachelor of Business Administration degree and is a registered investment adviser representative.

Julie S. Gerhardt

- Investment industry since 1993
- Responsible for administration, marketing, and organizational activities
- Experienced in customer support and reporting

Ms. Gerhardt (born 1970) is primarily responsible for administrative, marketing, and organizational activities. She began her career in the financial industry in 1993 with Legg Mason Wood Walker, and then subsequently with Smith Barney. Ms. Gerhardt graduated with honors from the University of Phoenix with a Bachelor of Science in Health Administration.

Oscar Gomez

- Experience creating cash flow models, and analyzing and preparation of financial statements
- Public Funds Experience since 2018
- Microsoft Office Excel Specialist
- Joined Valley View in 2023



Mr. Gomez began his public funds career in 2018 as a Budget Analyst with Trinity Metro (aka Fort Worth Transportation Authority). He has extensive experience creating cash flows and the preparation and analyzation of financial statements. He also has experience developing annual operating and capital budgets and brings a public funds perspective to our team. Mr. Gomez received certification in 2014 as a Microsoft Office Specialist for Office Excel. His responsibilities include accounting report and cash flow model development. Mr. Gomez is an Honors graduate of Texas Wesleyan University with a Bachelor of Business Administration in Finance.

Mr. Gomez (born 1994) joined Valley View in January 2023.

Jamie D. Hobbs, CPA

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.
- Twenty years of 401k plan administration experience
- Accounting and client services background
- Certified Public Accountant

Ms. Hobbs enjoyed twenty years of service in retirement plan administration. She specialized in plan design and compliance for a diverse clientele. In this role, she had the opportunity to work with both corporate owners and individual plan participants to problem solve and achieve desired retirement goals. Ms. Hobbs transitioned into a private sector position in accounting and finance. She participated in the acquisition and transition of companies, as well as expanding her knowledge of corporate accounting.

Ms. Hobbs (born 1973) joined Valley View in June 2021. She is a graduate of Texas Tech University with a Bachelor of Business Administration in Accounting. Ms. Hobbs is a Certified Public Accountant and a registered investment adviser representative.

Richard G. Long, Jr.

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.
- Manager, Valley View Consulting, L.L.C.
- Investment industry since 1981
- Founded Valley View Consulting, L.L.C. and registered with the SEC as an investment advisory firm

Mr. Long has been actively involved in government entity investment legislation; investment policies and strategies; cash flow-based investment portfolios; eligible investment options; appropriate asset allocations; investment transaction settlement and safekeeping procedures; bank service agreements; and arbitrage rebate regulation.

Mr. Long founded Valley View in the fall of 1998 and registered the firm as an investment adviser with the Securities and Exchange Commission effective January 1999. Since 1988, Mr. Long has primarily provided cash and investment-related services to government



entities. In earlier capacities, Mr. Long originated corporate, asset backed and tax-exempt securities, managed a government trading operation, and distributed both public and private securities.

Mr. Long (born 1957) earned a Bachelor of Science, Business Administration degree in Finance from Colorado State University and a Masters of Business Administration degree from the University of Dallas. Mr. Long has presented information to multiple investment management organizations and is a registered investment adviser representative.

Maria Teresa Mendoza

- Extensive background in Accounting & Finance
- Investment reporting experience
- Government experience since 2010

Ms. Mendoza has a background in Customer Service and Accounting & Finance (since 2007). She is experienced with cash management, banking relations, financial reporting, maintaining treasury records, pledged collateral, and investment reports. She formerly worked at Trinity Metro (aka Fort Worth Transportation Authority) as their Finance Administrator which has given her a client's perspective.

Ms. Mendoza (born 1979) joined Valley View in February 2020.

Johnny L. Phifer

- Former City of Keller, Texas Finance Director
- Over thirty years public-sector experience
- Lengthy finance and accounting career

Mr. Phifer, former Finance Director of the City of Keller, brings with him a wealth of knowledge and experience attained during a career of over thirty years of public-sector experience. Mr. Phifer also brings a comprehensive and distinctive client operations perspective to the Valley View practice in the areas of cash management, governmental accounting and financial reporting, banking relations, management reporting, portfolio/treasury management, financial analysis, and financial and budget administration.

Mr. Phifer is a member of the Government Finance Officers Association of Texas (GFOAT), where he earned the designation of Certified Government Finance Officer (CGFO), and the Government Treasurer's Organization of Texas (GTOT).

Mr. Phifer (born 1957) is a graduate of The University of North Alabama with a Bachelor of Science in Accounting.

Timothy D. Pinon

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.



- Banking industry since 1987
- Former government banking relationship manager
- Depository banking service experience

Mr. Pinon began his banking career in 1987. He worked for seven years as a Series 7 registered representative, helping bank customers invest their short-term funds. Following that, he spent the next 24 years working in Treasury Management and Relationship Management on the banking side. Prior to joining Valley View, he worked for eleven years as a Government Banking Relationship Manager, which involved bidding for government contracts for depository bank services, and managing a portfolio of bank customers consisting of cities, schools, counties, and special districts. His background in investments, treasury management, and banking have provided him with a wealth of experience that he can share with government clients.

Mr. Pinon earned a Bachelor of Business Administration in Finance in 1987 from the University of Texas at Arlington. He went on to complete his Master of Business Administration in 1993, also from the University of Texas at Arlington.

Mr. Pinon (born 1964) joined Valley View in January 2020. Mr. Pinon has presented information to multiple investment management organizations.

Orlando A. Saenz

- Registered Investment Advisor Representative, Valley View Consulting, L.L.C.
- Certified Treasury Professional
- Banking industry since 1997
- Government, Non-Profit and Higher Education Treasury Management Consultant, and Relationship Manager.
- Depository banking service experience

Mr. Saenz began his career in banking in 1997. He worked for 14 years in Treasury Management, helping bank clients with banking structures, risk management, and fraud prevention. For the past nine years he worked as a Government Banking Relationship Manager and Treasury Management Consultant for cities, public and private schools, counties, special purpose districts, non-profits, and universities responding to bids for depository bank services and assisting clients in selection of banking products to effectively manage their portfolios and service needs. His previous banking experience in the public sector provides valuable knowledge relevant to banking service contracts and cash management for client portfolios.

Mr. Saenz earned a Bachelor of Multidisciplinary Studies - Economics from the University of Texas at El Paso. He went on to complete his Master of Business Administration in 2019, from the University of Dallas.



Mr. Saenz joined Valley View in January 2023 and is a Certified Treasury Professional and registered investment adviser representative.

Emily A. Upshaw, CPA

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.
- Accounting, client service and transaction facilitation background
- Cash Flow modeling, market analysis, trading and funds management experience
- Chief Executive Officer, Live Oak Portfolios, L.L.C.

Ms. Upshaw began her career in taxation with Ernst & Young in Austin, Texas where she completed her Certified Public Accountant designation. With an interest in investment management, she then worked as an associate of an employee retirement plan advisor in charge of various client services and transactions. There she expanded her knowledge of cash flow modeling, market analysis, trading, and fund management for individual client accounts and business qualified retirement accounts in the central Texas area.

Ms. Upshaw (born 1987) graduated with honors from the University of Texas at Austin with a Bachelor of Business Administration and a Master in Professional Accounting from the McCombs School of Business. She is a registered investment adviser representative. Ms. Upshaw has presented information to multiple investment management organizations.

Linda D. Wertz

- Banking industry since 1985
- Client management and depository banking service experience
- Varied banking experience - treasury management, lending, operations, and executive roles
- Joined Valley View in 2023

Ms. Wertz began her banking career in 1985 and has held roles in various areas, including bank operations, treasury management sales, relationship management, credit underwriting, risk management, and division leadership. She has managed and provided approval for and oversight of a portfolio of customers using the bank's treasury management and loan services. Ms. Wertz most recently served in a division executive role ensuring loan execution excellence, proper risk management, employee development, and implementation of improved processes and systems. She also has experience in BSA/KYC matters through participation in internal bank projects and committees. Her broad range of banking roles and strong interest in process improvements provides her with the knowledge to help clients with their banking services.

Ms. Wertz received her B.S. in Business Administration from the University of Texas at Dallas.



Susan K. Anderson (retired)

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.
- Chief Executive Officer, Anderson Financial Management, L.L.C.
- Investing Public Funds since 1981
- Former City of Austin, Texas Treasurer & Investment Officer
- Served as Chief Investment Officer for State of Texas

Ms. Anderson has extensive public fund experience, beginning in 1971 with her first government position at the City of Austin. Ms. Anderson served the City in the Financial Services Division for over twenty-five years and was specifically dedicated to the management of the investment, debt and cash resources of the City. She was responsible for the \$1.5 billion investment portfolio, the \$3.3 billion debt portfolio and all cash management programs, including collections and bank relations. Additional responsibilities included serving as liaison to all three City pension programs and as Trustee on the City of Austin Firemen's Relief and Retirement Fund, and Board Member of the City of Austin Deferred Compensation Fund.

Following her retirement from the City of Austin, she served as Chief Investment Officer for the State of Texas where she was responsible for the management of \$35 billion of combined operating, endowment and trust funds. After her public service, she joined a national financial and investment advisory firm.

Ms. Anderson (born 1952) founded Anderson Financial Management, LLC in 2008 and has partnered with Valley View to bring her expertise to the Valley View team.

Ms. Anderson earned a Bachelor of Science, Business Administration degree in Finance from St. Edward's University. She is a Certified Cash Manager and a registered investment adviser representative. Ms. Anderson has presented information to multiple investment management organizations.

E.K. Hufstedler, III (retired)

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.
- Banking industry since 1982
- Former regional bank President
- Experienced in financial institution deposit and service products

Mr. Hufstedler has been actively involved in the banking profession since 1982. He has been involved in nearly all aspects of the banking business. Mr. Hufstedler served in executive roles for several banks and has participated in actively bidding on public funds banking relationships as well as depository support services. Mr. Hufstedler most recently served as a Regional President for a \$20 billion asset Texas based organization.



Mr. Hufstedler (born 1959) earned a Bachelor of Business Administration in Banking and Finance in 1982 from Abilene Christian University in Abilene, Texas and is a registered investment adviser representative.

Thomas H. Ross (retired)

- Registered Investment Adviser Representative, Valley View Consulting, L.L.C.
- Former City of Bedford, Texas Director of Administrative Services
- Public-sector experience since 1992
- Lengthy corporate finance and accounting career

Mr. Ross has a background in financial operations and information technology management and most recently completed fourteen years of service with the City of Bedford, Texas, retiring as Director of Administrative Services. Joining the team in February 2010, Mr. Ross brings a broad and unique client operations perspective to the areas of cash management, governmental accounting, banking relations, management reporting, portfolio management, and general financial analysis.

Mr. Ross is a member of the Government Finance Officers Association of Texas (GFOAT), where he earned the designation of Certified Government Finance Officer (CGFO), and the Government Treasurer's Organization of Texas (GTOT).

Mr. Ross (born 1944) is a graduate of Texas A&M University with a Bachelor of Business Administration degree in Management and is a registered investment adviser representative.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2024-1193601

Date Filed:
07/29/2024

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Valley View Consulting, L.L.C.
Huddleston, VA United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Hutto

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2024
Investment Advisor Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Long, Jr., Richard	Huddleston, VA United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Julie S. Gerhardt, and my date of birth is 7/16/1970.

My address is 2205 Woodcrest Drive, Lynchburg, VA, 24503, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Lynchburg (City) County, State of Virginia, on the 29 day of July, 2024.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

AGENDA ITEM REPORT

11.4.



To: City Council
Subject: Consideration and possible action relating to Resolution No. R-2024-165 setting two public hearings for the limited purpose annexation of 4.881 acres of land, commercial parcel, in the Williamson County Water, Sewer, Irrigation and Drainage District No. 3. (Sara Cervantes)
Meeting: Thursday, August 1, 2024
Department: Legal /
Staff Contact: Dottie Palumbo

BACKGROUND INFORMATION:

A 4.881 acre tract of land (the "Land") located in the City's extraterritorial jurisdiction has been annexed into the jurisdictional boundaries of the Williamson County Water, Sewer, Irrigation, and Drainage District No. 3 (the "District"). Because of this annexation by the District, this land is now eligible for limited purpose annexation to facilitate the collection of sales and use tax by the City. The limited purpose annexation of the Land may only occur if the underlying Strategic Partnership Agreement, governing the parcels eligible for limited purpose annexation, is amended to include the Land. Amending the Strategic Partnership Agreement to include the Land requires two public hearings by law and this resolution will set the dates for those public hearings.

It should be noted that this parcel is within the District and correlates to Williamson County MUD No. 22, known as 'Star Ranch MUD'.

SUMMARY OF REQUEST:

A petition was filed requesting the addition of 4.881 acres of commercial land into the Williamson County Water, Sewer, Irrigation and Drainage District No. 3, ("District"). The 4.881 acres of commercial land has been annexed into the District. The Texas Local Government Code Section 43.751 requires the City to set two public hearings for the limited purpose annexation of the commercial land by ordinance in order to collect sales and use tax in the area.

STAFF REVIEW:

FISCAL NOTES:

ATTACHMENTS:

1. Hutto Res R-2024-___ Call Public Hearings WSIDD 3 LP Annex-4881-5855-6883-v2

AGENDA ITEM REPORT

11.4.



2. 4.88 Acres Map

RESOLUTION NO. R-2024-_____

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS, TO
SET TWO PUBLIC HEARINGS FOR THE LIMITED
PURPOSE ANNEXATION OF 4.881 ACRES OF LAND,
COMMERCIAL PARCEL, IN THE WILLIAMSON COUNTY
WATER, SEWER, IRRIGATION AND DRAINAGE
DISTRICT NO. 3; PROVIDING FOR PROPER NOTICE AND
MEETING; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Devon Austin Zinnecker, Trustee of the EJK Family Trust, the owner of the land more fully described on Exhibit “A” attached hereto (the “Property”) has petitioned the Williamson County Water, Sewer, Irrigation and Drainage District No. 3 (the “District”) located along the southwest corner of Gattis School Road and State Highway 130, in the Extraterritorial Jurisdiction of the City, Williamson County, for the annexation of the Property into the boundaries of the District, and the District has annexed the Property into the District; and

WHEREAS, the owner of the Property has requested that the City consider a proposed amendment to the Strategic Partnership Agreement, Exhibit “B” attached hereto, between the City and the District for the Limited Purpose Annexation of the Property into the City and the collection of the City’s sales and use tax; and

WHEREAS, the City’s consideration of the amendment to the Strategic Partnership Agreement and Limited Purpose Annexation of the Property by the City is required by Section 43.0751 of the Texas Local Government Code; and

WHEREAS, the City is required to hold two (2) public hearings prior to the City Council’s consideration of the amendment to the Strategic Partnership Agreement and limited purpose annexation.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: The Hutto City Council hereby calls two (2) public hearings set for September 5, 2024, and September 19, 2024. Notice of such hearings shall be posted and the hearings shall be open to the public to accept public comment on the amendment to the Strategic Partnership Agreement and the Limited Purpose Annexation of the Property.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon,

all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED, APPROVED, AND ADOPTED by the **CITY COUNCIL** of the **CITY OF HUTTO, TEXAS**, on the 1st day of August, 2024, on vote of ____ **AYES**; ____ **NAYS**; and ____ **ABSTENTIONS**.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

EXHIBIT "A"

ADDITIONAL LIMITED PURPOSE ANNEXATION PROPERTY

4.881 ACRE TRACT

LEGAL DESCRIPTION: Being 4.881 acres of land out of the N. D. Walling Survey, Abstract No. 675 in Williamson County, Texas and being that certain 4.879 acre tract described in Volume 722, Page 577 of the Deed Records of said Williamson County, Texas; Said 4.881 acre tract being more particularly described as follows and as surveyed under the supervision of Cross Texas Land Services Inc in February 2022:

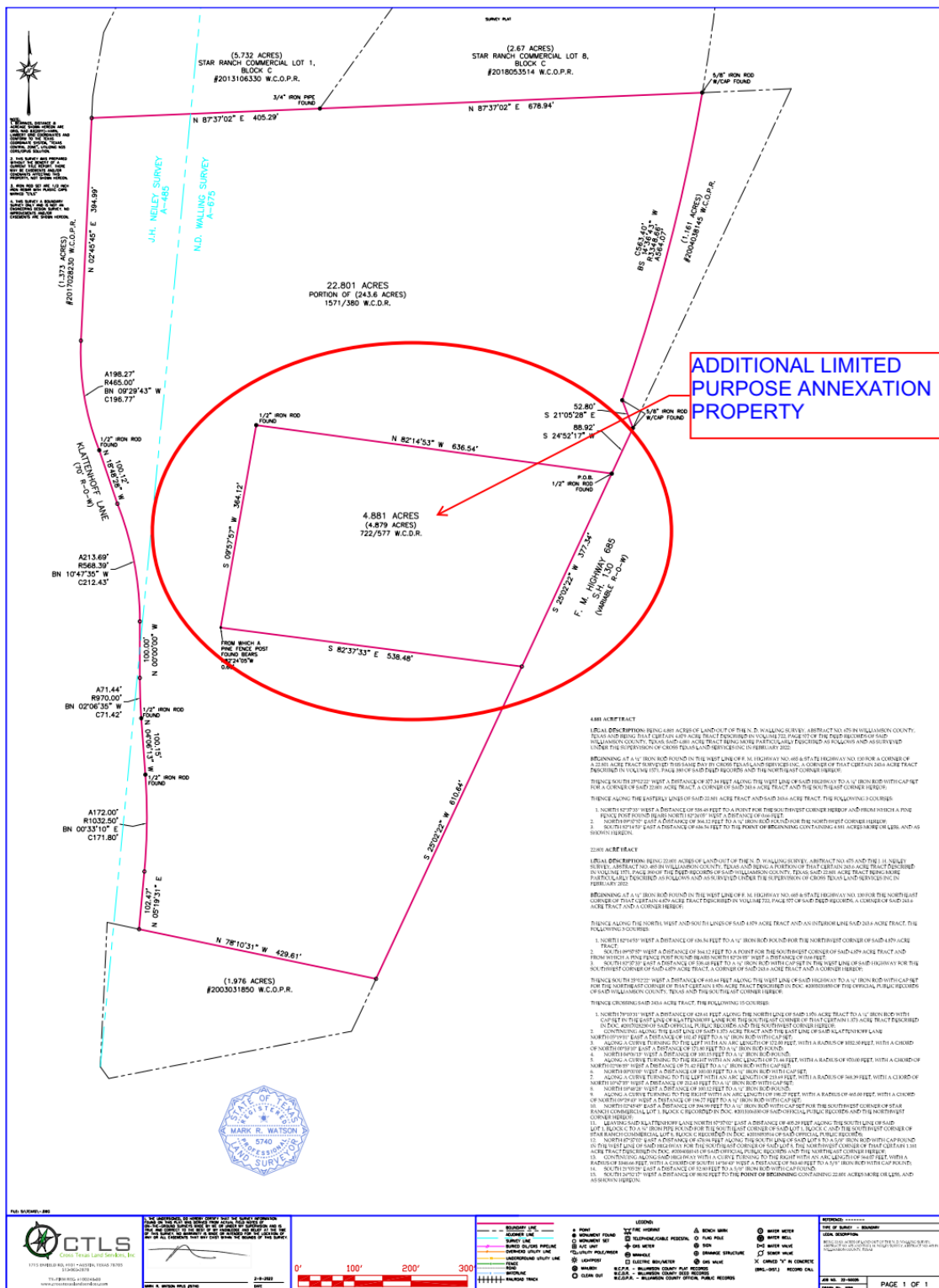
BEGINNING at a 1/2" iron rod found in the west line of F. M. Highway No. 685 & State Highway No. 130 for a corner of a 22.801 acre tract surveyed this same day by Cross Texas Land Services Inc, a corner of that certain 243.6 acre tract described in Volume 1571, Page 380 of said Deed Records and the northeast corner hereof;

THENCE South 25°02'22" West a distance of 377.34 feet along the west line of said Highway to a 1/2" iron rod with cap set for a corner of said 22.801 acre tract, a corner of said 243.6 acre tract and the southeast corner hereof;

THENCE along the easterly lines of said 22.801 acre tract and said 243.6 acre tract, the following 3 courses:

1. North 82°37'33" West a distance of 538.48 feet to a point for the southwest corner hereof and from which a pine fence post found bears North 82°24'05" West a distance of 0.66 feet;
2. North 09°57'57" East a distance of 364.12 feet to a 1/2" iron rod found for the northwest corner hereof;
3. South 82°14'53" East a distance of 636.54 feet to the **POINT OF BEGINNING** containing 4.881 acres more or less, and as shown hereon.

Note: Bearings, distances and acreage shown hereon are NAD 83, Texas Central Zone and are derived from GPS techniques. Iron Rod set are 1/2 inch rod with plastic caps marked "CTLS".



AGENDA ITEM REPORT

12.1.



To: City Council
Subject: Consideration and possible action relating to Texas Pollutant Discharge Elimination System (TPDES) Wastewater Permit Applications in the City of Hutto Extraterritorial Jurisdiction (Legal)
Meeting: Thursday, August 1, 2024
Department: Legal /
Staff Contact:

BACKGROUND INFORMATION:

See attached map with updates on status of the permits.

SUMMARY OF REQUEST:

STAFF REVIEW:

FISCAL NOTES:

At this time, there is no fiscal impact associated with this agenda item.

ATTACHMENTS:

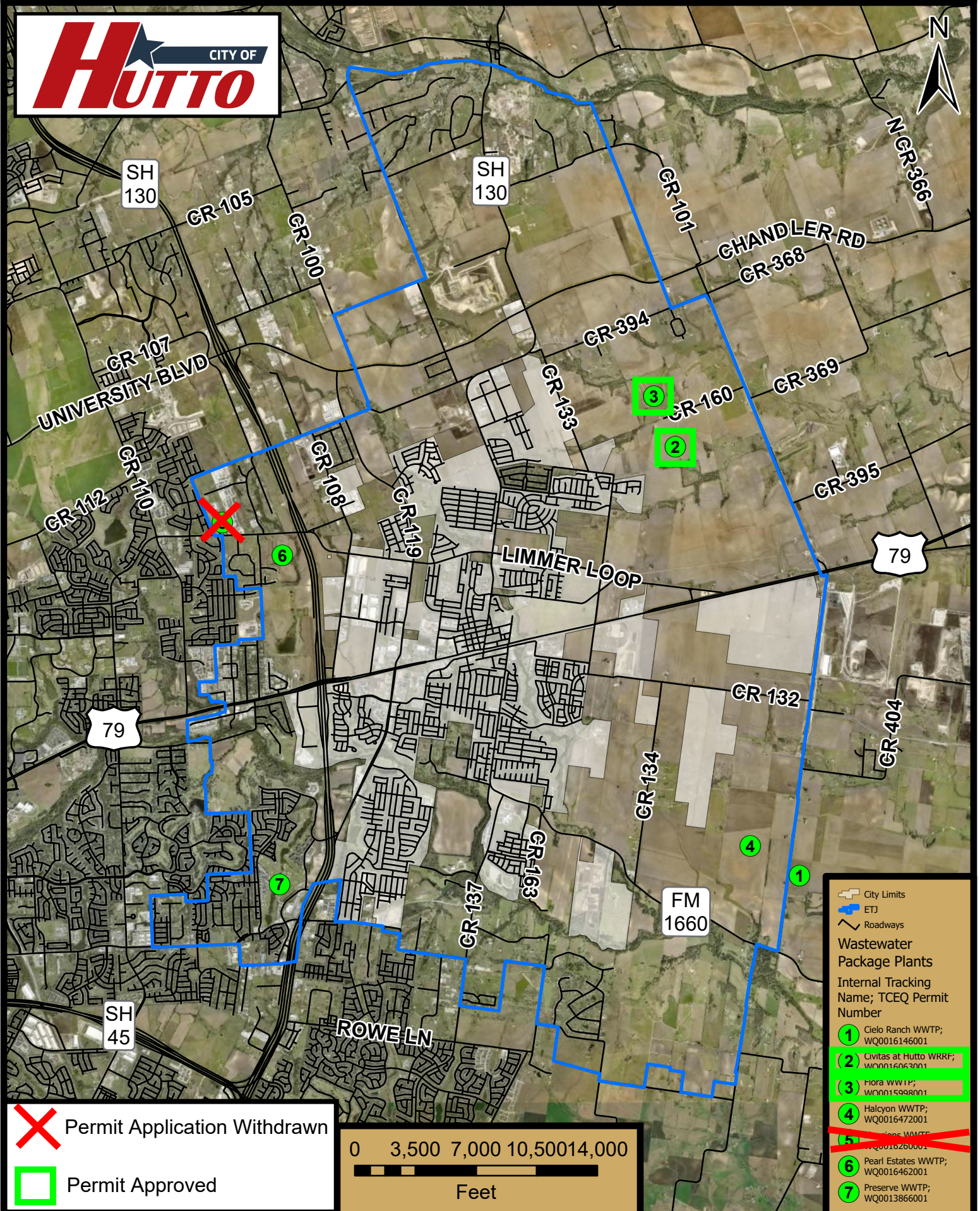
1. 2024July26 WW package plants
2. 20240729 Package_Plants

MAP #	AREA	NICKNAME	FOR	HELD BY	STATUS	STATUS DATE	CITY ACTION
1	SE	CIELO	CIELO RANCH	WILCO MUD 45	Referred for Hearing	April 24, 2024	Negotiate WS Contract with MUD
2	NE	CIVITAS	CIVITAS	CIVITAS	ACTIVE (APPROVED)	September 30, 2022	NONE
3	NE	FLORA	FLORA	HUTTO 525	ACTIVE (APPROVED)	August 5, 2022	NONE
4	SE	HALCYON	HALCYON	HWY 3349	Amended Notice Sent	July 3, 2024	File Comments/Public meeting TBD
5	NW	MANSIONS	LIMMER LOOP	705 LIMMERLOOPJV	Withdrew Application/now RR	March 28, 2024	NONE
6	NW	PEARL ESTATES	HUTTO TRACT	LIMMER HOLDINGS	Notice Sent/TCEQ Review	February 27, 2024	File Comments/Public meeting August 29 in Hutto
7	SW	PRESERVE	PRESERVE HUTTO	PRESERVE HUTTO	Referred for Hearing	July 23, 2024	Prepare for Hearing w/Star Ranch

SOAH = State Office of Administrative Hearings

Last updated: 26-Jul-24

Wastewater Package Plants



AGENDA ITEM REPORT

12.2.



To: City Council

Subject: Consideration and possible action on City Council Place 3 regarding compliance with Resolution R-2023-022 and Section 3.02 of the Hutto City Charter; declaring Council Place 3 per Section 3.06(a) and 3.06(b)(1) of the Hutto City Charter vacant for failure of Council Member for Place 3 to meet the qualifications of office; and if necessary, setting date for the filling of vacancy per Section 3.06(c) of the Hutto City Charter (Mayor Mike Snyder)

Meeting: Thursday, August 1, 2024

Department: City Council /

Staff Contact:

BACKGROUND INFORMATION:

SUMMARY OF REQUEST:

STAFF REVIEW:

FISCAL NOTES:

ATTACHMENTS:

1. R-2023-022_ Interpretation of Residency Requirements for Elected Positions in Hutto City Charter

RESOLUTION NO. R-2023-022

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
PROVIDING AN INTERPRETATION OF THE MEANING OF
RESIDING WITHIN THE CITY OF HUTTO, TEXAS, FOR THE
PURPOSES OF QUALIFICATIONS FOR ELECTIVE CITY
OFFICE, UNDER HUTTO CITY CHARTER SECTIONS 3.02 AND
3.06(b); PROVIDING PROPER NOTICE & MEETING, AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Hutto City Charter Section 3.02 states “In addition to any other qualifications prescribed by law, the Mayor and each Council member shall meet the conditions of Section 5.02 while in office, and shall reside within the City while in office”; and

WHEREAS, Hutto City Charter Section 3.06(b)(1) addresses forfeiture of office if the Mayor or any City Council member fails to maintain the qualifications as required in the Charter; and

WHEREAS, the City Council desires to provide an interpretation of residing within the City of Hutto, Texas, for the purposes of Hutto City Charter Sections 3.02 and 3.06(b).

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: The Hutto City Council hereby provides an interpretation of residing within the City of Hutto, Texas pursuant to Hutto City Charter Sections 3.02 and 3.06(b) for the City of Hutto for the Mayor or any City Council member maintaining residence in the City of Hutto during their term of office.

For the purposes of maintaining the qualifications of office as required by Hutto City Charter Sections 3.02 and 3.06(b)(1) a person shall reside within the City of Hutto, Texas, if:

- A. The person intends that the person’s domicile, that is the person’s home and fixed place of habitation to which the person intends to return after any temporary absence, is the person’s residence address within the corporate limits of the City, and such intent is supported by factual evidence including but not limited to:
 - i. a valid, unexpired voter registration card with the residence address;
 - ii. a valid, unexpired Texas driver’s license or state-issued identification certificate with the residence address;
 - iii. property tax receipts claiming a homestead exemption for the residence address, if the person is a homeowner;

- iv. a current residential rental lease agreement for the residence address, if the person is not a homeowner;
 - v. a declaration of domicile; or
 - vi. other activities indicative or associated with a person's domicile and home life.
- B. Any temporary absences of the person from the residence may be for temporary purposes with the intent to return to the residence, as evidenced by the person's intent that the residence be the person's domicile and the person having a legal right and ability to return to the residence.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

RESOLVED this 2nd day of February, 2023.



Mike Snyder, Mayor

ATTEST:



Angela Lewis, City Secretary

AGENDA ITEM REPORT

12.3.



To: City Council

Subject: Consideration and possible action on City Council Place 5 regarding compliance with Resolution R-2023-022 and Section 3.02 of the Hutto City Charter; declaring Council Place 5 per Section 3.06(a) and 3.06(b)(1) of the Hutto City Charter vacant for failure of Council Member for Place 5 to meet the qualifications of office; and if necessary, setting date for the filling of vacancy per Section 3.06(c) of the Hutto City Charter (Councilmember Randal Clark)

Meeting: Thursday, August 1, 2024

Department: City Council /

Staff Contact:

BACKGROUND INFORMATION:

R-2024-022 attached to previous item.

SUMMARY OF REQUEST:

STAFF REVIEW:

FISCAL NOTES:

ATTACHMENTS:

None

AGENDA ITEM REPORT

13.1.



To: City Council
Subject: Consideration and possible action to approve Resolution No. R-2024-166 to award the Northwest Transmission Main Waterline Project to the lowest responsive bidder, Nelson Lewis, Inc., in the amount of \$2,687,050 and authorizing the City Manager to execute the construction contract with Nelson Lewis, Inc (CIP Project W03-2023) (Matt Rector)
Meeting: Thursday, August 1, 2024
Department: Engineering /
Staff Contact: Matt Rector

BACKGROUND INFORMATION:

The proposed agenda item is a request to award a construction contract to Nelson Lewis for the Northwest Transmission Main capital project.

The proposed Northwest Transmission Main project improvements are included in the Capital Improvement Program as this project includes a 16-inch pipeline parallel to the existing pipeline along Limmer Loop from FM 1660 to the Northwest Ground Storage Tank (GST). This project will also serve as the interconnect with the Jonah Special Utility District (SUD) water system. This project must be completed in order to convert the northwestern part of the current 801 ft pressure plane to 890 ft pressure plane. The City of Hutto currently operates at 801 foot pressure plane, yet the northwestern area's water elevation requires a higher pressure for water flow to customers. The unprecedented projected growth requires the City to add a significant distribution system infrastructure to maintain regulatory compliance and system operations. To provide adequate elevated storage capacity in the 801' PP, by 2047.

The project consists of the installation of approximately 5,400 LF of 16" C900 PVC watermain along the north side of Limmer Loop, using a combination of open cut and trenchless installation methods. At its eastern end, the new watermain shall tie into an existing City of Hutto 16" watermain, and at its western end, the new watermain shall tie into the existing ground storage tank influent line at the City of Hutto's Northwest Ground Storage Tank site. B. The project also includes an interconnect with the Jonah Special Utility District's 16" watermain along Limmer Loop, which will connect directly to the existing Northwest ground storage tank via an existing wall penetration. C. Both the new Hutto watermain and the Jonah-Hutto interconnect will require flow monitoring, the new Hutto water main will require a pressure sustaining valve and all electrical and instrumentation integration associated therewith.

The City utilized the Competitive Sealed Proposal (CSP) method for selection of a general contractor, in accordance with Texas Local Government Code Chapter 2269, Subchapter D, Section 2269.151, which is a process requiring submission of written technical and price proposals from one or more

AGENDA ITEM REPORT

13.1.



offerors and a written evaluation of each proposal in accordance with evaluation criteria set forth in the solicitation. Freese and Nichols, Inc. provided an engineer's base bid estimate at \$6,310,940.

The contract documents were advertised in May and adhered to the following schedule:

First Advertisement Request for Bids: May 5, 2024

Second Advertisement Request for Bids: May 12, 2024

Pre-Bid Meeting: May 17, 2024

Deadline for questions: May 24, 2024

Bid Opening: June 21, 2024

Eight (8) bids were received. Four (4) were disqualified due to not providing all required documents from the request for proposals (RFP). Leaving only four (4) to be evaluated, and ranked in relation to the bidding documents and comparatively to unit bid pricing. Freese and Nichols, Inc. (FNI) and the City identified four of the eight bidders (Bell Contractors, CC Carlton, Joe Bland Construction and RUTS construction) were disqualified due to the missing bid submittal documents including the required Solicitation Response Form. The remaining bidders (Atlas Construction Corporation, Nelson Lewis, Inc., Patin Construction and Spiess Construction Co., Inc.) were evaluated by the selection committee and scored. Contractors' bids were tabulated by Freese and Nichols, Inc. for ranking results according to scores.

Ranking of General Contractors

1. Nelson Lewis, Inc. - \$2,687,050.00 Base Bid
2. Atlas Construction Corp.- \$2,777,150.00 Base Bid
3. Patin Construction - \$3,118,250.00 Base Bid
4. Speiss Construction Co. - \$5,324,200.00 Base Bid

Prior to the start of construction, the City Staff will coordinate with Jonah Water with communication for next steps and the pre-construction meeting. The City Staff concurs with the engineer's recommendation to award the contract for construction of the Northwest Transmission Main project in the amount of \$2,687,050.00 to Nelson Lewis, Inc.

SUMMARY OF REQUEST:

Staff requests approval of resolution for award of the construction contract.

STAFF REVIEW:

FISCAL NOTES:

Funding for the construction portion of this project is as follows:

Series 2022 GO

AGENDA ITEM REPORT

13.1.



ARPA Funds

Account Number: 57-040-058-6680 - Series 2022 GO

Account Number: 65-040-058-6782 - ARPA

Account Name: (W03) Northwest Transmission Water Lines

Budget: \$5,430,383

Engr/Design: \$814,557

Equipment: \$0

Materials Testing: \$40,728

ROW: \$162,911

Construction: \$4,412,187

Actuals: \$3,481,073

Engr/Design: \$769,947

Equipment:

Materials Testing: \$24,076 (item on this agenda)

ROW:

Construction: \$2,687,050

Construction:

Budget Amount: \$4,412,187

Actual Amount: \$2,687,050

Amount Remaining: \$1,725,137

ATTACHMENTS:

1. W_03_Northwest_Transmission_Water_Main_Jonah_SUD_Wholesale_Interconnect
2. 14.1 Res NWTM Water Line_Nelson Lewis Contract 7.22.24_FINAL_mm (1)
3. Letter of Recommendation - Nelson.A_07.05.2024

AGENDA ITEM REPORT

13.1.



-
4. NLI - Contract Documents_Nelson_07.08.2024
 5. COI Nelson Lewis, CH City of Hutto
 6. 1295 Form.Nelson

W-03 Northwest Transmission Water Main (Jonah SUD Wholesale Interconnect)



RESOLUTION NO. R-2024-###

A RESOLUTION OF THE CITY OF HUTTO, TEXAS, AWARDING A CONSTRUCTION CONTRACT FOR THE NORTHWEST TRANSMISSION MAIN WATERLINE PROJECT (CIP PROJECT W03-2023) TO NELSON LEWIS INC. IN THE AMOUNT OF \$2,687,050.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT BETWEEN NELSON LEWIS, INC. AND THE CITY OF HUTTO; PROVIDING PROPER NOTICE AND MEETING, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Hutto (“City”) received six bids for the pipeline associated with the Northwest Transmission Main Waterline Project (CIP Project W03-2023); and

WHEREAS, Freese and Nichols, Inc. assisted the City staff in reviewing the bids and recommended awarding the contract to Nelson Lewis, Inc., the contractor who provided the best value to the city; and

WHEREAS, the City Council desires to award the contract for the construction of the pipeline associated with the Northwest Transmission Main Waterline Project to Nelson Lewis, Inc.; and

WHEREAS, the City Council desires to authorize the City Manager to execute the Construction agreement (“Agreement”), attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: That the Hutto City Council hereby approves and authorizes the City Manager to execute the Agreement, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The Hutto City Council hereby approves and authorizes the City Manager to execute any subsequent Change Orders to the Agreement within the City Manager’s authority.

Section 4: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 5. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the 1st day of August, 2024, on vote of ____ AYES; ____ NAYS; and ____ ABSTENTIONS.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

00 52 13 AGREEMENT

This Agreement is between the City of Hutto (Owner) and **Nelson Lewis, Inc.** (Contractor).

Owner and Contractor agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is designated as follows:

Jonah SUD Wholesale Interconnect and 16-inch Diameter Water Transmission Line
W4

ARTICLE 2 – DESIGN PROFESSIONAL

2.01 The Design Professional for this Project is:

Freese and Nichols
800 Cherry Street Suite 2800
Fort Worth, TX, 76102

ARTICLE 3 – CONSTRUCTION MANAGER

3.01 The Construction Manager for this Project is to be determined by the City.

ARTICLE 4 – CONTRACT TIMES

4.01 Contract Times

- A. The Work is required to be substantially complete within 170 days after the date when the Contract Times commence to run as provided in the General Conditions and complete and ready for final payment in accordance with the General Conditions within 200 days after the date of Substantial Completion.
- B. The Work is required to be substantially complete on or before 170 days after the contract is awarded, and complete and ready for final payment in accordance with the General Conditions on or before 30 days after the substantial completion.
- C. Milestones and associated liquidated damages are as defined in Section 01 35 00 "Special Procedures."
- D. Critical Operations, maximum time out of service, and associated liquidated damages are as defined in Section 01 35 00 "Special Procedures."

4.02 Liquidated Damages

- A. Owner and Contractor recognize that the Contract Times specified for Substantial Completion and Final Completion are of the essence in the Contract. Owner and Contractor recognize that the Owner will suffer financial loss if the Work is not completed within the Contract Times specified in this Agreement as may be adjusted in accordance with the General Conditions. Owner and Contractor also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by

Owner if the Work is not completed within the Contract Times. Accordingly, instead of requiring proof of the amount of these damages, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Contractor agrees to pay Owner **\$2,000** for each day that expires after the time specified in this Agreement for Substantial Completion until the Work is substantially complete.
 2. Contractor agrees to pay Owner **\$2,000** for each day that expires after the time specified in this Agreement for Final Completion until the Work is completed and ready for final payment in accordance with the General Conditions.
- B. Liquidated damages for failing to timely attain Substantial Completion and Final Completion are not additive and will not be imposed concurrently.
- C. Contractor agrees to pay the Owner liquidated damages as stipulated in Section 01 35 00 "Special Procedures" for failure to meet Contract Times for Milestones or Critical Operations.
- D. OPT will determine whether the Work has been completed within the Contract Times. Assessment of liquidated damages by the Owner does not waive the Owner's right to assess or collect additional damages which the Owner may sustain by the failure of the Contractor to perform in accordance with the terms of the Contract.

4.03 Actual Damages

- A. Owner may be subject to additional financial losses as the result of damages to existing infrastructure. These losses were not included in the liquidated damages amount established in this Agreement. Contractor will be required to compensate the Owner for these losses if they occur due to the Contractor's failure to reach Substantial Completion by the date specified in this Agreement.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner will pay the Contractor the following amount for completion of the Work in accordance with the Contract Documents:

Lump Sum Contract Price	\$ 2,687,050.00
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- 5.02 Owner will pay Contractor for completion of the Work in accordance with the Contract Documents at the prices shown in this Agreement. The Contract Price has been computed in accordance with the General Conditions. Contractor acknowledges that for unit price items, estimated quantities are not guaranteed and are solely for the purpose of comparing Bids, and that final payment will be based on actual quantities determined in accordance with the Contract Documents.

ARTICLE 6 – PAYMENT PROCEDURES

- 6.01 Submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by the Construction Manager per Section 01 29 00 "Application for Payment Procedures."

- 6.02 Owner will make progress payments on or about the 25th day of each month during performance of the Work. Payment is based on the total earned value of Work completed in the previous month in accordance with the Schedule of Values established as provided in the General Conditions.
- 6.03 Payment will be made for the total earned value of Work completed in the previous month after deducting:
- A. Retainage calculated per this Agreement;
 - B. Set-offs determined in accordance with the General Conditions; and
 - C. The total amount of payments previously made.
- 6.04 Retainage
- A. Progress payments will be made in an amount equal to 90 percent of the total earned value to date for completed Work and properly stored materials. The remaining 10 percent of the total earned value to date will be held as retainage in accordance with Tex. Prop. Code Chapter 53.
 - B. Progress payments will be made in an amount equal to 95 percent of the total earned value to date for completed Work and properly stored materials. The remaining 5 percent of the total earned value to date will be held as retainage in accordance with Tex. Transp. Code Chapter 223.
 - C. Progress payments will be made in an amount equal to 90 percent of the total earned value to date for completed Work and properly stored materials. The remaining 10 percent of the total earned value to date will be held as retainage in accordance with Tex. Gov't Code Chapter 2252.
 - D. Progress payments will be made in an amount equal to 95 percent of the total earned value to date for completed Work and properly stored materials. The remaining 5 percent of the total earned value to date will be held as retainage. Owner and Contractor may agree to deposit retainage in an interest-bearing account as allowed by Tex. Gov't Code Chapter 2252. Any interest earned by that account will be paid to the Contractor in accordance with Chapter 2252.
 - E. Progress payments will be made in an amount equal to 90 percent of the total earned value to date for completed Work and properly stored materials. The remaining 10 percent of the total earned value to date will be held as retainage. Owner may authorize that remaining payments be made in an amount equal to 100 percent of the total earned value for Work and properly stored materials completed after 50 percent of the Work has been completed, provided the Owner finds that the Work completed to date is satisfactory and that progress to date indicates that the Project will be completed within the Contract Times. This retainage amount may be adjusted for changes in the Contract Price that occur after 50 percent of the Contract Price has been paid to the Contractor. The reduction in the amount of retainage held after 50 percent of the Work has been completed requires approval of the Owner's governing body.
 - F. Owner may reduce the amount of retainage held after Substantial Completion if the Owner determines that the amount of retainage being held is in excess of that needed to protect the interest of the Owner. Owner may pay Contractor 100 percent of the earned value of the Work completed, less amounts withheld in accordance with the General Conditions and

less 200 percent of Construction Manager's estimate of the value of Work to be completed or corrected to reach Final Completion. The reduction in the amount of retainage held per this paragraph requires approval of the Owner's governing body.

- G. Retainage held by the Owner will be deposited in an interest-bearing account, with any interest earned by that account paid to the Contractor, only as required by Tex. Water Code Chapter 49 and Tex. Gov't Code Chapter 2252.
- 6.05 Release or reduction in retainage is contingent upon the consent of surety to the reduction in retainage. Submit a Consent of Surety Company to Reduction of or Partial Release of Retainage form as provided by or approved by the Construction Manager.
- 6.06 Owner will pay the remainder of the Contract Price as recommended by Construction Manager in accordance with the General Conditions upon Final Completion and acceptance of the Work.

ARTICLE 7 – PAYMENT OF INTEREST

- 7.01 All moneys not paid when due as provided in the General Conditions will earn interest at the rate specified in Tex. Gov't Code Chapter 2251. Interest accrual will cease upon payment by the Owner.
- 7.02 No interest payments will be paid to the Contractor for invoices not paid when due as provided in the General Conditions.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 The Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied the following Site related reports and drawings as identified in the Supplementary Conditions:
 - 1. Geotechnical Data Reports regarding subsurface conditions at or adjacent to the Site;
 - 2. Drawings of physical conditions relating to existing surface or subsurface structures at the Site;
 - 3. Underground Facilities referenced in reports and drawings;
 - 4. Reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site; and
 - 5. Technical Data related to each of these reports and drawings.
 - E. Contractor has considered the:
 - 1. Information known to Contractor;
 - 2. Information commonly known to contractors doing business in the locality of the Site;

3. Information and observations obtained from visits to the Site; and
 4. The Contract Documents.
- F. Contractor has considered the items identified in this Article with respect to the effect of such information, observations, and documents on:
1. The cost, progress, and performance of the Work;
 2. The means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and
 3. Contractor's safety precautions and programs.
- G. Based on the information and observations referred to in the preceding paragraphs, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- H. Contractor is aware of the general nature of Work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- I. Contractor has correlated the information known to the Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- J. Contractor has given the Construction Manager written notice of all conflicts, errors, ambiguities, or discrepancies that the Contractor has discovered in the Contract Documents, and the written resolution provided by the Construction Manager is acceptable to the Contractor.
- K. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- L. Contractor's entry into this Agreement constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – ACCOUNTING RECORDS

- 9.01 Accounting Record Availability: Contractor is to establish and maintain, in accordance with generally accepted accounting practices, full and detailed accounting records of materials incorporated into the Project, and labor, tools, materials, and equipment used for the Work, consistent with the requirements of the General Conditions and as necessary for proper financial management under this Agreement. Subject to prior written notice, provide Owner reasonable access during normal business hours to Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and the Contractor's fee. Preserve all such documents for a period of 3 years after the final payment by the Owner.

ARTICLE 10 – OTHER REQUIREMENTS

10.01 Workers' Compensation Insurance

- A. By signing this Agreement, Contractor certifies that it provides workers' compensation insurance coverage for all employees employed on this Project pursuant to Tex. Lab. Code Section 406.096(a).
- B. As required by Section 406.096(b), Contractor must require each Subcontractor to certify in writing to the Contractor that the Subcontractor provides workers' compensation insurance coverage for all of the employees it employs on this Project. Contractor must provide these certifications to the Owner within 10 days of the Effective Date of the Agreement.

10.02 Contracts Prohibited by Tex. Gov't Code Chapter 2155

A. Section 2155.004:

- 1. Section 2155.004 states that "a state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based."
- 2. Under Section 2155.004, Government Code, Contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

B. Section 2155.006:

- 1. Section 2155.006 states that "a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.
- 2. Under Section 2155.006, Government Code, Contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

10.03 Prohibition on Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organizations

- A. Tex. Gov't Code Chapter 2252, Subchapter F, prohibits the award of governmental contracts to companies engaged in business with Iran, Sudan, or foreign terrorist organizations.

- B. By signing this Agreement, Contractor certifies that it is not ineligible to be awarded this Contract under Chapter 2252, Subchapter F.
- 10.04 Prohibition on Contracts with Certain Companies that Boycott Israel
- A. Tex. Gov't Code Chapter 2271 prohibits a governmental entity from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.
 - B. By signing this Agreement, Contractor certifies that it does not boycott Israel and will not boycott Israel during the term of this Contract.
- 10.05 Prohibition on Contracts with Certain Foreign-Owned Companies in Connection with Critical Infrastructure
- A. Tex. Gov't Code Chapter 2274, as added by SB 2116 during the 87th Leg., prohibits a governmental entity from entering into certain contracts or other agreements relating to critical infrastructure if the governmental entity knows that the company has ownership interests held or controlled by citizens or the governments of China, Iran, North Korea, Russia or other countries designated by the State of Texas.
 - B. By signing this Agreement, Contractor certifies that it is not ineligible to be awarded this Contract under this Chapter 2274.
- 10.06 Prohibition on Contracts with Companies Boycotting Certain Energy Companies
- A. Tex. Gov't Code Chapter 2274, as added by SB 13 during the 87th Leg., prohibits a governmental entity from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.
 - B. By signing this Agreement, Contractor certifies that it does not boycott energy companies and will not boycott energy companies during the term of this Contract.
- 10.07 Prohibition on Contracts with Companies That Discriminate Against Firearm and Ammunition Industries
- A. Tex. Gov't Code Chapter 2274, as added by SB 19 during the 87th Leg., prohibits a governmental entity from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.
 - B. By signing this Agreement, Contractor certifies that it does 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 the contract.
- 10.08 Certificate of Interested Parties: Contractor must complete and submit a Certificate of Interested Parties (Form 1295) to the Owner with the signed Agreement as required by Tex. Gov't Code Section 2252.908.

ARTICLE 11 – VENUE

11.01 Contractor agrees that venue lies exclusively in Williamson County, Texas for any legal action.

ARTICLE 12 – CONTRACT DOCUMENTS

12.01 Contract Documents

- A. Specifications Sections listed in Section 00 01 10 "Table of Contents" except as specifically excluded in Paragraph 12.02.
- B. Drawings listed in the Sheet Index on the Drawings.
- C. The following are also Contract Documents which may be delivered or issued on or after the Effective Date of the Contract:
 - 1. Notice to Proceed.
 - 2. Contract Amendment(s).
 - 3. Change Order(s).
 - 4. Field Order(s).
 - 5. Work Change Directive(s).
- D. There are no Contract Documents other than those listed above in this Paragraph. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

12.02 Bidding Requirements and Informational Documents

- A. The following Bidding Requirements are not Contract Documents:
 - 1. 00 01 01 Project Cover Sheet
 - 2. 00 01 07 Design Professional Seals
 - 3. 00 01 10 Table of Contents
 - 4. 00 11 16 Invitation to Bid
 - 5. 00 21 13 Instructions to Offerors
 - 6. 00 41 13 Bid Form
 - 7. 00 41 16 Bid Form Exhibit A
 - 8. 00 43 13 Bid Bond
 - 9. 00 45 01 Nonresident Bidders
 - 10. 00 45 02 Non Collusion Certification
 - 11. 00 45 03 Conflict of Interest Questionnaire
 - 12. 00 45 04 State Sales Tax Requirements
 - 13. 00 45 13 Qualifications Statement

- B. The following documents are provided for information only and are not part of the Contract Documents:
1. Geotechnical Investigation Report.
 2. Subsurface Utility Engineering (SUE) Report.
 3. Environmental Report.

CORPORATE AUTHORIZATION RESOLUTION

RESOLVED, that the Board of Directors of Nelson Lewis, Inc., a corporation duly organized and existing under the laws of the State of Texas, that the following is a true, accurate and compared transcript of resolution contained in the minutes book of the Corporation, duly adopted at a meeting of the Board of Directors of said Corporation on January 3, 2022 at which meeting there was present and acting throughout a quorum authorized to transact business hereinafter described, and that the proceedings of said meeting were in accordance with the charter and by-laws of said Corporation and that said resolutions have not been amended or revoked and are in full force and effect:

"BE IT RESOLVED, that Mark Bray, Operations Manager, is hereby authorized and empowered to sign any and all documents, including contracts, on behalf of said Corporation, and is authorized to bind the Corporation."

CERTIFICATION

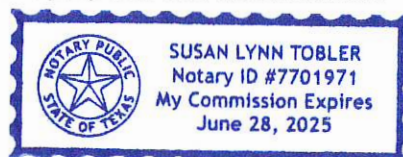
The undersigned Secretary of Nelson Lewis, Inc. hereby certifies that the foregoing is a true and correct copy of a resolution adopted by the Board of Directors of this Corporation and that said resolution is now in full force and effect and is duly recorded in the corporate minutes of said meeting.

Witness my hand and the seal of the Corporation this 3rd day of January, 2022.

Hank Lewis, CEO, Vice President

State of Texas
County of Burnet

On this the 3rd day of January, 2022, before me personally appeared Hank Lewis, known to me to be the person whose name is subscribed to the above instrument and acknowledge that he executed the same for the purposes therein contained.



Notary Public

July 6, 2024

Patricia A. Davis, Sr., P.E., LGPP
CIP Engineering
City of Hutto
500 W. Live Oak Street
TX 78634

Re: Northwest Transmission Main RFP-2024-023-PD-W03-2024-03

Dear Ms. Davis:

8 bids for the above-referenced project were received and opened on June 21, 2024. The bids have been tabulated, checked for completeness and scored. A full tabulation of the bids is attached for your records.

Summary of Bids

Bidder Name	Total Amount Bid
Atlas Construction Corporation	\$2,777,150
Bell Contractors	\$2,963,358
CC Carlton	\$2,691,153
Joe Bland Construction	\$2,642,450
Nelson Lewis, Inc.	\$2,687,050
Patin Construction	\$3,118,250
RUTS Construction	\$3,049,771
Spiess Construction Co., Inc.	\$5,324,200

Freese and Nichols, Inc. (FNI) and the City identified four of the eight bidders (Bell Contractors, CC Carlton, Joe Bland Construction and RUTS construction) were disqualified due to the missing bid submittal documents including the required Solicitation Response Form. The remaining bidders (Atlas Construction Corporation, Nelson Lewis, Inc., Patin Construction and Spiess Construction Co., Inc.) were evaluated by the selection committee and scored. The highest ranked bidder was Nelson Lewis, Inc. Their submittal had all the required documents from the Hutto Request for Proposal (RFP). FNI recommends that the City of Hutto proceed with issuing a Notice of Intent of Award for Nelson Lewis, Inc.

Sincerely,



07/06/2024

Adriell Shrikissoon, P.E.
Engineer of Record

cc: Patricia A. Davis Sr., P.E., LGPP – City of Hutto Project Manager
Matt Rector Sr., P.E., CFM – City of Hutto Engineer
Kyle Tran – City of Hutto Purchasing Supervisor
Anne Hoskins, P.E. – Freese and Nichols, Inc. Project Manager

Checklist of Required Documents		x	x	x	x	x	x	x	x
		\$ 2,777,150	\$ 2,963,358	\$ 2,691,153	\$ 2,642,450	\$ 2,687,050	\$ 3,118,250	\$ 3,049,771	\$ 5,324,200
Item	Weight	Atlas Construction Corporation	Bell Contractors	CC Carlton	Joe Bland Construction	Nelson Lewis, Inc.	Patin Construction	RUTS Construction	Spiess Construction Co., Inc.
Hutto - Exhibit A	-	x	-	-	-	x	x	-	x
Solicitation Response Form	-	x	[REQ'D @ SUBMISSION]	[D @ SUBMISS	[REQ'D @ SUBMISSION]	x	x	REQ'D @ SUBMISSION	x
Hutto - Exhibit B	-	x	[MISSING]	[MISSING]	[MISSING]	x	x	[MISSING]	x
Cooperative Purchasing form	-	x	[MISSING]	[MISSING]	[MISSING]	x	x	[MISSING]	x
W-9	-	[MISSING]	[MISSING]	[MISSING]	[MISSING]	x	x	[MISSING]	x
Hutto - Exhibit C	-	x	-	-	[MISSING]	x	x	-	x
Company Profile Form	-	x	[MISSING]	[MISSING]	[MISSING]	x	x	[MISSING]	x
Experience Form	-	x	[MISSING]	[MISSING]	x	x	x	[MISSING]	x
List of Machinery & Equip	-	x	[MISSING]	[MISSING]	x	x	x	[MISSING]	x
Hutto - Exhibit D	-	x	-	-	[MISSING]	-	x	-	-
References	-	x	[MISSING]	[MISSING]	[MISSING]	x	x	[MISSING]	[MISSING]
Deviation or Compliance form	-	x	[MISSING]	[MISSING]	[MISSING]	[MISSING]	x	[MISSING]	x
00 41 16 Bid Form	-	x	x	x	x	x	x	x	x
00 43 13 Bid Bond	-	x	x	x	x	x	x	x	x
00 45 01 Non-Resident Bidders	-	x	x	x	x	x	x	x	x
00 45 02 Non-Collusion Certificate	-	x	x	x	x	x	x	x	x
00 45 03 Certificate of Interest Questionnaire	-	x	x	x	x	x	x	x	x
00 45 04 Sales Tax Requirements	-	x	x	x	x	x	x	x	x
MBE SBE	-	x	-	-	-	-	-	-	-
Price (50%) [50 max]	50%	41	-	-	-	44	34	-	12
Plan, schedule, QC (30%) [30 max]	30%	14	-	-	-	9	10	-	16
Background, Exp, Qual, Safety (20%) [20 max]	20%	13	-	-	-	16	15	-	18
Overall Rank		68	N/A	N/A	N/A	69	59	N/A	46

						x				x						x		x				
Item	Description	Unit	Quantity	OPCC	Total		Joe Bland Const	Total	Nelson Lewis, Inc	Total	CC Carlton	Total	Atlas Constructio	Total	Bell Contractors	Total	RUTS Constructio	Total	Patin Constructio	Total	Spiess Constructi	Total
Base Bid																						
General																						
1	Mobilization (5%)	LS	1	\$ 261,000	\$ 261,000		\$110,000.00	\$110,000.00	\$85,000.00	\$85,000.00	\$94,200.00	\$94,200.00	\$138,000.00	\$138,000.00	\$131,938.77	\$131,938.77	\$103,000.00	\$103,000.00	\$5,000.00	\$5,000.00	\$245,000.00	\$245,000.00
2	Traffic Control Plan and Implementation	LS	1	\$ 70,600	\$ 70,600		\$15,300.00	\$15,300.00	\$1,000.00	\$1,000.00	\$30,000.00	\$30,000.00	\$40,000.00	\$40,000.00	\$90,947.39	\$90,947.39	\$23,045.00	\$23,045.00	\$8,000.00	\$8,000.00	\$80,000.00	\$80,000.00
3	Clearing and Grubbing	AC	4.2	\$ 16,548	\$ 69,500		\$3,500.00	\$14,700.00	\$1,500.00	\$6,300.00	\$1,150.00	\$4,830.00	\$5,000.00	\$21,000.00	\$2,875.00	\$12,075.00	\$9,744.05	\$40,925.01	\$250.00	\$1,050.00	\$4,000.00	\$16,800.00
4	Tree Protection	LS	1	\$ 17,700	\$ 17,700		\$2,500.00	\$2,500.00	\$1,000.00	\$1,000.00	\$1,500.00	\$1,500.00	\$1,000.00	\$1,000.00	\$6,325.00	\$6,325.00	\$13,531.00	\$13,531.00	\$300.00	\$300.00	\$2,000.00	\$2,000.00
5	Preparation of SWPPP	LS	1	\$ 7,800	\$ 7,800		\$2,500.00	\$2,500.00	\$5,000.00	\$5,000.00	\$3,500.00	\$3,500.00	\$5,000.00	\$5,000.00	\$5,750.00	\$5,750.00	\$5,111.00	\$5,111.00	\$1,500.00	\$1,500.00	\$6,000.00	\$6,000.00
6	Implementation of SWPPP	LS	1	\$ 55,200	\$ 55,200		\$15,000.00	\$15,000.00	\$10,000.00	\$10,000.00	\$67,500.00	\$67,500.00	\$81,500.00	\$81,500.00	\$14,375.00	\$14,375.00	\$54,032.00	\$54,032.00	\$1,500.00	\$1,500.00	\$60,000.00	\$60,000.00
Sub Totals					\$481,800.00			\$160,000.00		\$108,300.00		\$201,530.00		\$286,500.00		\$261,411.16		\$239,644.01		\$17,350.00		\$409,800.00
Civil																						
7	16-in C900 PVC Water Main, Open Cut	LF	4400	\$ 422	\$ 1,854,800		\$105.00	\$462,000.00	\$105.00	\$462,000.00	\$111.00	\$488,400.00	\$146.00	\$642,400.00	\$122.49	\$538,956.00	\$125.00	\$550,000.00	\$108.36	\$476,784.00	\$497.00	\$2,186,800.00
8	16-in C900 PVC Water Main w/ 30-in Steel Casing, Jack and Bore Installation	LF	680	\$ 1,516	\$ 1,030,900		\$725.00	\$493,000.00	\$1,000.00	\$680,000.00	\$915.00	\$622,200.00	\$560.00	\$380,800.00	\$983.41	\$668,718.80	\$1,042.00	\$708,560.00	\$1,270.00	\$863,600.00	\$1,300.00	\$884,000.00
9	16-in C900 PVC Water Main w/ Steel Casing, Open Cut Installation	LF	710	\$ 544	\$ 385,900		\$350.00	\$248,500.00	\$380.00	\$269,800.00	\$425.00	\$301,750.00	\$350.00	\$248,500.00	\$446.46	\$316,986.60	\$384.00	\$272,640.00	\$440.00	\$312,400.00	\$700.00	\$497,000.00
10	Miscellaneous Ductile Iron Fittings	TON	9	\$ 30,878	\$ 277,900		\$3,500.00	\$31,500.00	\$5,000.00	\$45,000.00	\$5,500.00	\$49,500.00	\$10,000.00	\$90,000.00	\$12,299.82	\$110,698.38	\$6,912.00	\$62,208.00	\$7,200.00	\$64,800.00	\$6,000.00	\$54,000.00
11	16-in Gate Valve, MJ	EA	6	\$ 11,033	\$ 66,200		\$8,500.00	\$51,000.00	\$14,000.00	\$84,000.00	\$11,350.00	\$68,100.00	\$16,000.00	\$96,000.00	\$12,905.27	\$77,431.62	\$16,592.00	\$99,552.00	\$20,000.00	\$120,000.00	\$20,000.00	\$120,000.00
12	16-in Tapping Sleeve & Valve	EA	2	\$ 44,100	\$ 88,200		\$40,000.00	\$80,000.00	\$27,000.00	\$54,000.00	\$25,950.00	\$51,900.00	\$75,000.00	\$150,000.00	\$30,464.31	\$60,928.62	\$33,476.00	\$66,952.00	\$50,000.00	\$100,000.00	\$45,000.00	\$90,000.00
13	2-in CARV	EA	6	\$ 883	\$ 5,300		\$4,100.00	\$24,600.00	\$4,600.00	\$27,600.00	\$3,200.00	\$19,200.00	\$4,000.00	\$24,000.00	\$4,410.94	\$26,465.64	\$6,071.00	\$36,426.00	\$5,500.00	\$33,000.00	\$9,000.00	\$54,000.00
14	Fire Hydrant Assembly	EA	12	\$ 5,883	\$ 70,600		\$9,000.00	\$108,000.00	\$9,000.00	\$108,000.00	\$8,600.00	\$103,200.00	\$8,000.00	\$96,000.00	\$7,197.47	\$86,369.64	\$9,826.00	\$117,912.00	\$9,500.00	\$114,000.00	\$7,000.00	\$84,000.00
15	Jonah Interconnect Vault Assembly	LS	1	\$ 83,800	\$ 83,800		\$94,000.00	\$94,000.00	\$75,000.00	\$75,000.00	\$69,750.00	\$69,750.00	\$80,000.00	\$80,000.00	\$97,857.42	\$97,857.42	\$105,442.00	\$105,442.00	\$130,000.00	\$130,000.00	\$120,000.00	\$120,000.00
16	Hutto Vault Assembly	LS	1	\$ 158,300	\$ 158,300		\$161,000.00	\$161,000.00	\$140,000.00	\$140,000.00	\$120,500.00	\$120,500.00	\$118,000.00	\$118,000.00	\$112,211.02	\$112,211.02	\$176,193.00	\$176,193.00	\$225,000.00	\$225,000.00	\$160,000.00	\$160,000.00
17	Jonah Connection to Existing 16-in Pipe at GST	LS	3	\$ 4,067	\$ 12,200		\$3,900.00	\$11,700.00	\$2,500.00	\$7,500.00	\$5,100.00	\$15,300.00	\$1,000.00	\$3,000.00	\$4,028.28	\$12,084.84	\$2,663.00	\$7,989.00	\$5,000.00	\$15,000.00	\$3,000.00	\$9,000.00
18	Hutto Connection to Existing 16-in Pipe at NW GST Site	LS	1	\$ 12,200	\$ 12,200		\$4,500.00	\$4,500.00	\$2,500.00	\$2,500.00	\$5,700.00	\$5,700.00	\$2,000.00	\$2,000.00	\$3,943.87	\$3,943.87	\$7,117.00	\$7,117.00	\$5,000.00	\$5,000.00	\$3,000.00	\$3,000.00
19	Chemical System Piping Modifications	LS	1	\$ 21,000	\$ 21,000		\$4,000.00	\$4,000.00	\$3,000.00	\$3,000.00	\$19,050.00	\$19,050.00	\$5,000.00	\$5,000.00	\$11,135.40	\$11,135.40	\$13,927.00	\$13,927.00	\$25,000.00	\$25,000.00	\$2,500.00	\$2,500.00
20	Concrete Restoration	SY	360	\$ 177	\$ 63,600		\$135.00	\$48,600.00	\$140.00	\$50,400.00	\$110.00	\$39,600.00	\$30.00	\$10,800.00	\$185.39	\$66,740.40	\$121.00	\$43,560.00	\$100.00	\$36,000.00	\$300.00	\$108,000.00
21	Asphalt Restoration	SY	150	\$ 158	\$ 23,700		\$125.00	\$18,750.00	\$210.00	\$31,500.00	\$190.00	\$28,500.00	\$25.00	\$3,750.00	\$87.64	\$13,146.00	\$103.00	\$15,450.00	\$200.00	\$30,000.00	\$200.00	\$30,000.00
22	Curb and Gutter Restoration	LF	230	\$ 79	\$ 18,200		\$50.00	\$11,500.00	\$35.00	\$8,050.00	\$30.00	\$6,900.00	\$30.00	\$6,900.00	\$51.75	\$11,902.50	\$166.00	\$38,180.00	\$100.00	\$23,000.00	\$50.00	\$11,500.00
23	Sod Restoration	SY	11800	\$ 15	\$ 179,800		\$12.00	\$141,600.00	\$8.00	\$94,400.00	\$5.25	\$61,950.00	\$6.00	\$70,800.00	\$5.18	\$61,124.00	\$3.00	\$35,400.00	\$2.00	\$23,600.00	\$6.00	\$70,800.00
Sub Totals					\$4,352,600.00			\$1,994,250.00		\$2,142,750.00		\$2,071,500.00		\$2,027,950.00		\$2,276,700.75		\$2,357,508.00		\$2,597,184.00		\$4,484,600.00
Electrical																						
24	Misc. Electrical (Breakers, Grounding, Wall Penetrations, etc.)	LS	1	\$ 7,000	\$ 7,000		\$53,000.00	\$53,000.00	\$17,000.00	\$17,000.00	\$39,050.00	\$39,050.00	\$31,000.00	\$31,000.00	\$6,325.00	\$6,325.00	\$21,096.00	\$21,096.00	\$60,000.00	\$60,000.00	\$17,000.00	\$17,000.00
25	Cable and Conduit (Ductbank, etc.)	LS	1	\$ 24,000	\$ 24,000		\$66,500.00	\$66,500.00	\$80,000.00	\$80,000.00	\$39,625.00	\$39,625.00	\$90,000.00	\$90,000.00	\$51,750.00	\$51,750.00	\$91,302.00	\$91,302.00	\$66,500.00	\$66,500.00	\$73,500.00	\$73,500.00
26	Electrical Pullboxes	EA	3	\$ 5,500	\$ 16,500		\$11,000.00	\$33,000.00	\$1,100.00	\$3,300.00	\$1,250.00	\$3,750.00	\$2,000.00	\$6,000.00	\$4,025.00	\$12,075.00	\$1,507.00	\$4,521.00	\$30,500.00	\$91,500.00	\$1,200.00	\$3,600.00
27	SCADA (PLC Equipment, Programing and Hardware)	LS	1	\$ 27,000	\$ 27,000		\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$59,950.00	\$9,950.00	\$9,950.00	\$59,950.00	\$59,950.00
28	Pressure Transmitter	EA	2	\$ 13,000	\$ 26,000		\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00	\$500.00	\$1,000.00
29	12" Flow Meter, In-Line	EA	2	\$ -			\$12,375.00	\$24,750.00	\$12,375.00	\$24,750.00	\$12,375.00	\$24,750.00	\$12,375.00	\$24,750.00	\$12,375.00	\$24,750.00	\$12,375.00	\$24,750.00	\$12,375.00	\$24,750.00	\$12,375.00	\$24,750.00
30	Contingency Allowance	LS	1	\$ 250,000	\$ 250,000		\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00
Sub Totals					\$350,500.00			\$488,200.00		\$436,000.00		\$418,125.00		\$462,700.00		\$405,850.00		\$452,619.00		\$503,700.00		\$429,800.00
Grand Total					\$ 5,184,900			\$2,642,450.00		\$2,687,050.00		\$2,691,155.00		\$2,777,150.00		\$2,943,961.91		\$3,049,771.01		\$3,118,234.00		\$5,324,200.00



Mayor
Mike Snyder

Mayor Pro Tem
Peter Gordon

Council Members
Brian Thompson, Place 1
Dan Thornton, Place 2
Randal Clark, Place 3

Peter Gordon, Place 4
Evan Porterfield, Place 5
Amberley Kolar, Place 6

City Manager James Earp

NOTICE OF INTENT TO AWARD

TO: Nelson Lewis, Inc.

ADDRESS: P.O. Box 235, Marble Falls, TX, 78654

PROJECT: W4: Northwest Transmission Main RFP-2024-023-
PD-W03-2024-03

Please take notice the City Engineer of Hutto is recommending that the City Council award a construction contract for the above project.

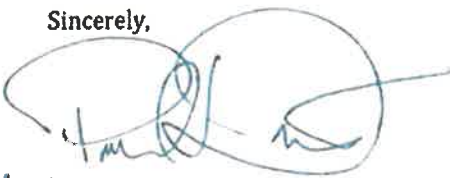
You are notified that your Proposal dated June 21, 2024, for the above Contract has been submitted for considerations as recommendation for award of a Construction Contract on July 2nd, 2024. You are the recommended general contractor for the Northwest Transmission Main RFP project.

The Contract Price as presented is Two Million, Six Hundred and Eighty-Seven Thousand, Fifty Dollars and Zero cents (\$2,687,050.00).

Please complete and deliver the following items via hardcopy and electronic format:

- One (1) executed Deviation or Compliance form, Section 4.6 of the RFP
- One (1) executed copy of the Notice of Intent to Award (NOIA)
- One (1) executed contract (Agreement) signed and notarized (Corporate seal affixed if applicable)
- One (1) copy of the Performance Bond, and letter of credit as applicable, and one (1) copy of the Payment Bond as required in the "Instructions to Offerors".
- One (1) copy of the Certificate of Insurance requirements showing coverage in accordance with contract documents.

Sincerely,


 Matt Rector, Sr., P.E., CFM
City Engineer

CC: Patricia A. Davis, MSCE, P.E., LGPP

500 W. Live Oak St. Hutto, Texas 78634
512-759-4033 www.huttotx.gov

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF INTENT TO AWARD is hereby acknowledge by:

Contractor: Nelson Lewis, Inc.

This the 8th day of July, 2024
By: [Signature]
Title: Project Manager

You are required to return an acknowledge copy of the NOTICE OF INTENT TO AWARD to City of Hutto and DCS.

00 52 13 AGREEMENT

This Agreement is between the City of Hutto (Owner) and **Nelson Lewis, Inc.** (Contractor).

Owner and Contractor agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is designated as follows:

Jonah SUD Wholesale Interconnect and 16-inch Diameter Water Transmission Line
W4

ARTICLE 2 – DESIGN PROFESSIONAL

- 2.01 The Design Professional for this Project is:

Freese and Nichols
800 Cherry Street Suite 2800
Fort Worth, TX, 76102

ARTICLE 3 – CONSTRUCTION MANAGER

- 3.01 The Construction Manager for this Project is to be determined by the City.

ARTICLE 4 – CONTRACT TIMES

- 4.01 Contract Times

- A. The Work is required to be substantially complete within 170 days after the date when the Contract Times commence to run as provided in the General Conditions and complete and ready for final payment in accordance with the General Conditions within 200 days after the date of Substantial Completion.
- B. The Work is required to be substantially complete on or before 170 days after the contract is awarded, and complete and ready for final payment in accordance with the General Conditions on or before 30 days after the substantial completion.
- C. Milestones and associated liquidated damages are as defined in Section 01 35 00 "Special Procedures."
- D. Critical Operations, maximum time out of service, and associated liquidated damages are as defined in Section 01 35 00 "Special Procedures."

- 4.02 Liquidated Damages

- A. Owner and Contractor recognize that the Contract Times specified for Substantial Completion and Final Completion are of the essence in the Contract. Owner and Contractor recognize that the Owner will suffer financial loss if the Work is not completed within the Contract Times specified in this Agreement as may be adjusted in accordance with the General Conditions. Owner and Contractor also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by

Owner if the Work is not completed within the Contract Times. Accordingly, instead of requiring proof of the amount of these damages, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Contractor agrees to pay Owner **\$2,000** for each day that expires after the time specified in this Agreement for Substantial Completion until the Work is substantially complete.
 2. Contractor agrees to pay Owner **\$2,000** for each day that expires after the time specified in this Agreement for Final Completion until the Work is completed and ready for final payment in accordance with the General Conditions.
- B. Liquidated damages for failing to timely attain Substantial Completion and Final Completion are not additive and will not be imposed concurrently.
- C. Contractor agrees to pay the Owner liquidated damages as stipulated in Section 01 35 00 "Special Procedures" for failure to meet Contract Times for Milestones or Critical Operations.
- D. OPT will determine whether the Work has been completed within the Contract Times. Assessment of liquidated damages by the Owner does not waive the Owner's right to assess or collect additional damages which the Owner may sustain by the failure of the Contractor to perform in accordance with the terms of the Contract.

4.03 Actual Damages

- A. Owner may be subject to additional financial losses as the result of damages to existing infrastructure. These losses were not included in the liquidated damages amount established in this Agreement. Contractor will be required to compensate the Owner for these losses if they occur due to the Contractor's failure to reach Substantial Completion by the date specified in this Agreement.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner will pay the Contractor the following amount for completion of the Work in accordance with the Contract Documents:

Lump Sum Contract Price	\$ 2,687,050.00
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- 5.02 Owner will pay Contractor for completion of the Work in accordance with the Contract Documents at the prices shown in this Agreement. The Contract Price has been computed in accordance with the General Conditions. Contractor acknowledges that for unit price items, estimated quantities are not guaranteed and are solely for the purpose of comparing Bids, and that final payment will be based on actual quantities determined in accordance with the Contract Documents.

ARTICLE 6 – PAYMENT PROCEDURES

- 6.01 Submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed by the Construction Manager per Section 01 29 00 "Application for Payment Procedures."

- 6.02 Owner will make progress payments on or about the 25th day of each month during performance of the Work. Payment is based on the total earned value of Work completed in the previous month in accordance with the Schedule of Values established as provided in the General Conditions.
- 6.03 Payment will be made for the total earned value of Work completed in the previous month after deducting:
- A. Retainage calculated per this Agreement;
 - B. Set-offs determined in accordance with the General Conditions; and
 - C. The total amount of payments previously made.
- 6.04 Retainage
- A. Progress payments will be made in an amount equal to 90 percent of the total earned value to date for completed Work and properly stored materials. The remaining 10 percent of the total earned value to date will be held as retainage in accordance with Tex. Prop. Code Chapter 53.
 - B. Progress payments will be made in an amount equal to 95 percent of the total earned value to date for completed Work and properly stored materials. The remaining 5 percent of the total earned value to date will be held as retainage in accordance with Tex. Transp. Code Chapter 223.
 - C. Progress payments will be made in an amount equal to 90 percent of the total earned value to date for completed Work and properly stored materials. The remaining 10 percent of the total earned value to date will be held as retainage in accordance with Tex. Gov't Code Chapter 2252.
 - D. Progress payments will be made in an amount equal to 95 percent of the total earned value to date for completed Work and properly stored materials. The remaining 5 percent of the total earned value to date will be held as retainage. Owner and Contractor may agree to deposit retainage in an interest-bearing account as allowed by Tex. Gov't Code Chapter 2252. Any interest earned by that account will be paid to the Contractor in accordance with Chapter 2252.
 - E. Progress payments will be made in an amount equal to 90 percent of the total earned value to date for completed Work and properly stored materials. The remaining 10 percent of the total earned value to date will be held as retainage. Owner may authorize that remaining payments be made in an amount equal to 100 percent of the total earned value for Work and properly stored materials completed after 50 percent of the Work has been completed, provided the Owner finds that the Work completed to date is satisfactory and that progress to date indicates that the Project will be completed within the Contract Times. This retainage amount may be adjusted for changes in the Contract Price that occur after 50 percent of the Contract Price has been paid to the Contractor. The reduction in the amount of retainage held after 50 percent of the Work has been completed requires approval of the Owner's governing body.
 - F. Owner may reduce the amount of retainage held after Substantial Completion if the Owner determines that the amount of retainage being held is in excess of that needed to protect the interest of the Owner. Owner may pay Contractor 100 percent of the earned value of the Work completed, less amounts withheld in accordance with the General Conditions and

less 200 percent of Construction Manager's estimate of the value of Work to be completed or corrected to reach Final Completion. The reduction in the amount of retainage held per this paragraph requires approval of the Owner's governing body.

- G. Retainage held by the Owner will be deposited in an interest-bearing account, with any interest earned by that account paid to the Contractor, only as required by Tex. Water Code Chapter 49 and Tex. Gov't Code Chapter 2252.
- 6.05 Release or reduction in retainage is contingent upon the consent of surety to the reduction in retainage. Submit a Consent of Surety Company to Reduction of or Partial Release of Retainage form as provided by or approved by the Construction Manager.
- 6.06 Owner will pay the remainder of the Contract Price as recommended by Construction Manager in accordance with the General Conditions upon Final Completion and acceptance of the Work.

ARTICLE 7 – PAYMENT OF INTEREST

- 7.01 All moneys not paid when due as provided in the General Conditions will earn interest at the rate specified in Tex. Gov't Code Chapter 2251. Interest accrual will cease upon payment by the Owner.
- 7.02 No interest payments will be paid to the Contractor for invoices not paid when due as provided in the General Conditions.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 The Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied the following Site related reports and drawings as identified in the Supplementary Conditions:
 - 1. Geotechnical Data Reports regarding subsurface conditions at or adjacent to the Site;
 - 2. Drawings of physical conditions relating to existing surface or subsurface structures at the Site;
 - 3. Underground Facilities referenced in reports and drawings;
 - 4. Reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site; and
 - 5. Technical Data related to each of these reports and drawings.
 - E. Contractor has considered the:
 - 1. Information known to Contractor;
 - 2. Information commonly known to contractors doing business in the locality of the Site;

3. Information and observations obtained from visits to the Site; and
 4. The Contract Documents.
- F. Contractor has considered the items identified in this Article with respect to the effect of such information, observations, and documents on:
1. The cost, progress, and performance of the Work;
 2. The means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and
 3. Contractor's safety precautions and programs.
- G. Based on the information and observations referred to in the preceding paragraphs, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- H. Contractor is aware of the general nature of Work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- I. Contractor has correlated the information known to the Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- J. Contractor has given the Construction Manager written notice of all conflicts, errors, ambiguities, or discrepancies that the Contractor has discovered in the Contract Documents, and the written resolution provided by the Construction Manager is acceptable to the Contractor.
- K. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- L. Contractor's entry into this Agreement constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – ACCOUNTING RECORDS

- 9.01 Accounting Record Availability: Contractor is to establish and maintain, in accordance with generally accepted accounting practices, full and detailed accounting records of materials incorporated into the Project, and labor, tools, materials, and equipment used for the Work, consistent with the requirements of the General Conditions and as necessary for proper financial management under this Agreement. Subject to prior written notice, provide Owner reasonable access during normal business hours to Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and the Contractor's fee. Preserve all such documents for a period of 3 years after the final payment by the Owner.

ARTICLE 10 – OTHER REQUIREMENTS

10.01 Workers' Compensation Insurance

- A. By signing this Agreement, Contractor certifies that it provides workers' compensation insurance coverage for all employees employed on this Project pursuant to Tex. Lab. Code Section 406.096(a).
- B. As required by Section 406.096(b), Contractor must require each Subcontractor to certify in writing to the Contractor that the Subcontractor provides workers' compensation insurance coverage for all of the employees it employs on this Project. Contractor must provide these certifications to the Owner within 10 days of the Effective Date of the Agreement.

10.02 Contracts Prohibited by Tex. Gov't Code Chapter 2155

A. Section 2155.004:

- 1. Section 2155.004 states that "a state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based."
- 2. Under Section 2155.004, Government Code, Contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

B. Section 2155.006:

- 1. Section 2155.006 states that "a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.
- 2. Under Section 2155.006, Government Code, Contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

10.03 Prohibition on Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organizations

- A. Tex. Gov't Code Chapter 2252, Subchapter F, prohibits the award of governmental contracts to companies engaged in business with Iran, Sudan, or foreign terrorist organizations.

- B. By signing this Agreement, Contractor certifies that it is not ineligible to be awarded this Contract under Chapter 2252, Subchapter F.
- 10.04 Prohibition on Contracts with Certain Companies that Boycott Israel
- A. Tex. Gov't Code Chapter 2271 prohibits a governmental entity from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.
 - B. By signing this Agreement, Contractor certifies that it does not boycott Israel and will not boycott Israel during the term of this Contract.
- 10.05 Prohibition on Contracts with Certain Foreign-Owned Companies In Connection with Critical Infrastructure
- A. Tex. Gov't Code Chapter 2274, as added by SB 2116 during the 87th Leg., prohibits a governmental entity from entering into certain contracts or other agreements relating to critical infrastructure if the governmental entity knows that the company has ownership interests held or controlled by citizens or the governments of China, Iran, North Korea, Russia or other countries designated by the State of Texas.
 - B. By signing this Agreement, Contractor certifies that it is not ineligible to be awarded this Contract under this Chapter 2274.
- 10.06 Prohibition on Contracts with Companies Boycotting Certain Energy Companies
- A. Tex. Gov't Code Chapter 2274, as added by SB 13 during the 87th Leg., prohibits a governmental entity from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.
 - B. By signing this Agreement, Contractor certifies that it does not boycott energy companies and will not boycott energy companies during the term of this Contract.
- 10.07 Prohibition on Contracts with Companies That Discriminate Against Firearm and Ammunition Industries
- A. Tex. Gov't Code Chapter 2274, as added by SB 19 during the 87th Leg., prohibits a governmental entity from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.
 - B. By signing this Agreement, Contractor certifies that it does 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 the contract.
- 10.08 Certificate of Interested Parties: Contractor must complete and submit a Certificate of Interested Parties (Form 1295) to the Owner with the signed Agreement as required by Tex. Gov't Code Section 2252.908.

ARTICLE 11 – VENUE

11.01 Contractor agrees that venue lies exclusively in Williamson County, Texas for any legal action.

ARTICLE 12 – CONTRACT DOCUMENTS

12.01 Contract Documents

- A. Specifications Sections listed in Section 00 01 10 "Table of Contents" except as specifically excluded in Paragraph 12.02.
- B. Drawings listed in the Sheet Index on the Drawings.
- C. The following are also Contract Documents which may be delivered or issued on or after the Effective Date of the Contract:
 - 1. Notice to Proceed.
 - 2. Contract Amendment(s).
 - 3. Change Order(s).
 - 4. Field Order(s).
 - 5. Work Change Directive(s).
- D. There are no Contract Documents other than those listed above in this Paragraph. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

12.02 Bidding Requirements and Informational Documents

- A. The following Bidding Requirements are not Contract Documents:
 - 1. 00 01 01 Project Cover Sheet
 - 2. 00 01 07 Design Professional Seals
 - 3. 00 01 10 Table of Contents
 - 4. 00 11 16 Invitation to Bid
 - 5. 00 21 13 Instructions to Offerors
 - 6. 00 41 13 Bid Form
 - 7. 00 41 16 Bid Form Exhibit A
 - 8. 00 43 13 Bid Bond
 - 9. 00 45 01 Nonresident Bidders
 - 10. 00 45 02 Non Collusion Certification
 - 11. 00 45 03 Conflict of Interest Questionnaire
 - 12. 00 45 04 State Sales Tax Requirements
 - 13. 00 45 13 Qualifications Statement

- B. The following documents are provided for information only and are not part of the Contract Documents:
1. Geotechnical Investigation Report.
 2. Subsurface Utility Engineering (SUE) Report.
 3. Environmental Report.

Page 133 of 354

CORPORATE AUTHORIZATION RESOLUTION

RESOLVED, that the Board of Directors of Nelson Lewis, Inc., a corporation duly organized and existing under the laws of the State of Texas, that the following is a true, accurate and compared transcript of resolution contained in the minutes book of the Corporation, duly adopted at a meeting of the Board of Directors of said Corporation on January 3, 2022 at which meeting there was present and acting throughout a quorum authorized to transact business hereinafter described, and that the proceedings of said meeting were in accordance with the charter and by-laws of said Corporation and that said resolutions have not been amended or revoked and are in full force and effect:

"BE IT RESOLVED, that Mark Bray, Operations Manager, is hereby authorized and empowered to sign any and all documents, including contracts, on behalf of said Corporation, and is authorized to bind the Corporation."

CERTIFICATION

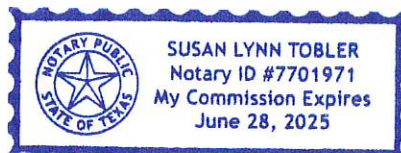
The undersigned Secretary of Nelson Lewis, Inc. hereby certifies that the foregoing is a true and correct copy of a resolution adopted by the Board of Directors of this Corporation and that said resolution is now in full force and effect and is duly recorded in the corporate minutes of said meeting.

Witness my hand and the seal of the Corporation this 3rd day of January, 2022.

Hank Lewis, CEO, Vice President

State of Texas
County of Burnet

On this the 3rd day of January, 2022, before me personally appeared Hank Lewis, known to me to be the person whose name is subscribed to the above instrument and acknowledge that he executed the same for the purposes therein contained.



Notary Public



Internal Use:
CoH Vendor #: _____

City of Hutto Vendor Application W-9 Supplemental Information

Individual Name: Justin Lewis Phone: (512) 848-4209

Business Name: Nelson Lewis, Inc. Phone: (830) 693-8874

SS# or EIN: 74-2055508

Street Address & P.O. Box: 450 FM 1174 PO Box 235

City, State and Zip: Marble Falls, Tx 78654

Remit to address: (if different than street address) PO Box 235 Marble Falls, Tx 78654

E-mail address: jlewis@nelsonlewisinc.com

Website address: _____

Does this vendor accept:

- Credit card payments?
- Electronic purchase orders?

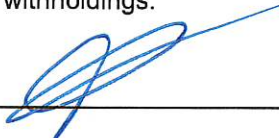
☐ Yes
☐ Yes

☒ No
☒ No

Certification:

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification, or I am waiting for a number to be issued to me; and
2. I am not subject to back-up withholding taxes because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service that I am subject to backup withholding for failure to report all interest or dividends, or (c) the IRS had notified me that I am no longer subject to backup withholdings.

Signature: 

Date: 7/8/2024

Fax or e-mail this completed form to: (512) 856-9328 Procurement@huttotx.gov

Questions: (512) 318-0566

Request for Taxpayer Identification Number and Certification

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

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

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
NELSON LEWIS INC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☒ S Corporation

☐ Partnership

☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
450 FM 1431 EAST (P O BOX 235)

6 City, state, and ZIP code
MARBLE FALLS, TX 78654

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

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

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

Social security number

			-			-			
--	--	--	---	--	--	---	--	--	--

or

Employer identification number

7	4	-	2	0	5	5	5	0	8
---	---	---	---	---	---	---	---	---	---

Part II Certification

Under penalties of perjury, I certify that:

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

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

Sign Here Signature of U.S. person ▶ **Susan Jobler** Date ▶ **1-2-23**

General Instructions

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

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

Purpose of Form

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

- Form 1099-INT (Interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

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

4.6 Deviation or Compliance

4.6.1 Deviation

In the event the undersigned Respondent intends to deviate from the general term, conditions, special conditions, or specification contrary to those listed in the “Terms and Conditions” and other information attached hereto, all such deviations must be LISTED IN THIS SECTION, with complete and detailed conditions and information also being attached (attach additional pages as necessary.)

4.6.2 No Deviations

In the absence of any deviation entry in this section, Respondent assures the City of Respondent’s compliance with the Terms, Conditions, Specifications, and information contained in this solicitation.

Deviation #	Deviation Title	RFP Reference (related to the deviation)	Detailed Deviation Description
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.
Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.	Click or tap here to enter text.



4.7 Cooperative Purchasing

Interlocal Cooperative Contracting/Purchasing

Authority for local governments to contract with one another to perform certain governmental functions and services, including but not limited to purchasing functions, is granted under Government Code, Title 7, Chapter 791 Interlocal Cooperation Contracts, Subchapter B and Subchapter C, and Local Government Code, Title 8, Chapter 271, Subchapter F, Section 271.101 and Section 271.102.

Other governmental entities within the State of Texas may be extended the opportunity to purchase off of the City of Hutto's RFP, with the consent and agreement of the successful Proposer(s) and the City of Hutto. Such consent and agreement shall be conclusively inferred from the lack of exception to this clause in the Proposer's Proposal. However, all parties indicate their understanding, and all parties hereby expressly agree that the City of Hutto is not an agent of, partner to, or representative of those outside agencies or entities and that the City of Hutto is not obligated or liable for any action or debts that may arise out of such independently-negotiated cooperative procurements.

Other governmental entities utilizing Interlocal agreements with the City of Hutto may desire but are not obligated, to purchase goods and services defined in this Proposal from the successful Proposer. All purchases by governmental entities other than the City of Hutto will be billed directly to and paid by that governmental entity. The City of Hutto will not be responsible for the debts of other governmental entities. Each governmental entity will place its orders with the successful Proposer and be accountable for ensuring full compliance with the specifications.

The City of Hutto will notify the successful Respondent of their intent before other governmental entities place orders.

Please indicate below if you permit other governmental entities to purchase from your agreement with the City of Hutto.

☐ Yes, others can purchase;

☒ No, only the City of Hutto can purchase.

Signature: 

Printed Name: Mark Bray

Title: Operations Manager

Date: 7/8/2024

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

NELSON LEWIS INC
MARBLE FALLS, TX United States

Certificate Number:
2024-1184784

Date Filed:
07/08/2024

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Hutto

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

N/A

JONAH SUD WHOLESALE INTERCONNECT AND 16 INCH DIAMETER WATER TRANSMISSION LINE W4

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is Susan Tobler, and my date of birth is 4-17-55.

My address is 450 FM 1431 (street), Marble Falls (city), TX (state), 78654 (zip code), Burnet (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Burnet County, State of Texas, on the 8th day of July, 2024.
(month) (year)

Susan Tobler

Signature of authorized agent of contracting business entity
(Declarant)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/8/2024

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 Hub International Texas, Inc. One Alamo Center 106 S. St. Mary's Street, Suite 800 San Antonio TX 78205	CONTACT NAME: Cecilia Jurado PHONE (A/C, No, Ext): 210-298-7126 FAX (A/C, No): 210-222-1618 E-MAIL ADDRESS: cecilia.jurado@hubinternational.com
INSURED Shop Branch Equipment Co. Nelson Lewis Inc.; JCKL, Inc. P.O. Box 235 Marble Falls TX 78654-0235	INSURER(S) AFFORDING COVERAGE INSURER A: ACUITY, A Mutual Insurance Company INSURER B: Federal Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER:** 11101449**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☐ ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC ☐ OTHER:			ZJ9769	6/1/2024	6/1/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			ZJ9769	6/1/2024	6/1/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			ZJ9769	6/1/2024	6/1/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y / N ☒ N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						☐ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Equipment Floater including Leased/Rented Equipment			06641619WUC	6/1/2024	6/1/2025	Blanket Aggregate Max Any One Item Deductible 2,000,000 1,000,000 2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Auto Liability policy includes a blanket automatic additional insured endorsement provision that provides additional insured status to the parties listed in said contract when there is a written contract between the named insured and the certificate holder that requires such status. The General Liability and Auto Liability policy includes a blanket waiver of subrogation endorsement that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. The General Liability and Auto Liability policy contains a special endorsement with "Primary and Noncontributory" wording. Excess Liability policy is follow-form

See Attached...

CERTIFICATE HOLDER**CANCELLATION**

City of Hutto Attn: Matthew Rector 500 W. Live Oak Street Hutto TX 78634	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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AGENCY CUSTOMER ID: _____

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY Hub International Texas, Inc.		NAMED INSURED Shop Branch Equipment Co. Nelson Lewis Inc.; JCKL, Inc. P.O. Box 235 Marble Falls TX 78654-0235
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Freese and Nichols (800 Cherry Street, Suite 2800, Fort Worth, TX 76102) is included as an additional insured on the General Liability policy as required by written contract.

Project: W4: Northwest Transmission Main RFP-2024-023-PD-W03-2024-03

COMMERCIAL EXCESS LIABILITY COVERAGE FORM

Index of Policy Provisions

	Page		Page
SECTION I - COVERAGES.....	2	Bankruptcy of Underlying Insurer.....	5
Insuring Agreement.....	2	Duties in the Event of Occurrence,	5
Exclusions.....	2	Claim or Suit	
Investigation or Settlement of Claims	3	Maintenance of Underlying Insurance.....	5
or Defense of Insured Against Suits		Other Insurance.....	5
Coverage Extension.....	4	Policy Period.....	6
SECTION II - LIMIT OF INSURANCE.....	4	SECTION IV - DEFINITIONS.....	6
SECTION III - CONDITIONS.....	5		
Appeals.....	5		

COMMERCIAL EXCESS LIABILITY COVERAGE FORM

This policy contains both a Products-Completed Operations Aggregate Limit and a General Aggregate Limit of Insurance. These are described in Section II - Limit of Insurance.

Other provisions in this policy restrict coverage. Read the entire policy and any *underlying insurance* carefully to determine rights, duties and what is covered and not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a

Named Insured under any *underlying insurance*. The words "we," "us" and "our" refer to the Company providing this insurance.

The words "this insurance" mean the liability insurance provided under this policy.

The word "insured" means any person or organization qualifying as such under any *underlying insurance*.

Other words and phrases that appear in italics have special meaning. Refer to Section IV - Definitions of this policy.

SECTION I - COVERAGES

1. Insuring Agreement

- a. We will pay those sums, in excess of the amount payable under the terms of any *underlying insurance*, that the insured becomes legally obligated to pay as damages because of *injury* or damage to which this insurance applies, provided that the *underlying insurance* also applies, or would apply but for the exhaustion of its applicable Limits of Insurance.

We will also pay those sums that the insured becomes legally obligated to pay as damages because of *injury* or damage to which the insurance provided under the Coverage Extension applies as set forth in paragraph 4 below.

- b. We have the right to participate in the investigation or settlement of claims or the defense of the insured against suits seeking damages because of *injury* or damage to which this insurance may apply. We have a duty to investigate or settle such claims or to defend the insured against such suits when the applicable Limit of Insurance of the *underlying insurance* has been used up by payment of judgments, settlements and any cost or expense subject to such limit.

We will have the right and duty to participate in the investigation and settlement of claims or the defense of the insured against suits seeking damages because of *injury* or damage to which the insurance provided under the Coverage Extension may apply.

This right or duty to defend is limited as set forth in paragraph 3 below.

However, we will have no duty to defend the insured against any suit seeking damages for *injury* or damage to which this insurance does not apply.

- c. The amount we will pay for damages is limited as described in Section II - Limit of Insurance.
- d. This insurance is subject to the same terms,

conditions, agreements, exclusions and definitions as the *underlying insurance*, except:

- (1) We have no obligation under this insurance with respect to any claim or suit that is settled without our consent; and
- (2) With respect to any provisions to the contrary contained in this insurance.

2. Exclusions

The exclusions that apply to the *underlying insurance* apply to this insurance. Also, this insurance does not apply to damages because of:

- a. *Injury* or damage to premises rented to you or temporarily occupied by you with permission of the owner.
- b. Any duty to pay expenses under any medical payments coverage.
- c. Any duty to reimburse an insurer as provided by the terms of the Endorsement For Motor Carrier Policies of Insurance For Public Liability Under Sections 29 and 30 of the Motor Carrier Act of 1980 or under the terms of any similar endorsement required by Federal or state statute.
- d. Any duty payable only because of the attachment of the Endorsement For Motor Carrier Policies of Insurance For Public Liability or any similar endorsement required by Federal or state statute.
- e. Any duty imposed by law under any automobile no-fault, uninsured motorist, underinsured motorist, workers' compensation, disability benefits or unemployment compensation law or any similar law.
- f. Any duty imposed by law under the following:
 - (1) Section 130, Civil Liability, of Title I (Truth in Lending Act) of the Consumer Credit Protection Act (Public Law

90-321; 82 Stat. 146 et. seq.);

- (2) Title IV (Odometer Requirements) of the Motor Vehicle Information and Cost Savings Act (Public Law 92-513; 86 Stat. 961); or
 - (3) Employee's Retirement Income Security Act (E.R.I.S.A.) of 1974 as now or hereafter amended.
- g.** *Injury* or damage to personal property in the care, custody or control of the insured.
- This exclusion does not apply to liability assumed under a sidetrack agreement.
- h.** *Injury* or damage sustained by an employee, former employee, prospective employee or their beneficiaries or legal representatives and caused by any negligent act, error or omission of the insured, or any other person for whose acts the insured is legally liable, in the administration of any employee benefit program. Administration includes giving counsel to employees, interpreting, handling of employee records, and effecting enrollment, termination or cancellation of employees.
- i.** Any obligation to pay any claim or claims made against you or any of your officers, directors or trustees, individually or collectively, by reason of a wrongful act in their respective capacities as officers, directors or trustees.
- As used in this exclusion, "wrongful act" means any actual or alleged error, misstatement or misleading statement, act or omission, or neglect or breach of duty made or committed by your directors, officers or trustees.
- j.** Any obligation arising out of an act, error or omission of an insured:

- (1) While performing the duties of an insurance agent in your garage operations; or
- (2) In your garage operations as a result of title paper preparation.

As used in this exclusion:

- (1) "Insurance agent" means a person or organization who is duly licensed as an insurance agent by the regulatory authority of the state in which the insured's principal place of business is located.
- (2) "Garage operations" means the ownership, maintenance or use of locations for garage business and that portion of the roads or other accesses that adjoin these locations. Garage operations includes the ownership, maintenance or use of the autos indicated in Section I of the Garage Coverage Form as covered autos.

Garage operations also includes all operations necessary or incidental to a garage business.

- (3) "Title paper preparation" means the preparation of official title papers for registering an auto sold by you. This includes the designation of a lienholder who holds a financial interest in the auto.
 - (4) "Auto" means a land motor vehicle, trailer or semitrailer.
- k.** Any obligation imposed due to the application of any statute permitting a customer to return an auto sold by an insured, if the auto fails to perform satisfactorily.

As used in this exclusion, "auto" means a land motor vehicle, trailer or semitrailer.

- l.** *Injury* or damage your customer becomes legally obligated to pay which arise out of the use of your covered auto. This exclusion applies only if your business is shown in the Declarations of the *underlying insurance* as an auto dealership.

However, if your customer becomes legally obligated to pay for *injury* or damage which arise out of their use of your covered auto and if there is:

- (1) No other valid and collectible insurance (whether primary, excess or contingent) available to your customer, we will pay up to the compulsory or financial responsibility law limits where the covered auto is principally garaged.
- (2) Other valid and collectible insurance (whether primary, excess or contingent) available to the customer but it is less than the compulsory or financial responsibility law limits where the covered auto is principally garaged, we will pay only for the amount by which the compulsory or financial responsibility law limits exceed the limits of the other insurance.

3. Investigation or Settlement of Claims or Defense of Insured Against Suits

- a.** When we have the duty to defend, we will pay for all *defense expense* once our duty to defend begins. We may investigate any claim or suit.

If we exercise our right to defend when there is no duty, we will pay only that *defense expense* we incur.

If we provide a defense, we may investigate any claim or suit at our discretion. We may settle such claim or suit within the Limit of Insurance available at the time of the settlement.

- b.** Our right or duty to defend ends when we

have used up the Limits of Insurance available in the payment of any judgments or settlements as provided under Section II - Limit of Insurance. This applies both to claims and suits pending at the time and those filed thereafter.

- c. When we control the investigation or settlement of a claim or the defense of the insured against a suit, we will pay for the *defense expense*. If by mutual agreement or court order the insured assumes control before the applicable Limit of Insurance available is used up, we will reimburse the insured for reasonable *defense expense*.
- d. As soon as the Limit of Insurance available is used up, you will then arrange to assume control of the investigation or settlement of all such claims or the defense of you or any other insured against such suits when our right or duty to investigate, settle or defend them ends.
- e. We will assist the insured in the transfer of control of the investigation or settlement of claims or the defense of the insured against suits under c or d above. Until such transfer is completed, we will take on behalf of any insured those steps that we think proper:
 - (1) To avoid a default in any claim or suit; or
 - (2) To the continued investigation or

settlement of a claim or defense of the insured against a suit.

You agree that if we take such steps:

- (1) We do not waive or give up any of our rights under this insurance; and
- (2) You will reimburse us for any *defense expense* that arises out of such steps if the applicable Limit of Insurance available has been used up.
- f. Any payment for *defense expense* will not reduce the Limits of Insurance.

4. Coverage Extension

- a. The terms of this policy are extended as follows:

If *underlying insurance* provides coverage for the use of watercraft you do not own, in addition to watercraft ashore on premises you own or rent, the coverage provided by this policy is extended to cover any watercraft you do not own that is:

- (1) Less than 75 feet long; and
- (2) Not being used to carry persons or property for a charge;

even if these nonowned watercraft are not insured in the *underlying insurance*.

- b. We will only pay for damages up to the limits of insurance.

SECTION II - LIMIT OF INSURANCE

- 1. The Limits of Insurance shown in the Declarations and the rules below define the most we will pay under the terms of this insurance regardless of the number of:
 - a. Insureds;
 - b. Claims made or suits brought;
 - c. Persons or organizations making claims or bringing suits.
- 2. The General Aggregate Limit is the most we will pay for all damages under Section I - Coverages, other than damages arising out of:
 - a. The *products-completed operations hazard*; or
 - b. The ownership, operation, maintenance, use, loading or unloading, or entrustment to others, of an auto.

The General Aggregate Limit applies separately to:

- a. Each location owned by or rented to you. A location is a premises involving the same or connecting lots, or a premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad; and

- b. Each of your projects away from a location owned by or rented to you.

Each payment we make for such damages reduces by the amount of the payment, the General Aggregate Limit. This reduced limit will then be the Limit of Insurance available for further damages of these kinds.

- 3. The Products-Completed Operations Aggregate Limit is the most we will pay under Section I - Coverages because of damages arising out of the *products-completed operations hazard*. Each payment we make for such damages reduces, by the amount of the payment, the Products-Completed Operations Aggregate Limit. This reduced limit will then be the Limit of Insurance available for further damages of these kinds.
- 4. Subject to 2 and 3 above, or with respect to *injury* or damage arising out of the ownership, operation, maintenance, use, loading or unloading, or entrustment to others of an auto, the Each Occurrence Limit is the most we will pay for the sum of damages under Section I - Coverages because of all *injury* and damage arising out of any one *occurrence*.
- 5. The limits of this policy apply separately to

each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an

additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limit of Insurance.

SECTION III - CONDITIONS

We have no duty to provide coverage under this policy unless you and any other involved insured have fully complied with the Conditions contained in this policy and those contained in any *underlying insurance*.

If any of the following conditions are contrary to Conditions contained in the *underlying insurance*, the provisions contained in this policy apply.

1. Appeals

In the event the *underlying insurer* elects not to appeal a judgment in excess of the limits of the *underlying insurance*, we may elect to make such appeal. If we so elect, we shall be liable, in addition to the applicable Limit of Insurance for all *defense expenses* we incur.

2. Bankruptcy of Underlying Insurer

In the event of bankruptcy or insolvency of any *underlying insurer*, this policy shall not replace such *underlying insurance*. This policy applies as if the *underlying insurance* was valid and collectible.

3. Duties in the Event of Occurrence, Claim or Suit

a. You must see to it that we are notified as soon as practicable of an *occurrence* or offense which may result in a claim. To the extent possible notice should include:

- (1) How, when and where the *occurrence* or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any *injury* or damage arising out of the *occurrence* or offense.

b. If a claim or suit is received by any insured you must:

- (1) Immediately record the specifics of the claim or suit and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or a suit;
- (2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation or settlement of the claim or the defense of the insured against the suit;

(4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of *injury* or damage to which this insurance may also apply; and

(5) Notify us immediately of any judgment or settlement of any claim or suit brought against any insured.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

4. Maintenance of Underlying Insurance

a. You agree to maintain the *underlying insurance* in full force and effect during the term of this policy. You agree to inform us within 10 days of any replacement of that *underlying insurance* by the same or another company. If there is any change in the replacement *underlying policy* in hazard, policy limits or coverage, including any terms, conditions and endorsements, we will only be liable under this insurance to the same extent as if there had been no change in, or replacement of, *underlying insurance*.

b. In the event that any *underlying insurance* is cancelled or not renewed and not replaced, you must notify us within 10 days. We will not be liable under this insurance for more than we would have been liable if that *underlying insurance* had not terminated if you do not request cancellation of this policy effective the same date that the *underlying insurance* was cancelled.

c. Reduction or exhaustion of the *aggregate limit* of any *underlying insurance* by payments for judgments or settlements will not be a failure to maintain *underlying insurance* in full force and effect.

d. No statement contained in this Condition limits our right to cancel or not renew this policy.

5. Other Insurance

This insurance is excess over any other valid and collectible insurance whether primary, excess, contingent or any other basis, except

other insurance written specifically to be excess over this insurance.

6. Policy Period

This insurance will respond to *injury* or damage

that occurs, or arises from an offense committed, during the policy period of this insurance shown in the Declarations.

SECTION IV - DEFINITIONS

1. "*Aggregate limit*" means the maximum amount stated in the policy for which the insurer will be liable, regardless of the number of covered claims.
2. "*Defense expense*" means payments allocated to the investigation or settlement of a specific claim or the defense of the insured against a specific suit, including:
 - a. Attorney fees and all other litigation expenses.
 - b. The cost of bonds to appeal a judgment or award in our defense of the insured against any suit.
 - c. Up to \$250 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which bodily injury liability coverage provided by *underlying insurance* applies.
 - d. The cost of bonds to release attachments. This is only for bond amounts within the Limit of Insurance available.
 - e. Reasonable expenses incurred by the insured at our request to assist us in the investigation or settlement of the claim or the defense of the insured against the suit. This includes actual loss of earnings up to \$100 a day because of time off from work.
 - f. Cost taxed against the insured in the suit.
 - g. Interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the amount available for the judgment under the provisions of Section II - Limits of Insurance.

Defense expense does not include:

 - a. Salaries and expenses of our employees or the insured's employees, other than:
 - (1) That portion of our employed attorneys' fees, salaries and expenses allocated to a specific claim or suit; and
 - (2) The expenses described in e above.
 - b. Fees and expenses of independent adjusters we hire.
3. "*Injury*" means bodily injury, property damage, personal injury or advertising injury as defined in the *underlying insurance*.
4. "*Occurrence*" means:
 - a. With respect to bodily injury to persons other than your employees and property damage, an accident, including continuous or repeated exposure to substantially the same general harmful conditions;
 - b. With respect to bodily injury to your employees arising out of and in the course of their employment by you, the accident or disease which causes the bodily injury; and
 - c. With respect to offenses committed by the insured resulting in personal injury or advertising injury, all such injury sustained by any one person or organization.
5. "*Occurrence limit*" means any specific limit, other than an *aggregate limit*, applicable to any *underlying insurance*, regardless of whether such limit is subject to an *aggregate limit* in the *underlying policy*.
6. "*Products-completed operations hazard*":
 - a. Includes all *injury* occurring away from premises you own or rent and arising out of *your product* or *your work* except:
 - (1) Personal injury or advertising injury as defined in the *underlying insurance*;
 - (2) Products that are still in your physical possession; or
 - (3) Work that has not yet been completed or abandoned. However, *your work* will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed;
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site; or
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
 - b. Does not include *injury* arising out of:
 - (1) The transportation of property, unless the *injury* or damage arises out of a condition in or on a vehicle not owned

or operated by you, and that condition was created by the loading or unloading of that vehicle by any insured;

- (2) The existence of tools, uninstalled equipment, or abandoned or unused materials; or
- (3) Products or operations for which the classification in the General Liability *underlying policy* or in our General Liability manual or rules includes products or completed operations.

7. "*Underlying insurance*" means the liability insurance coverage provided under policies shown in the Schedule of Underlying Insurance in the Declarations, for the limits and periods indicated. It includes any policies issued to replace those policies during the term of this insurance, provided that you have notified us within 10 days of the replacement, and the replacement policies provide:

- a. At least the same policy limits;
- b. The same hazards insured against, except as modified by general program revisions; and
- c. The same coverage, including all terms, conditions and endorsements.

8. "*Underlying insurer*" means any insurer who issues a policy of *underlying insurance*.

9. "*Underlying policy*" means a policy providing *underlying insurance*.

10. "*Your product*" means:

- a. Any goods or products other than real property, manufactured, sold, handled,

distributed or disposed of by:

- (1) You;
- (2) Others trading under your name; or
- (3) A person or organization whose business or assets you have acquired; and

b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Your product includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of *your product*; and
- b. The providing of or failure to provide warnings or instructions.

Your product does not include vending machines or other property rented to or located for the use of others but not sold.

11. "*Your work*" means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of *your work*; and
- b. The providing of or failure to provide warnings or instructions.

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we," "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is an Insured.

Other words and phrases that appear in italics have special meaning. Refer to Section V - Definitions.

SECTION I - COVERAGES

COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of *bodily injury* or *property damage* to which this insurance applies. We will have the right and duty to defend the insured against any *suit* seeking those damages. However, we will have no duty to defend the insured against any *suit* seeking damages for *bodily injury* or *property damage* to which this insurance does not apply. We may at our discretion investigate any *occurrence* and settle any claim or *suit* that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to *bodily injury* and *property damage* only if:

- (1) The *bodily injury* or *property damage* is caused by an *occurrence* that takes place in the *coverage territory*;
- (2) The *bodily injury* or *property damage* occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under paragraph 1 of Section II - Who Is An Insured and no *employee* authorized by you to give or receive notice of an *occurrence* or claim, knew that the *bodily injury* or *property damage* had occurred, in whole or in part. If such a listed insured or authorized em-

ployee knew, prior to the policy period, that the *bodily injury* or *property damage* occurred, then any continuation, change or resumption of such *bodily injury* or *property damage* during or after the policy period will be deemed to have been known prior to the policy period.

- c. *Bodily injury* or *property damage* which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under paragraph 1 of Section II - Who Is An Insured or any *employee* authorized by you to give or receive notice of an *occurrence* or claim, includes any continuation, change or resumption of that *bodily injury* or *property damage* after the end of the policy period.

- d. *Bodily injury* or *property damage* will be deemed to have been known to have occurred at the earliest time when any insured listed under paragraph 1 of Section II - Who Is An Insured or any *employee* authorized by you to give or receive notice of an *occurrence* or claim:

- (1) Reports all, or any part, of the *bodily injury* or *property damage* to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the *bodily injury* or *property damage*; or
- (3) Becomes aware by any other means that *bodily injury* or *property damage* has occurred or has begun to occur.

- e. Damages because of *bodily injury* include damages claimed by any person or organization for care, loss of services or death resulting at any time from the *bodily injury*.

2. Exclusions

This insurance does not apply to:

a. Expected or Intended Injury

Bodily injury or *property damage* expected or intended from the standpoint of the insured. This exclusion does not apply to

bodily injury resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

Bodily injury or *property damage* for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an *insured contract*, provided the *bodily injury* or *property damage* occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an *insured contract*, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of *bodily injury* or *property damage* provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same *insured contract*; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

Bodily injury or *property damage* for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation and Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

Bodily Injury to:

- (1) An *employee* of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that *employee* as a consequence of paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an *insured contract*.

f. Pollution

- (1) *Bodily injury* or *property damage* arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants*:
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i) *Bodily injury* if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii) *Bodily injury* or *property damage* for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii) *Bodily injury* or *property damage* arising out of heat, smoke or fumes from a *hostile fire*;

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible; or

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the *pollutants* are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) *Bodily injury or property damage* arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of *mobile equipment* or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the *bodily injury or property damage* arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) *Bodily injury or property damage* sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with op-

erations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) *Bodily injury or property damage* arising out of heat, smoke or fumes from a *hostile fire*;

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of *pollutants*.

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of *pollutants*; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of *pollutants*.

However, this paragraph does not apply to liability for damages because of *property damage* that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or *suit* by or on behalf of a governmental authority.

g. Aircraft, Auto or Watercraft

Bodily injury or property damage arising out of the ownership, maintenance, use or entrustment to others of any aircraft, *auto* or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and *loading or unloading*.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the *occurrence* which caused the *bodily injury or property damage* involved the ownership, maintenance, use or entrustment to others of any aircraft, *auto* or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an *auto* on, or on the ways next to, premises you own or rent, provided the *auto* is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any *insured contract* for the ownership, maintenance or use of aircraft or watercraft; or
- (5) *Bodily injury* or *property damage* arising out of:
 - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of *mobile equipment* if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
 - (b) The operation of any of the machinery or equipment listed in paragraph f(2) or f(3) of the definition of *mobile equipment*.

h. Mobile Equipment

Bodily injury or *property damage* arising out of:

- (1) The transportation of *mobile equipment* by an *auto* owned or operated by or rented or loaned to any insured; or
- (2) The use of *mobile equipment* in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

i. War

Bodily injury or *property damage*, however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Damage to Property

Property damage to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organiza-

tion or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the *property damage* arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the *property damage* arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because *your work* was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to *property damage* (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are *your work* and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to *property damage* included in the *products-completed operations hazard*.

k. Damage to Your Product

Property damage to *your product* arising out of it or any part of it.

l. Damage to Your Work

Property damage to *your work* arising out of it or any part of it and included in the *products-completed operations hazard*.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage to Impaired Property or Property Not Physically Injured

Property damage to *impaired property* or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or

dangerous condition in *your product* or *your work*; or

- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to *your product* or *your work* after it has been put to its intended use.

n. Recall of Products, Work or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) *Your product*;
- (2) *Your work*; or
- (3) *Impaired property*;

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal and Advertising Injury

Bodily injury arising out of *personal and advertising injury*.

p. Lead

Bodily injury or property damage arising out of the actual, alleged or threatened ingestion, inhalation, absorption, exposure or presence of lead in any form or from any source.

Coverage also does not apply to any loss, cost, expense, fine or penalty arising out of any:

- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, dispose of or in any way respond to or assess the effects of lead in any form; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, disposing of or in any way responding to or assessing the effects of lead in any form.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

r. Distribution of Material in Violation of Statutes

Bodily injury or property damage arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Exclusions c through n and p do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.

COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of *personal and advertising injury* to which this insurance applies. We will have the right and duty to defend the insured against any *suit* seeking those damages. However, we will have no duty to defend the insured against any *suit* seeking damages for *personal and advertising injury* to which this insurance does not apply. We may at our discretion investigate any offense and settle any claim or *suit* that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable Limit of Insurance in the payment of judgments or settlements under Coverage A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums

or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to *personal and advertising injury* caused by an offense arising out of your business, but only if the offense was committed in the *coverage territory* during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict *personal and advertising injury*.

b. Material Published with Knowledge of Falsity

Personal and advertising injury arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior to Policy Period

Personal and advertising injury arising out of oral or written publication of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

Personal and advertising injury arising out of a criminal act committed by or at the direction of any insured.

e. Contractual Liability

Personal and advertising injury for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach of Contract

Personal and advertising injury arising out of a breach of contract, except an implied contract to use another's advertising idea in your *advertisement*.

g. Quality or Performance of Goods - Failure to Conform to Statements

Personal and advertising injury arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your *advertisement*.

h. Wrong Description of Prices

Personal and advertising injury arising out of the wrong description of the price of goods, products or services stated in your *advertisement*.

i. Infringement of Copyright, Patent, Trademark or Trade Secret

Personal and advertising injury arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your *advertisement*.

However, this exclusion does not apply to infringement, in your *advertisement*, of copyright, trade dress or slogan.

j. Insureds in Media and Internet Type Business

Personal and advertising injury committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting.
- (2) Designing or determining content of websites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to paragraphs 14a, b and c of *personal and advertising injury* under the Definitions Section; or

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms or Bulletin Boards

Personal and advertising injury arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use of Another's Name or Product

Personal and advertising injury arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

Personal and advertising injury arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants* at any time.

n. Pollution-Related

Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up,

remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of *pollutants*; or

- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of *pollutants*.

o. Lead

Personal and advertising injury arising out of the actual, alleged or threatened ingestion, inhalation, absorption, exposure or presence of lead in any form or from any source.

Coverage also does not apply to any loss, cost, expense, fine or penalty arising out of any:

- (1) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, dispose of or in any way respond to or assess the effects of lead in any form; or
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, disposing of or in any way responding to or assessing the effects of lead in any form.

p. War

Personal and advertising injury, however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

q. Distribution of Material in Violation of Statutes

Personal and advertising injury arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or

- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

COVERAGE C - MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for *bodily injury* caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (1) The accident takes place in the *coverage territory* and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable Limit of Insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for *bodily injury*:

a. Any insured.

To any insured, except *volunteer workers*.

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury on Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation and Similar Laws

To a person, whether or not an *employee* of any insured, if benefits for the *bodily injury* are payable or must be provided under a workers' compensation or disability

benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. Products-Completed Operations Hazard

Included within the *products-completed operations hazard*.

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any *suit* against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable Limit of Insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or *suit*, including actual loss of earnings up to \$250 a day because of time off from work.
- e. All court costs taxed against the insured in the *suit*. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.

These payments will not reduce the Limits of Insurance.

2. If we defend an insured against a *suit* and an indemnitee of the insured is also named as a party to the *suit*, we will defend that indemnitee if all of the following conditions are met:
 - a. The *suit* against the indemnitee seeks dam-

ages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an *insured contract*;

- b. This insurance applies to such liability assumed by the insured;
- c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same *insured contract*;
- d. The allegations in the *suit* and the information we know about the *occurrence* are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such *suit* and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:

(1) Agrees in writing to:

- (a) Cooperate with us in the investigation, settlement or defense of the *suit*;
- (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the *suit*;
- (c) Notify any other insurer whose coverage is available to the indemnitee; and
- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

- (a) Obtain records and other information related to the *suit*; and
- (b) Conduct and control the defense of the indemnitee in such *suit*.

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of paragraph 2b(2) of Section I - Coverage A - Bodily Injury and Property Damage Liability, such payments will not be deemed to be damages for *bodily injury* and *property damage* and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the ap-

plicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement

described in paragraph f above, are no longer met.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your *executive officers* and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your *volunteer workers* only while performing duties related to the conduct of your business, or your *employees*, other than either your *executive officers* (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these *employees* or *volunteer workers* are insureds for:

(1) *Bodily injury or personal and advertising injury:*

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-*employee* in the course of his or her employment or performing duties related to the conduct of your business, or to your other *volunteer workers* while performing duties related to the conduct of

your business.

- (b) To the spouse, child, parent, brother or sister of that co-*employee* or *volunteer worker* as a consequence of paragraph (a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) *Property damage* to property:

- (a) Owned, occupied or used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your *employees*, or *volunteer workers*, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your *employee*) or *volunteer worker* or any organization while acting as your real estate manager.

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

- b. Coverage A does not apply to *bodily injury* or *property damage* that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to *personal and advertising injury* arising out of an offense

committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made or *suits* brought; or
 - c. Persons or organizations making claims or bringing *suits*.
2. The General Aggregate Limit is the most we will pay for:
 - a. The sum of:
 - (1) Medical expenses under Coverage C; and
 - (2) Damages under Coverage A, except damages because of *bodily injury* or *property damage* included in the *products-completed operations hazard*.

With respect to the above items, the General Aggregate Limit applies separately to:

 - (1) Each location owned by or rented to you. A location is a premises involving the same or connecting lots, or a premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad, and
 - (2) Each of your projects away from a location owned by or rented to you; or
 - b. Damages under Coverage B.
3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of *bodily injury* and *property damage* included in the *products-completed operations hazard*.

4. Subject to paragraph 2 above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all *personal and advertising injury* sustained by any one person or organization.
5. Subject to paragraph 2 or 3 above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage A; and
 - b. Medical expenses under Coverage C; because of all *bodily injury* and *property damage* arising out of any one *occurrence*.
6. Subject to paragraph 5 above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of *property damage* to any one premises, while rented to you for a period of 7 or fewer consecutive days or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to paragraph 5 above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of *bodily injury* sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties in the Event of Occurrence, Offense, Claim or Suit

- a. You must see to it that we are notified as soon as practicable of an *occurrence* or an offense which may result in a claim. To the extent possible, notice should include:
 - (1) How, when and where the *occurrence*

or offense took place;

- (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the *occurrence* or offense.
- b. If a claim is made or *suit* is brought against any insured, you must:
 - (1) Immediately record the specifics of the claim or *suit* and the date received; and
 - (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or *suit* as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or *suit*;
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the *suit*; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a.** To join us as a party or otherwise bring us into a *suit* asking for damages from an insured; or
- b.** To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured, but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when paragraph b below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in paragraph c below.

b. Excess Insurance

- (1) This insurance is excess over:
 - (a) Any of the other insurance, whether

primary, excess, contingent or on any other basis:

- (i) That is Fire, Extended Coverage, Builders' Risk, Installation Risk or similar coverage for *your work*;
- (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (iii) That is insurance purchased by you to cover your liability as a tenant for *property damage* to premises rented to you or temporarily occupied by you with permission of the owner; or
- (iv) If the loss arises out of the maintenance or use of aircraft, autos or watercraft to the extent not subject to Exclusion g of Section I - Coverage A - Bodily Injury and Property Damage Liability.

- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations for which you have been added as an additional insured by attachment of an endorsement.

- (2) When this insurance is excess, we will have no duty under Coverage A or B to defend the insured against any *suit* if any other insurer has a duty to defend the insured against that *suit*. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
 - (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (b) The total of all deductible and self-insured amounts under all of the other insurance.
- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable Limit of Insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable Limit of Insurance to the total applicable Limits of Insurance of all insurers.

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the First Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the First Named Insured.
- c. The First Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

7. Separation of Insureds

Except with respect to the Limits of Insurance and any rights or duties specifically assigned in this Coverage Part to the First Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or *suit* is brought.

8. Transfer of Rights of Recovery Against Others to Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring *suit* or transfer those rights to us and help us enforce them.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the First Named Insured shown in the Declarations, written notice of nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "*Advertisement*" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "*Auto*" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or

- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, *auto* does not include *mobile equipment*.

3. "*Bodily injury*" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "*Coverage territory*" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places not included in paragraph a above; or

c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in paragraph a above;
- (2) The activities of a person whose home is in the territory described in paragraph a above, but is away for a short time on your business; or
- (3) *Personal and advertising injury* offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a *suit* on the merits, in the territory described in paragraph a above or in a settlement we agree to.

5. "*Employee*" includes a *leased worker*. *Employee* does not include a *temporary worker*.
6. "*Executive officer*" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
7. "*Hostile fire*" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "*Impaired property*" means tangible property, other than *your product* or *your work*, that cannot be used or is less useful because:
 - a. It incorporates *your product* or *your work* that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of *your product* or *your work* or your fulfilling the terms of the contract or agreement.

9. "*Insured contract*" means:
 - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an *insured contract*;
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement; or
 - f. That part of any other contract or agreement pertaining to your business (including

an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for *bodily injury* or *property damage* to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for *bodily injury* or *property damage* arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

10. "*Leased worker*" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. *Leased worker* does not include a *temporary worker*.

11. "*Loading or unloading*" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or *auto*;
- b. While it is in or on an aircraft, watercraft or *auto*; or
- c. While it is being moved from an aircraft, watercraft or *auto* to the place where it is finally delivered;

but *loading or unloading* does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or *auto*.

12. "*Mobile equipment*" means any of the following

types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler-treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers.
- e. Vehicles not described in paragraph a, b, c or d above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers.
- f. Vehicles not described in paragraph a, b, c, or d above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not *mobile equipment* but will be considered *autos*:

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning.
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, *mobile equipment* does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered *autos*.

13. "Occurrence" means an accident, including

continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential *bodily injury*, arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in your *advertisement*; or
 - g. Infringing upon another's copyright, trade dress or slogan in your *advertisement*.
15. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.
16. "Products-completed operations hazard:"
- a. Includes all *bodily injury* and *property damage* occurring away from premises you own or rent and arising out of *your product* or *your work* except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, *your work* will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
 - b. Does not include *bodily injury* or *property*

damage arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the *loading or unloading* of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the *occurrence* that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of *bodily injury, property damage or personal and advertising injury* to which this insurance applies are alleged. *Suit* includes:

- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent *employee* on leave or to meet seasonal or

short-term workload conditions.

20. "Volunteer worker" means a person who is not your *employee*, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product:"

a. Means:

- (1) Any goods or products other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) You;
 - (b) Others trading under your name; or
 - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of *your product*; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work:"

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of *your work*; and
- (2) The providing of or failure to provide warnings or instructions.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU

CG-2033R(6-13)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. Section II - Who Is An Insured is amended to include as an additional insured:

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
- b. Any other person or organization you are required to add as an additional insured under the contract or agreement described in paragraph a above.

Such person or organization is an additional insured only with respect to liability for *bodily injury*, *property damage* or *personal and advertising injury* caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However the insurance afforded to such additional insured:

- a. Only applies to the extent permitted by law; and
- b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

2. With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- a. *Bodily injury*, *property damage* or *personal and advertising injury* arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the *occurrence* which caused the *bodily injury* or *property damage* involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

- b. *Bodily injury* or *property damage* occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of *your work* out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

3. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement you have entered into with the additional insured; or
- b. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**ADDITIONAL INSURED - COMPLETED OPERATIONS AUTOMATIC STATUS
WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU (OWNERS,
LESSEES OR CONTRACTORS)**

CG-7277(6-13)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS-COMPLETED OPERATIONS LIABILITY COVERAGE FORM

1. Section II - Who Is An Insured is amended to include as an additional insured:

- a.** Any person(s) or organization(s) for whom you have performed operations if you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as additional insured on your policy for completed operations; and
- b.** Any other person(s) or organization(s) you are required to add as an additional insured under the contract or agreement described in paragraph a above.

Such person or organization is an additional insured only with respect to liability included in the *products-completed operations hazard* for *bodily injury* or *property damage* caused, in whole or in part, by *your work* performed for that additional insured at the location designated and described in the contract or agreement.

However:

- a.** The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b.** If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. This insurance does not apply to:

- a.** *Bodily injury* or *property damage* which occurs prior to the execution of the contract or agreement described in item 1; or

b. *Bodily injury* or *property damage* that occurs after the time period during which the contract or agreement described in item 1 requires you to add such person or organization onto your policy as an additional insured for completed operations; or

c. *Bodily injury* or *property damage* arising out of the rendering of, or the failure to render, any professional, architectural, engineering or surveying services, including:

- (1) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the *occurrence* which caused the *bodily injury* or *property damage* involved the rendering of or the failure to render any professional services by or for you.

3. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a.** Required by the contract or agreement; or
- b.** Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Policy Number: ZJ9769

ACUITY ENHANCEMENTS - GENERAL LIABILITY

CG-7301(12-19)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

A. Extended Non-Owned Watercraft

Exclusion g Exception (2)(a) of Coverage A - Bodily Injury and Property Damage Liability is replaced by the following:

(a) Less than 51 feet long; and

B. Increased Bail Bond Amount

The limit shown in paragraph 1b of Supplementary Payments - Coverages A and B is increased to \$1,000.

C. Increased Reasonable Expenses Incurred by the Insured

The limit shown in paragraph 1d of Supplementary Payments - Coverages A and B is increased to \$350.

D. Newly Acquired Organizations

Item 3a of Section II - Who Is An Insured is replaced by the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

E. Tenants Legal Liability

Paragraphs (1), (3) and (4) of the Damage to Property Exclusion under Section I - Coverages do not apply to *property damage* (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 8 or more consecutive days.

The most we will pay under this coverage for damages because of *property damage* to any one premises is \$10,000. A \$250 deductible applies.

F. Knowledge of Claim or Suit

The following is added to paragraph 2, Duties in the Event of Occurrence, Offense, Claim or Suit of Section IV - Commercial General Liability Conditions:

Knowledge of an *occurrence*, claim or *suit* by your agent, servant or *employee* shall not in itself constitute knowledge of the Named Insured unless an officer of the Named Insured has received such notice from the agent, servant or *employee*.

G. Unintentional Failure to Disclose Hazard

The following is added to the Representations Condition under Section IV - Commercial General Liability Conditions:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we

will not reject coverage under this policy based solely on such failure.

H. Waiver of Subrogation for Written Contracts

The following is added to the Transfer of Rights of Recovery Against Others to Us Condition under Section IV - Commercial General Liability Conditions:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or *your work* done under a contract with that person or organization and included in the *products-completed operations hazard*.

The waiver applies only to:

1. Any person or organization with whom you have a written contract or agreement in which you are required to waive rights of recovery under this policy. Such contract or agreement must have been executed prior to the *occurrence* causing injury or damage; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in paragraph 1 above.

I. Liberalization

The following is added to Section IV - Commercial General Liability Conditions:

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

J. Broadened Bodily Injury

The Definition of *Bodily Injury* is amended to include mental anguish.

K. Electronic Data Liability

1. Exclusion 2q of Coverage A - Bodily Injury And Property Damage Liability in Section I - Coverages is replaced by the following:

2. Exclusions

This insurance does not apply to:

- q. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial

information, credit card information, health information or any other type of nonpublic information; or

- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate *electronic data* that does not result from physical injury to tangible property.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraph (1) or (2) above.

However, unless paragraph (1) above applies, this exclusion does not apply to damages because of *bodily injury*.

2. The following paragraph is added to Section III - Limits of Insurance:

Subject to paragraph 5 above, \$10,000 is the most we will pay under Coverage A for *property damage* because of all loss of *electronic data* arising out of any one *occurrence*.

3. The following definition is added to Section V - Definitions:

"*Electronic data*" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and application software), hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

4. For the purposes of this coverage, the definition of "*property damage*" in Section V - Definitions is replaced by the following:

"*Property damage*" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the *occurrence* that caused it; or
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate *electronic data*, resulting from physical injury to tangible property. All such loss of *electronic data*

shall be deemed to occur at the time of the *occurrence* that caused it.

For the purposes of this coverage, *electronic data* is not tangible property.

L. Employee Benefits Liability Coverage

1. The following is added to Section I - Coverages:

Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission, of the insured, or of any other person for whose acts the insured is legally liable, to which this coverage applies. We will have the right and duty to defend the insured against any *suit* seeking those damages. However, we will have no duty to defend the insured against any *suit* seeking damages to which this coverage does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any *claim* or *suit* that may result. But:

- (1) The amount we will pay for damages is limited as described in paragraph 5 of this coverage; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

- b. This coverage applies to damages only if:

- (1) The act, error or omission, is negligently committed in the *administration* of your *employee benefit program*;
- (2) The act, error or omission, did not take place before the original inception date of this coverage nor after the end of the policy period; and
- (3) A *claim* for damages, because of an act, error or omission, is first made against any insured, in accordance with paragraph c below, during the policy period or an Extended Reporting Period we provide under paragraph 6 of this coverage.

- c. A *claim* seeking damages will be deemed to have been made at the earlier of the following times:

- (1) When notice of such *claim* is

received and recorded by any insured or by us, whichever comes first; or

- (2) When we make settlement in accordance with paragraph a above.

A *claim* received and recorded by the insured within 60 days after the end of the policy period will be considered to have been received within the policy period, if no subsequent policy is available to cover the claim.

- d. All *claims* for damages made by an *employee* because of any act, error or omission, or a series of related acts, errors or omissions, including damages claimed by such *employee's* dependents and beneficiaries, will be deemed to have been made at the time the first of those *claims* is made against any insured.

Exclusions

This coverage does not apply to:

- a. **Dishonest, Fraudulent, Criminal Or Malicious Act**

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

- b. **Bodily Injury, Property Damage, Or Personal And Advertising Injury**

Bodily injury, property damage or personal and advertising injury.

- c. **Failure To Perform A Contract**

Damages arising out of failure of performance of contract by any insurer.

- d. **Insufficiency Of Funds**

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the *employee benefit program*.

- e. **Inadequacy Of Performance Of Investment/Advice Given With Respect To Participation**

Any *claim* based upon:

- (1) Failure of any investment to perform;
- (2) Errors in providing information on past performance of investment vehicles; or
- (3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the *employee benefit program*.

- f. **Workers' Compensation And Similar Laws**

Any *claim* arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

- g. **ERISA**

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

- h. **Available Benefits**

Any *claim* for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

- i. **Taxes, Fines Or Penalties**

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

- j. **Employment-Related Practices**

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

2. For the purposes of the coverage provided:

- a. All references to Supplementary Payments - Coverages A and B are replaced by Supplementary Payments - Coverages A, B and Employee Benefits Liability.

- b. Paragraphs 1b and 2 of the Supplementary Payments provision do not apply.

3. For the purposes of the coverage provided, paragraphs 2 and 3 of Section II - Who Is An Insured are replaced by the following:

2. Each of the following is also an insured:

- a. Each of your *employees* who is or was authorized to administer your *employee benefit program*.
- b. Any persons, organizations or *employees* having proper temporary authorization to administer your *employee benefit program* if you die, but only until your legal representative is appointed.
- c. Your legal representative if you die, but only with respect to duties as

such. That representative will have all your rights and duties under this coverage.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However:
 - a. Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
 - b. Coverage under this provision does not apply to any act, error or omission that was committed before you acquired or formed the organization.
4. For the purposes of the coverage provided, Section III - Limits Of Insurance is replaced by the following:

Limits Of Insurance

- a. The Limits of Insurance shown in d below and the rules below fix the most we will pay regardless of the number of:
 - (1) Insureds;
 - (2) *Claims* made or *suits* brought;
 - (3) Persons or organizations making *claims* or bringing *suits*;
 - (4) Acts, errors or omissions; or
 - (5) Benefits included in your *employee benefit program*.
- b. The Aggregate Limit is the most we will pay for all damages because of acts, errors or omissions negligently committed in the *administration* of your *employee benefit program*.
- c. Subject to the Aggregate Limit, the Each Employee Limit is the most we will pay for all damages sustained by any one *employee*, including damages sustained by such *employee's* dependents and beneficiaries, as a result of:
 - (1) An act, error or omission; or
 - (2) A series of related acts, errors or omissions negligently committed in the *administration* of your *employee benefit program*.

However, the amount paid under this coverage shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any

plan included in the *employee benefit program*.

d. Limits of Insurance

Each Employee Limit: \$250,000

Aggregate Limit: \$250,000

The Limits of Insurance of this coverage apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this coverage is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

Deductible

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in e below as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- b. The deductible amount stated in e below applies to all damages sustained by any one *employee*, including such *employee's* dependents and beneficiaries, because of all acts, errors or omissions to which this coverage applies.
- c. The terms of this coverage, including those with respect to:
 - (1) Our right and duty to defend any *suits* seeking those damages; and
 - (2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or *claim*
 apply irrespective of the application of the deductible amount.
- d. We may pay any part or all of the deductible amount to effect settlement of any *claim* or *suit* and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.
- e. Deductible

Each Employee Deductible: \$1,000
5. For the purposes of the coverage provided, Conditions 2 and 4 of Section IV - Conditions are replaced by the following:
 2. **Duties In The Event Of An Act, Error Or Omission, Or Claim Or Suit**

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a *claim*. To the extent possible, notice should include:
 - (1) What the act, error or omission was and when it occurred; and
 - (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.
- b. If a *claim* is made or *suit* is brought against any insured, you must:
 - (1) Immediately record the specifics of the *claim* or *suit* and the date received; and
 - (2) Notify us as soon as practicable.
- c. You and any other involved insured must:
 - (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the *claim* or *suit*;
 - (2) Authorize us to obtain records and other information;
 - (3) Cooperate with us in the investigation or settlement of the *claim* or defense against the *suit*; and
 - (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this coverage may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.
- e. The requirements to notify us can be satisfied by notifying our agent. Notice can be by any means of communication.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this coverage, our obligations are limited as follows:

a. Primary Insurance

This coverage is primary except when paragraph b below applies. If this coverage is primary, our

obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in paragraph c below.

b. Excess Insurance

- (1) This coverage is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is effective prior to the beginning of the policy period shown in the Declarations of this insurance and that applies to an act, error or omission on other than a claims-made basis, if the other insurance has a policy period which continues after the original inception date of this coverage.
- (2) When this coverage is excess, we will have no duty to defend the insured against any *suit* if any other insurer has a duty to defend the insured against that *suit*. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3) When this coverage is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of the total amount that all such other insurance would pay for the loss in absence of this coverage; and the total of all deductible and self-insured amounts under all that other insurance.
- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in paragraph 5d of this coverage.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable Limit of Insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares,

we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable Limits of Insurance to the total applicable Limits of Insurance of all insurers.

6. For the purposes of the coverage provided, the following Extended Reporting Period provisions are added, or, if this coverage is attached to a claims-made Coverage Part, replaces any similar Section in that Coverage Part:

EXTENDED REPORTING PERIOD

- a. You will have the right to purchase an Extended Reporting Period, as described below, if:

(1) This coverage is canceled or not renewed; or

(2) We renew or replace this coverage with insurance that:

(a) Has an inception date later than the original inception date of this coverage; or

(b) Does not apply to an act, error or omission on a claims-made basis.

- b. The Extended Reporting Period does not extend the policy period or change the scope of coverage provided. It applies only to *claims* for acts, errors or omissions that were first committed before the end of the policy period but not before the original inception date of this coverage. Once in effect, the Extended Reporting Period may not be canceled.

- c. An Extended Reporting Period of five years is available, but only by an endorsement and for an extra charge.

You must give us a written request for the endorsement within 60 days after the end of the policy period. The Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due.

We will determine the additional premium in accordance with our rules and rates. In doing so, we may take into account the following:

(1) The *employee benefit programs* insured;

(2) Previous types and amounts of insurance;

(3) Limits of insurance available under this coverage for future payment of damages; and

- (4) Other related factors.

The additional premium will not exceed \$100.

The Extended Reporting Period endorsement applicable to this coverage shall set forth the terms, not inconsistent with this Section, applicable to the Extended Reporting Period, including a provision to the effect that the coverage afforded for *claims* first received during such period is excess over any other valid and collectible insurance available under policies in force after the Extended Reporting Period starts.

- d. If the Extended Reporting Period is in effect, we will provide an extended reporting period aggregate limit of insurance described below, but only for claims first received and recorded during the Extended Reporting Period.

The extended reporting period aggregate limit of insurance will be equal to the dollar amount shown in paragraph 5d of this coverage under Limits of Insurance.

Paragraph 5b of this coverage will be amended accordingly. The Each Employee Limit shown in paragraph 5d will then continue to apply as set forth in paragraph 5c.

7. For the purposes of the coverage provided, the following definitions are added to the Definitions Section:

- a. "*Administration*" means:

(1) Providing information to *employees*, including their dependents and beneficiaries, with respect to eligibility for or scope of *employee benefit programs*;

(2) Handling records in connection with the *employee benefit program*; or

(3) Effecting, continuing or terminating any *employee's* participation in any benefit included in the *employee benefit program*.

However, *administration* does not include handling payroll deductions.

- b. "*Cafeteria plans*" means plans authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.

- c. "*Claim*" means any demand, or *suit*, made by an *employee* or an *employee's* dependents and beneficiaries, for damages as the result of an act, error or omission.

- d. "Employee benefit program" means a program providing some or all of the following benefits to *employees*, whether provided through a *cafeteria plan* or otherwise:
- (1) Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an *employee* may subscribe to such benefits and such benefits are made generally available to those *employees* who satisfy the plan's eligibility requirements;
 - (2) Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an *employee* may subscribe to such benefits and such benefits are made generally available to all *employees* who are eligible under the plan for such benefits;
 - (3) Unemployment insurance, social security benefits, workers' compensation and disability benefits;
 - (4) Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies; and
 - (5) Any other similar benefits added thereto by endorsement.
8. For the purposes of the coverage provided, the following Definitions in the Definitions Section are replaced by the following:
- a. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. *Employee* includes a *leased worker*. *Employee* does not include a *temporary worker*.
 - b. "Suit" means a civil proceeding in which damages because of an act, error or omission to which this coverage applies are alleged. *Suit* includes:
 - (1) An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - (2) Any other alternative dispute resolution proceeding in which such damages are claimed and to which

the insured submits with our consent.

M. Voluntary Property Damage

1. With respect to the insurance provided under this coverage, paragraph 2 Exclusions of Coverage A - Bodily Injury and Property Damage Liability under Section I - Coverages is modified as followed:
 - a. Exclusion 2j(4) is replaced by the following:
 - (4) Personal property of others:
 - (a) Held by the insured for servicing, repair, storage or sale at premises owned, occupied or rented to the insured.
 - (b) Caused by the ownership, maintenance, use, loading or unloading of any auto, watercraft or transportation of property by any means.
 - b. Exclusion 2j(5) is deleted.
2. The insurance provided by this coverage is subject to the following provisions:
 - a. We will pay for *property damage* at your request even if you are not legally liable, if it is otherwise subject to this coverage.
 - b. *Property damage* does not include loss of use if personal property of others is not physically injured.
 - c. **Limits**
 The most we will pay for an *occurrence* under this coverage is \$2,500.
 The most we will pay for the sum of all amounts paid under this coverage is an aggregate of \$2,500.
 The General Aggregate Limit and Each Occurrence Limit under Section III - Limits of Insurance do not apply to the insurance provided under this coverage.
 - d. **Settlement**
 If you make any repairs to damaged property, at our request, we will pay the larger of your actual cost or 75% of your usual charge for the necessary labor and materials. Any property paid for or replaced by us may become our property at our option. Any payment made under this coverage shall not be interpreted as an admission of liability by the insured or the company.
 - e. **Deductible**
 Our obligation to pay for a covered loss applies only to the amount of loss in

excess of \$200.

f. Other Insurance

The insurance provided by this coverage is excess over any other insurance carried by the insured which applies to a loss covered by this coverage.

N. Increased Limits of Insurance

1. The General Aggregate Limit is increased to three times the Each Occurrence Limit.

2. The Products-Completed Operations Aggregate Limit is increased to three times the Each Occurrence Limit.
3. The Damage To Premises Rented To You Limit is increased to \$250,000.
4. The Medical Expense Limit is increased to \$10,000.

The Limits of Insurance shown here do not replace and are not in addition to the Limits of Insurance shown in the Declarations.

Policy Number: ZJ9769

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

CG-2001R(4-13)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS-COMPLETED OPERATIONS LIABILITY COVERAGE FORM
RESIDENTIAL CARE FACILITY LIABILITY COVERAGE PART

The following is added to the Other Insurance Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

**ADDITIONAL INSURED - AUTOMATIC STATUS WHEN REQUIRED IN
WRITTEN AGREEMENT WITH YOU - PRIMARY**

CA-7214(10-98)

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GARAGE COVERAGE FORM

MOTOR CARRIER COVERAGE FORM

1. Who Is an Insured under Section II - Liability Coverage is amended to include any person or organization with whom you have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such persons or organizations are additional insureds only with respect to liability arising

out of operations performed for the additional insured by you.

2. The coverage provided by this endorsement will be primary and noncontributory with respect to any other coverage available to the additional insured.

3. The Limits of Insurance applicable to the additional insured are those specified in the written contract or agreement or in the Declarations for this Coverage Form, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations.

BUSINESS AUTO COVERAGE FORM

Index of Policy Provisions

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BUSINESS AUTO COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we," "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in italics have special meaning. Refer to Section V - Definitions.

SECTION I - COVERED AUTOS

Item Two of the Declarations shows the *autos* that are covered *autos* for each of your coverages. The following numerical symbols describe the *autos* that may be covered *autos*. The symbols entered next to a coverage on the Declarations designate the only *autos* that are covered *autos*.

A. DESCRIPTION OF COVERED AUTO DESIGNATION SYMBOLS

SYMBOL DESCRIPTION

1 = ANY *AUTO*.

2 = OWNED *AUTOS* ONLY. Only those *autos* you own (and for Liability Coverage any *trailers* you do not own while attached to power units you own). This includes those *autos* you acquire ownership of after the policy begins.

3 = OWNED PRIVATE PASSENGER *AUTOS* ONLY. Only the private passenger *autos* you own. This includes those private passenger *autos* you acquire ownership of after the policy begins.

4 = OWNED *AUTOS* OTHER THAN PRIVATE PASSENGER *AUTOS* ONLY. Only those *autos* you own that are not of the private passenger type (and for Liability Coverage any *trailers* you do not own while attached to power units you own). This includes those *autos* not of the private passenger type you acquire ownership of after the policy begins.

5 = OWNED *AUTOS* SUBJECT TO NO-FAULT. Only those *autos* you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those *autos* you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.

6 = OWNED *AUTOS* SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those *autos* you own that because of the law in the state where they are licensed or principally garaged, are required to have and cannot reject Uninsured Motorists Coverage. This includes those *autos* you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.

7 = SPECIFICALLY DESCRIBED *AUTOS*. Only those *autos* described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any *trailers* you do not own while attached to any power unit described in Item Three).

8 = HIRED *AUTOS* ONLY. Only those *autos* you lease, hire, rent or borrow. This does not include any *auto* you lease, hire, rent or borrow from any of your *employees* or partners or members of their households.

9 = NONOWNED *AUTOS* ONLY. Only those *autos* you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes *autos* owned by your *employees*, partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

19 = MOBILE EQUIPMENT SUBJECT TO COMPULSORY OR FINANCIAL RESPONSIBILITY OR OTHER MOTOR VEHICLE INSURANCE LAW ONLY. Only those *autos* that are land vehicles and that would qualify under the definition of *mobile equipment* under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.

B. OWNED AUTOS YOU ACQUIRE AFTER THE POLICY BEGINS

1. If symbols 1, 2, 3, 4, 5, 6 or 19 are entered next to a coverage in Item Two of the Declarations, then you have coverage for *autos* that you acquire of the type described for the remainder of the policy period.
2. But, if symbol 7 is entered next to a coverage in Item Two of the Declarations, an *auto* you acquire will be a covered *auto* for that coverage only if:
 - a. We already cover all *autos* that you own for that coverage or it replaces an *auto* you previously owned that had that coverage; and

- b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. CERTAIN TRAILERS, MOBILE EQUIPMENT AND TEMPORARY SUBSTITUTE AUTOS

If Liability Coverage is provided by this coverage form, the following types of vehicles are also covered *autos* for Liability Coverage:

1. *Trailers* with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. *Mobile equipment* while being carried or towed by a covered *auto*.
3. Any *auto* you do not own while used with the permission of its owner as a temporary substitute for a covered *auto* you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;
 - c. Servicing;
 - d. Loss; or
 - e. Destruction.

SECTION II - LIABILITY COVERAGE

A. COVERAGE

We will pay all sums an *insured* legally must pay as damages because of *bodily injury* or *property damage* to which this insurance applies, caused by an *accident* and resulting from the ownership, maintenance or use of a covered *auto*.

We will also pay all sums an *insured* legally must pay as a *covered pollution cost or expense* to which this insurance applies, caused by an *accident* and resulting from the ownership, maintenance or use of covered *autos*. However, we will only pay for the *covered pollution cost or expense* if there is either *bodily injury* or *property damage* to which this insurance applies that is caused by the same *accident*.

We have the right and duty to defend any *insured* against a *suit* asking for such damages or a *covered pollution cost or expense*. However, we have no duty to defend any *insured* against a *suit* seeking damages for *bodily injury* or *property damage* or a *covered pollution cost or expense* to which this insurance does not apply. We may investigate and settle any claim or *suit* as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

1. Who Is an Insured

The following are *insureds*:

- a. You for any covered *auto*.
- b. Anyone else while using with your permission a covered *auto* you own, hire or borrow except:
 - (1) The owner or anyone else from whom you hire or borrow a covered *auto*. This exception does not apply if the covered *auto* is a *trailer* connected to a covered *auto* you own.
 - (2) Your *employee* if the covered *auto* is owned by that *employee* or a member of his or her household.
 - (3) Someone using a covered *auto* while he or she is working in a business of selling, servicing, repairing, parking or storing *autos* unless that business is yours.
 - (4) Anyone other than your *employees*, partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their *employees*, while moving property to or from a covered *auto*.

(5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered *auto* owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an *insured* described above but only to the extent of that liability.

2. Coverage Extensions

a. Supplementary Payments

We will pay for the *insured*:

- (1) All expenses we incur.
- (2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an *accident* we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any *suit* against the *insured* we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the *insured* at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All court costs taxed against the *insured* in any *suit* against the *insured* we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the *insured*.
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any *suit* against the *insured* we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

b. Out of State Coverage Extensions

While a covered *auto* is away from the state where it is licensed we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limit or limits specified by a compulsory or financial responsibility law in the jurisdiction where the covered *auto* is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out of state vehicles by the jurisdiction where the covered *auto* is being used.

We will not pay anyone more than once for the same elements of *loss* because of these extensions.

B. EXCLUSIONS

This insurance does not apply to any of the following:

1. Expected or Intended Injury

Bodily injury or *property damage* expected or intended from the standpoint of the *insured*.

2. Contractual

Liability assumed under any contract or agreement. But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an *insured contract*, provided the *bodily injury* or *property damage* occurs subsequent to the execution of the contract or agreement; or
- b. That the *insured* would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the *insured* or the *insured's* insurer may be held liable under any workers' compensation law, disability benefits law or unemployment compensation law or any similar law.

4. Employee Indemnification and Employer's Liability

Bodily injury to:

- a. An *employee* of the *insured* arising out of and in the course of:
 - (1) Employment by the *insured*; or
 - (2) Performing duties related to the conduct of the *insured's* business; or
- b. The spouse, child, parent, brother or sister of that *employee* as a consequence of paragraph a above.

This exclusion applies:

- a. Whether the *insured* may be liable as an employer or in any other capacity; and
- b. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to *bodily injury* to domestic *employees* not entitled to workers' compensation benefits or to liability assumed by the *insured* under an *insured contract*. For the purposes of the coverage form, a domestic *employee* is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

Bodily injury to:

- a. Any fellow *employee* of the *insured* arising out of and in the course of the fellow *employee's* employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow *employee* as a consequence of paragraph a above.

6. Care, Custody or Control

Property damage to or covered *pollution cost* or *expense* involving property owned or transported by the *insured* or in the *insured's* care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling of Property

Bodily injury or *property damage* resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the *insured* for movement into or onto the covered *auto*; or
- b. After it is moved from the covered *auto* to the place where it is finally delivered by the *insured*.

8. Movement of Property by Mechanical Device

Bodily injury or *property damage* resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered *auto*.

9. Operations

Bodily injury or *property damage* arising out of the operation of:

- a. Any equipment listed in paragraphs 6b and 6c of the definition of *mobile equipment*; or

- b. Machinery or equipment that is on, attached to, or part of, a land vehicle that would qualify under the definition of *mobile equipment* if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

Bodily injury or *property damage* arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in paragraphs a or b above.

Your work will be deemed completed at the earliest of the following times:

- a. When all of the work called for in your contract has been completed;
- b. When all of the work to be done at the site has been completed if your contract calls for work at more than one site; or
- c. When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

11. Pollution

Bodily injury or *property damage* arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants*:

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered *auto*;
 - (2) Otherwise in the course of transit by or on behalf of the *insured*; or
 - (3) Being stored, disposed of, treated or processed in or upon the covered *auto*.

- b. Before the *pollutants* or any property in which the *pollutants* are contained are moved from the place where they are accepted by the *insured* for movement into or onto the covered *auto*; or
- c. After the *pollutants* or any property in which the *pollutants* are contained are moved from the covered *auto* to the place where they are finally delivered, disposed of or abandoned by the *insured*.

Paragraph a above does not apply to fuels, lubricants, fluids, exhaust gases or other similar *pollutants* that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered *auto* or its parts, if:

- (1) The *pollutants* escape, seep, migrate, or are discharged, dispersed or released directly from an *auto* part designed by its manufacturer to hold, store, receive or dispose of such *pollutants*; and
- (2) The *bodily injury, property damage* or covered *pollution cost or expense* does not arise out of the operation of any equipment listed in paragraphs 6b and 6c of the definition of *mobile equipment*.

Paragraphs b and c above of this exclusion do not apply to *accidents* that occur away from premises owned by or rented to an *insured* with respect to *pollutants* not in or upon a covered *auto* if:

- (1) The *pollutants* or any property in which the *pollutants* are contained are upset, overturned or damaged as a result of the maintenance or use of a covered *auto*; and
- (2) The discharge, dispersal, seepage, migration, release or escape of the *pollutants* is caused directly by such upset, overturn or damage.

SECTION III - PHYSICAL DAMAGE COVERAGE

A. COVERAGE

- 1. We will pay for *loss* to a covered *auto* or its equipment under:
 - a. **Comprehensive Coverage**
From any cause except:
 - (1) The covered *auto's* collision with another object; or
 - (2) The covered *auto's* overturn.

12. War

Bodily injury or *property damage* arising directly or indirectly out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

13. Racing

Covered *autos* while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered *auto* is being prepared for such a contest or activity.

C. LIMIT OF INSURANCE

Regardless of the number of covered *autos*, *insureds*, premiums paid, claims made or vehicles involved in the *accident*, the most we will pay for the total of all damages and covered *pollution cost or expense* combined resulting from any one *accident* is the Limit of Insurance for Liability Coverage shown in the Declarations.

All *bodily injury, property damage* and covered *pollution cost or expense* resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one *accident*.

No one will be entitled to receive duplicate payments for the same elements of *loss* under this coverage form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

b. Specified Causes of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft;
- (3) Windstorm, hail or earthquake;
- (4) Flood;
- (5) Mischief or vandalism; or

- (6) The sinking, burning, collision or derailment of any conveyance transporting the covered *auto*.

c. Collision Coverage

Caused by:

- (1) The covered *auto*'s collision with another object; or
- (2) The covered *auto*'s overturn.

2. Towing

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered *auto* of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage - Hitting a Bird or Animal - Falling Objects or Missiles

If you carry Comprehensive Coverage for the damaged covered *auto*, we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. Loss caused by hitting a bird or animal; and
- c. Loss caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered *auto*'s collision or overturn considered a *loss* under Collision Coverage.

4. Coverage Extensions

a. Transportation Expenses

We will also pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered *auto* of the private passenger type. We will pay only for those covered *autos* for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered *auto* is returned to use or we pay for its *loss*.

b. Loss of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an *insured* becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered *auto*;
- (2) Specified Causes of Loss only if the Declarations indicate that Specified Causes of Loss Coverage is provided for any covered *auto*; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered *auto*.

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

B. EXCLUSIONS

1. We will not pay for *loss* caused by or resulting from any of the following. Such *loss* is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the *loss*.

a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War or Military Action

- (1) War, including undeclared or civil war;
 - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.
2. We will not pay for *loss* to any covered *auto* while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for *loss* to any covered *auto* while that covered *auto* is being prepared for such a contest or activity.

3. We will not pay for *loss* due and confined to:
- a. Wear and tear, freezing, mechanical or electrical breakdown.
 - b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such *loss* resulting from the total theft of a covered *auto*.

4. We will not pay for *loss* to any of the following:
- a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
 - b. Any device designed or used to detect speed-measuring equipment, such as radar or laser detectors, and any jamming apparatus intended to elude or disrupt speed-measuring equipment.
 - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.
 - d. Any accessories used with the electronic equipment described in paragraph c above.
5. Exclusions 4c and 4d do not apply to equipment designed to be operated solely by use of the power from the *auto's* electrical system that, at the time of *loss*, is:
- a. Permanently installed in or upon the covered *auto*;
 - b. Removable from a housing unit which is permanently installed in or upon the covered *auto*;
 - c. An integral part of the same unit housing any electronic equipment described in paragraphs a and b above; or
 - d. Necessary for the normal operation of the covered *auto* or the monitoring of the covered *auto's* operating system.

6. We will not pay for *loss* to a covered *auto* due to *diminution in value*.

C. LIMIT OF INSURANCE

1. The most we will pay for *loss* to any one covered *auto* is the lesser of:
- a. The actual cash value of the damaged or stolen property as of the time of the *loss*; or
 - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
2. The most we will pay for all electronic equipment that reproduces, receives or transmits audio, visual or data signals in any one *loss* is \$1,000, if, at the time of *loss*, such electronic equipment is:
- a. Permanently installed in or upon the covered *auto* in a housing, opening or other location that is not normally used by the *auto* manufacturer for the installation of such equipment;
 - b. Removable from a permanently installed housing unit as described in paragraph 2a above; or
 - c. An integral part of such equipment as described in paragraphs 2a and 2b above.
3. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total *loss*.
4. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. DEDUCTIBLE

For each covered *auto*, our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to *loss* caused by fire or lightning.

SECTION IV - BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. LOSS CONDITIONS

1. Appraisal for Physical Damage Loss

If you and we disagree on the amount of *loss*, either may demand an appraisal of the *loss*. In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of *loss*. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and

- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties in the Event of Accident, Claim, Suit or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of *accident*, claim, *suit* or *loss*, you must give us or our authorized representative prompt notice of the *accident* or *loss*. Include:
 - (1) How, when and where the *accident* or *loss* occurred;
 - (2) The *insured's* name and address; and
 - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved *insured* must:
 - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the *insured's* own cost.
 - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or *suit*.
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the *suit*.
 - (4) Authorize us to obtain medical records or other pertinent information.
 - (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.
- c. If there is *loss* to a covered *auto* or its equipment, you must also do the following:
 - (1) Promptly notify the police if the covered *auto* or any of its equipment is stolen.
 - (2) Take all reasonable steps to protect the covered *auto* from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
 - (3) Permit us to inspect the covered *auto* and records proving the *loss* before its repair or disposition.
 - (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this coverage form until:

- a. There has been full compliance with all the terms of this coverage form; and
- b. Under Liability coverage, we agree in writing that the *insured* has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the *insured's* liability.

4. Loss Payment - Physical Damage Coverages

At our option, we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property at our expense. We will pay for any damage that results to the *auto* from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the *loss*, our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer of Rights of Recovery Against Others to Us

If any person or organization to or for whom we make payment under this coverage form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after *accident* or *loss* to impair them.

B. GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the *insured* or the *insured's* estate will not relieve us of any obligations under this coverage form.

2. Concealment, Misrepresentation or Fraud

This coverage form is void in any case of fraud by you at any time as it relates to this coverage form. It is also void if you or any other *insured*, at any time, intentionally conceals or misrepresents a material fact concerning:

- a. This coverage form;
- b. The covered *auto*;
- c. Your interest in the covered *auto*; or
- d. A claim under this coverage form.

3. Liberalization

If we revise this coverage form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit to Bailee - Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this coverage form.

5. Other Insurance

a. For any covered *auto* you own, this coverage form provides primary insurance. For any covered *auto* you do not own, the insurance provided by this coverage form is excess over any other collectible insurance. However, while a covered *auto* which is a *trailer* is connected to another vehicle, the Liability Coverage this coverage form provides for the *trailer* is:

- (1) Excess while it is connected to a motor vehicle you do not own; or
- (2) Primary while it is connected to a covered *auto* you own.

b. For Hired Auto Physical Damage Coverage, any covered *auto* you lease, hire, rent or borrow is deemed to be a covered *auto* you own. However, any *auto* that is leased, hired, rented or borrowed with a driver is not a covered *auto*.

c. Regardless of the provisions of paragraph a above, this coverage form's Liability Coverage is primary for any liability assumed under an *insured contract*.

d. When this coverage form and any other coverage form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our coverage form bears to the total of the limits of all the coverage forms and policies covering on the same basis.

6. Premium Audit

a. The estimated premium for this coverage form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the First Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the First Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this coverage form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. Policy Period, Coverage Territory

a. Under this coverage form, we cover *accidents* and *losses* occurring:

- (1) During the policy period shown in the Declarations; and
- (2) Within the coverage territory.

b. The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if a covered *auto* of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less,

provided that the *insured's* responsibility to pay damages is determined in a *suit* on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico, or Canada or in a settlement we agree to.

c. We also cover *loss* to, or *accidents* involving, a covered *auto* while being transported between any of these places.

8. Two or More Coverage Forms or Policies Issued by Us

If this coverage form and any other coverage form or policy issued to you by us or any company affiliated with us applies to the same *accident*, the aggregate maximum Limit of Insurance under all the coverage forms or policies shall not exceed the highest applicable Limit of Insurance under any one coverage form or policy. This condition does not apply to any coverage form or policy issued by us or an affiliated company specifically to apply as excess insurance over this coverage form.

SECTION V - DEFINITIONS

A. "*Accident*" includes continuous or repeated exposure to the same conditions resulting in *bodily injury* or *property damage*.

B. "*Auto*" means:

1. A land motor vehicle, *trailer* or semitrailer designed for travel on public roads; or
2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, *auto* does not include *mobile equipment*.

C. "*Bodily injury*" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these.

D. "*Covered pollution cost or expense*" means any cost or expense arising out of:

1. Any request, demand, order or statutory or regulatory requirement that any *insured* or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of *pollutants*; or
2. Any claim or *suit* by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of *pollutants*.

Covered pollution cost or expense does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of *pollutants*:

a. That are, or that are contained in any property that is:

- (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered *auto*;

(2) Otherwise in the course of transit by or on behalf of the *insured*; or

(3) Being stored, disposed of, treated or processed in or upon the covered *auto*;

b. Before the *pollutants* or any property in which the *pollutants* are contained are moved from the place where they are accepted by the *insured* for movement into or onto the covered *auto*; or

c. After the *pollutants* or any property in which the *pollutants* are contained are moved from the covered *auto* to the place where they finally are delivered, disposed of or abandoned by the *insured*.

Paragraph a above does not apply to fuels, lubricants, fluids, exhaust gases or other similar *pollutants* that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered *auto* or its parts, if:

(1) The *pollutants* escape, seep, migrate, or are discharged, dispersed or released directly from an *auto* part designed by its manufacturer to hold, store, receive or dispose of such *pollutants*; and

(2) The *bodily injury*, *property damage* or *covered pollution cost or expense* does not arise out of the operation of any equipment listed in paragraphs 6b or 6c of the definition of *mobile equipment*.

Paragraphs b and c above do not apply to *accidents* that occur away from premises owned by or rented to an *insured* with respect to *pollutants* not in or upon a covered *auto* if:

(1) The *pollutants* or any property in which the *pollutants* are contained are upset, overturned or damaged as a result of the maintenance or use of a covered *auto*; and

(2) The discharge, dispersal, seepage, migration, release or escape of the *pollutants* is caused directly by such upset, overturn or damage.

- E. "*Diminution in value*" means the actual or perceived loss in market value or resale value which results from a direct or accidental loss.
- F. "*Employee*" includes a *leased worker*. *Employee* does not include a *temporary worker*.
- G. "*Insured*" means any person or organization qualifying as an *insured* in the Who Is an Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each *insured* who is seeking coverage or against whom a claim or *suit* is brought.
- H. "*Insured contract*" means:
 - 1. A lease of premises;
 - 2. A sidetrack agreement;
 - 3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - 4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - 5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for *bodily injury* or *property damage* to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; or
 - 6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your *employees*, of any *auto*. However, such contract or agreement shall not be considered an *insured contract* to the extent that it obligates you or any of your *employees* to pay for *property damage* to any *auto* rented or leased by you or any of your *employees*.

An *insured contract* does not include that part of any contract or agreement:

 - 1. That indemnifies a railroad for *bodily injury* or *property damage* arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
 - 2. That pertains to the loan, lease or rental of an *auto* to you or any of your *employees*, if the *auto* is loaned, leased or rented with a driver; or
- 3. That holds a person or organization engaged in the business of transporting property by *auto* for hire harmless for your use of a covered *auto* over a route or territory that person or organization is authorized to serve by public authority.
- I. "*Leased worker*" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. *Leased worker* does not include a *temporary worker*.
- J. "*Loss*" means direct and accidental loss or damage.
- K. "*Mobile equipment*" means any of the following types of land vehicles, including any attached machinery or equipment:
 - 1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - 2. Vehicles maintained for use solely on or next to premises you own or rent;
 - 3. Vehicles that travel on crawler-treads;
 - 4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
 - 5. Vehicles not described in paragraph 1, 2, 3 or 4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers; or
 - 6. Vehicles not described in paragraph 1, 2, 3 or 4 above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not *mobile equipment* but will be considered *autos*:
 - a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning.

- b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, *mobile equipment* does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered *autos*.

- L. "*Pollutants*" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- M. "*Property damage*" means damage to or loss of use of tangible property.

N. "*Suit*" means a civil proceeding in which:

1. Damages because of *bodily injury* or *property damage*; or
 2. A *covered pollution cost or expense*;
- to which this insurance applies are alleged.

Suit includes:

1. An arbitration proceeding in which such damages or *covered pollution costs or expenses* are claimed and to which the *insured* must submit or does submit with our consent; or
2. Any other alternative dispute resolution proceeding in which such damages or *covered pollution costs or expenses* are claimed and to which the *insured* submits with our consent.

O. "*Temporary worker*" means a person who is furnished to you to substitute for a permanent *employee* on leave or to meet seasonal or short-term workload conditions.

P. "*Trailer*" includes semitrailer.

1 of 1

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AGENDA ITEM REPORT

13.2.



To: City Council
Subject: Consideration and possible action on Resolution No. R-2024-167 authorizing the City Manager to execute a task order with Terracon in the amount of \$24,076 for construction materials testing related to the Northwest Transmission Main Waterline project (CIP W03-2023) (Matt Rector)
Meeting: Thursday, August 1, 2024
Department: Engineering /
Staff Contact: Matt Rector

BACKGROUND INFORMATION:

City Council is considering approval for capital improvements to award a construction contract for the Northwest Transmission Main Waterline project tonight and this agenda item is paired for consideration of approval for materials testing.

The proposed Northwest Transmission Main project improvements are included in the Capital Improvement Program as this project includes a 16-inch pipeline parallel to the existing pipeline along Limmer Loop from FM 1660 to the Northwest Ground Storage Tank (GST). This project will also serve as the interconnect with the Jonah Special Utility District (SUD) water system. This project must be completed in order to convert the northwestern part of the current 801 ft pressure plane to 890 ft pressure plane. The City of Hutto currently operates at 801 foot pressure plane, yet the northwestern area's water elevation requires a higher pressure for water flow to customers. The unprecedented projected growth requires the City to add a significant distribution system infrastructure to maintain regulatory compliance and system operations to provide adequate elevated storage capacity in the 801' PP, by 2047.

The purpose of these services is to observe various components of the construction and conduct specific tests to determine whether the materials and construction comply with the project requirements. These services are designed to provide a level of quality assurance (QA) for the client and are not intended to replace quality control tests and procedures required by the contractors and their suppliers. The line item description of materials testing services to be provided by the Terracon team for this proposal is mentioned below:

1. Earthwork Observation & Testing – The Terracon scope of services includes sampling and testing of soils, periodic observation of earthwork operations, and moisture-density testing of subgrade and compacted fills.

2. Asphalt Observation & Testing – The Terracon scope of services includes observation of the asphalt paving operations, sampling asphalt and conducting laboratory tests. These services may be provided on a part-time or full-time basis as authorized by the client.

AGENDA ITEM REPORT

13.2.



3. Project Management - Terracon project management services include report review, data interpretation and signature; coordination with technicians and contractor personnel; participation in construction meetings when requested; preparation of budget status reports and invoices; and other related services to facilitate communication and coordination between the Terracon technicians and the contractor's personnel.

The purpose of this item is to award a task order to Terracon for construction materials testing, associated with the Northwest Transmission Main Waterline project, to coordinate with a contractor. The City staff is recommending Terracon to provide material testing for the amount of \$24,076.00.

Additional Background:

The project consists of the installation of approximately 5,400 LF of 16" C900 PVC watermain along the north side of Limmer Loop, using a combination of open cut and trenchless installation methods. At its eastern end, the new watermain shall tie into an existing City of Hutto 16" watermain, and at its western end, the new watermain shall tie into the existing ground storage tank influent line at the City of Hutto's Northwest Ground Storage Tank site. B. The project also includes an interconnect with the Jonah Special Utility District's 16" watermain along Limmer Loop, which will connect directly to the existing Northwest ground storage tank via an existing wall penetration. C. Both the new Hutto watermain and the Jonah-Hutto interconnect will require flow monitoring, the new Hutto water main will require a pressure sustaining valve and all electrical and instrumentation integration associated therewith.

SUMMARY OF REQUEST:

Request approval of the Resolution as presented

STAFF REVIEW:

FISCAL NOTES:

Funding for the materials testing portion of this project is as follows:

Series 2022 GO

ARPA Funds

Account Number: 57-040-058-6680 - Series 2022 GO

Account Number: 65-040-058-6782 - ARPA

Account Name: (W03) Northwest Transmission Water Lines

Budget: \$5,430,383

Engr/Design: \$814,557

Equipment: \$0

Materials Testing: \$40,728

AGENDA ITEM REPORT

13.2.



ROW: \$162,911
Construction: \$4,412,187

Actuals: \$3,481,073
Engr/Design: \$769,947
Equipment: \$0
Materials Testing: \$24,076
ROW:
Construction: \$2,687,050 (item on this agenda)

Materials Testing:
Budget Amount: \$40,728
Actual Amount: \$24,076
Amount Remaining: \$16,652

ATTACHMENTS:

1. W_03_Northwest_Transmission_Water_Main_Jonah_SUD_Wholesale_Interconnect
2. Resolution_Terracon_MTL Test_W03-2023_06.28.2024_mm
3. IPO Cover_23-04C-04_Terracon_NWTM_06.24.2024_signed
4. Scope_Terracon_PAC241085 Northwest Transmission_06.24.2024 - signed
5. Form 1295 Certificate 101226146

W-03 Northwest Transmission Water Main (Jonah SUD Wholesale Interconnect)



RESOLUTION NO. R-2024-__

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
APPROVING TASK ORDER IPO 23-04B-04 BETWEEN
TERRACON CONSULTANTS, INC. AND THE CITY OF
HUTTO IN THE AMOUNT OF \$24,076.00 FOR MATERIALS
TESTING SERVICES FOR THE NORTHWEST
TRANSMISSION MAIN PROJECT (CIP W03-2023);
AUTHORIZING THE CITY MANAGER TO EXECUTE THE
IPO; PROVIDING PROPER NOTICE & MEETING, AND
PROVING AN EFFECTIVE DATE.**

WHEREAS, the City Council desires to approve the Individual Project Order 23-04B-04 (“IPO”), attached as Exhibit A and incorporated herein by reference, in the amount of \$24,076.00, in accordance with the provisions of the Master Services Agreement For Professional Consulting Services executed between the City of Hutto and Terracon Consultants, Inc.; and

WHEREAS, the IPO provides materials testing services for the Northwest Transmission Main Project (CIP W03-2023); and

WHEREAS, the City Council desires to authorize the City Manager to execute the IPO, attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: That the Hutto City Council hereby approves and authorizes the City Manager to execute the IPO, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the
11th day of July 2024 on vote of __AYES; __NAYS; __ABSTENTIONS

City of Hutto, Texas

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary



TASK ORDER IPO 23-04C-04

Proposed MATERIALS TESTING ROTATION LIST

In accordance with Agreement for On Demand Services Survey Services Rotation List between the City of Hutto (Owner) and Vendor, the parties agree as follows:

1. Background Data
 - a. Effective Date of Task Order IPO 23-04C-04:
 - b. Owner: City of Hutto
 - c. Vendor: Terracon Consultants, Inc.

Specific Project (title): Northwest Transmission Main

- 1) Scope of services for Terracon Consultants, Inc. will include the following services (Refer to Attached A for Full Services Detail

Soils and asphalt materials testing and observation and project management services for the Northwest Transmission Main Project.

- 2) Fee: NTE \$24,076.00
- 3) Deadline: This form is to be signed along with any supplementary materials and must be submitted to Matt Rector, City Engineer via email.

Point of Contact
Matt Rector
City Engineer
Matt.Rector@HuttoTX.gov
512-759-4025

Any questions must be in writing and responses will be provided within 24 hours and shared with other On Demand firms under contract with the City.

Vendor agrees to provide the services within this Task Order and Vendor is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order {IPO 23-04C-04} is June 24, 2024.

OWNER:

CONSULTANT:

Terracon Consultants, Inc.

By:

By: *Kevin Luidhardt*

Print Name:

Print Name: Kevin Luidhardt

Title: _____ Title: Department Manager II



800 Paloma Drive, Suite 150
Round Rock, Texas 78665
P (512) 628-6200
F (512) 442-1181
Terracon.com

June 24, 2024

City of Hutto
500 west Live Oak Street
Hutto, Texas 78634

Attn: Ms. Patricia Davis, MSCE, P.E., LGPP
P: (512) 759-4005
E: Patricia.Davis@HuttoTX.gov

Re: **Construction Materials Observation and Testing Services**
Northwest Transmission Main
Hutto, Texas
Terracon Consultants Inc. Proposal No. PAC241085

Dear Ms. Davis,

Thank you for selecting Terracon Consultants, Inc. to provide Construction Materials Testing and Observation Services for the Northwest Transmission Main project. This proposal outlines our understanding of the scope of services to be provided by Terracon and includes unit fees for services we anticipate will be required for this project.

A. PROJECT INFORMATION

The proposed project is to include the construction of the Northwest Transmission Main along Limmer Loop near the Hutto Town Square neighborhood.

Item	Description
Location	Latitude: 30.557343, Longitude: -97.5539155
Sitework	Consists of Utility installation
Foundations	N/A
Structures	N/A

Proposal for Materials Observation and Testing Services

Northwest Transmission Main ■ Hutto, Texas

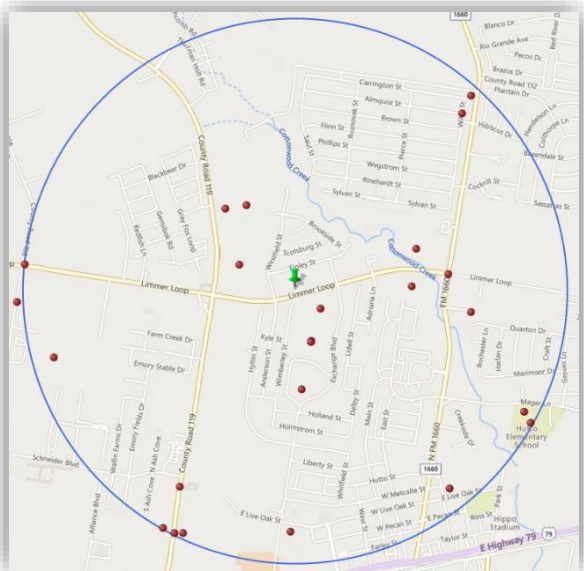
June 24, 2024 ■ Proposal No. PAC241085



As you can see from the map, Terracon has quite extensive experience near the project area.

Terracon prepared a scope of construction testing based our experience with similar size and type projects, available information, as well as review of the following documents:

Terracon Projects within a 1-mile radius of the **subject site**



Item	Description
Information Provided	■ Plans prepared by Freese & Nichols, dated (4/12/2024)

B. WHY TERRACON



Compass is Terracon's latest client interfacing tool and elevates the way we do business. Within Terracon Compass, you can access your projects and their associated data, including environmental and geotechnical projects. When you open a materials project within Compass, you will see your materials tests and observations placed on a map. This geographic reference allows you to find your information by the "where", rather than the "when." Other features of Compass include:

- Filters for Date Performed, Service Type and Test Result Status.
- Augmented Testing Reports with In-Place Locations.
- Deviation or Non-Conformance Summary: Image overlays to reference multiple plan pages to your test results.
- Map layer options: Test results are inserted into Compass as soon as the report has been reviewed and distributed. It becomes easier than ever to view and close deviations with an option to display within a map while also showing them in a table format.
- Quicker turnaround of information and reports.

Explore with us

C. SCOPE OF SERVICE

Our anticipated scope of services for construction materials observation and testing will include the following field services:

- Soils
- Asphalt Testing

These services are described in greater detail in Exhibit B “[Proposed Scope of Services for Construction Materials Observation and Testing](#)” and includes project management.

D. COMPENSATION

Based on our review of the construction plans and information provided by the owner along with our experience with similar type construction projects, our fee estimate to provide the proposed scope of services is \$24,076. Terracon assumes the top 2 to 4 feet of the trenches will be tested.

If the design team believes we need to increase or decrease our scope of services / trip frequency, we would be happy to work with you in developing a scope and cost estimate to address the requested scope changes.

Charges for our services will be based on the quantities of services provided and the unit rates shown on the attached “Exhibit C.” The actual cost of our services will be determined by the construction schedule and the quantity of services provided. Additional services may be requested upon request. For billing purposes, Terracon assumes that:

- Your designated scheduling representative will make good effort to provide clear notification to Terracon for the desired on-site arrival time of our technicians to perform the requested observation / testing services at least 24 hours (1 business day) for all trips made for the performance of other testing/inspection prior to the desired on-site arrival time of our technicians to perform the requested observation / testing services (this is so we may schedule qualified personnel trained in the appropriate discipline), and
- The material(s) requested to be observed / tested are actually ready to be observed / tested upon our technician’s arrival to the site (this is to eliminate / reduce any standby / equipment delay / etc. charges which could be incurred if the materials requested to be observed / tested are, in fact, not ready upon our technician’s arrival to the site).

Please note that **we will only be on-site as you or your designated scheduling representative schedules our services**, and as our cost for services are most dependent on the contractor’s schedule, our costs may vary accordingly.

Proposal for Materials Observation and Testing Services

Northwest Transmission Main ■ Hutto, Texas

June 24, 2024 ■ Proposal No. PAC241085



Site Access and Safety. Client shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including Client's contractors, subcontractors, or other parties present at the site. ***In addition, Consultant retains the right to stop work without penalty at any time Consultant believes it is in the best interests of Consultant's employees or subcontractors to do so.***

E. AUTHORIZATION

We understand that authorization for these services will be provided by execution of an "Agreement" which will be issued by the City of Hutto. This proposal with scope of services and fee schedule will be incorporated as part of the agreement.

We appreciate the opportunity to provide this proposal and look forward to working with you and the rest of the project team.

Sincerely,

Terracon Consultants, Inc.

(Firm Registration: TX F3272)

A handwritten signature in black ink that reads 'Kevin Luidhardt'.

Kevin W. Luidhardt, E.I.T.
Department Manager, Construction Services

KWL/JMK
Attached Exhibits

A handwritten signature in black ink that reads 'Jesse M. Kocher'.

Jesse M. Kocher, P.E. / Senior Principal
Office Manager, Construction Services



EXHIBIT B
PROPOSED SCOPE OF SERVICES FOR
CONSTRUCTION MATERIALS OBSERVATION AND TESTING
NORTHWEST TRANSMISSION MAIN
TERRACON PROPOSAL NO. PAC241085

The proposed scope of services provided by Terracon is described below. The purpose of these services is to observe various components of the construction and conduct specific tests to determine whether the materials and construction comply with the project requirements. These services are designed to provide a level of quality assurance (QA) for the client and are not intended to replace quality control tests and procedures required by the contractors and their suppliers. Terracon requires a complete set of construction plans and specifications approved for construction and any addenda or revisions approved during the construction process that would affect the construction related to the requested QA services.

If additional services are needed to comply with the construction documents or the government entity for special inspection requirements, Terracon should be contacted and requested to modify our proposed scope and estimated cost. The contractor has the responsibility to be familiar with the project requirements and to contact Terracon a minimum of 24 hours (one business day) prior to the time our services will be required. Terracon is not responsible for providing specified services if the client does not authorize Terracon to provide the services or if the contractor does not provide adequate notification for our scheduling purposes.

Terracon provides construction materials testing and observation services for a majority of the items required by the international building code and government entities. A brief summary of the scope of services that Terracon provides (when authorized and requested) for the special inspection items is provided below. This scope is based on the International Building Code special inspection requirements with some modifications.

Terracon will provide construction observations and testing services requested by the client as described in our "Scope of Services" in general accordance with the normal standard of care. Our scope of services does not include any design, design review, construction safety, trench safety, construction supervision, or construction management services. Terracon personnel do not have the responsibility or authority to stop the contractor's work, or to accept or reject any construction materials or workmanship, even if they do not comply with the project requirements.



EXHIBIT B
PROPOSED SCOPE OF SERVICES FOR
CONSTRUCTION MATERIALS OBSERVATION AND TESTING
NORTHWEST TRANSMISSION MAIN
TERRACON PROPOSAL NO. PAC241085

- 1. Earthwork Observation & Testing** – The Terracon scope of services includes sampling and testing of soils, periodic observation of earthwork operations, and moisture-density testing of subgrade and compacted fills.

The Terracon scope of services does not include verification of the use of proper materials, densities and lift thicknesses during placement and compaction of compacted fill on a continuous basis.

- 2. Asphalt Observation & Testing** – The Terracon scope of services includes observation of the asphalt paving operations, sampling asphalt and conducting laboratory tests. These services may be provided on a part-time or full-time basis as authorized by the client.
- 3. Project Management** - Terracon project management services include report review, data interpretation and signature; coordination with technicians and contractor personnel; participation in construction meetings when requested; preparation of budget status reports and invoices; and other related services to facilitate communication and coordination between the Terracon technicians and the contractor's personnel

Proposal for Materials Observation and Testing Services

Northwest Transmission Main ■ Hutto, Texas

June 24, 2024 ■ Proposal No. PAC241085



EXHIBIT C
COST ESTIMATE FOR
CONSTRUCTION MATERIALS OBSERVATION AND TESTING
NORTHWEST TRANSMISSION MAIN
TERRACON PROPOSAL NO. PAC241085

DESCRIPTION	RATE	QUANTITY	UNITS	TRIPS	TOTAL	TOTAL
Materials Observation & Testing Services						
Earthwork Observation & Testing						
Soils Technician	\$ 70.00	3.00	hours	36	108.00	\$ 7,560.00
Standard Proctor	\$ 250.00	5.00	tests	1	5.00	\$ 1,250.00
Oversized Particle Correction	\$ 50.00	5.00	tests	1	5.00	\$ 250.00
Atterberg Limits Determination (3 pt.)	\$ 100.00	5.00	tests	1	5.00	\$ 500.00
Sieve/Gradation (Soil)	\$ 150.00	5.00	tests	1	5.00	\$ 750.00
Vehicle Charge	\$ 60.00	1.00	trips	36	36.00	\$ 2,160.00
Nuclear Gauge Field Densities	\$ 22.00	3.00	tests	36	108.00	\$ 2,376.00
Sub Total						\$ 14,846.00
Asphalt Observation & Testing						
Asphalt Coring Crew	\$ 150.00	4.00	hours	4	16.00	\$ 2,400.00
Extraction (includes gradation)	\$ 250.00	1.00	tests	4	4.00	\$ 1,000.00
Theoretical Maximum Specific Gravity	\$ 120.00	1.00	tests	4	4.00	\$ 480.00
Bulk specific gravity of lab molded specimens	\$ 300.00	1.00	tests	4	4.00	\$ 1,200.00
Core Density and Thickness	\$ 70.00	2.00	tests	4	8.00	\$ 560.00
Vehicle Charge	\$ 60.00	1.00	trips	4	4.00	\$ 240.00
Coring Equipment	\$ 150.00	1.00	days	4	4.00	\$ 600.00
Sub Total						\$ 6,480.00
Project Management / Administration / Scheduling						
Project Manager	\$ 160.00	15.00	hours	1	15.00	\$ 2,400.00
Administration	\$ 70.00	5.00	hours	1	5.00	\$ 350.00
Sub Total						\$ 2,750.00
Total						\$ 24,076.00

Proposal for Materials Observation and Testing Services

Northwest Transmission Main ■ Hutto, Texas

June 24, 2024 ■ Proposal No. PAC241085



SCHEDULE OF SERVICES AND FEES FOR CONSTRUCTION MATERIALS ENGINEERING

Project Services

Principal, Officer, per hour	\$200.00
Senior Engineer / Manager, per hour	\$180.00
Project Engineer / Manager, per hour	\$160.00
Administrative, per hour	\$70.00
Same day Service Request Fee	\$100.00
Professional Engineer Stamped Letters*, each	\$325.00

*Includes Final letters, Pad Letters, Foundation Letters, Conformance Letters, Recommendation Letters

Transportation

Vehicle, per trip	\$60.00
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A fuel surcharge may be added if fuel costs increase by more than 10% during the project duration.

Soils Laboratory Testing and Classification

Atterberg limits (ASTM D 4318), each.....	\$100.00
Combined sieve analysis (ASTM C 136 and C 117)	\$150.00
Optimum moisture / maximum dry density relations (proctors)	
ASTM D698, each	\$250.00
Additional charge for Coarse Aggregate Correction (ASTM D4718)	\$50.00

Soils Field Services

In place density / moisture test, nuclear method (ASTM D6938)	\$22.00
Soils Technician, per hour	\$70.00

Asphaltic Concrete Services

Asphalt technician, per hour	\$70.00
Bulk specific gravity of lab molded specimens*, set of 3	\$300.00
Maximum theoretical density (ASTM D 2041 or TEX 227F), each	\$120.00
Extraction and Sieve Analysis (ASTM D 2172 or TEX 210F), each	\$250.00
Asphalt core thickness & density, each	\$70.00

*Includes Molding specimens (TEX 206F), set of 3

Coring Services

Coring Crew, per hour	\$150.00
Coring Equipment, per day	\$150.00

Proposal for Materials Observation and Testing Services

Northwest Transmission Main ■ Hutto, Texas

June 24, 2024 ■ Proposal No. PAC241085



SCHEDULE OF SERVICES AND FEES CONSTRUCTION MATERIALS ENGINEERING

Reimbursable Expenses

Direct non-salary project expenses for “outside” services are billed at cost plus 15 percent for handling. These include but are not limited to the following: travel and lodging, external consultants, environmental analytical tests, drilling, special supplies, permits, equipment, sampling, field testing, on-site facilities, clearing/grading contractors, water trucks, bulldozers, security forces, surveyors, traffic control or other support services.

Remarks

A minimum charge of two hours will be assessed for trips to the project site for sample or cylinder pick up only and a three-hour minimum charge is applicable to all trips made for the performance of other testing, inspection, cancellations or consulting services.

All labor, equipment, and transportation charges are billed on a portal-to-portal basis from our office up to the nearest half hour.

Overtime rates of 1.5 times the quoted hourly rate will be applicable for all time worked in excess of eight (8) hours per day, all time worked outside of daylight hours of 6:00 AM to 6:00 PM Monday through Friday, and all time worked on Saturdays.

Overtime rates of 2 times the quoted hourly rate will be applicable for all time worked on Holidays and Sundays.

Services that are not cancelled by the prior business day, during business hours (8am to 5pm), will be subject to a cancellation charge of \$200.

Court appearances, depositions, etc. will be charged at 1.5 times the quoted hourly rate.

Unit fees for tests not listed will be quoted on request.

Rush testing and inspection services are subject to a surcharge (to be negotiated).

Engineering consultation and evaluation in connection with any laboratory testing or field inspection service will be charged at the appropriate rate.

Material samples should be submitted in a form that complies with applicable requirements.

Terracon will submit invoices for services on a monthly basis. Payment for services shall be made within 30 days of receipt of the invoice in accordance with the Terracon “Agreement for Consulting Services” or “Authorization To Proceed”. Additional administrative charges may be applicable if the client requires other invoicing procedures or payment terms.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Terracon Consultants, Inc
Round Rock, TX United States

Certificate Number:
2024-1180275

Date Filed:
06/25/2024

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Hutto

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

W03-2023
Materials Testing and Lab Services - Northwest Transmission Main Project

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Packer, Gayle	Olathe, KS United States	X	
	Anderson, Tim	Phoenix, AZ United States	X	
	Pavlicek, Bob	Raleigh, NC United States	X	
	Zambo, Vanessa	Olathe, TX United States	X	
	Cobb, Harold	Houston, TX United States	X	
	Roberts, Jeff	Houston, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Jesse Mayfield Kocher, and my date of birth is 02/25/1980.

My address is 800 Paloma Drive, Suite 160, Round Rock, TX, 78665, US.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Williamson County, State of Texas, on the 25 day of June, 2024.
(month) (year)

Jesse M. Kocher

Signature of authorized agent of contracting business entity
(Declarant)

AGENDA ITEM REPORT

13.3.



To: City Council
Subject: Consideration and possible action to approve Resolution No. R-2024-168 to award the Exchange at Limmer Intersection Project to the lowest responsive bidder, Jerdon Enterprise, LP., in the amount of \$1,019,189.55 and authorizing the City Manager to execute the construction contract with Jerdon Enterprise, LP. (CIP Project T14-2024) (Matt Rector)
Meeting: Thursday, August 1, 2024
Department: Engineering /
Staff Contact: Matt Rector

BACKGROUND INFORMATION:

The proposed agenda item is a request to award a construction contract to Jerdon Enterprise, LP. for the Exchange at Limmer capital project.

The Exchange and Limmer Intersection Improvements will consist of the construction of a right turn lane in the westbound lane of the Limmer Loop at the intersection of Exchange Blvd. The project will also consist of pedestrian features, an 18-in storm drain line, and installation of traffic signals. The line item description of services to be provided by the Arias team for this proposal is mentioned below:

The proposed project work includes the furnishing of all labor, materials, tools, and equipment for the construction of a right turn lane, pedestrian features, storm drain improvements, and the installation of temporary and permanent traffic signals at the intersection of Limmer Loop and Exchange Blvd.

The City utilized the Competitive Sealed Proposal (CSP) method for selection of a general contractor, in accordance with Texas Local Government Code Chapter 2269, Subchapter D, Section 2269.151, which is a process requiring submission of written technical and price proposals from one or more offerors and a written evaluation of each proposal in accordance with evaluation criteria set forth in the solicitation. TranSystems Corporation provided an engineer's base bid estimate at \$1,657,793.40.

The contract documents were advertised in May and adhered to the following schedule:

First Advertisement Request for Bids: May 19, 2024
Second Advertisement Request for Bids: May 26, 2024
Pre-Bid Meeting: June 5, 2024
Deadline for questions: June 14, 2024
Bid Opening: July 5, 2024

Two (2) proposals were received, and ranked in relation to the bidding documents and comparatively

AGENDA ITEM REPORT

13.3.



to unit bid pricing. Transystems and the City were evaluated by the selection committee and scored. Contractors' bids were tabulated by Transystems, Inc. for ranking results according to scores.

Ranking of General Contractors

1. Jerdon Enterprise, L.P. - \$ 1,019,189.55 Base Bid
2. Joe Bland Construction.- \$1,689, 889.00 Base Bid

Prior to the start of construction, the City Staff will coordinate with Hutto Independent School District and the City Communication Department on coordination with public notices and the pre-construction meeting. The City Staff concurs with the engineer's recommendation to award the contract for construction of the Exchange at Limmer Loop Intersection project in the amount of \$1,019,189.55 to Jerdon Enterprise, L.P.

SUMMARY OF REQUEST:

Request approval for the Resolution as presented

STAFF REVIEW:

FISCAL NOTES:

Funding for the construction portion of this project is as follows:

Series 2022 GO

Account Number: 12-040-060-6720

Account Name: (T14) Exchange Blvd & Limmer Loop Intersection Impr.

Budget: \$1,100,000

Engr/Design: \$165,000

Equipment: \$0

Materials Testing: \$8,250

ROW: \$0

Construction: \$926,750

Actuals: \$1,356,095

Engr/Design: \$321,030

Equipment:

Materials Testing: \$15,875 (item on this agenda)

ROW:

Construction: \$1,019,190

AGENDA ITEM REPORT

13.3.



Construction:

Budget Amount: \$926,750

Actual Amount: \$1,019,190

Amount Over Budget: \$92,440

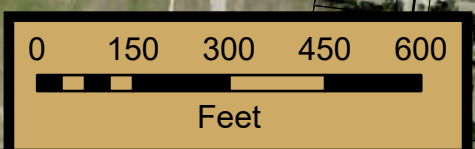
ATTACHMENTS:

1. Exchange_Boulevard_at_Limmer_Loop_Intersection_Improvements_Project
2. 2. Project Agreement T14-2024 Exchange Blvd and Limmer Loop
3. 3. Form 1295 Certificate 101236220
4. 10.. COI - City of Hutto - Job No. 5616
5. 14. Engineers Concurrence Letter
6. 12. Bid Tabs - Exchange Blvd & Limmer Loop Intersection Improvements
7. Hutto RES_Jerdon Enterprise_CST Contract_mm 7.28.24

Exchange Boulevard at Limmer Loop Intersection Improvements Project



- Exchange Boulevard at Limmer Loop Intersection Improvements
- ~ Roadways



**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Hutto ("Owner") and
Jerdon Enterprise, L.P. ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Project Description

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

City of Hutto
Hutto Project Number T14-2024, Exchange Blvd and Limmer

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by TranSystems Corporation Consultants.
- 3.02 The Owner has retained TranSystems Corporation Consultants ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. A. The Work will be substantially completed for the Hutto Project Number T14-2024, Exchange Blvd and Limmer within Three Hundred and Sixty Three (363) days after the date when the Contract Times commence to run as provided in Paragraph in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with

Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner Eight Hundred Thirty-Two dollars (\$832) for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Eight Hundred Thirty-Two dollars (\$832) for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. For all Work other than Unit Price Work, a lump sum of: \$_____.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on a monthly basis during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due as provided in Article 15 of the General Conditions shall bear interest at the maximum legal rate.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the

Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data."
- F. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- G. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- H. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- K. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement.
 - 2. Performance bond
 - 3. Payment bond
 - 4. General Conditions
 - 5. Supplementary Conditions
 - 6. Specifications as listed in the table of contents of the Project Manual.
 - 7. Addenda

8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid
 - b. Documentation submitted by Contractor prior to Notice of Award
9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *HB 1295 and No Boycott*

- A. If the Contractor employs 10 or more full-time employees and the contract has a value of \$100,000 or more, Contractor shall comply with the provisions of Section 2271.002(b), Texas Government Code that the Contractor does not boycott Israel and will not boycott Israel during the term of the contract.
- B. Contractor shall comply with HB 1295 and No Boycott Provisions attached as Exhibit "A".

10.07 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____, 2024 (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

City of Hutto

Jerdon Enterprise, L.P.

By: _____

By: _____

By: Jerdon Holding, LLC, General Partner

Title: _____

Title: Darrol Vincent, Jr., President

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: John Sanchez, Vice President

Address for giving notices:

Address for giving notices:

13403 Redfish Lane

Stafford, TX 77477

STATE OF TEXAS

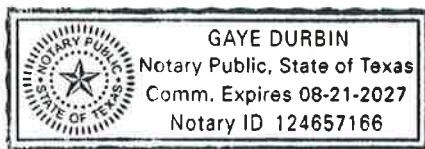
COUNTY OF WILLIAMSON

This instrument was acknowledged before me this 22nd day of July, 2024, by

Darrol Vincent, Jr. In his capacity as President of

Jerdon Enterprise, L.P. (Contractor)

(seal)



Notary Public – State of Texas

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Agent for service of process:

Exhibit A

HB 1295 and No Boycott Provisions

HB 1295 COMPLIANCE AND NO BOYCOTT PROVISIONS.

A. HB 1295 Compliance.

Section 2252.908 of the Texas Government Code requires that for certain types of contracts, the Owner must fill out a conflict of interest form ("Disclosure of Interested Parties") and file with the Texas Ethics Commission at the time the signed contract is submitted to the City. For further information please go to the Texas Ethics Commission website via the following link.

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

B. No Boycott of Israel; No Terrorist Organization.

Pursuant to Section 2270.002, Texas Government Code, the Owner hereby represents that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Indenture is a contract for goods or services, will not boycott Israel during the term of this Indenture. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

The Owner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Owner 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, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Owner and each of 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. The Owner understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

C. Verification Regarding Energy Company Boycotts.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, the Owner 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. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code. The Owner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

D. Verification Regarding Discrimination Against Firearm Entity or Trade Association.

To the extent this Agreement constitutes a contract for the purchase of goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, the hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,

- (1) do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). The Owner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Jerdon Enterprise, L.P.
Stafford, TX United States

Certificate Number:
2024-1189155

Date Filed:
07/18/2024

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Hutto

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

T14-2024
Exchange Blvd & Limmer Loop Intersection

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Brown, Gerald	Stafford, TX United States	X	
	Brown, Donna	Stafford, TX United States	X	
	Brown, Michelle	Stafford, TX United States	X	
	Vincent, Jr., Darrol	Stafford, TX United States	X	
	White, Brandon	San Antonio, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

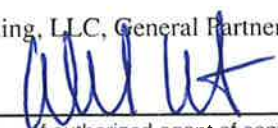
My name is Darrol Vincent, Jr., and my date of birth is 12/14/77.

My address is 13403 Redfish Lane, Stafford, Texas, 77477, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Fort Bend County, State of Texas, on the 22nd day of July, 20 24.
(month) (year)

By: Jerdon Holding, LLC, General Partner


Signature of authorized agent of contracting business entity
(Declarant) Darrol Vincent, Jr., President

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/18/2024

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 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 Insurepointe of Texas, Inc. 2909 Hillcroft Ste #200 Houston, TX 77057-5848 713 964-0022		CONTACT NAME: Carolyn Ruffeno x 134 PHONE (A/C, No, Ext): 713 964-0022 FAX (A/C, No): 713 964 0044 E-MAIL ADDRESS: cruffeno@insurepointe.com	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A : Valley Forge Insurance Company	
		INSURER B : Markel American Insurance Company	
		INSURER C : American Casualty Co. of Reading PA	
		INSURER D : Nautilus Insurance Company	
		INSURER E : Continental Casualty Company	
		INSURER F :	

COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:
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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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			7014993520	06/30/2024	06/30/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ PD Ded:3,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC						
E	AUTOMOBILE LIABILITY			7014993503	06/30/2024	06/30/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ☒ NON-OWNED AUTOS ☒ MCS-90						
B	UMBRELLA LIAB			MKLM4EUL101121	06/30/2024	06/30/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
	☒ EXCESS LIAB ☐ RETENTION \$						
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			7015182105	06/30/2024	06/30/2025	☒ WC STATUTORY LIMITS ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☒ Y ☐ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				
D	Prof/Pollution**			CPP203239514	06/30/2024	06/30/2025	\$ 1,000,000/\$5,000,000
E	Equipment Floater			7015023682	06/30/2024	06/30/2025	\$ 600,000 Rented/Leased
E	Installatn Floatr			7015023682	06/30/2024	06/30/2025	\$ 2,000,000 Per Job Site

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Jerdon Job No. 5616 - Exchange Blvd & Limmer Loop Intersection
Owners Project No. T14-2024

The General Liability and Automobile policies include a blanket automatic additional insured endorsement that provides additional insured status to the certificate holder only when there is a written contract (See Attached Descriptions)

CERTIFICATE HOLDER	CANCELLATION
City of Hutto 500 W. Live Oak St. Hutto, TX 78634	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 

DESCRIPTIONS (Continued from Page 1)

between the named insured and the certificate holder that requires such status. The General Liability, Workers Compensation and Automobile policies include a blanket automatic waiver of subrogation endorsement that provides this feature only when there is a written contract between the named insured and the certificate holder that requires it. The General Liability, Workers Compensation and Automobile policies include a blanket notice of cancellation to certificate holders endorsement, providing for 30 days advance notice if the policy is cancelled by the company other than for nonpayment of premium, 10 days notice after the policy is cancelled for nonpayment of premium. Notice is sent to certificate holders with mailing addresses on file with the agent or the company. The endorsement does not provide for notice of cancellation if the named insured requests cancellation. The General Liability policy includes an endorsement that contains primary and non-contributory wording. The Umbrella policy is following form.

****PROFESSIONAL LIABILITY - \$1,000,000 Limit - Claims Made-Retro date 06/30/2019 - Retention \$10,000 Each Claim**

****POLLUTION LIABILITY - \$5,000,000 Each Occurrence/\$5,000,000 Aggregate; Non-Owned Disposal Sites-Claims Made-Retro date 06/30/2020, Deductible-\$10,000 each Occurrence for Contractors Pollution, Transportation Pollution, Third Party Non-Owned Disposal Sites, Microbial Substance**



TranSystems

7000 North MoPac Expressway
Austin, TX 78731
Tel (512) 514-6023

www.transystems.com

July 24, 2024

Mr. Matt Rector, P.E.
City Engineer, City of Hutto
500 W. Live Oak Street
Hutto, TX 78634

Re: RFP No. 2024-023-PD-T14-2024 Exchange Blvd at Limmer Loop Intersection Improvements

Dear Matt,

Electronic bids were received on July 5, 2024 at 2:00 PM from the following contractors:

- Jerdon Enterprise, L.P.
- Joe Bland Construction

A Bid Tabulation is attached for examination. Bids reflect all materials and effort to construct the desired improvements at the Exchange Blvd & Limmer Loop intersection.

Respondent's bid packages were assessed by an Evaluation Committee appointed by the City of Hutto. Criteria used to evaluate the proposals were:

- Proposed Contract Price
- Proposed Contract Time
- Experience/Past Performance of Offeror
- Experience and Qualification of Proposed Key Personnel
- Experience and Qualification of Proposed Subcontractors

The highest scoring bidder was Jerdon Enterprise, L.P. with a score of 64. The second highest scoring bidder was Joe Bland Construction with a score of 52.

TranSystems has contacted three of the references provided by Jerdon Enterprises. All three references responded with favorable reports. Each reference recommends working with Jerdon Enterprises and reports they communicate and work well with the client to resolve problems and produce quality work.

It is TranSystems' recommendation to award the contract to Jerdon Enterprises, L.P. for their Total Bid of \$1,019,189.55. Please feel free to contact me directly if you have any questions.

Sincerely,

Gary J. Law, P.E.
Senior Project Manager

Item	Description	Unit	Quantity	Jerdon Enterprise, L.P.	Total	Joe Bland Construction	Total	Transystems	Total							
Base Bid																
SERIES 100 EARTHWORK																
Base Bid	EXCAVATION (ROADWAY)	CY	125	\$	32.00	\$	4,000.00	\$	250.00	\$	31,250.00	\$	50.00	\$	6,250.00	
	EMBANKMENT (FINAL)(DENS CONT)(TY A)	CY	65	\$	20.00	\$	1,300.00	\$	225.00	\$	14,625.00	\$	90.00	\$	5,850.00	
	PREPARING ROW	STA	6.8	\$	2,150.00	\$	14,620.00	\$	2,500.00	\$	17,000.00	\$	500.00	\$	3,400.00	
	REMOVING CONC (SIDEWALKS)	SY	242	\$	10.50	\$	2,541.00	\$	89.00	\$	21,538.00	\$	225.00	\$	54,450.00	
	REMOVING CONC (CURB)	LF	8	\$	4.50	\$	36.00	\$	250.00	\$	2,000.00	\$	20.00	\$	160.00	
	REMOVE STAB BASE & ASPH PAV (13"-18")	SY	223	\$	47.00	\$	10,481.00	\$	75.00	\$	16,725.00	\$	4.00	\$	892.00	
616	BLOCK SODDING	SY	616	\$	13.50	\$	8,316.00	\$	12.00	\$	7,392.00	\$	10.00	\$	6,160.00	
Sub Totals						\$	41,294.00		\$	110,530.00		\$		\$	77,162.00	
SERIES 200 SUBGRADE BASE																
Base Bid	FL BS (CMP IN PLC)(TYA GR1-2) (6")	SY	709	\$	22.00	\$	15,598.00	\$	90.00	\$	63,810.00	\$	35.00	\$	24,815.00	
	FL BS (CMP IN PLACE)(TY A GR 1-2)(8")	SY	515	\$	26.00	\$	13,390.00	\$	100.00	\$	51,500.00	\$	40.00	\$	20,600.00	
Sub Totals						\$	28,988.00			\$	115,310.00		\$		\$	45,415.00
SERIES 300 SURFACE COURSES AND PAVEMENT																
Base Bid	PLANE ASPH CONC PAV (1.5")	SY	4225	\$	5.00	\$	21,125.00	\$	6.00	\$	25,350.00	\$	10.00	\$	42,250.00	
	Sub Totals						\$	21,125.00		\$	25,350.00		\$		\$	42,250.00
SERIES 400 STRUCTURES																
Base Bid	RIPRAP (CONC)(4 IN)	CY	1	\$	290.00	\$	290.00	\$	21,500.00	\$	21,500.00	\$	1,000.00	\$	1,000.00	
	RC PIPE (CL III)(18 IN)	LF	355	\$	135.00	\$	47,925.00	\$	225.00	\$	79,875.00	\$	175.00	\$	62,125.00	
	INLET (COMPL)(PCO)(3FT)(BOTH)	EA	1	\$	8,750.00	\$	8,750.00	\$	8,050.00	\$	8,050.00	\$	8,000.00	\$	8,000.00	
	INLET (COMPL)(PAZD)(RC)(3FTX3FT)	EA	1	\$	8,150.00	\$	8,150.00	\$	11,200.00	\$	11,200.00	\$	7,000.00	\$	7,000.00	
	DRILL SHAFT (TRF SIG POLE) (24 IN)	LF	36	\$	575.00	\$	20,700.00	\$	380.00	\$	13,680.00	\$	400.00	\$	14,400.00	
	DRILL SHAFT (TRF SIG POLE) (36 IN)	LF	56	\$	650.00	\$	36,400.00	\$	765.00	\$	42,840.00	\$	600.00	\$	33,600.00	
	REMOV STR (SET)	EA	2	\$	650.00	\$	1,300.00	\$	908.00	\$	1,816.00	\$	1,000.00	\$	2,000.00	
	REMOV STR (PIPE)	LF	64	\$	14.50	\$	928.00	\$	65.00	\$	4,160.00	\$	150.00	\$	9,600.00	
Sub Totals						\$	124,443.00		\$	183,121.00		\$		\$	137,725.00	
SERIES 500 MISCELLANEOUS CONSTRUCTION																
Base Bid	MOBILIZATION	LS	1	\$	41,450.00	\$	41,450.00	\$	120,625.00	\$	120,625.00	\$	85,000.00	\$	85,000.00	
	CONC CURB (TY II)	LF	369	\$	22.00	\$	8,118.00	\$	120.00	\$	44,280.00	\$	60.00	\$	22,140.00	
	CONC SIDEWALKS (4")	SY	639	\$	85.00	\$	54,315.00	\$	135.00	\$	86,265.00	\$	120.00	\$	76,680.00	
	CURB RAMPS (TY 1)	EA	5	\$	2,440.00	\$	12,200.00	\$	4,500.00	\$	22,500.00	\$	8,500.00	\$	42,500.00	
	TEMP SEDMT CONT FENCE (INSTALL)	LF	207	\$	5.30	\$	1,097.10	\$	5.00	\$	1,035.00	\$	7.00	\$	1,449.00	
	TEMP SEDMT CONT FENCE (REMOVE)	LF	207	\$	2.45	\$	507.15	\$	2.00	\$	414.00	\$	2.00	\$	414.00	
	BIODEG EROSN CONT LOGS (INSTL) (12")	LF	20	\$	14.00	\$	280.00	\$	26.00	\$	520.00	\$	10.00	\$	200.00	
	BIODEG EROSN CONT LOGS (INSTL) (18")	LF	25	\$	23.75	\$	593.75	\$	50.00	\$	1,250.00	\$	15.00	\$	375.00	
BIODEG EROSN CONT LOGS (REMOVE)	LF	45	\$	7.85	\$	353.25	\$	10.00	\$	450.00	\$	2.00	\$	90.00		
Sub Totals						\$	118,914.25		\$	277,339.00		\$		\$	228,848.00	
SERIES 600 LIGHTING, SIGNING, MARKING, AND SIGNALS																
Base Bid	IN SM RD SN SUP&AM TY10BWG(1)SA(P)	EA	2	\$	875.00	\$	1,750.00	\$	1,250.00	\$	2,500.00	\$	2,200.00	\$	4,400.00	
	REFL PAV MRK TY I (W)8" (DOT)(100MIL)	LF	322	\$	2.25	\$	724.50	\$	5.00	\$	1,610.00	\$	2.50	\$	805.00	
	REFL PAV MRK TY I (W)8" (SLD)(100MIL)	LF	450	\$	2.10	\$	945.00	\$	5.00	\$	2,250.00	\$	1.50	\$	675.00	
	REFL PAV MRK TY I (W)24" (SLD)(100MIL)	LF	274	\$	10.50	\$	2,877.00	\$	15.00	\$	4,110.00	\$	12.00	\$	3,288.00	
	REFL PAV MRK TY I (W)(ARROW)(100MIL)	EA	4	\$	185.00	\$	740.00	\$	227.00	\$	908.00	\$	500.00	\$	2,000.00	
	REFL PAV MRK TY I (W)(WORD)(100MIL)	EA	4	\$	190.00	\$	760.00	\$	356.00	\$	1,424.00	\$	600.00	\$	2,400.00	
6174	REFL PAV MRK TY II (W) 6" (SLD)	LF	822	\$	0.95	\$	780.90	\$	1.50	\$	1,233.00	\$	1.50	\$	1,233.00	

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Series TxDOT SPECIAL SPECIFICATION															
D-GR HMA TY-C SAC-B PG76-22		TON	196	\$	268.00	\$	52,528.00	\$	240.00	\$	47,040.00	\$	165.00	\$	32,340.00
D-GR HMA TY-D SAC-B PG76-22		TON	680	\$	182.00	\$	123,760.00	\$	190.00	\$	129,200.00	\$	130.00	\$	88,400.00
TACK COAT		GAL	750	\$	6.70	\$	5,025.00	\$	9.00	\$	6,750.00	\$	15.00	\$	11,250.00
HPPM W/RET REQ TY (IW)6"(SLD)(100MIL)		LF	822	\$	2.25	\$	1,849.50	\$	3.00	\$	2,466.00	\$	1.20	\$	986.40
HPPM W/RET REQ TY (Y)6"(BRK)(100MIL)		LF	225	\$	2.25	\$	506.25	\$	3.00	\$	675.00	\$	1.20	\$	270.00
HPPM W/RET REQ TY (Y)6"(SLD)(100MIL)		LF	1124	\$	2.25	\$	2,529.00	\$	2.00	\$	2,248.00	\$	1.20	\$	1,348.80
PORTABLE CHANGEABLE MESSAGE SIGN		DAY	150	\$	95.00	\$	14,250.00	\$	85.00	\$	12,750.00	\$	600.00	\$	90,000.00
Sub Totals						\$	200,447.75			\$	201,129.00			\$	224,595.20
Series HUTTO SPECIAL SPECIFICATION															
SS680 HUTTO 01		EA	4	\$	10,100.00	\$	40,400.00	\$	11,002.00	\$	44,008.00	\$	12,500.00	\$	50,000.00
SS680 HUTTO 02		EA	4	\$	2,675.00	\$	10,700.00	\$	13,750.00	\$	55,000.00	\$	1,000.00	\$	4,000.00
SS680 HUTTO 03		LF	780	\$	3.15	\$	2,457.00	\$	4.00	\$	3,120.00	\$	2.00	\$	1,560.00
Sub Totals						\$	53,557.00			\$	102,128.00			\$	55,560.00
Section G6															
G6-D-SP (CoG)		EA	1	\$	150.00	\$	150.00	\$	150.00	\$	150.00	\$	1,000.00	\$	1,000.00
CH-ESC-10 (City of Hutto)		EA	2	\$	140.00	\$	280.00	\$	175.00	\$	350.00	\$	1,250.00	\$	2,500.00
Sub Totals						\$	430.00			\$	500.00			\$	3,500.00
Section G1															
G1 (CoG)		MO	11	\$	1,750.00	\$	19,250.00	\$	12,500.00	\$	137,500.00	\$	5,000.00	\$	55,000.00
Sub Totals						\$	19,250.00			\$	137,500.00			\$	55,000.00
Grand Total						\$	1,019,189.55			\$	1,689,889.00			\$	1,381,494.50

RESOLUTION NO. R-2024-_____

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
AWARDING A CONSTRUCTION CONTRACT FOR THE
EXCHANGE AT LIMMER LOOP INTERSECTION
PROJECT (CIP PROJECT T14-2024) TO JERDON
ENTERPRISE L.P. IN THE AMOUNT OF \$1,019,189.55;
AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT BETWEEN JERDON ENTERPRISE, L.P.
AND THE CITY OF HUTTO; PROVIDING PROPER
NOTICE AND MEETING, AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the City of Hutto (“City”) received two bids for the intersection improvements associated with the Exchange at Limmer Loop Intersection Project (CIP Project T14-2024); and

WHEREAS, TranSystems Corporation assisted the City staff in reviewing the bids and recommended awarding the contract to Jerdon Enterprise, L.P., the contractor who provided the best value to the city; and

WHEREAS, the City Council desires to award the contract for the construction of the intersection improvements associated with the Exchange at Limmer Loop Intersection Project to Jerdon Enterprise L.P.; and

WHEREAS, the City Council desires to authorize the City Manager to execute the Construction agreement (“Agreement”), attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: That the Hutto City Council hereby approves and authorizes the City Manager to execute the Agreement, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The Hutto City Council hereby approves and authorizes the City Manager to execute any subsequent Change Orders to the Agreement within the City Manager’s authority.

Section 4: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 5. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the 1st day of August, 2024, on vote of ____ AYES; ____ NAYS; and ____ ABSTENTIONS.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Hutto ("Owner") and
Jerdon Enterprise, L.P. ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Project Description

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

City of Hutto
Hutto Project Number T14-2024, Exchange Blvd and Limmer

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by TranSystems Corporation Consultants.
- 3.02 The Owner has retained TranSystems Corporation Consultants ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. A. The Work will be substantially completed for the Hutto Project Number T14-2024, Exchange Blvd and Limmer within Three Hundred and Sixty Three (363) days after the date when the Contract Times commence to run as provided in Paragraph in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with

Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner Eight Hundred Thirty-Two dollars (\$832) for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Eight Hundred Thirty-Two dollars (\$832) for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. For all Work other than Unit Price Work, a lump sum of: \$_____.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on a monthly basis during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due as provided in Article 15 of the General Conditions shall bear interest at the maximum legal rate.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the

Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data."
- F. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- G. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- H. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- K. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement.
 - 2. Performance bond
 - 3. Payment bond
 - 4. General Conditions
 - 5. Supplementary Conditions
 - 6. Specifications as listed in the table of contents of the Project Manual.
 - 7. Addenda

8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid
 - b. Documentation submitted by Contractor prior to Notice of Award
9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *HB 1295 and No Boycott*

- A. If the Contractor employs 10 or more full-time employees and the contract has a value of \$100,000 or more, Contractor shall comply with the provisions of Section 2271.002(b), Texas Government Code that the Contractor does not boycott Israel and will not boycott Israel during the term of the contract.
- B. Contractor shall comply with HB 1295 and No Boycott Provisions attached as Exhibit "A".

10.07 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____, 2024 (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

City of Hutto

Jerdon Enterprise, L.P.

By: _____

By: _____

By: James Earp
Title: City Manager

By: Jerdon Holding, LLC, General Partner
Title: Darrol Vincent, Jr., President

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: Laura Hallmark, City Secretary

Title: John Sanchez, Vice President

Address for giving notices:

500 W. Live Oak Street

Hutto, Texas 78634

Address for giving notices:

13403 Redfish Lane

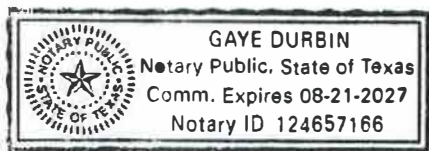
Stafford, TX 77477

STATE OF TEXAS

COUNTY OF WILLIAMSON

This instrument was acknowledged before me this 22nd day of July, 2024, by
Darrol Vincent, Jr. In his capacity as President of
Jerdon Enterprise, LP (Contractor)

(seal)



Gaye Durbin
Notary Public – State of Texas

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Agent for service of process:

Exhibit A

HB 1295 and No Boycott Provisions

HB 1295 COMPLIANCE AND NO BOYCOTT PROVISIONS.

A. HB 1295 Compliance.

Section 2252.908 of the Texas Government Code requires that for certain types of contracts, the Owner must fill out a conflict of interest form ("Disclosure of Interested Parties") and file with the Texas Ethics Commission at the time the signed contract is submitted to the City. For further information please go to the Texas Ethics Commission website via the following link.
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

B. No Boycott of Israel; No Terrorist Organization.

Pursuant to Section 2270.002, Texas Government Code, the Owner hereby represents that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Indenture is a contract for goods or services, will not boycott Israel during the term of this Indenture. The foregoing verification is made solely to comply with Section 2270.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

The Owner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

Pursuant to Subchapter F, Chapter 2252, Texas Government Code, the Owner 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, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Owner and each of 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. The Owner understands "affiliate" to mean any entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

C. Verification Regarding Energy Company Boycotts.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 13, 87th Texas Legislature, Regular Session) as amended, the Owner 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. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code. The Owner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

D. Verification Regarding Discrimination Against Firearm Entity or Trade Association.

To the extent this Agreement constitutes a contract for the purchase of goods or services for which a written verification is required under Section 2274.002, Texas Government Code, (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, the hereby verifies that it and its parent company, wholly- or majority- owned subsidiaries, and other affiliates, if any,

- (1) do not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19). The Owner understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Owner and exists to make a profit.

AGENDA ITEM REPORT

13.4.



To: City Council
Subject: Consideration and possible action on Resolution No. R-2024-169 authorizing the City Manager to execute a task order with Arias in the amount of \$15,875.00 for construction materials testing related to the Exchange at Limmer Intersection Improvements project (CIP T14-2024) (Matt Rector)
Meeting: Thursday, August 1, 2024
Department: Engineering /
Staff Contact: Matt Rector

BACKGROUND INFORMATION:

City Council is considering approval for capital improvements to award a construction contract for the Exchange and Limmer Intersection tonight and this agenda item is paired for consideration of approval for materials testing.

The Exchange and Limmer Intersection Improvements will consist of the construction of a right turn lane in the westbound lane of the Limmer Loop at the intersection of Exchange Blvd. The project will also consist of pedestrian features, an 18-in storm drain line, and installation of traffic signals. The line item description of services to be provided by the Arias team for this proposal is mentioned below:

- 1) Sampling subgrade, fill, and/or base materials for laboratory testing. In-place field density testing of subgrade, fill, and/or base materials within the proposed structure and pavement areas.
- 2) Sampling and testing of structural and/or pavement concrete during placement. The concrete specimens will be transported to our laboratory where they will be stored, cured, and tested for compressive strength on the specified dates.
- 3) 4) Field (TxDOT 1B) and laboratory (TxDOT 1A) testing of HMAC during laydown. 5) Professional service fees for project management, data processing, engineer review, and reporting.

The purpose of this item is to award a task order to Arias for construction materials testing, associated with the Exchange and Limmer project, to coordinate with a contractor. The City staff is recommending Arias to provide material testing for the amount of \$15,875.00

SUMMARY OF REQUEST:

STAFF REVIEW:

AGENDA ITEM REPORT

13.4.



FISCAL NOTES:

The funding for the materials testing portion of this project is as follows:

Series 2022 GO

Account Number: 12-040-060-6720

Account Name: (T14) Exchange & Limmer Loop Intersection Impr.

Budget: \$1,100,000

Engr/Design: \$165,000

Equipment: \$0

Materials Testing: \$8,250

ROW: \$0

Construction: \$926,750

Actual: \$1,600,000 (School ILA providing \$500,000)

Engr/Design: \$321,030

Equipment:

Materials Testing: \$15,875

ROW:

Construction: \$1,019,190 (item on this agenda)

Materials Testing:

Budget Amount: \$8,250

Actual Amount: \$15,875

Amount Over Budget: \$7,625

ATTACHMENTS:

1. Exchange_Boulevard_at_Limmer_Loop_Intersection_Improvements_Project
2. IPO Task Order 23-04A-05_Arias_MTL_Testing_Exchange & Limmer_06.28.2024
3. P2024-364-Scope
4. Resolution_Arias_MTL_Test_Exchange at Limmer_T14-2024_07.29.2024

Exchange Boulevard at Limmer Loop Intersection Improvements Project



- Exchange Boulevard at Limmer Loop Intersection Improvements
- ~ Roadways





TASK ORDER IPO 23-04A-05

Proposed GEOTECHNICAL ROTATION LIST

In accordance with Agreement for On Demand Services Geotechnical Engineering Services Rotation List between the City of Hutto (Owner) and Vendor, the parties agree as follows:

1. Background Data
 - a. Effective Date of Task Order IPO 23-04A-05: June 28, 2024
 - b. Owner: City of Hutto
 - c. Vendor: Arias & Associates, Inc

Specific Project (title): Exchange Blvd. and Limmer Loop Intersection Improvements (T14-2024)

- 1) Scope of services for **Arias & Associates, Inc.** will include the following services (Refer to Attached A for Full Services Detail)
 - a. Construction Materials Testing Services
- 2) Fee: NTE \$15,875.00
- 3) Deadline: This form is to be signed along with any supplementary materials and must be submitted to Matt Rector, City Engineer via email by 07-02-2024, at 12PM CST.

Point of Contact
Patricia A. Davis
CIP Engineer
Patricia.Davis@HuttoTX.gov
512-759-4005

Any questions must be in writing and responses will be provided within 24 hours and shared with other On Demand firms under contract with the City.

Vendor agrees to provide the services within this Task Order and Vendor is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order {IPO 23-04A-05} is June 28, 2024.

OWNER: City of Hutto

CONSULTANT: Arias & Associates, Inc.

By:

By: 

Print Name:

Print Name: Kyle Feldman

Title: _____

Title: Project Manager



13581 Pond Springs Rd., Ste. 210 Austin, Texas 78729 • Phone: (512) 428-5550 • Fax: (512) 428-5525

Friday, June 28, 2024

Arias Job No: 2024-364

Proposal ID: 1

Todd Meaker
City of Hutto
500 W. Live Oak Steet
Hutto, Texas 78634

Via Email: todd.meaker@huttotx.gov

RE: Proposal for Construction Materials Testing (CMT)
Reference: 23-04A-05
Proposed Exchange Blvd. and Limmer Loop Intersection Improvements (T14-2024)
Limmer Loop and Exchange Blvd.
Hutto, Texas 78634

Dear Meaker:

Arias & Associates, Inc. dba ARIAS appreciates the opportunity to submit our proposal for testing services on the referenced project. The attachment presents our Estimate for providing CMT quality control services, as requested during the project by your representatives. We rely on your representatives to contact our dispatcher when our services are desired. Therefore, the quantity and frequency of testing is the responsibility of our customer.

Quality control or assurance tests serve to indicate the material quality for the specific material tested at a specific location at a particular time and date. Quality control or assurance tests do not represent the quality of any other portion of material placed, other than the portion tested and cannot in any way guarantee the quality of a final work product.

We understand that the project will consist of the construction of a right turn lane in the West bound lane of Limmer Loop at the intersection of Exchange Blvd. Project will also consist of pedestrian features, 18-in storm drain line, and installation of traffic signals.

A line item description of our on call services that are included in the total cost estimate of this proposal are mentioned below:

- 1) Sampling subgrade, fill, and/or base materials for laboratory testing.
- 2) In-place field density testing of subgrade, fill, and/or base materials within the proposed structure and pavement areas.
- 3) Sampling and testing of structural and/or pavement concrete during placement. The concrete specimens will be transported to our laboratory where they will be stored, cured, and tested for compressive strength on the specified dates.
- 4) Field (TxDOT 1B) and laboratory (TxDOT 1A) testing of HMAC during laydown.
- 5) Professional service fees for project management, data processing, engineer review, and reporting.

We have prepared an estimate for our on call scope of services based on our interpretations of the plans and specifications provided to Arias by you. A construction schedule was not available at the time this

proposal was generated. Should Arias & Associates, Inc. be awarded this project, we request that a full set of plans, specifications, and all addendums - prior to the project start date - be provided to us. Efforts will be made to maintain the testing cost within our Estimate, but we recognize that variations in construction schedules could result in differences between the actual and estimated testing cost; and that our Estimate may change depending on the means and methods utilized by the contractor. Requests for any required change orders will be made as soon as possible during the construction of the project. Services authorized by the client or their designated representative in excess of the Estimated quantities will be charged per our appropriate unit rates.

We propose that we conduct this work on a unit fee basis in accordance with the MSA Agreement R-2023-243. Charges will be incurred only for those services actually provided. Invoice payments are due upon receipt.

In order for us to better serve you, please fill out the attached Project Information Sheet and return at your earliest convenience; in addition please provide us with a copy of the plans and specifications applicable to our services and the project.

We look forward to assisting you towards the successful completion of this project.

Kyle J. Feldman will be the manager representative for Arias & Associates, Inc. on this job. You can contact Kyle by calling (512) 765-3376 or by emailing kfeldman@ariasinc.com.

Cost Estimate

<u>Soils Testing</u>	<u>Quantity</u>	<u>Price</u>		<u>Total</u>
Atterberg Limits Determination	2	90.00	each	\$ 180.00
Moisture Density Relationship	2	275.00	each	\$ 550.00
Nuclear Gauge	10	70.00	trip	\$ 700.00
Sieve Analysis	2	90.00	each	\$ 180.00
Soils Observation Technician (3 minimum)	30	70.00	hour	\$ 2,100.00
Trip Charge	10	60.00	each	\$ 600.00
Sub Total:				\$ 4,310.00

<u>Concrete Testing</u>	<u>Quantity</u>	<u>Price</u>		<u>Total</u>
Concrete Air Content	10	30.00	each	\$ 300.00
Concrete Compression Test	40	22.00	each	\$ 880.00
Concrete Cylinder Pickup (2 minimum)	20	65.00	hour	\$ 1,300.00
Concrete Technician (3 minimum)	30	70.00	hour	\$ 2,100.00
Trip Charge	20	60.00	each	\$ 1,200.00
Sub Total:				\$ 5,780.00

<u>Asphalt Testing Services</u>	<u>Quantity</u>	<u>Price</u>		<u>Total</u>
Asphalt Coring Equipment	2	150.00	each	\$ 300.00
Asphalt Extraction/Gradation	0	200.00	each	\$ 0.00
Asphaltic Concrete Density of Field Core	0	80.00	each	\$ 0.00
Asphaltic Concrete Technician (1A/1B Technician) (3 minimum)	32	80.00	hour	\$ 2,560.00
Maximum Theoretical Density Test	0	100.00	each	\$ 0.00
Molding/Density of Asphalt Test Specimens	0	170.00	each	\$ 0.00
Trip Charge	4	60.00	each	\$ 240.00
Sub Total:				\$ 3,100.00

<u>Professional Services</u>	<u>Quantity</u>	<u>Price</u>		<u>Total</u>
Data Processing	10.2	75.00	hour	\$ 765.00
Engineer	2	195.00	hour	\$ 390.00
Manager	10.2	150.00	hour	\$ 1,530.00
Sub Total:				\$ 2,685.00

Total: \$ 15,875.00

Excluded Items:

- 1) Retest of failed inspections.
- 2) Drilled pier observation of traffic signal foundations.
- 3) Observation and testing of structural steel.
- 4) Inspection of structural steel fabrication plant.
- 5) Non-destructive testing and observation (radiographic testing, magnetic particle testing, dye penetrant testing, ultrasonic testing, etc.).
- 6) Observation and testing of post-installed anchors.
- 7) Observation and testing of retaining walls and/or any associated materials.
- 8) Any and all surveying services to define locations and/or boundaries including verification of limits of the

vertical and/or horizontal extent of select fill or other materials placed during construction.

9) Engineering services not specifically requested.

10) Any other products or services not specifically addressed in the above scope.

Rates for excluded items and other services will be invoiced at ARIAS standard rates.

Minimum call-out charge for technician and equipment is 3 hours. Minimum call-out charge for material sampling and/or sample pickup is 2 hours. Charges are accrued portal to portal. An overtime rate of 1.5 times the above quoted rates is applicable to time worked in excess of 8 hours per day Monday through Friday, hours worked before 6:00 a.m. or after 6:00 p.m., and all hours worked on Saturdays, Sundays, and holidays.

Dispatch can be reached Monday-Friday from 7:00 am to 5:00 pm. All requests for dispatch made after 5:00 pm, Monday-Friday may leave a voicemail message and will be addressed by our dispatcher at 7:00 am the next working day in the order they were received. Please schedule work in a timely manner, minimally 24 hours in advance, to have an ARIAS technician available to be on site at the requested time.

Agreement Section

Arias & Associates, Inc.

TBPE Registration No: F-32

13581 Pond Springs Rd., Ste. 210

Austin, TX 78729

Phone: (512) 428-5550 Fax: (512) 428-5525



Kyle J. Feldman

CMT Project Manager

(512) 765-3376

kfeldman@ariasinc.com

Arias & Associates, Inc. and client hereby agree to the terms and conditions of this proposal and have caused this agreement to be executed by their duly authorized officers and made effective as of the day and year first written above.

Client:	City of Hutto		
By:	X	Date:	
Print Name:		Title:	
Address:	500 W. Live Oak Steet		
	Hutto, TX 78634		
Phone:		Fax:	(512) 846-2653

Information Sheet for Construction Services

Job Name: _____

Location: _____ Construction Cost: _____

Job ID: _____ Purchase Order No.: _____

Manager: _____ Phone: _____ Fax: _____

Site Contact: _____ Phone: _____

Invoicing

Contact: _____ Company: _____

Address: _____ Email: _____

Special Instructions: _____

Contacts**Architect:**

Number of Report Copies: _____

Contact: _____ Company: _____

Address: _____

Phone/Fax: _____ Email: _____

General Contractor:

Number of Report Copies: _____

Contact: _____ Company: _____

Address: _____

Phone/Fax: _____ Email: _____

Owner:

Number of Report Copies: _____

Contact: _____ Company: _____

Address: _____

Phone/Fax: _____ Email: _____

Structural Engineer:

Number of Report Copies: _____

Contact: _____ Company: _____

Address: _____

Phone/Fax: _____ Email: _____

13581 Pond Springs Rd., Ste. 210
Austin, TX 78729
(512) 428-5550
(512) 428-5525 FAX

13581 Pond Springs Rd., Ste 305
Austin, TX 78729
(512) 428-5550
(512) 428-5525 FAX

1312 Corporate Dr., Ste. B-1
Arlington, TX 76006
(817) 812-3500
(817) 812-3502 FAX

142 Chula Vista Dr.
San Antonio, TX 78232
(210) 308-5884
(210) 308-5886 FAX

RESOLUTION NO. R-2024-__

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
APPROVING TASK ORDER IPO 23-04A-05 BETWEEN
ARIAS & ASSOCIATES, INC. AND THE CITY OF HUTTO
IN THE AMOUNT OF \$15,875.00 FOR MATERIALS
TESTING SERVICES FOR THE EXCHANGE AT LIMMER
LOOP INTERSECTION PROJECT (CIP T14-2024);
AUTHORIZING THE CITY MANAGER TO EXECUTE THE
IPO; PROVIDING PROPER NOTICE & MEETING, AND
PROVING AN EFFECTIVE DATE.**

WHEREAS, the City Council desires to approve the Individual Project Order 23-04A-005 (“IPO”), attached as Exhibit A and incorporated herein by reference, in the amount of \$15,875.00, in accordance with the provisions of the Master Services Agreement For Professional Consulting Services executed between the City of Hutto and Arias & Associates, Inc.; and

WHEREAS, the IPO provides materials testing services for the Exchange and Limmer Intersection Project (CIP T14-2024); and

WHEREAS, the City Council desires to authorize the City Manager to execute the IPO, attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: That the Hutto City Council hereby approves and authorizes the City Manager to execute the IPO, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the
1st day of August 2024 on vote of __AYES; __NAYS; __ABSTENTIONS

City of Hutto, Texas

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

AGENDA ITEM REPORT

13.5.



To: City Council
Subject: Consideration and possible action on Resolution R-2024-170 authorizing the City Manager to execute an agreement with Telesystem for Primary Managed Lit Dedicated Fiber Services in the amount of \$237,600.00 (David Reeves)
Meeting: Thursday, August 1, 2024
Department: Communications /
Staff Contact:

BACKGROUND INFORMATION:

- This is a high priority item in the IT Master Plan.
- This is a budgeted item.
- We have experienced numerous outages with our current internet services within the past year.
- Improving our level of internet services will increase our ability to implement disaster recovery and business continuity services.
- Strategic Pillar: Operational Excellence

The City of Hutto issued a Request for Proposal (RFP) No. 2024-030-DR-02RP on May 15, 2024, soliciting responses for the provision of a Primary Managed Lit Dedicated Fiber Network. The RFP outlined the requirements for the installation, operation, and maintenance of the fiber network, which is critical for the city's communication infrastructure.

Key Dates

- Issue Date: May 15, 2024
- Notice of Intent to Award: June 21, 2024

Evaluation Process

The proposals were evaluated based on the following criteria:

1. Experience (25%)
2. City of Hutto's Evaluation of Vendor's Ability to Perform (30%)
3. Price (45%)

AGENDA ITEM REPORT

13.5.



An evaluation committee reviewed and scored the proposals. The highest-scoring respondent was selected based on their ability to meet the city's requirements and provide the best value.

Scoring Summary

The evaluation committee scored the proposals as follows:

Criteria	Points	Lumen Technologies	Telesystem	TPX Communications	UbiQuity
Experience	25	25	24	25	19
Vendor's Ability to Perform	30	24	28	29	22
Price	45	34	43	23	27
Total	100	83	95	77	69
Rank		2	1	3	4

Based on the evaluation, Telesystem received the highest score and is recommended for the contract award.

Contract Terms

The proposed contract term is for one year, with the option to renew for up to four additional one-year periods. The contract includes all necessary equipment, operational functionalities, and maintenance services.

Financial Impact

The cost proposals were evaluated to ensure that the pricing is reasonable and within the city's budget. The selected vendor's pricing includes all labor, materials, tools, supplies, equipment, and associated costs necessary to provide the services.

Service Agreement Highlights

The service agreement with Telesystem includes the following key terms:

AGENDA ITEM REPORT

13.5.



- Contract Term: 36 months, with automatic renewal for one-year terms unless canceled with 60 days' notice.
- Monthly Recurring Charges: \$6,600.00 for all sites combined.
- Non-Recurring Charges: \$0.00.
- Service Level Agreement (SLA): Telesystem guarantees 99.999% availability for the core data and voice network, with specific credits for service outages and performance issues.
- E911 Service: Limitations are noted, including potential unavailability during power or broadband outages.
- Customer Responsibilities: Includes providing access for installation, maintaining environmental conditions for equipment, and managing relationships with third-party internet service providers.

SUMMARY OF REQUEST:

The City of Hutto is seeking approval to award a contract for Primary Managed Lit Dedicated Fiber Services. This contract will ensure high-speed, reliable internet connectivity across multiple city facilities, including City Hall, the Police Station, the Public Works Shop, and the Parks and Recreation Department.

Recommendation

It is recommended that the City Council approve the contract for Primary Managed Lit Dedicated Fiber Services to the selected vendor, Telesystem, for the initial term of one year, with the option to renew for up to four additional one-year periods.

Action Requested

Motion: Approve the contract for Primary Managed Lit Dedicated Fiber Services with Telesystem and authorize the City Manager to execute the contract.

STAFF REVIEW:

FISCAL NOTES:

If this contract is approved, it is unlikely that the transition from our current service provider to Telesystem will be complete until the beginning of next fiscal year. The \$6,600 per month cost is less than we are paying our current provider (approximately \$8,500 per month). While there may be one

AGENDA ITEM REPORT

13.5.



month of overlap between the services, there are sufficient funds available this fiscal year in the event that this overlap occurs in FY 2024.

ATTACHMENTS:

1. Hutto Res Telesystem
2. Exhibit A - Service Agreement - City of HuttoFinal

RESOLUTION NO. R-2024-_____

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
APPROVING A THREE YEAR AGREEMENT BETWEEN
TELESYTEM AND THE CITY OF HUTTO FOR A NOT TO
EXCEED AMOUNT OF \$237,600.00 FOR PRIMARY
MANAGED LIT DEDICATED FIBER SERVICES;
AUTHORIZING THE CITY MANAGER TO EXECUTE THE
AGREEMENT; PROVIDING PROPER NOTICE AND
MEETING, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City Council desires to enter a three (3) year agreement between Telesystem and the City of Hutto, Texas (“City”) for primary managed lit dedicated fiber services for a not to exceed amount of \$237,600.00; and

WHEREAS, the City Council desires to authorize the City Manager to execute the Service agreement (“Agreement”), attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: That the Hutto City Council hereby approves and authorizes the City Manager to execute the Agreement, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place, and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED AND APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the 1st day of August, 2024, on vote of _____ AYES; _____ NAYS; and _____ ABSTENTIONS.

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Amanda Taylor, Interim City Secretary

RFQ: 7242077649

Telesystem Sales Rep: Ryan Blair	Telesystem Rep ID: .	PID: T1TC	Existing Account Number: .
Customer Name: City of Hutto			
Billing Address: 401 W FRONT ST			County: USA
City: HUTTO	State: TX		Zip: 78634
Contact:	Phone:	E-Mail:	
Tax Exempt: Yes No If Yes, please supply Federal and/or State tax exemption documents.		Contract Term: 36 months	
Telesystem environmental invoice processing charge of \$19.99 will be accessed monthly. To sign up for online billing please call our customer service department at 888.808.6111 or visit us at www.trusttelesystem.com/account .			

500 W LIVE OAK ST, HUTTO, TX 78634

Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
1000M GigE Loop	1GLOOP	1	\$1,525.00	\$1,525.00
Netvanta 1560 -24 Port (370 W)	E0337	1	\$50.00	\$50.00
SFP		2	\$20.00	\$40.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
1000M GigE Loop	INSTALL	1	\$0.00	\$0.00
Netvanta 1560 -24 Port (370 W)	E0337	1	\$0.00	\$0.00
SFP		2	\$0.00	\$0.00
Site Total	Monthly	\$1,640.00	One-Time	\$0.00

306 E LIVE OAK ST, HUTTO, TX 78634

Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
100M FastE Loop	100LOOP	1	\$750.00	\$750.00
Managed GigE POE - 8 Port	E0336	1	\$25.00	\$25.00
SFP		1	\$20.00	\$20.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
FastE Loop - Installation	INSTALL	1	\$0.00	\$0.00
Managed GigE POE - 8 Port	E0336	1	\$0.00	\$0.00
SFP		1	\$0.00	\$0.00
Site Total	Monthly	\$820.00	One-Time	\$0.00

401 W FRONT ST, HUTTO, TX 78634

Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
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1000M GigE Loop	1GLOOP	1	\$1,525.00	\$1,525.00
Netvanta 1560 -24 Port (370 W)	E0337	1	\$50.00	\$50.00
SFP		2	\$20.00	\$40.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
1000M GigE Loop	INSTALL	1	\$0.00	\$0.00
Netvanta 1560 -24 Port (370 W)	E0337	1	\$0.00	\$0.00
SFP		2	\$0.00	\$0.00
Site Total	Monthly	\$1,640.00	One-Time	\$0.00
356 COUNTY ROAD 199, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
100M FastE Loop	100LOOP	1	\$750.00	\$750.00
Managed GigE POE - 8 Port	E0336	1	\$25.00	\$25.00
SFP		1	\$20.00	\$20.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
FastE Loop - Installation	INSTALL	1	\$0.00	\$0.00
Managed GigE POE - 8 Port	E0336	1	\$0.00	\$0.00
SFP		1	\$0.00	\$0.00
Site Total	Monthly	\$820.00	One-Time	\$0.00
356 COUNTY ROAD 199, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Broadband 600.35/0.0		1	\$100.00	\$100.00
IP Addresses - 5	CIP5	1	\$35.00	\$35.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$88.00	\$88.00
LTE Wireless \$15 per Gig Overage Fee	LTEOC	1	\$0.00	\$0.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Broadband 600.35/0.0 - Installation		1	\$0.00	\$0.00
LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$0.00	\$0.00
Site Total	Monthly	\$248.00	One-Time	\$0.00
401 W FRONT ST, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Broadband 600.35/0.0		1	\$100.00	\$100.00
IP Addresses - 5	CIP5	1	\$35.00	\$35.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$88.00	\$88.00
LTE Wireless \$15 per Gig Overage Fee	LTEOC	1	\$0.00	\$0.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Broadband 600.35/0.0 - Installation		1	\$0.00	\$0.00

LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$0.00	\$0.00
Site Total	Monthly	\$248.00	One-Time	\$0.00
306 E LIVE OAK ST, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Broadband 600.35/0.0		1	\$100.00	\$100.00
IP Addresses - 5	CIP5	1	\$35.00	\$35.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$88.00	\$88.00
LTE Wireless \$15 per Gig Overage Fee	LTEOC	1	\$0.00	\$0.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Broadband 600.35/0.0 - Installation		1	\$0.00	\$0.00
LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$0.00	\$0.00
Site Total	Monthly	\$248.00	One-Time	\$0.00
500 W LIVE OAK ST, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Broadband 600.35/0.0		1	\$100.00	\$100.00
IP Addresses - 5	CIP5	1	\$35.00	\$35.00
Type 2 Circuit Support & Administration Fee		1	\$25.00	\$25.00
LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$88.00	\$88.00
LTE Wireless \$15 per Gig Overage Fee	LTEOC	1	\$0.00	\$0.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Broadband 600.35/0.0 - Installation		1	\$0.00	\$0.00
LTE Wireless Backup Premium - 1G Data Plan	SCSP1	1	\$0.00	\$0.00
Site Total	Monthly	\$248.00	One-Time	\$0.00
500 W LIVE OAK ST, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Fortinet - FortiGate-100F	E0882	1	\$117.00	\$117.00
Advanced Threat Protection - FortiGate-100F	FG100FA3	1	\$158.00	\$158.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Fortinet - FortiGate-100F	E0882	1	\$0.00	\$0.00
Advanced Threat Protection - FortiGate-100F	FG100FA3	1	\$0.00	\$0.00
Site Total	Monthly	\$275.00	One-Time	\$0.00
401 W FRONT ST, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Fortinet - FortiGate-100F	E0882	1	\$117.00	\$117.00
Advanced Threat Protection - FortiGate-100F	FG100FA3	1	\$158.00	\$158.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Fortinet - FortiGate-100F	E0882	1	\$0.00	\$0.00
Advanced Threat Protection - FortiGate-100F	FG100FA3	1	\$0.00	\$0.00

Site Total		Monthly	\$275.00	One-Time \$0.00
356 COUNTY ROAD 199, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Fortinet - FortiGate-60F	E0874	1	\$29.00	\$29.00
Advanced Threat Protection - FortiGate-60F	FG60FA3	1	\$40.00	\$40.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Fortinet - FortiGate-60F	E0874	1	\$0.00	\$0.00
Advanced Threat Protection - FortiGate-60F	FG60FA3	1	\$0.00	\$0.00
Site Total		Monthly	\$69.00	One-Time \$0.00
306 E LIVE OAK ST, HUTTO, TX 78634				
Monthly Recurring Charges	Product Code	QTY	Unit Price	Monthly
Fortinet - FortiGate-60F	E0874	1	\$29.00	\$29.00
Advanced Threat Protection - FortiGate-60F	FG60FA3	1	\$40.00	\$40.00
Non-Recurring Charges	Product Code	QTY	Unit Price	One-Time
Fortinet - FortiGate-60F	E0874	1	\$0.00	\$0.00
Advanced Threat Protection - FortiGate-60F	FG60FA3	1	\$0.00	\$0.00
Site Total		Monthly	\$69.00	One-Time \$0.00
Order Totals		Monthly	\$6,600.00	One-Time \$0.00

Should bundled minutes be provided, the listed rates are utilized for any overage in usage. Unless otherwise indicated, International Rates for both outbound and inbound calling are standard and are available via your Telesystem account representative.

Rates are applicable for all locations, unless otherwise noted in the Rate Schedule. Directory Assistance is available at \$2.75/minute.

Taxes, surcharges and/or fees are not included.

I represent that I am authorized to make these selections for the telephone lines and services listed.

CUSTOMER

Name:

Title:

TELESYSTEM

Name:

Title:

Authorized Signature

Date

Authorized Signature

Date



Service Agreement Term and Conditions

1. Rates and Service

Block Line Systems (Telesystem) shall provide the Customer with the services indicated on the attached Service Agreement. During the term of these Services, Telesystem will comply with all applicable rules and regulations filed with appropriate federal and state regulatory agencies which govern the tariffs associated with the services. In the event of a conflict between this Agreement and such tariffs, the tariffs shall control. If any portion of this Agreement shall at any time violate any law, the same shall not affect the remainder of this Agreement, which shall be construed as if such portion had not been contained herein. Any additional services as required by the Customer shall become part of this Agreement and subject to the same terms and conditions. Customer agrees to cooperate with Telesystem's representatives by allowing access to premises for installation of any equipment necessary to accomplish proper operation of the services. Customer acknowledges that Telesystem will provide support services after the installation has been completed and Customer has accepted services. Support rendered post installation, determined to be a Customer issue, would be billable at \$150/hour and invoiced in fifteen-minute increments. Customer acknowledges that Telesystem is subject to any and all regulated charges and fees, which are approved by state, federal, or any other applicable agencies, and that customer charges are subject to these changes. Telesystem reserves the right to alter Customer pricing with seven (7) days written notice.

2. Service Term

This Agreement is enforceable upon complete execution by the parties. The term set forth on the Service Agreement shall commence on the Service Activation Date and shall automatically renew for one (1) year terms thereafter unless cancelled prior to the expiration of a term. Because time is of the essence, timely notice is a necessity with cancellations requiring 60 days notice. Customer must inform Telesystem of its intention to cancel said service by certified mail, return receipt requested at least 60 days prior to the expiration of the then current term. In the event of the early termination of this Agreement by customer or termination by Telesystem for material breach, Customer shall pay Telesystem all non-recurring charges plus all recurring charges and the average monthly usage charges projected through the end of the then current term; and, to the extent not covered by other amounts due Customer's pro-rata share of any third-party license and other fees incurred by Telesystem to provide the Services. In the event of a customer caused delay in the Service Activation Date, Telesystem reserves the right to apply charges, and customer agrees to pay such charges, prior to activation. If the customer cancels service prior to the Service Activation Date, Telesystem shall bill customer all contracted monthly recurring charges (MRCs) through the life of the term, plus any incremental non-recurring charges (NRCs) charged to Telesystem for service implementation. Subject to aforementioned, the customer may elect to opt into a month to month term; Telesystem reserves the right to increase the recurring and usage charges effective the date the month to month term begins.

3. E911 Service and Acknowledgement Statement

Telesystem's dedicated service supports E911 in much the same way as traditional circuit-based local telephone service with certain exceptions. This notification, issued pursuant to FCC Order, is to inform Telesystem's dedicated customers of limitation in the E911 service associated with their dedicated services. Under certain circumstances, E911 service may not be available through your dedicated service. For example, E911 service may not be available in the event you relocate and use your VoIP compatible equipment at a location other than your premise (e.g. soft phone or remote HBPX). E911 will also not be available through your dedicated service if (i) your VoIP compatible equipment fails, (ii) your broadband connection fails, (iii) you lose electrical power to your VoIP compatible equipment, or (iv) your VoIP broadband or ISP service is suspended or terminated. Finally, E911 service may not be available through your dedicated service (i) if you use a telephone number with your VoIP service which is not native to the



geographic area in which you are located or (ii) during the period in which the physical location at which you registered to use your VoIP service is being uploaded into pertinent databases. The FCC mandates that Telesystem obtain an affirmative acknowledgement that its dedicated customers have read and understand this notification. Please acknowledge you have read this notification and understand the limitations associated with your VoIP services by signing this Agreement. By signing this Agreement you also acknowledge you are authorized to represent and make decisions regarding the telecommunication services provided to this account.

4. Electrical power, Internet Access and Non-Voice Systems

Customer acknowledges that the services (including E911) will not function without electrical power and that an interruption of the Customer's broadband Internet access or LAN will disrupt the Customer's phone service. Customer also acknowledges that the services are not set-up to function without dialing systems, including security systems, medical monitoring equipment, TTY equipment and entertainment or satellite television systems. Customer has no claim against Telesystem for interruption or disruption of such systems by the services.

5. Equipment

Telesystem retains all rights, title and interest in the Telesystem provided equipment located at your site. Customer will provide Telesystem access to this equipment, as needed, to ensure operation and for any required maintenance. On the day of the equipment delivery, a Telesystem technician will dispatch to the service location to extend the loop or BYOB connection and install the necessary hardware. The first hour of both travel and labor is covered under this Agreement; any additional time will be billed at the rate of \$150/hour. Upon termination or expiration of the Service Agreement, Customer agrees to return equipment as directed by Telesystem or to allow Telesystem to remove the equipment subject to reasonable charges for removal. Failure to return the equipment or arrange for its removal within 30 days of disconnect or usage/destruction above normal wear and tear will result in a one-time charge equaling the replacement value of the equipment plus any other costs associated with the recovery of the equipment. Furthermore, any damage or destruction to the equipment during the term of the Agreement will result in a charge to the customer if it was determined by the equipment manufacturer or Telesystem the equipment was not defective at installation. Telesystem shall not be responsible for or maintain or service any customer owned equipment. Customer provides all LAN and wiring. Any additional cost incurred to install wiring or other computer infrastructure to accommodate the new services will be responsibility of the customer.

6. Local Number Portability

Normal porting hours are Monday-Thursday, 8AM-4PM. Any ports requested outside of this window can be accommodated in most cases but will be billed a one-time charge of \$150, and requires approval by Telesystem management and the Customer. For any port, if Telesystem is given an incomplete list of phone numbers or is provided with inaccurate service address information, the Customer may be subject to an additional fee.

7. Billing and Payment Obligation

Billing for the service component will begin on the Service Activation Date, as specified, for the specific service type. The Service Activation Date is the date: (i) Equipment is installed and tested at the Customer's locations, and (ii) IP connectivity to Provider has been established, OR (iii) 30 calendar days after the loop install is tested and accepted. Customer Premise Equipment (CPE) related costs and installation fees will be billed upon CPE activation per location. Customer shall be billed for services monthly by Telesystem or its duly appointed billing agent, and Customer agrees to pay for services and any applicable federal, state and local taxes, regulatory surcharges and/or applicable fees associated with the services, within 25 days of the bill date. These credit terms will be provided when a routine credit check has been performed by Telesystem. This credit check procedure may result in a deposit or prepaid terms required by Telesystem. Telesystem may, at its discretion, change credit terms assigned. All billing disputes must be submitted in writing within 60 days of the date of the invoice on which the error or problem first appeared. Failure to comply with this

Confidential

Updated 11/2023

Telesystem
2700 Oregon Road, Northwood, OH 43619
1 Braxton Way, Suite 150, Glen Mills, PA 19342
(888) 808-6111



timeframe requirement will result in a denied claim. The invoice shall be considered past due after 25 days of the bill date. Payment shall be remitted in U. S. funds to the current address of Telesystem. Interest of 1.5% (or as permitted by law) per month will be assessed on past due amounts. Telesystem will notify Customer by mail that the account is past due. If payment with interest has not been received within 30 days of the bill date service could be suspended and a reactivation fee will be assessed prior to reactivation of service. Telesystem reserves the right to charge a return check fee. Customer shall pay all collection costs including reasonable attorney's fees. All system implementation and training fees will be billed immediately following contract execution.

8. Quality of Service

No quality of service commitment is express or implied. Customer acknowledges and agrees that the Services are provided in adherence within the attached Service Level Agreement.

9. Unlimited Local and LD Package

To be eligible, Customer must select and retain Telesystem as its local, regional toll, and long distance provider. The use of dialers or equipment for the purpose of auto calling, call center, telemarketing or other high call volume purposes is prohibited. In the event that usage exceeds double that of the average customer in the same area, Telesystem reserves the right to move customer to a different pricing plan. This plan only relates to domestic outbound usage and excludes offshore, international, Mexican, Canadian, calling card or inbound usage.

10. Short Duration Calls

If ten (10) percent or more of the Customer's completed calls during any billing cycle are equal to or less than six seconds in length (Short Duration Calls), Telesystem reserves the right to charge and Customer shall pay an additional surcharge of \$0.01 per Short Duration Call during such billing cycle. The Short Duration surcharge will be in addition to the Customer's usage rates.

11. Fraudulent Usage

Customer is solely responsible to keep all user identifications and passwords secure. Customer must monitor use of the Services for possible unlawful or fraudulent use; must protect all End Points using industry-standard security measures; and agrees that it is responsible for all use on the account whether by it or by any third-party. Unauthorized use may result in additional charges to Customer. Customer must notify Telesystem immediately if Customer becomes aware or has reason to believe that the Services are being used fraudulently or without authorization by any End User or third party; failure to notify Telesystem of unauthorized use may result in the suspension or termination of the Services. In the event Telesystem becomes aware or has reason to believe that the Services are being used fraudulently, it will notify Customer and may (but is not required to) suspend activity if it deems appropriate in its sole and unlimited discretion. Telesystem will in no case be liable for any charges resulting from unauthorized use of Customer's Account and Customer will be responsible for charges incurred to Telesystem at the standard rates for the calling areas affected.

12. Use of Customer Information

In the course of providing service to Customer, Telesystem will obtain certain usage-related information about the type, quantity or amount of telecommunications services that Customer uses. This information is referred to as customer proprietary network information ("CPNI") under federal law. Telesystem policy regarding CPNI information and changes when calling into support will require you to provide your Telesystem account number as part of the verification process. Telesystem also obtains and possesses information regarding the number called or the number from which a call was placed and the time, location or duration of any calls. This information is referred to as Call Detail Records. The use of the term CPNI includes Call Detail Records. You have the right, and we have a duty, to protect the confidentiality of Customer's CPNI. Under federal law, we may use your CPNI to provide service to you, to bill and collect for such services, to protect our property rights and as otherwise permitted or required by law. In addition, Telesystem may use CPNI to offer you better prices or packages of the types of services you currently receive from Telesystem and to market other services as well. Telesystem will seek your approval in accordance with FCC rules prior to using CPNI to market other services to you. Telesystem will not disclose CPNI to independent contractors or joint venture partners.



without obtaining your prior approval in accordance with FCC rules. If you obtained service from Telesystem with the assistance of an independent Sales Agent, you hereby consent to Telesystem sharing CPNI with the Sales Agent(s) so that Sales Agent may use this information in marketing additional products and services to Customer offered by Telesystem or its affiliates. You may withdraw this consent at any time by contacting Telesystem directly. Except as described above, Sales Agent will not share this information with any third parties nor use this information.

13. Liability, Indemnification and Warranty

Telesystem will respond promptly upon notification of any disruption of service and will promptly restore equipment and/or services under its control to a proper working condition. If it is determined that the disruption of service is the responsibility of others, Telesystem will notify Customer and, if it can be determined, notify the responsible party and continue to monitor and diligently solicit the responsible party to properly repair affected equipment or condition. In no event shall Telesystem and/or its third-party providers be liable to Customer for damages or loss of any kind resulting from the use of the system or service(s). The services provided by Telesystem and/or its third-party providers are without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, or non-infringement. Telesystem and/or its third-party providers will not be responsible or liable for, including but not limited to, any damages whatsoever arising out of or in connection with the use or performance of the service(s), including but not limited to, loss of use, data or profits, whether or not advised of the possibility of damage. No defect, unfitness, or other condition of system equipment or service(s) shall relieve Customer of the obligation to pay any charges hereunder or perform any other obligations under this Agreement.

14. Governing Law

The Agreement and the relationship between Telesystem and the customer shall be governed by the laws of the State of Ohio without regard to its conflict of law provisions. Telesystem and Customer agree to submit to the personal and exclusive jurisdiction of the courts within the State of Texas, to the extent possible in Williamson County, and waive any objection as to venue or inconvenient forum. The failure of Telesystem to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provisions, and the other provisions of the Agreement remain in full force and effect. Customer agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the service or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

15. Prohibited Usage

You agree not to use the service or allow the services to be used for any illegal activities. You are responsible for all use and misuse, with or without your knowledge or consent, of the services. You understand and agree that the use of Telesystem's services without payment, as well as any attempt to avoid payment for service by fraudulent means is prohibited. You shall not use the services to disseminate any materials which Telesystem, in its sole discretion, deems to be offensive or inappropriate, including, but not limited to, materials which violate the rights of other parties, which are obscene or pornographic or which advocate hatred of or violence against any person or group. You shall immediately cease dissemination of any such materials upon demand by Telesystem. You shall not disclose any information provided by Telesystem to you, including any login names, passwords or other security devices, to any other person or entity, or allow use of the services by or for the benefit of any other person or entity, including resale or redistribution of the services for profit or otherwise. You shall comply with any reasonable rules imposed by Telesystem in connection with the services at any time hereafter immediately following your receipt of notice thereof. You agree not to use Telesystem's services in the course of any criminal activity. You agree not to use Telesystem's services in the course of any conduct that constitutes tortious activity, including but not limited to activity that constitutes defamation; fraud; false advertising; or violation of copyright, trademark, service mark, trade dress, or trade secret rights. You agree not to use Telesystem's services in the course of any conduct intended to harass, threaten, or abuse, or that is designed to harass, threaten or abuse, or that actually harasses, threatens, or abuses any person. You agree not to use Telesystem's services to distribute unsolicited commercial e-mail or

Confidential

Updated 11/2023

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(888) 808-6111



terminate unsolicited voice calls (UCE or SPAM). You agree not to use Telesystem's services to post or distribute obscene materials or other sexually explicit or violent materials, display or distribution of which is restricted by local, state, or federal law. In the event Customer participates in or carries out any of the aforementioned items Telesystem may immediately terminate this Agreement and any other service being provided to Customer, without notice.

16. Consultation

Telesystem may offer consultation services from time to time. You understand that Telesystem's sole responsibility under this Agreement is to perform the Services (which include without limitation consulting services, if any) in good faith. You further understand and agree that Telesystem is not responsible for any actions or consequences whatsoever that result from following or declining to follow any advice or recommendation of Telesystem, it being acknowledged and agreed by the Customer that Telesystem's services provided under this Agreement are consulting only. You understand and agree that the Customer is solely responsible for its own conduct and action, including without limitation whether or not to follow any advice or consultation, and that Telesystem's sole liability will be for acts constituting bad faith by Telesystem or its willful misfeasance or reckless disregard of its duties. The parties hereto recognize and agree that the effectiveness of the Services and the success of any actions undertaken by Customer are not guaranteed or warranted by Telesystem in any respect whatsoever.

In addition, from time to time Telesystem may use 3rd party companies to help with consulting services, and you agree and understand that in these cases, Telesystem will not be liable for any advice provided by such 3rd parties.

17. Entire Agreement

This Agreement sets forth the entire understanding between the parties and supersedes all prior understandings and oral arrangements, unless there is a written modification prior to agreement signature, amendment or rider executed by an Officer of Telesystem. It is agreed and acknowledged that this Agreement was complete on its face when executed and that this Agreement is made and accepted on the express warranty and representation that the Customer has the authority to negotiate this Agreement. The waiver by any party of any term or condition of this Agreement at any time shall not be construed as a waiver of that or any other term or condition at any other time.

18. Force Majeure

Telesystem shall not be liable for any delay in performance directly or indirectly caused by or resulting from acts of God, fire, flood, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers, or other difficulties Telesystem as may occur in spite of Telesystem's best efforts.

19. The Parties expressly acknowledge that the City of Hutto'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 City is invalid. Nothing in this Agreement requires that the City incur debt, assess or collect funds, or create a sinking fund.

Customer Initials: _____

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STATEMENT OF WORK

Version 1.0

OVERVIEW:

- **TELESYSTEM RESPONSIBILITIES:**
 - Product Terms and Deliverables
 - General
 - Project Management
 - Activation, Ongoing Service and Support
- **CUSTOMER RESPONSIBILITIES**

All responsibilities and deliverables are applicable only when specified on signed order form.

TELESYSTEM RESPONSIBILITIES: PRODUCT TERMS AND DELIVERABLES

- **Ethernet/FTP**
 - May include both voice and data if selected on an order
 - Access varies depending on order and Executive Summary (PRI, Analog Lines, etc.)
- **Sip Trunking**
- **Customer Premise Equipment (Telesystem Provided, only if applicable, see Terms and Conditions)**
 - Router/IAD
 - Gateway
 - Firewall
 - Session Border Controller
- **Managed Firewall**
- **WAN Redundancy Services (Failover)**
 - Voice
 - Data-public internet
 - Data- MPLS
 - Voice and Data
- **POTS (Fax, alarm, modem, etc.) lines**
- **Efaxing**
 - **Inbound IPFax-** package includes inbound eFax only. Fax is distributed up to five email addresses as a pdf
 - **IPFax-** package includes outbound eFax from company domain(s) and inbound Efaxing to designated telephone number. Fax is distributed to up to five email addresses as a PDF.

TELESYSTEM RESPONSIBILITIES: GENERAL

Access Installation

- Order and coordinate access circuit(s) to demarcation point, utilizing available facilities. If customer has requested specific facility type and special construction is required, charges will be billable to the end user
- Notify customer of any carrier EUCR (end user contingency requirements) needed. See customer responsibilities section
- Provide extension of circuit(s) to customer demarcation point. Should the necessary work exceed an hour of labor, a rate of \$125/hour will be billed to the customer
- Verify and test circuit
- Verify internet connectivity and voice service functionality when applicable
- Supply network elements required for service activation: TN/IP/CPE/LNP
- Coordinate with required interconnect and client to complete service transition
- Any additional visits to the customer premises as a result of customer or customer's vendor's delays, or reconfiguration of service when access services have been installed, will be billable at standard hourly rates

Ethernet Access Installation

- Order and coordinate access circuit(s) to demarcation point utilizing available facilities
 - Includes extension of circuit to customer Demarcation point. In the event that the necessary extension work exceed an hour of labor, a rate of \$125/hour will be billed to the customer
- Notify customer of any carrier EUCR (end user contingency requirements) needed. See customer responsibilities section
- Verify and test circuit
- Verify Internet connectivity and Voice service functionality when applicable
- Supply network elements required for service activation: TN/IP/CPE/LNP
- Coordinate with required interconnect and client to complete service transition
- Any additional visits to the customer premises as a result of customer or customer's vendor's delays, or reconfiguration of service when access services have been installed, will be billable at standard hourly rates

Onsite installation of Telesystem equipment

- CPE must be installed by an Telesystem approved technician. Customer may not install equipment
- Installation and testing of applicable CPE in customer provided space
- Configure and test CPE for failover (if selected on order)

TELESYSTEM RESPONSIBILITIES: PROJECT MANAGEMENT TEAM

- Order and coordinate installation of access circuit(s) to customer demarcation point. Any circuit under 100M, please note that the delivery method may be via CAT5/CAT6 or fiber (depending on availability)
- Coordinate any necessary technician dispatches for site surveys, equipment installation, testing
- Port customer phone numbers or assign new numbers as applicable. Porting may be completed during normal business hours Monday---Friday 8AM---4PM EST at no additional charge. Please refer to Terms and Conditions for information regarding porting outside of this window
- Register line number(s) with CNAM (caller ID) when available and appropriate
- Register line number(s) and location(s) with the appropriate 911 authority
- Register line number(s) with directory assistance when service is available
- Provide Telesystem customer portal access and login information at close of order

TELESYSTEM RESPONSIBILITIES: ACTIVATION, ONGOING SERVICE AND SUPPORT

- Provision service according to signed contract and Executive Summary
- Configure Telesystem provided DNS services
- 24x7 network monitoring by Telesystem repair team for Telesystem managed routers
- Notify customer (within reasonable time frame) to schedule a site visit in the event that the hardware needs to be tested and/or replaced
- Ongoing Telesystem customer service is available 24x7x365

CUSTOMER RESPONSIBILITIES:

- Provide all information requested by Telesystem Project Management team in a complete and timely fashion. This may include, but is not limited to, line list, E911 policy, letter of agency, LAN & 3rd party internet access documentation, IP address justifications (above 4 addresses or /30 block), credit application, POTS line inventory, etc.
- Provide complete and correct address information. Please note that if incorrect address information is given, charges may apply for the correction of the order
- Provide contact information for primary and emergency contacts with phone and email addresses for each location
- Supply cable path/conduit for which the underlying carrier can place facilities (Ethernet delivery)
- Supply sufficient grounded and conditioned AC power for Telesystem provided equipment as well as the necessary space, backboard (4' x 4' x 3/4"), and any other special equipment for the location. Complete any carrier-provided EUCRs (end user contingency requirements) for installation
- Customer is responsible for damaged equipment from power surges. Equipment and support for damaged equipment will be billed back to the customer at the original cost of the equipment
- Safely store Telesystem provided equipment under appropriate climatic/physical conditions (recommended 65-80 degrees Fahrenheit with 30%-55% relative humidity). Customer is liable for any misplaced or damaged equipment that has been shipped to and/or installed at the customer site
- Permit complete access to Telesystem service personnel in the event that a visit is scheduled and be present during the scheduled time frame. If reschedule is necessary, customer must give 48 business hours' notice to reschedule any carrier or technician appointments.
- If customer does not allow access to stated location during scheduled visit, associated dispatch charges are applicable
- Provide a clean, safe environment for Telesystem technicians to install service
- If Managed Firewall is selected on sales order, customer must provide TELESYSTEM with LAN and WAN IP information and internal network requirements. If TELESYSTEM's firewall is replacing a current firewall, it is strongly suggested that the customer provide the former firewall configuration for TELESYSTEM engineering review at the onset of the order
- Public internet failover is a firewall function, thus customers that manage their own firewall must control failover at that level using the public IP information supplied by TELESYSTEM
- In the case of voice failover, customer PBX must be able to communicate with TELESYSTEM Metaswitch via a public IP address. If PBX does not have this capacity, please note that additional equipment (such as a session border controller) may be necessary on sales order
- When voice and data failover are selected on sales order, customer must provide TELESYSTEM with at least 2 dedicated, usable static IP addresses
- If Telesystem is not providing internet access for SIP trunking, it is the customer's sole responsibility to provide access with at least 1 usable static IP address to be dedicated to TELESYSTEM equipment, though more may be needed. Customer must also provide TELESYSTEM with the Internet Service Provider's subnet mask, gateway, and DNS servers. It is the customer's responsibility to manage the relationship with the associated Internet Service Provider:
 - Engage Internet Service Provider for support in the event of a service outage and/or voice quality degradation or at the request of Telesystem
 - Telesystem assumes no responsibility or accountability for customer internet access, its supplier relationship, and relative performance. Any resulting degradation or loss of the broadband service in question is the sole responsibility of the client to resolve
 - Customer acknowledges that the services will not function if there is an interruption of the customer's Internet Service Provider. Should the customer engage Telesystem service to troubleshoot and the issue is found to be on the customer's service provider, charges may apply for any associated dispatches to the site
- All TELESYSTEM equipment put into place by TELESYSTEM technicians should not be altered by customer unless instructed by an TELESYSTEM representative. If customer interferes with TELESYSTEM equipment and TELESYSTEM intervention or dispatch is needed to restore service, associated charges may apply
- Telesystem reserves the right to bill customer for service changes or reconfigurations requested by customer that exceed the scope of the managed service or for service changes that Telesystem must undertake due to changes initiated by the customer
- Should equipment or services not included on the original contract be required throughout the implementation process, standard rates will apply
- Customer is responsible for the full term of their contract and to adhere to conditions outlined in Telesystem Terms and Conditions document. Should the customer change physical locations before the end of the agreement, termination charges related to the original access may apply

Telesystem technical personnel are responsible for the deliverables as indicated above, and not for customer responsibilities. In the event customer fails to meet these responsibilities and requires Telesystem’s involvement to do so, customer acknowledges that they will be billed Telesystem’s standard rates. For additional information, please see the Terms and Conditions contained in the Services Agreement.

Customer name

Telesystem, Representative name

Signature

Signature

Date

Date

This SLA applies to Core Data and Voice Services (Type I circuits, ELINE services, Dedicated DIA, SIP Transport, Voice Services; inclusive of equipment managed by Telesystem) ordered by customers, pursuant to an executed agreement with Telesystem, where the services are provided solely by Telesystem and extends to the Telesystem handoff to the customer at the customer location; thus, for purposes of clarity, it does not apply to any portion of delivery that is provided in whole or in part by a third party. Capitalized terms not defined in this SLA shall retain the definition provided within the MSA. This SLA is the sole and exclusive remedy for any type of disruptions or deficiencies of any kind whatsoever for the Service.

Definitions

Customer Relations Business Hours: 7:00AM to 7:00 PM EST Monday through Friday, excluding the following Holidays: New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Friday after Thanksgiving, Christmas Eve, and Christmas Day.

Type I Circuits: Circuits that are 100% exclusively owned and maintained by Telesystem

Type II Circuits: Circuits that may or may not come back to the Telesystem Network but are also designed and/or implemented using a third party provider

Network Operations Center Hours: 365 days per year, 7 days per week, 24 hours per day

Contract Year: The 12-month billing period, commencing on the first day of the month after the Eligible Customer's Telesystem contract is effective, and each successive 12-month billing period.

Eligible Customer: Any customer who has purchased the Service from Telesystem or a Telesystem authorized agent with a minimum one year term commitment, and is in full compliance with any and all applicable terms/conditions of the Service and meets any specific eligibility criteria set forth in the particular service commitment.

Time to Repair: The time taken between opening an Eligible Customer's Trouble Ticket designated as Priority 1, and restoring service for said Trouble Ticket.

Time To Respond: The time taken for Telesystem to initially respond to a service impacting Priority 1 Trouble Ticket logged by an Eligible Customer

Priority 1: Trouble ticket classification for issues in which an Eligible Customer's service is completely out or Inoperable

Priority 2: Trouble ticket classification for issues in which an Eligible Customer's service is experiencing a partial outage or service degradation affecting Customer's Service.

Scheduled Maintenance: Telesystem maintenance window is 2:00AM – 6:00AM, 7 days per week.

Service Affecting Issue: An unscheduled period during which the Service performs irregularly or otherwise not up to normal specifications.

Service Credit: A portion or total of the actual billed monthly recurring or non-recurring charge for the affected seat/station or site. Service Credits will never exceed the total MRC of the service within one month.

Service Outage: An unscheduled period, during which a customer's Data or Voice service is unable to send/receive packets. To qualify for Service Outage credits, the Eligible Customer must open a Trouble Ticket classified as Priority 1. Please see the "Exclusion" section for further details.

Service Outage Time: The period beginning when the Customer opens a Priority 1 Trouble Ticket with Telesystem for a Service Outage and continuing until the time such Trouble Ticket is cleared and the affected service is restored by Telesystem.

Third Party Provider: Any carrier other than Telesystem that is involved in the design/implementation of the service delivery

Trouble Ticket: The tool by which an Eligible Customer reports a perceived Service Outage issue to Telesystem and the sole means by which Service Outage Time is calculated

Telesystem Core Ethernet & IP Transport Network: This is the network that is 100% owned and operated by Telesystem. This includes our core (internal and external core) network for all IP-Data services.

ELINE services: A dedicated point-to-point Ethernet circuit-- service delivery includes the Telesystem Core Ethernet network as well as the handoff to the customer.

Dedicated Internet Access (DIA): IP Layer circuit where Telesystem acts as the dedicated Internet provider-- service delivery includes the Telesystem Core IP Transport network as well as the handoff to the customer.

SIP Transport: Any IP Layer connection that provides voice services--where service delivery includes the Telesystem Core IP Transport network as well as the handoff to the customer.

Voice Services: Any voice services that are provided directly from Telesystem switching platform; either the Blue or Green Platforms

Managed Equipment: Any piece of equipment that is on or in a customer premise that is managed or billed by Telesystem and is used in the delivery of service(s) provided by Telesystem; including: edge gear, voice gateways, firewalls, routers, cameras, handsets etc.

Service Availability

Telesystem guarantees 99.999% availability for the Telesystem Core Data and Voice Network.

Service Availability will be calculated as the total amount of time in a 30-day calendar month (30 days x 24 hours x 60 minutes) minus the total amount of validated Service Outage Time (as measured by Telesystem trouble tickets,) (Excludes items outlined in Exclusions section) divided by the total amount of time in a calendar month and multiplied by 100.

If Telesystem fails to meet this standard, **Customer shall be entitled to a 10% credit of the affected Service(s), as to the period of time for which Telesystem failed to meet the standard.**

Time To Respond

Commitment

Telesystem guarantees a Time to Respond of 30 minutes or less for trouble tickets classified as Priority 1, otherwise a Service Credit will be provided to the Eligible Customer.

Credit

Telesystem will provide to the Eligible Customer a service credit equal to the applicable percentage set forth in the table below:

Time To Respond	Service Credit (Proposed)
0 to 30 minutes	None

30 minutes to 59 minutes	5%	of the MRC of the affected Service(s)
60 minutes to 89 minutes	10%	of the MRC of the affected Service(s)
90 minutes – 119 minutes	25%	of the MRC of the affected Service(s)
Greater than 119 minutes	50%	of the MRC of the affected Service(s)

Time To Repair

Commitment

Telesystem guarantees a Time to Repair of 2 Hours or less for trouble tickets classified as Priority 1, otherwise a Service Credit will be provided to the Eligible Customer.

Credit

Telesystem will provide to the Eligible Customer a service credit equal to the applicable period of time set forth in the table below:

Time To Repair	Service Credit (Proposed)	
0 to 2 Hours	None	
2 Hours to 4 Hours	5%	of the MRC of the affected Service(s)
4 Hours to 8 Hours	10%	of the MRC of the affected Service(s)
8 Hours to 24 Hours	25%	of the MRC of the affected Service(s)
24 Hours to 48 Hours	50%	of the MRC of the affected Service(s)
Greater than 48 hours	100%	of the MRC of the affected Service(s)

Performance

Latency

Latency is defined as the difference in time between when the signal is transmitted, and when it is received. In a routed or switched network this is measured as either *one-way* (the time from the source sending a packet or frame to the destination receiving it), or round-trip (the one-way latency from source to destination plus the one-way latency from the destination back to the source). Round-trip latency is more often quoted, because it can be measured from a single point. Note: round trip latency excludes the amount of time that a destination system spends processing the packet. Many software platforms provide a service called ping that can be used to measure round-trip latency. Ping performs no packet processing; it merely sends a response back when it receives a packet (i.e. performs a no-op), thus it is a relatively accurate way of measuring latency

Telesystem guarantees that the aggregate monthly average of the round-trip latency for services provided will not exceed 25 milliseconds when traveling over the Telesystem Core Ethernet & IP Transport Network. Customer shall be entitled to a single 10% credit of the monthly charge for the affected Service(s) if Telesystem fails to meet this guarantee during the subject month.

Packet & Frame Loss

This occurs when one or more frames/ packets of data traveling across a network fail to reach their destination and is defined as a percentage of transmissions received vs. sent. Connectionless protocols do not guarantee delivery--the Packet or Frame Loss measurements calculate the severity of this condition.

Telesystem guarantees that the aggregate monthly average packet/ frame loss of services provided at .1% when traveling over the Telesystem Core Ethernet & IP Transport Network.

Customer shall be entitled to a single 10% credit of the monthly charge for the affected Service(s) if Telesystem fails to meet this guarantee during the subject month.

Packet Jitter & Frame Delay

Packet Jitter & Frame Delay measures the variation in arrival rates between individual packets or frames. Since each transmission can, under certain conditions, follow a unique path it is possible that the time delay between successive transmissions can vary.

Telesystem guarantees that the Packet Jitter will not exceed 5 milliseconds when traveling over the Telesystem Core Ethernet & IP Transport Network. Customer shall be entitled to a single 10% credit of the monthly charge for the affected Service(s) if Telesystem fails to meet this guarantee during the subject month.

Requirement

In order to receive a Service Credit as outlined above, the Eligible Customer must first open a Trouble Ticket, as described in Trouble Ticket Creation, to report a Service Outage or a Service Affecting issue and then submit a written request via email for a credit to Telesystem within 15 business days of opening said Trouble Ticket. For Installation Interval credits, only the written request must be submitted. Such written requests shall be sent to businessreps@telesystem.us with the “Request for Credits” in the subject line. In order to be eligible for a credit due to service interruptions a customer must be in good standing on their account and not have a past due balance.

The request must include the following information:

- Trouble ticket Number
- The Date of the Service Outage
- The Telesystem Service **Account Number** for the service location that experienced the Service Outage or Service Affecting Issue.

Trouble Ticket Creation

Customer may open a Trouble ticket using one of the following methods:

- Call Telesystem’s Commercial Call Center at 888.808.6111:
- Submit a trouble ticket via Telesystem’s Trouble Ticket portal

Credit Structure

Any applicable credits will be applied to the Net Monthly Recurring charges or monthly Non-Recurring Charges as appropriate and depending on the specific Service Credit at issue. Any decision made by Telesystem concerning this SLA or associated credits will be final and binding and is within the sole discretion of Telesystem. In no event will the cumulative total of the Service Credits for all Service Level Commitments exceed their respective Monthly Recurring Charge or Non-Recurring Charge. Moreover, the combined cumulative total of Service Credits issued during a Contract Year under the SLA will not exceed 25% of an Eligible Customer’s total monthly recurring charges or non-recurring charges for the Contract Year.

Exclusions

All Service Availability, Core and Transport, Time to Respond or Time to Repair measurements do not include periods of outages due in whole or in part to the following causes:

1. Type II circuits: Please note that for many customers Telesystem services rely on third party connections and infrastructure and Telesystem makes no representations regarding the latency, speed, or quality of third party services and is not responsible for any Service Availability, Core and Transport, Time to Respond or Time to Repair issues that result from a problem with such third-party services. To the extent customer has questions regarding whether its Services rely on third parties, please contact Telesystem prior to agreement. Telesystem will honor back to its customer any performance measures that are outlined in the underlying third-party carrier agreements.
2. Any act or omission on the part of the Eligible Customer, any other entity over which the Eligible Customer exercises control or has the right to exercise control, or any third-party (including without limitation any issue with a local access provider or third party carrier, any failure of equipment provided or controlled by the Eligible Customer, and any interruption where the Eligible Customer elects not to release the service for testing and repair and continues to use it on an impaired basis.
3. The Eligible Customer’s applications, equipment or facilities including failure or malfunction of any cabling, switching or other equipment not provided by Telesystem.
4. Any Scheduled Maintenance by Telesystem, its underlying carrier(s) or the Customer.
5. Any event or occurrence that results in “No Trouble Found” resolution to Trouble Tickets.
6. Any event or outage lasting under 60 seconds in duration.
7. Any event beyond the reasonable control of Telesystem including, but not limited to: acts of God, natural disasters, cable cuts, government acts and regulation and national emergency.
8. Interruptions during any period when Telesystem or its agents are not allowed access to the Customer premises where affected access services are terminated.
9. Major Trouble tickets opened by Telesystem or by a qualified third party on behalf of Telesystem such as those in the case of a fiber cut.
10. Any failure or issue associated with the Eligible Customer’s underlying network connection.
11. Eligible Customer’s delay in responding to Telesystem’s requests for assistance to repair an outage
12. In order to be eligible for any service credits the customer account must be in good standing and not have any past due balance

Amendments Telesystem reserves the right to amend the SLA from time to time effective upon the posting of revised SLA metrics on www.telesystem.us

AGENDA ITEM REPORT

13.6.



To: City Council
Subject: Consideration and possible action on Resolution No. R-2024-171 authorizing the City Manager to execute a task order with Raba Kistner in the amount of \$235,728.90 for construction materials observation and testing services related to the South Wastewater Treatment Plant Expansion project (CIP WW-06-2023) (Matt Rector)
Meeting: Thursday, August 1, 2024
Department: Engineering /
Staff Contact: Matt Rector

BACKGROUND INFORMATION:

On July 6, 2023 the City Council approved Resolution no. R-2023-157 regarding Rotation List for Construction Materials Testing professional services with three consulting firms as a mechanism for Construction Related Professional Services, where the City hires multiple firms based on demonstrated competence and qualifications to perform a general scope of services and makes individual assignments on a rotating basis.

Materials testing is required for all construction projects to ensure that the materials are installed, made, or constructed in compliance with the design. This provides levels of safety for the projects and helps prolong the life cycle. Materials testing is done concurrent with the project as it progresses. For example, once the subgrade is prepared, a compaction test would be performed ensuring proper compaction before moving to construction of any foundation, concrete, or other structure on the subgrade. As concrete is poured, tests are performed to ensure that the concrete meets the requirements of the engineer's specification to ensure that it is strong enough to perform as intended.

The purpose of this item is to award a task order to Raba Kistner Consultants, Inc. for construction materials testing associated with the South Wastewater Treatment Plant Expansion construction project. The cost for this material testing contract is \$235,728.90.

The services will be provided on a call-out basis for the cost- estimate spreadsheet attached to the proposal. The scope of work includes the observation and testing of the following construction materials: i. Soils laboratory testing, in-place field nuclear density testing, ii. Reinforcing steel observations, iii. Concrete (and masonry) compressive strength specimen sampling, testing, and reporting, iv. Structural steel observations, and v. Asphalt aggregate sampling and observation.

SUMMARY OF REQUEST:

Staff requests approval of resolution as presented

AGENDA ITEM REPORT

13.6.



STAFF REVIEW:

Staff recommends approval

FISCAL NOTES:

The funding for the materials testing portion of this project is as follows:

Series 2024 CO

Account Number: 58-040-058-6676

Account Name: (WW06) South WWTP Construction 6MGD Expansion

Budget: \$90,000,000

Engr/Design: \$13,500,000

Equipment: \$0

Materials Testing: \$675,000

ROW: \$0

Construction: \$75,825,000

Actual: \$52,466,436

Engr/Design: \$14,005,749

Equipment:

Materials Testing: \$235,729

ROW:

Construction: \$38,224,958

Materials Testing:

Budget Amount: \$675,000

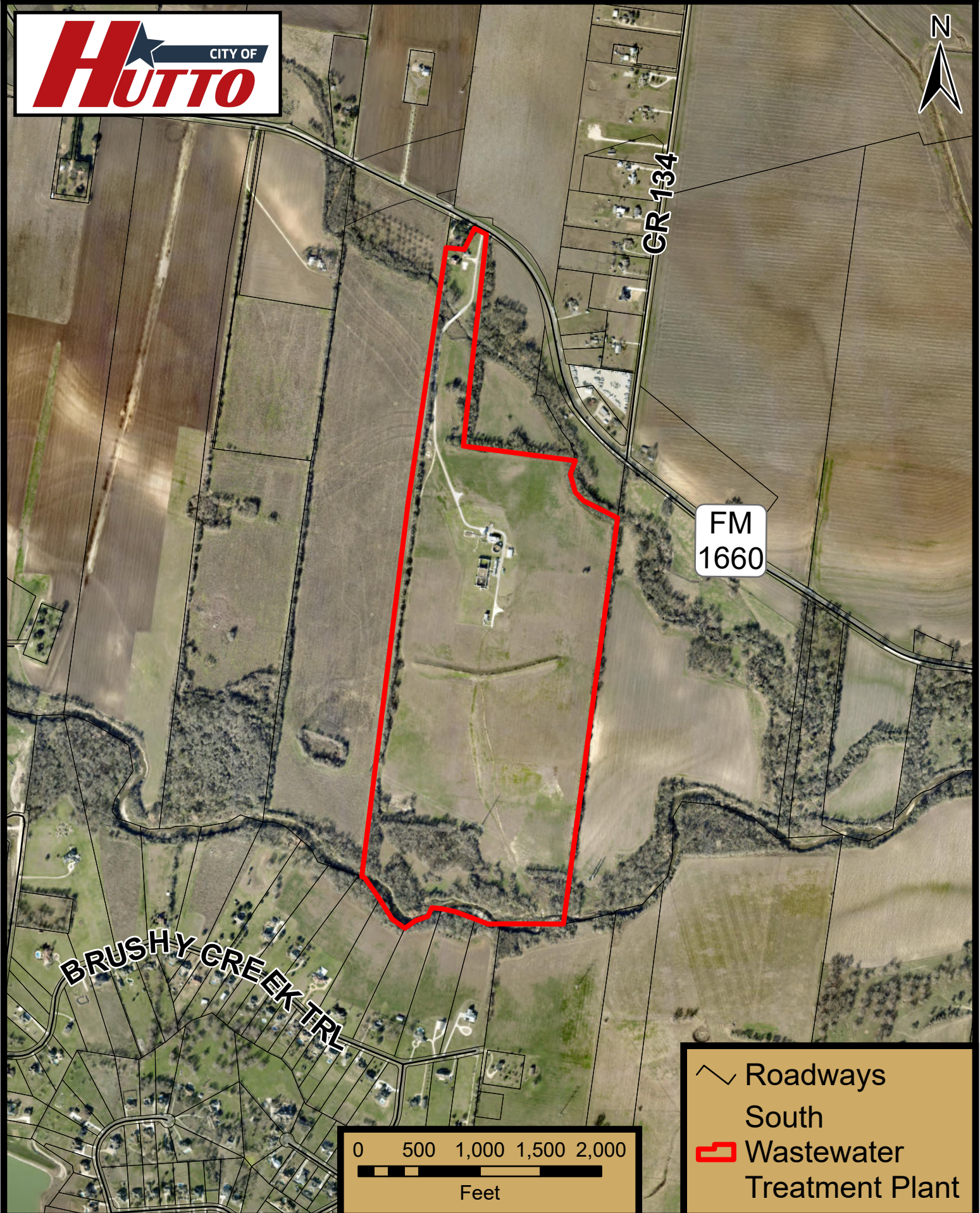
Actual Amount: \$235,729

Amount Remaining: \$439,271

ATTACHMENTS:

1. South_Wastewater_Treatment_Plant_WW05_2023
2. Resolution_Raba Kistner_MTL_Test_WW06-2023_7.22.24_mm
3. IPO 23-04C-00 RabaKistner-Hutto South WWTP
4. House-Bill-89-Verification-Form
5. Form 1295 Certificate 101236917

South Wastewater Treatment Plant (WW05-2023)



- ~ Roadways
- South
-  Wastewater Treatment Plant

0 500 1,000 1,500 2,000
Feet

RESOLUTION NO. R-2024-156

A RESOLUTION OF THE CITY OF HUTTO, TEXAS, APPROVING TASK ORDER IPO 23-04C-001 BETWEEN RABA KISTNER, INC. AND THE CITY OF HUTTO IN THE AMOUNT OF \$235,728.90 FOR MATERIALS TESTING SERVICES FOR THE SOUTH WASTEWATER TREATMENT PLANT EXPANSION PROJECT (CIP WW06-2023); AUTHORIZING THE CITY MANAGER TO EXECUTE THE IPO; PROVIDING PROPER NOTICE & MEETING, AND PROVING AN EFFECTIVE DATE.

WHEREAS, the City Council desires to approve the Individual Project Order 23-04C-001 (“IPO”), attached as Exhibit A and incorporated herein by reference, in the amount of \$235,728.90, in accordance with the provisions of the Master Services Agreement For Professional Consulting Services executed between the City of Hutto and Raba Kistner, Inc.; and

WHEREAS, the IPO provides materials testing services for the South Wastewater Treatment Plant Expansion Project (CIP WW06-2023); and

WHEREAS, the City Council desires to authorize the City Manager to execute the IPO, attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: That the Hutto City Council hereby approves and authorizes the City Manager to execute the IPO, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the
1st day of August 2024 on vote of __AYES; __NAYS; __ABSTENTIONS

City of Hutto, Texas

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary



TASK ORDER # IPO 23-04C-001

Proposed SURVEYING ROTATION LIST

In accordance with Agreement for On Demand Services Engineering Services Rotation List between the City of Hutto (Owner) and Vendor, the parties agree as follows:

1. Background Data

- a. Effective Date of Task Order #IPO 23-04C-001: January 04, 2024
- b. Owner: City of Hutto
- c. Vendor: RABA KISTNER, INC.

Specific Project (title): South Wastewater Treatment Plant, including limits as provided.

- 1) Scope of services for Construction Materials Testing will include the following field services:
 - a) Soils laboratory testing, in-place field nuclear density testing,
 - b) Reinforcing steel observations,
 - c) Concrete (and masonry) compressive strength specimen sampling, testing, and reporting,
 - d) Structural steel observations,
 - e) Asphalt aggregate sampling and observation

Refer to attached proposal for full details of materials testing and requirements.

2. Fee: NTE \$235,728.90

3. Deadline: This form is to be signed along with any supplementary materials and must be submitted to Matt Rector, City Engineer via email by **01/04/2024**, 2023 at 12PM CST.

Point of Contact

Matt Rector

City Engineer

Matt.Rector@HuttoTX.gov

512-759-4025

Any questions must be in writing and responses will be provided within 24 hours and shared with other On Demand firms under contract with the City.

Exhibit A

Vendor agrees to provide the services within this Task Order and Vendor is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

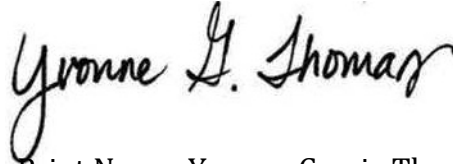
The Effective Date of this Task Order {#IPO 23-04C-001} is January 4, 2024.

OWNER:

CONSULTANT:

By: City of Hutto

By: Raba Kistner, Inc.

A handwritten signature in black ink that reads "Yvonne G. Thomas". The signature is written in a cursive style with a large, stylized "Y" and "T".

Print Name: James Earp

Print Name: Yvonne Garcia Thomas, P.E.

Title: City Manager

Title: Vice President



TASK ORDER # IPO 23-04C-001

Proposed SURVEYING ROTATION LIST

In accordance with Agreement for On Demand Services Engineering Services Rotation List between the City of Hutto (Owner) and Vendor, the parties agree as follows:

1. Background Data

- a. Effective Date of Task Order #IPO 23-04C-001: January 04, 2024
- b. Owner: City of Hutto
- c. Vendor: RABA KISTNER, INC.

Specific Project (title): South Wastewater Treatment Plant, including limits as provided.

- 1) Scope of services for Construction Materials Testing will include the following field services:
 - a) Soils laboratory testing, in-place field nuclear density testing,
 - b) Reinforcing steel observations,
 - c) Concrete (and masonry) compressive strength specimen sampling, testing, and reporting,
 - d) Structural steel observations,
 - e) Asphalt aggregate sampling and observation

Refer to attached proposal for full details of materials testing and requirements.

2. Fee: NTE \$235,728.90

3. Deadline: This form is to be signed along with any supplementary materials and must be submitted to Matt Rector, City Engineer via email by **01/04/2024**, 2023 at 12PM CST.

Point of Contact

Matt Rector

City Engineer

Matt.Rector@HuttoTX.gov

512-759-4025

Any questions must be in writing and responses will be provided within 24 hours and shared with other On Demand firms under contract with the City.

Vendor agrees to provide the services within this Task Order and Vendor is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

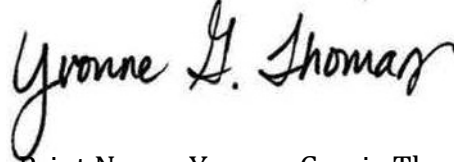
The Effective Date of this Task Order {#IPO 23-04C-001} is January 4, 2024.

OWNER:

CONSULTANT:

By:

By: Raba Kistner, Inc.



Print Name:

Print Name: Yvonne Garcia Thomas, P.E.

Title: _____ Title: Vice President



8100 Cameron Road, Suite B-150
Austin, TX 78754

P 512.339.1745
F 512.339.6174
TBPE Firm F-3257

WWW.RKCI.COM

PAD23-227-00 Revision No. 1
November 8, 2023

Ms. Patricia A. Davis, MSCE, P.E., LGPP
City of Hutto
500 W. Live Oak Street
Hutto, Texas 78634

**Re: Construction Materials Testing Services
City of Hutto - South Wastewater Treatment Plant
10710 FM 1660
Hutto, Texas 78634**

Dear Ms. Davis:

RABA KISTNER Consultants, Inc. (RKCI) is pleased to submit our proposal to provide the construction materials observation and testing services on the project referenced above.

We propose an estimated budget of **\$235,728.90** for testing and observation services for the referenced project. This budget is based on our understanding of the project, an estimate of quantities, and past experience with similar projects. A cost estimate breakdown is presented in the attached spreadsheet. Construction sequencing, delays, and the number of times that the client or their representative requests our services will affect the suggested budget. Services will be provided on a call-out basis for the cost-estimate spreadsheet attached to this proposal. The scope of work includes the observation and testing of the following construction materials:

- Soils laboratory testing, in-place field nuclear density testing,
- Reinforcing steel observations,
- Concrete (and masonry) compressive strength specimen sampling, testing, and reporting,
- Structural steel observations,
- Asphalt aggregate sampling and observation

This proposal may serve as RKCI's work agreement for the referenced project. Please sign this proposal, initial every page of each attachment, fill out the Report Distribution List, and return one signed original to our office as authorization for RKCI to provide these services. If you choose to issue your own purchase order or work agreement, please reference our proposal number.

Thank you for allowing RKCI the opportunity to submit our proposal for the construction materials observation and testing services. We have a fully-equipped AASHTO Accredited laboratory and we look forward to providing these services to you during the construction of this project. If you have any questions concerning our proposal or need any additional information, please call us at (512) 339-1745.



Very truly yours,

RABA KISTNER CONSULTANTS, INC.

Approved
By:

(Signature)

(Printed or Typed Name)

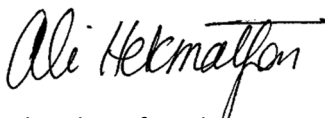
(Title)

(Company Name)

(Date)



David A. Brown
Lead CoMET Estimator



Ali Hekmatfar, Ph.D., P.E.
CoMET Project Manager

DB/AH: am

Attachments: Fee Estimate Breakdown
 Scope of Work
 Report Distribution

FEE ESTIMATE BREAKDOWN

Project Name: Hutto South Wastewater Treatment Plant Phase 1 - Revision 1				
Project Location: 10710 FM 1660 Hutto, Texas 78634				
Contact: Patricia A. Davis, MSCE, P.E., LGPP				
Client: City of Hutto				
Address: 500 W. Live Oak Street				
City/State/Zip: Hutto, TX 78634				
Phone Number: 512.759.4005				
Fax: NP				
Email: Patricia.Davis@HuttoTX.gov				
TESTING/OBSERVATION ITEM	UNIT COST	UNIT	ESTIMATED QUANTITY	ESTIMATED FEE
SOILS				
Laboratory Testing				
Moisture Density Relationship (TxDOT or ASTM), Sieve Analysis, and Atterberg Limits	\$500.00	each	10	\$5,000.00
Lime Series Curve	\$375.00	each	0	\$0.00
Sulfate Testing	\$120.00	each	0	\$0.00
Field Gradation for Lime Treated Subgrade	\$45.00	each	0	\$0.00
Soil pH for Lime Treated Subgrade (1 point)	\$90.00	each	0	\$0.00
Field Testing/Observation				
In-Place Nuclear Densities (Per Test)	\$20.00	each	506	\$10,120.00
Materials Technician	\$68.00	hour	552	\$37,536.00
Materials Technician (overtime)	\$102.00	hour	0	\$0.00
Vehicle Travel Charge	\$50.00	trip	195	\$9,750.00
Subtotal				\$62,406.00
REINFORCING STEEL OBSERVATIONS				
Field Observation/Testing				
Materials Technician	\$68.00	hour	306	\$20,808.00
Vehicle Travel Charge	\$50.00	trip	102	\$5,100.00
Subtotal				\$25,908.00
CONCRETE				
Laboratory Testing				
Concrete Compressive Strength Cylinders	\$24.00	each	1455	\$34,920.00
Field Testing/Observation				
Materials Technician	\$68.00	hour	517	\$35,156.00
Materials Technician (overtime)	\$102.00	hour	191	\$19,482.00
Vehicle Travel Charge	\$50.00	trip	255	\$12,750.00
Subtotal				\$102,308.00

FEE ESTIMATE BREAKDOWN

TESTING/OBSERVATION ITEM	UNIT COST	UNIT	ESTIMATED QUANTITY	ESTIMATED FEE
MASONRY				
Laboratory Testing				
Compressive Strength Grout	\$26.00	each	60	\$1,560.00
Prism	\$515.00	each	0	\$0.00
Field Testing/Observation				
Materials Technician	\$68.00	hour	72	\$4,896.00
Materials Technician (overtime)	\$102.00	hour	0	\$0.00
Vehicle Travel Charge	\$50.00	trip	24	\$1,200.00
Subtotal				\$7,656.00
STRUCTURAL STEEL INSPECTION (4 Hour Minimum Trip Charge for CWI)				
Field Testing/Observation				
CWI Inspector	\$135.00	hour	68	\$9,180.00
Non Destructuve Testing (Ultrasonic Testing)	\$150.00	hour	0	\$0.00
Ultrasonic Testing - Daily Equipment	\$100.00	day	0	\$0.00
Vehicle Travel Charge	\$50.00	trip	17	\$850.00
Subtotal				\$10,030.00
ASPHALT				
Laboratory Testing				
Bag Sample (gradation, asphalt content, molding specimens, density of molded specimens, maximum thoeretical specific gravity)	\$500.00	each	3	\$1,500.00
Density of Asphalt Cores	\$100.00	each	6	\$600.00
Field Testing/Observation				
Materials Technician	\$68.00	hour	12	\$816.00
Materials Technician (overtime)	\$102.00	hour	0	\$0.00
Coring Equipment	\$475.00	day	3	\$1,425.00
Vehicle Travel Charge	\$50.00	trip	3	\$150.00
Subtotal				\$4,491.00
PROJECT ADMINISTRATION				
Project Coordinator	\$95.00	hour	2	\$190.00
Project Engineer (EIT)	\$105.00	hour	2	\$210.00
Project Engineer (PE)	\$175.00	hour	4	\$700.00
Vehicle Travel Charge	\$50.00	trip	1	\$50.00
Project Completion Letter	\$175.00	hour	2	\$350.00
Subtotal				\$1,500.00
Technical Review & Administrative Fee				10% of total cost
				\$21,429.90
TOTAL ESTIMATED FEE				\$235,728.90

SCOPE OF WORK
Construction Materials Testing Services
City of Hutto South Wastewater Treatment Plant
10710 FM 1660 Hutto, TX 78634

General:

1. We understand that the **City of Hutto** will require the services of experienced engineering technicians as scheduled by you or your representatives. Client will incur a 3-hour minimum charge per each site visit. We request twenty-four (24) hour notification to properly schedule our work.
2. Service charges are based on the hourly rates stated herein and will be assessed from the time the Engineer or Technician leaves our office until he returns from the project.
3. A vehicle travel charge will be assessed for round-trip travel from our office to the project site, material supplier, etc. and back to our office. The charges from our office to the project site will be as follows:

Travel Time (Round Trip)	2 Hour
Vehicle Travel Charge	\$50.00 Trip

4. Our total cost of services is based upon the assumption that this project will require a technician on site during normal work hours. Normal work hours are defined as Monday through Friday, 7:00 am to 5:00 pm. An overtime rate of 1.5 times the appropriate hourly rate will be assessed for services performed outside of normal work hours and/or after eight (8) hours of work per day. Services requested for Sundays or Federal Holidays will be assessed at an overtime rate of 2.0 times the appropriate hourly rate.
5. Invoices will be submitted monthly for work in progress in our standard format. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037. All parties hereby agree that this agreement upon acceptance will be performable in Williamson County, Texas. In the event that the State of Texas legislates a sales tax on professional services, the amount of tax applicable will be added to the appropriate service rate charged by Raba-Kistner Consultants, Inc.
6. A 10 percent project engineer review, administration, and report distribution cost will be added to all invoices.
7. Raba-Kistner will utilize the on-site initial field curing facilities provided by the contractor. The cost of providing and maintaining these initial curing facilities is not included in our proposal.

REPORT DISTRIBUTION LIST

Please provide RKCI with project distribution for our submittal of reports on this project. Unless otherwise indicated, testing and observation reports will be distributed via email.

Client: _____

Attention: _____

Phone No.: _____ Email: _____

Architect: _____

Attention: _____

Phone No.: _____ Email: _____

Engineer: _____

Attention: _____

Phone No.: _____ Email: _____

Contractor: _____

Attention: _____

Phone No.: _____ Email: _____

Other: _____

Attention: _____

Phone No.: _____ Email: _____

Please return this Attachment via fax or mail with signed Authorization.

House Bill 89 Verification Form

Prohibition on Contracts with Companies Boycotting Israel

The 85th Texas Legislature approved new legislation, effective September 1, 2017, which amends Texas Local Government Code Section 1. Subtitle F, Title 10, Government Code by adding Chapter 2270 which states that a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

- 1) does not boycott Israel; and
- 2) will not boycott Israel during the term of the contract

Pursuant to Section 2270.001, Texas Government Code:

1. "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and
2. "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.

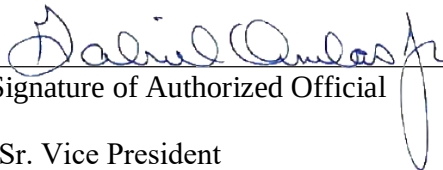
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I, (authorized official) Gabriel Ornelas, Jr., PE, do hereby verify the truthfulness of the contents of the statements submitted on this certification under the provisions of Subtitle F, Title 10, Government Code Chapter 2270 and that the company named below:

- 1) does not boycott Israel currently; and
- 2) will not boycott Israel during the term of the contract; and
- 3) is not currently listed on the State of Texas Comptroller's Companies that Boycott Israel List located at <https://comptroller.texas.gov/purchasing/publications/divestment.php>

Raba Kistner, Inc.

Company Name



Signature of Authorized Official

Sr. Vice President

Title of Authorized Official

12/21/2023

Date

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Raba Kistner, Inc.
San Antonio, TX United States

Certificate Number:
2024-1189781

Date Filed:
07/19/2024

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Hutto

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

WW06-2023
MTL Test SWWTP

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Kiwa Limited Group	San Antonio, TX United States	X	

5 Check only if there is NO Interested Party.

☐

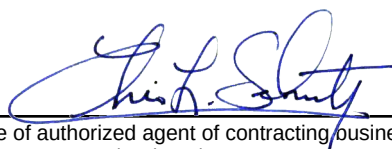
6 UNSWORN DECLARATION

My name is Chris L. Schultz, and my date of birth is 3/16/66.

My address is 12821 W. Golden Lane, San Antonio, TX, 78249, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Bexar County, State of Texas, on the 19 day of July, 2024.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

AGENDA ITEM REPORT

13.7.



To: City Council
Subject: Consideration and possible action on Resolution No. R-2024-172 authorizing the City Manager to terminate the July 7, 2005 lease agreement between the City of Hutto and the Hutto Independent School District for the property located at 400 East Front Street, 0.654 acres, Hutto, Texas (Legal)
Meeting: Thursday, August 1, 2024
Department: Legal /
Staff Contact:

BACKGROUND INFORMATION:

SUMMARY OF REQUEST:

STAFF REVIEW:

The City of Hutto entered into a 99-year lease of real property with the Hutto Independent School District on July 7, 2005 for 0.654 acres of land at 400 East Front Street, Hutto, Texas; and HISD no longer uses this property and is ready to amend the agreement to terminate the lease; and the City wishes to reclaim the property to repurpose for a possible future animal shelter property; and this resolution will authorize the City Manager to amend the agreement to terminate the lease.

FISCAL NOTES:

ATTACHMENTS:

1. Hutto Res Auth HISD lease termination 400 Front Street draft 7.25.24
2. HISD 400 East Front Street Declaration of Surplus Property Resolution June 2024

RESOLUTION NO. R-2024-__

**A RESOLUTION OF THE CITY OF HUTTO, TEXAS,
AUTHORIZING THE CITY MANAGER TO TERMINATE
THE JULY 7, 2005 LEASE AGREEMENT BETWEEN THE
CITY OF HUTTO AND THE HUTTO INDEPENDENT
SCHOOL DISTRICT FOR THE PROPERTY LOCATED AT
400 EAST FRONT STREET; PROVIDING PROPER NOTICE
& MEETING, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Hutto, Texas (“City”) entered into a 99-year lease of real property (“Lease”) with the Hutto Independent School District (“HISD”) on July 7, 2005 for 0.654 acres of land at 400 East Front Street, Hutto, Texas; and

WHEREAS, HISD no longer uses this property for school purposes as required by the Lease, has no need for use of the property due to the construction of their agricultural facility, and is ready to amend the agreement to terminate the Lease; and

WHEREAS, the City wishes to reclaim the property to repurpose for use as City facilities; and

WHEREAS, the City Council desires to authorize the City Manager to amend the agreement to terminate the Lease, attached as Exhibit A.

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

Section 1: The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Resolution as if fully set forth herein.

Section 2: The Hutto City Council hereby approves and authorizes the City Manager to amend the agreement to terminate the Lease, attached as Exhibit A, a copy of same being attached hereto and incorporated herein for all purposes.

Section 3: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 4. This Resolution shall take effect immediately upon its passage.

PASSED & APPROVED by the CITY COUNCIL of the CITY OF HUTTO, on the 1st day of August 2024 on vote of __AYES; __NAYS; __ABSTENTIONS

CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

AMENDMENT OF LEASE OF REAL PROPERTY

This amendment of the Lease of Property Agreement is by and between the CITY OF HUTTO (the "City") and the HUTTO INDEPENDENT SCHOOL DISTRICT (the "HISD"). The City and HISD are herein referred to as "Party" individually, or jointly, the "Parties".

RECITALS

WHEREAS, the City and HISD entered into a lease agreement of real property ("Lease") on July 7, 2005, for 0.654 acres of land at 400 East Front Street, Hutto, Texas, attached as Exhibit A, and;

WHEREAS, HISD no longer uses this property for school purposes as required by the Lease, has no need for use of the property due to the construction of their agricultural facility, and is ready to terminate the Lease; and

WHEREAS, HISD will declare a storage structure on the property to be surplus property and will sell the structure to the City for \$1,000.00; and

WHEREAS, the City wishes to reclaim the property to repurpose for use as City facilities.

NOW, THEREFORE, in consideration of the recitals set forth above, and in the best interest of the Parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and confessed, the City and HISD agree to terminate the Lease for 400 East Front Street, Hutto, Texas.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal this _____ day of _____, 2024.

THE CITY OF HUTTO, TEXAS

By: _____
James Earp, City Manager

Attest:

Laura Hallmark, City Secretary

HUTTO INDEPENDENT SCHOOL DISTRICT

By: _____
Cara Malone, Interim Superintendent

Exhibit A

THE STATE OF TEXAS

§

COUNTY OF WILLIAMSON

§

§

LEASE OF REAL PROPERTY

THIS LEASE is made on this 7 day of July, 2005, by and between the CITY OF HUTTO (hereinafter referred to as "City"), and the HUTTO INDEPENDENT SCHOOL DISTRICT (hereinafter referred to as "HISD"). The parties for and in consideration of the agreements set forth herein to be kept and performed by them, respectively, have agreed to and do hereby agree as follows:

A. LEASE AGREEMENT. City has leased and by these presents does lease unto HISD the following property, to wit:

All of that certain tract of land in Williamson County, Texas, and being more particularly described by metes and bounds in Exhibit "A", attached hereto.

B. TERM OF LEASE. The initial term of the Lease shall be for a period of ninety-nine (99) years.

C. CONSIDERATION. Consideration shall be one Dollar (\$1.00) per year. Additionally, HISD agrees to (1) use the property for school purposes during the term; (2) reimburse the City for any taxes which may be levied against the property; (3) maintain the property in a manner which is consistent with the requirements of any other governmental agency having jurisdiction over the property.

D. IMPROVEMENTS. All additions, extensions, alterations, improvements, repairs and restoration to and of said premises, now or hereafter made by HISD, and the plans, construction, and workmanship therefor, shall be in accordance with the laws, ordinances, and building rules and regulations applicable thereto.

E. NOTICES. Notices to the parties herein may be served by mailing a certified copy, return receipt requested, to the following addresses:

HUTTO INDEPENDENT
SCHOOL DISTRICT

200 College Street
Hutto, TX 78634

CITY OF HUTTO, TEXAS
c/o Mike Ackerman
401 West Front Street
Hutto, Texas 78634

Exhibit A

Either party may from time to time, upon written notice to the other party, change the address to which notices by mail shall be sent.

SIGNED this the 7 day of July, 2005.

CITY OF HUTTO, TEXAS

By: 
Mike Ackerman, Mayor
Date Signed: 7-7-05

HUTTO INDEPENDENT SCHOOL DISTRICT

By: 
Printed Name: Bobby Maples
Date Signed: 6/9/05

Exhibit A

EXHIBIT "A"

.654 acres of land, as described in Williamson County Appraisal District property I.D. R347205, and as shown on the sketch attached hereto.

R325594
THOMAS J. NOREN
1977/353
43.53 AC

R391646
DON L. WEISS
1979/705
(136,79 AC)
53,501 AC

R020581
DON L. WEISS
DOC 9643872
70.689 AC

REFER TO
3 4454

607205
R374
165ac

WILLIAM GATLIN HRS.
A-271
ORIGINAL

**RESOLUTION OF THE BOARD OF TRUSTEES
HUTTO INDEPENDENT SCHOOL DISTRICT REGARDING
LEASE OF REAL PROPERTY AT 400 EAST FRONT STREET AND
DECLARATION OF SURPLUS PROPERTY**

WHEREAS, Hutto Independent School District (the "District") entered into a 99-year lease agreement with the City of Hutto, Texas (the "City") on July 7, 2005 for 0.654 acres of land at 400 East Front Street, Hutto, Texas (the "Property"), a copy of which lease agreement is attached hereto as Exhibit A for reference; and

WHEREAS, the District constructed a barn on the Property for use in its Agricultural Sciences programs, but no longer has need or use for the barn; and

WHEREAS, the District no longer uses the Property for school purposes and wishes to terminate its lease on the Property; and

WHEREAS, the City wishes to regain use of the Property for valid municipal and public purposes:

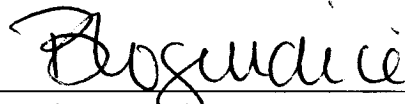
NOW, THEREFORE, the Hutto Independent School District Board of Trustees Resolves as follows:

1. The findings set forth in the recitals of this Resolution are hereby found to be true and correct and are hereby adopted as findings of the Board of Trustees.
2. The Board of Trustees hereby declares that the barn on the Property is surplus property and approves and authorizes the Superintendent of Schools to dispose of such surplus property in an appropriate manner.
3. The Board of Trustees hereby approves and authorizes the Superintendent of Schools to execute any and all documents necessary to terminate the District's leasehold interest in the Property.
4. Written notice of the date, hour, place and subject of the meeting at which this Resolution was adopted was duly posted and that such meeting was open to the public as required by law at all times during which this Resolution and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Texas Open Meetings Act, Texas Government Code Chapter 551.

Approved this 27th day of June, 2024.

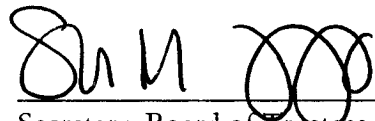
HUTTO INDEPENDENT SCHOOL DISTRICT

By:



President, Board of Trustees

Attest:



Secretary, Board of Trustees

THE STATE OF TEXAS

§

COUNTY OF WILLIAMSON

§

§

LEASE OF REAL PROPERTY

THIS LEASE is made on this 7 day of July, 2005, by and between the CITY OF HUTTO (hereinafter referred to as "City"), and the HUTTO INDEPENDENT SCHOOL DISTRICT (hereinafter referred to as "HISD"). The parties for and in consideration of the agreements set forth herein to be kept and performed by them, respectively, have agreed to and do hereby agree as follows:

A. LEASE AGREEMENT. City has leased and by these presents does lease unto HISD the following property, to wit:

All of that certain tract of land in Williamson County, Texas, and being more particularly described by metes and bounds in Exhibit "A", attached hereto.

B. TERM OF LEASE. The initial term of the Lease shall be for a period of ninety-nine (99) years.

C. CONSIDERATION. Consideration shall be one Dollar (\$1.00) per year. Additionally, HISD agrees to (1) use the property for school purposes during the term; (2) reimburse the City for any taxes which may be levied against the property; (3) maintain the property in a manner which is consistent with the requirements of any other governmental agency having jurisdiction over the property.

D. IMPROVEMENTS. All additions, extensions, alterations, improvements, repairs and restoration to and of said premises, now or hereafter made by HISD, and the plans, construction, and workmanship therefor, shall be in accordance with the laws, ordinances, and building rules and regulations applicable thereto.

E. NOTICES. Notices to the parties herein may be served by mailing a certified copy, return receipt requested, to the following addresses:

HUTTO INDEPENDENT
SCHOOL DISTRICT

200 College Street
Hutto, TX 78634

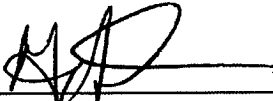
CITY OF HUTTO, TEXAS

c/o Mike Ackerman
401 West Front Street
Hutto, Texas 78634

Either party may from time to time, upon written notice to the other party, change the address to which notices by mail shall be sent.

SIGNED this the 7 day of July, 2005.

CITY OF HUTTO, TEXAS

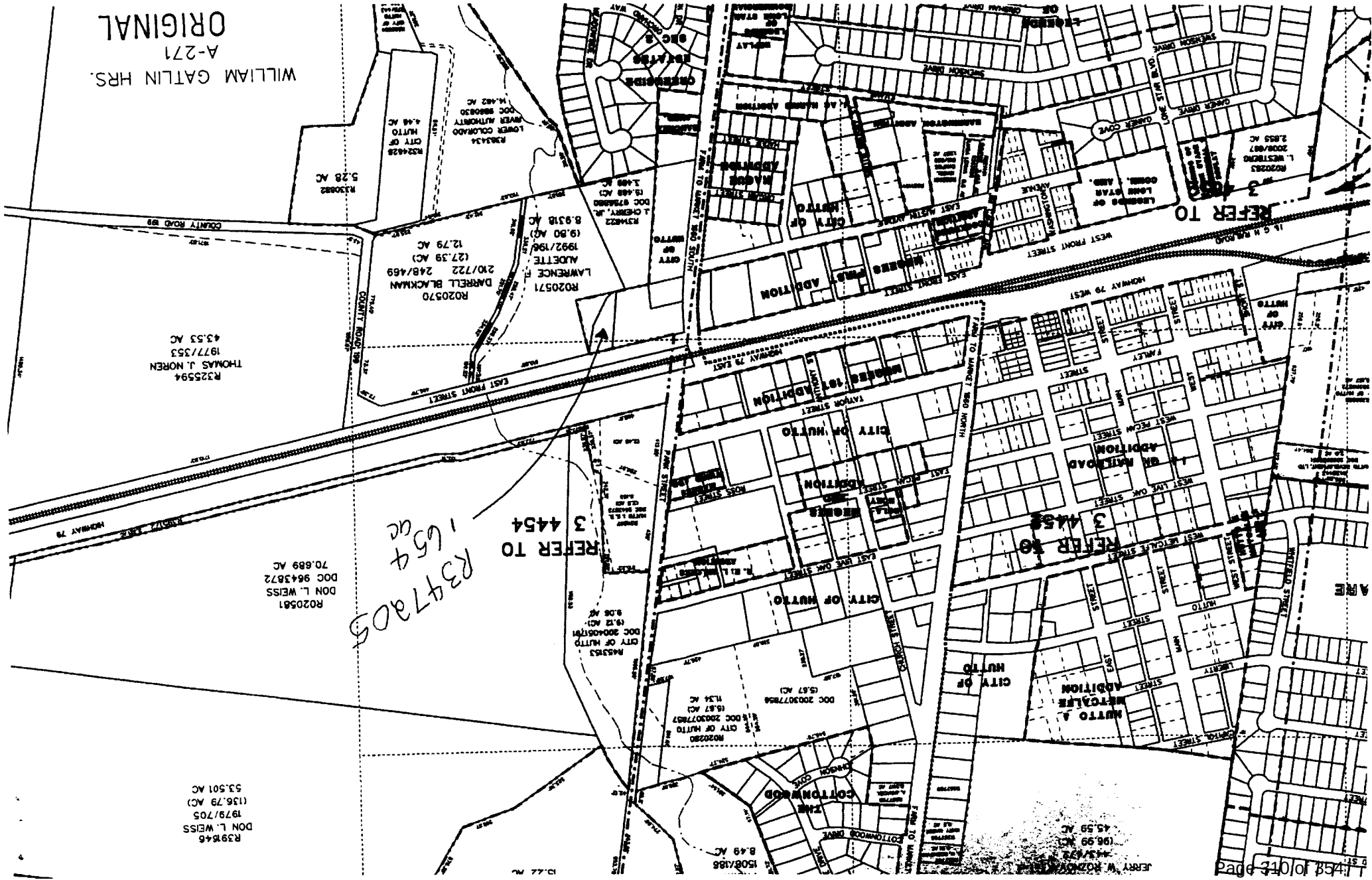
By: 
Mike Ackerman, Mayor
Date Signed: 7-7-05

HUTTO INDEPENDENT SCHOOL DISTRICT

By: 
Printed Name: Bobby Maples
Date Signed: 6/9/05

EXHIBIT "A"

.654 acres of land, as described in Williamson County Appraisal District property I.D. R347205, and as shown on the sketch attached hereto.



R39646
DON L. WEISS
1979/705
136.79 AC
53.501 AC

R20581
DON L. WEISS
DOC 9643872
70.689 AC

R347205
1.654 ac

REFER TO
3 4454

REFER TO
3 4454

REFER TO
3 4454

WILLIAM GATLIN HRS.
A-271
ORIGINAL

AGENDA ITEM REPORT

13.8.



To: City Council
Subject: Consideration and possible action on approval of Ordinance No. O-2024-041 regarding Blanket Purchase Orders for consumable goods and services by adding a vendor, Consilio, for Cold Storage Litigation (Alberta Barrett)
Meeting: Thursday, August 1, 2024
Department: Finance /
Staff Contact:

BACKGROUND INFORMATION:

On September 28th, 2023, Council approved O-2023-067, which allows the City Manager to sign routine blanket purchase orders for consumable goods and services (such as water/sewer services, electricity, chemicals, office supplies) that have been approved by the City Council in the Fiscal Year 2023-2024 budget at expenditure levels over \$50,000.00. On March 7, 2024, a revised ordinance was approved to include additional expenditures. These specific expenditures were outlined in Exhibit A of the ordinance. The purpose of this ordinance is to include an additional blanket purchase order that was not included in the most recent exhibit approved by Council.

The specific change is for Consilio, which provides cold storage of files related to certain litigation. The expected amount of this blanket purchase order is \$60,000. City staff intends to terminate this agreement in FY 2025 and take the storage in house. Storing these in-house will result in a cost savings, but make them more difficult to index and retrieve.

All purchases will comply with applicable state laws and the provisions of the City of Hutto Procurement Policy and Procedures Manual.

SUMMARY OF REQUEST:

Staff recommends acceptance as presented.

STAFF REVIEW:

FISCAL NOTES:

All approved blanket purchase orders will not exceed 2024 budgeted amounts.

ATTACHMENTS:

1. Hutto Ord Consilio Lit Cold Storage Blanket Purchase Orders 7.29.24 v2

AGENDA ITEM REPORT

13.8.



ORDINANCE NO. O-2024-__

**AN ORDINANCE OF THE CITY OF HUTTO, TEXAS,
AMENDING ORDINANCE NO. O-2023-067, AUTHORIZING
THE CITY MANAGER TO EXECUTE BLANKET
PURCHASE ORDERS FOR ROUTINE CONSUMABLE
GOODS AND SERVICES IN AMOUNTS NOT TO EXCEED
THE AMOUNTS APPROVED BY THE CITY COUNCIL IN
THE FISCAL YEAR 2023-2024 BUDGET; PROVIDING
PROPER NOTICE & MEETING, AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the City of Hutto, Texas (“City”) has need to purchase routine consumable goods and services that have been approved by the City Council in the Fiscal Year 2023-2024 Budget at expenditure levels over \$50,000.00, as listed in Exhibit A, a copy of which is attached to this Ordinance and incorporated fully by reference; and

WHEREAS, these types of routine consumable goods and services are normally purchased using Blanket Purchase Orders, as defined in this Ordinance; and

WHEREAS, the term “Blanket Purchase Order” means a contractual agreement between the City and a vendor that allows for a series of recurring, frequent, or small purchases by City departments under a single contractual agreement, without continuously repeating the bidding process, and is associated with routine consumable goods and services such as copier leases, mowing services, office supplies, and other recurring purchases of specific goods or services for which the quantity or frequency of delivery cannot be fully determined at the time that the agreement is entered into, but for which the City and a vendor may agree to certain consistent terms for the delivery, including prices; and

WHEREAS, such Blanket Purchase Orders must comply with applicable state laws requiring competitive bids or authorizing alternative procurement methods, and the provisions of the City of Hutto Procurement Policy and Procedures Manual adopted by the City on November 3, 2022, as may be amended; and

WHEREAS, pursuant to Section 4.01(e) of the Hutto City Charter, the City Council may by ordinance set a maximum amount for which the City Manager shall be authorized to execute contracts and/or to expend funds for budgeted items, provided that all contracts and expenditures must comply with applicable state laws requiring competitive bids or authorizing alternative procurement methods; and

WHEREAS, on September 28, 2023, the City Council adopted Ordinance No. O-2023-067, authorizing the City Manager to execute certain purchase orders; and

WHEREAS, the City Council now desires to amend the authority delegated to the City Manager to execute Blanket Purchase Orders for routine consumable goods and services to add a vendor, Consilio for Cold Storage for Litigation in amounts greater than \$50,000.00 but not to exceed the maximum amount for which such goods and services were approved by the City Council in the Fiscal Year 2023-2024 Budget, as listed in Exhibit A, subject to the

guidelines established in this Ordinance.

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

Section 1: The findings set forth in the recitals of this Ordinance are hereby found to be true and correct and are hereby adopted as findings of the City Council and are incorporated into the body of this Ordinance as if fully set forth herein.

Section 2: The City Council hereby delegates authority to the City Manager to execute Blanket Purchase Orders for routine consumable goods and services in amounts greater than \$50,000.00 but not to exceed the maximum amount for which such goods and services were approved by the City Council in the Fiscal Year 2023-2024 Budget, as listed in Exhibit A, subject to the following guidelines:

- (a) Blanket Purchase Orders must comply with applicable state laws requiring competitive bids or authorizing alternative procurement methods, and the provisions of the City of Hutto Procurement Policy and Procedures Manual adopted by the City on November 3, 2022, as may be amended.
- (b) Blanket Purchase Orders must be for Department-specific expenditures.
- (c) Departments using Blanket Purchase Orders must establish a system for documenting the purchases made under the Blanket Purchase Order and ensure that the amount purchased under the Blanket Purchase Order does not exceed the maximum amount for which such goods and services were approved by the City Council in the Budget.
- (d) Departments must inform the vendor of the intent to use a Blanket Purchase Order when requesting a quote for goods or services, and that the pricing will be held for the term of the Blanket Purchase Order.
- (e) Blanket Purchase Orders must include contract language specifying that the pricing will be held for the term of the contract period, such as “There shall be no price increases during this contract period.”
- (f) Blanket Purchase Orders cannot be extended beyond the current Fiscal Year and must include contract language specifying the contract period, such as: “Contract period is from date of order through August 31, 2024.”
- (g) Funds for expenditures under a Blanket Purchase Order must be encumbered based on a reliable estimate of the amount to be purchased under the Blanket Purchase Order within the Fiscal Year, and the Blanket Purchase Order may include, if appropriate, language regarding the estimated quantities, such as “This order is for an estimate of quantities/usage/services only, and no maximum or minimum quantity is guaranteed.”

(h) Blanket Purchase Orders shall not be used for equipment leases or maintenance agreements, because such agreements must define the quantity and frequency of delivery at the inception of the agreement.

Section 3: The City Manager shall include in the monthly financial statements presented to the City Council a list of all Blanket Purchase Orders approved by the City Manager for Fiscal Year 2023-2024 pursuant to the authority delegated under this Ordinance.

Section 4: The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 5: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such invalid phrase, clause, sentence, paragraph or section. If a court of competent jurisdiction to be invalid shall adjudge any provision of this Ordinance, the invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6. The City Secretary shall publish this ordinance on the City's website and shall publish the approval of this ordinance by the City Council shall be published in the approved City Council minutes.

SECTION 7. Pursuant to Section 3.13 of the Hutto City Charter, this Ordinance is adopted and enacted and this Ordinance shall take effect immediately after its final passage and any publication in accordance with the requirements of the Hutto City Charter, the Hutto Code of Ordinances and the laws of the State of Texas.

PASSED AND APPROVED by the CITY COUNCIL of the CITY OF HUTTO, TEXAS, on the 1st day of August, 2024 on a vote of _____ AYES; _____ NAYS; _____ ABSTENTIONS.

THE CITY OF HUTTO, TEXAS

Mike Snyder, Mayor

ATTEST:

Laura Hallmark, City Secretary

Exhibit A

City of Hutto, TX				
Consumable Goods and Services -- Blanket Purchase Orders Included in the Budget				
FY 2023-2024 Budget				
Department	Account	Supplier	Description	Account Budgeted Dollars
Legal	10-010-003-6401	Bojorquez Law Firm	Attorney Services	445,000
Legal	10-010-003-6401	Hyde Kelley	Attorney Services	445,000
Legal	10-010-003-6401	Chapman Firm	Attorney Services	445,000
Finance	10-020-001-6443	WCAD	WCAD Appraisal	122,378
Development Services	10-030-021-6405	Eileen Merritt/ATS	Plan Review & 3rd Party Inspections	825,000
Police	10-050-001-6206	Galls	Uniforms	119,100
Police	10-050-001-6291	GT Distributors	Ammunition	55,000
Police	10-050-001-6472	Williamson County/County Auditor	Animal Shelter	166,000
Information Technology	10-060-030-6413	Brightspeed	Phone Services	261,600
Information Technology	10-060-030-6413	Verizon Wireless	Phone Services	261,600
Information Technology	10-060-030-6413	Centurylink	Internet Services	261,600
Information Technology	10-060-030-6413	Charter Communications	Internet Services	261,600
Information Technology	10-060-030-6412	SHI - Government Solutions (Microsoft)	Software Licensing and Maintenance	222,713
Information Technology	10-060-030-6412	Tyler Incode	Software Licensing and Maintenance	222,713
Facilities Maintenance	10-090-051-6301	Motorola Solutions	Distributed Antenna System	497,000
River Creek Development	45-020-001-6401	Hyde Kelley	Attorney Services	85,000
Utility Billing	50-020-010-6216	SecureVision of America, Inc	AMI Water Meters	162,750
Utility Billing	50-020-010-6207	Republic Meters	AMI Endpoints	78,750
Utility Billing	50-020-010-6412	Itron	Fixed Network/Mobile Reads Maintenance	150,000
Utility Billing	50-020-010-6505	Tyler Technologies	Bank & Finance Charges	180,000
Utility Billing	Various	Dataprose	Postage & Other Contracted Services	66,617
Utilities	50-040-058-6452	Manville water Contract	Water	600,000
Utilities	50-040-058-6451	Taylor Water Contract	Water	540,000
Utilities	50-040-058-6458	EPCOR Holdings	Water Reservation	2,157,940
Utilities	50-040-058-6458	Recharge Water	Water Reservation	2,157,940
Utilities	50-040-058-6232	Hawkins	Chemicals	200,000
Utilities	50-040-058-6232	Brenntag Southwest	Chemicals	200,000
Utilities	50-040-058-6454	Recharge Water	Water Lease Payments	211,000
Utilities	50-040-058-6456	Brazos River Authority	Brazos River Authority Contract	2,339,900
Utilities	50-040-058-6521	Bluebonnet	Utilities	375,000
Utilities	50-100-000-6401	Bojorquez Law Firm	Attorney Services	90,000
Utilities	50-100-000-6401	Mathews & Freeland, LLP	Attorney Services	90,000
Solid Waste	70-080-010-6461	AI Clawson	Solid Waste	2,543,745
Cottonwood Development	76-100-000-6401	Hyde Kelley	Attorney Services	500,000
Various	Various	Cavallo Energy	Utilities	375,000
Various	Various	Enterprise Leasing	Fleet Vehicles	504,710
Various	Various	P3 Works	PID Administration Costs	232,515
Various	Various	Tyler Technologies	Incode ERP	147,000
Various	Various	United States Postal Service	Postage	63,717
Various	Various	WEX	Gasoline	246,811

AGENDA ITEM REPORT

13.9.



To: City Council
Subject: Consideration and possible action on Resolution R-2024-173 approving the First Amendment to Cooperation Agreement for Williamson County Urban County Program Fiscal Years 2025-2027 and authorizing the Mayor to execute the Agreement on the City's behalf.
Meeting: Thursday, August 1, 2024
Department: City Council /
Staff Contact:

BACKGROUND INFORMATION:

In July 2015, the City of Hutto entered into a Community Development Block Grant (CDBG) Cooperation Agreement with Williamson County. CDBG is a program of the Department of Housing and Urban Development (HUD), which provides assistance in developing viable communities. The previous agreement allows the City to participate in Williamson County's application for the HUD CDBG Program, HOME Investment Partnership Program, and Emergency Solutions Grants (ESG) Program. The Agreement automatically renews every three years, is discontinued by either City or County action and amended when there are new rules or regulations from HUD.

SUMMARY OF REQUEST:

The proposed resolution would accept the first amendment to the agreement, which updates Section X.

Key Provisions

- **Population Inclusion:** The City agrees to include its population in the County's grant applications to qualify for HUD funding.
- **Grant Application:** The City will not apply for State CDBG Program grants independently during this period and will receive allocations only through Williamson county.
- **Cooperation:** Both parties agree to cooperate in community renewal and housing assistance activities, including urban renewal and publicly assisted housing.
- **Use of Funds:** All activities funded by the grants will be carried out within three fiscal years following approval. Any program income generated must be reported and, unless otherwise agreed, paid to Williamson County.
- **Compliance:** The City and County must comply with various federal laws, including the Civil Rights Act and the Fair Housing Act, and ensure fair housing practices.
- **Automatic Renewal:** The agreement automatically renews for successive three-year periods unless either party opts out in writing.

AGENDA ITEM REPORT

13.9.



- Termination: The agreement can be terminated if HUD rejects it or if Williamson County fails to qualify as an urban county.

Responsibilities

- Williamson County: Responsible for public hearings, project selection, grant requests, and performance reports.
- City of Hutto: Must inform Williamson County of any income from program funds and comply with HUD requirements.

Legal and Administrative Provisions

- The agreement must be executed by both parties and certified by the County's legal counsel.
- Amendments to the agreement must be in writing and executed by both parties.

This agreement aims to facilitate the joint efforts of Williamson County and the City of Hutto in securing and utilizing federal funds for community development and housing assistance projects.

STAFF REVIEW:

FISCAL NOTES:

ATTACHMENTS:

1. Wilco-Hutto First Amendment 2025
2. Wilco-Hutto CDBG Agreement 2015

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

FIRST AMENDMENT TO COOPERATION AGREEMENT
WILLIAMSON COUNTY URBAN COUNTY PROGRAM FISCAL YEARS 2025-2027

This AMENDMENT to the AGREEMENT is made by and between WILLIAMSON COUNTY, TEXAS (the “COUNTY”) and the City of Hutto (the “CITY”).

WHEREAS, County and City entered into the Cooperation Agreement executed on July 22, 2015 (the “AGREEMENT”);

WHEREAS, the Agreement now requires an amendment in order to add additional provisions to Section X;

WHEREAS, the parties desire to amend the Agreement as herein provided;

NOW, THEREFORE, for and in consideration of the terms and provisions set forth herein, for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, County and City hereby agree to the following amendment to the Agreement:

Section X

The County and the City shall take all actions necessary to assure compliance with the County’s certification under Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, that the grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964, and the implementing regulations at 24 CFR Part 1, and the Fair Housing Act, and the implementing regulations at 24 CFR Part 100, and will comply with the obligation to affirmatively further fair housing. The Parties shall comply with Section 109 of Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR Part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR Part 8, Title II of the Americans with Disabilities Act of 1974, and the implementing regulations at 28 CFR Part 35, the Age Discrimination Act of 1975, and the implementing regulations at 24 CFR Part 146, and Section 3 of the Housing and Urban Development Act of 1968, and all other applicable laws and regulations. The Parties agree that Urban County funding in no event will be used for activities in, or in support of, any cooperating unit of general local government that impedes the County's actions to comply with the County's fair housing certification and duty to affirmatively further fair housing.

Executed and effective as of the approved Original Cooperation Agreement executed on July 22, 2015.

COUNTY OF WILLIAMSON

BY:

Bill Gravell
County Judge

Date: _____

CITY OF HUTTO, TX

BY:

City Official (Mayor or Chief Executive Officer)
Name:
Title:

Date: _____

Williamson County Community Development Office
Attn: Sally Bardwell
710 Main Street
Georgetown, TX 78626

RE: Williamson County Urban County Qualification for Community Development Block Grant

Dear Ms. Bardwell:

In accordance with your request for our City's approved decision regarding the participation in the Community Development Block Grant Cooperative Agreement, our City respectfully selects one of the following options:

☒ The City of Hutto agrees to participate in the Urban County CDBG for Fiscal Years 2016-2018.

☐ The City of _____ elects not to participate in the Urban County CDBG to Fiscal Years 2016-2018.

Signed and Attested By:


City Official

6-18-15
Date


City Secretary

6-18-15
Date

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

**COMMUNITY DEVELOPMENT BLOCK GRANT
COOPERATION AGREEMENT**

THIS AGREEMENT, made and entered into by and between the County of Williamson, a political subdivision of the State of Texas, hereafter referred to as the "County" and the City of Hutto, a municipal corporation under the laws of the State of Texas, hereafter sometimes referred to as the "City".

WITNESSETH

WHEREAS, The City has elected to have its population included as a portion of that population of the County in the County's "Urban County" application to the U.S. Department of Housing and Urban Development for the Community Development Block Grant Program and the HOME investment Partnership Program, said applications being hereinafter sometimes referred to as the "Grants Applications"; and

WHEREAS, The County is willing to include all of the City's population in the Grant Applications; and

WHEREAS, The 93rd Session of the Congress passed and the President of the United States signed into law, the Housing and Community Development Act of 1974 for the specific purpose of developing viable communities; and

WHEREAS, Williamson County desires to be designated as an "Urban County" by the Department of Housing and Urban Development in order to receive a formula share of program funds provided said County has an appropriate population under the enabling legislation in its unincorporated areas and its included units of general local governments with which it has entered cooperation agreements; and

WHEREAS, Article III, Section 64 of the Texas Constitution authorizes Texas counties to enter into cooperation agreements with local governments for essential Community Development and Housing and Assistance activities.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the County and the City do mutually agree as following:

SECTION I

The City agrees to allow the County to include the City's population in order to qualify for a formula share of entitlement program funds through the Department of Housing and Urban Development's Community Development Block Grant Program, the HOME Investment Partnership Program and other funding as may be authorized by HUD and included in the

County's Consolidated Plan Strategy. The City and County agree to include the same in the Grant Application.

This Agreement covers the CDBG Entitlement program and, where applicable, the HOME Investment Partnership (HOME) and Emergency Solutions Grants (ESG) Programs (i.e., where the urban county receives funding under the ESG program, or receives funding under the HOME program as an urban county or as a member of a HOME consortium).

By executing this Agreement, the City understands that it:

1. May not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in the urban county's CDBG program; and
2. May receive a formula allocation under the HOME Program only through the urban county. Thus, even if the urban county does not receive a HOME formula allocation, the participating unit of local government cannot form a HOME consortium with other local governments. (Note: This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for HOME funds, if the state allows.); and
3. May receive a formula allocation under the ESG Program only through the urban county. (Note: This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for ESG funds, if the state allows.)

SECTION II

The County and the City agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing activities pursuant to this Agreement. Such activities include but are not limited to these activities included in the Annual One Year Plan contained in the Consolidated Plan Strategy as required under 24 CFR Part 570 and approved by the Department of Housing and Urban Development which is on file at the Urban County Program office and which may be amended in the future. The parties agree, further, to cooperate in all other activities listed as "Community Development Program Activities Eligible for Assistance" under Public Law 93-383, The Housing and Community Development Act of 1974, Title I, Section 105, listed as "Eligible Activities" under the CFR, Title 24, Chapter V Part 570, as amended, Community Development Block Grants, should any of these activities be identified to be carried out in the City.

SECTION III

All activities to be carried out with annual Community Development Block Grant funds and HOME Investment Partnership Program funds, should the Grant Applications be approved, will be carried out during the three fiscal years following approval of said applications, including such additional time as may be required for the expenditure of funds granted to the participating unit of local government. The City agrees to inform the County of any income generated by the expenditure of Consolidated Plan Strategy Program funds received by the City. It is expressly understood by the City that such program income must be paid to the County unless the City has

been authorized by prior written Agreement from the County to retain such program income and that the City must use such funds only for eligible activities in accordance with all applicable Program guidelines and requirements. It is further understood by the City that the County has full responsibility for monitoring and reporting to the Department of Housing and Urban Development on the use of any such program income and that in the event of close-out, the City's change of status or the discontinued use of Program funds for approved activities, and program income that is on hand or received subsequent to the closeout or change of status shall be paid to the County.

SECTION IV

Neither party to the Agreement may veto or in any way obstruct the implementation of the approved Consolidate Plan Strategy (CPS) or such other Community Development program activities eligible for assistance during the three years for which the County is seeking to qualify as an "Urban County" or for such additional time as may be required for expenditure of funds granted to the County for such period. In addition, nothing contained in this Agreement shall deprive any municipality or other unit of government of any powers of zoning, development control, or other lawful authority which it presently possesses.

SECTION V

The City understands that it may not apply for grants under the Small Cities or State CDBG Programs from appropriations for fiscal years in which this Agreement is in effect. Further, the City may not participate in a HOME consortium except through the County, regardless of whether the County receives a HOME formula allocation during the fiscal years in which this Agreement is in effect.

SECTION VI

This Agreement shall be effective for the three year qualification period of Fiscal Years 2016-2018 and it will automatically be renewed for participation in successive three-year qualification periods, unless the County or the City provides written notice it elects not to participate in a new qualification period. By the date specified in HUD's urban county qualification notice for the next qualification period, the County will notify the City in writing of its right not to participate.

Each party shall adopt any amendment to the Agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period, and shall submit such amendment to HUD as provided in the urban county qualification notice (see Section IV, Documents to be Submitted to HUD, paragraph E of the Notice) and failure to comply will void the automatic renewal for such qualification period. Failure by either party to adopt an amendment to this Agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for a new qualification period, and to submit the amendment to the U.S. Department of Housing and Urban Development, shall void the automatic renewal of this Agreement for such qualification period.

This Agreement shall remain in effect until the CDBG (and, where applicable, HOME and ESG) funds and program income received (with respect to activities carried out during the three-year

qualification period, and any successive qualification periods under agreements that provide for automatic renewals) are expended and the funded activities completed. The County and City cannot terminate or withdraw from this Agreement while it remains in effect, unless the County fails to qualify as an urban county.

SECTION VII

Should the U.S. Department of Housing and Urban Development reject or refuse to accept this Agreement for any reason, the County may terminate this Agreement by giving written notice or same to the City. The County shall not be liable for any cause, action or damage arising from HUD's rejection of the application. Should the U.S. Department of Housing and Urban Development, for any reason terminate funding to the County during any time of the three year period of qualifications, the County shall not be held liable for any obligation or expenses incurred by the City.

SECTION VIII

This Agreement remains in effect until the CDBG and HOME funds and income received with respect to the three-year qualification period and any successive qualification periods are expended and the funded activities completed, and the County and participating unit of general local government may not terminate or withdraw from this Agreement while it remains in effect.

SECTION IX

It is understood by the City and County that the County will adhere to HUD requirements regarding the public hearings and will have final responsibility for selection of projects, the filing of annual grant requests and the preparation of annual performance reports.

SECTION X

The County and the City agree to take all actions necessary to assure compliance with the urban county's certification required by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974 (which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975), or other applicable laws and affirmatively further fair housing. It is prohibited to use urban county funding for activities in, or in support of, any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with the County's fair housing certification.

SECTION XI

This Agreement may be voided if (1) the City is advised by HUD, prior to the completion of the current requalification process, that the City is eligible to become a metropolitan city; (2) the City elects to take its entitlement status; and (3) the City provides the County and HUD with notice of its election to take its entitlement status prior to the completion of the current requalification process. If, prior to the completion of the County's current requalification

process, (1) the City has not been advised by HUD that it is eligible to become a metropolitan city; (2) the City has not elected to take its entitlement status and (3) the City has not provided the County and HUD with notice of its election to take its entitlement status, this Agreement shall not be voidable and the City must remain a part of the County Entitlement for the entire three-year period of the county's qualification, regardless of population.

SECTION XII

The County and the City agree to take all required actions to comply with the provisions of the National Environmental Policy Act of 1969, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, and other applicable laws.

SECTION XIII

Pursuant to 24 CFR 570.501(b), the unit of local government is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as described in 24 CFR 570.503.

SECTION XIV

The County and the participating units of general local government have adopted and are enforcing:

- 1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
- 2) a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within the jurisdiction.

SECTION XV

The City may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

SECTION XVI

This Agreement shall be of no force and effect unless and until it is executed by both parties hereto and certified by counsel for the County.

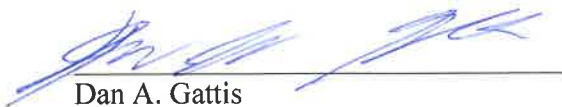
SECTION XVII

No amendment, modification or alteration of the terms hereof shall be binding unless the same be in writing, dated, subsequent to the date hereof, and duly executed by the parties hereto.

IN WITNESS THEREOF, the Agreement is executed in duplicate originals, each to have the force and effect of an original, on the later date set forth herein below.

COUNTY OF WILLIAMSON

BY:



Dan A. Gattis
County Judge

Date: 07-12-2015

CITY OF HUTTO

BY:



Debbie Holland, Mayor
R-15-07-16-8B

Date: July 16, 2015

CERTIFICATION BY COUNTY LEGAL COUNSEL

I, the undersigned, have examined the foregoing Agreement, and as a statutory civil counsel to the County named therein, I certify that the terms and provisions of the Agreement are fully authorized under State and local laws and that the Agreement provides full legal authority for the County to undertake or assist in undertaking essential community development and housing assistance activities.

County Attorney



Shannon C. Francis
Assistant County Attorney

Date: 7/22/2015

AGENDA ITEM REPORT

13.10.



To: City Council
Subject: Consideration and possible action on acceptance of the investment report for the period ended June 30, 2024 (Alberta Barrett)
Meeting: Thursday, August 1, 2024
Department: Finance /
Staff Contact:

BACKGROUND INFORMATION:

Highlights of the City's cash and investment activity for the quarter ended June 30, 2024 include:

- Total bank balances of \$455 million, an increase of over \$289 million dollars. The large net increase is due to the issuance of the 2024 Certificates of Obligation and 2024 General Obligation Bonds issued at the end of June.
- Interest income of \$1.7 million for the quarter. Interest income is expected to increase significantly during the final quarter of the year with the addition of the 2024 debt issuances.
- The City's investment officers continue to move its maturing T-Bill into the investment pools. The investment pools are currently offering similar interest rates to the T-bills, while offering greater liquidity. The investment officers will continue to evaluate the most appropriate investments in accordance with the adopted investment policy.

SUMMARY OF REQUEST:

STAFF REVIEW:

FISCAL NOTES:

ATTACHMENTS:

1. Investment Report for Period Ended 06-30-2024 Final



Quarterly Investment Report
For Period Ending June 30, 2024

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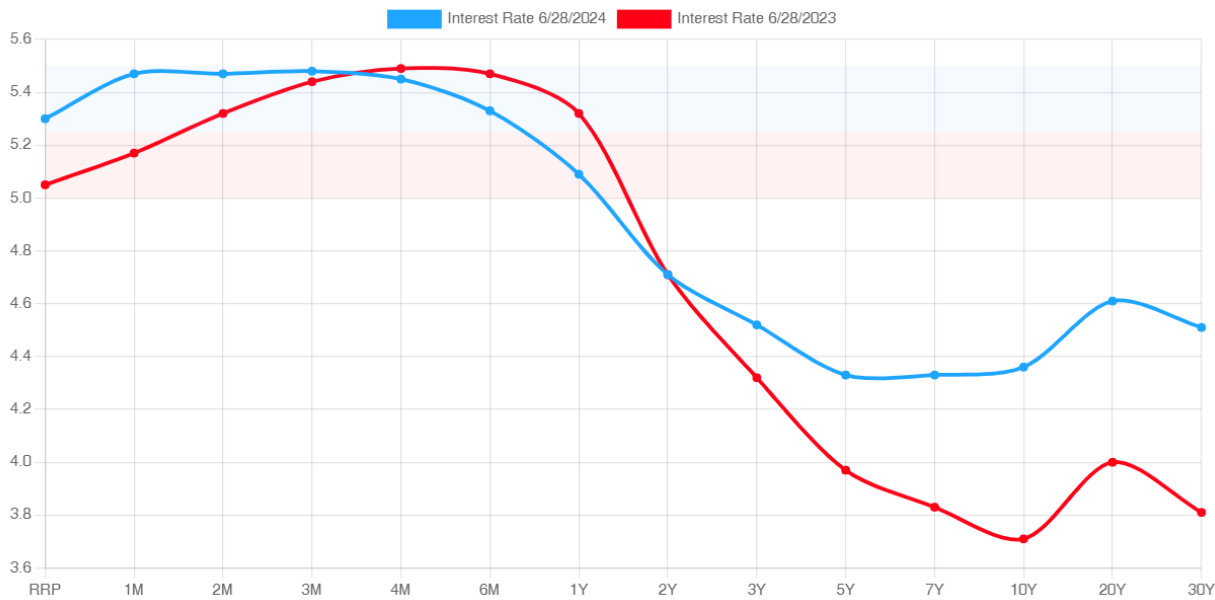
- 1. US Treasury Yield Curve**
- 2. Portfolio Presentation**
 - a. Balance by Institution**
 - b. T-Bills by Maturity and Weighted Average Maturity**
 - c. Collateral**
 - d. Balance by Fund**
 - e. Operating Needs**
 - f. Investment Strategy**
- 3. Recommendation to Mayor and Council**
- 4. Certification**



US Treasury Yield Curve

The Federal Open Market Committee (FOMC) raised the rates 11 times from March 2022 to July 2023. However, rates have remained steady at 5.50% since July of 2023.

The line graph below reflects the US Treasuries Yield as of June 2024 (blue) and June 2023 (red).



Source : <https://www.ustreasuryyieldcurve.com/>

While T-Bill rates had continued to increase as a result of the FOMC rate hikes, they have leveled off. While these rates are still competitive, there are alternative investment options that offer greater liquidity and similar rates (in particular, the TexasClass investment pool)

Security	1 Mo	2 Mo	3 Mo	4 Mo	6 Mo	Pools
T-Bill	5.37%	5.39%	5.36%	5.39%	5.11%	
CD/FHLB			5.49%			
TexPool						5.32%
TexStar						5.31%
TexasCLASS						5.43%

Portfolio Presentation

Balances by Institution

Financial Institution	Bank Balance 03/31/2024	Bank Balance 6/30/2024	Change	Interest Rate
<u>Bank Depository</u>				
Bank of Texas	\$ 2,016,154	\$ 2,042,704	\$ 26,550	5.26%
Cadence Bank	\$ 220,591	\$ 220,591	\$ -	4.34%
Wells Fargo Bank	\$ 26,418,113	\$ 3,937,222	\$ (22,480,891)	0.00% (a)(b)
<u>Investment Pools</u>				
TexPool	\$ 11,842,697	\$ 12,139,170	\$ 296,473	5.34%
TexStar	\$ 6,012,226	\$ 312,895,996	\$ 306,883,770	5.33%
TexasCLASS	\$ 41,356,335	\$ 101,147,537	\$ 59,791,202	5.59% (b)
<u>Money Market</u>				
Frost Bank	\$ 1,973,814	\$ 2,101,194	\$ 127,380	5.01%
<u>T-Bills</u>				
Frost Bank	\$ 75,355,485	\$ 20,526,485	\$ (54,829,000)	5.24% (b)
Total	\$ 165,195,415	\$ 455,010,899	\$ 289,815,484	

(a) Wells Fargo accounts receive earnings credits to offset fees as opposed to traditional interest income

(b) Balance has increased/decreased due to T-Bill redemptions.

Bank balances for the City increased in the third quarter by \$289,815,484. The most significant factor for the net increase in funds is the deposit of the 2024 GO and CO issuances that were deposited at the end of June into the City's Textstar accounts.

Due to the leveling of interest rates between the investment pools and T-bills, the City's investment officers have continued to move maturing T-bills to the investment pools. The pools offer similar rates of interest and safety while offering significantly more liquidity. The City's final T-bill matures in July, and the investment officers also intend to move that to the investment pools and continue to evaluate the best investment options for the City.

Details of the City's final T-Bill is below:

Schedule of T-Bill Holdings

Security	Shares/Par Value	Maturity	Cost Basis(\$)	Expected Returns	Curr Yield	Length (Months)	Weighted Average Maturity (WAM)
US Treasury Bills	21,000,000	7/5/2024	20,526,485	473,515	5.18%	1	0.0833
	21,000,000		20,526,485	473,515			0.0833 (a)

(a) Total weighted average maturity is .0833 years, or less than 1 month



Collateral

The TexPool, TexStar, and TexasCLASS funds are collateralized at the entire fund level by the entities that run them. Well Fargo balances are fully collateralized with \$750K FDIC coverage (3 accounts) and pledged collateral. The City receives a detailed collateral report monthly. The Bank of Texas account is not comprised of cash but is securities. The Cadence Bank balance is insured by FDIC coverage (up to \$250k per account).

The City also oversees bank accounts related to two local government corporations and their PIDs (Wells Fargo and Texpool), as well as three accounts for the Economic Development Corporation (Cadence Bank, Texpool, and Alliance Bank). As stated above, the Texpool accounts are collateralized at the fund level, the Wells Fargo accounts are collateralized by a combination of FDIC coverage and pledged collateral, and the Alliance Bank account is collateralized by a letter of credit.

Interest Earned

Financial Institution	April - June 2024		FY 2023 -2024	
<u>Bank Depository</u>				
Bank of Texas	\$	26,550	\$	78,335
Cadence Bank	\$	-	\$	2,565
Wells Fargo Bank	\$	-	\$	-
<u>Investment Pools</u>				
TexPool	\$	158,896	\$	474,877
TexStar	\$	87,130	\$	203,267
TexasCLASS	\$	840,925	\$	1,411,521
<u>Money Market</u>				
Frost Bank	\$	37,101	\$	71,522
<u>T-Bills</u>				
Frost Bank	\$	566,824	\$	4,545,579
Total	\$	1,717,426	\$	6,787,666

(a) Amount includes \$473,515 of accrued interest that has been earned, but not yet received on T-bills that have not yet matured

There was \$4,889,329 in interest income budgeted across all funds, and \$1,717,426 in interest earned in the third quarter (for a total of \$6,787,666 earned this fiscal year). As expected, interest earnings were not as strong in the third quarter due to the drawdown on general fund cash and the various CIP bond funds. Although the 2024 General Obligation and Certificates of Obligation were received this quarter and substantially increased cash balances as of 6/30,



funds were not received until just before the quarter ended, and were therefore not a factor in interest earnings.

Balance by Fund

Fund	Book Value	Market Value
General Funds	\$ 16,066,875	\$ 16,066,875
General I&S Funds	\$ 6,118,059	\$ 6,118,059
GO Bonds Funds	\$ 66,767,477	\$ 66,767,477
ARPA Funds	\$ 6,938,024	\$ 6,938,024
Special Revenue Funds	\$ 13,053,762	\$ 13,053,762
Utility Operating Funds	\$ 10,165,664	\$ 10,165,664
Utility CIP Funds	\$ 299,781,004	\$ 299,781,004
Utility Debt Service Funds	\$ 8,264,509	\$ 8,264,509
Utility Impact Fees Funds	\$ 32,949,436	\$ 32,949,436
Total	\$ 460,104,810	\$ 460,104,810

Book balances for all the City's funds as of June 30, 2024, are \$460,104,810. Balances are broken out by major fund type. Book balances typically differ from the bank balances on Page 4 due to timing differences (i.e., checks being written that may have not cleared the bank and deposits in transit).

The City's cash balances increased from \$167.4 million by just over \$292 million from March 31, 2024 – June 30, 2024. As noted previously, the increase in total cash balances are due to the issuance of the 2024 Certificates of Obligation (\$287,274,905) and the 2024 General Obligation Bonds (\$16,509,686).

Although there was a substantial net increase in the CIP funds as a category due to debt issuances, several of the individual CIP funds saw notable reduction in net cash due to payments for various projects. General fund book balances were reduced by just over \$2.8 million. The reduction in cash in the general fund is not unexpected, as the majority of inflows from property taxes are received in the first two quarters of the fiscal year.

Operating Needs

The City needs an estimated \$35 million in the upcoming quarter for payments related to debt, payroll and other goods and services. The City's semi-annual interest payments and annual principal payments in August are responsible for \$10.7 million of the upcoming quarter's expected cash outflows. The City will maintain cash balances of \$5-8 million in its Wells Fargo operating account, and will replenish its balance from the investment pools as necessary.



Investment Strategy

The City is continuing to hold its cash for daily operating needs and contingencies in its depository accounts and local government investment pools. The City’s only remaining T-Bill matures in July of 2024, and the investment officers intend to transfer it to the local government investment pools where it will earn a competitive interest rate. City’s investment officers will continue to routinely evaluate the City’s cash balances, operating needs (including CIP outflows), and the most appropriate method of investing.

The City’s investment team will continue to monitor its investments for suitability, safety, liquidity, marketability, diversification, and yield.

Recommendation to Mayor and Council

Staff recommend acceptance of this investment report as presented.

Certification

This quarterly report for the quarter ending June 30, 2024, is in compliance with the Investment Policy of the City of Hutto Texas dated October 12, 2023, and the State of Texas Public Funds Investment Act (Chapter 2256, Texas Government Code).

X DocuSigned by:
Alberta S. Barrett
90D7C0A08C4140F...
Alberta Barrett
Finance Director

X DocuSigned by:
Christina Bishop
E0BD4E09F490404...
Christina Bishop
Controller

X Signed by:
Sabrina Manning
F0D05D00070041F...
Sabrina Manning
Senior Accountant





City of Hutto

MINUTES - Amended

City Council Meeting

Thursday, July 11, 2024 at 7:00 PM

City Council Chambers

500 W. Live Oak Street

1. CALL SESSION TO ORDER: 7:00 PM

2. ROLL CALL

Members of City Council present: Mayor Mike Snyder, Mayor Pro Tem Peter Gordon, Councilmember Brian Thompson, Councilmember Dan Thornton, Councilmember Randal Clark, Councilmember Amberley Kolar, Councilmember Evan Porterfield

Members of staff that were present were James Earp, City Manager; Matt Wojnowski, Assistant City Manager; Marc Calderaro, Legal Counsel; Ashley Bailey, Executive Director of Development Services; Kate Moriarty, Management Analyst; Matt Rector, City Engineer; Cheney Gamboa, Director of Economic Development; Amanda Taylor, Assistant City Secretary; Laura Hallmark, City Secretary; Alberta Barrett, Finance Director; Jeff White, Parks and Recreation Director; Sara Cervantes, Director of Real Estate Services, Rick Coronado, Public Works Director; David Amsler, Director of Strategic Operations; Kristi Barnes, Community & Culture Officer

3. INVOCATION – Pastor Arthur L. Spence, Little Ebenezer Baptist Church

4. PLEDGE OF ALLEGIANCE

5. PROCLAMATIONS

5.1. Parks and Recreation Month – *Accepted by Jeff White, Director of Parks and Recreation, and staff members.*

6. CITY MANAGER COMMENTS

James Earp, City Manager, provided the following information:

- New Hires recognized: Kristiana Spencer, Human Resources Manager; William Kelly, Budget Analyst; Kristin Phillips, Library Director; Laura Hallmark, City Secretary; Jennifer DeRoeck, Marketing Analyst
- Promotions recognized: Kate Moriarty, Assistant to the City Manager; Ethan Sims, Management Specialist; Shay Jung, Communications Manager; Dustin Clawson, Senior Utility Technician; Micah Blanton, Senior Utility Technician
- Finance Department awarded Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award

- Hutto Police Department received reaccreditation from Texas Police Chiefs Association.
- Stage 2 water restrictions implemented.
- Video shared for CIP project update.

6.1. Swearing in of Laura Hallmark as City Secretary – *Oath conducted by Amanda Taylor, Assistant City Secretary.*

7. PUBLIC COMMENT

There were no public comments for this meeting.

8. PRESENTATIONS

- 8.1. Presentation on the Vision and Future Possibilities of the Hutto YMCA – *Presented by Russell Daniel and August Alvarado with YMCA*
- 8.2. Estates of Hutto Public Improvement District – *Presented by Kevin Youngblood with GFO Home and Rick Rosenberg*
- 8.3. Public Works New Facility (CIP F01-2024) Planning and Programming Update – *Presented by Rick Coronado, Public Works Director and Dale Austin and Tristan Snyder with Sunland Group*

9. PUBLIC HEARINGS

- 9.1. Conduct a public hearing on Ordinance No. O-2024-002 for the Planned Unit Development (PUD) request for the property known as Meadow Brook Planned Unit Development (PUD), 87.8 acres, more or less, of land, located off FM1660S (Ashley Bailey)

Ashley Bailey, Executive Director of Development Services, presented the information for this item. The public hearing opened at 9 PM. There were no speakers. Further discussion and continuation of public hearing will take place at the July 18, 2024 City Council meeting.

- 9.2. Conduct a public hearing and consider possible action on Ordinance No. O-2024-037 for the zoning change request for the property known as 213 FM 1660 South, 1.08 acres, more or less, of land, located at FM 1660 S and Evans Street, from OT-4R (Urban Residential) District to OT-4T (Transition) District (Ashley Bailey)

Ashley Bailey, Executive Director of Development Services, presented the information for this item. The public hearing opened at 9:01 PM.

There were no speakers. Further discussion and continuation of public hearing will take place at the July 18, 2024 City Council meeting.

- 9.3. Conduct a public hearing and consider possible action on Ordinance No. O-2024-038 for the proposed Penske Planned Unit Development, 35.8 acres, more or less, of land, from Multi-family and an original zoning to PUD at the time of annexation, located on the west side of Innovation Blvd (Ashley Bailey)

Ashley Bailey, Executive Director of Development Services, presented the information for this item. The public hearing opened at 9:03 PM. There were no speakers. Further discussion and continuation of public hearing will take place at the July 18, 2024 City Council meeting.

- 9.4. Conduct a public hearing and consider possible action on Ordinance No. O-2024-039 for the proposed Stromberg Planned Unit Development, 372.121 acres, more or less, of land, from Agricultural/Single-Family - Rural (SF-R) District to Planned Unit Development, located south of CR 132 (Ashley Bailey)

Ashley Bailey, Executive Director of Development Services, presented the information for this item. The public hearing opened at 9:04 PM. There were no speakers. Further discussion and continuation of public hearing will take place at the July 18, 2024 City Council meeting.

10. BOARDS AND COMMISSIONS

- 10.1. Consideration and possible action regarding possible appointments, re-appointments and/or removals to City Boards, Commissions, Task Forces, Economic Development Corporations, Local Government Corporations and Tax Increment Reinvestment Zone Boards, City Council Liaisons, and Area Government appointments.

Mayor Pro Tem Gordon reported there were no appointments to present to Council from the Nomination Committee. Council discussion regarding liaisons to the various boards.

Motion by Mayor Pro Tem Gordon, second by Mayor Snyder, to remove City Council Members from board liaison designations. Motion passed 7:0.

11. ORDINANCES

- 11.1. Consideration and possible action on Ordinance O-2024-036 to approve a budget amendment for the FY24 Hutto Economic Development Corporation budget in the amount of \$3,750 for incentives management software (Cheney Gamboa)

Cheney Gamboa, Director of Economic Development, presented information for this item.

Motion by Councilmember Thompson, second by Councilmember Clark, to approve the item as presented. Motion passed 7:0.

12. RESOLUTIONS

- 12.1. Consideration and possible action on Resolution No. R-2024-130 adopting the Athletic Fields Study (Matt Rector and Jeff White)

Jeff White, Director of Parks and Recreation, and Hunter Rush with MHS Design, presented the information for this item.

Motion by Councilmember Clark, second by Councilmember Thornton, to adopt the study as presented. Motion passed 7:0.

- 12.2. Consideration and possible action to approve Resolution No. R-2024-134 to award a Depository Services contract to Wells Fargo Bank and authorizing the City Manager to execute the contract and all necessary agreements (Alberta Barrett)

Alberta Barrett, Finance Director, presented the information for this item.

Motion by Councilmember Clark, second by Councilmember Kolar, to approve the item as presented. Motion passed 6:1 (Snyder).

- 12.3. Consideration and possible action on Resolution No. R-2024-135 scheduling a public hearing to consider amendments to the Land Use Assumptions and a Capital Improvements plan for Water and Wastewater under which an impact fee may be imposed within the City; directing the City Secretary to publish notice of said public hearing; and directing the Capital Improvement Advisory Committee to consider and make recommendations on the amendments to the Water and

Wastewater Land Use Assumptions and Capital Improvements Plan
(Matt Rector)

Matt Rector, City Engineer and Lance Parish with Kimley Horn, presented the information for this item.

Motion by Mayor Pro Tem Gordon, second by Councilmember Kolar, to approve the item as presented. Motion passed 7:0.

- 12.4. Consideration and possible action on Resolution No. R-2024-136 scheduling a public hearing to consider amendments to the Land Use Assumptions and a Capital Improvements plan for amendments to the Transportation Impact fee within the City; directing the City Secretary to publish notice of said public hearing; and directing the Capital Improvement Advisory Committee to consider and make recommendations on the amendments to the Land Use Assumptions and Capital Improvements Plan for amendments to the Transportation Impact Fee (Matt Rector)

This item was taken out of order after 12.5. Matt Rector, City Engineer, Ellen Amorim and Eddie Haas with Freese & Nichols (FNI), presented the information for this item.

Motion by Councilmember Clark, second by Councilmember Kolar, to approve the item as presented. Motion passed 7:0.

- 12.5. Consideration and possible action on Resolution No. R-2024-137 to adopt the updated Thoroughfare Plan (Matt Rector)

This item was taken out of order before 12.4. Matt Rector, City Engineer, Ellen Amorim and Eddie Haas with Freese & Nichols (FNI), presented the information for this item.

Motion by Councilmember Clark, second by Councilmember Kolar, to adopt the Plan as presented. Motion passed 7:0.

13. OTHER BUSINESS

- 13.1. Consideration and possible action related to the review of wholesale utility agreement. (Alberta Barrett and Sara Cervantes)

Sara Cervantes, Director of Real Estate Services, presented the information for this item.

Motion by Councilmember Clark, second by Councilmember Thornton, to review agreements based on best practices. Motion passed 7:0.

- 13.2. Discussion and possible action providing direction to staff on the 42-inch wastewater line for the Cottonwood/Allora property. (Matt Rector)

Matt Rector, City Engineer, presented the information for this item.

Motion by Councilmember Clark, second by Councilmember Thornton, to coordination a pump and haul agreement with the developer, providing a deadline for installation of 42" wastewater line with the proviso the design documents are provided to the City should the deadline not be met. Motion passed 7:0.

- 13.3. Consideration and possible action relating to Texas Pollutant Discharge Elimination System (TPDES) Wastewater Permit Applications in the City of Hutto Extraterritorial Jurisdiction. (Legal)

Matt Rector, City Engineer, presented the information for this item.

Motion by Mayor Snyder, second by Councilmember Kolar, to develop a wholesale agreement with Lennar by the next City Council meeting. Motion passed 7:0.

14. CONSENT AGENDA ITEMS

- 14.1. Consideration and possible action on Resolution No. R-2024-138 authorizing the City Manager to execute an amendment to Individual Project Order (IPO), for professional services with Cobb, Fendley & Associates, LLC, in the amount of \$989,563.11, for New Elevated Storage Tank (Cottonwood 2.0 MGD) (CIP W07-2024) (Matt Rector)
- 14.2. Consideration and possible action on Resolution No. R-2024-139 authorizing the City Manager to execute an amendment to the agreement 2022-008, for professional services with Garver LLC, in the amount of \$332,078.93 for CR 137 (CIP T05-2023) (Matt Rector)

- 14.3. Consideration and possible action on Resolution No. R-2024-141 regarding amendment No. 4 for drainage design services to the K. Friese Contract in the amount of \$138,130 for the Megasite East/West Spine road project (CIP T08-2023) (Matt Rector)
- 14.4. Consideration and possible action on Resolution No. R-2024-142 regarding the purchase of 43 iPro Body Worn cameras, software licenses and associated hardware from Ingram Technologies through the Texas DIR purchasing contract number CPO-4697 iPro in a not-to-exceed amount of \$84,000 (Chief Jeffrey Yarbrough)
- 14.5. Consideration and possible action on Resolution No. R-2024-146 accepting the infrastructure improvements for the subdivision known as The Narrows multifamily public improvements (Rick Coronado)
- 14.6. Consideration and possible action on Resolution No. R-2024-147 amending the City Council Protocols per the discussion at the June 20, 2024 City Council meeting (Legal)
- 14.7. Consideration and possible action on Ordinance No. O-2024-040 amending City Code 2.05.046 (Public Access to Statements;Retention) per Council discussion at the June 20, 2024 City Council meeting (Legal)
- 14.8. Consideration and possible action on approving the June 20, 2024 Joint City Council and Economic Development Corporation and the regularly scheduled City Council Meeting minutes (Amanda Taylor)

Motion by Mayor Pro Tem Gordon, second by Councilmember Clark, to approve the Consent Agenda as presented. Motion passed 7:0.

15. EXECUTIVE SESSION

The City Council for the City of Hutto reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above as authorized by the Texas Government Code Sections 551.071 (Litigation/Consultation with Attorney), 551.072 (Deliberations regarding real property), 551.073 (Deliberations regarding gifts and donations), 551.074 (Deliberations regarding personnel matters) or 551.076 (Deliberations regarding deployment/implementation of security personnel or devices) and 551.087 (Deliberations regarding Economic Development negotiations).

- 15.1. Receive legal advice pursuant to Texas Government Code Sec. 551.071, (Consultation with Attorney), related to pending and/or Council legal requests, potential claims; pending litigation, including but not limited to the Amended and Restated Kokefest Agreement between the City of Hutto and Texas Music Network, dated March 4, 2021; the Management Agreement between the City of Hutto and the Directors of Chaos, LLC

dated March 7, 2024; the proposed Meadowbrook Public Improvement District; and the proposed Estates of Hutto Public Improvement District.

- 15.2. Receive legal advice pursuant to Texas Government Code Section 551.071, (Consultation with Attorney) relating to a wholesale water delivery agreement amendment in contemplation of negotiating for iron removal treatment for City of Hutto water in conjunction with delivery of new water source.
- 15.3. Receive legal advice pursuant to Texas Government Code Sec. 551.071, (Consultation with Attorney), related to the Brandon Roznovak claim against the Hutto Economic Development Corporation dated June 27, 2024, and claims related to the redesign of the Megasite Spine Road Construction project.

City Council convened in Executive Session at 11:50 PM. Out at 1:26 AM.

16. ACTION RELATIVE TO EXECUTIVE SESSION

- 16.1. Consideration and possible action on executive session items.

Item 15.1 – Motion by Councilmember Thornton, second by Councilmember Kolar, to exercise the Mutual Termination clause effectively immediately and Directors of Chaos (DOC) turn over control of website license and Texas Alcoholic Beverage Commission (TABC) license and instruct the City Manager to notify DOC of these terms. Councilmember Kolar made a friendly amendment to include social media account(s) in the motion. Councilmember Thornton accepted the amendment. Motion passed 7:0.

Item 15.1 – Motion by Mayor Pro Tem Gordon, second by Councilmember Kolar, to approve Resolution R-2024-148 regarding the Kokefest agreement. Motion passed 7:0.

17. CITY COUNCIL COMMENTS

- 17.1. General Comments from City Council

Councilmember Thornton congratulated local baseball team on their selection to participate in the Pony World Series and wished them luck.

Mayor Pro Tem Gordon thanked staff for the wonderful July 4th celebration event.

17.2. Future Agenda Items

Mayor Snyder requested the following items:

- *Discuss possible action regarding the release of severance agreements for former employees.*
- *Discuss possible action regarding the release of Ross Fisher – Place 3 notes.*
- *Discuss possible action regarding the release of emails between Franklin and Hall.*
- *Discuss posting campaign finance reports on the City's website.*

17.3. Future Additional or Rescheduled meetings as allowed by Hutto City Code Section 1.02.033 Additional or Rescheduled Meetings

Councilmember Clark requested City Council meeting scheduled for January 2, 2025 be rescheduled for January 9, 2025 due to its proximity to New Year's Day – a City holiday. It was the consensus of Council to make the change.

18. ADJOURNMENT – July 12, 2024 at 1:35 AM

ATTEST:

Mike Snyder, Mayor

Laura Hallmark, City Secretary



City of Hutto

Minutes

City Council Special Meeting
Saturday, July 13, 2024 at 9:00 AM
City Council Chambers
Hutto City Hall
500 W. Live Oak Street

1. CALL SESSION TO ORDER 9:00 AM

2. ROLL CALL

Members of City Council present: Mayor Mike Snyder, Mayor Pro Tem Peter Gordon, Councilmember Brian Thompson (arrived at 9:09 AM), Councilmember Dan Thornton, Councilmember Amberley Kolar, Councilmember Evan Porterfield, Councilmember Randal Clark

Members of staff present: James Earp, City Manager; Matt Wojnowski, Assistant City Manager; Ashley Bailey, Executive Director of Development Services; Kate Moriarty, Management Analyst; Ethan Sims, Management Specialist; William Kelly, Budget Analyst; Matt Rector, City Engineer; Cheney Gamboa, Director of Economic Development; Laura Hallmark, City Secretary; Barrett, Finance Director; Christina Bishop, Controller; Gabriel Kihiro, Senior Financial Analyst; Jeff White, Parks and Recreation Director; Rick Coronado, Public Works Director; Jeffrey Yarbrough, Chief of Police

3. PUBLIC COMMENTS

There were no public comments.

4. OTHER BUSINESS

- 4.1. Discussion and possible action on the 5-year Capital Improvement Project Program (James Earp, Matt Rector, Alberta Barrett)

Matt Rector, City Engineer, reviewed the packet documents and what will be discussed. James Earp, City Manager, reviewed methodology behind estimations for costs and taxable and exemption valuations along with the sources for projects listed in the 5-year CIP. Council was provided with paper copies to facilitate the discussion.

Council discussion regarding historical and estimated growth and resulting valuations; relying on potential revenue from development for operations; delayed cost projections should projects be pushed further out and secondary projects affected; details of spreadsheet – O&M costs, non-debt, etc.; methodology of project costs; and impact fees.

Alberta Barrett, Finance Director, reviewed impact fee information. Council discussion regarding the effect of water/wastewater rates on the impact fee balance.

Matt Rector reviewed the list of wastewater projects. Council discussion regarding the timing of projects and the necessity to issue debt; reprioritization of projects and associated funding; and clarification of developer reimbursement process.

Matt Rector reviewed the list of water projects. Council discussion regarding water availability each day from various sources.

Matt Rector reviewed the list of buildings and facilities projects. Council discussion regarding public facility land acquisition; possible regional partnership for recreation/aquatic center; investigating options for private entity gym locating in City and possible expansion of the current YMCA location; Mayor Snyder and Mayor Pro Tem Gordon to contact counterparts in the City of Taylor to discuss possible regional partnership; resident survey for facility prioritization and amenities needs.

Motion by Mayor Snyder, second by Mayor Pro Tem Gordon, to remove the O&M funds allocated for recreation and aquatic centers. Motion passed 7:0.

Motion by Councilmember Thornton, second by Councilmember Kolar, to direct staff to work with EDC to investigate 30-40 acres for the Public Works facility at the Megasite location. Motion passed 7:0.

Motion by Councilmember Clark, second by Mayor Pro Tem Gordon, to direct staff to work with the EDC to investigate potential sites for a Justice Center and a Library. Motion passed 7:0.

Matt Rector reviewed the list of roads projects.

Councilmember Kolar left the meeting at 12:45 PM.

Break at 1:00 PM. Reconvene at 1:12 PM.

Council discussion regarding reallocation of funds to future years while keeping funds in 2025 for milling and overlay, intersection construction and remainder of design for various projects; methodology behind reallocation of funds in an attempt to have any associated tax increases be roughly leveled out over the five years to facilitating budgeting for residents and help avoid inconsistent spikes.

Councilmember Thompson left the meeting at 2:00 PM.

Matt Rector reviewed the list of Parks projects. Jeff White, Parks and Recreation Director, provided additional information. Council discussion regarding sponsorships and brand naming rights for facilities; investigate all sources of possible funding prior to borrowing or spending on the projects.

Matt Rector resumed review of the roads projects. Council discussion regarding outside funding sources (i.e. County, State, etc.).

5. ADJOURNMENT – 3:22 PM

ATTEST:

Mike Snyder, Mayor

Laura Hallmark, City Secretary

DRAFT



City of Hutto

Minutes

City Council Work Session
Thursday, July 18, 2024 at 6:00 PM
Executive Conference Room
Hutto City Hall
500 W. Live Oak Street

1. CALL SESSION TO ORDER – 6:00 PM

2. ROLL CALL

Members of City Council present: Mayor Snyder, Mayor Pro Tem Gordon, Councilmember Thompson (arrived at 6:20 PM), Councilmember Thornton (arrived at 6:04 PM), Councilmember Clark, Councilmember Porterfield, Councilmember Kolar

3. OTHER BUSINESS

- 3.1. Annual update and strategic plan update from the Diversity & Inclusion Commission {Kristi Barnes}

Jacqueline Coleman, Commission Chair, presented the information for this item, which included: progress to date; contents of the Plan – executive summary, DEI background and history, foundational concepts and principles, key foundational summary statement, priority areas and next steps.

Council discussion regarding funding for initiative, survey information and possible future survey, focus groups, and branding.

- 3.2. Discussion and possible action related to Work Session topics

Motion by Councilmember Thornton, second by Mayor Pro Tem Gordon, to affirm the Diversity and Inclusion Commission Strategic Plan. Motion passed 7:0.

4. ADJOURNMENT – 6:42 PM



City of Hutto

Minutes

City Council Meeting
Thursday, July 18, 2024 at 7:00 PM
City Council Chambers
Hutto City Hall
500 W. Live Oak Street

1. CALL SESSION TO ORDER 7:00 PM

2. ROLL CALL

Members of City Council present: Mayor Snyder, Mayor Pro Tem Gordon, Councilmember Thompson, Councilmember Thornton, Councilmember Clark, Councilmember Porterfield, Councilmember Kolar

Members of staff present: James Earp, City Manager; Matt Wojnowski, Assistant City Manager; Kate Moriarty, Assistant to City Manager; Ethan Sims, Management Specialist; Dottie Palumbo, Legal Counsel; Ashley Bailey, Executive Director of Development Services; Matt Rector, City Engineer; Cheney Gamboa, Director of Economic Development; Kristi Barnes, Community & Culture Officer; Laura Hallmark, City Secretary; Amanda Taylor, Assistant City Secretary; Alberta Barrett, Finance Director; Christina Bishop, Controller; Jeff White, Parks and Recreation Director; Sara Cervantes, Director of Real Estate Services; Rick Coronado, Public Works Director; David Amsler, Director of Strategic Operations; Jeffrey Yarbrough, Police Chief; Dwain Jones, Assistant Police Chief.

3. INVOCATION – Pastor Arthur L. Spence, Little Ebenezer Baptist Church

4. PLEDGE OF ALLEGIANCE

5. PROCLAMATIONS

There were no items for this agenda.

6. CITY MANAGER COMMENTS

6.1 Presentation of Hutto Citizens University Sophomore Class Graduates (Kate Moriarty)

Ethan Sims, Management Analyst, provided background information on the program and presented the participants with their certificates.

James Earp, City Manager, provided the following comments:

- *Special Budget Meeting – Saturday, July 27th, sneak peek at the budget to be proposed.*
- *CRAS training July 27th from 8:00 AM – 12 noon.*

- *Hutto Back to School event, July 23rd at Hutto Memorial Stadium; Parks and Library staff members will be in attendance helping to distribute school supplies.*
- *Stage 2 Water Conservation in effect.*

7. PUBLIC COMMENT

There were no speakers. One public comment received online from Rose McMillin.

8. PRESENTATIONS

- 8.1. Texas Police Chief Association Accreditation and Police Department Quarterly Update Presentation (Chief Jeffrey Yarbrough)

Georgetown Police Chief Cory Tchida presented the TPCA Accreditation to Chief Yarbrough and HPD officers in attendance. Chief Yarbrough presented Lt. Connor Mitchell with a commendation for his leadership of the accreditation process. Chief Yarbrough presented the update, which included information on staffing; crime statistics; victims services and crisis support statistics; MADD awards for HPD personnel; and a video of a recent pursuit ending in K-9 Officer Rocket's apprehension of a fugitive.

- 8.2. Urbana Limmer Loop Residential Community Development Agreement Overview (Evan Caso)

Evan Caso with Yardley provided information for this item.

- 8.3. Prairie Winds (Liddell Walker) Public Improvement District Update (Sara Cervantes)

Steve Plevak with Green Brick Partners provided the update.

- 8.4. Capital Improvement Projects (CIP) Update (Matt Rector)

Matt Rector, City Engineer, provided the update.

9. PUBLIC HEARINGS AND RELATED ACTION

- 9.1. Continuation of a public hearing and consider possible action on Ordinance No. O-2024-037 for the zoning change request for the property known as 213 FM 1660 South, 1.08 acres, more or less, of land, located at FM 1660 S and Evans Street, from OT-4R (Urban Residential) District to OT-4T (Transition) District (Ashley Bailey)

Ashley Bailey, Executive Director of Development Services, presented the information for this item. The public hearing closed at 8:03 PM. There were no speakers.

Motion by Councilmember Clark, second by Mayor Pro Tem Gordon, to approve the item as presented. Motion passed 7:0.

10. BOARDS AND COMMISSIONS ACTION

- 10.1. Consideration and possible action regarding possible appointments, re-appointments and/or removals to City Boards, Commissions, Task Forces, Economic Development

Corporations, Local Government Corporations and Tax Increment Reinvestment Zone Boards, City Council Liaisons, and Area Government appointments.

Motion by Mayor Pro Tem Gordon, second by Councilmember Thornton, to appoint Hazel Sherrod to fill a vacancy for Planning and Zoning Commission Seat #1. Motion passed 7:0.

- 10.2. Consideration and possible action on Resolution No. R-2024-149 to create and appoint members to the Hutto Sesquicentennial Committee (Councilmember Amberley Kolar)

Motion by Councilmember Kolar, second by Mayor Snyder, to create a 20-member commission. Motion passed 7:0.

11. ORDINANCES

There were no items for this agenda.

12. RESOLUTIONS

- 12.1. Consideration and possible action to approve Resolution No. R-2024-150 to award a contract to Invoice Cloud for Utility Billing payment platform services and authorizing the City Manager to execute the contract and all necessary documents. (Alberta Barrett)

Christina Bishop, Controller, and Monica Burke, Utility Billing Supervisor, presented the information for this item.

Motion by Councilmember Kolar, second by Councilmember Thompson, to approve the item as presented. Motion passed 7:0.

- 12.2. Consideration and possible action on Resolution 2024-151 adopting the Trails Master Plan (Jeff White)

Jeff White, Parks and Recreation Director, and Mary Keilers with Clark Condon, provided the details of the plan.

Motion by Councilmember Clark, second by Councilmember Thompson, to approve the item as presented.

Motion amendment by Mayor Snyder, second by Councilmember Clark, for staff to return in 90 days with plan for proposed funding and plan for implementation. Motion passed 7:0.

Original Motion passed 7:0.

- 12.3. Consideration and possible action on Resolution No. R-2024-152 authorizing the City Manager to execute a Work Authorization #1 with Archer Western for Construction Manager At Risk (CMAR) services associated with the South Wastewater Treatment Plant (S WWTP) expansion to 6.0 MGD in the amount of \$38,224,957.64 (CIP WW-06 2023) (Matt Rector)

Matt Rector, City Engineer, presented the information for this item. Thor Benson, Archer Western, and Jeff Meadows, Garver, were available to provide additional information.

Motion by Councilmember Clark, second by Councilmember Kolar, to approve the item as presented. Motion passed 7:0.

- 12.4. Consideration and possible action on Resolution No. R-2024-153 approving the municipal services agreement for the proposed annexation of the Penske tract, 19.804 acres, more or less, of land, located north of the northeast corner of US 79 and SH 130. (Ashley Bailey)

Ashley Bailey, Executive Director of Development Services, presented the information for this item.

Motion by Mayor Pro Tem Gordon, second by Councilmember Thompson, to approve the item as presented. Motion passed 7:0.

13. OTHER BUSINESS

- 13.1. Consideration and possible action on the allocation of Outside Agency Funds for FY2025 (Kristi Barnes)

Kristi Barnes, Community & Culture Officer, presented information for this item. Comments provided by sub-committee members Councilmember Porterfield, Councilmember Clark and Councilmember Thompson.

Motion by Councilmember Clark, second by Councilmember Thompson, to fund all requests as presented by the committee in the amount of \$208,602.25. Mayor Pro Tem Gordon suggested a friendly amendment that if additional funds are available after the budget is approved, Council will consider awarding additional funding. Councilmember Clark and Councilmember Thompson accepted the amendment to the motion. Motion passed 6:1 (Snyder).

- 13.2. Discussion and possible action on City utility bill transparency (Mayor Snyder)

Monica Burke, Utility Billing Supervisor, presented the information for this item.

Motion by Mayor Snyder, second by Mayor Pro Tem Gordon, to add all additional items to the monthly statements. Motion passed 7:0.

14. CONSENT AGENDA ITEMS

- 14.2. Consideration and possible action on Resolution No. R-2024-155 authorizing the City Manager to execute a task order with Terracon in the amount of \$24,076 for construction materials testing related to the Northwest Transmission Main Waterline project (CIP W03-2023) (Matt Rector)

- 14.4. Consideration and possible action on Resolution No. R-2024-157 authorizing the City Manager to execute an amendment to the agreement for design services with Hejl, Lee & Associates, in the amount of \$157,723 for the Live Oak project (CIP T09-2023) (Matt Rector)
- 14.5. Consideration and possible action on Resolution No. R-2024-158 accepting the infrastructure improvements for the subdivision known as Capital Improvement project for Lakeside Estates Sidewalk Phase 1 and 2 (CIP(T06-2023) Lakeside Estate Sidewalk) (Matt Rector)
- 14.6. Consideration and possible action regarding Resolution R-2024-159 to amend the current funding and refunding agreement between the Hutto Economic Development Corporation (HEDC) and the City of Hutto for the E-W Spine Road Construction Project to strike the refunding provision from the agreement (Cheney Gamboa)
- 14.7. Consideration and possible action regarding Resolution R-2024-160 to amend the current funding and refunding agreement between the Hutto Economic Development Corporation (HEDC) and the City of Hutto for the Corporation's acquisition of the Cottonwood Properties to strike the refunding provision from the agreement (Cheney Gamboa)
- 14.9. Consideration and possible action on approving the July 11, 2024 City Council meeting minutes (Laura Hallmark)

Motion by Councilmember Kolar, second by Councilmember Clark, to approve the Consent Agenda as presented above. Motion passed 7:0.

The following items were pulled from the Consent Agenda for individual consideration:

- 14.1. Consideration and possible action to approve Resolution No. R-2024-154 to award the Northwest Transmission Main Waterline Project to the lowest responsive bidder, Nelson Lewis, Inc., in the amount of \$2,687,050 and authorizing the City Manager to execute the construction contract with Nelson Lewis, Inc (CIP Project W03-2023) (Matt Rector)

Motion by Mayor Snyder, second by Councilmember Thompson, to postpone this item until Form 1295 is sufficiently completed. Motion passed 7:0

- 14.3. Consideration and possible action on Resolution No. R-2024-156 authorizing the City Manager to execute a task order with Raba Kistner in the amount of \$235,728.90 for construction materials observation and testing services related to the South Wastewater Treatment Plant Expansion project (CIP WW-06-2023) (Matt Rector)

Motion by Mayor Snyder, second by Councilmember Porterfield, to postpone this item until Form 1295 is sufficiently completed. Motion passed 7:0

- 14.8. Consideration and possible action on the acceptance of the June 2024 financial report (Alberta Barrett)

No action necessary – provided for informational purposes.

15. EXECUTIVE SESSION – Time in: 10:18 PM

- 15.1. Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims, Pending Litigation, Potential Litigation, and City Council legal requests, including, but not limited to: a) Claim for the Class Action Payment Card Interchange Fee Settlement involving Mastercard and Visa; b) Proposed Meadowbrook Public Improvement District and ancillary agreements; c) Urbana Limmer Loop development agreement; d) Halcyon Wholesale Wastewater Agreement; e) Termination of the Development Agreement with HEB Grocery Company, LP and Tack Development, LTD., as amended; f) Fritz and Greinart Pump and Haul Agreement related to the 42" interceptor line also serving Cottonwood and Allora properties; g) releasing attorney notes related to the Report to the City Council relating to the investigation of Mike Snyder dated November 7, 2019; and h) the release of separation agreements of former executive staff members, Assistant City Manager, Assistant to the City Manager, Director of Human Resources and the Certified Financial Officer and any affidavits or documents relating thereto.

Motion by Mayor Snyder, second by Councilmember Thompson, to withdraw items 15.1(g) and (h) out of Executive Session. Motion failed 4:3 (Porterfield, Snyder, Thornton)

16. ACTION RELATIVE TO EXECUTIVE SESSION – Time out: 11:38 PM

Item 15.1(b): Motion by Councilmember Thornton, second by Councilmember Kolar, to direct staff to communicate to parties that City Council intends to abide by the form water/wastewater agreements, stick to prevailing impact fees ordinance, abide by state law, and abide by policies for review of proposed park land dedication. Motion passed 7:0.

Item 15.1(a): Motion by Councilmember Clark, second by Councilmember Thompson, to approve resolution R-2024-161 as presented. Motion passed 7:0.

Item 15.1(e): Motion by Mayor Pro Tem Gordon, second by Councilmember Kolar, to approve termination of development agreement with HEB and Tack Development and noting this does not apply to the limited use annex and strategic partnership provisions in paragraph 4.01 of the agreement. Motion passed 7:0.

17. CITY COUNCIL COMMENTS

17.1. General Comments from City Council

There were no comments.

17.2. Future Agenda Items

Mayor Snyder noted a Purple Heart proclamation and declaring Hutto a Purple Heart City will take place at the August 1st meeting.

17.3. Future Additional or Rescheduled meetings as allowed by Hutto City Code Section 1.02.033 Additional or Rescheduled Meetings

Mayor Snyder requested a special meeting to be held on Saturday, August 3rd at 6:00 PM at Fritz Park to discuss City finances and CIP projects. The format will be like an Open House/Town Hall meeting – no staff support other than arranging for video recording.

18. ADJOURNMENT: Time – 11:52 PM